

City of Virginia Beach Planning Commission
October 11, 2023

Mr. Alcaraz: Can you hear me? Can you hear me? Thank you. Good afternoon. Welcome to the formal Planning Commission hearing for October 11th, 2023. My name is George Alcaraz. I'm the Chairman for the Planning Commission. I welcome you here today, and what right now we're going to get started with the prayer by Ms. Byler followed by the pledge by Mr. Horsley. If you can please stand?

Ms. Byler: In this day and this hour, please grant us peace and calmness and respect for our fellow man. Throughout the world, there is so much trouble in each one of us. Please grant us open minds and open hearts and help us to look to heaven for guidance today and always. Amen. Amen.

Mr. Horsley: Please join me for pledge. [Group Pledge] I pledge allegiance, to the flag of the United States of America and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all".

Mr. Alcaraz: Thank you. Now I'd like to start with our city attorney. She can introduce herself and commissioners down the line. Just so everyone in here can know who you are. Thank you. Ms. Wilson.

Ms. Wilson: Thank you. I'm Kay Wilson. I'm the Deputy City Attorney for land use and I represent the Planning Commission.

Mr. Anderson: Hi, I'm Mike Anderson. I represent District three, which is pertains in Kempsville.

Ms. Estaris: Good afternoon. I'm Naomi Estaris. I'm a representative for District one. I'm a resident of Kempsville.

Mr. Clemons: Good afternoon, everybody. My name is Michael Clemons and I represent District two.

Mr. Coston: Good afternoon, everyone. My name is John Coston and I represent District nine.

Mr. Horsley: I'm Don Horsley and I'm At-Large representative on council on the commission.

Mr. Alcaraz: Thank you. I'm George Alcaraz representing District five.

Ms. Cuellar: Good afternoon. My name is Holly Cuellar and I represent District eight.

Ms. Hippen: Good afternoon. My name is Susan Hippen. I represent District Seven.

Ms. Byler: Hi, I'm Kathryn Byler, District four, which is the Greater Town Center Area.

Mr. Plumlee: Brian Plumlee, representing District six.

Mr. Parks: William Parks representing District 10.

Ms. Alcock: Kaitlyn Alcock, Planning Administrator for the Planning Department. Clerking to my left, we have Madison Eichholz and Claudia Wodziak. With City staff, we have Planning Director Kathy Warren, Deputy Director Carrie Bookholt. With our Planning Administration team, we have Hoa Dao, Marchelle Coleman, and Elizabeth Nowak. We have our Interim Zoning Administrator Brandon Hackney, Pam Witham and Garrick Hannigan. With our zoning group and I believe our city traffic engineer Rick Lowman is in the audience somewhere.

Mr. Alcaraz: Thank you, Madam clerk. If you can read the rules, please.

Madam Clerk: Thank you, Mr. Chairman. The Virginia Beach Planning Commission takes pride in being fair and courteous to all parties in attendance. It is important that all involved understand how the commission normally conducts its meetings. It is equally important that everyone treat each other and the members of the commission with respect and civility. We request that cell phones be put on silent during this meeting. This is an abbreviated explanation of the rules. The complete set of rules is located in the front of the Planning Commission agenda. Following is the order of business for this public hearing. Withdrawals and deferrals, the chairman will ask if there are any requests to withdraw or defer an item on the agenda. Consideration of these requests will be made first. The consent agenda, the second order of business is the consideration of the consent agenda, which are those items that the Planning Commission believe are unopposed and which have favorable staff recommendation. The regular agenda, the commission will then proceed with the remaining items on the agenda.

When an agenda item has been called, we will recognize the applicant or the representative first. Following the applicant or the representative, in person speakers will be called next, and then speakers participating via WebEx. Speakers in support or opposition of an agenda item will have three minutes to speak, unless they are solely representing a large group, such as a civic league or homeowners association, in which case they will have 10 minutes. If a speaker does not respond or if a technical issue occurs, which renders the comments unintelligible, we will move to the next speaker or the next item on the agenda. Please note that the actions taken today by the commission are in the form of a recommendation to the Virginia Beach City Council. The final decision to approve or disapprove an application will be made by the City Council. The commission thanks you for your attendance and we hope that your experience here today leaves you feeling that you have been heard and treated fairly. Thank you.

Mr. Alcaraz: Thank you, Madam Clerk. All right, the first order of business is, are there any withdrawals here today? All right, there are none. Are there any deferrals here today? Please come forward. Okay, Mr. Bourdon.

Mr. Bourdon: Mr. Chairman, for the record, Eddie Bourdon, Virginia Beach attorney representing APV Virginia Beach Energy LLC and Sykes Real Estate Properties, LLC requesting an indefinite deferral on this application, and we do expect after the opportunity has been given for people to see one of these facilities to be back on your December agenda.

Mr. Alcaraz: All right. Thank you.

Mr. Bourdon: Thank you. Are there any objections for this deferral? All right. I understand we have one or two speakers that like to come up and is it two? Can you call them please?

Madam Clerk: We have seven now. First is Tammy Mullins Rice, followed by Rosa Gordon.

Mr. Alcaraz: So are you representing -- are you representing the Civic League?

Ms. Rice: Yes, I am the President of Civic League, thank you.

**Virginia Beach Planning Commission
October 11, 2023, Public Meeting
Agenda Item # 1**

Whitney W. Elliott, Matthew E. Mancoll & Robin A. Macoll

RECOMMENDED FOR APPROVAL- CONSENT

Mr. Horsley: Good afternoon. The first item on our consent agenda is item number one. The Whitney W. Elliott, Matthew Mancoll, and Robin Mancoll, the applicant representative was. Mr. Bourdon.

Mr. Bourdon: Thank you, Mr. Chairman, I represent the applicants on item number one and all the four conditions as recommended by staff are acceptable to the applicants.

Mr. Horsley: Thank you, Mr. Bourdon. Is there any opposition to this item? Seeing none, I would ask Mr. Plumlee if he would read this in the record.

Mr. Plumlee: Yes, this is a request to close a small parcel, an old street between these two residential properties. Both sides of the alleyway have made this request. There's been no objection and the commission deemed it appropriate for consent.

Mr. Horsley: Thank you, Mr. Plumlee. And now I'd like to, Chairman, I'd like to place in a motion that we accept item number one, Whitney W. Elliott and Matthew Mancoll. Item number six, Bonney Bright Sand. Item number nine and 10 Burnette Baum Development Corporation, number 12 Excel Fitness, Virginia 9 and items number 13 through 18, short term rentals moved they be approved.

Mr. Alcaraz: Thank you, Mr. Vice Chair. I have a motion. Do I have a second?

Mr. Plumlee: Second.

Mr. Alcaraz: Second by Mr. Plumlee. Thank you.

Madam Clerk: The vote is now open. By a vote of 11 to 0 items 1, 6, 9, 10, 12, 13, 14, 15, 16, 17, and 18 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			

Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	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 applicants shall resubdivide the property and vacate internal lot lines to incorporate the closed area into the adjoining lots. The resubdivision plat must be submitted and approved for recordation prior to the final street closure approval. Said plat shall include the dedication of a public drainage easement over the closed portion of the street to the City of Virginia Beach, subject to the approval of the Department of Public Works, and the City Attorney's Office, which easement shall include a right of reasonable ingress and egress.
3. There are existing overhead facilities located within the right-of-way proposed for closure; therefore, an easement satisfactory to Dominion Virginia Power shall be provided. Additionally, the Applicant shall verify that no other private utilities exist within the right-of-way proposed for closure. If other private utilities do exist, an easement satisfactory to the appropriate utility company must be provided.
4. Closure of the right-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not accomplished and the final plat is not approved for recordation within one year of the City Council vote to close the rights-of-way this approval shall be considered null and void.

**Virginia Beach Planning Commission
October 11, 2023, Public Meeting
Agenda Items # 2,3, & 4**

Franklin Johnston Group Management & Development, LLC

RECOMMENDED FOR APPROVAL

Mr. Beaman: Thank you, Mr. Chairman, Mr. Vice Chair, members of the commission. For the record, my name is Rob Beaman. I'm a local land use attorney with the Troutman Pepper Law Firm here today on behalf of the applicant, Franklin Johnston Group. Joining me this afternoon from Franklin Johnston Group are Taylor Franklin, James Noel, and Freddie Fletcher, all of whom will be available for questions this afternoon. The property that's the subject to this application is located on Princess Anne Road just west of the Municipal Center and is currently split zoned AG-1 and AG-2. The applicant proposes to rezone the property to conditional A-18 in order to accommodate the second phase of the Southern Pine Development. Phase one was built approximately 10 years ago and has been well received and very successful and phase two would include an additional 176 units together with upscale amenities, including outdoor grilling area, outdoor pool, a clubhouse and a fitness center. This application is essentially the same as what was before you a couple of months ago in August of this year. Since that time and as a result of feedback that we've received from members of the public and from the city planning staff, we've modified the site to pull all the residential buildings outside of the portion of the property that's located within the ITA and the 65 to 70 noise zone. As a result, all of the residential units are currently in the part of the property that's in the under 65 noise zone, which is the city's lowest classification. The applicant was also reviewed by the city's JRP, the Joint Review Panel or process, which includes a representative of Oceana, and that group found that the application is consistent with all the AICUZ regulations contained in the city's zoning ordinance. That finding was subsequently confirmed by a letter that was received by the city from the commanding officer of Oceana. The state of the is no objection to the application as it in no way contradicts or violates the terms article 18 of the zoning ordinance, which is the A-2 section. Other than that change to the building orientation, the application is largely the same as what was before you a couple of months ago. The applicant still intends to follow through with the commitments it made to the planning commission at that hearing, which include the reduction in the height of the building on Princess Anne Road from four stories down to three stories. The limitation on the height of the remaining buildings to the maximum of 55 feet. The introduction of barming and additional landscaping along the entirety of the Princess Anne Road frontage and then finally, a significant workforce housing component to this project, which we raised them from 17% up to 30%, which would be 53 units in this case. The one other significant change I did want to call out to the commission that we've made since the last time we were before you has to do with the access on Princess Anne Road. Whereas at

the last commission hearing, you may recall we had a right in right out access that was in the southern part of the property due to the relocation of the buildings to the south of the property. We've adjusted that access point to the northern end of the property and have restricted or eliminated the right out component. So it's only a right in, so traffic coming on Princess Anne coming south can enter the property, taking right into the property but cannot leave the property on Princess and in order to leave the property, they go and use with George Wythe drive to the south. Finally, I do think it's important to mention that this project fits squarely within the comprehensive plans recommendations for this part of the city, particularly around the municipal center as a comprehensive plan calls for the concentration of residential growth around the municipal center and also states that new residential developments should include a reasonable amount of workforce housing units, which we certainly do. In summary, Franklin Johnston Group is excited about the prospect of expanding Southern Pine into a phase two and bringing workforce housing to an area of the city that doesn't currently have it and with that, we certainly appreciate your consideration of this application. We'll stand by for questions.

Mr. Alcaraz: Mr. Plumlee.

Mr. Plumlee: It's now appropriate for questions or we'd rather do it later. I'm fine doing it later.

Mr. Alcaraz: Yeah. Thank you. We need to get to the speakers. Thank you.

Mr. Beaman: Thank you.

Mr. Alcaraz: All right. First speaker.

Madam Clerk: Mike Kern followed by Lisa Hartman.

Mr. Alcaraz: Just state your name, please.

Mr. Kern: My name is Mike Kern. Ladies and gentlemen, the commission, thank you for allowing us to speak today. Good afternoon. I stand before you today to voice my opposition to the proposed silo at Southern Pines project. This four story apartment complex threatens to disrupt the city's comprehensive plan, the Princess Anne Corridor, the character and the safety of our local neighborhoods. Before I continue, I'd like for all those in attendance today in opposition to this project to please stand. Thank you. I'd like to start by mentioning the hard work of our District two representative Mrs. Henley and her repeated request to show or slow the approval process of this expedited development. She subsists. She specifically asked for a resolution to be placed on the

city's agenda. So the Planning Commission, City Council, and community could thoroughly review the developer's proposal. Despite her efforts and the concerns of the community, the project continues to be expedited and the question is why? Many citizens are not asking for a denial of the application. They're asking for a deferral of the application so the Planning Commission, City Attorney, other staff, and interested citizens have more time to study this process and the exceptions and the new topics it raises. The project was additionally or originally proved as developer appeared before the transition area interface -- Interfacility Traffic Area Citizens Advisory Committee, that's a mouthful, on September 7th, the TA/ITA CAC voted to recommend denial of the proposal, finding that the proposed density and the building height to be incompatible with the surrounding area and recommended access from Princess Anne Road be prohibited. Just 13 days later, the applicant appeared before the Joint Review Process Group, as stated, JRP and JRP found the proposal to be in compliance with Article-18 of the Zoning Ordinance. However, approval from JRP Group only validates the use of the ITA Zone. So because the applicant moved all the dwellings out of the ITA Zone, the JRP found the proposal will then compliance. The JRP Group does not address the extensive list of controversial deviations and variances requested by the applicant and the controversial topics include obviously the buildings are too tall, right? A-18 allows for 35 feet. They're asking to go to 55 feet. Direct access to Princess Anne, which I've been told this morning has changed to the right end is still access to prevent to Princess Anne and it's forbidden, and the traffic -- the city traffic engineers recommended against it and that sets a precedence. The location of the right turnout represents a hazard to residents exiting our collective neighborhoods. Obviously, as stated just five minutes ago, the right turnout has been taken off. We questioned several of the specifics of this project to include how the developer or applicant does the density calculations, the parking analysis, and the draining issues. It appears to us that all workforce housing has been put into phase two of this project, which is not in compliance with city statutes. The calculations for workforce housing appear as if this is a standalone project. But the parking analysis and density appeared to include a single development in two phases that sets a dangerous precedence. The initial Southern Pines community was not approved based on phase two. In this location, combining two separate properties in this manor is misleading and attempts to circumvent rules to the developer's benefit, which is inconsistent with fair practices, and that sets a precedence in the city. If approved, this sets a dangerous process forward that developers can manipulate all city planning guides if they include the term workforce housing. I'd like to focus on a few of these calculations, deviations, and concerns. First being the transfer of developer rights. Nine years ago, as stated, the developer was approved for 42 more apartments than they decided to build in phase one. They're now asking the city to go back and change the conditions on the old project so they can transfer and add permission for those 42 units to the number that they would normally be allowed to build in the current project. Banking and transferring unit built

development rights between projects is an unusual idea that raises concerns and many questions, which other developers in the city have acquired additional property and transferred unused density from previously approved and developed properties to the newly acquired site. I've never heard of it. The concept of transferring density from what is referred to as phase one, which already has been constructed and occupied for nine years, raises questions about fairness and sets an unsettling precedent. Density and zoning, so the applicant wants to use the property 6.26 acres and this is how they've calculated the density, even though roughly one half of the land is in the ITA and cannot have residential apartments built on it ever. The city attorney has stated that this is okay because there's no laws prohibiting calculating density in this manner, using all the property to calculate density, including property that cannot be built on, artificially skews the actual density of the area where people will really live and that resides inside of the 3.13 acres. So if you look at it, A-18 is 18 apartments, 18 units per the 6.26 acres. It's roughly 112 apartments. You add the 31 for the development rights, and then you add the 33 for workforce housing benefits, you get 176 apartments. Well, that actually adds up to 28 units per acre. If you look at example two and you combine it down and you do the same math for 3.13 acres, that's 56 apartments per acre, 18 units in A-18 is 18 units of acres, not 18-ish. The only way the density and parking calculations are even close and I asked you to take a look as if the applicant calculates 22 acres roughly as the development with 416 units on it, utilizing phase one and phase two, then it equals out to 18.94 in its density calculations, still above A-18 zoning restrictions. Then workforce housing that's the buzzword, the applicant developed a gated community of apartments in Southern Pines, as previously mentioned behind Harris Teeter. The applicant has designated part of the apartments in silo to be workforce housing and the applicant wants to combine the phases when convenient and treat the phases separately when the math and law is convenient. If you apply workforce housing to the entire project as they've done with the density, the phases only constitute about 13% workforce housing, which may disqualify it from the bonus density it's currently receiving. It's crucial to ensure that workforce housing is distributed throughout the phases. So if it's looked at as a -- as a development into phases, it's required by ordinance section 2106 that they remain accessible throughout the development. So you can't cluster these workforce housing units into one area and I don't know in 22 acres if you put them all on a three acre parcel inside of five buildings, is that considered clustering? There's no system in place to monitor the project after completion and the workforce housing is established and maintained by the applicant. Next is traffic safety, which part of it has been addressed today. Traffic engineering staffs do not support any access to the site from Princess Anne Road, any access. Hazard to residents exiting the collective neighborhoods of Princess Anne Crossing, Christopher Farms and Courthouse Farms and Curry Comb Court and those also traveling south on Princess Anne Road. The Virginia Beach master plan or master transportation plan, part of the comprehensive plan showing this segment of

Princess Anne Road is access controlled and direct access is not permitted. The Princess Anne Commons and Transition Area Plan in the Comprehensive Plan also reiterate the direct private access to this segment of Princess Anne Road not be permitted. The Princess Anne Corridor Study, which planned for those past be buffered from traffic and again referred to no direct access. Testimony of the city traffic engineer to the Planning Commission stated no access is permitted there. Discussed why and then pleaded with the commission, please don't put the access point there. Additional portions of the staff reports, computing the traffic log, citing all the references concluding the driveway would present negative effects on safety, should not be allowed and recommended against it. Next, the joint land use study, the Hampton Roads joint land use study recommends treating parcels within the ITA consistently, and that should be regardless of partial or full inclusion. The purpose of the study was to focus on specific policies. I'm sorry, was supposed specific policies and address land use, noise, economic concerns in the surrounding communities. The deputy city attorney stated at the TA/ITA meeting that this was a perfect storm of unusual land concerns. But approval is being expedited, why? It is crucial to understand that we are not against strategic growth, accommodations for workforce housing or growth period as long as it fits into the existing comprehensive plan that safeguards the character of our neighborhoods and unfortunately, the Silo and Southern Pines project is not the right development for this location. We call upon our City Council and you as the Planning Commission to extend the time to allow further analysis of these pertinent issues to be raised. Thank you.

Mr. Alcaraz: Thank you. Next speaker. Hold on one second. The next speaker, come up front please, and sit down up there.

Madam Clerk: Lisa Hartman followed by Walter T. Camp.

Mr. Alcaraz: Thank you. Could you state your name? Are you representing a group?

Ms. Hartman: I'm Lisa Hartman and I'm here representing the Christopher Farms III Homeowners Association.

Mr. Alcaraz: Are they here?

Ms. Hartman: This project was initially presented to you on its first application with 176 units spread over 6.26 acres. Nearly half of that acreage is in the Interfacility Traffic Area where residential building is prohibited. Admittedly, Planning made a mistake recommending this approval because it was in the ITA. They also did not include the Navy in this conversation, which is required. It went to the transition area, Interfacility Traffic Area, citizens, advisory committee, resulting in opposition based on the use of the

property in the ITA and the high density for the area. The application was withdrawn just before City Council. This new application, it's actually dated May 31st, but it's kind of new, that's confusing, was submitted the first week of September. The application is basically asking for 176 units on three and a quarter acres. The near three acres within the ITA does not have residential development rights, therefore should not be allowed to transfer those rights. When the issue arose regarding this property that is straddled by the ITA and AICUZ line, this should have gone to the City Manager and the City Attorney and then taken to City Council as required by documents guiding this area. Those documents recognized that when the ITA AICUZ recommendations were being put in place, that there would be unforeseen circumstances and directs the City Manager and Attorney, City Attorney to act. This did not happen. Even after the issue was recognized with the initial application, they failed to address this, leaving granting approval premature and lacking a proper plan for future properties. This is a precedent. This is precedent setting. This and all remaining parcels that straddle this line need to be studying and a plan developed for consistency. Recommending approval is premature. Allowing the applicant to combine the initial complex approved in 2014 and calling it phase 2 at 18.94 units per acre is disingenuous at best. The initial project is complete and has been occupied for years. This further creates new precedent and sets up the entire city for developers to gain advantage. Their purpose of combining the parcels is to use the density of that last project to overdevelop this current property outside of the recommendations of all studies and plan that were done in effort and this was done in effort to circumvent the rules. An exception is being given and will be asked for again if this moves forward. It is precedent setting. Their last project was reasonable. It was responsible development. Hold them accountable for the same. It is the taxpaying citizens that are left holding the bag if this is not right. It is our beautiful city that suffers if this is not right. The application is concerning to citizens with the inaccurate representations of our city documents and the staff report. It does not represent the overall intent of our taxpayer funded and publicly vetted documents, leaving citizens feeling disempowered. We contribute to focus groups to educate ourselves, to participate in the process, and have our voices heard only to have those documents robbed of the intent. For example, the staff report does not identify this parcel as south of the green line. Recent focus groups for the new comprehensive plan have consistently found one of the most important goals is to protect the green line. The comprehensive plan says, and I "We choose to maintain the green line as the linchpin of growth management strategy." This project does not comply with the intent of the comprehensive plan, the citizens or managing growth, allowing growth at this density sets a precedent that will not allow continued growth management. Since the comp plan is currently under review, recommending this for approval further sets precedent and leave citizens frustrated and erodes public trust. Traffic engineering has recommended against the ingress and egress onto Princess Anne Road as it was designed as a controlled access parkway. This does

create a safety issue even though they've taken out the egress. The ingress will still contribute to that. The Princess Anne Corridor study notes that Princess Anne Road is its own unifying brand. It further discusses creating a sense of anticipation of growth rather than, and I quote "hitting the motorist's right between the eyes." This is four story buildings. The reality is that they're putting 176 units on 3.36 acre -- 3.36 acres making it a density of 52.38 units per acre, and it will do just that. Hit the motorist in the eyes. These four story buildings exceed the building height requirements in our zoning ordinance of 35 feet by more than 20 feet. Imagine being stopped by a police officer when you're doing 55 and it's 35. You don't get that kind of exception. They are getting another exception. This is precedent setting and not the intent of the overall plan for this area. There is nothing like this. This is not the intent of our documents. The staff report also mentions clustering the development at the Municipal Center as recommended in the ITA. That fails to expand on the intent of the ITA study where it specifically talks about consolidating parking along George Mason Drive and putting units there. That's not near this property. Getting this is another exception and his precedent setting. This area has also been in the transition area for more than 20 years. It has been pulled out unbeknownst to the transition area committee, our former district planning commissioner and current council member. I submitted a four-year request asking for information and clarity on when that was decided to be removed and the discussion and intent surrounding that. I have not received that specific information. The ITA study, which was dated on December 2017, is the most recent document that we have that clearly identifies this area as the transition area and it includes a map. Density in that area is one unit per acre and requires 50% open space. This project is nearly wholly covered. Planning staff is researching this issue to resolve the inconsistency. It is premature to approve anything in this area until that is resolved. The submission date and approval process has been confusing. Submitting this after the September 1st deadline puts it on the October track of Planning's 2023 application schedule for Planning Commission and City Council. This gives a December 13th date for Planning Commission and January dates for Council. Yeah, this is another exception. Are the rest of the applicants today in this room getting those same exceptions? There is a need for workforce housing in Virginia Beach, so much so that the Council was just briefed on the need for the plan. This plan is in action, is in the works, and is not even complete. The Workforce Housing Office does not have a plan or policy to monitor the workforce housing on this project. Again, we are on the verge of approving something before a plan is in place. Is this yet another exception? We recognize the need for workforce housing, but also must balance that with a proper workforce housing plan and proper planning through our processes involving the comprehensive plan. At the most recent informational request from the Workforce Housing Office, the applicant hasn't even bothered to apply for Workforce Housing. The mayor is fast tracking this application. In the past, this is done only at the request of the district representative and if there is no opposition. They have allowed reduced parking

and are calling it city walkability, are calling, saying that the citizens it's walkability and public transportation calling this area walkable is questionable. The adjacent properties walk score is 18 of 100. The transit score by vehicle, by bus public transportation is 28 of 100. There is one bus line that doesn't run past 10 p.m. and not at all on Sunday. It feels like our debate team, our Planning Commission, has shown up yet is playing for the other team. Who is looking out for the citizens and upholding the intent of our taxpayer funded studies, plans and ordinances? I wonder how the other applicants in this room feel about the number of exceptions granted to this one application. How do you think this looks to the citizens? It is disempowering and creates mistrust. I hope you consider the intents of our documents, desires of the citizens, and implications of this application bring to us as taxpayers. I ask you to recommend this for deferral until the studies are complete. No one is denying the need for Workforce Housing. What we oppose is granting a poorly planned development with Workforce Housing prior to a plan and proper resources managing it to be in place. We need to do better for our citizens and those desiring Workforce Housing. At current market rates, you would have to make near 30 dollars an hour to live in a one bedroom apartment. Our teachers, police, and firefighters, who this is intended to house, do not make that. The one thing that those employees have in common, though, is that they're city employees. Perhaps the city needs to consider the salaries for our city employees.

Mr. Alcaraz: Thank you. Next speaker. Next speaker come forward, please.

Madam Clerk: Walter T. Camp, followed by Rick Boyles.

Mr. Camp: Good afternoon. Thank you, Mr. Chair, members of the Planning Commission, support staff. My name is Walter Camp. I chair the City's Active Transportation Advisory Committee. I know that's a mouthful. We used to be bikeways and trails, but we're also concerned with pedestrians. With those who have mobility impairments with all the folks who aren't driving a car out there, that's us. So it's a broader title now. I rise today because we met on Monday our committee and took up this matter and we didn't have a lot of time between then and today to prepare for this, but we felt it's imperative to rise and speak up for the safety concerns that this presents to our constituency. Those who are not on automobiles, those who are walking and bicycling in that area. Specifically, we are very concerned at the number of comprehensive master plan issues that will not be followed if you grant the access point on Princess Anne. Now, I understand that even after we met before today that the applicant did remove half of that. It was a two-way driveway, one coming in, and one going out. They've eliminated the out. So we're halfway there to solving this problem. Honestly, I believe this is an easy problem because the comp plan tells us all what to do, and it's not new. It's been here for 20 years. So walking through it, we're first asking for adherence to the comp plan.

Second, the city traffic engineer has testified before this body in August and let me tell you, it's hard to get a speed limit changed. It's hard to get a sign with blinking lights up or other type of amenities that we might expect when he stands up and says, please, please don't do this. That is a serious request that we know you're serious people and you heard him. But when this was approved out with that in it, I just reiterate when this gentleman speaks about safety of our pedestrians and our automotive riders. We take that seriously, and we're glad it's back before you to reconsider this. Number three, what we are specifically asking for, and it's very narrow, I don't have the purview to talk about all these other issues here. All that I can speak to is the direct vehicular access on Princess Anne, and we are specifically asking that whether you approve this application, whether you defer it or whether you deny it, that you strike this one aspect out of it in your recommendation. I'm not going to read the three page letter with 19 pages of exhibits that I sent you yesterday. You got it. I'm sure that you at least saw that it was there, but for the public's benefit and to reiterate just a couple of high points. Let me walk through it. Here are the three points from the comp plan that I'm talking about. The Princess Anne Corridor study, which goes back to the year 2000, it's been revised several times, so it's not just the dusty document out there. That's what says this corridor shall not have direct access. Why? Well, second point, the city's master transportation plan, another part of the comp plan lays this out as a limited access or access controlled road. I was asked by one of the commissioners, well, why do we have those? It shows an inconvenience to some of the folks who are down there if they have to go around the block to get up into their housing plan, indeed it is. But when you have a roadway that is carrying 20 to 30,000 cars a day, a couple of hundred people who have to go around the block at the light to get into their home and not hold up all this traffic, that's the kind of thinking that it's about. So we have Dam Neck Road, we have Nimmo Parkway; we have Ferrell Parkway, where you don't see many driveways there because as we're coming and going to work and school, you go ahead and can zoom right along that and get where you need to be a little quicker. If you live near it, yeah, you go to an intersection and come into that neighborhood and say, well, gee, this is an apartment complex that's going to inconvenience a couple hundred people. Yes, it will. I bet you target felt the same way up the street. They got a lot more than a couple of hundred people and you can't get into target without going around the corner at the light. Sentara Princess Anne Hospital, schools, they don't have direct driveways on here as important and as busy as they are. They accepted the comp plan recommendations to come off the main road at a light. This apartment complex should follow form with the comp plan's recommendation. Why is that there? Well, if we had everybody turning and merging in, according to the city's comprehensive plan, we'd need to pave extra lane miles. So that we don't disrupt that traffic and allow them to flow through. That's a whole lot of taxpayer money to be going on 11 major highways and paving out extra lane miles. That's a lot of storm water runoff that now you have to factor in. There are a lot of other issues here than the convenience

of a couple people, which is just around the block, compared to all these other things that the taxpayer is going to have to fund, maintain, and deal with. The path itself, after the Princess Anne Corridor study was created, the city went ahead and spent public tax dollars to build those nice winding paths, you've seen them along Princess Anne. Wouldn't that an amazing thing, that people would feel comfortable walking and skating and biking along a 55 mile an hour road. You wouldn't do that many other places except for the design. What's special about the design? Well, it's set back from the road. There's a big grass buffer there. It's also protected because it's a limited access road. You don't have all these cars turning and risking hitting you. That's the whole point. We can move all traffic. Cars and people on foot and people on small wheeled devices safely up and down this corridor, everybody's staying in their lane doing what they need to do. You start having them turn over each other, well now we have risk of collision, and that risk of collision is something that is completely avoidable here. The comp plan says don't let them turn here, so you have zero risk of collision. You open up a driveway, or as originally set out, two driveways, or you got 1,100 car trips a day. Multiply that out days in a year and that's just the folks living there. That's not all the cut through traffic that will find it convenient to get off Princess Anne Road a little sooner. Zip through this to the rest of the development, whether you call it phase one or phase two, people are going to do, what's easy and so we have a concern here that what's set up as a convenience access a secondary entry because remember the primary entries on George Wythe it's been planned as long as this quarter studies been there to serve these parcels when someday they develop. That was all envisioned. That's not news. So this secondary entrance, what is it really going to be? It's going to be the primary entrance. People are coming back home down Princess Anne, they're going to turn off that. That's what's going to occur here and so we see it as real. We see the full traffic load driving right across the bike path, the walking path that is used by this community. You don't have to approve that. The plan says don't approve that. The traffic engineer pleaded, don't do that. We are asking you, please don't do that. These plans that I'm referencing, who knows about these things? Look, I understand just as people, more than half of you have been up here less than six months and it's overwhelming. Look what you got and this is just one of these issues. You got hit with Wycliffe Church, with Project Wayne. You got all kinds of things going on here. You're in a hard position. We get that and people are coming up here waving around plans from 20 years ago, citing page and verse like you're supposed to know all that. We know you haven't absorbed all that yet, and the three of you have been here more than two years. I don't know that you've absorbed all that because of all the things that you've had to deal with, we get it. We're here to help you work through these things by pointing out these issues respectfully and saying, look, thoughtful people over many years have put these things together. They've been revised. They've been put before the public for comment and then, and only then, Council took them up and added their approval on it. Again and again, your Commission approved

every one of these plans I talked about that said we're not going to do this. The Commission is a living body. The people on it change, but the Commission has said we're not going to do this. So don't do it. That's what we're asking for, respectfully. Thank you.

Mr. Alcaraz: Thank you. Next speaker. Following speaker, come forward and sit down.

Madam Clerk: Rick Boyles, followed by Cherie Bach.

Mr. Boyles: Thank you. Good afternoon. My name is Rick Boyles. I'm a lifelong resident of the City of Virginia Beach, a small business owner for the last 20 years, president of the Thalia Civic League and also president of the Virginia Beach Council of Civic Organizations. Mike and Lisa and Walter have taken most of the wind out of my sails here. There's not too much I can repeat on what the first three speakers have said. I'm here today wearing my VBCCO, my Council of Civic Organizations Hat. We see ourselves as an educator of Civic Organizations across the city of which we've identified 171. It is our goal to get information to them. We generally are not going to take a position either for or against applications that come before this body or before council, but we will try and get people into a room so that we can talk about issues. I'm not going to go over the issues that these folks have talked about already. One of the biggest things, though, is that transfer development rights. I think we really need to dig deep on that moving development rights that we didn't use from one property to another. That's a bad precedent and a lot of what we've done here is precedent setting today. One thing I do want to point out is that the DB levels in the ITA Zone, I don't know if everyone is aware. Those are average 24 hour DBs levels. They are not the loudest that something will get an F-18 Super Hornet, I believe, runs in at about 118 DB. There's been mention of the JRP Group findings of which John Lauderback is a civilian that works for the Navy. The developer attended that meeting at the JRP along with a bunch of city staff and ultimately they decided that once the project was moved out of the ITA then the Navy didn't have any objections to the project. I'll agree with Lisa there. We're putting all these people in three plus acres of land. Do the math, it's 179 apartments. If we give him all of what he's asking for divided by the three acres, 56-58 units there. The city manager had asked for a letter from the commanding officer at ONAS and while Mr. Beaman referred to one sentence off of that letter, he pretty much echoed the JRP Committee as well that the Navy doesn't have any objections because we haven't crossed the ITA Zone. It doesn't mean that we're not going to affect people that might live in these areas. If you calculate the parking on this particular building, I come up with 1.52 spaces per unit. Typically, in these kinds of things, you all know we see 1.8-1.9 spaces per unit. This phase one portion of this project is a gated community. So, if we're gonna shortchange the people over in phase two on parking, where are the overflow gonna go? It's gonna have to end up in

phase one. So now we have to figure out how we're going to get these people into a gated community, how they're going to schlep their kids and their groceries and all that stuff back over to these apartments. At this stage of the game, I think our best course of action, given the issues that we've all identified and are about to identify here today is to defer this item to the next Planning Commission meeting. The city has had a lot of time. The applicants had a lot of time to study these issues. The citizens of the city have not had as much time to do that and I think a deferral is probably the best course of action. Thank you.

Mr. Alcaraz: All right. Thank you. Next speaker.

Madam Clerk: Cherie Bach followed by Michelle Lane.

Mr. Alcaraz: Michelle, if you can come up front. Thank you. Hi. Just state your name. Are you representing the Civic League?

Ms. Bach: Hi. Members of the Planning Commission, my name is Cherie Bach and I'm here today to voice my and my neighbor's grave reservations concerning the construction of the apartment facility known as the Silo. I apologize if I end up repeating things that were said before. I needed to step out to take a Telehealth medical meeting. The reasons that me and my neighbors are against this project are many, but I will try to be brief. The plans are riddled with so many issues that you are being asked to grant concession after concession, which is an indication that the plans themselves are inherently flawed while being rushed to the vote. If the plans were sound, no concessions would have to be requested. You are being asked to grant waivers for height, for density unheard of in this area, if not for the entire city. To look the other way, even though this project has not been approved by the city's own civil traffic engineers because of the issues with ingress and egress. To ignore the fact that it violates the city's own comprehensive plan and this Princess Anne Corridor Study, both of which were drawn up to keep the city in harmony with BRAC and ensure that the Department of Defense is satisfied that the area and City Council are committed to adhering to both the letter and the spirit of that agreement. So squadrons at NAS Oceana do not leave for another East Coast Naval Base. My neighbors and I are concerned that about turning a blind eye to the fact that the stormwater plan as it stands is to connect all the drainage with southern pines, which, as we understand, was constructed in 2014 and therefore might not, no longer be in code. Therefore, most likely burdening and already straining system that flowing through the Virginia Beach golf course that routinely floods through during hard rains now. To disregard the fact that the proposed development does not have adequate parking for the residents of the silo and we are confused as to why the silo is referred to as southern pines phase two because southern pines was never filed as having a second

phase. Legally, shouldn't it be considered a one and done property as it was proposed and agreed upon at inception? The fact that Southern Pines did not use all of its original units at close of development should not be relevant today. The current residents of this area do not deserve to have their current way of life disrupted by having this plan rushed through and disrupted; it would be by having the increased confusion of traffic and noise of having such an unheard of increase of density in such a small parcel of land. Existing as well as future residents deserve better than this. Agreeing to these waivers now sets a terrible precedent for future poor plans to be submitted. A proposal with this many requests for waivers needs to be carefully scrutinized. Why is this being rushed? I ask you not to have the plan as it exists now go forward as it stands, but please defer and review carefully and considerately. Thank you.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Michelle Lane followed by Mark Lane.

Mr. Alcaraz: Mark, if you can come forward.

Ms. Lane: Michelle Lane. Good afternoon commissioners. I appreciate all the work that you do to ensure smart and well thought out development and growth for our city. We built our house in Princess Anne Crossing that backs onto Princess Anne Road in 1993. We have raised our family here and have been through road construction and widening, sound walls being built and drainage issues that have ensued. We have watched smart growth and appropriate developments be built around the Princess Anne corridor and appreciate the thought out process that that entails. I stand here today in opposition of the proposed silos at Southern Pines project. This is not smart, well thought out growth and development. I ask you to follow the recommendations of our city's comprehensive plan. Look at our city's strategic growth areas and ask yourself if this project fits in with any of it in this area. Rezoning this land to A-18, then allowing a height variance 20 feet above what is allowed for in an A-18 is unheard of and sets a huge precedence. Removing all setbacks from the road and nature path of the front building, if you look at this project over here, you'll notice that three story building that was brought down from a four story, it's pretty much with a three foot berm is right on our nature path and trail that we utilize every single day. Putting all buildings on one side of the property with inadequate parking, removing the requirements to strive for 50% open space that we talk about in our comprehensive plans and our Princess Anne Corridor. When we look at this project, where exactly is the striving for 50% open space in this phase? Allowing transfer of density from a nine-year-old project that didn't even include the proposal to use those units in the first place, this site has alternative access that does not require direct access to Princess Anne Road, yet the developer is asking for direct access that

will cause traffic issues for the existing neighborhoods. You've heard that over and over again. For these and many other reasons, having stated or will be stated, I ask you to either defer this vote till further study can be done on this proposal or if you have to move forward, then vote no for this project. Thank you.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Mark Lane, followed by Susan Tolley.

Mr. Alcaraz: Susan, you could please come forward.

Mr. Lane: Hi, good afternoon. My name is Mark Lane. I appreciate all of you serving. I appreciate your effort on this. You heard this project back in August and you voted yes almost unanimously on it. This is not the same project. I am sorry. It is a completely different project. It has different offsets from the road, which some of you brought up at that meeting. There was no one standing in opposition to this because we didn't know about it. The first we even knew about it was when we got the letter, the note in the mail from the city five days prior. We were not able to talk to our neighbors and figure out what was going on in those five days. This developer did nothing to reach out to anyone in any of the neighborhoods. They claim they did at that meeting. They talked to one person who specifically stated that she did not represent Christopher Farms. They made no effort to reach out to any of the other neighbors and that so we didn't have time. That's why there's a lot of people here today because since then we've had time to dig into this. This project is completely different. There are no offsets. The parking is different. The drainage may or may not have been addressed. We haven't had time to dig into all of those issues. By the way, the parking that they say is split between the two phases of this development. Do you see any walkway access between those two different phases? So they're gonna telling people you got to park over there, then you got to walk down an active road to get back to your apartment. Do you want that? Would you like to live like that? Everybody else has talked about all these other issues and I agree with them and I support them. Workforce housing is important. We fully support workforce housing. It needs to be built. But that's not an excuse to, that only gives you one waiver, that is waiver on density, that essentially from A-18 would go up to an A-22, not an A-28 or an A-56 or whatever numbers you want to use. We're playing games with these numbers. It gives you waiver on density. Approving this project would give you waivers on all kinds, as is, gives you waivers on all kinds of other things. Where does it say that we, because we want workforce housing, we agree, we need this. But that doesn't mean you get waivers on all of these other things. You're -- you've heard about them, you're going to hear more about them, and I appreciate your time. Thank you.

Mr. Alcaraz: Thank you.

Madam Clerk: Susan Tolley, followed by Billy Vaughn.

Mr. Alcaraz: Mr. Vaughn come forward.

Ms. Tolley: Good afternoon Planning Commission members. My name is Susan Tolley, and I am here this afternoon to voice my opposition to the silo project at Southern Pines. I am very concerned about the variances needed, and the disregard for planning, guidance, and statutory rules that have been established by the city. I am concerned that by designating some units as workforce housing, the developer has received special consideration and exemption from existing regulations. For example, the buildings are simply too tall. The builder is requesting a four story variance and a height variance. If these variances are approved, two tall buildings could pop up in neighborhoods all across the city and districts as long as a percentage of the units are designated workforce housing. Allowing this sets a precedent. Although a density allowance accompanies workforce housing, the level of density is far higher than in surrounding areas. By code, workforce housing also calls for open space and recreation areas. The plan submitted shows me two things. It shows me five too tall buildings and parking. Inadequate parking and parking that looks like it's pretty far away from the apartments. All of this violates the guidance, the expectations, and the spirit of the comprehensive plan, our city's own comprehensive plan. And I really thought that was developed for a reason. Additionally, the initial Southern Pines apartments were not approved based on a Phase two in this location. Combining two separate properties in this way is misleading and seems to be used as a phase one and phase two combined when it's the developer's, in his best interest. The parking and the density calculations appear to be based on a combined project, but on the other hand, workforce housing is not to be segregated by code. It should not be in one section, yet it's all in phase two. Finally, Mrs. Henley, our district representative, who was voted in by our district to be our representative to hear and to represent our views, has expressed concerns repeatedly. I went to an informational meeting earlier this week and I'm not very good at looking at a crowd and estimating how many people are there. But I'm going to tell you at this meeting hosted by Ms. Henley, the whole parking lot of the Masonic Lodge was full. The meeting room was full. I did not hear a single person say, Oh yes, please, let's do this and let's do it fast. What I did hear was people asking, please slow down, review what we're doing and see how we as a city can make workforce housing compatible with existing statutes, guidance and codes. Thank you.

Mr. Alcaraz: Thank you.

Madam Clerk: Billy Vaughn, followed by John Cromwell.

Mr. Alcaraz: State your name and who you representing.

Mr. Vaughn: Yes. My name is William Vaughn. This is John Cromwell. We are here on behalf of the AG Advisory Commission. Mr. Chairman Alcaraz, Vice Chair Horsley, Honorable Commissioners, for those of you who don't know what the AG Advisory Committee is, we are appointed by the City Council. We are basically in-charge of everything below the green line. We just met at our quarterly meeting this past Monday, and this was brought to our attention. The purpose of our committee is to help inform y'all. We give our opinion on what is affected below the green line to planning and to City Council. So we're also going to believe y'all should have a copy of the letter that we had issued. But I'm gonna go ahead and go through it. Some of the issues are going to be touching on other things that have already been brought up, but they are important and they need to be sought after. We're here. It's our fiduciary responsibility to act on behalf of the farmers in the area. I'm a farmer. Our farm has been in our family since 1695. Mr. Cromwell is a farmer. We're here to protect one of the top three industries in the City of Virginia Beach, which is agriculture. This project can also violate the BRAC agreement, which is the military, which is also one of the top three industries in the City of Virginia Beach. So we don't need to offend two of the top industries in the City of Virginia Beach by violating our comprehensive plan that's already in place. So the Agriculture Advisory Commission, we voted unanimously to oppose the proposed plan by Franklin Johnston Group to change zoning from AG-1 to A-18 on the property Sawyer Farm that lies within the ITA and AICUZ at the quarterly meeting that was held this past Monday night. Based on the information provided, we strongly oppose the conditional rezoning application for these reasons. First and foremost, the property is below the green line. There is still a green line, which was created to promote agriculture uses according to the city policy and to limit development that would strain stormwater management. We already have stormwater management problems in the Southern Shed, correct? So that would also change our infrastructure services. The plan to transfer the density rights to increased development units from the half of the property within the ITA to the half of the property not within the ITA shouldn't be allowed. This residential density transfers are prohibited to our knowledge and all city policies. Transferring rights within the ITA to other portions of this property or from other projects would not be a precedent that this city would want to even try to set. The amount of density proposed is far more than the requested 18 units per acre with the A-18 zoning and exceeds recommendations for this area. Portions of this property are in the AICUZ area designated as 65-70 DB DNL, which eliminates and violates the BRAC agreement we already have to keep Oceana up and running with the Department of Defense. This plan is also no open space in the transition area guidelines and the Princess Anne Corridor, which is the PAC study. They both require

this. The plan is being presented as phase two of an original development plan from 2014 that involved another property. The stormwater drainage requirements from 2014 to 2023 have drastically changed to address critical flooding and stormwater mitigation. We have concerns of the proposed project using the drainage system from the 2014 project because transferred of development rights and stormwater management sets dangerous precedence for this city. We have major concerns about unintended consequences and impacts of this project. For these reasons, we as the AG Advisory Commission strongly opposed, and we urge you not to defer, but to deny this application as it is being set forth right now. Do y'all have any questions for us as the AG Advisory Commission? We do, we're here for y'all. Anything below the green line, that's our job. We're appointed by City Council. If y'all have any questions, we meet quarterly. We can have a special meeting. We can voice our opinion going on knowledge that we have. We can present it to y'all. We're here to help y'all. Thank you.

Mr. Alcaraz: Thank you Mr. Cromwell. Next speaker.

Madam Clerk: Diana Hicks, followed by Ronna Marsh.

Ms. Hicks: Good afternoon, Chairman Alcaraz, Vice Chairman Horsley, and District Commissioners. My name is Diana Hicks. I'm a resident of Virginia Beach and a member of the Transitional ITA Advisory Committee. Over the last few months, I have participated in numerous meetings pertaining to this application, including your informal session this morning and I'm here to state my opposition. The comp plan, the ITA and vicinity master plan Princess Anne Corridor study in our zoning ordinance provide ample direction on what is appropriate and expected and astonishingly, item after item, this application manages to undermine their integrity and leans heavily on being granted exceptions specifically in regard to how the density has been calculated. If you recommend this application in essence, you will be setting precedent and establishing expectation for changes to the zoning ordinance per the request of an applicant. I don't think that this is how we should manage planning in this city. Density, the rezoning request relies on the full six acres, workforce housing density bonus, and **[Inaudible]** **[01:44:17]** that they be awarded another 31 units because according to them, they didn't exercise their full zoning rights in 2014 when they developed Southern Pines. Decisions that were agreed and made with absolutely zero connection to the current application. Here's why this is not okay. These parcels straddle two zoning ordinances, as you've heard repeatedly. We all see that. We hope you can now see that too and while it does not specifically state that the AICUZ restricted land is disallowed for calculating density, it also does not say that it is allowed. What it does say is that city recognizes we may come across a situation where the ordinance as it relates to BRAC, ITA, and **[Inaudible]** **[01:44:52]** studies might need to be readdressed for items that were not initially

discovered or addressed. This is precisely that situation. In this morning's meeting, Council could not come up with an example of bisected property being rezoned and awarded higher density in the ITA as is being requested in this application. This would be setting precedent. Our zoning ordinance provides examples of where we don't give density credit on restricted use areas. ITA and AICUZ land should be treated similarly. The purpose of determining density based on developable land is so that you don't end up with disproportionate density in small areas, such as 176 apartments with roughly 400 to 500 people living on three acres of space. Let that settle in for a minute. This is below the green line. This is the ITA and we're talking about hundreds and hundreds of people in a very small area. If this AG zone land is rezoned at all, which is questionable or should be at this point, a more appropriate density calculation would consider the three acres and not the full six acres. It is a very long way to go from the current zoning pre-existing rights on this agriculturally zoned land, which would maybe get you five units to 176 units. That's a lot to think about. It's a lot for everyone to digest. Southern Pines application had no mention of phase two. You've heard this repeatedly. Transferring unused property rights is effectively transferring building rights from one property to another. This morning, planning staff provided you with, I think, maybe two examples of where this had been done before in the city. They were not adjacent to or in the ITA. So therefore, I don't really think they're relevant. We've created entire systems and policies and documents to protect this land area. We can't look at a development that happened 40 years ago somewhere across town and say that this is the same applicability. We don't want to set this precedent. So my question to you, is this a practice you intend to make available to every other applicant? Is this how we begin the destruction of the ITA? Why would you risk this? Are you prepared to look back and reframe past development on all most sensitive areas, the TA and the ITA?

Mr. Alcaraz: Thank you. I gotta move on to the next one, sorry.

Ms. Hicks: Yeah, I'm sorry. I tried to speak as fast as I could, but I do request that you just deny this application and at a minimum defer it.

Mr. Alcaraz: Next speaker.

Madam Clerk: Ronna Marsh, followed by Mark Johnson.

Ms. Marsh: Good afternoon commissioners. I am Ronna Marsh and as usual, I'm trying to bring you some visuals. I wish I could put it up on the screen, but I don't get that luxury. It's important to remember history and I'm going to read this headline that CBS has online. Navy jet crashes into Virginia Beach apartments. Pilots eject. Do we need to have that happen again? It's a really big concern of mine that you are building or looking at a

proposed building that will be 55 feet tall and will have hundreds of people in it. The actual fair housing calculations are a little bit more scary than just saying 500 people because if you look at it and you figure it out, there's probably 558 people who will be able to live in this set of apartment units because fair housing requires you allow two people per bedroom and if you are going to say that there are 279 bedrooms, which is in your, your plan, that was done by the planning department, it says that on page two and you multiply 279 times two, you get 558 people up in the air, 55 feet, and if there's a malfunctioning jet, and it hits these people, are we going to have another picture like this? Everybody keeps saying that they don't know why we're pushing this forward, and I think one of the reasons we're pushing it forward is for political campaign contributions. And I'm very disappointed, I'm very disappointed that our mayor has received wrong one, our mayor has received 18,000 from Franklin Johnston Group and there are three other people who have received fairly hefty contributions as well. Franklin Johnston has given 66,500 to the group of Dyer, Wilson, Schulman and Balucchi. So we have to look at why is this being expedited? It's being expedited for campaign donations. We need to defer this and slow it down. We've got people's lives at risk. We don't need a war zone and fair housing is important and if you look at some of the maps, it shows that this is primarily in an area that the Navy would be interested in finding out about and I, as a citizen, called the BRAC offices. You all can have your attorneys, your city managers, somebody can reach out to BRAC, and they can get their blessing on this. Let's just not go with one local person who used to work in the military. Let's get an actual DOD letter or a BRAC letter. Let's get somebody to approve this so we don't have a huge problem and risk naval, what happened here, like what happened at Cecil Field. NAS Cecil Field was closed. If any of you do your homework, look it up. It's on Wikipedia. Cecil Field no longer exists. We don't want that to happen at NAS Oceania.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Mark Johnson, followed by Andrea Lindeman.

Mr. Alcaraz: State your name, sir.

Mr. Johnson: Hello, commissioners. Thanks. Mark Johnson. I thought you said it. Thanks, George. Anyway, a lot's been said. Most of what I feel has been said, but I feel like we're going backwards on this whole thing. I kind of wish the mayor was here because I'd like, I've got some questions to ask him next week. I'm most concerned with what happens after if the development gets built, who's going to take? I mean, who's got to sit with it? Like the city always sits with bad developments. It comes back to the taxpayer. I hate to see that happen personally. I'm with the farmers. I believe they have their handle on what's going on with this land out here and just like the Seatack people,

as long as the county has been here. These developers are looking and they're looking at wide open spaces and let's build something on a wide open space because it's a whole lot easier, but stormwater is hard to manage and I'm very concerned about the stormwater project going to phase one, which is outdated. Nobody knows what's going on. So, technically, there's more questions here not answered that need to be answered. And I think, you know, short of denying this project, it needs to be deferred until these questions can be answered. Anyway, everything else has been said. Thank you very much for your time.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Andrea Lindeman, followed by Kia Chapel.

Ms. Lindeman: Good afternoon. Thank you for your service. I'm not going to repeat what so many people have said and said very well. The only thing that I would like to add is that I think that questions about density will be pivotal in the years ahead as future development will often involve infill and redevelopment. And so I think these questions about how density will be calculated are pivotal. Can acreage that is not integrated in a project be used to calculate and allow a higher density? Can unused density be transferred to a next door project? I think these are important questions that need to be answered and answered not by setting precedent on just bringing in and okaying individual projects. But I think that these questions need to be faced in a straightforward manner and addressed in the zoning code and so I hope that you'll defer this project and confront these issues that will affect the whole city. Thank you very much.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Kia Chapel, followed by Damian Lombardi.

Mr. Alcaraz: Ms. Lombardi, please come forward.

Ms. Chapel: Good afternoon. I'm Kia Chapel.

Mr. Alcaraz: Thank you.

Ms. Chapel: Thank you. I've heard a lot against this project. I'm excited for it. I'm for the workforce. I'm a current resident of Southern Pine. I don't think our parking could take additional people if need be. But from what I saw, it looks like it will be a good project. I believe in the Franklin Johnston Group and this project. Thank you.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Damian Lombardi, followed by Chance Wilson.

Mr. Alcaraz: Wilson, please come forward.

Ms. Lombardi: Damian Lombardi had to leave, but I'm Angie Lombardi and I'm probably there somewhere. So I just want to speak in support of this development. I too live right across the street from this development, like many of these people here that are opposed to it, but I see things a little bit differently and I understand that change is hard, but this land is for sale and somebody is going to buy it and somebody is going to develop on it and I've seen Southern Pine, I know what that community does. I know how it looks, and it's absolutely beautiful. And we talk about jets flying over. guess what? I live in Princess Anne Crossing, jets fly over my house all the time. The Blue Angels literally rocked my house when they flew over. So to say that because it's four stories now a jet's gonna hit it, we have jets flying all over our city and I absolutely love it. My uncle just celebrated a year of anniversary of retiring as a 25 years as a naval aviator. So it is near and dear to my heart and I love my neighbors. But we also we love our part of Virginia Beach and it is not accessible to everybody. If you can afford a half a million dollar house or a million dollar house, you get the benefits of living in Southern Virginia Beach, of our school district, of our small businesses and restaurants. When I started in my career and was making 28,000 a year in my 20s, I wouldn't have been able to live where I live now and I love where I live. And I want others to have that same opportunity. Thank you.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Chance Wilson, followed by Cheryl Scott.

Mr. Alcaraz: Scott, please come forward.

Mr. Wilson: Hello, my name is Chance Wilson, and I head up the affordable housing initiatives for the company, and I'm for the project, and here's why, I see through my research of affordable housing across the country. It's such a challenging conversation, but it all center, you know, really centers around the people that need it. You know, the workers, everyone talks about the nurses, you know, the police officers, the teachers, and I've noticed in almost every situation where affordable housing comes up, it ends up being these creative ways to not push it forward and this is why I'm working on initiatives for the company, just in general is because we need to have more education. We need to have more dialogue. We need to have a lot of these engagements before something gets this far and so everyone is on the same level of understanding. But affordable housing is an

opportunity to really move forward for the citizens and it's going to be difficult no matter how you do it, where you put it, it's gonna be uncomfortable. And I think for me and seeing this whole thing unveil, I have to trust the process. I mean, I have to trust the staff from the city at some point, because if I'm not trusting the city, then I can't move forward. So I have to trust the staff. I have to trust the company. They're listening to the staff because they just can't make up things and just approve things without someone saying it's okay. So I really hope that we move things forward. Yeah and it may sound funny, but if you're not going to trust the process, then guess what? I can say there's an issue for a ton of new reasons to delay everything that will progress society moving forward and I want to see a meeting, we finally can move something forward. We are on the same page versus creatively finding doubt and causing fear. Thank you.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Cheryl Scott followed by Ken McSpadden.

Mr. Alcaraz: Next speaker come forward. Thank you. Just state your name.

Ms. Scott: My name is Cheryl Scott. I live in Lansdowne Meadows up the way. I want to ditto all this awesome talk about all the different issues. I want to say I feel that I am one of these people, I pay attention to our community, with our development being right up there, and we knew that biomedical was going to go on across the street to us. We have had numerous accidents in that area. We have had I feel like there will come a time if nothing else is done up there, there was going to be a casualty or fatality up there. I don't understand how it is, I didn't see that warn signs. I pride myself of knowing what's going on in my city and I go to the meetings and I pay attention. I want to thank Ms. Henley for reaching out to all of us in the last minute meeting that we had no idea what was going on. I don't understand why stuff is going so fast. If you look on the page of this addendum item, page 10, all the signs went out. This happened, this happened, this happened. What happened to the community? No one told us about this and I might have missed it. Okay. I might have missed it. But you can't miss those yellow, those orange signs out there. I look at this project and its look like you didn't put a stamp and you got stuff here and you got stuff here and you want these people to live in the middle. And as far as this traffic going on, people are going to speed up Princess Anne like you never know. I know because I've seen them coming up through a 50 mile an hour zone right in front of Lansdowne Meadows and then they're expected to slow down to 50 miles an hour when they get past the shopping center. These people aren't slowing down. That's why our police officers are always out there giving people tickets. They're not slowing down. Can you imagine these people trying to come out of this development? Oh, they say, oh, it's a little bit of this and a little bit of that and a little bit of the other. It's

not right and I think this project needs to be stamped. No, we don't want this in our area. If it has to go to a denial, I want the citizens of Virginia Beach and all these neighborhoods around this project to be able to know what's going on. These committees that we have, they're working for you and us and we need to listen to them, especially that traffic guy. I feel his pain. I really do. Because I would like to see something different in our area before someone gets killed up there in front of Lansdowne Meadows. And yes, where are these people going to park? They've given them these parking spots. I get that. But when it's full, where are they going? They're going to go across the street to Princess Anne Crossings. They're going to go everywhere. They're going to park on the street and if you think for one minute they won't, they will.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Ken McSpadden followed by Clinton Mills.

Mr. Alcaraz: Following speaker, please come forward.

Mr. McSpadden: Well, good afternoon. It's been a long one so far.

Mr. Alcaraz: State your name for the record.

Mr. McSpadden: My name is Ken McSpadden. I live in Princess Anne Crossing, just across the way there. After reviewing the information regarding the construction of Southern Pines, I noticed that the Franklin Johnston Group plan has we've already pointed out, too many variables. I mean, it's insane. First, we've talked about the density and I'm sorry, don't mean to keep you up, but the density, I don't know about you, but when I grew up, I lived in apartments for the first almost 20 years of my life and I guarantee you, you're going to be packed in like sardines here. So unless you like that, not a good deal. Second, there's no green space. We've already established that stormwater runoff. If you look at the plan that was presented at Mrs. Henley's meeting the other day, they want to cut across the Southern end of the Virginia Beach National Golf Course, which I understand is owned by the city. No big deal there, but you're going to lose a lot of golfers. But the other side of that is, is it's going to go across and then it's going to go up along the boundary and it's going to get pumped into the North Landing River. That's a pretty extensive system for stormwater handling. Can the city afford that? I'm sorry. Can we afford that? We're the taxpayers. Safety, right now they show everybody's in here and basically perpendicular parking. Well, that's not true. We were told its parallel parking. I don't know about you, but if you got to get a fire out, you got heavy fire equipment that's got to get in there. They've got to get those cars either moved because they got to get the stabilizers out for those ladders because they're handling a four foot or four story tall

building fire. You can't do that with just a plain old hook and ladder. You got to have the heavy equipment, not to mention ambulances, emergency vehicles. They're going to come in there and they're going to have to park in the middle of the road so they can get in and then they got to walk pretty far just to get into some of those buildings on the ITA line, not to mention the ones on the other side. So, you get all that going on. The fact that Mayor Dyer is fast tracking the Silo South Project for workforce housing, not affordable housing, workforce housing, there's a big difference. Without first getting answers is in essence, putting the cart before the horse and you guys are supposedly the horse and right now the carts in front of you. You're not, it doesn't sound like you're on top of things here. What this proposal is implying is any proposal with workforce housing wording is guaranteed to be approved. This sets a dangerous precedence that affects all districts, not just District two. At this stage, I strongly disagree with the recommending of approval. There needs to be additional studies before this project moves forward, if it moves forward and please do not just rubber stamp it.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Clinton Mills, followed by Caroline Kent.

Mr. Alcaraz: Ms. Kent, please come forward to the seat. Thank you.

Mr. Mills: Well, hello everyone, and I just want to say thanks to the Planning Commission and also I want to thank everybody for coming out. I really do appreciate that. This is a great showing. So thank you for coming out. No matter how big or small our issues are in the city, I love seeing that.

Mr. Alcaraz: Could you just state your name for the record?

Mr. Mills: Oh, I'm sorry, Jeez. It's Clinton Mills. I'm the president of the Princess Anne Plaza Civic League and I don't know how to follow up all this stuff. You know, it's a lot of great comments and everything. So the only thing I would like to say is that, you know, we're looking at more high density development in a small area and I think it's in the wrong area and that's so I'd like just like to see this application deferred and that's all I have to say because everybody else has pretty much said what I was going to say. So anyway, thank you.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Caroline Kent, followed by Daniel Franklin.

Mr. Alcaraz: Daniel if you come forward, please. Thank you. State your name, please.

Ms. Kent: Good afternoon. My name is Caroline Kent and I'm a resident of Virginia Beach moved here in 1998 and have watched the city grow. The impact that this development will have in our district is a detrimental one. There's no positive to this build other than expanding bank accounts of those attempting to sneak in under the radar. Allow me to provide the top 10, number one, which has already said is size and number of proposed units, too many, height of 55 feet. That's 20 feet over the 35 feet. Number two, BRAC, violation. Remember 2005? I'm sure you do. We had to fight tooth and nail because otherwise the Navy was going to move away of Florida. We don't want them gone. Number three, no discussion of the Navy regarding the proposed plan and encroachment violation. Number four, a loss of military revenue and all that depends on them for trade. That's millions if not billions of dollars. Number five, schools, currently Virginia Beach has a teacher shortage. What's going to happen when we have more residents? Because there's not just going to be two people in a bed, there's going to have a kid too, or a couple more. All right, so that will make schools overcrowded. Number six, healthcare. Hospitals in the area are already understaffed with a three to five hour wait time in the ER and weeks to months for doctor visits. Also, the Navy gone, there'll be a large number of providers that will be gone. Doctors, nurses, their nursing associates, they'll be gone. Number seven, flooding, never addressed with new builds other than retention lakes and ponds. With the new thing that they've got up there, there's none noted on the revised plan. The pond was removed. So they can cram in more apartments, really? Flood incidences have dramatically increased in this area due to poor drainage and poor planning. By the way, Blacktop, also known as Macadam, does not absorb water. Places that never flooded now do. Flood insurance was told down here that it was not needed in this area of District two, but will be with every home in this area. With that said, all you need is only a few homes to flood and the rates will go up for those that are already covered and the new applicants will be then have dealt with more expensive and additional requirements. Therefore, the cost will be increased to whom? The homeowner. Already insurance companies are dropping their clients and leaving this area due to climate change incidences, let alone inadequate storage stormwater mitigation. Number eight, city services will be affected drastically. Currently, we have insufficient amount of police, firefighters, EMS. Also remember, EMS is volunteer, that's not adequate for a city of this size. Dispatchers, 911, grossly understaffed and underpaid. Why is that, because we use the cheapest contractor, whoever bids the lowest gets the job. There will be placed, you get placed on hold when the system is overwhelmed, which is most of the time. All of which we, we, here in this room, including you, pay for and either don't receive or it's greatly reduced. Number nine, concerned traffic, ginormous impact. Princess Anne already has, this is a highway raceway when it's rush hour, which starts about 2:45 around here and when we have concerts and other events.

Mr. Alcaraz: Thank you.

Ms. Kent: Okay, it shouldn't take 20 to 30 minutes to get to Nimmo from Tiffany Lane during midday, lunch hour, rush hour and the last thing rapid urbanization is not what the Virginia Beach residents wanted. The reason most of us live here is for a better quality of life, not a big city vibe. We left the areas that like that live like that to come to the Virginia Beach. We're not Miami. Individuals in government needs to be more transparent and stop using our tax dollars to line their pockets with no forethought or consideration to the people who elected them.

Mr. Alcaraz: All right. Thank you, ma'am.

Ms. Kent: Thank you very much. I'm opposed.

Madam Clerk: Daniel Franklin followed by Donna Siller.

Mr. Alcaraz: Just state your name, sir.

Mr. Franklin: Good afternoon. I'm Daniel Franklin. My wife, Donna here is with me today. We've lived in Virginia Beach for 57 years, my wife and I live down on West Neck Road. We have a lot of scar tissue from previous land use issues that invaded our life down there over the past few years, and I see this as another one of those, and that's why I'm here talking today. I came to Oceana as a young kid from Iowa years ago in the 60s, and for what it's worth, getting 100 dollars a month, any kind of housing was out of the question. But I do think about our young sailors coming here in this day and age, with this cost of everything, and wondering how do they do it. But that's not my point today. I oppose this project. I think it's riddled with problems. It shouldn't be deferred, worked on. It should be moved. It shouldn't occur here, shouldn't break the green line with a red line and start a precedent that's going to end up somewhere down the road. I guarantee you from experience, some developer is going to use, as you see. Most projects have a lot of waivers, exceptions, precedents, quoted, and they find their way into future products. When Donna and I lived up and down the beach in our early life, we rented, and then we lived in Lago Mar for about 20 years, home there and years ago when I was a base commander over at Norfolk, we said, let's settle down in the country. We studied the comprehensive plan. We looked at the zoning rules, density rules. I got familiar with it all and we moved down there on four acres on West Neck Road, built a house, and have lived there ever since. We have three grown kids that have all gone to Kellam. They all own homes in this area. So, we're here to stay and we've had some major problems with Planning Department, Planning Commission, City Council, things that took place years

before, or deed restrictions that weren't consulted, in other words, not necessarily the best precision, and staffing new things coming through, and years ago, one of the things we had to deal with was the attempt by one well intentioned owner to put a commercial store in agricultural property and we had a fight like heck to defeat it and we did. So I say to you today, I appreciate the work you're doing this Planning Commission members, but do the right decisions, make the right decisions fully informed as much as you can be. We don't have a rolodex where you can go back and pull up actions of your predecessors three or four years ago very easily or have time to do it. So this project I'm worried about the precedent leading to more development down the road in an agricultural area. There's a lot of, it's a beauty that we have this agricultural area of the city to live in. Let's not mess it up.

Mr. Alcaraz: Thank you, sir. Thank you. Next speaker.

Madam Clerk: Donna Siller, followed by Stacy Norris.

Mr. Alcaraz: Miss Norris, please come forward.

Ms. Siller: Good afternoon and how do you do? My name is Donna Siller. I have been a resident of Virginia Beach for 40 years and I've been a social worker in the city for 40 years. As a social worker, I strongly support affordable housing. Of course I do. It's desperately needed, but I want to point out that this is not affordable housing that we're talking about. This is workforce housing. There is a difference. And in this, I should say if I were a young person and starting out as a social worker today or a teacher or a police officer, that I would not qualify for this workforce housing because I wouldn't make enough money. I agree that Southern Pines is a lovely complex. I've walked in it. I've looked at it. It's very nice, but I also wonder why is the workforce housing component only in the crowded new part and not the whole existing development. I have other things to say, but everyone already has said them, so I'm just going to cut it short. I just learned a few minutes ago that you were briefed this morning on, I don't say it right, LQS ordinance coming before you, which does not allow workforce housing density bonus. I'm wondering if you want to negate this ordinance before you even review it. I ask that you defer or deny this application. Thank you.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Stacy Norris, followed by Jessica Windisch.

Mr. Alcaraz: Ms. Windisch, please come forward.

Ms. Norris: Good afternoon. My name is Stacy Norris. I moved here in 1985 as a teacher at Kempsville High School where I taught for 31 years. So one of my concerns, I haven't heard it mentioned previously. One of my concerns is in reading through the materials; I see the -- the developer has listed under school impacts 20 elementary school students, eight middle school students and nine high school students. So these students would attend North Landing Elementary School, Lansdowne Middle School and Kellam High School. I would very much like to know where those numbers came from. I find it very hard to believe that a development that has likely 528 or whatever people, if you have, say, three people per apartment. I'm not sure how they're going to have 37 children. I guess they're out working with all these work housing. But, it seems an unlikely number to me and I would very much like to know the source of that particular data. As a former teacher, I can certainly express concern about increased class sizes and that sort of thing. So that's why that particular aspect jumped out at me. Additionally, although the parking issue, excuse me, the access issue was partially addressed with the change to a right turn only, and off of Princess Anne Road, that actually doesn't address the problem of traffic outgoing or egress onto Princess Anne Road because I drove this last night in anticipation of speaking today, there is a small, as far as I can tell, unnamed road that exits basically beside the senior living apartments. It runs, it's behind the 7-Eleven and beside the senior living apartments and that goes out onto Princess Anne High School and in fact a lot of us use that as a cut through into to get to the Harris Teeter instead of going through the major intersection of Princess Anne and Nimmo. So that is certain that's how I exited the location last night from the existing Southern Pines roundabout on the George Wythe extension. So that's how I exited last night and I have no doubt that just because they can't get out on their Princess Anne facing side of the complex, there's no reason they wouldn't be coming out beside the senior living complex and that comes of course directly on to Princess Anne and it exits right into the right hand turn lane only, the right hand only turn lane where you go from Princess Anne on to Nimmo to come in obviously the direction of the Harris Teeter and so on. The other alternative is that they'll be coming out at that light. They'll come out on the George Wythe extension by the 7-Eleven, have to make a turn right onto Nimmo, make a U turn at the light to come back to Princess Anne northbound, or they'll drive through the Harris Teeter parking lot, which is a great hazard to shoppers to have a hundred or more people cutting through the Harris Teeter parking lot to come out by the Waffle House because there's a traffic light there, and then they can turn left onto Nimmo and get back to the corner to come out at Princess Anne. So I think, you know, it's a little disingenuous to say Ta-da, you know, we've solved the exiting issue onto Princess Anne because there still is a way to get out to Princess Anne directly without too much trouble. Thank you.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Jessica Windisch, followed by Sandra de los Rios.

Mr. Alcaraz: Speaker, please come forward. I'm sorry.

Ms. Windisch: It's okay. Hello. I'm Jessica Windisch. I am a lifelong resident of District two in Virginia Beach. I love the city. I can tell you everything about everything on that seal behind you and I have watched it change. I am happy with the change. I am okay with almost everything that happens here. But what I'm not okay with is deceitful practices and harm to our community. This project should not be approved. All of you know, the economic base of Virginia Beach includes three major streams military, tourism and agriculture. This project, much like the Butterfly Effect, will likely have lasting impact on all of them. It is imperative that we protect our economic base to ensure a community with the financial foundation to be the community of a lifetime that we market, very expensively, far and wide. You've heard plenty about the concerns for this project and our relationship with the military, and I concur, protecting that relationship is crucial to our financial wellbeing. You have heard several people point out the concerns about the deceitful practices of calling this a phase two. I concur; I find it disheartening that our leaders would support a corporation that uses such deceitful business practices. You have heard our concerns about safety regarding the traffic pattern, and I concur. We appreciate that the last minute change was made to the plan, but we still hang our heads and we certainly will hang them further upon the first traffic accident that causes a fatality. You have heard oodles about the density of this property being far higher and much taller than those in the surrounding areas. It is not within the guidance proposed in the comprehensive plan. I concur, setting a precedent today will ultimately threaten our family farmers and our agricultural output because it empowers developers to keep moving projects into the rural areas of Virginia Beach. By the way, the current residents of this supposed phase one are already struggling to park their vehicles. Some of them do not move their cars at all because they cannot get a parking space when they come home from work. We absolutely do need affordable housing. There are still areas available for building higher density workforce housing in Virginia Beach and affordable housing, if we're going to, you know, argue the semantics, and these properties have a greater ability to provide residents with direct access to amenities and services, transportation routes, and are in areas where the schools have a greater ability to increase their enrollment to accommodate for new developments. That is not the case when agricultural land is converted to high density housing. As we continue to move more development south in Virginia Beach and violate the comprehensive plan and green line initiatives that we consistently talk about, we are adding to the environmental degradation of our land and community and are causing immense negative impact. This consistent development in rural areas is a direct threat to our agricultural productivity and our tourism industry. So I've now covered all three of our main economic streams. Although, this property is not

a significant contributor to the 21 million dollars plus in gross sales of our three primary crops, I'd love to question you to see if you can name them, in Virginia Beach, new development on any agricultural land moves the threat closer and closer to the land that is contributing to that income stream. Our beautiful wildlife and natural areas are significant elements of our tourism industry. Approval of this project sets a precedent and sends a message that development is preferential to environmental preservation. Regarding stormwater, which is a great concern across our city, the original plan proposed a retention pond and green space. The second iteration to adjust for the ITA requirements eliminated both of these. How is it possible that for a six acre tract of land to be developed without extensive with extensive non-permeable space that there's no plan for stormwater management, as an owner also have a commercial property where we are required to build a stormwater management system on a mere one acre of land in order to get approval in this, not this room, the old room. I take this as a personal offense. Approval of this project should not be done. Thank you very much.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Sandra de los Rios.

Mr. Alcaraz: You can come forward, please. Next speaker come forward.

Ms. Rios: Hi, my name is Sandra de los Rios and I had not planned to talk today. So I apologize because I'm very nervous now. But, I was actually just here to support my neighbors against this apartment complex. But, once I heard the representative from the Franklin builder speak about affordable housing and I just felt like I really needed to talk because I've run a nonprofit in the city with my daughter, and we work one on one directly with people who really suffer. So for an apartment complex to come and say, they're plopping down in a wealthier part of town, an apartment complex that has no access to transportation, that is not affordable because as a former teacher, the salaries would be too high for me to afford. And if you look at the MIT living wage for Virginia Beach, the jobs that we're creating at the Amazon warehouse and all that, that doesn't allow you to pay that rent. Okay, our affordable, our living wage is higher than the jobs that we're bringing in. So, it's completely, you know, and you're being used, the employee that is, you know, coming here and talking about how, you know, we're treating, you know, we're thinking about the people and creating affordable housing. That's not what we need. Okay. We need housing. If we want housing, we need housing, whereas transportation, we need housing that's actually affordable for the wages that we're bringing in. And so, you know, don't be tricked by the workforce housing, you know, label and making everybody here look like we're not in my backyard because that's not the case. Okay. I have two kids that are in college and just getting out of college. They would not be able

to live in Virginia Beach, not even in this, what we call affordable workforce housing with college degrees. Okay, so, I mean, I just feel like we're painting the residents of the area in the wrong light and I feel that the company is being completely deceptive in their purposes, in their practices, and in all the zoning and rezoning and moving this and that here and there, okay. I feel like if you're looking at the transportation issue, I also drove along that road. All of the residents are parked, already parked along George Wythe. So if they don't have enough parking, how are you going to then add more people who don't even have enough parking? Okay. So, I mean, the whole thing is a mess. But to say that you're helping people is not the case. You're not helping the most underprivileged in our city. If we really cared about people, we'd be working in Newtown Road; we'd be wondering why we approved, you know, 10 supermarkets in a two mile radius in the Red Mill area. We've got like 10 supermarkets at least. But if you go down to Newtown Road area, they have one, maybe two. So, you know, if we're talking about helping the people, let's really help the people and don't, you know, just make another builder rich. Thank you.

Mr. Alcaraz: Thank you.

Madam Clerk: That's all of our speakers.

Mr. Alcaraz: Any more speakers?

Madam Clerk: That's it.

Mr. Alcaraz: All right. That's it. All right. So now I'll ask the applicant to come back up, have a chance to rebut. And then, we'll have the commissioners, if any, ask questions and then we're going to close it to discussion after that. So how you doing? Can you just state your name?

Mr. Fletcher: Thank you commission. I'm Freddie Fletcher. I work with the applicant senior development manager. I think, I appreciate having a lot of folks here today to speak and we really respect that. There's a lot of folks that aren't here to speak because they don't have a seat at the table. They're not homeowners. They're not homeowners and so they don't have a seat at the table. I've heard a lot of confusion around affordable and workforce housing. That's what I've done for the last seven years. The Franklin Johnston Company has done it since its inception here with the live tech program here in the State of Virginia. We're the largest developer over the last 10 years of affordable units in the City of Virginia Beach. So we do know the difference between affordable and workforce housing. This community, as has been stated, is not proximate. Like all of the communities we've built along Witchduck at Town Center, down at the Oceanfront when

I was at Lawson with Seaside Harbor. Those are affordable units and they've got services associated that affordable residents need whether that be Hope House in our communities, whether that be adjacent to the Housing Resource Center, things of that nature. This project is workforce housing. It's much needed workforce housing. There's a lot of talk about precedent, and I do think this project sets a precedent, and I hope it does. I don't think it's the precedent we've heard today. It's a precedent that when we have an opportunity to put workforce housing somewhere, we will do so and that opportunity is here today. The precedent that's being concerned, whether that be associated with the ITA, with the density, with the height, based on the comprehensive plan, walkable to the municipal center is intended for denser housing than we see around it. Southern Pine, nine years ago, was approved under that guidance. The only difference between this project and Southern Pine significant difference that will be visible to the residents is the fact that it's a workforce housing community and the buildings are seven feet taller. I think seven feet is a worthwhile compromise for 53 families to have attainable housing. There's no workforce housing that serves Kellam High School, which I lived in Eagles Nest that the majority of people moved to a community like Eagles Nest so their kids can go to Kellam. People do not have that opportunity otherwise. I think that the density conversation is a great one to mention as well. The density that we're hearing it is higher than Southern Pine and there's no bones about, to get workforce housing without federal funding, state funding, local funding, we have to have denser developments. That's the only way these projects work and we've gone above and beyond the workforce housing requirements. One thing that I heard was there's no ongoing compliance. There will be a 50-year deed restriction that will run with the property 50 years where we have to work with the city's housing office to set that in place. There's ongoing compliance, annual reviews of the residents. The reason that nobody within the housing office is aware of exactly what that process looks like. It's because there has only been one development done within the workforce housing ordinance. All of our live tech developments, we have compliance with the state. This will be compliance with the city. However, we have a 12 person compliance department, and we're happy to work with the city on that. The other items that I just quickly wanted to touch on is the green line, again, this project does sit below the green line. There's no hiding that. Our Southern Pine phase one as well, it's it behind the green line, that project is walkable, the **[Inaudible]** **[02:31:09]** of our residents do walk to that Harris Teeter. They walk to the open space that may not be on the property, which may be the case here, but is all around them, whether that be VB National, whether that be a bike ride up to the amphitheater, the YMCA, the trails down near Estrella, the coffee shop. This is a community that has great bike connections and we're excited about that. One thing we've heard a lot about is the traffic concerns as well, and we're always concerned about traffic because we're concerned about the safety of our residents. We eliminated that right out because ultimately we realized that that acceleration coming out of our property was a concern.

We feel like ultimately the right end will allow first time visitors to the property to be well served so that they can see it because we wanted to put our front door facing Princess Anne Road. We've got an actual silo that will be attached to the property to pay homage to the agricultural heritage of the site that hasn't been farmed in 15 years. That element though, that ingress off of Princess Anne Road, if that's ultimately the sticking point here, we're willing to take that off the table because we do believe in the pedestrian access and the biking access that we've got here at this site that we want to see that that trail continued. People to be able to run up to Lansdowne Commons on their bike or, you know, ride their bike to the amphitheater and so if that's a sticking point, we're happy to remove that and then we'll have that condition added to the City Council vote next week. I'll let Rob answer any additional questions that we've got. Last one is stormwater. We've built over the last five years, two communities in the city. We've actually managed stormwater over and above what is required by our site and taken stormwater issues that were in neighborhoods adjacent to us at Boulevard 45, which is right off the interstate. You can see it across from Town Center. There are significant flooding issues in the neighborhood adjacent to us. We built an underground system. So if you drive on the site, just like this one. It's actually a much denser development there, but, you won't see any storm ponds. It's all underground. It's more expensive. We prefer not to do it, but it's got filtration, it's underground, it's safe, and it will be managing more stormwater than the agricultural fields here do. We've got to follow, obviously, all of that through site plan, but as a developer myself, I always hate when I hear people say, well, we'll figure it out during site plan. In this case, we've got stormwater being retained on the original phase, which was designed for future phases. We did not and we've from the beginning in our public discourse with the residents in the area said this site was not anticipated as phase two. We did expect there to be a phase two. There's another piece of tree covered property and then there's a church that's adjacent. We expected something to be a phase two ultimately. So we developed larger stormwater ponds. We'll have those ponds as well as underground systems that will manage the stormwater here and that will, you know, take us, you know, take us well into excess because we've got green building standards associated with our developments as well. I think that's it. I'll let Rob answer any questions, but Taylor, myself, and James will also be available.

Mr. Alcaraz: Hold on. Is there any questions? Mr. Plumlee.

Mr. Plumlee: Mr. Fletcher. I have a couple of questions about it. What is the current situation with stormwater at Southern Pines at the current development?

Mr. Fletcher: So we've got two above ground stormwater ponds at Southern Pine. Those both the property runs off into those, those then connect out. In my understanding and we've got, I've been, you know, around more recent than when Southern Pines was

originally developed, is that that golf course, we actually had to come through the golf course to rectify the connection from the Harris Teeter property was not designed correctly. There's a stormwater pond behind the Waffle House. We fixed that when we did our, you know, at our own cost. We fixed that connection and then it does flow back through from our site into that pond and then from that pond over into the golf course.

Mr. Plumlee: Is there excess volume there at the current southern pines?

Mr. Fletcher: Yes, there is excess volume.

Mr. Plumlee: Just real quick because we've used a lot of time but, I'd like you to touch upon any amenities for the residents at the new proposed location and what the quality will be because quality so far has rung pretty well for Southern Pines for the prior construction and what level of quality is intended for this project?

Mr. Fletcher: So this project will look very similar to Southern Pines inside the units. Outside of the units, it's going to be more agricultural in nature. Southern Pine has more of a kind of a southern kind of antebellum look to it. This will be more agricultural in nature. The amenity package though will be very similar. So we will have an outdoor area surrounding the pool with grilling areas. Lounge chairs in the clubhouse. There'll be a resident area as well as our **[Inaudible] [02:36:04]** offices. It's proposed to be a two story clubhouse and so above we would have a fitness center along with, we've kind of an extra space that as of right now we've looked at is like golf simulator or something like that. Southern Pine phase one has a bowling alley, something that would be able to be done as residents could use the bowling alley from one phase and the golf simulator because we're not going to build two bowling alleys right down there, but the quality within the units will be granite. It will be stainless steel. It will be our luxury vinyl plank flooring throughout, and you know, it will be indistinguishable from the luxury communities we've built elsewhere in the city.

Mr. Plumlee: Thank you.

Mr. Alcaraz: All right. Thank you. Mr. Beaman, come on forward. I guess you wanted to add something.

Mr. Beaman: Yes sir.

Mr. Alcaraz: Okay, go ahead.

Mr. Beaman: Oh, no, sorry. I was just here for questions. Just stand by in case anybody had any other questions.

Mr. Alcaraz: Were there any questions? Sure. Ms. Cuellar.

Ms. Cuellar: Since our time together in August to today, could you just walk me through the approach that you've taken for community outreach?

Mr. Beaman: Sure, sure. Since the last time we were before the planning commission, we've met with several city boards and commissions. Sorry. Is that a little bit better? Yeah and I think actually, up till today, or as of today, we've met with five city boards and commissions throughout this process. Two of the meetings have taken place since the last Planning Commission. One, we represented the application to the TA/ITA committee, and then also went through the JRP process as well. So we've had several other public presentations since the last Planning Commission meeting.

Ms. Cuellar: But have you met with any Civic Leagues?

Mr. Beaman: So the Civic League outreach came early on in the process. Representative Franklin Johnston Group started back in May, even before we filed the application. May 15th, I believe, was the first outreach to the president of Christopher Farms, HOA phases one and two reached out and corresponded with that gentleman several times and offered to meet with the larger Civic League. And then I believe starting in June, we also reached out to the president of phase two of sorry, phase three of Christopher Farm and also offered to meet with the larger Civic League. We've also and I should have added this since the last Planning Commission hearing, we also met with the District two forum, which includes all the folks in District two. So, as I said, I believe we met with five official bodies in addition to our outreach to the -- the Civic Leagues themselves.

Ms. Cuellar: Thank you.

Mr. Alcaraz: All right. Any other questions? Mr. Plumlee.

Mr. Plumlee: With regard to the concerns over BRAC, the noise ordinance, I think you need to address those more thoroughly than what I heard from, because you weren't given a lot of time in the beginning. Now's the time, I think, to address that issue.

Mr. Beaman: Yeah, so with the revised plan, all of the dwelling units have been completely pulled out of the ITA completely pulled out of the 65 to 70 noise and all of those units now are within the under 65 noise zone, which is the lowest classification in

the city. And so after making this change of the plan, we did meet with the JRP, which includes representatives from Oceana, and they have a chance to discuss our application with the city that committee, which again includes the representative from Oceana, held that or found that our applications consistent with the AICUZ requirements under the city zoning ordinance. And that was, of course, emphasized and re-emphasized by the letter that the commanding officer wrote, noting that we did comply with all those requirements. So none of the residential component of this site will be within any of the elevated noise zones at all and will be completely out of the ITA.

Mr. Alcaraz: Okay. Any other questions?

Mr. Clemons: Yes, I have a question. I'm just wondering about the ingress from Princess Anne and the gentleman before you stated willingness to modify that part of the plan.

Mr. Beaman: Yes sir. We would like to put on the record that we are happy to go ahead and, you know, add a condition between now and City Council that would remove that access altogether. Actually, what we prefer to do is to have that as gated off and just as emergency access only for ambulances, fire trucks, that sort of thing. In the event, there is a need to get into the property. Those would be the only folks that could get in. It would be gated and locked. So if that's the pleasure of the commission, we would -- we would be willing to agree to a condition that restricts that access to only fire trucks and emergency vehicles and not the general public.

Mr. Clemons: So the in and out will be on George Wythe?

Mr. Beaman: Yes sir on the southern end of the property.

Mr. Clemons: And none of this, those issues that exist on Princess Anne exists on George Wythe?

Mr. Beaman: No, no. To my knowledge, there's not the same concern. Actually, I believe this was always master plan under written limits here. This was always master plan to have direct access from George Wythe and actually there was an old reservation to serve this property and others on the southern side.

Mr. Clemons: Thank you.

Ms. Hippen: Would you please respond to the claim that you're trying to move 31 extra units from and you know, you and the other gentleman stated, the other gentleman stated, well, this is not phase two, but you both call it phase two. So you might want to get your

wording together. Okay, but I didn't mean it that way, I'm sorry, but would you please respond to the fact that it says that you've got 31 units from phase one that you didn't use, but you want to put them here?

Mr. Beaman: So the way the city's ordinance works, I know we've worked with the planning department, the city attorneys on this as well. In order to calculate permissible density, you take the entire acreage that's subject to the application and then the city code has specific carve outs that you can include, things that need to come out. And as a result of that, you get your total acreage calculation that goes into your density. In this case, we're modifying the entirety of the Southern Pines two phase, two campus application, and so all of the acreage is included in the total density calculation for the site, for the project.

Ms. Hippen: So is it a phase? Is it a two phase project or not?

Mr. Beaman: Yes, no, very much so. This is phase two. It'll share operational management capability as Freddie mentioned, the amenities will be shared. There will be pedestrian connectivity, certainly kind of a campus, two phase campus.

Ms. Hippen: Okay. Was the original property approved with a phase two to come, is my questions?

Mr. Beaman: So the original proffer did not include a phase two. We are amending the original proffer to include the phase two at this point.

Ms. Hippen: Okay, thank you.

Mr. Alcaraz: All right, any other questions? Oh, go ahead, Ms. Cuellar.

Ms. Cuellar: My question is that there's a public perception that this application is being fast tracked to City Council. Would you be kind enough to explain that to us?

Mr. Beaman: Sure, sure. This application process started actually way back in the beginning of May when we had our initial public meeting with the city planning department and other affected departments the pre-application meeting and then of course submitted the first version of the application back in June and the normal city's timeframe or city's process would have put us in Planning Commission in August and then City Council in September which is the original path we were on. As a result of the change, we made it was significant enough to the site plan. We wanted to come back through the Planning Commission process and so, you know, we came back through the Planning Commission

but at that point, planning staff had already had months to study the application, of course. And so this is not a fast tracked application from our perspective. We're, you know, six months into the application process and as I mentioned before, we presented this application. This is our sixth public meeting where we've presented this application. Of course, we've got City Council still to come.

Mr. Alcaraz: All right. Any other questions? All right. So at this point, I'll close it to public input, and I'm gonna open it to the commissioners for any discussions. Is there anyone interested, Mr. Plumlee. You can start, Mr. Plumlee.

Mr. Plumlee: Well, I don't know if you'd prefer a motion first before discussion or?

Mr. Alcaraz: I'd like to hear a discussion.

Mr. Plumlee: I do have my reasons to support this and there are plenty of counter reasons not to support it that I've heard well articulated today by a lot of very thoughtful people that oppose this project. I do support workforce housing. I do support this density. I do believe the city needs the housing. We need to recognize that we don't have the housing for people to live and we need to supply the housing. It's not going to be universally accepted in any place within the city and it's a difficult decision. And I could go through all the lists of the pros and cons, I won't spend the time you've all heard it. But, I support it and I'm going to vote for it.

Mr. Alcaraz: All right. Thank you. Mr. Parks.

Mr. Parks: Yeah, I would like to just kind of echo what Mr. Plumlee was saying. I also support it because I do feel like there is a definite need for this housing, especially down here. I grew up in Pungo. I'm very familiar with the green line and the agricultural development down there. But there is a need and people want to move to the southern end of the city. I feel like the comments that everybody has asked and asked us to review. We have extensively, I've read everybody's emails. We've discussed this as mentioned for six months within the city and trying to work through things. The issues with moving it out of the ITA have been addressed. The issues with the egress and ingress into the site will be taken care of and for those reasons, I mean, some of the other things that were brought up, I was taking notes like Mr Plumlee. The density I think is needed, the workforce plan not in place. I mean, there's a number of different things we could argue back and forth. If we wait till there's a plan in place, the developments even further down the road, you know, I think it sounds like they're very well entrenched. With the requirements, they could be a part of helping set those requirements. Parking, you know,

there's an issue with parking everywhere in the city, but obviously the commissioners, I mean, okay.

Mr. Alcaraz: All right, let him finish, please. Appreciate it.

Mr. Parks: You know, the argument about the plane crash that can happen anywhere. You know, I know everybody feels strongly about what they want for the city, but you know, we're up here doing our part and it's kind of disheartening to hear everybody say that we're not doing our part. We do take it serious and we are reading everything and being a part of this too.

Mr. Alcaraz: All right. Any other commissioners? Mr. Horsley. Okay.

Ms. Hippen: So, I'm the retired Master Chief up here, and I retired from Oceana, so I was, I was in aviation. Yes, a plane can crash anywhere, but this property is directly in line with a runway. My nephew lived in an apartment not far from the Good Friday plane crash. By the grace of God, he wasn't at home. He was at Oceana in a squadron. As I stated before, the semantics, whether this is phase one or phase two, I can understand that they're connected properties. I can understand that the same people will own the properties and you'll operate them, but it seems to me that this was in the builder's mind and I could be wrong, but this was in the builder's mind already. This is the way we were going to do this part and then we're going to build another one and so on. I have lived in Virginia Beach, saved two years on the West Coast since 1992. I grew up in Cleveland and North Philly, so I know what dense housing, yes. This is below the green line. Okay. There's too many exceptions here for me. I'm concerned. I am concerned with the appearance of money involved and I think that's something that City Council will have to discuss. I will be a no vote because the ITA says no and the AG Advisory Committee says no, and they are appointed just like I was appointed. And I do agree that 30 dollars an hour is what's needed to afford these apartments and I don't see that. So that's just my personal opinion. Thank you.

Mr. Alcaraz: All right. Thank you, Mr Horsley.

Mr. Horsley: Most of you know how I feel already. But there are so many reasons that I can't support this. Originally, it was a nice looking project. But when you go down and analyze it, it's too dense. Some of the ways that the density has been achieved, I'm not so long to transfer these development rights around. Back in the early 90s, I traveled to the General Assembly when we were trying to come up with our way to preserve agriculture in the City of Virginia Beach. We asked the General Assembly, we were told the only way we could get the ability to transfer development rights was to get General

Assembly approval and they said flat out no, you cannot transfer development rights. We were thinking that would be a way that we could transfer some of the development rights from the agricultural area to the northern part of the city said no, there's no way you can do that. You can't transfer development right. We will not give you that approval. And I see that maybe these are joining properties and maybe there's been a ways loopholes that people have gotten it done. But I do not think that was done right. I'd like to say the density is a stormwater. I'm really not sold on the stormwater. I haven't seen much of a plan for that. We hear tell by undergrounds, whatever, but we haven't seen one. I know you don't have to do much of that until you get to your site plan approval, and if that doesn't, and if you don't meet that, it won't, your project won't happen, and I'm sure you will meet that when you get there. It sets an overwhelming precedent for the area and, but it doesn't fit the comp plan the way most people that down this way to view it and interpret it and I know things are entitled to different interpretations, but it doesn't meet the plan. It said, you know, some density around the courthouse or something, I don't know the exact wording of it, but a density around the courthouse was encouraged back, sometime back in the last comp plan. But we didn't mean to put it all in one place. So, that's kind of what it's doing here. Time you put this on and 70 or whatever it is units along with the 200 something that already there. You got a 400 apartment complex right here at the edge of our city hall, and I just don't think that's the right place for it. Everybody is sympathetic to workforce housing. We need workers just like everybody needs workers, but I don't think that's the place to put a big portion of it. We can integrate some of it with it, but I don't think that's the best place to put a large quantity of workforce housing right there in a 400 apartment complex. I just don't think it fits. So they are some of my main reasons for objecting it. I just don't think it's the right way to do it and so I'm gonna be voting against it today.

Mr. Alcaraz: All right. Thank you, Mr. Coston.

Mr. Coston: Well, I'm resolved to the fact I probably won't get a hand clap at the end of this. But, I'm a lifelong resident of Virginia Beach. I grew up in the landing and to the airstrip. I raised my kids in Seatack where I could see, I could tell whether the pilot had one hash mark or two hash marks on his helmet when the kids came back, when the plane came back. So, the thing about planes when I was 12, the plane crashed at the end of the street next to me in the woods between old Virginia Beach Road and the Boulevard. So I've lived with this all of my life and I've heard the planes all of my life, so I'm willing to help the city have more housing, not just because it's workforce housing. We have people who are trying to move to Virginia Beach and its taking 6 to 7 months to find an apartment. And I got that from a guy who I was standing in the store with talking and he said, I put an application of trying to move to Virginia Beach and so we just talked and he said, it's been seven months and I'm hopefully this month I can move to Virginia

Beach. I don't know whether he did or not, as far as transferring rights to develop, if the property is joined together already, you're not really transferring rights. No, you're not because here there's a project that we approved a couple of years ago at the entrance to Dam Neck. The people had 100 acres of property and they built all of the apartments at one end and left the other unmoved. Now, the conditional use permit says that the total property is included, but they only built on one end of it. So it's not something new. It's not something we just made up or just heard about. But it does happen depending on wetlands and other issues on where you can build on a piece of property. So I'm going to be supporting it.

Mr. Alcaraz: All right. Thank you. Anybody else?

Mr. Clemons: Yes, I have a few comments. Yeah, first I want to thank everybody for coming out to this important meeting and for your full participation and interest in terms of what's happening with this development. It's been stated a few times here that things seem to be moving fast, but not from my vantage point, and I want to underscore that. There's been a lot of work that has gone into this process, you know, by citizens of this city, as well as members of this commission and members of the City Council and others who are involved in the business of this city. I did not receive the letter that addressed the problem of ingress and egress from Princess Anne until late last night. I saw that letter; we've had some discussion about it. I'm very happy to hear that there's a willingness on the part of the developers to modify that plan to perhaps gated, as was mentioned to keep safety in that particular area in place. I also wanted to mention the 50 year deed restriction that was mentioned, and it seems to me that in that process, there's going to be an ongoing engagement with the developers of this property to ensure that it will remain on track per the city's comprehensive plan and other planning documents that have been developed over time. I'm very pleased to hear about the green building standard and I like the information that I've received regarding the storm drain water situation. So I'll be supporting this.

Mr. Alcaraz: Thank you. Ms. Byler?

Ms. Byler: I appreciate everyone being here. I appreciate what staff has done and I echo those comments that it doesn't seem fast to me because I've been studying this for months. I've been reading a lot of letters, a lot of recommendations and this is a hard one for me. My father was a developer. I'm a real estate broker. We have a housing shortage and we need workforce housing and I appreciate that the staff with conditions is recommending it. In many ways, they're better at casting this vote than I am because they're doing this full time. However, when I was put on this, in this position, I was told that I listen to staff, but that's not the end of the story. I listen to the city, the citizens of

the city. I listen to the advisory commissions. I take my own experience. I'm also a lifelong resident. My old report card says Princess Anne County. That's how long. So to me, it comes down to a problem of compatibility and I just don't see that complex going right here and I'm sorry, I will not be supporting that.

Mr. Alcaraz: Ms. Cuellar?

Ms. Cuellar: So, I came here today concerned and conflicted because I want to support a multifamily project. I know the Franklin Johnston Group does an amazing job in Virginia Beach, and I'm grateful for that. I've seen their efforts to compromise, and I applaud that, and I think their mission statement and their ethos is really the benchmark for our city if not it exceeds it and so for that I am grateful. But having that said, we have a process in our city. We have citizens who just like our commission who are subject matter experts in the ITA, in the AG and who are also on the transportation acronym that needs to be worked on. And so learning as much as I have today, I can't see that this project is best suited where it's proposed, so I will be voting no.

Mr. Alcaraz: Anybody else? Ms. Estaris.

Mr. Estaris: I applaud those that have come out. I love citizen engagement. It's important to hear your voices as that's why we're here to represent you. I, too, came in here with **[Inaudible] [02:59:16]**, not knowing because I came in August thinking, yes, this is a great project. It's still a great project. I sat down with several of the members of the Franklin Group and heard them being very flexible, adaptable, wanted to hear our perspectives, so that avenue of communication was always open and still open. And as of today, they even amended the Princess Anne Annex, which is important because as you heard from some of the other citizens, the concern of traffic and the possibility of accidents and clearly, we're even talking about bike paths and walkways to make this a great experience on neighborhood and that's what we want as well. I cannot say I'm a lifetime community member of this community. I'm a Navy brat myself. So I've lived everywhere, jet noise everywhere. My biggest time was in Guantanamo Bay, Cuba, right there in the bases. So yeah, I hear jet noise all the time, but that's not, but also to know that that's in the pathway of jets is also a concern. For me, for that neighborhood and thank you for that, Ronna, I appreciate your research and sharing that with our commission. It's always important to hear because I get the staff reports and the staff does a wonderful job and preparing us on each of these agenda items. But again, coming into this session was very difficult, want to hear what the citizens have to say. I still believe we need affordable housing. I still believe we need workforce development and all the different things that make sense for this. Is it the right place? That's the question and although if this gets passed through, and it goes through City Council, I, too, will sit down

with you citizens and also with the Franklin Group to make sure that what they say they're going to do for this community, it's a great project within phase one and I hope that phase two, if it does come through, does go through, but I do want to see that this, we do need affordable housing and then those who've spoke on this commission that believe in that, I too believe it. So I am going forward with this project.

Mr. Alcaraz: Anybody else? Mr. Anderson?

Mr. Anderson: I guess I'm last.

Mr. Alcaraz: I think I am.

Mr. Anderson: Okay. Oh no, I do appreciate everybody on both sides coming in today with all your energy. As everybody has said, it definitely is a hard decision either way a lot, a lot against a lot for, I actually, when we sat down and got the information from Franklin Johnston Group, we, you know, I made a few suggestions and one of them was the, you know, reduction of the building to down to three floors and also the entrance to or the exit on Princess Anne Road. I thought that I would not be able to support it if we could, if we had the in and out with their concessions of changing and actually changing it just to an emergency entrance. It makes me feel that they're willing to work with us and for that reason, I will be still voting for it.

Mr. Alcaraz: All right. Thank you. I guess so, I appreciate everyone's comments. I appreciate everyone coming here today and that's why we're here is to hear and put everything together. I will tell you that since the staff has done their due diligence and they've worked it out with the access, I'm for workforce housing. And I want to know, just excuse me, that I did call the congressman's office and I needed to know because there was a rumor about someone saying that BRAC was going to pull out and that is not true. They told me it's not and they're not going to pull out and they are supporting workforce housing so I'll be supporting this application. Mr. Plumlee, you say you had a--

Mr. Plumlee: I have a motion. I do move to recommend to Council to approve this project with the modification coming from the applicant with regards to the entryway being removed off of Princess Anne to the project. However, that there will be an emergency access way because in an emergency you need at least two ways out. That's extremely important to me. That's why last time approved it for the entryways because I want to make sure there was an emergency way out of the place on both sides of the project. So with that, I would make a motion to recommend approval.

Mr. Alcaraz: All right. I have a motion with an amendment.

Mr. Coston: Second.

Mr. Alcaraz: Second by Mr. Coston.

Madam Clerk: Thank you. The vote is now open. By a vote of seven to four items two, three and four have been recommended for approval.

	AYE 7	NAY 4	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler		NAY		
Clemons	AYE			
Coston	AYE			
Cuellar		NAY		
Estaris	AYE			
Hippen		NAY		
Horsley		NAY		
Parks	AYE			
Plumlee	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.

The following proffered conditions are hereby added to the Original Proffers (2014) with respect to the Added Property, and shall be the proffered conditions applicable to the Added Property (but shall not affect the Original Property):

Proffer 1:

When developed, the Added Property shall be developed in substantial conformity with the conceptual site plan entitled “The Silo at Southern Pines Conceptual Development Plan”, dated May 31, 2023, and prepared by Timmons Group (the “Concept Plan”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

Proffer 2:

The quality of architectural design and materials of the multifamily residential buildings constructed on the Added Property, when developed, shall be in substantial conformity with the exhibit prepared by Cox, Kliewer & Company, P.C., entitled “The Silo at Southern Pines

Conceptual Elevations” and dated May 31, 2023 (the “Elevations”), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.

Proffer 3:

The number of multifamily residential units located on the Added Property, when developed, shall not exceed a total of one hundred seventy-six (176). Not less than thirty (30) percent of the total number of residential units developed on the Added Property will be “workforce housing units” as defined in Section 2102 of the Zoning Ordinance. No residential unit will be developed within that portion of the Added Property located in the Interfacility Traffic Area as of the date of this Agreement.

Proffer 4:

Landscaping installed on the Added Property, when developed, shall be in substantial conformity with that shown on the exhibit prepared by Timmons Group, entitled “The Silo at Southern Pines Conceptual Planting Plan”, and dated May 31, 2023 (the “Landscape Plan”), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council. The exact species of the various types of landscaping shall be determined at final site plan review.

Proffer 5:

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

Proffer 6:

The final stormwater management plan submitted to the Development Services Center (DSC) during the site plan review process for the development of the Added Property shall comply with applicable City Stormwater Management Ordinance(s).

Proffer 7:

Except as expressly modified by this Agreement, all other covenants, restrictions and conditions proffered as part of the Original Proffers shall remain unchanged and are incorporated herein by reference.

CONDITIONS

1. Prior to final site plan approval, the applicant, or the applicant’s successors or assigns shall submit a Resubdivision Plat to the Virginia Beach Department of Planning for review and approval. Said Plat shall be substantially as shown the exhibit entitled “Subdivision Variance Exhibit of 11.687 acres Fronting Princess Anne Road for The Franklin Johnston Group”, dated ~~October 9~~September 6, 2023, and prepared by Timmons Group, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

**Virginia Beach Planning Commission
October 11, 2023, Public Meeting
Agenda Item # 7**

Harrison House, Inc

RECOMMENDED FOR DEFERRAL

Madam Clerk: Agenda item number five is for Harrison House, Inc. It's an application for modification of proffers at 1851 Old Donation Parkway in District eight.

Mr. Alcaraz: Let's come forward. Can you just state your name, please?

Ms. Jackson: Sure. I'm short.

Mr. Alcaraz: That's all right.

Ms. Jackson: Good afternoon. My name is Rachel Jackson. I am the Chief Operating Officer of Recovery Unplugged Harrison House, Inc. We are requesting for the conditional use permit for our building to take away condition five, which is that we will not treat patients seeking admission for drug and alcohol addiction. I appreciate you having us here today and I'm here to answer any questions that you have.

Mr. Alcaraz: Any questions?

Ms. Cuellar: Hi, thank you for being here and waiting.

Ms. Jackson: Sure, no problem.

Ms. Cuellar: I represent District eight and I've had some residents call me in reference to the application and specifically back in 2004 when the conditional use permit was approved by City Council, there was the condition regarding the substance abuse program, not allowing it. And they were very passionate, they were very concerned, and that was something that the City Council did. What can you share with us today to maybe alleviate some of their concerns? We have had a few letters. I know there will be some speakers here today. If you could tell us a little bit more about your program.

Ms. Jackson: Sure and I did receive the letters and I appreciate that. I am a mother and a homeowner. So I understand. A lot of the items that I saw in the letter were about invasion of privacy and safety of children, which obviously I feel very strongly having two little ones and owning a house as well. So we are a nationwide program. We have eight inpatient and outpatient programs in five different states since 2013. We're about to

celebrate our 10 year anniversary as a company. We have treated over 13,000 individuals. We have a robust alumni program where we track and reach out to our clients after they leave treatment with us, and over half have reported sustained recovery for over a year. We are a very reputable program. We're in the business of getting people better. We also currently have two of our inpatient locations that are in residential neighborhoods as well as multiple sober livings, and we have never had an issue with our neighbors. Our goal is to treat the problem of addiction and mental health and make our communities better. I do think that there is a stigma against mental health and substance abuse, which is why, you know, I understand that there was some opposition to us utilizing this building for treatment, but if you look at the national statistics from SAMHSA, 1 in 4 adults over 18 suffer from a mental illness and 16% of our population meets criteria for the DSM-5, which is the diagnosis manual that treats substance abuse. And so we, you know, even in the amount of people that were here today, you know, that's a quite a high percentage of our population that struggles with these issues and so that is what we are here to do. We also don't take any violent offenders, sex offenders or acute psychiatric clients. And so we are treating mothers, sons, neighbors and you know, care very much not only for the safety of the community, but safety of our clients as well. This is a perfect property for us to provide that treatment for them. It is gated. We have 24 hour security. We have nursing and behavioral techs that are on staff, 24/7 and we don't want our residents leaving our property just as much as the surrounding residents, don't want them to as well.

Ms. Cuellar: If I may, as a point of clarification for the treatment center, when an individual goes to recovery, is it a 30-day commitment? I think some of the concern has been like in and out traffic, if you will, at the property?

Ms. Jackson: Yeah so it is an inpatient facility. We do probably 80% of our reimbursement comes from insurance companies and so I would love to say that it is a full 30-day program, but due to managed care, it tends to typically be more of like a 25 to 28 day program.

Ms. Cuellar: But you're not having, like, daily patients coming in?

Ms. Jackson: So, our residents don't have access to their cell phones, and we are very strict on a visitor policy, and so it is always supervised and has to be approved by our clinical manager and our executive director to whether these visitations are appropriate. And again, I think it's important that I mentioned that they are supervised. So there's not people coming in and out, most of our neighbors in our current locations that we have don't even know that we are there.

Ms. Cuellar: Thank you.

Mr. Alcaraz: All right. Thank you. Any other questions, Mr. Clemons?

Mr. Clemons: Yeah. Thank you. Could you give me a quick rundown of the admissions process?

Ms. Jackson: Sure. So the patient is referred either by a referral source or calls into our admissions line. We have an extensive pre-screen where we take their information. If they are coming from a hospital setting or some type of inpatient care, we do request medical records, our internal quality assurance specialist who is a medical doctor reviews every prescreen before our clients are accepted and then the admissions team coordinates for transportation to our facility.

Mr. Alcaraz: All right. Any other questions? All right. Just have a seat. We're going to hear from the opposition. I'll let you to rebut on that.

Ms. Jackson: Sure. Thank you.

Mr. Alcaraz: First speaker.

Madam Clerk: Jerry Will, followed by Nancy Will.

Mr. Alcaraz: How you doing? Just state your name, sir.

Mr. Will: Sure. My name is Jerry Will. I live on Regatta Circle in Great Neck Meadows, directly adjoining this particular property. I didn't plan on saying this, but, ultimately back in 2004; this whole facility was an issue over a zoning variance for heights, which I think you've heard enough of today. This happens to be one of the conditions that City Council was also very involved in invoking for the neighborhood. I have no ax to grind with either the applicant or the property owner. I just simply don't know that a residential neighborhood is a correct facility, regardless of what's been said. Yes, there are only 12 or 13 houses surrounding this particular plot of land. But there's also Broad Bay Manor Preschool, which is a preschool and kindergarten, which sits to the front and adjacent to this facility, you know, quite frankly, once the genie's out of the bottle, it's not going back. Now, that may not be their business model today, but what's to prevent that from becoming a walk-in clinic and attracting the kind of clientele that, you know, is not really conducive to a neighborhood environment. What do they plan on doing that or sell the property later on down the road? What's to prevent it? You know, in the end, there is nothing that will prevent it. So I ask that you honor what Council has already

guaranteed us or promised us at least and if nothing else defer it, but ultimately we would like to see it with upheld as a condition for use of that building, particularly given the broad scope of the medical industry. I find it hard to believe that's the only use it can be for that particular building. Thank you.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Nancy Will followed by Jennifer Cox.

Mr. Alcaraz: Just state your name in the mic, please.

Ms. Will: Nancy Will, I'm not a public speaker, so this will go quick. Believe me, but I did have to step out of my comfort zone for this because this is I'm very passionate about this issue and we have lived in this property in this home for 35 years and I've never felt unsafe in this community. But I believe things will change if this condition is dropped. We were here in 2004 when the original owner and City Council agreed to this condition and they believed it was necessary to keep this condition on just in case the property was ever sold, which it has been. As you know, there was a preschool as my husband said, I guess we should have compared notes, but there's an elementary school and a middle school all within walking distance of the building. I know these parents would not be pleased if they knew. I hold no ill feelings against the patients. They do need treatment, but we are in a medical corridor on First Colonial Road, and there are plenty of places to put this substance abuse facility, not in a residential community. I know she said they will have 24-hour security, but if these patients went out, nothing's gonna stop them. We're speaking from experience from our nephew in Pennsylvania who was committed several times to a facility and got out. So there's no guarantees there and the patients will be allowed out for fresh air and smoking, I'm sure. There's nothing preventing them coming over the fence and into my yard or the playground across the street. My backyard and the playground are always full of children. This will jeopardize their safety. We just sincerely hope and pray you will not approve the removing of this condition for a substance abuse facility. Ask yourself, would you want this in your backyard? Thank you for allowing us to express our concerns and if you would look at the map real quick of our property and the facility that we're talking about, my house is the one on the corner, which is very, very close to the facility and then at the end of the property there is the preschool. So it's very, very close. Okay. Thank you so much. I appreciate your time.

Mr. Alcaraz: You did good.

Ms. Will: Thank you.

Mr. Alcaraz: Next speaker.

Madam Clerk: Jennifer Cox, followed by Betsy Kremen.

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

Ms. Cox: Of course. My name is Jennifer Cox and I happen to be the owner of that preschool that the previous two people have talked about. I come here as a business owner of four successful and thriving preschools, three of which are in Virginia Beach and we collectively care for about 600 young children every year. The schools have been in operation for 40 years, and I've been blessed to be a part of them for the past 12. One of these schools, Broad Bay Manor, as has been mentioned happens to be next to the property being looked at for the Harrison House. Broad Bay Manor has grown to have an excellent reputation in the community and we now oversee the development, the education and the safety of 170 students, ages two through five. We support our local families in such a foundational way that they can work and that they can provide for their families, knowing that their children are 100% safe, that they are tucked inside, our safety bubble that we've been able to have for the past three years at this location. I also come here as someone that has closed loved ones struggling with addiction. Mental health and drug addiction deserve a path to recovery. However, that path comes with many ups and downs. It's part of the process. I've seen it firsthand. There is an instability that comes with drug addiction, that's irrefutable. There are highs and there are lows with their journey. The lows very often affect the addicts direct surroundings, their direct physical surroundings from drug paraphernalia to violent outbursts. Our school property are playground where our children play every day and the parking lot where they're coming in and out of school, along with the sidewalk where they walk to and from school, are in that physical surrounding area. The area that we're talking about. Our schools take care of our community's most vulnerable population, our young Children. The unstableness that comes with drug recovery, the drug recovery journey should not be adjacent to our youth. It's just too risky. What behaviors might our children see? What might they find thrown over the fence or along the sidewalk as they walk to school? Is there a possibility of direct interaction with the patients if they're spiring downhill? Could the safety of these innocent children be compromised? It's in our nature to protect the young. It's our gut. It tells us do it. We make promises to our families that our children's safety is our first priority, always, always, always. And I ask you to do the same when planning where the Harrison House should be located in our community. I welcome it in our community. I just don't think this is the best place for everybody involved. At this time, it's really hard to find a great child care facility. We hear the stories on the news all the time. Our school has upheld its reputation. We have high standards. We have an impeccable record, and we really want to keep it that way. Thank you for listening.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Betsy Kremen, followed by Tom Duncan.

Mr. Alcaraz: Hello, if you can just state your name for the record.

Ms. Kremen: Hi, I'm Betsy Kremen. I'm the director of Broad Bay Manor School and our school is located next to the property in question. My role as the director is to oversee the safety and the developmental growth of all of our students. My top concern is the safety and exposure of 170 students and our 33 staff members. We have promised to provide a safe environment for our children and also our staff. Our staff are coming and going. We're open from 7 to 6, providing that care. So a lot of hours throughout the day, people are coming going. Our fence is accessible to the property that the Harrison House is hoping to occupy. Our students play outside 3 to 5 times a day as well as scheduled playtime, it really helps support their physical and social growth outside of the classroom. We don't want to constantly be in fear that we are going to have to shut down or have our building on lockdown if there is a situation that is occurring over there. I actually walked the property, from our property, walked through that property to see just how close, if we could hear our kids playing outside, I could hear our kids playing, I could hear our kids laughing, I could hear the instruction of our staff very clearly to them. So if we can hear what they're doing, they are going to be here, to be able to hear what happens on that side of the fence. In addition to outside time, we have a dozen or more families who live in the surrounding neighborhoods that really take advantage of that small community feel and walk their kids to school. That doesn't happen often anymore. It's so nice to see the moms and the dads with their strollers and bringing their kids to school. We also have preschool children, elementary school children and middle school, which are my own children who get on a bus stop at our school. So they are standing there, waiting to go to school and there's no telling what they are going to be exposed to. I can't protect my middle school children from all the exposures, but I can help in this situation, hopefully. The Manor School has a wonderful reputation in the Great Neck area. Our families deserve to feel safe. They deserve to feel that they can walk in with their babies. They can walk in with their preschool age children without incident. Thank you so much.

Mr. Alcaraz: Thank you.

Mr. Parks: I just had one question.

Mr. Alcaraz: Sure. If you come back?

Mr. Parks: I'm sorry. I didn't want to have to make you come back later. Can you tell me how long the school has been there?

Mr. Alcaraz: Can you come forward so we can get it on the mic and record it? Thank you.

Ms. Cox: The Broad Bay Manor has been in Virginia Beach since I believe 93. It's been at this specific location since 2002.

Mr. Parks: 2002. Thank you very much. Thank you.

Ms. Cox: Thank you.

Ms. Cuellar: Have you had any problems with the surrounding neighbors at all or the previous tenant?

Ms. Cox: I'm sorry. Say that again.

Ms. Cuellar: Have you had any issues with the previous tenant?

Ms. Cox: I think it's been vacant from what I understand.

Ms. Cuellar: For four years?

Ms. Cox: Yes.

Ms. Cuellar: But since you've been since not here since 1993, have you had any issues?

Ms. Cox: No, no, we haven't had any issues there. There is a Virginia Psychiatric Ward a little bit down. We've had to go on lockdown maybe a handful of times in the last 10 years, just in case that they'll give us a call if they need to have somebody's been released from the building when they shouldn't have. But that's it.

Ms. Cuellar: Thank you.

Ms. Hippen: Wait, wait, wait. Don't go away yet. Okay. You said that the school has the Broad Bay Manor has been there, how long?

Ms. Cox: It's been in Virginia Beach since 93. It's been at this location since 2002.

Ms. Hippen: Okay. I wanted to make sure I had it right. Thank you.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: Tom Duncan and he is our last speaker.

Mr. Alcaraz: All right. How you doing? You state your name for the record, please.

Mr. Duncan: Thank you to everyone. My name is Tom Duncan. I'm a resident to lifelong resident here, Virginia Beach. I've lived at this house coming up this month on 36 years. I'm directly behind the Memory Center of this property. The prior conditional use permit, the neighbors, the prior commission and the council had a stipulation, no substance abuse treatment was allowed when the property was subdivided and allowed for the Memory Center. Now, the condition was explicit. The property owner accepted the condition. Now they're asking, we gave them an inch to give them the conditional use permit prior, now they're asking for a mile. They're saying that there's no acute psych, violent offenders, sex offenders allowed. That is a business model. That is not part of their conditional use permit that they agree to. That can be changed. That's up to their director. They can change it anytime they want. Matter of fact, in this conditional use permit they're applying for, they could offer daily walk in methadone treatment. That means drug users coming in every single day, seven days a week to receive the methadone treatment and they're not in violation of the conditional use permit. In regards to policing this and their actions that they will not allow sex offenders, drug offenders, psychiatric patients, there's no way under federal HIPAA law for commission, us as neighbors, anyone to do anything about any violations of this. It's not allowed under federal law. We can't access their medical records or psych records. We have no way to police this until something bad happens. These owners, these property owners have been irresponsible for years. I myself have made over a dozen phone calls to the property owners about the dead trees behind our fence, which ended up falling and destroying my neighbor's fence, deck and house. And they said, oh, well, our insurance company will take care of it. That was prior owners. New owners, same problem. Oh, it's a span of multiple years. This problem has been and it won't be addressed. If you make a phone call to them, they won't even give you the name who you're supposed to speak to. They'll take a message. They will not return your phone calls. Same for my neighborhood on the left and on the right, the one that's house was destroyed when they ever left, ended up having to pay to have the trees trim that were touching the roof of his house. He agreed to even offer pay half of it. It was their tree. He did it himself expensive. Now, in regards to my house, we have a flooding issue, which is not my property water. It's all of their property water. All their storm drains have become plugged up in the back of their facility. So all the water from the property runs right to my property, I have ring around

the fence 6, 12 and 18 inches, a ring of dirt on my back fence. I've made multiple phone calls. They will not even return your phone call or address it. All the water runs down between my neighbor's houses to the street. I can't even put mulch in my backyard. I've planted grass three times, dead. I have a swamp. It's not my water, it's theirs. But they won't even address the issues. These owners are irresponsible. Then you have an applicant asking for the least the additional property, it's open. Why not just make it a doctor's office? You're not limiting the property owners ability to lease it. It's just who you lease it to.

Mr. Alcaraz: All right. Thank you sir.

Mr. Duncan: All right, thank you.

Madam Clerk: That was all speaker.

Mr. Alcaraz: All right, that was last speaker.

Madam Clerk: Yep.

Mr. Alcaraz: All right, you can come forward. I'll give you a chance to rebut on, what you just heard.

Ms. Jackson: Sure. So I first want to say I appreciate a forum like this and I hear all of you and I respect what you have to say today. Just to clarify, we are not a methadone clinic. This is a residential facility. We actually don't accept patients who are on methadone as MAT. So we don't do any type of methadone or daily walk in clinic at our facility and we want to be good neighbors. We have great relationships in the residential neighborhoods that we are in and so I'm sorry that you've had that previous experience with the property owners before, but I can assure you that all of our residents know that if there's a problem, we will fix it due to anything on our property. And there are places nearby in this community already who treat substance abuse and mental health. I did see that there's a psychiatric hospital that is 0.3 miles from this facility and there is also an opioid and Alcohol MAT Clinic, which stands for medication assisted treatment 0.7 miles down the road. And so I understand and I hear the concerns that they have regarding schools and neighborhoods. But the reality is, is there are already treatment programs for substance use and mental health very much in the middle of this community and one final thing to what they have to say is we have an ethical responsibility to treat our patients fairly humanely. I am also a licensed mental health counselor, so I'm not just overseeing the operations of our company, but I started in this field with wanting to council and take care of these clients and so if a client wants to leave, we don't just say, okay,

goodbye and let them walk out the door into the community. We will either refer them to another facility and do a bed to bed transfer or provide them transportation back to where they came from, whether that's their residence or whether that's the airport or bus station to get back to where they were. So we are very responsible in our patients that do have the ups and downs like the lady mentioned for substance abuse and we are very responsible with patients that want to leave treatment. And the last thing about the kids being outside, again mother of two very small kids, our clients are in group for six hours out of the day in the middle of the day. So we also have a very intense program where they are there getting intensive individual counseling, family counseling, and group counseling that happens through the majority of the day. So our patients aren't just outside smoking or, you know, not doing anything. It's a very engaging program that we have.

Mr. Alcaraz: All right. Any questions? Ms. Hippen?

Ms. Hippen: Yeah, two questions. Okay. So has the storm drain issue been fixed?

Unknown Speaker: No ma'am. It is not fixed. It's not been fixed.

Ms. Hippen: Okay.

Unknown Speaker: No address, nor even returned phone call. I know that's just a **[Inaudible] [03:37:59]** but then we have to reach out to the neighbors, **[Inaudible] [03:38:04]**.

Ms. Hippen: Okay. So that's my concern. That was part of the question. So I'm the child of an alcoholic. So I know how it is. Are you on-site at this facility or are you at another facility and you're overseeing them?

Ms. Jackson: I'm not. Yes, I live in Nashville. I'm a corporate employee.

Ms. Hippen: Okay. So my question is my late stepfather had dementia. Okay. Now, I'm going to preface this. This did happen in 1990. Okay, but he was put in and this happened in Philly, too. He was put in a home, okay for his own safety and he was able to not only escape but he made sure that he drowned in the Schuylkill River okay. So my question to you is how do you prevent people from leaving because I know, so having two siblings that are nurses that have worked in walkie talkies and hospitals, I understand a little bit of the medical stuff, but the question I have is, how are you, you know, do you have alarms? Do you, because some of the things that they're stating are very important and

whoever your local person is needs to get with that man because I had a neighbor's pool drain into my yard and I was pissed, so.

Ms. Jackson: I agree and we're not, I'm not the property owner. We just started this relationship and want to be the tenants here. But we do take on all of the responsibility of the property. We have a GLPL, you know, that covers anything for our property. We pay a lot of money for our leases like we take full responsibility for the property once we come in. And so if that is an issue that's occurring because of the, with the residents next to it, that is something that we would address. In terms of safety of the patients, we do 15 minute checks of every patient. That's documented in our electronic medical record system. So every 15 minutes we know where they are, are tracking them, what they're doing and we also in, our other two inpatient facilities have alarms when they leave out the front door or somewhere that's not supervised 24/7 by a staff so that we know if someone has left the building. This property also has a gate around it that would be locked.

Mr. Alcaraz: All right, any other question, Ms. Cuellar, go ahead.

Ms. Cuellar: Can you tell us what attracted Recovery Unplugged to this specific building in Virginia Beach?

Ms. Jackson: I don't think there's something specific other than we have a partial hospitalization and intensive outpatient facility in northern Virginia. So we've actually took over in 2014 or 2015, this outpatient facility in northern Virginia that had been operating there for actually 20 or 30 years, and we saw the need for good inpatient facilities to be able to provide detox and residential services to our patients.

Ms. Cuellar: And what type of community outrage did you experience in this application process?

Ms. Jackson: So we spoke to, or we reached out to some of the other business owners to be transparent. We did not reach out to the residents of the neighborhood. So I apologize for that. I do think that a lot of this is some of that stigma of substance abuse and mental health as well. But I can promise you that we will be good neighbors and try to address the concerns that you have.

Mr. Alcaraz: Any other questions? All right. Ms. Estaris go ahead and then Mr. Anderson.

Ms. Estaris: Clearly what we're hearing is that there was some reasons for why there was this condition number five placed on this CUP. What's the impetus of you wanting to have drug Rehab at your facility. What is, since there are other facilities to provide that service in the area, why your facility?

Ms. Jackson: So I don't believe that there is an inpatient facility. There is an outpatient medication assisted treatment clinic, like the gentleman had referenced and there is a psychiatric inpatient facility. There is not a primary substance abuse inpatient facility to my knowledge.

Ms. Estaris: There is in our area may not be down in this corridor, but they're definitely. I fight in the space of not human trafficking. So there's a lot with human trafficking and drug trafficking. So we do have a lot of their licensed in the area to address that area. So I just want to see if you had checked to see that could be done somewhere else and not necessarily at your facility or is there impetus like is it your current patients that are having this problem or coming in? So you want to address that problem as well or what's the impetus?

Ms. Jackson: Well, I think that we run into issues like this in a lot of places. So we try to find a private building to be able to provide services for our patients and we have seen the growing need for substance abuse treatment especially in Virginia and there really is, even though there may seem like there's a lot of access around here. There is still really only 10% of people who get treatment for substance abuse and mental health and so I think that there is a need for it.

Ms. Estaris: I agree on the ratios, but in this area we are heavily, heavily into these services. So if you're not, if you've not communicated with your local person to really address that and really investigate and explore that, I think that would be a good step to address especially those that are really concerned about having that particular service at your facility. And before you leave, so this gentleman doesn't leave without any communication, since I, with all the technology, a lot of times you get this phone call not being able to be addressed and they're not getting a human being, while you're here, if you don't mind, to make sure you address that connection. Thank you.

Mr. Alcaraz: Mr. Anderson.

Mr. Anderson: Yeah, that was kind of what I was going off of. I'm very concerned about the lack of community outreach. Whether you only talk to a couple of the or whoever in your company, I'm concerned that the residents were not contacted and I think that that needs to change and before we move forward that you need to have another,

you need to have more community outreach and sit down with the business owners and the homeowners and discuss all the issues. That's my biggest problem.

Mr. Alcaraz: We're closed on public speaking right now. We're gonna do the rebuttal. Then we're gonna go to discussion with the commissioners. Sorry, sorry about that. Mr. Coston.

Mr. Coston: I just wanted to ask if you would be willing to alter that condition to include some of the neighbor's concerns about walk-ins and whatever else happens that they're not really comfortable with right now.

Ms. Jackson: Adjust it to that, it would only be a residential and not be outpatient clinic.

Mr. Coston: Right.

Ms. Jackson: Correct.

Mr. Alcaraz: Any other, Ms. Cuellar?

Ms. Cuellar: So I want to be very sensitive to the residents who have reached out to us because they fought really hard in 2004 and they're passionate about this but I also think business models change. We have a zoning ordinance that permits as a medical facility for something similar without this condition but having that said if there is an opportunity to compromise to reassure the residents and potentially add some additional conditions my thinking today is if you would be open to a deferral in order to create that compromise. I want to be cautious on what we can actually put in as a condition without being discriminatory against violent offenders, sex offenders, and all that language to see if there is a possibility to compromise.

Ms. Jackson: Yes, I'm open to that, especially the sex offender part and that they have to, you know, disclose that. And so, it would be difficult, I mean, we do ask about legal issues and things like that, and obviously help with that when they come in and if we find that they are inappropriate for our facility, we refer them out during the screening process, but I would be open to specifically the sex offender part and what the gentleman spoke about being an outpatient facility.

Mr. Alcaraz: Well, Ms. Cuellar has suggested that you defer it. Is that acceptable? So you can work with and have that open forum with them?

Ms. Jackson: Yes.

Ms. Jackson: Public engagement is really important. You saw today how many people came out and that's a vital part of this process. We want to ensure that all the citizens, the Civics Groups know what's happening in their neighborhood.

Ms. Jackson: Yes.

Mr. Alcaraz: Any other questions before Ms. Cuellar makes a statement?

Mr. Clemons: I don't think I have anything really to add. I would just say that the City of Virginia Beach is in vital need of the kind of program and services that your organization provides and, I concur with the need to go back to, you know, the community to try to better engage the residents of that community.

Mr. Alcaraz: Ms. Cuellar, go ahead.

Ms. Cuellar: I just want to say thank you. As a mother of a mental health counselor, I applaud your commitment to your field. So thank you for that. So at this time, I'd like to make a motion to defer agenda item number five for the modification of conditions.

Mr. Alcaraz: For 30 days or indefinitely? Staff your recommendation on that? Anybody?

Ms. Alcock: I would recommend doing indefinite. That way we don't say a date certain and have to advertise if they haven't had the chance to do the outreach.

Mr. Alcaraz: I have a motion for an indefinite deferral.

Mr. Plumlee: Second.

Mr. Alcaraz: Second by Mr. Plumlee.

Madam Clerk: The vote is now open. By a vote of 11 to 0, item number five has been indefinitely deferred.

Mr. Alcaraz: Thank you. Hope you guys can work it out. Next item.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			

Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. All previous conditions attached to the previous Conditional Use Permit granted on November 9, 2004 shall remain in effect, except for Condition 5: "The Rehabilitation Center will not treat patients seeking admission for drug and alcohol addiction" which shall be deleted.

**Virginia Beach Planning Commission
October 11, 2023, Public Meeting
Agenda Item # 6**

Bonney Bright Sand Co

RECOMMENDED FOR APPROVAL- CONSENT

Mr. Horsley: Thank you, Mr. Plumlee. Next item is item number six Bonney Bright Sand Company for borrow pit expansion, is a representative.

Mr. Jones: Good afternoon, Mr. Chairman and members of the commission. My name is Harold Jones. I'm with Sigma Environmental and I represent the Bonney Bright Sand Mine application today. We've worked with staff; there was a couple of existing modifications to existing conditions on the operation of the mine that accompanied this -- this modification for four conditions and they are totally acceptable to us. And we have, I'd be happy to answer any questions that you all may have.

Mr. Horsley: Thank you, Mr. Jones. Appreciate it.

Mr. Jones: Thank you.

Mr. Horsley: Is there any opposition to this? Hearing none. We've asked Mr. Clemons if he would read this into the record.

Mr. Clemons: Thank you very much. The applicant is requesting a modification of conditions to the existing conditional use permit to expand the existing borrow pit by 13.9 acres on this property zoned AG-1 and AG-2 agricultural district. The applicant proposes to use the materials that are mined to provide private, commercial, and government entities with fill sand, masonry sand, clay and fill dirt. Sand excavation operation has been going on this property since the 1970s. In 1989, the City Council approved the conditional use permit to operate a 23.4 acre borrow pit. There were no approvals granted prior to 1989 and there's no consideration by council was required. Since that time, there have been two additional conditional use permits that have been granted and in 2000, an expansion of the borrow pit by 46 acres was granted, as well as an additional expansion in 2010 by 87.23 acres. The applicant recently purchased the 13.9 acres to incorporate into their existing operations, and since this area was not included with the previous approval, a modification of conditions to expand

the mining operation is required. We did not find any opposition to this request; therefore we placed it on the consent agenda.

Mr. Horsley: Thank you, Mr. Plumlee. And now I'd like to, Chairman, I'd like to place in a motion that we accept item number one, Whitney W. Elliott and Matthew Mancoll. Item number six, Bonney Bright Sand. Item number nine and 10 Burnette Baum Development Corporation, number 12 Excel Fitness, Virginia 9 and items number 13 through 18, short term rentals moved they be approved.

Mr. Alcaraz: Thank you, Mr. Vice Chair. I have a motion. Do I have a second?

Mr. Plumlee: Second.

Mr. Alcaraz: Second by Mr. Plumlee. Thank you.

Madam Clerk: The vote is now open. By a vote of 11 to 0 items 1, 6, 9, 10, 12, 13, 14, 15, 16, 17, and 18 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. All previous conditions attached to the Modification of Conditions Permit approvals of August 3, 2021 shall be voided and replaced with the following conditions below.
2. Activities on the site shall meet all the requirements identified by the Virginia Department of Mines, Minerals and Energy. Additionally, the applicant shall renew their permit and license with the Department of Mines, Minerals and Energy before October 21, 2023.

3. No excavation or restoration of the borrow pit expansion shall be allowed without first obtaining any necessary permits from the appropriate Federal, State and Local agencies, required as a result of the expansion of the existing borrow pit operation. In addition, the applicant shall renew the Non-Metallic Mineral Mining General Permit from the Department of Environmental Quality for the proposed expansion.
4. No excavation or restoration of the borrow pit shall commence until such time that a site plan has been reviewed and approved by the Development Services Center. The site plan must include a specific street and highway contingency plan that addresses the repair and replacement of any damaged roadway surfaces associated with the borrow pit operation. The site plan shall also detail the truck watering schedule currently utilized for the abatement of the dust generated by this operation and must indicate the sequence of construction for maintaining 3:1 side slopes on the borrow pit within sixty (60) days after the excavation is complete.
5. No access to or from Pocahontas Club Road shall be permitted for the borrow pit operation.
6. Operating hours shall be 7:00 a.m. to 7:00 p.m., Monday through Saturday. No operations shall be permitted on Sunday.
7. No encroachment into existing easements will be allowed. Access to drainage easements must be provided by the applicant over all the output systems within the site.
8. No encroachments into natural drainage channels shall be permitted.
9. The existing buffer of pine trees along Princess Anne Road, the double row of Loblolly and Virginia pine trees, an understory row of wax myrtle shrubs and the three to four-foot-high berm along Pocahontas Club Road used for screening and buffering shall remain undisturbed.
10. A row of pine trees shall be planted along Princess Anne Road continuing north from the existing trees that will be used as screening and buffering for the expansion of the borrow pit. The required pine trees shall be allowed to grow and be maintained at a height of no less than thirty (30) feet.
11. Undrained pockets and stagnant pools resulting from surface drainage shall be sprayed in accordance with requirements of the state board of health to eliminate breeding places for mosquitos and other insects.
12. The one hundred (100) foot buffer between the cemetery in the southeast corner and the excavation site must remain undisturbed.
13. The maximum depth of the proposed expansion shall not exceed an elevation of 25.00 feet below ground surface from elevation 0.00 feet below ground surface. The applicant shall not breach the confining layers regardless of depth.
14. Dewatering of the pit will be allowed and the following are required:
 - a. A permit from the Virginia Water Control Board is required to discharge any water from dewatering into a state waterway.
 - b. The operator of the borrow pit shall be responsible for continuous water service for the private wells up to one thousand (1,000) feet from the borrow pit operation and those within twenty-five hundred (2,500) feet if proved to be affected by this

operation.

15. The maximum number of truck trips generated by the borrow pit shall be seventy (75) per day. A truck trip shall be considered one round trip, in and out of the borrow pit.
16. All trucks and equipment used in conjunction with the borrow pit operation must be stored, repaired, and fueled on the borrow pit site or on property zoned for such use.
17. The applicant and/or operator of the borrow pit shall provide sufficient information to further the knowledge of the impacted subsurface geology by providing a Monitoring Well/Bore Hole Installation Plan and to estimate existing and projected recharge of dewatering operation discharge water. The applicant shall provide a Groundwater Recharge Plan, which shall include all phases of the expansion, subject to the approval of the Director of Public Utilities or designee.
18. The Groundwater Recharge Plan shall provide for the retention of water onsite to the highest degree practical. As one means to achieve this, the flooding of depleted mine areas shall be implemented to the maximum extent practical and outlined in detail in the Groundwater Recharge Plan, accounting for all phases of expansion and reclamation. The applicant and/or operator of the borrow pit shall provide a reliable quarterly report to the Department of Public Utilities to include the analysis of the recharge system. This plan shall contain the amount of water pumped from the borrow pit, the amount of groundwater recharged on the site, the amount of water discharged to offsite surface water, the local precipitation, and a detailed description of the way in which each of these volumes were determined. The plan shall be subject to the approval of the Director of Public Utilities or designee.
19. Testing shall be performed at each monitoring well a minimum of four times a year and analytical results shall be provided to the Director of Public Utilities or designee. The Director of Public Utilities or designee may reduce monitoring frequency to annual testing at each well. If, in the judgement of the Director of Public Utilities or designee, such results indicate that saltwater intrusion is occurring to such extent that private drinking water wells are threatened, the applicant shall cease dewatering of the borrow pit at the cost of the borrow pit operator.
20. Extension of time for operations is ending in June 2030, to include restoration of the property.
21. When mining is complete, the applicant shall redevelop the sides of the pit to a 3:1 slope within six (6) months as depicted on the plan for the borrow pit entitled "Reclamation Plan", dated October 3, 2007, revised September 10, 2009, revised July 1, 2021, prepared by Gallup Surveyors and Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.
22. The applicant shall provide quarterly reports from the test wells to include nitrate readings. The reports shall be submitted to the Zoning Administrator for review by the Water Resources Manager. Following the first year, frequency of the reports shall be determined by the Water Resources Manager. Required frequency shall not exceed four (4) reports per year.
23. The applicant shall submit a site development plan in accordance with the Zoning

Ordinance, Article 2 C Section 227 Borrow Pits to the Development Services Center of the Planning Department for review and approval prior to any excavation of the additional areas depicted on the submitted site plan entitled "PROPOSED BORROW PIT EXPANSION PLAN FOR BONNEY G. BRIGHT", dated October 3, 2007, revised September 10, 2009, revised March 12, 2021, prepared by Gallup Surveyors & Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.

24. Trucks that haul material to and from the property shall not use Princess Anne Road as an ingress and egress for the operation. All trucks in association with the mining operation shall use the entrance in North Carolina to enter and exit the site. If the entrance from Princess Anne Road is used to haul material then the following shall apply: the operator shall install a left turn lane on Princess Anne Road into the borrow pit entrance, the property owner shall dedicate as deemed necessary by City Staff any additional right-of-way to accommodate the turn lane, the entrance from Princess Anne Road shall be paved and the pavement shall extend fifty (50) feet back from the property line and then graveled an additional fifty (50) feet, and an entrance plan shall be required subject to the review and approval by Department of Public Works/Traffic Engineering.

**Virginia Beach Planning Commission
October 11, 2023, Public Meeting
Agenda Item # 7**

Evergreen Virginia, LLC

RECOMMENDED FOR APPROVAL

Madam Clerk: Item number seven is Evergreen Virginia, LLC. It's an application for modification of conditions at 240 and 248 North Lynnhaven Road and 2865 and 2893 Virginia Beach Boulevard in District three.

Mr. Alcaraz: All four against please come forward.

Mr. Garrington: Thank you, Mr. Chairman, ladies and gentlemen of the Planning Commission. For the record, Billy Garrington here on behalf of the applicant. Applicant in this case is Evergreen Virginia property known as 240, 248 North Lynnhaven Road. It's most of you all know if you've been out to the site, Evergreen Virginia is checkered flag motor company, you know, their stores, you know, their locations in Virginia Beach, the one that we have in front of you today. Now is the one that has been developed as a car lot since back in the early seventies that's many years before there was ever a Lynnhaven strategic growth area overlay. This property has been operated with three car dealerships upon it. Thanks to some of your hard work. Two of those car dealerships are now going away. Jaguar went down to Virginia Beach Boulevard and North Kings Grant Road. Audi, which is still there now, is going to Virginia Beach Boulevard and Nelms Lane, both of which that you helped us get approved. So the request that you have in front of you today is to take this lot and redevelop it for only the Porsche dealership. So the Porsche will have their own location. They won't be sharing it with Jaguar and already any longer. In the staff right up that you have in front of you, we have worked significantly with Marchelle and Marchelle has been a pleasure to work with. There are 13 conditions that are in the staff right up and I wish we could tell you that we were in agreement with all of those and we could just go home, but we can't. But we are in total agreement with her conditions and we thank her for working with us on this. But when we got here this morning and heard some of the talk in the informal session, there are some of the board members who have some concerns about the way the plan is laid out. This isn't just something that we willy-nilly came together and presented to you. There's been a lot of people and a lot of eyeballs that have been on this plan from the people at Kimley-Horn, the engineer working on it from the people at Covington

Hendricks, the architects who are designing the building for us. The people from Porsche Motor Company in Germany have had significant input as to how the building is laid out. And then lastly, but not least, is Steve Snyder. Mr. Snyder has been in the car business for 50 some years. They know when it comes to laying out a car lot, what works and what doesn't work as far as traffic flows. Customers, display area, getting people in and getting people out of the building and especially when it comes to service department because that's where your daily traffic comes from on a car dealership like this every day. So that plan that you have in front of you that several people have looked at that and this is what they want to try and come up with. We feel that this plan is much better than the plan that's there now post construction because you're going to have significant landscaping on the property interior and around the perimeter that you don't have now and as part of the Lynnhaven strategic growth area to make it pedestrian friendly, you've got those two pedestrian areas that are going to be put out on the outer edges of the property with landscaping benches, sidewalks and all that that run up and down Virginia Beach Boulevard. So we have tried the best we can to come up with a plan that your staff could come up with and recommend for approval, which they have and that you could recommend and submit to the City Council for approval also. And we think we have that, but I don't think everybody is in agreement with that because there are 13 additional parking spaces on this site over and above the very minimum that you have to have. But again, you never know, you could have 200 extra cars come in one month and the next month you could have none come in. So only being 13 over the maximum, the minimum number of car of parking spaces that are required seems pretty reasonable to me. And lastly, Ms. Byler, we spoke with you this morning about those 18 spaces in front of the dealership, my point is this that area is going to be used for customer parking and employee parking, especially when it comes to customer parking, especially when we're talking about handicapped spaces. If you put those handicapped spaces beside the building or around where the service entrances, now you're compelling people in a wheelchair to have to circumnavigate around the building to get into the front of the building where the showroom is. So the way it's played out, we would like to have it approved like that, but that's just our wish. You have the final say on that. But again, we think that is a good layout for this property and that's why we're bringing it forward to you today.

Mr. Alcaraz: Ms. Byler, you got the final say.

Ms. Byler: No, definitely not. I'm merely one vote here. First off, thank you and I certainly applaud the Snyder family for everything they do for Hampton Roads. I've bought more cars than I can count from them and not just cars, but they're wonderful members of the community and their locations are always first class. But when we put in place, when the city put in place the Lynnhaven SGA, I get it. It's an aspiration, but how do we ever get there if we don't take steps? So the recommendations of the staff are to not require that checkered flag or evergreen. I'm sorry, whatever it is. Move the building up, which is huge. I mean, it's a huge concession on behalf of the city's recommendation. My problem is that that area up front should be green space or beautification or something which is the spirit of the SGA requirement. That between the building and the road, there should not be parking. I mean, if it's easier for you, just move the building up, then we don't have to have this discussion and you can put those extra parking places in the back, but putting those parking places up front, just screams car dealer instead of. This is a nice area to walk, why don't you walk by here, and we're creating a sense of community, which I think is what the SGA is trying to do. I don't know where the entrances to the showrooms are, but in most of your other locations, the entrances are on the side, they're not in the front. So when you say you need those to be handicapped, I don't know that those up front are the closest to the actual entrance anyway. But I feel sure that there is room for handicapped spots near an entrance without having it up front. So it's just my two cents. Thank you.

Mr. Garrington: I'm not arguing with you. We've been just agreeing to disagree with you and if this was a vacant site that we were just coming forward with, I would agree with you 100%. But this is redevelopment for something that's been there for almost 53 years. So again, we can just agree to disagree. You got anything.

Mr. Alcaraz: Hold on. Mr Plumlee, you said you might want to have from the informal.

Mr. Plumlee: Yeah, I wanted to give an applicant to have a chance to address exactly what Ms. Byler was bringing up at the informal that we were, you know, rushing to make decisions without hearing this. I mean, I certainly take into consideration the SGA but as property rights of property rights, these are pre-existing. I'm not sure how you'd sell the cars if you don't have them parked out front or display, which makes the SGA somewhat in conflict with this existing use and I take it, Mr. Garrington, you're saying you've made all the concessions that the applicant is able to make with the direction from

the corporate out of Porsche and Germany and other input that this is what, this is as much compromise that can be made. Is that what is that?

Mr. Garrington: It's correct. And again, with the additional landscaping, we think we're going to have a much better product post construction than you've got there now, not to mention the economic impact of it, which economics never gets mentioned in this process. But economics plays a big part of it. You're looking at about a 6.5 to 7 million dollar investment in a piece of property that they've been operating since the 1970s. That's huge.

Mr. Alcaraz: Thank you. All right. Thanks. Anybody else? Mr Coston.

Mr. Garrington: I thank you for your time and I know you all have had a tough day today.

Mr. Coston: Yeah. Well, I appreciate that you've already moved the building 13 feet and I think I can live with where you are. There's not a whole bunch of traffic or homely feel on Virginia Beach Boulevard, where it's 45 miles an hour. I've responded to calls in that area for years and just the few people I see walking because they have to walk.

Mr. Garrington: Thank you very much.

Mr. Alcaraz: Thank you. Any other questions? All right, we'll close it. Any discussions? Any motions? Mr. Coston, go ahead.

Mr. Coston: I move that we approve this agenda.

Mr. Alcaraz: All right, I have a motion from Mr. Coston to approve, and seconded by Mr. Horsley.

Madam Clerk: The vote is now open. By a vote of 11 to 0, item number seven has been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			

Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. The conditions of the 2018 Modification of Conditions for a Motor Vehicle Sales, Rentals, and Repairs will be deleted and replaced with the conditions below.
2. When the property is redeveloped, it shall be in substantial conformance with the concept plan entitled "PORSCHE DEALERSHIP REDEVELOPMENT – CONCEPT PLAN", prepared by Kimley-Horn, dated September 18, 2023, 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 at the time of final site plan review reflective of the location and plant material depicted on the conceptual landscape plan entitled "PORSCHE DEALERSHIP REDEVELOPMENT – CONCEPT PLAN – Conceptual Landscape Plan", prepared by Kimley-Horn, dated September 18, 2023, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. The exterior of the building shall be in substantial conformance with the appearance, size, color, and materials shown on the submitted elevations entitled "NEW BUILDING FOR CHECKERED FLAG PORSCHE – 2865 VIRGINIA BEACH BOULEVARD – VIRGINIA BEACH, VA 23462, prepared by COVINGTON HENDRIX ANDERSON, dated August 16, 2023, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
5. All signage on the site shall meet the requirements of the Zoning Ordinance. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signage.
6. All garage doors shall remain closed other than for the maneuvering of vehicles in and out of the service bays.
7. All automotive repair work shall be conducted inside the building.
8. There shall be no storage of tires, merchandise, or debris of any kind outside of the building.
9. No vehicles for sale or rent shall be parked within any portion of the public rights-of-way.
10. 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.

11. No loud speakers, outdoor paging system, outdoor speaker system or outdoor sound amplification system shall be permitted on site.
12. 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. 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.
13. Prior to final site plan approval, a Lighting Plan in accordance with Sections 252 & 254 of the Zoning Ordinance, or as amended, shall be submitted to the Department of Planning and Community Development for review and approval. All lighting on the site shall conform to the standards set forth in Section 252 of the Zoning Ordinance.

**Virginia Beach Planning Commission
October 11, 2023, Public Meeting
Agenda Item # 8**

APA Virginia Beach Energy, LLC

RECOMMENDED FOR DEFERRAL

Mr. Alcaraz: Thank you, Madam Clerk. All right, the first order of business is, are there any withdrawals here today? All right, there are none. Are there any deferrals here today? Please come forward. Okay, Mr. Bourdon.

Mr. Bourdon: Mr. Chairman, for the record, Eddie Bourdon, Virginia Beach attorney representing APV Virginia Beach Energy LLC and Sykes Real Estate Properties, LLC requesting an indefinite deferral on this application, and we do expect after the opportunity has been given for people to see one of these facilities to be back on your December agenda.

Mr. Alcaraz: All right. Thank you.

Mr. Bourdon: Thank you. Are there any objections for this deferral? All right. I understand we have one or two speakers that like to come up and is it two? Can you call them please?

Madam Clerk: We have seven now. First is Tammy Mullins Rice, followed by Rosa Gordon.

Mr. Alcaraz: So are you representing -- are you representing the Civic League?

Ms. Rice: Yes, I am the President of Civic League, thank you.

Mr. Alcaraz: You have 10 minutes. Thank you.

Ms. Rice: Okay, thank you. Just a second. Catch my breath.

Mr. Alcaraz: Sure.

Ms. Rice: Good afternoon, everyone. I know they're asking for indefinite deferral. This is the third time that they're asking for deferral. So I just want to talk a little bit about our historic community. Why us? Why is it being put there? Why are we being targeted? We have met with this company several times over the past year and a half, most recently in September under the Miles

Agency. We have told them multiple times this is not something we want in our community. We have residents that live on Beautiful Street who are five generations into their home. I ask you; do any of you live in a home that's five generations back? This is my point. Our historic community is older than the City of Virginia Beach, 200 plus years older than the city. We have fought hard for the little mile and a half that we have left of our community and we want to keep it that way. It's a safety issue. It's an environmental issue. We want justice equity for our community. Why again are we being targeted? Because we're vulnerable, because people think we're not going to fight back. Well, I can tell you, you are wrong. We're going to fight back. I know there's a number of people in here that's from Seatack. Some of them residents on Beautiful Street, and we have just had enough. We don't want an indefinite deferral. We want you to vote on this issue. Send it to City Council so we can close it once and for all. We don't want to be a case study. We don't want 20-30 years from now. We're talking about an unfortunate accident or an environmental issue that we weren't aware that was going to happen. We don't want to Camp Lejeune. We want this community to be for our prosperity, a right that we were guaranteed under the Constitution and the Declaration of Independence. Why can't we have that same kind of right? We've given this company options of other locations within Virginia Beach that they could go not into another residential community because we don't want other people to have to deal with what we don't want. We've given them ideas. We talked about the old Lillian Vernon factory in Lynnhaven on Industrial Park. We talked about the land around Oceana because we met with the commanders of Oceana years ago and they told us that they were looking for companies to work with on the perimeter of the base. Why isn't that an option? Why are we pushing people towards Seatack? We found an article from 2018 that said this city was strategically targeting Seatack and Burton Station because of the poverty issue. We're home owners. When do you put poverty and home ownership in the same sentence? We're -- we're tired of being overlooked. We're tired of the inequities. We're going to continue to fight for this. I know I'm passionate about it. I'm so sorry, but this is an important issue. They said they want to defer because they need to check to see the effects on residents. There were two fires this summer in New York. They weren't in residential neighborhoods, but guess what? They affected the neighborhoods closest to them because of the air quality. So, imagine what that's going to do to someone whose backyard is a hundred yards from where they want to put this storage unit, a hundred yards. Does any of you want a lithium battery storage pack, a storage unit, a hundred yards from

your backyard? Now, can I remind you, we can't even take a lithium battery on an airplane? I'm just saying, so why then we want that in our neighborhood? We don't want to find out about, and also we -- we've been told multiple times that there's marshland back there that we can't build back there. We can't extend our rec center because of the marshland. So then what happens that it gets seeped into the water system? Do we have a Camp Lejeune? Do we find out about that 10, 15 years later? We are one of the oldest African American communities in the country. We're proud of that. Just like you're VB proud, we're Seatack proud, and we're asking for equity for our community. Thank you.

Mr. Alcaraz: Thank you so much.

Ms. Rice: And again, I apologize for being late.

Mr. Alcaraz: Next speaker.

Madam Clerk: Rosa Gordon followed by Donnie Gregory.

Mr. Alcaraz: Hello, if you can state your name.

Ms. Gordon: The name is Rosa. I'm going by my family name, Rosa Gregory Gordon.

Mr. Alcaraz: Ms. Gregory. Okay, you have three minutes.

Ms. Gordon: And good afternoon to everybody on the council and to everybody that's here. I am speaking. Also, I'm part of the Seatack Civic League and also, if you look at City Council, if you will look at the majority of the people, the black people that are here. Those, I don't have no problem telling my age. Those of us who are 65 years old, I'm 75 and older, we are the living black history of Virginia Beach, which used to be called Princess Anne County. When I'm speaking to you, I'm speaking to you number one as a concerned citizen. I'm speaking to you as a history teacher who used to teach at Plaza Middle School, which that land used to be owned by descendants of former slaves. And I thank God about our history and what I'm concerned about is this beautiful street. The reason why I'm concerned about it is because I left it over there. I'm concerned about it because back there on Beautiful Street, there is okay, this land was prayed for. Okay. This land was prayed for back in the day. During the fifties, when elder Jerome Spence was pastor of St. Stephen Church of God in Christ, which is on Bird Neck Road

and that slash Beautiful Street and that man, he prayed and he said, Lord, I want my people to have a home to live in and I also want them to have a place to bury their loved ones. So the original owners of the homes on Beautiful Street used to be members of St. Stephen Church of God in Christ. And the stipulation was that those people they will have at least four plots to bury their loved ones. Now, when I was a little girl, which was a long time ago, when I was a little girl back in the time when there was segregation, the original Virginia Beach Hospital, which was on 25th Arctic Avenue, it was a two story, well, you will say two story now, but it was a two story and the bottom part with the basement. That's where the colored people live. This is the history part of me, stayed, my brother, Michael, three years old as a result of being sick and -- and he became ill and he died in that hospital. I was with him, I was about nine years old, and his last words to me were, Sis, I want to go home and I looked at him and I said, Michael, you can't go home because the doctor has not come. And when I left within an hour, my brother was dead and inside of that time period, my brother is buried back there on Beautiful Street at St. Russ. I don't want that battery storage company to build a business back there because it would be disturbing, disturbing the brother's grave. Not only is my brother buried back there, three years old, but another brother, 13 years old, is buried back there. My mom is buried back there and a whole lot of people that used to belong to St. Stephen Church and in the black neighborhood, we didn't have a graveyard like they have wood lawn and stuff like that. We had to have our own, like our fire department and like our high school. This is the history part of me coming out. I know I got some more minutes, a few more seconds. Okay but my thing is don't put the battery storage place back there because our people are buried back there and that land was prayed for. Thank you.

Mr. Alcaraz: Thank you so much.

Madam Clerk: Donnie Gregory followed by Carol Lee.

Mr. Gregory: Good afternoon. My name is Donnie Gregory.

Mr. Alcaraz: Can you speak, get to the mic.

Mr. Gregory: My name is Donnie Gregory. Good afternoon. I'm a lifelong resident of Seatack. I believe this is my first time being in front of this board, but I have been before the City Council, and my representative is Mr. Remick, who is

in region six and this is my first time meeting this gentleman. I'm going to play this tape to say what I want to say. [Taped Recording] Over this morning I consider it a joy and really a special privilege to rise today to honor the 200 plus anniversary of the Seatack community, the oldest African American community in the United States. The community named for the Seatack of the coast by the British Navy is a stalwart in Hampton Roads, steadfastly protecting civil rights and promoting the African American community. Throughout its proud history, the Seatack community has stood for doing what is right in the face of adversity. Going back to the early 1800s, Seatack fishermen braved the rough waters of the Atlantic to save the passengers of a ship that had wrecked off the coast. The men of Seatack have fought in every major American war, including serving as air raid wardens in World War II to protect the citizens of Virginia Beach from potential air strikes. And when the Seatack community needed a fire department, the Seatack veterans from World War II came together to build the first fire department owned and operated by African Americans. Even in its early days, Mr. Speaker, Seatack has shown a commitment to educating its youth. In 1908, Seatack parents formed their first school at Mount Olive Baptist Church, and a few years later formed the Seatack Public School League. Later, the community provided the land for the Seatack Elementary School and today, Seatack continues its commitment to education by providing funding for college students. Mr. Speaker, I am truly honored to represent this amazing community within my district. Their continuous hard work to promote education, civil rights in the safe Hampton Roads community or nothing short of admirable. In October 2011 and October 2012, the community celebrated 200 plus years of being a vibrant, active, engaged, and historical community and thanks to the contributions of the community historian, who I've gotten to, know and I greatly respect, Sadie Shaw. She's really, just the preeminent holder of all the history of the wonderful community because of her and so many others; the legacy of the historical community of Seatack will continue to be perpetuated for generations to come. So I congratulate them as the legacy continues and we just said that God would continue to bless that wonderful community and this wonderful country that we're privileged to live in. Mr. Speaker, I yield back. Thank you very much.

Mr. Alcaraz: Thank you.

Mr. Gregory: We don't want that plant in the community.

Mr. Alcaraz: Thank you.

Madam Clerk: Carol Lee, followed by Tiara Norton.

Mr. Alcaraz: Hi. If you can just state your name in the mic?

Ms. Lee: Okay. My name is Carol Lee. I have lived on Beautiful Street for the last 15 years of my life. It's the longest I've lived anywhere. It's my home and my neighbors have become my family. I'm opposed to the APV Battery Containment Center back there. Not opposed to APV or the battery factory, or the battery containment center, I am imposed to the site. They're destroying a green space that's right behind my house to put green energy. It doesn't make sense to me. Why are you destroying green space for green energy? There are several other options of the site that we have offered them where they can build it that's already cleared. It's on the power grid. Its long power lines, those things that they have the options to do. We were told that there is little to no risk of fires for these containment centers. There's been proof that there are fires are saying there are new inert gases that they use to contain the fire. So they don't burn. How do they know they work? What if this fire happens? It burns so hot. The chemicals burn where the fire department can't even put them out, they have to just let them burn behind our houses, destroying even more space houses that people live in. And chemicals that get into the air, can the fire department, how does the fire department feel about having this in the area? How are they going to deal with it? How are the hospitals going to deal with the fallout of chemicals being in the air for people to breathe in? The beach, we're two miles away from the Ocean Front. How are they going to deal with that fallout of this happening if something were to happen and the -- the inert gases were unable to put out the fire? So that's where I am is, it's right behind my house. I know we can't live our lives on what ifs. But if it, what if it were right behind your house? Would you want it there?

Mr. Alcaraz: Thank you.

Madam Clerk: Tiara Norton followed by Andrew Jackson.

Mr. Alcaraz: Just state your name please.

Ms. Norton: Hello and good afternoon. I'm Tiara, Tiara Norton. And I am one of the younger residents that live in Seatack and on Beautiful Street. It's myself,

my family, and of course a room full of us that are here. My home, I live in the same home that I ran around in as a little girl, my great grandmother's house. The house that sits directly in front of me is the house that my great grandmother ran around in. My neighbor that was once my uncle and my aunt's house and with this lithium battery storage plant, they're gonna put it at the back of our street. As stated earlier, this is a street, a community that is a little over a mile. We have two elementary schools, four churches, tons of family, a SPCA center, tons of kids all running around. You ever picked up your cell phone, your iPhone, and the phone was hot for no reason? This is what these batteries do. They go into these unstoppable heating up phases when they're constantly heating up, they can explode, they can cause fires and they release toxic gases. All of this is again, being discussed to be built within a thriving, growing, culturally diverse community. Again, we have schools, churches, lots of senior citizens, and this isn't just some community where we're all strangers. Seatack is an area where you will walk down the street and a complete stranger will wave to you. Hello, good morning. So this is a community that's dear to us. And as stated earlier, would you want this in your backyard? Do you want to walk outside of your homes and you see gas and fog? Do you want to stop your children from playing outside due to a lithium battery storage plant in your backyard? I don't think anyone in this room would want that. No one would want to raise their kids in an environment like that. And we're not even going to get into how it brings the value of our homes down. As stated earlier, this is no community that we just live in. We care about this. This community, this street, my home is older than me. As stated, it's older than them. I mean, literally born and raised here, still live in the same community. This is just something that we are totally against. It's dangerous and for us, it tells us the audacity, the audacity for them to come into the community, see all that we have to offer in our community are again our schools, children's, businesses, small businesses and still consider this is the place to put it. It's the audacity and it's the lack of consideration. Thank you.

Mr. Alcaraz: Thank you so much. Are there any more speakers?

Madam Clerk: Andrew Jackson followed by Ben Thompson.

Mr. Alcaraz: Sir, if you can just state your name for the record.

Mr. Jackson: My name is Andrew Jackson.

Mr. Alcaraz: Thank you.

Mr. Jackson: Not the other one. This one. I'm angry. I don't live in Seatack. It's one of the community Civic Leagues that I belong to in this city. I'm what most people would call a community advocate. I've seen the neighborhoods that were here. If I look around this room, I'm probably the oldest person in here, 85. There's not many in here above 85. I just look good. But I've been here long enough to see the destruction of certain neighborhoods. I've seen the growth and the loss of neighborhoods in this community. All of which happen to look similar to me. Seatack is one of the last ones standing. Burton Station just went a while back. Most people in here, if I asked them something about where a particular community is, they couldn't tell you. I first came to this neighborhood, this city, in the US Navy, young guy, 1975. Mr. Plumlee, I'll ask you a question. Have you ever been to Seatack's Civic League meeting?

Mr. Plumlee: No.

Mr. Jackson: You do represent Seatack, correct? That was just a question, not to embarrass you, but to make a point. Some of our neighborhoods in this city have done a lot of things in this city. They've been here for a while. They've been here when the city needed them. We don't want that city, that community, myself and a whole lot of other folks; we've seen the loss of neighborhoods of people that look like us. Enough, if I ask all of you, most of you probably don't know where a neighborhood is called Queen City. Most of you don't even know where that neighborhood exists. There's history to be lost here or destroyed here by something in the air fumes and gases. Let's not have that. We don't want a deferral. We want it off the books, now.

Mr. Alcaraz: Thank you.

Madam Clerk: Ben Thompson, followed by our last speaker, Myra Payne.

Mr. Alcaraz: Sir, if you could state your name for the record.

Mr. Thompson: Good afternoon. My name is Ben Tyrone Thompson.

Mr. Alcaraz: Thank you.

Mr. Thompson: I am a member of the Seatack Community Civil League. I am a board member and treasurer of the Seatack Community Civil League. I am a lifelong member of the Seatack area. That sign up there says, Deferral Request, Conditional Use Permit. The Seatack community says no, period. That's all I want to say.

Mr. Alcaraz: Thank you. Are there any more speakers?

Madam Clerk: Myra Payne is our last speaker.

Mr. Alcaraz: You can just state your name for the record.

Ms. Payne: Good afternoon. My name is Myra Payne. I'm running for Senate in the 19th district. These are my people. I live where you see Beautiful Street. Then it connects across Birdneck to Hughes. I live on Hughes and the reason that I am running for the state senate is because people are treated this way in Virginia Beach and I don't think this should happen. So we're saying no, no, no. We don't want it, no. No. No. And I'm not sure what people don't understand that no is actually a complete sentence. We don't want it. It's down the street from my house and I thought moving to Virginia Beach was going to be wonderful and exciting. Because I'm one mile from the boardwalk and it's wonderful and I love it. But this is unnecessary. I moved to Seatack because of those people. I love them and they welcomed me and they have, it's my family. This is my family and I live there now and I don't want this to happen. And so that's why I'm going to the state senate because these people have not been represented like they should have been. And so I planned to do something for them and I'm standing up now, and I'm going to keep standing up, and I'm going to keep coming, and I'm going to keep saying no, and whatever they need, I'm going to work for it because I'm their representative. I'm a community activist, and I'm going to be elected to state senate.

Mr. Alcaraz: Thank you. Next speaker.

Madam Clerk: That's it.

Mr. Alcaraz: Is that it? All right. Thank you. All right. So we'll close it here and right now in front of us, we have an indefinite deferral for the applicant. We've heard from the neighbors and right now I'm gonna ask the commissioners if there's a motion. Mr Plumlee.

Mr. Plumlee: Yeah, I'd like to address the folks that have come here and I thank them for coming. What you're saying means a lot to me. It's not falling on deaf ears at all. A lot of personal information, you don't know me or my background. I will tell you, I grew up in a small town called Pittsburgh, Kansas. I lived in a little community. It's part of Pittsburgh, Kansas. That was where everybody who was a Lebanese immigrant lived. Okay, my grandmother was a Lebanese immigrant, came there and that's where my family was. A lot of that place is gone. I would tell you it is machine shops and cement plants and all kinds of industrial uses there. It used to be a thriving immigrant community. That's a personal fact about me. But my personal life is only part of what this obligation is. I felt and I advised the folks that put the application up. This is the first time it's been on my plate. It's the first time I've gotten to know this data. I've been down to Beautiful Street. I've talked to people on Beautiful Street. I know the opposition, but I think these facilities are going to be going all over Virginia Beach or this area and I wanted to know about them and I said, defer this so I could go to one of these places and see it for myself. I specifically asked for that. I'm not going to not share that with you. I shared it in the informal; I'll say it out here. I was the one that brought that up because I wanted to learn about it, not because I wanted to offend -- to offend any of y'all or anyone here or the history of Seatack, but I want to know about these places. That parcel has already been zoned industrial. It's -- it's there. I had nothing to do with that. This -- this panel had nothing to do with that. It could be a use that's far more intense and problematic, but I don't know. I've read about these facilities in the short span of time I've been given, but I want to learn more, and I want to know more, and I want to come to a Seatack Civic League meeting and I want to know more about it. So I don't think the deferral from my perspective and wanted to know more about this project is a problem. For that reason, I moved to defer it indefinitely.

Mr. Alcaraz: All right, I have a motion to defer. I need a second.

Ms. Cuellar: Second.

Mr. Alcaraz: Second by Ms. Cuellar.

Madam Clerk: The vote is now open. By a vote of 11 to 0, item has been recommended for indefinite deferral.

	AYE 11	NAY 0	ABS 0	ABSENT 0
--	--------	-------	-------	----------

Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. When the property is developed, it shall be in substantial conformance with the conceptual site plan entitled "AMERICAN POWER VENTURES – VIRGINIA BEACH BESS PROJECT – SITE PLAN - SHEET C1-1", prepared by Power Engineers, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning & Community Development for review and ultimate approval prior to the issuance of a Certificate of Occupancy that is in substantial conformance to the conceptual landscape plan entitled "APV VIRGINIA BEACH ENERGY, LLC – VIRGINIA BEACH ENERGY PROJECT – CONCEPTUAL LAYOUT PLAN, SHEET C3-2", prepared by Power Engineers, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. As depicted on the Conceptual Landscape Plan, the existing mature trees and vegetation shall remain on site in the designated areas. Clearing of trees shall be kept to the absolute minimum necessary to operate the battery storage facility.
4. The exterior of the proposed building shall substantially adhere in appearance, size, and materials to the elevations entitled "AMERICAN POWER VENTURES – VIRGINIA BEACH BESS PROJECT – ELECTRICAL EQUIPMENT ELEVATIONS, SHEET SKE-001", prepared by Power Engineers, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
5. When developed, a photometric plan for the exterior portions of the property shall be provided as part of the final site plan submittal. All exterior lighting shall be no taller than 14 feet in height and all lighting shielded and directed down and inward to the property and away from adjacent properties.
6. The proposed six-foot-tall composite fence shall be in substantial conformance with the fence rendering depicted on page 12 of this Staff Report.
7. When the project ceases to operate, a full site decommissioning shall take place to include the removal and proper disposal of equipment and facilities within 365 days following the

date of final operation unless it is extended upon request of and approval by the City Council. The batteries on the site; however, shall be disconnected from the electrical grid and unplugged from any power source at the beginning of the decommissioning process and shall be physically removed from the site within 180 days.

**Virginia Beach Planning Commission
October 11, 2023, Public Meeting
Agenda Item # 9 & 10**

Burnette Baum Development Corporation

RECOMMENDED FOR APPROVAL- CONSENT

Mr. Horsley: Thank you, Mr. Clemons. Next item on the consent agenda is item number nine and ten, the Burnette Baum Development Corporation, conditional use permit for a car wash. Mr. Bourdon.

Mr. Bourdon: Thank you, Mr. Horsley. Again, for the record, Eddie Bourdon, Virginia Beach Attorney representing Burnette Baum. Mr. Bill Burnette, one of the principals, is here this afternoon. We appreciate being on the consent agenda. All 13 conditions and the 13th is the amended condition that was in your supplemental package that just dealt with the hours of operation. They're all acceptable and I appreciate being on the consent agenda.

Mr. Horsley: Thank you, Mr. Bourdon. Is any opposition to this item? Seeing none. We have asked Commissioner Byler if she would read this into the record.

Ms. Byler: The applicant Burnette Baum Development Corporation applies for a conditional use permit for 5453 Wesleyan Drive. The applicant is requesting a modification of proffers and a conditional use permit to redevelop an out parcel of the Wesleyan Commons Shopping Center with a new 2,200 square foot car wash facility. The proposed car wash facility will be a single bay automated facility with two pay lanes located on the east side of the building. We know of no opposition and it appears appropriate. We have suggested that it should be added to the consent agenda for the commission today.

Mr. Horsley: Thank you, Mr. Plumlee. And now I'd like to, Chairman, I'd like to place in a motion that we accept item number one, Whitney W. Elliott and Matthew Mancoll. Item number six, Bonney Bright Sand. Item number nine and 10 Burnette Baum Development Corporation, number 12 Excel Fitness, Virginia 9 and items number 13 through 18, short term rentals moved they be approved.

Mr. Alcaraz: Thank you, Mr. Vice Chair. I have a motion. Do I have a second?

Mr. Plumlee: Second.

Mr. Alcaraz: Second by Mr. Plumlee. Thank you.

Madam Clerk: The vote is now open. By a vote of 11 to 0 items 1, 6, 9, 10, 12, 13, 14, 15, 16, 17, and 18 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. The site shall be developed in substantial conformance with the submitted site plan entitled "5453 Wesleyan Drive Car Wash – Virginia Beach, VA Conceptual Development Plan," dated July 25, 2023, prepared by Timmons Group, and "5453 Wesleyan Drive Car Wash – Virginia Beach, VA Conceptual Landscape Plan," dated July 25, 2023, prepared by Timmons Group, which have been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The car wash building shall be constructed in substantial conformance with the elevations "Renderings of Cool Wave Car Wash at Wesleyan Commons for Burnette/Baum pg. 1-3" dated August 25, 2023, and prepared by Bobby Willis, which have been exhibited to the Virginia Beach City Council and are on file in the Department of Planning & Community Development.
3. Vacuum units and shrouds shall be silver in color as depicted in the renderings entitled "Renderings of Cool Wave Car Wash at Wesleyan Commons for Burnette/Baum pg. 1-3" dated August 25, 2023, and prepared by Bobby Willis, which have been exhibited to the Virginia Beach City Council and are on file in the Department of Planning & Community Development. The units and shrouds shall, in total, not exceed six feet in height.
4. Vacuums shall be single turbine, not central turbine.
5. No window or outdoor advertising banners, pennants, streamers or other such visual devices beyond those permitted by the City Zoning Ordinance shall be permitted on the property.

6. No water produced by activities at the facility lot shall be permitted to fall upon or drain across public streets or sidewalks or adjacent properties.
7. All on-site signage shall meet the requirements of the City Zoning Ordinance. Any freestanding signage shall be limited to one monument-style sign that shall be no taller than eight feet in height and shall be constructed with a base to match the proposed building in terms of color and material. There shall be no signs that contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs.
8. Pay station signage shall be constructed in substantial conformance with the renderings entitled "Renderings of Cool Wave Car Wash at Wesleyan Commons for Burnette/Baum pg. 1-3" dated August 25, 2023 and prepared by Bobby Willis, which have been exhibited to the Virginia Beach City Council and are on file in the Department of Planning & Community Development.
9. There shall be no portable or nonstructural signs or electronic display signs on the site.
10. Prior to final site plan approval, a Lighting Plan in accordance with Sections 252 and 254 of the Zoning Ordinance, or as amended, shall be approved by the Department of Planning and Community Development.
11. Prior to final site plan approval, a Landscaping Plan shall be approved by the Department of Planning and Community Development.
12. All outdoor lights shall have static lighting and shall be natural hues (e.g., white light).
13. The hours of operation of the Car Wash Facility shall be limited to the hours of 7:30 a.m. to 8:00 p.m., daily between May and September and shall be 7:30 a.m. to 7:30 p.m. daily between November and April.

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:

Proffer numbered 1 in the 1998 Proffers is hereby amended to reflect that Parcel A-2 as depicted on the "Site Plan" as therein referenced was subdivided into Parcel A-2A and Parcel A-2B by a subdivision plat recorded in the Office of the Clerk of the Circuit Court of the City of Virginia Beach, Virginia as Instrument Number 20070510000638170 and development of Parcel A-2A shall be permitted independently of Parcel A-2B.

Proffer 2:

Proffered Subsection (b) of proffer numbered 4 in the 1998 Proffers is hereby deleted and replaced with the following:

b. The uses permitted on Parcel A-2A shall be limited to medical/office, office, financial institutions, freestanding restaurants, with or without a drive through, retail, or an automated car wash.

Proffer 3:

Proffers numbered 5 and 8 in the 1998 Proffers are deleted with respect to the Property (i.e. Parcel A-2A) and replaced with the following:

The architectural design, exterior building materials and colors of the principal structure and vacuum sets on Parcel A-2A shall be substantially as depicted on the three (3) page exhibit entitled "RENDERINGS OF COOL WAVE CAR WASH AT WESLEYAN COMMONS FOR BURNETTE/BAUM" dated August 25, 2023, prepared by Bobby Willis, which has been exhibited to the Virginia Beach City Council and are on file with the Department of Planning and Community Development of the City of Virginia Beach (the "Renderings").

Proffer 4:

Proffer number 7 in the 1998 Proffers is deleted solely with respect to the Property.

Proffer 5:

The 2022 Proffers are hereby deleted in their entirety and superseded by the proffered conditions contained herein.

Proffer 6:

Except as modified or deleted herein, the remaining unchanged proffered covenants, restrictions and conditions applicable to Parcel A-2A, as set forth in the 1998 Proffers, are hereby ratified and affirmed.

**Virginia Beach Planning Commission
October 11, 2023, Public Meeting
Agenda Item # 11**

Back Bay Boys, Inc d/b/a Blue Pete's

RECOMMENDED FOR DEFERRAL

Madam Clerk: Yes, that's correct. Our last item is agenda item number 11, Back Bay Boys, Inc., DBA Blue Pete's, an application for a conditional use permit for an assembly use, 1400 North Muddy Creek Road in District two.

Mr. Bourdon: Everybody still awake?

Ms. Hippen: We were waiting for you.

Mr. Bourdon: Thank you, Ms. Hippen. For the record, Eddie Bourdon, Virginia Beach attorney representing Blue Pete's, Mr. Nick Cleanthes, who is the principal of Blue Pete's and a native and lifelong resident of Southern Virginia Beaches here, as well as a few supporters who have hung out for the whole afternoon, some had to leave. Earlier this morning at the end of your informal, I provided you with a handout with a petition of support signed by 650 individuals with well over 50 letters of support and comments on the petition from them, as well as two letters that I penned to city staff during this more recent part of this two and a half year odyssey, along with a copy of a December the 16th, 2022 email that I requested from and graciously received from Hannah Sabo, our former zoning administrator, as my client considered his options with the respect to circumstances that have evolved over the course of the last couple of years to deal with. What is a bureaucratic change, not a legislative change with no enactment of any ordinance or any engagement by the Restaurant Association or the public based in whole on circumstances that have been begun and continue to exist with regard to one complaining person due to the ability to hear music played on the back deck at Blue Pete's. That's what started this and I was retained Kevin Hershberger, who was a longtime zoning administrator, not zoning administrator, zoning inspector for the city, just retired last year, got this complaint and he and I spoke. He absolutely is aware of **[Inaudible]** **[04:02:19]** and remembered clearly that music on the back deck at Blue Pete's has been going on since the 1970s. I know that I was there. Weddings and wedding receptions at Blue Pete's have been going on since the 1970s. After that, we had a number of meetings and discussions with city staff, the planning director who's no longer here and the zoning

administrator who's no longer here and the representatives of the police department concerning some true special events, which Blue Pete's was having to raise and have had for the 11-12 years that Nick has owned Blue Pete's, the Autism Society and a list of charities that's in my application that they have done fundraisers for. They did only do four per year of real events, as I characterize them that need to what has been the city's definition of a special event and got special event permits for those. One of the things that came up was they were having, just those events, not dinner at night, but some of them did create a little bit of a parking traffic problem and that was one of the main things that we discussed. But also was discussed was that this new idea that a eating and drinking establishment, a restaurant could only put on its social media or any other form of media for that matter that they were providing. Musical entertainment, you know, with dining or with dinner or something of that nature. But you couldn't put the name of the individual or the duo, whatever that was providing that entertainment. You couldn't put it on your social media account. And we obviously thought that was a little over the top for something to just be determined, you know, bureaucratically, but Nick being a team player and just wanted to try to get along, said all right, well I'll agree that I won't put it on my social media that XYZ is going to be there, you know, during dinner from, you know, 5 to 9 or 5 to 10 on Friday or Saturday night. And then that's what we went forward with and a number of months later one of his staff people made the mistake of putting it back on one Saturday night and somebody with the city saw that and contacted it and that was what led to, you know, this violation that's been pumped up as this big criminal violation. That case has been continued while we, you know, first decided whether to pursue this route or judicial route. Again, Nick said, let's go this route because of conversations that are reflected in the letter that I provided you all this morning and the email from Ms. Sabo, which I hope all of you have a chance to take a look at and read, which defines what then was considered to be a special event anyway. So that's where we find ourselves. We had to go through this process. The stormwater has been evaluated. We can meet all the stormwater requirements with the extra gravel that was put down in the parking lot to solve the problem with not having people have to park offsite for special events. We haven't had any special events either while this whole thing has been pending just to make that very clear. But the violation was to put the name of a musical performer on the website, not been a problem in the past and I'll get into that a little bit more but that's the extent of this. Nick will be speaking. Nick will acknowledge no argument that he, you know, expanded the parking lot, put

some more gravel down to try to make sure no one got stuck out in the street if they, in the future, have a special event. This morning at the presentation you all heard, this Blue Pete's was referred to as an event venue. Well, unless you define eating and drinking facilities that put the name of their pianist or their guitarist or their singer or their duo or trio on social media, like Il Giardino's, Imperial Palace, Montague, Little Old Lynnhaven Fish House, Hot Tuna on Shore Drive and many other places on Shore Drive and others that are listed in my, one of my letters. Unless you call those event venues, then you don't call this an event venue, if you also, according to the new determination, if you have a wedding or a rehearsal dinner or reception or you have a retirement party or you have an anniversary party at your restaurant, those are events too. I mean, this event definition keeps expanding and expanding and expanding. Nick's run a restaurant just like other people in the city run restaurants and continue to run restaurants, that idea that they're event venues simply because they put the name of, you know, back in my, when I was younger, Lewis McGee, Dave Carter, the Mad Hatter and others are like my memory, I can't remember them all, who performed and did, you know, at dinner and music at restaurants. And they were advertised not on social media because we didn't have any, but they advertised in newspaper, on radio and the restaurants would have stuff outside like Hot Tuna still has today, you know, that says who's going to be there playing. So there are many, many more, I mean, think of new realms. I mean, think of tons. People that have indoor or outdoor musical entertainment and all of a sudden you can't, that becomes one of your four special events, one of your four special events, you know, Nick and his restaurant in 11 plus years, he's owned it. He's paid almost a million dollars in meal taxes to the City of Virginia Beach. He has paid over two million City and State combined in meal taxes. He's raised over 300,000 for local charities with true special events that were properly permitted and held without issue. He employs 75 to 90 people. Many are part time, typically on Friday and Saturday during good weather months, 24 to 30 people working there winter when it's colder, 14 to 18, and if there's a true special event with a permit, which he hasn't had for the last, you know, over the last year, 30-35 people. This application and staff's conclusion that the applicant is requesting to further intensify the use of this site through the approval of a CUP for an assembly use, we were told to do this and in making the decision to try to do this to be cooperative, what the city told us, their position would be flipped to 180 degrees. So all that we're really after and I did in one of the letters suggest that we, since we're going through this process and since we're doing such good for the community, maybe we

could have a few more special events, real special events. But the 96 events is just operating as they've operated for 11 years and as other restaurants have operated and this one is operated for longer than 11 years, but not with Nick's ownership. This putting a name on a social media as advertising, it's legislative. It's not legislative. It's just bureaucratic fiat because one person continues to complain that he can hear noise and that one person moved here 46 years after it moved to Southern Virginia Beach, 46 years after Blue Pete's began operation and I'll have probably more to say about that later. But this is really a, I believe, true legal dumpster fire. This needs to be deferred. This matter needs to involve legislation changed to the ordinance. There needs to be the restaurant association engaged in it. They actually told Nick that they were going to be here today, and this thing took so long, maybe they decided not to come down, but they are very engaged in the idea that we are simply changing the way they can do business without any comment from them, any public participation and, most importantly, without any legislation whatsoever and that's what this is all about. You know, that is all this is about when it comes down to it and Elizabeth properly this morning, I agree with the fact she said that this is just about whether they can essentially it is. These other issues, the parking lot can be handled. The stormwater has been evaluated. That's not the part of any criminal complaint either, but that's the, and there's no ongoing violation either. But that's what this is all about. Is it okay for a zoning administrator to simply decide after all these years of the way businesses have operated to say, well, no longer can you put the name of the person who's going to be playing the piano during dinner on any of your social media. I'm sorry, but that's just not the way. It's not the way the system should work and that's my suggestion. These conditions are not acceptable the way they're written. If you look at what we were again, and I'm not holding anybody's **[Inaudible] [04:11:58]** the conditions that were in Hannah's email that she was nice enough to send back in December of last year. But that was why we decided to go this route and we still think that this was the right route to go to get this before the public, get this before you guys, and you all are the ones that's one of the reasons why we have a planning commission is to bring together the stakeholders and people involved and decide what legislation makes sense or if legislation is even needed in order to change the way restaurants eating and drinking establishments have operated for 50 years in Virginia Beach or longer. I will be happy to answer any questions.

Mr. Alcaraz: Mr. Plumlee?

Mr. Plumlee: Is there a request to defer this? Are you making a request to defer this today? I would be clear because you brought it up and I—

Mr. Bourdon: I think, I think that's the right, I mean, to save, not only to save time, but to do it the right way. I think that's what, should happen today. Okay, that is 100% what I believe should happen today.

Mr. Plumlee: Well, I'm personally supportive of a deferral simply because of what was brought up this morning at the informal. We've covered a lot of material. I think there's some complex issues here that have to be pulled apart and examined, you know, and if the applicant is willing to defer it, I would support a motion for that.

Mr. Alcaraz: All right, I got a couple of people. Ms. Hippen go ahead and then Parks.

Ms. Hippen: Okay. So yes, there was a lot of discussion about the shows and stuff. I mean, the **[Inaudible] [04:13:29]** Kempsville and Centerville down the street from me does the same thing. So there is, we agree with you. Yeah, however, my concern okay, that and I did a site visit and like I said in the informal hearing, you know, I thought that he and his wife seemed well, he seemed like he was a little bit on edge with us being there. So obviously this one neighbor being a PETA pain in the, has ruffled feathers and oh, that's you, okay, okay. All right. Okay my apologies. Well to him, you're a PETA, not to other people. Okay. That's the way it seemed to me that it was presented. But my concern was the fact that the parking lot has been expanded and changes. So you just said he acknowledges that he cut down some trees.

Mr. Bourdon: I'm looking because I can't, I don't hear.

Ms. Hippen: You can't hear?

Mr. Bourdon: The **[Inaudible] [04:14:28]** are really bad up here. You can hear great back there.

Ms. Hippen: You know, I used to be able to yell from Hangar Bay, three to Hanger Bay at once. So I'm really surprised you can't hear.

Mr. Bourdon: I can hear you better without the feedback from the microphone.

Ms. Hippen: Okay. So my concerns, okay, once we started talking about how you advertise, or if it's supposed to be, or special conditioning, my concerns were the things that were done without permits. That's my concern, okay. I apologize to you, sir. I was just joking, okay. But what I got feedback when I was on the visit, it seems like there's something going on here with you too, okay, my question that, you know what, that substantiates the next question that I had. How much interaction has he had with the neighbors to resolve this issue?

Mr. Bourdon: Nick is here and he would like to speak. I mean, he signed up to speak. You can, he'll be happy to address that question. I want to and again, there's no, I'm not standing here to say that it is okay that as a lot of business people do. There's a problem, solve the problem, but understand this, this is an AG, B-4 and AG property, the trees that were taken down are on his property, AG property, not in the southern watershed buffer. He has every legal right to take the tree down. There's nothing, no violation of anything in doing that and adding the gravel was done for a good purpose, should have got a permit. The issue of what it may do for stormwater has been addressed through this process that we've been going through and there is the need and he's perfectly willing to do it to possibly do something between the existing, long existing parking lot and the water to make sure that no silt or gravel or anything goes in it. So that you mean your point there, we have no argument with at all. This morning, the idea that was unfortunately, they didn't hear the question right, that there was an ongoing violation. That's absolutely not the case and there hasn't been an ongoing violation, but I think staff understands that this situation there was no legal action pending. They know this situation is not about the parking lot. It's not a part of any legal action. It's easily rectified and that's another reason why we went through this process to get that issue other than. We'll need to do a site plan and do some, you know, buffer between the old parking lot, which is between the new and the water.

Ms. Hippen: So then the legal action is because of the dispute with him and the neighbor?

Mr. Bourdon: The legal action solely, solely because they put the name of a performer on social media a number of months after through these means we said we won't, we'll comply with your edict and we won't put that on there. And they then, when they saw that, when it had been put on there, they said, we're

going to bring this, you know, to court. And so we said, you know, our mistake, you know, we knew all along that that was extremely questionable. But we went along with it and then after more consultation with Ms. Sabo and Mr. Tajan and that's reflected again in the email she sent to me that I've provided to you all with my letter to Elizabeth. Everybody said, look, if you want to just be able to put that name on there like you've been doing, go for this use permit. Okay. And in the conversation, I said, well, and the next I will, am I better off going to court? I said, well, this and I said, what I'm saying today, this should be something that is legislated. It shouldn't be something that comes down from a zoning administrator because there's nothing in our ordinances that has changed. There's nothing in the ordinances that say this, okay. It's changing the way things have been done for, you know, in Virginia Beach for as long as I've been here. I've been here my whole life. Okay. So we made a calculated decision to go in this, you know, this direction and to try to get everything resolved and doing it this way and that's the way. We think we made the right decision rather than running off to court and saying, judge, they don't have -- there's nothing been legislated here to change this. It's overreach and there's nothing in the ordinances that said we can't do this. Okay, that doesn't say we can't do it and everybody's been doing it for all these years. So you put those two together, you know, that's why there needs to be what I've already suggested, legislation.

Mr. Alcaraz: All right, Mr. Parks.

Mr. Parks: Yeah, I want to just kind of echo what Brian was saying, you know, I think the deferral is the right thing until we can get it all worked out. I apologize that, you know, you guys are kind of the guinea pig to figure it out. But I think moving forward, it does need to be clearly spelled out so that we don't continue to run into this issue and it's not solved at a case by case. Kind of, you know, it seems like that's what a lot of it's been today. So we don't want to keep going that pattern of case by case.

Mr. Bourdon: Right and it also involves existing businesses have the right to do versus, you know, what new businesses may have to live under, which is the typical way these things go when you legislate rather than pass out edicts.

Mr. Alcaraz: All right. I have a question unless anyone else does, but I think if you could stay right there, Mr. Bourdon. I think it's going to be directed towards city staff and I don't know who's going to answer it, but I just want to do a

scenario. I've been to Blue Pete's. I've been there with the music. So, outside, they have outside seating. So, if they have a band or acoustic, am I hearing they're not allowed to have it in the back with the seating area that they have? In the back, they have...

Mr. Bourdon: They're not saying that. No, they're saying during dinner, we can have entertainment on the back deck by band or acoustic or whatever, but we can't put the name on social media. All we can put on social media is musical entertainment will be. provided or something to that effect. That's the, you know, the ants on the top of a pinhead that we're talking about here.

Mr. Alcaraz: Well, that's why I'm asking. I mean, I have a vested interest in this issue too and I've actually done two events at Blue Pete's. I'm gonna admit it.

Ms. Hippen: So, well okay, my understanding when we did the site visit was that the music was not to be outside. It was to be inside.

Mr. Alcaraz: But we advertise that's the problem.

Ms. Hippen: No, it wasn't about advertising. Advertising was a question, but it was about where the music was inside or outside, was what I understood. So maybe they can tell us.

Mr. Bourdon: If you look at Ms. Sabo's email, I mean, that is, once we went through the first meeting, they absolutely agreed we could have, you know, as it has had for all these years, music in or out on the back deck or inside, so long as it was just music during, you know, the hours that I put in there from 5 to 10. That's it. Then special events are a totally different animal and they're regulated and all that and we're not trying to change any of that. We're not asking. When we decided to go this direction and said, well, let's see if we can get a few extra special events because again, that's what staff at that point said that, you know, they were open to that. That's no longer the case.

Mr. Alcaraz: All right, so we have a suggestion to defer it. Is there a specific time for deferral?

Mr. Bourdon: Well, I just want to, yeah, no, I don't think, I don't think we have. No, the answer is no. But I've got a lot of people here and I know Mr.--

Mr. Alcaraz: Well, if we defer, we're not gonna hear it.

Mr. Bourdon: Okay.

Mr. Plumlee: I mean, that's, I mean, I -- I just didn't want to keep us here if there are things that could be worked out with a deferral and I didn't bring up a deferral. I mean, but I'm responding.

Mr. Bourdon: Well I think -- well, I think, no, I think that the deferral has to be with specific direction to bring back what needs to happen as a restaurant association needs to be brought into it. In my view, there ought to be legislation. And I, you know, I'll just -- I'll leave it at that. And if you all believe that, I think that you all in your position need to make that request, I'm not in a position other than to advocate for it. That's what needs to happen. But the answer is, we're open to whatever time it takes but because that's the only way to get this thing resolved other than litigation.

Mr. Plumlee: I'm not sure how we do a condition deferral, you know, I'm looking to do a deferral if that's the request. If it's not, then we should have the hearing and make a decision. I have my own thoughts about the determination, but I'm not sure how we make direction through the deferral request. Go ahead Kay.

Ms. Wilson: Okay. I didn't need to interrupt. Okay, we're gonna, we would like a deferral. I would suggest that deferral be till January meeting, just my own thought. If we are going to change the ordinance and I think I agree with Mr. Bourdon that we need to study the issue. We need to change not only this ordinance, but the one on special events, but we need to look at this more carefully. I agree with that. So if we're going to do that, I think January because we're heading into that season.

Mr. Alcaraz: I appreciate that.

Mr. Bourdon: I'm thrilled to hear you say that, I started to say I thought you would agree with me on this. So I'm glad that I didn't, all right.

Mr. Alcaraz: So I'd like to move to defer to January.

Madam Clerk: One minute. We do have speakers. So we would need to hear.

Mr. Alcaraz: I was going to ask for objections.

Madam Clerk: Okay. We do still need to give them the opportunity to speak.

Mr. Alcaraz: So I have a motion. Do I have any objections to this deferral? Sir would you like to say something, but you got to come forward?

Unknown Speaker: Good afternoon. Just I am not saying anything.

Mr. Alcaraz: Well, I'm giving you the chance. If you can come forward and state your name, Mr. Burdon to give him a few minutes.

Madam Clerk: Mark Michelson followed by Chris Wadwitz.

Mr. Alcaraz: Sir, the question is do you object to deferring it? That's what I'm asking you.

Mr. Michelson: Yes.

Mr. Alcaraz: Okay. I give you few minutes and then I gotta move on.

Mr. Michelson: We live in Virginia Beach for 35 years, over 35 years. Seven years ago we moved 11 miles down the road. Blue Pete's is old with no upgrade systems. Two small bathrooms, old septic well with occupancy rating of 191, septic systems dictate occupancy rating. No maintenance records for systems exist. Depth of the well is unknown. Currently wells require a minimum of 60 feet due to the byproducts from hot farms seeping into the aquifer. August 23, Blue Pete's tested positive for Coliform bacteria. Conventional septic systems have no pre-treatment before wastewater reaches the drain field. The two bathrooms are often out of service. It is required to have bathrooms in working order to remain open. Porta potties are not a solution or allowed to remain on the property. Within the parking lot is the septic holding tank and drain field. The drain field mount is gone, indicating insufficient drainage depth for wastewater. The well septic systems are not monitored by the health department, city, or no records when sludge was pumped out of the septic system has been compromised. We don't know it's been compromised. There are no records. I do not endorse self-monitoring of business water septic systems. We are poisoned by Camp Lejeune drinking water. I was one of them. Blue Pete's has built illegal structures without permits, displacing water in our flood zone. Outdoor performance events continue with no permit. They haven't complied with the July 22nd, 2022 cease and desist order that was by the

city. Special events application process has traffic plans and important info for safety of general public and community. The Blue Pete's themselves on this application, they lied. They are proven untrustworthy. The building property can't support events. Blue Pete's systems can't support more than 191 people. The city road can't handle the traffic. Zoning laws, codes of ordinance, and their intent do not correspond and they contradict with an AG-2, B-4, and AE flood zone. They are operating as a nightclub, entertainment venue, recreation amusement facility, marina greenhouse, and nursery with no permit. Signs posted say no parking on the road. They should read no parking. At the live show, one vehicle is in the ditch sideways. At a Bach to Rock event, children of high school and middle ages were outside performing while flooded. No permit. "Codes of ordinances states special events permits are required for outdoor events or other musical entertainment offering live or recorded music for public or private audience and other than an in fully enclosed building." That's right out of the Codes and Ordinance. Outdoor music, entertainment, or special events require a permit. Having witnessed the noise and mayhem, Blue Pete's should be charged with maintaining the common nuisance and disorderly business to be compliant bring the live music inside the restaurant. If outside, submit a special events permit using one of the four events already authorized. Appeasing and enable bad actors will create a community city you allow, which is chaotic, and nobody wants to live in except those who thrive in it.

Mr. Alcaraz: Thank you sir. All right. So what we're going to do now, we've talked to the applicant. You've made a motion. I need a second.

Ms. Hippen: Second.

Mr. Alcaraz: Second by Ms. Hippen. Deferred indefinitely.

Madam Clerk: Who made the second one more time?

Mr. Coston: Deferred to January I think was.

Mr. Alcaraz: January.

Ms. Hippen: I would recommend, it can be the intention similar to the other, the previous deferrals that we do indefinite with the intention of coming.

Mr. Plumlee: I'm fine with that change. Thank you.

Mr. Alcaraz: Thank you.

Madam Clerk: The vote is now open.

Mr. Alcaraz: And I do recommend everybody come back and show due respect to one another. Thank you.

Ms. Hippen: I also suggest that you and your neighbor figure out something.

Madam Clerk: We do have other speakers.

Mr. Alcaraz: No. We gave the applicant a chance. They asked for a deferral. We gave him so.

Madam Clerk: Kay can you weigh in? I think we do need to let the speakers who signed up to speak. Can I read this into the record really quickly?

Ms. Wilson: How many are there?

Madam Clerk: Five.

Ms. Wilson: Okay.

Madam Clerk: Should I read the deferral into the record really quick before we hear the speakers? Okay. By a vote of 11 to 0, item number 11 has been recommended for indefinite deferral. Chris Wadwitz followed by Christina Monaco.

Mr. Wadwitz: Yes. My name is Chris Wadwitz and I'm here to speak in support of a conditional use permit if one is actually needed. I just found out about this last night. I've known Nick for many years and after hearing what Eddie Bourdon said, it actually kind of relates to some of the stuff I want to talk about. There's some of the, I just saw when we were meeting earlier, some of the conditions on this conditional use permit and some of them just actually didn't make sense. Related to this gentleman over here who just spoke, there's a scene from My Cousin Vinny where the lawyer goes up to the -- up to the bench and he says, everything that that man said right there is, you know, what? And that's exactly what it is. I don't know what his

problem is, never met him before in my life. Sorry, it's gotten me a little bit upset, but I see an attack on an individual who tries to provide for the community, who provides jobs for people who depend on those jobs, who through the COVID crisis when many restaurants shut down, he made sure that his employees were gainfully employed so they could pay their bills, who made sure on his own money raised the floors and Blue Pizza wouldn't flood so he could keep those people employed during the shutdown of COVID. To have someone come out and attack him is to me unacceptable and I had a lot of things I wanted to write about but this kind of threw me off guard. Because I think what he said is -- is over the top. I read the zoning ordinances last night. I could tell you right off the bat that what he said about being a nightclub; it doesn't even fit the legal definition. This man does not even know what he's talking about. So I don't even know why he even gets a voice. But anyway, I wanted to say that Blue Pete's from what I know, Nick and that organization, he employs people and he treats his staff like family. That's why there's so many of them here tonight or today. He makes sure that he runs a restaurant. He runs it well. He wants to survive. In this modern day, in taxes and regulatory constraints, it's killing small business. We're supposed to be a community of a lifetime, and yet we have regulations that are constantly piling on that make it almost impossible for a small business owner in Virginia Beach to continue growing and continue supporting the community. I got infuriated when I read what was -- how Blue Pete's was being treated through the planning department. It almost as if when reading the comprehensive plan, they treated, they were upset that Blue Pete's has a B-4 designation. My gosh, they are surrounded by AG-2. It should be a rural community. We should encourage agriculture out there. But unfortunately, Blue Pete's has been there since 1963 and they have been an icon for the community. A lot of folks who work there live and generations have lived in that area and have gone to Blue Pete's. They love Blue Pete's. The reason why they love Blue Pete's is because it is the local secret. It's off the beaten path. Maybe folks don't want to go to town center or go to the oceanfront, to go to a restaurant. They want to go off the beaten path. So, I like to argue that that designation of B-4 is surrounded by AG-2 is actually a benefit for the City of Virginia Beach because it creates a unique situation where folks aren't going to the strip to go to a restaurant. In fact, the first time I ever went there, I was wondering if I had the directions correct because I was going off the beaten path and here was a restaurant and it was nice. I loved going out to the rural communities to a rural restaurant.

Mr. Alcaraz: All right. Thank you, sir.

Mr. Wadwitz: All right. Thank you.

Mr. Alcaraz: Another speaker. Is that right?

Madam Clerk: Christina Monaco, followed by Becca Banta. Oh, no. Okay.

Mr. Alcaraz: We're changing the rules again.

Mr. Bourdon: Well, the supporters don't need to waste everybody's time saying what we just heard and things like that. I mean, it will -- if we need to, we'll be back, but hopefully with this process, we'll get a legislative solution.

Mr. Alcaraz: All right, Mr. Bourdon. Thank you.

Mr. Bourdon: So we don't need to extend this.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

As stated above, this list of recommended conditions is provided primarily to inform the Planning Commission's and City Council's review of the request and what an approval might look like:

1. There shall be no more than six (6) events per year, including but not limited to multi-day or single-day advertised musical performances or other entertainers. Said events shall be limited to between the hours of 9:00 a.m. and 9:00 p.m., and shall be limited to 500 guests, or as otherwise determined by the Fire Marshal. The six conditioned events are inclusive of the four Special Events Permits permitted annually through the Special Events Office.
2. No outdoor amplified sound shall be permitted after 9:00 p.m.

3. All parking for the Assembly Use shall be on the property.
4. The parking lot shall be paved and striped or as otherwise approved by the Development Services Center during site plan review in accordance with floodplain management requirements.
5. A traffic control plan and plan for parking management during events shall be put on file with the Department of Planning & Community Development and approved by the Zoning Administrator. There shall be parking attendants provided at each wedding or similar event to manage traffic control and parking.
6. All trash receptacles shall be emptied regularly so as not to overflow, and litter and debris shall be not be allowed to accumulate.
7. Any outdoor storage of materials used for events is prohibited, such as, but not limited to, tents.
8. Prior to each event, the applicant shall notify the Police Department, the Fire Prevention Bureau, the Health Department and Emergency Medical Services of the event's time, size and scope of activities.
9. Portable restrooms shall be brought onto the site ahead of each event and removed from the site following the event.
10. Subject to Section 221 (k) of the Zoning Ordinance, an annual review of the Assembly Use Conditional Use Permits shall be performed by the Planning Director based on the date of City Council approval. This use may be allowed to remain on the site subject to a determination by the Planning Director that the presence of the use is not detrimental to the public health, safety, and welfare. Furthermore, this use, as conditioned herein, shall not cause public inconvenience, annoyance, disturbance, or be incompatible with other uses in the vicinity or otherwise interfere with the reasonable use and enjoyment of neighboring properties by reason of excessive noise, traffic, or overflow parking.
11. Prior to holding events on the site, the applicant shall coordinate with the Virginia Department of Health to determine if the existing capacity and Waterworks Operation Permit (dated 4/22/2019) is sufficient for an Assembly Use or if a new permit or other approvals are required.
12. The applicant shall submit a site plan to the Department of Planning & Community Development, Development Services Center, within 180 days from the date of City Council approval of this request to address previous land disturbance undertaken without approval.

**Virginia Beach Planning Commission
October 11, 2023, Public Meeting
Agenda Item # 12**

Excel Fitness VA 9, LLC dba Planet Fitness

RECOMMENDED FOR APPROVAL- CONSENT

Mr. Horsley: Thank you, Ms. Byler. The next item is item number 12, the Excel Fitness Virginia 9 LLC dba Planet Fitness General Booth Properties of Virginia Beach Virginia Inc. Conditional Use Permit for Indoor Recreational. It's a long title, Mr. Bourdon.

Mr. Bourdon: Thank you, Mr. Horsley, Mr. Chairman, members of the commission again for the record. Eddie Bourdon. I neglected to thank Elizabeth on the last application. She did a really good job of significantly improving that plan, and that just wanted to compliment her on that and thank her. On this application Excel, there are four conditions. It's just a replacement of the inlet in the same spot and we agree to all four conditions and appreciate. They're moving this along quickly since the other one didn't have a use permit and the people with Planet thought they could just move in and were initially told they could just move in. So the staff has been very good at moving this through the process quickly. Thank you.

Mr. Horsley: Thank you. Is there any opposition to this request? Seeing none. We would ask Mr. Cuellar, Commissioner Cuellar if she would read this into the record.

Ms. Cuellar: Thank you. The applicant is requesting a conditional use permit to operate an indoor recreational facility within a vacant unit in the shops at Inlet Center. The zoning ordinance allows an indoor recreational facility of 7,500 square feet or less as a matter of right on property. Property zone B-2 community business district, as proposed, the facility is 22,450 square feet. As such, a conditional use permit is required. The staff is recommending it for approval. There is no known opposition. The commission is recommending it for the consent agenda.

Mr. Horsley: Thank you, Mr. Plumlee. And now I'd like to, Chairman, I'd like to place in a motion that we accept item number one, Whitney W. Elliott and Matthew Mancoll. Item number six, Bonney Bright Sand. Item number nine and 10 Burnette Baum Development Corporation, number 12 Excel Fitness,

Virginia 9 and items number 13 through 18, short term rentals moved they be approved.

Mr. Alcaraz: Thank you, Mr. Vice Chair. I have a motion. Do I have a second?

Mr. Plumlee: Second.

Mr. Alcaraz: Second by Mr. Plumlee. Thank you.

Madam Clerk: The vote is now open. By a vote of 11 to 0 items 1, 6, 9, 10, 12, 13, 14, 15, 16, 17, and 18 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. Operation of the Indoor Recreational Facility shall be in substantial conformance with the site layout plan entitled "Proposed Planet Fitness Parking", dated September 9, 2023, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development Permits and Inspections Division, the Health Department, and the Fire Department. The applicant shall obtain a Certificate of Occupancy prior to commencing operation.
3. The maximum number of individuals within the facility shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.
4. All exterior building signage shall comply with the requirements of the City Zoning Ordinance unless authorized by the Board of Zoning Appeals.

**Virginia Beach Planning Commission
October 11, 2023, Public Meeting
Agenda Items # 12-16**

The Fountain, LLC

RECOMMENDED FOR APPROVAL- CONSENT

Mr. Horsley: Thank you, Ms. Cuellar. All right. The next item is item number 13 to 16. The Fountain, LLC. Conditional Use Permit for short term rental.

Mr. Bourdon: Thank you again, Eddie Bourdon, Virginia Beach Attorney representing the applicant. I want to point out there's one error in the staff report that needs to be corrected. Two offsite spots in the parking garage are on the 31st street garage and not the garage that's designated on the one of the pictures in there. So and that was made, the staff was made aware of that and it still meets the requirements and all the 18 conditions as recommended are acceptable to the applicant.

Mr. Horsley: Thank you sir. Is there any opposition? Okay, and the next item is item number 17, Ashley Guller. Conditional use permit for short term rental.

Mr. Plumlee: Mr. Vice Chair, did you want me to read the 13 through 16?

Mr. Horsley: We're gonna let you read them all at one time.

Mr. Plumlee: Thank you very much.

Mr. Horsley: Thank you. Is there any opposition? Thank you. Hearing none, there is no opposition to any of the short term rentals. I've asked Commissioner Plumlee if he would read all of those into the record.

Mr. Plumlee: Thank you very much and I take it based that Mr. Bourdon had presented a changed condition that none of us felt that that change modified their position with regards to having this on the consent. It does not mind this. Is it or we could find. Okay. So, the Fountain LLC submission is a 6742 square foot lot zoned OR Oceanfront. The records show it's a dwelling of two bedroom homes constructed in 1945. There are no past violations for this site and staff has recommended the short term rental conditional use permit for this location and the commission has decided it's appropriate for consent. With regards to the Ashley Guller property, Ms. Guller has accepted the conditions and again, this has made the consent item, I'm

hustling through this information as fast as the computer will let me do it, and also finally Traci McGlynn and Michael McGlynn have agreed to the conditions with regards to the short term rental and both staff has recommended approval and the Planning Commission has accepted this as a consent item.

Mr. Horsley: Thank you, Mr. Plumlee. And now I'd like to, Chairman, I'd like to place in a motion that we accept item number one, Whitney W. Elliott and Matthew Mancoll. Item number six, Bonney Bright Sand. Item number nine and 10 Burnette Baum Development Corporation, number 12 Excel Fitness, Virginia 9 and items number 13 through 18, short term rentals moved they be approved.

Mr. Alcaraz: Thank you, Mr. Vice Chair. I have a motion. Do I have a second?

Mr. Plumlee: Second.

Mr. Alcaraz: Second by Mr. Plumlee. Thank you.

Madam Clerk: The vote is now open. By a vote of 11 to 0 items 1, 6, 9, 10, 12, 13, 14, 15, 16, 17, and 18 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. The following conditions shall only apply to the dwelling units addressed as 307 34th Street, Units A and B, and 307 34th and ½ Street, Units A and B and the Short Term Rental use shall only occur in the principal structures.

2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physically present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides

the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.

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

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

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

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

**Virginia Beach Planning Commission
October 11, 2023, Public Meeting
Agenda Item # 17**

Ashley Guller

RECOMMENDED FOR APPROVAL- CONSENT

Mr. Horsley: Thank you sir. Is there any opposition? Okay, and the next item is item number 17, Ashley Guller. Conditional use permit for short term rental.

Mr. Plumlee: Mr. Vice Chair, did you want me to read the 13 through 16?

Mr. Horsley: We're gonna let you read them all at one time.

Mr. Plumlee: Thank you very much.

Ms. Guller: Hi, my name is Ashley Guller.

Mr. Horsley: Are all the conditions acceptable?

Ms. Guller: Yes.

Mr. Horsley: All right, thank you. Is there any opposition to this short term rental? Thank you. All right, and the last item is item number 18, Traci McGlynn and Michael McGlynn, short term rental.

Mr. Horsley: Thank you. Is there any opposition? Thank you. Hearing none, there is no opposition to any of the short term rentals. I've asked Commissioner Plumlee if he would read all of those into the record.

Mr. Plumlee: Thank you very much and I take it based that Mr. Bourdon had presented a changed condition that none of us felt that that change modified their position with regards to having this on the consent. It does not mind this. Is it or we could find. Okay. So, the Fountain LLC submission is a 6742 square foot lot zoned OR Oceanfront. The records show it's a dwelling of two bedroom homes constructed in 1945. There are no past violations for this site and staff has recommended the short term rental conditional use permit for this location and the commission has decided it's appropriate for consent. With regards to the Ashley Guller property, Ms. Guller has accepted the conditions and again, this has made the consent item, I'm hustling through this information as fast as the computer will let me do it,

and also finally Traci McGlynn and Michael McGlynn have agreed to the conditions with regards to the short term rental and both staff has recommended approval and the Planning Commission has accepted this as a consent item.

Mr. Horsley: Thank you, Mr. Plumlee. And now I'd like to, Chairman, I'd like to place in a motion that we accept item number one, Whitney W. Elliott and Matthew Mancoll. Item number six, Bonney Bright Sand. Item number nine and 10 Burnette Baum Development Corporation, number 12 Excel Fitness, Virginia 9 and items number 13 through 18, short term rentals moved they be approved.

Mr. Alcaraz: Thank you, Mr. Vice Chair. I have a motion. Do I have a second?

Mr. Plumlee: Second.

Mr. Alcaraz: Second by Mr. Plumlee. Thank you.

Madam Clerk: The vote is now open. By a vote of 11 to 0 items 1, 6, 9, 10, 12, 13, 14, 15, 16, 17, and 18 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 921 Pacific Avenue Unit B and the Short Term Rental use shall only occur in the principal structure.
2. An annual Short Term Rental Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.

3. The dwelling unit shall comply with all required Fire and Building code requirements.
4. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
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 Department of Planning and Community Development; however, the Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physically present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of the 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 the Revenue's Office and pay all applicable taxes.
10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except that each Short Term Rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides

the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.

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

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

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

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

**Virginia Beach Planning Commission
October 11, 2023, Public Meeting
Agenda Item # 18**

Traci R McGlynn & Michal L McGlynn

RECOMMENDED FOR APPROVAL- CONSENT

Mr. Horsley: All right, thank you. Is there any opposition to this short term rental? Thank you. All right, and the last item is item number 18, Traci McGlynn and Michael McGlynn, short term rental.

Ms. McGlynn: My name is Traci McGlynn.

Mr. McGlynn: And my name is Michael McGlynn.

Mr. Horsley: All the conditions acceptable for short term rental?

Ms. McGlynn: Yes.

Mr. Horsley: Thank you. Is there any opposition? Thank you. Hearing none, there is no opposition to any of the short term rentals. I've asked Commissioner Plumlee if he would read all of those into the record.

Mr. Plumlee: Thank you very much and I take it based that Mr. Bourdon had presented a changed condition that none of us felt that that change modified their position with regards to having this on the consent. It does not mind this. Is it or we could find. Okay. So, the Fountain LLC submission is a 6742 square foot lot zoned OR Oceanfront. The records show it's a dwelling of two bedroom homes constructed in 1945. There are no past violations for this site and staff has recommended the short term rental conditional use permit for this location and the commission has decided it's appropriate for consent. With regards to the Ashley Guller property, Ms. Guller has accepted the conditions and again, this has made the consent item, I'm hustling through this information as fast as the computer will let me do it, and also finally Traci McGlynn and Michael McGlynn have agreed to the conditions with regards to the short term rental and both staff has recommended approval and the Planning Commission has accepted this as a consent item.

Mr. Horsley: Thank you, Mr. Plumlee. And now I'd like to, Chairman, I'd like to place in a motion that we accept item number one, Whitney W. Elliott and Matthew

Mancoll. Item number six, Bonney Bright Sand. Item number nine and 10 Burnette Baum Development Corporation, number 12 Excel Fitness, Virginia 9 and items number 13 through 18, short term rentals moved they be approved.

Mr. Alcaraz: Thank you, Mr. Vice Chair. I have a motion. Do I have a second?

Mr. Plumlee: Second.

Mr. Alcaraz: Second by Mr. Plumlee. Thank you.

Madam Clerk: The vote is now open. By a vote of 11 to 0 items 1, 6, 9, 10, 12, 13, 14, 15, 16, 17, and 18 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITONS

1. The following conditions shall only apply to the dwelling unit addressed as 523 22nd Street, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
4. A third and fourth (3rd and 4th) parking space, at a location subject to approval by the Zoning Administrator, shall be available for use by the Short Term Rental occupants at all times.
5. For properties located within the boundaries of the Residential Parking Permit Program (RPPP), while the Short Term Rental use is active, parking passes issued for the subject

dwelling unit(s) through the RPPP shall be limited to two (2) resident passes only. Guest and temporary passes through the RPPP shall not be permitted.

6. 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.
7. 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.
8. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
9. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
10. 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.
11. 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.
12. 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.
13. Accessory structures shall not be used or occupied as Short Term Rentals.
14. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.

15. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
16. 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.
17. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
18. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
19. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in effect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

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

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

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