A Regular Work Session of the Chesapeake City Council was held January 15, 2019 at 4:30 p.m., in the City Hall Building, 306 Cedar Road.

Present: Council Member R. Stephen Best, Sr.
        Council Member Matthew R. “Matt” Hamel
        Council Member Robert C. Ike, Jr.
        Council Member Dwight M. Parker
        Council Member S. Z. “Debbie” Ritter
        Council Member Susan R. Vitale
        Council Member Ella P. Ward
        Mayor Richard W. “Rick” West

Absent: Vice Mayor John de Triquet

Present from Administration: City Manager James Baker, City Attorney Jacob Stroman, Deputy City Manager Laura Fitzpatrick, Deputy City Manager Robert Geis, City Clerk Sandy Madison, Public Utilities Director David Jurgens, Public Works Director Eric Martin, Public Works Assistant Director Earl Sorey, Administrative Assistant III Nicole Benson and other staff members.

Also Present: Human Services Director Jill Baker, Library Director Amanda Jackson

The following topics were discussed during the Work Session:

1. Upcoming Agenda Items
2. Freedom of Information Act (FOIA)/Records Retention
3. Traffic in Chesapeake
A Regular Meeting of the Chesapeake City Council was called to order by Mayor Richard W. “Rick” West on January 15, 2019 at 6:30 p.m. in the City Hall Building, 306 Cedar Road.

INVOCACTION: Council Member R. Stephen Best, Sr.

PLEDGE OF ALLEGIANCE: Council Member R. Stephen Best, Sr.

ROLL CALL BY CLERK OF COUNCIL:

Present: Council Member R. Stephen Best, Sr.
Council Member Matthew R. “Matt” Hamel
Council Member Robert C. Ike, Jr.
Council Member Dwight M. Parker
Council Member S. Z. “Debbie” Ritter
Council Member Susan R. Vitale
Council Member Ella P. Ward
Mayor Richard W. “Rick” West

Absent: Vice Mayor John de Triquet

Present from the Administration: City Manager James Baker, City Attorney Jacob Stroman, Deputy City Manager Wanda Bernard-Bailey, Deputy City Manager Laura Fitzpatrick, Deputy City Manager Robert Geis, City Clerk Sandy Madison, Planning Director Jaleh Shea and other staff members.

APPROVAL OF MINUTES

Mayor West stated there were no minutes submitted for approval.

APPLICANTS', AGENTS' AND CITIZENS' COMMENTS ON THE PLANNING PUBLIC HEARING ITEMS

City Clerk Madison stated there were no speakers prior to the presentation of the Planning Public Hearing Items.

COUNCIL’S CONSIDERATION OF THE PLANNING PUBLIC HEARING ITEMS


APPLICANT: Venture Military, LLC AGENCY: Kimley-Horn and Associates, Inc.

PROPOSAL: A conditional use permit for a motor vehicle fuel supply station. ZONE: B-2, General Business District LOCATION: 890 George Washington Highway North TAX MAP SECTION/PARCELS: 0252011000131, 0252011000180 & 0252011000170 BOROUGH: Deep Creek (Continued from the November 20 and December 18, 2018 City Council meetings)

The Planning Commission recommends approval with the following stipulations:

1. The owner/applicant agrees that the construction of the convenience store building, pump island canopy and dumpster enclosure shall be consistent with the building elevations prepared by Cuhaci and Peterson, received September 17, 2018, as determined by the Planning Director or designee.

2. The owner/applicant agrees to install and maintain an enhanced ten foot (10’) front landscape buffer adjacent to the South Military Highway road frontage and the proposed Yadkin Road frontage that will include a two foot (2’) undulating earthen berm, with at least 30% more plant materials than required by Section 19-610 et seq. of the
Zoning Ordinance. The owner/applicant shall install said landscape buffer prior to the issuance of a certificate of occupancy for the proposed use.

City Clerk Madison presented the item and stated the applicant had submitted a request for a continuance to the February 19, 2019 City Council meeting.

Planning Director Shea presented the staff recommendation.

City Clerk Madison identified the following speakers in support of Planning Public Hearing Item (A):

Bruce Berlin, 1081 19th Street, Suite 203, Virginia Beach, representing Venture Military, LLC.

Victoria Nicholls, 1124 Mill Lake Quarter, representing self.

City Clerk Madison identified the following speakers in opposition to Planning Public Hearing Item (A):

Umar Shafiq, 1015 Anna Branch Trace, representing self.

Timothy Oglesby, 1405 Waterlawn Avenue, representing 7-11.

Bisma Fazeen, 1015 Anna Branch Trace, representing self.

Lynn Stallcop, 540 Conservancy Way, representing self.

Sherry Collins, 2716 George Drive, representing self.

Council Member Ike moved to deny PLN-USE-2018-028, as presented. Mayor West called for a second; there was no second. The motion failed for lack of a second.

Council Member Ritter, on a motion seconded by Council Member Best, moved to continue PLN-USE-2018-028 to the February 19, 2019 City Council meeting.

There was no discussion.


Voting no: Council Member Ike (de Triquet excused)

B. #19-O-009 PLN-REZ-2017-030 (formerly R(C)-15-12) Dillon Property

Rezoning APPLICANT: HAV, Inc. OWNER: Joseph T. Dillon Jr. ET ALS AGENCY: Williams Mullen

PROPOSAL: A zoning reclassification of a portion of 62.7 acres from R-15s, Residential District, and A-1, Agricultural District, to R-8 (17.6 acres), Residential District. PROPOSED COMP LAND USE/DENSITY: Low-Density Residential with 2.56 dwelling unit per acre EXISTING COMP LAND USE/DENSITY: Low-Density Residential with something less than 4 dwelling units per acre LOCATION: 1824 Elbow Road

TAX MAP SECTION/PARCELS: 039000000290 BOROUGH: Washington

The Planning Commission recommends approval with the following proffers:

1. The conceptual rezoning exhibit, dated October 18, 2018, prepared by Timmons Group, a copy of which is on file with the Chesapeake Planning Department, has been submitted to the Chesapeake Planning Department, Planning Commission and City Council for illustrative purposes only and to provide support for this rezoning action. No rights shall vest nor any cause of action shall arise from the submission, review or acceptance of this conceptual site plan. In order to obtain preliminary or final site or subdivision approval, changes in the conceptual site plan will be necessary to accommodate environmental, engineering, architectural, topographic, or other development conditions, and to meet the requirements of applicable laws, ordinances
and regulations. All preliminary and final site and subdivision plans are subject to the approval of the Director of Planning, or designee and/or the Director of Development and Permits or designee. A copy of the final approved site plan shall be placed in the file with the Planning Department and the Department of Development and Permits and shall supersede any previously filed conceptual site plan.

2. The owner/applicant agrees that no more than forty-five (45) residential dwelling units shall be constructed on the subject property (no units may be constructed within the reservation for the Southeastern Expressway unless the reservation expires, as provided in proffer #4). The residential units shall be limited to single-family detached residential units.

3. The owner/applicant agrees to create a Property Owner’s Association and an Architectural Review Board and record private covenants and deed restrictions that would adopt Architectural Design Standards required for residential construction within the development. The Design Standards shall include, at a minimum, items a) through g) listed below and shall be reviewed and approved by the Director of Planning, or designee, prior to the approval of the first subdivision plat. The private covenants and restrictions shall include the Design Standards and shall be recorded prior to or concurrently with the first subdivision plat. The applicant/owner further agrees that, at the time of application for a building permit, the applicant for the building permit shall provide evidence of Architectural Review Board approval to the Department of Development and Permits. The enforcement of said architectural requirements shall be the sole responsibility of the Property Owner’s Association.

a. The owner/applicant agrees that the materials to be used on the front, sides and rear of all residential structures shall consist of brick, masonry (stone) cement based siding or high quality vinyl siding or substantially similar material, as determined by the Director of Planning, or designee. Vinyl siding shall be a minimum .044 inch thick lapped or beaded siding only. Dutch lap siding shall not be permitted.

b. The owner/applicant agrees to offer a minimum of four (4) elevations for sale within the subdivision and further agrees that at least three (3) of the offered elevations shall include brick or stone exterior features.

c. The owner/applicant agrees that only architectural style shingles shall be permitted; 3-tab shingles shall be prohibited.

d. The owner/applicant agrees that all residential dwellings must have a crawl space or raised/elevated slab. Concrete block shall be finished with brick, stone or stucco, and exposed block skirts shall not be permitted.

e. The owner/applicant agrees that each residential dwelling shall have a minimum two-car garage and that garage doors may not encompass more than 40% of the total width of the front building elevation facing a public street. The owner/applicant also agrees that the front building elevation shall not include projections of building walls (snouts) exceeding the front door of the building by more than eight (8) feet in length.

f. The owner/applicant agrees that one-story dwellings shall have a minimum of one thousand eight hundred (1,800) square feet of heated living space, and two-story dwellings shall have a minimum of two thousand (2,000) square feet of heated living space.
g. The owner/applicant further agrees that all of the dwellings constructed within the subdivision shall have covered front porches. The width of all front porches shall be equal to a minimum of 15% of the overall width of the front elevation of the home and a minimum depth of six (6) feet.

4. The owner/applicant agrees to reserve, for acquisition by the City as future public right-of-way, that portion of the subject property that is generally depicted as “Future Southeastern Parkway 300’ ROW Reservation” on the City’s current 2050 Master Transportation Plan for the ultimate construction of the Southeastern Parkway. The owner/applicant agrees that the reservation area may be acquired by the City at pre-zoning value. The reservation shall be shown and recorded on the subdivision plat for the development. At the time the subdivision plat is submitted for recordation, the owner/applicant shall also record a deed of reservation to memorialize the right-of-way reservation referenced above. In addition, the City agrees to vacate the reservation administratively upon the request of the applicant/owner or successor in interest if either of the following two conditions are met:

a. The Southeastern Parkway is removed from the 2050 Master Transportation Plan or subsequent plan by vote of City Council; or

b. It is determined in writing by the City Manager or designee that Southeastern Parkway will not be constructed as shown on the 2050 Master Transportation Plan.

Upon the completion of either of the two conditions mentioned above, the applicant/owner shall prepare, execute and record a release of reservation deed for the above mentioned reservation. Furthermore, the applicant/owner agrees to own and maintain the reservation area and that no dwellings shall be constructed within the reservation area unless the reservation expires, as detailed in this proffer.

5. The owner/applicant agrees to make a cash contribution to the City of Chesapeake for capital improvements to public school facilities, public transportation facilities, public libraries, and public emergency service facilities. The amount of the voluntary cash contribution shall be $7,434 per residential dwelling unit. The owner/applicant agrees to make the proffered cash contribution prior to the issuance of a certificate of occupancy for each residential dwelling unit, or building containing residential units. The owner/applicant acknowledges and agrees that the cash contribution may be deposited into the City of Chesapeake’s “lock box,” also known as the General Fund Reserve for Future Capital Needs and shall be subject to City Council approval prior to appropriation and used for capital improvements as permitted by the Chesapeake Proffer Policy. The cash proffers may be used for alternative improvements approved by the City Council under Section 15.2-2303.2 of the Code of Virginia, including major repairs and renovations of public facilities, to the extent permitted by state law. The cash contribution shall be allocated as follows: Schools $1591; Transportation $4,888; Libraries $570; Emergency Services $385.

6. The owner/applicant agrees to dedicate one-half of the ultimate 120’ right-of-way along the entirety of the property’s frontage with Elbow Road in accordance with the 2050 Master Transportation Plan, at no cost to the City. The alignment and sufficiency of the dedication shall be subject to the review and approval of the Director of...
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Development and Permits or designee. The right-of-way dedication shall be recorded with the initial subdivision plat for the property subject to this rezoning.

7. The applicant/owner shall construct a stub street connection to tax map parcel # 0390000000260 at a location determined by the Director of Development and Permits or designee which shall be completed in accordance with Chapter 70 of the City Code. The applicant/owner shall install an 8-inch water main and gravity sewer main terminating in a manhole within the stub street which shall be completed in accordance with Chapter 70 of the City Code and shall be subject to the review and approval of the Director of Public Utilities or designee.

8. The applicant/owner agrees to install a raised median and widen Elbow Road to accommodate u-turn movements within the public right of way as generally depicted on the Exhibit on file with the Planning Department before any certificate of occupancy is issued. Such improvements shall be subject to the review and approval of the Director of Development and Permits or designee, to include pavement markings and signage. The applicant/owner further agrees that this entrance to Elbow Road depicted on the Exhibit shall be a right in/right out only. The applicant/owner acknowledges and understands the impacts of this condition and agrees, for itself and its successors in interest, that no claim of damages or compensation will be sought.

9. The applicant/owner agrees to install a cul-de-sac for the right in/right out entrance to Elbow Road referenced in proffer #8 when the 60 foot right of way (as referenced on the Exhibit) is extended southward across tax map # 0390000000291 to connect to Elbow Road as determined by the Director of Development and Permits or designee. The design of the streets and all improvements shall be subject to the review and approval of the Director of Public Works or designee. The public right of way necessary to construct the cul-de-sac shall be dedicated on the subdivision plat creating the affected residential lots.

10. The applicant/owner agrees that the minimum lot size shall be 10,000 square feet.

11. The applicant/owner agrees to record a one foot (1’) non-ingress/egress easement along the subject property’s frontage along Elbow Road except for entrance locations approved by the Director of Development and Permits, or designee. The easement shall be depicted on the initial subdivision plat and recorded in a form approved by the City Attorney before the approval of the initial subdivision plat.

City Clerk Madison presented the item.
Planning Director Shea presented the staff recommendation.
City Clerk Madison identified the following speaker in support of Planning Public Hearing Item (B):
Grady Palmer, 999 Waterside Drive, Suite 1700, Norfolk, representing HAV, Inc.
City Clerk Madison identified the following speaker in opposition to Planning Public Hearing Item (B):
Lynn Stallcop, 540 Conservancy Way, representing self.
City Clerk Madison identified the following speaker on Planning Public Hearing Item (B):
Victoria Nicholls, 1124 Mill Lake Quarter, representing self.
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Council Member Ike, on a motion seconded by Council Member Best, moved approval of PLN-REZ-2017-030, with proffers, as presented.

Council Member Ritter requested Planning Director Shea to include the previously approved Tri-Cities rezoning in staff reports for future land use applications in this area.

Mayor West, as requested by Council Member Ritter, asked Development and Permits Director Jay Tate to approach the podium for questions.

Discussion followed between Council Member Ritter and Mr. Tate regarding the proffered road improvements that are planned and the design and function of Elbow Road as an arterial roadway. Council Member Ritter voiced her concerns and stated she would not support the application.

At the request of Mayor West, Mr. Tate gave a brief overview on the number and location of vehicle accidents prior to and after the road improvements completed thus far on Elbow Road.

Brief exchange followed between Mayor West and City Manager Baker regarding the importance of the road improvement proffers being submitted by the applicant.

Mayor West, at the request of Council Member Parker, requested Mr. Palmer to return to the podium for questions.

Brief discussion ensued between Council Member Parker and Mr. Palmer on the applicant’s offer to construct a stub street for the expansion of water and sewer services to Bethel Baptist Church.

Council Member Hamel voiced his concerns with the merits of the application and stated he would not support the project.

There was no additional discussion.

On the motion to approve PLN-REZ-2017-030, with proffers, as presented, voting yes: Council Members Best, Ike, Parker, Vitale, Ward and West.

Voting no: Council Members Hamel and Ritter (de Triquet excused)

C. #19-O-008 PLN-REZ-2018-009 Great Bridge Baptist Church

APPLICANT: Great Bridge Baptist Church
AGENCY: Williams Mullen
PROPOSAL: A conditional zoning reclassification of approximately 2.45 acres from R-15, Residential District, to A-C, Assembly Center District
PROPOSED COMP LAND USE/DENSITY: Institution
EXISTING COMP LAND USE/DENSITY: Low Density Residential
LOCATION: 109, 113, 117 Hurdle Drive & 112 Frank Drive
TAX MAP SECTION/PARCEL: 060100300610, 060100300660, 060100300590 & 0601004000230
BOROUGH: Pleasant Grove

The Planning Commission recommends approval with the request for an alternative parking location for 112 Frank Drive and with the following proffer:

1. The applicant/owner acknowledges this rezoning is being processed without Environmental Site Assessment per Chesapeake Zoning Ordinance Section 13-2602. Any future land disturbance will be subject to ESA findings which will include recommendations to address any and all adverse environmental conditions of the property, including without limitation, contamination of the soil, surface water or groundwater where exposure to contaminated soil or water would pose a threat to the public health, safety and welfare.

City Clerk Madison presented the item.
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Planning Director Shea presented the staff recommendation.

City Clerk Madison identified the following speaker in support of Planning Public Hearing Item (C):

Grady Palmer, 999 Waterside Drive, Suite 1700, Norfolk, representing Great Bridge Baptist Church.

Council Member Ike, on a motion seconded by Council Member Hamel, moved approval of PLN-REZ-2018-009 with an alternative parking location for 112 Frank Drive and the proffer, as presented.

There was no discussion.

On the motion to approve PLN-REZ-2018-009 with an alternative parking location for 112 Frank Drive and the proffer, as presented, voting yes: Council Members Best, Hamel, Ike, Parker, Ritter, Vitale, Ward and West.

Voting no: None (de Triquet excused)

D. **PLN-REZ-2018-012 Knell’s Ridge Group Housing** APPLICANT: Bonaventure Investments, LLC AGENCY: Williams Mullen PROPOSAL: A conditional zoning reclassification of approximately 12.46 acres from B-2, General Business District, to R-MF1, Multifamily Residential District (7.23 acres more or less), and O&I, Office and Institutional District (5.23 acres more or less). PROPOSED COMP LAND USE/DENSITY: Medium Density Residential/12.44 dwelling units per acre existing COMP LAND USE/DENSITY: Business/Commercial LOCATION: 843 Battlefield Boulevard North TAX MAP SECTION/PARCEL: 0370000001510 BOROUGH: Washington

The Planning Commission recommends approval with the following proffers and revised proffer #1 to correct a clerical error:

1. The owner/applicant agrees to dedicate one-half of the ultimate public right-of-way width along the entirety of the property’s frontage on Battlefield Boulevard and Green Tree Oak Grove Road in accordance with the 2050 Master Transportation Plan, at no cost to the City. The alignment and sufficiency of the dedication shall be subject to the review and approval of the Director of Development and Permits or designee. The right-of-way dedication shall be recorded prior to site plan approval for the property subject to this rezoning (“Property”).

2. The applicant/owner agrees that the permitted uses on the Property shall be limited to the following:
   a. the portion of the Property zoned O&I will be limited to a continuing care retirement community to include independent living, assisted living, and memory care, and accessory uses thereto, and
   b. the portion of the Property zoned R-MF-1 will be limited to thirty-six (36) attached town house style condominiums, as generally depicted on the Site Plan dated September 21, 2018.

3. The applicant/owner agrees that the Continuing Care Retirement Community (“CCRC”) building will be constructed in accordance with the building elevations entitled “Knells Ridge” dated August 10, 2018, on file with the Planning Department, as determined by the Planning Director or designee.

4. The applicant/owner agrees that each of the townhouse condominium units in the R-MF-1 zoning district shall be a minimum of 1,400 sq. ft. of heated living space.
5. A conceptual rezoning exhibit, dated September 21, 2018, prepared by Lorax Design Group, a copy of which is on file with the Chesapeake Planning Department, has been submitted to the Chesapeake Planning Department, Planning Commission and City Council for illustrative purposes only and to provide support for this rezoning action. No rights shall vest nor any cause of action shall arise from the submission, review or acceptance of this conceptual site plan. In order to obtain preliminary or final site or subdivision approval, changes in the conceptual site plan will be necessary to accommodate environmental, engineering, architectural, topographic, or other development conditions, and to meet the requirements of applicable laws, ordinances and regulations. All preliminary and final site and subdivision plans are subject to the approval of the Director of Planning, or designee and/or the Director of Development and Permits or designee. A copy of the final approved site plan shall be placed in the file with the Planning Department and the Department of Development and Permits and shall supersede any previously filed conceptual site plan.

The applicant has submitted the following revised proffers dated December 19, 2018:

1. The owner/applicant agrees to dedicate one-half of the ultimate public right-of-way width along the entirety of the property’s frontage on Battlefield Boulevard and Green Tree Oak Grove Road in accordance with the 2050 Master Transportation Plan, at no cost to the City. The alignment and sufficiency of the dedication shall be subject to the review and approval of the Director of Development and Permits or designee. The right-of-way dedication shall be recorded prior to site plan approval for the property subject to this rezoning (“Property”).

2. The applicant/owner agrees that the permitted uses on the Property shall be limited to the following:
   a. the portion of the Property zoned O&I will be limited to a continuing care retirement community to include independent living, assisted living, and memory care, and accessory uses thereto, and
   b. the portion of the Property zoned R-MF-1 will be limited to thirty-six (36) attached town house style condominiums, as generally depicted on the Site Plan dated September 21, 2018 November 27, 2018.

5. A conceptual rezoning exhibit, dated September 21, 2018 November 27, 2018, prepared by Lorax Design Group, a copy of which is on file with the Chesapeake Planning Department, has been submitted to the Chesapeake Planning Department, Planning Commission and City Council for illustrative purposes only and to provide support for this rezoning action. No rights shall vest nor any cause of action shall arise from the submission, review or acceptance of this conceptual site plan. In order to obtain preliminary or final site or subdivision approval, changes in the conceptual site plan will be necessary to accommodate environmental, engineering, architectural, topographic, or other development conditions, and to meet the requirements of applicable laws, ordinances and regulations. All preliminary and final site and subdivision plans are subject to the approval of the Director of Planning, or designee and/or the Director of Development and Permits or designee. A copy of the final approved site plan shall be
placed in the file with the Planning Department and the Department of Development and Permits and shall supersede any previously filed conceptual site plan.

City Clerk Madison presented the item and stated the applicant had submitted revised proffers dated December 19, 2018.

Planning Director Shea presented the staff recommendation.

City Clerk Madison identified the following speaker in support of Planning Public Hearing Items (D) and (E):

Grady Palmer, 999 Waterside Drive, Suite 1700, Norfolk, representing Bonaventure Investments, Inc., requested a continuance to the February 19, 2019 City Council meeting.

City Clerk Madison identified the following speaker in opposition to Planning Public Hearing Items (D) and (E):

Victoria Nicholls, 1124 Mill Lake Quarter, representing self.

Council Member Ward, on a motion seconded by Council Member Ike, moved to continue PLN-REZ-2018-012 to the February 19, 2019 City Council meeting.

There was no discussion.


Voting no: None (de Triquet excused)

E. PLN-USE-2018-033 Knell's Ridge Group Housing APPLICANT: Bonaventure Investments, LLC AGENCY: Williams Mullen PROPOSAL: A conditional use permit to allow group housing for the elderly on approximately 12.46 acres. The applicant also requests to access a residential use through commercially zoned property in accordance with Section 3-301.B.1.b. of the Zoning Ordinance; and a height exception to allow a maximum building height of 42 feet in accordance with Section 19-205.B. of the Zoning Ordinance. ZONE: B-2, General Business District (proposed R-MF1, Multifamily Residential District and O&I, Office and Institutional District) LOCATION: 843 Battlefield Boulevard North TAX MAP SECTION/PARCEL: 037000001510 BOROUGH: Washington

The Planning Commission recommends approval with the following stipulations:

1. The Applicant/owner acknowledges that the property's northern entrance onto Battlefield Boulevard is closed and shall not be used for vehicular access.

2. The applicant/owner agrees that the proposed group housing for the elderly development shall be constructed in substantial compliance with the preliminary site plan entitled, “Knell’s Ridge” and dated September 21, 2018, and that no building on the property shall exceed 42 feet in height consistent with building elevations entitled, “A New Continuing Care Retirement Community for Knells Ridge”, dated August 13, 2018, as approved by the Director of Planning or designee.

3. The applicant/owner shall comply with Chesapeake Zoning Ordinance Section 13-202(C)(2) which requires that at least fifty percent (50%) of the gross square floor area of the group housing for the elderly facility in the O&I district shall meet the definition of an assisted living facility or medical care facility. To assure compliance with this stipulation, the applicant/owner shall submit a site plan delineating the gross square
floor area dedicated to group housing for the elderly and medical care facility uses prior to issuance of the certificate of occupancy.

4. The applicant/owner shall submit an emergency management plan to the Fire Chief or designee addressing reasonable levels of life safety and property protection in accordance with the Fire Code from the hazards of fire, explosion or dangerous conditions and providing for the safety of fire fighters and emergency responders. This plan shall be subject to the review and approval of the Fire Chief or designee and shall be submitted prior to the issuance of the certificate of occupancy for the group housing for the elderly use.

City Clerk Madison presented the item.
Planning Director Shea presented the staff recommendation.

Mayor West requested Mr. Palmer to approach the podium; Mr. Palmer requested a continuance to the February 19, 2019 City Council meeting.

Council Member Parker, on a motion seconded by Council Member Ward, moved to continue PLN-USE-2018-033 to the February 19, 2019 City Council meeting.

There was no discussion.


Voting no: None (de Triquet excused)

F. PLN-USE-2018-035 Peebles Golf Cars APPLICANT: KLBL South, Inc. dba Peebles Golf Cars PROPOSAL: A conditional use permit to allow the sale of electric golf cars on approximately 1 acre. ZONE: B-2, General Business District LOCATION: 1333 Lindale Dr. TAX MAP SECTION/PARCEL: 0270000000414 BOROUGH: Washington

The Planning Commission recommends approval with the following stipulations:

1. The applicant/owner shall install an oil-water separator as approved by the Department of Public Utilities prior to issuance of a Certificate of Occupancy.

2. The applicant/owner shall install opaque screening on the fence of the golf cart storage area where it is visible from the Lindale Road right-of-way prior to issuance of a Certificate of Occupancy. The applicant shall request approval of the opaque screening from the Zoning Administrator or designee prior to the installation.

3. The applicant/owner agrees that there shall be no display of golf carts outside of the storage and display areas shown on the preliminary site plan, dated November 29, 2018.

4. The applicant/owner agrees to meet with the City’s Landscape Coordinator on-site within thirty (30) days of approval of this conditional use permit to determine if any additional landscaping is required pursuant to Chesapeake Zoning Ordinance Section 19-600 et seq. If additional landscaping is required, the applicant shall submit a landscape plan to the City’s Landscape Coordinator for approval and shall install required vegetation prior to the issuance of a Certificate of Occupancy.

City Clerk Madison presented the item and stated there were no speakers.
Planning Director Shea presented the staff recommendation.
Council Member Ike, on a motion seconded by Council Member Ward, moved approval of PLN-USE-2018-035 with stipulations, as presented.

There was no discussion.

On the motion to approve PLN-USE-2018-035 with stipulations, as presented, voting yes: Council Members Best, Hamel, Ike, Parker, Ritter, Vitale, Ward and West.

Voting no: None (de Triquet)

G. **PLN-USE-2018-040 Soul Saving Church of Deliverance**

**APPLICANT:** Soul Saving Church of Deliverance  
**PROPOSAL:** A conditional use permit to allow a church in a 1,200 square foot unit within a strip shopping center on a 3.57 acre parcel.  
**ZONE:** B-2, General Business District  
**LOCATION:** 3940 Airline Blvd., Suite 114  
**TAX MAP SECTION/PARCEL:** 0163004000002  
**BOROUGH:** Western Branch

The Planning Commission recommends approval with the following stipulations:

1. The use permit shall only apply to the applicant church.
2. The applicant/owner shall install a backflow preventer on all water systems before any takeoffs are made and in accordance with the manufacturer's recommendations, the International Plumbing Code requirements, and the Department of Public Utilities policy. The backflow preventer is to be installed, tested by a Department of Professional and Occupational Regulations (DPOR) certified technician, and documentation received and approved by Public Utilities prior to issuance of a Certificate of Occupancy.
3. The applicant/owner shall restore the striping of parking spaces in back of the building as indicated on the preliminary site plan, dated November 16, 2018, within sixty (60) days of approval of this conditional use permit.

City Clerk Madison presented the item.

Planning Director Shea presented the staff recommendation.

City Clerk Madison identified the following speaker in support of Planning Public Hearing Item (G):

William Satterthwaite, representing Soul Saving Church of Deliverance, was available for questions.

Council Member Ward, on a motion seconded by Council Member Vitale, moved approval of PLN-USE-2018-040 with stipulations, as presented.

There was no discussion.

On the motion to approve PLN-USE-2018-040 with stipulations, as presented, voting yes: Council Members Best, Hamel, Ike, Parker, Ritter, Vitale, Ward and West.

Voting no: None (de Triquet excused)

H. **PLN-USE-2018-042 Hickory Solar Farm Amendment**

**APPLICANT:** Caden Energiix Hickory, LLC  
**OWNER:** Newbern Farms, LLC  
**PROPOSAL:** A conditional use permit to amend stipulations number 7 and 12 of a previously approved application (PLN-USE-2017-003) for a solar farm facility.  
**ZONE:** A-1, Agricultural District  
**LOCATION:** On Ballentine Road, approximately 5,000 ft. east from the intersection of Ballentine Road and Battlefield Blvds.  
**TAX MAP SECTION/PARCEL:** 0970000000660  
**BOROUGH:** Butts Road  
(This item was approved for concurrent advertising at the December 11, 2018 City Council meeting.)
The Planning Commission recommends approval with the following stipulations 1, 3-14, 16 and 17 in the staff report with amended stipulation 2; deletion of stipulation 15 and renumbering of stipulations 16 – 17.

1. The applicant/owner shall construct a City Standard Commercial Entrance, CG-11A to access the site prior to issuance of a Certificate of Occupancy. The entrance shall be constructed at the intersection of Battlefield Boulevard South and Ballentine Road and shall be depicted on the final site construction plan which is subject to review and approval of the Director of Development and Permits, or designee. In addition, a closure and restoration plan shall be a required component of the final site construction plan.

2. The applicant/owner shall submit a Landscape Plan pursuant to the Chesapeake Zoning Ordinance prior to final construction plan approval. Said plan shall be subject to the review and approval of the City’s Landscape Coordinator. Said plan shall consist of the following: a modified Buffer Yard D along the entirety of the property line, consisting of five (5) small trees, twenty-five (25) shrubs, and a solid row of evergreen trees that are at least eight (8) feet in height at the time of planting for every 100 linear feet. All plant materials shall be subject to the review and approval of the City’s Landscape Coordinator and shall be installed prior to the issuance of a Certificate of Occupancy for the use. The applicant/owner shall also install and maintain a security fence around the entire perimeter of the solar farm prior to the issuance of a Certificate of Occupancy for the use. Said fence shall be between six (6) to ten (10) feet in height. The fence shall not exceed six (6) feet in height unless the applicant/owner receives the approval of a variance from the Board of Zoning Appeals. In no case shall the height of the solar panels exceed the height of the row of evergreen trees. The applicant/owner shall install and maintain the following landscaping, all of which shall be subject to the review and approval of the City’s Landscape Coordinator:

a. Southern Property line along Ballentine Road: a modified Buffer Yard D shall be installed along the entirety of the property line prior to the issuance of a certificate of occupancy. Said buffer shall consist of five (5) small trees, twenty-five (25) shrubs, and a solid row of evergreen trees that are at least eight (8) feet in height at the time of planting for every 100 linear feet.

b. Northern, Eastern and Western property lines: if any parcel adjacent to the northern, eastern or western property lines of this site, whether such parcel is now existing or later created by subdivision, is rezoned for residential use, then the applicant/owner shall install and maintain a modified Buffer Yard D along the entire property line adjacent to the residentially zoned property. Said buffer shall consist of five (5) small trees, twenty-five (25) shrubs, and a solid row of evergreen trees that are at least eight (8) feet in height at the time of planting for every 100 linear feet. All such landscaping shall be installed within ninety (90) days of the date that any parcel, whether
now existing or later created by subdivision, which is adjacent to the property subject to this use permit is rezoned for residential use.

3. The applicant/owner shall obtain a valid Run-Off Control Permit from the Department of Public Utilities prior to the approval of construction plans.

4. The applicant/owner shall obtain all required permits and approvals from the Department of Development and Permits prior to the installation of the security fence and storage shed.

5. The applicant/owner shall ensure that all power lines transferring the power generated from the property shall be placed underground unless the applicant/owner provides written correspondence to the Zoning Administrator from the utility provider(s) which establishes the lines must to be placed above ground.

6. The applicant/owner agrees that the proposed use shall utilize SMA 2200-EV-US, SMA 2500-EV-US or an alternative solar panel inverter approved by the Navy and in compliance with the Navy’s Electromagnetic Interference (EMI) assessment.

7. The applicant/owner shall notify the Zoning Administrator in writing within thirty (30) days of a change in ownership of the proposed solar facility. The notification shall include the name, address, and contact information for the new owner and designee in the Commonwealth of Virginia. In addition, the applicant/owner shall provide written proof that the new owner entity has been advised of and agreed in writing to comply with all of the stipulations associated with the Conditional Use Permit. Said written proof shall be subject to the review and approval of the City Attorney, or designee.

8. The applicant/owner shall provide written notice to the Director of Development and Permits or designee at least thirty (30) days in advance of the cessation or abandonment of this use. Within one hundred and eighty (180) days of the cessation or abandonment of this use, the applicant/owner shall remove all photovoltaic systems (including, but not limited to inverters, modules/solar panels, and solar trackers), all other structural elements related to the photovoltaic system use, and restore the property to its pre-use grade.

9. Prior to receiving a certificate of occupancy, an Emergency Management Plan (EMP) will be provided to, and subject to the approval of, the Director of Development and Permits for the solar energy facility. The goal of this EMP is to provide safety guidelines and procedures for potential emergency-related incidents during all phases of the life of the facility (construction, operation, and decommissioning). The EMP shall cover, at a minimum, emergency communications and training, theft and vandalism, inclement weather, high voltage equipment, and fire safety and prevention.

10. The applicant/owner shall maintain insurance for the duration of the use. The applicant/owner shall provide to the City Attorney a Certificate of Insurance providing General Liability Insurance which shall include, at a minimum, the following information: (i) the name of the insurance company, policy number and expiration date; and (ii) the coverage and limits on coverage and including the amount of deductibles or self-insured retentions with a minimum limit of One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) aggregate, combined single limit, for bodily injury (including death) or property damage and Environmental Impairment insurance with
minimum limits of $1,000,000 per occurrence. The certificate of insurance shall be provided to the City Attorney prior to the issuance of a Certificate of Occupancy.

11. The applicant/owner shall ensure that the solar arrays are designed to withstand 120 mph wind speeds, as depicted on the approved final site plan.

12. The applicant/owner shall ensure that the proposed solar energy facility will only use mono-crystalline, poly-crystalline, or thin-film photovoltaic (PV) technology.

13. In light of and for so long as tax exemptions are afforded to solar facilities in Virginia and in an effort to promote and preserve agricultural lands, the applicant/owner offers and the City accepts an annual contribution of fifty thousand dollars ($50,000.00) to the City of Chesapeake’s Open Space and Agricultural Preservation Program or similar program as approved by the Director of Planning or designee. The first contribution shall be paid prior to the issuance of a Certificate of Occupancy for this use and each annual contribution shall be paid every twelve (12) months thereafter.

14. The applicant/owner shall manage the vegetation on-site without the use of herbicides, unless the treatment is approved by the City’s Landscape Coordinator.

15. The applicant/owner shall maintain a minimum setback for the use of 150 feet from all property lines and a minimum of 250 feet if abutting a residentially zoned or use property. The setbacks imposed in this stipulation shall not apply to the required fencing and/or landscape buffers.

16. The applicant/owner shall provide emergency access, including but not limited to include unobstructed access utilizing fire lane marking in accordance with the PFM, Appendix 19, and a Knox Corporation key box or padlock for emergency access via the locked gate, prior to the issuance of a Certificate of Occupancy. The required emergency access and sufficiency of said access shall be subject to the review and approval of the City’s Fire Marshal.

17. The applicant/owner shall submit a Decommission Plan to the Department of Development and Permits and the Office of the City Attorney prior to the issuance of a Certificate of Occupancy. The Decommission Plan shall outline the timeline for restoration of the site to pre-use condition and bonding to ensure implementation. Said Plan shall be subject to the review and approval of the Department of Development and Permits, or designee, and the Office of the City Attorney.

City Clerk Madison presented the item.

Planning Director Shea presented the staff recommendation.

City Clerk Madison identified the following speakers in support of Planning Public Hearing Item (H):

Ken Niemann, 2701 Farm Road, Alexandria, representing Caden Energix Hickory, LLC.

Parikhit (Ricky) Sinha, 350 W. Washington Street, Tempe, AZ, representing First Solar.

Isaac Panzarella, 18 Glenwood Avenue, Raleigh, NC, representing NCSV Energy Center.

Rogard Ross, 3800 Rivercrest Place, representing self.

Judy Hinch, 424 Shorebird Lane, representing self.
City Clerk Madison identified the following speakers who spoke on Planning Public Hearing Item (H):

Victoria Nicholls, 1124 Mill Lake Quarter, representing self.
Joe Tuinstra, 901 Head of River Road, representing self.

Council Member Ritter, on a motion seconded by Council Member Vitale, moved approval of PLN-USE-2018-042 with the stipulations presented in the staff report along with the following changes: Stipulation #2 as previously approved on original application PLN-USE-2017-003, dated February 13, 2018, and amended Stipulation #15.

Planning Director Shea announced meetings for public input regarding the development of a solar policy would be held on January 23, 2019 at 1:00 p.m. at the River Crest Community Center and at 5:00 p.m. in the City Hall 4th Floor Human Resource Training Room.

Council Members Ike spoke in opposition to the application.

Mayor West, at the request of Council Member Parker, requested Mr. Niemann return to the podium to address the concerns brought forward by Council Members Ike and Ritter.

At the request of Council Member Ritter, City Attorney Stroman explained the conditional use permit previously approved on February 13, 2018 was limited to New Energy Ventures, Incorporated. Mr. Stroman advised this was not a name change but the creation of a new entity, Caden Energix Hickory, LLC; and for this reason, the new entity would be required to obtain a conditional use permit in order to develop and operate the solar farm.

There was no additional discussion.

On the motion to approve PLN-USE-2018-042 with the stipulations presented in the staff report along with the following changes: Stipulation #2, as previously approved on original application PLN-USE-2017-003, dated February 13, 2018: “The applicant/owner shall submit a Landscape Plan pursuant to the Chesapeake Zoning Ordinance prior to final construction plan approval. Said plan shall be subject to the review and approval of the City’s Landscape Coordinator. Said plan shall consist of the following: a modified Buffer Yard E along the entirety of the property line, consisting of small and medium canopy trees that are at least 6 feet in height, and shrubs that are in a minimum industry standard 3 gallon container at planting, and a solid evergreen buffer along the entirety of the property line adjacent to the residential properties to screen the use. The solid evergreen buffer shall include trees that are at least 8 feet in height at time of planting, and shrubs that are in a minimum industry standard 3 gallon container at time of planting. All plant materials shall be subject to the review and approval of the City’s Landscape Coordinator and shall be installed prior to the issuance of a Certificate of Occupancy for the use. The applicant/owner shall also install and maintain a 6 foot security fence around the entire perimeter of the solar farm prior to the issuance of a Certificate of Occupancy for the use. Said fence shall be between six (6) to ten (10) feet in height. The fence shall not exceed six (6) feet in height unless the applicant/owner receives the approval of a variance from the Board of Zoning Appeals. In no case shall the solar panels exceed the height of the security fence.”, and amended Stipulation #15: “The applicant/owner shall maintain a minimum setback as depicted on the revised site

Voting no: Council Member Ike (de Triquet excused)


The Planning Commission recommends approval with the following stipulations:

1. The proposed child care facility shall comply with the licensing requirements of the Virginia Department of Social Services prior to initiating this conditional use.

2. The applicant/owner shall install a backflow preventer on all water systems before any takeoffs are made and in accordance with the manufacturer's recommendations, the International Plumbing Code requirements, and the Department of Public Utilities policy. The backflow preventer is to be installed, tested by a Department of Professional and Occupational Regulations (DPOR) certified technician, and documentation received and approved by Public Utilities prior to issuance of a Certificate of Occupancy.

3. The applicant/owner agrees to maintain a thirty (30) foot forested buffer along the Chesapeake Expressway Interchange and along Hillcrest Parkway. All existing trees within the buffer shall be maintained unless removal is required due to health or the location of drainage improvements and utilities. Areas where trees cannot be maintained shall be augmented with new plantings as required by the Landscape Coordinator. The combination of retained trees and new plantings should meet the requirements of the Chesapeake Landscape Ordinance.

4. The applicant/owner agrees that if bones, buried human remains or an unmarked grave are encountered during construction, they shall immediately cease work, report the find to local or state police and undertake all other necessary actions in accordance with the Virginia Code and other applicable laws and regulations.

City Clerk Madison presented the item and stated the agent was present and available for questions.

Planning Director Shea presented the staff recommendation.

Council Member Ward, on a motion seconded by Council Member Best, moved approval of PLN-USE-2018-043 with stipulations, as presented.

There was no discussion.

On the motion to approve PLN-USE-2018-043 with stipulations, as presented, voting yes: Council Members Best, Hamel, Parker, Ritter, Vitale, Ward and West.

Voting no: None (de Triquet excused)

J. **#19-O-010 PLN-TEXT-2018-002** An Ordinance amending Appendix A of the City Code, entitled “Zoning,” Articles 1 and 20, Sections 1-201 and 20-402 thereof, to add that providing reasonable modifications in accordance with the Americans With Disabilities Act of 1990 is a purpose of the Zoning Ordinance and may be a basis to grant a variance to reflect statutory changes enacted by the 2018 Session of the General Assembly.
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The Planning Commission recommends approval of version dated October 31, 2018.

City Clerk Madison presented the item and stated this was an emergency action, retroactive to July 1, 2018.

Planning Director Shea presented the staff recommendation.

City Clerk Madison identified the following speaker in support of Planning Public Hearing Item (J):

Victoria Nicholls, 1124 Mill Lake Quarter, representing self.

Council Member Parker, on a motion seconded by Council Member Vitale, moved approval of PLN-TXT-2018-002, as presented, and as an emergency action, retroactive to July 1, 2018.

There was no discussion.

On the motion to approve PLN-TXT-2018-002, as presented, and as an emergency action, retroactive to July 1, 2018, voting yes: Council Members Best, Hamel, Ike, Parker, Ritter, Vitale, Ward and West.

Voting no: None (de Triquet excused)

K. #19-O-011 PLN-TXT-2018-003 An Ordinance amending Appendix A of the City Code, entitled “Zoning,” Article 20, Section 20-202 thereof, to add a penalty of up to two thousand dollars ($2,000.00) for a third misdemeanor offense of failing to correct a violation of the Zoning Ordinance pursuant to a court order to reflect statutory changes enacted by the 2018 session of the General Assembly.

The Planning Commission recommends approval with version dated October 31, 2018.

City Clerk Madison presented the item and stated this was an emergency action, retroactive to July 1, 2018.

Planning Director Shea presented the staff recommendation.

Council Member Vitale, on a motion seconded by Council Member Ward, moved approval of PLN-TXT-2018-003, as presented, and as an emergency action, retroactive to July 1, 2018.

There was no discussion.

On the motion to approve PLN-TXT-2018-003, as presented, and as an emergency action, retroactive to July 1, 2018, voting yes: Council Members Best, Hamel, Ike, Parker, Ritter, Vitale, Ward and West.

Voting no: None (de Triquet excused)

UNFINISHED BUSINESS

Mayor West asked City Council Members for any Unfinished Business; there was none.

NEW BUSINESS

Mayor West recognized Council Member Hamel who requested an overview of City services that were available to assist the federal employees that were affected by the government shutdown.

City Manager Baker requested the Director of Human Services Jill Baker, Library Director Amanda Jackson and Director of Public Utilities David Jurgens to approach the
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podium to provide an overview of the resources that were available for families experiencing a crisis due to the government shutdown.

Mayor West asked City Council Members for any additional New Business; there was none.

CLOSED MEETING

City Attorney Stroman read the following motion "to conduct a closed meeting to (1) discuss the performance of employee(s) of City Council, (2) consult with legal counsel employed by the City regarding specific legal matters requiring the provision of legal advice by the City Attorney, and (3) discuss or consider the investment of public funds where competition or bargaining is involved, where if made public initially, the financial interest of the City Council would be adversely affected, as permitted by Section 2.2-3711(A)(1), (6) and (8) of the Code of Virginia."

Council Member Ward, on a motion seconded by Council Member Parker, moved approval of the Closed Meeting.

There was no discussion.

On the motion to approve the Closed Meeting, voting yes: Council Members Best, Hamel, Ike, Parker, Ritter, Vitale, Ward and West.

Voting no: None (de Triquet excused)

City Council convened the Closed Meeting at 8:17 p.m. and reconvened the meeting at 9:12 p.m.

CLOSED MEETING CERTIFICATION

City Attorney Stroman read the following motion "to certify that to the best of each Council Member's knowledge, only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed, and only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered."

Council Member Parker, on a motion seconded by Council Member Ike, moved approval of the Closed Meeting Certification, as presented.

There was no discussion.

On the motion to approve the Closed Meeting Certification, as presented, voting yes: Council Members Best, Hamel, Ike, Parker, Ritter, Vitale, Ward and West.

Voting no: None (de Triquet excused)

BENEDICTION – Council Member R. Stephen Best, Sr.

ADJOURNMENT

With there being no further business to discuss, Mayor West adjourned the meeting at 9:13 p.m.

/cls

[Signature] Mayor

ATTEST:

City Clerk