

A Regular Work Session of the Chesapeake City Council was held October 16, 2007, at 4:45 p.m., in the City Hall Building, 306 Cedar Road.

Present: Council Member Rebecca Adams (arrived at 5:25 p.m.)
Council Member Bryan Collins
Mayor Dalton S. Edge (excused 5:58 p.m.)
Council Member Clifton E. Hayes, Jr.
Council Member Alan P. Krasnoff (arrived at 5:20 p.m.) (excused 5:38 p.m.)
Vice Mayor Dwight M. Parker
Council Member Ella Ward
Council Member Patricia Pritchard Willis

Absent: Council Member John M. de Triquet

Present from Administration: City Manager William Harrell, City Attorney Ronald Hallman, Deputy City Manager Wanda Barnard-Bailey, City Clerk Dolores Moore, Planning Director Brent Nielson, Finance Director Nancy Tracy, Health Department Director Nancy Welch, Animal Control Superintendent Kathryn Strouse, and other staff members.

Also Present: Vice President L. Carl Bise, Tischler-Bise.

The Following Topics were discussed during the Work Session:

1. Fiscal Impact Model
2. Wildlife
3. City Manager Updates

The Work Session adjourned at 6:10 p.m.

/dah

A Regular Meeting of the Chesapeake City Council was called to order by Mayor Dalton S. Edge on October 16, 2007, at 6:30 p.m., in the City Hall Building, 306 Cedar Road.

INVOCATION: Reverend Hersel Adams, Sonlight Church

PLEDGE OF ALLEGIANCE: Council Member Ella P. Ward

ROLL CALL BY CLERK OF COUNCIL:

Present: Council Member Rebecca Adams
Council Member Bryan L. Collins
Council Member John M. de Triquet (excused at 10:55 p.m.)
Mayor Dalton S. Edge
Council Member Clifton E. Hayes, Jr.
Council Member Alan P. Krasnoff (arrived at 6:35 p.m.,
excused at 11:35 p.m.)
Vice Mayor Dwight M. Parker
Council Member Ella P. Ward
Council Member Patricia Pritchard Willis

Absent: None

Present from Administration: City Manager William Harrell, City Attorney Ronald Hallman, Deputy City Manager Amar Dwarkanath, Deputy City Manager Wanda Barnard-Bailey, Chief Deputy City Clerk Beverly Pender, Planning Director Brent Nielson, Assistant City Attorney Grady Palmer, and other staff members.

APPROVAL OF MINUTES

Mayor Edge advised that there were no minutes for approval at that time.

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

Chief Deputy City Clerk Pender identified the followings speakers prior to the presentation of the public hearing items:

Francis Nugent, 1041 Sharon Drive, representing self, spoke in support of Public Hearing Item **E**.

Jean Marie Eagler, 712 C. Cozy Corner Drive, representing self, spoke on Public Hearing Item **B**.

PUBLIC HEARING ITEMS

A. R(C)-07-18 PROJECT: Chesapeake Crossroads APPLICANT:
Associates 101, LLC AGENCY: Engineering Services, Inc. PROPOSAL: A conditional zoning reclassification of 17.59 acres from B-3, Highway Business District (7.828 acres) and R-8s, Residential District (9.762 acres) to R-MF-1, Multi-family Residential District to allow 134 condominium units. PROPOSED COMP LAND USE & DENSITY: Medium Density Residential, 7.9 units per acre EXISTING COMP LAND USE & DENSITY: High Density Mixed Use and Medium Density Residential, 5 to 16 units per acre LOCATION: South side of S. Military Highway approximately 1100 feet west of Battlefield Boulevard TAX MAP SECTION/PARCEL: 0270000000570 BOROUGH: Washington

The Planning Commission recommends approval the following proffers:

1. The applicant/owner agrees to construct and dedicate to the City the necessary right-of-way for the two entrances and turn lanes. These improvements shall be in accordance with the requirements of the Director of Public Works or designee and shall be completed and dedicated as determined by the Director of Public Works or designee before any certificate of occupancy is issued on the property subject to this rezoning. The following improvements to be made in the locations generally shown on the rezoning exhibit layout stamp-dated August 31, 2007 are as follows:
 - a. a right in/right out entrance for the western most entrance,
 - b. a right turn lane on Military Highway located at the eastern most entrance, and
 - c. a left turn lane on Military Highway into the eastern most entrance.
2. The applicant/owner agrees to record a 1' non-ingress/egress easement along the frontage of the subject property along Military Highway except for the western and eastern entrances before final site plan approval.
3. The applicant/owner agrees that no more than 134 residential dwelling units shall be constructed on the subject property.
4. The applicant/owner agrees that architectural features, materials and colors of each multi-family residential building shall substantially comply with the elevation drawing and features list entitled "Back to Back Exterior Specs" stamp-dated August 31, 2007 as determined by the Planning Director of designee. Architectural approval shall be obtained prior to final site plan approval.

5. The applicant/owner agrees to submit a Methane Mitigation Plan providing engineering and/or institutional control proposals and alternatives ensuring that the structures built on the subject property will sufficiently vent methane gas in accordance with appropriate industrial standards to the Chesapeake Department of Neighborhood Services for review and approval prior to any building construction plan approvals. Engineering and institutional controls recommended in the Methane Mitigation Plan shall be incorporated into each building as approved by the Director of Neighborhood Services or designee before issuance of any certificate of occupancy.
6. The applicant/owner agrees to provide a geotechnical report and engineered foundations plan as required by the Director of Neighborhood Services or designee for the subject property before approval of any construction plans.
7. The applicant and the owner of the property agree to ensure that full written disclosure of the historical construction and demolition debris landfill and borrow pit use of the property known as Chesapeake Crossroads, located on the south side of South Military Highway approximately 1,100 linear feet west of Battlefield Boulevard (TMN 0270000000570), is included in i) the notes on all recorded subdivision plats, ii) all initial contracts for purchase of lots by builders and first occupants, and iii) all deeds of conveyance, restrictive covenants, and homeowner association and condominium documents that will run with the land. The disclosure shall read as follows:

The subject property (TMN 0270000000570) was historically used as a borrow pit that was filled with inert construction demolition debris (CDD) in the 1940s. In connection with the development of the property, in March of 2007, monitoring wells were installed on the property and methane gas was detected at concentrations above the lower explosive limit (5%). In response, a Methane Mitigation Plan [has been][will be] reviewed and approved by the City of Chesapeake to address and lessen any potential risks associated with methane gas accumulation under or within structures, and the institutional controls recommended in the Methane Mitigation Plan and approved by the Department of Neighborhood Preservation for the City of Chesapeake [have been][will be] incorporated into each building constructed on the property prior to the issuance of a certificate of occupancy. Any questions regarding the historic CDD activities and soil, groundwater, and surface water quality sampling and analytical

results can be found within ECS Mid-Atlantic, LLC's May 11, 2007 Phase I Environmental Site Assessment (ESA) and August 16, 2007 Phase II ESA.

8. The applicant and the owner shall be fully responsible for ensuring that this language is included in the instruments described above and by acceptance of subdivision plan approval with this stipulation, the applicant and the owner acknowledge that the City is under no duty to inspect or review contracts, deeds, restrictive covenants, and homeowner association documents. It is further acknowledged and agreed by the applicant and owner that the duty of ensuring compliance appropriately lies with the parties responsible for the development, construction and marketing of the subdivision, e.g., owners, subdivider, developers, builders, realtors and sellers.
9. Upon obtaining a Methane Mitigation Plan required by proffer #5 the applicant/owner agrees to incorporate the findings and other information into the disclosure as approved by the Director of Public Works or designee and the City Attorney's Office.

Chief Deputy City Clerk Pender identified the following speakers in support of Public Hearing Item **A**:

Walton P. "Pete" Burkheimer, Jr., 3351 Stoneshore Road, Virginia Beach, representing Associates 101, LLC.

Eric Nielsen, 448 Viking Drive, Virginia Beach, representing Associates 101, LLC,.

Vice Mayor Parker, on a motion seconded by Council Member Adams, moved approval of R(C)-07-18 with proffers as presented.

There was discussion between Mayor Edge, Vice Mayor Parker and Mr. Burkheimer concerning the methane gas found during the soil borings. Mr. Burkheimer stated that no additional problems had been found and that the methane gas issue was being handled properly by the applicant.

Additional discussion ensued between Council Members and Mr. Burkheimer on measuring methane gas levels on the property, prices of the homes, traffic, use of the site for residential homes instead of commercial businesses, and lack of proffers of roads, schools, libraries and emergency services.

Council Member Collins stated his inability to support the application.

There was no further discussion.

On the motion for approval of R(C)-07-19 with proffers, as presented, voting yes: Council Members Adams, Edge, Hayes, and Parker

Voting no: Council Members Collins, de Triquet, Krasnoff, Ward and Willis.

The motion for approval failed.

B. UP-07-17 PROJECT: Alexander Lane Cingular Monopole

APPLICANT: Universal Wireless AGENCY: C. E. Forehand PROPOSAL: A conditional use permit to allow a 175 foot monopole communications tower on a 10,000 square foot leased parcel, part of 11.972 acres. The applicant also requests an alternative parking surface in accordance with section 19-406.c.1 of the zoning ordinance. ZONED: M-1, Light Industrial SIC CODE: 48 LOCATION: 1146 Alexander Lane TAX MAP SECTION/PARCEL: 047000000220 BOROUGH: Pleasant Grove

The Planning Commission recommends approval with an alternative parking surface and with the following stipulations:

1. The applicant/owner shall provide collocation opportunities for a minimum of two other wireless providers, regardless of the collocation company's ability to provide another tower site in exchange for the right to collocate on this tower. The collocation agreement shall be completed no more than six months following the written request for collocation.
2. The applicant/owner shall screen the leased area with landscaping in accordance with Section 13-606 of the Zoning Ordinance.
3. The applicant/owner shall require all collocators to secure administrative approval from the Planning Department prior to installing their equipment on the tower.
4. The applicant/owner shall comply with all applicable Federal Communications Commission and Federal Aviation Administration regulations. The applicant /owner will submit documentation of compliance with these regulations to the Neighborhood Services Department.
5. The applicant/owner shall install a Fire Department approved lock box for emergency access to the gated compound. The applicant/owner shall also ensure that the access drive to the tower compound remains free of obstructions to allow access for emergency vehicles at all times.
6. The applicant shall construct a city standard commercial entrance on Alexander Lane in accordance with Public Works requirements. Said entrance shall be reflected on the final construction plan.

Chief Deputy City Clerk Pender identified the following speakers in support of Public Hearing Item **B**:

C. E. Forehand, 219 Sir Oliver Road, Norfolk, representing Universal Wireless.

Bency Yates, 1194 Azalea Garden Road, Norfolk, representing Cingular/AT&T.

Lisa Murphy, 283 Constitution Drive, Virginia Beach, representing AT & T.

October 16, 2007

Chief Deputy City Clerk Pender identified the following speakers in opposition to Public Hearing Item **B**:

James Rice, 917 Foxridge Trail, representing self.

Rick Wellons, 921 Foxridge Trail, representing self.

Council Member Collins, on a motion seconded by Council Member Hayes, moved approval of UP-07-17 with amended stipulations #2 and #6, and the alternative parking surface.

There was extensive discussion between Council Members Collins, Willis, Krasnoff, City Attorney Hallman, and Mr. Wellons concerning drainage issues for the proposed site and the affect this project would have on adjacent property owners. Concerns were also voiced on who would pay for the improvements, aesthetic view from surrounding properties and additional landscaping to be provided by the applicant.

Mr. Forehand and City Engineer Eric Martin were called to the podium to answer questions. Mr. Forehand stated that Universal Wireless would pay for drainage improvements and work with the City Arborist on the landscaping matters. Mr. Martin advised that the City would work with the surrounding property owners and Mr. Forehand to alleviate drainage and aesthetic issues.

Council Member Krasnoff suggested the application be continued to allow staff additional time to address the drainage issues.

Council Member Krasnoff, on a substitute motion seconded by Council Member Ward, moved to continue UP-07-17 to the December 11, 2007 City Council Meeting.

Council Member Krasnoff stated that the continuance would allow additional time for the residents, Mr. Martin and Mr. Forehand to meet and discuss their concerns.

On the substitute motion to continue UP-07-17 to the December 11, 2007 City Council meeting, voting yes: Council Members Adams, Collins, de Triquet, Krasnoff, Parker, Ward, and Willis.

Voting no: Council Members Edge and Hayes.

C. UP-07-28 PROJECT: Hickory Communications Site APPLICANT: Universal Wireless, LLC AGENCY: C. E. Forehand PROPOSAL: A conditional use permit to allow a 199 foot monopole communication tower on a leased parcel that is a portion of a 100+ acre parcel. The applicant also requests and alternative parking surface in accordance with section 19-406.c.1 of the zoning ordinance. ZONE: A-1, Agricultural District SIC CODE: 48 LOCATION: 1541 Head of River Road TAX MAP SECTION/PARCEL: 099000000162 BOROUGH: Butts Road

The Planning Commission recommends approval with the alternative parking surface and with the following stipulations:

1. The applicant/owner shall provide collocation opportunities for a minimum of two other wireless providers, regardless of the collocation company's ability to provide another tower site in exchange for the right to collocate on this tower. The collocation agreement shall be completed no more than six months following the written request for collocation.
2. The applicant/owner shall screen the leased area with landscaping in accordance with Section 13-606 of the Zoning Ordinance. Additionally, a continuous evergreen hedge tall enough to screen the compound from the view from between the silos shall be installed within 30 days of issuance of a building permit. Such additional landscaping shall be subject to the approval of the City Arborist.
3. The applicant/owner shall require all collocators to secure administrative approval from the Planning Department prior to installing their equipment on the tower.
4. The applicant/owner shall comply with all applicable Federal Communications Commission and Federal Aviation Administration regulations. The applicant/owner will submit documentation of compliance with these regulations to the Neighborhood Services Department.
5. The applicant/owner shall install a Fire Department approved lock box for emergency access to the gated compound. The applicant/owner shall also ensure that the access drive to the tower compound remains free of obstructions to allow access for emergency vehicles at all times.

Chief Deputy City Clerk Pender identified the following speakers in support of Public Hearing Item **C**:

Lisa Murphy, 283 Constitution Drive, Virginia Beach, representing AT & T.

J. Wesley People, Jr., 1505 Head of River Road, representing self, stated he was present for questions.

C. E. Forehand, 219 Sir Oliver Road, Norfolk, representing Universal Wireless.

Glenn Barr, 1516 Head of River Road, representing self.

Bency Yates, 1194 Azalea Garden Road, Norfolk, representing Cingular/AT & T.

Chief Deputy City Clerk Pender identified the following speakers in opposition to Public Hearing Item **B**:

Nancy Forster, 1617 Head of River Road, representing self.

Gretchen Freedman, 1561 Head of River Road, representing self.

Linda Lex, 1633 Head of River Road, representing self.

Kelly Matthews, 1661 Head of River Road, representing self.

Mark Forster, 1617 Head of River Road, representing self.

Council Member Hayes, on a motion seconded by Council Member Collins, moved approval of UP-07-28 with stipulations, as presented, and with the alternative parking surface.

Council Member Hayes addressed the need for the tower and his support of the application.

Extensive discussion ensued between Council Members, Mr. Forehand and Ms. Murphy concerning the necessity of the tower in that area. Ms. Murphy reviewed maps with Council Members concerning the lack of coverage in the area and pointed out the tower complied with the Zoning Ordinance, as well as the Comprehensive Plan.

Council Members expressed concerns about co-location by service providers on existing towers. Mr. Nielson addressed the issue stating that a City Planner actually visited the area and reviewed the service needs. The proposed site was found to be in an area that was lacking cellular coverage.

Discussion occurred with Mr. Forehand concerning the maintenance of the site. Mr. Forehand stated that Universal Wireless was responsible for the maintenance of the site and if the company did not comply with the proposed stipulations, the use permit could be revoked by City Council.

Council Member Krasnoff asked Ms. Murphy to return to the podium for additional questions and asked her where the technology was headed and if the tower was actually needed. Ms. Murphy assured Council Member Krasnoff that even with technology advances, towers would be needed; if a tower was not used within five years, it would be removed.

Vice Mayor Parker moved the previous question to end discussion.

There was no second or action taken on the motion calling for the previous questions to end discussion.

No further discussion took place.

On the motion for approval of UP-07-28 with stipulations, as presented, and with the alternative parking surface, voting yes: Council Members Adams, Collins, Edge, Hayes, Parker, Ward and Willis.

Voting no: Council Members de Triquet and Krasnoff.

D. **UP-07-32 PROJECT: Earth Station Antenna for A²** APPLICANT: FP 1408 Stephanie Way, LLC PROPOSAL: A conditional use permit to allow up to a 29 foot Earth Station Antenna behind an existing building. ZONE: B-2, General Business District SIC CODE: 48 LOCATION: 1408 Stephanie Way TAX MAP SECTION/PARCEL: 0280000000705 BOROUGH: Washington

The Planning Commission recommends approval the following stipulations:

1. The applicant/owner shall comply with all applicable Federal Communications Commission and Federal Aviation Administration regulations. The applicant/owner will submit documentation of compliance with these regulations to the Neighborhood Services Department.
2. The applicant/owner agrees to install additional evergreen landscaping in the locations shown on the preliminary site plan stamp dated August 17, 2007, to achieve a continuous visual buffer from both the office building to the west and Stephanie Way. Such landscape materials shall be approved by the City Arborist and installed within 30 days of issuance of a building permit.

Chief Deputy City Clerk Pender stated that the agent was present and available for questions.

Council Member Hayes, on a motion seconded by Council Member Ward, moved approval of UP-07-32 with stipulations, as presented.

There was no discussion.

On the motion for approval of UP-07-32 with the stipulations as presented, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward, and Willis.

Voting no: None

Council Members recessed at 9:08 p.m. and reconvened at 9:18 p.m.

E. **UP-07-15 PROJECT: Virginia Point Biodiesel** APPLICANT: Virginia Point Biodiesel, LLC AGENCY: Hoggard-Eure Associates, PC PROPOSAL: A conditional use permit to construct and operate a biodiesel fuel production facility on 44+ acres. The applicant also seeks approval of a height increase pursuant to Sections 8-302.a.6 and 19.205.b of the Chesapeake Zoning Ordinance to allow two proposed 100 ft. structures to exceed the 75 foot height limitation by 25 feet. ZONE: M-2 General Industrial District SIC CODE: 2079 LOCATION: 700 Rosemont Avenue TAX MAP SECTION/PARCEL: 1440000000010, 1440000000011, portion of 140000000040 BOROUGH: South Norfolk

The Planning Commission recommends approval with the requested height increase and with the following stipulations:

1. The term "applicant" as used herein shall mean not only the current applicant, but any and all successors in interest and operators of the facility.
2. The applicant must obtain all the necessary permits for a sewage disposal system, whether public or private, prior to the issuance of a Certificate of Occupancy for the subject facility.
3. The applicant shall not process, handle or store, or allow the processing, handling or storage of, raw materials including, but not limited to, plants and animal fat, on the subject site. The purpose of

this stipulation is to prohibit odorous raw materials used to produce oils that are in turn used to create biodiesel fuel on the subject site.

4. A certificate of occupancy, temporary or final, shall not be issued for the facility, or any portion thereof, until the Fire Department certifies in writing that Stipulations five (5) through (42) have been satisfied, unless another date is specifically stated in a stipulation. This provision shall not be construed to nullify the applicant's continuing obligation to comply with all stipulations.
5.
 - a. The applicant shall prepare a security plan for the facility subject to the joint approval of the Chesapeake Fire Chief/Emergency Management Coordinator and the Chesapeake Chief of Police, or their respective designees. Such plan shall be subject to a periodic review and update, as determined by the Fire Chief/Emergency Management Coordinator or Chief of Police.
 - b. The applicant must provide and maintain all equipment related to security and monitoring of the facility, including without limitation 24-hour cameras. Access to this equipment and any recordings made thereby shall be provided to the City within fifteen (15) minutes of request by the Chesapeake Fire Chief/Emergency Management Coordinator or the Chesapeake Police Chief, or their designees.
 - c. The applicant shall ensure that security personnel will be deployed to and remain at the site in the event of security and terrorist threat levels orange or red potentially affecting this facility, determined by order of the Chesapeake Fire Chief/Emergency Services Coordinator upon consultation with, and advice of, the Chesapeake Police Chief, under the following conditions:
 - Known threats against the industry,
 - Specific threats against the facility and affiliated companies,
 - Specific threats to adjacent industries.
6. Within two (2) years of commencing plant operations, the applicant must qualify and apply for, and take all necessary action within its power to be granted participation in the OSHA Star Voluntary Protection Program. In the event the applicant initially fails to be granted participation in the OSHA Star Voluntary Protection Program, or is subsequently removed from the Program, the applicant shall nevertheless continue to conduct operations at the facility in a manner that would meet all OSHA standards of

qualification, as determined by the Chesapeake Fire Department. In the event of the applicant's failure to participate in the OSHA Star Voluntary Protection Program, or to qualify for participation, for any period of time exceeding two (2) years, the Fire Department may recommend to the Zoning Administrator that UP-07-15 be considered for revocation for willful failure to comply with this stipulation.

7. The applicant shall offer to conduct training upon reasonable request by the Chesapeake Fire Chief/Emergency Services Coordinator or designee, the Chesapeake L.E.P.C., or the Hampton Roads Regional Hazardous Materials Response Team. This training shall include all aspects of the operations conducted on the property subject to UP-07-15, including but not limited to, manufacturing operations, fixed tanks and piping, and transportation (rail, truck, ship, etc.) emergencies. Training opportunities shall include any private contractor(s) or company employees that the applicant employs for emergency response, as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
8.
 - a. The applicant shall provide emergency access, beginning at Rosemont Ave., to all buildings, structures, piers, wharfs and areas where bio-diesel, palm oil or other hazardous materials will be manufactured, loaded, unloaded, transported, handled or stored; ensure an adequate water supply for firefighting, including sufficient water pressure; install and maintain automatic fire protection systems; and obtain all required operational permits for hazardous materials; all as required by the Uniform Statewide Building Code, the Statewide Fire Prevention Code, Public Facilities Manual and all requirements of the Fire Department. Operational fire code permit(s) for hazardous materials shall not be issued or considered valid until the Fire Department certifies that the required emergency access, firefighting water supply, and automatic fire protection systems have been provided in accordance with applicable laws, ordinances and regulations and in full compliance with the stipulations and preliminary site plan approved by City Council in granting UP-07-15.
 - b. The applicant shall ensure that an additional emergency access road(s) beginning at Bainbridge Blvd. with the proper dead-end turnaround with the proper widths and turning radius for fire apparatus, and properly marked in accordance

with the Chesapeake Fire Department requirements and the Public Facilities Manual in accordance with Chesapeake Fire Department requirements shall be provided as shown on the approved final site plan or as may be required through the final build out of the site by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.

- c. Additional access roads as identified by the Chesapeake Fire Chief/Emergency Services Coordinator or designee, during final site plan review and thereafter, shall meet emergency access requirements. In the alternative, the applicant shall provide for increased fire protection measures above minimum requirements as approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
9. The applicant shall ensure that lock boxes as required and approved by the Chesapeake Fire Department shall be placed in identified areas for emergency access to include any secured entrance gate(s) to the complex and for substantial buildings within the complex. The keys contained in these lock boxes shall be keyed alike to provide for greater response efficiency. The applicant shall install one or more lock boxes for emergency access through gated access, as well as for entry to principal buildings and areas, as designated by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. The applicant shall maintain, repair and replace the lock boxes as necessary to ensure functionality.
10. Fire protection equipment shall be installed and maintained as approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee by the issuance of a permit for installation and by final system field inspection and testing before any hazardous materials are manufactured, used or stored at the facility. Approved fire protection equipment shall be maintained while any hazardous material is manufactured, stored or used on the site.
11. The applicant shall ensure that any Self Contained Breathing Apparatus at the facility shall be of the same brand, model and type as used, or approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
12. The applicant shall provide and maintain a remote surveillance and fire command center (FCC). The size, location and construction of this center shall be approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee but shall be

located near the entrance to the site. The functionality of the FCC shall include at a minimum:

- Video capability to view all areas of the processing, storage, loading and other areas identified by the Fire Department.
 - Fire detection, fire alarm annunciation, fire suppression, remote sensor monitoring and controls shall be required. The fire alarm and suppression shall be zoned as required and approved by the Fire Department.
 - Remote operation of fire pumps and required backup power supplies.
 - Remote operation of remote control fire suppression monitors as required by the Fire Department.
 - Remote operation of foam supplies and appliances.
 - Remote shut off of fuel loading equipment at all loading racks.
 - Remote shut off of flammable, combustible or corrosive material transfer or processing equipment.
 - Equipped with all measures necessary to protect personnel from any releases of hazardous materials.
 - Weather station.
 - Communication capability with all facility site operators and response personnel.
 - Keys and pass cards for all locked accesses, gates, etc.
 - A pre-incident plan provided by the Chesapeake Fire Department.
 - Current facility layout including: Storage tanks, Facility piping, Loading racks, Emergency access points.
 - Current facility emergency response plan.
 - Current emergency contact list.
 - A plant operations liaison employee knowledgeable in plant operations, equipment, safety equipment and safety procedures shall meet the Fire Department on any emergency response and be assigned to the FCC to assist the Fire Department Incident Commander. When the facility is staffed and operating this employee shall immediately meet the fire department. When the facility is not staffed or operating this employee shall arrive within 1 hour of notification of an incident.
13. The applicant shall ensure that the fire protection equipment for the site and pier serving the facility meets or exceeds all applicable requirements and specifications of the Statewide Fire Prevention

Code and local amendments, as well as all applicable API, ANSI, FM, ASTM, ISO and NFPA requirements or as required and approved by the Chesapeake Fire Department.

14. The applicant shall install and maintain a water main dedicated solely for supplying fire hydrants used for manual firefighting operations and domestic water with no fire pump pressurization and a separate water main dedicated solely for fire protection equipment pressurized by a fire pump. Fire department connections shall be configured so that fire department apparatus can augment fire suppression equipment as may be required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee without pressurizing the hydrant system. Fire department connections shall be installed in accordance with the Virginia Statewide Fire Prevention Code and National Fire Protection Standard 24 and shall be located at least forty (40) feet from any structure, and shall have a fire hydrant supply within fifty (50) feet of any fire department connection, in accordance with the approval of the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
15. The applicant shall install and maintain water and foam monitors for fire protection, as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. The monitors shall be automatically actuated by fire-responsive devices and shall also have a capability for manual actuation in accordance with Chapter 4 of NFPA 11 and NFPA 16 as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. All monitors shall have 360 degree water discharge positioning capability and fog or straight stream discharge pattern adjustment under remote, manual and local (physically manned) operation unless otherwise approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
16. The applicant shall install and maintain water and foam monitors for fire protection protecting flammable/combustible liquid storage tanks, pipelines, loading racks, unloading racks, manufacturing, pier or wharf, marine vessel, railcar and truck loading area connection points and other areas, if required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. The monitors shall be fully remote controlled providing 360 degrees discharge positioning and fog/straight stream adjustment, foam supply as well as on/off controlling. The applicant shall ensure that all water and foam monitors for fire protection will have specific capabilities of being remotely controlled from the FCC as shown on

the Final Site Plan unless otherwise approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.

17. The applicant shall provide and maintain all new or existing piers, docks or wharfs used by the facility with automatic fire protection, automatic fire detection, firefighting water supply, fire hydrants, manual or remote fire suppression monitors and foam supplies or appliances as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
18. The applicant shall install and maintain water main fire suppression system pumps necessary to meet water demand pressure and shall require electric generator back up for electric fire pumps and water storage tanks to meet volume demand as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee that will simultaneously provide adequate water supply to the fire suppression nozzles, fire hydrants, fire sprinkler systems and other firefighting equipment required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. The applicant shall ensure that the firefighting water supply meets all current demands and be upgraded when necessary to meet future demands.
19. The applicant shall design, install and maintain water lines, pumps, tanks hydrants and related equipment or improvements needed to meet and maintain water supply demand and water pressures at all times for overall site protection, as determined by the Chesapeake Fire Chief/Emergency Services Coordinator or designee, using municipal water only. Required water supply for fire fighting shall be municipal water. Alternative sources of water may be used for fire fighting but shall not affect the required amount of municipal water supply. The required water demand and pressure are cumulative and shall include manual and automatic systems including protecting exposures and foam production which occur simultaneously.
20. The applicant shall ensure that the minimum amount and duration of fire flow water for process areas and storage tanks shall be a minimum of 2,000 gallons per minute for 3 hours, as indicated by the Clark Nexsen report dated June 21, 2007 or the minimum flow and duration required by applicable SFPC, NFPA or FM standards, which ever is greater unless otherwise approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
21. The applicant shall ensure that the minimum amount and duration of firefighting foam supply for process areas and storage tanks shall

provide at least 3 hours supply (4,200 gallons) or the minimum flow and duration required by applicable SFPC, NFPA or FM standards, which ever is greater. Firefighting foam supplies shall be in a fixed and pre-piped foam tank and system which includes a central foam tank(s) capable of storing and distributing the maximum amount of foam concentrate required for any firefighting foam operation scenario. The location of this foam storage area shall be remote as approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. This location will be a safe area away from the hazards, protected and shall contain all piping and appliances necessary for automatic use and distribution of firefighting foam. Foam supplies on site must satisfy the greatest on-site demand, as determined by the Chesapeake Fire Chief/Emergency Services Coordinator or designee, unless otherwise approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. Any foam used by the Fire Department for an incident on the site shall be replaced within a time required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.

22. The applicant shall provide and maintain extra foam supplies in amounts (1,400 gallons minimum), type, containers, distribution equipment and methods in accordance with the requirements of the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
23. The applicant shall install and space all fire hydrants a maximum of 250 feet apart as approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee and shall flow at a minimum of 1,500 gallons per minute (at a minimum of 20 psi) each unless otherwise approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
24. The applicant shall install and maintain dry hydrants that meet NFPA 1142 standards and fire department connections for an emergency back up firefighting water supply at the pier or other areas as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
25. The applicant shall maintain the pipelines transporting inflammable/combustible liquids with automatic fire protection as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. This fire protection system must be activated by an approved fire detection system that is connected to the monitored fire alarm system that provides on-site notification and automatically shuts down the transport/transfer operation

- unless otherwise approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
26. The applicant shall ensure that high hazard areas shall be protected by automatic early suppression fast response (EFSR) sprinkler heads as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
 27. The applicant shall ensure that appropriate containment and drainage for runoff of firefighting water and foam applications as approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
 28. The applicant shall ensure that an operational fire code permit(s) is obtained before any manufacture, use or storage of any hazardous materials on the facility will be allowed.
 29. The applicant shall not permit, cause or allow hazardous materials be transferred directly from one ship, barge, truck or railcar to another, ship, barge, truck or railcar without written approval of the Chesapeake Fire Chief/Emergency Services Coordinator or designee. All off-loading or on-loading of transport vessels shall be to or from fixed facility containers.
 30. The applicant shall prepare and submit a Risk Management Plan to the Chesapeake Fire Chief/Emergency Services Coordinator or designee for review and approval prior to any storage or manufacturing of biodiesel or any other hazardous material at the facility.
 31. The applicant shall engage the continuous services of a private hazardous materials response team, which shall be certified and properly trained and shall arrive onsite within one hour of an emergency alarm or call. The private hazardous materials response team shall be responsible for responding to assist the Fire Department with emergencies at the facility, as well as at any other location in the Cities of Chesapeake and Portsmouth from which biodiesel or other hazardous material is shipped to or from the facility. Regardless of the circumstances, the applicant and the private hazardous materials response team shall on every occasion deem an emergency to exist if so determined by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. The applicant shall provide the Chesapeake Fire Chief/Emergency Services Coordinator or designee annually, or as changes occur, a copy of any and all contracts with private hazardous materials response teams to ensure that the terms and obligations satisfy this stipulation.

32. The applicant shall ensure that the operation, use, and maintenance of all equipment and tanks used to manufacture, store, handle or process hazardous materials meet the requirements of the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
33. The applicant shall ensure that inflammable and combustible liquid storage tanks meet or exceed NFPA 30 requirements for fire protection and spacing as approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
34. The applicant shall install and maintain on-site sensors to detect a leak of any hazardous materials as determined to be required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. These sensors shall be located throughout the terminal facility, including without limitation, buildings, structures, dock areas and loading racks, as required and approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. These sensors shall be set to alarm and give automatic, audio and/or visual notifications to the satisfaction of the Chesapeake Fire Chief/Emergency Services Coordinator or designee. The applicant shall also provide, monitor and maintain off-site, remote sensors as required in accordance with the requirements of the Chesapeake Fire Chief/Emergency Services Coordinator or designee. Such remote monitors may be located anywhere the Chesapeake Fire Chief/Emergency Services Coordinator or designee determines a reasonable potential threat may exist. The applicant shall be solely responsible for testing, repairing, replacing and monitoring the required sensors and related equipment.
35. The applicant shall ensure that any unintended, accidental or unauthorized intentional release of any hazardous materials shall be reported as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee and to other federal, state and local regulatory agencies.
36. Procedures shall be developed, approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee implemented that appropriately stores, contains, mitigates and disposes of any product or portion of material that is determined to not be satisfactory for the production of bio-diesel or is a waste byproduct.
37. The applicant shall perpetually maintain a copy of all facility inspection reports in a secure location and shall make them available to the City of Chesapeake within one (1) hour of request from the City Manager, City Attorney, Fire Chief/Emergency Management Coordinator, or their respective designees. The

inspection reports shall include the date, purpose, scope and findings of all inspections of the facility, whether conducted by an individual, private entity, insurance company, OSHA, the U.S. Coast Guard, or any other private, federal, state, local or private agency, association or organization.

38. The applicant shall, upon request, provide a representative to the City of Chesapeake Local Emergency Planning Committee (LEPC).
39. The applicant shall invite the Chesapeake Fire Chief/Emergency Services Coordinator or designee to attend the initial and subsequent updates to any risk/vulnerability inspections or studies conducted at or in regard to the terminal facility. The invitation shall be in writing with no less than seven (7) days prior notice.
40. The applicant shall take any and all necessary action to ensure that trucks transporting, delivering or removing hazardous, toxic and corrosive materials shall not travel, idle or park on any highway or road within the City of Chesapeake except between the hours of Midnight and 5 a.m. A subsequent violation by the same or different truck driver or transport company shall be deemed sufficient cause to request City Council to revoke the conditional use permit pursuant to Section 17-112 of the Zoning Ordinance. The applicant shall be responsible for any notice of violation or warning issued by the Zoning Administrator for noncompliance with this stipulation, except in emergency situations caused by force majeure conditions as determined by the Chesapeake Fire Chief/Emergency Services Coordinator or designee, including, but not limited to, severe winter weather. In such emergency situations, the Chesapeake Fire Chief/Emergency Services Coordinator or designee shall be notified as soon as reasonably practicable of the transport and delivery of hazardous, toxic and corrosive materials outside the normal period of 12:00 am to 5:00 am. In addition, the facility shall provide such documentation as the Chesapeake Fire Chief/Emergency Services Coordinator or designee may request of the emergency conditions necessitating such transportation.
41. The applicant shall provide the Chesapeake Fire Chief/Emergency Services Coordinator or designee with a list of new safety, handling, dispensing and storage equipment, technologies and features for alternate fuel manufacturing facilities, including a comparative analysis of the existing equipment and process at the facility. Such list and analysis shall be provided at least once every ten (10) years or more frequently, if requested by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.

42. To enhance safety at the facility the applicant shall ensure that the facility shall be reviewed by the Chesapeake Fire Chief/Emergency Services Coordinator or designee every ten (10) years to determine whether the applicant is maintaining, repairing and replacing all equipment, computer programs and other types of improvements required by these stipulations or required by changes in applicable laws, ordinances, regulations, specification manuals or industry best practices. The review shall also be used to ensure that the applicant is installing improved safety and protection equipment, computer programs and other devices and processes in accordance with new technologies as they become available. If the review indicates that the applicant has failed to install improved equipment, computer programs and other technically advanced devices and processes, based on the then current industry standards and operational best practices, the Chesapeake Fire Chief/Emergency Services Coordinator or designee shall give the applicant reasonable notice to correct any and all noted deficiencies. The applicant's failure to make such corrections within the time permitted shall constitute a willful violation of this stipulation. In no event shall this stipulation be interpreted to limit the right of any City of Chesapeake Official or employee to inspect the facility as otherwise permitted by law or to take corrective action in the event of violation of any law, ordinance or regulation or in the event of noncompliance with any stipulation attached to, or site plan approved as part of, this conditional use permit UP-07-15.
43. The applicant shall provide radio communications equipment and continuous radio communications service as deemed necessary by the Chesapeake Fire Chief/Emergency Services Coordinator or designee to facilitate constant radio contact between the proposed facility and the Chesapeake Fire Department, the railroad serving the facility and the United States Coast Guard. In the event any of the buildings, equipment or operations at the facility interferes with or inhibits the Chesapeake public safety communication system, the applicant shall take all necessary steps to restore effective public safety communications, as determined and approved by the City of Chesapeake Communications Coordinator.
44. The applicant shall provide the Chesapeake Fire Chief/Emergency Services Coordinator or designee a "MIDLAND" model B-240, kit for handling railcar emergencies.
45. The applicant agrees to shall establish a citizen advisory committee. The committee shall consist of members from the surrounding communities of Chesapeake and Portsmouth. This

committee shall be established upon City Council approval of the project. This committee shall serve to receive and address citizens concerns such as safety, environmental and operational issues directly with facility personnel. The members of the committee shall decide on the frequency of meetings.

46. In the event that the Zoning Administrator receives verifiable complaints of odor or noise emanating from the subject property, the Zoning Administrator may refer the conditional use permit to the Planning Commission for further review and recommendation to City Council for additional stipulations to address odor or noise related issues.

The applicant has offered the following additional stipulations:

47. The applicant agrees to cause to be performed, a detailed assessment of the environmental and community impacts of the facility approved by UP-07-15 (known as Phase 1) by a qualified environmental consultant according to generally accepted standards before approval of a final site plan. The assessment shall contain at a minimum the following items:
 - a. Identify fish and wildlife resources and habitats, including wetlands and Vegetated buffer on or near the site and describe how they would be affected by the project. Develop and describe measures to minimize or avoid impacts. Identify a state-list endangered, threatened or special concern species and develop and implement a plan to minimize impacts.
 - b. Assess water quality impacts from storm water runoff. Compare the quantity and quality of site runoff before and after the project. Describe permanent controls to manage runoff. Development and implement storm water pollution prevention plans.
 - c. Describe sources, composition and qualities of all sanitary, municipal and industrial wastewater produced or treated at the site. Development and implement waste treatment methods and pollution prevention efforts including for upset conditions.
 - d. Assess geologic hazards and soil conditions, including risks to groundwater.
 - e. Assess solid wastes, hazardous wastes and storage tanks. Describe types, amounts and compositions of solid or hazardous wastes produced or used during operation, including for transport by train, ship and truck. Identify toxic and hazardous materials to be present or used at the site

and measures to be used to prevent them from contaminating groundwater or surface waters, including in upset conditions and catastrophic conditions including hurricanes, accidents and fires.

- f. Assess estimated total daily traffic generated and environmental impacts, including truck, ship and rail. Assess transportation related air emissions and mitigation measures.
- g. Describe the type, sources, quantities and compositions, and related human health and environmental risks, of stationary source air emissions. Include hazardous air pollution and greenhouse gases and ozone depleting chemicals. Develop and implement proposed pollution prevention techniques and air pollution controls.
- h. Assess potential odors and noise and develop and implement necessary monitoring and control measures.
- i. Investigate project compatibility with adjacent land uses, including the sustainable redevelopment of the Eastern corridor of the Elizabeth River in Chesapeake, nearby residential communities and a proposed nature park immediately north of the site.
- j. Assess cumulative impacts taking into account related and future projects on the Elizabeth River. Address cumulative impacts from this project in relation to other intensive industrial development on the Southern Branch of the Elizabeth River.

The final site plan and permits shall incorporate recommended techniques and strategies to reduce or mitigate the environmental and community impacts identified in the assessment as approved by the Planning Director or designee.

- 48. The applicant agrees to that no building, structure, storage tank, road, storage area, parking or staging area or best management practice shall be located within the fifty foot seaward portion of the Resource Protection Area, except the dock area and access to the dock, as approved by the CBPA City Manager designee. Any CBPA approval that conflicts with this stipulation shall be considered void and the applicant shall seek additional approvals that comply with this stipulation. In addition, the applicant/owner agrees to employ reasonable efforts, including, but not limited to, conducting an aerial assessment of the subject property, boat tour and discussions with the Elizabeth River Project, to identify those areas where the proposed facility, and its components, can be

adjusted to eliminate encroachment into the Resource Protection Area subject to CBPA approval if necessary.

49. The applicant agrees to seek and obtain a wetlands delineation confirmed by the Army Corps of Engineers and to establish a conservation easement to cover the peninsula area containing tidal wetlands as approved by the Director of Public Works or designee before approval of a final site plan. The conservation easement shall be subject to approval by the City Attorney. Impacted nontidal wetlands shall be mitigated in accordance with the approval of the Virginia Department of Environmental Quality.
50. The applicant agrees to minimize impervious surfaces in accordance with good engineering practices as approved by the Director of Public Works or designee and provide storm water management facilities to satisfy water quantity and quality requirements in accordance with the following:
 - a. Storm water management facilities shall detain up to a 100 year storm water elevation to the extent practicable as approved by the Director of Public Works or designee.
 - b. Storm water management facilities shall be constructed with geomembrane liner material or equivalent up to the permanent water elevation unless otherwise approved by the Director of Public Works or designee's review of a Phase II ESA or other appropriate environmental report.
 - c. Storm water management facilities shall consist of sediment forebays and aquatic benches in wet retention and detention areas as approved by the Director of Public Works or designee to provide for a higher sediment removal rate.
51. The applicant agrees to use reasonable efforts to participate in the Elizabeth River Project's River Stars Program. The applicant/owner agrees to consider recommendations offered by the River Stars Program to reduce pollution, create or conserve wildlife habitat on-site and recycle identified materials in order to preserve and enhance the Elizabeth River.
52. The applicant agrees to use native plants in landscaping the subject property as approved by the City Arborist before approval of a final site plan.
53. The applicant agrees to install and maintain geomembrane liners in trenches excavated for utilities, sewer laterals, stormwater pipes and groundwater/soil compliance sampling wells. The liners shall be installed unless otherwise approved by the Director of Public Works or designee's review of a Phase II ESA or other appropriate environmental report.

54. The approval of UP-07-15 shall only permit the operation of a biodiesel fuel production facility that is approved by the Department of Environmental Quality as a minor source for air emissions. Before approval of a certificate of occupancy, the applicant shall demonstrate that reasonable efforts and techniques have been developed, employed and will be maintained to preserve and protect the public health and welfare by the use of appropriate control technology approved by the Virginia Department of Environmental Quality.

55. The applicant agrees to make a \$5,000,000.00 cash contribution to the City of Chesapeake for purposes of implementing revitalization efforts in the area surrounding the property subject to UP-07-15. The cash contribution shall be made before the issuance of a certificate of occupancy.

Chief Deputy City Clerk Pender identified the following speakers in support of Public Hearing Item **E**:

Thomas D. Maxwell, 901 Port Centre Parkway, Portsmouth, representing Hoggard-Eure, P.C.

Raeford Eure, 901 Port Centre Parkway, Portsmouth, representing Virginia Point Biodiesel.

John Henderson, 2919 Misty Wind Court, League City, Texas, representing Smiling Earth/Virginia Point Biodiesel.

Robert "Buddy" Bagley, 1548 Waterside Drive, North, representing self.

Burnie Mansfield, 1144 Virginia Avenue, representing self.

Chief Deputy City Clerk identified the following speakers in opposition to Public Hearing Item **E**:

Daniel Hoffstaetter, 2521 Lofurno Road, representing self, was not present when called.

Thomas Arrington, 305 Stonewood Court, representing self.

Gene Waters, 360 Clearfield Avenue, representing Chesapeake Citizens for Fair Real Estate Tax.

Dave Koubsky, 475 Waters Street, Portsmouth, representing Elizabeth River Project.

Mayor Edge asked City Manager Harrell if the City was providing a subsidy to the Virginia Point Biodiesel project. City Manager Harrell stated that the City was not providing a subsidy to the Virginia Point Biodiesel project. Mayor Edge further stated that the residents of the South Hill area would not be forced to leave their homes.

Council Member Hayes, on a motion seconded by Council Member Collins, moved approval of UP-07-15 with the stipulations including amended stipulations #54 and #55, the requested height increase, and the updated staff report dated August 8, 2007.

Fire Chief Stephen Best and Fire Marshall William Hibner were called to the podium to address questions from Council Members concerning fire safety issues.

Fire Marshall Hibner provided a presentation to Council Members concerning the safety and storage of biodiesel and biodiesel products.

Council Member Hayes asked Mr. Henderson to come to the podium to address issues of water consumption. Mr. Henderson stated the project was a waterless process except for the water needed to run the steam generators, which was minimal.

Council Member Ward advised that she had visited the site and that the storage tanks from the Allied Plant site were closer to the South Hill residences than the proposed project. She asked Chief Best about the contents of the storage tanks adjacent to the South Hill community. Chief Best stated that Allied Plant storage tanks contained jet fuel, diesel fuel, fertilizer and ethanol. Council Member Ward suggested that the City needed to assist residents who wanted to leave the area.

Council Member Willis offered her reasons for support of the project noting that no City money was being required. She spoke about her meeting with the staff from the Elizabeth River Project who were satisfied with the project and the process that would be used for the production of biodiesel.

Council Member Adams stated that the application was ultimately a land use issue and the property was zoned for the use; all environmental issues had been addressed. She thanked Mr. Eure for allowing her to review the financial aspects of the project.

Vice Mayor Parker asked City Attorney Hallman if the \$5 million was an offer or a requirement of the applicant. City Attorney Hallman stated that it was an offer by the applicant. Vice Mayor Parker inquired if there had been any fires in the proposed area from the fuel storage containers. Mr. Bagley came to the podium and stated that there had been three previous fires because of gasoline, but no loss of life had occurred.

Council Member Collins addressed the number of stipulations noting that did not mean that the proposed use permit application was a bad project, just a better project with all the concerns addressed. He commented on the proposed project and use of the property.

Council Member Krasnoff requested that Mr. Henderson come to the podium to answer questions. Council Member Krasnoff inquired when the project would be complete and operational. Mr. Henderson stated that the project should take nine (9) months to complete and should be operating in the fall of 2008. Council Member Krasnoff expressed his discomfort with the project.

There was no further discussion

On the motion for approval of UP-07-15 with amended stipulations including amended stipulations #54 and #55, the requested height increase and the updated staff report dated August 8, 2008, voting yes: Council Members Adams, Collins, Edge, Hayes, Parker, Ward and Willis.

Voting no: Council Members de Triquet and Krasnoff

F. **ST.C-07-05 PROJECT: Forrest Hills Street Closures** APPLICANT: Taylor Brothers Builders AGENCY: Hoggard/Eure Associates, PC PROPOSAL: Street closure requests for portions of excess right-of-way in the cul-de-sacs for Eagle Hill Drive (861 square feet), Copperfield Drive (1,036 square feet), and Hydenwood Crescent (1,448 square feet). ZONE: R-15s, Single-family Residential LOCATION: Northern terminus of Eagle Hill Drive and Hydenwood Crescent, and eastern terminus of Copperfield Drive BOROUGH: Western Branch

The Planning Commission recommends approval with the following stipulation:

- All City utility improvements and/or relocations shall be in accordance with the departmental policies and the City of Chesapeake's Public Facilities Manual (PFM) and shall be completed by the applicant prior to any Certificates of Occupancy for any of the lots associated with S-07-54.

Chief Deputy City Clerk Pender stated that the agent was present and available for questions.

Council Member Collins, on a motion seconded by Vice Mayor Parker, moved approval of ST.C-07-05 with stipulations presented and the purchase price of \$7,500.

There was no discussion.

On the motion for approval of ST.C-07-05 with stipulations as presented and the purchase price of \$7,500, voting yes: Council Members Adams, Collins, Edge, Krasnoff, Parker, Ward and Willis.

Voting no: None (Council Members de Triquet and Hayes out of Chamber.)

Council Member de Triquet excused at 10:55 p.m.

G. **TA-Z-07-01** AN ORDINANCE AMENDING APPENDIX "A" OF THE CHESAPEAKE CITY CODE, ENTITLED "ZONING," SECTIONS 3-202, 3-403, 5-502.C.2 AND 3, 5-600, 5-800, 6-200, 7-502.B, 7-601, 7-602, 11-902, 11-1302, 12-600.B, 14-703 AND ADDING 4-229, ADDING 5-900.D, ADDING 7-510 THROUGH 7-513, ADDING 7-602.B, AND ADDING 14-705.K TO ADOPT THE URBAN MIXED USE ZONING DISTRICT AND APPLICABLE DEVELOPMENT STANDARDS, TO PROVIDE FOR CERTAIN SIGNS IN THE URBAN MIXED USE ZONING DISTRICT, TO ESTABLISH A MINIMUM ACREAGE FOR NEW RESIDENTIAL AND URBAN PLANNED UNIT DEVELOPMENTS, TO REDUCE REQUIRED PARKING FOR THE R-MF-1 AND R-MF-2 ZONING DISTRICTS (MULTI-FAMILY) TO TWO SPACES PER UNIT, TO MODIFY DEVELOPMENT STANDARDS IN THE SOUTH NORFOLK BUSINESS OVERLAY DISTRICT RELATING TO SETBACKS AND SIGN PLACEMENT.

The Planning Commission recommends approval of the version dated August 27, 2007.

Chief Deputy City Clerk Pender stated that there were no speakers.

Planning Director Nielson presented the item and reviewed the changes.

Council Member Krasnoff, on a motion seconded by Council Member Ward, moved approval of TAZ-07-01, version dated August 27, 2007.

There was general discussion among Council Members concerning proposed changes to required parking spaces in the Ordinance. Mr. Nielson informed Council Members that under the current ordinance, the City required more parking spaces than any of the area cities. Council Members shared their concerns about the reduction of parking spaces proposed in the Ordinance, and the possibility the change would be a future problem.

Council Member Willis, on a substitute motion seconded by Council Member Collins, moved to amend the proposed Ordinance to require two parking spaces for the first 50 units, and one additional parking space for every unit over 50.

There was additional discussion clarifying the motion. Council Member Collins suggested voting on the original motion and dealing with the parking issue at a later date. Council Member Willis withdrew her motion and Council Member Collins agreed.

On the main motion for approval of TAZ-07-01, version dated August 27, 2007, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Parker and Ward.

Voting no: Council Member Willis (Council Member de Triquet excused)

CITIZENS' COMMENTS ON AGENDA ITEMS ONLY

Chief Deputy City Clerk Pender identified the following speaker:

Carol Mayo, 307 Albemarle Drive, representing Circuit Court Clerk's staff, spoke in support of City Manager Agenda Item #1.

REGULAR AGENDA

City Manager Item

1. CONSIDERATION OF A RESOLUTION APPROVING THE TRANSITION OF THE STAFF OF THE OFFICE OF THE CLERK OF THE CHESAPEAKE CIRCUIT COURT TO THE CITY'S PAYROLL SYSTEM FOR THE PURPOSE OF RECEIVING CITY BENEFITS, AND APPROVING A PRO RATA WAGE INCREASE OF 4.5% FOR SUCH EMPLOYEES EFFECTIVE NOVEMBER 1, 2007 – DEPARTMENT OF HUMAN RESOURCES

City Manager Harrell presented the item.

Council Member Collins, on a motion seconded by Vice Mayor Parker, moved approval of the Ordinance as presented.

Council Member Adams offered comments on the Ordinance, stating that benefits were going to remain a consideration in the future. She expressed concerns about the employees not being able to carry over their sick leave.

There was no further discussion.

On the motion to approve the Ordinance, as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None (Council Member de Triquet excused)

Council Member Krasnoff was excused at 11:35 p.m.

OLD AND NEW BUSINESS/COMMITTEE REPORTS

Mayor Edge combined Committee Reports with Old and New Business and called on Council Members for both starting with Council Member Willis.

Council Member Hayes reported on his attendance at the America's Promise Awards Banquet, where he accepted an award for the City of Chesapeake as being one of the "Top 100 Communities to Live" and his attendance at the State of the Region breakfast. Mr. Hayes congratulated Judge Bernard Goodwyn for being selected as a Justice for the Supreme Court of Virginia and that the swearing in ceremony was Thursday, October 18 at 12:30 p.m., at the Supreme Court in Richmond.

Council Member Ward offered congratulatory remarks on Judge Goodwyn's appointment to the Supreme Court. She reviewed her attendance at the Virginia Municipal League Annual Conference in Williamsburg.

Vice Mayor Parker stated that he also attended the Virginia Municipal League Annual Conference in Williamsburg.

REQUEST FOR CLOSED SESSION

City Attorney Hallman provided the following language for the item for consideration of a Closed Session: "to consult with legal counsel pertaining to actual litigation, where such consultation in open session would adversely affect the litigating posture of the City, pursuant to Virginia Code Section 2.2-3711 A.7."

October 16, 2007

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

There was no discussion.

On the motion for approval of the Closed Session topic, voting yes: Adams, Collins, Edge, Hayes, Parker, Ward and Willis.

Voting no: None (Council Members de Triquet and Krasnoff excused)

City Council recessed at 11:35 p.m. and went into Closed Session at 11:40 p.m. The meeting reconvened at 12:15 a.m.

CERTIFICATION OF CLOSED SESSION

City Attorney Hallman read the following: "The Chesapeake City Council hereby certifies that to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements were discussed and only such public business matters as were identified in the motion convening the meeting were heard, discussed or considered by the City Council."

Council Member Collins, on a motion seconded by Council Member Ward, moved approval of the certification for the Closed Session discussion.

There was no discussion.

On the motion for approval for the closed session discussion, voting yes: Council Members Adams, Collins, Edge, Hayes, Parker, Ward and Willis.

Voting no: None (Council Members de Triquet and Krasnoff excused)

ADJOURNMENT

There being no further business for consideration, the meeting was adjourned at 12:16 p.m.

/dah

Mayor

Attest:

City Clerk