

A Regular Meeting of the Chesapeake City Council was called to order by Mayor Dalton S. Edge on November 20, 2007, at 6:30 p.m., in the City Hall Building, 306 Cedar Road.

INVOCATION: Pastor Laura Bennett, Unity Renaissance Church.

PLEDGE OF ALLEGIANCE: Girl Scout Troop 360

ROLL CALL BY CLERK OF COUNCIL:

**Present:** Council Member Rebecca Adams  
Council Member Bryan L. Collins  
Council Member John M. de Triquet  
Mayor Dalton S. Edge  
Council Member Clifton E. Hayes, Jr.  
Council Member Alan P. Krasnoff  
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, Deputy City Manager Betty Jean Meyer, City Clerk Dolores Moore, 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**

City Clerk Moore identified the following speakers who spoke in support of Public Hearing Item **N** prior to the presentation of the Public Hearing Items:

Kevin Cosgrove, 1424 Baffy Loop, representing the Port Authority.

Robin Freeman, 1900 Pocatoy Road, was not present when called.

Rodney Wilkins, 3313 Douglas Road, representing self.

Jimmy Nicastro, 1114 Fairhaven Road, representing self.

L. Hayden Eicher, 7395 Opan Road, Warrenton, VA, representing Virginia Grain Producers Association.

Robert Colorina, 1100 Cumberland Court, representing Asian Pacific American Chamber of Commerce and self.

City Clerk Moore identified the following speakers who spoke in opposition to Public Hearing Item **B** prior to the presentation of the Public Hearing Items:

Michelle Wagner, 420 Pines of Warrick Drive, representing self.

Jay Sawyer, 501 Brandy Court, representing self.

City Clerk Moore identified the following speakers who spoke in opposition to Public Hearing Item **N** prior to the presentation of Public Hearing Items:

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Pamela Kloeppel, 501 Elizabeth Place, Portsmouth, representing Portsmouth Redevelopment and Housing Authority.

Thomas Arrington, 305 Stonewood Court, representing self.

Ellis W. James, 2021 Kenlake Place, Norfolk, representing Chesapeake Bay Group for Sierra Club.

Jean Marie Eagler, 712 C Cozy Corner Drive, representing self.

Shannon Hardwick, 2672 Powell Circle, representing self.

Maurice Cullen, 1304 Boxwood Drive, representing self.

Carol Praissman, 408 Whisper Walk, representing self.

Gene Waters, 360 Clearfield Avenue, representing Chesapeake Citizens for Fair Taxes.

Joan Mercer, 2009 Cherry Lane, representing self.

Paige Shabro, 1237 N. River Drive, representing self.

Kerry Messer, 400 Court Street, Portsmouth, representing self and family.

James S. Finck, 1513 Boxwood Drive, representing self.

Cory Reeder, 1105 Battery Circle, representing self.

Kathleen Crayton, 10 Gillis Road, Portsmouth, was not present when called.

David Timm, 811 Juniper Crescent, Chesapeake, representing self.

#### **PUBLIC HEARING ITEMS**

**A. R(C)-07-26 PROJECT: Hanbury Manor** APPLICANT: Abbey Lane Group, LLC AGENCY: WPL/Kaufman & Canoles, PC PROPOSAL: A conditional zoning reclassification of 27.34 acres from A-1 Agriculture District to R-12(s) Single-family Residential District. PROPOSED COMP LAND USE & DENSITY: Suburban Single-family with something less than four with per acre. EXISTING COMP LAND USE & DENSITY: Suburban Single-family with something less than four with per acre. LOCATION: 161, 163, 167, & 169 Hanbury Road TAX MAP SECTION/PARCEL: 0600000001091, 0600000001100, 0600000001110, 0600000001120, 0600000001121, 0600000001122 BOROUGH: Pleasant Grove

The Planning Commission recommends approval with the following proffers:

1. The owner/applicant agrees that no more that five (5) applications will be made for a building permit, per the attached Site Exhibit dated August 6, 2007 prior to March 1, 2008. The owner/applicant further agrees that no more than 74 residential units will be constructed within the development.
2. Exterior Materials
  - a. The owner/applicant agrees the primary materials to be used on the front elevation of all residential dwellings shall be brick, masonry (stone) or substantially similar material. Secondary materials that may be used on the front elevation shall be EIFS (Exterior Insulation and Finish Systems), wood

- siding, cement based siding, or substantially similar material. In no event shall secondary materials be used to cover more than 45% of the total area of the front of any proposed dwelling.
- b. The owner/applicant further agrees that the primary materials to be used on the sides and rear of all residential dwellings shall consist of brick, masonry (stone) or substantially similar material, with the exception that accents, gables, bay windows, and other design or ornamental features may consist of EIFS, wood materials or cement based materials.
  - c. The owner/applicant agrees that no plywood, vinyl, or aluminum shall be used on the exterior of any residential dwelling, except that cornices and porches may consist of painted vinyl, colorized aluminum or painted plywood.
  - d. As used in proffer, the term "substantially similar material" shall mean materials of the same quality and visual impact, as determined by the Director of Planning or designee.
3. Crawl Space. All residential dwellings must have a crawl space.
  4. Garage Requirement. The owner/applicant agrees that each residential dwelling shall be provided with a minimum of a two-car garage.
  5. The owner/applicant agrees that the ultimate subdivision of the subject property shall be as generally shown on the rezoning exhibit. Such exhibit shall not be construed as being exact in presentation and shall be subject to preliminary subdivision review and approval.
    - a. The owner/applicant agrees to make a cash contribution to the City of Chesapeake for the expansion of classroom space in impacted public schools, including but not limited to, land acquisition for the expansion of public school facilities and construction of new schools and additions. The amount of the cash contribution shall be \$14,229.37 per residential lot (\$1,052,973.38-Total) on the rezoned property. The applicant/owner agrees to make the proffered cash contribution prior to final subdivision plan approval for all residential lots shown on such plan. The applicant/owner 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 School Capital Construction Costs and shall be subject to City Council approval prior to appropriation.

- b. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public arterial and collector streets within the traffic shed impacted by the rezoning, including but not limited to, right-of-way acquisition, road design, road construction, project management, widening, paving, striping, adding turn lanes, adding acceleration or deceleration lanes, installing or adjusting traffic control devices, installing curb and gutter, making ditch and shoulder improvements, and constructing or improving roadside drainage facilities. The amount of the voluntary cash contribution shall be \$3,179 per residential lot (\$235,246-Total). The cash contribution shall be in addition to any required or voluntary road improvements. The applicant/owner agrees to make the proffered cash contribution prior to final subdivision plat approval for single-family residential lots shown on such plat.
- c. The applicant/owner agrees to make cash contribution to the City of Chesapeake for capital improvements to the public libraries, including but not limited to, land acquisitions; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the operation of public libraries. The amount of voluntary cash contribution shall be \$949.03 per residential lot (\$70,228.22-Total). The cash contribution shall be in addition to any required or voluntary road improvements. The applicant/owner agrees to make the proffered cash contribution prior to final subdivision plat approval for single-family residential lots shown on such plat.
- d. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public emergency service facilities, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the provision of emergency fire and medical services to the citizens of Chesapeake. The amount of the voluntary cash contribution shall be \$642.34 per residential lot (\$47,533.16-Total). The cash contribution shall be in addition to any required or voluntary road improvements. The applicant/owner agrees to make the proffered cash contribution prior to final subdivision plat approval for single-family residential lots shown on such plat.

6. The applicant/owner agrees to provide right of way dedication on Hanbury Road per the Master Transportation Plan as determined by the Public Works Director or Designee. The Right of Way dedication shall be provided prior to final site plan approval.

City Clerk Moore stated that the applicant was present and available for questions.

Council Member Hayes, on a motion seconded by Council Member Adams, moved approval of R(C)-07-26 with proffers as presented.

Council Member Hayes thanked staff for providing Council Members with the up-to-date school population numbers and asked Planning Director Nielson why the Planning staff had recommended denial.

Planning Director Nielson stated that staff had recommended denial based on the previous school population numbers and that with the new numbers, the Level of Service for schools was met.

Council Member Willis expressed concern about school numbers and traffic issues, advising that she could not support the application.

Council Member Krasnoff requested that the agent come to the podium for questions.

Shepelle Watkins-White, 524 Johnstown Road, representing Abbey Lane Group, LLC, came to the podium to address questions by Council Members concerning the nearby neighborhoods and the types of development, commercial or residential, that would be constructed on the front area of the property. Ms. Watkins-White responded to the questions.

There was no further discussion.

On the motion for approval of R(C)-07-26 with proffers as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Parker and Ward.

Voting no: Council Members de Triquet and Willis.

**#07-O-179 AN ORDINANCE AMENDING THE CHESAPEAKE ZONING ORDINANCE TO PROVIDE FOR THE CONDITIONAL REZONING OF 27.34 ACRES OF LAND, LOCATED AT 161, 163, 167 AND 169 HANBURY ROAD IN THE PLEASANT GROVE BOROUGH, FROM A-1 AGRICULTURAL DISTRICT TO R-12(s) SINGLE-FAMILY RESIDENTIAL DISTRICT (R(C)-07-26)**

**B. R(C)-07-28 PROJECT: Stuart Hall at Great Bridge APPLICANT:** Dragas Associates, Inc. **AGENCY:** Kaufman & Canoles, PC **PROPOSAL:** A conditional zoning reclassification of 13.1 acres from B-1 Neighborhood Business District (6.47 acres) and O & I Office and Institutional District (6.63 acres) to R-MF-1 Multifamily Residential District to construct 198 condominium units. **PROPOSED COMP LAND USE & DENSITY:** Medium density residential **EXISTING COMP LAND USE & DENSITY:** Business commercial and high density residential **LOCATION:** Property located on the south side of Cedar Road from Warrick Road to Pines of Warrick Drive and from Pines of Warrick Drive running westward 560<sup>±</sup> feet. **TAX MAP SECTION/PARCEL:** 0590000002002, 0590000002003 **BOROUGH:** Pleasant Grove

Planning Commission recommends denial.

The applicant has offered the following proffers:

1. The applicant/owner agrees to dedicate a 17.5 foot width of property along the site's frontage to Cedar Road. The dedication made pursuant to this proffer shall be recorded prior to the issuance of any certificate of occupancy for a residential structure within the development.
2. The applicant/owner, at its cost and expense and in compliance with the requirements of the Public Facilities Manual, shall install a traffic signal at the intersection of Cedar Road and Pines of Warrick Drive. The applicant/owner shall complete installation of the proffered traffic signal by the issuance of the 3rd certificate of occupancy for a residential structure within the development.
3. The applicant/owner agrees to install a city standard right turn lane from Cedar Road onto Pines of Warrick Drive and to extend the existing left turn lane from Cedar Road onto Pines of Warrick to the extent practicable within existing geometry, in accordance with Department of Public Works standards. The applicant/owner shall also construct a sidewalk extending from the applicant/owner's western most parcel from the development's entrance along Pines of Warrick Drive to Cedar Road. The applicant/owner shall construct/install the improvements pursuant to this proffer by the issuance of the 3<sup>rd</sup> certificate of occupancy for a residential structure within the development.
4. The applicant/owner agrees that the architectural design of the residential structures, including the building materials, shall be substantially similar, as determined by the Director of Planning or designee, to the architectural rendering dated September 26, 2007, and titled "Stuart Hall at Great Bridge Architectural Front and Side Elevations."

5. The applicant/owner agrees that no more than 192 units shall be constructed within the development. The applicant/owner further agrees that the development shall be constructed in substantial conformance, as determined by the Director of Planning or designee, with the features and layout shown on the conceptual site plans dated September 26, 2007, and titled "Stuart Hall at Great Bridge Conceptual Site Plan – West Parcel" and "Stuart Hall at Great Bridge Conceptual Site Plan – East Parcel."
6. The applicant/owner agrees that all residential units shall be offered exclusively for sale to individual owners who intend to occupy the units as a primary residence. The applicant/owner further agrees that it shall include as a term of its Declaration of Condominium and Bylaws that the number of units which may be offered by any owner for rental subsequent to initial sale by the applicant/owner, shall not exceed ten percent (10%) of the total number of units and that any amendment to such provision shall require a unanimous vote by the owners of the units.
7. As 2006 and 2007 recipients of Virginia Housing and Development Authority Sponsoring Partnership and Revitalizing Communities (SPARC) funding, the applicant/owner agrees to pursue SPARC funding that may be used by Stuart Hall at Great Bridge qualified homebuyers. The applicant/owner shall provide the Office of Zoning Administration with a copy of its application for such funding and notify that office of the outcome of the application.
8. The applicant/owner acknowledges that the property subject to this rezoning is located within the Great Bridge Schools Planning Area, which after the 2007-2008 school year will no longer make available the senior attendance option and all seniors within the Grassfield High School district will be required to attend that school. As such, the applicant/owner agrees that no certificate of occupancy shall be requested or approved before July 1, 2008.
9. The applicant/owner acknowledges that the property subject to this rezoning is expected to generate ten students who are expected to attend Great Bridge High School, and that Great Bridge High School currently operates at a Level of Service currently over 100%. As such, the applicant/owner agrees to make a cash contribution to the City of Chesapeake for the expansion of classroom space in impacted public school facilities and construction of new schools and additions. The amount of the contribution shall be \$254,067 as the per-student amount of the ten students expected to attend Great Bridge High School. The amount of \$254,067 is calculated as: \$3,811 per unit/0.15 student

generation rate = \$25,407 per student x 10 High School students = \$254,067. The applicant/owner agrees to make the proffered cash contribution prior to final site plan approval. The applicant/owner 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 School Capital Construction Costs and shall be subject to City Council approval prior to appropriation.

10. The applicant/owner agrees that it will maintain, as more particularly shown on the proffered conceptual site plan, the existing dense landscape buffer of 35' to 50' which shall be augmented with major evergreen trees, medium evergreen trees and understory plantings in excess of the required Buffer Yard C located between the proposed development and adjacent residential subdivision. The applicant/owner shall complete its augmentation by the issuance of the 3<sup>rd</sup> certificate of occupancy for a residential structure within the development.
11. The applicant/owner recognizes that additional ingress/egress points accessing Cedar Road may impede efficient traffic flow, and therefore agrees to dedicate a non-ingress/non-egress easement along the parcels' frontage on Cedar Road and that no direct access to Cedar Road shall be permitted during or after construction of the development. The applicant/owner agrees that the easement required pursuant to this proffer shall be recorded by the issuance of the 3<sup>rd</sup> certificate of occupancy for a residential structure within the development.
12. The applicant/owner agrees to remove the existing main signage for the Pines of Warrick Subdivision located on the applicant/owner's property nearest to the intersection of Cedar Road and Pines of Warrick Drive and will construct monument signage at the main entrances of Stuart Hall at Great Bridge for the Stuart Hall at Great Bridge development. The applicant/owner shall install the signage pursuant to this proffer by the issuance of the 3<sup>rd</sup> certificate of occupancy for a residential structure within the development.

Mayor Edge announced that the applicant had submitted a letter requesting the item be withdrawn from consideration.

City Clerk Moore identified the following speaker in support of Public Hearing Item **B**:

Phillip Schucet, 4538 Bonney Road, Virginia Beach, representing Dragas Associates.

City Clerk Moore identified the following speakers in support of Public Hearing Item **B** who did not wish to speak:

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Helen Dragas, 4538 Bonney Road, Virginia Beach, representing Dragas Associates.

Shepelle Watkins-White, 524 Johnstown Road, representing Kaufman and Canoles.

Patrice Ayvazian, 712 Mill Landing Road, representing self.

Denise Goode, 355 Crawford Street, Portsmouth, representing HOME, Inc.

Nick Baum, 308 Worthington Square, Portsmouth, representing self.

Amanda Fredrickson, 302 Oak Lake Way, representing self.

Adam James, 412 Acorn Grove Lane, representing self.

Robin Jones, 733 Indian Cedar Drive, representing self.

Ryan Jones, 4527 Sir Johns Lane, Virginia Beach, representing self.

Megan Moniot, 1523 Shenandoah Parkway, representing self.

Anthony Muscatello, 5717 Magnolia Chase Way, Virginia Beach, representing self.

Francis Nance, 5700 Cleveland Street, Virginia Beach, representing Thalhimer's.

Lorrie Powell, 611 Mill Landing Road, representing self.

Ron Satterfield, 831 Crescent Trace, representing self.

Sandy Sayre, 508 Wessex Drive, representing self.

Traci Stevens, 612 West Lake Circle, representing self.

Julie Smith, 637 Sweet Leaf Place, representing self.

Cristina Hood, 645 Mill Landing Road, representing self.

City Clerk Moore identified the following speakers in opposition to Public Hearing Item **B**, who did not wish to speak:

Paul Lindgren, 504 Dundas Court, representing self.

Vernon Marsh, 653 Butterfly Drive, representing Dove Acres Homeowners.

Albert Onley, 717 Wimbley Lane, representing self.

Mark Wagner, 420 Pines of Warrick Drive, representing self.

Boyd Nelson, 417 Wessex Drive, representing self.

Donna Nelson, 417 Wessex Drive, representing self.

Matthew Holt, 726 Montebello Circle, representing self.

Lamont Simmons, 873 Bells Mill Road, was not present when called.

Lynne Kennedy, 717 Montebello Circle, representing self.

Susan Redford-Vogler, 424 Wessex Drive, representing self.

Thomas Matthews, 704 Montebello Circle, representing self.

William Gasser, 402 Penhook Court, representing Pines of Warrick Civic League.

Donna Doerfler, 716 Wimbley Lane, representing self.

Stephen Clock, 801 Montebello Circle, representing self.

Michael Wright, 503 Dundas Court, representing Pines of Warrick.

Tom Lewis, 501 Wessex Drive, representing Pines of Warrick.

Laurel Garzon, 705 Montebello Circle, representing Pines of Warrick.

Diane Lupton, 716 Montebello Circle, representing self.

Kimberly Kennedy, 904 Montebello Circle, representing self.

Mark Mansfield, 404 Penhook Court, representing self.

James Waterfield, 623 Montebello Circle, representing self.

Tony Arney, 552 Drove Drive, representing self.

Council Member Collins, on a motion seconded by Vice Mayor Parker, moved to allow withdrawal of R(C)-07-28 from consideration at the request of the applicant.

There was no discussion.

On the motion to approve the withdrawal request for R(C)-07-28, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward, and Willis.

Voting no: None.

C. **R(C)-07-12 PROJECT: The Boulevard at Greenbrier** APPLICANT: S.A.R., LLC AGENCY: Troutman Sanders, LLP PROPOSAL: A conditional zoning reclassification of 8.951 acres from B-3, Highway Business District to R-MF-2, Multi-family Residential District for 148 apartment units. PROPOSED COMP LAND USE & DENSITY: High density residential-17.6 units per acre EXISTING COMP LAND USE & DENSITY: High density mixed use LOCATION: 1539 Tintern Street TAX MAP SECTION/PARCEL: 0270000000770, portion of 0270000000774, portion of 0270000000775 BOROUGH: Washington

The Planning Commission recommends approval with the following proffers:

1. The applicant and/or owner agree that the proposed development on the property to be known as the Boulevard (hereinafter the "Property"), shall be limited to persons and families that meet the following criteria for "Affordable Housing":
  - a. 100% of the residential dwelling units on the Property shall be restricted to persons or families whose adjusted family incomes are within the limits established by the Virginia Housing Development Authority (VHDA) (Section 36-55.24, et seq., of the Code of Virginia) and the regulations by VHDA for Low and Moderate Income Families.
  - b. The determination of adjusted family income for a household shall be made at the time of their initial occupancy of an apartment unit.
  - c. The Affordable Housing units available on the Property shall be available for Qualifying Households for a period of not less than 10 years.

- d. The Owner shall annually prepare and file with the City's Office of Housing, compliance reports to ensure that the Affordable Housing units are occupied by persons or families that qualify with the foregoing VHDA regulations.
2. The application/owner agrees that the 8.951<sup>±</sup> acre area referenced in this application shall be developed in a substantially similar manner with the attached exhibit entitled "The Boulevard, Chesapeake, Virginia, Preliminary Site Plan", dated September 21 2007, and prepared by Engineering Resources Group, LLC which Exhibit is on file in the Planning Department, (hereinafter "Preliminary Site Plan"). Modifications to the Preliminary Site Plan may be made administratively during final site plan review by the City of Chesapeake Planning Director or its designee if necessitated by staff comments during site plan review.
3. The application/owner agrees that the exterior elevations of the structures located on the Property housing the apartment units shall be substantially similar to the architectural renderings entitled "The Boulevard at Greenbrier Chesapeake Virginia" dated July 18, 2007 prepared by CMSS Architects, P.C. and on file with the Chesapeake Planning Department (hereinafter "Building Elevations"). The modifications to the Elevations may be made administratively by the Chesapeake Planning Director or its designee if necessitated during the site plan approval, construction plan approval or the building permit approval processes of the City of Chesapeake.
4. The total number of residential dwelling units on the Property shall not exceed 148 units.
5. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public libraries, including but not limited to, land acquisition; design, construction, expansion, renovation and repair of buildings and appurtenances; and acquisition of capital assets necessary to the operation of public libraries. The amount of the voluntary cash contribution shall be \$70,422.80. The applicant/owner agrees to make the proffered cash contribution prior to the issuance of the first building permit for the residential dwelling units.
6. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public emergency service facilities, including, but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the provision of emergency fire and medical services to the citizens

of Chesapeake. The amount of the voluntary cash contribution shall be \$47,693.00. The applicant/owner agrees to make the proffered cash contribution prior to the issuance of the first building permit for the residential dwelling units.

7. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for the expansion of classroom space in impacted public schools, including but not limited to, land acquisition for the expansion of public school facilities and construction of new schools and additions. The amount of the voluntary cash contribution shall be \$99,097.40. The applicant/owner agrees to make the proffered cash contribution prior to the issuance of the first building permit for the residential dwelling units. The applicant/owner 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 School Capital Construction Costs and shall be subject to City Council approval prior to appropriation. In the event the cash proffer is not expended for land acquisition or classroom expansion within time constraints imposed by state law, the applicant/owner agrees that the cash proffer may be used for capital improvement projects for major repair, maintenance and renovation of public schools in the same school planning area as the rezoned property.

City Clerk Moore identified the following speakers in support of Public Hearing Item **C**:

R. J. Nutter, 222 Central Park, Virginia Beach, representing S.A.R., LLC.

Ron Ripley, 4510 White Acres, Virginia Beach, representing S.A.R., LLC.

There was discussion between Council Member Ward, Planning Director Nielson and Mr. Ripley concerning infill development, school population numbers, Level of Service and number of bedrooms in the different types of units for the project.

Council Member Krasnoff, on a motion seconded by Council Member Willis, moved denial of R(C)-07-12 as presented.

Extensive discussion ensued between Council Member Krasnoff, Planning Director Nielson and City Engineer Martin concerning the history of the property, past proffers that had been offered for transportation, current transportation proffers, and rental units versus ownership of units.

Council Member Krasnoff called Program Administrator for Planning and Development for School Administration Paige Stutz to the podium for questions from Council Members.

Discussion ensued between Council Member Krasnoff and Ms. Stutz concerning proffers for schools in the proposed area. Ms. Stutz stated that if full proffers were offered by the applicant for schools with the proposed rezoning, the total would equal \$1.5 million for schools.

Council Member Krasnoff made additional comments concerning traffic, roads and schools stating that if the Level of Services were not met, the Council should not support the application.

Council Member Willis asked Ms. Stutz to review plans for any replacement schools for that area of the City.

Ms. Stutz stated that no money had been allocated for the proposed area; however, in the future, the Indian River and Oscar Smith areas would need \$85 million for a new High School and \$24 million for an elementary school to address overcrowding issues.

Council Member Willis reviewed the school needs and costs to meet those needs; she noted the importance of having affordable housing in areas where schools are no Level of Service impacted. Mrs. Willis stated her inability to support the application.

Additional discussion ensued between Council Members and staff concerning the new fiscal impact model and its impact on future school population numbers, mass transit needs, infill development and the need for workforce housing.

Council Member Hayes, on a substitute motion seconded by Council Member Collins, moved approval of R(C)-07-12 with proffers as presented.

There were additional comments by Council Members on school numbers, portable classrooms, Level of Service Policy and future trends as related to schools and the need for workforce housing.

Vice Mayor Parker, on a motion seconded by Council Member de Triquet, moved the previous question to end discussion.

On a motion to move the previous question and end discussion, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

On the motion substitute for approval of R(C)-07-12 with proffers as presented, voting yes: Council Members Adams, Collins, Hayes, and Ward.

Voting no: Council Members de Triquet, Edge, Krasnoff, Parker, and Willis.

The substitute motion failed.

On the main motion to deny R(C)-07-12, voting yes: Council Members de Triquet, Edge, Krasnoff, Parker and Willis.

Voting no: Council Members Adams, Collins, Hayes and Ward.

The main motion for denial was adopted.

D. **UP-07-33 PROJECT: The Boulevard at Greenbrier** (formerly *Tintern Apartments*) APPLICANT: S.A.R., LLC AGENCY: Troutman Sanders, LLP PROPOSAL: A conditional use permit to allow buildings greater than 35 feet in height in a proposed apartment development. ZONE: Proposed: R-MF-2 Multi Family Residential District, Current: B-3 Highway Commercial District SIC CODE: 6513 LOCATION: 1539 Tintern St. TAX MAP SECTION/PARCEL: 0270000000770, portion of 0270000000774, portion of 0270000000775 BOROUGH: Washington

The Planning Commission recommends approval with the following stipulations:

1. The approval of UP-06-39 is contingent on approval of R(C)-06-25.
2. The maximum building height shall not exceed sixty (60) feet.
3. The applicant/owner shall obtain an access easement from the owner of the adjacent property to the north (Chesapeake Gateway Condominiums) or south (Red Cedar Apartments) prior to final site plan approval to ensure that a second paved access will be provided. The second access must be in a location approved by Public Works and the Fire Department. Access to the property to the north is to be used for emergency purposes only.

Council Member Krasnoff, on a motion seconded by Council Member Willis, moved to deny UP-07-33.

There was no discussion.

On the motion to deny UP-07-33, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward, and Willis.

Voting no: None

E. **R(C)-07-19 PROJECT: Yadkin Station** APPLICANT: LORI, Inc. AGENCY: Golden Heritage Homes, LLC PROPOSAL: A conditional zoning reclassification of 10.369 acres from R-15s, Residential District to O&I, Office and Institutional District for the purpose of constructing group housing for the elderly. PROPOSED COMP LAND USE & DENSITY: Medium Density Residential, 5 to 16 units per acre EXISTING COMP LAND USE & DENSITY: Low Density Residential, less than 4 units per acre LOCATION: 3343, 3345 and 3353 Galberry Rd. TAX MAP SECTION/PARCEL: 0330000001720, 0330000001740, 0330000001750, 0330000001760 BOROUGH: Deep Creek

The Planning Commission recommends denial.

City Attorney Hallman stated that the application could not be heard by City Council because the applicant had not submitted an approved proffer statement.

Council Member Krasnoff, on a motion seconded by Council Member Ward, moved to continue R(C)-07-19 to the December 18, 2007 City Council meeting.

There was no discussion.

On the motion to continue R(C)-07-19 to the December 18, 2007 City Council meeting, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

F. **UP-07-21 PROJECT: Yadkin Station** APPLICANT: LORI, Inc. AGENCY: Golden Heritage Homes, LLC PROPOSAL: A conditional use permit to allow group housing for the elderly consisting of 57 condominium units on 10.369 acres. ZONE: Existing: R-15s, Residential District. Proposed: O&I, Office and Institutional District in R(C)-07-19. SIC CODE: 805 LOCATION: 3343, 3345 & 3353 Galberry Rd. TAX MAP SECTION/PARCEL: 0330000001720, 0330000001740, 0330000001750, 0330000001760 BOROUGH: Deep Creek

The Planning Commission recommends denial.

City Clerk Moore identified the following speaker in opposition to Public Hearing Item F:

Charlotte Culpepper, 3438 Martin Johnson Road, representing self.

Council Member Krasnoff, on a motion seconded by Council Member Ward, moved to continue UP-07-21 to December 18, 2007.

There was no discussion.

On the motion to continue UP-07-21 to December 18, 2007, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

City Council Members convened at 9:08 p.m. and reconvened at 9:26 p.m.

G. **UP-07-38 PROJECT: St. Stephen Martyr Mausoleum** APPLICANT: St. Stephen Martyr Catholic Church AGENCY: Le Clair Ryan, PC PROPOSAL: A conditional use permit to construct and operate a mausoleum on 0.94 acres and for a private access lane in accordance with Section 3-301 B of the Zoning Ordinance of the City of Chesapeake. ZONE: R-15s Single Family Residential SIC CODE: 6553 LOCATION: 108 Sandy Road TAX MAP SECTION/PARCEL: 0730000000620, 0730000000690 BOROUGH: Pleasant Grove

The Planning Commission recommends approval with the request for a private access lane connecting the mausoleum with the church with the following stipulations:

1. The applicant/owner agrees to provide the necessary right-of-way dedication on Sandy Road as determined by the Department of Public Works prior to final site plan approval.

2. The building setbacks on the final site plan shall include a secondary front yard of 20 feet from the dedication line adjacent to Sandy Road and a secondary side (rear) setback of 20 feet as required by the Zoning Ordinance.
3. The applicant/owner agrees to vacate the interior property lines.
4. All standard Landscape Ordinance requirements will apply in accordance with the Zoning Ordinance Section 19-600.

City Clerk Moore stated that the applicants and agent were present and available for questions.

Council Member Adams, on a motion seconded by Vice Mayor Parker, moved approval of UP-07-38 with stipulations as presented and including the private access lane.

There was no discussion.

On the motion to approve UP-07-38 with stipulations as presented and the private access lane, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

**H. UP-07-40 PROJECT: Good Hope United Methodist Preschool and Daycare** APPLICANT: Good Hope United Methodist Church PROPOSAL: A conditional use permit to operate a preschool and child daycare center at the existing church. The applicant also requests an alternative parking surface in accordance with Section 19.406.c.1 of the Zoning Ordinance. ZONE: A-1 Agricultural District SIC CODE: 8351 LOCATION: 1633 Benefit Road TAX MAP SECTION/PARCEL: 084000000130 BOROUGH: Pleasant Grove

The Planning Commission recommends approval with the requested alternative parking surface.

City Clerk Moore stated that the agent was present and available for questions.

Council Member Adams, on a motion seconded by Council Member Hayes, moved approval of UP-07-40 with the alternative parking surface.

There was no discussion.

On the motion to approve UP-07-40 with the alternative parking surface, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

I. **UP-07-30 PROJECT: Brookside Office Building** APPLICANT: Great Bridge Boulevard Associates AGENCY: Engineering Services, Inc. PROPOSAL: A conditional use permit to exceed the height limitation of a proposed 30,000 square foot building (from 35 feet to 47 feet) by 12 feet. ZONE: Greenbrier PUD, zone 5b SIC CODE: 89 LOCATION: 1120 Volvo Parkway TAX MAP SECTION/PARCEL: 0280000001020 BOROUGH: Washington

The Planning Commission recommends approval with the following stipulations:

1. The applicant/owner agrees to amend the previously approved landscaping plan along the north side of the property line to provide sufficient year round screening by planting large evergreen canopy trees as approved by the City Arborist.
2. The applicant/owner agrees to provide sufficient year round screening by planting large evergreen canopy trees 30 foot on center, using a minimum of three species, along the entire length of the Ashley Woods South Common area as approved by the Greenbrier Property Owners Association and the City Arborist.
3. A photometric plan is required for the building and the parking lot and must be submitted as part of the construction plan. This plan shall include but not limited to the following:
  - a. All lighting fixtures shall be horizontally mounted, full cutoff optics with flat lenses with no portion of the lens protruding below the housing.
  - b. The luminaire mounting height shall be 22 feet or less. Parking lots shall have an average illumination of 0.5 to 1.5 foot-candles. Parking lot lighting adjacent to residential areas must have a maximum illumination level at the property line of 0.1 foot-candle.
  - c. The lights of the building and the parking lot, except for security, shall be turned off no later than 8:00 p.m. Such lights should be confined to that needed for basic security. The lights of the parking lot shall not remain lighted except for illuminating entryways by the fixtures closest to the building entrances.
  - d. An actual measurement of compliance with the photometric plan shall be conducted before a Certificate of Occupancy can be issued.
4. No interior or exterior illuminated signage shall be permitted on the building except along the primary entrance to the building facing Volvo Parkway. No electronic message boards shall be permitted anywhere on the property.

5. The dumpster shall be located away from the residential property line to the south side of the parking lot. Dumpster shall not be emptied between the hours of 9 p.m and 7 a.m.
6. The building architecture, materials, colors and signage shall be reviewed and approved by the Department of Planning as required by the Greenbrier PUD.

City Clerk Moore identified the following speakers on Public Hearing Item

**I:**

Kevin Lefcoe, 1260 Laskin Road, Virginia Beach, representing Great Bridge Boulevard Associates, spoke in support of Public Hearing Item I.

Walton P. Burkhimer, Jr., P.E., 3351 Stoneshore Road, Virginia Beach, representing Great Bridge Boulevard Associates, spoke in support of Public Hearing Item I.

Victoria Nicholls, 1124 Mill Lake Quarter, representing self, spoke in opposition to Public Hearing Item I.

Council Member Collins, on a motion seconded by Council Member Adams, moved approval of UP-07-30 with stipulations and the amended stipulation #3(c) to read as follows:

- c. The external lights shall be turned off no later than 8:00 p.m. except as approved in the photometric plan for security lighting. All windows of the building visible from land zoned or used for residential purposes shall be tinted to provide for sufficient opacity to prevent light glare.

There was discussion between Council Member Collins and Planning Director Nielson concerning the use permit application and clarification that the application was to allow the building to for exceed the height limitation in the City Code. Mr. Nielson further stated that the height restriction in the zoning code was currently under review by the Planning staff for possible revisions.

There was no additional discussion.

On the motion to approve UP-07-30 with stipulations and amended stipulation #3, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

**J. UP-07-31 PROJECT: Merchant's Tire at Greenbrier Square**  
APPLICANT: Merchant's, LLC AGENCY: Horton & Dodd, PC PROPOSAL: A conditional use permit to allow a motor vehicle repair shop on approximately 0.7 acre. ZONE: B-2, General Business District SIC CODE: 7538 LOCATION: East side of Battlefield Blvd. north of Debaun Ave. TAX MAP SECTION/PARCEL: Portion of 0270000000650 BOROUGH: Washington

The Planning Commission recommends approval with the following stipulations:

1. The applicant/owner shall provide non ingress/egress easements in accordance with the requirements of the Director of Public Works or designee around the perimeter of the property subject to UP-07-31 except for the three entrances generally depicted on the preliminary site plan stamp-dated September 27, 2007 in order to mitigate impacts and provide for traffic safety. The easements shall be approved and recorded or filed for recordation before approval of a final site plan.
2. Paint striping on public streets depicted on the preliminary site plan dated September 27, 2007 shall be determined and approved by the Director of Public Works or designee.

City Clerk Moore stated that the agent was present and available for questions.

Council Member Krasnoff, on a motion seconded by Council Member Hayes, moved approval of UP-07-31 with stipulations as presented.

There was no discussion.

On the motion to approve UP-07-31 with stipulations as presented, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

**K. UP-07-39 PROJECT: Little Joe's Auto APPLICANT: JAF Properties, LLC AGENCY: Horton & Dodd, PC PROPOSAL: A conditional use permit to allow automobile sales and leasing in an existing building on a 0.918 acre parcel. ZONE: PUD, Planned Unit Development SIC CODE: 5511, 7538 LOCATION: 1450 South Military Highway TAX MAP SECTION/PARCEL: 0200000000036 and 0200000000083 BOROUGH: Washington**

The Planning Commission recommends approval with the following stipulations:

1. The applicant/owner shall vacate the property line separating the two tax parcels that constitute this site prior to issuance of a building permit for the proposed use.
2. The applicant/owner shall bring the freestanding sign in compliance with Sec 14-708 of the Zoning Ordinance prior to issuance of a certificate of occupancy.
3. The applicant/owner shall screen the dumpster in accordance with the requirements of the zoning ordinance.
4. The applicant/owner shall not park vehicles for display or sale in any required landscape buffer areas or other areas not specifically delineated on the site plan for display or sales of vehicles.
5. The applicant/owner shall not park vehicles for display or sale in required off-street parking spaces.

City Clerk Moore 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-07-39 with stipulations as presented.

There was no discussion.

On the motion to approve UP-07-39 with stipulations as presented, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

L. **UP-07-36 PROJECT: Snyder Automobile Repair Shop** APPLICANT: G. E. Snyder, et als PROPOSAL: A conditional use permit to operate an automobile repair shop on a 0.944 acre site. ZONE: B-3 Highway Business District SIC CODE: 75 LOCATION: 3752 South Military Highway TAX MAP SECTION/PARCEL: 024000000350 BOROUGH: Deep Creek

The Planning Commission recommends approval with the following stipulations:

1. The applicant/owner agrees that all cars being repaired shall be stored inside the fenced storage yard when the business is closed.
2. The applicant/owner agrees that there will be no vehicles advertised for sale on the site.
3. The applicant/owner agrees that all repair work shall be conducted indoors.
4. The applicant/owner shall provide, install, and perpetually maintain all required landscape buffers and plant materials in accordance with Section 19-600 of the Zoning ordinance, as determined by the City Arborist. The landscape buffers and plant materials shall be reflected on the final site plan.
5. The opaque material approved by the Planning Director and the Zoning Administrator, or their respective designees, that is on the existing chain-link fence to provide screening for the storage area shall be perpetually maintained and shall not be replaced with slats.
6. Evergreen shrubs approved by the City Arborist shall be planted and perpetually maintained at a spacing of not less than 4 linear feet along the existing chain-link fence in its entirety to provide screening of the storage area. This requirement shall be reflected on the final landscape plan.
7. The applicant/owner shall obtain all required City approvals, including without limitation the approval of a final site plan and a certificate of occupancy, and construct all required improvements to the property within 180 days following the approval of this conditional use permit application by City Council. In the event that the applicant/owner fails to comply with these requirements within

said 180 day period, the Zoning Administrator may request revocation proceedings pursuant to Section 17-112 of the Zoning Ordinance.

City Clerk Moore stated that the applicant was present and available for questions.

Council Member Ward, on a motion seconded by Vice Mayor Parker, moved approval of UP-07-36 with stipulations as presented.

There was no discussion.

On the motion to approve UP-07-36 with stipulations as presented, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

M. **UP-07-35 PROJECT: Dimeck Farm Cingular Monopole** APPLICANT: Cingular Wireless AGENCY: Bowman, Green, Hampton & Kelly, PLLC PROPOSAL: A conditional use permit to allow a 150 foot monopole communication tower on a leased parcel that is a portion of a 38.54 acre tract. The applicant also requests an alternative parking surface in accordance with section 19-406.c.1 of the zoning ordinance. ZONE: A-1 SIC CODE: 48 LOCATION: 2826 Lake Drummond Causeway TAX MAP SECTION/PARCEL: Portions of 0930000000140 and 0930000000146 BOROUGH: Pleasant Grove

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 require all collocators to secure administrative approval from the Planning Department prior to installing their equipment on the tower.
3. 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.
4. 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.

5. The applicant/owner shall provide a standard commercial paved entrance and shall show it on the final site plan.

City Clerk Moore stated that the applicant was present and available for questions.

Council Member Willis, on a motion seconded by Council Member Hayes, moved approval of UP-07-35 with stipulations as presented and the alternative parking surface.

There was general discussion concerning the appropriateness of the project with Council Members Adams, Hays and Willis expressing support for the application.

Council Member Adams asked for a report on how other localities were working to disguise monopolies around the Country.

There was no further discussion.

On the motion to approve UP-07-35 with stipulations as present and with the alternative parking surface, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

**N. UP-07-13 PROJECT: Elizabeth River Biofuels Project APPLICANT:** International Bio Energy-Virginia, LLC **PROPOSAL:** A conditional use permit to allow an ethanol manufacturing facility and co-generation plant on a 97 acre parcel, and a height limit increase of 60 feet. **ZONE:** M-3, Waterfront Industrial District **SIC CODE:** 2869 and 4911 **LOCATION:** 1005 Giant Cement Drive **TAX MAP SECTION/PARCEL:** 0180000000010 **BOROUGH:** Deep Creek

The Planning Commission recommends denial.

City Clerk Moore identified the following speakers in support of Public Hearing Item **N**:

Rick Starnes, 5701 Masada Drive, Chesterfield, representing IBE Virginia.

Dr. William E. Ward, 1432 Waterside Drive, representing International Bio-Energy of Virginia.

Sidney Harrison, 13203 N. Enon Church Road, Chester, representing IBE.

Calvin Zongolowicz, 104 Overholt Drive, Virginia Beach, representing self.

Frank Driscoll, 505 Cedar Road, representing self.

Paul Horsboll, 408 Woodbury Drive, representing Chesapeake Port Authority.

Hartley F. Dewey, 1000 Cannonbury Common, Virginia Beach, representing Chesapeake Deep Water Terminal, Inc.

Burnie Mansfield, 1144 Virginia Avenue, representing Chesapeake Port Authority.

Tom Freeman, 1900 Pocatoy Road, representing self.

Todd Heare, 1840 Shillelagh Road, representing self.

Chris Wardwell, 1213 Victory Boulevard, representing Gunt Cement Company was not present when called..

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Robin Freeman, 1900 Pocatoy Road, representing Chesapeake Agricultural Advisory Commission.

Molly Pugh, 717 Head of River Road, representing Virginia Grain Producers Association.

Lyle Pugh, Sr., 1755 Centerville Turnpike, South, representing Virginia Farm Bureau.

Todd Childress, 1103 Watson Glen Court, representing self.

Tony Banks, P. O. Box 27553, Richmond, representing Virginia Farm Bureau Federation.

John Douglas Forrest, 1200 Lawrence Grey Drive, Virginia Beach, was not present when called.

John Henry Martin, 3815 Bruce Road, representing self.

David Johnson, 8106 University Drive, Richmond, representing ERM.

Clint Damuth, 1100 Cavalier Boulevard, representing Damuth Trane.

Don Goldberg, 2115 Portlock Road, representing self.

Ken Thiery, 9324 Windsor Boulevard, Windsor, representing self.

Mark Smorhaun, Williamsburg, representing Delta-t.

Lyle Pugh, Jr., 717 Head of River Road, representing Virginia Grain Producers Association.

Dr. James Robinson, 2301 Tapscott Avenue, representing self.

Mike Nickelsburg, 475 Waters Street, Portsmouth, representing Elizabeth River Project, spoke on Public Hearing Item N.

City Clerk Moore identified the following speakers in opposition to Public Hearing Item **N**:

Harry Slaughter, 723 Wood Duck Lane, representing self.

Christy Everett, 142 West York Street, Norfolk, representing Chesapeake Bay Foundation.

Irene Waller, 1104 Red Maple Road, representing self.

JoAnn Clark, 3905 Balboa Crescent, representing self.

Lamont Simmons, 873 Bells Mill Road, was not present when called.

Terry Danaher, 413 Dinwiddie Street, Portsmouth, representing self and Olde Towne Civic League.

Paige Cherry, 3521 Willow Breeze Drive, Portsmouth, representing self.

Karen Smith, 2213 Wildwood Road, representing self.

Erin Wyse, 113 Channing Avenue, Portsmouth, representing self.

Dottie Wyatt, 99 Channing Drive, Portsmouth, representing self.

Steve Carroll, 3112 Riveredge Drive, Portsmouth, representing self.

Samantha Fletcher, 2213 Wildwood Road, representing self.

Cristina Fletcher, 2217 Wildwood Road, representing self.

David Champacka, 1105 Battery Circle, representing self.

Sandy Champacka, 1105 Battery Circle, did not wish to speak.

Frank Lilley, 905 Ohio Street, representing South Norfolk Civic League.

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Susan Cullen, 1304 Boxwood Drive, representing self.

Mick Meyer, 605 Stream Arch, was not present when called.

Charlotte W. Culpepper, 3438 Martin Johnson Road, representing self.

C. C. Hawkins, 3088 Kenelm Drive, representing self.

Charles Farmer, 1224 Boxwood Drive, representing self.

John Lifsey, 229 Mount Vernon Avenue, Portsmouth, representing Port Norfolk Civic League.

Joanna Hall, 92 Nicholson Street, Portsmouth, representing self.

Linda Kennedy, 1313 Boxwood Drive, representing self.

Laura Somers, 5 Irwin Street, Portsmouth, representing Cradock Civic League.

Pablo Custodio, 3129 Camelot Boulevard, representing self.

Ellen Dozier, 63 Channing Avenue, Portsmouth, representing self.

City Council recessed at 12:58 p.m. and reconvened at 1:17 a.m.

Veronica Becker, 717 Windley Lane, representing self.

Don Smith, 2213 Wildwood Road, representing self.

Joseph Scharl, 4832 Milan Drive, Portsmouth, representing Portsmouth Chamber of Commerce.

Martha Ann Creecy, 317 Dinwiddie Street, Portsmouth, representing self.

McFadden Hall, 1101 Rockland Terrace, representing self.

Mike Mercer, 2009 Cherry Lane, representing self.

Teresa Olson, 74 Bainbridge Boulevard, was not present when called.

Dr. Bobbie Hansel-Union, 1237 N. River Drive, was not present when called.

William Wendell, 2204 Delwood Road, representing Brentwood Neighborhood.

Paul Willis Landers, Jr., 402 Cabot Street, Portsmouth, representing South Fairview Heights Civic League.

Sandra E. Hulock, 1249 N. River Drive, representing Citizens of Brentwood.

Hebba E. Bray, Jr., 5436 Stewart Drive, Virginia Beach, representing Plumbers & Pipefitters Local 110, was not present when called..

Timothy J. Egan, 910 Sportswood Avenue, Norfolk, representing self, was not present when called.

Inez Brittingham, 2237 Ferndale Road, representing self.

Mark Geduldig-Yatrofsky, 363 Middle Street, Portsmouth, representing self.

Pam Harrison, 1124 St. Julian Drive, representing self.

Honorable Doug Smith, 334 Middle Street, Portsmouth, representing Portsmouth City Council.

Honorable William Moody, 801 Crawford Street, was not present when called.

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Honorable Elizabeth Psimas, 801 Crawford Street, Portsmouth, representing City of Portsmouth.

David Bailey, Environmental Law Group, 5803 Staples Mill, Richmond, representing City of Portsmouth.

Tom Stokes, Stokes Environmental Associates, 4101 Granby Street, Norfolk, representing City of Portsmouth.

Alex Sagady, 657 Spartan Avenue, East Lansing, Michigan, Air Pollution Consultant for the City of Portsmouth.

Chuck McGinley, 13701 30<sup>th</sup> Street Circle North, Stillwater, Minnesota, representing City of Portsmouth.

Mayor Edge asked those in favor of the application to stand. Approximately 35-40 people stood.

He then asked those in opposition to the application to stand. Approximately 100 people stood.

Mayor Edge asked Mr. Starnes and Mr. Johnson to the podium to comment on technical issues raised by some of the speakers. Mr. Johnson stressed to Council Members that the Department of Environmental Quality (DEQ) must approve the application before a permit would be issued which would require the applicant to address any deficiencies noted by DEQ in their October 4, 2007 letter. Pellet coolers, loop dryers and emissions were then discussed.

Council Member Hayes stated that he had not received the information he requested from Mr. Johnson in July 2007 on the model used for the project until the week of November 12<sup>th</sup> and asked why it took so long to get the data. Mr. Johnson advised that the project experts indicated that the model purchased was very difficult to understand and it took time to work on the information. Council Member Hayes added that he wanted an independent study prepared by City staff and would have liked the staff to have had time to do that.

Council Member Hayes, on a motion seconded by Council Member Ward, moved to deny UP-07-13.

There was discussion by Council Members on alternative fuels, water usage and the constantly changing figures from the applicant. Concerns were shared on these issues as well as the need to be a good neighbor to the City of Portsmouth and City residents near the site.

Council Members Hayes and Ward thanked citizens for their comments and appreciated working with the different Members of Council from the City of Portsmouth. Both expressed their inability to support the application.

Council Member Collins expressed concern about the lack of federal guidelines for this type of facility. He felt that the City of Chesapeake needed to decide how the waterfront development could move forward. Mr. Collins thanked staff for all their hard work on the project and considering information the obtained during the citizen meetings. He stated appreciation for the work done

with the various authorities in an advisory capacity on the proposed application and expressed hope for future dialogue to continue between the City of Chesapeake and the City of Portsmouth.

Council Member Adams stated that this particular piece of property would be developed in the future. She thanked the applicants and staff for all their hard work and expressed that she was not comfortable with the application.

Mayor Edge emphasized that alternative fuels must be addressed and that the oil prices would continue to rise. He felt that our excessive dependence on foreign oil was a clear and present danger to our Nation.

Council Member Willis asked Planning Director Nielson to explain what some of the by-right uses were in the M-3 district and expressed concerns that another project could be developed on the property by-right that would use more water. Mr. Nielson explained the uses in a M-3 district.

Public Utilities Director Walski was called to the podium by Council Member Willis to address questions about present and future water usage. Council Member Willis offered additional comments about the proposed application, truck traffic, recycling efforts by the applicant and the applicant proposing the development of one of the most technological plants in the world.

There was no further discussion.

On the motion to deny UP-07-13, voting yes: Council Members Adams, Collins, de Triquet, Hayes, Krasnoff, Parker and Ward.

Voting no: Council Members Edge and Willis.

**ADJOURNMENT**

There being no further business for consideration, the meeting was adjourned at 3:35 a.m.

/dah

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Mayor

Attest:

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City Clerk