

Board of Zoning Appeals
Regular Meeting
Cape Charles Civic Center – 500 Tazewell Avenue
March 8, 2022 10:00 A.M.

1. Call to Order
 - a. Roll call and establish a quorum
 - b. Introduction of new member, Laura Weigand
2. Invocation and Pledge of Allegiance
3. Adoption of Agenda
4. Review and Approval of Minutes
 - A. 12/14/2021
5. Old Business/Matters Deferred from Previous Meetings: None
6. New Business – Public Hearing
 - A. An application from David M Gammino of Cape Charles Ventures, LLC, proposed contract purchaser, for a height variance of 8 ft for the entire roof deck and an additional 10 ft. for the elevator shaft only from CC Zoning Ordinance Section 3.6 (D) which has a height requirement maximum of 40 ft. at Tax Map #83A3-1-617B, 83A3-1-620B, and 83A3-1-621B at 7 Strawberry Street for an expansion of Hotel Cape Charles with a 3-story addition to add a maximum of 12 hotel rooms . Said application is being filed with consent from the property owners, Betis Group, Inc.
7. Other Matters
8. Adjourn



DRAFT
Board of Zoning Appeals
Regular Meeting
Cape Charles Civic Center
December 14, 2021
10:00 a.m.

At approximately 10:00 a.m. in the Cape Charles Civic Center, Chairman Bill Murphy called to order the Board of Zoning Appeals Regular Meeting. In attendance were Board members Dolores Blackburn and Pete Baumann. Jim Holloway was not in attendance. There was one vacancy on the board. Also, present were, Interim Town Planner/Zoning Administrator Katie Nunez and Planning Technician Tracy Outten. There were no members of the public in attendance.

Bill Murphy led the Board in the recitation of the Pledge of Allegiance.

CONSENT AGENDA

Motion made by Dolores Blackburn, seconded by Pete Baumann, to accept the consent agenda as presented. The motion was approved by unanimous vote.

Bill Murphy thanked everyone for their hard work over the past year.

REORGANIZATION OF BOARD AND ELECTION OF OFFICERS

Bill Murphy accepted the nomination for Chairman to the Board of Zoning Appeals.

Motion made by Dolores Blackburn, seconded by Pete Baumann, to accept the nomination of Bill Murphy for Chairman of the Cape Charles Board of Zoning Appeals.

Pete Baumann accepted the nomination for Vice-Chairman to the Board of Zoning Appeals.

Motion made by Bill Murphy, seconded by Dolores Blackburn, to accept the nomination of Pete Baumann for Vice-Chairman of the Cape Charles Board of Zoning Appeals.

Tracy Outten accepted the nomination for Secretary to the Board of Zoning Appeals.

Motion made by Bill Murphy, seconded by Dolores Blackburn, to accept the nomination of Tracy Outten for Secretary of the Cape Charles Board of Zoning Appeals.

REVIEW AND APPROVAL OF MINUTES

Dolores Blackburn corrected the spelling of her first name.

Motion made by Dolores Blackburn, seconded by Pete Baumann, to approve the minutes from the February 16, 2021 Public Hearing and Meeting, the April 21, 2021 Public Hearing and Meeting, the July 13, 2021 Public Hearing and Meeting, the August 10, 2021 Public Hearing and Meeting, and the September 14, 2021 Work Session as amended with the correct spelling of Dolores Blackburn's first name. The motion was approved by unanimous vote.

OTHER BUSINESS

- A. *Adoption of Annual Meeting Calendar and Deadline for submission of applications*
- B. *Final review and adoption of Draft Rules of Procedures for the Board of Zoning Appeals*
Bill Murphy thought the new way of doing hearings was an improvement.

Pete Baumann wanted confirmation that Appendix A had been adopted by Town Council. Katie Nunez said yes, and it was added to all commission and board procedures.

Pete Baumann pointed out some clerical mistakes in Attachment A.

C. Annual Report for 2019, 2020, and 202

Katie briefly read the annual report.

Motion made by Bill Murphy, seconded by, Pete Baumann, to adopt the Annual Meeting Calendar and Application Deadline Submission, the Rules of Procedures, and the Annual Reports for 2019, 2020, and 2020 as presented. The motion was approved by unanimous vote.

D. Resignation of Tom Weaver, effective November 2021

Katie Nunez informed the board that member Tom Weaver had resigned.

Hearing no objection, Chairman Bill Murphy adjourned the Board of Zoning Appeals Public Hearing and Meeting at 10:47 a.m.

Chairman Bill Murphy

Planning Technician

TOWN OF CAPE CHARLES
Notice of Public Hearing – Variance Request

The Cape Charles Board of Zoning Appeals will hold a public hearing on Tuesday, March 8, 2022 at 10:00 am in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive public comment on the following:

- A. An application from David M Gammino of Cape Charles Ventures, LLC, proposed contract purchaser, for a height variance of 8 ft for the entire roof deck and an additional 10 ft. for the elevator shaft only from CC Zoning Ordinance Section 3.6 (D) which has a height requirement maximum of 40 ft. at Tax Map #83A3-1-617B, 83A3-1-620B, and 83A3-1-621B at 7 Strawberry Street for an expansion of Hotel Cape Charles with a 3-story addition to add a maximum of 12 hotel rooms . Said application is being filed with consent from the property owners, Betis Group, Inc.

The application is available for public review on our website at www.capecharles.org. Please contact Interim Town Planner/Zoning Administrator Katie Nunez at 757-331-2036, or by email at planner@capecharles.org, if you have any questions or require additional information. Anyone interested in attending and needing special assistance contact the Town at least 48 hours before the hearing.

AD PLACED: Eastern Shore Post – Tuesday, February 22, 2022
AD TO RUN: Friday, February 25, and March 4, 2022



BOARD OF ZONING APPEALS STAFF REPORT

Meeting Date: April 20, 2021

Item #: 2b – Variance

Prepared by: Katie H. Nunez, Interim Planning/Zoning Administrator

Date: April 15, 2021

APPLICANT: David M. Gammino of Cape Charles Ventures, LLC (Proposed Contract Purchaser) with consent from property owners, Betis Group, Inc.

TYPE OF APPLICATION: Variance

SITE ADDRESS: 7 Strawberry Street

SPECIFIC REQUEST: Height Variance of 8 ft for the entire roof deck and an additional 10 ft for the elevator shaft only

TAX MAP: 83A3-1-617B, 83A3-1-620B, and 83A3-1-621B

ZONING: Section 3.6 (D)

LOT SIZE: 8,369 sq. ft.

CURRENT ZONING: Commercial-1 (C-1)

DATE RECEIVED: February 3, 2022

DATE DEEMED COMPLETE: February 24, 2022

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): May 25, 2022

NARRATIVE OF PROPOSAL

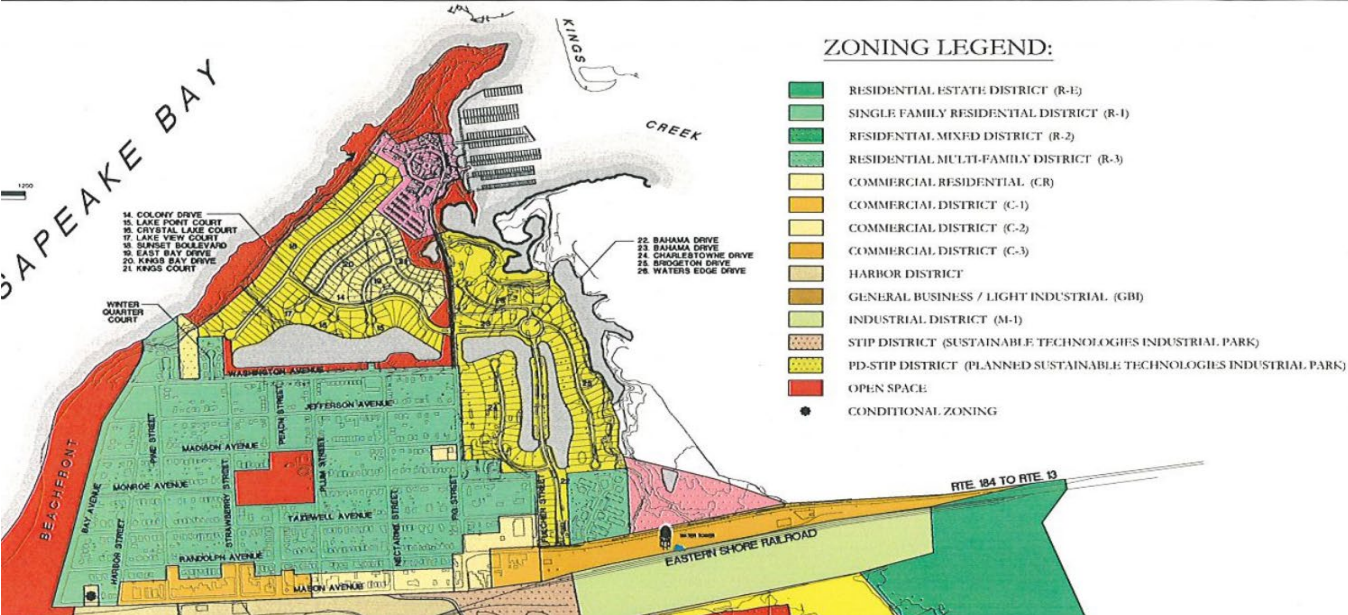
The applicant owns and operates Hotel Cape Charles located at 235 Mason Avenue, a 22-room hotel. He is under contract to purchase the property and existing building located at 7 Strawberry Street and is seeking to renovate the existing building and add 3 additional stories to provide a maximum of 12 additional hotel rooms as an annex building to Hotel Cape Charles. The requested expansion of 3 stories onto the existing structure would require a variance from the height requirements of the Commercial-1 Zoning District which is established at a maximum height of 40 feet.

When I met with the applicant in the fall 2021 to discuss the applicant's desire for an expansion of the hotel, it was noted that the parking regulations would be a challenging component to achieve compliance with in the immediate downtown area, but the parking regulations do contain a Shared Parking Agreement component. The applicant has engaged in conversations with the owner of the property known as the former Meatland building at 713 Randolph Avenue to lease 32 dedicated spaces to meet the parking requirements and has provided a draft lease as part of his application. During this meeting, I also raised with him that the office had received zoning complaints about the intrusion of his commercial operations onto a residentially zoned lot owned by him and located directly behind the hotel and these issues will have to be resolved, especially if the hotel is going to expand. Since said expansion would most likely increase the support functions of the commercial operations (trash

collection, parking of staff in the rear of the property, parking of hotel-owned golf carts for use by hotel guests and staff).



SITE EXCERPT FROM CURRENT ZONING MAP



Commercial-1 Zoning District in Mustard Yellow: stretches along Mason Avenue from Harbor Street to just before Plum Street and it continues down the side streets of Pine St and Strawberry St. to the corner lots that front on Randolph Avenue.

STAFF REVIEW AND ANALYSIS OF APPLICATION

These three lots total 8,369 sq. ft. and the existing building is 2,880 sq. ft. The property is deemed to be legal, non-conforming lots in existence prior to the adoption of the Town zoning ordinance. The property is located in a Commercial-1 District and the building has been used as an office and most recently as interim retail space.

When I have looked at the Cape Charles Zoning Ordinance Article II regarding legal, non-conforming lots, uses and structures, I have deemed the lots, the existing structure, and the use of said structure to fall within the components of this section of the ordinance and the application for a variance is legal and can be rightfully considered by the Board of Zoning Appeals.

The initial zoning review that I have undertaken concerns the current operations of Hotel Cape Charles, which is a 22-room hotel and what an additional 12 hotel rooms will do to those operations and the affiliated zoning requirements regarding parking of hotel guests and employees, trash, parking of company vehicles, and landscaping between the C-1 and R-1 zoning districts, which are all requirements of a site plan under CCZO Appendix B. Due to the nature of this business and the impact to its surrounding area, a full site plan will be fully required if the project moves forward, subject to action by the Board of Zoning Appeals on this variance application.

My office has identified current issues with the Hotel Cape Charles and its use of a residentially zoned lot which they own located directly behind the hotel building to serve and support its ancillary commercial operation: location of trash dumpsters and municipally supplied trash cans on the property, lack of screening of the trash cans, parking of employee vehicles, & parking of golf carts for use by employees and guests of hotel. These zoning violations have been informally communicated to the property owner in the fall 2021 and he indicated that he would be forthcoming with an expansion proposal that he felt could address these concerns. At this time, I do not find the information provided by the applicant to address the zoning issues raised and am moving forward with a Notice of Violation and Corrective Action letter.

This application, based upon the information provided, will not achieve zoning compliance until all of these items are adequately addressed for an expansion of the hotel business. At this time, the applicant does not have adequate land to accommodate the ancillary services that are necessary for this business to meet the needs of the current operation and certainly does not even indicate that there will be a need to increase these ancillary services if an expansion of the # of hotel rooms occurs:

- 1.) Currently, there are six Town-supplied trash cans for the 22-room hotel and, while the drawings included as part of the variance application allocate an enclosed space for placement of 4 trash cans on the commercially zoned lot at 7 Strawberry St., there is inadequate space to locate all of the existing (6) trash cans and does not account for any increase in trash cans to service the requested increase of 12 hotel rooms. I have photographic evidence that the six existing trash cans are insufficient to properly store all rubbish generated by the existing 22-rooms within the trash cans themselves. The Town provides trash pickup once a week and there has been no indication contained in the application that the Applicant would seek to increase the frequency of trash pickup which would be at an additional cost to him and misrepresents the current level

of Town trash receptacles he has on the premises. Additionally, all of the existing trash cans are located on the residentially zoned lot and not on the commercially zoned property at all. Also, there is an existing dumpster on the residential lot owned by the applicant which is not legal and needs to be removed, especially since the application did not contain any reference or inclusion on the plans provided for a dumpster on the commercially zoned lots. The applicant needs to provide an adequate use and analysis of the # of trash cans that will be needed to service the existing hotel rooms as well as any increase in hotel rooms and the # of trash cans needed to service said rooms; said analysis needs to indicate the frequency of trash collection of the cans, # of total trash cans, placement of said cans on the property with proper screening either through a fenced in area and/or landscaping.

- 2.) The applicant has provided a draft parking lease for 32 parking spaces at 713 Randolph Avenue. The draft lease indicates a term of five years and also includes a clause for termination of said lease by either party with one month's notice and does not provide any justification or reasonable cause to be offered nor provide any time frame to rectify and bring the lease into compliance with all terms and conditions and keep the lease active. There needs to be additional clauses included in this lease agreement that provides the appropriate sureties that the parking requirements will be met on a long-term basis and the Town will need to enter into an agreement with the applicant that outlines the parking requirements, the manner in which the applicant is meeting said parking requirements and includes clauses and timeframes if those parking requirement arrangements are terminated and what the applicant will need to do to secure and meet the parking requirements at a different location. Said agreement will detail how the applicant is going to ensure use of the lot by its staff and its guests, including any type of valet or shuttle service to be utilized and provided to move guests between the remote, ancillary parking lot and the hotel itself, as the guests need and request access to their vehicles.
- 3.) The applicant provides golf carts for use by the guests of the hotel as well as the staff. These golf carts are currently being parked in the residential lot owned by the applicant located directly behind the hotel which is in violation of the zoning ordinance. I had requested the applicant to include in their application and narrative that the golf carts will also be located at the off-site parking lot area and fully removed from the residential lot behind the hotel and that provisions would be made through their operation of the hotel and staff to provide access to the golf carts as requested through their amenities offered by the hotel. However, the applicant indicated that he was not willing to submit this as part of this application. If the hotel is going to provide a golf cart as an added amenity of the hotel, then the storage, access and use of the golf carts needs to be included as part of their application, including how they will be stored only on commercially zoned hotel property or located at any shared parking arrangement that is found to be acceptable by the Town to comply with the parking requirements.
- 4.) Landscaping – while there is an indication on the drawings that additional landscaping will be provided at 7 Strawberry Street, a full landscape plan will need to be provided as part of a full application submittal for zoning clearance and building permit applications if the variance application is approved by the Board of Zoning Appeals.

- 5.) Water and Sewer Service and Capacity: The applicant will need to meet with the Public Utilities department and review the current connections for water and sewer based upon existing need and whether said connections can accommodate the requested increase of 12 hotel rooms in room capacity. Said review and approval will need to be provided as part of any zoning clearance and building permit application.

It is important to note the applicant could build, by right, an expansion of the hotel using the existing building at 7 Strawberry Street not to exceed 40 feet in height. The five items detailed above would still have to be addressed and resolved in order to obtain zoning clearance which is a requirement for the issuance of a building permit.

The applicant would still be required to obtain a Certificate of Appropriateness from the Historic District Review Board and a Building Permit – both processes require a zoning clearance approval from the Zoning Administrator.

I recognize that I have included more information that is primarily in the purview of the Zoning Administrator, but all of these issues occur as a result of the expansion of the hotel to this property and I wanted you to be fully informed of the review and issues that I have highlighted that will need to be addressed for zoning clearance to be achieved.

ORDINANCE REQUIREMENTS TO BE CONSIDERED:

- (a) Does the evidence show that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance?**

The requested height of the proposed building which is being sought by the applicant is not necessary for the property to be utilized within the many by-right uses of the Commercial-1 Zoning District, including a hotel. The three lots with this dimension and size, along with the building constructed on these lots, has been part of the fabric of the Town for at least 20 years, if not longer. In fact, the County records indicate the building was constructed in 1920; the applicant has not provided a full title report as to when the lots were subdivided but the Tax Map numbering does indicate that there was a subdivision of each lot from the parent lot, and it appears to be at least 20 years +. The application of the requirements of the zoning ordinance may make this particular investment/project not feasible from a Return on Investment (ROI) analysis and the applicant but the property has clearly shown that it can and has supported by-right commercial uses as allowed under the Commercial-1 Zoning District Ordinance requirements.

- (b) Was the property interest for which the variance is being requested acquired in good faith and any hardship was not created by the applicant for the variance?**

The applicant is pursuing this application through a due diligence process in his contract to purchase the property. While the adjacent building (known and identified as the Wilson

Building) does have a height of 50 ft, this building was constructed prior to the Town adopting a zoning ordinance on July 14, 1992 and is a legal, nonconforming structure. The applicant is aware of the height requirements in the Commercial-1 Zoning District which was established in 1992 and is pursuing to purchase this adjacent property for an expansion of the hotel business and seek a height variance; I would interpret this course of action as the applicant is creating the hardship based upon his design and expansion of the existing business.

(c) Will the granting of the variance not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area?

As noted above, there is the adjacent building known as the Wilson Building which has a height of 50 feet. However, the proposed use of an expansion of Hotel Cape Charles to provide an additional 12 rooms has not been fully explored, vetted, and planned to accommodate all ancillary support services on the commercially zoned property, specifically trash service, amenity service offered by hotel of use of golf carts and the associated location and storage of said golf carts. The height variance itself may not be detrimental on its face but the proposed use that is driving the need to seek a height variance has not been fully planned and designed to occur on the commercially zoned lot and additional work is required from the applicant to address all of the concerns raised in this report.

(d) Is the condition or situation of the property concerned not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance?

This appears to be a fairly rare case and does not support the consideration of the formulation of a general regulation to the ordinance.

(e) Does the granting of the variance result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property?

The proposed use of the expansion of Hotel Cape Charles to this adjacent property is a by-right use in the Commercial -1 Zoning District; however, the # of hotel rooms being proposed is what is driving the request for the height variance. I do not envision that the zoning of this property would need a zoning classification change.

Of concern is that the applicant does own the lot located directly behind the hotel which is zoned residential and there is apparent evidence that this residential lot is already being encroached upon by the hotel to serve as the staging area for the trash cans, a dumpster, golf cart parking and other vehicle parking. If an expansion is approved, it is not difficult to presume that the applicant will need to expand the provision of these services and will look to the town to rezone the residential lot that he owns to a commercially zoned lot. The Town Management has already expressed to the applicant that the Town's Comprehensive Plan does not support such a rezoning and management would not be supportive of such a rezoning application if one is submitted.

The Comprehensive Plan does include a strategy to support and continue to attract increased tourism into the Town. However, the plan does not specifically indicate the Town should work to increase expansion of hotel/motel offerings. The commercially zoned downtown district is a very compact district and limited land to accommodate the various businesses that are currently located there and may be offered there in the future. Purposeful planning and implementation of any building expansion, including height expansion, needs to ensure that a full zoning review and compliance has been completed on each use and building expansion to ensure that all of the associated support services are also factored into a development plan – delivery of utilities (water, sewer, propane, electric, trash collection and service), delivery of any goods to service the use/building (food, drink, toiletries, laundry, furniture, goods for sale, etc), parking provisions for any expanded use of buildings/structures both for the customers/visitors and owners/tenants/employees. Since the district is limited primarily to the front block on Mason Avenue with two exceptions that bring it along the side street to Randolph Avenue, it is essential that this planning be done so that the uses are compatible with the closely located residential zoning district that comprises the bulk of the rest of the Town identified as the Historic District.

(f) Is the relief or remedy sought by the variance application not available through a special exception process that is authorized in the ordinance or the process for modification of a zoning ordinance at the time of the filing of the variance application?

No. The height variance is the only means to construct the size of the building being proposed by the applicant.

DISCUSSION POINTS:

1. Does the Board feel that allowing the variance requested is reasonable?

BZA REVIEW:

Some items that the BZA may wish to consider in its review:

1. *Is the application complete and does it contain sufficient information and detail for the BZA to make a defensible ruling?*
2. *Is on its face, is the proposal, a sound and well thought out one that has taken into account potential downsides as well as upsides?*
3. *Are there compelling reasons to approve or deny the request, beyond the fact that no one has spoken in opposition to it or that some are opposed to it?*

STAFF RECOMMENDATION:

Staff recommends that the BZA consider the items that have been raised in this report and consider the request at hand. The staff would recommend that the Board of Zoning Appeals convene and hold the public hearing and receive any comments forthcoming from the public on this application.

The staff is not able to recommend any affirmative consideration at this point until the issues raised in the “STAFF REVIEW AND ANALYSIS OF APPLICATION” Section and the “ORDINANCE REQUIREMENTS TO BE CONSIDERED” section of this staff report are fully addressed to the satisfaction of the Interim Zoning Administrator. There may be additional issues or concerns raised through public comment that may need to be addressed as well. The staff would recommend tabling this application and direct staff and the applicant to meet and address each item raised in this report as well as any items raised through the public hearing that the Board would like to also be addressed and bring it back no later than two months from the date of the public hearing for a reconsideration of any additional revisions or documents to address the concerns raised in this report. Such documents to be considered, but not limited to, are a revised site plan, shared parking lease with the private property owner and a shared parking agreement with the Town, expanded narrative regarding parking of employee vehicles and golf carts, plan to accommodate trash needs of the hotel and proposed expansion.

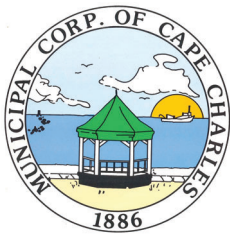
PROPOSED MOTION FOR CONSIDERATION:

Staff is prepared to assist in the crafting of any motion that the Board may wish to advance as a result of the public hearing, including the testimony from the applicant, the staff report and public comments received either in writing or orally at the hearing.

Attachments:

Attachment 1 – Application and Documents (Draft Parking Lease, Site Plan)

Attachment 2 – Cape Charles Zoning Ordinance Section 3.6 (D).



VARIANCE APPLICATION

Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
757-331-2036 Fax: 757-331-4820
planner@capecharles.org

PERMIT CHECKLIST - all documents can be emailed to the above email

- | | |
|--|---|
| ☒ Completed application | ☒ Photos/elevations of existing structure |
| ☒ Letter of intent clearly explaining project | ☒ Photos/elevations of proposed project |
| ☒ Existing site plan or survey | ☒ Payment of fees (single-family detached |
| ☒ Proposed site plan or survey (if applicable) | \$450, all others \$750, each additional variance request on same application \$50) |

PROJECT INFORMATION

Name of Project: Hotel Cape Charles Expansion
Property Address: 7 Strawberry Street
Brief Description of Project: Construct three level addition to existing single story commercial building
Zoning District: C-1 Current Use: Commercial Storefront Proposed Use: Hotel

OWNER INFORMATION

Name and Company: Betis Group Inc
Mailing Address: 1451 Dolley Madison Blvd, Suite 230 McLean Va 22101
Phone Number: _____ Email: _____

APPLICANT INFORMATION

☐ check here if applicant is owner

Name: David M Gammino Cape Charles Ventures LLC
Mailing Address: 212 E Leigh Street, Suite 1 Richmond Va 23219
Phone Number: 8045395961 Email: david@hotelcapecharles.com

CERTIFICATION OF APPLICANT

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed. Furthermore, I certify that the changes to the improvement before or during construction will be provided to the Zoning Administrator and Building Official before such changes are constructed.

Signature of Applicant: DAVID M GAMMINO Digitally signed by DAVID M GAMMINO
Date: 2022.02.03 16:37:28 -05'00' Date: 2/3/2022

February 3, 2022

Katie H. Nunez

Interim Planning/Zoning Administrator at Town of Cape Charles.

2 Plum Street, Cape Charles, VA 23310

Re: 7 Strawberry Street Hotel Cape Charles Expansion

Dear Ms. Nunez attached please find application and requisite documents for above captioned property/project.

We currently have 7 Strawberry Street under contract. The contract is contingent upon Zoning approvals from the Town of Cape Charles, as we seek relief from C-1 current height, minimum lot size and setback requirements. This site is three contiguous parcels (83A3-1-621B, 620B, 617B), that appear to have been cut from the rear of three parcels which front Randolph Ave. The current commercial building, the "Betis Building" is single-story masonry commercial building with 32' x 90' footprint, and zero-lot lines. There entire site measures 32' x 120'.

We propose to retain the current ground level structure and add three additional floors with a roof top deck, each measuring approximately 32' x 90'. The approximate height of the primary structure would not exceed 48'. This building would add approximately 10-12 new hotel rooms.

The rear courtyard of this building is adjacent to the current Hotel Cape Charles property located at 235 Mason Avenue, and the current property lines vacated as one new parcel. Current Hotel trash receptacles would be relocated to rear of the 7 Strawberry Street. Additionally, contingent upon approval of this project, the Hotel has entered a draft agreement for a parking lease for 32 off-street parking spots with the owners of 713 Randolph Street (Meatland Parking Lot).

Thank you for your assistance in this matter. Please do not hesitate to contact me if I have omitted any necessary information or you have any follow-up questions

Best Regards

David Gammino

David M Gammino

Hotel Cape Charles Operating LLC

Cape Charles Ventures LLC

7 Strawberry Street Board of Zoning Appeals

Narrative Supplement

VARIANCES

Pursuant to the Code of Virginia §15.2-2309 (2), variance applications shall be evaluated and reviewed based upon the following criteria:

- (a) Does the evidence show that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance?

The subject building is set on a non-conforming lot, which appears to have been created from the rear 32' of three separate lots which face Randolph Avenue. The lot is therefore "landlocked" on its northern boundary. As a result, the width of the lot is only 32' and the depth is only 120'-as opposed to the district wide standard of 40' x 140'. Under the Virginia Code, these dimensions are considered the natural physical characteristics of the property itself. These lot lines constrain the site in such a fashion as there is no ability to build out, as opposed to building up as the petitioner seeks to do in this case.

The applicant's variance seeks additional 8' to allow each respective level of the building (floor height) consistent with other multi-story historic structures in the historic district-most specifically the adjacent Wilson Building- as well as an overall building height which is also compatible with the adjoining Wilson Building. Therefore, this variance allows the property to achieve parity with another property in the district.

The non-conforming zero lot-line parcel has no available off-street parking. The additional 8' will allow a fourth-floor and the economic scale necessary to secure a dedicated off-street parking lease.

The variance request allows for the inclusion of an elevator, which enables the property to become 100% handicap accessible.

The variance request allows the applicant to achieve the four-story height while still retaining the existing commercial building, by building directly above that structure which is approximately 14' off-grade.

- (b) Was the property interest for which the variance is being requested acquired in good faith and any hardship was not created by the applicant for the variance?;

The property is under contract, subject to approval of entitlements

- (c) Will the granting of the variance not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area?

No. The petitioner had consulted with and shown plans to the adjacent property owner (Loomis), with no objection to this project. The petitioner has been unable to speak with the adjacent property owner to the south but is aware the project will cover two northern exposure windows. However, the current zoning allows for 40' building height. That allowable building height covers the subject windows. In other words, the additional 8' has no substantive effect-with or without the variance, the windows are subject to being covered. Finally, according to the owner of several units in the Wilson building, the north facing wall has an on-going water penetration issue, due to the age and condition of the mortar/bricks. This project will water-proof that wall to halt all the current moisture issues-which affects the entire building.

- (d) Is the condition or situation of the property concerned not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance?

This situation is unique, given the lot size, constraints, and intended use-and does not support the consideration of the formulation of a general regulation to the ordinance.

- (e) Does the granting of the variance result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property?;

No

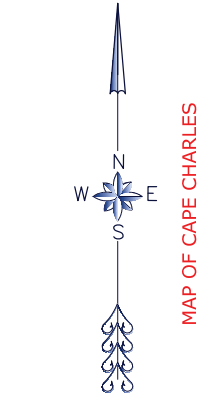
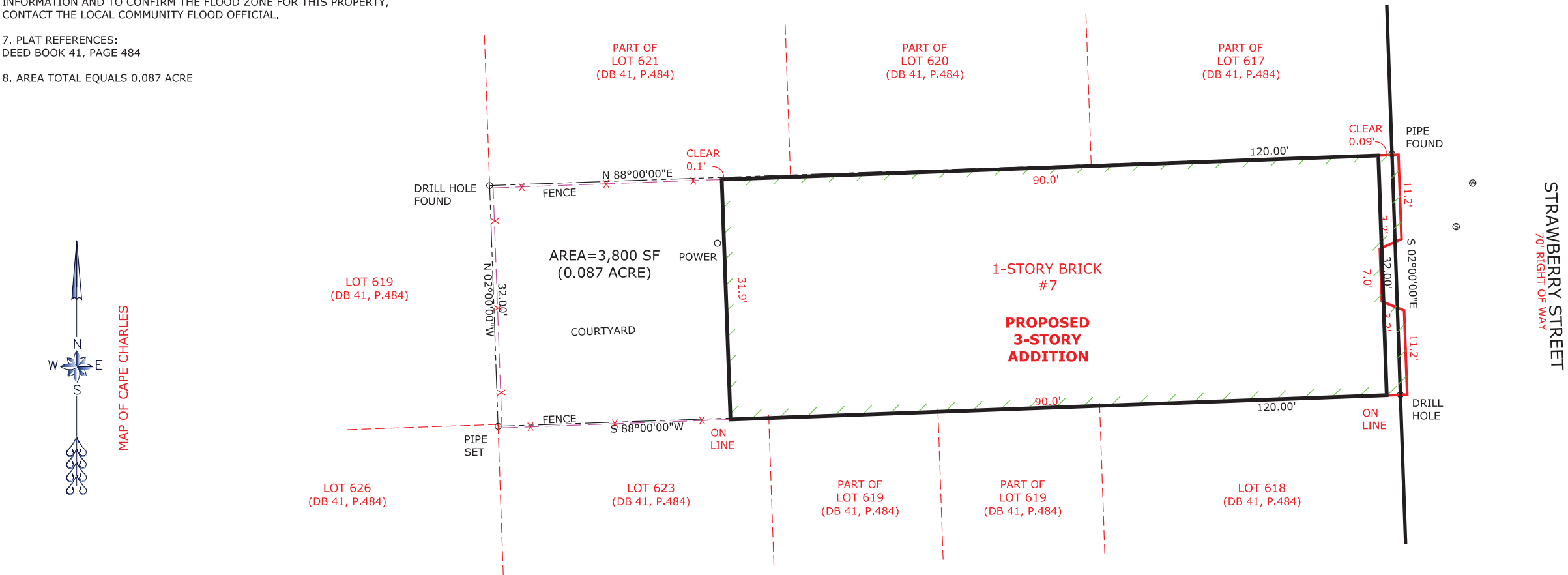
- (f) Is the relief or remedy sought by the variance application not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application?

No, the variance is necessary

GENERAL NOTES:

1. OWNERS: BETTIS GROUP INC
2. TAX PARCEL: 83A3-1-620B, 83A3-1-617B, & 83A3-1-621B
3. SOURCE OF TITLE: INSTRUMENT #O40004601
4. A SURVEY WAS PERFORMED ON THIS PROPERTY IN FEBRUARY 2020 WITH A BOUNDARY CLOSURE WHOSE PRECISION EXCEEDS 1:10,000.
5. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN OR WETLANDS, ENVIRONMENTAL HAZARDS, CEMETERIES AND UNDERGROUND STRUCTURES NOT OBSERVED DURING THE COURSE OF THE SURVEY.
6. ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 51131C0295F DATED 03-02-15 , THE PROPERTY SHOWN HEREON LIES IN FLOOD ZONE X. FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAP AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE. FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAPS. FOR FURTHER INFORMATION AND TO CONFIRM THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.
7. PLAT REFERENCES:
DEED BOOK 41, PAGE 484
8. AREA TOTAL EQUALS 0.087 ACRE

SURVEYORS CERTIFICATION
I, MARSHALL B. PARKS, A LICENSED LAND SURVEYOR, HEREBY CERTIFY THAT THIS PLAT WAS MADE BY ME AT THE REQUEST OF THE OWNERS AND THAT THIS SURVEY IS ENTIRELY WITHIN THE BOUNDARIES OF LAND COVERED BY THE DEED DESCRIBED HEREON AND THAT MONUMENTATION IS ACTUALLY IN PLACE OR WILL BE SET AT POINTS MARKED AS SHOWN HEREON AND THAT THEIR LOCATIONS ARE CORRECTLY SHOWN. THIS SURVEY IS CORRECT AND COMPLIES WITH THE MINIMUM PROCEDURES AND STANDARDS ESTABLISHED BY THE VIRGINIA BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS, AND LANDSCAPE ARCHITECTS. THIS PLAT IS BASED ON A CURRENT FIELD SURVEY.



SITE PLAN
OF
#7 STRAWBERRY STREET
PART OF LOTS 617, 620, & 621
MAP OF CAPE CHARLES
LOCATED IN
CAPE CHARLES
CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VIRGINIA
FEBRUARY 20, 2022



ACCOMACK-NORTHAMPTON
SURVEYING & MAPPING PLLC

36308 Lankford Highway, Belle Haven, Virginia 23306
Mail Address: 11403 Heron Drive, Machipongo, Virginia 23405
Phone: (757) 709-4192

DRAWN BY: PARKS	SCALE: 1"=10'
CHK'D BY: M.B.P.	BACK TRAV. BY: 2995
FIELD BOOK:	JOB NUMBER: 1355

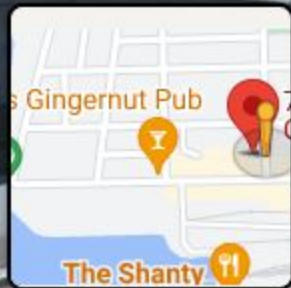
7 Strawberry St

Cape Charles, Virginia



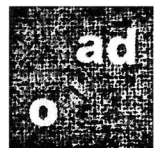
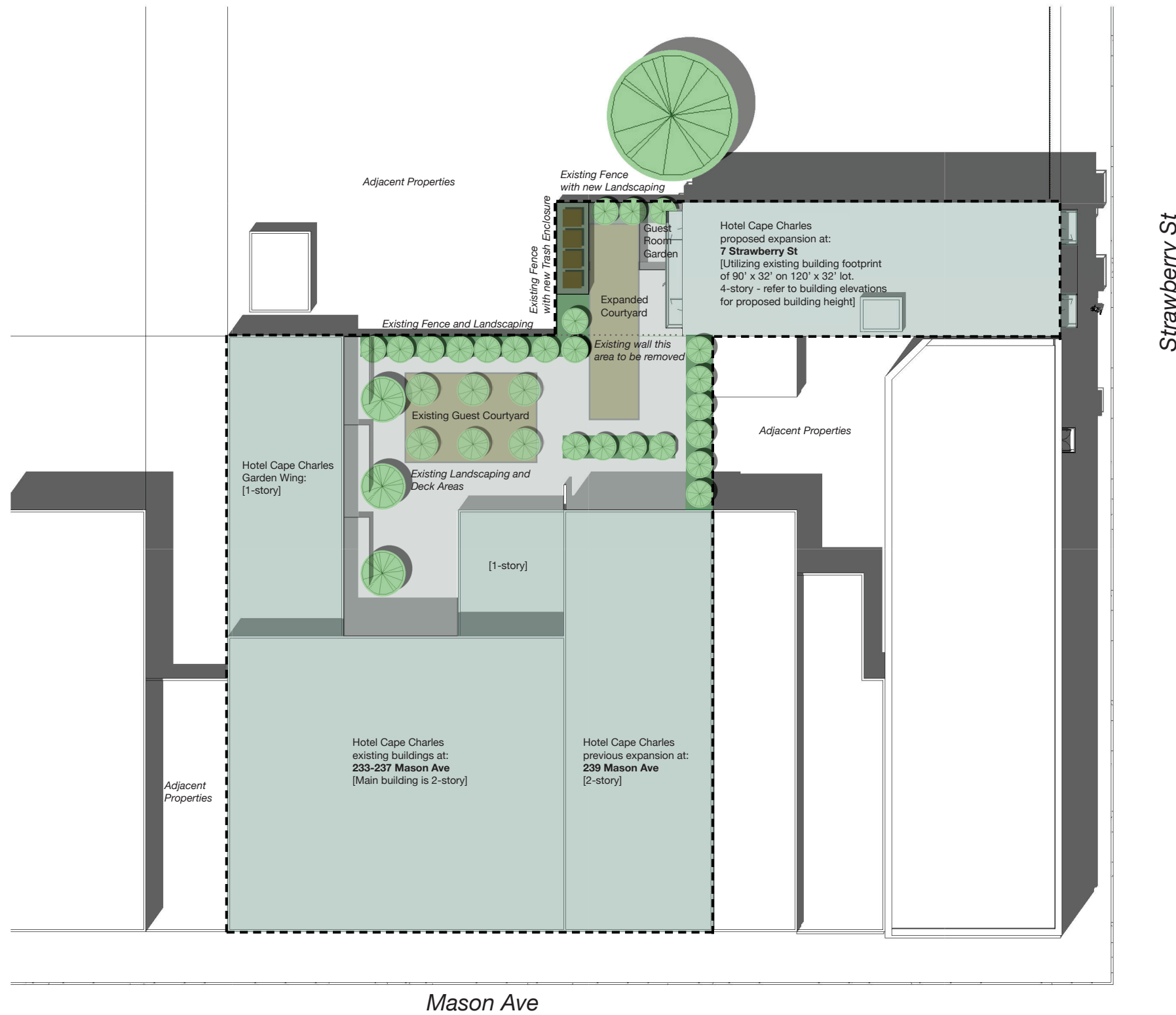
Google

Street View - Aug 2014



Google





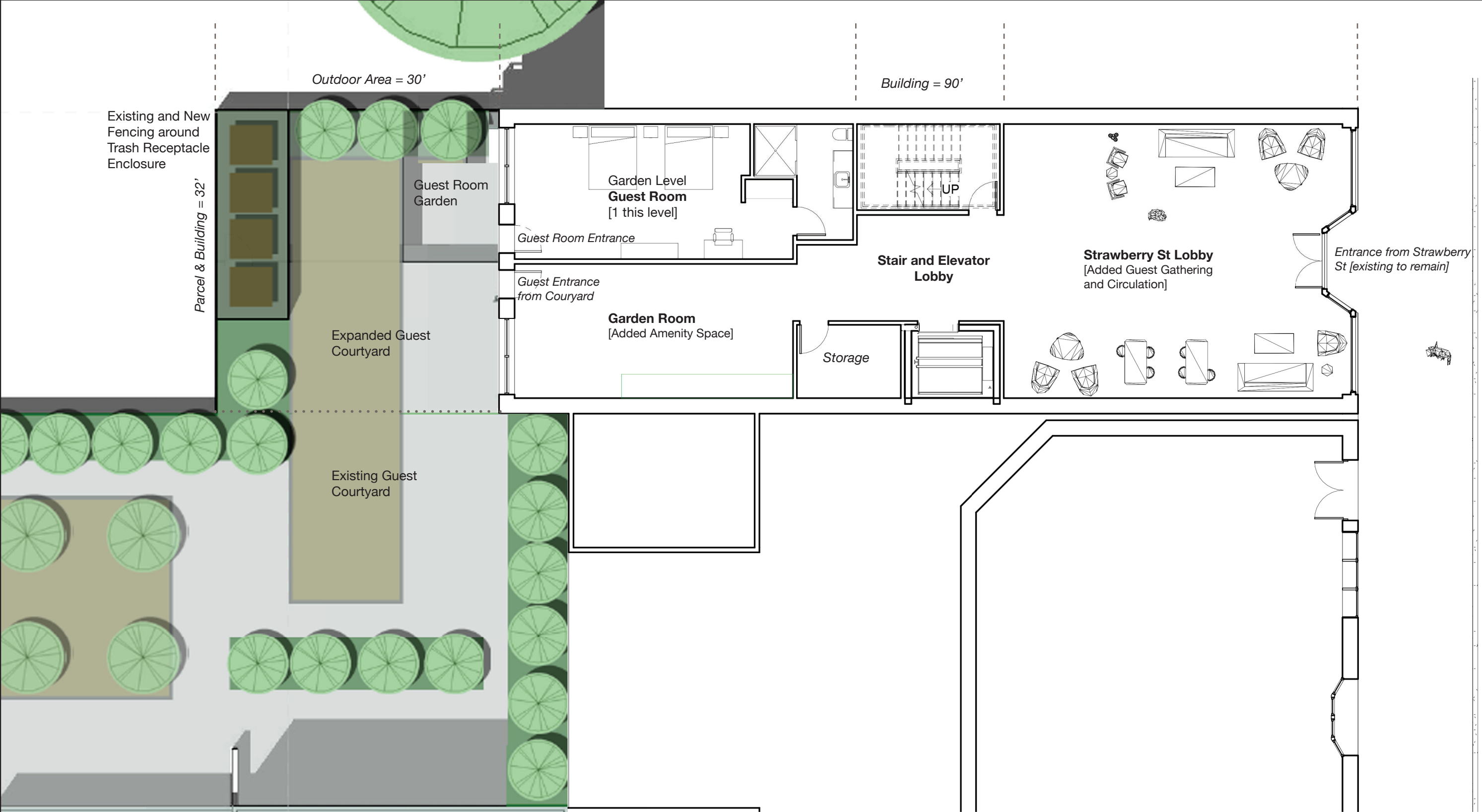
ADO / Architecture Design
728 E Main St
Richmond VA 23219
804 343 1212

Expansion of the HOTEL CAPE CHARLES

Site Plan

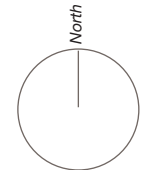
PROJECT NUMBER	HCC2022
SCALE	1" = 30'-0"
DATE	02.07.2022

A100



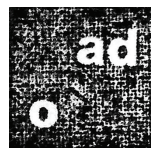
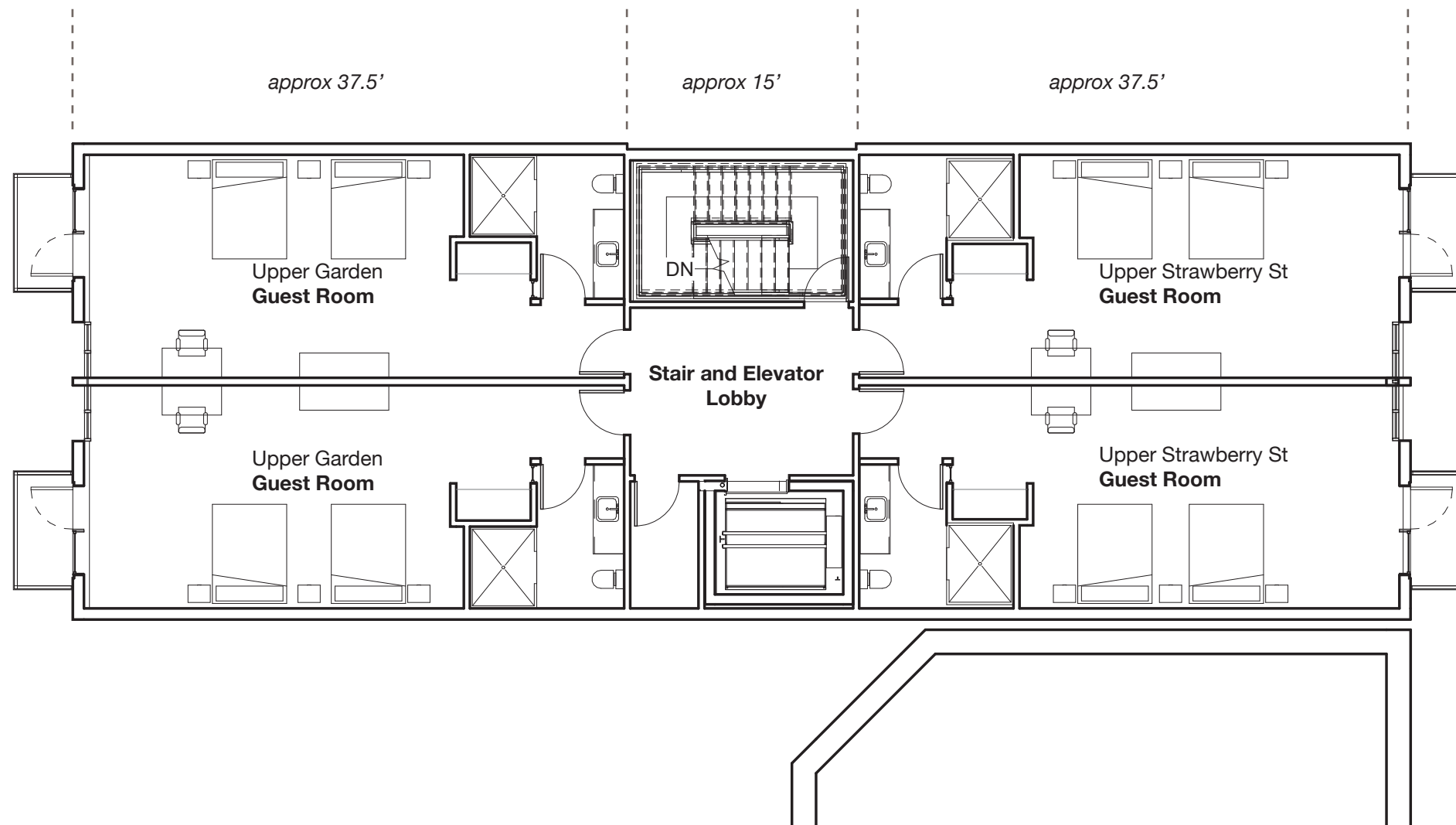
Strawberry St

1 Level 1
1" = 10'-0"



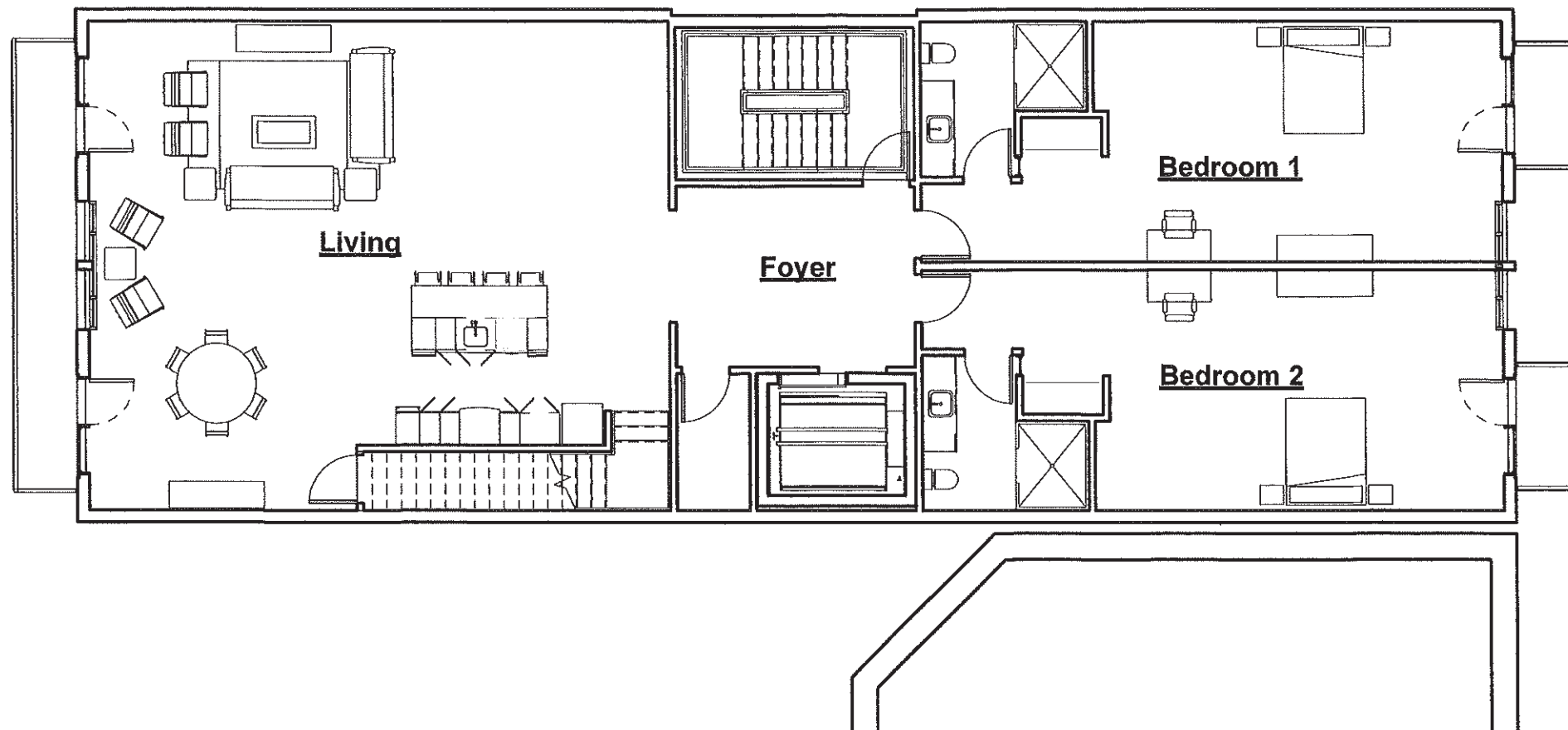
ADO / Architecture Design
728 E Main St
Richmond VA 23219
804 343 1212

Expansion of the HOTEL CAPE CHARLES		PROJECT NUMBER	HCC2022	A101
1ST/GROUND LEVEL		SCALE	1" = 10'-0"	
		DATE	02.07.2022	



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 728 E Main St
 Richmond VA 23219
 804 343 1212

Expansion of the HOTEL CAPE CHARLES Typical 2nd through 4th Levels	PROJECT NUMBER	HCC2022	A102
	SCALE	1" = 10'-0"	
	DATE	02.07.2022	



ARCHITECT
ADO / Architecture Design Office
 728 E Main Street
 Richmond, Virginia 23219
 804 343 1212

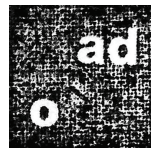
Expansion of the HOTEL CAPE CHARLES

4th Level Floor Plan

PROJECT NO.	HCC2022
SCALE	1" = 10'-0"
DATE	02.07.2022

A104

Note: Height of existing neighboring building is estimated

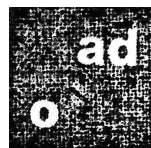
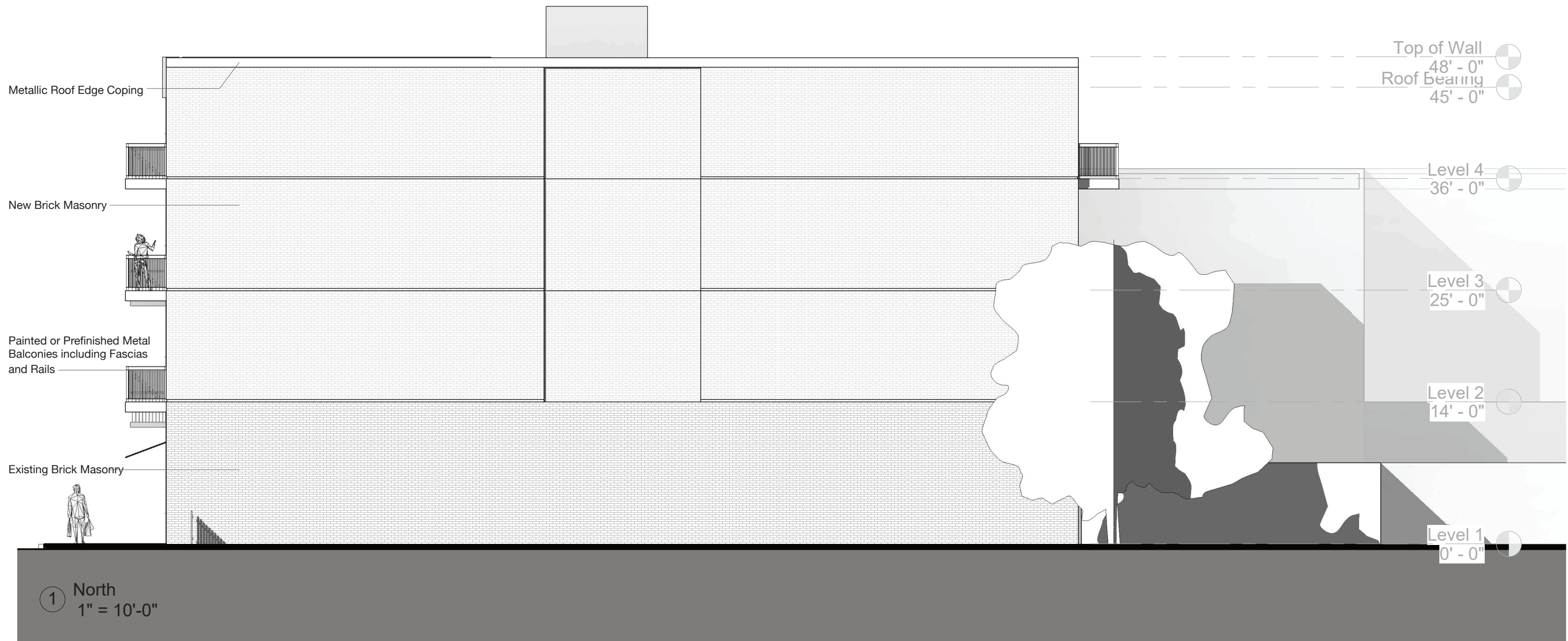


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Richmond VA 23219
804 343 1212

Expansion of the HOTEL CAPE CHARLES
East/Strawbery St and West/Garden Building Elevations

PROJECT NUMBER	HCC2022
SCALE	1" = 10'-0"
DATE	02.07.2022

A103



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Expansion of the HOTEL CAPE CHARLES
North Building Elevation

PROJECT NUMBER	HCC2022
SCALE	1" = 10'-0"
DATE	02.07.2022

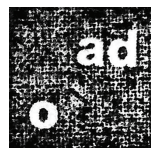
A104



① FRONT ELEVATION PERSPECTIVE



② REAR ELEVATION PERSPECTIVE



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804 343 1212

Expansion of the HOTEL CAPE CHARLES

Front/Strawberry St and Rear/Garden Perspective Views

PROJECT NUMBER	HCC2022
SCALE	
DATE	02.07.2022

A105

Hotel Cape Charles Parking Agreement

This agreement made _____ day of _____, 2022 by and between **B7CC LLC** hereinafter called Lessor, and **Hotel Cape Charles Operating LLC**, hereinafter called Lessee for the benefit of the third parties specified herein, with approvals as required by law, pursuant to Section 2.2-1149 of the Code of Virginia (1950), as amended.

Witnessed:

The parties hereto have mutually agreed and do hereby agree as follows:

1. Lessor has agreed and does hereby rent to Lessee up to 32 dedicated and reserved parking spots located in the parking lot of 713 Randolph Avenue, Cape Charles Virginia 23310 beginning on the 1st day of _____, 2022 and ending on _____, 2027. Lessee hereby does lease said parking spots for the benefit of the occupants or employees of **Hotel Cape Charles Operating LLC**, located at 235 Mason Ave & 7 Strawberry Street. These occupants or employees are hereafter referred to as "Customer." The assigned parking spaces are available 24 hours a day seven days a week.
2. "Owner" is defined as owner of vehicle(s) parked in leased space(s), or driver of same vehicle.
3. Lessee agrees to pay rent for said spaces, in the amount of **\$ 1,000.00 dollars** per month, in advance, on the first day of each annual rental term. The payment of all Rent shall be made payable to **B7CC LLC** and delivered to:

4. Any automobile stored or placed in such parking spaces or in the spaces allocated to the Lessee together with the contents of such automobile shall be at the sole risk of the Owner or Customer, it being understood and agreed that neither Lessor, the agent, nor the Lessee, shall have any liability of any kind for any reason to the Owner, Customer or any drivers or occupants of such automobile for loss or damage to same.
5. Lessee, Owner and Customer may not use the parking lot for any purpose other than parking of vehicles. Any vehicle which is inoperable, unlicensed or damaged or may, in management's opinion, create an obstacle or a hazard must be removed upon notice of management. No automobile repairs shall be made to vehicles while parked in the parking lot. Any violation of this section of the Parking Agreement may result in towing of the vehicle at its Owner's expense.
6. If the Lessee shall fail to pay said rent when due, or if Lessee or Owner shall violate any of the other covenants or conditions of this Lease, this agreement and all things herein contained shall cease and Lessor may proceed to recover possession of said spaces. This Lease shall be governed by, and constructed according to, the laws of the Commonwealth of Virginia. For any action instituted pursuant to the terms of this Lease, venue shall be as prescribed in Section 8.01-262 of the Code of Virginia of 1950, and this shall be in Northampton County, Virginia. If this Lease ceases to be in effect due to non-payment or termination or for any other cause, all vehicles parked in leased spaces are subject to immediate removal, at the joint and several risk and expense of Lessee, Owner and Customer.

7. Either party hereto may terminate this agreement on the last day of any month by giving at least months advance written notice prior to the date termination is to be effective

- (A) All notices to the Lessee required or permitted under this Lease shall be given by mailing the notice by certified U.S. mail, postage prepaid, return receipt requested, or overnight mail, or courier or fax or email, respectively to the Lessee addressed to:

Hotel Cape Charles Operating
212 E Leigh Street, Suite 1
Richmond, Virginia 23219

- (B) All notices to the Lessor required or permitted under the Lease shall be given by mailing the notice by certified U.S. mail, postage prepaid, return receipt requested, or overnight mail, or courier or fax, respectively to the Lessor addressed to:

B7CC LLC

8. Lessee acknowledges that the Lessor does not furnish attendants for the purpose of parking cars, and if any employee of the Lessor shall, at the request of the Lessee, Owner, Customer or any person legitimately occupying the designated parking spaces, handle, move, park or drive any automobile placed in the parking area, then and in every such case, Lessor shall not be liable for any loss, damage or expense that may be suffered or sustained in connection therewith.
9. Lessee, Owner, Customer and those persons legitimately occupying the parking spaces may only have access to their assigned spaces and entrances/exits to their assigned spaces. All other areas of the Lessor's property shall be considered inaccessible. Any violation of this clause may make this lease subject to termination.
- 10. A vehicle is unauthorized or illegally parked, and is subject to immediate towing at the expense of the Lessee, Owner and Customer if it:**
- (1) has a flat tire or other condition rendering it inoperable
 - (2) is on jacks, blocks or has wheel(s) missing
 - (3) has no current license or no current inspection-sticker
 - (4) takes up more than one parking space
 - (5) is parked in a marked handicap space without the legally required handicap insignia
 - (6) blocks another vehicle from exiting the lot
 - (7) is parked on the grass or sidewalk
 - (8) blocks garbage trucks from access to the dumpster

Witness the due execution hereof the day and year first herein before written.

Lessee:

David M Gammino, Manager
Hotel Cape Charles Operating LLC

Lessor:

Rick Lafferty, Managing Member
B7CC LLC

20. Furniture repair, sales and household appliance sales and repair, carpet and flooring sales
 21. Greenhouses and plant nurseries
 22. Grocery stores
 23. Hotels and motels
 24. Liquor stores
 25. Libraries, museums, or galleries
 26. Music stores
 27. Medical or dental or other laboratories
 28. Offices, office supply stores
 29. Public facilities, public buildings
 30. Restaurants
 31. Pet shops and pet supply stores
 32. Radio and television sales
 33. Upholstering shops and fabric stores
 34. Watch and jewelry stores
 35. Any use allowable in the S-C District.
 36. Any other commercial or professional use which is compatible in nature with the foregoing uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission.
- C. Conditional Uses: Single family and multi-family dwellings provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (not access through commercial establishment on the first level).
- D. Height Regulations: Buildings may be erected up to 40 feet in height from the adjacent ground elevations.
- E. Area Regulations: The following area regulations shall apply as minimums for new development in this district:
1. Lot width at setback line 40
 2. Area requirements (40 x 140) 5,600
 3. Side yard 0; 5 and 10 feet in Route 184 area
 4. Rear yard 10 or prevailing rear yard if less
 5. Front setback shall be determined by the average setback of the existing built up commercial area. Front setback along Route 184 (aka Randolph Avenue extended; Old Stone Road) where existing VDOT right of way is 70 feet shall be measured at 80 feet from the center of the right of way.
- F. Development/Redevelopment Standards:
1. Statement of Intent. The development standards below are intended to help preserve the architectural character of the Town of Cape Charles' commercial districts by requiring that all façade reconstruction/rehabilitation must conform to the building style as described in the U.S. Department of Interior National Register without the addition to or removal of contributing elements. New construction, additions, and alterations must be compatible, sympathetic, and complementary to the