



TOWN COUNCIL
Regular Meeting & Executive Session
December 17, 2020
Cape Charles Civic Center
6:30 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Moment of Silence and Pledge of Allegiance
3. Recognition of Visitors / Presentations / Recognitions
 - A. Commendation Awards
 - B. Proclamation – Cape Charles School Choice Week
4. Public Comments (3 minutes per speaker)
5. *Consent Agenda
 - A. Approval of Agenda Format
 - B. Approval of Minutes
 - C. Approval of October 31, 2020 Financial Report
6. Unfinished Business:
 - *A. None
7. New Business:
 - *A. Ordinance #20201217 – Declaring a Local Emergency and Disaster Created by the COVID-19 Pandemic
 - *B. Appeal of Historic District Review Board Decision – 627 Monroe Avenue
 - *C. Conditional Use Permit Application – 401 Madison Avenue
 - *D. VDOT Warning Signage Request
 - *E. Re-Appointment of Historic District Review Board Member
9. Town Manager Comments
10. Mayor & Council Comments (5 minutes per speaker)
11. Announcements
 - December 24-25, 2020 – Town Offices Closed for the Christmas Holiday
 - January 1, 2021 – Town Offices Closed for New Year's Day
 - January 9-10, 2021 – Town Council Strategic Planning Session
 - January 18, 2021 – Town Offices Closed for Martin Luther King, Jr. Day
 - January 21, 2021 – Town Council Regular Meeting
12. Motion to go into Closed Session

Code of Virginia § 2.2-3711-A, Paragraph 3: Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Review of unsolicited proposals from AQUA Virginia, Inc. and Virginia America Water to acquire the water and wastewater utility system assets of the town, to include strategies for process and negotiation regarding future operational, financial, and capital implications, as well as impacts on current and future utility rates.

13. Members of the Public Requested to Leave the Room
14. Return to Open Session and Invite Members of the Public Back into the Room

Certification to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Roll call vote.

15. Adjournment

PROCLAMATION 20201217
CAPE CHARLES SCHOOL CHOICE WEEK

WHEREAS, all children in Cape Charles should have access to the highest-quality education possible; and,

WHEREAS, Cape Charles recognizes the important role that an effective education plays in preparing all students in Cape Charles to be successful adults; and,

WHEREAS, quality education is critically important to the economic vitality of Cape Charles; and,

WHEREAS, Northampton County is home to public and nonpublic schools which parents can choose for their children, in addition to families who educate their children in the home; and

WHEREAS, educational variety not only helps to diversify our economy, but also enhances the vibrancy of our community; and,

WHEREAS, Northampton County has teaching professionals in all types of school settings who are committed to educating our children; and,

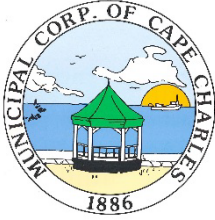
WHEREAS, School Choice Week is celebrated across the country by millions of students, parents, educators, schools and organizations to raise awareness of the need for effective educational options;

NOW, THEREFORE, the Town Council of Cape Charles hereby recognizes January 24 – 30, 2021 as Cape Charles School Choice Week and call this observance to the attention of all of our citizens.

Adopted by the Town Council of Cape Charles on this 17th day of December 2020.

Mayor William “Smitty” Dize

ATTEST: _____
Clerk of the Council



DRAFT
TOWN COUNCIL
Executive Session & Special Called Meeting,
Cape Charles Civic Center
November 18, 2020
5:30 PM

At approximately 5:30 p.m. Vice Mayor Steve Bennett, having established a quorum, called to order the Executive Session and Special-Called Meeting of the Town Council. In addition to Vice Mayor Bennett, in attendance were Councilmen Bannon, Buchholz, Follmer and Grossman, and Councilwoman Holloway. Mayor William "Smitty" Dize was not in attendance. Also, in attendance were Town Manager John Hozey and Town Clerk Libby Hume. Community Relations Manager Jennifer Lewis attended the special called meeting. There were two members of the public physically in attendance and 16 on Facebook Live for the special-called meeting.

Vice Mayor Bennett announced that the special meeting was called using reduced notice in accordance with Code of Virginia § 2.2-3707.D. as a special circumstance requiring discussion of Governor Northam's recent amendment to Executive Orders 67 and 63.

Motion made by Councilman Buchholz, seconded by Councilman Bannon, and unanimously approved to go into Closed Session in accordance with Section 2.2-3711-A of the Code of Virginia of 1950, as amended for the purpose of:

Paragraph 1: Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body.

Specifically: Interviews to Fill Vacancies on the Historic District Review Board, Library Board and Planning Commission

Vice Mayor Bennett asked the one member of the public in attendance to leave the room and advised him that he would be invited back into the room at the conclusion of the executive session at approximately 7:15 p.m.

Motion made by Councilman Bannon, seconded by Councilman Grossman, to return to open session. The motion was approved by unanimous vote.

Community Relations Manager Jen Lewis went outside to notify the members of the public of the end of the closed portion of the meeting.

Certification, to the best of each member's knowledge, that (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to appoint Mr. Martin Mayer to the Historic District Review Board to complete a term expiring on January 8, 2025. The motion was approved by unanimous vote.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to appoint Mr. Richard Burger to the Library Board to complete a term expiring on August 8, 2024. The motion was approved by unanimous vote.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to appoint Mr. Kenneth Butta to the Historic District Review Board to complete a term expiring on October 31, 2021. The motion was approved by unanimous vote.

SPECIAL MEETING ORDER OF BUSINESS:

A. *Discussion of Recently Amended Executive Order 67 and Effects on Upcoming Events:*

Vice Mayor Bennett opened the floor for any member of the public wishing to provide comments regarding this item.

Town Clerk Libby Hume read emails submitted by Jordan Dail of Cape Charles Candy Co., Melissa Moore, Suzanne Golibart of Periwinkles and MaryAnn Roehm of Lemon Tree Gallery into the record. (Please see attached.)

Mayor Dize was unable to attend the evening's meeting but submitted the following written comments: "I apologize for not making it tonight and thank you Vice Mayor Bennett for stepping in. In light of the Governor's recent amendments to executive orders #63 and 67, I'm in favor of reducing or canceling everything for the rest of 2020. I feel we have been blessed to make it through this far without too much harm to our citizens. Let's do what we can to continue that path for the foreseeable future. Thank you."

There were no comments to be heard nor any other written comments received prior to or during the public comments period.

John Hozey stated the following: i) He had circulated the amended Executive Order 67 to Council earlier this week. The major change was the reduction for gatherings from 250 to 25 both indoors and outdoors. This restriction directly affected the Grand Illumination, Shriners Parade, Lighted Golf Cart Parade, Festive Fridays, Dropping of the Crab Pot and the Town employee Christmas party. He went on to state that he agreed with Mayor Dize's comments for public safety reasons; ii) He heard a rumor, as of yesterday, that if the trend continued, Governor Northam might reduce the number to 10 people for gatherings; and iii) The cases had clearly been trending up in October and November. They were higher now than at any time during the pandemic. Hospitalizations were also trending up, but the number of deaths appeared to be going down. Northampton County had been trending very low throughout the entire pandemic to which we were very lucky.

There was discussion as follows: i) Councilwoman Holloway stated that during his press conference earlier today, Governor Northam asked everyone that if they could, to stay home and reiterated the maximum of 25 people for gatherings. It was emphasized that it did not include 25 people walking on a street. The Governor talked about the death rate increasing – 25 on November 17 and 25 on November 16. There had been over 2K new cases. The Governor was treating the state as a whole and was working together with bordering states; ii) John Hozey stated his agreement with Councilwoman Holloway's perception. The Governor's intent was to limit social gatherings, not everyday life, work, government activities, churches, etc., especially around the holidays. The most problematic event was Festive Fridays which could be considered as mostly shopping. The remainder of the events would be considered strictly social events; iii) Councilwoman Holloway stated that the Town came up with a creative way to hold the July 4 Golf Cart Parade which could possibly be repeated for the Lighted Golf Cart Parade. The golf carts could ride through town street by street and people could watch it from their front porches. She didn't feel this was considered a gathering; iv) John Hozey expressed his concern about how the public perceived this. If we could do one event, we could also do others. If the golf cart parade was allowed to be held but not the Shriners parade, how would the Town defend this decision? He added that he was at a disadvantage since he was still new to the area and had not experienced any of these events. It was difficult for him to make a recommendation. His concern was violating the Governor's orders; and v) Council agreed to discuss each event separately.

Festive Fridays: Vice Mayor Bennett asked Councilwoman Holloway about Cape Charles Main Street (CCMS) and the Festive Friday (FF) Committee's thoughts.

Councilwoman Holloway responded that both CCMS and FF did everything possible to adapt the event for safety. The Governor's announcement last Friday hit them hard and she acknowledged the difficulty in controlling the gatherings to 25. The FF Committee held an emergency meeting Monday night and discussed every component of FF. First, FF was an event not a commercial promotion campaign. It was an event with many components, one of which was shopping and driving people to come into the Town. The event included carriage rides, movies, snow at the Santa house, etc. The entertainers were canceled immediately since people typically gathered by the entertainers. CCMS nor FF had enough volunteers to monitor everything. The businesses in Town saw FF as a CCMS event, but the public saw it as a Town of Cape Charles event. With her Council "hat" on, she was concerned about the event and felt that it would be very irresponsible to continue on with the event. The FF Committee was split in their opinions. The majority of the businesses were in agreement that moving forward would be irresponsible. If any businesses wanted to be open for shoppers, they could do so. The businesses could promote themselves for holiday shopping. She did not think that CCMS, FF or the Town should be hosting this event.

Vice Mayor Bennett added that even if FF wasn't advertised, everyone would still show up to shop.

John Hozey stated that there was no way to predict Friday's announcement and went on to publicly acknowledge CCMS and FF for their diligence in planning the event. He attended the Monday evening meeting and agreed with a comment made by Councilwoman Holloway about the effect on the Town's reputation if we moved forward with FF despite what everyone else was doing. John Hozey added that Chincoteague canceled their parade earlier today and Onancock and Exmore had previously canceled theirs.

Councilman Holloway added that CCMS and FF would continue with the decorations for some holiday normalcy, but an announcement would be made that FF was canceled. The Santa house was being placed tomorrow for photo opportunities and the light poles were being decorated.

John Hozey agreed adding that he had instructed the Public Works department to move forward with the Christmas decorations at Central Park and around the Town.

Councilman Grossman agrees with CCMS and FF's approach. Decorate and let the businesses open for shoppers if they wanted to.

Councilman Follmer stated that he had spoken to a lot of merchants and many people in the community and had not heard from anyone asking for FF to move forward. Many merchants felt that the event needed to be canceled. There was no way to control the gatherings to 25 or less. He added that he, as the owner of two retail stores, was affected by this cancellation as well. The Town had done a good job throughout the pandemic and needed to protect our reputation. The holiday events were just another thing to miss in 2020.

Grand Illumination: Council was in agreement of canceling the event. John Hozey added that Central Park would still be decorated.

Shriners and Lighted Golf Cart Parade: i) Councilwoman Holloway stated that she had worked with Community Relations Manager Jen Lewis regarding the parade and route and this year, the Shriners parade was tied into the Lighted Golf Cart Parade. It would start at Fig Street, go down Washington Avenue, then Bay Avenue. The Shriners would stop there, and the golf carts would continue to go down the Town's streets to make their way to Central Park; ii) Councilman Grossman felt that the Shriners parade should be canceled but he would be fine with the Lighted Golf Cart Parade since there would be a limited number of people; iii) John Hozey stated that the golf cart parade would be the same as the July 4 parade. It was spread out throughout the Town's streets and most people would watch from their front porches. It required no street closures. He felt this parade could be held if Council wanted to do so; iv) Jen Lewis added that the difference between the Lighted Golf Cart Parade and the July 4 Golf Cart Parade was that the limit on July 4 was 250 for gatherings, not 25. She expressed her concern that with all the other towns canceling

their activities, the people would come to Cape Charles; v) Councilman Bannon added that on July 4, the people didn't all stay on their porches. There were many people along the streets; v) Councilwoman Holloway stated that the bottom line was perception, and she didn't want the Town to be held liable if anything happened. If it could not be done safely, she didn't feel comfortable moving forward with the parade and vi) Council was in agreement to cancel the parade.

Dropping of the Crab Pot: i) John Hozey stated that this event was the Mayor's baby and he had stated that he was okay with canceling the event this year. The Mayor suggested taking a photo of the crab pot lit up and posting it on Facebook at 10:00 p.m. on New Year's Eve. John Hozey added that he would like to have a "2020" sign blown up. Several Council members expressed their agreement with the 2020 sign; and ii) Council was in agreement to cancel the Dropping of the Crab Pot.

Town Employee Christmas Party: John Hozey stated that the Christmas Party would be canceled. This year was not the year to have the party.

Mayor Bennett asked if there were any other comments.

Councilman Follmer thanked CCMS for doing a great job. They went above and beyond to try to keep everyone safe.

Councilwoman Holloway thanked Rachel Leyco, the FF coordinator, for doing an incredible job.

John Hozey stated that he would draft another COVID-19 update for publication tomorrow.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to adjourn the Town Council Executive Session and Special Called Meeting. The motion was approved by unanimous vote.

The meeting was adjourned at 7:55 p.m.

Vice Mayor Bennett

Town Clerk

**Comments & Information Provided in Writing
November 18, 2020 Town Council Special Called Meeting**

Jordan Dail, Cape Charles Candy Co.

To Whom It May Concern,

This is a response to the meeting called regarding the new Covid guidelines from the governor and how it affects Festive Fridays.

According to Main Street's stated mission it is, "focused on the preservation of historic resources to revitalize the economic vitality of Cape Charles commercial historic district." Its goal should be to promote foot traffic, shopping, and tourism. There couldn't be a more important time to do this than in a pandemic. It is not the job of Main Street to police the shoppers or restrict businesses and if anything, it is more important than ever to help small, family owned businesses to thrive and survive. This is the time to look for creative ways to keep tourism alive in our small town despite the imposed rules. We had a bustling summer with thousands of people from all over the country (many from Covid high states) staying for weeks at a time and shopping in our businesses daily. Our customer count was consistently up every day of the summer. We didn't see the jump in Covid numbers locally or the overwhelming of hospitals as predicted and we had a great summer.

Festive Friday's is not an event. It is a **shopping promotion** which includes extended shopping hours and street entertainment. This promotion is vital to the success to the winter season. The already implemented guidelines for the shopping promotion surpass what is expected before and after the governor's most recent orders and, in our opinion, Festive Friday's stance is incredibly excessive and will decrease traffic as it is (If I were an outsider, I certainly would not attend due to masks being required outside). All the activities planned (albeit drastically reduced) are conducive to pedestrian traffic, social distancing and "safe" shopping. Not to mention the removal of food vendors (but restaurants capacities have not been reduced and will be open. People can take off their masks to eat in these locations while indoors). The movie is being viewed outdoors, with seating 6 feet apart, and masks mandatory for all people is also above and beyond what has been asked from the governor. In our opinion this is more than enough caution needed to prevent close contact between individuals and to fulfill the mandate. He has also made it clear that these new "rules" do not apply to churches or schools. Our large church in Chesapeake meets indoors, requiring masks, and 6 feet distancing with crowds topping 500 each week (with no known Covid transmission to date). If this is acceptable according to the governor's mandate then the outdoor movie with the same requirements should be as well.

Our business is not a hobby. This is real life for us and we rely on this business to put food on our table and pay our bills. Some businesses may not be in this same position and may not care, but we are in the business to make money, grow, and to support our family. In general, closing down and policing or preventing shoppers is bad for business. Has anyone shopped at Sam's, Food Lion or Walmart recently? It's interesting to us how concerned Main Street is about our little outdoor shopping promotion and yet how big box "essential" businesses continue on with booming sales and hordes of people in their stores. How do you think the outlets and malls will look in a few weeks? Empty? I think not. You have the opportunity to draw some of those customers into our town to spend money or they will go to the outlets and malls where they will spend in droves (ironically some in a very similar outdoor shopping setting). I'm sure the outlets and malls are not looking to decrease traffic or have committees set up to police its shoppers with unenforceable rules.

Respectfully,
Jordan Dail
Cape Charles Candy Co.

Melissa Moore

Subject: Festive Fridays

I understand that the town of Cape Charles is still considering hosting Festive Fridays this year and I write to express my concerns about this decision. Forgetting for a moment that this decision may be in violation of the Governor's latest mandate because you would be attempting to gather more than 25 persons in one place, I object to the idea of drawing outsiders into our town who may be bringing COVID19 to our shop keepers and residents, possibly spreading the virus to all of us who live here. We are in the midst of another spike in cases in our state and I think it is a mistake to encourage groups of people to come to our town and crowd our streets and shops. I understand it is difficult for small businesses to survive during this pandemic, but

encouraging large gatherings downtown risks the health of everyone in our community. Thank you for taking the time to read this email. I hope you will share it with council members.

Sincerely,
Melissa Moore

Suzanne Golibart, Periwinkles

Subject: for meeting tonight

Hello Mayor, Vice Mayor and Council,

My name is Suzanne Golibart and I am the owner of Periwinkles at 215 Mason Avenue. I understand that you are meeting tonight to discuss all events slated for this holiday season. I'd like to share my feelings as a business owner and resident. I feel that it would be inappropriate for our town to move forward with Festive Friday plans given the Governor's most recent executive order.

Honestly, I felt this way even before last Friday and have indicated so in conversations with other businesses and on the survey sent out by CCMS. Inviting people to our town in a concentrated 3 hour window seems to be completely contradictory to the Governor's order. This is a time when our local families are choosing not to gather for Thanksgiving and Christmas so that they can all stay safe. For the last 7 holiday seasons Festive Fridays has been a wonderful event for our town and local businesses. It's sad to think we can't carry on as usual - I know that the committee has worked hard to plan this year's event. But our current situation requires us to be creative and come up with some other ideas. At Periwinkles I will be launching a "Shop Local" campaign to reward people who shop at the other businesses in town during the entire holiday season. In brief, From December 1st - 24th shoppers who show us one or more receipts from any other business in Cape Charles can enjoy rewards at Periwinkles. We're hoping that this campaign will allow us to continue to be open and to serve customers safely as we have since reopening in mid May. I'm sure the other businesses have some ideas as well about how to navigate during these difficult times. If you have any questions or need more information, please contact me.

Thank you so much
for your time and for giving me the opportunity to express my concerns.

Sincerely,
Suzanne

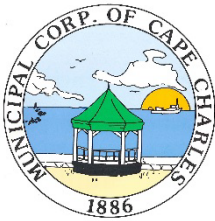
MaryAnn Roehm, Manager of Lemon Tree Gallery and Festive Friday Committee Member

Subject: Festive Friday Comments

Having fully participated in Festive Fridays over the past several years, I have been conflicted about proceeding with Festive Fridays 2020. While the committee has worked diligently to put safety measures in place, I still do not think we should be responsible for encouraging visitors to gather in Cape Charles for concentrated hours to shop in our small businesses, especially after the Governor's latest directives. We are all tired and want some semblance of normalcy and traditional holiday fun. Festive Fridays is a wonderful event but this year I think we should not promote any activity that might further our collective or individual risk. Business owners on Mason Avenue can be creative and will be thinking of new ways to promote holiday shopping throughout the season. At Lemon Tree we will be featuring individual artists and have created a 25 days of Christmas promotion. We have postponed our Artisan Show co-hosted with Bay Creek originally scheduled for Thanksgiving weekend. Lemon Tree Gallery wants to be supportive and a team player, but are considering NOT being open for Festive Fridays in order to protect our customers, neighbors and our staff.

I do not envy your position as a decision-making body and I thank you for your continued service in our community.

Sincerely,
MaryAnn



DRAFT
TOWN COUNCIL
Public Hearings & Regular Meeting
Cape Charles Civic Center
November 19, 2020
6:30 PM

At approximately 6:30 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Public Hearings and Regular Meeting of the Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Bannon, Buchholz, Follmer and Grossman, and Councilwoman Holloway. Also, in attendance were Town Manager John Hozey, Treasurer Deborah Pocock, Community Relations Manager Jen Lewis, Chief Jim Pruitt and Town Clerk Libby Hume. There were six members of the public physically in attendance, and nine viewers on Facebook Live.

A moment of silence was observed followed by the recitation of the Pledge of Allegiance.

PUBLIC HEARINGS:

A. *USDA Rural Development Grant/Loan Application:*

There were no comments to be heard nor any comments received in writing.

B. *Fiscal Year 2021 Budget Amendment:*

There were no comments to be heard nor any comments received in writing.

RECOGNITION OF VISITORS / PRESENTATIONS:

There were no visitors to be recognized nor any presentations.

PUBLIC COMMENTS:

Dianne Davis, 601 Jefferson Avenue

Ms. Davis addressed Council regarding the following: i) She asked why she had to call the Town Hall in order to have her garbage picked up. Her garbage had not been picked up the last two weeks. As of today, her garbage will still there. She called the Town Hall again this week and was informed that she needed to contact Davis Disposal to report the problem. Ms. Davis stated that she paid her garbage and utility bills on time every month and didn't think she should be the one to call Davis Disposal. If her garbage wouldn't be picked up, she was due a refund and the charge needed to be removed from her bill; ii) There was no place for children to play in the Town of Cape Charles, unless they were very young. At the Sea Breeze apartments, the boys were playing pole ball with the handicap signs. They hit the ball to a certain spot on the sign since there was no basketball court. The youth needed a place to play; iii) There was still a problem with people not picking up after their dogs. The 400-500 blocks of Fig Street were very popular. She saw some people walking two to three dogs and they had a special place to stop. She asked whether it would be possible to install a doggie poop station by the sewage pump station on Fig Street; iv) She requested signage to warn drivers of citizens and children with scooters, walking canes, etc., especially in the area from Myrtle Landing to Rayfields and Tim's convenience store, along with other areas. There were certain times, especially during the summer, when it was dangerous for the elderly and handicapped residents. Something needed to be done. She contacted VDOT and was told that the Town needed to make a request; and v) She thanked Council for forming the sidewalk committee and asked that the project be moved from the bottom of the list to a priority. She had been asking for sidewalks in certain areas of the Town since 1978 and she was still waiting. There was a lot happening in the Town, but certain areas were still neglected.

Kevin Shaffer, 631 Tazewell Avenue, Bayside Bike & Beach, LLC.

Mr. Shaffer stated that he established Bayside Bike and Beach LLC several months ago with the intention to start a home-based equipment rental business with delivery of the equipment to rental

properties. He had an exclusive agreement with Kim Starr of Chesapeake Properties. He also closed on two commercial lots on Stone Road with the intent to eventually grow his business. He and his wife planned to retire in Cape Charles. He applied for a Cape Charles business license and had been communicating with several members of the Town's staff and Council. He was told that his business didn't meet the requirements for a home-based business since it would increase commercial traffic on my street. He planned to start with about a dozen bikes and 20 beach chairs which would be delivered to the renters and would be using the alley behind his house for the deliveries. He asked for Council's consideration to approve his request. He was told by the zoning administrator that he would have to apply for a conditional use permit, but he respectfully disagreed that he didn't meet the requirements for a home-based business. He was trying to offer something to the community that would be beneficial to the Town.

L.D. Davis, 112 Peach Street

Ms. Davis addressed Council regarding Christmas lights and decorations. (Please see attached.)

There were no other comments to be heard nor any comments received in writing prior to the meeting or during the public comment period.

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. October 8, 2020 Work Session
 - ii. October 15, 2020 Regular Meeting
 - iii. October 29, 2020 Work Session
 - iv. November 5, 2020 Work Session
- C. Approval of September 30, 2020 Financial Report

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to approve the Consent Agenda as presented. The motion was approved by unanimous vote.

UNFINISHED BUSINESS:

- A. *FY 2021 Budget Amendment and Capital Asset Management Program:*

- i. *FY 2021 Budget Amendment – Resolution 20201119A*

Town Manager John Hozey stated the amended Fiscal Year (FY) 2021 budget resulted in a deficit of about \$224K, which was \$83K better than the budget adopted in May. During work sessions, Council had discussed methods to deal with this issue going forward. There were no surprises in the proposed budget amendment. All the figures had been previously reviewed by Council and it had been posted online.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt Resolution 20201119A Approving a Budget Amendment and Association Appropriations for FY 2021. Mayor Dize moved for adoption of Resolution 20200119A as noticed and forewent reading of the resolution. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

- ii. *Capital Asset Management Program – Resolution 20201119B*

Town Manager John Hozey stated that this item was included in the public hearing because it was a new program. Resolution 20201119B only covered FY 2021. He noted a small change to the scope of work for the Central Park Gazebo project earmarked for FY 2022 adding the painting of the ceiling of the gazebo. There would be no change to the numbers.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to adopt Resolution 20201119B to Amend and Adopt the Capital Asset Management Program and to increase the scope of work to add painting of the Central Park Gazebo to the project list for FY 2022. Mayor Dize moved for adoption of Resolution 20200119B as noticed and forewent

reading of the resolution. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

Mayor Dize thanked John Hozey and Treasurer Deborah Pocock for their work on the budget amendment.

B. Fiscal Policies:

i. General Operating Reserve – Resolution 20201119C

Town Manager John Hozey stated that this was the first of several policies discussed by Council during the past several work sessions. This policy would establish a general operating reserve to meet cash flow requirements of the Town. It would not be used as a rainy-day fund or for anything else. John Hozey recommended approval of 20% of the Town's operating budget for the general operating reserve.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to adopt Resolution 20201119C Establishing a General Operating Reserve as a Committee Portion of the Town's General Fund Balance. Mayor Dize moved for adoption of Resolution 20200119C as noticed and forewent reading of the resolution. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

ii. Contingency Reserve – Resolution 20201119D

Town Manager John Hozey stated the contingency reserve was a step down from the cash reserves and he recommended establishing a goal of 10% of the Town's general operating budget as a desired minimum. If funds were transferred from this reserve, it needed to be accompanied with a plan to replenish the funds. John Hozey added that the intent for the next budget year was to fund it with \$250K. The Town would not be able to reach 10% the first year.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to adopt Resolution 20201119D Establishing a Contingency Reserve as an Assigned Portion of the Town's General Fund Balance. Mayor Dize moved for adoption of Resolution 20200119D as noticed and forewent reading of the resolution. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

iii. Establishment of Debt Service and Capital Improvement Funds – Resolution 20201119E

Town Manager John Hozey stated this item appeared on the surface as a general accounting resolution, but a policy document was embedded in the resolution as follows: i) The Debt Service Fund included the establishment of a debt service limit of 8% of revenues, and required the transfer of up to 8% every year to cover the Town's debt service; 2) The Capital Improvement Fund included the establishment of a commitment from Town Council to funding capital expenditures for the Town and required the transfer of a minimum of 6% of revenues each year.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt Resolution 20201119E Establishing a Debt Service Fund and Capital Improvement Fund as part of the Town's General Government Accounting System. Mayor Dize moved for adoption of Resolution 20200119E as noticed and forewent reading of the resolution. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

iv. Strategic Revenue Program

Town Manager John Hozey stated the Strategic Revenue Program was to establish a commitment for i) to fully integrate revenue planning into all broader community strategic planning; ii) to ensure sufficient revenues were available to maintain balanced budgets in

perpetuity; iii) to formally commit to planned revenue increases over a six-year planning horizon; and iv) to facilitate public understanding of program rationale and to provide a long-term expectation of the public's future tax/fee burdens. The process to approve the Strategic Revenue Program would be handled similarly as the Capital Asset Management Program. The first step was to adopt the Strategic Revenue Program and commitments. The second step would be to officially adopt the program by resolution at a later date. The program would be reviewed during the strategic planning session in January.

There were no questions from Council.

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, to approve the Strategic Revenue Program as presented. The motion was approved by unanimous vote.

NEW BUSINESS:

A. *Planning Commissioner Reappointments:*

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to re-appoint Mr. Dennis McCoy and Ms. Diane D'Amico to the Planning Commission for another four-year term. The motion was approved by unanimous vote.

B. *Wetlands & Coastal Dune Board Member Reappointment:*

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, to re-appoint Mr. Russ Dunton to the Wetlands & Coastal Dune Board for another five-year term. The motion was approved by unanimous vote.

C. *Appointment of Board of Zoning Appeals Member:*

John Hozey stated that this was a unique situation where the Town received only one application for one vacancy on the Board of Zoning Appeals (BZA). With the Mayor's approval, the clerk circulated the candidate's application and resume to Council for their review and feedback. Input was received from the majority of Council agreeing to add this item to this evening's agenda to officially appoint Ms. Dolores Blackburn to the BZA.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to appoint Ms. Dolores Blackburn to the Board of Zoning Appeals to complete Mr. Wiegner's term which would expire on October 31, 2021. The motion was approved by unanimous vote.

TOWN MANAGER COMMENTS

John Hozey commented on the following:

- 1) The Town was required to provide financial accounting to Northampton County for CARES Act funding specific to COVID-19. One of the things that were authorized was to provide grants to first responders such as the fire department. The County used a portion of their CARES Act funding to provide grants to all the fire companies in the County. Initially, the County did not include the Cape Charles Volunteer Fire Company (CCVFC), but recently approved a \$5K grant to CCVFC. He would like to match the County by making an additional \$5K to the CCVFC. He wanted to inform the Council of this planned expenditure to ensure there were no objections. The letter received from the CCVFC asked for a higher amount.

Councilman Buchholz asked whether anything was done for the police department for their extra burden. John Hozey responded that something was provided to each officer.

- 2) He received additional interest from Virginia American Water regarding the posted notice on the unsolicited proposal. He met with them and was notified earlier this week that they intended to submit a proposal by the November 30, 2020 deadline.

- 3) The Kevcor legal matter was moved to mediation which was scheduled for January 14, 2021.
- 4) He received a call today from Virginia Wildlife Resources (VWR) regarding the boat ramp agreement that expired. Council had agreed not to renew the agreement, however, VWR was concerned about maintaining ramps where the public could launch for free. VWR asked whether the Town would consider renewing the agreement. John Hozey told them that there were no guarantees to renew but asked VWR to put something on the table for Council consideration.
- 5) Northampton County was installing free bike repair stations around the County. He was contacted by the County Administrator offering to install one in Cape Charles. The station provided tools where bicyclists could make repairs to their bikes if necessary. It was felt that it would be a good addition, but a location needed to be determined.

There was some discussion and recommendations as follows: i) Councilman Buchholz stated that Cheriton had one in front of the DMV office and recommended the station be installed in the general vicinity of the proposed bike trail; ii) Councilman Grossman stated his expectation that a station would have been planned along the bike trail and suggested one at the parking lot by Rayfields. John Hozey noted that the Town did not own any property in that area; and iii) Councilman Buchholz recommended installing the station along the boardwalk at the beach. Council agreed that it would be a good location.

MAYOR AND COUNCIL COMMENTS

Councilman Follmer commented as follows: i) He had noticed that in recent months, a number of residents and businesses along Mason Avenue were placing food and water out for the feral cats. There were one to two places per block. He also noticed a significant increase in the feral cat population in the Mason Avenue area over the last couple of years. He was not sure of the regulations, but the Town needed to actively discourage this practice; and ii) Over the season, he heard the usual complaints regarding underage drivers of golf carts. The ability to use golf carts was a very popular selling point for Cape Charles. If this issue was not regulated, the privilege might have to be discontinued. There were rules in place but to most tourists a \$20 fine was nothing. He would like to see the Town explore the assessment of a harsher financial penalty to the owner or renter of a golf cart for allowing an underage individual to drive the golf cart. If a \$500 fine were assessed, word would spread, and we would have fewer kids driving golf carts.

Councilman Grossman commented as follows: i) He expressed his agreement with Ms. Dianne Davis regarding garbage pickup. His property was missed so he called Davis Disposal. Fortunately, the truck was still in the area and his garbage was picked up later that afternoon. If more people were having similar issues, there could be a reason for it, possibly new drivers. Councilman Follmer added that there were repeated incidents at his businesses; and ii) For those individuals in attendance or watching tonight's meeting, he wanted to clarify that Council did spend a lot of time in work sessions going through the various items approved. He wanted to make that statement, so the public didn't think Council was just rubber stamping the items.

Councilman Bannon stated that the annual VDOT street sweeping was being done in Town and asked if there was a way to get all cars off the streets to allow the sweeper to pass. The sweeper went around cars today. Could the residents be notified of the schedule somehow?

John Hozey stated that he had received several complaints about this issue. This year, VDOT's street sweeper wasn't working well and staff was worried that it wouldn't make it to Mason Avenue. There was an increasing amount of manual labor involved in this operation and it was difficult to predict when the sweeper would get to certain areas. The Public Works crew was trying to notify residents, but it was difficult to get to everyone. Staff would try to do better. The parts for the vacuum/franken-sweeper had been ordered and staff hoped to construct the machine next month. The Town would then be in control of street sweeping. The Town could distribute door hangers in the future once we were in control of the project.

Vice Mayor Bennett had no additional comments.

Councilwoman Holloway commented as follows: i) She thanked Councilman Grossman for bringing up the many work sessions that were held to review the documents approved earlier this evening; ii) She agreed with Councilman Follmer about the issue of golf carts and would like to schedule a meeting with the golf cart rental companies to try to get a policy on the table. She had a good view of Central Park from her house and had seen people flying through the park while children were learning to ride their bikes. Her guests had to move their luggage due to golf carts driving on the sidewalk. She asked John Hozey to get this item on a future agenda; and iii) To follow-up from last night, Council had to make some very difficult decisions and they didn't take the issue lightly. To clarify a couple of calls received by Cape Charles Main Street (CCMS), Festive Fridays was completely funded through sponsorships. Each business would be contacted to find out whether they wanted a refund, special marketing or to make their sponsorship a charitable donation. There were hard costs in the planning of Festive Fridays. The costs were kept to a minimum but there would be a loss. CCMS would try to obtain some funding from the County's tourism grant.

Councilman Buchholz commented as follows: i) He agreed about the golf cart issues but added that the rental companies placed stickers on the steering wheels of the golf carts and had policies in place. He also agreed that a \$20 fine was irrelevant; and ii) He started his business in his house until it got too big. He didn't see what the hold up was for Bayside Bikes. They were delivering the bikes and equipment so there would be no commercial traffic. He would like to see this request taken care of soon. The Town would see more home-based businesses with COVID. People were moving here. He would like to see this issue rectified. He agreed with Mr. Schaffer, that a conditional use permit should not be necessary. John Hozey added that this was the interpretation of the zoning administrator and a text amendment might be necessary.

Mayor Dize commented as follows: i) He expressed his agreement with Councilman Buchholz adding that if a text amendment was needed, it should be moved forward. No one would be going to Mr. Schaffer's house, so the businesses needed to be approved. The Town would probably see more requests for home-based businesses; ii) He thanked Vice Mayor Bennett for covering for him at last night's meeting; iii) He agreed that the issue of golf carts needed to be on a future work session agenda. It had been brought up several times in the past and he agreed that the issue of underage driving was more of a problem than just a \$20 fine; and iv) He expressed his appreciation to Councilman Grossman regarding his comments explaining the amount of time that went into reviewing the documents approved tonight. He took office two years ago and Council strived for policies like the ones approved tonight. He appreciated staff for getting us to this point. Policies were now in place to ensure a solid future for the Town.

Mayor Dize read the announcements. It was noted that the December 3, 2020 Town Council Work session had been canceled.

Motion made by Councilman Buchholz, seconded by Councilman Grossman, to adjourn the Town Council Public Hearings and Regular Meeting. The motion was approved by unanimous vote.

The meeting adjourned at 7:23 p.m.

Mayor Dize

Town Clerk

**Comments & Information Provided in Writing
November 19, 2020 Town Council Regular Meeting**

L. D. Davis, 112 Peach Street

Good evening, Mr. Mayor and Council members,

Thank you for this opportunity to speak.

First....

Many residents and visitors walk through and spend a great deal of time in Central Park during the holiday season, enjoying the beautiful light display. With COVID limitations we will be seeing even more families strolling through the park.

Unfortunately, winds play havoc with the light displays. North winds blow across from Marina Village and down North Peach Street, across the park and tunnel down South Peach into the harbor. Mr. Mayor and Councilwoman Holloway, I know that you are aware of the ferocity of the winds and the damage they can do.

While the holiday lights in the Park are beautiful, they must be maintained on a very regular basis. Frequent re-staking and light bulb replacement is necessary. As a town we cannot just install light displays and hope that they last for the entire season – Mother Nature has different ideas. It is my hope that the Town can provide regular maintenance and that perhaps the Citizens for Central Park and surrounding residents can assist in alerting to outages and repairs that need to be made.

Times are tough and budgets are tight but a pass through the park by town staff after dark could provide a punch-out list for the following days' work.

Christmas displays that are not maintained reflect poorly on the town, its staff and residents.

Secondly.....

Should there be a contest this year for residential holiday decorations, would the Town please work on the marketing aspect of the contest. What date will the judging take place, how will winners be announced and please provide an explanation to all passersby what the large numbers in people's yards stand for. I lived for three before I found out that there was a contest and what large numbers in people's yard stood for during the Holidays. Let's make it simpler and have information readily available to all.

Page 1 – Cash Position

- No comments.
- A payment of \$120,587 on the VRA interest free loan for the wastewater treatment plan was made. The town's debt, excluding USDA vehicle and equipment loans, has dipped just below seven million dollars.

Page 2 – Revenue vs. Expenditures

- No comments.

Page 3 – Capital Projects

- The ad requesting bids for the video surveillance camera system was published.
- The replacement trash cans were purchased.

Page 4 – Tax Collection Rate

- This page will return in November.

Page 5 – Tax Revenue Trends

- Harbor dockage is 61% higher September 2020 than it was September 2019.
- Meals tax revenue is still lagging by 10% from 2019, but transient occupancy taxes have surpassed 2019 year to date amounts by 22%.
- Business License (BPOL) is higher by 97.5% than 2019, however the due date for BPOL was extended from April to September.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
October 31, 2020

<u>Cash on Hand</u>	<u>9/30/2020</u>	<u>10/31/2020</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$436,651	\$595,239	\$158,588
Atlantic Union Bank Money Market Account	\$1,427,260	\$1,227,592	-\$199,668
LGIP Account 1 - Unrestricted	\$104,136	\$104,152	\$17
LGIP Account 2 - Unrestricted	\$299,541	\$299,593	\$53
PNC SNAP Account - no longer restricted	\$0	\$0	\$0
PNC SNAP Account Interest	\$0	\$0	\$0
Total Cash On Hand	\$2,267,587	\$2,226,576	\$0

<u>Restricted and Reserved Cash Balances</u>	<u>9/30/2020</u>	<u>10/31/2020</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Savings Account - Facility Fees Rsrvd (Utilities)	\$1,079,091	\$1,079,091	\$0
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$31,454	\$31,454	\$0
Atlantic Union Bank Checking Acct - E-Summons Revenue Rsrvd	\$3,428	\$3,542	\$114
US Bank - Reserved per VRA Interest Free Loan Requirements	\$257,586	\$257,587	\$1
Wells Fargo 2010 Debt Service pass through account #300	\$2,898	\$2,898	\$0
Wells Fargo 2010 Debt Service pass through account #308	\$761	\$761	\$0
Total Cash Held in Reserve	\$1,375,649	\$1,375,765	\$116
Total Cash - All Accounts	\$3,643,237	\$3,602,341	-\$40,896

DEBT SERVICE

Net Debt as of Current Reporting Month End (Excludes USDA vehicle and equipment loans)	\$6,998,081
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MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

October 31, 2020

REVENUE VS. EXPENDITURES

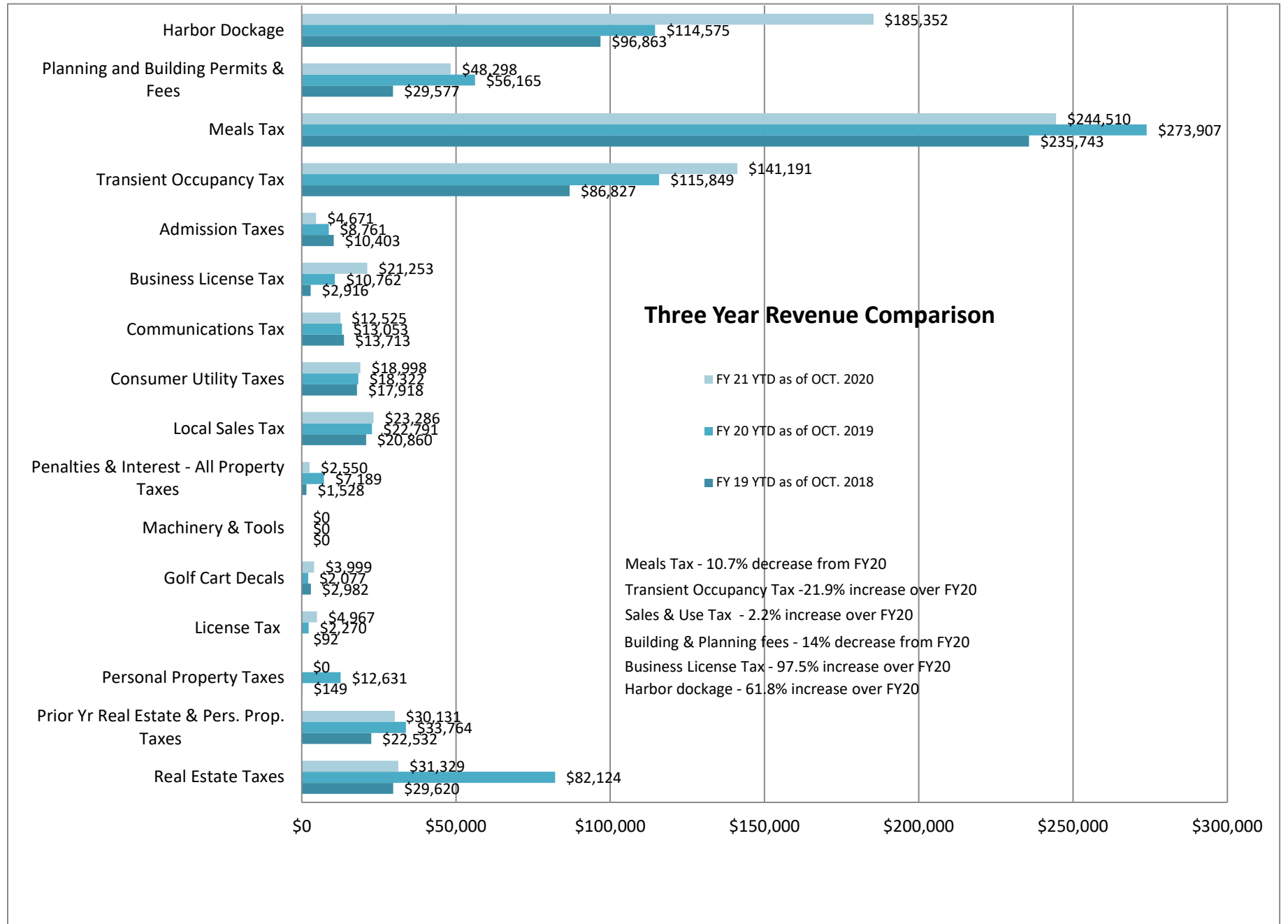
<u>FUND</u>	<u>CURRENT MONTH</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>INCREASE/ (DECREASE) YTD</u>	<u>ANNUAL BUDGET</u>	<u>% REALIZED/ EXPENDED FY19</u>
GENERAL						
REVENUE - Operating	\$194,939	\$758,235	\$698,485	\$82,421.34	\$3,580,706	19.51%
EXPENDED - Operating	\$251,429	\$863,372	\$909,790	\$46,417.99	\$2,805,563	32.43%
NET	(56,490)	(105,138)	(211,305)	(106,168)	775,143	
REVENUE - CAPITAL GRANTS & LOANS	0	2,042	0	(2,042)	813,867	0.00%
EXPENDED - CAPITAL PROJECTS & DEBT SVC	0	175,064	70,793	(104,271)	1,589,010	4.46%
TRANSFER TO HARBOR TO TRUE UP FUND						
BALANCE	0	0	0	0	0	
TOWN CONTRIB. &/OR PENDING GRANTS	0	(173,022)	(70,793)	102,229	(775,143)	
PUBLIC UTILITIES						
REVENUE - Operating	234,237	590,554	571,736	(18,818)	1,689,134	33.85%
EXPENDED - Operating	65,859	249,913	182,857	(67,056)	1,146,690	15.95%
NET	168,377	340,641	388,879	48,238	542,444	
REVENUE - CAPITAL GRANTS, LOANS, & FACILITY FEES	74,200	140,668	176,200	35,532	169,600	103.89%
EXPENDED - CAPITAL PROJECTS, DEBT SVC, & FACILITY FEES	194,787	339,063	341,121	2,058	712,044	47.91%
TOWN CONTRIB. &/OR PENDING GRANTS	(120,587)	(198,395)	(164,921)	33,474	(542,444)	
HARBOR						
REVENUE - Operating	89,016	315,670	542,158	226,488	1,060,080	51.14%
EXPENDED - Operating	61,640	301,675	368,219	66,544	692,473	53.17%
NET	27,376	13,995	173,939	159,944	367,607	
REVENUE - GRANTS & LOANS	0	0	0	0	375,765	0.00%
TRANSFERRED FM GEN FUND TO TRUE UP FUND BALANCE	0	0	0	(122,628)	0	
EXPENDED - Capital Projects, Debt Svc	0	122,628	94,314	216,942	743,372	12.69%
TOWN CONTRIB. &/OR PENDING GRANTS	0	(122,628)	(94,314)	(216,942)	(367,607)	
SANITATION						
REVENUE	16,997	68,206	67,528	(678)	214,546	31.47%
EXPENDED	0	52,505	64,980	12,475	214,546	30.29%
NET	16,997	15,701	2,548	(13,153)	0	

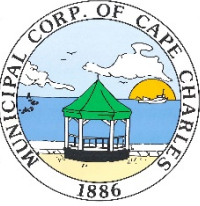
FY 2021 Capital Improvement Project Tracking Report

As of:
10/31/2020

	FY21 Status or Start Date	Percent of Completion	FY21 Budgeted	FY21 QTR 1 Expended	FY21 QTR 2 Expended	FY21 QTR 3 Expended	FY21 QTR 4 Expended	FY21 YTD Expended	(Over)/Under Budget
<u>General Fund</u>									
Police Vehicle	Pending	0%	\$ 38,940	\$ -	\$ -	\$ -	\$ -	\$ -	38,940
Permit Department Software	Pending	0%	\$ 7,000	\$ -	\$ -	\$ -	\$ -	\$ -	7,000
Public Works Shop Heaters	Pending	0%	\$ 6,868	\$ -	\$ -	\$ -	\$ -	\$ -	6,868
Grounds Maintenance Equipment	Pending	0%	\$ 22,240	\$ -	\$ -	\$ -	\$ -	\$ -	22,240
Portable ADA Equipped Restroom Trailer	Pending	0%	\$ 35,000	\$ -	\$ -	\$ -	\$ -	\$ -	35,000
Mason Avenue Re-striping	On Hold	0%	\$ 15,000	\$ -	\$ -	\$ -	\$ -	\$ -	15,000
Parking Lots (Mason & Harbor Shanty Area)	Pending	0%	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	10,000
Video Surveillance System	.	0%	\$ 35,000	\$ -	\$ 56	\$ -	\$ -	\$ 56	\$ 34,944
Multi-Use Trail Phase 2 Closeout	Pending	0%	\$ 200,000	\$ -	\$ -	\$ -	\$ -	\$ -	200,000
subtotal			\$ 370,048	\$ -	\$ 56	\$ -	\$ -	\$ 56	\$ 369,992
<u>Water Fund</u>									
SCADA System	pending	0%	\$ 15,000	\$ -	\$ -	\$ -	\$ -	\$ -	15,000
Remote Read Water Meters - starter setup	pending	0%	\$ 51,985	\$ -	\$ -	\$ -	\$ -	\$ -	51,985
Pickup Truck	pending	0%	\$ 32,766	\$ -	\$ -	\$ -	\$ -	\$ -	32,766
subtotal			\$ 99,751	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 99,751
<u>Harbor Fund</u>									
Inner Harbor Rehabilitation Phase I carryover	Complete	#DIV/0!	\$ -	\$ 60,390	\$ -	\$ -	\$ -	\$ 60,390	\$ (60,390)
Inner Harbor Rehabilitation Phase II	pending	0%	\$ 118,470	\$ -	\$ -	\$ -	\$ -	\$ -	118,470
subtotal			\$ 118,470	\$ 60,390	\$ -	\$ -	\$ -	\$ 60,390	\$ 58,080
<u>Sanitation Fund</u>									
Trash Can Replacements	on order	100%	\$ 11,796	\$ -	\$ 11,796	\$ -	\$ -	\$ 11,796	\$ (0)
subtotal			\$ 11,796	\$ -	\$ 11,796	\$ -	\$ -	\$ 11,796	\$ (0)
TOTAL			\$ 600,065	\$ 60,390	\$ 11,852	\$ -	\$ -	\$ 72,242	\$ 527,823

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT



 TOWN OF CAPE CHARLES	AGENDA TITLE: Ordinance Declaring a Local Emergency and Disaster Created by the COVID-19 Pandemic		AGENDA DATE December 17, 2020
	SUBJECT/PROPOSAL/REQUEST: Adoption of Ordinance 20201217 Declaring a Local Emergency and Disaster Created by the COVID-19 Pandemic		ITEM NUMBER: 7A
	ATTACHMENTS: Ordinance 20201217		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Following Governor Northam's Executive Order 51, declaring a state of emergency arising from the COVID-19 pandemic on March 12, 2020; the Town of Cape Charles adopted a corollary local Emergency Ordinance on March 30, 2020. This local emergency ordinance expanded the Town's ability to respond to the pandemic while conducting routine necessary business.

While the Governor's declaration has remained in full force throughout this entire period, our local ordinance expired six months after adoption on September 30, 2020. At that time, the pandemic appeared to be waning so we did not readopt this ordinance.

ITEM SPECIFICS:

Throughout late fall and early winter, as weather cooled and people moved indoors, new cases of the virus continued to rise. Starting in early November and continuing through the present, new cases have grown sharply, increasing to all-time highs. These increasing trends have prompted the Governor to institute a number of additional restrictions. Beginning with amended EO's 63 and 67 on November 13th, and again with EO 72 on December 10th.

As a result of these increasing restrictions and large numbers of new cases, it is prudent to consider readopting our original local emergency ordinance, which again would provide additional flexibility to conduct our business while respecting this virus. This ordinance would, among other things, allow for virtual public meetings, designate the town manager as the Director of Emergency Management, and relax certain deadlines. Adopting this ordinance does not require that we exercise this flexibility, it merely provides for those options if deemed necessary.

RECOMMENDATION:

Staff recommends adoption of Ordinance 20201217.

ORDINANCE #20201217

AN EMERGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CAPE CHARLES, VIRGINIA, DECLARING A LOCAL EMERGENCY AND DISASTER CREATED BY THE COVID-19 PANDEMIC; APPOINTING THE TOWN MANAGER AS THE TOWN'S DIRECTOR OF EMERGENCY MANAGEMENT; AND ADOPTING TEMPORARY CHANGES IN PRACTICES AND PROCEDURES, PUBLIC MEETINGS AND DEADLINES AS NECESSARY TO ADDRESS CONTINUITY OF GOVERNMENT ASSOCIATED WITH THE PANDEMIC DISASTER.

WHEREAS, on March 12, 2020, Governor Ralph S. Northam issued Executive Order Fifty-One declaring a state of emergency for the Commonwealth of Virginia arising from the novel Coronavirus (COVID-19) pandemic; and

WHEREAS, Executive Order Fifty-One acknowledged the existence of a public health emergency which constitutes a disaster, as defined by Virginia Code § 44-146.16, arising from the public health threat presented by a communicable disease anticipated to spread; and

WHEREAS, Executive Order Fifty-One ordered implementation of the Commonwealth of Virginia Emergency Operations Plan, activation of the Virginia Emergency Operations Center to provide assistance to local governments, and authorization for executive branch agencies to waive “any state requirement or regulation” as appropriate; and

WHEREAS, on March 30, 2020, the Town of Cape Charles adopted Emergency Ordinance 20200330, which expired on or about September 30, 2020; and

WHEREAS, the conditions giving rise to adoption of Emergency Ordinance 20200330 continue; and

WHEREAS, on December 10, 2020, Governor Ralph S. Northam issued Executive Order Seventy-Two in furtherance of Executive Order 51, as amended, in response to the spread of COVID-19; and

WHEREAS, for the reasons and basis set forth in Executive Order Seventy-Two, Emergency Ordinance 20200330, and due to the recent increase in reported COVID-19 cases on the Eastern Shore of Virginia; and

WHEREAS, for the reasons stated herein, the Council desires to ensure the continuity of government during the COVID-19 pandemic disaster, including, but not limited to the conduct of electronic meetings without a quorum of members physically assembled in a single location; and

WHEREAS, the Commonwealth of Virginia's 2020 Budget Amendments permit public bodies to meet by electronic communication means without a quorum of the public body or any

member of the governing board physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that (i) the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location; and (ii) the purpose of meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body; and

WHEREAS, this Declaration of Emergency and Emergency Ordinance is adopted in accordance with Virginia Code §§ 2.2-3708.2(A)(3), 15.2-1102, 15.2-1413 and 44-146.16 – 21, and other applicable law.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Cape Charles, Virginia:

1. That the COVID-19 pandemic is hereby declared a local emergency and disaster as those terms are defined in Virginia Code § 44-146.16.
2. That the nature of the declared emergency may make it impracticable or unsafe to assemble a quorum of the Council, and its boards, commissions, committees and authorities, in a single location.
3. That the Town Manager is hereby designated the Town's Director of Emergency Management and is hereby given the emergency powers and duties described in Virginia Code § 44-146.21, and is further authorized to take such lawful action as he deems necessary or desirable to address the COVID-19 pandemic.
4. That the Town Manager is directed to assist and fully cooperate with the County of Northampton in the implementation of its Plan of Emergency Operations and is further directed to develop and implement (i) a supplemental Plan of Emergency Operation for the Town of Cape Charles to the extent he deems necessary, (ii) a plan for the continuity of essential government functions during the COVID-19 pandemic, and (iii) a plan for the resumption of normal government operations at the termination of the emergency and disaster created by the COVID-19 pandemic.
5. That the Town Manager shall ensure that the adoption and implementation of all plans, procedures, and policies are consistent with state and federal law and with the terms and conditions of this Emergency Ordinance.
6. That in accordance with Virginia Code § 15.2-1413, and notwithstanding any contrary provision of law, general or specific, the following emergency procedures are adopted to ensure the continuity of government during the COVID-19 pandemic emergency and disaster:
 - a. Any meeting or activities that require the physical presence of a member of the Council, or its boards, commissions, committees and authorities (collectively, the

“governing body”), may be held through real time electronic means (including audio, telephonic, video or other practical electronic medium) without a quorum physical present in one location; and

- b. Prior to holding any such electronic meeting, the governing body shall provide public notice in advance of the electronic meeting identifying how the public may participate or otherwise offer comment; and
 - c. Any such electronic meeting shall state on its agenda and at the beginning of such meeting that it is being held pursuant to and in compliance with this Emergency Ordinance; identify those members of the governing body physically and/or electronically present; identify the persons responsible for receiving public comment; and identify notice of the opportunities for the public to access and participate in such electronic meeting; and
 - d. Any such electronic meeting of the governing body shall be open to electronic participation by the public and closed to in-person participation by the public; and
 - e. For any matters requiring a public hearing, public comment may be solicited by electronic means in advance and shall also be solicited through telephonic or other electronic means during the course of the electronic meeting. All such public comments will be provided to members of the governing body at or before the electronic meeting and made part of the record for such meeting; and
 - f. The minutes of all electronic meetings shall conform to the requirements of law, identify how the meeting was conducted, members participating, and specify what actions were taken at the meeting. The governing body may approve minutes of an electronic meeting at a subsequent electronic meeting and shall later approve all such minutes at a regular or special meeting after the emergency and disaster has ended.
7. That the provisions of this Emergency Ordinance shall remain in full force and effect until amended or rescinded by the Council in conformity with the notice provisions set forth in Virginia Code § 15.2-1427, but in no event shall such ordinance be effective for more than six months. The powers, duties and obligations conferred by and under this Emergency Ordinance shall incorporate any future executive orders of the President of the United States, the Governor of the Commonwealth of Virginia or the State Health Commissioner, as well as any and all changes in state or federal law. Upon rescission by the Council, this Emergency Ordinance shall terminate, and normal practices and procedures of government shall resume.

IT IS FURTHER ORDAINED that notwithstanding any provision of law, regulation or policy to the contrary, any deadlines requiring action by a governing body, including its officers

and employees, shall be suspended during this emergency and disaster, however, the governing body, and the officers and employees thereof, are encouraged to take such action as is practical and appropriate to meet those deadlines. Failure to meet any such deadlines shall not constitute a default, violation, approval, recommendation or otherwise.

IT IS FURTHER ORDAINED, that non-emergency public hearings and action items of the governing body may be postponed to a date certain provided that public notice is given so that the public are aware of how and when to present their views.

Nothing in this Emergency Ordinance shall prohibit the Council or its boards, commissions, committees, and authorities, from holding in-person public meetings provided that public health and safety measures as well as social distancing are taken into consideration.

An emergency is deemed to exist, and this ordinance shall be effective upon its adoption.

ADOPTED by the Town Council of Cape Charles, Virginia on December 17, 2020.

By: _____
Mayor

ATTEST:

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Appeal of Historic District Review Board's Decision for 627 Monroe Avenue		AGENDA DATE: December 17, 2020
	SUBJECT/PROPOSAL/REQUEST: Appeal of Historic District Review Board's Decision for 627 Monroe Avenue Windows		ITEM NUMBER: 7B
	ATTACHMENTS: Application Material		FOR COUNCIL: Action (x) Information ()
	STAFF CONTACT (s): Planning Staff		

APPEAL REQUEST:

An email was received from the applicant for replacing windows at 627 Monroe Avenue to appeal the decision made by the Historic District Review Board at the December 1, 2020 meeting.

BACKGROUND:

Upon inspection of the site on November 3, 2020, the HDRB and staff found a contractor in the process of replacing wood windows with vinyl on the first floor of the single-family residence. The window contractor was notified that the work being done needed the Zoning Administrator's approval, a Certificate of Appropriateness, and work needed to stop until those actions were completed.

Pre-Application Meeting

There was a pre-application submittal dated 11/3/20 with pictures and material specifications for a pre-application meeting conducted on November 17, 2020. The board requested the following: (i) the condition of the existing wood windows be determined or evidence that they were unrepairable; or (ii) propose another window option in-kind to what existed.

The Zoning Administrator, two Historic District Review Board members, and the Planning Technician visited the site to research the condition of the existing first-floor wood windows that had not already been replaced.

Regular Meeting and Work Session: December 1, 2020

The applicant stated that the proposed project had not changed and would like to finish replacing the remaining wood windows with a lower maintenance window. The Historic District Review Board denied the application.

APPEAL:

The Town Code provides applicants an appeal process per the Zoning Ordinance Section 8.32. "In exercising its powers, the Town Council may, in conformity with the provisions of the Zoning Ordinance, reverse or affirm, wholly or partly, or may modify any order, requirement, decision, or determination appealed from and make such order, requirement, decision, or determination as ought to be made..."

An email of appeal was submitted to the Planning Technician on December 6th from the owner.

RECOMMENDATION:

Section 8.20(B) states that the Historic District Review Board "shall be guided in its decisions by the Design Guidelines." They have respectfully tried to base their decisions on this document. Many of the HDRB are licensed contractors, and their perspective and interpretation are based on their technical expertise.

It is staff's opinion that because this is an appeal to grant relief, and the code states the decisions are simply guided by the Design Guidelines, Town Council may be compelled by information presented on a case-by-case basis and choose to reverse or amend the decision.

From: [Rob Mucha](#)
To: [Tracy Outten](#)
Subject: Re: 627 Monroe Avenue - HDRB Decision
Date: Sunday, December 6, 2020 11:19:22 AM

Tracy,

I would like to request an appeal from the Town Council of the decision of The Historic District Review Board, and or to respectfully grant relief from removing the installed windows and to install the final window, in the order, that arrived on-site broken.

Sincerely,

Robert Mucha

Sent from my iPad

On Dec 2, 2020, at 3:02 PM, Tracy Outten <tracy.outten@capecharles.org> wrote:

Good afternoon Mr. Mucha and Mr. Carretta,

Please find attached the decision made by the Historic District Review Board at the December 1, 2020 meeting.

The following is still needed to complete the Certificate of Appropriateness process:

- The fee of \$150

* A required 30-day wait period between approval of a Certificate of Appropriateness and issuance of the permit for construction.

Reach out if you have questions.

Thank you,

Tracy

Tracy Outten, CMC
Planning Technician
Town of Cape Charles
2 Plum Street
Cape Charles, Virginia 23310
757-331-3259, ext. 24
www.capecharles.org

<627 Monroe Avenue_HDRB Decision Letter.pdf>



CERTIFICATE OF APPROPRIATENESS 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 | ☐ Proposed materials/spec sheets, samples |
| ☐ Proposed site plan or survey (if applicable) | ☒ Payment of fees (new construction >2,000 square feet \$500; new construction up to 2,000 square feet \$300; all other \$150; modification \$250) |

PROPERTY INFORMATION

Name of Project: Robert & Therese Mucha
Property Address: 627 MONROE Avenue
Brief Description of Project: Window Replacement (To Match current)
Zoning District: _____ Current Use: Window Proposed Use: Window Window

OWNER INFORMATION

Name and Company: RICKRIS INC. DBA THE WINDOW GURU
Mailing Address: 208 A 88th Street Virginia Beach, VA 23451
Phone Number: 757-373-3786 Email: THEWINDOWGURU@COX.NET

APPLICANT INFORMATION

☒ check here if applicant is owner

Name: RICHARD 'Rick' CARRETTA
Mailing Address: 208 A 88th Street Virginia Beach, VA 23451
Phone Number: 757-373-3786 Email: THEWINDOWGURU@COX.NET

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: [Signature] Date: Nov 3rd 2020

Note: There is a required 30-day wait period between approval of a Certificate of Appropriateness and issuance of the permit for construction.

Town of Cape Charles Planning & Zoning Department
2 Plum St. • Cape Charles, VA 23310 • 757-331-2036 • capecharles.org





heritage *Deluxe*



Our Heritage Deluxe model is the ultimate in sensibility and beauty. Designed for significant performance in all climates, the glass, spacer and feature package is practical in both fit and function. All of our exceptional Heritage features and components are included, but further enhanced with these specifications:



- *LoE 366®*
- *Neat®/Preserve™ – Coatings & Film*
- *DualTech Latch and Lock™*
- *MagnaSeal*
- *Extruded Full Screen*
- *Gold Warranty*
- *Double Strength Glass*
- *Exterior Foam Insul Wrap*
- *Energy Star Rated*



White



Beige



Creme White



Light Oak



Medium Oak



Cherry

Finishes available in white, beige, creme white with interior laminated options in cherry, medium oak, light oak or a variety of exterior PRIZM colors.



*Colors are not an exact match.
Refer to samples for accurate color match.*

Prizm Exterior Acrylic Coating

Would you like your windows to be a custom exterior color? You can have any color you like! Joyce Windows offers Prizm Exterior Acrylic Coating (EAC) to create any color exterior windows! Prizm is a custom acrylic copolymer coating! This unique color application process creates virtually maintenance-free exterior colors that will not chip or peel like painted wood or vinyl windows. The color has excellent long-term retention and, in many cases, actually improves the heat absorption over standard vinyl colors. This product is AAMA certified and fully-warranted. With Joyce Windows, choose from ten standard colors or custom match, the right look is certainly available for your home.

Earth Brown	Barn Red	White
Musket Brown	Country Green	Desert Sand

EAC Specifications

- Acrylic Copolymer Coating
- Virtually Maintenance Free
- Excellent Long Term Color Retention
- Reflective Pigments Minimize Heat Absorption

Bronze

Black

Harbor
Stone

Natural Clay

- No Chipping or Peeling
- AAMA Certified
- Fully Warranted

Grids

- Available flat, contoured, brass pencil, colonial, diamond, prairie, and double prairie
- Placed between the panes of glass for a smooth elegant appearance

Vinyl replacement windows beautify your home while reducing energy costs. Vinyl windows, made from extruded polyvinyl chloride (PVC), have become the industry standard because of their durability, thermal efficiency, and maintainability. Vinyl will not rust, scratch, or peel. Custom sizes, a variety of insulated glass systems, and many available options are available to meet your needs. Not every single window in your home has to be the same exact type. A combination of slider, picture, awning, and casement windows looks beautiful and allows different ventilation patterns throughout your home.

Heritage Double Hung



Heritage Double Hung windows offer top-of-the-line features, with a classic coved frame for a quarter-round wood moulding look. Our exclusive magna-seal, a magnetic weather stripping at critical points, seals your window much like the most air-tight door in your home, your refrigerator door, for optimum energy efficiency. In double hung windows, both the top and bottom sash open to provide the ventilation you desire and tilt in for easy cleaning.

FEATURES



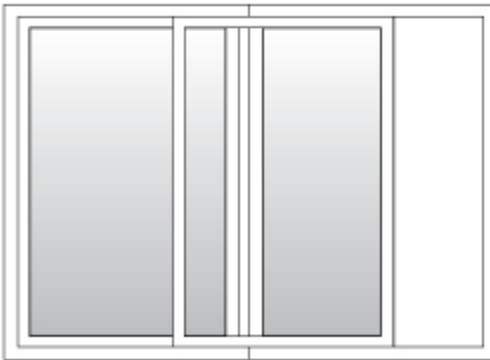
- - Exclusive magnetic sill—airtight fit for the ultimate in energy performance
- - Coved interior sash
- - Tilt-in sash for easy cleaning
- - Beveled exterior frame
- - Foam-insulated sash and/or frame
- - State of the art composite reinforcement
- - Stainless steel sash balance system is maintenance-free
- - Dual-cam locks on windows wider than 18"
- - Secure-lock screen option deters removal from outside
- Dual-ventilation vent stops add security with windows partially open

Heritage Slider



Heritage Slider windows offer top-of-the-line features, with a classic coved frame for a quarter-round wood moulding look. In slider windows, the sash swing in for easy cleaning, and slide or maximum ventilation. Heritage Slider windows offer top-of-the-line features, with a classic coved frame for a quarter-round wood moulding look.

FEATURES



- - Airtight sash fit for the ultimate in energy performance
- - Coved interior sash
- - Swinging sash for easy cleaning
- - Beveled exterior frame
- - Foam-insulated sash and/or frame
- - Dual-cam locks on windows wider than 18"
-

- Secure-lock screen option deters removal from outside
-
- Dual-ventilation vent stops add security with windows partially open
- Thermal Efficient Composite Reinforcement

Composite Reinforcement



- Non-conductive
- Composite reinforced lock and keeper rail
- Increased strength and rigidity



Magna Seal

- Superior magnetic seal
- Keeps the cold out

Recessed Tilt Latches



- Easy to slide
- Slide both latches to tilt in window



Tilt-in Sashes

- Clean your windows in comfort of being inside
- Available in double hungs and optional on sliders

Dual Vent Locks



- Security of keeping your window partially open, prevents opening from the outside



Heavy Duty Cam Locks

- Pick resistant
- Keeps sashes securely in place for maximum weather protection

Joyce Windows exclusively uses SmartShield Glass providing the best performance and value for your windows. SmartShield has specially formulated window glass packages for any climate or

budget. Cooler in the summer and warmer in the winter, SmartShield Glass is the best choice for your home.

COATED

GLASS

Low Emissivity (Low E) glass keeps the heat out in the summer. During winter, Low E glass keeps the heat inside and the bitter cold – outside. Low E also reduces UV penetration to protect furniture and carpets from fading.

WHATEVER GLASS OPTION YOU CHOOSE, ALL JOYCE WINDOWS HAVE A LIFETIME GLASS WARRANTY. SEE WARRANTY FOR DETAILS.

R-values depend on glass type, spacer, and overall thickness. For a complete listing see the NFRC website www.nfrc.org.

Joyce Windows believes in excellence. The owners and management believe that with continued training and the expectation of excellence, our products will continue to be the best in the industry. We are so sure of this we offer strong warranties to back every product.

All installed windows are warranted to be free of defects in materials and workmanship for as long as the purchaser resides at or owns the home. The sealed insulated glass unit is warranted against defects resulting in material obstruction of vision. Details of the warranty and claims can be found on the warranty card which accompanies each product purchased.

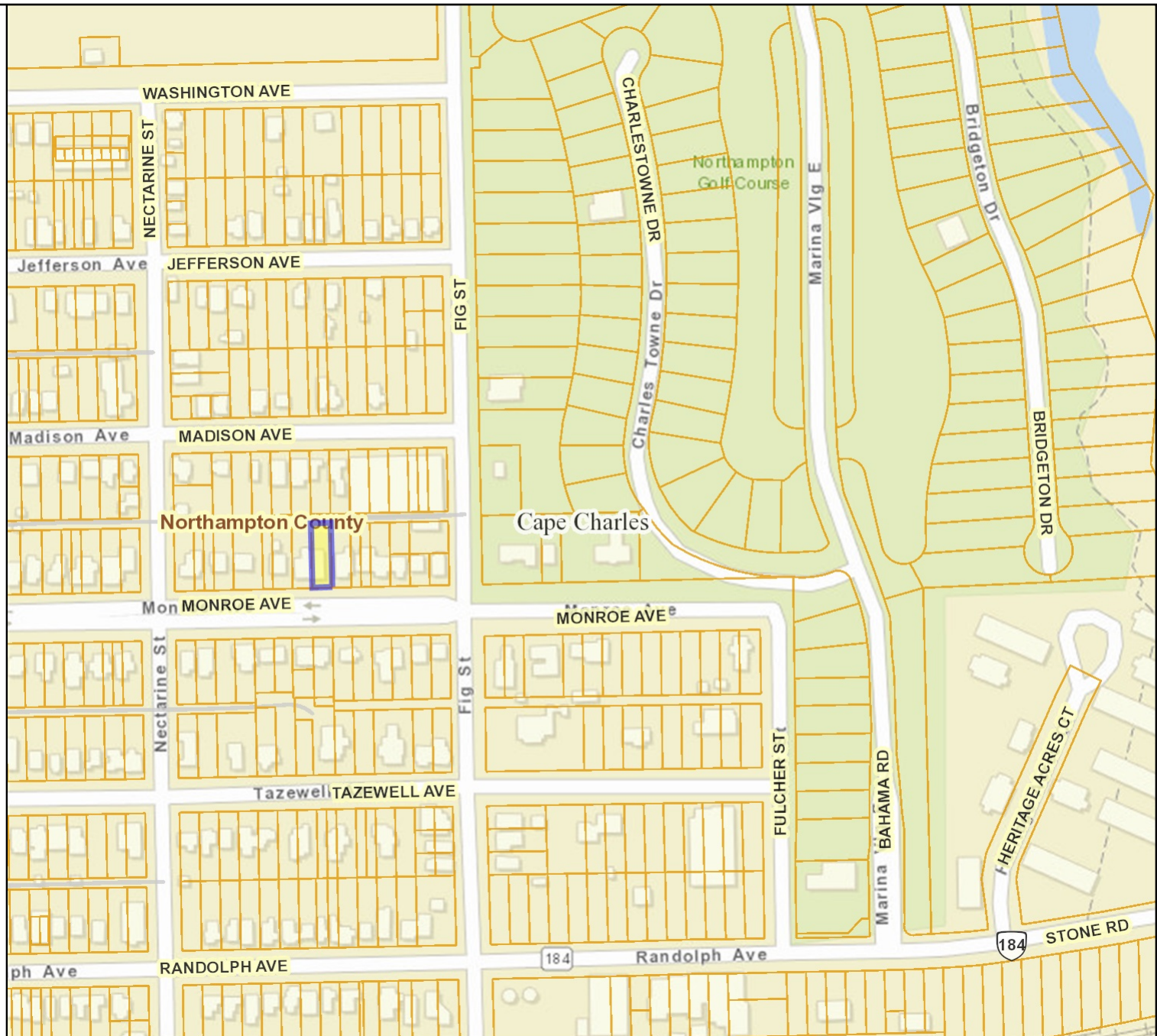


All Joyce Windows are covered by our Silver Warranty providing a lifetime non-prorated transferable warranty on the entire unit, including glass seal failure. Also included is our relocation and natural disaster warranty which offers guaranteed price protection should you move to a different home or face damage due to a natural disaster. Upgrade to our optional Gold Warranty and get the added protection of full glass breakage.

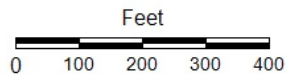
Northampton County, Virginia

Legend

- County Boundaries
- Town Names
- Route Numbers
- Road Labels
- Parcels
- Driveways



Map Printed from Northampton
<http://northampton.mapsdirect.net/>



Title: 627 Monroe Avenue

Date: 11/6/2020

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Northampton County is not responsible for its accuracy or how current it may be.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Conditional Use Permit 401 Madison Avenue		AGENDA DATE: December 17, 2020
	SUBJECT/PROPOSAL/REQUEST: Conditional Use Permit for Accessory Dwelling at 401 Madison Avenue		ITEM NUMBER: 7C
	ATTACHMENTS: Attachment 1 – Application and Documents; Attachment 2 – Location Map		FOR COUNCIL: Action (x) Information ()
	STAFF CONTACT(s): Allyson Finchum		

REQUEST:

The applicant requests to convert the second story of a finished detached garage to an accessory dwelling unit. The garage area will remain located on the first floor of the structure. The applicant has stated they will use the accessory dwelling unit as a long-term rental.

BACKGROUND:

A Certificate of Appropriateness to construct a principal dwelling and accessory structure was approved by the Historic District Review Board on June 20, 2017. The original construction of both occurred in 2017/2018.

The Planning Commission and Town Council held a joint public hearing on October 6, 2020 (report attached). Following the public hearing, the Planning Commission discussed the application and the issue of accessory dwelling units. The Planning Commission stated the Town of Cape Charles Comprehensive Plan outlines a need to provide affordable housing within the Town. To meet the need, an amendment to the zoning ordinance providing accessory dwelling units by conditional use on a case-by-case basis was adopted. The purpose was not to provide more bedrooms for short-term, transient rentals. To ensure the application upheld the intent of the Comprehensive Plan, the Planning Commission discussed and amended the proposed conditions. The application was deferred until the next regularly scheduled Planning Commission meeting on November 4, 2020, and staff presented an updated report with amended conditions based on comments from the previous meeting. The Planning Commission recommended approval of the application with modified conditions based on discussion.

ORDINANCES:

Zoning Regulations:

This zoning district is intended to provide quiet, medium density, single-family residential development plus provide open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to restrict all activities of a commercial nature as described in Section 3.6-A of this ordinance, known as Commercial District C-1, which states “These commercial activities are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments,” and to promote a convenient, attractive, and harmonious community. This section is created in recognition of the existence of developed areas where single-family and duplex dwelling currently exist on lots of 5,600 square feet and where the characteristics of the neighborhood include both permanent as well as seasonal residents.

Historic District Overlay Regulations:

The purpose of this district is to provide for protection against destruction or encroachment upon historic areas, buildings, monuments, or other features, or buildings and structures of recognized architectural significance which contribute or will contribute

to the cultural, social, economic, political, artistic, or architectural heritage of the Town of Cape Charles and the Commonwealth of Virginia. It is the purpose of the district to preserve the designated historic areas and historic landmarks and other historic or architectural features, and their surroundings within a reasonable distance, from destruction, damage, defacement, and obvious incongruous development or uses of land and to ensure that buildings, structures, streets, walkways, or signs shall be erected, reconstructed, altered, or restored so as to be kept architecturally compatible with the character of the general area in which they are located and with the historic buildings or structures within the district.

Accessory Dwelling Unit Regulations:

Article 4, Section 4.2 (J) states one accessory dwelling may be maintained on a property in the R-E, R-1, R-2 and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3, and subject to the following:

- A. Physical characteristics.
 - 1. Accessory dwellings shall be located in an accessory building.
 - 2. Accessory dwellings shall not have a floor area exceeding 45 percent of the floor area of the main building.
 - 3. Accessory dwellings shall have one kitchen and one bathroom.
 - 4. Accessory buildings containing an accessory dwelling shall maintain the exterior appearance of an accessory building and shall not have the appearance of a single-family dwelling.
- B. Occupancy characteristics.
 - 1. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Article IV, Section 4.3.F.
 - 2. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.
- C. Other requirements.
 - 1. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.
 - 2. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
 - 3. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1 C. 6. (Table of Parking Standards) using both on and off-street parking areas. An accessory dwelling unit must have one off-street parking space per dwelling unit bedroom.
 - 4. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic District Overlay.

Conditional Use Permit Regulations:

The purpose of a conditional use permit is to “recognize certain uses which, by nature, can have a potentially unfavorable impact on or be incompatible with other uses of land within a given zoning district. These uses, as described, may be permitted within given designated districts under controls, limitations, and regulations of a conditional use permit. It shall be the duty of the Town Council under the provisions of this ordinance to evaluate the impact and the compatibility of each use and to stipulate such conditions and restrictions including those specifically contained herein as will assure the use being compatible with the neighborhood in which it is located, both in terms of existing land uses and conditions and in terms of development proposed or permitted by right in the area or, where that cannot be accomplished, to deny the use as not being in accordance with the adopted comprehensive plan or as being incompatible with the surrounding neighborhood.”

STAFF ANALYSIS:

Section 4.3 of the zoning ordinance states “conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:

1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. Be in conflict with the purpose of the comprehensive plan of the town. In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

The proposed project appears to meet all of these provisions.

Section III-A.5.1.2 of the Comprehensive Plan discusses the overall policies for Cape Charles neighborhoods, specifically promoting compatible infill development and renovation within established neighborhoods. The Comprehensive Plan states to “promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options.”

The proposed project appears to meet the Comprehensive Plan goal of promoting accessory dwelling units within established neighborhoods.

Section 4.2(J)(3)(C) of the zoning ordinance states “parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6 (Table of Parking Standards) using both on and off-street parking areas.” Section 4.5.1.C.6 requires a minimum of one space per accessory dwelling unit bedroom.

The proposed project meets the requirements of the zoning ordinance. The concrete driveway area contains ample space for two parking spaces for the principal structure and additional parking space for the proposed accessory dwelling.

Following are conditions proposed by staff and reviewed and amended by the Planning Commission for Town Council. The Town Council may modify the conditions provided all requirements of federal, state, and local ordinance are in compliance:

- 1) The accessory dwelling shall comply with all local, state and federal regulations.
- 2) The accessory dwelling shall comply with all provisions of the Town of Cape Charles Zoning Ordinance Article IV, Section 4.2(J) Accessory Dwellings and subject to the following:
 1. Physical characteristics.
 - a. The accessory dwelling shall be located in an accessory building.
 - b. The accessory dwelling shall not have a floor area exceeding forty-five (45) percent of the floor area of the main building.
 - c. The accessory dwelling shall have one kitchen and one bathroom.
 - d. The accessory building shall not have the appearance of a single-family dwelling.
 2. Occupancy characteristics.
 - a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.

- b. Inspections – The accessory dwelling unit shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.
- 3. Other requirements.
 - a. The accessory dwelling located in accessory building may have a separate water meter from the principal dwelling.
 - b. The lot on which the accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
 - c. Three on-site parking spaces shall be provided at all times.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.
- 3) The accessory dwelling unit shall be limited to no more than a one-bedroom accommodation.
- 4) The property owner (which shall include title holders and contract purchasers) must occupy either the principal unit or the accessory dwelling unit as a permanent residence. If at any time the owner occupies neither unit, the accessory dwelling unit shall automatically become a non-habitable space, shall not be used as a dwelling, and shall not be rented.
- 5) The effective period of the conditional use permit shall be three years. At the end of every three years, renewal shall be automatically extended upon receipt of certification by the Town Planner that the primary dwelling unit remains the principal residence of the owner and that all other conditions met at the time of the original application remain unchanged.
- 6) The accessory dwelling unit shall not be sold separately from the single-family home.
- 7) Prior to issuance of a building permit for the accessory dwelling unit, the owner shall record a covenant in a form approved by the Town to notify subsequent owners of the requirements of this permit.
- 8) Violation of any of these conditions may result in review and revocation of the Conditional Use Permit by Town Council.

Staff Recommendation:

Staff recommends the conditional use permit is approvable with the proposed conditions.



PLANNING COMMISSION

STAFF REPORT

Meeting Date: October 6, 2020

Item #: 7A

Prepared By:	Allyson Finchum – Town Planner
Site Address:	401 Madison Ave (tax map #83A1-1-182A)
Applicant:	Scott and Robin Simms
Owner:	Scott and Robin Simms
Proposed Development:	Conditional use permit to allow an accessory dwelling unit at 401 Madison Avenue
Current Zoning:	Single-Family Residential (R-1)

Zoning Regulations:

This zoning district is intended to provide quiet, medium density, single-family residential development plus provide open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to restrict all activities of a commercial nature as described in Section 3.6-A of this ordinance, known as Commercial District C-1, which states “These commercial activities are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments,” and to promote a convenient, attractive, and harmonious community. This section is created in recognition of the existence of developed areas where single-family and duplex dwelling currently exist on lots of 5,600 square feet and where the characteristics of the neighborhood include both permanent as well as seasonal residents.

Historic District Overlay Regulations:

The purpose of this district is to provide for protection against destruction or encroachment upon historic areas, buildings, monuments, or other features, or buildings and structures of recognized architectural significance which contribute or will contribute to the cultural, social, economic, political, artistic, or architectural heritage of the Town of Cape Charles and the Commonwealth of Virginia. It is the purpose of the district to preserve the designated historic areas and historic landmarks and other historic or architectural features, and their surroundings within a reasonable distance, from destruction, damage, defacement, and obvious incongruous development or uses of land and to ensure that buildings, structures, streets, walkways, or signs shall be erected, reconstructed, altered,

or restored so as to be kept architecturally compatible with the character of the general area in which they are located and with the historic buildings or structures within the district.

Accessory Dwelling Unit Regulations:

Article 4, Section 4.2 (J) states one accessory dwelling may be maintained on a property in the R-E, R-1, R-2 and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3, and subject to the following:

A. Physical characteristics.

1. Accessory dwellings shall be located in an accessory building.
2. Accessory dwellings shall not have a floor area exceeding 45 percent of the floor area of the main building.
3. Accessory dwellings shall have one kitchen and one bathroom.
4. Accessory buildings containing an accessory dwelling shall maintain the exterior appearance of an accessory building and shall not have the appearance of a single-family dwelling.

B. Occupancy characteristics.

1. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Article IV, Section 4.3.F.
2. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.

C. Other requirements.

1. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.
2. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
3. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1 C. 6. (Table of Parking Standards) using both on and off-street parking areas. An accessory dwelling unit must have one off-street parking space per dwelling unit bedroom.
4. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic District Overlay.

Conditional Use Permit Regulations:

The purpose of a conditional use permit is to “recognize certain uses which, by nature, can have a potentially unfavorable impact on or be incompatible with other uses of land within a given zoning district. These uses, as described, may be permitted within given designated districts under controls, limitations, and regulations of a conditional use permit. It shall be the duty of the Town Council under the provisions of this ordinance to evaluate the impact and the compatibility of each use and to stipulate such conditions and restrictions including those specifically contained herein as will assure the use being compatible with the neighborhood in which it is located, both in terms of existing land uses and conditions and in terms of development proposed or permitted by right in the area or, where that cannot be accomplished, to deny the use as not being in accordance with the adopted comprehensive plan or as being incompatible with the surrounding neighborhood.”

Description of Proposed Project:

The applicant has finished a detached garage and would like to convert the second story to an accessory dwelling unit. The garage area will remain located on the first floor of the structure. The applicant has stated they would use the accessory dwelling unit as a long-term rental. A Certificate of Appropriateness was approved by the Historic District Review Board on June 20, 2017. The original construction of both the principal dwelling and accessory structure occurred in 2017/2018.

Staff Analysis:

Section 4.3 of the zoning ordinance states “conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:

1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. Be in conflict with the purpose of the comprehensive plan of the town. In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

The proposed project appears to meet all of these provisions.

Section III-A.5.1.2 of the Comprehensive Plan discusses the overall policies for Cape Charles neighborhoods, specifically promoting compatible infill development and renovation within established neighborhoods. The Comprehensive Plan states to “promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options.”

The proposed project appears to meet the Comprehensive Plan goal of promoting accessory dwelling units within established neighborhoods.

Section 4.2(J)(3)(C) of the zoning ordinance states “parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6 (Table of Parking Standards) using both on and off-street parking areas.” Section 4.5.1.C.6 requires a minimum of one space per accessory dwelling unit bedroom.

The proposed project meets the requirements of the zoning ordinance. The concrete driveway area contains ample space for two parking spaces for the principal structure and additional parking space for the proposed accessory dwelling.

Following are conditions proposed by staff for review and recommendation by the Planning Commission to Town Council. The Planning Commission and Town Council may modify the conditions provided all requirements of federal, state, and local ordinance are in compliance:

- 1) The accessory dwelling shall comply with all local, state and federal regulations.
- ~~2) The accessory dwelling must be built in accordance with the layout marked exhibit A dated _____~~
- 3) The accessory dwelling shall comply with all provisions of the Town of Cape Charles Zoning Ordinance Article IV, Section 4.2(J) Accessory Dwellings and subject to the following:
 1. Physical characteristics.
 - a. Accessory dwellings shall be located in an accessory building.
 - b. Accessory dwellings shall not have a floor area exceeding forty-five (45) percent of the floor area of the main building.
 - c. Accessory dwellings shall have one kitchen and one bathroom.
 - d. Accessory buildings and shall not have the appearance of a single-family dwelling.
 2. Occupancy characteristics.
 - a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and\or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.
 - b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.
 3. Other requirements.
 - a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.
 - b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.

- c. Three on-site parking spaces shall be provided at all times.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.
- 4) A sign no larger than four square feet shall be permitted
- 5) The accessory dwelling unit shall be limited to no more than a one-bedroom accommodation
- 6) The property owner (which shall include title holders and contract purchasers) must occupy either the principal unit or the accessory dwelling unit as a permanent residence. If at any time the owner occupies neither unit, the accessory dwelling unit shall automatically become a non-habitable space, shall not be used as a dwelling, and shall not be rented.
- 7) The effective period of the conditional use permit shall be three years. At the end of every three years, renewal shall be automatically extended upon receipt of certification by the Town Planner that the primary dwelling unit remains the principal residence of the owner and that all other conditions met at the time of the original application remain unchanged.
- 8) The accessory dwelling unit shall not be sold separately from the single-family home.
- 9) Prior to issuance of a building permit for the accessory dwelling unit, the owner shall record a covenant in a form approved by the Town to notify subsequent owners of the requirements of this permit.

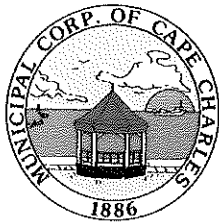
Staff Recommendation:

Staff recommends the conditional use permit is approvable with the proposed conditions.

Attachments:

Attachment 1 – Application and Documents

Attachment 2 – Location Map



CONDITIONAL USE PERMIT APPLICATION

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

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

- ☒ Completed application (if applicable, attach accessory dwelling checklist and documents)
- ☒ Letter of intent clearly explaining project
- ☒ Existing site plan or survey
- ☐ Proposed site plan or survey (if applicable)
- ☒ Names and addresses of adjacent property owners
- ☒ Payment of Fees (single-family detached residential \$600; all other \$800)

PROJECT INFORMATION

Name of Project: 401 Madison Studio in Garage
Property Address: 401 Madison Ave. Cape Charles, VA 23310
Brief Description of Project: Room above garage used as long term studio rental
Zoning District: _____ Current Use: N/A Proposed Use: yearly rental

OWNER INFORMATION

Name and Company: Scott and Robin Simms
Mailing Address: 401 Madison Ave.
Phone Number: 757-678-3033 Email: Rstwins@verizon.net

APPLICANT INFORMATION

☒ check here if applicant is owner

Name: same as above
Mailing Address: _____
Phone Number: _____ Email: _____

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: Robin Simms Date: 5/29/20

Town of Cape Charles Planning & Zoning Department
2 Plum St. • Cape Charles, VA 23310 • 757-331-2036 • capecharles.org

Scott and Robin Simms
401 Madison Ave.
Cape Charles, VA 23310

May 29, 2020

Town of Cape Charles
2 Plum St.
Cape Charles, VA 23310

RE: Conditional Use Permit Application

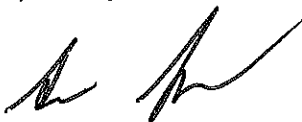
Dear Town of Cape Charles,

We, Scott and Robin Simms are writing this letter to declare our interest in obtaining a conditional use permit that would allow us to use a room above our garage as a long term rental unit.

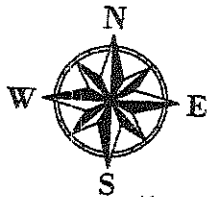
We are in the process of finishing the interior construction of this room. Our immediate desire is to use the space for overflow for visiting family and friends. We would like to have the opportunity to use the room as a long term rental if the need presents itself. The space we have would be considered a studio size rental unit. We feel there are very few long term rentals in the town and we could provide a nice option.

Thank you for your consideration of our application.

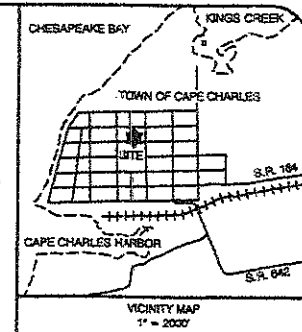
Respectfully submitted,


Scott Simms


Robin Simms



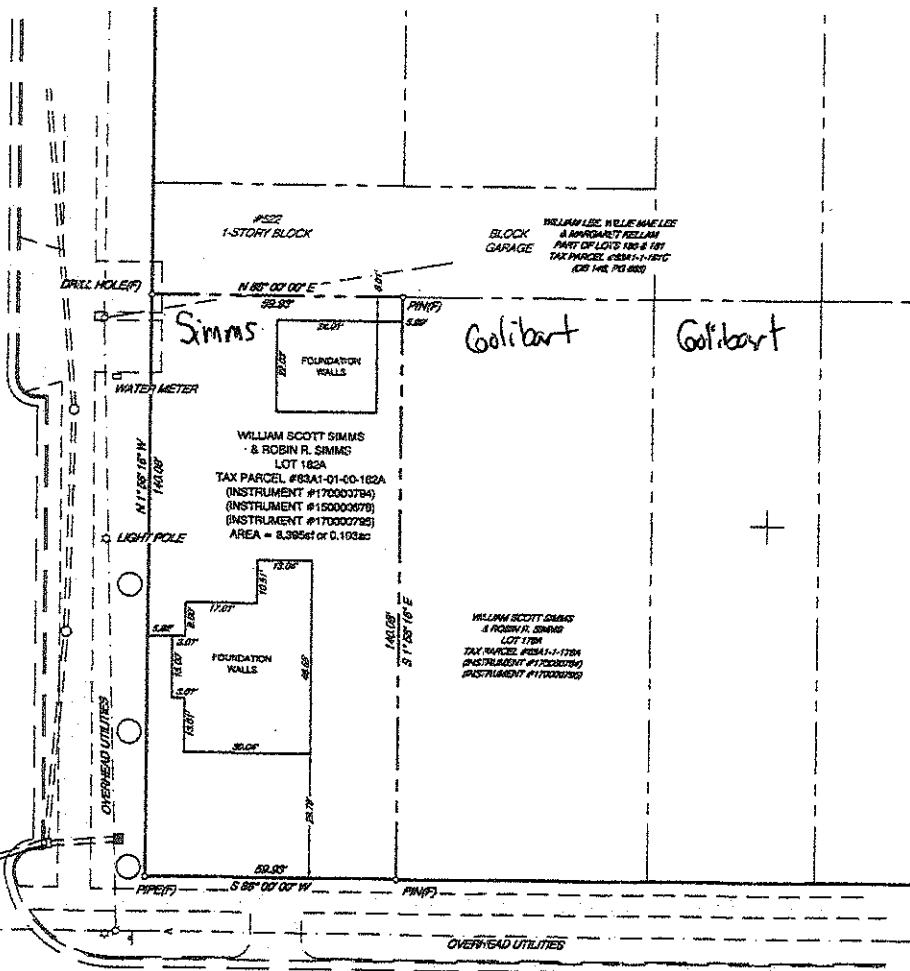
I, HEREBY CERTIFY THAT THIS AS-BUILT IS BASED ON A CURRENT FIELD SURVEY, AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IS CORRECT AND COMPLIES WITH THE MINIMUM PROCEDURES AND STANDARDS ESTABLISHED BY THE VIRGINIA STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS.



NOTES:

1. THE MERIDIAN SOURCE OF THIS PLAT IS BASED ON "MAP OF THE TOWN OF CAPE CHARLES" RECORDED IN THE OFFICE OF THE CLERK OF COURTS IN DEED BOOK 41 AT PAGE 484.
2. THIS PROPERTY APPEARS TO FALL IN:
FLOOD ZONE: SHADED X
COMMUNITY NUMBER: 510100
PANEL: 0285F DATED: MARCH 2, 2015
3. FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAPS AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE.
4. THIS PLAT IS BASED ON A CURRENT FIELD SURVEY HAVING A CLOSURE EXCEEDING 1:111,158.
5. ZONING AND SETBACK INFORMATION IS ACCURATE AS OF THE DATE OF PLAT PREPARATION AND ARE SHOWN FOR INFORMATIONAL PURPOSES ONLY. CURRENT ZONING REGULATIONS AT THE TIME OF CONSTRUCTION SHALL GOVERN SETBACKS.
6. THE PROPERTY IS SERVED BY TOWN SEWER AND WATER.
7. THIS PROPERTY IS ZONED "SINGLE FAMILY RESIDENTIAL (R-1)" AND THE SETBACKS ARE AS FOLLOWS:
FRONT - 30' OR PREVAILING SETBACK
SIDE - 5'
REAR - 25'
8. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY/all EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN

Peach Street - State Route T-1109
(100' Right-of-Way)
(Deed Book 41, Page 484)



Madison Avenue - State Route T-1104
(70' Right-of-Way)
(Deed Book 41, Page 484)

FOUNDATION AS-BUILT
OF
Lot 182A
Map of the Town of Cape Charles
(DEED BOOK 41, PAGE 484)
(INSTRUMENT #170000796)
TAX PARCEL #03A1-01-00-182A
TOWN OF CAPE CHARLES
NORTHAMPTON COUNTY, VIRGINIA
FOR
Shoreline Surveyors
23314 Courthouse Avenue - P.O. Box 738
Accomac, Virginia 22301
PHONE (757) 788-3950 FAX (757) 788-3952



GRAPHIC SCALE
SCALE: 1" = 20'
DRAWN: 1/14/18
FIELD BOOK: 43, PAGE 16
JOB #17060
SHEET 1 OF 1

Northampton County, Virginia

Tax Map #: 83A1-1-178A
Owner: GOLIBART, MARTIN J & SUZANNE
K

Details

Billing Address: PO BOX 264
City: EASTVILLE
State: VA
Zip: 23347
Total Acres: 1.00
Land Value: \$100,000
Improvement Value: \$0
Total Value: \$100,000
Deed Book: 0
Deed Page: 0
Will Book: N/A
Will Page: N/A
Plat: PL17 795
Instrument Number: LR17 796
Parcel_Description: LOT 178A 59.93'X140'

Northampton County, Virginia

Tax Map #: 83A1-1-183
Owner: THE EDMUND J SABO II & AMY L
SABO FAMILY TRUST

Details

Billing Address: 11912 STONEHENGE DR
City: FREDERICKSBURG
State: VA
Zip: 22407
Total Acres: 1.00
Land Value: \$120,000
Improvement Value: \$0
Total Value: \$120,000
Deed Book: 0
Deed Page: 0
Will Book: N/A
Will Page: N/A
Plat: PL19 2247
Instrument Number: LR15 618
Parcel_Description: LOT 183 & 186 COMBINED
MADISON & PEACH (PARCEL "A"
ON PLAT) 80X140

Northampton County, Virginia

Tax Map #: 83A1-1-180B
Owner: LEE, WILLIE MAE & KELLAM,
MARGARET &

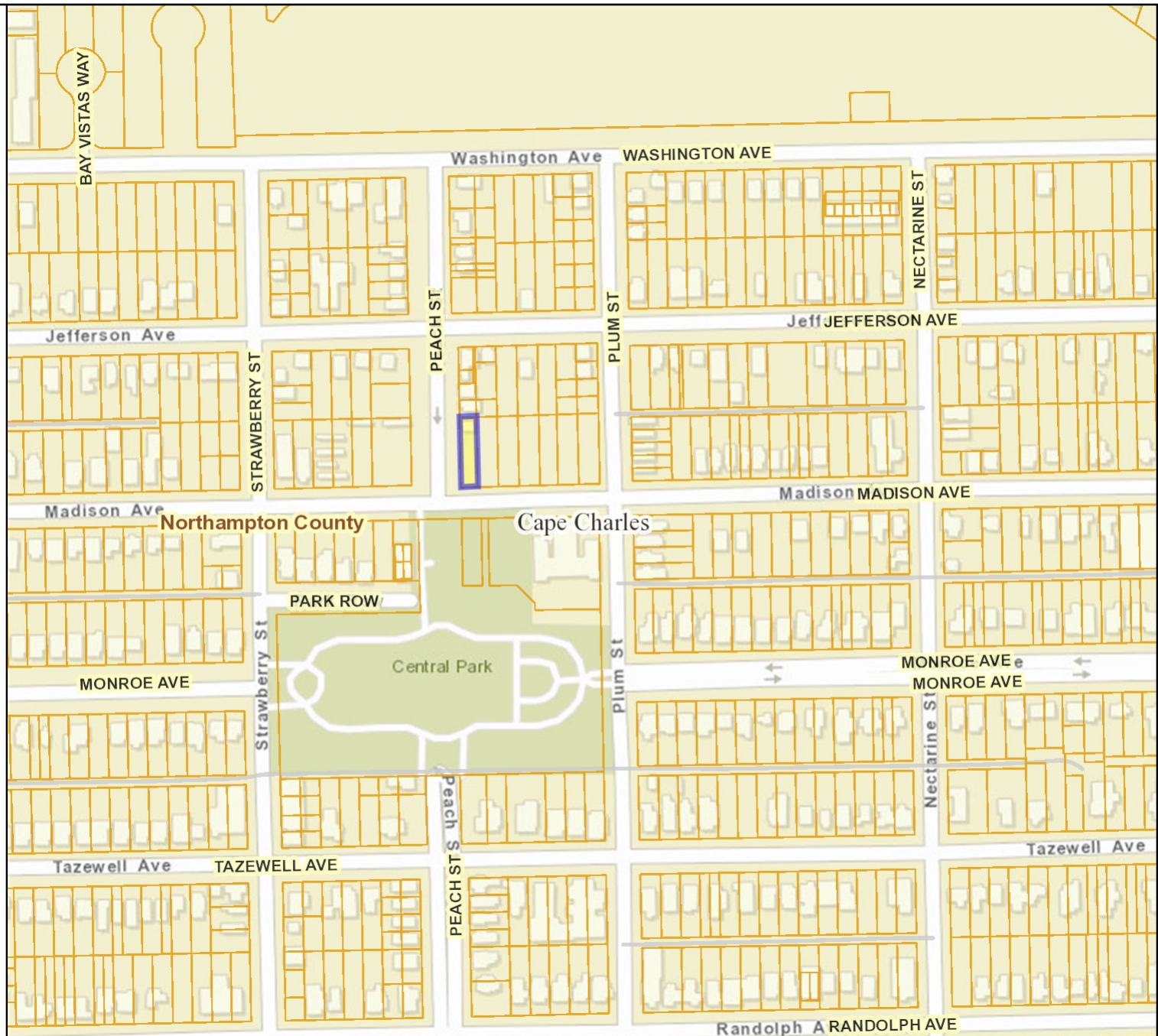
Details

Billing Address: 6116 LOCKAMY LN
City: NORFOLK
State: VA
Zip: 23502
Total Acres: 1.00
Land Value: \$54,800
Improvement Value: \$20,300
Total Value: \$75,100
Deed Book: 0
Deed Page: 0
Will Book: 0
Will Page: 0
Plat: N/A
Instrument Number: LR09 1611
Parcel_Description: PART OF LOTS 180 & 181 26.5'X80'

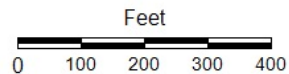
Northampton County, Virginia

Legend

-  County Boundaries
-  Town Names
-  Route Numbers
-  Road Labels
-  Parcels
-  Driveways



Map Printed from Northampton
<http://northampton.mapsdirect.net/>



Title: 401 Madison Avenue

Date: 6/30/2020

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Northampton County is not responsible for its accuracy or how current it may be.



PLANNING COMMISSION

STAFF REPORT

Meeting Date: November 4, 2020

Revisions from October 6, 2020

Item #: 5A

Prepared By:	Allyson Finchum – Town Planner
Site Address:	401 Madison Ave (tax map #83A1-1-182A)
Applicant:	Scott and Robin Simms
Owner:	Scott and Robin Simms
Proposed Development:	Conditional use permit to allow an accessory dwelling unit at 401 Madison Avenue
Current Zoning:	Single-Family Residential (R-1)

Zoning Regulations:

This zoning district is intended to provide quiet, medium density, single-family residential development plus provide open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to restrict all activities of a commercial nature as described in Section 3.6-A of this ordinance, known as Commercial District C-1, which states “These commercial activities are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments,” and to promote a convenient, attractive, and harmonious community. This section is created in recognition of the existence of developed areas where single-family and duplex dwelling currently exist on lots of 5,600 square feet and where the characteristics of the neighborhood include both permanent as well as seasonal residents.

Historic District Overlay Regulations:

The purpose of this district is to provide for protection against destruction or encroachment upon historic areas, buildings, monuments, or other features, or buildings and structures of recognized architectural significance which contribute or will contribute to the cultural, social, economic, political, artistic, or architectural heritage of the Town of Cape Charles and the Commonwealth of Virginia. It is the purpose of the district to preserve the designated historic areas and historic landmarks and other historic or architectural features, and their surroundings within a reasonable distance, from destruction, damage, defacement, and obvious incongruous development or uses of land and to ensure that buildings, structures, streets, walkways, or signs shall be erected, reconstructed, altered,

or restored so as to be kept architecturally compatible with the character of the general area in which they are located and with the historic buildings or structures within the district.

Accessory Dwelling Unit Regulations:

Article 4, Section 4.2 (J) states one accessory dwelling may be maintained on a property in the R-E, R-1, R-2 and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3, and subject to the following:

A. Physical characteristics.

1. Accessory dwellings shall be located in an accessory building.
2. Accessory dwellings shall not have a floor area exceeding 45 percent of the floor area of the main building.
3. Accessory dwellings shall have one kitchen and one bathroom.
4. Accessory buildings containing an accessory dwelling shall maintain the exterior appearance of an accessory building and shall not have the appearance of a single-family dwelling.

B. Occupancy characteristics.

1. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Article IV, Section 4.3.F.
2. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.

C. Other requirements.

1. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.
2. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
3. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1 C. 6. (Table of Parking Standards) using both on and off-street parking areas. An accessory dwelling unit must have one off-street parking space per dwelling unit bedroom.
4. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic District Overlay.

Conditional Use Permit Regulations:

The purpose of a conditional use permit is to “recognize certain uses which, by nature, can have a potentially unfavorable impact on or be incompatible with other uses of land within a given zoning district. These uses, as described, may be permitted within given designated districts under controls, limitations, and regulations of a conditional use permit. It shall be the duty of the Town Council under the provisions of this ordinance to evaluate the impact and the compatibility of each use and to stipulate such conditions and restrictions including those specifically contained herein as will assure the use being compatible with the neighborhood in which it is located, both in terms of existing land uses and conditions and in terms of development proposed or permitted by right in the area or, where that cannot be accomplished, to deny the use as not being in accordance with the adopted comprehensive plan or as being incompatible with the surrounding neighborhood.”

Description of Proposed Project:

The applicant has finished a detached garage and would like to convert the second story to an accessory dwelling unit. The garage area will remain located on the first floor of the structure. The applicant has stated they would use the accessory dwelling unit as a long-term rental. A Certificate of Appropriateness was approved by the Historic District Review Board on June 20, 2017. The original construction of both the principal dwelling and accessory structure occurred in 2017/2018.

Staff Analysis:

Section 4.3 of the zoning ordinance states “conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:

1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. Be in conflict with the purpose of the comprehensive plan of the town. In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

The proposed project appears to meet all of these provisions.

Section III-A.5.1.2 of the Comprehensive Plan discusses the overall policies for Cape Charles neighborhoods, specifically promoting compatible infill development and renovation within established neighborhoods. The Comprehensive Plan states to “promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options.”

The proposed project appears to meet the Comprehensive Plan goal of promoting accessory dwelling units within established neighborhoods.

Section 4.2(J)(3)(C) of the zoning ordinance states “parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6 (Table of Parking Standards) using both on and off-street parking areas.” Section 4.5.1.C.6 requires a minimum of one space per accessory dwelling unit bedroom.

The proposed project meets the requirements of the zoning ordinance. The concrete driveway area contains ample space for two parking spaces for the principal structure and additional parking space for the proposed accessory dwelling.

Following are conditions proposed by staff for review and recommendation by the Planning Commission to Town Council. The Planning Commission and Town Council may modify the conditions provided all requirements of federal, state, and local ordinance are in compliance:

- 1) The accessory dwelling shall comply with all local, state and federal regulations.
- ~~2) The accessory dwelling must be built in accordance with the layout marked exhibit A dated _____~~
- 3) The accessory dwelling shall comply with all provisions of the Town of Cape Charles Zoning Ordinance Article IV, Section 4.2(J) Accessory Dwellings and subject to the following:
 1. Physical characteristics.
 - a. Accessory dwellings shall be located in an accessory building.
 - b. Accessory dwellings shall not have a floor area exceeding forty-five (45) percent of the floor area of the main building.
 - c. Accessory dwellings shall have one kitchen and one bathroom.
 - d. Accessory buildings and shall not have the appearance of a single-family dwelling.
 2. Occupancy characteristics.
 - a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and\or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.
 - b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.
 3. Other requirements.
 - a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.
 - b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.

- c. Three on-site parking spaces shall be provided at all times.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.
- 4) The accessory dwelling unit shall be limited to no more than a one-bedroom accommodation
- 5) The property owner (which shall include title holders and contract purchasers) must occupy either the principal unit or the accessory dwelling unit as a permanent residence. If at any time the owner occupies neither unit, the accessory dwelling unit shall automatically become a non-habitable space, shall not be used as a dwelling, and shall not be rented.
- 6) The effective period of the conditional use permit shall be three years. At the end of every three years, renewal shall be automatically extended upon receipt of certification by the Town Planner that the primary dwelling unit remains the principal residence of the owner and that all other conditions met at the time of the original application remain unchanged.
- 7) The accessory dwelling unit shall not be sold separately from the single-family home.
- 8) Prior to issuance of a building permit for the accessory dwelling unit, the owner shall record a covenant in a form approved by the Town to notify subsequent owners of the requirements of this permit.
- 9) Upon approval of final inspection or occupancy permit for an accessory dwelling unit a separate utilities account shall be required.
- 10) Violation of any of these conditions may result in review and revocation of the Conditional Use permit by Town Council.

Update:

The Planning Commission and Town Council held a joint public hearing on October 6, 2020. The Planning Commission discussed the issue of accessory dwelling units. The Town of Cape Charles Comprehensive Plan outlines a need to provide affordable housing within the Town. To meet the need, an amendment to the zoning ordinance providing accessory dwelling units by conditional use on a case-by-case basis was adopted. The intent was not to provide more bedrooms for short-term, transient rentals. The Planning Commission discussed the proposed conditions and staff updated the conditions based on the concerns. The updated conditions are in this report for Planning Commission review.

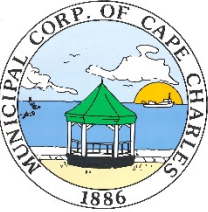
Staff Recommendation:

To date, the applicant has not requested deferral of this application. Staff recommends the Planning Commission continue their review and provide recommendation to Town Council. Staff recommends the conditional use permit is approvable with the proposed conditions.

Attachments:

Attachment 1 – Application and Documents

Attachment 2 – Location Map

 TOWN OF CAPE CHARLES	AGENDA TITLE: VDOT Warning Signage Request		AGENDA DATE: December 17, 2020
	SUBJECT/PROPOSAL/REQUEST: Adoption of resolution authorizing submittal of request to VDOT for installation of warning signage for pedestrians/disabled persons		ITEM NUMBER: 7D
	ATTACHMENTS: Resolution 20201217, diagram of sign sample		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

At the November 19, 2020 Town Council Regular Meeting, Ms. Dianne Davis addressed Council regarding the installation of signage to warn motorists of children and citizens with scooters, wheelchairs, walking canes, etc. travelling on the Town's streets. Ms. Davis noted that this was especially true along Stone Road by the Myrtle Landing Apartments where many of the residents use their scooters and motorized wheelchairs to go to Rayfield's Pharmacy and the Peach Street convenience store, as well as other areas in Town. The number of vehicles coming into the Town had increased over the last several years, especially during the tourist season. Ms. Davis contacted the Virginia Department of Transportation (VDOT) and was informed that the Town would have to make a request to have signage installed.

Town Clerk Libby Hume and Community Relations Manager Jen Lewis researched VDOT's regulations and met with Ms. Davis to discuss the various areas where warning signage was needed. Resolution 20201217 was drafted and reviewed by Ms. Davis who had no changes.

DISCUSSION:

Per an email exchange between Town Manager John Hozey and VDOT Residency Administrator Chris Isdell, Council needed to adopt a resolution requesting the signage along with reasons given for the requested locations. Mr. Isdell would submit the request for review.

RECOMMENDATION:

Staff recommends Council adoption of Resolution 20201217 – Request to VDOT for Warning Signage on Cape Charles' Streets for Persons with Disabilities.

RESOLUTION 20201217

REQUEST TO VDOT FOR WARNING SIGNAGE ON CAPE CHARLES' STREETS FOR PERSONS WITH DISABILITIES

WHEREAS, the Town of Cape Charles has a large population of elderly and disabled residents;
and

WHEREAS, many of the residents at the Myrtle Landing Apartments and Sea Breeze Apartments walk or use wheelchairs and scooters as their mode of transportation to Rayfield's Drug Store, Peach Street Convenience Store, the Cape Charles Memorial Library and the retail establishments on Mason Avenue; and

WHEREAS, the amount of vehicular traffic has increased significantly along Stone Road, especially during the tourist season which typically runs from April to October of each year; and

WHEREAS, in an effort to ensure the safety of the residents and visitors to the Town of Cape Charles, it was suggested that signage be installed in Town warning motorists of pedestrians and individuals with disabilities who may also be on or near active roadways; and

WHEREAS, the identified locations with the highest amounts of pedestrian and individuals with disabilities traffic are as follows, in priority order:

- Stone Road, west bound just prior to the Myrtle Landing Apartments, and east bound from Fig Street
- Fig Street Extended, from the intersection of Stone Road/Randolph Avenue to Mason Avenue
- Mason Avenue, east bound before the "hump"

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Town Council of the Town of Cape Charles hereby approves the submittal of a request to the Virginia Department of Transportation for the installation of W11-2 signs to warn motorists of pedestrians, and supplementary plaques indicating "DISABILITY" along with each sign.

Adopted by the Town Council of Cape Charles on this 17th day of December 2020.

By: _____
Mayor William "Smitty" Dize

ATTEST:

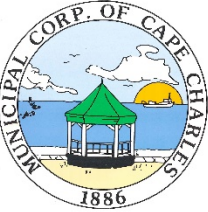
Town Clerk

Taken from VDOT Guidelines dated August 20, 2018

Design and type of Sign:

- For pedestrian areas other than at a school where a W11-2 sign is normally used to warn motorists of pedestrians, a supplementary plaque indicating "DISABILITY" may be attached to the W11-2 sign to warn motorists of persons with a disability.



 TOWN OF CAPE CHARLES	AGENDA TITLE: Historic District Review Board Member Re-appointment		AGENDA DATE: December 17, 2020
	SUBJECT/PROPOSAL/REQUEST: Reappoint member to Historic District Review Board		ITEM NUMBER: 7E
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Historic District Review Board (HDRB) reviews applications for certificates of appropriateness for exterior modifications to existing buildings, construction of new buildings and demolition of buildings in the Town's Historic District. The HDRB consists of five members – four citizen members each serving five-year terms, and one Planning Commission representative.

DISCUSSION:

Kerry Shackelford currently serves on the HDRB and his term will expire on January 8, 2021. He has expressed his interest in continuing his service on the Board for another term.

RECOMMENDATION:

Staff recommends Council reappoint Mr. Kerry Shackelford to the Historic District Review Board for another five-year term.