



TOWN COUNCIL
Public Hearing & Regular Meeting
November 18, 2021
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. Public Hearing:
 - A. [Conveyance of Property to Cape Charles Rosenwald School Restoration Initiative](#)
4. Recognition of Visitors / Presentations / Recognitions
 - A. Board of Zoning Appeals Semi-Annual Report – Katie Nunez, Zoning Administrator
5. Public Comments (3 minutes per speaker)
6. *Consent Agenda
 - A. Approval of Agenda Format
 - B. [Approval of Minutes](#)
 - C. [Approval of September 30, 2021 Financial Report](#)
 - D. Scheduling of Public Hearings for December 16, 2021:
 - i. [602 Tazewell Avenue – Conditional Use Permit – Accessory Dwelling Unit](#)
 - ii. [206A Jefferson Avenue – Conditional Use Permit – Accessory Dwelling Unit](#)
 - iii. [325 Madison Avenue – Conditional Use Permit – Accessory Dwelling Unit](#)
 - iv. [654 Monroe Avenue – Conditional Use Permit – Accessory Dwelling Unit](#)
 - v. [410 Harbor Ave/100 Madison Ave – Conditional Use Permit – Accessory Dwelling Unit](#)
 - vi. [4 Lots on Randolph Avenue – Conditional Use Permit – Mini Golf](#)
 - vii. [219 Mason Avenue – Conditional Use Permit – 5 Residential Units above First Floor Commercial](#)
7. Unfinished Business: None
8. New Business:
 - *A. [Atlantic Union Bank Line of Credit Renewal](#)
 - *B. [Wetlands & Coastal Dune Board Member Reappointment](#)
 - *C. [Property Conveyance to Cape Charles Rosenwald School Restoration Initiative](#)
 - *D. [Cape Charles Yacht Center Reorganization - Consent to Assignment of Contract](#)
9. Town Manager Comments
10. Mayor & Council Comments (5 minutes per speaker)
11. Announcements
 - November 24, 2021 – Town Offices Closing at Noon for Thanksgiving Holiday
 - November 25-26, 2021 – Town Offices Closed for Thanksgiving Holiday
 - December 2, 2021 – Town Council Executive Session
 - December 5, 2021 – Grand Illumination of Central Park
 - December 16, 2021 – Town Council Public Hearings & Regular Meeting
 - December 31, 2021 – Dropping of the Crab Pot
12. Adjournment of Public Hearing and Regular Meeting

Cape Charles Town Council Public Hearing re: Property Disposal

Pursuant to Code of Virginia Sec. 15.2-1800, the Town Council of the Town of Cape Charles will hold a public hearing on November 18, 2021, beginning at 6:30 PM at the Cape Charles Civic Center, located at 500 Tazewell Avenue, for the conveyance of a portion of tax parcel 83A3-A-14 to the Cape Charles Rosenwald School Restoration Initiative. An ordinance authorizing such conveyance, per Code of Virginia Sec. 15.2-2100, will be considered the same evening. The proposed ordinance may be viewed online at www.capecharles.org, under Agendas and Minutes/Town Council or in the Town Clerk's office, located at 2 Plum Street.



DRAFT
TOWN COUNCIL
Regular Meeting & Executive Session
Cape Charles Civic Center
October 21, 2021
6:30 PM

At approximately 6:30 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Regular Meeting & Executive Session of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Follmer and Grossman, and Councilwomen Holloway and O'Brien. Councilman Buchholz was not in attendance. Also, in attendance were Town Manager John Hozey, Project Manager Bob Panek, Police Chief Jim Pruitt, Library Manager Ann Rutledge, Assistant to the Town Manager Julie Pruitt, and Town Clerk Libby Hume. There were 12 members of the public physically in attendance, and 25 viewers on Facebook.

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

RECOGNITION OF VISITORS / PRESENTATIONS:

There were no visitors, presentations or recognitions.

PUBLIC COMMENTS: (3 MINUTES PER SPEAKER)

Dianne Davis

Ms. Davis addressed Council requesting consideration of a basketball court for the Town's youth and visitors. (Please see attached.) Ms. Davis also submitted a petition requesting a basketball court signed by 59 individuals – 51 residents of Cape Charles, 14 of which were under the age of 18, and 8 Northampton County residents.

Bill Prickett

Mr. Prickett expressed his support for the Citizens for Central Park proposal and thanked the Council for their support over many projects, particularly the summer concerts.

William Knight

Mr. Knight expressed his support for Ms. Davis' comments adding that several years ago, he presented a proposal to the Council for a multi-use basketball court. Mr. Knight went on to express his concern about the beach and proposed that Council form a committee to do a feasibility study with the possibility of charging tourists for coming to the beach. In 2005, he moved to Cape Charles from Connecticut as a permanent resident and felt that a committee might find a way to raise additional revenue for the Town versus real estate taxes.

Clayton Newman

Mr. Newman stated that he had spoken to many on the Council individually regarding the clamming operation on Mason Avenue and was here tonight to add his name to the list of residents who have expressed serious concern over the operations. He and his wife had been coming to Cape Charles since the early 1990s when his mother moved to what was a sleepy little town by the bay that time had forgotten. They fell in love with the Shore and Cape Charles and in 2005 built their house next door to his mother at the corner of Randolph and Harbor. They worked hard to get to Cape Charles full-time and moved here in July 2020. They were not surprised to find a working harbor in their backyard and know that the harbor has played a pivotal role in the success and survival of the Town. There was a huge difference about what should be allowed in the harbor and what was there now. This morning, at 4:00 a.m., there was a parade of refrigerated semis, multiple forklifts with backup alarms, booms, slamming of the cages onto the deck to load trucks. The process went on for hours preventing him from sleeping. He did not think this would be the future that he tried so hard to get

to. He was reminded that there used to be clamming boats in the harbor and that this operation was just a return to the way things used to be. It's usually not until he showed a video of the current situation that people began to understand why this was so upsetting. Mr. Newman implored Council to add this issue to their already long list of priorities and help the Town's residents and find a remedy. The operations were ruining the lives of the residents in the area. He invited Council to go to his house at 2:00 a.m. to hear the operations to see if they would be able to sleep under the conditions. Something had to be done.

Town Clerk Libby Hume read comments submitted in writing prior to the meeting from Ahren Foster. (Please see attached.)

There were no additional comments received in writing prior to the meeting.

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. September 16, 2021 Town Council Public Hearing & Regular Meeting
- C. Approval of August 31, 2021 Financial Report

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

UNFINISHED BUSINESS:

There was no unfinished business for review.

NEW BUSINESS:

- A. *Citizens for Central Park Game Area Proposal:*
Town Manager John Hozey stated that he brought this item forward last month and Council asked that it be placed on this month's agenda. Mr. Hank Mayer was here this evening to provide a presentation of the Citizens for Central Park's (CCP) proposal. (Please see attached.)

John Hozey stated that staff concurred with CCP's proposal and recommended allowing CCP to move forward with their portion immediately.

There was discussion as follows: i) Councilman Grossman asked about basketball. John Hozey stated his agreement with CCP that Central Park would not be the best location for a basketball court adding that he had been talking to representatives from Canolie about a multi-use field on railroad property; ii) Councilman Grossman stated that kids regularly used the basketball court at the Cape Charles Baptist Church. It could get noisy with kids running around, but it would be no different in Central Park where we had tennis courts, etc. The noise and disturbance of the neighbors should not be an issue for considering a basketball court in the park; iii) Councilman Follmer expressed his agreement with Councilman Grossman. It would be good to obtain public input regarding additional facilities that they would like to see in the park, and he asked that something be added to the upcoming community survey, to include the basketball court as well. He would prefer to defer any decision on this matter until the public input had been received. Also, on proposals like this, he would like to see not just the upfront costs, but the costs that Council would be committing to for maintenance and repairs as well as replacement of equipment. Also, when talking about the proposed climbing wall, how would that impact the Town's insurance? iv) Councilwoman Holloway commended CCP for the work they did but agreed that a survey was needed. Although CCP reached out on Facebook asking for various activities wanted at the park, she did not think it reached all the residents of Cape Charles. Basketball courts had been a concern since she moved here in 2011 and she did not think of it as a problem area. She agreed with Councilman Follmer that a level of standard and a set time was needed for when activities ceased in the evenings, especially with the residences surrounding the

park. This information needed to be included in a survey to all residents, not just electronically, to obtain concrete data; v) John Hozey added that he personally supported getting a basketball court, but standards needed to be set, and he felt it would be problematic in Central Park. The Town did not have anyone, other than the police force, to monitor the court and ensure that everyone left by 10:00 p.m. This activity would be less impactful on property by the hump. A question would be included in the survey regarding basketball in general; vi) Councilwoman O'Brien expressed her concern with talking about noise levels around Central Park when Mr. Newman just addressed Council baring his soul regarding the noise from the clamming operation. The residents wanted a basketball court. There were corn hole games at the Shanty, and people playing corn hole could be just as noisy as those playing basketball. It was time to listen to the people who had been asking for a basketball court for years. The citizens in Town were respectful people and she did not see where the police would have to clear the court on a regular basis; vii) Vice Mayor Bennett stated that the Town had a basketball court in the past, and there had been issues requiring police attention, which Chief Pruitt might want to speak about. He believed the majority of the issues were caused by people from out of town. He was not opposed to having a basketball court, but as stated by the town manager, there might be a better location other than Central Park; viii) Mayor Dize stated that he grew up playing basketball and agreed that the Town needed a basketball court. In the past, there had been issues with gun shots, etc., but things were different now. He believed the kids would be respectful and he had not heard of any problems with the court at the church. He also agreed with Councilman Follmer that a survey was needed. Whether in Central Park or another location, he would like to see a basketball court in Town; ix) Mayor Dize thanked Hank Mayer and the CCP for all the work done to improve Central Park, adding that it was amazing that they were able to raise \$31K to spend on the proposed park improvements. He would like to see the work in the playground area continue.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to proceed with the playground area additions as presented. The motion was approved by unanimous vote.

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

John Hozey stated that Mr. Bill Prickett currently served on the Wetlands & Coastal Dune Board, and his term would be expiring on November 12, 2021. Mr. Prickett expressed his interest in continuing his service on the Board for another term.

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to reappoint Mr. Bill Prickett to the Wetlands & Coastal Dune Board for another term. The motion was approved by unanimous vote.

C. *World War I Memorial Plaque Relocation in Cape Charles Memorial Library:*

Library Board Chairman Rich Burger addressed Council regarding the Library Board's request to relocate the World War I Memorial Plaque into the Library's History Room. Mr. Burger stated that this issue had been on the Library Board's agenda for over five years and two years ago, the Board voted to move the plaque into the History Room, along with an explanation of the plaque and its purpose honoring those who gave their lives in the war. In the early 20th century, standards at the time made reference to the race of the individuals, but in this century, the Library Board no longer felt that it was appropriate to segregate the names of the individuals and agreed that the best location of the plaque was in the History Room.

Mayor Dize permitted Mr. Thomas Godwin to speak on the matter.

Mr. Godwin related a story of his childhood where he used to sit outside the library folding newspapers for his paper route. He was not permitted into the library but would read the newspaper following the various stories, especially those about the war and the number of people killed. Later on, being in the funeral business, he saw boxes come back with the remains

of those serving in the wars – World War I, World War II, and Vietnam, and it had a great effect on him. He mentioned his grandfather, uncle and son who served in the military and added that he also wanted to serve but circumstances would not allow it. He served on the draft board for 30 years and thought of the people he might have sent to their deaths. Whatever was decided about the plaque would not be satisfactory, but a way needed to be found to honor those in the cemetery. He offered his assistance to help Council come up with a resolution.

Motion made by Councilman Follmer, seconded by Councilwoman Holloway, to support the Library Board's request to relocate the World War I Memorial Plaque.

Mayor Dize expressed his full support of moving the plaque adding that it was part of the Town's history adding that when the plaque was made, Cape Charles was ahead of the rest of the country by adding all names to the same plaque. It was part of history that should be taught to the children. He was not opposed to creating another plaque that listed all names in alphabetical order.

Vice Mayor Bennett stated that he loved history and looked at the plaque differently. Several years ago, he suggested melting down the existing plaque and recasting it listing the names in alphabetical order. He no longer wanted to do that, but wanted the plaque used as a teaching aid, not covered up and hidden in the vault. People needed to know that the plaque existed. This was not a decision for the Library Board or the Town Council, but for the people to make. He had no objections to the request but wanted to express his passion for the topic.

The motion was approved by unanimous vote.

D. *Waste Collection & Disposal Contract Award:*

John Hozey stated that an invitation for bids (IFB) for waste collection and disposal services was advertised on September 9, 2021, with a bid submittal deadline of October 5, 2021. No bids were received so the deadline was extended to October 13, 2021. One bid from Davis Disposal Co., Inc, the current service provider, was received.

The IFB requested the contractor to provide a base bid for current services, and an alternate bid for twice a week pickup from May through September, not including Mason Avenue. The alternate was requested by the short-term rental owners in town.

The base bid price came in at \$17.45 per container which represented a \$0.77 increase over the current contract. The alternate bid price came in at \$23.00 per container during the month when twice per week pickup occurred. Because this increase was taking place midway through the budget year, the Sanitation Fund did not have sufficient funds budgeted to cover the increase for the remainder of this fiscal year. The Sanitation Fund had a Fund Balance of \$89,911 which could cover the shortfall of approximately \$12,320 for the base bid, and the rates would be increased next fiscal year. Increases in the base bid pricing were tied to the consumer price index.

At this time, staff did not recommend awarding the alternate bid. There had been some discussion about the short-term rental owners picking up the additional cost for this service, but no agreement had been worked out. If a satisfactory arrangement could be reached before May 2022, this issue would be brought to Council for an amendment to the contract.

Mayor Dize asked whether recycling costs were researched. John Hozey stated that recycling was a separate item and research was currently being done and would be included in the citizen survey. At this time, pricing from one contractor would be about \$9 per month per residence for every-other week pickup, but the contractor would not accept glass. Staff contacted another company but was unable to obtain a quote.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to authorize the town manager to execute a contract with Davis Disposal Co., Inc. for the base bid for waste collection and disposal services. The motion was approved by unanimous vote.

Councilwoman Holloway brought up the recycling wagon owned Eastern Shore Spay Organization (ESSO) which was located at the corner of Mason Avenue and Fig Street. Its condition was a disaster and an embarrassment to the Town. She went by it earlier today and there were bottles and cans everywhere. It was the first thing people saw on their way into the commercial district. She supported ESSO, but the wagon needed to be moved.

John Hozey stated that the wagon did not belong to the Town, and he had asked the public works manager to contact the owners to have them empty the wagon more often. Public Works even put out a trash receptacle for people to throw away their trash. There was no place on Town property to place the wagon. He was planning to meet with Canonie Railroad regarding a master lease for all parcels currently leased by the Town and adding the recreation field. He would add a recycling area for ESSO's wagon to the list.

E. *Removal of Seat Belt Requirement for Golf Carts:*

John Hozey stated that Vice Mayor Bennett requested Council consideration of removing the seat belt requirement from the annual golf cart inspection, with his concern that seat belts could be harmful when used on a golf cart during a rollover without proper rollover protective systems. A letter from Club Car was included in the agenda packet. Any changes to the Town Code required adoption of an ordinance.

Vice Mayor Bennett stated that he brought the issue up as a safety issue. If someone was in a golf cart and involved in an accident with a vehicle, there was a much higher chance of injury if the individual was belted in a golf cart. Seat belts were an after-market item and not considered a safety item by manufacturers. Seat belts were a requirement of the Town for the safety inspection, but most people did not wear them. The Town was fortunate not to have had an accident with a golf cart and motor vehicle.

Motion made by Vice Mayor Bennett to adopt Ordinance 20211021 Adopting Revisions to Cape Charles Town Code Article III.A, Section 42-51. There was no second to the motion.

TOWN MANAGER COMMENTS

John Hozey commented as follows: i) Council procedures were updated recently, but a procedural issue was omitted. He had never been in a locality where a single member of Council could put something on the agenda. Typically, a request from at least two Council members was necessary before an item would be placed on an agenda. Mayor Dize stated his preference that all requests to add items to the agenda go through the mayor. John Hozey agreed that was an option, but if the mayor disagreed with an item, it could potentially be stopped. The procedure would be cleaner if the Mayor or two members of Council could place an item on an agenda; ii) He reached out to VDOT for updates on a number of items and learned that the rumble strips, to call drivers' attention to the recently reduced speed limit to 25 MPH on Stone Road, were installed today; iii) VDOT signed a contract with a vendor to repair the sidewalks. The vendor would be grinding down all areas where the sidewalk was raised over a half inch for safety issues. Prior to contract signing, a crew came into Town to evaluate the sidewalk and to identify the areas needing repair. He asked for a list of the areas but had not received it to date. VDOT was hopeful that the work would be completed by Thanksgiving; iv) A request for proposals was issued for consulting services for the comprehensive plan and zoning ordinance. Phase 1 would be the comprehensive plan and Phase 2 would be to update the zoning ordinance to be consistent with the comprehensive plan. A separate project was in process with Municode to review the Town Code for consistency with the State. A meeting had been scheduled for next month with Municode, staff and our attorney. Once the zoning ordinance was completed it would be submitted to Municode for publication as well; v) The strategic plan was

approved in March 2021. He would like to see an update completed by February 2022 to better align with the budget process. His goal was for annual updates each February. He was working on a report card to show the accomplishments so far. He was also working on a survey to residents to go out the early part of December. The data from the survey should be back in January and compiled for a report to Council in February. The report would also be provided to the consultant hired for the comprehensive plan update; vi) He was actively working with the attorney and zoning administration to identify the Town's options regarding the harbor zoning issue; vii) Some of Council might have heard about the unauthorized demolition of a structure. He met with the property owners and mistakes were made. Staff enforced the issue to the maximum extent provided by the law and things were moving forward. The Town needed more tools for enforcement. He was working with the zoning administrator regarding options, but we might have to petition the General Assembly. He was also working to identify other legislative priorities. A work session might be necessary in November regarding legislative priorities; viii) Per the agreement, Cape Charles Main Street (CCMS) was required to provide an annual report to Council. As discussed last month, Council would attend the CCMS Rev-Up Meeting scheduled for November 8 from 6:00-9:00 p.m. The meeting would be posted. He asked that the Mayor and members of Council try to attend this meeting to hear the annual update. This meeting would count as the annual report for this year; ix) Two new hires to report – Jerry Murphy was hired as the account manager in the Finance Department, and Julie Pruitt was hired as the special assistant to the town manager.

Councilman Grossman asked whether the Town had anything on the books to limit the operations referred to by Mr. Newman. John Hozey responded that he would be meeting with the owner of the property to see if he would be willing to cooperate regarding limiting the operations. Councilwoman Holloway encouraged Council to listen to Mr. Newman's 4:00 a.m. recording.

MAYOR AND COUNCIL COMMENTS

Councilman Follmer commented as follows: i) He reiterated that it was top priority for the Town to do anything available to strengthen our power of enforcement; ii) He thanked Mr. Newman for his comments. He did not live as close to the operations so he could not hear it. He heard trucks on most nights past midnight going down Mason Avenue. His condo vibrates every time a truck went by, and it could not be good for the historic buildings along the street. He was glad that this was a top priority. It was unacceptable.

Councilman Grossman commented as follows: i) Council would be seeing four conditional use permits for accessory dwelling units which were recently reviewed by the Planning Commission. The Planning Commission would be reviewing the current requirements regarding how the units were being utilized; ii) The Accomack-Northampton Planning District Commission was conducting a regional housing study and it was important to get individual input from residents, landlords and businesses. This was a 20-year update. There was a community meeting in Eastville and only six people attended. Only three people came to the meeting in Exmore. It was imperative to get public input or else the study would be ineffective; iii) Early voting was available. He went to vote the other day and there were already 700 people who had voted. Northampton County was expecting 4,500 total votes for this election. He encouraged everyone to get out to vote.

Councilwoman O'Brien commented as follows: i) She sent photos of the pier to John Hozey, and she was worried about the condition of the pier with a lot of missing boards where people could fall. She felt that the pier should be closed until the repairs were made for safety reasons. It was a liability to the Town; ii) She asked how the Town could get a ramp put in at the post office so individuals with disabilities could access the building. Mayor Dize responded that the Town had asked but had no control since it was a federal building. Councilwoman Holloway stated that a solution would be for those unable to climb the steps to go to the back and ring the bell. She had not checked on it, but it could be a good resolution. Mayor Dize added that he brought the issue up with Congresswoman Luria last year.

Vice Mayor Bennett commented as follows: i) He asked whether Council would have enough information by reviewing the Planning Commission minutes to make a decision regarding the accessory dwelling units. Councilman Grossman stated that the applications would be presented to Council for public hearings and the necessary information would be provided in the staff report; ii) He would be out of town the first week of November so would be unable to attend a work session if held on November 4. Mayor Dize stated his preference for a work session on the same date, either before or after, the next regular meeting.

Councilwoman Holloway commented on the following: i) She thanked the public works department and staff for doing an amazing job of communicating about the VDOT street sweeping. It took a lot of work to keep everyone abreast of the schedule with hand-delivered notices and the alerts put out by the clerk. It was handled professionally and kept the citizens well informed. John Hozey added that it was unfortunate that the state's equipment kept breaking down. He had originally requested the sweeping be scheduled for mid-November and was disappointed that VDOT came in October. The Town had no control over the schedule and would push for it again next year to be closer to Festive Fridays; ii) Everyone was aware of the workforce issues. She brought it up at the Eastern Shore of Virginia Tourism Commission and Northampton Infrastructure Grant Committee meetings, since she never felt that either organization paid attention to workforce issues. She wanted to get people talking about it and the entire Eastern Shore needed to work together, along with the community college, for a resolution. The Town could not survive without a workforce; iii) CCMS had their transformational strategies meeting today with residents, businesses and other stakeholders. 420 people completed the survey. The first year they only had 172 responses. It was incredible the number of people who took the time to complete the survey; iv) She asked for an update on Coastal Precast's plantings at the preserve. John Hozey responded that Coastal Precast would be installing a wall, not plantings, over the winter.

Mayor Dize commented as follows: i) He thanked CCP for all their efforts in raising an impressive amount of funding; ii) He thanked everyone for attending the meeting this evening and those who commented. He would like to see more people coming to the meetings since Council's decisions affected everybody; iii) He thanked the public works crew for their hard work cleaning up the Town. The entire staff had done an outstanding job this year, especially through the summer.

Mayor Dize read the announcements.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, and unanimously approved to go into Executive Session

Motion made by Councilman Buchholz, seconded by Councilman Grossman, 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 28: Discussion or consideration of information subject to exclusion in subdivision 11.b. of Section 2.2-3705.6 – Information provided by a private entity to a responsible public entity pursuant to the provisions of the Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected.

Specifically: Consultant presentation of PPEA proposals

Mayor Dize asked the members of the public in attendance to leave the room and advised them that they would be invited back into the room at the conclusion of the executive session.

The members of the public and staff in attendance, with the exception of John Hozey, Bob Panek and Libby Hume, left the room.

Council went into executive session at 8:09 p.m.

Bob Panek went outside to notify the members of the public of the end of the closed portion of the meeting. There were no members of the public waiting to return to the meeting.

Motion made by Councilwoman O'Brien, seconded by Vice Mayor Bennett, to return to open session. The motion was approved by unanimous vote.

The open portion of the meeting resumed at 9:37 p.m.

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: Bennett, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, to adjourn the Town Council Regular Meeting and Executive Session. The motion was approved by unanimous vote.

The Regular Meeting and Executive Session adjourned at 9:39 p.m.

Mayor Dize

Town Clerk

Comments & Information Provided in Writing October 21, 2021 Town Council Regular Meeting

#4 – Public Comments

Dianne Davis

Good evening, Mr. Mayor, members of the Town Council, Town Clerk and Town Manager. I am Dianne Davis of 601 Jefferson Avenue – full time resident for more than 50 years.

Basketball Court: Youth in Cape Charles as well as visitors to our town would definitely benefit from a basketball court. From time to time we have been stopped by visitors asking where the basketball court is located. All that we can say is sorry, but we do not have one. Well, the Citizens for Central Park seriously considered this amenity; but then stated that the residential area next to this park corner was not considered appropriate for such an active noisy game. Is this park the same school grounds that we have music in the summer on Saturday evenings that serenades the entire town whether we want to hear it or not? Is this the same town where we close off a street on Friday evenings to hear and dance to music that serenades the entire town?

Another comment made was that a basketball court would also take up almost all of the area that could otherwise serve a larger more diverse family need. So, the Citizens for Central Park therefore decided to not propose such a use in the park.

How does one know what the people would like to have in the park? Was a survey done for ages 12 to 100 years old males as well as females? Who are the people that decide to do or not to do a basketball court? What do we mean by diverse family? To the best of my knowledge all nationalities play basketball. Also, some of the citizens our age play basketball. Remember if you did not care for that sport growing up, there were many others who did, and if you have or had children, I am sure that some of them like to play basketball also.

Therefore, members of the Council, with all this space in the park, please consider a basketball court for our youth as well as others. We know as a fact that this is a sport that the majority of people like. We also know that there are some sports that older people enjoy that maybe the youth would not like. Let us work together so that we will have a park for us all to enjoy.

Ahren Foster

Subject: Seat Belt Agenda Item - Oct 21 Meeting

Dear Council members,

I am writing concerning the proposal to remove seat belts from golf carts. I think the idea of doing this is quite frankly absurd. Children (or adults) falling off/out of a golf cart is a much riskier scenario in Cape Charles where carts are used primarily on roads. I could not image rollovers being an issue where most carts go 19 MPH max. This is more of a concern on hilly golf courses, etc. Falling out and hitting one's head on an asphalt road is a huge concern. Our family has been affected personally by a friend's daughter that fell off of the back of a golf cart onto asphalt and suffered a traumatic brain injury. It would be irresponsible for the board to vote to remove seat belts from golf carts. We reside in a town where these are rented daily by families and the injuries that could ensue if seatbelts were not required could be horrible. Please consider voting no to this very selfish and absurd proposal.

Ahren Foster



Proposed 2021-2022 Central Park Improvements

1

CCP History & Background

- CCP founded in 2000; Virginia Corporation; 501 (c)(3) Non-Profit
- CCP was the driving force behind conversion of the former High School's Athletic Field into the public Park envisioned by William Scott when laying out the Town of Cape Charles in 1883.
- The Women's Club of Cape Charles raised \$40,000 and invested hundreds of volunteer hours in building *Cape Kids*, the Children's Playground in the Park in 2002.
- The construction of Central Park was completed and the Park was formally dedicated in 2010.
- CCP continues today as a 100% volunteer member organization with its insurance, NCCC membership and a P.O. Box as its only fixed operating costs. Annual budget - \$50,000.

2

History & Background - Continued

- CCP volunteers have invested thousands of hours over the past 20+ years in building and/or raising more than \$200,000 for the gazebo, pergola, restrooms, lamplights, upgrades & improvements to the children's playground, trees, benches and picnic tables.
- A large portion of the cost of the Park's 116 trees was donated by private individuals as Memorials to friends and family, along with the picnic tables and benches added two years ago.
- CCP hosted the first Harbor for the Arts Summer Concert in the Park in 2013, and with support from the town it annually raises the \$25,000 needed to host the largest and most successful annual summer concert program on the Virginia eastern shore.

3

Cape Kids Children's Playground

- Over the past 20 years a number of *Cape Kids* Playground attractions have aged and been removed, and some have not replaced.
- In 2015 CCP raised approximately \$30,000 toward the \$50,000 cost of replacing all of the wooden playground units.
- More recently, CCP received \$10,000 from Paul & Maria Henderson to improve the Children's Playground and we raised an additional \$6,000 via Facebook.
- The Zip-Line was replaced in 2021 thru a 50-50 cost split with the town and a GaGa Ball Game Pit was purchased and installed by CCP volunteers.

4



5

Proposed Playground Improvements

Using funds remaining from the Henderson family donation and funds raised from CCP's Margarita sales and concert related donations over the past few years, CCP is proposing to spend \$10,000 to purchase and install a Climbing Wall and sensory type playground activities.

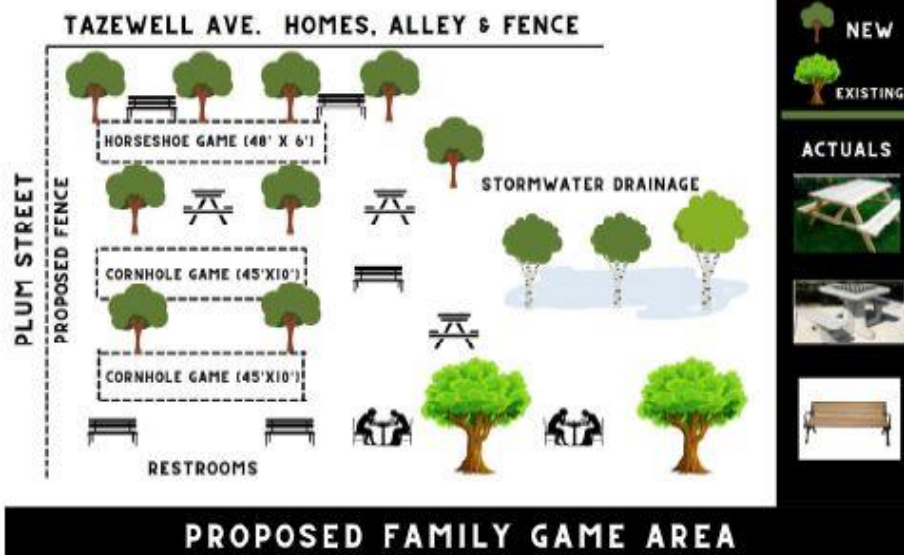


6

Proposed New Family Game Area

- Almost all of the Park's 5-acres are in use at sometime during the year, except for the southeastern corner on Plum Street bordered at the south by the Tazewell Ave backyard alley and north by the Park's Restrooms.
- Useable area is about 75' x 75' , with land sloping toward the west as part of the Park's stormwater retention design. Four River Birch trees were planted in the swale two-years ago to help absorb the stormwater.
- CCP would like to create a Family Game Area with shade trees, benches and picnic tables in this corner area.

7



8

Concrete Games On Concrete Pads



9

Two-Phase Shared Cost

Family Game Area Improvements - Estimated Costs

Item	#	Cost	Total
Horseshoe Game	1	1,000	1,000
Concrete Chess/Checkers table sets	2	1,372	2,744
Picnic Tables - red cedar	3	1,000	3,000
Benches - Oak, 80"	5	826	4,130
Cornhole games - concrete	2	1,280	2,560
6 Concrete platforms			3,260
Repair sprinkler system			500
Fence along sidewalk	75 ft	3,000	3,000
Shade Trees	11	625	6,875
Total Est Costs			\$27,069

CCP Phase 2021-22

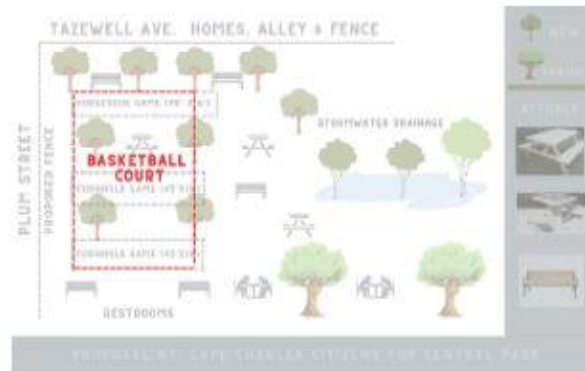
#	Cost	Total
2	1,372	2,744
3	1,000	3,000
3	826	2,478
2	1,280	2,560
		3,260
		500
11	625	6,875
		\$23,417

Town 2022-23

#	Cost	Total
1	1,000	1,000
2	826	1,652
75 ft	3,000	3,000
		\$5,652

10

Considered Basketball Court



11

Comments & Recommendations

- Basketball Court:
 - Youth in Cape Charles and the surrounding area would benefit from a basketball court, and CCP seriously considered this amenity;
 - But the residential area next to this Park corner was not considered appropriate for such an active noisy game;
 - A BB court would also take up almost all of an area that could otherwise serve a larger more diverse family games need;
 - CCP therefore decided to not propose such a use in the Park
- Proposed Park Improvements; CCP seeking Council concurrence on:
 - Playground Improvements this Fall (approx. \$10,000 cost fully funded by CCP)
 - Family Games Area in southeast corner to start in November (approx. \$27,000 cost fully funded by CCP), with 2nd Phase \$6,000 Town contribution in 2022 Summer-Fall

12

CCP Would Like to Thank the
Mayors and Town Councilpersons
Who Over the Past 20 Years Have
Supported the Concepts and Efforts
That Have Helped Us to Create the
Cape Charles Central Park
That Was Planned Back in 1883

DRAFT

September 2021 Treasurer's Report

Page 1 – Cash Position

- The Facility Fees were transferred from the money market account at First Atlantic Bank to a new Virginia Investment Pool Liquidity Account.

Page 2 – Revenue vs. Expenditures

- Meals tax revenue was allocated and transferred to the capital projects fund.
- Revenue was transferred from the general fund to the debt service general fund and the harbor fund.

Page 3 – Capital Projects

- No activity year to date, will return for a future report.

Page 4 – Tax Collection Rate

- The 2021 tax bills were mailed out on November 3rd. This report will return next month.

Page 5 – Tax Revenue Trends

- Business license due date was extended in FY 2021, which may cause collections for July-September 2021 to be lower than in 2020.
- Meals tax, sales and use tax and transient occupancy taxes average 50% higher than year to date September 2020.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
September 30, 2021

Cash on Hand	8/31/2021	9/30/2021	Increase/ (Decrease)
Atlantic Union Bank Checking Account	\$274,937	\$804,045	\$529,108
Atlantic Union Bank Money Market Account	\$2,550,429	\$2,021,864	-\$528,565
LGIP Account 1 - Unrestricted	\$104,236	\$104,241	\$5
LGIP Account 2 - Unrestricted	\$295,504	\$295,520	\$16
Total Cash On Hand	\$3,225,106	\$3,225,670	\$564

Restricted and Reserved Cash Balances	8/31/2021	9/30/2021	Increase/ (Decrease)
Atlantic Union Bank Savings Account - Facility Fees Rsrvd (Utilities)	\$1,640,486	\$0	-\$1,640,485
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$35,810	\$35,810	\$0
Atlantic Union checking Acct Library CD converted to cash	\$11,131	\$11,131	\$0
Atlantic Union Bank Checking Acct - E-Summons Revenue Rsrvd	\$6,094	\$6,365	\$271
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
Atlantic Union Money Market # ARPA CRF #5847	\$528,620	\$528,633	\$13
Virginia Investment Pool Liquidity Acct#1 Facility Fees Rsrvd (Utilities)	\$0	\$1,735,885	\$1,735,885
Virginia Investment Pool Liquidity Acct#2, Surety Bond Escrow Rsrvd	\$0	\$0	\$0
Total Cash Held in Reserve	\$2,483,818	\$2,579,503	\$95,685
Total Cash - All Accounts	\$5,708,924	\$5,805,173	\$96,249

DEBT SERVICE

Net Debt as of Current Reporting Month End \$6,540,495
(Excludes USDA vehicle and equipment loans)

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

September 30, 2021

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 FY22</u>
GENERAL Operations						
REVENUE	\$221,908	\$432,750	\$697,133	\$264,383	\$3,536,507	19.71%
EXPENDITURES	\$373,099	\$648,563	\$816,213	\$167,650	\$3,536,507	23.08%
NET	(\$151,191)	(215,812)	(\$119,079)	\$96,733	\$0	
GENERAL Capital						
REVENUE	\$26,410	\$0	\$26,410	\$26,410	\$1,197,762	2.20%
EXPENDITURES	\$848	\$0	\$848	\$848	\$1,197,762	0.07%
NET	\$25,562	\$0	\$25,562	\$25,562	\$0	
GENERAL Debt Service						
REVENUE	\$104,166	\$70,737	\$104,166	\$33,428	\$258,614	40.28%
EXPENDITURES	\$33,094	\$70,737	\$104,166	\$33,428	\$258,614	40.28%
NET	\$71,072	\$0	\$0	\$0	\$0	
GENERAL Special Activities						
REVENUE	\$52,480	\$0	\$81,342	\$81,342	\$948,115	8.58%
EXPENDITURES	\$70,251	\$0	\$121,423	\$121,423	\$948,115	12.81%
NET	(\$17,771)	\$0	(\$40,081)	(\$40,081)	\$0	

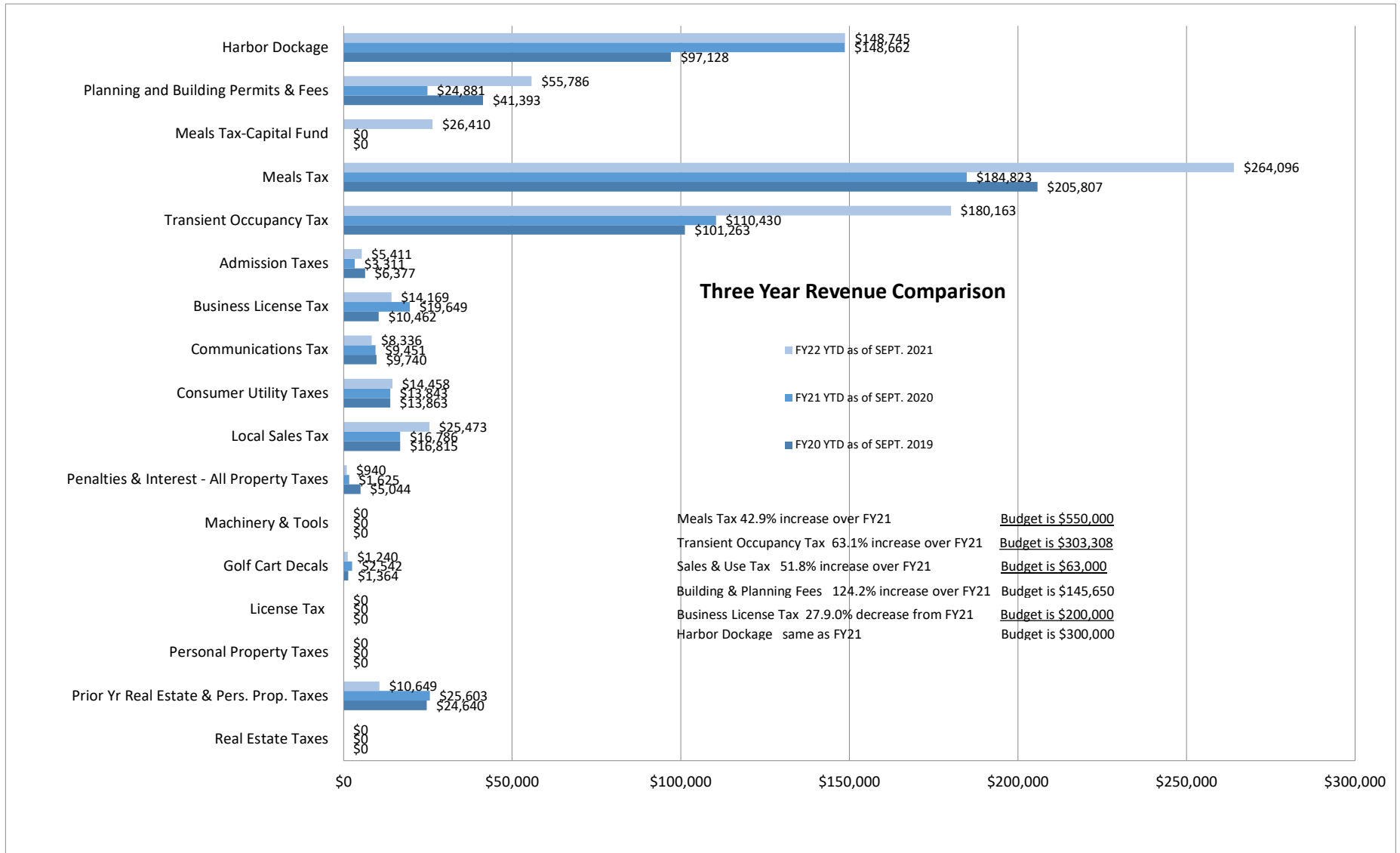
MUNICIPAL CORPORATION OF CAPE CHARLES

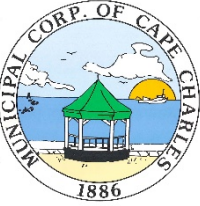
TREASURER'S REPORT

September 30, 2021

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 FY22</u>
PUBLIC UTILITIES						
REVENUE - Operating	\$155,162	\$460,681	\$400,179	-\$60,502	\$1,825,021	21.93%
EXPENDITURES - Operating (less facility fees rsrvd)	\$70,599	\$240,181	\$136,813	-\$103,368	\$993,224	13.77%
NET	\$84,563	\$220,500	\$263,367	\$42,867	\$831,797	
REVENUE - CAPITAL GRANTS, LOANS, DEBT SVC	\$0	\$0	\$90,566	\$90,566	\$104,751	86.46%
REVENUE - FACILITY FEES	\$21,200	\$53,000	\$116,600	\$63,600	\$254,400	45.83%
EXPENDED - CAPITAL PROJECTS, DEBT SVC, & FACILITY FEES	\$21,200	\$97,334	\$207,166	\$109,832	\$936,548	22.12%
TOWN CONTRIB. & PENDING GRANTS	\$0	(\$44,334)	\$0	\$44,334	(\$831,797)	
HARBOR						
REVENUE - Operating	\$106,025	\$443,246	\$323,552	-\$119,694	\$833,500	38.82%
EXPENDITURES - Operating	\$83,521	\$306,079	\$195,022	-\$111,056	\$772,500	25.25%
NET	\$22,504	\$137,167	\$128,530	(\$8,638)	\$61,000	
REVENUE - GRANTS & LOANS	\$0	\$0	\$0	\$0	\$0	#DIV/0!
TRANSFERRED FM GEN FUND FOR DEBT SERVICE	\$33,094	\$0	\$33,094	\$33,094	\$102,657	32.24%
EXPENDED - Capital Projects, Debt Svc	\$0	\$94,314	\$33,094	-\$61,220	\$163,657	20.22%
TOWN CONTRIB. & PENDING GRANTS	\$0	(\$94,314)	\$0	\$94,314	(\$61,000)	
SANITATION						
REVENUE	\$20,654	\$50,531	\$61,223	\$10,692	\$390,595	15.67%
EXPENDITURES	\$18,551	\$53,184	\$51,382	-\$1,802	\$390,595	13.15%
NET	\$2,103	(\$2,653)	\$9,841	\$12,493	\$0	



 TOWN OF CAPE CHARLES	AGENDA TITLE: Schedule Public Hearing for Conditional Use Permit for Accessory Dwelling Unit – 602 Tazewell Avenue		AGENDA DATE November 18, 2021
	SUBJECT/PROPOSAL/REQUEST: Consider scheduling Public Hearing on Conditional Use Permit Application from Renato & Jody Lucatello at 602 Tazewell Avenue for Accessory Dwelling Unit		ITEM NUMBER: 6D.i
	ATTACHMENTS: Planning Commission October 2021 Agenda Packet for Conditional Use Permit: Staff Report, Application and associated correspondence		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Director	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Town is in receipt of a Conditional Use Permit application from Renato & Jody Lucatello at 602 Tazewell Avenue to construct an accessory structure of 2 stories (height of 24 ft) with 540 square feet with the first floor to be used as a garage and the second floor as an accessory dwelling unit. The proposed inclusion of an apartment on the second floor of the garage structure requires a Conditional Use Permit.

The Planning Commission has held a public hearing at their October 5, 2021 meeting and have recommended approval of this Conditional Use Permit Application.

ITEM SPECIFICS:

A Conditional Use Permit application requires both the Planning Commission hold a public hearing and provide a recommendation to Town Council and then Town Council is required to hold a public hearing to take final action on the disposition of the rezoning application.

Therefore, staff is requesting authorization from the Town Council to schedule a public hearing for Town Council on the Conditional Use Permit application for 602 Tazewell Avenue for the December 16, 2021 meeting. This authorization will allow us to place the legal advertisement as required to meet the legal notice deadlines required by the Code of Virginia for a Conditional Use Permit application.

RECOMMENDATION:

Authorize a public hearing be scheduled for Thursday, December 16, 2021 and staff will move forward with placing all required legal notices and property owner notifications.



PLANNING COMMISSION STAFF REPORT

Meeting Date: October 5, 2021

Item #: 4A

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

Date: September 29, 2021

APPLICANT: Renato & Jody Lucatello
SITE ADDRESS: 602 Tazewell Avenue

TAX MAP: 83A3-1-448
LOT SIZE: 5,600 sq. ft.

TYPE OF APPLICATION: Conditional Use Permit
SPECIFIC REQUEST: An accessory dwelling unit located on second floor of accessory structure (garage)
ZONING ORDINANCE: Section 4.2 (J)
CURRENT ZONING: Residential (R-1)

DATE RECEIVED: May 30, 2021

DATE DEEMED COMPLETE: August 18, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): November 18, 2021

NARRATIVE OF PROPOSAL

The applicant is seeking to construct an accessory structure of 2 stories (height of 24 ft) with 540 square feet with the first floor to be used as a garage and the second floor as an accessory dwelling unit. The proposed inclusion of an apartment on the second floor of the garage structure requires a Conditional Use Permit.

AERIAL MAP: *Property outlined in blue*



Staff has been working with the applicant over the last three months in submitting a complete application for the accessory structure, including the application for a Conditional Use Permit (CUP) as well as documentation that will be required to also be reviewed by the Historic District Review Board if the CUP is approved.

The Cape Charles Zoning Ordinance Section 4.2 (J) states that:

Accessory Dwellings. 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:

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 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. 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.*
- d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.*

ORDINANCE REQUIREMENTS:

Cape Charles Zoning Ordinance Section 4.3 states that “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:

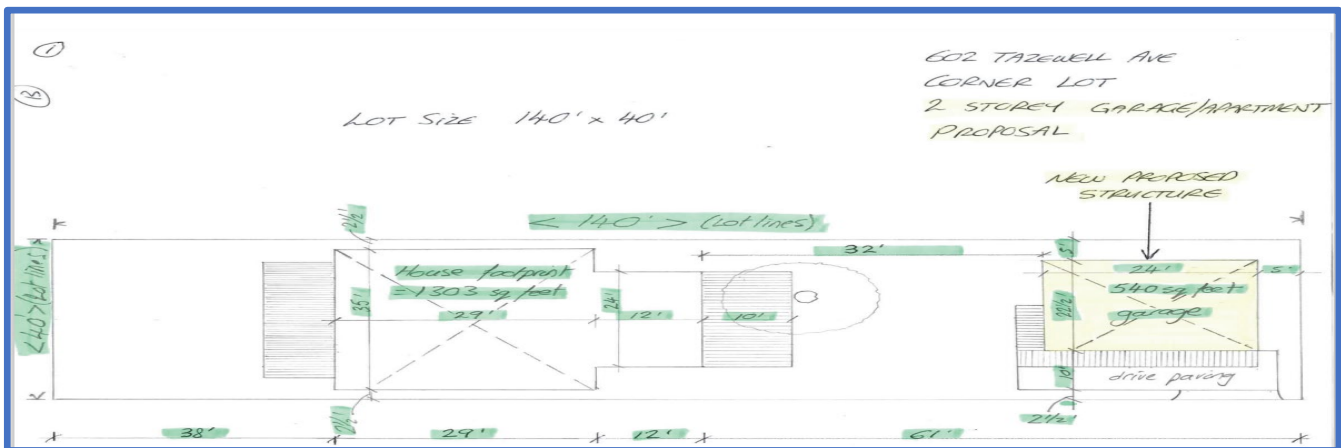
1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. Be in conflict with the purpose of the comprehensive plan of the town.

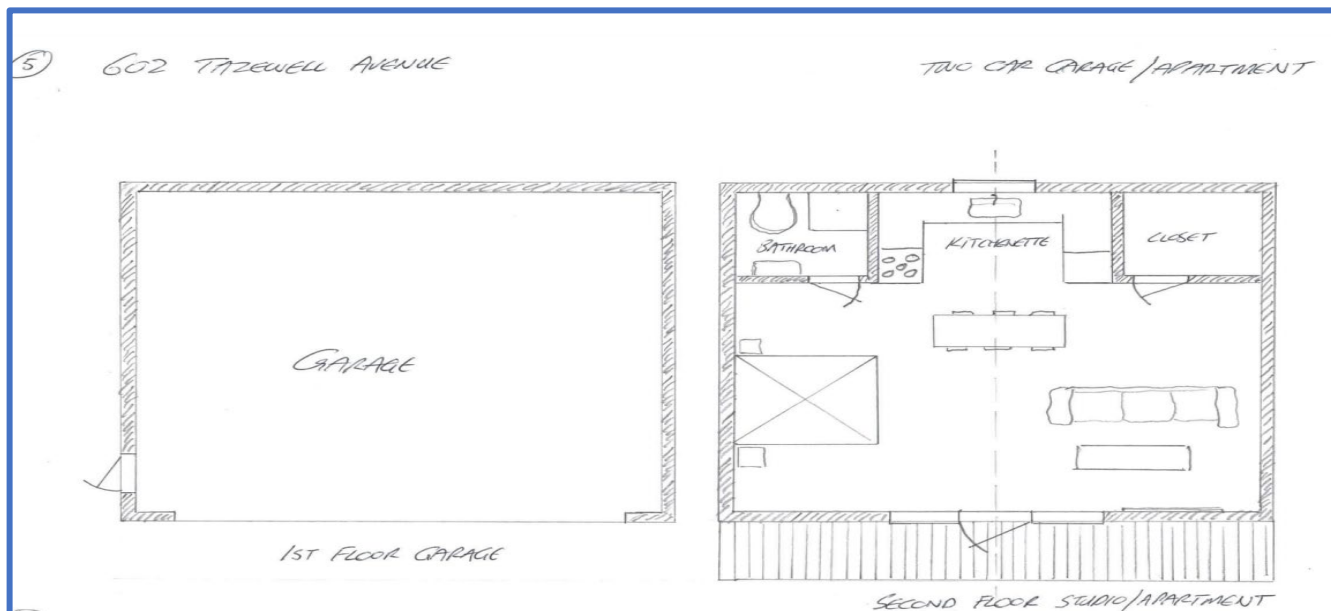
In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

Additionally, approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications. If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit.

STAFF ANALYSIS:

The application for the construction of an accessory structure of 540 square feet with garage space on first floor and an accessory dwelling unit on second floor demonstrates consistency with the requirements of the Cape Charles Zoning Ordinance Section 4.2 (J). The full zoning review finds the application in compliance with all elements of the zoning ordinance.





The Cape Charles Comprehensive Plan Section III.A.5.2. identifies a goal to “Promote compatible infill development and renovation within established neighborhoods” and to specifically “Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options”.

Staff finds that the application for a Conditional Use Permit pursuant to Section 4.2 (J) for an accessory dwelling unit as part of an accessory structure in the Residential-1 Zoning District meets and satisfies the requirements of the Town Zoning Ordinance, Section 4.3, as follows:

- 1) it does not adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood or adversely affect other land uses within the particular surrounding neighborhood;
- 2) it is not detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- 3) it is not in conflict with the purpose of the comprehensive plan of the town.

Staff acknowledges that additional issues or comments may arise through the public hearing on this matter and request that the Planning Commission consider said issues and/or comments as part of their deliberations.

RECOMMENDED ACTION FOR PLANNING COMMISSION:

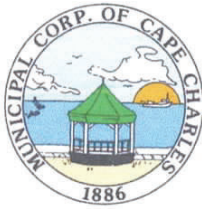
Staff recommends that the Planning Commission consider recommending approval of the Conditional Use Permit to the Town Council with the following motion:

The Cape Charles Planning Commission recommends approval of a Conditional Use Permit for an Accessory Dwelling Unit at 602 Tazewell Avenue on an application filed by Renato & Jody Lucatello, pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) with the following conditions:

- 1.) the applicant applies and obtain Historic District Review Board approval for all exterior improvements, in accordance with the Historic District Overlay and Guidance Documents; and*
 - 2.) the applicant obtains all required permits and approvals from the Building and Planning Department;*
- and further finds that the CUP standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan.*

Attachments:

Attachment 1 – CUP Application, Letter of Intent and Proposal, CUP Accessory Dwelling Unit Checklist, Survey & Drawings/Photos



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: 2 CAR, 2 STOREY GARAGE / STUDIO APARTMENT
Property Address: 602 TAZEWELL AVENUE
Brief Description of Project: To build a garage and apartment above
Zoning District: R1 Current Use: YARD Proposed Use: GARAGE / RESIDENTIAL

OWNER INFORMATION

Name and Company: RENATO & JODY LUKATELLO
Mailing Address: 9 PURCELL MANSIONS, QUEENS CLUB GARDENS, LONDON W14 9TP
Phone Number: 0044 207 381 0627 Email: nat1966@yahoo.co.uk

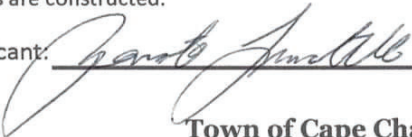
APPLICANT INFORMATION

☒ check here if applicant is owner

Name: _____
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:  Date: 05/22/2021

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

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: 14th SEPT 2021

Address: 602 TAZEWELL AVENUE

The following criteria are required for one accessory dwelling to 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:

1. Is the accessory dwelling unit located in an accessory building? YES ☒ NO ☐
2. Does the accessory dwelling floor area exceed of forty-five (45) percent of the floor area of the main building? YES ☐ NO ☒ Accessory Dwelling Unit square footage 540
3. Does the accessory dwelling have one kitchen and one bathroom? YES ☒ NO ☐
4. Does the accessory building/dwelling differentiate from the single-family dwelling? YES ☐ NO ☒

The following conditions must be maintained for an accessory dwelling unit 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:

1. 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.
2. 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. 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.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.

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. I am providing authorization to the town authorities to enter my properties to confirm accuracy of information contained in this application.

Signature of Owner: *Ronnie Jucateeb*

Signature of Applicant: *Ronnie Jucateeb*

Renato Lucatello
9 Purcell Mansions
Queens Club Gardens
London W14 9TP
Telephone: 0207 381 0627
Email: Nart1966@yahoo.co.uk

30th May 2021

602 TAZEWELL AVENUE, CAPE CHARLES GARAGE /APARTMENT PROPOSAL

We have a corner lot so have direct garage access onto street (nectarine)
We would like to build a 2 storey garage/apartment addition at the end of our yard.
It will be a 2 car garage (standard 24' wide x 22.5' depth) on the first floor and an apartment above in the roof space with a pitched roof.

The contractor will,
Pour monolith footing and pad to code.
Build garage to plan with truss roof.
Install one entry door and, two carriage style doors and six windows.
Roof similar to house in materials and pitch
Exterior to be the same style and colour as house (white trim, boothbay blue hardie plank and shingle roof) Windows and door to match existing main building (6 over 6)
Pour concrete pad in front of garage for pavers.

RENATO and JODY LUCATELLO.
Homeowners.

Renato Lucatello
9 Purcell Mansions
Queens Club Gardens
London W14 9TP
Telephone: 0207 381 0627
Email: Nart1966@yahoo.co.uk

30th May 2021

LETTER OF INTENT AND MATERIALS LIST

602 TAZEWELL AVENUE, CAPE CHARLES GARAGE /APARTMENT PROPOSAL

We would like to build a two car garage with apartment above at the end of our yard. As we have a corner lot we will have direct access onto Nectarine.

It will be built within the square feet and lot lines required guidelines.

Materials list

1ST Floor

Side entry door Therma TRU Craftsman Lite Red to match main house as per spec sheet.

Double carriage style door white as per spec sheet.

3 Atrium double hung windows 36" x 60" 6 over 6 as per spec sheet.

2nd Floor

Single front (French style 15 lite) entry door to match main house rear door. Example as per spec sheet.

3 windows (2 either side of door (36" x 40" 6 over 6) to match same arrangement on rear of main house. 1 window at rear above counter height (36" x 40" 6 Over 6)

HARDIEPLANK siding to match main house as per spec sheet.

TIMBERLINE ULTRA HD SHINGLE (PEWTER) as per spec sheet to match main house. Roof pitch to match main house.

WHITE AZEK trim as per spec sheet to be used to match main house.

External stair and entry deck to be made from treated lumber as per rear deck of main house (photo attached)

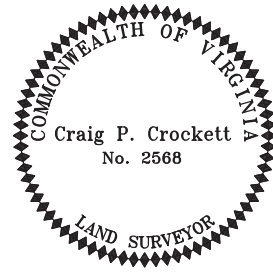
All decking and stair treads to be Mahogany as per main building rear deck.

Apartment to be used as private residence for the homeowners only and at this stage not for rental.

All the best,
RENATO and JODY LUCATELLO.
Homeowners.

SURVEYORS CERTIFICATION

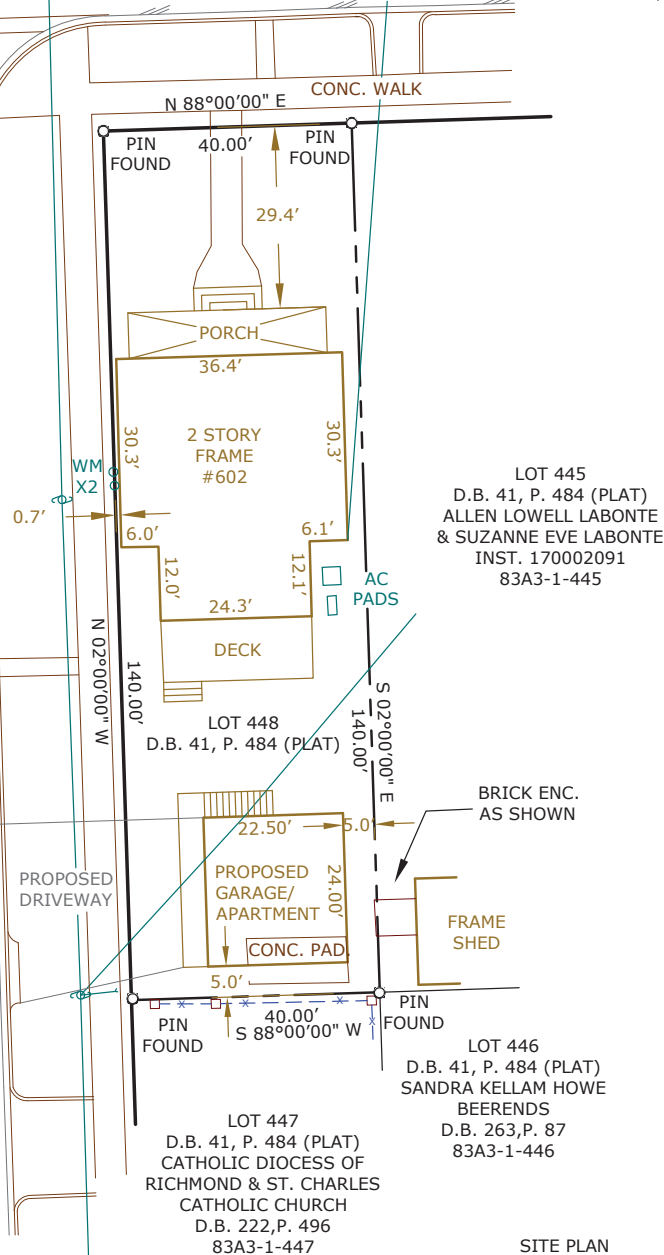
I, CRAIG P. CROCKETT, A LICENSED LAND SURVEYOR, HEREBY CERTIFY THAT THIS PLAT WAS MADE BY ME AT THE REQUEST OF THE OWNERS AND THAT THIS SURVEY IS ENTIRELY WITHIN THE BOUNDARIES OF LAND COVERED BY THE DEED DESCRIBED HEREON AND THAT MONUMENTATION IS ACTUALLY IN PLACE OR WILL BE SET AT POINTS MARKED AS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

**GENERAL NOTES:**

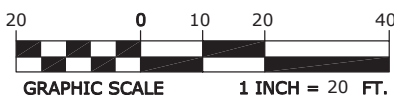
- OWNERS:
RENATO LUCATELLO
& JODY L. LUCATELLO
- TAX PARCEL:
83A3-1-448
- SOURCE OF TITLE:
INST. 100001925
- A SURVEY WAS PERFORMED ON THIS PROPERTY IN JULY 2021 WITH A BOUNDARY CLOSURE WHOSE PRECISION EXCEEDS 1:10,000.
- THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN OR WETLANDS, ENVIRONMENTAL HAZARDS, CEMETERIES AND UNDERGROUND STRUCTURES NOT OBSERVED DURING THE COURSE OF THE SURVEY.
- ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 51131C0295F, DATED 03-02-15, THE PROPERTY SHOWN HEREON LIES IN FLOOD ZONE X.
- PLAT REFERENCE:
D.B. 41, P. 484 (PLAT)
- AREA: 5,600 SQ. FT. (0.129 AC.)

TAZEWELL AVE (70' R/W)

NECTARINE STREET (70' R/W)



SITE PLAN
LOT 448
MAP OF THE TOWN OF
CAPE CHARLES
CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VA.
MADE FOR RENATO LUCATELLO
& JODY L. LUCATELLO
SCALE: 1"=20' JULY 23, 2021



POINT NORTH

POINT NORTH SURVEYING LLC

P.O. Box 701, (757) 709-3008
Onley, VA. 23418 pointnorthsurveying@gmail.com

DRAWN BY: DCP FIELD BOOK: FILE COPY
BACK TRAV: CROCKETT PROJ. NO: 21116

①

⑬

602 TAZEVELL AVE

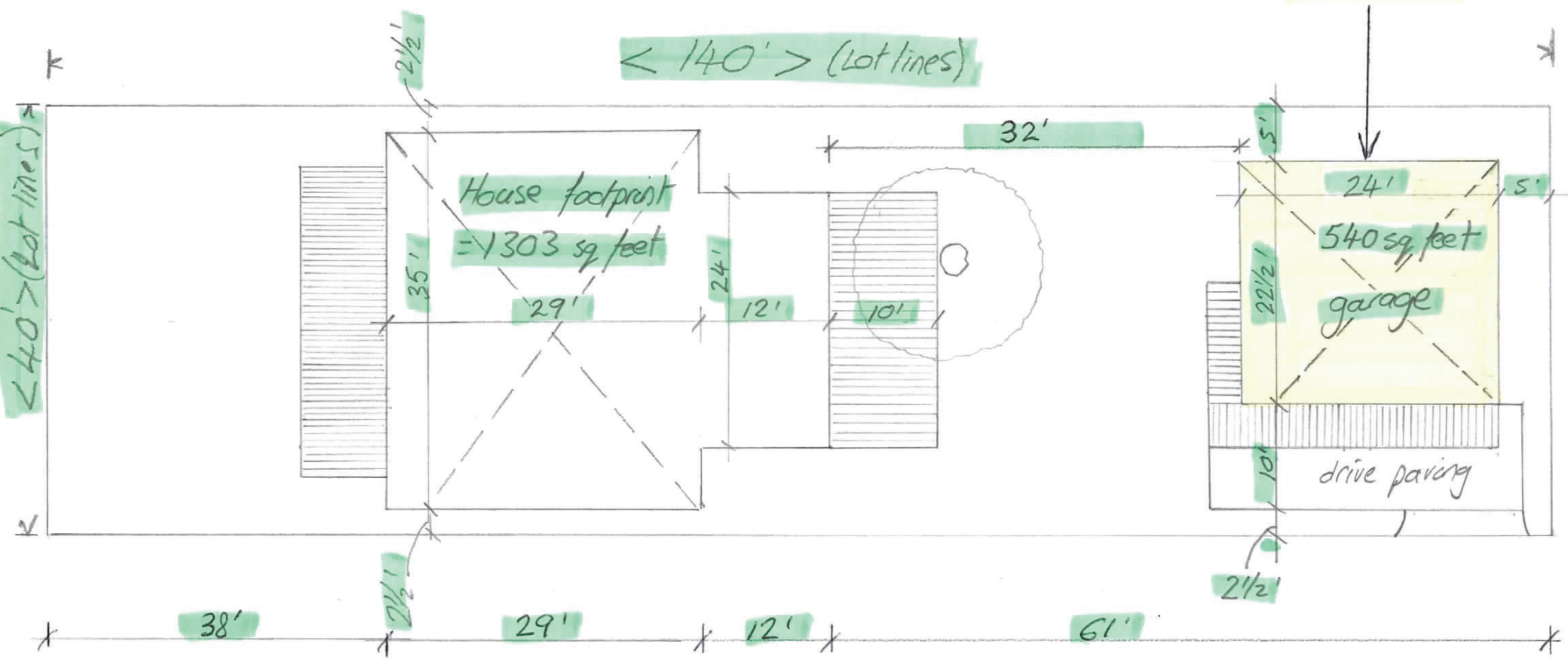
CORNER LOT

2 STOREY GARAGE/APARTMENT

PROPOSAL

LOT SIZE 140' x 40'

NEW PROPOSED
STRUCTURE

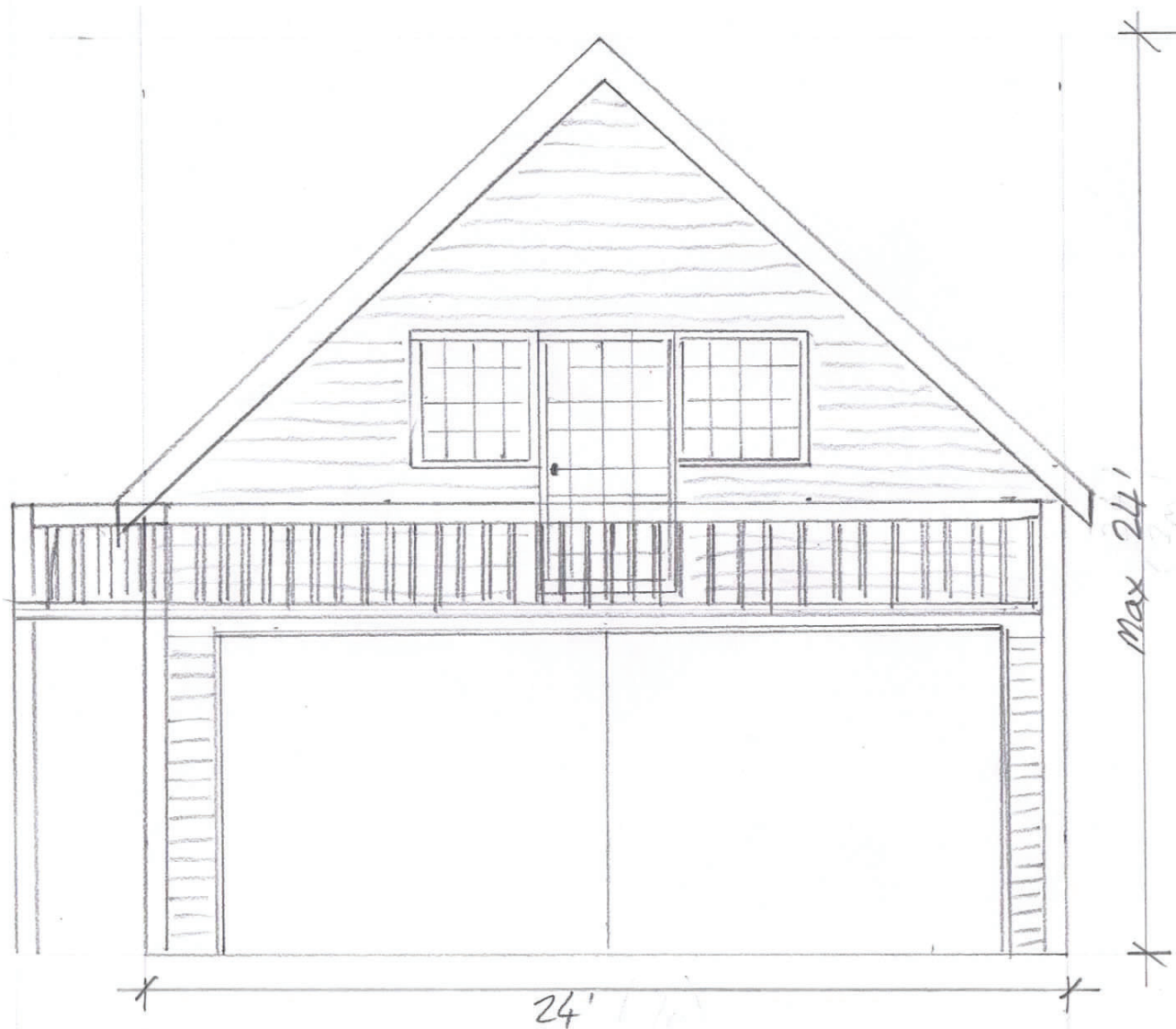


②

602 TAREWELL AVE

TWO CAR GARAGE/APARTMENT

WEST FACING



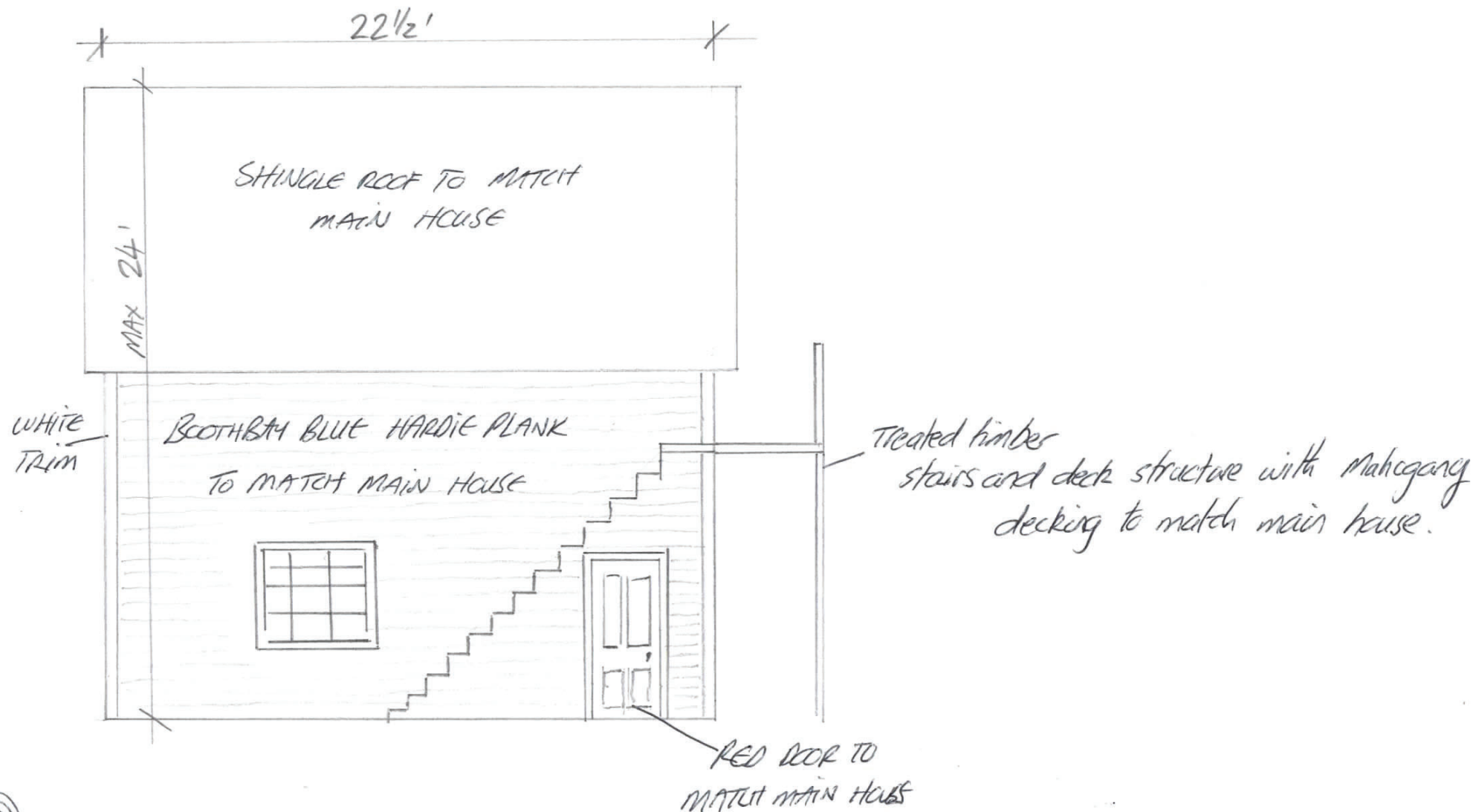
⑨

③

602 TAZEWELL AVE.

TWO CAR GARAGE / APARTMENT

NORTH FACING



⑩

④ 602 TAZEWELL AVE

TWO CAR GARAGE/APARTMENT

EAST FACING



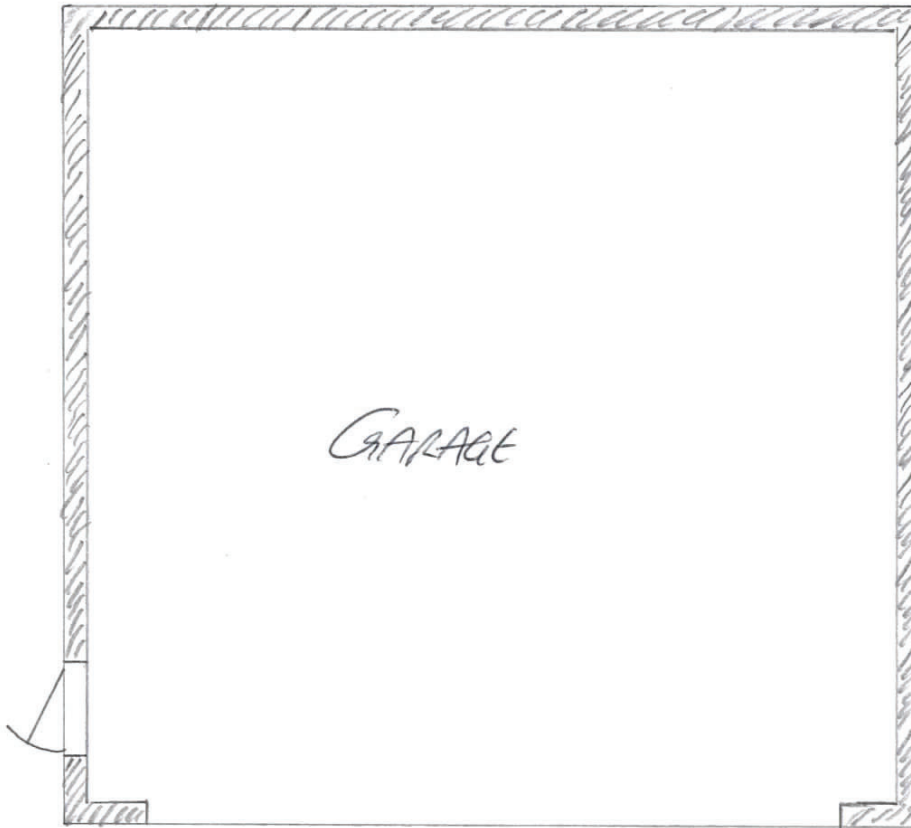
SOUTH FACING



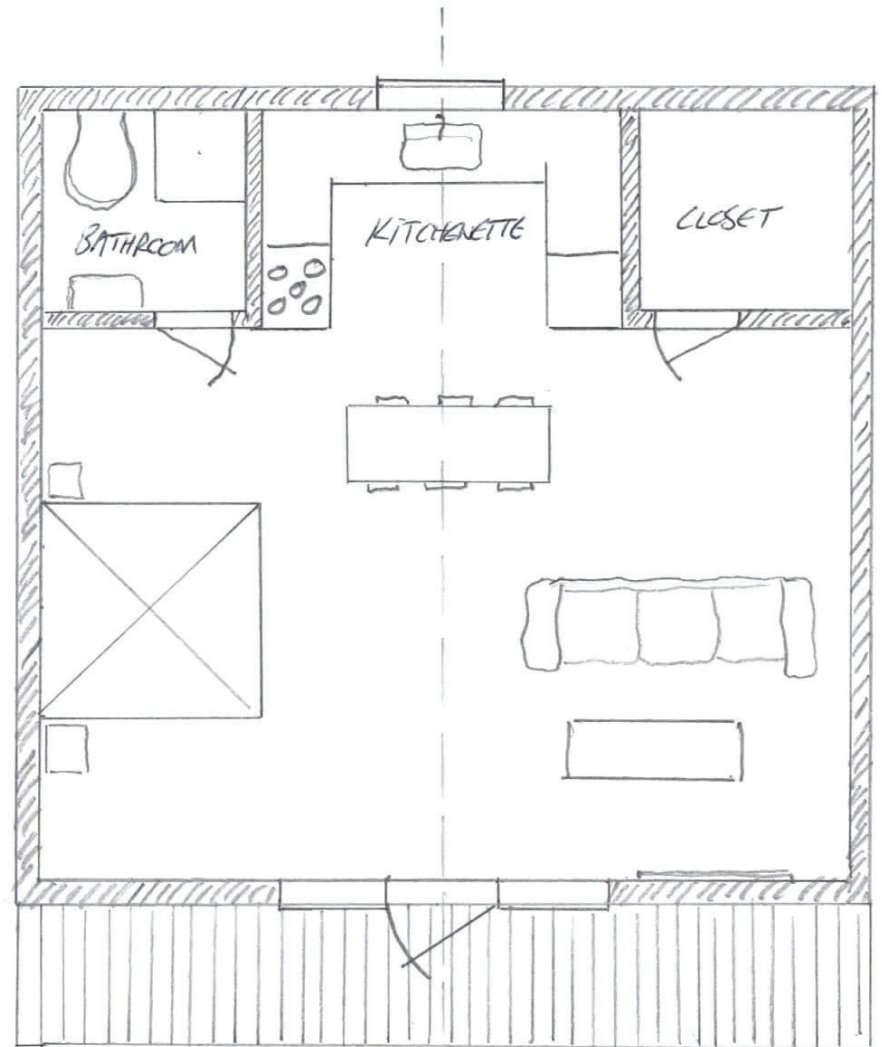
①

⑤ 602 TAZEWELL AVENUE

TWO CAR GARAGE/APARTMENT



1ST FLOOR GARAGE



SECOND FLOOR STUDIO/APARTMENT

28

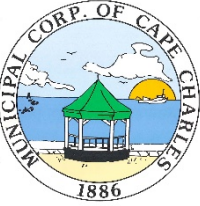


29







 TOWN OF CAPE CHARLES	AGENDA TITLE: Schedule Public Hearing for Conditional Use Permit for Accessory Dwelling Unit – 206A Jefferson Avenue		AGENDA DATE November 18, 2021
	SUBJECT/PROPOSAL/REQUEST: Consider scheduling Public Hearing on Conditional Use Permit Application from Susan, John & Kelly Robinson at 206A Jefferson Avenue for Accessory Dwelling Unit		ITEM NUMBER: 6D.ii
	ATTACHMENTS: Planning Commission October 2021 Agenda Packet for Conditional Use Permit: Staff Report, Application and associated correspondence		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Director	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Town is in receipt of a Conditional Use Permit application from Susan, John & Kelly Robinson at 206A Jefferson Avenue seeking approval after the fact to utilize a 576 square foot accessory structure as an accessory dwelling unit. The current owners did not create this situation but purchased the property on May 3, 2021 and inherited this situation. When the Town investigated about an illegal apartment and confirmed this, the new owners acted swiftly to remedy the violation, once notified, and filed the Conditional Use Permit application on August 12, 2021.

The Planning Commission has held a public hearing at their October 5, 2021 meeting and have recommended approval of this Conditional Use Permit Application.

ITEM SPECIFICS:

A Conditional Use Permit application requires both the Planning Commission hold a public hearing and provide a recommendation to Town Council and then Town Council is required to hold a public hearing to take final action on the disposition of the rezoning application.

Therefore, staff is requesting authorization from the Town Council to schedule a public hearing for Town Council on the Conditional Use Permit application for 206A Jefferson Avenue for the December 16, 2021 meeting. This authorization will allow us to place the legal advertisement as required to meet the legal notice deadlines required by the Code of Virginia for a Conditional Use Permit application.

RECOMMENDATION:

Authorize a public hearing be scheduled for Thursday, December 16, 2021 and staff will move forward with placing all required legal notices and property owner notifications.



PLANNING COMMISSION STAFF REPORT

Meeting Date: October 5, 2021

Item #: 4B

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

Date: September 29, 2021

APPLICANT: Susan, John & Kelly
Robinson

TYPE OF APPLICATION: Conditional Use Permit

SITE ADDRESS: 206A Jefferson Avenue

SPECIFIC REQUEST: An accessory dwelling unit

TAX MAP: 83A1-1-220

ZONING: Section 4.2 (J)

LOT SIZE: 5,200 sq. ft.

CURRENT ZONING: Residential (R-1)

DATE RECEIVED: August 12, 2021

DATE DEEMED COMPLETE: August 12, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): November 12, 2021

NARRATIVE OF PROPOSAL

The applicant is seeking approval after the fact to utilize a 576 square foot accessory structure as an accessory dwelling unit.

AERIAL MAP: *Property outlined in blue*



The office was informed that the accessory structure was being used as an accessory dwelling. After confirming that the structure was being used in this manner and that the Town had not approved a Conditional Use Permit for the accessory dwelling, the property owners were contacted about the matter and indicated that they need to apply for a Conditional Use Permit in order to address the violation, if their intent was to have an accessory dwelling unit on the property in addition to the primary house.

The current owners did not create this situation but purchased the property on May 3, 2021 and inherited this situation. They have acted swiftly to remedy the violation, once notified, and filed the Conditional Use Permit application on August 12, 2021.

The Cape Charles Zoning Ordinance Section 4.2 (J) states that:

Accessory Dwellings. 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:

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 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. 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.*

d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.

ORDINANCE REQUIREMENTS:

Cape Charles Zoning Ordinance Section 4.3 states that “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.

Additionally, approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications. If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit.

STAFF ANALYSIS:

The application for an after-the-fact permit for an accessory dwelling unit of 576 square feet demonstrates consistency with the requirements of the Cape Charles Zoning Ordinance Section 4.2 (J).

The accessory structure was built in the mid-to-late 2010’s when the ordinance did not specify the requirements for an accessory dwelling unit but did not give authority for an accessory dwelling unit as a by-right use either and the Town did not amend the zoning ordinance until 2017 regarding Accessory Dwelling Units.

The Cape Charles Comprehensive Plan Section III.A.5.2. identifies a goal to “Promote compatible infill development and renovation within established neighborhoods” and to specifically “Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options”.

Staff finds that the application for a Conditional Use Permit pursuant to Section 4.2 (J) for an accessory dwelling unit in the Residential-1 Zoning District meets and satisfies the requirements of the Town Zoning Ordinance, Section 4.3, as follows:

- 1) it does not adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood or adversely affect other land uses within the particular surrounding neighborhood;
- 2) it is not detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- 3) it is not in conflict with the purpose of the comprehensive plan of the town.

Staff acknowledges that additional issues or comments may arise through the public hearing on this matter and request that the Planning Commission consider said issues and/or comments as part of their deliberations.

RECOMMENDED ACTION FOR PLANNING COMMISSION:

Staff recommends that the Planning Commission consider recommending approval of the Conditional Use Permit to the Town Council with the following motion:

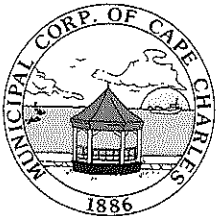
The Cape Charles Planning Commission recommends approval of a Conditional Use Permit for an Accessory Dwelling Unit at 206A Jefferson Avenue as an after-the fact approval on an application filed by Susan, John and Kelly Robinson, pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) with the following condition:

(1) To obtain a Certificate of Occupancy thru the Building Department for this Accessory Dwelling Unit;

and finds that the CUP standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan and that the applicant has expeditiously applied for this permit after the fact for this structure upon notification as the new owners of this property as of May 3, 2021.

Attachments:

Attachment 1 – CUP Application



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: 206a Jefferson
Property Address: 206 Jefferson
Brief Description of Project: We would like the auxiliary building approved for LT rental
Zoning District: _____ Current Use: _____ Proposed Use: LT rental

OWNER INFORMATION

Name and Company: Susan, John and Kelly Robinson
Mailing Address: 9006 Wood Sorrel Drive, Henrico, VA 23229
Phone Number: 804-539-7318 Email: robin21090@aol.com

APPLICANT INFORMATION

☒ check here if applicant is owner

Name: Susan, ~~John and Kelly~~ Robinson
Mailing Address: 9006 Wood Sorrel Drive, Henrico, VA 23229
Phone Number: 804-539-7318 Email: robin21090@aol.com

CERTIFICATION OF APPLICANT

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

Signature of Applicant:  Date: 8/12/21

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: 8/12/2021

Address: 206 Jefferson Avenue

The following criteria are required for one accessory dwelling to 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:

1. Is the accessory dwelling unit located in an accessory building? YES ☒ NO ☐
2. Does the accessory dwelling floor area exceed of forty-five (45) percent of the floor area of the main building? YES ☐ NO ☒ Accessory Dwelling Unit square footage _____
3. Does the accessory dwelling have one kitchen and one bathroom? YES ☒ NO ☐
4. Does the accessory building/dwelling differentiate from the single-family dwelling? YES ☒ NO ☐

The following conditions must be maintained for an accessory dwelling unit 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:

1. 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.
2. 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. 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.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.

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. I am providing authorization to the town authorities to enter my properties to confirm accuracy of information contained in this application.

Signature of Owner: _____

Signature of Applicant: _____

Town of Cape Charles Planning & Zoning Department,

We would like to rent our auxiliary, detached building located at 206a Jefferson Avenue to a long-term renter. 206 Jefferson will be the permanent residence of Kelly Robinson, our daughter and an owner of the property. Can we please have a conditional use permit to do that?

I have included the Northampton County plot map, a picture of the structures, the Northampton County description of the lot and the tenant house (still listed by the county under the previous owner), and the names and addresses of the owners of the lots on each side.

I have enclosed a check for \$600 for the application.

Please let us know if you need anything further.

Susan Robinson

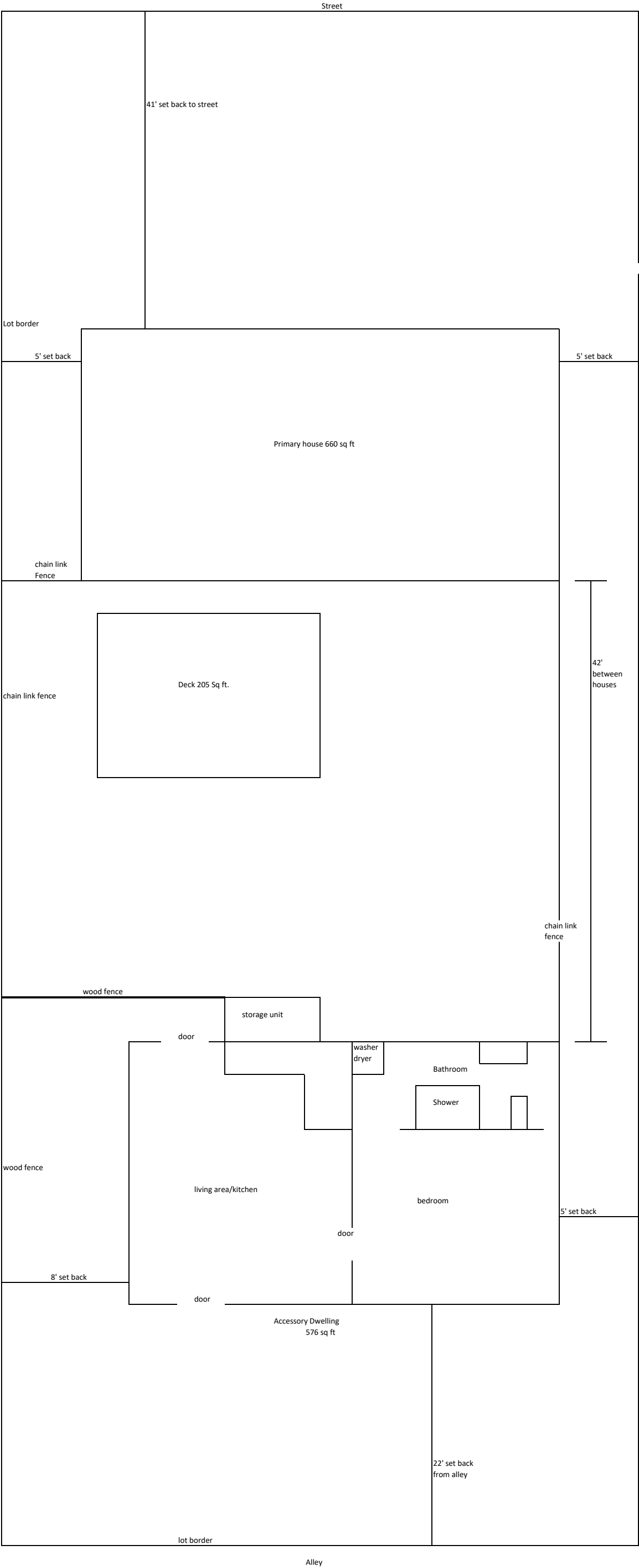
A handwritten signature in black ink, appearing to be 'S. Robinson'.

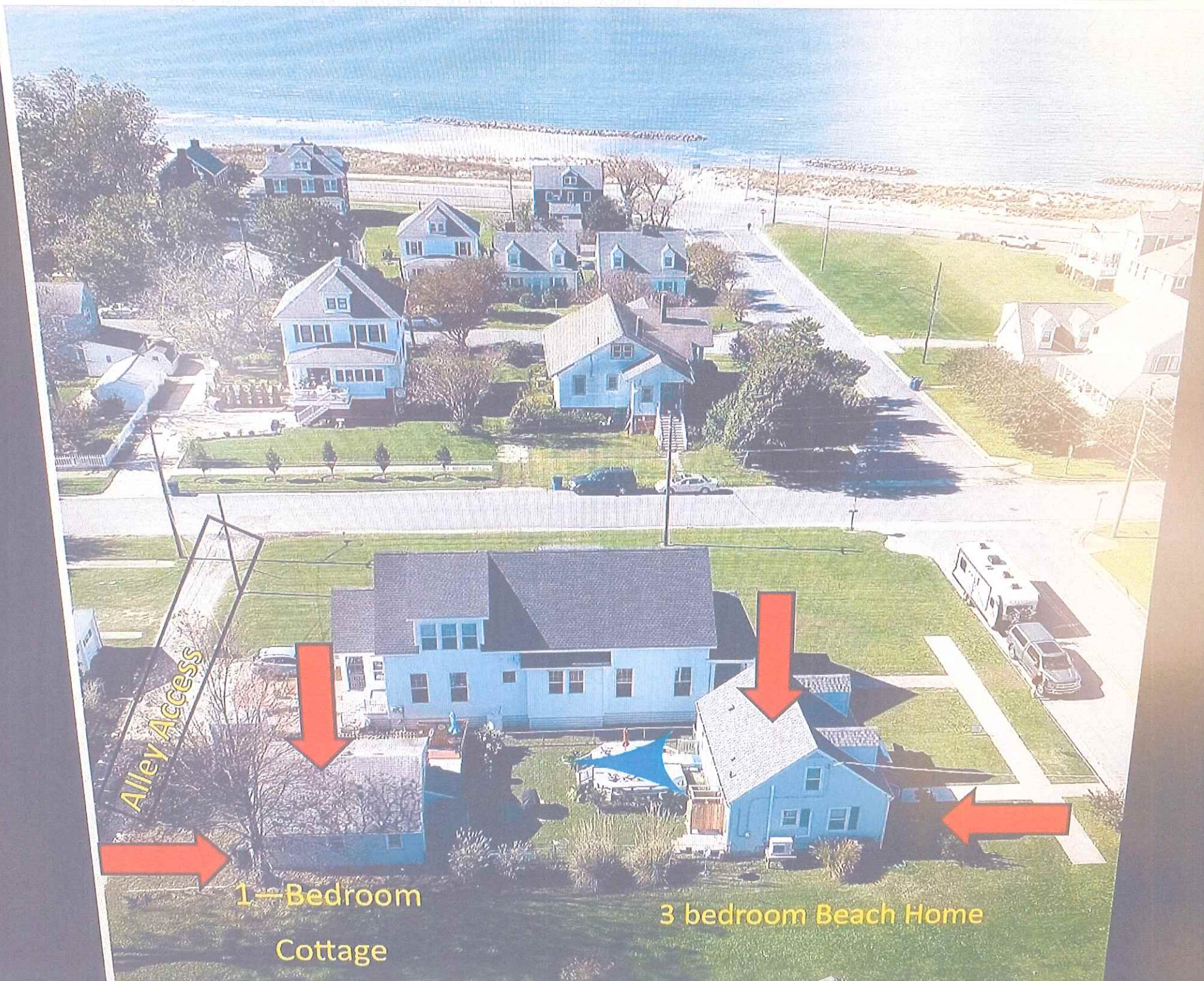
John Robinson

A handwritten signature in black ink, appearing to be 'J. Robinson'.

Kelly Robinson

A handwritten signature in black ink, appearing to be 'K. Robinson'.





Alley Access

1—Bedroom
Cottage

3 bedroom Beach Home

206 JEFFERSON AVE

Location 206 JEFFERSON AVE

Map # 083A1/ 01 00/ 0000220/ /

Par Rec # 4571

Owner BROWN, BARBARA M &

Assessment \$205,700

PID 4325

Building Count 1

Legal Description LOT #220 40X140

Lot Type

Current Value

Assessment					
Valuation Year	Building	Extra Features	Outbuildings	Land	Total
2020	\$62,500	\$200	\$31,600	\$111,400	\$205,700

Owner of Record

Owner BROWN, BARBARA M &
Care Of REYNOLDS, SHERI A
Address 226 RANDOLPH AVE
CAPE CHARLES, VA 23310

Sale Price \$145,000
Instrument #
Book & Page 336/1
Sale Date 07/30/2001
Sale Type Q

Ownership History

Ownership History						
Owner	Sale Price	Instrument #	Book & Page	Sale Type	Sale Date	Plat
BROWN, BARBARA M &	\$145,000		336/1	Q	07/30/2001	

Building Information

Building 1 : Section 1

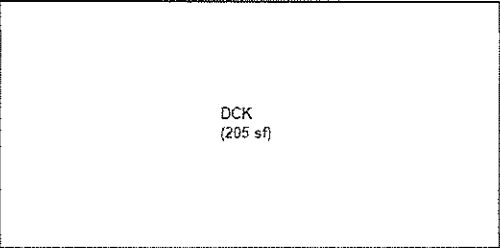
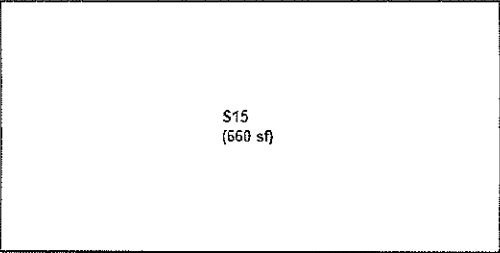
Year Built: 1949

Living Area: 990

Building Attributes	
Field	Description
Style	Single Family
Model	Residential

Grade	C-05
Stories	1
Foundation 1	Concrete Block
Exterior Wall 1	Vinyl
Exterior Wall 2	
Roof Structure 1	Gable
Roof Cover 1	Composition Shingle
Interior Wall 1	Plaster
Interior Wall 2	Tile
Interior Floor 1	Carpet
Roof Structure 2	
Fuel Type 1	Gas
Heat Type 1	Central Heat
AC Type 1	Central Air
Bedrooms	3
Full Baths	1
Half Baths	0
Extra Fixtures	
Total Rooms	0
Roof Cover 3	
Fuel Type 3	
Ttl Living Area	990
Exterior Wall 3	
Interior Floor 2	Softwood
Interior Floor 3	
Style	CONVENTIONAL
Heat Type 2	
Heat Type 3	
FPL Openings	0
Basement Area	
Roof Cover 2	
Interior Wall 3	Dry Wall
Fuel Type 2	

Building Layout



Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
S15	Single Family - 1.50	660	990
DCK	Wood Deck - 1.00	205	0
		865	990

Extra Features

Extra Features					Legend
Code	Description	Size	Value	Assessed Value	Bldg #
CHMY	CHIMNEY	1.00 UNITS	\$200	\$200	1

Land

Land Use

Use Code 100R
Description SFD - Urban Res
Zone
Alt Land Appr No

Land Line Valuation

Size (Acres) 1
Frontage

Outbuildings

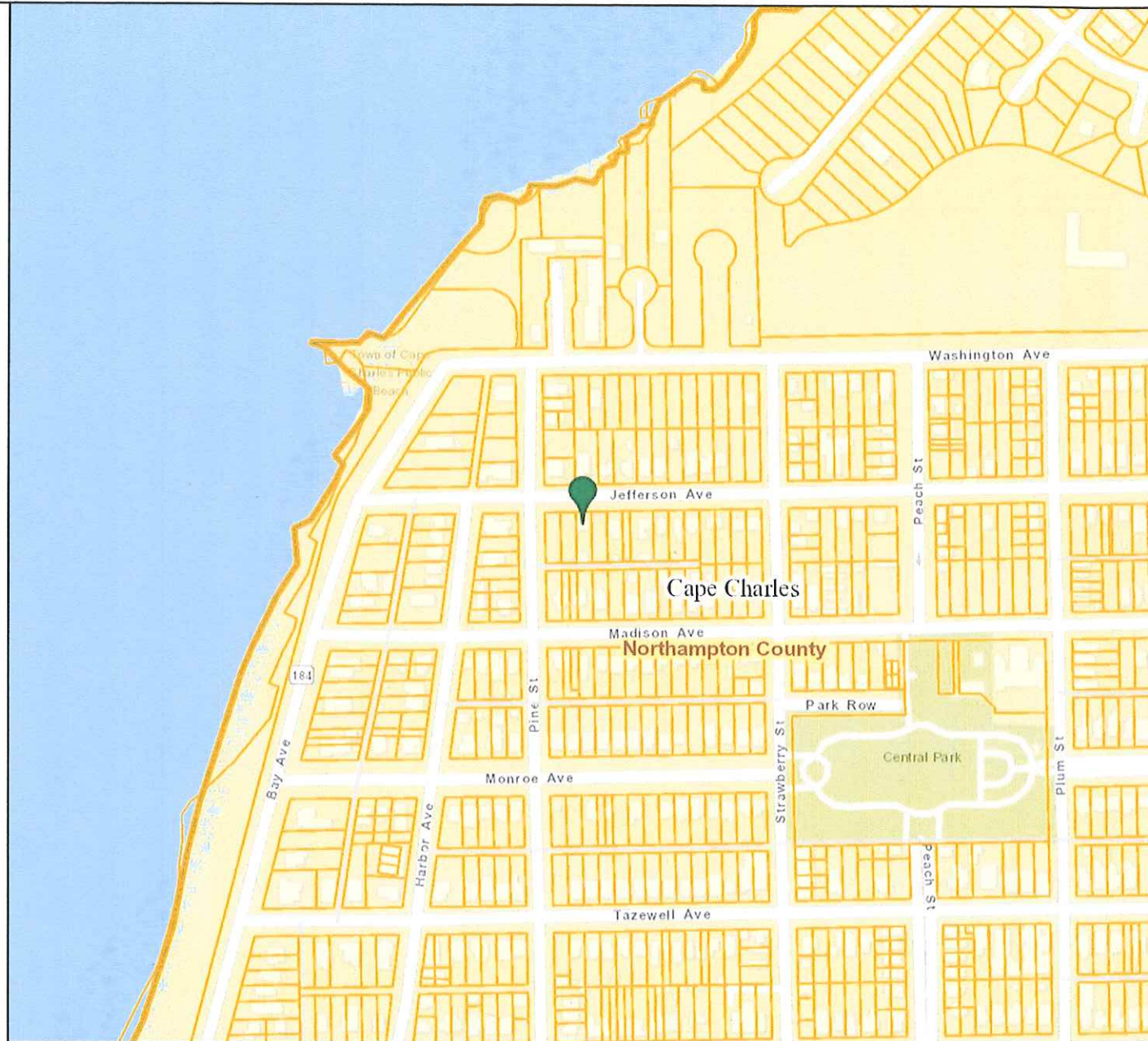
Outbuildings							<u>Legend</u>
Code	Description	Sub Code	Sub Description	Size	Value	Assessed Value	Bldg #
TNHS	TENANT HOUSE			576.00 UNITS	\$31,000	\$31,000	1
FEN	FENCE	CL	CHAIN LINK/WOOD	1.00 UNITS	\$600	\$600	1

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Northampton County, Virginia

Legend

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



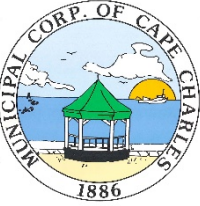
Map Printed from Northampton
<https://parcelviewer.geodecisions.com/Northampton/>

Feet
0 100 200 300 400
1:4,514 / 1"=376 Feet

Title:

Date: 8/11/2021

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: Schedule Public Hearing for Conditional Use Permit for Accessory Dwelling Unit – 325 Madison Avenue		AGENDA DATE November 18, 2021
	SUBJECT/PROPOSAL/REQUEST: Consider scheduling Public Hearing on Conditional Use Permit Application from Jose & Diana Gonzalez at 325 Madison Avenue for Accessory Dwelling Unit		ITEM NUMBER: 6Diii
	ATTACHMENTS: Planning Commission October 2021 Agenda Packet for Conditional Use Permit: Staff Report, Application and associated correspondence		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Director	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Town is in receipt of a Conditional Use Permit application from Jose & Diana Gonzalez at 325 Madison Avenue seeking approval after the fact to utilize a 360 square foot accessory structure as an accessory dwelling unit. When the Town received a complaint and investigated, we confirmed that there was an Accessory Dwelling Unit on the property and being utilized; our research indicated that the accessory structure was built in the mid-to-late 2010's when the ordinance did not specify the requirements for an accessory dwelling unit but did not give authority for an accessory dwelling unit as a by-right use either and the Town did not amend the zoning ordinance until 2017 regarding Accessory Dwelling Units.

The Planning Commission has held a public hearing at their October 5, 2021 meeting and have recommended approval of this Conditional Use Permit Application.

ITEM SPECIFICS:

A Conditional Use Permit application requires both the Planning Commission hold a public hearing and provide a recommendation to Town Council and then Town Council is required to hold a public hearing to take final action on the disposition of the rezoning application.

Therefore, staff is requesting authorization from the Town Council to schedule a public hearing for Town Council on the Conditional Use Permit application for 325 Madison Avenue for the December 16, 2021 meeting. This authorization will allow us to place the legal advertisement as required to meet the legal notice deadlines required by the Code of Virginia for a Conditional Use Permit application.

RECOMMENDATION:

Authorize a public hearing be scheduled for Thursday, December 16, 2021 and staff will move forward with placing all required legal notices and property owner notifications.



PLANNING COMMISSION STAFF REPORT

Meeting Date: October 5, 2021

Item #: 4C

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

Date: September 29, 2021

APPLICANT: Jose & Diana Gonzalez
SITE ADDRESS: 325 Madison Avenue
TAX MAP: 83A1-1-191
LOT SIZE: 5,546 sq. ft.

TYPE OF APPLICATION: Conditional Use Permit
SPECIFIC REQUEST: An accessory dwelling unit
ZONING ORDINANCE: Section 4.2 (J)
CURRENT ZONING: Residential (R-1)

DATE RECEIVED: August 25, 2021

DATE DEEMED COMPLETE: August 25, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): November 25, 2021

NARRATIVE OF PROPOSAL

The applicant is seeking approval after the fact to utilize a 360 square foot accessory structure as an accessory dwelling unit.

AERIAL MAP: *Property outlined in blue*



The office was informed that the accessory structure was being used as an accessory dwelling. After confirming that the structure was being used in this manner and that the Town had not approved a Conditional Use Permit for the accessory dwelling, the property owners were contacted about the matter and indicated that they need to apply for a Conditional Use Permit in order to address the violation, if their intent was to have an accessory dwelling unit on the property in addition to the primary house.

The Cape Charles Zoning Ordinance Section 4.2 (J) states that:

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1. Physical characteristics.

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- 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 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. 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.*
- d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.*

The Cape Charles Zoning Ordinance Section 3.2 (C) (7) states:

Conditional Uses: The following uses may also be permitted, subject to securing a use permit as provided for in this ordinance:

- 7. Residential dwelling units in square footage area below the minimum or above the maximum stated in Section 3.2.F.2.*

ORDINANCE REQUIREMENTS:

Cape Charles Zoning Ordinance Section 4.3 states that “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.

Additionally, approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications. If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit.

STAFF ANALYSIS:

The application for an after-the-fact permit for an accessory dwelling unit of 360 square feet demonstrates consistency with the requirements of the Cape Charles Zoning Ordinance Section 4.2 (J).

The accessory structure was built in the mid-to-late 2010’s when the ordinance did not specify the requirements for an accessory dwelling unit but did not give authority for an accessory dwelling unit as a by-right use either and the Town did not amend the zoning ordinance until 2017 regarding Accessory Dwelling Units.

The Cape Charles Comprehensive Plan Section III.A.5.2. identifies a goal to “Promote compatible infill development and renovation within established neighborhoods” and to specifically “Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options”.

Staff finds that the application for a Conditional Use Permit pursuant to Section 4.2 (J) for an accessory dwelling unit in the Residential-1 Zoning District meets and satisfies the requirements of the Town Zoning Ordinance, Section 4.3, as follows:

- 1) it does not adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood or adversely affect other land uses within the particular surrounding neighborhood;
- 2) it is not detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- 3) it is not in conflict with the purpose of the comprehensive plan of the town.

Staff acknowledges that additional issues or comments may arise through the public hearing on this matter and request that the Planning Commission consider said issues and/or comments as part of their deliberations.

RECOMMENDED ACTION FOR PLANNING COMMISSION:

Staff recommends that the Planning Commission consider recommending approval of the Conditional Use Permit to the Town Council with the following motion:

The Cape Charles Planning Commission recommends approval of a Conditional Use Permit for an Accessory Dwelling Unit at 325 Madison Avenue as an after-the fact approval on an application filed by Jose & Diana Gonzalez pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) with the following condition:

(1) To obtain a Certificate of Occupancy thru the Building Department for this Accessory Dwelling Unit;

and finds that the CUP standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan and that the applicant has expeditiously applied for this permit after the fact for this structure upon notification that a Conditional Use Permit is required for an accessory dwelling unit.

Attachments:

Attachment 1 – CUP Application



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: Accessory dwelling at 325 Madison Ave.
Property Address: 325 Madison Ave.
Brief Description of Project: Convert accessory building to dwelling
Zoning District: _____ Current Use: _____ Proposed Use: _____

OWNER INFORMATION

Name and Company: Jose + Diana Gonzalez
Mailing Address: 325 Madison Ave Cape Charles 23310
Phone Number: 257-646-8143 Email: josee.semilla.org

APPLICANT INFORMATION

☒ check here if applicant is owner

Name: see 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: *Jose Gonzalez* Date: 8/26/21

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: 8/26/21

Address: 325 Madison Ave.

The following criteria are required for one accessory dwelling to 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:

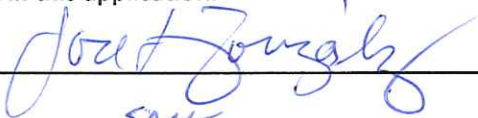
1. Is the accessory dwelling unit located in an accessory building? YES ☒ NO ☐
2. Does the accessory dwelling floor area exceed of forty-five (45) percent of the floor area of the main building? YES ☐ NO ☒ Accessory Dwelling Unit square footage 360 sq ft
3. Does the accessory dwelling have ~~one kitchen~~ one bathroom? YES ☒ NO ☐
4. Does the accessory building/dwelling differentiate from the single-family dwelling? YES ☒ NO ☐

The following conditions must be maintained for an accessory dwelling unit 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:

1. 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.
2. 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. 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.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.

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. I am providing authorization to the town authorities to enter my properties to confirm accuracy of information contained in this application.

Signature of Owner: 

Signature of Applicant: SAME

Cape Charles, August 25, 2021

This is our letter of intent to request converting our accessory building to an accessory dwelling at the back of the property at 325 Madison Ave.

Background

We began to visit Cape Charles by renting one, or sometimes two houses every summer to gather our large extended family. After several years we decided to build a family beach house. We proceeded to build a large capacity beach house to gather our family anytime. To sustain the cost of building it, we offered it for rent to others, particularly during the summer season. It was reserved the day after posting it on AirBnB, and it has been rented or occupied by us ever since.

The first year, we traveled from Chesapeake every Saturday to clean the house for the next guests. Then we realized the value of maintaining closer supervision and maintenance of the house by living on the premises. Our presence in town ensures that any untoward behavior by our guests is dealt with immediately (our emphasis on renting to extended families - often with elderly members - means that this has never been an issue). We have always striven to be good neighbors.

We moved to Cape Charles during the off season and laid plans to build an accessory dwelling. We visited Town Hall several times, but were told that while an ordinance regulating accessory dwellings had been under discussion for months, it was not yet approved.

At that point, our home in Chesapeake had been sold, and we had to order a prefabricated building from Pennsylvania in time to vacate the main house for the reserved rental season, so we were forced to take out a permit for an "accessory building" to begin site work. We built it to comply with the (anticipated but not yet published) standards for an accessory dwelling for workforce housing.

The main house at 325 Madison is registered as "Family Reunion on the Bay, LLC" and is run by us as a vacation rental which we manage when not using it for our own family. We are thus a working couple requesting permission to live in our accessory building as a dwelling, per town policy.

Our plan has been to stay in it ourselves for as long as possible, thinking that at some future date it could become a desirable long-term rental for a single person (like a schoolteacher) to rent year-round or perhaps barter cleaning and maintaining the main house in the summer rental month. Either way, it would be a very affordable work force housing situation for others after us.

Regarding Article IV section 4.2 E, "Accessory Building:"

The accessory dwelling complies with all points, 1-13:

1. Not located in front or side yard
2. Not closer than 5 feet to any property line (see site plan)
3. Not closer than 2 feet to side or rear property line
4. Not closer than 15 feet from the main building. (It is 46 ft away.)
5. Not a 2-story building
6. Sum of all building footprints is less than 50% ($360 + 1680 \text{ sq} = 2040 \text{ sq ft}$, out of 5,600 sq ft lot)
7. Size of accessory building (360 sq ft) is less than main building & less than 550 sq ft.
8. N/A

9. Not higher than main structure
10. Not higher than 2/3 of main structure nor 24 ft (our accessory building peak is 11'3")
11. N/A
12. Does not exceed 7% of lot size (7% = 392 sq ft, Building is 360 sq ft)
13. N/A

Regarding Article IV. J. "Accessory Dwelling"

The dwelling complies with the physical and the occupancy characteristics required. Additionally:

- Water, sewer and electric lines are shared with the main building. (The sewer was originally built to accommodate five trailers). All utilities are on a single account.
- We can provide copies of multiple building inspections for when it was permitted as an accessory building (slab, plumbing, electrical, frame, insulation and final).
- The exterior matches the main structure in shape/form, siding, shingles, window, door, and shutters, thus harmonious while clearly subordinate to the main house. It's also landscaped.
- The 4 windows are 36" wide X 60" each, making them legal egress windows.
- We pay a monthly fee for an additional trash can for the accessory, stored separately.
- There is a 3-piece bathroom (shower, toilet, sink) and a food prep area with fridge, sink, microwave, toaster oven and induction hot plate, along with a 6 ft counter, pantry and cabinets. We prefer not to install a stove but will do so if the code requires it.
- It is heated and cooled by two units at either end of the building.

The entire 300 block of Madison Ave. is occupied by:

Mrs. Janet Dudley, the only neighbor who is actually adjacent to us, at 303 Madison Ave.

Beyond her, on the corner, Frank Giardina, 301 Madison Ave.

On our northwest corner, facing Strawberry, a vacant lot, owner unknown.

Directly north at the rear of the property, a vacant lot owned by the church across Jefferson Ave.

At the northeast corner, Jeanpaul Beauchamp, 312 Jefferson Ave

Directly east, 327 Madison Ave belongs to us.

Towards Peach, another vacant lot (owner unknown) separates us from Ed Sabo, on 333 Madison Ave.

Janet Dudley, Frank and Andrea Giardina, Jeanpaul and Marielena Beauchamp, and Ed Sabo have all expressed their support of an accessory dwelling in our property. We are also friends with the owners of three houses directly across the street, facing Park Row, if more neighborhood input is needed.

Attached please find the completed application, structure elevations, floor plan, property survey, site plan, and check for \$600.00.

We apologize for neglecting the transition to an accessory dwelling for so long and will pay any penalties for the delay. Thank you for your patience and for considering this application.



Jose L Gonzalez

(757) 646 8143



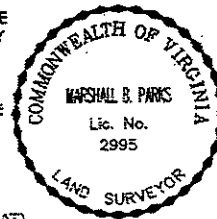
Diana L Gonzalez

(757) 646 9314

325 Madison Ave, Cape Charles, 23310

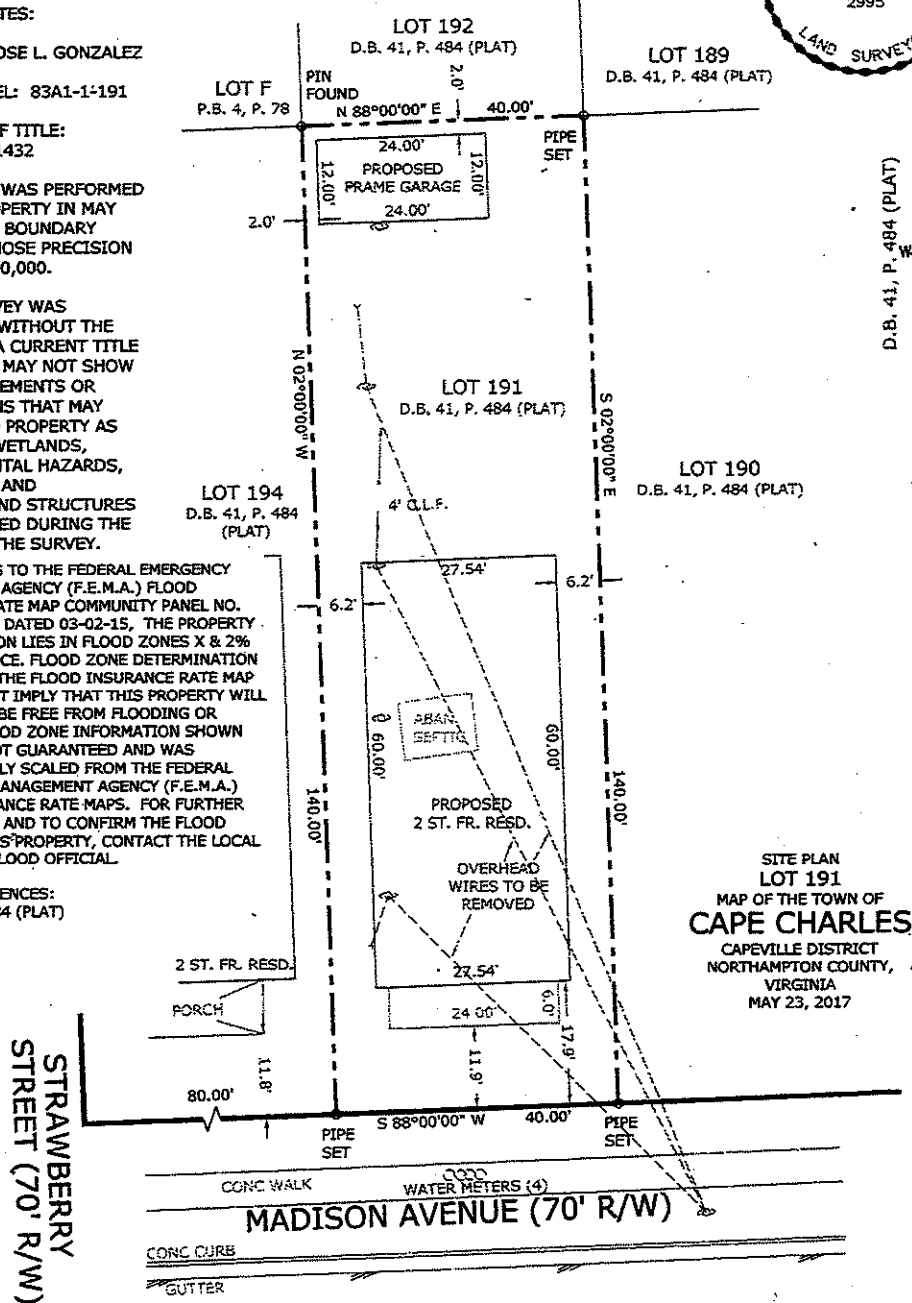
SURVEYORS CERTIFICATION

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



GENERAL NOTES:

1. OWNER: JOSE L. GONZALEZ
2. TAX PARCEL: 83A1-1-191
3. SOURCE OF TITLE:
INST. 160001432
4. A SURVEY WAS PERFORMED ON THIS PROPERTY IN MAY 2017 WITH A BOUNDARY CLOSURE WHOSE PRECISION EXCEEDS 1:10,000.
5. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN OR WETLANDS, ENVIRONMENTAL HAZARDS, CEMETERIES AND UNDERGROUND STRUCTURES NOT OBSERVED DURING THE COURSE OF THE SURVEY.
6. ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 51131C0430F, DATED 03-02-15, THE PROPERTY SHOWN HEREON LIES IN FLOOD ZONES X & 2% ANNUAL CHANCE. FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAP AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE. FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAPS. FOR FURTHER INFORMATION AND TO CONFIRM THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.
7. PLAT REFERENCES:
D.B. 41, P. 484 (PLAT)
P.B. 4, P. 78

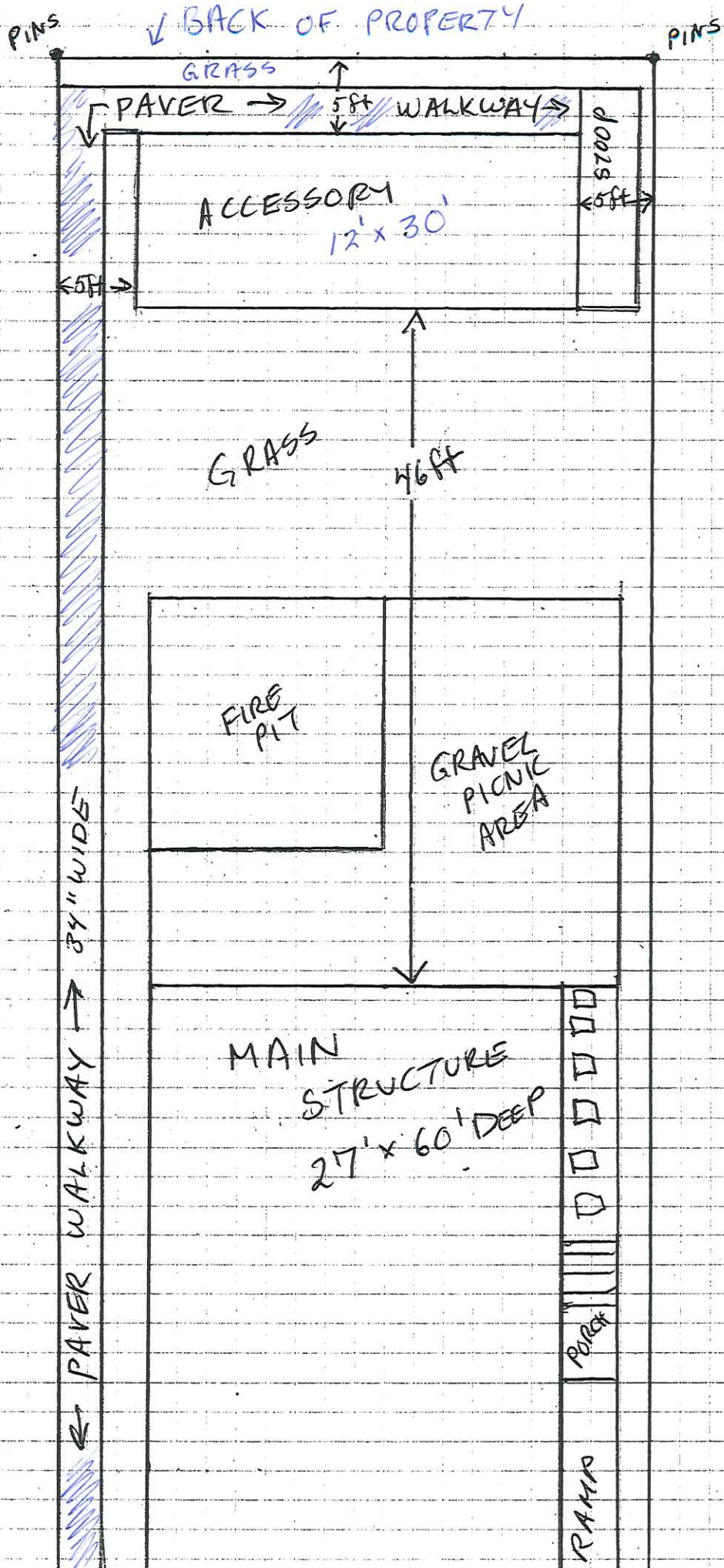


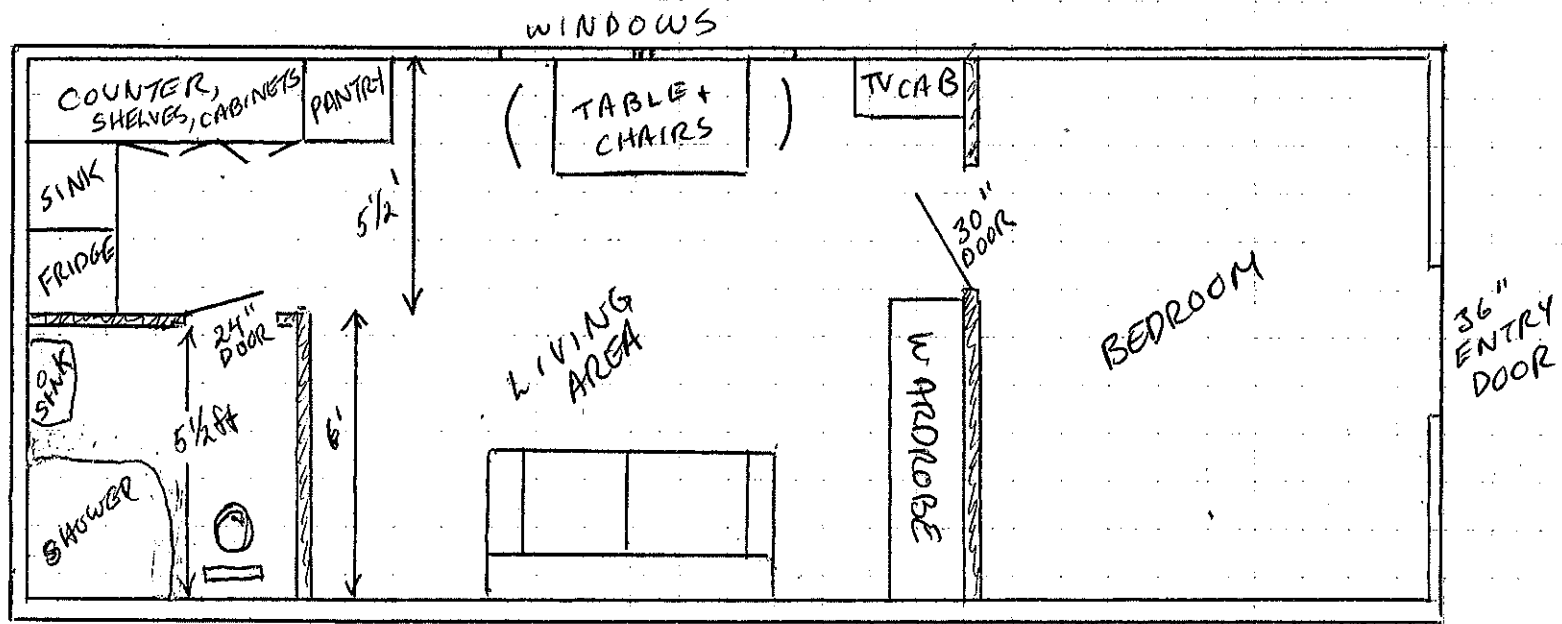
**SITE PLAN
LOT 191
MAP OF THE TOWN OF
CAPE CHARLES
CAPEVILLE DISTRICT
NORTHAMPTON COUNTY,
VIRGINIA
MAY 23, 2017**

ACCOMACK-NORTHAMPTON SURVEYING & MAPPING PLLC

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

DRAWN BY: CROCKETT	SCALE: 1" = 15'
CHKD BY: PARKS	BACK TRAV. BY: CROCKETT
FIELD BOOK: CPCL, P. 23	JOB NUMBER: 576





Building Specifications

Floor:

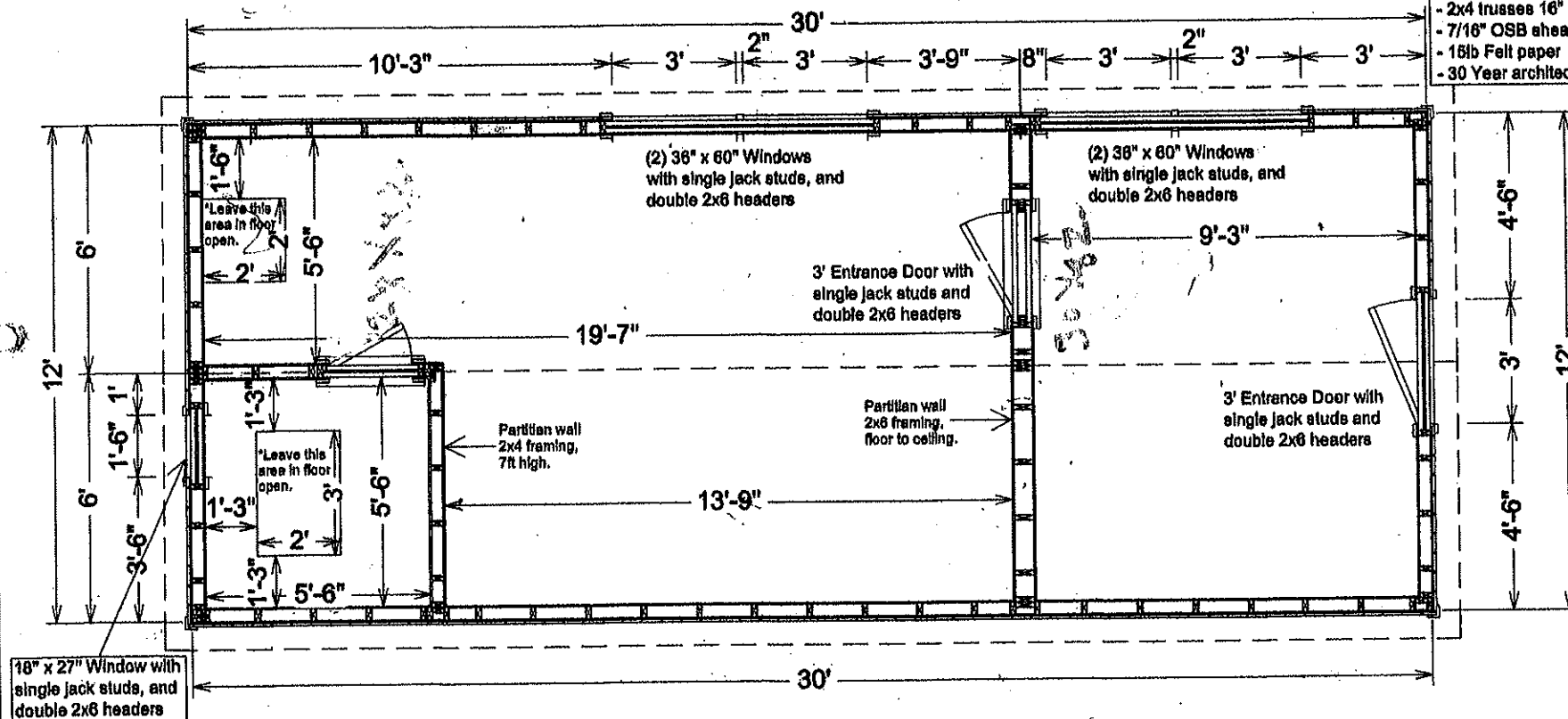
- Pressure treated 4x4 skids
- 2x4 Floor Joist at 12" O.C.
- 5/8" Plywood
- Double layer of 1" foam board insulation
- Floor anchored to concrete with 1/2" wedge anchor, one at each corner and one centered on each gable wall. (6) anchors total.

Walls:

- 2x4 wall framing at 16" O.C.
- Double top header
- Single bottom plate
- 7/16 OSB sheathing
- House wrap
- Vinyl siding

Roof:

- 2x4 trusses 16" O.C.
- 7/16" OSB sheathing
- 15lb Felt paper
- 30 Year architectural shingles



12x30 Classic Workshop

Sheds Unlimited
2025 Valley Rd
Morgantown, PA 19543
Phone: 717-442-3281
office@shedsunlimited.net

Customer:
Diana Gonzalez
4322 Oneford Place
Chesapeake, VA 23321

Drawing
Floor Plan
Scale
1/4" to 1'

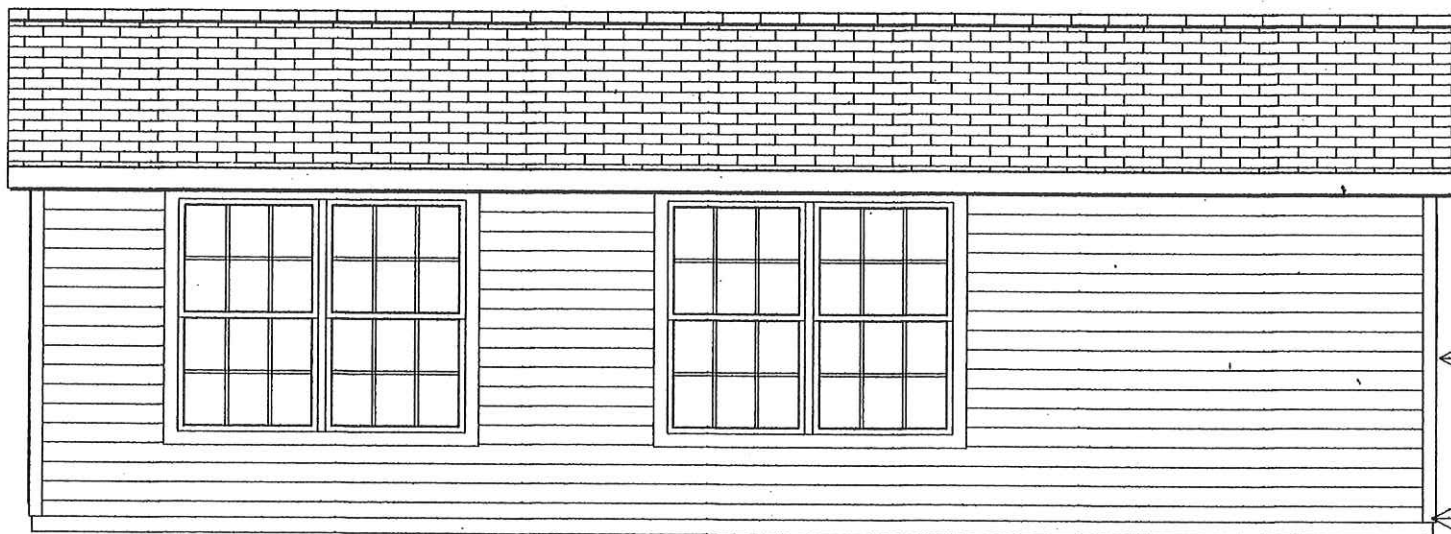
Revisions

Drawn By:
Austin Beachy
Date:
02/07/2019

Page No:

1

2x4 trusses 16" O.C. - 7/16" OSB sheathing - 15lb Felt paper - 30 Year architectural shingles



8" Overhang

- 2x4 wall framing at 16" O.C.
- Double top header
- Single bottom plate
- 7/16 OSB sheathing
- Vinyl siding
- House wrap

- Pressure treated 4x4 skids
- 2x4 Floor Joist at 12" O.C.
- 5/8" Plywood

SHUTTERS ADDED

Sheds Unlimited
2025 Valley Rd
Morgantown, PA 19543
Phone: 717-442-3281
office@shedsunlimited.net

Customer:
Diana Gonzalez
4322 Oneford Place
Chesapeake, VA 23321

Drawing
Side View
Scale
1/4" to 1'

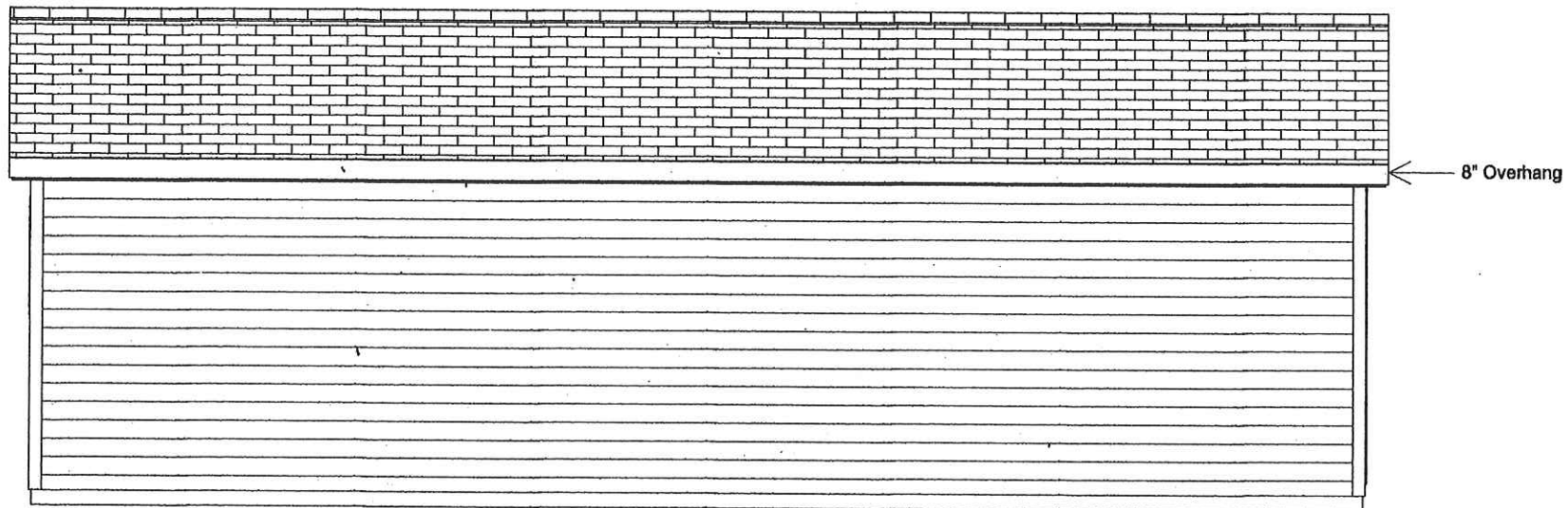
Revisions

Drawn By:
Austin Beachy
Date:
02/07/2019

Page No:

2

2x4 trusses 16" O.C. - 7/16" OSB sheathing - 15lb Felt paper - 30 Year architectural shingles



LANDSCAPING ADDED

Sheds Unlimited
2025 Valley Rd
Morgantown, PA 19543
Phone: 717-442-3281
office@shedsunlimited.net

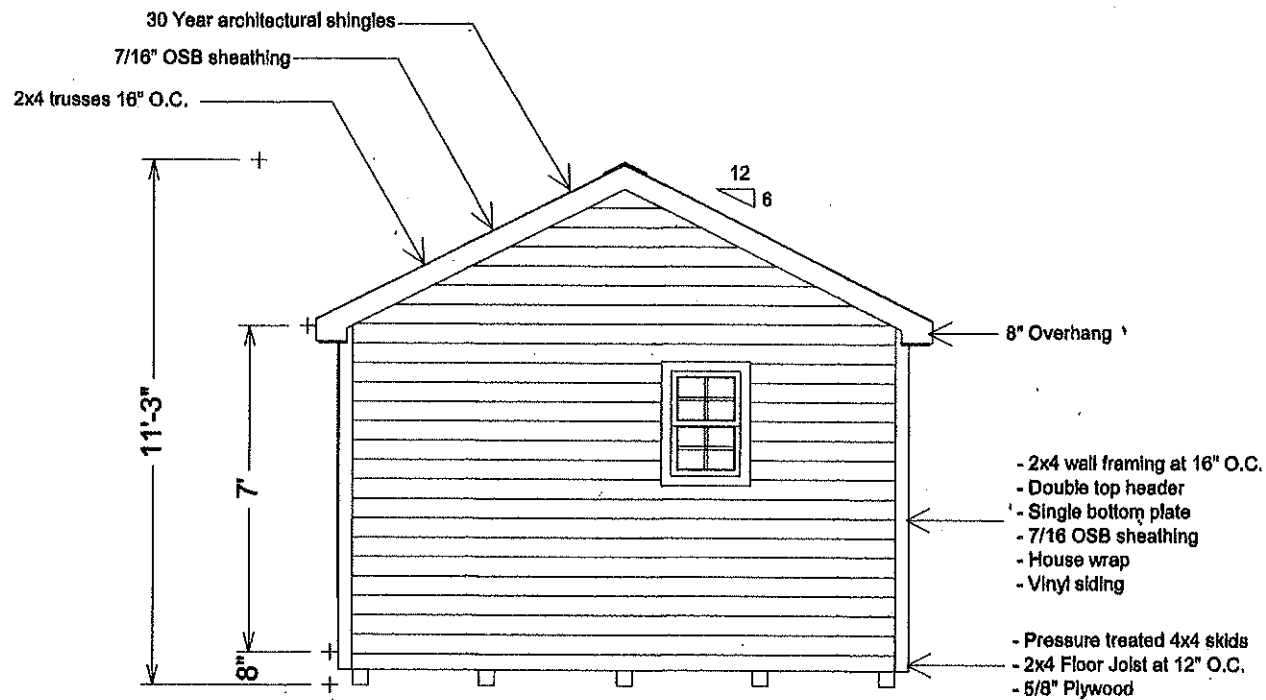
Customer:
Diana Gonzalez
4322 Oneford Place
Chesapeake, VA 23321

Drawing:
Side View
Scale
1/4" to 1'

Revisions

Drawn By:
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Date:
02/07/2019

Page No:
3



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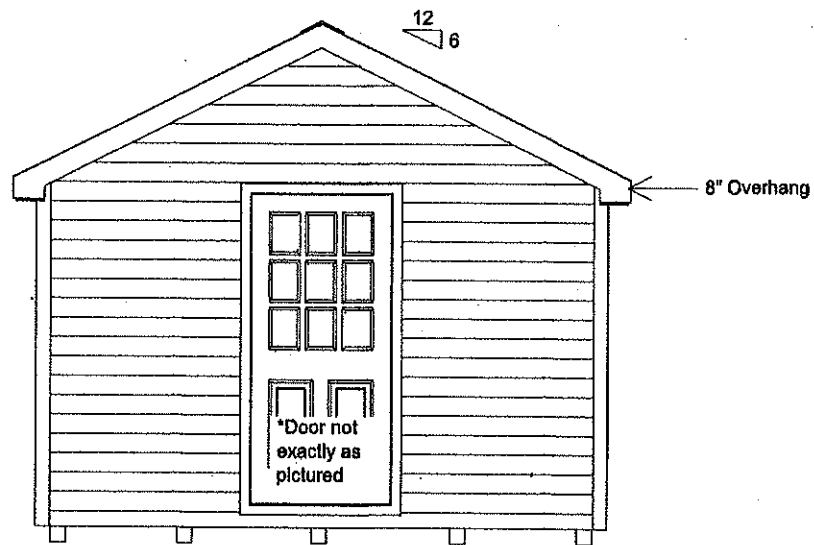
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Revisions

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02/07/2019

Page No:

4



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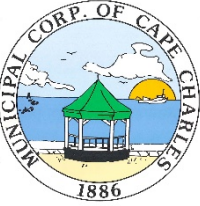
Drawing
Gable View
Scale
1/4" to 1'

Revisions

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Austin Beachy
Date:
02/07/2019

Page No:

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 TOWN OF CAPE CHARLES	AGENDA TITLE: Schedule Public Hearing –Conditional Use Permit for Accessory Dwelling Unit – 654 Monroe Avenue		AGENDA DATE November 18, 2021
	SUBJECT/PROPOSAL/REQUEST: Consider scheduling Public Hearing on Conditional Use Permit Application from Michael Ryan and Anna Lee Wilkins at 654 Monroe Avenue for Accessory Dwelling Unit		ITEM NUMBER: 6D.iv
	ATTACHMENTS: Planning Commission October 2021 Agenda Packet for Conditional Use Permit: Staff Report, Application and associated correspondence		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Director	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Town is in receipt of a Conditional Use Permit application from Michael Ryan and Anna Lee Wilkins at 654 Monroe Avenue to convert an existing 576 sq. ft accessory structure as an accessory dwelling unit, specifically the second floor for living quarters and the first floor for recreation purposes with no parking of vehicles within the structure.

The Planning Commission has held a public hearing at their October 5, 2021 meeting and have recommended approval of this Conditional Use Permit Application.

ITEM SPECIFICS:

A Conditional Use Permit application requires both the Planning Commission hold a public hearing and provide a recommendation to Town Council and then Town Council is required to hold a public hearing to take final action on the disposition of the rezoning application.

Therefore, staff is requesting authorization from the Town Council to schedule a public hearing for Town Council on the Conditional Use Permit application for 654 Monroe Avenue for the December 16, 2021 meeting. This authorization will allow us to place the legal advertisement as required to meet the legal notice deadlines required by the Code of Virginia for a Conditional Use Permit application.

RECOMMENDATION:

Authorize a public hearing be scheduled for Thursday, December 16, 2021 and staff will move forward with placing all required legal notices and property owner notifications.



PLANNING COMMISSION PRELIMINARY STAFF REPORT

Meeting Date: October 5, 2021

Item #: 4D

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

Date: September 29, 2021

APPLICANT: Michael Ryan & Anna Lee Wilkins **TYPE OF APPLICATION:** Conditional Use Permit

SITE ADDRESS: 654 Monroe Avenue

SPECIFIC REQUEST: An accessory dwelling unit

TAX MAP: 83A3-1-323

ZONING: Section 4.2 (J)

LOT SIZE: 5,118 sq. ft.

CURRENT ZONING: Residential (R-1)

DATE RECEIVED: August 24, 2021

DATE DEEMED COMPLETE:

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

NARRATIVE OF PROPOSAL

The applicant is seeking to convert an existing 576 sq. ft accessory structure as an accessory dwelling unit, specifically the second floor for living quarters and the first floor for recreation purposes with no parking of vehicles within the structure

AERIAL MAP: *Property outlined in blue*



The Cape Charles Zoning Ordinance Section 4.2 (J) states that:

Accessory Dwellings. 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:

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 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. 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.*
- d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.*

ORDINANCE REQUIREMENTS:

Cape Charles Zoning Ordinance Section 4.3 states that “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.

Additionally, approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications. If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit.

STAFF ANALYSIS:

The application for the conversion of an existing, 576 sq. ft. accessory structure from a garage to the second floor as an accessory dwelling unit and the first floor for recreational items (pool table and ping-pong table) demonstrates consistency with the requirements of the Cape Charles Zoning Ordinance Section 4.2 (J) with the exception that the loss of parking on-site within the accessory structure has not been addressed or noted in the application to indicate that the lot can accommodate on-site parking of vehicles.

The Cape Charles Comprehensive Plan Section III.A.5.2. identifies a goal to “Promote compatible infill development and renovation within established neighborhoods” and to specifically “Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options”.

Please note that the applicant has indicated that the site plan and layout of the interior of the structure have been mailed to the office but have not been received by the date of this staff report so I am not able to make a recommendation on this matter until this material is received, as requested by the Planning Commission.

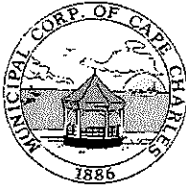
RECOMMENDATION TO PLANNING COMMISSION

I am recommending that the Planning Commission convene and hold the public hearing and receive any public comment but then table the matter until the floor layout and site plan have been received and provided to the Planning Commission for their review and inclusion as part of the application packet.

If these items are received by the office between the distribution of the agenda packet on September 29, 2021 and the public hearing on October 5, 2021, my office will electronically distribute this material and the Commission will determine if they are able to issue a recommendation following the public hearing. If that is the case, then the staff will assist in the development of a motion.

Attachments:

Attachment 1 – CUP Application



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: Remodel Garage
Property Address: 654 Monroe, Cape Charles, VA 23310
Brief Description of Project: Prepare existing space for occupancy.
Zoning District: _____ Current Use: Garage/loft space Proposed Use: Occupancy

OWNER INFORMATION

Name and Company: Michael F. Ryan Anna Lee Wilkins
Mailing Address: 106 Luther Ave, San Antonio, TX 78212
Phone Number: 210/393-8900 Email: dlee.wilkins@hotmail.com

APPLICANT INFORMATION

☒ check here if applicant is owner

Name: Michael F. Ryan Anna Lee Wilkins
Mailing Address: 106 Luther Ave, San Antonio, TX 78212
Phone Number: 210/393-8900 Email: dlee.wilkins@hotmail.com

CERTIFICATION OF APPLICANT

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

Signature of Applicant: [Signature] Date: 8-24-2021

PLANF - Revised 4/19

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

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: 8-24-2021

Address: 654 Monroe, Cape Charles, VA 23310

The following criteria are required for one accessory dwelling to 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:

1. Is the accessory dwelling unit located in an accessory building? YES ☒ NO ☐
2. Does the accessory dwelling floor area exceed of forty-five (45) percent of the floor area of the main building? YES ☐ NO ☒ Accessory Dwelling Unit square footage 576
3. Does the accessory dwelling have one kitchen and one bathroom? YES ☒ NO ☐
4. Does the accessory building/dwelling differentiate from the single-family dwelling? YES ☒ NO ☐

The following conditions must be maintained for an accessory dwelling unit 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:

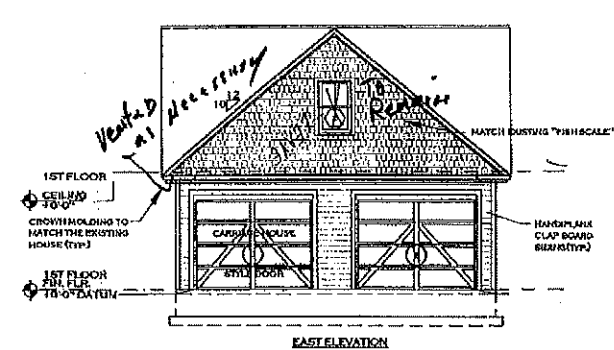
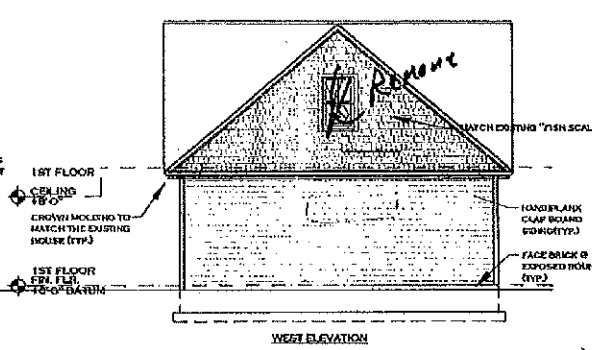
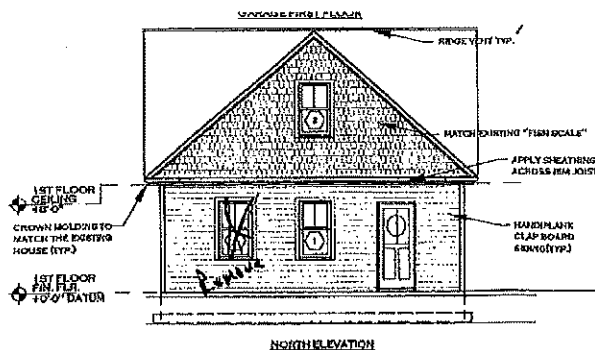
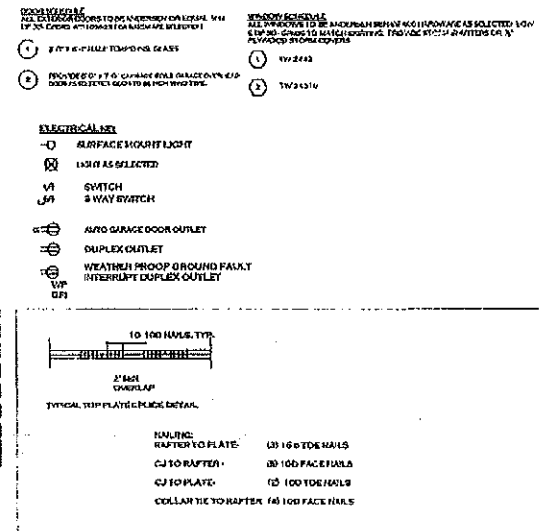
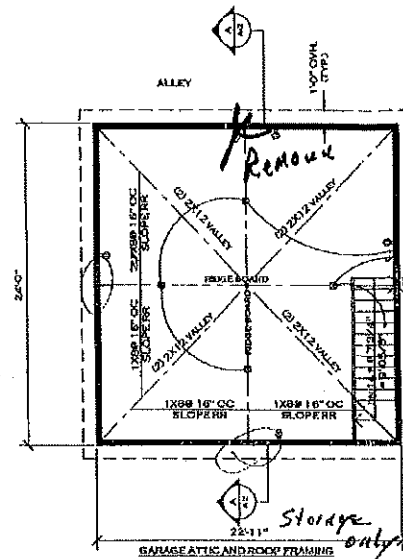
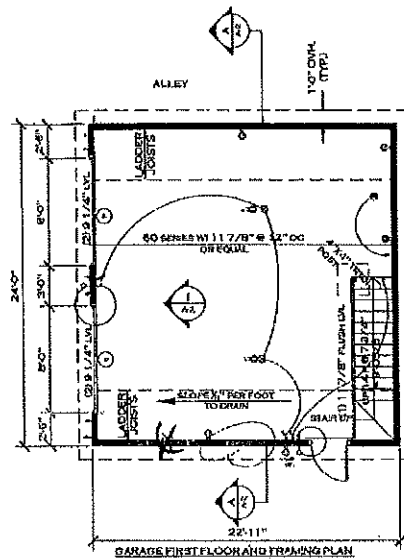
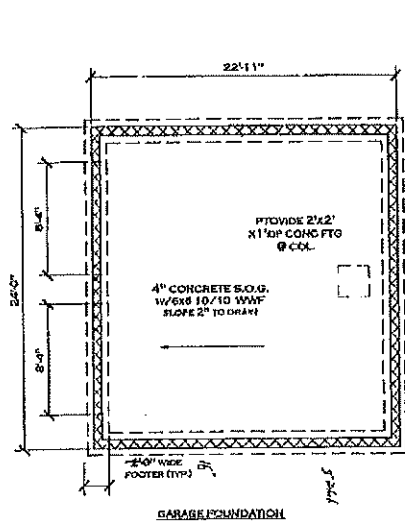
1. Occupancy characteristics.
 - a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official 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.
2. 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. 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.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.

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. I am providing authorization to the town authorities to enter my properties to confirm accuracy of information contained in this application.

Signature of Owner: _____

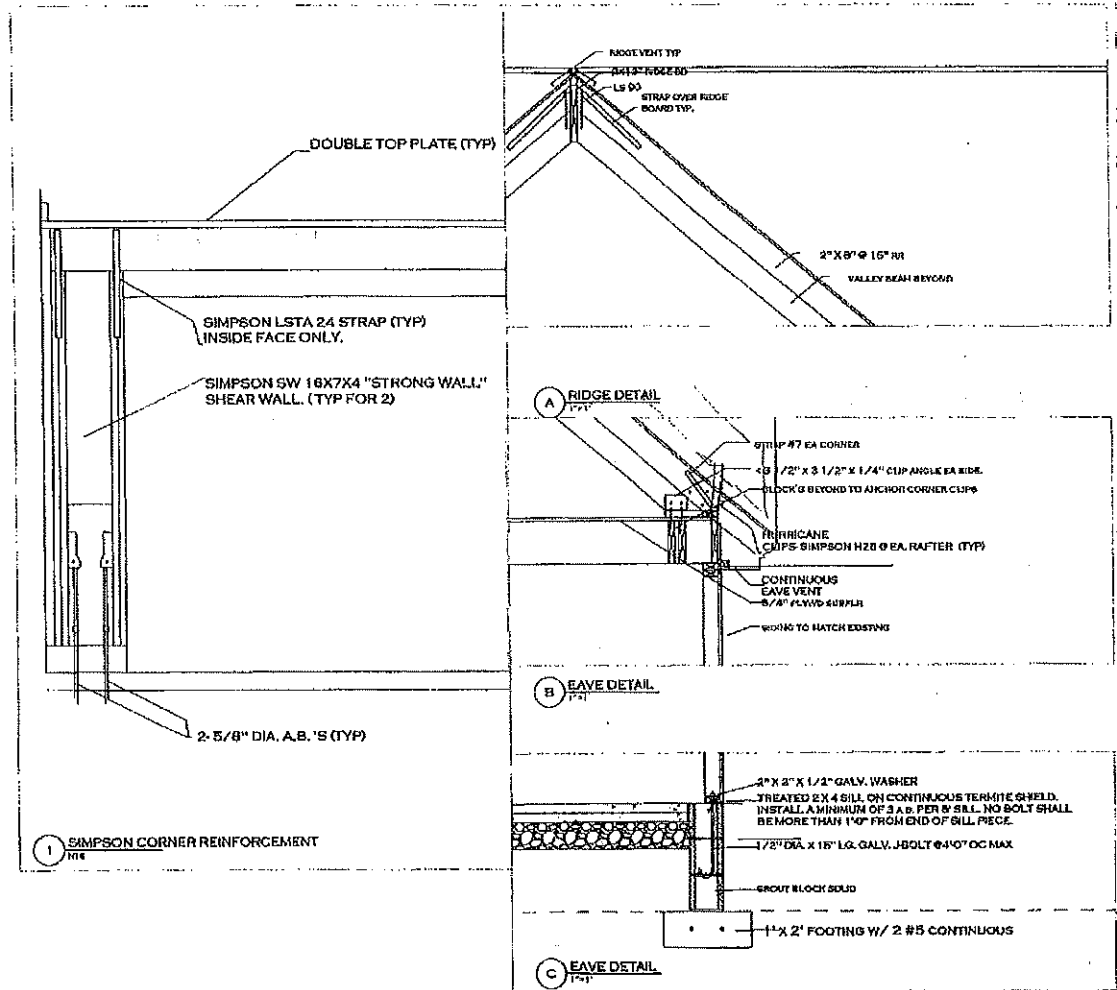
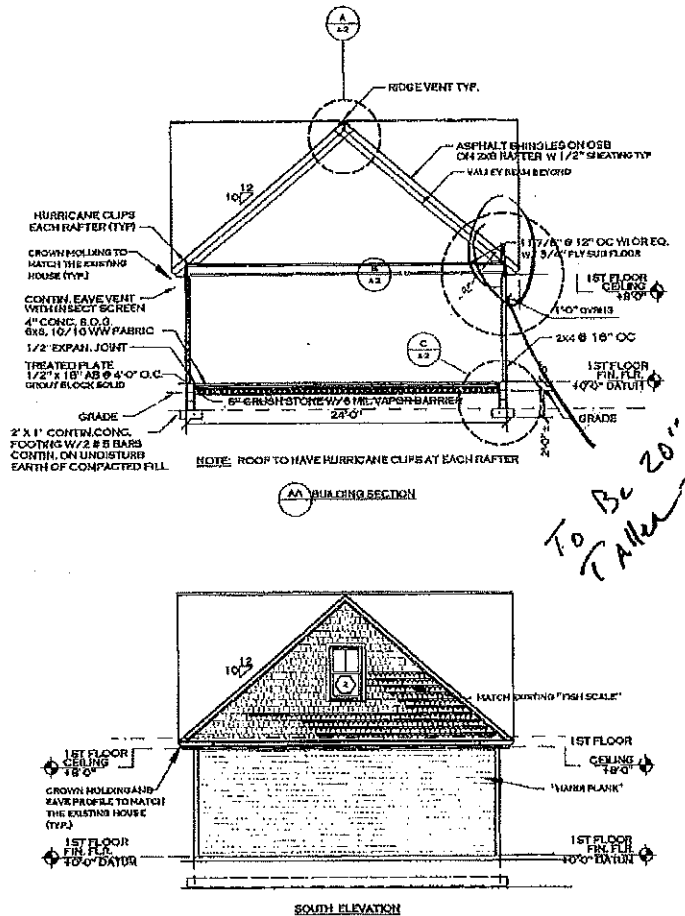
Signature of Applicant: _____



PARHAM
4037 KEELE, CAPE CHARLES, VA 25103-3311
337.331.8113... info@parhamva.com
LEON FULLER, FARRER, ARCHITECT, P.A. NCARB

PROPOSED MELBY GARAGE
654 MONROE AVENUE, CAPE CHARLES, VA
PLANS, ELEVATIONS, SCHED. AND MISC. DETAILS

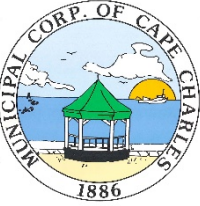
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0804	1/4"=1'		



PARHAM
100 LAZARUS, CAPE CHARLES, VIRGINIA 23110-2117
337-211-5111 FAX 337-211-5112
LEON FID ARCHITECT, R.A. NCARB

PROPOSED MELBY GARAGE
654 MONROE AVENUE, CAPE CHARLES, VA
ELEVATION, BUILDING AND WALL SECTIONS, AND DETAILS

LP	3/07/08		A-2
0804	1/4"=1'		

 TOWN OF CAPE CHARLES	AGENDA TITLE: Schedule Public Hearing for Conditional Use Permit for Accessory Dwelling Unit – 410 Harbor Avenue/100 Madison Avenue		AGENDA DATE November 18, 2021
	SUBJECT/PROPOSAL/REQUEST: Consider scheduling Public Hearing on Conditional Use Permit Application from Tom & Amy Scharpf at 410 Harbor Avenue/100 Madison Avenue for Accessory Dwelling Unit		ITEM NUMBER: 6D.v
	ATTACHMENTS: Planning Commission October 2021 Agenda Packet for Conditional Use Permit: Staff Report, Application and associated correspondence		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Director	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Town is in receipt of a Conditional Use Permit application from Tom & Amy Scharpf at 410 Harbor Avenue/100 Madison Avenue to remove an existing shed and replace with a new accessory structure, sized 13' x 30' (390 sq. ft) with the first floor to be used as a garage and storage space and the second story of this accessory structure to be used as an accessory dwelling unit.

The Planning Commission are holding a public hearing at their November 9, 2021 meeting and will provide a recommendation following that public hearing.

ITEM SPECIFICS:

A Conditional Use Permit application requires both the Planning Commission hold a public hearing and provide a recommendation to Town Council and then Town Council is required to hold a public hearing to take final action on the disposition of the rezoning application.

Therefore, staff is requesting authorization from the Town Council to schedule a public hearing for Town Council on the Conditional Use Permit application for 410 Harbor Avenue/100 Madison Avenue for the December 16, 2021 meeting. This authorization will allow us to place the legal advertisement as required to meet the legal notice deadlines required by the Code of Virginia for a Conditional Use Permit application.

RECOMMENDATION:

Authorize a public hearing be scheduled for Thursday, December 16, 2021 and staff will move forward with placing all required legal notices and property owner notifications.



PLANNING COMMISSION STAFF REPORT

Meeting Date: November 9, 2021

Item #: 5A

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

Date: November 1, 2021

APPLICANT: Sam & Amy Scharpf
SITE ADDRESS: 410 Harbor Avenue
(& 100 Madison Avenue)
TAX MAP: 83A3-2-8-7

LOT SIZE: 4,640 sq. ft.

TYPE OF APPLICATION: Conditional Use Permit
SPECIFIC REQUEST: An accessory dwelling unit located
on second floor of accessory structure (garage) – 390 sq ft
ZONING ORDINANCE: Section 4.2 (J) & Section 3.2
(c)(7)
CURRENT ZONING: Residential (R-1)

DATE RECEIVED: September 16, 2021

DATE DEEMED COMPLETE: September 23, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): December 23, 2021

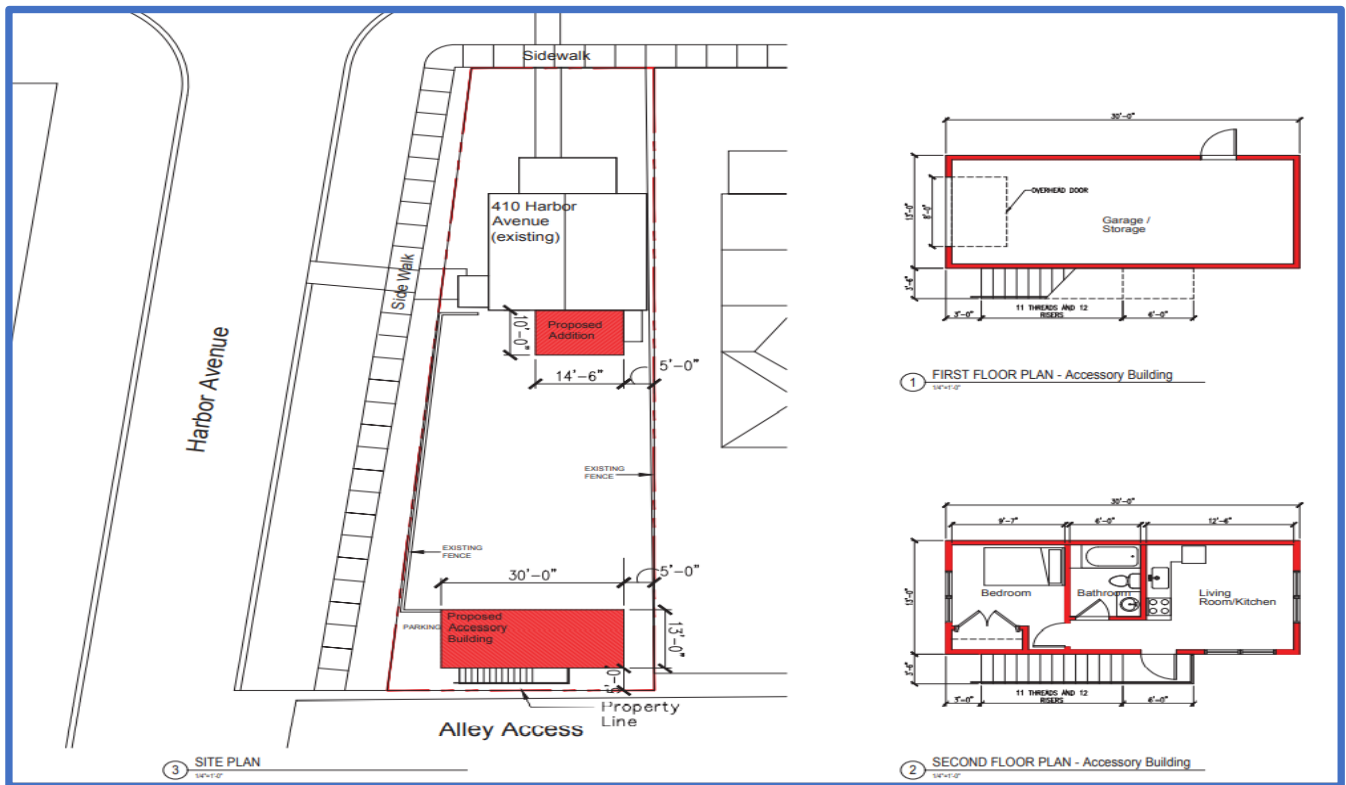
NARRATIVE OF PROPOSAL

The applicant is seeking a Conditional Use Permit, pursuant to Section 4.2 J & Section 3.2 (C) (7) at 410 Harbor Avenue (Tax Map #83A3-2-8-7) for an accessory dwelling unit.

The applicant is seeking to remove an existing shed and replace with a new accessory structure, sized 13' x 30' (390 sq. ft) with the first floor to be used as a garage and storage space and the second story of this accessory structure to be used as an accessory dwelling unit.

The applicant has appeared before the Historic District Review Board on November 17, 2020 and April 20, 2021 regarding renovations and addition to the existing house as well as to discuss the removal of the existing shed and informed them of their intent to seek a new accessory structure with dwelling on second floor. The HDRB, at their 4/20/2021, approved a Certificate of Appropriateness for the work on the main house and the removal of the shed. It was noted as part of that meeting that the applicant needed to seek a Conditional Use Permit for the accessory structure as a dwelling and then come back before the HDRB for review of a Certificate of Appropriateness for the new accessory structure.

Staff has been working with the applicant since April 2021 in submitting a complete application for the accessory structure, including the application for a Conditional Use Permit (CUP) as well as documentation that will be required to also be reviewed by the Historic District Review Board if the CUP is approved.



ORDINANCE REQUIREMENTS:

Cape Charles Zoning Ordinance Section 4.2 (J) states that:

Accessory Dwellings. 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:

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 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. 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.*
- d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.*

Cape Charles Zoning Ordinance Section 3.2 (C) states that for Single Family Residential -1 (R-1) Zoning Districts for Conditional Uses: *The following uses may also be permitted, subject to securing a use permit as provided for in this ordinance and specifically (7) states that “residential dwelling units in square footage area below the minimum or above the maximum stated in Section 3.2.F.2”. This lot is a legal non-conforming lot at 4,640 sq. ft and Section 3.2.F.2 states that “Non-conforming lots smaller than 5,600 square feet in the R-1 District the total footprint area of all accessory building lot coverage shall not exceed 10%.*

Cape Charles Zoning Ordinance Section 4.3 states that “*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.”

Additionally, approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications. If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit.

STAFF ANALYSIS:

The application for the construction of an accessory structure of 390 square feet with garage space on first floor and an accessory dwelling unit on second floor demonstrates consistency with the requirements of the Cape Charles Zoning Ordinance Section 4.2 (J). **The applicant has also completed and signed the affidavit regarding knowledge and compliance with the component of Section 4.2(J)**

The accessory structure is less than 464 square feet, so this complies with Section 3.2(C) (7) and 3.2.F.2 & 4 of the ordinance, requiring the total of all accessory building footprints to be no greater than 10% and the lot size for this lot is 4,640.

The full zoning review finds the application in compliance with all other elements of the zoning ordinance.

The Cape Charles Comprehensive Plan Section III.A.5.2. identifies a goal to “Promote compatible infill development and renovation within established neighborhoods” and to specifically “Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options”.

Staff finds that the application for a Conditional Use Permit pursuant to Section 4.2 (J) for an accessory dwelling unit as part of an accessory structure in the Residential-1 Zoning District meets and satisfies the requirements of the Town Zoning Ordinance, Section 4.3, as follows:

- 1) it does not adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood or adversely affect other land uses within the particular surrounding neighborhood;
- 2) it is not detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- 3) it is not in conflict with the purpose of the comprehensive plan of the town.

Staff acknowledges that additional issues or comments may arise through the public hearing on this matter and request that the Planning Commission consider said issues and/or comments as part of their deliberations.

RECOMMENDED ACTION FOR PLANNING COMMISSION:

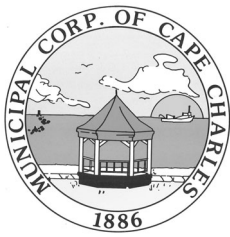
Staff recommends that the Planning Commission consider recommending approval of the Conditional Use Permit to the Town Council with the following motion:

The Cape Charles Planning Commission recommends approval of a Conditional Use Permit for an Accessory Dwelling Unit at 410 Harbor Avenue/100 Madison Avenue on an application filed by Sam & Amy Scharpf, pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) & Section 3.2(C) (7) with the following conditions:

- 1.) the applicant applies and obtain Historic District Review Board approval for all exterior improvements, in accordance with the Historic District Overlay and Guidance Documents; and***
- 2.) the applicant obtains all required permits and approvals from the Building and Planning Department; and further finds that the CUP standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan.***

Attachments:

Attachment 1 – CUP Application, Letter of Intent and Proposal, CUP Accessory Dwelling Unit Checklist, Survey & Drawings/Photos



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: 410 Harbor Ave. Accessory Dwelling
Property Address: 410 Harbor Ave. Cape Charles, VA 23310
Brief Description of Project: Tear-down of shed and construction of Accessory Dwelling
Zoning District: HIST Current Use: Residential Proposed Use: Long term rental

OWNER INFORMATION

Name and Company: Sam & Amy Scharpf
Mailing Address: 410 Harbor Ave. Cape Charles, VA 23310
Phone Number: 202.365.4814 Email: samscharpf@yahoo.com

APPLICANT INFORMATION

☒ check here if applicant is owner

Name: Sam & Amy Scharpf
Mailing Address: 7829 Fulbright Court, Bethesda, MD 20817
Phone Number: 202.365.4814 Email: samscharpf@yahoo.com

CERTIFICATION OF APPLICANT

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

Signature of Applicant: Samford A. Scharpf Digitally signed by Samford A. Scharpf
Date: 2021.09.16 15:10:26 -04'00' Date: 9/16/2021

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: 9/16/2021

Address: 410 Harbor Ave. Cape Charles, VA

The following criteria are required for one accessory dwelling to 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:

1. Is the accessory dwelling unit located in an accessory building? YES ☒ NO ☐
2. Does the accessory dwelling floor area exceed of forty-five (45) percent of the floor area of the main building? YES ☐ NO ☒ Accessory Dwelling Unit square footage 390
3. Does the accessory dwelling have one kitchen and one bathroom? YES ☒ NO ☐
4. Does the accessory building/dwelling differentiate from the single-family dwelling? YES ☒ NO ☐

The following conditions must be maintained for an accessory dwelling unit 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:

1. 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.
2. 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. 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.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.

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. I am providing authorization to the town authorities to enter my properties to confirm accuracy of information contained in this application.

Signature of Owner: Samford A. Scharpf

Digitally signed by Samford A. Scharpf
Date: 2021.09.16 15:22:37 -04'00'

Signature of Applicant: Samford A. Scharpf

Digitally signed by Samford A. Scharpf
Date: 2021.09.16 15:22:47 -04'00'

Letter of Intent for: 410 Harbor Ave. Accessory Dwelling

We would like to tear down the existing dilapidated shed and build a two-story structure in its place. The first floor would serve as a garage and storage space for tools and yard items. The second floor would contain a living room, kitchen, bathroom, and bedroom, and ultimately serve as a long-term rental unit for local workers, like teachers and other professionals.

Sam & Amy Scharpf

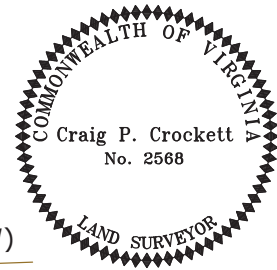
410 Harbor Ave.

Cape Charles, VA 23310

202.210.4590

SURVEYORS CERTIFICATION

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



GENERAL NOTES:

1. OWNERS: SAMFORD ADAMS SCHARPF & AMY CHEN SCHARPF

2. TAX PARCEL: 83A3-2-8-7

3. SOURCE OF TITLE: INST. 180001287

4. A SURVEY WAS PERFORMED ON THIS PROPERTY IN JANUARY 2020 WITH A BOUNDARY CLOSURE WHOSE PRECISION EXCEEDS 1:10,000.

5. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN OR WETLANDS, ENVIRONMENTAL HAZARDS, CEMETERIES AND UNDERGROUND STRUCTURES NOT OBSERVED DURING THE COURSE OF THE SURVEY.

6. ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 51131C0295F, DATED 03-02-15, THE PROPERTY SHOWN HEREON FALLS IN ZONE OF 0.2% ANNUAL CHANCE.

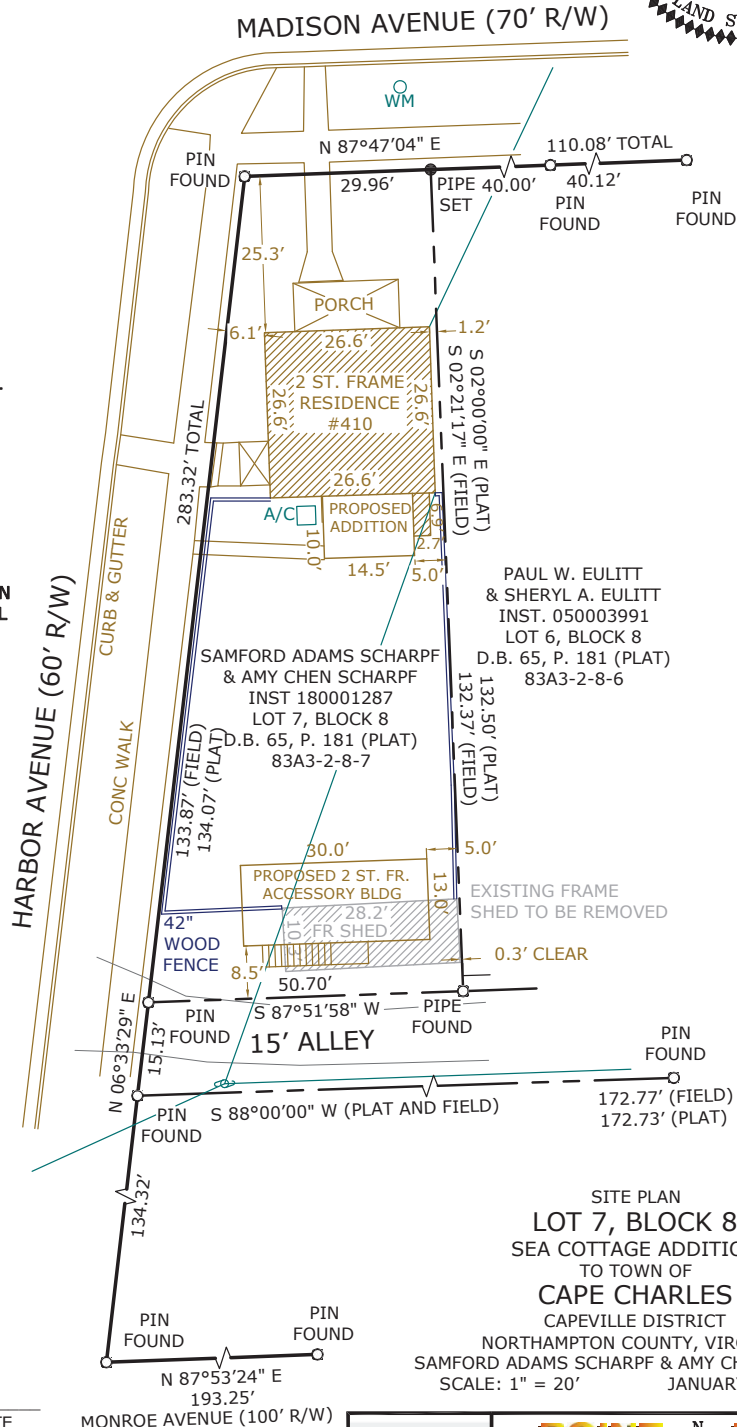
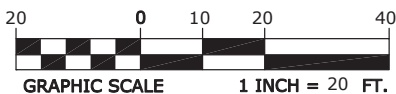
7. PLAT REFERENCES:
D.B. 41, P. 484 (PLAT)
D.B. 65, P. 181 (PLAT)



APPROVED

PLANNER, TOWN OF
CAPE CHARLES

DATE



SITE PLAN
LOT 7, BLOCK 8
SEA COTTAGE ADDITION
TO TOWN OF
CAPE CHARLES

CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VIRGINIA
SAMFORD ADAMS SCHARPF & AMY CHEN SCHARPF
SCALE: 1" = 20'
JANUARY 13, 2020

REVISED 02-04-2021
CHANGES TO PROPOSED
HOUSE AND ACCESSORY
BUILDING



POINT NORTH

POINT NORTH SURVEYING LLC

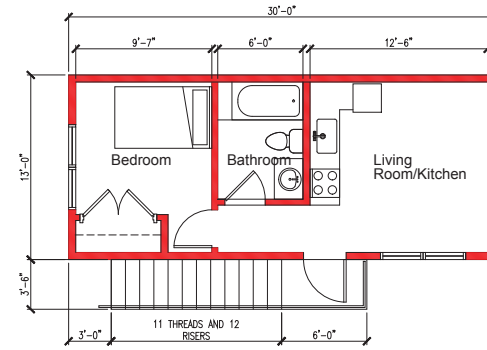
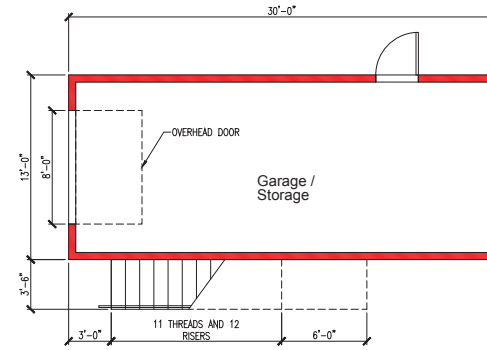
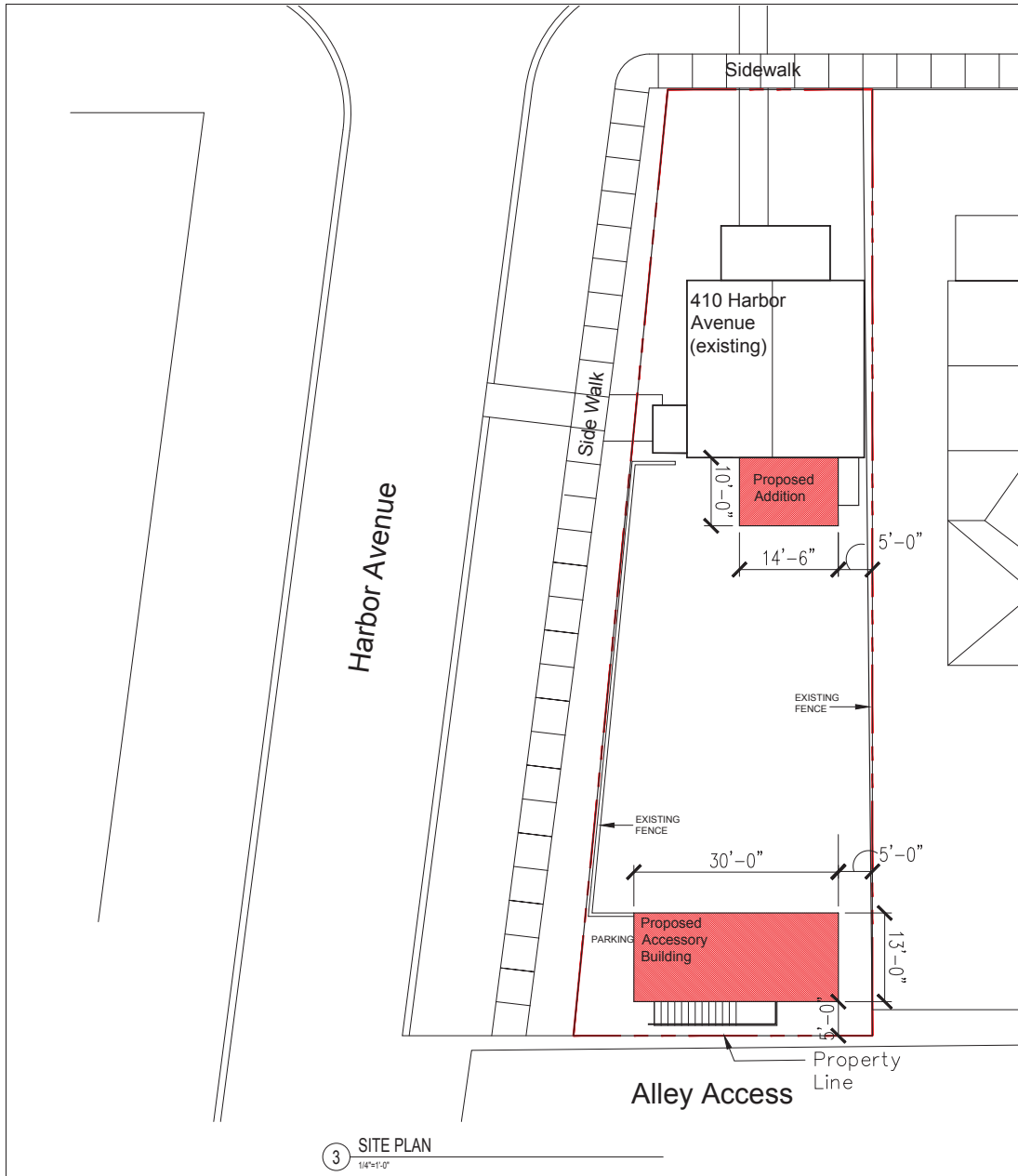
P.O. Box 701, (757) 709-3008
Onley, VA. 23418 pointnorthsurveying@gmail.com

DRAWN BY: CROCKETT FIELD BOOK: FILE COPY
BACK TRAV: CROCKETT PROJ. NO: 20001B



A1





DESIGN

Project Team

Architect
Dan Chen, AIA, LEED AP
36 Marlboro Street
Belmont, MA 02478
617.470.4722

Surveyor
Point North Surveying, LLC
P.O. Box 701
Onley, VA 23418
757.709.3008

410 HARBOR AVENUE

410 Harbor Avenue
Cape Charles, VA 23310

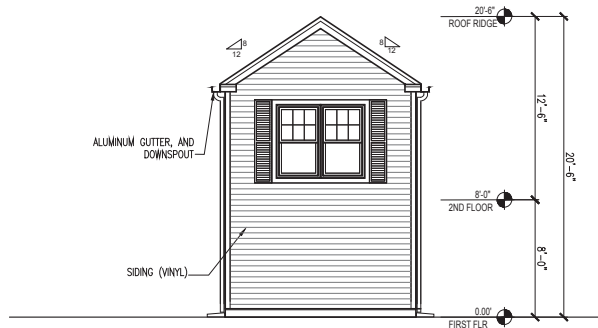
DRAWING NOTES:
THIS DRAWING SHALL REMAIN THE PROPERTY OF THE ARCHITECT. REPRODUCTION OF THIS DRAWING OR THE SPECIFICATIONS ASSOCIATED WITH THIS PROJECT WITHOUT THE ARCHITECT'S AGREEMENT IS FORBIDDEN. THE PLANS AND SPECIFICATIONS OF THIS PROJECT SHALL NOT BE USED BY THE OWNER ON OTHER PROJECTS EXCEPT BY AGREEMENT IN WRITING AND WITH APPROPRIATE COMPENSATION TO THE ARCHITECT.

THE DRAWINGS ARE DIAGRAMMATIC. DO NOT SCALE. CONTRACTOR TO VERIFY ALL SITE CONDITIONS AND RESPONSIBLE FOR DIMENSIONAL COORDINATION WITH SUBCONTRACTORS WORK PRIOR START OF WORK.

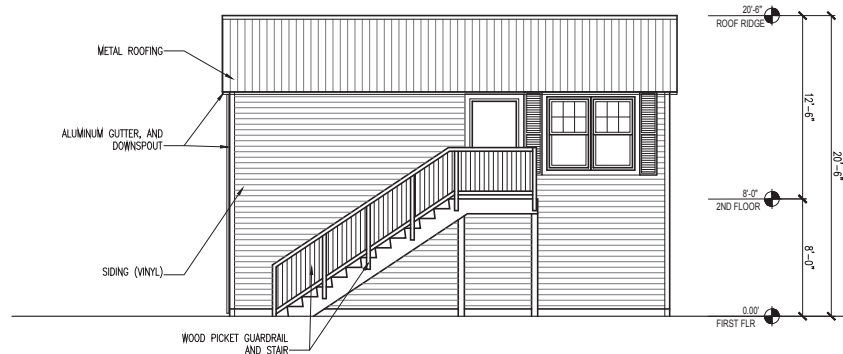
FLOOR PLAN AND SITE PLAN

SCALE: AS NOTED
DATE: Jan. 20, 2021
DRAWN BY:
CHECKED BY:

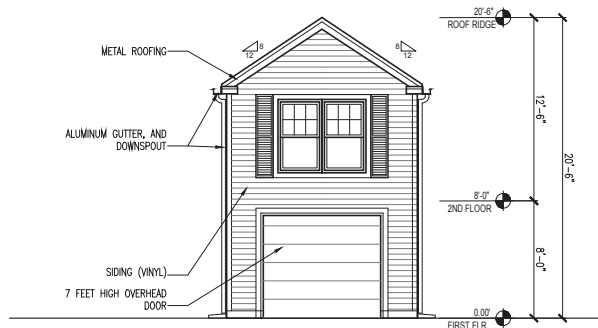
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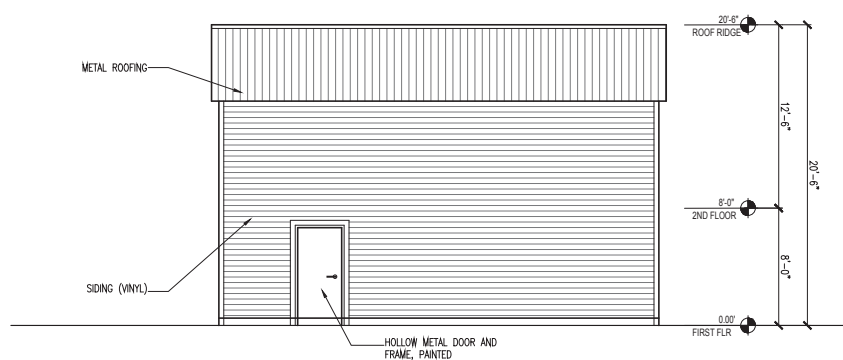
3 ELEVATION - EAST
1/4"=1'-0"



1 ELEVATION - SOUTH
1/4"=1'-0"



4 ELEVATION - WEST
1/4"=1'-0"



2 ELEVATION - NORTH
1/4"=1'-0"

DESIGN

Project Team

Architect
Dan Chen, AIA, LEED AP
36 Marlboro Street
Belmont, MA 02478
617.470.4722

Surveyor
Point North Surveying, LLC
P.O. Box 701
Onley, VA 23418
757.709.3008

410 HARBOR AVENUE

410 Harbor Avenue
Cape Charles, VA 23310

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THE DRAWINGS ARE DIAGRAMMATIC. DO NOT SCALE. CONTRACTOR TO VERIFY ALL SITE CONDITIONS AND RESPONSIBLE FOR DIMENSIONAL COORDINATION WITH SUBCONTRACTORS WORK PRIOR START OF WORK.

ELEVATIONS

SCALE: AS NOTED
DATE: Jan. 20, 2021
DRAWN BY:
CHECKED BY:

A3

Adjacent Neighbors for: 410 Harbor Ave. Accessory Dwelling

Next door, on Madison:

Vogt, William Joseph

102 Madison Ave

Cape Charles, VA

Behind house, on Monroe:

Hubbell, Brian & Andrea

101 Monroe Ave

Cape Charles, VA

Across the street, on Madison:

Headley, Robert

10 Madison Ave

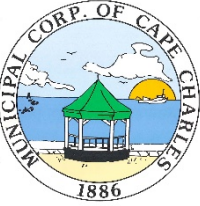
Cape Charles, VA

Across the street, on Madison:

Hall, Betty Drummond

101 Madison Ave

Cape Charles, VA

 TOWN OF CAPE CHARLES	AGENDA TITLE: Schedule Public Hearing for Conditional Use Permit for Mini Golf Course – 4 Lots on Randolph Avenue		AGENDA DATE November 18, 2021
	SUBJECT/PROPOSAL/REQUEST: Consider scheduling Public Hearing on Conditional Use Permit Application from Tom and Katie Austin for a Mini-Golf Course at 4 Parcels on Randolph Avenue		ITEM NUMBER: 6D.vi
	ATTACHMENTS: Planning Commission November 2021 Agenda Packet for Conditional Use Permit: Staff Report, Application and associated correspondence		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Director	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Town is in receipt of a Conditional Use Permit application from Tom & Katie Austin (contract purchasers) dba Cape Charles Mini Golf, Inc. to construct a Mini-Golf course on 4 lots at Tax Map #83A4-1-B-26, 27, 28, & 29 (4 properties on Randolph Avenue) which are located directly across from the entrance to Heritage Acres.

These lots are zoned Commercial-3, and the proposed use of a Mini-Golf is a permitted use under Section 3-8 (B) (2) which states “*any other commercial or professional use which is compatible in nature with the allowed uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission.*” This proposed use was brought to the Planning Commission at their meeting on 2/2/2021 and the Planning Commission stated that this use would be compatible with other uses allowed in the C-1 and C-2 and C-3 zoning districts but indicated that only through a Conditional Use Permit application so that parking, lighting, landscaping, setbacks and visual aesthetics of the proposed project can be adequately reviewed and addressed in relation to the other development occurring on this stretch of Randolph/Stone Road.

The Planning Commission is holding a public hearing at their November 9, 2021 meeting and will provide a recommendation following that public hearing.

ITEM SPECIFICS:

A Conditional Use Permit application requires both the Planning Commission hold a public hearing and provide a recommendation to Town Council and then Town Council is required to hold a public hearing to take final action on the disposition of the rezoning application.

Therefore, staff is requesting authorization from the Town Council to schedule a public hearing for Town Council on the Conditional Use Permit application for the four lots at Tax Map #83A4-1-B-26, 27, 28, & 29 (4 properties on Randolph Avenue) for the December 16, 2021 meeting. This authorization will allow us to place the legal advertisement as required to meet the legal notice deadlines required by the Code of Virginia for a Conditional Use Permit application.

RECOMMENDATION:

Authorize a public hearing be scheduled for Thursday, December 16, 2021 and staff will move forward with placing all required legal notices and property owner notifications.



PLANNING COMMISSION STAFF REPORT

Meeting Date: November 9, 2021

Item #: 5B

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

Date: November 1, 2021

APPLICANT: Tom & Katie Austin (contract purchasers) dba Cape Charles Mini Golf, Inc.

TYPE OF APPLICATION: Conditional Use Permit

PROPERTY OWNER: John F. & Loraine A. Huchler & Daniel C. Dabinett

SITE ADDRESS: Randolph Avenue, directly across from Heritage Acres Court

ZONING ORDINANCE: Section 3-8 (B) (2)

TAX MAP: 83A4-1-B-26, 83A4-1-B-27, 83A4-1-B-28, and 83A4-1-B-29

CURRENT ZONING: Commercial-3 (C-3)

LOT SIZE: .56 acres (approximately 25,000 sq. ft.)

DATE RECEIVED: September 17, 2021

DATE DEEMED COMPLETE: September 24, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): December 24, 2021

NARRATIVE OF PROPOSAL:

The applicant is under contract to purchase the 4 lots at Tax Map #83A4-1-B-26, 27, 28, & 29 (4 properties on Randolph Avenue) to construct a Mini-Golf course.

These lots are zoned Commercial-3, and the proposed use of a Mini-Golf is a permitted use under Section 3-8 (B) (2) which states *“any other commercial or professional use which is compatible in nature with the allowed uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission.”* This proposed use was brought to the Planning Commission at their meeting on 2/2/2021 and the Planning Commission stated that this use would be compatible with other uses allowed in the C-1 and C-2 and C-3 zoning districts but indicated that only through a Conditional Use Permit application so that parking, lighting, landscaping, setbacks and visual aesthetics of the proposed project can be adequately reviewed and addressed in relation to the other development occurring on this stretch of Randolph/Stone Road.

Staff has been working with the applicant since April 2021 in the development of their proposed site plan and landscaping plan in order to bring this matter to public hearing for a Conditional Use Permit.

Industry guidelines for mini-golf course development indicate that 13,000 to 30,000 square feet is the minimum lot size for an outdoor 18-hole mini-golf course layout with the average size being 22,000 square feet. The American with Disabilities Act (ADA), which is administered by the U.S Access Board, indicates that new 18-hole mini-golf courses must have a minimum of 9 ADA compliant holes.

[illegible]

ORDINANCE REQUIREMENTS

Cape Charles Zoning Ordinance Section 4.3 states that “*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.”

Additionally, approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications. If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit.

COMPREHENSIVE PLAN

The Comprehensive Plan Section III B.2 identifies Cape Charles as a diversified residential community comprised of a mixture of long-term residents and new arrivals. To create a baseline for economic vitality, the Comprehensive Plan identifies the following as the broad direction of economic focus:

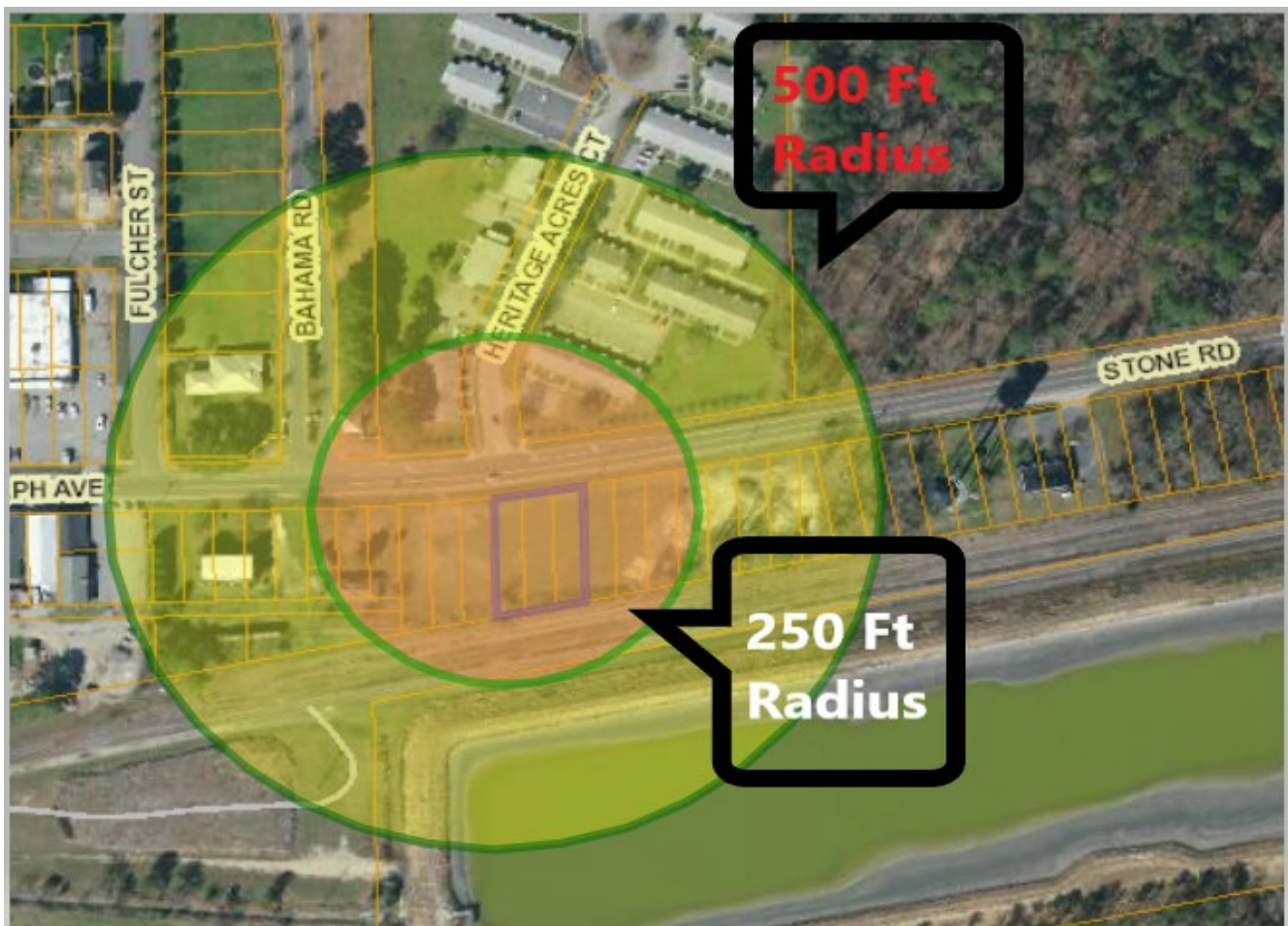
- Cape Charles is a **tourist and second home location attracting**:
 - o Eastern Shore visitors
 - o Weekly, monthly and seasonal renters
 - o Golfers, fishermen, boaters, eco-tourists and birders
- Cape Charles is a retirement destination
- Cape Charles’ working citizens are primarily in the service sector
- Cape Charles has an industrial infrastructure and history
- Cape Charles has a history of commercial fishing

One of the primary objectives for Economic Development as stated in Section III B.3 is to “Attract tourists, vacation and second homeowners”. Specifically, the Plan notes the need to continue to grow the hospitality sector and expand the offerings in Cape Charles to strengthen the town as the tourist destination of choice on the Eastern Shore (Section III B.5).

DISCUSSION ITEMS

These 4 lots, totaling approximately 5,600 square feet, are zoned Commercial-3 and located directly across Stone Road/Randolph Avenue from Heritage Acres which is zoned Residential-1. On the same side of the street as Heritage Acres to the west is PUD-R-2 zoning along Bahama Drive. The block between Fulcher Street/Randolph Avenue is zoned Commercial-2 (where the old Meatland Building is located). To the west of these four lots is the Cape Charles Museum lots which are zoned Commercial-1 and to the east of these four lots the zoning is Commercial-3 and there are ongoing approved projects on several of these lots (Beach Market, Custom Carts).

This corridor is the main corridor into Town and is comprised of a mix of uses (residential, commercial, vacant with zoning designation for commercial development). Any proposed use needs to be compatible within that area and cognizant that uses may sometime pose a conflict to existing uses, especially residential uses. Below is an aerial map with the 4 lots outlined in blue and overlaid on that is a 250 foot radius (pink circle) as well as a 500 foot radius (yellow circle) to the subject project to show the properties contained within those distances



- 1) Should the Commission recommend any parameters regarding outdoor speakers/sound systems relative to broadcasting music on the property?

- 2) The site plan shows a fence at the edge of the golf course but there is insufficient detail about the size and material and construction of the fence to determine if it addresses the primary concern that there is a sufficient barrier or deterrent to prevent any golf balls from departing the property and not to impact any of the traveling vehicles on Stone Road/Randolph Avenue.
- 3) The site plan needs to incorporate the requirements of CCZO Section 4.5 (M) which details the placement and screening for dumpsters.
- 4) The site plan, specifically the layout of the club house building, indicate the possibility of some food service. However, the applicant's narrative does not include an affirmative nor negative statement relative to food service as well as if there are any plans for alcoholic beverage sales. The Town does not control the licensing for retail sales of alcoholic beverages but it should be indicated if that is part of the business plan at this property.
- 5) The applicant has not indicated hours of operation. It is important to note that this proposed use is directly across from a residential development and the Town may wish to restrict or limit hours of operation so as to not intrude about the established residential uses in this area, such as curtailing hours at 11:00 pm until 9:00 am.
- 6) This type of recreational activity is a complementary business to serve the tourist community as well as to serve as an additional activity for year-round residents who reside in Northampton County. The town previously had a mini-golf course located on Mason Avenue. This location allows for a diversification of offerings to visitors to our community so that not all of the tourist sites or businesses are solely concentrated on Mason Avenue/Bay Avenue. The applicant has also indicated that they are accommodating golf cart traffic at the rear of their property from the established golf cart path.
- 7) Staff finds that the applicant has provided a robust landscape plan which exceeds the requirement of Appendix F (Tree Conservation and Preservation Ordinance) but would request Planning Commission review of the proposed landscape plan.
- 8) Staff finds that the site plan meets the requirement of CCZO Section 4.5 (B) (g) (3) which requires a minimum of 20 parking spaces.
- 9) A full lighting plan has not been completed and submitted yet but it will need to fully comply with Section 4.4 (E) – Exterior Lighting which states:
 1. *All exterior lighting shall be arranged and installed so that the direct or reflected illumination does not exceed (0.5) foot candles above the background measured at the lot line of any adjoining parcel.*
 2. *Lighting standards shall be of a directional type capable of shielding the light source from direct view from any adjoining parcel.*
 4. *All lighting shall comply with Dark Sky standards.*
- 8) The applicant will need to submit an application for signage for the business, in accordance with CCZO Section 4.1-Sign Regulations.
- 9) It is important to note that there are additional reviews required for the site plan if the Conditional Use Permit is favorably acted upon by the Town and that the approvals of these third-party reviews should be a considered condition and that the site plan presented at this time is subject to those reviews and a final site plan will need to be submitted to the Town which incorporates all comments from these reviews.. The reviews that will need to be obtained are:
 - a) Stormwater Plans by DEQ
 - b) Site Plan regarding Commercial Entrance Permit by VDOT

- c) Erosion and Sediment Control & Land Disturbance Plans - review by Town's Third Party Reviewer, Enviro-Management LLC (Joe Gilbert).

The Final Site Plan will be subject to review by the Zoning Administrator to ensure compliance with the Cape Charles Zoning Ordinance and any conditions imposed as part of a Conditional Use Permit, if one is approved by the Town.

- 10) Cape Charles Town Code Chapter 62-4 states that *"The town council may require and compel the owner of property within the town to construct or maintain sidewalks abutting on the property of such owner along existing streets."* From the corner of Fig Street and Randolph Avenue and running along Randolph Avenue to the subject property, there is not a functional side walk on this side of Randolph Avenue. At this time, there has been no discussion nor requirement for this project to include a sidewalk along the approximately 160 ft of road frontage. Should a sidewalk be required installation as part of this Conditional Use Permit review and conditions?
- 11) Lastly, a Certificate of Appropriateness review by the Historic District Review Board (HDRB) is required since the Town Council assigned review of all development in the Commercial-3 (C-3) Zoning District to the HDRB.

RECOMMENDED ACTION FOR PLANNING COMMISSION:

Staff is supportive of this Conditional Use Permit for the use proposed as an 18-hole mini-golf course, conditional upon discussion of the items raised above and is prepared to assist in the development of any proposed motion on the application. At a minimum, if the Planning Commission is supportive of this application, I would propose the following basic components for a motion:

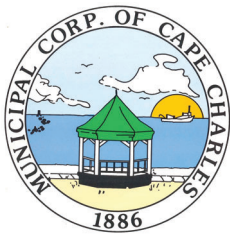
The Planning Commission recommends approval of a Conditional Use Permit for a Mini-Golf Course on Randolph Avenue for Tax Map #83A4-1-B-26, 83A4-1-B-27, 83A4-1-B-28, and 83A4-1-B-29 on an application filed by Tom & Kate Austin along with all attachments, pursuant to Cape Charles Zoning Ordinance Section 3-8 (B) (2), as determined by the Planning Commission at their meeting on 2/2/2021 that this use type requires a Conditional Use Permit; and that said application is in accordance with the Comprehensive Plan; and said Conditional Use Permit is subject to the following conditions:

- 1) All signage shall comply with the sign requirements in Cape Charles Zoning Ordinance Section 4.1-Sign Regulations and a sign permit application will be filed and approved by the Town prior to any signage being installed.***
- 2) At least 20 parking spaces will be provided as required by Cape Charles Zoning Ordinance Section 4.5 (B) (g) (3)***
- 3) A full lighting plan will be submitted as part of the Final Site Plan that fully complies with Cape Charles Zoning Ordinance Section 4.4 (E) – Exterior Lighting.***
- 4) Final Site Plan is conditional upon affirmative third party reviews (DEQ, VDOT, Town's Third Party Reviewer, Enviro-Management, LLC) and incorporation of all comments from said reviews into a revised and submitted Final Site Plan.***
- 5) Final Site Plan will incorporate the requirements of Cape Charles Zoning Ordinance Section 4.5 (M) which details the placement and screening for dumpsters.***

- 6) Any other conditions as a result of the public hearing and discussion of the applications and items raised through the Staff Report – will need to be detailed and included as Item #6, et seq.

Attachments:

- Staff Memo dated 2/2/2021 from Allyson Finchum to Planning Commission re: C-3 Uses
- Planning Commission minutes of 2/2/2021 meeting
- Full Application Packet which includes Application, Site Plan dated 8/10/2021, Golf Course Layout Plan, Landscape Plan, Club House Architectural Rendering and Layout, Applicant Letter of Intent.
- E-mail Comment from Benjamin Lewis



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: Cape Charles Mini Golf

Property Address: Randolph Ave. Cape Charles, VA 23310

Brief Description of Project: Miniature Golf

Zoning District: C3 Current Use: Unimproved Land Proposed Use: Mini Golf

OWNER INFORMATION

Name and Company: John/Lorraine Huchler (Lot 26/27) and Daniel Dabinette (Lot 28/29)

Mailing Address: 35 PO Box 607 Cape Charles VA 23310

Phone Number: (609)896-4457 Email: huchler@verizon.net

APPLICANT INFORMATION

☐ check here if applicant is owner

Name: Thomas and Katherine Austin

Mailing Address: 39 Sunset Dr. Severna Park, MD 21146

Phone Number: (410)652-4746 Email: taustin777@yahoo.com

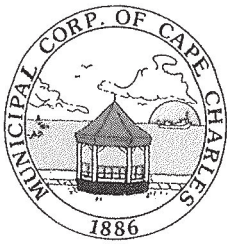
CERTIFICATION OF APPLICANT

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

Signature of Applicant: Thomas Austin Date: 9/17/2021

Town of Cape Charles Planning & Zoning Department

2 Plum St. • Cape Charles, VA 23310 • 757-331-2036 • capecharles.org



OWNER PERMISSION AFFIDAVIT

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

PROPERTY INFORMATION

Subject Property Street Address: Lot 26 + 27 Randolph Ave Extended Cape Charles VA 23310
Subject Property Tax ID Number: 8344-1-B-26 8344-1-B-27

OWNER INFORMATION

Name (Person, Firm, Corporation, or Agency): John + Lorraine Hutchler
Mailing Address: 35 Viburnum Court Lawrenceville, NJ 08648
Phone Number: 609-891-4457 Email: Hutchler@Verizon.net

APPLICANT INFORMATION (If applicable)

Name: Cape Charles Mini Golf, LLC
Mailing Address: 818 Randolph Avenue, Cape Charles, VA
Phone Number: 40-652-4746 Email: touristin77@yahoo.com 23310

I am applying for, or I hereby give authority to the applicant to file an application for:

mini putt putt golf course

X
Signature of Owner: John F. Hutchler Date: 7/21/21
Lorraine A. Hutchler 7/21/21

Commonwealth of Virginia

County of Northampton

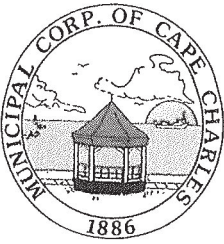
The foregoing instrument was acknowledged before me this 21 day of July, 2021, by Paul Grantham Watson (name of person acknowledged).

Signature of Notarial Officer: Paul Grantham Watson

Notary Registration Number: 70-96-521

My Commission Expires: 3-31-23

(Seal)



OWNER PERMISSION AFFIDAVIT

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

PROPERTY INFORMATION

Subject Property Street Address: Lot 28 & Lot 29 Randolph Extended
Subject Property Tax ID Number: 83A4-1-B-29 83A4-1-B-28 Cape Charles
VA 23310

OWNER INFORMATION

Name (Person, Firm, Corporation, or Agency): Daniel Dakinoff
Mailing Address: 35 P O Box 407 Cape Charles VA 23310
Phone Number: _____ Email: _____

APPLICANT INFORMATION (If applicable)

Name: Cape Charles Mini Golf LLC
Mailing Address: 818 Randolph Avenue Cape Charles, VA 23310
Phone Number: 410-652-4146 Email: forestin777@yahoo.com

I am applying for, or I hereby give authority to the applicant to file an application for:

mini Putt Putt Golf Course

✓ Signature of Owner: DCD Date: 7/21/21

Commonwealth of Virginia

County of Northampton

The foregoing instrument was acknowledged before me this 21 day of July,
20 21, by Paul Granville Warren (name of person acknowledged).

Signature of Notarial Officer: [Signature]

Notary Registration Number: 7096-521

My Commission Expires: 3-31-23

(Seal)

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

Town of Cape Charles Planning Commission and Zoning Administration,

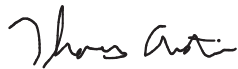
Per the meeting on 2/2/2021, we have attached all necessary documentation needed for review of our conditional use permit on Randolph Avenue for mini golf business (lots 26, 27, 28, and 29). We took note of all commentary from the planning commission and are confident that this proposal will be in line with the vision put forth by the comprehensive plan/ planning commission.

Our miniature golf will be a great place for the community to engage in family friendly fun and recreation. This will be a family run business, as we plan on moving full time to our house at 506 Nectarine Street.

As you will see in the landscape plan, we took into account the planning commission's comments on beautifying the town entrance. The landscape plan includes planting 195 trees/shrubs, which includes 23 medium – large trees such as cherries, oaks, cypress, and myrtles. The course itself will be professionally landscaped by Browder-Hite and will include a vast array of evergreens, perennials, and annuals. It is very important for us to ensure that our business fits in with the historical and quaint nature of the town.

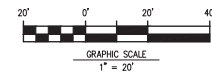
Please let us know if you have any further questions.

Thomas Austin

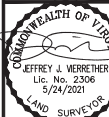


Katie Austin





- MSA, P.C.**
Environmental Sciences • Surveying
Civil & Environmental Engineering
5032 Rouse Drive, Suite 100
Virginia Beach, VA 23462-3764
757-490-9264 | www.msonline.com



DESIGNED	03/14/2021	03/14/2021	03/14/2021	03/14/2021
DRAWN				
CHECKED				
APPROVED				
DATE	5/24/2021			

TOPOGRAPHIC SURVEY
of
TAX PARCELS 83A4-1-B-26, 83A4-1-B-27,
83A4-1-B-28 AND 83A4-B-29
(PB 5, PG 184)

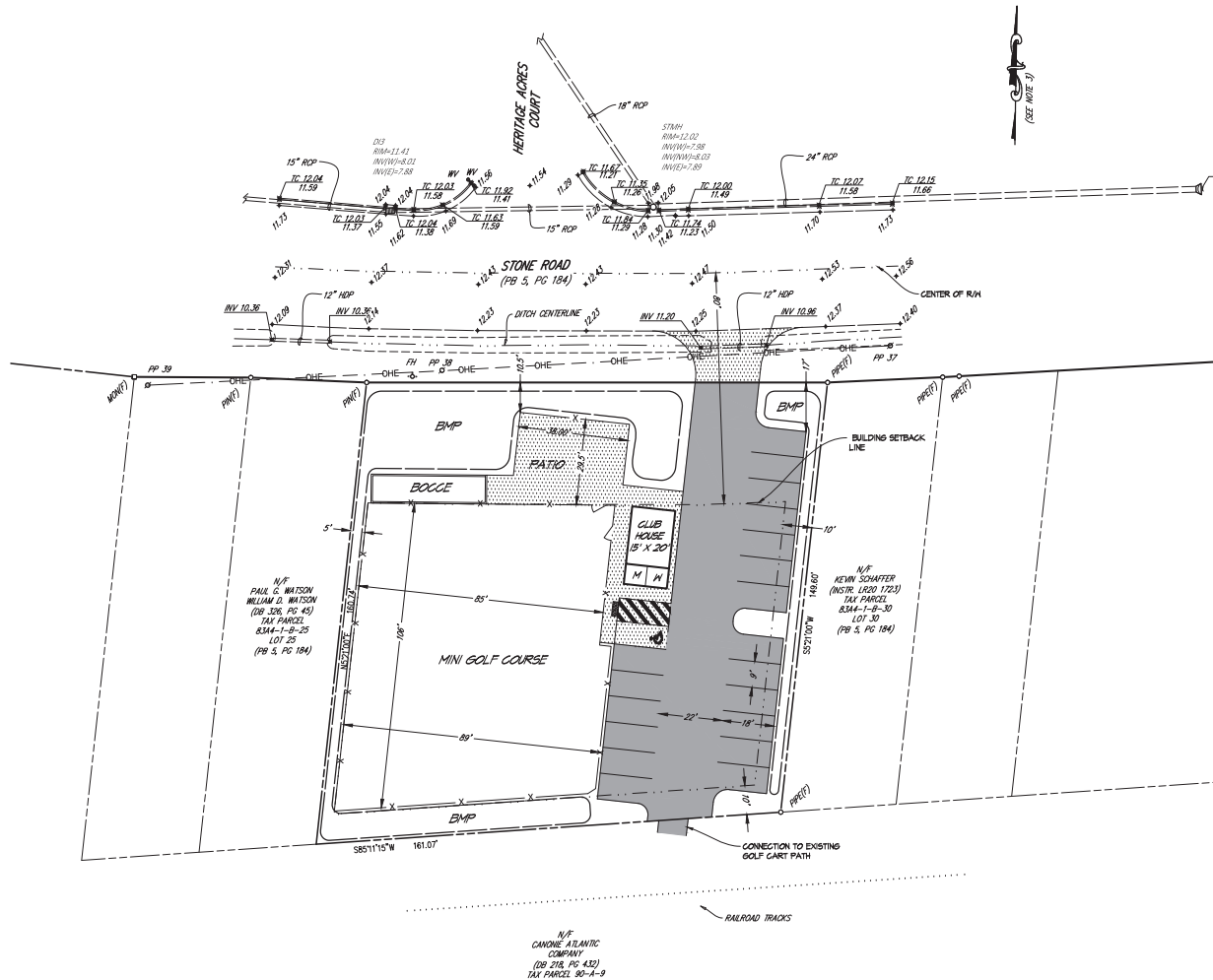
SHEET
1
1 of 1 Sheets
SCALE: 1" = 20'
PROJ. NO.: 21080

CONCEPTUAL SITE LAYOUT PLAN OF CAPE CHARLES MINI-GOLF ISLE OF WIGHT, VIRGINIA

Site Area:	± 0.56 AC
Tax Parcels:	83A4-1-B-26 83A4-1-B-27 83A4-1-B-28 83A4-1-B-29
Existing Zoning:	C-3
Existing Use:	Undeveloped
Proposed Use:	Mini Golf
Parking Required:	20 Spaces
Parking Provided:	19 Spaces 1 ADA Space
	20 Total Spaces
BMP Provided:	± 3,600 SF (± 15% of Site Area)

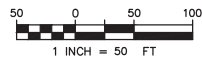
BUILDING SETBACKS
FRONT: 80' FROM CENTER OF R/W
SIDE: 5' & 10'
REAR: 10'

PATIO SETBACK 10.5' FROM R/W



DATE: 08/10/2021

THIS DRAWING IS CONCEPTUAL AND HAS BEEN PREPARED WITH A SITE SURVEY PREPARED BY OTHERS, THEREFORE, PROPERTY LINES, WETLAND BOUNDARIES, AND OTHER SITE SPECIFIC DATA ARE APPROXIMATE. CONCEPT DRAWINGS ARE GENERAL IN NATURE AND ARE INTENDED ONLY TO ILLUSTRATE THE DEVELOPMENT POTENTIAL FOR A PROPERTY; THEY SHOULD NOT BE RELIED UPON AS THE SOLE BASIS FOR ANY FINANCIAL OR LEGALLY BINDING TRANSACTION.

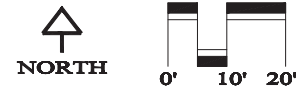


ORBIS
LANDSCAPE
ARCHITECTURE
ORBIS-LA.COM

Proposed Miniature Golf Course 9,600 sf.



Notes:
Handicap accessible portions of the course(s) are designed in accordance with ADAAG (Americans with Disabilities Act Accessibility Guidelines) Chapter 10 Section 1007.
ADA gate shown will consist of two 4x4 wooden posts, two eye hooks, and rope with hooks.



HORWATH Miniature Golf Courses

ALL DESIGN, IMAGES AND PLANS SHOWN ARE ONLY TO BE USED BY BOB HORWATH MINIATURE GOLF COURSES UNLESS GIVEN WRITTEN CONSENT.

Project:
**Proposed Miniature Golf
CAPE CHARLES**

DATE: **07/20/2021**

**Layout
Plan**

SCALE:
1"=10'-0"

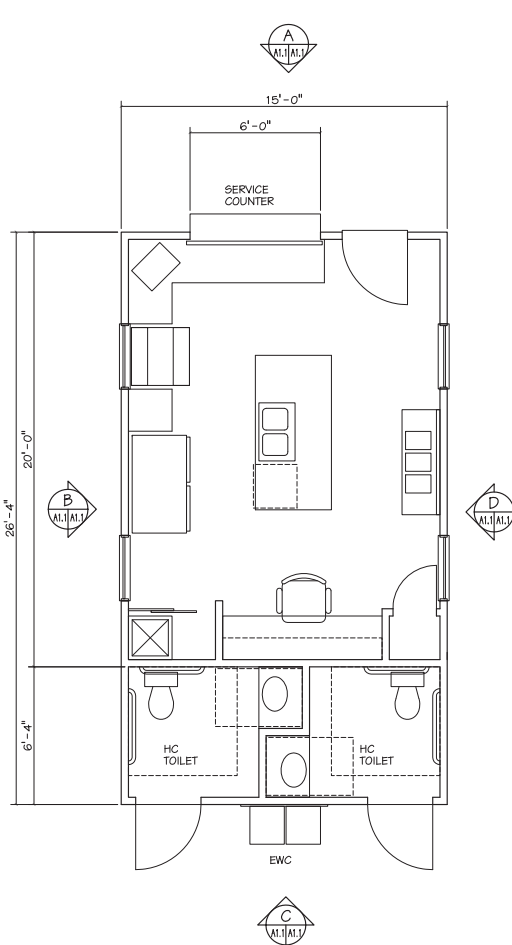
DRAWN BY:
MVC

SHEET #:
2

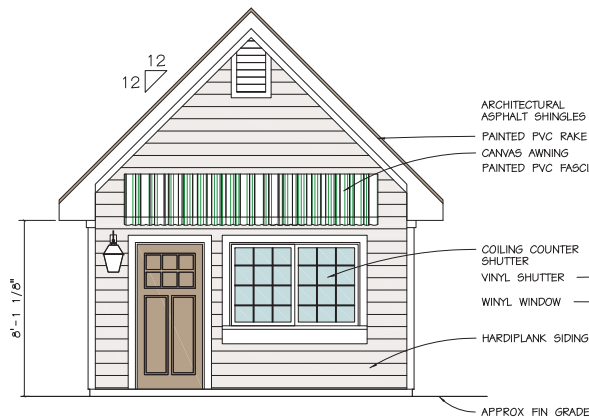
JOB #:
01-21

REVISIONS:	
MVC	August 9, 2021
MVC	September 1, 2021
DATE PRINTED:	September 1, 2021

GRAPHICS KEY	
R - ROUGH	
M - MOUND	
P - PLANTER	
ST - SAND TRAP	



FLOOR PLAN
3/8" = 1'-0"



A
3/8" = 1'-0"

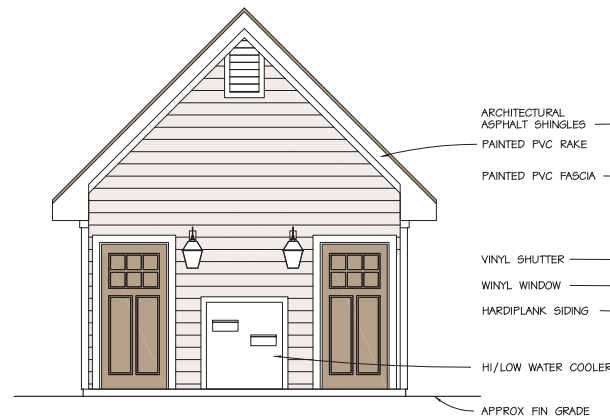
ARCHITECTURAL
ASPHALT SHINGLES
PAINTED PVC RAKE
CANVAS AWNING
PAINTED PVC FASCIA

COILING COUNTER
SHUTTER
VINYL SHUTTER
VINYL WINDOW
HARDPLANK SIDING

APPROX FIN GRADE



B
3/8" = 1'-0"



C
3/8" = 1'-0"

ARCHITECTURAL
ASPHALT SHINGLES
PAINTED PVC RAKE
PAINTED PVC FASCIA

VINYL SHUTTER
VINYL WINDOW
HARDPLANK SIDING

HI/LOW WATER COOLER

APPROX FIN GRADE



D
3/8" = 1'-0"

PROGRESS
PRINT
10-11-21

PROJECT NO.	PROJ. MGR.	SRL	DESIGNED	SRL	DRAWN	CHECKED	SRL
21091							
DATE	REVISION	SYMBOL	DATE	DATE	DATE	DATE	DATE
21 SEP 2021							

CAPE CHARLES MINI GOLF
CAPE CHARLES, VIRGINIA
STONE RD
SHEET TITLE
PROPOSED PLAN AND ELEVATIONS

LEMOLE
ARCHITECTS
2809 PRODUCTION
SUITE 102
VIRGINIA BEACH, VIRGINIA 23464
757-228-2520
SRLEMOLE@GMAIL.COM

SHEET NUMBER

A-1.1

XX of XX

Names of adjacent Property owners:

Lot 83A4-1-B-25 Paul and William Watson

Lot 83A4-1-B-30 Kevin Schaffer

Tracy Outten

From: Benjamin Lewis <blewis@browderhite.com>
Sent: Tuesday, October 19, 2021 4:35 PM
To: Katie Nunez; Tracy Outten; Katie Nunez
Subject: Cape Charles Mini Golf

I'm writing on behalf of Tom and Katie Austin and their mini golf project. The project is a great step in the right direction for our town. As a resident, I'm glad to see something like this come along for young families with children. It will be a positive calling card for tourists. Additionally, it will be a BPOL tax generator along with elevated real estate taxation once the project is complete. Tom and Katie plan to move full time to Cape Charles and operate the business. Both of them are upstanding people who will add to the character and strength of our town. As a contractor helping the Austin's get this project completed, I can say with confidence the building and plants will all blend well together. There will be no garish ornamentation inside the golf course (as is commonly found elsewhere). In fact, the plan is to use Cape Charles landmarks as part of the course decoration. These touches and many others are why this project is essential as we build back Cape Charles one home, business and customer at a time.

Best, Benjamin



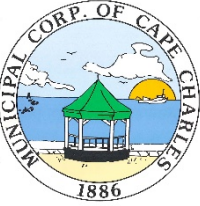
Benjamin Lewis, President
Browder-Hite, Inc.
757-442-5296 (O) 757-442-5295 (F)
VA Contractors Class A License #2705127359 / VA Pesticide Business License #7808

From: Da Crens <dacrens21@gmail.com>
Sent: Monday, November 8, 2021 11:05 AM
To: Katie Nunez; Katie Nunez; tracey.outten@capecharles.org
Cc: Wanda Crenshaw
Subject: Cape Charles Public Meeting--9 November 2021

Good Morning All,

We (David & Wanda Crenshaw) support the approval and establishment of a miniature golf facility in Cape Charles, Virginia. We started vacationing in Cape Charles a couple of years ago. The small, family oriented vacation-town character and charm of Cape Charles kept drawing us back. We were so drawn that we eventually purchased property there. We will continue to support local businesses/residents that promote building and enhancing Cape Charles' positive, unique appeal.

David & Wanda Crenshaw
781-698-9559

 TOWN OF CAPE CHARLES	AGENDA TITLE: Schedule Public Hearing for Conditional Use Permit for 5 Residential Units Above First Floor Commercial – 219 Mason Avenue		AGENDA DATE November 18, 2021
	SUBJECT/PROPOSAL/REQUEST: Consider scheduling Public Hearing on Conditional Use Permit Application from Todd Bricken for 5 Residential Dwelling Units above First Floor Commercial at 219 Mason Avenue		ITEM NUMBER: 6D.vii
	ATTACHMENTS: Planning Commission November 2021 Agenda Packet for Conditional Use Permit: Staff Report, Application and associated correspondence		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Director	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Town is in receipt of a Conditional Use Permit application from Todd Bricken for five residential units above 1st floor commercial at 219 Mason Avenue.

The applicant is in the process of purchasing 219 Mason Avenue with an anticipated closing date of November 2021. The property is zoned Commercial District C-1 which allows for a dual use of Commercial/ Residential. The applicant has submitted a floor plan for five residential units on the second floor of this building. Three of the units are one-bedroom apartments or lofts and two of the units are two-bedroom apartments.

The Planning Commission is holding a public hearing at their November 9, 2021 meeting and will provide a recommendation following that public hearing.

ITEM SPECIFICS:

A Conditional Use Permit application requires both the Planning Commission hold a public hearing and provide a recommendation to Town Council and then Town Council is required to hold a public hearing to take final action on the disposition of the rezoning application.

Therefore, staff is requesting authorization from the Town Council to schedule a public hearing for Town Council on the Conditional Use Permit application from Todd Bricken for 5 residential units above 1st floor commercial at 219 Mason Avenue for the December 16, 2021 meeting. This authorization will allow us to place the legal advertisement as required to meet the legal notice deadlines required by the Code of Virginia for a Conditional Use Permit application.

RECOMMENDATION:

Authorize a public hearing be scheduled for Thursday, December 16, 2021 and staff will move forward with placing all required legal notices and property owner notifications.



PLANNING COMMISSION STAFF REPORT

Meeting Date: November 9, 2021

Item #: 5C

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

Date: November 2, 2021

APPLICANT: Todd Bricken
SITE ADDRESS: 219 Mason Avenue

TAX MAP: 83A3-1-631
LOT SIZE: 5,359 sq. ft.

TYPE OF APPLICATION: Conditional Use Permit
SPECIFIC REQUEST: 5 Residential Units above
Commercial
ZONING: Section 3.6 (C)
CURRENT ZONING: Commercial -1 (C-1) & Historic
District Overlay

DATE RECEIVED: July 29, 2021

DATE DEEMED COMPLETE: October 21, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): January 21, 2022

NARRATIVE OF PROPOSAL:

The applicant is in the process of purchasing 219 Mason Avenue with an anticipated closing date of November 2021. The applicant is proposing to renovate the second floor above 1st floor commercial at 219 Mason Avenue to five residential units.

The property is zoned Commercial District C-1 which allows for a dual use of Commercial/Residential. The applicant has submitted a floor plan for five residential units on the second floor of this building. Three of the units are one-bedroom apartments or lofts and two of the units are two-bedroom apartments.

The Cape Charles Zoning Order, pursuant to Section 3.6 (C), allows for a residential unit above first floor commercial provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (no access through the commercial establishment on the first floor) through a Conditional Use Permit. Please note that my office has been working with the applicant since May 2021 and the initial concept was for three residential units; however, as the applicant has worked with his structural engineer and architect, the most recent proposal is for five residential units on the second floor. As part of the proposal, the applicant is also proposing to provide for 3 on-site parking spaces for the residential units to assist in meeting a portion of the parking requirements.

The first-floor uses are for two distinct commercial spaces with their own entrance as well as a distinct entrance for the residential units.

AERIAL MAP: *Property outlined in blue*



STREET VIEW



ORDINANCE REQUIREMENTS:

Cape Charles Zoning Ordinance Section 4.3 states that “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.

Additionally, approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications. If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit.

The Cape Charles Zoning Ordinance Section 3.6 (C) for property zoned Commercial-1 (C-1) states that:

Conditional Uses: Single family and multi-family dwellings provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (not access through commercial establishment on the first level).

STAFF ANALYSIS:

The application for the renovation of the second story into five residential units with the first floor remaining as active commercial usage is consistent with the intent of the Cape Charles Zoning Ordinance Commercial C-1 District which is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.

This building used to house a movie theater and most recently was used as a side component of the Watson Hardware store. The opening between this building and the original Watson Hardware building will be closed off and the applicant intends on building an entire second story floor across the full building span (in the area marked “Warehouse” on the First Floor of the Existing Conditions Site Plan).

This will allow for five residential units to be provided on the second floor and the applicant intends on providing a common laundry facility for use by the residential units. The applicant has indicated that 3 parking spaces will be provided on site at the rear of the property to address the parking requirements in the Cape Charles Zoning Ordinance. It does not fully meet the ordinance requirements for parking which requires 6 parking spaces.

The Cape Charles Comprehensive Plan Section III.2.1.1. recognizes that the Commercial District is a mix of small-scale, mixed-use buildings characterized by retail, office, restaurant, educational, civic and entertainment uses on the street level, with residential uses on upper floors. Section III-A.5.1.3 has stated an overall policy to promote the mixed use as the preferred form of development in the Commercial District, specifically allowing residential and retail/commercial uses within the same building.

The renovation of this building through the addition of five residential dwelling units on the second floor and the commercial usage on the first floor is complementary to the district and provides a residential dwelling opportunity in space that was previously underutilized, and it would be harmonious within the main commercial district. All exterior proposed improvements are subject to Historic District Review Board approval and obtaining a building permit for all proposed work to the interior and exterior work as required by the Building Code and Town Ordinances.

Staff finds that the application for a Conditional Use Permit pursuant to Section 3.6 (C) for a residential dwelling unit above commercial usage meets the provision that the entrance for the 5 residential dwelling units have direct access to the street level and not be through the commercial use; however, the parking requirements are not in compliance with the ordinance which would require 6 parking spaces and the applicant has shown the provision of 3 parking spaces on-site but has not been able to provide a solution for the other 3 parking spaces.

I have spoken with the applicant about the possibility of trying to secure a shared parking arrangement through recorded easements or even consideration of a remote parking location outside of the immediate downtown area, but this matter has not been resolved. Meeting the parking requirement for residential units above the first floor of commercially zoned properties in the C-1 Zoning District is a significant impediment to this type of redevelopment application. In the absence of any shared parking agreement to provide the 3 additional required parking spaces, the applicant would need to petition the Board of Zoning Appeals for a variance from the parking requirements and receive favorable consideration in order – this would need to be a condition to any consideration of this Conditional Use Permit application.

Staff acknowledges that additional issues or comments may arise through the public hearing on this matter and request that the Planning Commission consider said issues and/or comments as part of their deliberations.

RECOMMENDED ACTION FOR PLANNING COMMISSION:

Staff is prepared to assist the Planning Commission in the development of any motions regarding the Conditional Use Permit to Town Council.

Attachments:

Attachment 1 – CUP Application Packet



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: _____
Property Address: 219 Mason Ave Cape Charles Va
Brief Description of Project: Commercial 1st Floor Residential 2nd Floor
Zoning District: TCC Current Use: Commercial Proposed Use: Mixed Commercial/Residential
C1

OWNER INFORMATION

Name and Company: Paul G Watson III William D Watson
Mailing Address: 225 Mason Ave Cape Charles Va 23310
Phone Number: _____ Email: _____

APPLICANT INFORMATION

☐ check here if applicant is owner

Name: Todd A. Briden
Mailing Address: 4090 Della Drive Westminster Md 21157
Phone Number: 3014180786 Email: CHARCHEF@MINDSPRING.COM

CERTIFICATION OF APPLICANT

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

Signature of Applicant: Todd A Briden Date: 07/29/2021

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: _____

Address: _____

The following criteria are required for one accessory dwelling to 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:

1. Is the accessory dwelling unit located in an accessory building? YES ☐ NO ☐
2. Does the accessory dwelling floor area exceed of forty-five (45) percent of the floor area of the main building? YES ☐ NO ☐ Accessory Dwelling Unit square footage _____
3. Does the accessory dwelling have one kitchen and one bathroom? YES ☐ NO ☐
4. Does the accessory building/dwelling differentiate from the single-family dwelling? YES ☐ NO ☐

The following conditions must be maintained for an accessory dwelling unit 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:

1. 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.
2. 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. 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.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.

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. I am providing authorization to the town authorities to enter my properties to confirm accuracy of information contained in this application.

Signature of Owner: _____

William D Watson

8/17/2021 6:45:11 AM EDT

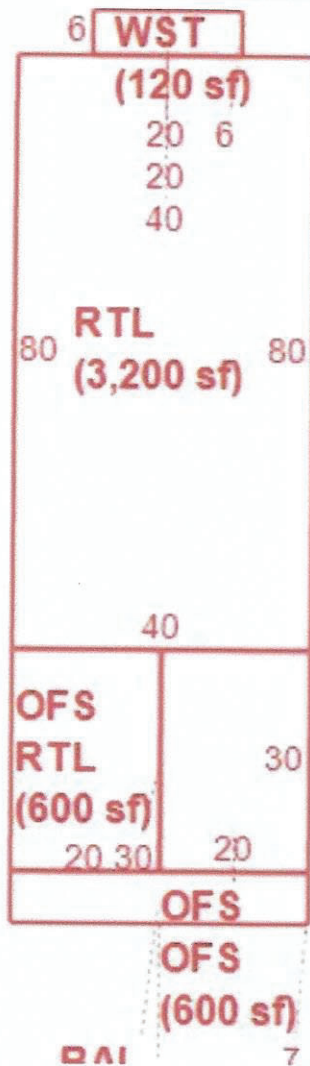
Paul G Watson III

8/17/2021 6:45:34 AM EDT

Signature of Applicant: _____

Todd A. Bricken

8/16/2021 6:32:06 PM EDT

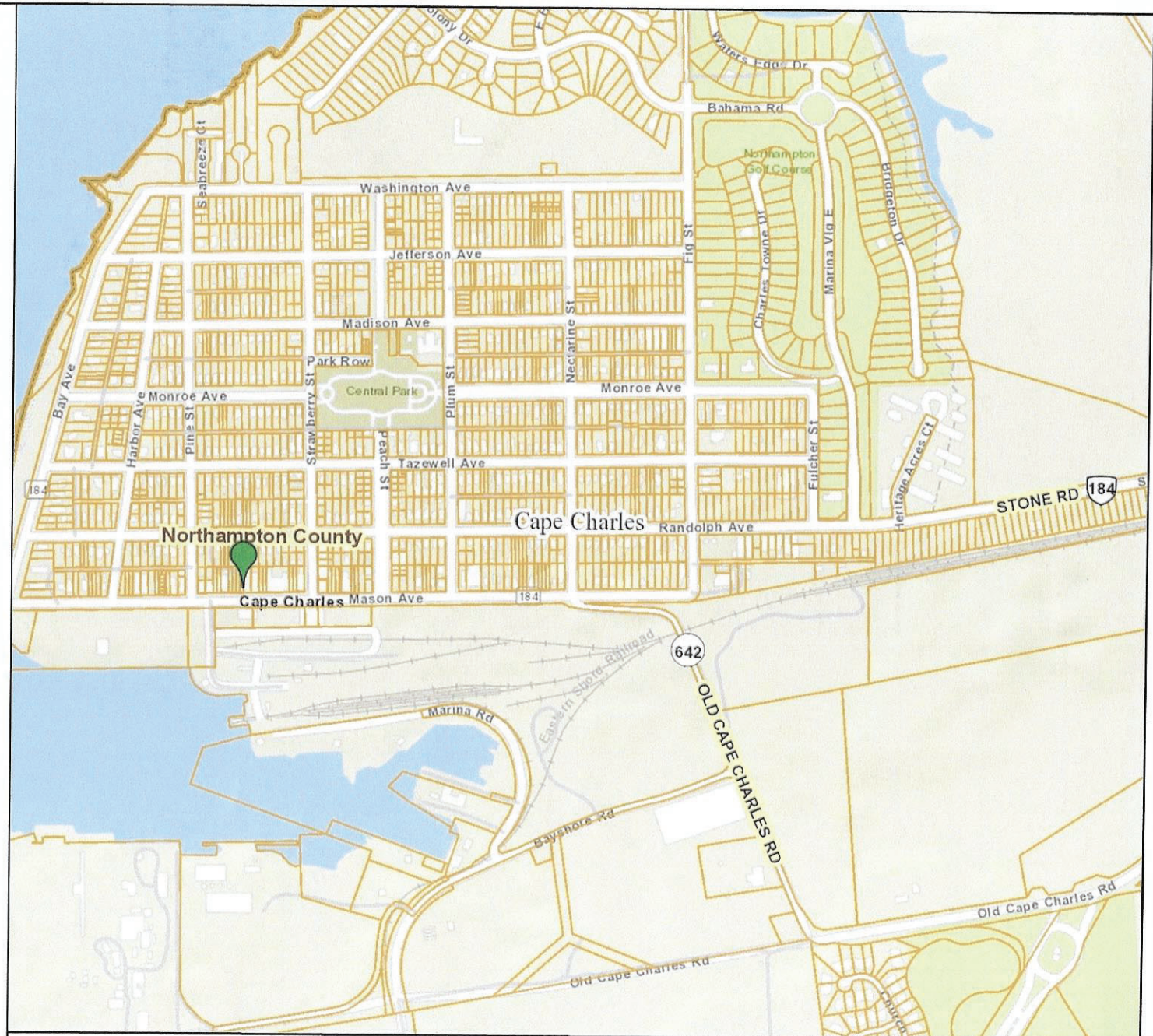


Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAL	Balcony - 1.00	280	0
OFS	Office - Standard - 1.00	1,800	0
RTL	Retail - 1.00	3,800	0
WST	Warehouse Storage - 1.00	120	0
		6,000	0

Northampton County, Virginia

Legend

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



Map Printed from Northampton
<https://parcelviewer.geodecisions.com/Northampton/>

Feet
0 200 400 600 800
1:9,028 / 1"=752 Feet

Title:

Date: 7/28/2021

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.



OWNER PERMISSION AFFIDAVIT

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

PROPERTY INFORMATION

Subject Property Street Address: 219 Mason Ave, Cape Charles, VA 23310
Subject Property Tax ID Number: 83A3-1-631

OWNER INFORMATION

Name (Person, Firm, Corporation, or Agency): Paul G Watson III & William D Watson
Mailing Address: PO BOX 5 CAPE CHARLES VA 23310
Phone Number: 757-695-2779 Email: CHIP@CAPECHARLES.COM
&SANDYSHOESCOTTAGE@YAHOO.COM

APPLICANT INFORMATION (If applicable)

Name: Todd A. Bricken
Mailing Address: 4090 Della Dr. WESTMINSTER, Maryland 21157
Phone Number: 301-418-0786 Email: charchef@mindspring.com

I am applying for, or I hereby give authority to the applicant to file an application for:

Conditional Use Permit

Signature of Owner: Paul G Watson III Date: 08/17/2021
8/17/2021 6:45:33 AM EDT

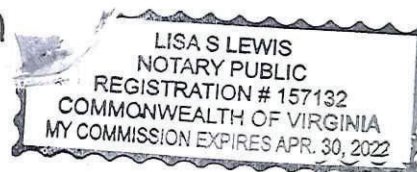
William D Watson 08/17/2021
8/17/2021 6:45:09 AM EDT

Commonwealth of Virginia

County of Northampton

The foregoing instrument was acknowledged before me this 17 day of August,
2021, by Paul G Watson III (name of person acknowledged).

Signature of Notarial Officer: Lisa S Lewis
Notary Registration Number: 157132
My Commission Expires: 4/30/2022



(Seal)

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

From: [Bill Ellison](#)
To: [Katie Nunez](#); [charchef](#)
Subject: Fw: Initial Drawings - 219 Mason Avenue
Date: Thursday, September 2, 2021 2:51:29 PM
Attachments: [Bricken - Cape Charles 8-31-21.pdf](#)

Good Afternoon Katie,

At the request of Tood Bricken, I'm forwarding our current concept drawings for 219 Mason Avenue:

- Ex-1 Existing Conditions Plan
- A1.1 - Proposed Improvement Plans
- A1.2 - Enlargement of Apartment Area

You'll see that we are intending to expand the existing second-floor-front to establish three (3) loft style (short term rental) apartments and one separate second-floor-apartment in the rear.

The first floor could be either one or two separate commercial tenants as illustrated; the larger one being well suited for a potential restaurant, brewery, etc.; exploiting a large portion of the existing large and tall room; leaving a small single-exit retail space. Or, the first floor space could be readily demised as two more equitably sized spaces, each with a second exit at the rear.

We are continuing to work on some alternate concepts including the expansion of the rear unit to have a loft-type bedroom (still at the second floor); and another concept that would provide two separate apartments at the rear (giving up the rest of the high ceiling in the commercial space.

In summary we see establishing 4 residential units; (with the possibility of a fifth)....
Please feel free to contact me with any questions, comments or concerns.

Best Regards,

Bill Ellison

President - Caddworks, Inc.
Principle - Ellison & Benjamin Architecture
301-695-9121 ext.21
<http://www.caddworks.net>

From: Bill Ellison <bellison@caddworks.net>

Sent: Tuesday, August 31, 2021 5:35 PM
To: todd <charchef@mindspring.com>
Subject: Initial Drawings - 219 Mason Avenue

Todd,
See attached; my initial drawing and design concept.

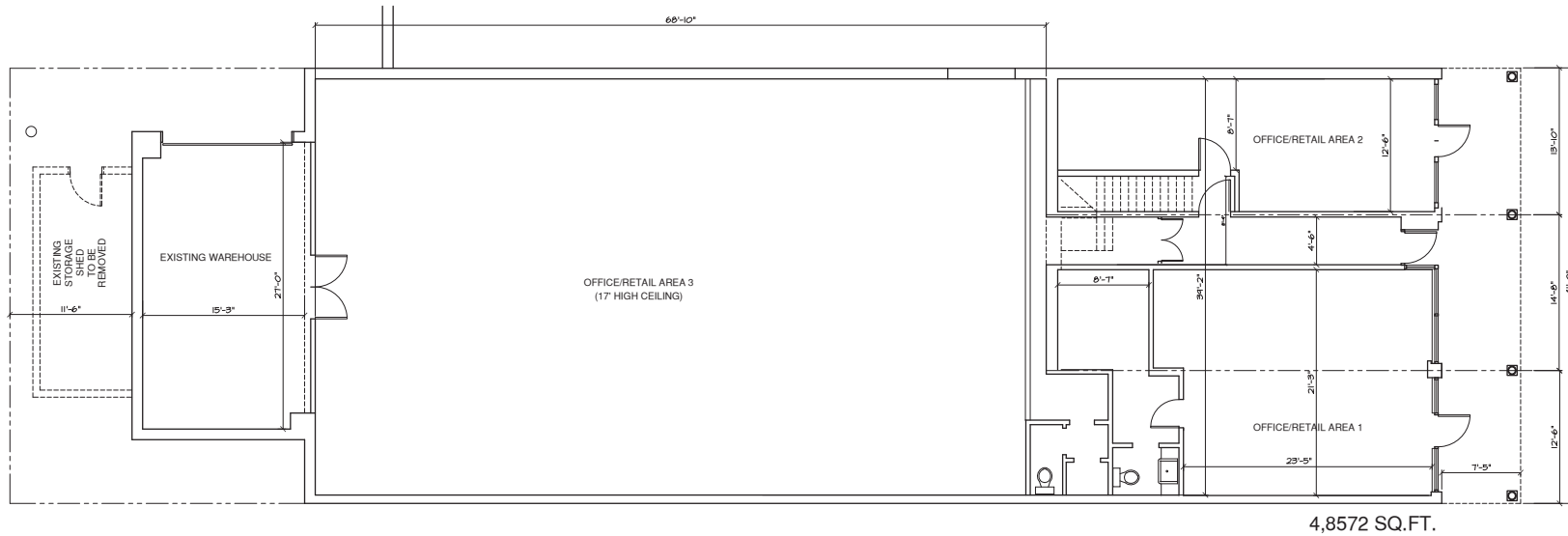
- Ex-1 Existing Conditions Plan
- A1.1 - Proposed Improvement Plans
- A1.2 - Enlargement of Apartment Area

I'll look forward to discussing these layouts; along with other possible scenarios.
Hope you're pleased with the initial effort.

Best Regards,
Bill

Bill Ellison

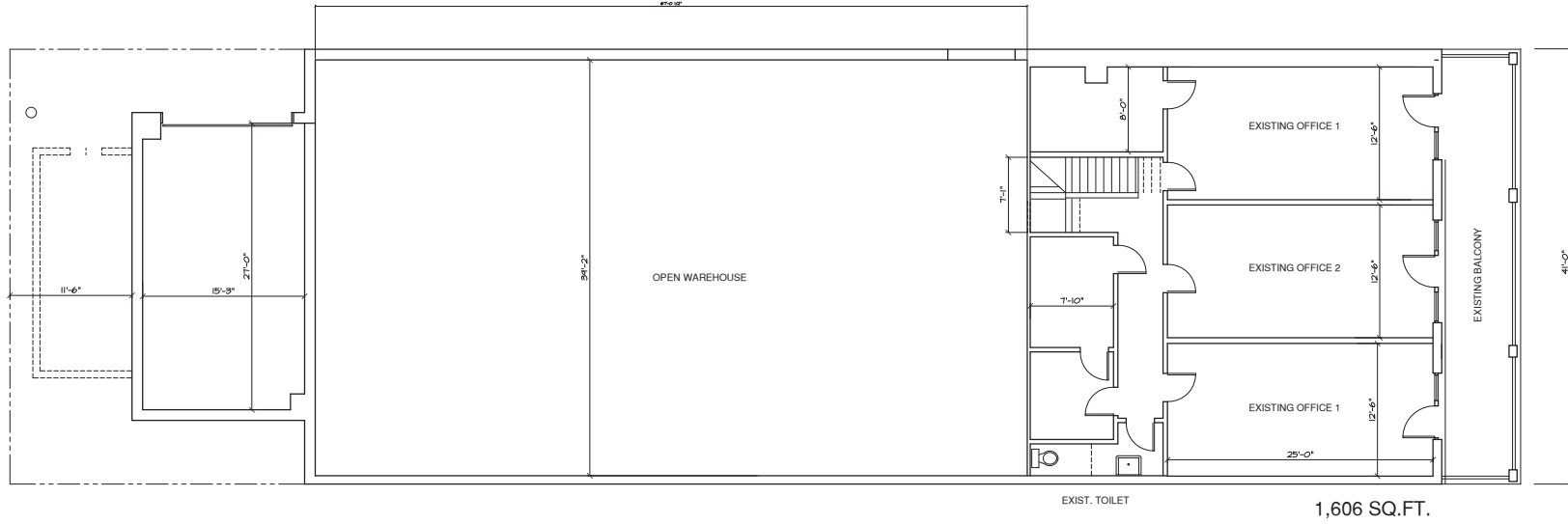
President - Caddworks, Inc.
301-695-9121 ext.21
<http://www.caddworks.net>



FIRST FLOOR PLAN

EXISTING CONDITIONS

SCALE: 1/8"=1'-0"



SECOND FLOOR PLAN

EXISTING CONDITIONS

SCALE: 1/8"=1'-0"

PROPOSED RENOVATION

219 MASON AVENUE

CAPE CHARLES, VIRGINIA

TODD & LILIANA BRICKEN

SHEET NO.

EX1

PROJ. NO.: 558-03

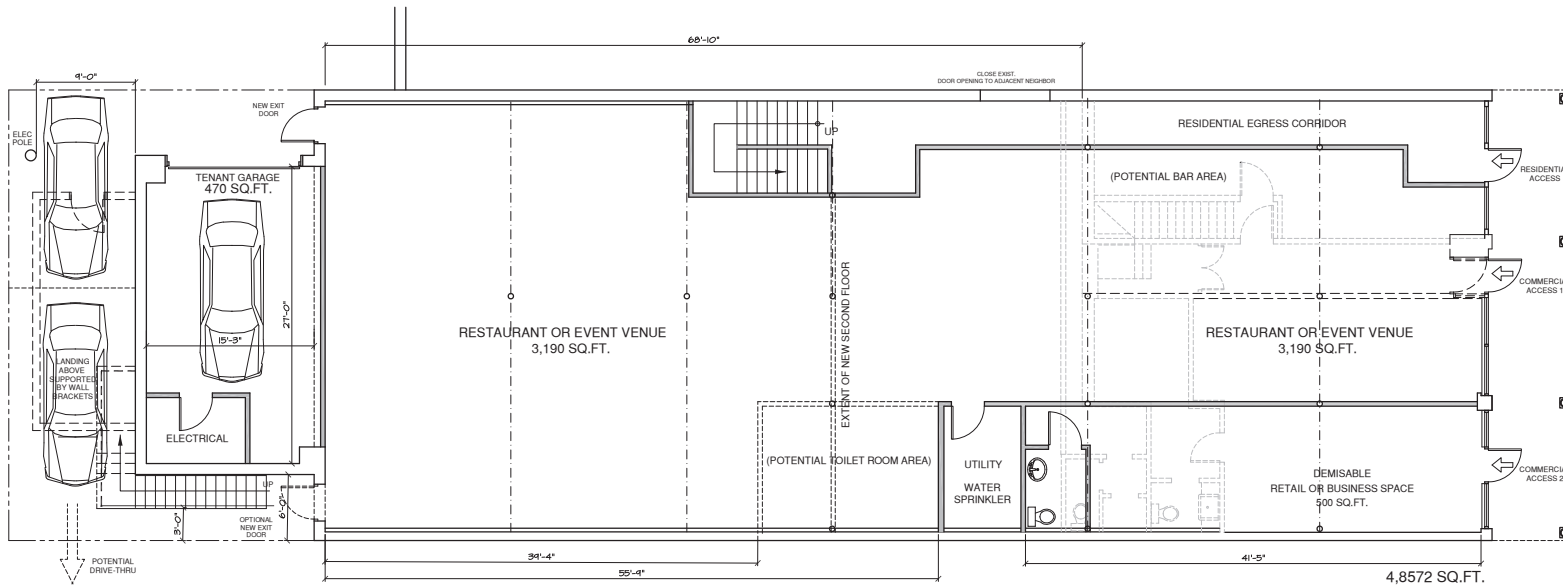
SUBMITTALS

ISSUE	DATE	DRAWN BY	REMARKS
1	8-21-21	PHE	EXIST. CONDITIONS AND CONCEPT DINGS
2	8-24-21	PHE	SCHEME 2
3	10-21-21	PHE	PARKING OPTION - THIRD SPACE



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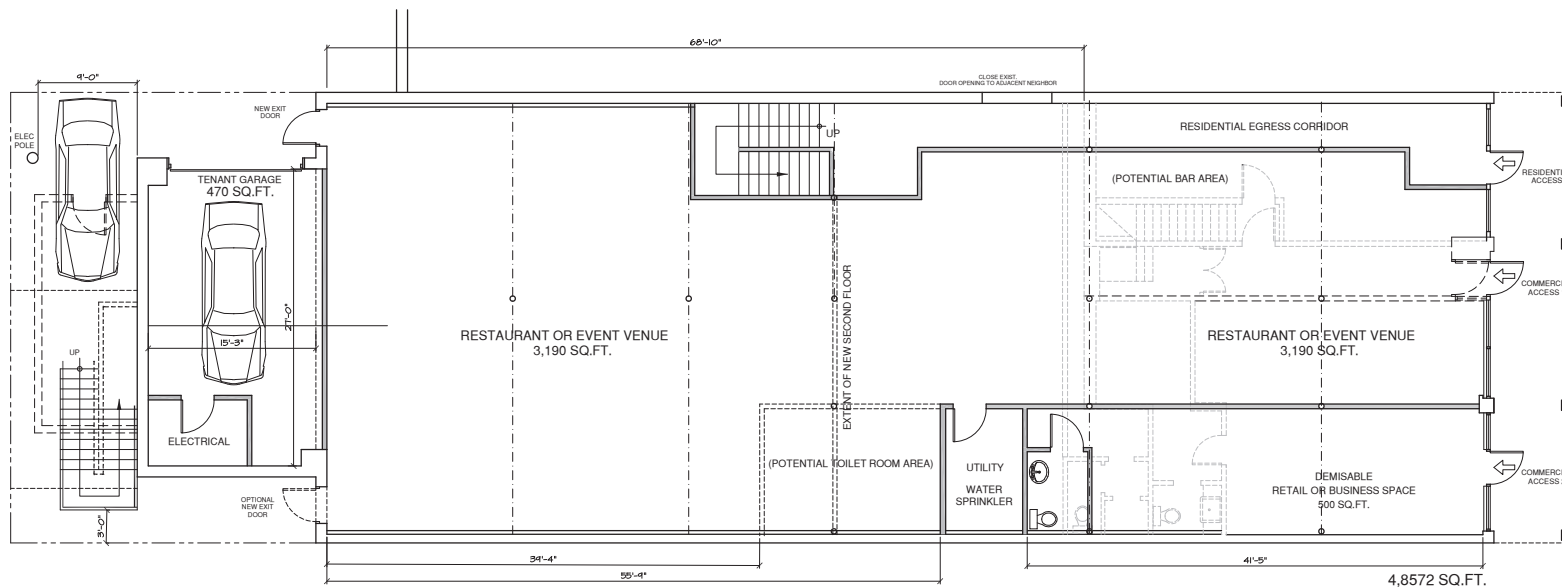
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FIRST FLOOR PLAN - SCHEME 2A

PROPOSED IMPROVEMENTS
THIRD PARKING SPACE

SCALE: 1/8"=1'-0"



FIRST FLOOR PLAN - SCHEME 2

PROPOSED IMPROVEMENTS

SCALE: 1/8"=1'-0"

SUBMITTALS

ISSUE	DATE	BY	REMARKS
1	8-21-21	PHE	EXIST. CONDITIONS AND CONCEPT DRWG
2	9-24-21	PHE	SCHEME 2
3	10-21-21	PHE	PARKING OPTION - THIRD SPACE

SCHEME 2 PROPOSED RENOVATIONS

PROPOSED RENOVATION

219 MASON AVENUE

CAPE CHARLES, VIRGINIA

TODD & LILIANA BRICKEN

SHEET NO.

A-1.2

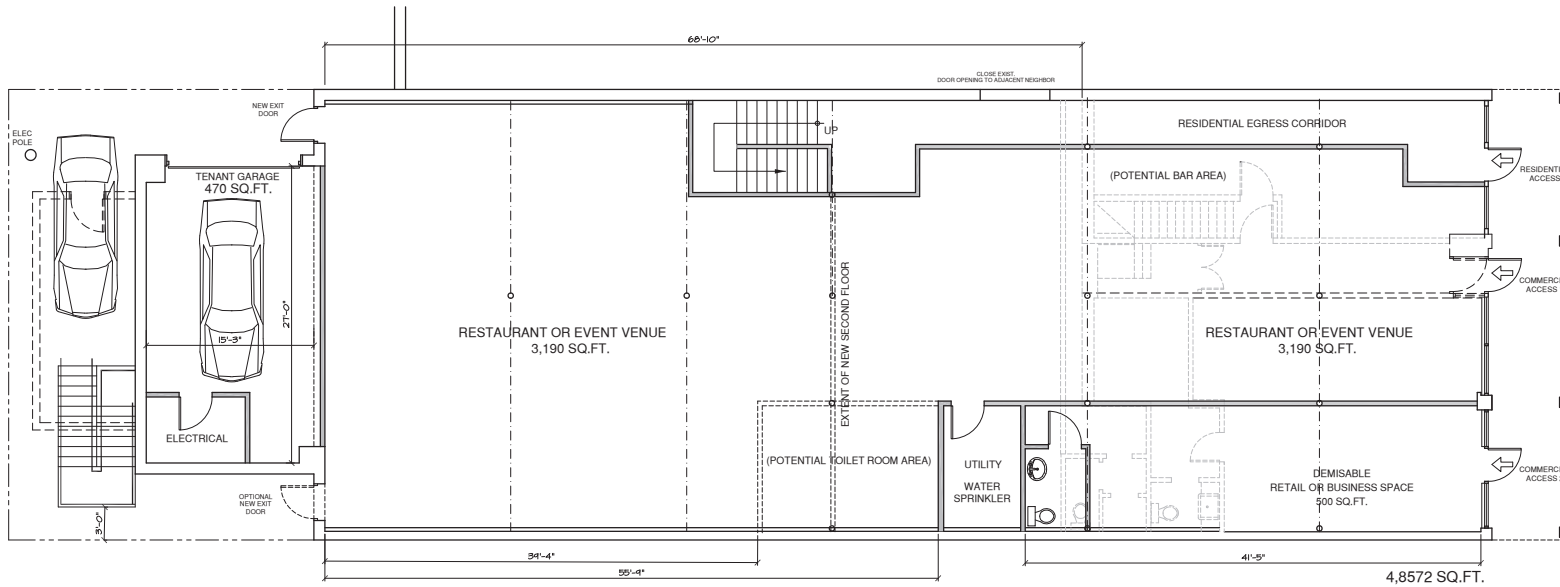
PROJ. NO.: 558-03



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FIRST FLOOR PLAN - SCHEME 2

PROPOSED IMPROVEMENTS

SCALE: 1/8"=1'-0"

PROPOSED RENOVATION

219 MASON AVENUE

CAPE CHARLES, VIRGINIA

TODD & LILIANA BRICKEN

SHEET NO.

A-1.2

PROJ. NO.: 558-03

SUBMITTALS

ISSUE DATE	DRAWN BY	REMARKS
8-21-21	MJE	EXIST. CONDITIONS AND CONCEPT DYNOS
8-24-21	MJE	SCHEME 2



RESIDENTIAL DESIGN

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PROPOSED IMPROVEMENTS

SCALE: 1/8"=1'-0"

TODD & LILIANA BRICKEN

5 APT.

[illegible]

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RESIDENTIAL DESIGN

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inc.



PROPOSED IMPROVEMENTS

SCALE: 1/8"=1'-0"



PROPOSED IMPROVEMENTS

SCALE: 1/8"=1'-0"

 TOWN OF CAPE CHARLES	AGENDA TITLE: Atlantic Union Bank Line of Credit Renewal		AGENDA DATE: November 18, 2021
	SUBJECT/PROPOSAL/REQUEST: Renew line of credit through Atlantic Union Bank		ITEM NUMBER: 8A
	ATTACHMENTS: Resolution 20211118 Authorizing the Renewal of the Line of Credit with Atlantic Union Bank		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Deborah Pocock	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Since 2011, the Town of Cape Charles has maintained a Line of Credit in the amount of \$500,000 for working capital. All disbursements must be approved by the Town Council.

DISCUSSION:

Atlantic Union Bank is in the process of approving the renewal of the Town's line of credit with the following terms and conditions.

1. \$500,000; Unsecured.
2. Renewal fee of \$250.
3. Variable interest rate at prime plus 0.5%, with a floor of 3.75% (no changes).
4. Repayment on monthly basis; maintain a zero balance for a period of no less than 30 consecutive days during each 12 - month period.
5. Annual review by Atlantic Union Bank.
6. No prepayment penalty.

RECOMMENDATION:

Staff recommends adoption of Resolution #20211118 Authorizing the Renewal of the Line of Credit with Atlantic Union Bank in the amount of \$500,000.

RESOLUTION 20211118

**AUTHORIZING THE RENEWAL
OF THE LINE OF CREDIT WITH ATLANTIC UNION BANK**

WHEREAS, the Town of Cape Charles has carried a line of credit with Atlantic Union Bank, formerly known as Union Bank, since 2011; and

WHEREAS, the Town Council of the Town of Cape Charles desires to continue this line of credit; and

WHEREAS, Union Bank has offered the Town of Cape Charles a \$500,000 unsecured line of credit with a variable interest rate of Prime plus 0.5%, with a floor of 3.75%; now

THEREFORE BE IT RESOLVED by the Town Council of the Town of Cape Charles, Virginia, this 18th day of November 2021, to authorize Mayor Dize to execute the loan documentation to renew the unsecured line of credit for \$500,000 with Atlantic Union Bank. In the event the Mayor is unavailable to sign the documents, both the Vice Mayor and Town Manager would be required to sign. The credit line would be available for use as determined and authorized by the Town Council of the Town of Cape Charles.

Adopted by the Town Council of the Town of Cape Charles on November 18, 2021.

By: _____
Mayor

ATTEST:

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Reappointment of Wetlands and Coastal Dune Board Member		AGENDA DATE: November 18, 2021
	SUBJECT/PROPOSAL/REQUEST: Reappointment of a member to the Wetlands and Coastal Dune Board		ITEM NUMBER: 8B
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

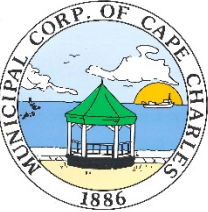
The Wetlands and Coastal Dune Board reviews applications for certain activities in wetlands and dune areas. The Board meets as needed and consists of five members each serving five-year terms.

DISCUSSION:

Ms. Ann Hayward Walker currently serves on the Wetlands Board and her term expired on November 12, 2021. Ms. Walker expressed her interest in continuing her service on the Board for another term.

RECOMMENDATION:

Staff recommends Council reappoint Ms. Ann Hayward Walker to the Wetlands and Coastal Dune Board for another term.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Real Property Conveyance to Cape Charles Rosenwald School Restoration Initiative		AGENDA DATE: November 18, 2021
	SUBJECT/PROPOSAL/REQUEST: Conveyance of property to Cape Charles Rosenwald School Restoration Initiative (CCRSRI)		ITEM NUMBER: 8C
	ATTACHMENTS: Proposed Ordinance, Proposed Subdivision Plat		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Bob Panek, Project Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

On March 4, 2021, Council was briefed on the CCRSRI request to convey a portion of tax parcel 83A3-A-14 (Parcel 14) so that they are better able to redevelop their existing property (83A4-A-23) for fund raising and other community events. Parcel 14 is currently leased to South Port Investors, LLC until 2036. South Port is supportive of CCRSRI and has committed to terminating the lease if the portion of the parcel is conveyed. The Town would gain access to usable portions of the parcel for future expansion of public facilities while helping the CCRSRI effort. Council directed staff to proceed with the subdivision and disposal process.

DISCUSSION:

The Code of Virginia (Sec. 15.2-1800) allows a locality to dispose of real property by either public or private sale and requires that a public hearing be held prior to disposal. The Code (Sec. 15.2-2100) also requires that such sale be made pursuant to an ordinance passed by a recorded affirmative vote of three-fourths of all members elected to Council.

The public hearing was held this evening. The proposed ordinance is attached.

RECOMMENDATION:

Staff recommends adoption of the ordinance by roll call vote.

ORDINANCE 20211118

CONVEYANCE OF A PORTION OF TAX PARCEL 83A3-A-14

WHEREAS, the Cape Charles Rosenwald School Restoration Initiative, Inc. (CCRSRI) currently owns real property known as Tax Parcel 83A4-A-23 ("Parcel 23"); and

WHEREAS, CCRSRI has requested that the Town of Cape Charles convey a portion of Tax Parcel 83A3-A-14 ("Parcel 14") adjacent to Parcel 23 so that CCRSRI may better develop its property for fund raising and community events; and

WHEREAS, Southport Investors, LLC, has agreed to termination of its existing lease of Parcel 14 should the Town agree to the conveyance to CCRSRI; and

WHEREAS, CCRSRI has requested that the portion of Parcel 14 to be conveyed be incorporated into Parcel 23; and

WHEREAS, CCRSRI has committed to make available for wetlands mitigation a reasonable area of the portion of Parcel 14 to be conveyed, should that become necessary for future expansion of public facilities on the remainder of Parcel 14; and

WHEREAS, the lease termination and subdivision of Parcel 14 will allow the portions of the property retained by the Town to be available for future expansion of public facilities; and

WHEREAS, a public hearing was held on November 18, 2021; and

WHEREAS, the Town Council of Cape Charles finds that the subdivision of Parcel 14 and conveyance of a portion of the property to CCRSRI will have significant public benefits; now

THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles this 18th day of November 2021 that:

1. Lot 4 of Parcel 14, as specified on the attached proposed subdivision plat, be conveyed at no cost to CCRSRI, subject to:
 - a. Termination of the lease of Parcel 14 by Southport Investors, LLC.
 - b. Availability of a reasonable area of Lot 4 for wetlands mitigation, should that become necessary for future expansion of public facilities on the remainder of Parcel 14, such remainder being Lots 1, 2, and 3 as shown on the subdivision plat.
2. The Mayor be authorized to execute the conveyance of Lot 4 to CCRSRI.

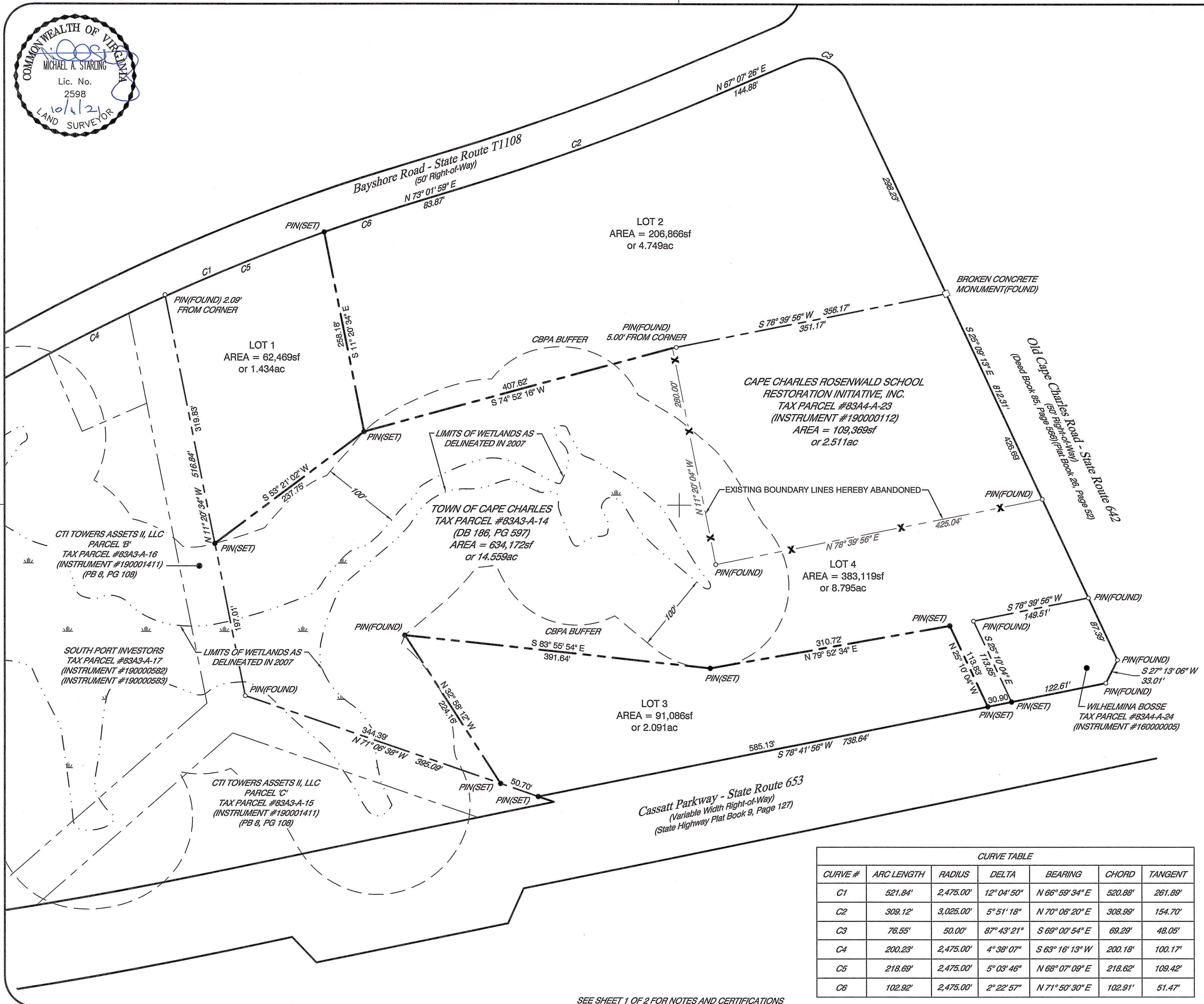
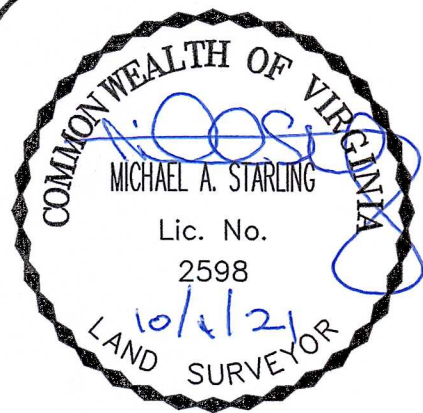
3. The staff of the Town of Cape Charles be authorized to execute such documents and take such actions as are necessary or proper to complete the conveyance of the property substantially in accordance with the foregoing terms.

Adopted by the Town Council of Cape Charles on November 18, 2021

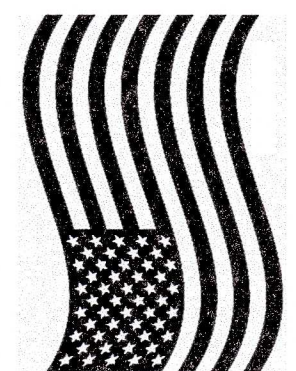
By: _____
Mayor

ATTEST:

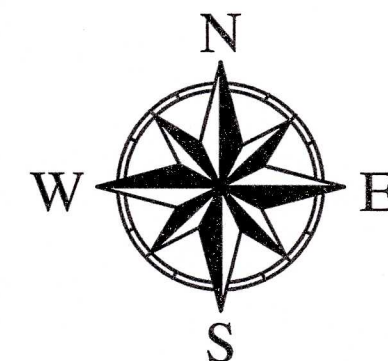
Town Clerk



SEE SHEET 1 OF 2 FOR NOTES AND CERTIFICATIONS



MADE IN AMERICA



Shoreline Surveyors

23314 Courthouse Avenue - P.O. Box 735
Accomac, Virginia 23301
PHONE (757) 789-3960 FAX (757) 789-3962

SCALE: 1" = 75'
DRAWN: MAS
FIELD BOOK: 50, PAGE 1
JOB #21065
SHEET 2 OF 2

SUBDIVISION & BOUNDARY LINE ADJUSTMENT PLAT

**Cape Charles
Wastewater Treatment Plant**

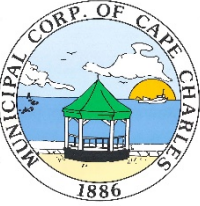
Cape Charles Rosenwald School

TAX PARCELS #83A4-A-14 & #83A4-A-23
TOWN OF CAPE CHARLES
NORTHAMPTON COUNTY, VIRGINIA

FOR
Town of Cape Charles

SEPTEMBER 10, 2021

CURVE TABLE						
CURVE #	ARC LENGTH	RADIUS	DELTA	BEARING	CHORD	TANGENT
C1	521.84'	2,475.00'	12° 04' 50"	N 66° 59' 34" E	520.88'	261.89'
C2	309.12'	3,025.00'	5° 51' 18"	N 70° 06' 20" E	308.99'	154.70'
C3	76.55'	50.00'	87° 43' 21"	S 69° 00' 54" E	69.29'	48.05'
C4	200.23'	2,475.00'	4° 38' 07"	S 63° 16' 13" W	200.18'	100.17'
C5	218.69'	2,475.00'	5° 03' 46"	N 68° 07' 09" E	218.62'	109.42'
C6	102.92'	2,475.00'	2° 22' 57"	N 71° 50' 30" E	102.91'	51.47'

 TOWN OF CAPE CHARLES	AGENDA TITLE: Consent to Assignment of Contract		AGENDA DATE November 18, 2021
	SUBJECT/PROPOSAL/REQUEST: Approval of Consent of Assignment of the Harbor Management Contract		ITEM NUMBER: 8D
	ATTACHMENTS: Assignment Agreement, and Consent to Assignment		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

On September 17, 2020 the Town Council approved a management agreement with the Cape Charles Yacht Center, LLC to manage the day-to-day activities of the town harbor. The contract term runs through December 31, 2023, unless extended in writing by mutual consent.

ITEM SPECIFICS:

The CCYC accountant, Glenn Goodwin of LG&H, advised them midway through 2021 that operating as an S-Corp as opposed to the existing LLC would provide a benefit to the company from a tax perspective. Given their long-term plans to expand their service offerings beyond just the Yacht Center — including their current operation of the Town Harbor — they decided to establish one umbrella operating company called **Cape Charles Marine Services Inc.** under which they will operate all of their business dealings in Cape Charles. The new S-Corp was established in the State of Virginia in September. However, since this represents a legally different entity from the company the Town contracted with originally, the Town Council is required to approve the assignment of our contract to the new entity. There is no change in the management structure, personnel, or the ownership structure of the new business, nor is there any change to the existing operations.

RECOMMENDATION:

Staff recommends approval of the Consent to Assignment of the Town Harbor Management Agreement to Cape Charles Marine Services, Inc.

**Assignment Agreement Between
Cape Charles Yacht Center, LLC and
Cape Charles Marine, Inc.
Effective date: _____**

THIS AGREEMENT to assign certain contractual rights and obligations ("Agreement") is entered into on the Effective Date set forth above between Cape Charles Yacht Center, LLC, a Virginia Limited Liability Company ("Assignor"), and Cape Charles Marine Services, Inc., a Virginia corporation ("Assignee").

WHEREAS, Assignor is currently engaged in various marine enterprises in the Town of Cape Charles, Virginia, including operation of the Cape Charles Yacht Center and management of the Cape Charles Town Harbor; and

WHEREAS, the members and managers of Assignor wish to restructure and reorganize their operations for business and tax purposes; and

WHEREAS the members of Assignor and the shareholders of Assignee are the same persons;

NOW THEREFORE, it is hereby agreed as follows:

1. For One Dollar and other good and valuable consideration, the receipt of which is hereby acknowledged, Assignor does hereby assign, transfer and convey all rights and obligations to which Assignor is entitled, or for which it is obligated, under that certain contract between Assignor and Assignee and the Town of Cape Charles, Virginia, a copy of which is attached hereto as **Exhibit "A"** (the "Contract"); and
2. Assignee does hereby agree to accept the assignment of all rights and obligations in the Contract as if it were the original Contractor thereto; and
3. Assignee does hereby agree to indemnify and hold Assignor harmless from any and all claims the Town of Cape Charles, Virginia may have, known or unknown, against Assignor which may accrue beginning on the Effective Date; and
4. Assignor and Assignee agree that in accordance with Subsection L. of Section VI of the contract, this Agreement is contingent upon acceptance of the assignment by the Town of Cape Charles, Virginia, and said acceptance is a condition precedent to this Agreement.
5. The recitals form a part of the Agreement.

CAPE CHARLES YACHT CENTER, LLC

By: _____
Nicole Marie Jacques
Co-Managing Member

By: _____
John Bass Turner
Co-Managing Member

CAPE CHARLES MARINE SERVICES, INC.

By: _____
Nicole Marie Jacques, President

By: _____
John Bass Turner,
Secretary/Treasurer

CONSENT TO ASSIGNMENT OF CONTRACT

Effective Date: _____

This Consent Agreement (“Agreement”) is entered into between the Town of Cape Charles, Virginia (“Owner”), Cape Charles Yacht Center, LLC (“Contractor”) and Cape Charles Marine Services, Inc. (“Assignee”) on the Effective Date set forth above.

WHEREAS, Owner and Contractor have entered into a written agreement, a copy of which is attached hereto as **Exhibit “A,”** (the “Contract”) whereby Contractor has been engaged by Owner to operate and manage the Town Harbor; and

WHEREAS, the co-managing members of Contractor have expressed to Owner their desire to restructure their operations for business and tax purposes by creating a separate corporation to operate and manage all of their business operations in the Town of Cape Charles; and

WHEREAS, the co-managing members of Contractor are one and the same persons with the officers, directors and shareholders of Assignee;

WHEREAS Contractor and Assignee have entered into an Assignment Agreement, a copy of which is attached hereto as **Exhibit “B,”** whereby Contractor agrees to assign all rights and obligations to Assignee, and Assignee agrees to accept all rights and obligations, but a condition precedent to the Assignment Agreement is acceptance of same by Owner pursuant to Subsection L. of Section VI. of the Contract; and

WHEREAS, Assignee has in place insurance, licenses, and permits required by the Contract as evidenced by the documents attached as **Exhibit C;**

NOW, THEREFORE, it is hereby agreed as follows:

1. Owner hereby consents to the assignment of the Contract by Contractor to Assignee; and
2. Assignee hereby agrees to satisfy all those terms and conditions of the Contract that are to be performed by Contractor; and
3. Contractor agrees to indemnify and hold Owner harmless from any breach, default, or failure to perform the Contract by Assignee; and
4. The current co-managing members of Contractor are the sole shareholders of Assignee, and there shall be no change in the identity of the shareholders of Assignee without the express written consent of Owner; breach of this clause shall grant to Owner the unilateral right to terminate the Contract.
5. The recitals form a part of the Agreement.

(Signatures follow on next page)

CONSENT TO ASSIGNMENT OF CONTRACT

Effective Date: _____

TOWN OF CAPE CHARLES, VIRGINIA

By: _____

Its: _____

CAPE CHARLES YACHT CENTER, LLC

By: _____

Nicole Marie Jacques
Co-Managing Member

By: _____

John Bass Turner
Co-Managing Member

CAPE CHARLES MARINE
SERVICES, INC.

By: _____

Nicole Marie Jacques, President

By: _____

John Bass Turner,
Secretary/Treasurer



TOWN COUNCIL

Work Session

November 18, 2021

Cape Charles Civic Center

Immediately Following the Regular Meeting

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Community Strategic Planning Survey
3. Legislative Priorities
4. Canonie Master Lease
5. Adjournment