



TOWN COUNCIL

Public Hearing & Regular Meeting

November 16, 2023
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. [Zoning Map Amendments – from General Business/Light Industrial \(GBI H-1\) & Harbor to Harbor only – Tax Parcel #90-A-1A6](#)
4. Recognition of Visitors / Presentations / Recognitions
 - A. Recognition of Employee Celebrating Significant Anniversary
5. Public Comments (3 minutes per speaker for topics not subject to this evening's public hearing)
6. *Consent Agenda
 - A. Approval of Agenda Format
 - B. [Approval of Minutes](#)
 - C. Approval of [August 31, 2023](#) and [September 30, 2023](#) Financial Reports
7. Unfinished Business:
 - *A. None
8. New Business:
 - *A. Parking Restrictions on Portion of Madison Avenue – *Postponed to a future meeting*
 - *B. [Zoning Map Amendments – from General Business/Light Industrial \(GBI H-1\) & Harbor to Harbor only – Tax Parcel #90-A-1A6](#)
 - *C. [Community Trail, Phase 3 Lighting](#)
 - *D. [Town Council Meeting Time Change Resolution](#)
 - *E. [USDA Rural Development Grant/Loan for Police Car](#)
9. Town Manager Comments
10. Mayor & Council Comments (5 minutes per speaker)
11. Announcements
 - November 22, 2023 – Town offices closing at noon for Thanksgiving holiday
 - November 23-24, 2023 – Town offices closed for Thanksgiving holiday
 - November 30, 2023 – Town Council Work Session
 - December 7, 2023 – Town Council Work Session – *tentative*
 - December 21, 2023 – Town Council Regular Meeting
12. Adjournment

TOWN OF CAPE CHARLES
Town Council – Public Hearing

The Cape Charles Town Council will hold a public hearing on Thursday, November 16, 2023 at 6:30 pm in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive comment on the following requests:

- A. A Zoning Map Amendment (ZMA) 2023-03 application from Cherrystone Investments, LLC to rezone Tax Map #90-A-1A6 from General Business/Light Industrial (GBI H-1) to Harbor District pursuant to Cape Charles Zoning Ordinance §§ 2.7.2 and 3.9.

The application is available for public review on our website at www.capecharles.org under Agendas and Minutes/Town Council. Please contact the Planning Department at 757-331-2036, or by email at planner@capecharles.org if you have any questions or require additional information.



PLANNING COMMISSION PUBLIC HEARING STAFF REPORT

Meeting Date: October 3, 2023

Item #4A – ZMA-2023-03

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

Date: September 27, 2023

APPLICANT: Cherrystone Investments, LLC

SITE ADDRESS:

TAX MAP: 90-A-1A6

LOT SIZE: 1.799 acres

TYPE OF APPLICATION: Zoning Map
Amendment (ZMA) 2023-03

SPECIFIC REQUEST: Rezone split-zoned parcel of
Harbor (H) & General Business/Light Industrial (GBI-
H1) to only Harbor (H)

ZONING ORDINANCE: CCZO Section 2.7.2

CURRENT ZONING: .329 acres is GBI-H1 & 1.45
acres is Harbor (H)

PROPOSED ZONING: Harbor for full parcel

DATE RECEIVED: August 24, 2023

DATE DEEMED COMPLETE: August 27, 2023

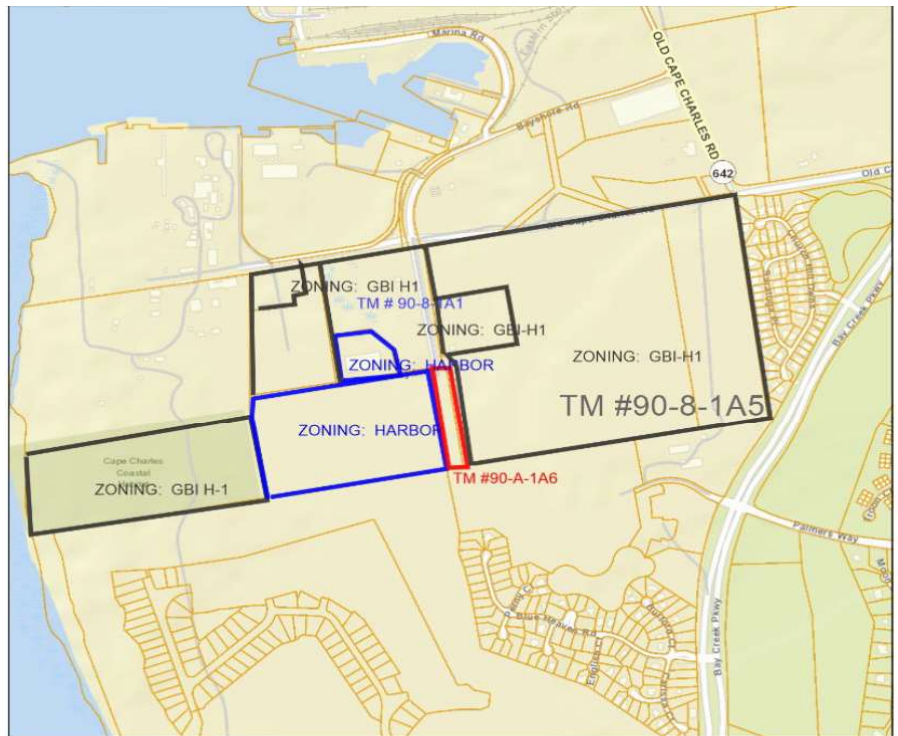
LEGAL DEADLINE: 100 days from 1st Receiving Application: December 4, 2023

NARRATIVE OF PROPOSAL

An application was filed on August 24, 2023 by Cherrystone Investments, LLC seeking to rezone Tax Map #90-A-1A6, totalling 1.799 acres (parcel outlined in red), from a split zoned parcel of Harbor (H) & General Business/Light Industrial (GBI-H1) to only Harbor (H).

The applicant has not indicated on the application as to a specific use of the property beyond a live-work business but has indicated in conversation with me that he is considering a golf cart path from the Bay Creek properties that would connect with Bay Shore Road.

Town Council passed a Resolution of Intent at their September 21, 2023



Title:

Date: 9/12/2023

meeting, acknowledging the application and authorizing staff to schedule the necessary public hearings for both the Planning Commission (October 3, 2023) and Town Council (October 19, 2023).

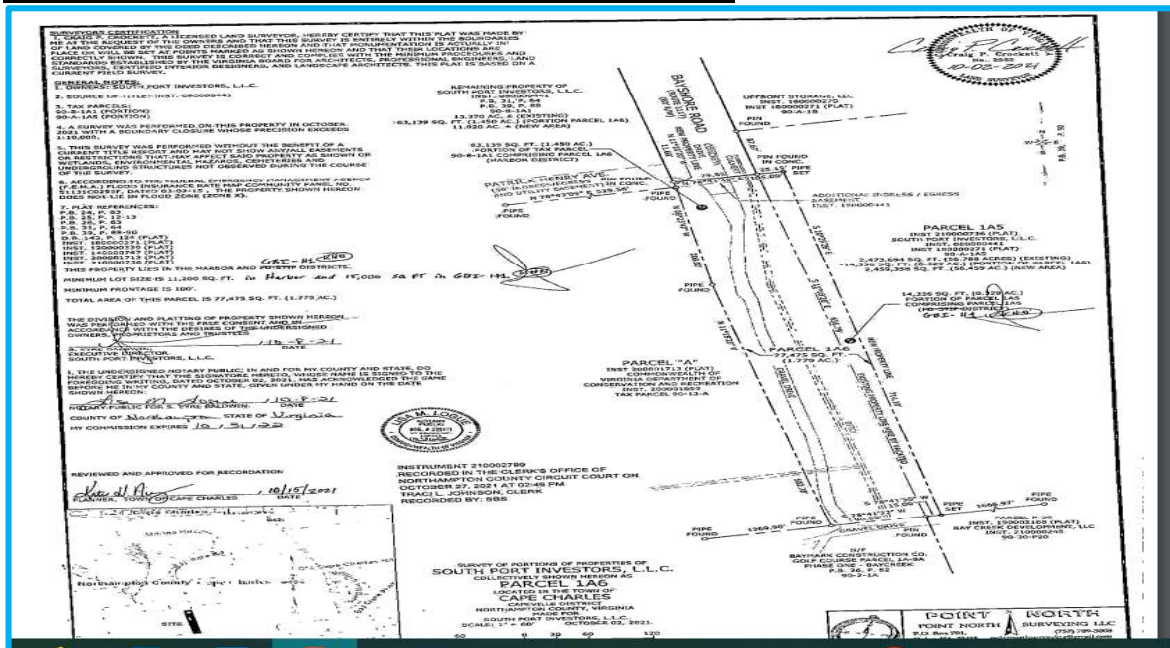
BACKGROUND

In mid-summer 2021, Southport Investors began the process of a subdivision plat to create new parcel (Parcel #90-A-1A6) by taking approximately .329 acres from Tax Map 90-8-1A5 which they owned and was, at that time, zoned GBI-H1 and 1.45 acres from Tax Map 90-8-1A1 which they owned and was, at that time, zoned Harbor.

The subdivision plat was finally approved by the Town on October 15, 2021 which created a new parcel – Tax Map #90-A-1A6 totalling 1.799 acres – which had Harbor zoning on the majority portion of the lot and GBI-H1 zoning on the smaller, remaining portion of the lot.

However, in the interim, in the fall of 2021, the Town approved rezoning of Tax Map 90-8-1A1 from Harbor to GBI-H1 but the subdivision plat had carved out and created a new parcel (Tax Map #90-A-1A6) which was not included in the rezoning application made on the “majority parent tract” and the in-process subdivision plat was not re-examined in light of the changing zoning designations south of the harbor as to what zoning designation would be on this new parcel beyond inheriting the original zoning from its parent tracts.

SUBDIVISION PLAT CREATING TAX MAP #90-A-1A6



Subsequently, in a Deed of Distribution made on December 27, 2021, Southport Investors, LLC conveyed Tax Map #90-A-1A6 to Cherrystone Investments, LLC.

REVIEW WITH RESPECT TO COMPREHENSIVE PLAN

South of the harbor, the Future Land Use Map has designated the land one of three classifications:



Conservation/Open Space: These areas are intended for the conservation of natural resources and protection of open space. These areas include parks, recreational areas, preserved land, and wetlands.

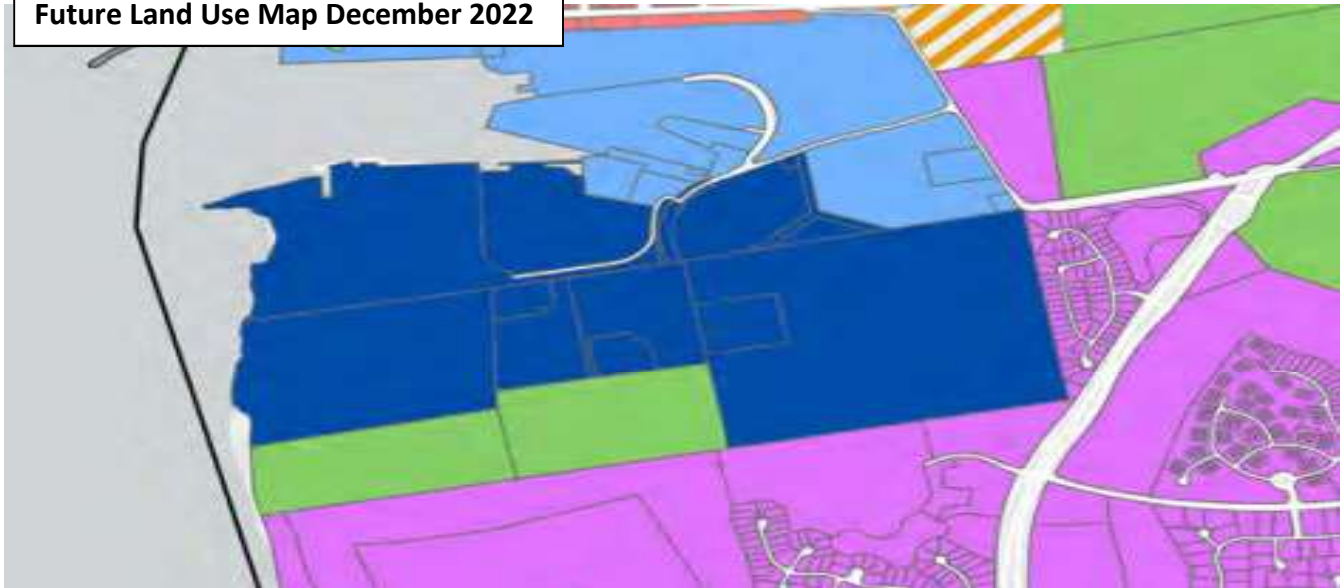


Harbor District: Further master planning will be conducted to create a strong vision for the Harbor District. The area is intended to develop in a way that mirrors the success of Mason Avenue and nearby historic residential blocks. The district could include a mix of uses on an extension of the highly walkable street grid. Specific Harbor District design guidelines should be developed with particular attention to how buildings address the streetscape and the harbor front to create a lively and attractive extension of historic Cape Charles.



Harbor District Industrial: This category is for existing and future commercial and industrial uses along the southern area of the harbor. Although these uses may be intense, the proximity to the deep water harbor is necessary for their function and for the economic diversity of the Town.

Future Land Use Map December 2022



I have enclosed for your review the detailed descriptions of the two classifications dealing with industry to assist in your deliberations on this matter.

REVIEW WITH RESPECT TO ZONING ORDINANCE: ZONING DISTRICTS – INTENT

Directly to the south of the parcel is the Bay Creek Development which is zoned various designations of Planned Unit Development (PUD), including PUD Open Space & PUD R-2. Further to the north on the west side is 3 parcels zoned Industrial (M-2) and the parcels that hug Cape Charles Harbor are zoned Harbor. To the east, there are two parcels that are owned by Virginia Department of Conservation and Recreation (DCR) and have been placed in a permanent conservation easement; however, they have never petitioned the Town to rezone these two parcels since the zoning is relatively irrelevant to DCR's use and management of the property which are in accordance with the conservation easement. At some point in the near future, the Town may wish to put forth its own zoning map amendment for the 2 DCR parcels (one parcel is GBI-H-1 and one is Harbor) to Open Space.

Directly to the northeast, there is the property where Fujifilm WAKO Chemicals USA Corporation building is located and its zoning is still Harbor. Otherwise, the remaining, directly touching properties (excluding Bay Creek to south) are all zoned GBI-H1)

The Cape Charles Zoning Ordinance provides a statement of intent or purpose for the current 2 zoning districts that are on this parcel as follows:

Harbor District: *Statement of Intent. The intent of this zoning district is to encourage a vibrant working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions. Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs. This zoning district is also intended to implement the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines as an overall guide to the future development and redevelopment of the harbor area.*

General Business/Light Industrial H-1 (GBI H-1): *Purpose of the District. The GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan. The purpose of the district is to: 1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County 2. Create family-wage employment and training opportunities for local residents 3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture 4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers 5. Incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.*

Rezoning this parcel to only be Harbor allows a small buffer from the truly open space land to the east to the General Business/Light Industrial Harbor-1 (GBI H-1) zoned properties to the west and north.

STAFF RECOMMENDATION

Staff is requesting the Planning Commission to convene and hold the public hearing and consider all comments received and determine if there are additional issues raised that were not considered by staff which may need to be considered. Staff supports rezoning the full parcel to Harbor zoning.

POSSIBLE PLANNING COMMISSION MOTION

I would recommend the following motion for the Planning Commission's consideration: ***Motion to recommend the rezoning of Tax Map Parcel # 90-A-1A6 from GBI-H1 which is the zoning on a portion of the parcel (.329 acres) to fully designating this parcel as Harbor zoning only which is supported in the Comprehensive Plan Future Land Use section.***

Attachments:

Attachment 1 – ZMA Application

Attachment 2 – Land Use Designation Descriptions Harbor and Harbor Industrial



Zoning Map Amendment Application

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-2036
planner@capecharles.org

Revised 03/2023

Taxes	✓ pd LL
Violations	
pd chk Fee # 1048	\$ 550
Decision	

Budget Code: MISPL 100-3100-1070

PART 1: APPLICATION NOTES

1. A pre-application conference is mandatory prior to submission of an application for a zoning map amendment.
2. A zoning map amendment application should be consistent with the Comprehensive Plan and therefore, may also require a Comprehensive Plan amendment, which should be approved prior to the zoning map amendment application.
3. The Town Council may not add conditions of approval to a zoning map amendment application.
4. If proffers are being offered, the proffer statements may not be less restrictive than the requested base zoning district standards.
5. If proffers are being offered, proffer statements may not be amended after the public notification of a public hearing to consider the application has been sent. The applicant may voluntarily offer proffered conditions as part of their application, which must be listed in a separate voluntary proffer statement using the template found on our website.
6. Fees: \$1000 + \$50/acre plus any actual costs for advertising & adjacent property owner notification mailings *PD or Conditional Rezoning*
\$500 + 50/acre on regular rezoning

PART 2: PROPERTY INFORMATION

Property Address: <i>End Bayshore Rd</i>	Tax Map #: <i>90-A-1A6</i> →
Project name: <i>Southport</i>	Current Zoning District: <i>80% HD 20% JND</i>
Does this application include proffers? ☒ No ☐ Yes, if so, attach separate form	Proposed Zoning District: <i>100% HD</i>

PART 3: PROPERTY OWNER INFORMATION

Applicant Name: <i>Cherrystone Investments, LLC</i>	
Mailing Address: <i>Po Box 395, Eastville, VA 23347</i>	
Email address: <i>eyre1@verizon.net</i>	Phone: <i>757-636-2985</i>

If property is owned by an LLC, LP, or other form of corporation, list all landowners and their contact information.

Eyre Baldwin
Furlong Baldwin > contact info same as above

Zoning Map Amendment Application (also referred to as a Rezoning or Conditional Rezoning) may be submitted by a Cape Charles property owner and may be advanced to public hearing, after this application is submitted to Town Council who authorizes said applications to public hearings, first to the Planning Commission in compliance with the Code of Virginia Section 15.2-2285 and 15.2-2204.

The applicant will be required to make a presentation to fully explain the request and demonstrate the need for said request and how the Comprehensive Plan supports and maintains compliance with the goals and objectives of the Comprehensive Plan

Additionally, the Planning Commission or Town Council may prepare and apply for a zoning map amendment with either the Town Manager or the Zoning Administrator or Planning Director representing the application on behalf of the Town.

PART 4: Written Description of Request – Answer all questions in this section. Attach additional sheets as needed.

- A) Describe the existing conditions on the property including existing land uses and buildings as well as the land uses and zoning districts on the abutting properties.

HB to the west, Industrial to the east. It is a wooded lot

- B) Describe how existing conditions have changed, thereby making the proposed amendment needed.

Mixed zoning and want all to be harbor district.

- C) Describe how the proposed amendment furthers the objectives of the Comprehensive Plan.

consistency

- D) Describe why the proposed rezoning is necessary.

To create a business opportunity

- E) Describe the proposed use of the rezoned property including a site plan with the proposed types of site improvements and buildings.

live-work businesses

Applicant's signature: _____

Date: _____

Zoning Administrator's Signature: _____

Date: _____

PART 5: To Be Completed by P & Z Department Staff

Date Application Received in Office:	Application #: ZMA
Planning Commission	Town Council
Date referred:	Date received from Planning Commission:
Action deadline (100 days from receipt):	Action deadline (max. 365 days from referral to PC):
Public hearing date:	Public hearing date:
Decision:	Decision:

Northampton County, Virginia

Tax Map #: 90-A-1A6
Owner: CHERRYSTONE INVESTMENTS,
LLC

Details

Billing Address: PO BOX 395
City: EASTVILLE
State: VA
Zip: 23347
Total Acres: 1.78
Land Value: \$80,000
Improvement Value: \$0
Total Value: \$80,000
Deed Book: N/A
Deed Page: N/A
Will Book: N/A
Will Page: N/A
Plat: 210002799
Instrument Number: 210003280
Parcel_Description: PARCEL 1A6 - SURVEY OF
PORTIONS OF SOUTH PORT INV

Northampton County, Virginia

Legend

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



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

Title: Parcels

Date: 8/31/2023

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 is not responsible for its accuracy or how current it may be.

Northampton County, Virginia

Legend

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



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

Title: Parcels

Date: 8/31/2023

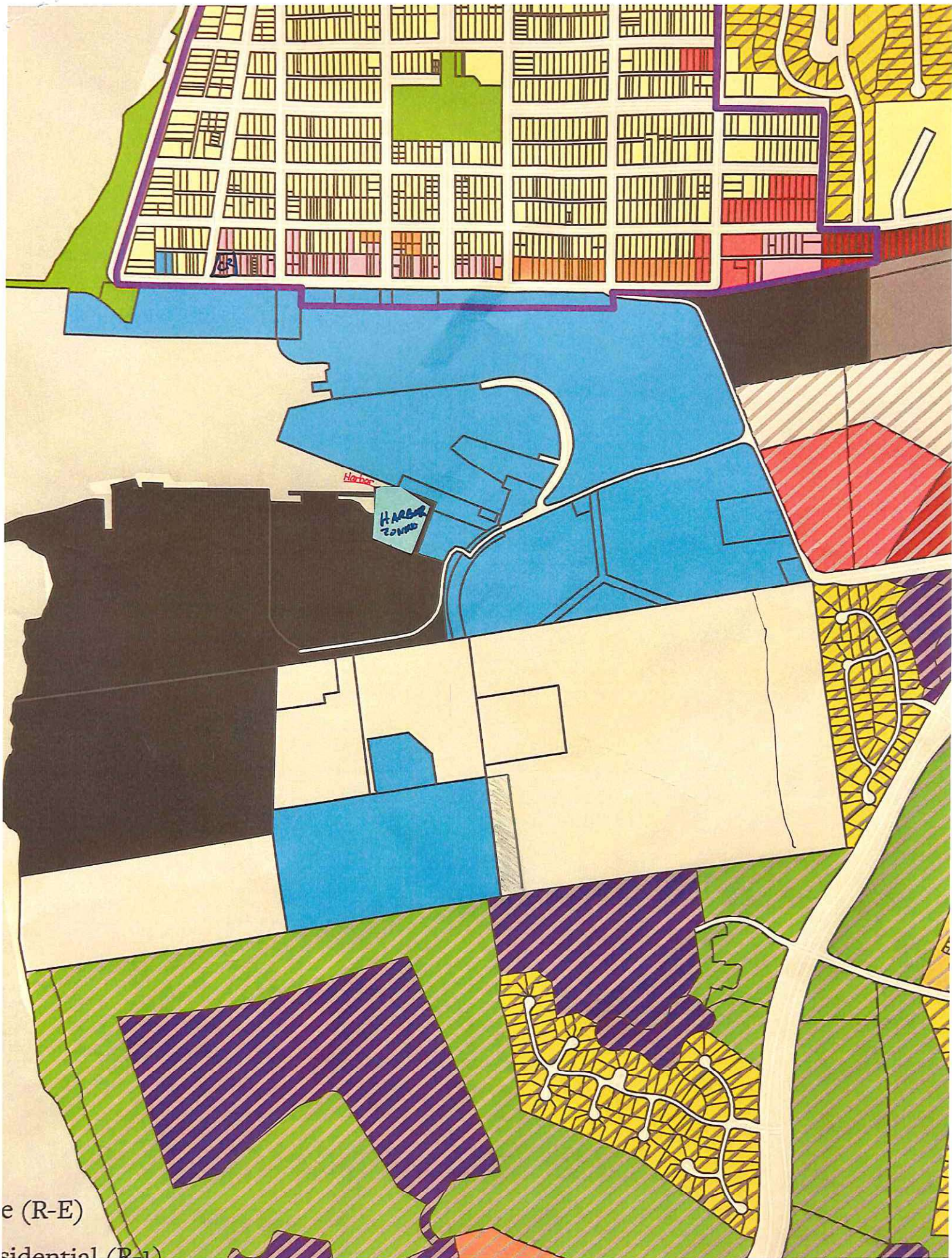
DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Northampton is not responsible for its accuracy or how current it may be.

Northampton County, Virginia

Tax Map #: 90-A-1A6
Owner: CHERRYSTONE INVESTMENTS,
LLC

Details

Billing Address: PO BOX 395
City: EASTVILLE
State: VA
Zip: 23347
Total Acres: 1.78
Land Value: \$80,000
Improvement Value: \$0
Total Value: \$80,000
Deed Book: N/A
Deed Page: N/A
Will Book: N/A
Will Page: N/A
Plat: 210002799
Instrument Number: 210003280
Parcel_Description: PARCEL 1A6 - SURVEY OF
PORTIONS OF SOUTH PORT INV



e (R-E)

idential (R-1)

SURVEYOR'S 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 THE 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: SOUTH PORT INVESTORS, L.L.C.

2. SOURCE OF TITLE: INST. 08000441

3. TAX PARCELS:
90-B-1A1 (PORTION)
90-A-1A5 (PORTION)

4. A SURVEY WAS PERFORMED ON THIS PROPERTY IN OCTOBER, 2021 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 (FEMA), FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 51133 C0295F, DATED 03-07-15, THE PROPERTY SHOWN HEREON DOES NOT LIE IN FLOOD ZONE (ZONE X).

7. PLAT REFERENCES:

P.B. 24, P. 63

P.B. 25, P. 12-13

P.B. 26, P. 63

P.B. 31, P. 64

P.B. 39, P. 88-90

D.B. 143, P. 124 (PLAT)

INST. 180000271 (PLAT)

INST. 120000339 (PLAT)

INST. 140000247 (PLAT)

INST. 200001713 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

INST. 210000236 (PLAT)

REMAINING PROPERTY OF
SOUTH PORT INVESTORS, L.L.C.

INST. 08000441

P.B. 31, P. 64

P.B. 39, P. 88

90-B-1A1

13,370 AC. ± (EXISTING)

-63,139 SQ. FT. (1,450 AC.) (PORTION PARCEL 1A6)

13,920 AC. ± (NEW AREA)

63,139 SQ. FT. (1,450 AC.)

PORTION OF TAX PARCEL

90-B-1A1 COMPRISING PARCEL 1A6

(HARBOR DISTRICT)

PATRICK HENRY AVE.

150' IN-WEDNESBRESS PIN FOUND

AND UTILITY EASEMENT IN CONC.

N 78°43'09" E 529.50'

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PIPE FOUND

PARCEL "A"

INST. 200001713 (PLAT)

COMMONWEALTH OF

VIRGINIA DEPARTMENT OF

CONSERVATION AND RECREATION

DIST. 200001859

TAX PARCEL 90-13-A

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

77,475 SQ. FT. (1,779 AC.)

SURVEY OF PORTIONS OF PROPERTIES OF

SOUTH PORT INVESTORS, L.L.C.

COLLECTIVELY SHOWN HEREON AS

PARCEL 1A6

This instrument prepared by:
C. A. Turner, III, Esquire
Virginia State Bar #27856
P O Box 878
Eastville VA 23347

CLERK'S NOTE: This deed is exempt from recordation taxes pursuant to
Virginia Code §§58.1-811.A-11 and 58.1-811.C-1

Parcel Identification # 90-A-1A (part of), 90-8-1A1 (part of)
RPC# n/a
For Identification Purposes Only

THIS DEED OF DISTRIBUTION, made this 27th day of December, 2021, by and
between **SOUTH PORT INVESTORS, L.L.C.**, a Virginia limited liability company, Grantor,
and **CHERRYSTONE INVESTMENTS, L.L.C.**, a Virginia limited liability company,
Grantee, having an address of P. O. Box 395, Eastville, VA 23347.

WHEREAS, Grantor has resolved to convey the property hereby conveyed to the Grantee
as and for a distribution.

WITNESSETH: That for and in consideration of the sum of One Dollar (\$1.00), cash in
hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged
by the Grantor, the Grantor does hereby grant and convey with **GENERAL WARRANTY** and
ENGLISH COVENANTS OF TITLE unto the Grantee, its successors and assigns, the following
described real estate, to-wit:

Parcel 1: That certain tract or parcel of land identified as "Parcel 1A6,
77,475 SQ. FT. (1.799 AC.)" on a certain plat dated October 2, 2021, made by
Point North Surveying LLC, entitled "SURVEY OF PORTIONS OF
PROPERTY OF SOUTH PORT INVESTORS, L.L.C. COLLECTIVELY
SHOWN HEREON AS PARCEL 1A6 LOCATED IN THE TOWN OF CAPE
CHARLES CAPEVILLE DISTRICT NORTHAMPTON COUNTY,
VIRGINIA MADE FOR SOUTH PORT INVESTORS, L.L.C.", and
recorded in the Clerk's Office of the Circuit Court of Northampton County,
Virginia 210002799.

Parcel 2: That certain tract or parcel of land identified as
"REMAINDER OF TAX PARCEL 90-A-1A, 669,737 SQ. FT., 15.375 AC. "
on a certain subdivision plat dated February 20, 2021, made by Point North
Surveying LLC, entitled "SUBDIVISION OF PROPERTY OF
SOUTHPORT INVESTORS, LLC SHOWN HEREON AS PARCEL 1A5
LOCATED IN THE TOWN OF CAPE CHARLES CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VIRGINIA MADE FOR SOUTHPORT
INVESTORS, LLC", and recorded in the Clerk's Office of the Circuit Court
of Northampton County, Virginia 210000736.

TOGETHER WITH the privileges and appurtenances unto said lot or parcel of land
belonging or in anywise appertaining.

12/22/21, 10:24 AM

Deed Calculation - DODS

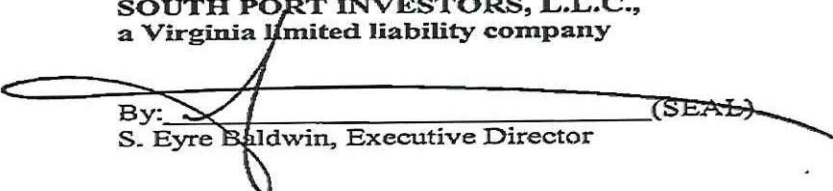
Circuit Court Deed Calculation for NORTHAMPTON COUNTY CIRCUIT COURT

Deed Type:	DODS --> DEED DISTRIBUTION														
Grantor Exempt:	N														
Grantee Exempt:	N														
Consideration Amount:	\$0.00														
Assume/Value Amount:	\$0.00														
Locality Percent:	100 %														
Pages:	4														
O/P:	0														
Date:	12/22/2021														
<table> <tr> <th>Fee</th><th>Amount</th></tr> <tr> <td>VIRGINIA OUTDOOR FOUNDATION (035);</td><td>3.00</td></tr> <tr> <td>TECHNOLOGY TRST FND (106);</td><td>5.00</td></tr> <tr> <td>VSLF (145);</td><td>3.50</td></tr> <tr> <td>TRANSFER FEES (212);</td><td>1.00</td></tr> <tr> <td>CLERK RECORDING/INDEXING FEE (301);</td><td>14.50</td></tr> <tr> <td>Total:</td><td>\$27.00</td></tr> </table>		Fee	Amount	VIRGINIA OUTDOOR FOUNDATION (035);	3.00	TECHNOLOGY TRST FND (106);	5.00	VSLF (145);	3.50	TRANSFER FEES (212);	1.00	CLERK RECORDING/INDEXING FEE (301);	14.50	Total:	\$27.00
Fee	Amount														
VIRGINIA OUTDOOR FOUNDATION (035);	3.00														
TECHNOLOGY TRST FND (106);	5.00														
VSLF (145);	3.50														
TRANSFER FEES (212);	1.00														
CLERK RECORDING/INDEXING FEE (301);	14.50														
Total:	\$27.00														
*Clerk and Deed Processing Fees do not apply to any agency of the Commonwealth of Virginia. **The Technology Trust Fund fee does not apply to any federal, state, or local government.															

This conveyance is made subject to any easements, restrictions, and reservations contained in duly recorded deeds, plats and other instruments constituting constructive notice in the chain of title, which have not expired by a time limitation contained therein or have otherwise become ineffective, and to matters visible upon inspection.

WITNESS the following signature and seal:

**SOUTH PORT INVESTORS, L.L.C.,
a Virginia limited liability company**

By:  (SEAL)
S. Eyre Baldwin, Executive Director

STATE OF VIRGINIA,

COUNTY OF NORTHAMPTON, to-wit:

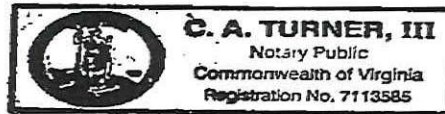
The foregoing instrument was acknowledged before me this 27th day of December, 2021 by S. Eyre Baldwin, Executive Director of South Port Investors, L.L.C., a Virginia limited liability company, on behalf of the company.

My Commission Expires:

7/31/2024

Registration # 7113585

 (SEAL)
Notary Public



INSTRUMENT 210003280
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY CIRCUIT COURT ON
DECEMBER 29, 2021 AT 12:06 PM
TRACI L. JOHNSON, CLERK
RECORDED BY: MWD

Entity Information

Entity Information

Entity Name: Cherrystone Investments, L.L.C.

Entity ID: S2433185

Entity Type: Limited Liability Company

Entity Status: **Active**

Series LLC: No

Reason for Status: Active

Formation Date: 12/10/2007

Status Date: 02/09/2023

VA Qualification Date: 12/10/2007

Period of Duration: Perpetual

Industry Code: 0 - General

Annual Report Due Date: N/A

Jurisdiction: VA

Charter Fee: N/A

Registration Fee Due Date: Not Required

Registered Agent Information

RA Type: Individual

Locality: NORTHAMPTON COUNTY

RA Qualification: Member or Manager of the Limited Liability Company

Name: FURLONG BALDWIN

Registered Office Address: 16464 COURTHOUSE ROAD, EASTVILLE, VA, 23347 - 0000, USA

Principal Office Address

Address: 16464 COURTHOUSE RD, EASTVILLE, VA, 23347 - 0000, USA

(https://www.scc.virginia.gov/civ/civ_contact.aspx)

[Filing History](#) [RA History](#) [Name History](#) [Previous Registrations](#) [Protected Series](#)
(<https://www.facebook.com/VirginiaStateCorporationCommission>) (<https://twitter.com/VASateCorpComm>)

[Garnishment Designees](#) [Image Request](#)

[Back](#)

[Return to Search](#)

[Return to Results](#)

[Back to Login](#)

Customer Name:		CHERRYSTONE INVESTMENTS, LLC	
Account Number:	4685	Account Status:	Active
Bill To Address:	PO BOX 395	Account Balance:	\$0.00
		Current Year Balance:	\$0.00
		Prior Year Balance:	\$0.00
	EASTVILLE	VA	23347-0395
Primary Phone:		Allow Advertising:	True
Email Address:		Allow Late Listing:	True
Social Security #:		Cash Only:	False
Other Social Security #:		Bankrupt	False
DL Number:		Allow Interest:	True
Employer:		Allow Penalty:	True
County #:	10003664	Tax Exempt:	False
		Circuit Breaker:	False
Bill Comment:			
Pay Comment:			

Real Properties

Prop Address	Real Pin	Prop Value	Building Value
BAYSHORE RD	1664000090080000001A	\$80,000.00	\$0.00
	6		
PARCEL 1A - SUBDIV	12632000900A00000001	\$768,800.00	\$0.00
OF SOUTHPORT	A		
INVESTOR			

Harbor District

Further master planning will be conducted to create a strong vision for the Harbor District. The area is intended to develop in a way that mirrors the success of Mason Avenue and nearby historic residential blocks. The district could include a mix of uses on an extension of the highly walkable street grid. Specific Harbor District design guidelines should be developed with particular attention to how buildings address the streetscape and the harbor front to create a lively and attractive extension of historic Cape Charles.

Note: Refer to the Harbor Area Conceptual Master Plan and Design Guidelines, once developed.

a. Function

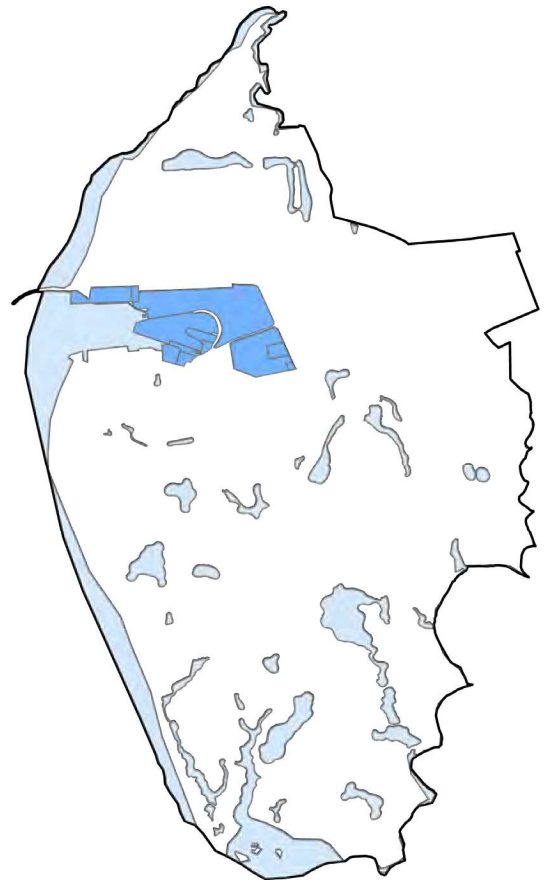
1. To provide a vibrant working waterfront that is both a strong economic benefit to the Town and encourages compatible new industry and employment uses.
2. To provide places with strong public and recreational value, with public gathering places and access to the water.
3. To provide a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its historic traditions.

b. Preferred Uses

1. Land uses in this district should be mixed, including resort and tourism-related retail, waterfront industrial and employment, associated residences, and accessory uses and should support the existing harbor uses.
2. In general, residential uses should be located above the first floor, reserving first floor storefront space for activity-generating uses such as retail shops, restaurants or recreational amenities.
3. Berthing and marina uses should correspond to the available water depth that exists in the Harbor.
4. Open space and recreational uses, such as walkways, greenways, and public plazas and promenades, that provide access to the water should be provided.

c. Design Character and Scale

1. Harbor Mixed-Use projects should be architecturally and visually compatible with the Town's historic built fabric and design character, with a fine-grained land use pattern at a human scale, while still reflecting the best contemporary design and development practices. Blocks should generally not be more than 600 foot long.
2. Development should combine uses vertically, as well as horizontally (i.e. mixing uses among buildings and within individual buildings), to achieve convenience, variety and walkability in the district.
3. Building edges should be set similar to the existing section of Mason Avenue to create a more orderly pattern of buildings and develop an urban "main street" character.



4. Public access and views to the waterfront should be integrated in a way that is compatible with the function of the maritime activity.
5. Vehicular, pedestrian and bicycle circulation should tie the district together internally and with surrounding areas and should recognize the unique historic and waterfront environment of the site.
6. Alleys, thoroughfares, and service ways should be utilized to ensure trash pickup and deliveries for commercial establishments do not take place along public right of ways.
7. Design elements should be integrated with wide sidewalks, street trees, benches, and entrances to buildings at the edges of street rights-of-way. Bicycle facilities, on street parking, and usable public spaces should be provided.
8. Landscaping should be provided according to the approved Town landscaping requirements.
9. Most of the site may be developed as building, parking or paved plaza and access areas. However, there should generally be 20-30% of the site in amenity open space, as public plazas, landscaping or decoratively-paved wider sidewalks or sitting areas.
10. Development on the north side of the harbor should be of a scale similar to that of the Historic Downtown Mixed Use Category, while taller heights may be allowed on the south side of the harbor with a gradual height transition between the north and south sides.

d. Building Design

1. Architecture should be compatible with and reflective of character, materials, and form of the existing traditional residential, commercial and industrial buildings in the Town of Cape Charles.
2. Structures and improvements on the site should generally be clustered and compactly designed to allow for minimal disturbance and extensive open space and public areas.
3. The traditional gridded layout of streets in the Harbor Area should be reinforced through the placement and design of buildings, travelways, and landscape elements. New streets should extend the existing historic street grid of the Town.
4. Development along new or existing public streets should foster a walkable and enjoyable pedestrian environment. New development should avoid large expanses of blank walls, should provide frequent street level entries, and should provide sidewalk amenities such as street furniture and lighting that encourage year-round pedestrian use.

Harbor District Industrial

This category is for existing and future commercial and industrial uses along the southern area of the harbor. Although these uses may be intense, the proximity to the deepwater harbor is necessary for their function and for the economic diversity of the Town.

a. Function

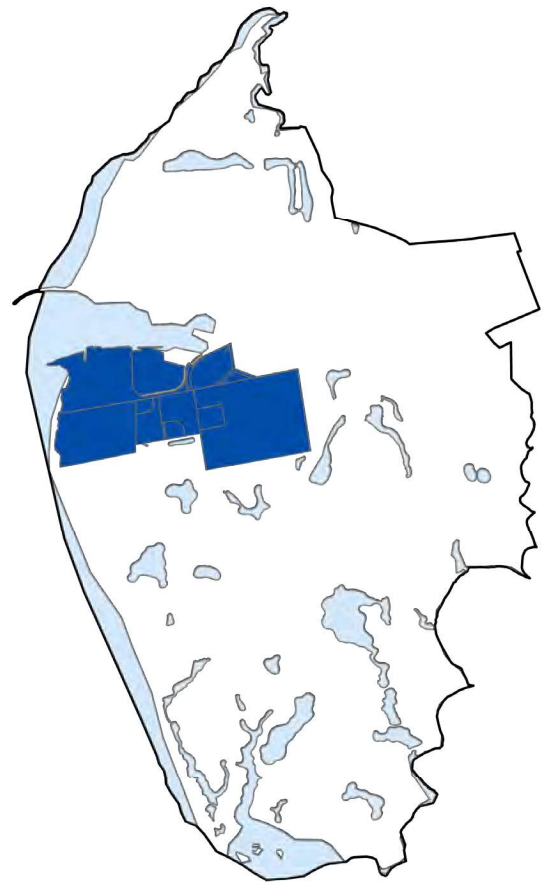
1. To provide a broad spectrum of non-tourist related local and regional employment that offers living wage jobs and supports a balanced tax base.
2. To encourage cost effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development.
3. To serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers.

b. Preferred Uses

1. Land uses in the designation should consist of office and flexible industrial uses, including corporate headquarters, emerging technologies facilities, and appropriate manufacturing, that support local and regional employment opportunities consistent with the Town's small town historic character.
2. Residential mixed-use areas should be encouraged to complement existing and future employment opportunities.
3. Open space and recreational uses, such as walkways, greenways, and public plazas and promenades, should be maintained as an important amenity to the Town.

c. Design Character and Scale

1. Vehicular, pedestrian and bicycle circulation should tie the district together internally and with surrounding areas.
2. Office buildings should be located close to the roadways with parking behind, or underneath and/or located in the interior of the development, so that building fronts and entrances face on the street.
3. Development along new or existing public streets should foster a walkable and enjoyable pedestrian environment. New development should avoid large expanses of blank walls, should provide frequent street level entries, and should provide sidewalk amenities such as street furniture and lighting that encourage year round pedestrian use.
4. Most of the site may be developed as building, parking or paved plaza and access areas. However, there should generally be 10-20% of the site in amenity open space, as buffers, landscaping, greenways or recreational facilities.



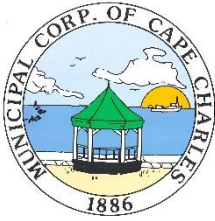
5. Alleys, thoroughfares, and service ways should be utilized to ensure trash pickup and deliveries for commercial establishments do not take place along public right of ways.
6. The use of landscaping and screening devices should be used to the maximum extent feasible adjacent to public rights of way.

d. Building Design

1. Architecture should be compatible with and reflective of character, materials, and features of Cape Charles, while still reflecting the best contemporary design and development practices.
2. Structures and improvements on the site should generally be clustered and compactly designed to allow for minimal disturbance and extensive open space and public areas.
3. Along major street frontages, buildings may be taller and should decrease in height as they become less visible from the street.
4. Building facades should have compatible architectural detail when visible from public areas.



Industrial uses adjacent to Cape Charles Harbor.



DRAFT
TOWN COUNCIL
Regular Meeting
Cape Charles Civic Center
September 21, 2023
6:30 PM

At approximately 6:30 p.m. Mayor Adam Charney, having established a quorum, called to order the Regular Meeting of the Cape Charles Town Council. In addition to Mayor Charney, in attendance were Councilmen Buchholz, Butta, Follmer, and Grossman, and Councilwoman Holloway. Vice Mayor Bennett was not in attendance. Also, in attendance were Project Manager Bob Panek, Planner/Zoning Administrator Katie Nunez, Interim Treasurer Manager Jerry Murphy, Police Chief Jim Pruitt, Assistant to the Town Manager Julie Pruitt, Officer Thomas Lynch, and Town Clerk Libby Hume. Town Manager John Hozey participated via conference call from Alaska. There were 6 members of the public physically in attendance, and 6 viewers on Facebook.

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

RECOGNITION OF VISITORS / PRESENTATIONS/RECOGNITIONS:

A. Certificate of Commendation for Officer Thomas Lynch:

Mayor Charney presented a Certificate of Commendation and an award to Officer Thomas Lynch for his heroic actions above and beyond the call of duty, using his police vehicle to stop a fleeing vehicle driving through Central Park. Officer Lynch put his own safety aside to ensure the safety of the Town's citizens and visitors on August 29, 2023.

PUBLIC COMMENTS: (3 MINUTES PER SPEAKER)

Sam Jones, Cape Charles property owner/resident

Mr. Jones thanked the Mayor and Council for their continued support to keep the Cape Charles Memorial Library on Mason Avenue. (Please see attached.)

There were no other comments to be heard nor any comments received in writing prior to the meeting.

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. August 17, 2023 Town Council Regular Meeting
 - ii. August 21, 2023 Town Council & Planning Commission Joint Work Session
 - iii. August 31, 2023 Town Council Executive Session
- C. Approval of July 31, 2023 Financial Report

Motion made by Councilman Buchholz, seconded by Councilman Butta, 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. Resolution of Intent-Consideration of Zoning Map Amendment Application:

Planner/Zoning Administrator Katie Nunez stated that in late August, an application for zoning map amendment was received from the owner of Tax Map #90-A-1A6 requesting the rezoning of a portion of this parcel from General Business/Light Industrial (GBI H-1) to Harbor. In October

2021, Southport Investors LLC subdivided approximately .329 acres from Tax Map #90-8-1A5 which was zoned GBI H1 and 1.45 acres from Tax Map #90-8-1A1 which was zoned Harbor. This subdivision created a new parcel, Tax Map #90-A-1A6 totaling 1.799 acres. In December 2021, Southport Investors conveyed this parcel to Cherrystone Investments, LLC, which is desirous of eliminating the dual zoning on this parcel and having the entire parcel zoned as Harbor. The Town's Zoning Ordinance and Virginia Code § 15.2-2286 (A) (7) required a resolution of intent from the governing body to initiate any change to a zoning ordinance or zoning map. Consideration and approval of the resolution of intent did not constitute approval of any change to the Town's Zoning Map. It merely identified that a Zoning Map Amendment Application was received, and the application identified that sufficient public necessity, convenience, general welfare or good zoning practice existed within the proposed application to conduct a public process to more fully explore the proposed change. The resolution would formally establish that the proposed changes met the requirements to be referred to the Planning Commission for public hearing and their recommendation. The Planning Commission's recommendation would be presented to the Town Council and a public hearing would be scheduled, followed by their consideration and vote on the application.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to adopt Resolution of Intent #20230921 Zoning Map Amendment 2023-03 Application from Cherrystone Investments, LLC for Tax Map #90-A-1A6 from General Business/Light Industrial (GBI H-1) and Harbor to only Harbor Zoning. Mayor Charney moved for adoption of Resolution of Intent #20230921 as noticed and forewent reading of the resolution. The motion was approved by unanimous vote. Roll call vote: Buchholz, yes; Butta, yes; Follmer, yes; Grossman, yes; Holloway, yes.

B. *Trash Collection Contract Extension:*

John Hozey stated that the Town awarded a contract for all waste collection and disposal services to P.W. Davis Disposal. The contract was for one year with the option to renew to two additional years, totaling three years. This was the second of the two extensions covering the timeframe from November 1, 2023 through October 31, 2024. Per Mr. Michael Davis, the cost for year three of the contract would remain at \$18.93 per month per receptacle. Sufficient funds were appropriated in the FY 2024 budget to cover this expense.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to approve the second and final extension of the waste collection and disposal services contract with P.W. Davis Disposal from November 1, 2023 through October 31, 2024. The motion was approved by unanimous vote.

C. *Library Building Redevelopment Recommendation:*

John Hozey stated that on February 1, 2023, the Town issued a fairly broad request for proposals (RFP) seeking developer concepts for the redevelopment of the library building. The RFP sought to sell the building but having the library portion remain with the Town through condominium ownership. To increase the potential concepts offered for redevelopment, the Town-owned lots between the library and Randolph Avenue were added to the RFP. Four proposals were received. Most of the developers seized on the Randolph Avenue lot potential and proposed multi-unit residential structures, including the possibility of incorporating workforce housing, on the lot in addition to renovation of the third floor of the library building. Some of the concepts proposed were not anticipated, therefore, a work session with the Town Council was held on June 15, 2023 to obtain further guidance. The two key takeaways from that work session were that there was not much enthusiasm for the look and feel of multi-unit structures facing Randolph Avenue, and that while workforce housing had been identified as a need in town, it was not the most important driver of this project and would provide lower yields to the Town. Using this guidance, the project review committee narrowed the selection to two developers. Both developers were interviewed, and follow-up negotiations were conducted. After careful consideration, the

committee decided to recommend City & Guilds for the project. The City & Guilds final proposal included purchase of the library building and vacant parcels. The Randolph facing lots would be rezoned to Residential-1 and developed with single-family homes. The third floor of the library building would be developed into a single residential unit. The building itself would become a condominium with the Town buying back the library portion. The global price for this purchase was \$1.25M, with a library buy back of \$450K, which the Town would net \$800K on the deal. Due to the unusual nature of this project, the committee requested Council approval of its recommendation for this developer and this approach before formal documents were developed. The final agreements would be developed and brought back to Council for approval.

Motion made by Councilman Grossman, seconded by Councilman Butta, to proceed with the City & Guilds proposal for redevelopment of the library building as recommended by staff and the project review committee. The motion was approved by unanimous vote.

TOWN MANAGER COMMENTS

John Hozey commented as follows:

- i) Bids were received for the Visitor Center/Restroom project. He was very disappointed as the bids came in significantly over. He would like to schedule a work session on October 5th to review and discuss strategies on moving forward with capital projects. The predominant issue was the lack of subcontractors on the shore. Several members of Council would not be available on October 5th.
- ii) He would also like to schedule a discussion regarding communication protocol and would prefer to discuss both the capital projects and communications during the same work session. He asked everyone to provide their availability to Libby Hume so staff could provide date options for this session.
- iii) The beach nourishment project started moving faster than originally thought which was good for the project but not good for providing public notice. The next area of the beach had to be closed one week sooner than we originally told the public. The test dredging would begin on Saturday, September 23rd, with full dredging starting on September 26th. Mayor Charney noted that he had spoken to the contractor today and due to the predicted storm, the test dredging was moved to Monday, September 24th. John Hozey stated that another public notice would be issued regarding closure of the next section of the beach.

MAYOR AND COUNCIL COMMENTS

Councilwoman Holloway asked whether the Public Works crew was working on the storm drains, etc. in preparation of the upcoming storm. She did not know the proper protocol but wanted to ensure that all preparations were being done in case of a storm surge. John Hozey stated that the Public Works crew was checking the storm drains to ensure they were clear and securing all loose equipment. Mayor Charney asked that a notice be issued asking citizens not to put out lawn debris for the next two days. Councilwoman Holloway added that in the past, the Town had provided sand and bags for the businesses and residents. Councilman Buchholz noted that this was usually done in preparation of hurricanes.

Councilman Butta asked all citizens to subscribe to the alerts from the Town as many people were asking questions that had been sent out previously by the Town as alerts, notices and Facebook postings. Councilman Buchholz suggested “pinning” the notices to the top of Facebook, and Councilwoman Holloway suggested including the notices/information in the utility bills.

Mayor Charney, and Councilmen Buchholz, Follmer and Grossman did not have any additional comments.

Mayor Charney read the announcements.

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

The Regular Meeting adjourned at 6:58 p.m.

Mayor Charney

Town Clerk

DRAFT

**September 21, 2023 Town Council Regular Meeting
Comments and Information Provided in Writing**

Sam Jones, Cape Charles property owner/resident

Mr. Mayor, members of the Town Council, and Town Manager

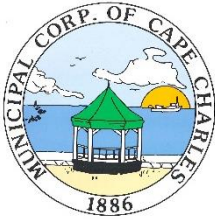
My name is Sam Jones and my wife, Julie, and I live at 538 Monroe Avenue.

I am here tonight to thank you for your continued support for keeping the Cape Charles Public Library on Mason Avenue. Visitation data from the Town Manager's weekly report confirm the benefits of a library that is central to the community and within easy walking distance for its citizens.

As you look at redevelopment of the library and surrounding properties, I support the rezoning of the lots behind the library and fronting Randolph Avenue to Residential-1. Allowing the vacant lots to be developed as single-family homes manages the density in this area and is consistent with your various planning and zoning documents that call for Randolph to be a residential, rather than commercial, street.

Finally, having the Town maintain ownership of the library, even as part of a condominium arrangement, is important to its long-term viability. Ownership rather than any form of leaseback is preferred.

Thank you for your time and service to the Town and community.



**TOWN COUNCIL
Public Hearing & Regular Meeting
Cape Charles Civic Center
October 19, 2023
6:30 PM**

In attendance were Mayor Adam Charney, Vice Mayor Bennett, and Councilmen Buchholz and Butta. Also in attendance were Town Manager John Hozey, Assistant to the Town Manager Julie Pruitt, Police Chief Tom Lynch and Town Clerk Libby Hume. There was one member of the public in attendance.

Mayor Charney announced that this evening's meeting could not be held due to the lack of a quorum.

Town Manager John Hozey added that all items would be rescheduled for a future meeting.

Town Clerk

August 2023 Treasurer's Report

Page 1 – Cash Position

- Staff is recording unrealized gains and losses for the VIP 1-3 year investment fund due to current market conditions. However, this fund is expected to recover by the end of the term.
- Facility Fee Reserve cash balance at 8-31-23 is \$3,210,192.

Page 2 – Revenue vs. Expenditures

- These numbers are pending as closing revenue and expense accruals are pending and late invoices past June 30 must be paid before the 2023 fiscal year can be closed on September 30, 2023.
- An interest-only debt service payment (\$21,603.98) was made in August on the VML/VACO 2010 general obligation bond.

Page 3 – Capital Projects

- A progress payment of \$37,415 was made to HBA for architectural services for the new Town offices and Visitors Center.
- A payment of \$13,363 on harbor dock pile guides was processed.

Page 4 – Tax Collection Rate

- This report is omitted until later this fall when tax bills are created and mailed.

Page 5 – Tax Revenue Trends

- Planning and building fee collections are 40% higher than this time last year.
- Transient occupancy taxes are nearly 15% higher over year-to-date FY23.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
August 31, 2023

<u>Cash on Hand</u>	<u>7/31/2023</u>	<u>8/31/2023</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$247,332	\$478,401	\$231,070
Atlantic Union Bank Money Market Account	\$498,113	\$373,274	-\$124,840
LGIP Account 1 - Unrestricted	\$109,139	\$109,643	\$504
LGIP Account 2 - Unrestricted	\$316,337	\$317,939	\$1,601
Virginia Investment Pool Liquidity Unassigned	\$2,279,907	\$2,290,515	\$10,608
Virginia Investment Pool 1-3 Year Unassigned	\$1,011,939	\$1,015,710	\$3,771
Total Cash On Hand	\$4,462,768	\$4,585,482	\$122,713

<u>Restricted and Reserved Cash Balances</u>	<u>7/31/2023</u>	<u>8/31/2023</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$30,562	\$30,562	\$0
Atlantic Union Checking Account Library CD converted to cash	\$11,131	\$11,131	\$0
Atlantic Union Bank Checking Account - E-Summons Revenue Rsrvd	\$12,598	\$13,051	\$452
US Bank - Reserved per VRA Interest Free Loan Requirements	\$259,587	\$260,632	\$1,045
Wells Fargo 2010 Debt Service pass through account #300	\$21,034	\$3,089	-\$17,945
Wells Fargo 2010 Debt Service pass through account #308	\$1,099	\$1,103	\$5
Atlantic Union Money Market # ARPA CRF #5847	\$595,235	\$595,488	\$253
Virginia Investment Pool Liquidity Acct#1 Facility Fees Rsrvd (Utilities)	\$3,174,176	\$3,210,192	\$36,016
Total Cash Held in Reserve	\$4,105,853	\$4,125,680	\$19,826
Total Cash - All Accounts	\$8,568,622	\$8,711,161	\$142,540

DEBT SERVICE

Net Debt as of Current Reporting Month End \$5,105,561
(Excludes USDA vehicle and equipment loans)

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

August 31, 2023

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 FY24</u>
GENERAL Fund						
REVENUE	\$394,474	\$615,305	\$696,941	\$81,636	\$5,719,837	12.18%
EXPENDITURES	\$320,812	\$776,588	\$825,429	\$48,841	\$5,719,837	14.43%
NET	\$73,662	(\$161,283)	(\$128,488)	\$32,795	\$0	
GENERAL Capital Fund						
REVENUE	\$11,538	\$20,816	\$21,784	\$968	\$2,446,213	0.89%
EXPENDITURES	\$39,141	\$49,228	\$43,291	-\$5,937	\$2,446,213	1.77%
NET	(\$27,603)	(\$28,412)	(\$21,507)	\$6,905	\$0	
GENERAL Debt Service Fund						
REVENUE	\$12,903	\$104,498	\$104,561	\$63	\$255,223	40.97%
EXPENDITURES	\$12,903	\$104,498	\$104,561	\$63	\$255,223	40.97%
NET	\$0	\$0	\$0	\$0	\$0	
GENERAL Special Activities Fund						
REVENUE	\$0	\$531,685	\$0	-\$531,685	\$296,350	0.00%
EXPENDITURES	\$0	\$28,987	\$38,991	\$10,004	\$296,350	13.16%
NET	\$0	\$502,698	(\$38,991)	(\$541,689)	\$0	

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

August 31, 2023

REVENUE VS. EXPENDITURES

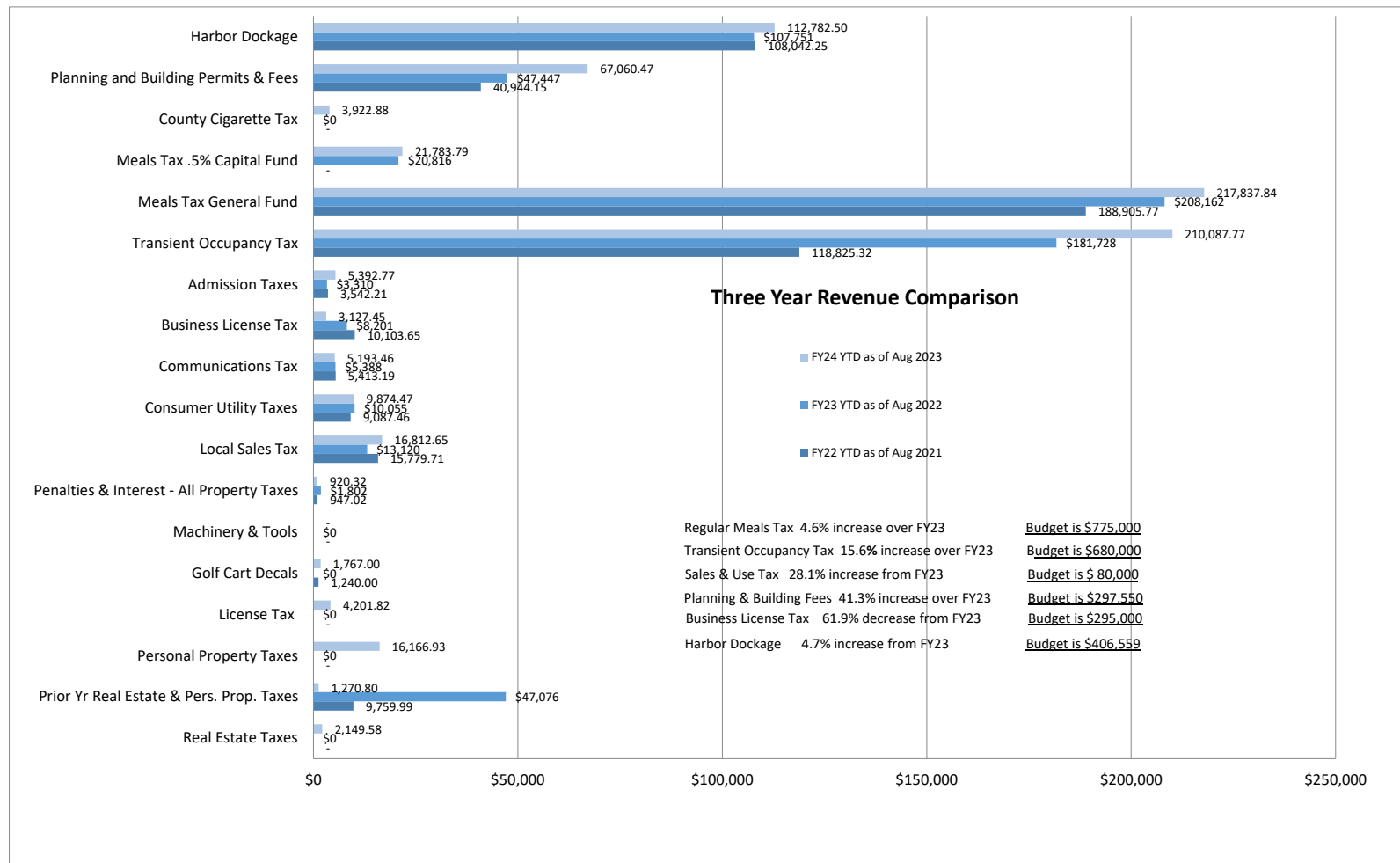
<u>FUND</u>	<u>CURRENT MONTH</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>INCREASE/ (DECREASE) YTD</u>	<u>ANNUAL BUDGET</u>	<u>% REALIZED/ EXPENDED FY24</u>
PUBLIC UTILITIES Fund						
REVENUE - Operating	\$203,616	\$350,573	\$392,247	\$41,674	\$2,051,988	19.12%
EXPENDITURES - Operating	\$65,749	\$140,475	\$197,940	\$57,465	\$1,982,118	9.99%
NET	\$137,868	\$210,098	\$194,307	(\$15,791)	\$69,869	
REVENUE - CAPITAL GRANTS, LOANS, FUND BALANCE	\$0	\$0	\$0	\$0	\$2,036,728	
REVENUE - FACILITY FEES	\$95,400	\$106,000	\$116,600	\$10,600	\$466,400	25.00%
EXPENDED - FACIL FEES, CAPITAL PROJECTS,DEBT SVC	\$104,101	\$146,938	\$155,506	\$8,568	\$2,572,997	6.04%
TOWN CONTRIB. & PENDING GRANTS	(\$8,701)	(\$40,938)	(\$38,906)	\$2,032	(\$69,869)	
HARBOR Fund						
REVENUE - Operating	\$136,738	\$310,358	\$296,826	-\$13,532	\$1,008,625	29.43%
EXPENDITURES - Operating	\$109,550	\$252,106	\$242,401	-\$9,705	\$1,082,312	22.40%
NET	\$27,188	\$58,252	\$54,425	(\$3,827)	(\$73,687)	
REVENUE - GRANTS & LOANS	\$0	\$0	\$0	\$0	\$228,687	0.00%
TRANSFERRED FM GEN FUND FOR DEBT SERVICE OR HARBOR FUND BALANCE	\$8,903	\$32,825	\$32,220	-\$605	\$450,115	7.16%
EXPENDED - Capital Projects, Debt Svc	\$35,856	\$32,825	\$50,270	\$17,445	\$605,115	8.31%
TOWN CONTRIB. & PENDING GRANTS	(\$26,953)	\$0	(\$18,050)	(\$18,050)	\$73,687	
SANITATION Fund						
REVENUE	\$27,848	\$46,501	\$55,130	\$8,629	\$314,265	17.54%
EXPENDITURES	\$16,726	\$37,737	\$41,363	\$3,626	\$314,265	13.16%
NET	\$11,123	\$8,764	\$13,767	\$5,003	\$0	

FY 24 Capital Improvement Project Tracking Report

As of:
8/31/2023

8/31/2023	FY24	Percent of	FY24	QTR 1	QTR 2	QTR 3	QTR 4	FY24 YTD	(Over)/Under
	Status or Start Date	Completion	Budgeted	Expended	Expended	Expended	Expended	Expended	Budget
General Capital Fund									
Multi-Use Trails, Phase 3 Construction	In Process	0.4%	\$ 929,922	\$ 4,150				\$ 4,150	\$ 925,772
Municipal Space Replacement Planning (ARPA)	In Process	16%	\$ 210,000	\$ 34,268				\$ 34,268	\$ 175,732
Welcome Center Design - HBA	In Process	0.5%	\$ 455,000	\$ 2,167				\$ 2,167	\$ 452,833
3 Police Vehicles; 1 ARPA/2 USDA	Pending	0%	\$ 126,000					\$ -	\$ 126,000
Library Upgrade & Condo-ization - HBA	In Process	1%	\$ 310,000	\$ 2,706				\$ 2,706	\$ 307,294
Storage Facility Roofing	Pending	0%	\$ 20,000					\$ -	\$ 20,000
Capital Project Contingency	Pending	0%	\$ 41,141					\$ -	\$ 41,141
subtotal	\$ -		\$ 2,092,063	\$ 43,290	\$ -	\$ -	\$ -	\$ 43,290	\$ 2,048,773
Utility Fund -Water									
Keck Well Connection	Pending	0%	\$ 1,150,000					\$ -	\$ 1,150,000
Utility Fund - Wastewater									
WWTP Membrane Replacement	Pending	0%	\$ 465,000					\$ -	\$ 465,000
Sewer Pod Controller Upgrades	Pending	0%	\$ 14,500					\$ -	\$ 14,500
subtotal	\$ -		\$ 1,629,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,629,500
Harbor Fund									
Inner Harbor Fixed Dock Repair	Pending	0%	\$ 13,000					\$ -	\$ 13,000
Inner Harbor King Pile & Waler Replacement Design	In Process	6%	\$ 306,000	\$ 18,050				\$ 18,050	\$ 287,950
Inshore Breakwater Repair/Upgrade	Pending	0%	\$ 180,000					\$ -	\$ 180,000
subtotal	\$ -		\$ 499,000	\$ 18,050	\$ -	\$ -	\$ -	\$ 18,050	\$ 480,950
TOTAL	\$ -		\$ 4,220,563	\$ 61,340	\$ -	\$ -	\$ -	\$ 61,340	\$ 4,159,223

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT



September 2023 Treasurer's Report

Page 1 – Cash Position

- The \$138,583 decrease in our Atlantic Union Bank checking account can be attributed to collecting over \$95,000 of facility fees during August and then transferring these funds to the VIP investment account in September.
- Facility Fee Reserve cash balance at 9-30-23 is \$3,320,441.

Page 2 – Revenue vs. Expenditures

- These numbers are pending as closing revenue and expense accruals are pending and late invoices past June 30 must be paid before the 2023 fiscal year can be closed on or about September 30, 2023.

Page 3 – Capital Projects

- A progress payment of \$31,546 was made to HBA for architectural services for the new Town offices, visitors center, and library renovations.
- Progress payments 8 and 9 totaling \$15,243 were made to GHD on keck well water design.

Page 4 – Tax Collection Rate

- This report is omitted until October when tax bills are generated and mailed.

Page 5 – Tax Revenue Trends

- Fiscal year-to-date (July through September) meals tax revenue of \$345,186 is 10% higher than a year ago. This tax represents the restaurant owner's August gross receipts.
- Fiscal year-to-date transient occupancy taxes of \$316,338 are nearly 15% higher than this time last year.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
September 30, 2023

<u>Cash on Hand</u>	<u>8/31/2023</u>	<u>9/30/2023</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$478,401	\$339,818	-\$138,583
Atlantic Union Bank Money Market Account	\$373,274	\$373,427	\$153
LGIP Account 1 - Unrestricted	\$109,643	\$110,138	\$495
LGIP Account 2 - Unrestricted	\$317,939	\$319,512	\$1,573
Virginia Investment Pool Liquidity Unassigned	\$2,290,515	\$2,300,924	\$10,409
Virginia Investment Pool 1-3 Year Unassigned	\$1,015,710	\$1,015,425	-\$284
Total Cash On Hand	\$4,585,482	\$4,459,244	-\$126,237

<u>Restricted and Reserved Cash Balances</u>	<u>8/31/2023</u>	<u>9/30/2023</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$30,562	\$30,562	\$0
Atlantic Union Checking Account Library CD converted to cash	\$11,131	\$11,131	\$0
Atlantic Union Bank Checking Account - E-Summons Revenue Rsrvd	\$13,051	\$13,355	\$304
US Bank - Reserved per VRA Interest Free Loan Requirements	\$260,632	\$261,723	\$1,091
Wells Fargo 2010 Debt Service pass through account #300	\$3,089	\$3,141	\$52
Wells Fargo 2010 Debt Service pass through account #308	\$1,103	\$1,108	\$5
Atlantic Union Money Market # ARPA CRF #5847	\$595,488	\$595,733	\$245
Virginia Investment Pool Liquidity Acct#1 Facility Fees Rsrvd (Utilities)	\$3,210,192	\$3,320,441	\$110,248
Total Cash Held in Reserve	\$4,125,680	\$4,237,624	\$111,945
Total Cash - All Accounts	\$8,711,161	\$8,696,869	-\$14,293

DEBT SERVICE

Net Debt as of Current Reporting Month End
(Excludes USDA vehicle and equipment loans)

\$5,105,561

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

September 30, 2023

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 FY24</u>
GENERAL Fund						
REVENUE	\$332,613	\$945,954	\$1,029,554	\$83,600	\$5,719,837	18.00%
EXPENDITURES	\$264,652	\$1,053,972	\$1,090,081	\$36,109	\$5,719,837	19.06%
NET	\$67,961	(\$108,018)	(\$60,528)	\$47,490	\$0	
GENERAL Capital Fund						
REVENUE	\$12,735	\$31,321	\$34,519	\$3,198	\$2,446,213	1.41%
EXPENDITURES	\$32,007	\$126,729	\$80,006	-\$46,723	\$2,446,213	3.27%
NET	(\$19,272)	(\$95,408)	(\$45,487)	\$49,921	\$0	
GENERAL Debt Service Fund						
REVENUE	\$0	\$104,498	\$104,561	\$63	\$255,223	40.97%
EXPENDITURES	\$0	\$104,498	\$104,561	\$63	\$255,223	40.97%
NET	\$0	\$0	\$0	\$0	\$0	
GENERAL Special Activities Fund						
REVENUE	\$4,500	\$551,185	\$4,500	-\$546,685	\$296,350	1.52%
EXPENDITURES	\$4,500	\$48,487	\$43,491	-\$4,996	\$296,350	14.68%
NET	\$0	\$502,698	(\$38,991)	(\$541,689)	\$0	

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

September 30, 2023

REVENUE VS. EXPENDITURES

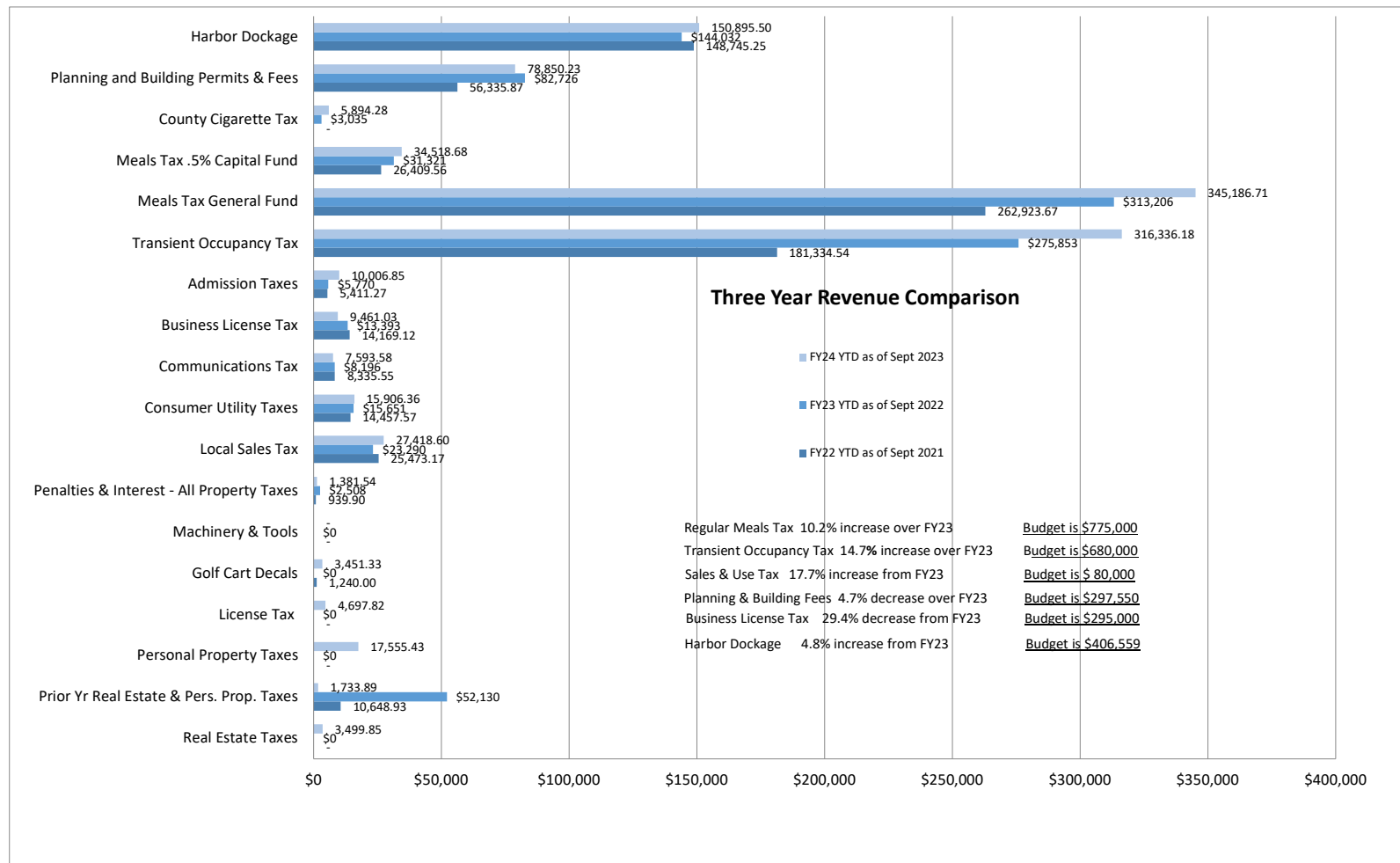
<u>FUND</u>	<u>CURRENT MONTH</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>INCREASE/ (DECREASE) YTD</u>	<u>ANNUAL BUDGET</u>	<u>% REALIZED/ EXPENDED FY24</u>
PUBLIC UTILITIES Fund						
REVENUE - Operating	\$192,236	\$531,390	\$584,483	\$53,093	\$2,051,988	28.48%
EXPENDITURES - Operating	\$89,406	\$231,142	\$275,914	\$44,772	\$1,982,118	13.92%
NET	\$102,830	\$300,248	\$308,569	\$8,321	\$69,869	
REVENUE - CAPITAL GRANTS, LOANS, FUND BALANCE	\$0	\$0	\$0	\$0	\$2,036,728	
REVENUE - FACILITY FEES	\$10,600	\$198,114	\$127,200	-\$70,914	\$466,400	27.27%
EXPENDED - FACIL FEES, CAPITAL PROJECTS,DEBT SVC	\$14,411	\$239,052	\$181,349	-\$57,703	\$2,572,997	7.05%
TOWN CONTRIB. & PENDING GRANTS	(\$3,811)	(\$40,938)	(\$54,149)	(\$13,211)	(\$69,869)	
HARBOR Fund						
REVENUE - Operating	\$75,415	\$420,062	\$372,240	-\$47,822	\$1,008,625	36.91%
EXPENDITURES - Operating	\$60,410	\$353,305	\$353,080	-\$225	\$1,082,312	32.62%
NET	\$15,005	\$66,757	\$19,160	(\$47,597)	(\$73,687)	
REVENUE - GRANTS & LOANS	\$0	\$0	\$0	\$0	\$228,687	0.00%
TRANSFERRED FM GEN FUND FOR DEBT SERVICE OR HARBOR FUND BALANCE	\$0	\$32,825	\$32,220	-\$605	\$450,115	7.16%
EXPENDED - Capital Projects, Debt Svc	\$0	\$32,825	\$50,270	\$17,445	\$605,115	8.31%
TOWN CONTRIB. & PENDING GRANTS	\$0	\$0	(\$18,050)	(\$18,050)	\$73,687	
SANITATION Fund						
REVENUE	\$27,700	\$70,112	\$82,829	\$12,717	\$314,265	26.36%
EXPENDITURES	\$25,007	\$59,964	\$66,369	\$6,405	\$314,265	21.12%
NET	\$2,693	\$10,148	\$16,460	\$6,312	\$0	

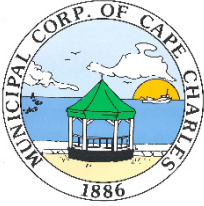
FY 24 Capital Improvement Project Tracking Report

As of:
9/30/2023

9/30/2023	FY24	Percent of	FY24	QTR 1	QTR 2	QTR 3	QTR 4	FY24 YTD	(Over)/Under
	Status or Start Date	Completion	Budgeted	Expended	Expended	Expended	Expended	Expended	Budget
General Capital Fund									
Multi-Use Trails, Phase 3 Construction	In Process	0.4%	\$ 929,922	\$ 4,150				\$ 4,150	\$ 925,772
Municipal Space Replacement Planning (ARPA)	In Process	30%	\$ 210,000	\$ 62,659				\$ 62,659	\$ 147,341
Welcome Center Design - HBA	In Process	0.9%	\$ 455,000	\$ 3,889				\$ 3,889	\$ 451,111
3 Police Vehicles; 1 ARPA/2 USDA	Pending	0%	\$ 126,000					\$ -	\$ 126,000
Library Upgrade & Condo-ization - HBA	In Process	1%	\$ 310,000	\$ 4,598				\$ 4,598	\$ 305,402
Storage Facility Roofing	Pending	0%	\$ 20,000					\$ -	\$ 20,000
Capital Project Contingency	Pending	0%	\$ 41,141					\$ -	\$ 41,141
subtotal	\$ -		\$ 2,092,063	\$ 75,297	\$ -	\$ -	\$ -	\$ 75,297	\$ 2,016,766
Utility Fund -Water									
Keck Well Connection	In Process	1%	\$ 1,150,000	\$ 15,243				\$ 15,243	\$ 1,134,757
Utility Fund - Wastewater									
WWTP Membrane Replacement	Pending	0%	\$ 465,000					\$ -	\$ 465,000
Sewer Pod Controller Upgrades	Pending	0%	\$ 14,500					\$ -	\$ 14,500
subtotal	\$ -		\$ 1,629,500	\$ 15,243	\$ -	\$ -	\$ -	\$ 15,243	\$ 1,614,257
Harbor Fund									
Inner Harbor Fixed Dock Repair	Pending	0%	\$ 13,000					\$ -	\$ 13,000
Inner Harbor King Pile & Waler Replacement Design	In Process	6%	\$ 306,000	\$ 18,050				\$ 18,050	\$ 287,950
Inshore Breakwater Repair/Upgrade	Pending	0%	\$ 180,000					\$ -	\$ 180,000
subtotal	\$ -		\$ 499,000	\$ 18,050	\$ -	\$ -	\$ -	\$ 18,050	\$ 480,950
TOTAL	\$ -		\$ 4,220,563	\$ 108,590	\$ -	\$ -	\$ -	\$ 108,590	\$ 4,111,973

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT



 TOWN OF CAPE CHARLES	AGENDA TITLE: Zoning Map Amendment Tax Parcel #90-A-1A6 from General Business/Light Industrial & Harbor to Harbor Only		AGENDA DATE November 16, 2023
	SUBJECT/PROPOSAL/REQUEST: ZMA 2023-03 - Rezoning of Tax Map #90-A-1A6 from GBI H-1 and Harbor to just Harbor		ITEM NUMBER: 8B
	ATTACHMENTS: 1) STIP Plat – Markup By Katie Nunez; 2) Subdivision Plat 2021-10-8; 3) Plat 2020-09-11; 4) Use Comparison Chart Of GBI H-1 And Harbor		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Planning & Zoning Administrator		REVIEWED BY: John Hozey, Town Manager

SUPPLEMENTAL STAFF REPORT

ITEM #1 – OVERVIEW OF LOT CREATION

This report is in addition to the staff report with attachments that were provided to the Town Council in their October 19, 2023 Agenda Packet. I have done additional research to determine the exact creation of the parcel in question and have some clarifying and correcting information on this matter.

Attached is a color coded map (ATTACHMENT 1) with the details explained below which shows all of the former parcels that comprised the Sustainable Technologies Industrial Park (STIP) and the distribution of those parcels up to today, including the parcel that is before the Town Council for a rezoning consideration.

The former STIP was comprised of three parcels:

- 1) Tax Map #90-A-4C (23.467 acres) OUTLINED IN YELLOW ON MAP – the County sold this parcel to the Department of Conservation & Recreation in 2008 and it was permanently dedicated as a Nature Preserve until a conservation easement in perpetuity through the state.
- 2) Tax Map #90-A-1A (80.658 acres) – LARGE RECTANGLE OUTLINED IN BLUE/GREEN ON MAP – the County sold this parcel to Southport Investors. Since then, this parcel has also had two subdivisions to it.
 - A. The first one carved out a five acre parcel in the far north, upper middle of the parcel (HIGHLIGHTED IN PURPLE) that has been sold to Upfront Storage – this parcel is now identified as **Tax Map #90-A-1B**.
 - B. The second one is along the entire eastern border of this parcel, a parcel of approximately 18.13 acres was subdivided by the parcel owner and retained by the parcel owner (Cherrystone Investments, LLC who received this entire parcel through a deed of distribution from Southport Investors, LLC) – this is OUTLINED in a PURPLE CROSSHATCH on the MAP and this parcel is now identified as **Tax Map #90-A-1A**. Just for your information, this particular parcel has recently been sold to Cape Charles Properties, LLC which is associated with Coastal Pre-Cast Systems.
 - C. The remainder of the parent tract is now identified as **Tax Map #90-8-1A5** and was comprised of approximately 58.5 acres. After the action detailed in the next paragraph, the final acreage for this lot is approximately 57.5 acres. Additionally, as a point of information, this particular parcel has recently been sold to Cape Charles Properties, LLC which is associated with Coastal Pre-Cast Systems.

However, when Cherrystone Investments, LLC approached the Town in summer/fall 2021 regarding the remainder parcel which is initially described in Item 3 (B), 2nd paragraph below and looking to establish a true plat for the parcel, I required the property owner to bring the lot into compliance with the requirements of the Town zoning ordinance regarding road frontage for a lot. Specifically, the lot

only had road frontage of 79.85 feet and needed 100 feet. In order to accomplish this, the property owner was compelled to take some land from the remainder parcel of the large rectangle and add a bit to this lot – this is shown as HIGHLIGHTED BLUE/GREEN WITH BLACK ANGLED MARKS on the MAP. This brought the lot into compliance with the zoning ordinance with road frontage at 105 ft. (see ATTACHMENT 2 - Subdivision Plat dated 2021-10-8).

3. **Tax Map #90-8-1A1** (39.712 acres) - OUTLINED IN ORANGE/PINK/RED – the County sold this parcel to Southport Investors – as you will see this parcel was a backwards L-shaped parcel which encompassed a building in the middle of the parcel, wetlands to the northeast of the building on the parcel and to the south there are wetlands and woodlands.
 - A.) Southport Investors subdivided the “parent” parcel and carved out the building which was being leased by Wako Chemicals – outlined in blue. This newly created parcel for this building and surrounding parking area of 2.75 acres (now called Tax Map #90-20-1) was purchased on March 5, 2012 by Wako Chemicals who is now doing business as FUJIFILM WAKO CHEMICALS USA CORPORATION.
 - B.) Southport Investors then subdivided this “parent” parcel further and carved out the land to the south of the FUJIFILM WAKO CHEMICALS Building, adjacent to the Nature Preserve parcel to the west 21.48 acres (now identified as **Tax Map #90-13-A**) and sold this to the Commonwealth of Virginia Department of Conservation and Recreation (DCR) on September 11, 2020.

As part of that subdivision plat, a portion of the “parent” tract was also carved off that runs parallel to the lot created for DCR – THIS IS SHOWN AS HIGHLIGHTED PINK WITH BLACK ANGLED LINES ON THE MAP. On that subdivision plat, this remaining portion of property which was to be retained by Southport Investors and it measured 79.85 ft at the north running east, then 714.11 ft. from the northeast corner running south then going 90 ft to the west and then coming back up to close the rectangle for 714.37 ft. (see ATTACHMENT 3 - Plat dated September 11, 2020). This remainder parcel was approximately 1.3 acres. This parcel is now identified as **Tax Map #90-A-1A6**.

As noted above in Item #2 (C), paragraph 2 above, the new lot (TM #90-A-1A6) was substantially created from Tax Map #90-13-A which is zoned Harbor with only a small fraction of the lot coming from Tax Map #90-8-1A5 which is zoned GBI-H1

I am providing you this full explanation since I was mistaken in thinking that this new parcel was only recently created in 2021 when rezoning discussions were underway but it actually had been first created in 2020 and only had a small correction made to the lot to bring it into compliance with the ordinance.

Additionally, the applicant did not quote the correct dimensions of this lot – he was referring to the 2020 subdivision and not the 2021 subdivision plat which does meet our zoning ordinance requirements.

Lastly, just as a point of information, the remaining parent parcel of Tax Map #90-8-1A1 was sold to Cape Charles Properties, LLC which is associated with Coastal Pre-Cast Systems.

Below is an aerial map showing you all of these lots as they are currently created with the current Tax Map #s on them.

NOVEMBER 2023 AERIAL MAP of these parcels – WHITE FONT is zoned GBI H-1; BLUE FONT is zoned HARBOR; RED FONT – parcel in question with split zoning of Harbor and GBI H-1.



ITEM #2 – ZONING ALLOWANCES BETWEEN HARBOR and GBI H-1

I have attached a comparison chart of the zoning ordinance requirements for both the GBI H-1 and HARBOR zoning districts. I have highlighted in yellow under the Harbor zoning the one use specified by the applicant which is allowed by right which is a golf cart rental establishment. Additionally, there seemed to be an aside reference possibly to some residential use so I also highlighted that allowance in the Harbor zoning – please note that this would require a Conditional Use Permit from the Town. I did not see that these two uses are allowed in the GBI H-1 zoning.

ITEM #3 – FUTURE LAND USE MAP

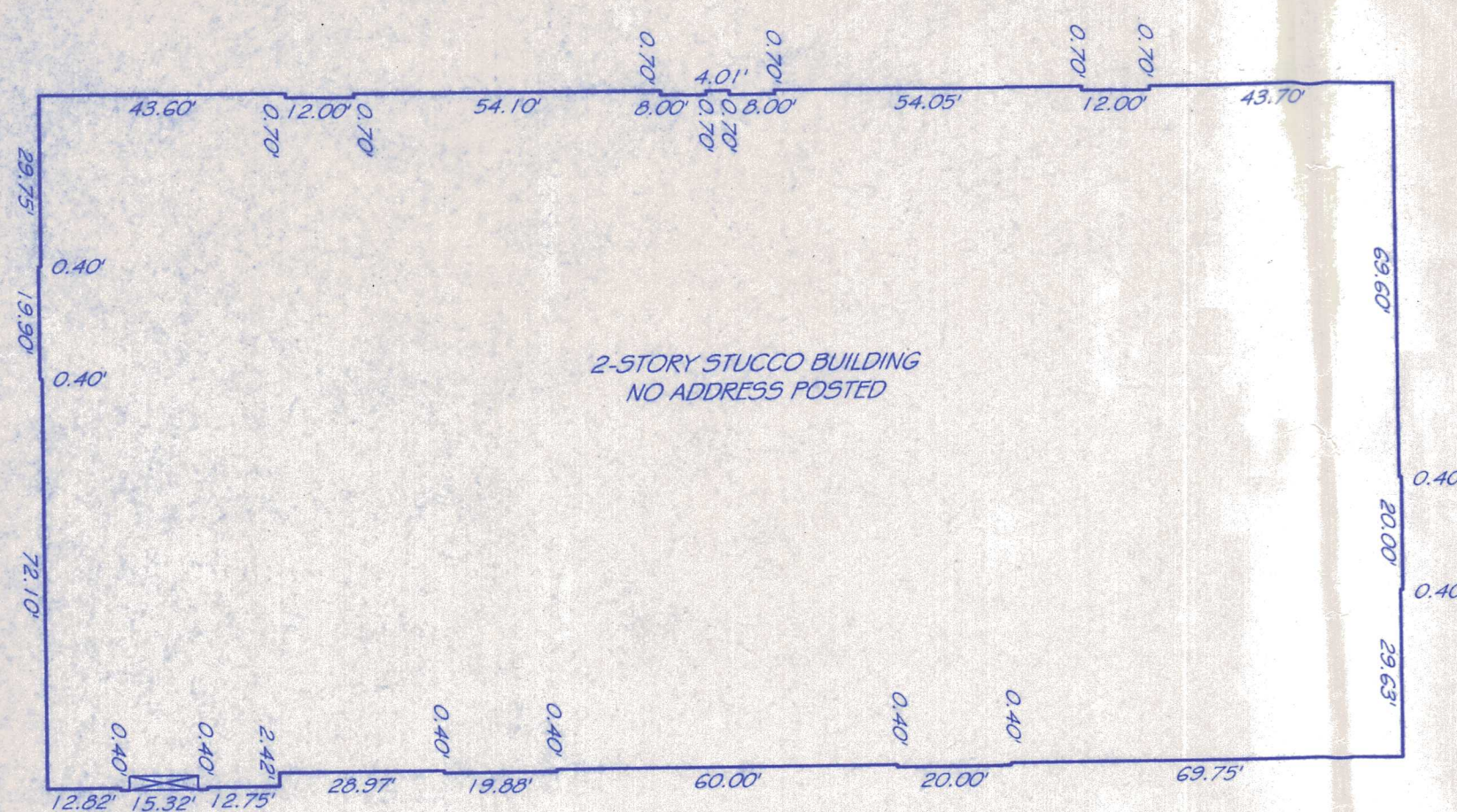
As noted in the Planning Commission staff report, the Future Land Use Map does envision that the zoning and land usage of two of the parcels are open space and the surrounding parcels to the north and east of the open space parcels are envisioned as Harbor District Industrial. It is important to note that the Future Land Use designations are broad categories and it may be possible that one or more of our zoning designations could be categorized as consistent with the intended Future Land Use Map designation.

POSSIBLE ACTION OF THE TOWN COUNCIL

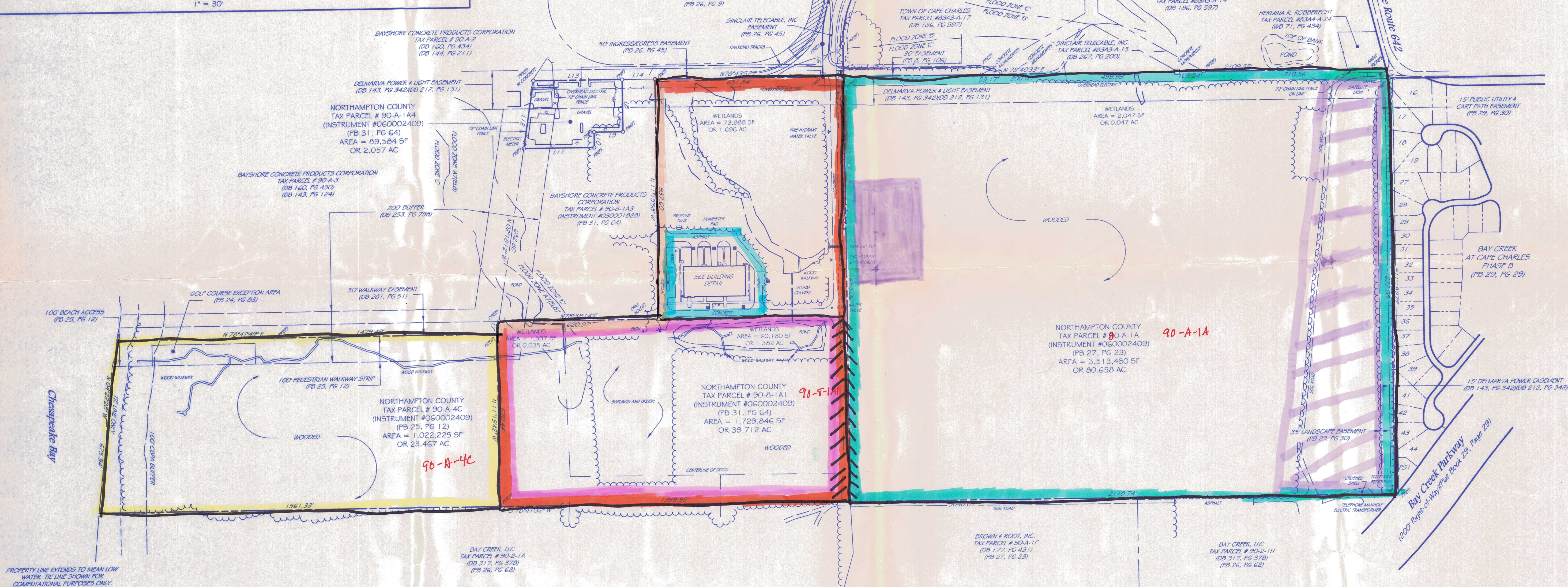
- 1) The Town Council could approve the application as requested and rezone TM #90-A-1A6 from GBI H-1 & Harbor to only having HARBOR zoning on the full parcel.
- 2) The Town Council could reject the application as requested. This would retain the split zoning on the parcel, as is.
- 3) The Town Council could indicate, if that is their intent, that they would be supportive of rezoning this parcel to GBI H-1 but not HARBOR. However, you would not be able to vote that until a new public hearing has been advertised to that effect since any more restriction zoning must be duly notified to the public before the Town Council can take action. Please note that if this is the direction of the majority of the Town Council, then the applicant may further decide to just withdraw his application and retain the split zoning, as is.

ATTACHMENTS

- 1) STIP PLAT – MARKUP BY KATIE NUNEZ;
- 2) SUBDIVISION PLAT 2021-10-8;
- 3) PLAT 2020-09-11;
- 4) USE COMPARISON CHART OF GBI H-1 AND HARBOR



BUILDING DETAIL



LINE TABLE		
LINE	LENGTH	BEARING
L1	37.72	S25°26'27"E
L2	128.59	S1°19'11"W
L3	52.54	S62°56'23"W
L4	80.00	S67°1°03"E
L5	52.50	N65°52'23"E
L6	128.54	N1°22'17"W
L7	50.52	N02°12'19"SE
L8	203.39	S1°12°04"SE
L9	112.46	S78°33'17"W
L10	59.56	S1°12°33"SE
L11	273.74	S28°39'03"W
L12	267.01	N02°17'57"W
L13	344.22	N78°00'04"E
L14	127.65	S79°44'16"W

CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	DELTA ANGLE	BEARING
C1	565.57	437.46	330.10	527.00	74°04'29"	S25°44'05"W
C2	669.00	517.46	390.46	623.37	74°04'29"	N25°44'05"E

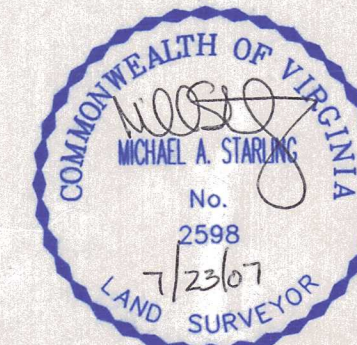
THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND
MAY NOT SHOW ANYALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID
PROPERTY AS SHOWN.

FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARENTEED AND WAS APPROXIMATELY SCALED FROM F.E.M.A. FLOOD MAPS. SHORELINE SURVEYORS IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON. FOR FURTHER INFORMATION AND TO CONFIRM THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.

THIS PROPERTY APPEARS TO FALL IN:
FLOOD ZONE: B # C
COMMUNITY NO.: 510106
PANEL: 1B DATED: FEBRUARY 2, 1983
FLOOD ZONE: C # A7(EL8)
COMMUNITY NO.: 510105
PANEL 5D DATED: JULY 20, 1998
PANEL 10C DATES: AUGUST 3, 1992

FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAPS
AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM
FLOODING OR DAMAGE.

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



BOUNDARY SURVEY
OF A PORTION OF
***Sustainable Technologies
Industrial Park***
TAX PARCELS #90-A-1A,
90-B-1A I, 90-A-4C & 90-A-1A4
CAPEVILLE MAGISTERIAL DISTRICT
NORTHAMPTON COUNTY, VIRGINIA
FOR
Northampton County
JULY 20, 2007

Shoreline Surveyors
25379 Lankford Highway, Suite A - P.O. Box 952
Onley, Virginia 23418
PHONE (757) 789-3960 FAX (757) 789-3962

SCALE: 1" = 200'
DRAWN: KRE
FIELD BOOK: 3 PAGE 55-57
JOB #07050
SHEET 1 OF 1

- | | |
|---|----------------|
| O | MANHOLE |
| V | FIRE HYDRANT |
| • | WATER VALVE |
| ⌋ | MARSH |
| T | SIGN |
| ⚡ | POWER POLE |
| Λ | GUY WIRE |
| ✱ | LIGHT POLE |
| □ | SEWER CLEANOUT |
| ⌒ | TREELINE |

SURVEYOR'S 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: SOUTH PORT INVESTORS, L.L.C.

2. SOURCE OF TITLE: INST. 080000441

3. TAX PARCELS:
90-B-1A1 (PORTION)
90-A-1A5 (PORTION)

4. A SURVEY WAS PERFORMED ON THIS PROPERTY IN OCTOBER 2021 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 DOES NOT LIE IN FLOOD ZONE (ZONE X).

7. PLAT REFERENCES:

P.B. 24, P. 83
P.B. 25, P. 12-13
P.B. 26, P. 63
P.B. 31, P. 64
P.B. 39, P. 88-90
D.B. 143, P. 124 (PLAT)
INST. 180000271 (PLAT)
INST. 120000339 (PLAT)
INST. 140000747 (PLAT)
INST. 200001713 (PLAT)
INST. 210000736 (PLAT)

THIS PROPERTY LIES IN THE HARBOR AND PO-STP DISTRICTS.

MINIMUM LOT SIZE IS 11,200 SQ. FT. in Harbor and 15,000 SQ. FT. in GBI-HL.

MINIMUM FRONTAGE IS 100'.

TOTAL AREA OF THIS PARCEL IS 77,475 SQ. FT. (1.779 AC.)

THE DIVISION AND PLATTING OF PROPERTY SHOWN HEREON WAS PERFORMED WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS, PROPRIETORS AND TRUSTEES.

S. EYRE BALDWIN,
EXECUTIVE DIRECTOR
SOUTH PORT INVESTORS, L.L.C.

I, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR MY COUNTY AND STATE, DO HEREBY CERTIFY THAT THE SIGNATURE HERETO, WHOSE NAME IS SIGNED TO THE FOREGOING WRITING, DATED OCTOBER 02, 2021, HAS ACKNOWLEDGED THE SAME BEFORE ME IN MY COUNTY AND STATE, GIVEN UNDER MY HAND ON THE DATE SHOWN HEREON.

NOTARY PUBLIC FOR S. EYRE BALDWIN

COUNTY OF Northampton STATE OF Virginia

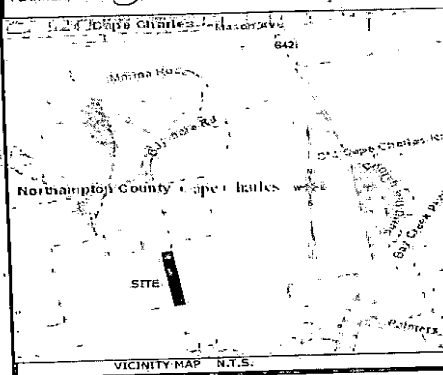
MY COMMISSION EXPIRES 10/31/22



INSTRUMENT 210002799
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY CIRCUIT COURT ON
OCTOBER 27, 2021 AT 02:49 PM.
TRACI L. JOHNSON, CLERK
RECORDED BY: SBS

REVIEWED AND APPROVED FOR RECORDATION

Traci L. Johnson, 10/15/2021
PLANNER, TOWN OF CAPE CHARLES



SURVEY OF PORTIONS OF PROPERTIES OF
SOUTH PORT INVESTORS, L.L.C.
COLLECTIVELY SHOWN HEREON AS

PARCEL 1A6
LOCATED IN THE TOWN OF
CAPE CHARLES

CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VIRGINIA
MADE FOR
SOUTH PORT INVESTORS, L.L.C.

SCALE: 1" = 60' OCTOBER 02, 2021.

GRAPHIC SCALE 1 INCH = 60 FT.



REMAINING PROPERTY OF
SOUTH PORT INVESTORS, L.L.C.
INST. 080000441
P.B. 31, P. 64
P.B. 39, P. 88
90-B-1A1

13,370 AC. ± (EXISTING)
-63,139 SQ. FT. (1,450 AC.) (PORTION PARCEL 1A5)
11,920 AC. ± (NEW AREA)

63,139 SQ. FT. (1,450 AC.)
PORTION OF TAX PARCEL
90-B-1A1 COMPRISING PARCEL 1A6
(HARBOR DISTRICT)

PATRICK HENRY AVE.
(50' EGRESS/EGRESS
AND UTILITY EASEMENT) IN CONC.
N 78°43'09" E 529.58'
PIPE FOUND

UPFRONT STORAGE, LLC
INST. 180000270
INST. 180000271 (PLAT)
90-A-1B

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PIN FOUND

PARCEL 1A5
INST. 210000736 (PLAT)
SOUTH PORT INVESTORS, L.L.C.
INST. 080000441
INST. 180000271 (PLAT)
90-A-1A5
2,473,694 SQ. FT. (56.788 ACRES) (EXISTING)
-14,336 SQ. FT. (0.329 AC.) (PORTION OF PARCEL 1A6)
2,459,358 SQ. FT. (56.459 AC.) (NEW AREA)

14,336 SQ. FT. (0.329 AC.)
PORTION OF PARCEL 1A6
COMPRISING PARCEL 1A6
(PO-STP DISTRICT)
GBI-HL (NEW)

PARCEL "A"
INST. 200001713 (PLAT)
COMMONWEALTH OF
VIRGINIA DEPARTMENT OF
CONSERVATION AND RECREATION
INST. 200001859
TAX PARCEL 90-13-A

PARCEL 1A6
77,475 SQ. FT.
(1.779 AC.)

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6

PARCEL 1A6



POINT NORTH
POINT NORTH SURVEYING LLC
P.O. Box 701,
Onley, VA 23418
pointnorthsurveying@gmail.com
(757) 709-3008
DRAWN BY: CROCKETT
BACKTAY: CROCKETT
FIELD BOOK: FILE COPY
INSTR. NO. 21190

INSTRUMENT 200001713

RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY CIRCUIT COURT ON
SEPTEMBER 11, 2020 AT 03:02 PM
TRACI L. JOHNSON, CLERK
RECORDED BY: TLL

GENERAL NOTES:

- OWNERS: SOUTH PORT INVESTORS, L.L.C.
- SOURCE OF TITLE: INST. 080000441
- TAX PARCEL: 90-8-1A1

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

5. THIS SURVEY WAS PERFORMED WITH A CURRENT TITLE REPORT BY BRIDGE TRUST TITLE GROUP, FILE NO. 091060279.

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 DOES NOT LIE IN FLOOD ZONE (ZONE X).

7. THIS TRANSFER DOES NOT QUALIFY AS A SUBDIVISION PURSUANT TO EXCEPTION IN APPENDIX A, SUBDIVISION ORDINANCE, SECTION 2, DEFINITIONS, "SUBDIVIDE", PARAGRAPH 4 "THE DIVISION OF LAND MADE SOLELY FOR BONA FIDE NATURAL RESOURCE CONSERVATION PURPOSES"

8. PLAT REFERENCES:

- P.B. 24, P. 83
P.B. 25, P. 12-13
P.B. 26, P. 63
P.B. 31, P. 64
P.B. 39, P. 88-90
D.B. 143, P. 124 (PLAT)
INST. 120000339 (PLAT)
INST. 140000747 (PLAT)

CAPE CHARLES PROPERTIES, LLC
INST. 190001347
D.B. 143, P. 124 (PLAT)
90-A-3

CAPE CHARLES PROPERTIES, LLC
INST. 190001347
P.B. 31, P. 64
90-8-1A3

REMAINING PROPERTY OF
SOUTH PORT INVESTORS, L.L.C.
INST. 080000441
P.B. 31, P. 64
P.B. 39, P. 88
90-8-1A1
13.37 AC. ±

REMAINING PROPERTY OF
SOUTH PORT INVESTORS, L.L.C.
INST. 080000441
P.B. 31, P. 64
P.B. 39, P. 88
90-8-1A1
13.37 AC. ±

WAKO CHEMICALS
USA CORPORATION
INST. 180001808
INST. 120000339
90-20-1

THIS PROPERTY LIES IN THE HARBOR DISTRICT
PROPOSED USE IS OUTDOOR RECREATIONAL USE
MINIMUM LOT SIZE IS 11,200 SQ. FT.

MINIMUM BUILDING SETBACKS ARE:
FRONT: 75'
SIDE: 50'
REAR: 50'

TOTAL AREA OF THIS PARCEL IS
20.706 ACRES.

AREA OF REMAINDER IS 13.37 ACRES ±

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF CONSERVATION
AND RECREATION
INST. 100001162
P.B. 25, P. 12
90-A-4C

NON-EXCLUSIVE, PERPETUAL FIFTY (50) FOOT WIDE
EASEMENT FOR PEDESTRIAN AND VEHICULAR ACCESS.
INGRESS & EGRESS (THE "RIGHT OF WAY") FROM STATE
ROUTE 1117
(INST. 080000441)

PARCEL "A"
PART OF PROPERTY OF
SOUTH PORT INVESTORS, L.L.C.
INST. 080000441
90-8-1A1
901,973 SQ. FT. (20.706 AC.)
TO BE ASSIGNED
TAX PARCEL 90-13-A

THE DIVISION AND PLATTING OF PROPERTY SHOWN HEREON
WAS PERFORMED WITH THE FREE CONSENT AND IN
ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED
OWNERS, PROPRIETORS AND TRUSTEES

S. EYRE BALDWIN,
EXECUTIVE DIRECTOR
SOUTH PORT INVESTORS, L.L.C.

DATE

I, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR MY COUNTY AND STATE, DO
HEREBY CERTIFY THAT THE SIGNATURE HERETO, WHOSE NAME IS SIGNED TO THE
FOREGOING WRITING, DATED MARCH 9, 2018, AND REVISED SEPT. 10, 2020 HAS
ACKNOWLEDGED THE SAME BEFORE ME IN MY COUNTY AND STATE, GIVEN UNDER
MY HAND ON THE DATE SHOWN HEREON.

Rebecca Espinoza
NOTARY PUBLIC FOR S. EYRE BALDWIN DATE 9-11-20

COUNTY OF Northampton STATE OF Virginia

MY COMMISSION EXPIRES 03/31/2021

REVISED SEPT. 10, 2020
PER COMMENTS FROM
PLANNER, TOWN OF CAPE
CHARLES



20.706 ACRES FOR
VIRGINIA DEPARTMENT OF
CONSERVATION AND RECREATION
SHOWN HEREON AS
PARCEL "A"

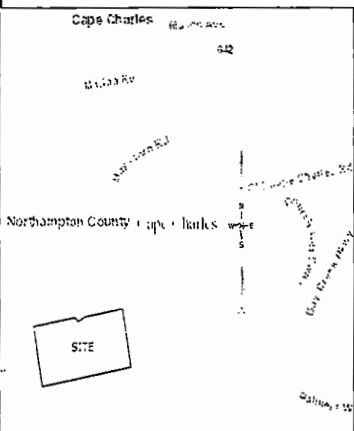
LOCATED IN THE TOWN OF
CAPE CHARLES
CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VIRGINIA
MADE FOR
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF CONSERVATION & RECREATION
SCALE: 1" = 100'
MAY 18, 2020

GRAPHIC SCALE 1 INCH = 100 FT.



POINT NORTH
SURVEYING LLC

P.O. Box 701,
Orley, VA 22418 pointnouthsurveying@gmail.com
(757) 709-3008
DRAWN BY: CROCKETT FIELD BOOK: FILE COPY
CHECKED BY: CROCKETT FIELD NO. 20031



VICINITY MAP 1" = 1000'

Exception to Subdivision for Transfer to Department of
Conservation and Recreation
Planner, TOWN OF CAPE CHARLES DATE 9/11/20



USE COMPARISON CHART OF INDUSTRIAL DISTRICT M-2 to HARBOR DISTRICT

<u>NAME OF DISTRICT</u>	<u>Section 3.14 General Business/Light Industrial H-1 (GBI H-1)</u>	<u>Section 3.9 Harbor District (revised 11-21-19)</u>
A. STATEMENT OF INTENT	The GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan. The purpose of the district is to: 1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County. 2. Create family-wage employment and training opportunities for local residents. 3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture. 4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore’s towns and employment centers. 5. Incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.	Statement of Intent. The intent of this zoning district is to encourage a vibrant working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles’ working maritime and rail heritage and its strong historic traditions. Any new development shall provide and encourage public access to the water’s edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs. This zoning district is also intended to implement the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines as an overall guide to the future development and redevelopment of the harbor area.
SPECIALITY DESIGNED AND DESIGNATED AREA: Mainstreet Mixed-Use Area		Mainstreet Mixed-use Area. 1. The area of the Harbor District along the south side of Mason Avenue, beginning at the western edge of Parcel 83A3-A-5, and projecting eastward to Nectarine Street, and southward a distance of 120 feet from the south side of Mason Avenue, is defined as the “Mainstreet Mixed-Use Area.” All buildings in the Mainstreet Mixed-use Area shall meet the following requirements: a. Each building shall be a minimum of two stories and shall have only residential uses above the first floor. i. Residential portions of the building shall have at least two entrances/exit ways to the ground floor that are separate from the entrances/exit ways used by occupants of nonresidential portions of the building. ii. The primary entrance for the residential portion of the building shall be clearly visible from Mason Avenue and shall face Mason Avenue. b. Ground floor uses shall be limited to non-motor vehicle related uses, including restaurants, sales and rental of goods, merchandise or equipment establishments, banks and financial institutions, or offices. c. Drive-through facilities are prohibited. d. The primary façade shall face Mason Avenue. On a corner lot, each side adjacent to a street shall be considered a primary façade. e. All blocks shall align with and be equal in frontage length to the blocks on the north side of Mason Avenue so that existing viewsheds to the harbor are maintained. f. No

<u>NAME OF DISTRICT</u>	<u>Section 3.14 General Business/Light Industrial H-1 (GBI H-1)</u>	<u>Section 3.9 Harbor District (revised 11-21-19)</u>
		building or structure shall exceed 40 feet in height. g. The front setback shall be the prevailing setback of adjacent properties along the south side of Mason Avenue. h. Development design standards in this area shall be subject to both the Historic District Review Board and the Harbor Area Review Board. i. Whenever the provisions of subsection 3.9.B.1 impose standards that are more restrictive than are required in or under any other statute, ordinance or resolution, these standards shall prevail, unless otherwise specified in this Zoning Ordinance.
MAXIMUM FAR (Floor Area Ratio)		The maximum FAR for the Harbor District shall be 1.75 by right and up to 2.0 with a Conditional Use Permit. Nothing in this paragraph shall modify or waive the open space requirement set forth in subsection F of this Article III.
PERMITTED USES	1. Adult and/or child day care center 2. Agriculture (excluding livestock), horticulture, forestry, and/or fishery/aquaculture 3. Art gallery 4. Business service establishment (including mail order or electronic catalog sales) 5. Conference center 6. Communication and telecommunications centers 7. Commuter parking lot 8. Educational institution 9. Flex industrial use 10. Fire, police, rescue stations 11. Food production, packaging, packing, and canning 12. Hotel, serving as an ancillary and interrelated component of the Park 13. Library or other municipal building 14. Manufacture, processing, fabrication, assembly and/or storage of products such as but not limited to scientific and precision instruments, renewable energy technology components, photographic equipment, communications equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceuticals, household items, glass products, electric lighting and	1. Accessory uses customarily associated and clearly incidental and subordinate to a principal use. 2. Food service-related uses of the following types: a. Bakeries, confectionaries, delicatessens, and catering services b. Cafes and coffee shops c. Delicatessens d. Eating and drinking establishments e. Ice cream parlors f. Restaurants 3. Marine-related uses of the following types: a. Bait and tackle shops b. Boat rentals c. Marinas, docks and wharves if contiguous to harbor d. Sail and canvas making and repair e. Ship stores and chandleries 4. Office and institutional uses of the following types: a. Business studios b. Civic and government facilities c. Educational facilities d. Financial institutions b. Medical clinics c. Medical, dental and other laboratories

<u>NAME OF DISTRICT</u>	<u>Section 3.14 General Business/Light Industrial H-1 (GBI H-1)</u>	<u>Section 3.9 Harbor District (revised 11-21-19)</u>
	wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment. 15. Medical care facility, outpatient only 16. Museum, cultural center, arboretum 17. Offices--administrative, business, professional, and telecommunication 18. Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Appendix A, applicable category 19. Park, plaza, or natural area 20. Parking structure 21. Performing arts center 22. Post office, drop off and pick up, mail courier and parcel services 23. Printing service 24. Public utility service center, without outdoor storage 25. Rail and/or intermodal terminals, including transfer, storage, handling, inspection, processing and/or transport of containerized bulk and/or other cargo 26. Recording studio 27. Recreational facilities 28. Recycling drop-off collection center serving the Park 29. Research, experimental testing or development activities 30. Restaurant, indoor and outdoor (excluding drive-through) 31. Telecommunications, television, or radio microwave dishes or antennas 32. Training center (excluding rehabilitation and institutional facilities) 33. Utility generating plant and transmission facilities using renewable energy sources 34. Utility installations 35. Utility substations provided storage or maintenance facilities shall not be permitted and provided further that utilities substations, other than transformers, shall be landscaped in accordance with Appendix A, applicable category, sufficient to screen area	d. Offices e. Office supply stores f. Real estate sales and rentals 5. Recreational, cultural, and entertainment uses of the following types: a. Art galleries and art studios b. Athletic clubs c. Conference centers d. Health and fitness facilities e. Libraries and galleries f. Museums and cultural centers g. Outdoor recreational uses h. Parks 6. Retail goods establishments of the following types with 2,500 square feet or less of gross floor area: a. Antique shops b. Bookstores, new and used c. Camera shops d. Candy stores e. Clothing stores f. Dry goods stores g. Florists, gift shops, card shops, and stationery shops h. Grocery stores i. Music stores j. Newsstands k. Tobacco stores l. Upholstering shops and fabric stores m. Video stores n. Watch and jewelry stores 7. Retail service establishments of the following types with 2,500 square feet or less of gross floor area: a. Beauty and barbershops b. Bicycle, moped, and street legal golf cart sales and rentals c. Blueprinting shops d. Dressmaking, tailoring, millinery, dry cleaning

<u>NAME OF DISTRICT</u>	<u>Section 3.14 General Business/Light Industrial H-1 (GBI H-1)</u>	<u>Section 3.9 Harbor District (revised 11-21-19)</u>
	36. Warehousing facility (excluding mini-storage facility) 37. Water storage tank 38. Wholesale trade establishment	8. Public Utility Facility
CONDITIONAL USES	Within the GBI H-1, the following conditional uses may be allowed, subject to the issuance of a Conditional Use Permit. 1. Structures, other than buildings, exceeding 50 feet 2. Buildings over 40 feet but equal or less than 50 feet or building or structure other than building may be constructed to a maximum height of 75 feet if the building is set back at least 125 additional feet from the required setback for all yards abutting residential properties.c	The following uses may also be permitted, subject to securing a conditional use permit as provided for in this ordinance: 1. Marine-related uses of the following types: a. Boat and marine engine repair shops b. Boatels c. Marine and sports equipment consignment stores 2. Markets of the following types: a. Crafts markets b. Farmers’ markets c. Watermen’s markets 3. Recreational, cultural, and entertainment uses of the following types: a. Assembly halls b. Auditoriums c. Commercial recreational uses d. Entertainment establishments e. Theaters 4. Retail goods establishments of the following types with more than 2,500 square feet of gross floor area: a. Antique shops b. Bookstores, new and used c. Camera shops d. Candy stores e. Clothing stores f. Dry goods stores g. Florists, gift shops, card shops, and stationery shops h. Grocery stores i. Music stores j. Newsstands k. Tobacco stores l. Upholstering shops and fabric stores m. Video stores

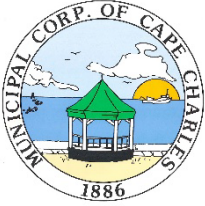
<u>NAME OF DISTRICT</u>	<u>Section 3.14 General Business/Light Industrial H-1 (GBI H-1)</u>	<u>Section 3.9 Harbor District (revised 11-21-19)</u>
		n. Watch and jewelry stores 5. Retail service establishments of the following types with more than 2,500 square feet of gross floor area: a. Beauty and barbershops b. Bicycle moped, and golf cart sales and rentals c. Blueprinting shops d. Dressmaking, tailoring, millinery, dry cleaning 6. Single-family and multi-family dwellings provided the following requirements are met: a. All dwelling units shall have direct access to the street level. Means of access may be shared with other dwelling units, but not commercial uses. Access through a commercial establishment on the first level is not permitted. b. Dwelling units shall occupy no more than 50 percent of the first floor of any building. c. The first floor of all building facades adjacent to a public street shall have a commercial appearance and shall not have a residential appearance. 7. Other miscellaneous uses of the following types: a. Bed and breakfasts and tourist homes, provided the following requirements are met: (1.) The owner and family must occupy the residence. The owner and his/her appointed agent are responsible for supervising guests. (2.) The single-family dwelling appearance must be maintained. (3.) Parking should be considered on a case-by-case basis as part of the conditional use application, ensuring adherence to Section 4.8.E.2 (Table of Parking Standards) using both on and off-street parking areas. (4.) A sign no larger than four square feet shall be permitted.

<u>NAME OF DISTRICT</u>	<u>Section 3.14 General Business/Light Industrial H-1 (GBI H-1)</u>	<u>Section 3.9 Harbor District (revised 11-21-19)</u>
		(5.) The number of room accommodations shall be subject to recommendation by the Planning Commission and approved by the Town Council. (6.) The dwelling must meet all of the requirements of Section 3.9.D.6. b. Childcare and childcare education centers c. Hotels and motels d. Laundromats e. Liquor and package stores f. Off-site parking 8. Any other use which is compatible in nature with the foregoing permitted and conditional uses and which the Zoning Administrator determines to be compatible with the intent of the District and is concurred with by the Planning Commission.
ACCESSORY USES	Within the GBI H-1 District, the following accessory uses shall be allowed: 1. Only those that are customarily accessory and clearly incidental and subordinate to the principal uses and structures. 2. Temporary licensed uses such as festivals, displays, educational exhibits, outdoor gatherings or performances, and outdoor food markets.	
HEIGHT REGULATIONS	40 ft. in height for buildings 50 ft. in height for structures other than bldgs..	40 ft in height (up to 55 ft with Conditional Use Permit) – limitation on block of building to 80 linear feet.
AREA REQUIREMENTS Lot Width @Setback Area Requirements Side Yard Rear Yard Front Setback	100 ft. 15,000 sq. ft. None or 5 ft (between bldgs.) or 10 ft adjacent to street 20 ft. 10 ft min	80 ft. and Lot Depth of 140 ft. 11,200 sq. ft NONE NONE 30 ft. of RPA (HARBOR) or Marina Road, Bayshore Road or Parcel 83A3-A-10 (exemptions for water-dependent facilities)
OTHER REQUIREMENTS	Building Coverage: No more than 50% of the lot may be covered by structures.	Open Space Requirement: 25% of lot

<u>NAME OF DISTRICT</u>	<u>Section 3.14 General Business/Light Industrial H-1 (GBI H-1)</u>	<u>Section 3.9 Harbor District (revised 11-21-19)</u>
	Additional Buffer requirements: if adjacent to Residential Districts, a 200 ft. nature buffer and no loading docks, loading facilities or loading bays shall be permitted within 200 ft of residential zoning. Same requirement if adjacent to Conservation/Open Space but buffer is 100 ft.	
ADDITIONAL DEVELOPMENT REQUIREMENTS	1. Placement of drives and parking areas. Excluding entrances and exits, no drive or parking area shall be located within any front yard or minimum side or rear yards. 2. Placement of drives and parking areas when adjacent to public right-of-way. Excluding entrances and exits, no drive or parking area shall be located closer than twenty feet from any public right-of-way line for a contiguous public street. Landscaping, hedges, or fast-growing shrubs on a gradual berm shall be installed within a portion of this buffer area unless to do so will jeopardize existing natural vegetation within the buffer area. See Appendix A, Category I for requirements. 3. All parking must comply with Appendix B - Off Street Parking and Loading Requirements 4. Parking is not permitted in the front yard of a lot. 5. No parking or drive aisles shall be located within the required buffer yards. 6. No outside storage of parts, materials, fossil fuels, raw materials, or petroleum shall be permitted within the GBI H-1 District. 7. Any exterior lighting on the property shall be directed down and away from any area zoned R (residential) or PUD where residential development is a permitted use to prevent the disbursement or bleeding of light beyond the limits of the developed portions of the property. 8. No outside loudspeakers, intercoms, paging systems, whistles, horns, bells, or signals audible outside any buildings shall be allowed on the property. Any and all Occupational Safety and Health Administration (OSHA) requirements shall be adhered to; any OSHA-accepted alternative warning devices are encouraged.	

<u>NAME OF DISTRICT</u>	<u>Section 3.14 General Business/Light Industrial H-1 (GBI H-1)</u>	<u>Section 3.9 Harbor District (revised 11-21-19)</u>
	9. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property. 10. No delivery or transmission of materials or products shall be permitted to or from the property by truck or rail between 11 p.m. and 5 a.m. Monday through Sunday.	

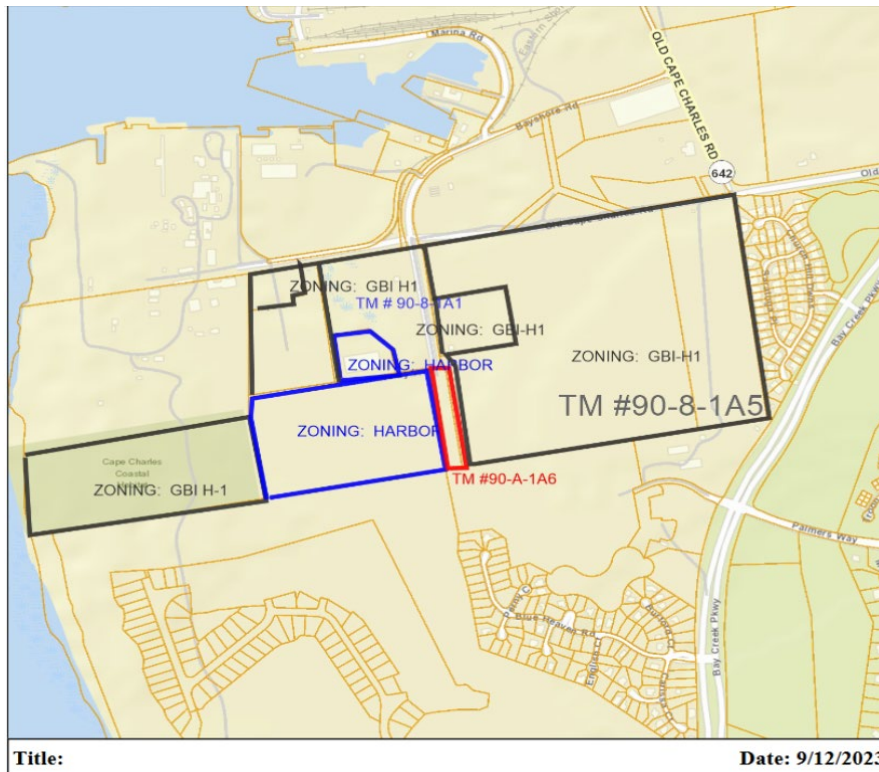
Staff Report from October 19, 2023 Town Council Regular Meeting

 TOWN OF CAPE CHARLES	AGENDA TITLE: Zoning Map Amendment Tax Parcel #90-A-1A6 from General B	AGENDA DATE November 16, 2023
	SUBJECT/PROPOSAL/REQUEST: ZMA 2023-03 - Rezoning of Tax Map #90-A-1A6 from General Business/Light Industrial (GBI H-1) & Harbor to Harbor Only	ITEM NUMBER: 8B
	ATTACHMENTS: ZMA Application and Staff Report to Planning Commission dated 9-27-2023 and Concept Plan by Applicant, Ordinance 20231116	FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Planning & Zoning Administrator	REVIEWED BY: John Hozey, Town Manager

BACKGROUND:

An application was filed on August 24, 2023 by Cherrystone Investments, LLC seeking to rezone Tax Map #90-A-1A6, totalling 1.799 acres (parcel outlined in red), from a split zoned parcel of Harbor (H) & General Business/Light Industrial (GBI-H1) to only Harbor (H).

The applicant has not indicated on the application as to a specific use of the property beyond a live-work business but has indicated in conversation with me that he is considering a golf cart path from the Bay Creek properties that would connect with Bay Shore Road.



PLANNING COMMISSION PUBLIC HEARING:

The Planning Commission held a public hearing on ZMA 2023-03 on Tuesday, October 3, 2023 and the staff report was presented.

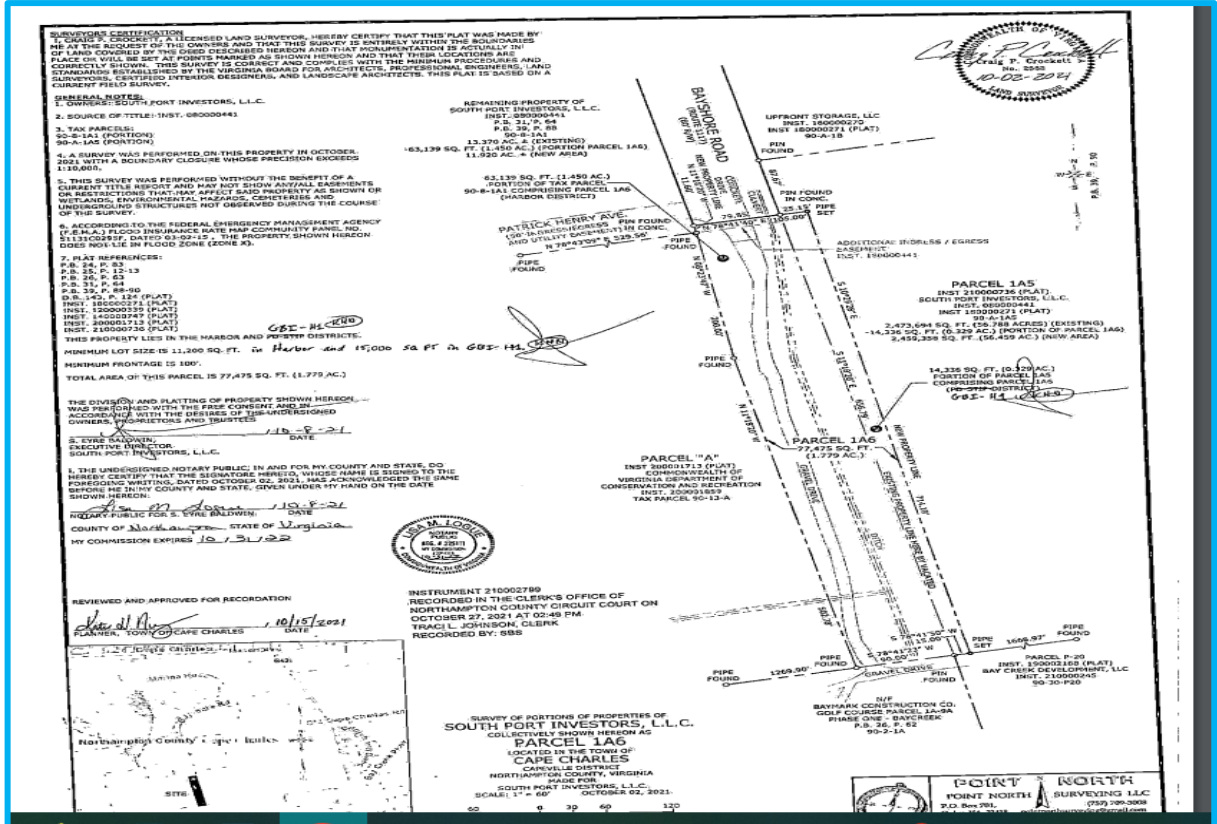
- **ITEM SPECIFICS:**

In mid-summer 2021, Southport Investors began the process of a subdivision plat to create new parcel (Parcel #90-A-1A6) by taking approximately .329 acres from Tax Map 90-8-1A5 which they owned and was, at that time, zoned GBI-H1 and 1.45 acres from Tax Map 90-8-1A1 which they owned and was, at that time, zoned Harbor.

The subdivision plat was finally approved by the Town on October 15, 2021 which created a new parcel – Tax Map #90-A-1A6 totalling 1.799 acres – which had Harbor zoning on the majority portion of the lot and GBI-H1 zoning on the smaller, remaining portion of the lot.

However, in the interim, in the fall of 2021, the Town approved rezoning of Tax Map 90-8-1A1 from Harbor to GBI-H1 but the subdivision plat had carved out and created a new parcel (Tax Map #90-A-1A6) which was not included in the rezoning application made on the “majority parent tract” and the in-process subdivision plat was not re-examined in light of the changing zoning designations south of the harbor as to what zoning designation would be on this new parcel beyond inheriting the original zoning from its parent tracts.

- **SUBDIVISION PLAT CREATING TAX MAP #90-A-1A6**



Subsequently, in a Deed of Distribution made on December 27, 2021, Southport Investors, LLC conveyed Tax Map #90-A-1A6 to Cherrystone Investments, LLC.

- **REVIEW WITH RESPECT TO COMPREHENSIVE PLAN**

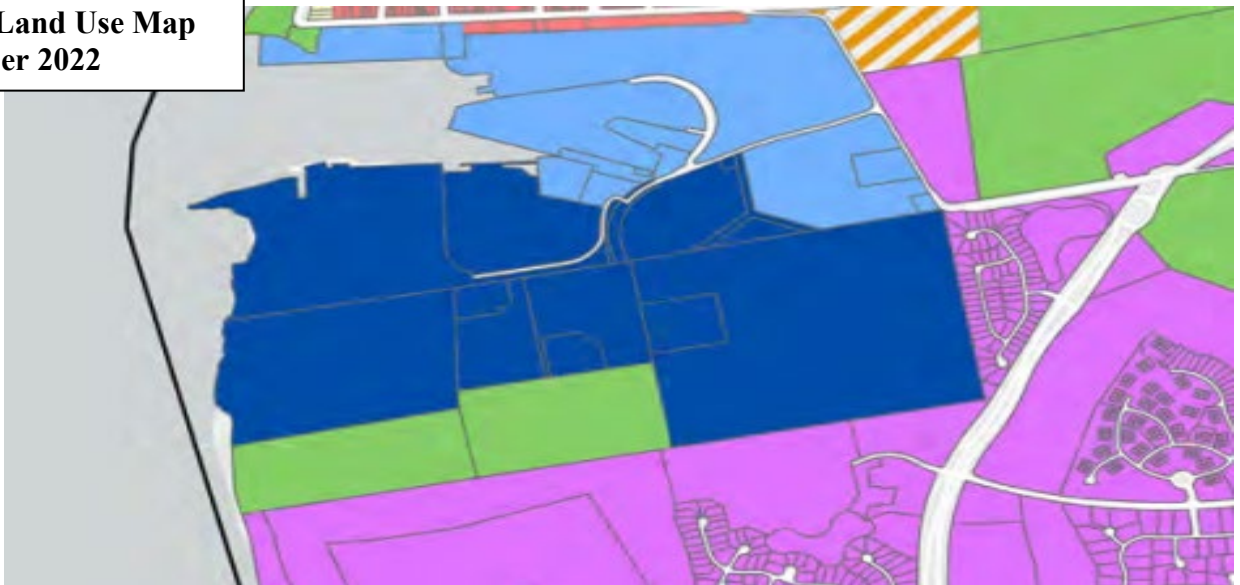
South of the harbor, the Future Land Use Map has designated the land one of three classifications:

- Conservation/Open Space:** These areas are intended for the conservation of natural resources and protection of open space. These areas include parks, recreational areas, preserved land, and wetlands.

- Harbor District:** Further master planning will be conducted to create a strong vision for the Harbor District. The area is intended to develop in a way that mirrors the success of Mason Avenue and nearby historic residential blocks. The district could include a mix of uses on an extension of the highly walkable street grid. Specific Harbor District design guidelines should be developed with particular attention to how buildings address the streetscape and the harbor front to create a lively and attractive extension of historic Cape Charles.

- Harbor District Industrial:** This category is for existing and future commercial and industrial uses along the southern area of the harbor. Although these uses may be intense, the proximity to the deep water harbor is necessary for their function and for the economic diversity of the Town.

**Future Land Use Map
December 2022**



Enclosed for your review are the detailed descriptions of the two classifications dealing with industry to assist in your deliberations on this matter.

- **REVIEW WITH RESPECT TO ZONING ORDINANCE: ZONING DISTRICTS – INTENT**

Directly to the south of the parcel is the Bay Creek Development which is zoned various designations of Planned Unit Development (PUD), including PUD Open Space & PUD R-2. Further to the north on the west side is 3 parcels zoned Industrial (M-2) and the parcels that hug Cape Charles Harbor are zoned Harbor. To the east, there are two parcels that are owned by Virginia Department of Conservation and Recreation (DCR) and have been placed in a permanent conservation easement; however, they have never petitioned the Town to rezone these two parcels since the zoning is relatively irrelevant to DCR's use and management of the property which are in accordance with the conservation easement. At some point in the near future, the Town may wish to put forth its own zoning map amendment for the 2 DCR parcels (one parcel is GBI-H-1 and one is Harbor) to Open Space.

Directly to the northeast, there is the property where Fujifilm WAKO Chemicals USA Corporation building is located and its zoning is still Harbor. Otherwise, the remaining,

directly touching properties (excluding Bay Creek to south) are all zoned GBI-H1)

The Cape Charles Zoning Ordinance provides a statement of intent or purpose for the current 2 zoning districts that are on this parcel as follows:

Harbor District: *Statement of Intent. The intent of this zoning district is to encourage a vibrant working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions. Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs. This zoning district is also intended to implement the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines as an overall guide to the future development and redevelopment of the harbor area.*

General Business/Light Industrial H-1 (GBI H-1): *Purpose of the District. The GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan. The purpose of the district is to: 1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County 2. Create family-wage employment and training opportunities for local residents 3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture 4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers 5. Incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.*

Eyre Baldwin was present and indicated that he is hoping the Planning Commission will support this application. The bulk of this (1.47 acres) is currently zoned Harbor and just under .4 acres is zoned GBI-H1 and he is seeking to get the same zoning over the full parcel.

There were no other public comments. Commissioner Grossman moved to close the public hearing and was seconded by Commissioner Holloway. The motion was carried.

PLANNING COMMISSION DISCUSSION:

Commissioner Grossman asked about the width of the parcel – 79.85 ft at the north end and 98 ft on the south end.

There was discussion about how this split zoning occurred on this parcel and what is the applicant's intended use for the parcel. It was stated that the applicant has indicated this will be continue to be used as a golf cart path from the Bay Creek development to Bay Shore.

Commissioner Grossman indicated that he does not feel the proposed zoning of the parcel to full Harbor is not consistent with the Comprehensive Plan.

Concern was expressed by Commissioner Grossman that the application is incomplete without a proposed plan as to how the property will be used. If the parcel is intended to serve as a just a new road to service into the Bay Creek development, then the zoning could be GBI H-1 and would not have to be Harbor, thus would be consistent with the Future Land Use Map in the Comprehensive Plan.

The applicant indicated that this lot could be the location for a golf cart rental shop or bike rental shop or stand-up paddleboard shop but he is not certain what could happen on this lot. However, this is why he is seeking for this rezoning so that he can have just one zoning designation on the lot and then be able to determine how to use the lot based upon the zoning designation.

The applicant has looked at the Harbor zoning and he finds that more compatible for the business discussions he has had on the use of this property, such as a bunkhouse or sometime of lodging consideration, versus the GBI H-1 zoning designation. He indicated that he has a concept plan already drawn up and could submit that to the office by the next day.

PLANNING COMMISSION RECOMMENDATION:

Commissioner Grossman motioned to recommend to the Town Council to approve of ZMA 2023-003- rezoning of Tax Map #90-A-1A6 from GBI H-1 and Harbor to just Harbor with the condition that plans as to how this parcel will be used be delivered within six months to the Town, specifically to the Planning & Zoning Department, and was seconded by Commissioner Holloway. The motion was carried unanimously.

NOTE: The applicant provided a concept plan to the Planning Director the morning after the Planning Commission hearing, which is enclosed for the Town Council's review and discussion.

TOWN COUNCIL

Town Council is requested to hold the public hearing on ZMA 2023-03 and to consider the Planning Commission Recommendation on the matter. Staff is proposing the following motion for Town Council's consideration:

To approve ZMA 2023-03 and rezone Tax Map Parcels # 90-A-1A6 from GBI H-1/Harbor to only Harbor with the condition that plans as to how this parcel will be used be submitted within six months to the Town, specifically to the Planning & Zoning Department.

Attachments:

Attachment 1: ZMA 2023-03 Application

Attachment 2: PC Staff Report for ZMA 2023-03 Public Hearing 2023-10-03

Attachment 3: Concept Plan submitted by Applicant on 10-04-2023

Attachment 4: Ordinance 20231116



Zoning Map Amendment Application

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-2036
planner@capecharles.org

Revised 03/2023	
Taxes	✓ pd LL
Violations	
Fee# 1048	pd chk \$ 550
Decision	

Budget Code: MISPL 100-3100-1070

PART 1. APPLICATION NOTES

1. A pre-application conference is mandatory prior to submission of an application for a zoning map amendment.
2. A zoning map amendment application should be consistent with the Comprehensive Plan and therefore, may also require a Comprehensive Plan amendment, which should be approved prior to the zoning map amendment application.
3. The Town Council may not add conditions of approval to a zoning map amendment application.
4. If proffers are being offered, the proffer statements may not be less restrictive than the requested base zoning district standards.
5. If proffers are being offered, proffer statements may not be amended after the public notification of a public hearing to consider the application has been sent. The applicant may voluntarily offer proffered conditions as part of their application, which must be listed in a separate voluntary proffer statement using the template found on our website.
6. Fees: \$1000 + \$50/acre plus any actual costs for advertising & adjacent property owner notification mailings *---Pd or Conditional Rezoning*
\$500 + 50/acre in regular rezoning

PART 2: PROPERTY INFORMATION

Property Address: <i>End Bayshore Rd</i>	Tax Map #: <i>90-A-1A6</i> →
Project name: <i>Southport</i>	Current Zoning District: <i>80% HD 20% JND</i>
Does this application include proffers? ☒ No ☐ Yes, if so, attach separate form	Proposed Zoning District: <i>100% HD</i>

PART 3: PROPERTY OWNER INFORMATION

Applicant Name: <i>Cherrystone Investments, LLC</i>	
Mailing Address: <i>Po Box 395, Eastville, VA 23347</i>	
Email address: <i>eyre1@verizon.net</i>	Phone: <i>757-636-2985</i>

If property is owned by an LLC, LP, or other form of corporation, list all landowners and their contact information.

Eyre Baldwin
Furlong Baldwin > contact info same as above

Zoning Map Amendment Application (also referred to as a Rezoning or Conditional Rezoning) may be submitted by a Cape Charles property owner and may be advanced to public hearing, after this application is submitted to Town Council who authorizes said applications to public hearings, first to the Planning Commission in compliance with the Code of Virginia Section 15.2-2285 and 15.2-2204.

The applicant will be required to make a presentation to fully explain the request and demonstrate the need for said request and how the Comprehensive Plan supports and maintains compliance with the goals and objectives of the Comprehensive Plan

Additionally, the Planning Commission or Town Council may prepare and apply for a zoning map amendment with either the Town Manager or the Zoning Administrator or Planning Director representing the application on behalf of the Town.

PART 4: Written Description of Request – Answer all questions in this section. Attach additional sheets as needed.

- A) Describe the existing conditions on the property including existing land uses and buildings as well as the land uses and zoning districts on the abutting properties.

HB to the west, Industrial to the east. It is a wooded lot

- B) Describe how existing conditions have changed, thereby making the proposed amendment needed.

Mixed zoning and want all to be harbor district.

- C) Describe how the proposed amendment furthers the objectives of the Comprehensive Plan.

consistency

- D) Describe why the proposed rezoning is necessary.

To create a business opportunity

- E) Describe the proposed use of the rezoned property including a site plan with the proposed types of site improvements and buildings.

live-work businesses

Applicant's signature: _____

Date: _____

Zoning Administrator's Signature: _____

Date: _____

PART 5: To Be Completed by P & Z Department Staff

Date Application Received in Office:	Application #: ZMA
Planning Commission	Town Council
Date referred:	Date received from Planning Commission:
Action deadline (100 days from receipt):	Action deadline (max. 365 days from referral to PC):
Public hearing date:	Public hearing date:
Decision:	Decision:

Northampton County, Virginia

Tax Map #: 90-A-1A6
Owner: CHERRYSTONE INVESTMENTS,
LLC

Details

Billing Address: PO BOX 395
City: EASTVILLE
State: VA
Zip: 23347
Total Acres: 1.78
Land Value: \$80,000
Improvement Value: \$0
Total Value: \$80,000
Deed Book: N/A
Deed Page: N/A
Will Book: N/A
Will Page: N/A
Plat: 210002799
Instrument Number: 210003280
Parcel_Description: PARCEL 1A6 - SURVEY OF
PORTIONS OF SOUTH PORT INV

Northampton County, Virginia

Legend

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



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

Title: Parcels

Date: 8/31/2023

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 is not responsible for its accuracy or how current it may be.

Northampton County, Virginia

Legend

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



Title: Parcels

Date: 8/31/2023

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

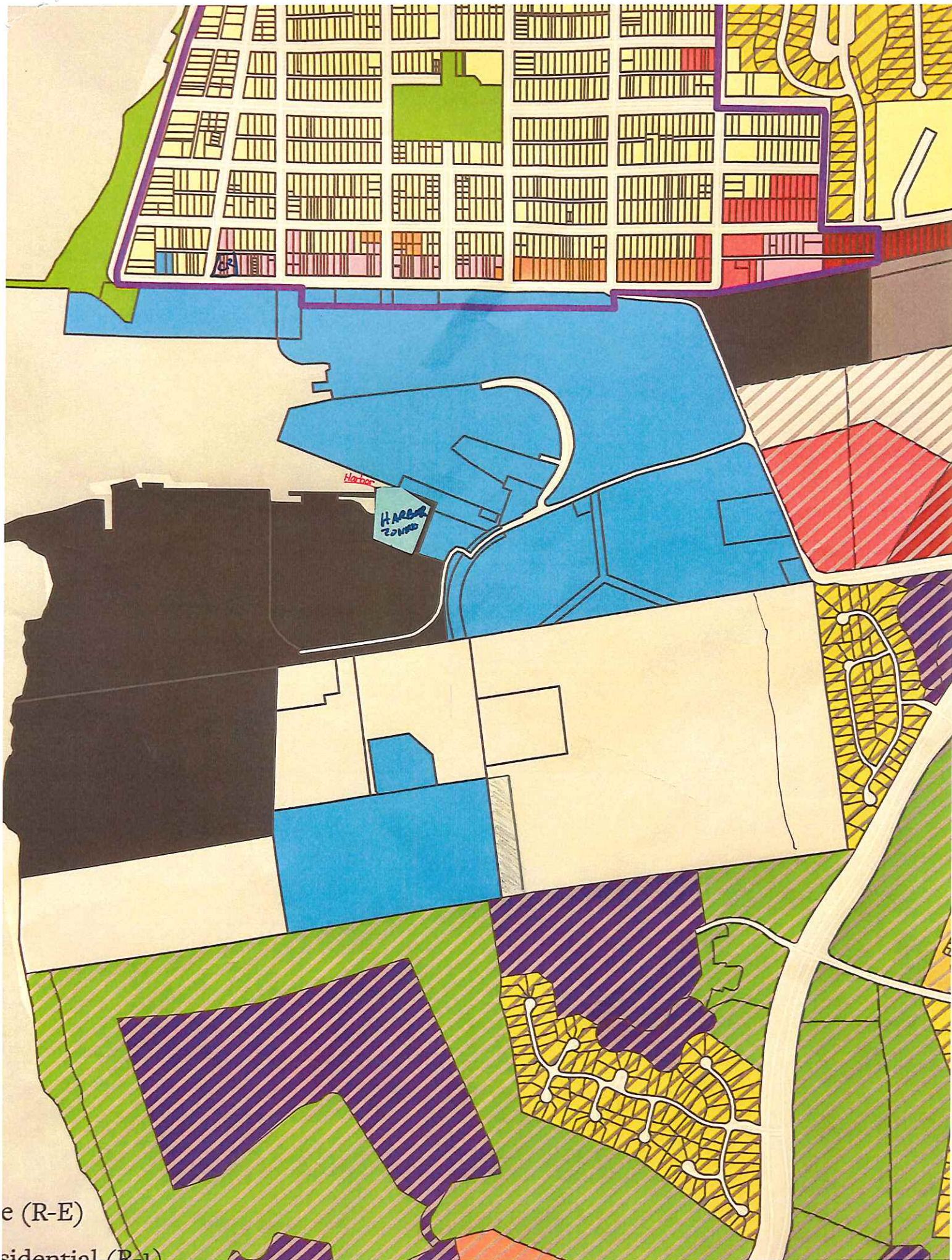
DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Northampton is not responsible for its accuracy or how current it may be.

Northampton County, Virginia

Tax Map #: 90-A-1A6
Owner: CHERRYSTONE INVESTMENTS,
LLC

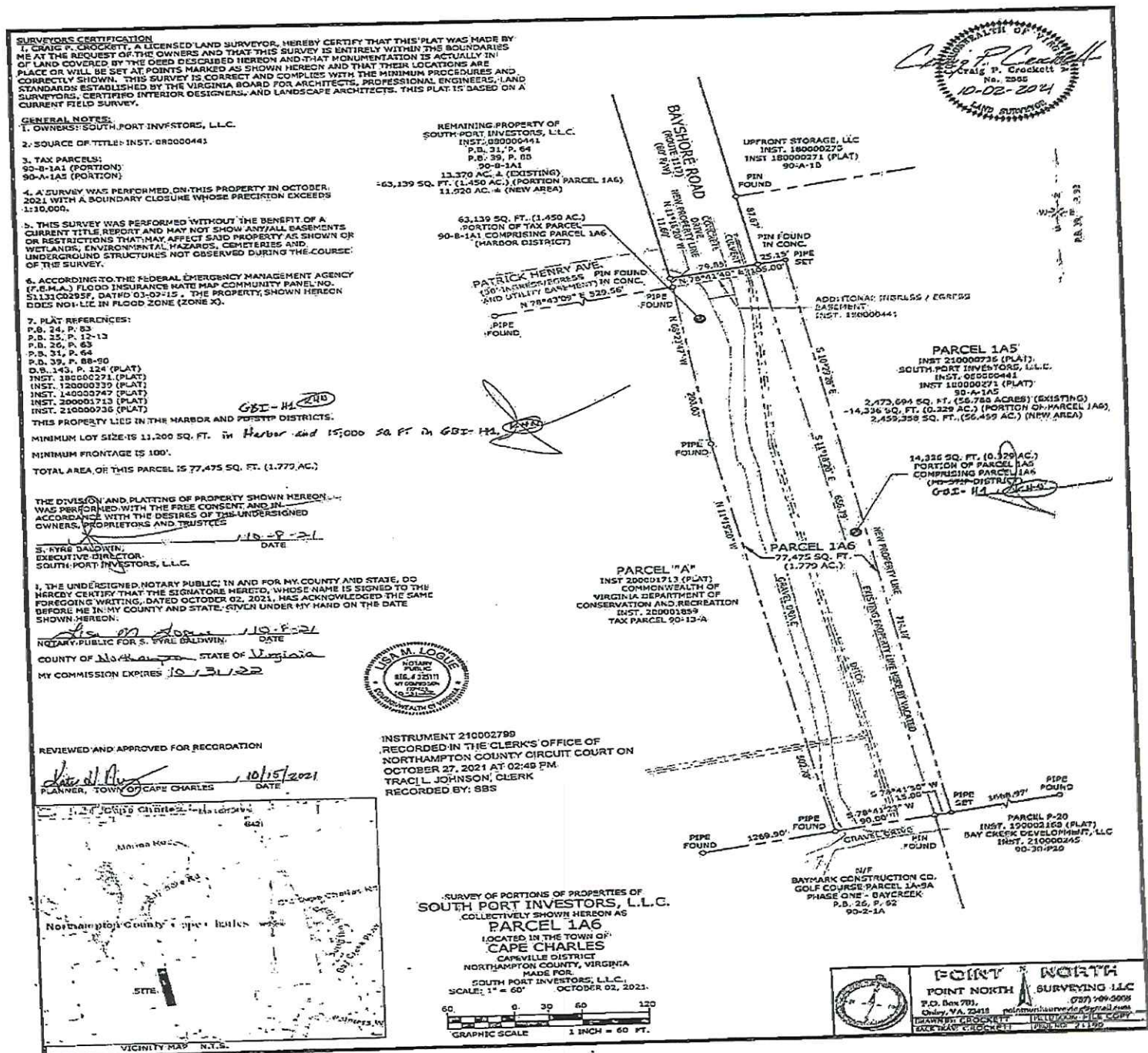
Details

Billing Address: PO BOX 395
City: EASTVILLE
State: VA
Zip: 23347
Total Acres: 1.78
Land Value: \$80,000
Improvement Value: \$0
Total Value: \$80,000
Deed Book: N/A
Deed Page: N/A
Will Book: N/A
Will Page: N/A
Plat: 210002799
Instrument Number: 210003280
Parcel_Description: PARCEL 1A6 - SURVEY OF
PORTIONS OF SOUTH PORT INV



e (R-E)

idential (R-1)



This instrument prepared by:
C. A. Turner, III, Esquire
Virginia State Bar #27856
P O Box 878
Eastville VA 23347

CLERK'S NOTE: This deed is exempt from recordation taxes pursuant to
Virginia Code §§58.1-811.A-11 and 58.1-811.C-1

Parcel Identification # 90-A-1A (part of), 90-8-1A1 (part of)
RPC# n/a
For Identification Purposes Only

THIS DEED OF DISTRIBUTION, made this 27th day of December, 2021, by and
between **SOUTH PORT INVESTORS, L.L.C.**, a Virginia limited liability company, Grantor,
and **CHERRYSTONE INVESTMENTS, L.L.C.**, a Virginia limited liability company,
Grantee, having an address of P. O. Box 395, Eastville, VA 23347.

WHEREAS, Grantor has resolved to convey the property hereby conveyed to the Grantee
as and for a distribution.

WITNESSETH: That for and in consideration of the sum of One Dollar (\$1.00), cash in
hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged
by the Grantor, the Grantor does hereby grant and convey with GENERAL WARRANTY and
ENGLISH COVENANTS OF TITLE unto the Grantee, its successors and assigns, the following
described real estate, to-wit:

Parcel 1: That certain tract or parcel of land identified as "Parcel 1A6,
77,475 SQ. FT. (1.799 AC.)" on a certain plat dated October 2, 2021, made by
Point North Surveying LLC, entitled "SURVEY OF PORTIONS OF
PROPERTY OF SOUTH PORT INVESTORS, L.L.C. COLLECTIVELY
SHOWN HEREON AS PARCEL 1A6 LOCATED IN THE TOWN OF CAPE
CHARLES CAPEVILLE DISTRICT NORTHAMPTON COUNTY,
VIRGINIA MADE FOR SOUTH PORT INVESTORS, L.L.C.", and
recorded in the Clerk's Office of the Circuit Court of Northampton County,
Virginia 210002799.

Parcel 2: That certain tract or parcel of land identified as
"REMAINDER OF TAX PARCEL 90-A-1A, 669,737 SQ. FT., 15.375 AC. "
on a certain subdivision plat dated February 20, 2021, made by Point North
Surveying LLC, entitled "SUBDIVISION OF PROPERTY OF
SOUTHPORT INVESTORS, LLC SHOWN HEREON AS PARCEL 1A5
LOCATED IN THE TOWN OF CAPE CHARLES CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VIRGINIA MADE FOR SOUTHPORT
INVESTORS, LLC", and recorded in the Clerk's Office of the Circuit Court
of Northampton County, Virginia 210000736.

TOGETHER WITH the privileges and appurtenances unto said lot or parcel of land
belonging or in anywise appertaining.

12/22/21, 10:24 AM

Deed Calculation - DODS

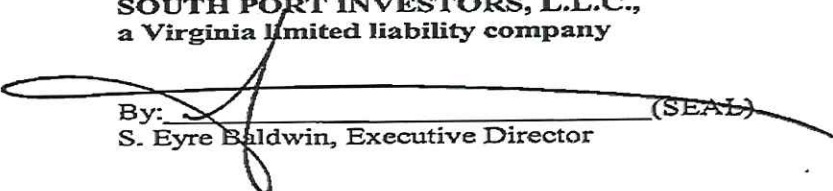
Circuit Court Deed Calculation for NORTHAMPTON COUNTY CIRCUIT COURT

Deed Type:	DODS --> DEED DISTRIBUTION														
Grantor Exempt:	N														
Grantee Exempt:	N														
Consideration Amount:	\$0.00														
Assume/Value Amount:	\$0.00														
Locality Percent:	100 %														
Pages:	4														
O/P:	0														
Date:	12/22/2021														
<table> <tr> <th>Fee</th><th>Amount</th></tr> <tr> <td>VIRGINIA OUTDOOR FOUNDATION (035);</td><td>3.00</td></tr> <tr> <td>TECHNOLOGY TRST FND (106);</td><td>5.00</td></tr> <tr> <td>VSLF (145);</td><td>3.50</td></tr> <tr> <td>TRANSFER FEES (212);</td><td>1.00</td></tr> <tr> <td>CLERK RECORDING/INDEXING FEE (301);</td><td>14.50</td></tr> <tr> <td>Total:</td><td>\$27.00</td></tr> </table>		Fee	Amount	VIRGINIA OUTDOOR FOUNDATION (035);	3.00	TECHNOLOGY TRST FND (106);	5.00	VSLF (145);	3.50	TRANSFER FEES (212);	1.00	CLERK RECORDING/INDEXING FEE (301);	14.50	Total:	\$27.00
Fee	Amount														
VIRGINIA OUTDOOR FOUNDATION (035);	3.00														
TECHNOLOGY TRST FND (106);	5.00														
VSLF (145);	3.50														
TRANSFER FEES (212);	1.00														
CLERK RECORDING/INDEXING FEE (301);	14.50														
Total:	\$27.00														
*Clerk and Deed Processing Fees do not apply to any agency of the Commonwealth of Virginia. **The Technology Trust Fund fee does not apply to any federal, state, or local government.															

This conveyance is made subject to any easements, restrictions, and reservations contained in duly recorded deeds, plats and other instruments constituting constructive notice in the chain of title, which have not expired by a time limitation contained therein or have otherwise become ineffective, and to matters visible upon inspection.

WITNESS the following signature and seal:

**SOUTH PORT INVESTORS, L.L.C.,
a Virginia limited liability company**

By:  (SEAL)
S. Eyre Baldwin, Executive Director

STATE OF VIRGINIA,

COUNTY OF NORTHAMPTON, to-wit:

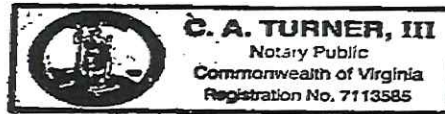
The foregoing instrument was acknowledged before me this 27th day of December, 2021 by S. Eyre Baldwin, Executive Director of South Port Investors, L.L.C., a Virginia limited liability company, on behalf of the company.

My Commission Expires:

7/31/2024

Registration # 7113585

 (SEAL)
Notary Public



INSTRUMENT 210003280
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY CIRCUIT COURT ON
DECEMBER 29, 2021 AT 12:06 PM
TRACI L. JOHNSON, CLERK
RECORDED BY: MWD

Entity Information

Entity Information

Entity Name: Cherrystone Investments, L.L.C.

Entity ID: S2433185

Entity Type: Limited Liability Company

Entity Status: **Active**

Series LLC: No

Reason for Status: Active

Formation Date: 12/10/2007

Status Date: 02/09/2023

VA Qualification Date: 12/10/2007

Period of Duration: Perpetual

Industry Code: 0 - General

Annual Report Due Date: N/A

Jurisdiction: VA

Charter Fee: N/A

Registration Fee Due Date: Not Required

Registered Agent Information

RA Type: Individual

Locality: NORTHAMPTON COUNTY

RA Qualification: Member or Manager of the Limited Liability Company

Name: FURLONG BALDWIN

Registered Office Address: 16464 COURTHOUSE ROAD, EASTVILLE, VA, 23347 - 0000, USA

Principal Office Address

Address: 16464 COURTHOUSE RD, EASTVILLE, VA, 23347 - 0000, USA

(https://www.scc.virginia.gov/civ/civ_contact.aspx)

[Filing History](#) [RA History](#) [Name History](#) [Previous Registrations](#) [Protected Series](#)
(<https://www.facebook.com/VirginiaStateCorporationCommission>) (<https://twitter.com/VASateCorpComm>)

[Garnishment Designees](#) [Image Request](#)

[Back](#)

[Return to Search](#)

[Return to Results](#)

[Back to Login](#)

Customer Name:		CHERRYSTONE INVESTMENTS, LLC	
Account Number:	4685	Account Status:	Active
Bill To Address:	PO BOX 395	Account Balance:	\$0.00
		Current Year Balance:	\$0.00
		Prior Year Balance:	\$0.00
	EASTVILLE	VA	23347-0395
Primary Phone:		Allow Advertising:	True
Email Address:		Allow Late Listing:	True
Social Security #:		Cash Only:	False
Other Social Security #:		Bankrupt	False
DL Number:		Allow Interest:	True
Employer:		Allow Penalty:	True
County #:	10003664	Tax Exempt:	False
		Circuit Breaker:	False
Bill Comment:			
Pay Comment:			

Real Properties

Prop Address	Real Pin	Prop Value	Building Value
BAYSHORE RD	1664000090080000001A	\$80,000.00	\$0.00
	6		
PARCEL 1A - SUBDIV OF SOUTHPORT INVESTOR	12632000900A00000001 A	\$768,800.00	\$0.00



PLANNING COMMISSION PUBLIC HEARING STAFF REPORT

Meeting Date: October 3, 2023

Item #4A – ZMA-2023-03

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

Date: September 27, 2023

APPLICANT: Cherrystone Investments, LLC

SITE ADDRESS:

TAX MAP: 90-A-1A6

LOT SIZE: 1.799 acres

TYPE OF APPLICATION: Zoning Map
Amendment (ZMA) 2023-03

SPECIFIC REQUEST: Rezone split-zoned parcel of
Harbor (H) & General Business/Light Industrial (GBI-
H1) to only Harbor (H)

ZONING ORDINANCE: CCZO Section 2.7.2

CURRENT ZONING: .329 acres is GBI-H1 & 1.45
acres is Harbor (H)

PROPOSED ZONING: Harbor for full parcel

DATE RECEIVED: August 24, 2023

DATE DEEMED COMPLETE: August 27, 2023

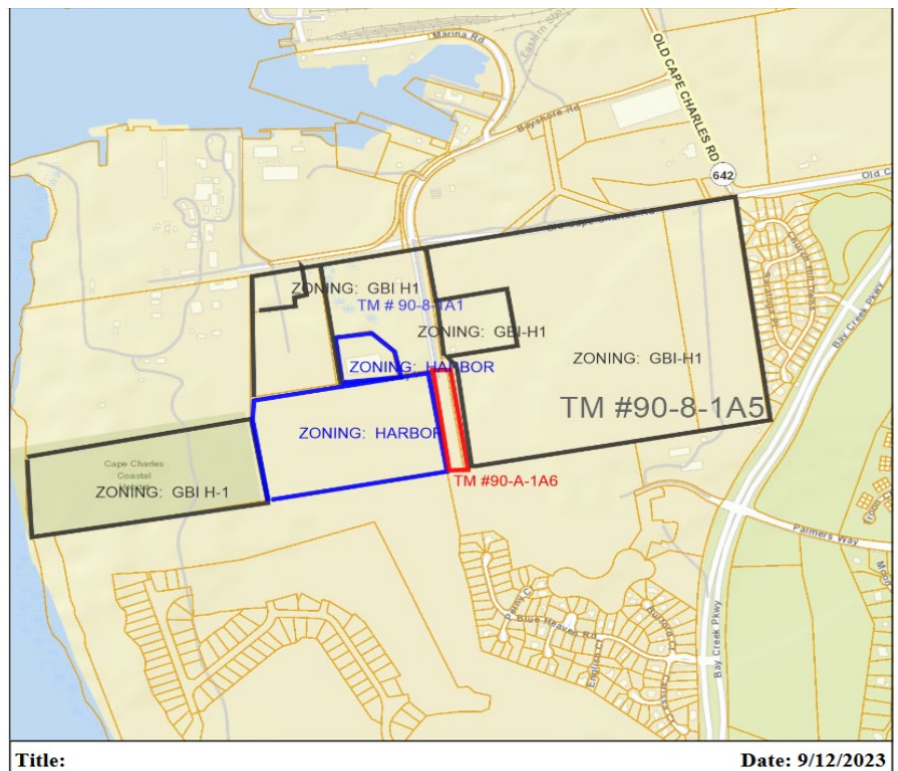
LEGAL DEADLINE: 100 days from 1st Receiving Application: December 4, 2023

NARRATIVE OF PROPOSAL

An application was filed on August 24, 2023 by Cherrystone Investments, LLC seeking to rezone Tax Map #90-A-1A6, totalling 1.799 acres (parcel outlined in red), from a split zoned parcel of Harbor (H) & General Business/Light Industrial (GBI-H1) to only Harbor (H).

The applicant has not indicated on the application as to a specific use of the property beyond a live-work business but has indicated in conversation with me that he is considering a golf cart path from the Bay Creek properties that would connect with Bay Shore Road.

Town Council passed a Resolution of Intent at their September 21, 2023



Title:

Date: 9/12/2023

meeting, acknowledging the application and authorizing staff to schedule the necessary public hearings for both the Planning Commission (October 3, 2023) and Town Council (October 19, 2023).

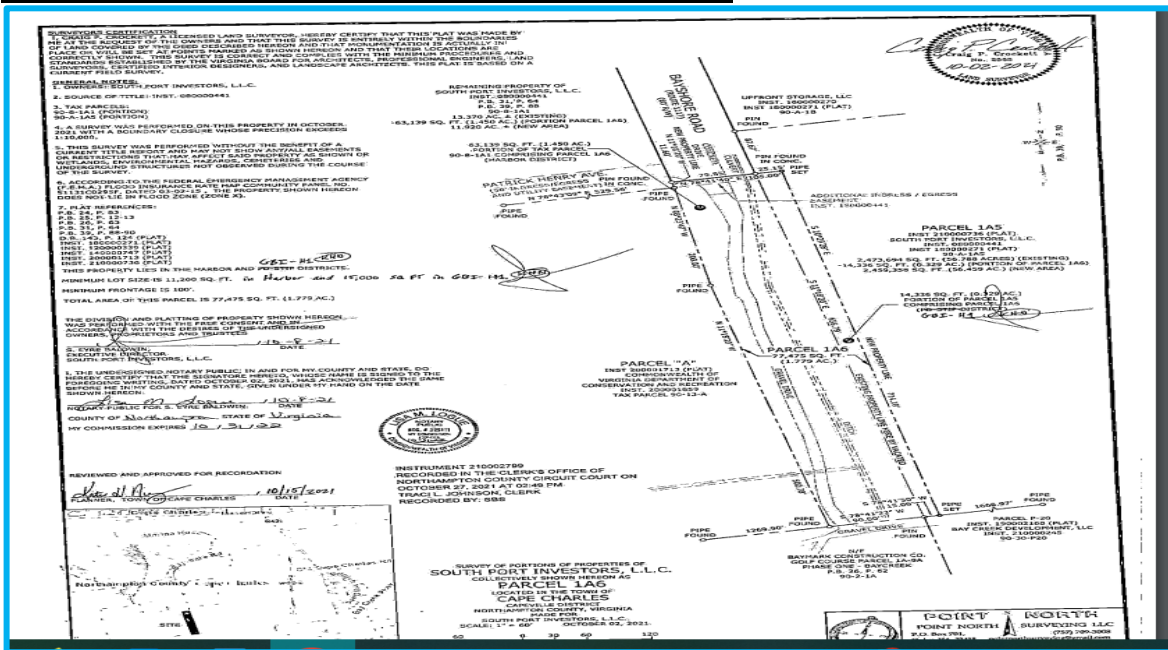
BACKGROUND

In mid-summer 2021, Southport Investors began the process of a subdivision plat to create new parcel (Parcel #90-A-1A6) by taking approximately .329 acres from Tax Map 90-8-1A5 which they owned and was, at that time, zoned GBI-H1 and 1.45 acres from Tax Map 90-8-1A1 which they owned and was, at that time, zoned Harbor.

The subdivision plat was finally approved by the Town on October 15, 2021 which created a new parcel – Tax Map #90-A-1A6 totalling 1.799 acres – which had Harbor zoning on the majority portion of the lot and GBI-H1 zoning on the smaller, remaining portion of the lot.

However, in the interim, in the fall of 2021, the Town approved rezoning of Tax Map 90-8-1A1 from Harbor to GBI-H1 but the subdivision plat had carved out and created a new parcel (Tax Map #90-A-1A6) which was not included in the rezoning application made on the “majority parent tract” and the in-process subdivision plat was not re-examined in light of the changing zoning designations south of the harbor as to what zoning designation would be on this new parcel beyond inheriting the original zoning from its parent tracts.

SUBDIVISION PLAT CREATING TAX MAP #90-A-1A6



Subsequently, in a Deed of Distribution made on December 27, 2021, Southport Investors, LLC conveyed Tax Map #90-A-1A6 to Cherrystone Investments, LLC.

REVIEW WITH RESPECT TO COMPREHENSIVE PLAN

South of the harbor, the Future Land Use Map has designated the land one of three classifications:



Conservation/Open Space: These areas are intended for the conservation of natural resources and protection of open space. These areas include parks, recreational areas, preserved land, and wetlands.

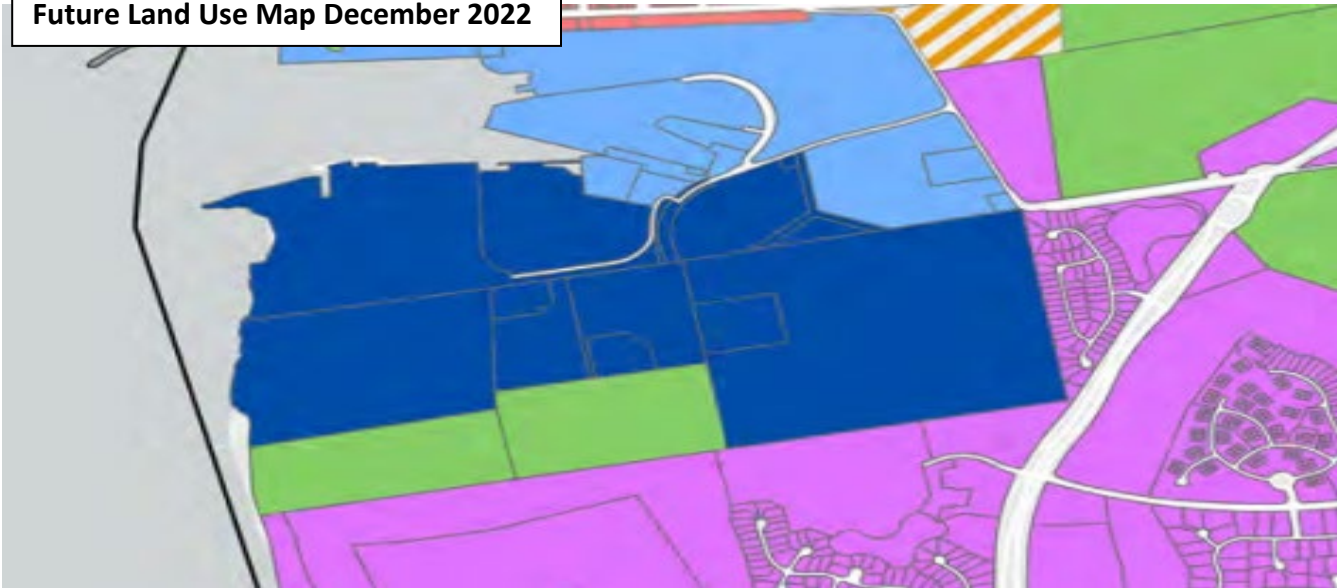


Harbor District: Further master planning will be conducted to create a strong vision for the Harbor District. The area is intended to develop in a way that mirrors the success of Mason Avenue and nearby historic residential blocks. The district could include a mix of uses on an extension of the highly walkable street grid. Specific Harbor District design guidelines should be developed with particular attention to how buildings address the streetscape and the harbor front to create a lively and attractive extension of historic Cape Charles.



Harbor District Industrial: This category is for existing and future commercial and industrial uses along the southern area of the harbor. Although these uses may be intense, the proximity to the deep water harbor is necessary for their function and for the economic diversity of the Town.

Future Land Use Map December 2022



I have enclosed for your review the detailed descriptions of the two classifications dealing with industry to assist in your deliberations on this matter.

REVIEW WITH RESPECT TO ZONING ORDINANCE: ZONING DISTRICTS – INTENT

Directly to the south of the parcel is the Bay Creek Development which is zoned various designations of Planned Unit Development (PUD), including PUD Open Space & PUD R-2. Further to the north on the west side is 3 parcels zoned Industrial (M-2) and the parcels that hug Cape Charles Harbor are zoned Harbor. To the east, there are two parcels that are owned by Virginia Department of Conservation and Recreation (DCR) and have been placed in a permanent conservation easement; however, they have never petitioned the Town to rezone these two parcels since the zoning is relatively irrelevant to DCR's use and management of the property which are in accordance with the conservation easement. At some point in the near future, the Town may wish to put forth its own zoning map amendment for the 2 DCR parcels (one parcel is GBI-H-1 and one is Harbor) to Open Space.

Directly to the northeast, there is the property where Fujifilm WAKO Chemicals USA Corporation building is located and its zoning is still Harbor. Otherwise, the remaining, directly touching properties (excluding Bay Creek to south) are all zoned GBI-H1)

The Cape Charles Zoning Ordinance provides a statement of intent or purpose for the current 2 zoning districts that are on this parcel as follows:

Harbor District: *Statement of Intent. The intent of this zoning district is to encourage a vibrant working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions. Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs. This zoning district is also intended to implement the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines as an overall guide to the future development and redevelopment of the harbor area.*

General Business/Light Industrial H-1 (GBI H-1): *Purpose of the District. The GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan. The purpose of the district is to: 1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County 2. Create family-wage employment and training opportunities for local residents 3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture 4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers 5. Incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.*

Rezoning this parcel to only be Harbor allows a small buffer from the truly open space land to the east to the General Business/Light Industrial Harbor-1 (GBI H-1) zoned properties to the west and north.

STAFF RECOMMENDATION

Staff is requesting the Planning Commission to convene and hold the public hearing and consider all comments received and determine if there are additional issues raised that were not considered by staff which may need to be considered. Staff supports rezoning the full parcel to Harbor zoning.

POSSIBLE PLANNING COMMISSION MOTION

I would recommend the following motion for the Planning Commission's consideration: ***Motion to recommend the rezoning of Tax Map Parcel # 90-A-1A6 from GBI-H1 which is the zoning on a portion of the parcel (.329 acres) to fully designating this parcel as Harbor zoning only which is supported in the Comprehensive Plan Future Land Use section.***

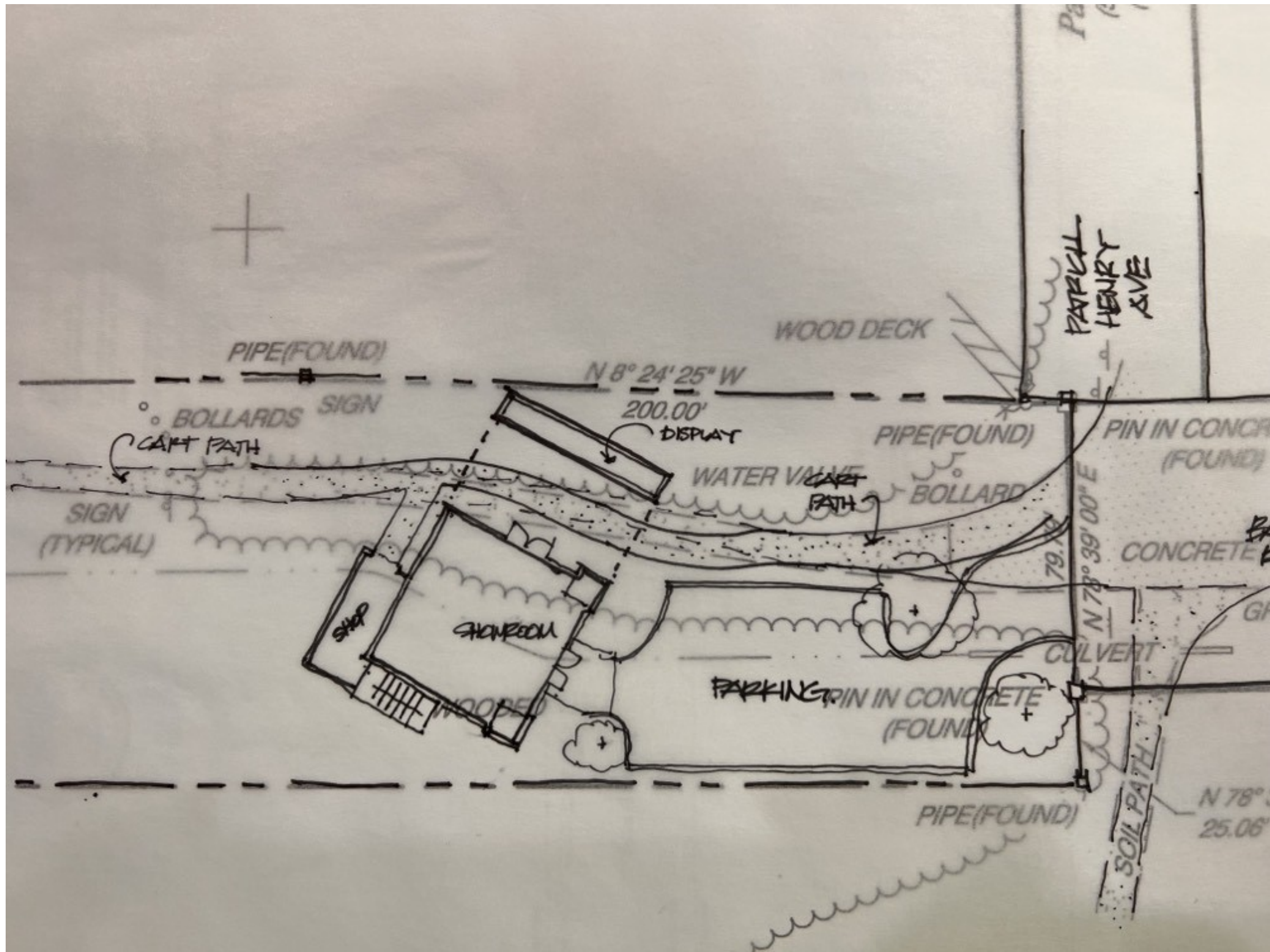
Attachments:

Attachment 1 – ZMA Application

Attachment 2 – Land Use Designation Descriptions Harbor and Harbor Industrial

MOKE—SALTY CARTS
Cape Charles, VA

Project No: 230911 | Date: 09.18.2023



CONCEPTUAL SITE SKETCH

ORDINANCE 20231116B

AMENDING CAPE CHARLES ZONING FOR TAX MAP PARCEL #90-A-1A6 FROM GENERAL BUSINESS/LIGHT INDUSTRIAL (GBI H-1) & HARBOR (H) TO HARBOR (H) ONLY

WHEREAS, the Cape Charles Zoning Ordinance is a compilation of ordinances establishing zoning regulations for the Town of Cape Charles and providing for the administration and enforcement of the regulations; and

WHEREAS, the Zoning Ordinance classifies the territory under the Town's jurisdictions into districts and within each district a set of regulations for the use of land, buildings, structures, and their size, construction, etc.; and

WHEREAS, on August 24, 2023 a zoning map amendment application (ZMA 2023-03) was received from Cherrystone Investments LLC seeking to rezone Tax Map #90-A-1A6, totaling 1.799 acres, from a split zoned parcel of Harbor (H) and General Business/Light Industrial (GBI H-1) to only Harbor (H); and

WHEREAS, 1.47 acres of this parcel is currently zoned Harbor and just under .4 acres is zoned General Business/Light Industrial, and the applicant is seeking to get the full parcel zoned as Harbor which is more compatible with potential business use of the property; and

WHEREAS, the town's Future Land Use Map dated December 15, 2022 designated the area south of the harbor as Conservation/Open Space, Harbor District, or Harbor District Industrial; and

WHEREAS, the Planning Commission held their public hearing on October 3, 2023 and no public comments, other than the applicant's, were received; and

WHEREAS, following the public hearing, the Planning Commission discussed the application and unanimously recommended Town Council approval of ZMA 2023-03 rezoning Tax Map Parcel #90-A-1A6 from GBI H-1 and Harbor to just Harbor with the condition that plans as to how this parcel will be used be delivered to the Planning & Zoning Department within six months; and

WHEREAS, the applicant provided a concept plan to the Planning Director the morning after the Planning Commission meeting, which was provided for Town Council review;

WHEREAS, pursuant to Code of Virginia §§ 15.2-2285 and 15.2-2204, after proper notice, a public hearing was held by the Town Council; now

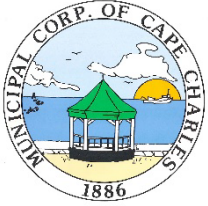
THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 16th day of November 2023, that the Cape Charles Zoning Map be amended to show Tax Map Parcel #90-A-1A7 in the Harbor (H) Zoning District to become effective immediately.

Adopted by the Town Council of Cape Charles on November 16, 2023

By: _____
Mayor

ATTEST:

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Community Trail, Phase 3 Lighting		AGENDA DATE: November 16, 2023
	SUBJECT/PROPOSAL/REQUEST: Award contract for light poles and fixtures.		ITEM NUMBER: 8C
	ATTACHMENTS: Sole Source Determination		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Bob Panek, Project Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

At the regular meeting of July 20, 2023, Council authorized award of the construction contract for Phase 3 of the Community Trail to Conrad Brothers of Virginia in the amount of \$759,567.19, and any future contract change orders within the 5% contingency reserve (\$37,978). The contract includes only the scope of work included in the base bid. The alternate to the base bid for light poles and fixtures, \$80,867, was not awarded in favor of contracting separately for these items at a lower cost. Conrad's contract includes the lighting control equipment, underground conduit and wiring, foundations, and mounting hardware. Construction is now underway and is scheduled to be completed by the end of February 2024.

DISCUSSION:

We have obtained a quote of \$30,555 for the light poles and fixtures (4 singles and 3 doubles) from Spring City Electrical Manufacturing Company, which is the basis of design source specified in the project plans. This is the same price they quoted to Conrad's electrical subcontractor. Spring City is the manufacturer of the same light poles installed on Mason Avenue and Strawberry Street Plaza. They have always provided competitive pricing to us. The contract to supply light poles and fixtures for the Town Harbor was awarded to a different vendor who provided a slightly lower bid than Spring City. While functionally similar, this product has been more difficult to maintain and repair.

We have also obtained an estimate of \$18,650 from a local electrician to install the poles and fixtures. The total estimated cost including shipping will be \$50,000, about \$30,000 lower than Conrad's bid.

The projected lead time for the light poles and fixtures is 12 to 16 weeks, so they should be ordered now to arrive toward the end of construction.

Code of Virginia, Sec. 2.2-4303.E, provides that a contract may be awarded to a sole source without competitive sealed bidding upon a determination that there is only one source practicably available. The determination and notice of contract award shall be posted on a public website. Given the circumstances and experience described above, as well as the importance of maintaining a consistent streetscape in the central business district, it is staff's opinion that Spring City is the only source practicably available. The proposed sole source determination is attached. It has been structured to include other applications, such as the new Municipal Building and Mason Avenue parking lot. We will periodically test the market to ensure continued competitive pricing. Competitive bids will be obtained for installation.

No funds are specifically available within the project budget for procurement and installation of these items. However, we have significant remaining capacity of appropriated funds within the CIP Fund that can be reapportioned during the mid-year budget adjustment for this purpose. In the meantime however, in accordance with our budget management policy regarding the town manager's authority to transfer funds,

express approval from the Council is required to allocate funds in this amount. Therefore, approval of this item includes approval to establish a separate line item within the CIP fund for Peach Street lighting and to transfer \$50,000 from the CIP Fund contingency to that line item; with the understanding that the contingency will be refreshed during the mid-year budget adjustment.

It has also been brought to our attention that there has been some public concern over the amount of lighting associated with this project. In an effort to present the most current information about this, a short re-cap of the lighting design is in order.

The original lighting design for this block of Peach Street approved in 2019 contained 10 poles with 14 lights. To some, when compared to other lighting plans around town, this seemed excessive. So when the project was re-designed following our last unsuccessful bidding process, the lighting plan was reduced to only 7 poles and 10 lights. By comparison, the north Peach Street portion of this project has 8 poles with 8 lights per block; very similar.

The reason for the two extra lights on this block of Peach Street is because unlike north Peach, this is a commercial area verses a residential area. But more importantly, south Peach has designated parking in the middle of the street, requiring the additional lighting for safety and to meet VDOT specifications. However, even with these two extra lights, the overall lighting levels will not be significantly higher than other comparable areas throughout Town.

RECOMMENDATION:

Staff recommends a motion to approve the sole source determination, the budget transfer noted above, and award of the contract to Spring City Electrical Manufacturing Company.

November 16, 2023

Sole Source Procurement Determination

As provided in the Code of Virginia, Sec. 2.2-4303.E, the Town Council of the Town of Cape Charles has determined that a contract may be awarded without competition to Spring City Electrical Manufacturing Company as the only source practicably available for light poles and fixtures for the Community Trail, Phase 3 project for the following reasons:

1. The Spring City product was the basis of design specified in the project plans.
2. The lighting was excluded from the construction contract due to excessive cost.
3. Spring City has offered to supply the poles and fixtures (4 singles and 3 doubles) at the same price quoted to the general contractor's electrical subcontractor.
4. Spring City has consistently provided competitive pricing for past procurements.
5. The Spring City product has proven to be easier to maintain and repair than similar lighting in use for municipal purposes.
6. Spring City is the manufacturer of the same light poles installed on Mason Avenue and Strawberry Street Plaza.
7. The use of this product on south Peach Street will provide a consistent streetscape in the central business district.

This sole source determination is also applicable to future municipal lighting requirements, provided that the Town Manager ensures that competitive pricing continues to be provided by Spring City Electrical Manufacturing Company.

Adam Charney, Mayor

Code of Virginia
Title 2.2. Administration of Government
Subtitle II. Administration of State Government
Part B. Transaction of Public Business
Chapter 43. Virginia Public Procurement Act
Article 2. Contract Formation and Administration

§ 2.2-4303. (Effective until July 1, 2023) Methods of procurement

A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law.

B. Professional services shall be procured by competitive negotiation.

C. Goods, services other than professional services, and insurance may be procured by competitive sealed bidding or competitive negotiation.

Upon a written determination made in advance by (i) the Governor or his designee in the case of a procurement by the Commonwealth or by a department, agency or institution thereof or (ii) the local governing body in the case of a procurement by a political subdivision of the Commonwealth, that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services set forth in § [2.2-4302.2](#). The basis for this determination shall be documented in writing.

D. Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances:

1. By any public body on a fixed price design-build basis or construction management basis as provided in Chapter 43.1 (§ [2.2-4378](#) et seq.); or
2. By any public body for the construction of highways and any draining, dredging, excavation, grading or similar work upon real property upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination.

E. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. The public body shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted on the Department of General Services' central electronic procurement website or other appropriate websites, and in addition, public bodies may publish in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first. Posting on the Department of General Services' central electronic procurement website shall be required of any state public body. Local public bodies are

encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

F. In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The public body shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted on the Department of General Services' central electronic procurement website or other appropriate websites, and in addition, public bodies may publish in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Posting on the Department of General Services' central electronic procurement website shall be required of any state public body. Local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

G. A public body may establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for:

1. Goods and services other than professional services and non-transportation-related construction, if the aggregate or the sum of all phases is not expected to exceed \$200,000; and
2. Transportation-related construction, if the aggregate or sum of all phases is not expected to exceed \$25,000.

However, such small purchase procedures shall provide for competition wherever practicable.

Such purchase procedures may allow for single or term contracts for professional services without requiring competitive negotiation, provided the aggregate or the sum of all phases is not expected to exceed \$80,000.

Where small purchase procedures are adopted for construction, the procedures shall not waive compliance with the Uniform State Building Code.

For state public bodies, informal solicitations conducted under this subsection shall require the posting of a public notice on the Department of General Services' central electronic procurement website. Local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

H. Upon a determination made in advance by a public body and set forth in writing that the purchase of goods, products or commodities from a public auction sale is in the best interests of the public, such items may be purchased at the auction, including online public auctions. Purchase of information technology and telecommunications goods and nonprofessional services from a public auction sale shall be permitted by any authority, department, agency, or institution of the Commonwealth if approved by the Chief Information Officer of the Commonwealth. The writing shall document the basis for this determination. However, bulk purchases of commodities

used in road and highway construction and maintenance, and aggregates shall not be made by online public auctions.

I. The purchase of goods or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by reverse auctioning.

1982, c. 647, § 11-41; 1985, c. 164; 1986, cc. 332, 559; 1987, c. 456; 1988, cc. 40, 640; 1989, c. 296; 1991, c. 73; 1993, c. 242; 1996, cc. [827](#), [965](#), [1019](#); 1999, c. [178](#); 2000, cc. [637](#), [647](#), [664](#), [692](#); 2001, cc. [395](#), [844](#); 2003, cc. [644](#), [895](#); 2004, cc. [706](#), [874](#), [906](#); 2005, c. [394](#); 2006, cc. [464](#), [510](#); 2008, c. [78](#); 2009, c. [123](#); 2010, c. [567](#); 2011, cc. [332](#), [594](#), [612](#), [681](#); 2012, cc. [805](#), [836](#); 2013, cc. [502](#), [583](#); 2015, cc. [760](#), [776](#); 2016, cc. [228](#), [604](#); 2017, cc. [699](#), [704](#); 2018, c. [461](#); 2020, cc. [44](#), [104](#).

This section has more than one version with varying effective dates. Scroll down to see all versions.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4303. (Effective July 1, 2023) Methods of procurement

A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law. All state public bodies accepting bids or proposals for contracts pursuant to this chapter shall provide an option to submit bids or proposals through the Commonwealth's statewide electronic procurement system, known as eVA. The Director of the Department of General Services, or his designee, may grant an exemption from such requirement at the request of a state public body and upon a showing of good cause. Local public bodies are encouraged to use eVA to offer an electronic submission option.

B. Professional services shall be procured by competitive negotiation.

C. Goods, services other than professional services, and insurance may be procured by competitive sealed bidding or competitive negotiation.

Upon a written determination made in advance by (i) the Governor or his designee in the case of a procurement by the Commonwealth or by a department, agency or institution thereof or (ii) the local governing body in the case of a procurement by a political subdivision of the Commonwealth, that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services set forth in § [2.2-4302.2](#). The basis for this determination shall be documented in writing.

D. Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances:

1. By any public body on a fixed price design-build basis or construction management basis as provided in Chapter 43.1 (§ [2.2-4378](#) et seq.); or

2. By any public body for the construction of highways and any draining, dredging, excavation, grading or similar work upon real property upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination.

E. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. The public body shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted on the Department of General Services' central electronic procurement website or other appropriate websites, and in addition, public bodies may publish in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first. Posting on the Department of General Services' central electronic procurement website shall be required of any state public body. Local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

F. In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The public body shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted on the Department of General Services' central electronic procurement website or other appropriate websites, and in addition, public bodies may publish in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Posting on the Department of General Services' central electronic procurement website shall be required of any state public body. Local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

G. A public body may establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for:

1. Goods and services other than professional services and non-transportation-related construction, if the aggregate or the sum of all phases is not expected to exceed \$200,000; and
2. Transportation-related construction, if the aggregate or sum of all phases is not expected to exceed \$25,000.

However, such small purchase procedures shall provide for competition wherever practicable.

Such purchase procedures may allow for single or term contracts for professional services without requiring competitive negotiation, provided the aggregate or the sum of all phases is not

expected to exceed \$80,000.

Where small purchase procedures are adopted for construction, the procedures shall not waive compliance with the Uniform State Building Code.

For state public bodies, informal solicitations conducted under this subsection shall require the posting of a public notice on the Department of General Services' central electronic procurement website. Local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

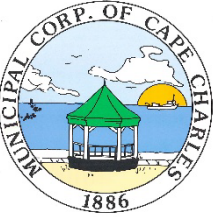
H. Upon a determination made in advance by a public body and set forth in writing that the purchase of goods, products or commodities from a public auction sale is in the best interests of the public, such items may be purchased at the auction, including online public auctions. Purchase of information technology and telecommunications goods and nonprofessional services from a public auction sale shall be permitted by any authority, department, agency, or institution of the Commonwealth if approved by the Chief Information Officer of the Commonwealth. The writing shall document the basis for this determination. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by online public auctions.

I. The purchase of goods or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by reverse auctioning.

1982, c. 647, § 11-41; 1985, c. 164; 1986, cc. 332, 559; 1987, c. 456; 1988, cc. 40, 640; 1989, c. 296; 1991, c. 73; 1993, c. 242; 1996, cc. [827](#), [965](#), [1019](#); 1999, c. [178](#); 2000, cc. [637](#), [647](#), [664](#), [692](#); 2001, cc. [395](#), [844](#); 2003, cc. [644](#), [895](#); 2004, cc. [706](#), [874](#), [906](#); 2005, c. [394](#); 2006, cc. [464](#), [510](#); 2008, c. [78](#); 2009, c. [123](#); 2010, c. [567](#); 2011, cc. [332](#), [594](#), [612](#), [681](#); 2012, cc. [805](#), [836](#); 2013, cc. [502](#), [583](#); 2015, cc. [760](#), [776](#); 2016, cc. [228](#), [604](#); 2017, cc. [699](#), [704](#); 2018, c. [461](#); 2020, cc. [44](#), [104](#); 2022, c. [360](#).

This section has more than one version with varying effective dates. Scroll down to see all versions.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Town Council Meeting Time Change		AGENDA DATE: November 16, 2023
	SUBJECT/PROPOSAL/REQUEST: Time Change for future Town Council meetings		ITEM NUMBER: 8D
	ATTACHMENTS: Resolution 20231116B		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Pursuant to § 15.2-1416 of the Code of Virginia, if the governing body wishes to change the location, day and/or time of their regular meetings, the governing body must pass a resolution as to such future meeting day, place or time. The resolution must be posted and published in the newspaper at least seven days prior to the first such meeting.

DISCUSSION:

On July 26, 2018, the Town Council adopted Resolution 20180726A changing the start time of their regular meetings from 6:00 p.m. to 6:30 p.m. to accommodate several members of Council who worked outside of the town. Those members are no longer serving on Council.

Due to the increased frequency of joint meetings with the Planning Commission whose meetings begin at 6:00 p.m., Town Manager John Hozey polled Council at the October 24, 2023 Town Council and Planning Commission Joint Work Session. A general consensus was reached to move the start time of all future Town Council meetings to 6:00 p.m. for consistency with the Planning Commission meetings and to shorten the work day for the Mayor, Town Council, staff and the Cape Charles citizens.

RECOMMENDATION:

Staff recommends adoption of Resolution 20231116B to change the start time of the Town Council Meetings to 6:00 p.m. by roll call vote.

RESOLUTION 20231116B

**CHANGING THE TIME OF CAPE CHARLES
TOWN COUNCIL REGULAR MEETINGS**

WHEREAS, the Cape Charles Town Council Resolution 20180726A, adopted on the 26th day of July 2018, set the time of the regular meetings of the Cape Charles Town Council at 6:30 p.m. to accommodate the work schedules for Council members working out of town; and

WHEREAS, prior to this change, the Cape Charles Town Council Resolution 20100812B, adopted on the 12th day of August 2010, set the time of the regular meetings of the Cape Charles Town Council at 6:00 p.m. in an effort to increase participation from the Town's citizens; and

WHEREAS, the Cape Charles Town Council and Planning Commission have increased the frequency of joint meetings; and

WHEREAS, the Cape Charles Planning Commission meetings begin at 6:00 p.m.; and

WHEREAS, at the October 24, 2023 Town Council and Planning Commission Joint Work Session, a general consensus was reached to move the start time of all Town Council meetings to 6:00 p.m. for consistency with the Planning Commission meetings and to shorten the work day for the Mayor, Town Council, staff, and the Cape Charles citizens; now

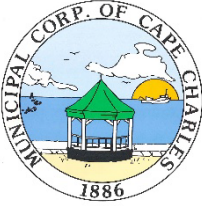
THEREFORE, BE IT RESOLVED by the Town Council of the Town of Cape Charles, Virginia, as required by § 15.2-1416 of the Code of Virginia, that effective immediately, the Cape Charles Town Council Regular Meetings will be held on the third Thursdays of each month beginning at 6:00 p.m. at the Cape Charles Civic Center, 500 Tazewell Avenue, Cape Charles, VA 23310.

Adopted by the Town Council of Cape Charles on November 16, 2023.

By: _____
Mayor

ATTEST:

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: USDA Rural Development Grant / Loan for Police Car		AGENDA DATE November 16, 2023
	SUBJECT/PROPOSAL/REQUEST: FY 2024 USDA Rural Development Grant/Loan		ITEM NUMBER: 8E
	ATTACHMENTS: USDA RD Loan Resolution 20231116C		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Jerry Murphy, Adrian Oei	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Council has approved projects requested this year to be funded by the US Department of Agriculture Rural Development Agency when the FY 2024 budget resolution was passed.

ITEM SPECIFICS:

USDA RD requires that Council pass a resolution regarding its intention to apply for the loan/grant and to use the funds for the stated purpose.

The application will be completed and will be submitted for purchase of a new police vehicle and outfitting at the cost of \$43,000.

If the application is approved, USDA RD would fund these purchases with a \$15,050 grant and a \$27,950 five-year term loan. Both amounts are included in the 2024 budget. The totals may vary slightly for rounding. The current USDA RD interest rate is 3.75% and is not subject to change until January 1, 2024, however the terms and conditions of the loan are not set at this time and must be adopted by council prior to closing.

RECOMMENDATION:

Staff recommends that Town Council adoption of Resolution 20231116C to complete the application package for the equipment listed above.

RESOLUTION 20231116C
OF GOVERNING BODY OF THE TOWN OF CAPE CHARLES

The Town Council of the Town of Cape Charles, Va, consisting of six members, in a duly called meeting held on the 16th day of November 2023, at which a quorum was present **RESOLVED** as follows:

BE IT HEREBY RESOLVED that in order to facilitate obtaining financial assistance from the United States of America, United States Department of Agriculture, Rural Development (the Government) in the purchase of a police vehicle and equipment, the Governing Body does hereby adopt and abide by all covenants contained in the agreements, documents, and forms required by the Government to be executed.

BE IT FURTHER RESOLVED that the Town Manager of the Town of Cape Charles be authorized to execute on behalf of the Town Council, the above-referenced agreements, documents, and forms and to execute such other documents including, but not limited to, debt instruments, security instruments, and/or grant agreements as may be required in obtaining the said financial assistance.

This Resolution is hereby entered into the permanent minutes of the meetings of this Town Council.

TOWN OF CAPE CHARLES

By: _____
Mayor

Attest: _____
Town Clerk

CERTIFICATION

I hereby certify that the above Resolution was duly adopted by the Town Council of the Town of Cape Charles in a duly assembled meeting on the 16th day of November, 2023.

Secretary/Clerk

Revised 08/23/2018