



TOWN COUNCIL
Public Hearings & Regular Meeting
Cape Charles Civic Center
October 17, 2024
6:00 PM

At approximately 6:00 p.m. Mayor Adam Charney, having established a quorum, called to order the Public Hearing and Regular Meeting of the Cape Charles Town Council. In addition to Mayor Charney, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Butta and Grossman, and Councilwoman Holloway. There was one vacant position on the Council. Also, in attendance were Town Manager John Hozey, Project Manager Bob Panek, Treasurer Marion Sofield, Police Chief Jim Pruitt, Planner/Zoning Administrator Katie Nunez, Zoning Compliance Officer Jack Steinmayer and Town Clerk Libby Hume. There were 29 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.

PUBLIC HEARING:

A. Zoning Map Amendment Application 2024-01 – 711 Tazewell Avenue

Mark Usry, resident

Mr. Usry asked Council to consider the precedent which would be set in zoning if the zoning map amendment was approved. Once the door was opened to make exceptions, you would have to do it for others as well.

Ed Wells, resident

Mr. Wells expressed his agreement with Mr. Usry adding that he was opposed to any type of commercial activity in the Historic District residential area. He concluded by asking whether an attorney was consulted about this spot zoning issue.

Jo Bronson, resident

Ms. Bronson stated that she was not in favor of changing the zoning of the Fig Street Inn. (Please see attached.)

Dennis Saidat, resident

Mr. Saidat voiced his opposition to changing the zoning due to the fact that it would not be advantageous to the community to change the zoning to commercial. It would change the whole structure of the community since all the surrounding properties were residential. The former medical building was now zoned as residential. Parking would become a terrible issue if any type of commercial activity was added. We were very limited in parking and the overflow parking for short-term rentals was along Tazewell. The initial application for a bike rental company was not covered under the Commercial-Residential (CR) zoning so it would need a special use permit. Once the zoning was changed to CR, it would stay that way and would set a precedent for others.

Bruce Evans, resident

Mr. Evans stated that his property was a four-plex and in his block on Tazewell Avenue, there were 34 rooms for rent in one block. If the zoning were changed, it would set a precedent that the Town would regret forever. He was totally opposed to rezoning the property. His opinion had nothing to do with the property owners who were good friends and good neighbors.

Town Clerk Libby Hume read an email submitted by Walter Bronson. (Please see attached.)

- B. *Real Property Transactions Required to Connect New Wells to the Water Treatment Plant Under the Post-closing and Franchise Agreements with Virginia American Water*

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

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to close the public hearing. The motion was approved by unanimous vote.

RECOGNITION OF VISITORS / PRESENTATIONS/RECOGNITIONS:

- A. *Recognition of Employee Significant Anniversary*

Mayor Charney congratulated Library Manager Sharon Silvey for celebrating 15 years of service with the Town of Cape Charles on October 26, 2024. The certificate of appreciation was presented to Town Manager John Hozey as Ms. Silvey was unable to attend the meeting.

PUBLIC COMMENTS: (3 MINUTES PER SPEAKER)

Town Clerk Libby Hume read comments submitted by Mr. Raffaele Allen. (Please see attached.)

Councilman Grossman asked that Mr. Allen's comments be emailed to the Town Council since the letter could not be read in its entirety due to the three-minute time constraint.

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

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. September 19, 2024 Town Council Regular Meeting
 - ii. September 19, 2024 Town Council Executive Session
- C. Approval of July 31, 2024 and August 31, 2024 Financial Reports

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

UNFINISHED BUSINESS:

There was no unfinished business for review.

NEW BUSINESS:

- A. *Zoning Map Amendment Application – 711 Tazewell Avenue:*

Planner/Zoning Administrator Katie Nunez stated that a Zoning Map Amendment application was received from Donna Onley-Kohler and Gregory Kohler to conditionally rezone 711 Tazewell Avenue/302 Fig Street (Tax Map # 83A4-2-A, 83A4-2-J, 83A4-2-I), also known as the Fig Street Inn, from Residential-1 (R-1) to Commercial Residential (CR) with proffers to limit the commercial activity of said proposed rezoning. The property had a current Conditional Use Permit for a Bed & Breakfast. A public hearing was held by the Planning Commission on August 6, 2024. Due to discussions and comments raised at the public hearing, the applicants submitted a revised proffer statement and explanation document to the Planning Commission which was discussed at their September 3, 2024. After much discussion, the Planning Commission voted to recommend approval of the conditional rezoning for Lot A (Tax Parcel #83A4-2-A) which was the lot housing the Fig Street Inn building, with the amended proffers. The Planning Commission vote passed by majority vote with Commissioner /Councilman Grossman opposed.

There was much discussion regarding the following: i) This application could be considered for a conditional use permit (CUP) since bike shops were not permitted in the R-1 district as a CUP. Bike shops were permitted by CUP in the CR district; ii) existing commercial properties in the area were Wendell Distributing Company, Cape Charles Custom Carts, and Meatland. Wendell's was in the R-1 district and was a pre-existing business prior to zoning. The Meatland/Cape Charles Custom Carts property was zoned Commercial-2 (C-2); iii) The Town had precedent of not allowing commercial use into the residential area and it would open up a can of worms by allowing this.

The applicants, Donna and Greg Kohler, were invited to speak.

Donna Kohler stated that they just wanted to rent bicycles to the public and in order to do so, they were following the Town's procedures. The concerns addressed this evening were not from their adjacent neighbors and one directly adjacent neighbor spoke in favor of the application. She wanted to clarify that the 34 rooms for rent were in the 600 block of Tazewell and the Fig Street Inn was not in the 600 block, and issues from the 600 block should not be used as justification for this application. She understood that approval of this application would set a precedent and hoped that anyone wanting to do something like this from their house would follow the correct process. They would still follow all the residential guidelines for changes to their property, by maintaining the residential look for anything on the lot. They just asked the Town about bike rentals and were told that they would have to apply for a rezoning to CR in order to open a bike shop. They were thinking about their children and providing them an opportunity to start a low-impact business. They had already spent about \$3K with the Town to get to this point.

Greg Kohler stated that the Fig Street Inn was the prime example of what should be in the CR district, adding that they were sandwiched between two big commercial lots – Meatland and Wendell's.

Vice Mayor Bennett stated that he found this to be a phenomenal process that a simple request to offer bike rentals resulted in a 70-page packet with the only resolution being rezoning. He did not have issues with a bike rental business or gift shop, but he did have issues with rezoning. He could not believe that the Town could not work with the Kohlers to do this. There must be something that could be done that would be easier and less contentious.

There was further discussion as follows: i) This could not be accomplished as a Home Occupation, since a Home Occupation was meant to be low-key with no commercial activity occurring on the property; ii) Katie Nunez stated that the Town Council could amend the zoning ordinance text to add bike rentals as a CUP in the R-1 district. This would allow any property in the R-1 district to apply for a CUP to open a bike rental shop. Council needed to consider the impact to all in the R-1 district and to be mindful of the time taken to amend the zoning ordinance; iii) Katie Nunez added that each zoning application was reviewed individually and the Town had allowed other zoning changes to occur in the R-1 district. One was approved last year for Hotel Cape Charles, changing the zoning of the lot behind the hotel from R-1 to Commercial-1 (C-1).

Motion made by Councilman Grossman, seconded by Councilman Butta, to deny the zoning map amendment application for all three parcels.

Councilman Grossman explained the basis for his motion stating the use was not consistent as set out in our Comprehensive Plan. The Comprehensive Plan showed no thought about growing commercial uses in this area, and the time to think about growing this area for commercial use was during the Comprehensive Plan development. It was not our intent to grow commercial development in this area. By allowing the zoning change to CR, it would allow the conversion of the inn to any of the by-right or CUP uses allowed in the CR district. If approved, this would also impact the Future Land Use Map and Historic District residential functions. Councilman

Grossman concluded by stating that for these reasons, he could not support the rezoning of these properties.

Katie Nunez added that the applicants had the ability to withdraw their application prior to the vote since any negative vote could not be brought back for consideration for a 12-month period.

Donna Kohler stated that she heard Councilman Grossman but wanted to bring up the discussion from Monday evening about short-term rentals (STR) which was a major concern of the citizens of Cape Charles and the number one priority of the Town. Councilman Grossman stated that the Town's intent was not to grow businesses in the residential areas. STRs were businesses. She and Councilwoman Holloway owned bed & breakfasts (B&Bs) which were a different level of business than an STR. B&Bs were required to provide off-street parking and the owners had to live on the property. They had to have lots of inspections and fire control systems. She had been operating her B&B for 14 years. Using the argument that the Town's intent was not to grow businesses in the residential areas, STRs could not be a by-right use. B&Bs had to go through a lot of hoops to be a legitimate business to operate in the Town, but currently anyone could operate an STR. Precedent was being set for that now. If Council was leaning toward allowing STRs as a by-right use in the R-1 district, she asked Council to reconsider the motion and allow bike rentals on their property.

Mayor Charney stated that there was a motion on the table to be voted upon and asked the Kohlers if they wanted to withdraw their application prior to the vote.

Donna Kohler thanked Katie Nunez, Jack Steinmayer and Traci Outten for walking them through the process, and advised Council that they were withdrawing their application.

B. *FY 2025 Budget Amendment – Cape Charles Volunteer Fire Company Grant:*

John Hozey stated that as part of the Fiscal Year (FY) 2025 budget process, Council committed to provide \$250K in matching funds to the Cape Charles Volunteer Fire Company (CCVFC) to help them procure a new fire engine. The funding was not appropriated in the FY 2025 budget because it was anticipated that it would take CCVFC several years to procure a new fire engine. However, CCVFC had an unexpected opportunity to procure a fire engine on short notice. At the September 19, 2024 regular meeting there was a consensus of Town Council indicating the desire to move forward to provide the funds to the CCVFC. In order to provide the funds, an amendment to the FY 2025 budget was necessary. The proposed budget amendment would appropriate the required \$250K from the General Fund undesignated fund balance and increase the Town's FY 2025 support of the CCVFC from \$50K to \$300K. The additional \$250K would be used to purchase the new fire engine.

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, to approve the proposed budget amendment appropriating an additional \$250K for the Cape Charles Volunteer Fire Company. The motion was approved by unanimous vote.

C. *Real Property Transactions Required to Connect New Wells to the Water Plant:*

John Hozey stated that as part of the public utilities sale to Virginia American Water (VAW), the plans and specifications for a pipeline to connect two new wells to the water treatment plant were transferred to VAW for construction. The post-closing agreement specified that the Town would complete the following real property transactions necessary to construct the pipelines: i) easement from Canolie Atlantic Company on railroad property to be assigned to VAW; ii) easement from the Virginia Port Authority on the dredge spoils site to be assigned to VAW; iii) easement to VAW on Town property adjacent to the wells site; iv) conveyance of a small parcel from Bay Creek Development to the Town, and then conveyance of the same to VAW. Staff worked with all parties involved and our attorney to arrange the transactions and prepare the documentation. The acceptance of the two easements and assignment to VAW could be done by

resolution. The grant of an easement on Town property to VAW needed to be done by an ordinance. Acceptance of the fee simple parcel conveyance from Bay Creek Development and conveyance from the Town to VAW must be done by an ordinance. The required public hearing was held earlier this evening. The vote required a majority of the total Town Council, or four positive votes.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to adopt Resolution 20241017A Approving the Acceptance and Assignment of Certain Easements Related to the Sale of the Town of Cape Charles Waterworks System and Wastewater System to Virginia American Water Company. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Butta, yes; Grossman, yes; Holloway, yes.

Motion made by Councilman Grossman, seconded by Councilman Butta, to adopt Ordinance 20241017A Granting Easement on Tax Parcel 90-19-B to Virginia American Water Company. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Butta, yes; Grossman, yes; Holloway, yes.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt Ordinance 20241017B Accepting Conveyance of a Portion of Tax Parcel 90-30-P11 From Bay Creek Development, LLC and Conveying Such Property to Virginia American Water Company. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Butta, yes; Grossman, yes; Holloway, yes.

D. Depository Accounts Bank Change:

John Hozey stated that earlier this year, Taylor Bank announced that they were building a branch in Cape Charles on the east end of Mason Avenue. As a result, the Town reached out to them to see how their services compared to Atlantic Union Bank. In addition to the convenience of a bank just two blocks away, and wanting to support local businesses, Taylor Bank offered significant financial advantages over our current bank. Taylor Bank also arranged for a representative from their Onancock branch to come to us to provide services until the Cape Charles branch opens. Our monthly fees could be reduced significantly and our fund on deposit could earn a greater interest income. Resolution 20241017B would authorize the move of the Town's banking to Taylor Bank and provide the documentation required to set up the accounts.

Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, to adopt Resolution 20241017B to Move the Municipal Corporation of Cape Charles' Depository Accounts to Taylor Bank. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Butta, yes; Grossman, yes; Holloway, yes.

E. Reappointment of Planning Commissioners:

John Hozey stated that the terms of Commissioners Bill Ashworth and Ian McDonald would be expiring on October 31, 2024. Mr. Ashworth was appointed in December 2022 and Mr. McDonald was appointed in June 2024. Both were appointed to complete the unexpired terms of former Commissioners and have expressed interest in continuing their service on the Commission.

Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, to reappoint Mr. Bill Ashworth and Mr. Ian McDonald to the Planning Commission for a full four-year term. The motion was approved by unanimous vote.

F. Reappointment of Board of Zoning Appeals Member:

John Hozey stated that Laura Weigand was appointed to the Board of Zoning Appeals (BZA) in January 2022 to complete the unexpired term of a former BZA member. Her term would be expiring on October 31, 2024, and she had expressed interest in continuing her service on the BZA for another term.

Motion made by Councilwoman Holloway, seconded by Councilman Grossman, to reappoint Ms. Laura Weigand to the Board of Zoning Appeals for a full five-year term. The motion was approved by unanimous vote.

TOWN MANAGER COMMENTS

John Hozey commented as follows:

- i) He attended the Virginia Municipal League Conference this week along with the Mayor and all the Council members. It was a good networking opportunity.
- ii) He hired Courtney Neale as the new assistant to the town manager/events coordinator, and she started this afternoon.
- iii) He received the first status report from Baker Tilley, the firm contracted for the town manager recruitment. Over 9K direct mailings were sent out in less than a week, and six applicants had already responded. He would be receiving regular status reports. He added that he was scheduled to retire mid-May 2025 and hoped to have someone in place by April so there would be a one-month overlap. We still had plenty of time to do this well.
- iv) The interviews for the harbor positions were going well and he hoped to make a decision within the next two weeks.
- v) The Beachfront Master Plan work session was scheduled for next Wednesday, October 23rd.
- vi) A special meeting was scheduled for Thursday, November 7th, to fill the Town Council vacancy. A work session was scheduled after the special meeting to discuss the 2024 citizen survey. He asked Council to submit any questions to him in preparation for the work session. An executive session also might be necessary.

Mayor Charney stated that he would not be able to attend the November 7th meeting.

MAYOR AND COUNCIL COMMENTS

Councilwoman Holloway asked whether the town manager recruitment documents would be on the website. John Hozey responded that they were on the website on the Employment page.

There were no additional comments.

Mayor Charney read the announcements.

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

The Regular Meeting adjourned at 7:14 p.m.

Mayor Charney

Town Clerk

**October 17, 2024 Town Council Public Hearing & Regular Meeting
Comments and Information Provided in Writing**

Jo Bronson, resident

I want to express my opinion related to the request of Fig Street Inn to change their zoning designation from R-1 to CR.

After reviewing the documents submitted by the Applicant, I am not in favor of changing the zoning for this lot for the following reasons:

1. It is absolutely not necessary. Modify the applicant's existing special use or conditional permit to add a bicycle rental usage to their existing land use. They may want to request a special use permit to operate a gift shop on their property as well.
2. Every single residential use structure in Cape Charles is zoned R-1, including residential homes, STR businesses, the Bay Haven Inn, and the Alyssa House Inn. The only exception is the Northampton Inn which is inexplicably zoned Harbor District and the Bay Charles building at 102 Randolph Ave.
3. Every surrounding lot of the Fig Street Inn is zoned R-1. Any commercial CR lot in proximity of the subject parcel is used as an actual commercial use (pharmacy, golf cart rental, beverage distributor, etc), not residential use.
4. Allowing a residential use business to change zoning from Residential R-1 to Commercial CR will open the door for any one of the STR businesses peppered through the residential areas to change to CR at will. This is not advantageous to anyone.

Again, it is absolutely not necessary to change the zoning. Grant the applicant a special use or conditional permit for the bicycle rental and gift shop and leave zoning alone... retain the zoning for the adjacent neighbors, and retain the zoning to eliminate the precedent that would be set for every other R-1 residential property currently used as an STR business in this town.

Jo Bronson
515 Tazewell Avenue

Walter Bronson, resident

Mayor and Council
Town of Cape Charles
RE: Zoning Map Amendment (ZMA) 2024-01

Mayor and Council,

I am strongly in opposition to rezoning the Fig St. Inn from R-1 Residential to CR Commercial Residential. I certainly appreciate the Fig Street Inn, it is a well-run business that is beneficial to the community without causing undue hardship to its neighbors. I also do not object to the Inn being permitted to offer bicycles for rent on the property, which would be a small incidental accessory use. However, rezoning of the property, even with the proffers would still allow:

- Beauty and Barber Shops
- Clothing Stores
- Day Spas
- Florists
- Gift Shops
- Offices
- Real Estate Sales,

And Conditional Uses including:

- Bakeries
- Cake and Coffee Shops
- Conference Centers

These are not uses that belong in a Residential Zone. The Town has spent a lot of time and money to establish appropriate zones within the Town. Certain exceptions should always be considered. The uses as listed above, would go well beyond that, however.

A Conditional Use to allow the bicycle rental would be a more appropriate manner of allowing the requested use change. I do not understand why rezoning is being proposed as the more appropriate alternative. At the very least the proffers should include every other use permitted, conditional or not, in the CR Zone. Even then, it is the wrong way to go about this change.

Rezoning to permit retail type establishments in the residential area of the Historic District is just wrong. Those uses belong in the commercial district on Mason Avenue, not on Fig Street. If we permit this lot to be rezoned, what is to prevent any other lot along Fig or perhaps anywhere in the R-1 from being rezoned? How could you even deny them based on the precedent this would set?

Please send this application back to the Planning Commission to approach this as a Conditional Use for bicycle rental or rezoned with increased proffers to eliminate all other potential uses.

It is the right thing to do for the neighbors, the traffic on Fig St., and the R-1 Zone in general.

Sincerely,
Walter Bronson

Raffaele Allen, resident

Dear Mayor, Members of the Town Council and Mr. Hozey,

I am writing to express my concerns about the proposed regulation limiting short-term rental occupancy to two persons per bedroom. While I understand the importance of maintaining order and safety in our community, I believe this proposal will have unintended consequences that could severely impact our local economy, residents, and homeowners.

Our town thrives as a family-oriented vacation destination, with the vast majority of visitors being families seeking to enjoy our unique environment. A strict two-person-per-bedroom limit would be overly restrictive and out of touch with the very nature of our vacation market, where multi-generational families and multiple families often travel together. This policy would drastically reduce the availability, affordability, and attractiveness of short-term rental properties in Cape Charles, as many families would find it impractical or impossible to rent in compliance with such a rule.

I would like to highlight a few key points:

1. **Research Shows Better Alternatives:** I have investigated how some other localities have balanced rental occupancy while addressing concerns about overcrowding. Several towns have adopted a "2-person per bedroom" maximum with an additional allowance of 2-3 persons, accounting for bunk rooms commonly used by multi-family vacationers and/or larger families. Another approach that has proven effective is permitting one room in the rental as a designated bunk room, while still capping the other bedrooms at a 2-person occupancy. These solutions strike a balance by preventing overcrowding while still accommodating for larger groups that frequent our market. I urge you to consider these alternative models instead of imposing a one-size-fits-all restriction.
2. **Age Restriction is Impractical and Overly Limiting:** I understand that the council intends to exclude children aged 5 or younger from the occupancy count as an attempt to allow for bunk rooms. However, this age limit is far too restrictive to address the reality of family travel, where older children—including teenagers—commonly share a bunk room, and even adult couples are willing to share these spaces for the sake of affordability. Limiting this to children under 5 overlooks how families travel and use short-term rental spaces. Furthermore, enforcing this rule will be difficult and costly for the town, potentially requiring additional staffing, which only adds to the financial burden. Worse yet, it risks turning full-time residents into self-appointed enforcers, potentially creating an unwelcoming and hostile environment for vacationers and vacation homeowners.
3. **Impact on the Local Economy:** Our local businesses, including retail stores and restaurants, depend heavily on tourism and vacationers our towns one true economy. By restricting the number of guests who can stay in short-term rentals, fewer families will be able to book stays, which will reduce the number of visitors to our town. This decrease in foot traffic will directly impact the few shops and restaurants we have, leading to a significant downturn in their revenue and the possible shuttering of these establishments. The ripple effect will also affect town and county revenue, as both rental taxes and sales taxes will decline. (3 minute timer up)