

TOWN COUNCIL
Public Hearing & Regular Meeting
Cape Charles Civic Center
September 16, 2021
6:30 PM

At approximately 6:30 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Public Hearing & Regular Meeting of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Also, in attendance were Town Manager John Hozey, Zoning Administrator Katie Nunez, Project Manager Bob Panek, Police Chief Jim Pruitt, and Town Clerk Libby Hume. There were 17 members of the public physically in attendance, and 25 viewers on Facebook.

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

PUBLIC HEARING:

Mayor Dize opened the public hearing for zoning ordinance text amendments to Section 3.14 General Business/Light Industrial H-1.

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

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

The public hearing portion of the meeting closed at 6:32 p.m.

RECOGNITION OF VISITORS / PRESENTATIONS:

There were no visitors, presentations or recognitions.

PUBLIC COMMENTS: (3 MINUTES PER SPEAKER)

Jane McKinley

Ms. McKinley addressed Council regarding the proposed rezoning and text amendments. (Please see attached.)

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

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

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. August 19, 2021 Town Council Regular Meeting
- C. Approval of July 31, 2021 Financial Report

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, to approve the Consent Agenda as presented.

Town Manager John Hozey stated that the town clerk had a letter to be read into the record regarding the August 19 Town Council meeting minutes.

Libby Hume read a letter received from Coastal Precast Systems, LLC clarifying comments made during the August 19 Town Council meeting. (Please see attached.)

Motion made by Councilman Follmer, seconded by Vice Mayor Bennett, to include this letter as part of the August 19, 2021 Town Council Regular Meeting minutes. The motion was approved by unanimous vote.

The motion for the Consent Agenda was approved by unanimous vote.

UNFINISHED BUSINESS:

There was no unfinished business for review.

NEW BUSINESS:

A. *Zoning Ordinance Text Amendment – Section 3.14 General Business/Light Industrial H-1:*

John Hozey stated that this item was a continuation of discussion from the August 19 meeting where Council approved a number of zoning amendments. As a result of the public comment received, Council indicated further text amendments should be considered to address some of the concerns raised by the citizens providing comment. These changes could not be considered at the last meeting since they required a new process with public notice being given and another public hearing. The comments were sent back to the Planning Commission to hold another public hearing, to review the suggested changes and make their recommendation to Council. This was done on September 7. The staff report outlined the action taken and the language in green were the changes sent to the Commission by Council. The Commission was in agreement with Council's suggestions except additional changes were proposed as follows: i) In § 3.14.C.2 regarding the additional setback requirement. Rather than require the additional setback on all property boundaries, it would be required on all property boundaries except those that abut Industrial M-2 or General Business/Light Industrial H-1 zoned parcels; ii) In § 3.14.C.3, the word "storage" was removed to help alleviate any confusion since outdoor storage would be a by-right use in the district; and iii) In § 3.14.F.12, the language was changed to state that the Zoning Administrator may "grant exceptions" instead of "consider exceptions."

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to adopt Ordinance 20210916 Adopting Text Amendments to Cape Charles Zoning Ordinance Section 3.14-General Business/Light Industrial H-1 as presented.

There was much discussion as follows: i) Councilwoman Holloway expressed her concern about not requiring the additional setback on all sides of the property adding that it did not make logical sense to make exceptions. There was much discussion regarding the additional setback, with the majority of Council speaking in favor of allowing exceptions for boundaries abutting other industrial zoned properties. The additional setbacks would be required for boundaries abutting all non-industrial zoned properties, such as the Department of Conservation and Recreation property and the Bay Creek Development; ii) Vice Mayor Bennett expressed his thoughts on § 3.14.B.18 related to outdoor storage. The language required a "visual screening device or wall at least seven feet high, and provided that materials stored shall be stacked no higher than one foot below the top of the fence or wall" and added that it seemed to be overly restrictive, especially since precast bridge components did not have a six-foot dimension in any direction. The numbers were minimums, but he could not see the Town requiring a 30' or higher wall being built, adding that it would be visually displeasing as well. Councilman Follmer added that he had been looking at large concrete components at the plant for as long as he had lived in Cape Charles and it had not been an issue. After further discussion, Vice Mayor Bennett suggested striking the language "and provided that materials stored shall be stacked no higher than one (1) foot below the top of the fence or wall," adding that the product had been stored there for 40 years until it could be shipped. The building of a 30' wall in order to utilize the storage area to stack product was overly restrictive.

Vice Mayor Bennett amended the motion, seconded by Councilman Follmer, adding that the language in Section 3.14.B.18 "and provided that materials stored shall be stacked no higher

than one (1) foot below the top of the fence or wall” be stricken. The amended motion was approved by majority vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O’Brien, no.

Councilman Follmer asked about the striking of “by truck or rail between 11 p.m. and 5 a.m.” from § 3.14 F.11. Councilman Buchholz asked about the change in time from “between 11 p.m. and 5 a.m.” to “before 8 a.m. and after 9 p.m.” John Hozey replied that the change was made for consistency with the heavy industrial zone requirements. Councilman Buchholz added that, as the Town moved forward with the exercise to review the entire zoning ordinance, he hoped that other inconsistencies, such as the by-right uses in non-industrial zones be reviewed, since the clamming operation in the harbor zone was currently allowed to work well past 9 p.m.

Councilman Follmer noted a correction to Ms. McKinley’s earlier comment regarding the town manager’s approval of the clamming operation which was a by-right use in the harbor zone, so did not require approval.

Mayor Dize called for a vote on the motion regarding adoption of Ordinance 20210916. The motion was approved by majority vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, no; O’Brien, no.

B. *Harbor Capital Plan Evaluation:*

Project Manager Bob Panek stated that while a Harbor Master Plan had been approved by Council, there was no projection of future capital replacement requirements as the facilities age. This was an important tool for updating the projects in the Capital Asset Management Plan and for identifying potential grant opportunities. The Fiscal Year (FY) 2022 budget included \$20K for a Harbor capital plan evaluation but this amount was insufficient to cover the necessary scope of work. Staff worked with Langley & McDonald, the Town’s contractor for marine engineering services, on a proposed change order for a comprehensive evaluation in three parts: i) existing facilities; ii) future improvements; and iii) master plan update. The fees for each part were: \$40.1K for part one, \$13.0K for part two, and \$8.0K for part three. The fees for parts two and three were not included in this year’s budget. It was important to perform part one of the evaluation this fiscal year to establish a baseline of future capital expenditures necessary to preserve existing facilities. Parts two and three could be done later. An additional \$20.1K was needed to fund part one. The budget included \$36K to install steel pilings along the interior sections of floating docks C and D to reinforce the structure, however, this might be unnecessary with the recent addition of the inshore breakwater just west of the floating docks. It was prudent to defer this work pending the results of the capital plan evaluation, and the budgeted funds be reallocated as follows: \$20.1K for part one of the evaluation and the remaining \$15.9K for work down of the backlog of maintenance and repair at the Harbor. Cape Charles Yacht Center, the harbor management firm, concurred with this approach. The town manager had approval authority for professional services contracts up to \$30K, but this change order would exceed that value. Staff requested Council authorization for the town manager to execute a contract change order with Langley & McDonald in the amount of \$40,100 for part one of the Harbor Capital Plan Evaluation, and in the amount of \$21K for parts two and three as additional funding became available.

Motion made by Councilman Grossman, seconded by Councilman Follmer, to authorize the town manager to execute a change order in the amount of \$40,100 for part one of the Harbor Capital Plan Evaluation by deferring the structure piling project, reallocating \$20,100 to the capital plan evaluation and using the remaining \$15,900 to support the backlog of maintenance and repairs at the Harbor.

Councilman Grossman added that he was not prepared at this time to make a decision regarding the other parts of the plan as proposed.

Vice Mayor Bennett expressed his disagreement with Councilman Grossman's hesitancy regarding parts two and three since the projects would not be done without the available funding but added that he would not vote against the motion.

The motion was approved by unanimous vote.

C. *Contract Award for Architectural Services – Municipal Building:*

Bob Panek stated that a Request for Proposals (RFP) was issued on May 14, 2021 for architectural services for future office space. The RFP was structured in three phases:

Phase 1: Analysis of alternatives including: i) renovation of the current municipal building; ii) build-out of the third floor of the library building; iii) new construction on Town-owned property; and iv) a combination of renovation and new construction.

Phase 2: Plans, specification and bid packages for the selected renovation and/or construction alternative.

Phase 3: Oversight and inspection services for renovation and/or construction contracts.

Proposals were received from four firms and were evaluated by a panel consisting of the town manager, project manager, code official and Councilwoman O'Brien. Three firms advanced to the next stage for competitive negotiation of a specific scope of work and fee for Phase 1, and it was concluded that HBA provided the best value at a price of \$41,509. None of the proposals included a wetlands delineation and a Phase 1 environmental site assessment for the property under consideration for new construction, but it would be prudent to add these to the scope of work after an initial evaluation of the site. HBA estimated a cost ranging from \$2K-5K. It was premature to price Phases 2 and 3 at this time, but billing rates for the firms were similar. The town manager had approval authority for professional services contracts up to \$30K, but this award exceeded this authority. The FY 2022 budget included \$45K for an analysis of alternatives to address the deficiencies of the municipal building. Staff recommended Council authorization for the town manager to execute a contract with HBA initially in the amount of \$41,509 for architectural services for future office space, and up to \$45K to accommodate addition of a wetlands delineation and Phase 1 environmental site assessment.

There was discussion as follows: i) The site for potential new construction was by the radio tower and Rosenwald School. It was the only piece of Town-owned property large enough to accommodate the needs with water and sewer availability. A Phase 1 environmental site assessment was necessary to make sure the site would be appropriate; ii) If the municipal center and police department were moved to other locations, either the library or new construction, the current municipal building could be disposed of. If a new municipal complex was built, Council Chambers could also be included at the new site, and the Civic Center could be disposed of. The third floor of the library building, if found unfeasible for Town offices, could be sold separately from the library; iii) Councilman Follmer suggested an option to sell the library building and incorporate the library into the new municipal complex, adding that the library building, along with the lot behind it, was the most valuable property owned by the Town and its sale needed to be considered. Councilman Follmer added that if the Town was looking at options, he did not see the rationale of excluding the library building. John Hozey noted that this would significantly increase the scope and price of the evaluation. Councilwoman O'Brien added that the library was conveniently located within walking distance for anyone in the historic district. Mayor Dize stated that the option regarding the library relocation could be added later as a change order; iv) Bob Panek suggested moving forward with the contract as proposed. Obtaining an estimate for revenue from disposal of the library building and lot would be simple, but the proposed site might not be large enough to accommodate the additional space necessary for the library. The contract could be awarded, and a change order negotiated to add an analysis of the property to determine if there was space to include the library; v) Councilman Grossman noted that the Town owned

seven parcels along Randolph Avenue that could be used for this purpose. Councilwoman Holloway added that there was other Town-owned land available as well. Bob Panek stated that the proposed property was the only practical one. Councilman Buchholz added that the proposed property was physically located in the middle of Cape Charles.

Motion made by Vice Mayor Bennett, seconded by Councilman Follmer, to authorize the town manager to execute a contract with HBA in the amount of \$41,509 for architectural services for future office space, and up to \$45K for a wetlands delineation and Phase 1 environmental site assessment, with the intent that the town manager would bring his recommendation for amending the contract at a later date to address the library. The motion was approved by unanimous vote.

D. Board of Zoning Appeals Member Reappointments:

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to reappoint Mr. Pete Baumann and Ms. Dolores Blackburn to the Board of Zoning Appeals for another term. The motion was approved by unanimous vote.

E. Planning Commissioner Reappointment:

Motion made by Councilwoman Holloway, seconded by Councilman Buchholz, to reappoint Mr. Kenneth Butta to the Planning Commission for another term. The motion was approved by unanimous vote.

TOWN MANAGER COMMENTS

John Hozey commented as follows: i) The Citizens for Central Park (CCP) was a great steward of the facility recommending ongoing upgrades. CCP requested an upgrade to install an adult games area in the southeastern corner of the park. CCP would cover a significant portion of the cost, but the Town would also contribute. CCP realized that the Town could not make any decisions until spring 2022 for the FY 2023 budget but wanted to move forward with the project this fall. Even if the Council were to decide not to include any funding in FY 2023, any work done by CCP would be an improvement to the park. Unless Council objected, he would like to allow CCP to move forward with this project. Mayor Dize cited his objection and asked that this issue be placed on the October meeting agenda for Council review. Councilman Follmer expressed his agreement with Mayor Dize. Councilman Follmer added that Ms. Dianne Davis had repeatedly asked for an area with activities for older kids; ii) He informed Council that he had registered to attend the Virginia Municipal League Conference scheduled for October 3-5 and understood that Vice Mayor Bennett would also be attending; iii) Work was progressing with the consultant for the Private-Public Education Facilities and Infrastructure Act (PPEA) proposals relating to the potential utility acquisition. The information and comparisons were ready and would be presented to Council at an executive session following the October 21 regular meeting; iv) The Small Business Recovery Grant Program, which was being administered by Cape Charles Main Street (CCMS), was coming to a close, but there were still a lot of pending applications. Utility payments were added to the program last summer which opened several applications back up for additional funding. He requested an extension to the program to allow us to complete processing of the existing applications and for staff to complete the necessary reporting. The request was approved today extending our deadline to January 2022; v) He had reached out to Northampton County regarding the potential for a more equitable distribution of sales tax revenue and received a favorable response. He would be attending a meeting next week with the Mayor, Vice Mayor, and representatives from the County to discuss this possibility as well as some legislative priorities; vi) An Ice Cream Social for an informal get together for the Mayor and Council to mingle with residents was being scheduled for an upcoming evening. He suggested Thursday, October 7th, which was a date set aside for a Council meeting, at 6:30 p.m. Chase's Soft Serve offered to host the event. The Mayor and Council could wear their Town shirts and name tags would be available for the residents; and vii) In the agreement with CCMS, they were required to present an annual report to Town Council. It was going to be scheduled for the October Council meeting, but he

was made aware of the annual CCMS Rev-Up meeting where CCMS would be providing a broad-based briefing to the community regarding their plans and activities. In lieu of a formal presentation to Town Council, he suggested Council attend the Rev-Up meeting which was being scheduled for November 8th.

MAYOR AND COUNCIL COMMENTS

Councilman Grossman stated that he was working on an RFP for the Comprehensive Plan review and an internal meeting was scheduled next week to review the draft RFP.

Councilwoman O'Brien commented as follows: i) She thanked everyone for approving the addition of the correspondence to correct the minutes related to Code Official Jeb Brady; ii) We needed to address the overnight fishing and camping on the fishing pier; iii) A big pile of mulch was still at the playground along with a lot of overgrown weeds, etc. She asked that these items be taken care of; and iv) She would be out of town on October 21 and unable to attend the meeting.

Vice Mayor Bennett commented as follows: i) He would like to change the golf cart regulations to remove the seat belt requirement for licensing. It was not a crisis, but he didn't want to forget this issue since many golf cart manufacturers did not install nor recommended installation of seat belts. He asked for consideration of this over the winter with a vote before next year's season; ii) He asked that the process be started to lower the speed limit from Cassatt Parkway to the hump to 25 MPH. He would also like to see the speed limit reduced on the street to the main entrance to Bay Creek. We had been told previously that VDOT was not in favor of a speed reduction on this road due to its use, but he had difficulty in seeing a difference with the use of this road and Route 184. VDOT did allow a golf cart crossing on this road; iii) He felt that Chief Pruitt was handling the issue with people sleeping on the pier. He thought that the pier was in relatively poor condition and sections of it needed to be looked at and possibly closed until it could be repaired. There were dangerous conditions on the pier; iv) There was an innocuous comment in last week's Town Manager's Report to Council. The line in the Public Works Department Report stated "removed plaque at library to another location." The plaque was a memorial to the Cape Charles soldiers who were killed during World War I. It was displayed in the Memorial Library, which used to be in this building (Civic Center) but was moved to the current building when the library was relocated. This issue was discussed some time ago and he was pretty vocal about it at the time. It was a shame that this plaque was moved to the vault. History could be hidden and ignored but could not be changed. John Hozey stated that this issue was voted upon by the Library Board. Mayor Dize added that it had already been discussed by the Town Council which voted against relocating the plaque. When Council made a decision on an issue, it should be brought back to Council for further review and this Council might vote another way. Councilwoman O'Brien stated that the reason the Library Board voted to relocate the plaque was that the plaque specifically referred to "colored" soldiers and added that if it had referred to any other vulnerable group, it would be a different discussion. Councilwoman O'Brien went on to state that it was important to note that the plaque was not being removed from the building but relocated into the history room. Mayor Dize asked that this issue be added to the October Council meeting agenda.

Councilwoman Holloway commented on the following: i) She asked for a follow-up on the clam operations and comments received. She saw the activity on Sunday night and felt that the residents deserved more information. John Hozey explained it well, but the work seemed to be occurring during times other than we were told. When the activity was disruptive in such a way to the community, the Town had a right to put standards in place. Light was shining up on the residences on Mason Avenue and it was unfair to those residents. The clamming operator was not doing what they said they were going to do. Councilman Follmer added that the operations had been occurring every day for the last two weeks; ii) Last Thursday, she, Councilman Buchholz, Karen Zamorski and Bill Stramm attended the Coastal Virginia Chamber of Commerce Salute to COVID Heroes event in Virginia Beach to accept the award for CCMS. It was a great honor for Cape Charles, and she thanked Mayor Dize for nominating CCMS. It was a great ceremony. Everyone worked hard on the grant program and CCMS was among some outstanding honorees. She was working on a press release with

photographs; iii) Cape Charles was being featured on Virginia FOUND airing this Friday night on PBS. She and Mayor Dize spent some time with Dave Parker in June 2019 on the series which he was pitching to PBS. The series was picked up by WHRO and the Cape Charles episode would be airing on September 17 at 8:30 p.m. The series was also picked up by the Washington DC affiliate. She added that Dave Parker stayed at her inn while he was filming; iv) She was receiving quite a few questions regarding the transient occupancy tax (TOT) change in January from people wanting guidance on how to manage the TOT collection and reporting. She asked that Treasurer Deborah Pocock provide information to the owners of inns, hotels and vacation rentals related to TOT and guidelines for reporting and tracking by room; vi) She thanked CCP for another wonderful summer concert series. The crowds were incredible, and it was so exciting to see everyone enjoying the space, and the margaritas. LoveFest was probably one of the largest events she had seen in Central Park. She had some great drone photos. It was wonderful to end the season with the U.S. Air Force band; vii) Mr. Wilcox was in attendance earlier but had left the meeting. She wanted to acknowledge him for volunteering his time working with CCMS members Ken Butta and Patsy Harris on work force development. Mr. Wilcox had previous experience in this area and was making great strides with the high school and community college. Lack of a work force was a monumental problem and many of the Town's businesses have had to close during the week. As Council, we needed to support the businesses and the workforce development effort; and viii) CCMS received a grant from Northampton County and were still working to put in the new golf cart path. It was good to see that people were still using the current path until the new one could be installed.

Councilman Follmer thanked Councilwoman Holloway for bringing up the issue with the clamming operation. The issues were generating a lot of ill will towards the owner of the property.

Councilman Buchholz did not have any additional comments.

Mayor Dize thanked CCP and CCMS for all their efforts, adding that due to his job, he had not been able to attend any of the concerts in Central Park, but he had seen pictures and heard that everyone had a great time.

Mayor Dize read the announcements.

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

The meeting adjourned at 7:57 p.m.

Mayor Dize

Town Clerk

**Comments & Information Provided in Writing
September 16, 2021 Town Council Public Hearing & Regular Meeting**

#5 – Public Comments

Jane McKinley

I am very concerned with the direction this town is moving in. My concern was validated over the past couple of days when I had friends visiting. We walked all over town, including along Mason Ave, during different times of the day and night.

On the first night they were here, after enjoying a nighttime walk on the beach, we ended up at the pier around 9:30 and emerged to continue our walk along Mason. My friends, as well as I, were shocked to be assaulted by noise and an offensive light shining up onto a large crane, creating light pollution which blocked out the nighttime sky. A large tractor trailer was parked with its headlights shining across Mason onto the buildings on Mason and into a balcony where a poor couple was sitting trying to enjoy the evening. Its engine was idling, releasing emissions into the atmosphere. When they asked me what was happening, I didn't have an answer other than to say that I understood there was a new clam operation that had been approved by the town manager for operating on Thursdays (this was a Monday). Subsequently, one of the workers told me that this operation runs every night. Obviously, I haven't kept up with updates. Either that, or this business is taking liberties.

The next day, my friends stopped in at Gull Hummock, and I chose to wait outside where I took a seat at one of the high tables. Looking out, I saw an industrial wasteland (my friend called it a blight) and was reminded of having witnessed earlier in the day an eighteen-wheeler driving down Mason loaded with huge tires and containers.

Proceeding down the walkway, we landed at Kelly's where, once again, we sat outside to, instead of bees buzzing and birds singing, we listened to the sound of engines running and the banging of large equipment. Needless to say, this recent experience supports my concerns that Cape Charles is coming to value industry over the quality of life that was once an important priority. The community that I fell in love with and moved into with the plans that it would become my forever home is changing.

In spite of being a proud owner of a beautiful historical home, all of the wonderful friends that I've made, the beauty of the beach and park and the fun shopping experiences, I must say that I am facing a personal quandary in regard to what is happening to this town. Unfortunately, if it continues to move in the direction it appears to be going, it may not be my "forever home" forever.

I implore you to take this seriously and make decisions in support of the town's residents *(end of allotted three minutes)*

Bill Ballard

Dear Mayor Dize, Council Members, and Mr. Hozey:

The vote has been taken and the rezoning of Parcel 90-8-1A1 and the redefinition of Section 3.14 of the zoning ordinance covering GBI-H1 have both been passed. I disagree with the decision but

accept it as a product of the way town council form of government works. Despite accepting the outcome, I find myself pondering the actions.

My thoughts repeatedly return to the question of why this action happened without Cape Charles benefiting from it. The facts do not add up to me and I am compelled to ask you for answers.

Regardless of the merits or demerits of the rezoning or the redefinition of the ordinance, there are certain facts the town had before it prior to the application for either action.

1. Cape Charles faces a difficult financial situation.
2. Coastal Precast enjoys a tax discount.
3. The council recently passed a significant real estate tax increase affecting all homeowners in the town, in effect subsidizing the plant.
4. The aquifer that supplies Cape Charles is threatened. Coastal Precast uses more water than any other single user in town. They do not pay for this resource.
5. Coastal Precast has removed hundreds of trees, none of which can be replaced, perhaps in violation of the tree ordinance that regulates the rest of the town.
6. Coastal Precast wanted the land to be able to bid on multi-million-dollar projects.
7. The land is valueless to them without rezoning and redefining the ordinance.

With these facts as background, WHY for Heaven's sake, did the town not negotiate some proffers from Coastal Precast as conditions for the rezoning changes?

Mr. Hozey and Mr. Bennett met multiple times with the seller. Why didn't they address the tax discount and other issues in those meetings?

Why is Coastal Precast allowed to continue to drain the aquifer that is the most limiting factor in the growth of Cape Charles? What proposals regarding water did they ask from Coastal Precast as conditions of the rezoning?

Why did these men not demand an end to the removal of trees, or at least some mitigation or replanting, as a condition of the rezoning? Despite now requiring permits for removal, more trees have disappeared on the already owned site adjacent to their plant and nothing has been done to mitigate the removal of trees adjacent to the Natural Area Preserve.

There are many other issues that could have been addressed but there seems to have been no interest. It appears the only goal was to rush this through. Why? What was the urgency? Why didn't the Council reject the application in favor of recasting it with requirements to better benefit the town? Why couldn't this sale be delayed until after completion of the comprehensive plan? *(end of allotted three minutes)*

Sincerely,
Bill Ballard

Letter from Coastal Precast Systems, LLC re: comments made at the August 19 Town Council Meeting – read into the record by Town Clerk Libby Hume. Approved by Council to include in the August 19, 2021 Town Council Regular Meeting Minutes



COASTAL PRECAST SYSTEMS, LLC

MANUFACTURER OF QUALITY CONCRETE

1316 Yacht Drive • Chesapeake, VA 23320 • 757-545-5215 • Fax 757-545-6296

August 23, 2021

Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310

Attn: Mr. John Hozey

RE: Clarification on CPS Comments During Town Council Meeting on 8/19

Dear Mr. Hozey,

On August 19th at the regular town council meeting, CPS representatives made an erroneous statement regarding receipt of approval to remove some trees and brush to make room for additional required storage on its M-2 zoned heavy industrial property. Mr. Paul Ogorchock stated Jeb Brady, Code Official for the Town of Cape Charles, gave us verbal permission to remove some trees. This statement was based on incorrect information from internal meetings and documentation received from the previous owner. At no time did Mr. Brady provide CPS authorization to cut trees. We wish to petition the council to strike our statement from the official minutes or amend to state as such.

We did seek Mr. Brady's help early on for guidance on the permitting process for the new tunnel lining manufacturing building. During this time-period, COVID guidelines made it challenging to seek information regarding requirements for development of the property. We faced hurdles reaching out to other officials for this purpose, however, Mr. Brady was very helpful during this difficult time.

We appreciate all the support from the town people and its staff. We are doing the best we can to be a good neighbor and look forward to all our future endeavors with the town. If you have further questions or concerns, please contact me at any time.

Sincerely,
Coastal Precast Systems, LLC

Gary Shrieves

cc: Paul Ogorchock
Brandon Mowrey

July 2021 Treasurer's Report

Page 1 – Cash Position

- A \$93,000 principal payment was made on the 2016A Pinnacle Loan. Debt balance for the town is now \$6,540,495.

Page 2 – Revenue vs. Expenditures

- The three new funds were added to the report.

Page 3 – Capital Projects

- No activity year to date, will return for August's report.

Page 4 – Tax Collection Rate

- This page will return after the 2021 property tax bills have been created.

Page 5 – Tax Revenue Trends

- Business license due date was extended in FY 2021, which may cause collections for July-September 2021 to be lower than in 2020.
- Cape Charles Yacht Center uses cash basis accounting, and the town uses accrual, therefore this decrease may not be a "real" decrease, as 2020 revenue total was accrual (the town was managing.) We will meet with CCYC finance staff to try to find a solution for reporting in future months.
- Both TOT and Meals taxes show strong increases over July 2020. Note that meals tax rate increased by .5% July 1st.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
July 31, 2021

<u>Cash on Hand</u>	<u>6/30/2021</u>	<u>7/31/2021</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$1,233,965	\$672,417	-\$561,548
Atlantic Union Bank Money Market Account	\$2,050,268	\$2,550,368	\$500,099
LGIP Account 1 - Unrestricted	\$104,225	\$104,231	\$5
LGIP Account 2 - Unrestricted	\$295,470	\$295,487	\$16
Total Cash On Hand	\$3,683,929	\$3,622,502	\$0

<u>Restricted and Reserved Cash Balances</u>	<u>6/30/2021</u>	<u>7/31/2021</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Savings Account - Facility Fees Rsrvd (Utilities)	\$1,640,458	\$1,640,472	\$14
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$35,810	\$35,810	\$0
Atlantic Union checking Acct Library CD converted to cash	\$11,131	\$11,131	\$0
Atlantic Union Bank Checking Acct - E-Summons Revenue Rsrvd	\$5,629	\$5,863	\$233
US Bank - Reserved per VRA Interest Free Loan Requirements	\$257,584	\$257,584	\$0
Wells Fargo 2010 Debt Service pass through account #300	\$2,898	\$2,898	\$0
Wells Fargo 2010 Debt Service pass through account #308	\$761	\$761	\$0
Total Cash Held in Reserve	\$1,954,702	\$1,954,949	\$247
Total Cash - All Accounts	\$5,638,631	\$5,577,451	-\$61,180

DEBT SERVICE

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

FUND	CURRENT MONTH	PRIOR YEAR-TO-DATE	CURRENT YEAR-TO-DATE	INCREASE/ (DECREASE) YTD	ANNUAL BUDGET	% REALIZED/ EXPENDED FY22
GENERAL Operations						
REVENUE	\$211,207	\$128,317	\$211,207	\$82,890	\$3,536,507	5.97%
EXPENDITURES	\$267,959	\$251,133	\$267,959	\$16,826	\$3,536,507	7.58%
NET	(\$56,751)	(\$122,816)	(\$56,751)	\$66,064	\$0	
GENERAL Capital						
REVENUE	\$0	\$0	\$0	\$0	\$1,197,762	0.00%
EXPENDITURES	\$0	\$0	\$0	\$0	\$1,197,762	0.00%
NET	\$0	\$0	\$0	\$0	\$0	
GENERAL Debt Service						
REVENUE	\$0	\$0	\$0	\$0	\$258,614	0.00%
EXPENDITURES	\$71,072	\$65,356	\$71,072	\$5,716	\$258,614	27.48%
NET	(\$71,072)	(\$65,356)	(\$71,072)	(\$5,716)	\$0	
GENERAL Special Operations						
REVENUE	\$19,766	\$0	\$19,766	\$19,766	\$948,115	2.08%
EXPENDITURES	\$24,730	\$0	\$24,730	\$24,730	\$948,115	2.61%
NET	(\$4,964)	\$0	(\$4,964)	(\$4,964)	\$0	

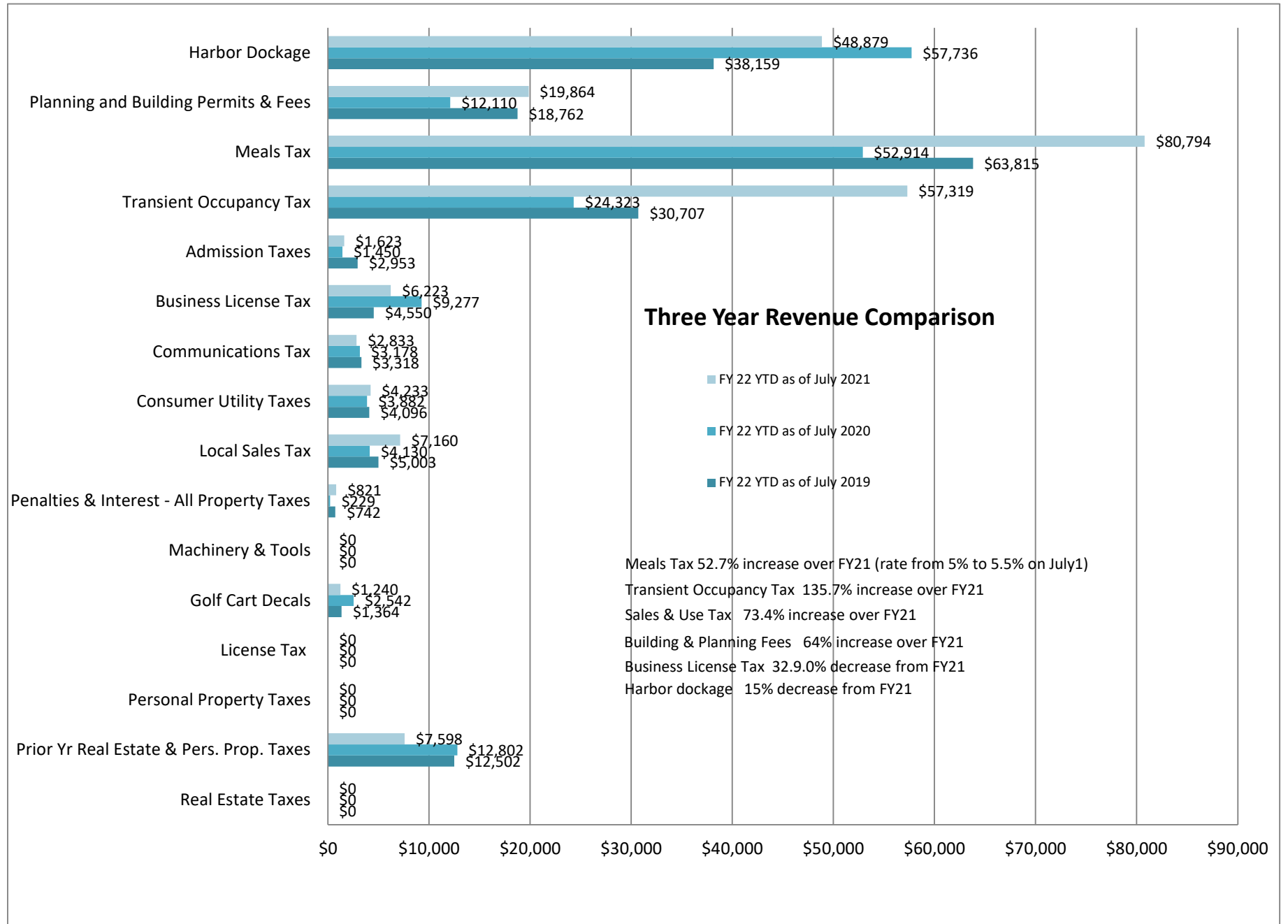
MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

July 31, 2021

REVENUE VS. EXPENDITURES

FUND	CURRENT MONTH	PRIOR YEAR-TO-DATE	CURRENT YEAR-TO-DATE	INCREASE/ (DECREASE) YTD	ANNUAL BUDGET	% REALIZED/ EXPENDED FY22
PUBLIC UTILITIES						
REVENUE - Operating	\$186,417	\$158,023	\$186,417	\$28,393	\$1,825,021	10.21%
EXPENDITURES - Operating (less facility fees rsrvd)	\$52,682	\$52,859	\$52,682	-\$178	\$993,224	5.30%
NET	\$133,735	\$105,164	\$133,735	\$28,571	\$831,797	
REVENUE - CAPITAL GRANTS, LOANS	\$53,000	\$0	\$53,000	\$53,000	\$104,751	50.60%
REVENUE - FACILITY FEES	\$0	\$42,400	\$0	-\$42,400	\$254,400	0.00%
EXPENDED - CAPITAL PROJECTS, DEBT SVC, & FACILITY FEES	\$95,514	\$75,028	\$95,514	\$20,485	\$936,548	10.20%
TOWN CONTRIB. & PENDING GRANTS	(\$42,514)	(\$32,628)	(\$42,514)	(\$9,885)	(\$831,797)	
HARBOR						
REVENUE - Operating	\$126,484	\$179,458	\$126,484	-\$52,973	\$833,500	15.18%
EXPENDITURES - Operating	\$107,243	\$135,516	\$107,243	-\$28,272	\$772,500	13.88%
NET	\$19,241	\$43,942	\$19,241	(\$24,701)	\$61,000	
REVENUE - GRANTS & LOANS	\$0	\$0	\$0	\$0	\$0	#DIV/0!
TRANSFERRED FM GEN FUND FOR DEBT SERVICE	\$0	\$0	\$0	\$0	\$102,657	0.00%
EXPENDED - Capital Projects, Debt Svc	\$33,094	\$55,836	\$33,094	-\$22,743	\$163,657	20.22%
TOWN CONTRIB. & PENDING GRANTS	(\$33,094)	(\$55,836)	(\$33,094)	\$22,743	(\$61,000)	
SANITATION						
REVENUE	\$20,483	\$16,624	\$20,483	\$3,860	\$390,595	5.24%
EXPENDITURES	\$14,405	\$20,313	\$14,405	-\$5,909	\$390,595	3.69%
NET	\$6,079	(\$3,690)	\$6,079	\$9,768	\$0	





*Municipal Corp. of
Cape Charles*

The undersigned Clerk of the Council of the Town of Cape Charles, Virginia (the “Town”), hereby certifies that:

1. A meeting of the Council of the Town (the “Council”) was duly called and held on September 16, 2021 (the “Meeting”). Attached hereto is a true, correct and complete copy of Ordinance 20210916 (the “Ordinance”) of the Town entitled as recorded in full in the minutes of the Meeting, duly adopted by a majority of the members of the Council present and voting during the Meeting.
2. A summary of the members of the Council present or absent at the Meeting and the recorded vote with respect to the foregoing Ordinance as set forth below:

Member Name	Present	Absent	Voting		
			Yes	No	Abstaining
William Dize, Mayor	X		X		
Steve Bennett	X		X		
Andy Buchholz	X		X		
Andrew Follmer	X		X		
Paul Grossman	X		X		
Tammy Holloway	X			X	
Ellen O’Brien	X			X	

3. The Ordinance has not been repealed, revoked, rescinded or amended and is in full force and effect on the date hereof.

Witness my signature and the seal of the Town of Cape Charles, Virginia this 16th day of September 2021.

Clerk of the Council
Town of Cape Charles, Virginia

(Seal)

ORDINANCE 20210916

ADOPTING TEXT AMENDMENTS TO CAPE CHARLES ZONING ORDINANCE SECTION 3.14-GENERAL BUSINESS/LIGHT INDUSTRIAL H-1

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, at their August 19, 2021 regular meeting, the Cape Charles Town Council indicated that further zoning text amendments should be considered for the General Business/Light Industrial H-1 zoning district as a result of public input received during the public hearings associated with the August 19th zoning text amendments; and

WHEREAS, the proposed text amendments would move some of the by-right uses in the General Business/Light Industrial H-1 zoning district to a conditional use category which required the completion of an application process to be approved by the Town Council; and

WHEREAS, the conditional use application process would provide the Town to view actual site plans and details of the proposed operation prior to approval;

WHEREAS, pursuant to Code of Virginia §§ 15.2-2285 and 15.2-2204, after proper notice public hearings were each held by the Planning Commission and Town Council, and the Planning Commission reviewed and deliberated the proposed revisions, and approved by majority vote, making recommendation for Town Council approval of the revisions made to Section 3.14 as attached; now

THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 16th day of September 2021, that Cape Charles Zoning Ordinance Section 3.14 be revised as shown in the attached, as may be amended by Council, to become effective immediately.

Adopted by the Town Council of Cape Charles on September 16, 2021.

By: _____
Mayor

ATTEST:

Town Clerk

Section 3.14 General Business/Light Industrial H-1 (GBI H-1)

A. 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.
6. Any reference to PUD or PUD Districts or Appendices in the PUD refers to the Accawmacke Plantation Planned Unit Development (PUD) Ordinance, adopted February 9, 1997 and subsequently amended through July 24, 2006.

B. Permitted Uses. Within the GBI H-1 District, the following permitted uses shall be allowed.

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. Medical care facility, outpatient only
15. Museum, cultural center, arboretum
16. Offices--administrative, business, professional, and telecommunication
17. Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Appendix A, applicable category; and provided that such storage or outside activities shall be completely encompassed by a visual screening device or wall at least seven (7) feet high. All outside storage or activities shall be restricted to that area behind the required front yard setback and not encroach into any of the side or rear setback requirements.
18. Park, plaza, or natural area

19. Parking structure
20. Performing arts center
21. Post office, drop off and pick up, mail courier and parcel services
22. Printing service
23. Public utility service center, without outdoor storage
24. Rail and/or intermodal terminals, including transfer, storage, handling, inspection, processing and/or transport of containerized bulk and/or other cargo
25. Recording studio
26. Recreational facilities
27. Recycling drop-off collection center serving the Park
28. Research, experimental testing or development activities
29. Restaurant, indoor and outdoor (excluding drive-through)
30. Telecommunications, television, or radio microwave dishes or antennas
31. Training center (excluding rehabilitation and institutional facilities)
32. Utility generating plant and transmission facilities using renewable energy sources
33. Utility installations
34. 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
35. Warehousing facility (excluding mini-storage facility)
36. Water storage tank
37. Wholesale trade establishment

C. 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 to a maximum height of 75 feet if the building or structure is set back at least one hundred twenty-five (125) additional feet from the required set back from all property boundaries, except those that abut Industrial M-2 or General Business/Light Industrial – H-1 zoned parcels.
3. Manufacture, processing, fabrication, and/or assembly 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 wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.

D. 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

E. Lot, Yard, Height, and Density Requirements. Within the GBI H-1 District, the following standards shall apply.

1. Minimum lot requirements

lot area 15,000 square feet
lot width 100 feet

2. Yard requirements

minimum front yard 10 feet
maximum front yard 25 feet
minimum side yard between buildings none or 5 feet
minimum side yard adjacent to street 10 feet
minimum rear yard 20 feet

3. Maximum building height

Buildings 40 feet
structures other than buildings 50 feet

4. Building coverage. No more than 50 percent of the land area of the lot may be covered by structures.

5. Buffer yards. Where the GBI H-1 District adjoins the R (residential) zoning districts within the PUD or CO Land Use Classifications or C districts within the PUD, buffer yards are required as follows:

- a. When a zoning lot within the GBI H-1 District adjoins any R zoning district within the PUD, the following shall be required along all lot lines within the GBI H-1 District adjoining the R zoning district within the PUD.
 - i. A 200-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within 200 feet of any zoning district or zoning classification within the PUD that permits residential as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where residential use is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 100 feet wide and run continuously for the length of the buffer.
- b. When a zoning lot within the GBI H-1 District adjoins a CO Land Use Classification, the following shall be required along all lot lines within the GBI H-1 District adjoining the CO Land Use Classification:

- i. A 100-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within 100 feet of any zoning district or zoning classification within the PUD that permits CO Land Use Classification as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where CO Land Use Classification is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.
- c. When a zoning lot within the GBI H-1 District adjoins a C district, the following shall be required along all lot lines within the GBI H-1 District adjoining the C district:
 - i. A 50-foot natural buffer over and above any landscape requests
 - ii. otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - iii. No loading facilities, loading docks, or loading bays shall be permitted within 75 feet of any zoning district or zoning classification within the PUD that permits commercial as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where commercial use is allowed.
 - iv. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.

F. 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, fossil fuels, 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, sirens, paging systems, whistles, horns, bells, or signals audible outside any buildings shall be allowed on the property. Any and all OSHA requirements shall be adhered to; any OSHA-accepted alternative warning devices are encouraged. A sound impact study will be required as part of any conditional use permit application, and additional sound mitigation barriers may be required in addition to the natural buffer yard requirements in paragraph E (5) above.
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 before 8 a.m. and after 9 p.m. Monday through Saturday and no such deliveries to or from the property shall occur on Sunday.
11. The requirements of this paragraph F. shall apply to all uses of Section 3.14. The Zoning Administrator may grant exceptions to these requirements in conformance with the following standards:
 - a. That the exception is reasonably necessary due to customary processes or physical constraints of the site;
 - b. That the exception does not compromise the intent of this Ordinance;
 - c. That the exception is the minimum departure from applicable standards necessary to provide relief;
 - d. That the design, location, and operation of proposed on-site improvements are compatible with existing developed sites contiguous with the site of the proposed development;
 - e. That the granting of the exception will not substantially affect adversely the use of adjacent property;
 - f. That the granting of the exception will not impair the health, safety, or welfare of the inhabitants of the Town.