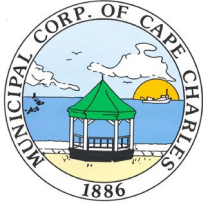




TOWN COUNCIL
Regular Meeting
August 19, 2021
Cape Charles Civic Center
6:30 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Moment of Silence and Pledge of Allegiance
3. Recognition of Visitors / Presentations / Recognitions
 - A. None
4. Public Comments (3 minutes per speaker)
5. *Consent Agenda
 - A. Approval of Agenda Format
 - B. [Approval of Minutes](#)
 - C. [Approval of June 30, 2021 Financial Report](#)
6. Unfinished Business:
 - *A. [Proposed Zoning Ordinance Text Amendment – Section 3.14-General Business/Light Industrial H-1](#)
 - *B. [Application for Zoning Map Amendment – Tax Parcel #90-8-1A1](#)
7. New Business:
 - *A. [Building Code Board of Appeals Member Reappointment](#)
 - *B. [Historic District Consulting Services Contract Award](#)
 - *C. [Attraction Vessels Dockage Policy](#)
 - D. [Town Priorities](#)
8. Town Manager Comments
9. Mayor & Council Comments (5 minutes per speaker)
10. Announcements
 - September 6, 2021 – Town Offices Closed in Observance of Labor Day
 - September 16, 2021 – Town Council Regular Meeting
11. Adjournment of Regular Meeting



DRAFT
PLANNING COMMISSION & TOWN COUNCIL

Joint Public Hearing
Cape Charles Civic Center July 13, 2021
6:00 p.m.

At 6:00 p.m., Chairman Bill Stramm, having established a quorum, called to order the Public Hearing and Regular Meeting of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Kenneth Butta, Diane D'Amico, Paul Grossman, Jim Holloway, Dennis McCoy, and Michael Strub. Also, in attendance were Interim Planning/Zoning Administrator Katie Nunez, Planning Technician Tracy Outten, and the applicants. There were 68 members of the public in attendance and 35 viewers on Facebook Live.

Mayor William "Smitty" Dize, having established a quorum, called to order the Public Hearing of the Town Council. In addition to Mayor Dize, present were Vice-Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Also, in attendance were Town Manager John Hozey and Town Clerk Libby Hume.

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

PUBLIC HEARING PUBLIC COMMENTS:

Interim Planning/Zoning Administrator Katie Nunez presented a PowerPoint to clearly identify the proposed parcel being considered for the zoning map amendment. She stressed that a subdivision had been approved and would be an added buffer. Ms. Nunez stated that there were Wetlands throughout tax map #90-8-1A1 and any plans submitted would deal with all issues.

Chairman Stramm read the Notice of Public Hearings and opened the floor for comments.

Phil Goetkin, 602 Jefferson Avenue

Mr. Goetkin voiced his concerns about the trees and tree canopy. He requested that the decision on the text changes and rezoning be deferred until additional input by all stakeholders can be developed and evaluated. (Please see his full statement attached.)

Margaret Ballard, 115 Mason Avenue

Ms. Ballard and her husband were not opposed to Coastal Precast Systems. She respectfully requested that the decision for the proposed amendments be delayed until these proposals from Coastal Precast and the parcel owner have had a chance to be considered and completely reviewed by the boards and commissions the council has put in place to represent its citizens. (Please see her full statement attached.)

Joan Natali, 110 Blue Heaven Road

Ms. Natali supported the rezoning but had the following concerns about the proposed text amendments; first the maximum structure of 75 ft tall was too high and second the removal of sirens and other devices needs to be revised to include a noise that was not so loud that it was a nuisance. (Please see her full statement attached.)

Shannon Alexander, 15338 Quail Lane, Painter

Ms. Alexander was speaking on behalf of Virginia Department of Conservation and Recreation which were adjacent property owners. She said the area was important for the environment and wildlife habitats.

Beverly Steffey, 204 Jefferson Avenue

Ms. Steffey thanked the Town Council and Planning Commission. She worried that the decisions were being rushed and suggested a deferral until proper research could be done on the effects the changes may have on businesses and the environment.

Susan Eidam, 646 Tazewell Avenue

Ms. Eidam's comments addressed the importance of effective zoning ordinances, with respect to time, transparency, and process. She implored the Planning Commission to defer the decisions. (Please see her full statement attached.)

Arnie Fuog, 547 Mason Avenue

Mr. Fuog thought that the zoning changes should benefit everyone and not just one person or corporation.

Mark Tillotson, 216 Blue Heaven Road

Mr. Tillotson encouraged the Planning Commission to reject the proposed zoning changes written by Coastal Precast Systems and submitted by Mr. S. Eyre Baldwin. (Please see his full statement attached.)

Susan Tillotson, 216 Blue Heaven Road

Ms. Tillotson expressed concerns of clearcutting trees and encouraged the commissioners to reject both proposals. (Please see her full statement attached.)

Phillipa Wilcox, 401 Cassatt Knoll

Ms. Wilcox said that the reason for her moving her was to assess natural resources and asked what kind of community we wanted to be. She does not want to thwart progress but would like the decision to be paused. Ms. Wilcox thought the comprehensive plan should be completed first.

Chris Sheppard, Apartment 203 Plum Street

Mr. Sheppard objects to the zoning changes and does not think they were being done properly.

Bruce Evans, 652 Tazewell Avenue

Mr. Evans was in total agreement with most of the comments spoken. He added that this process was rushed, should have many open discussion meetings about these items, and thought the commissioners needed to kill the proposal or defer the decision.

Dave Doherty, 509 Nectarine Street

Mr. Doherty said the town needed trees, preservation, and the economy which made these proposals a complex issue. The right decision does not need to be rushed and more information was needed. He added that green energy would be great and suggested restricting traffic by waterway as a way to reduce noise.

Bill Payne, 103 Arnie's Loop

Mr. Payne said the issue was a Northampton County issue not just a Cape Charles one. He continued by saying that the Eastern Shore was measured by its economic development success and this proposal would add jobs. The town should not be selfish and the commissioners should help keep the progress moving forward with no delays to bring additional jobs.

Laura Weigand, 632 Madison Avenue

Ms. Weigand moved here to enjoy a quiet beach community and live a happy healthy life with her wife. They opposed the amendments. (Please see her full statement attached.)

Planning Technician Tracy Outten read comments submitted in writing prior to the meeting. (Please see attached.)

Motion made by Paul Grossman, seconded by Dennis McCoy, to close the public hearing portion of the Planning Commission meeting at 7:18 p.m. The motion was approved by unanimous vote.

Motion made by Councilman Buchholz, seconded by Vice-Mayor Bennett, to adjourn the Town Council Public Hearing. The motion was approved by unanimous vote.

Planning Commission Chair

Mayor Dize

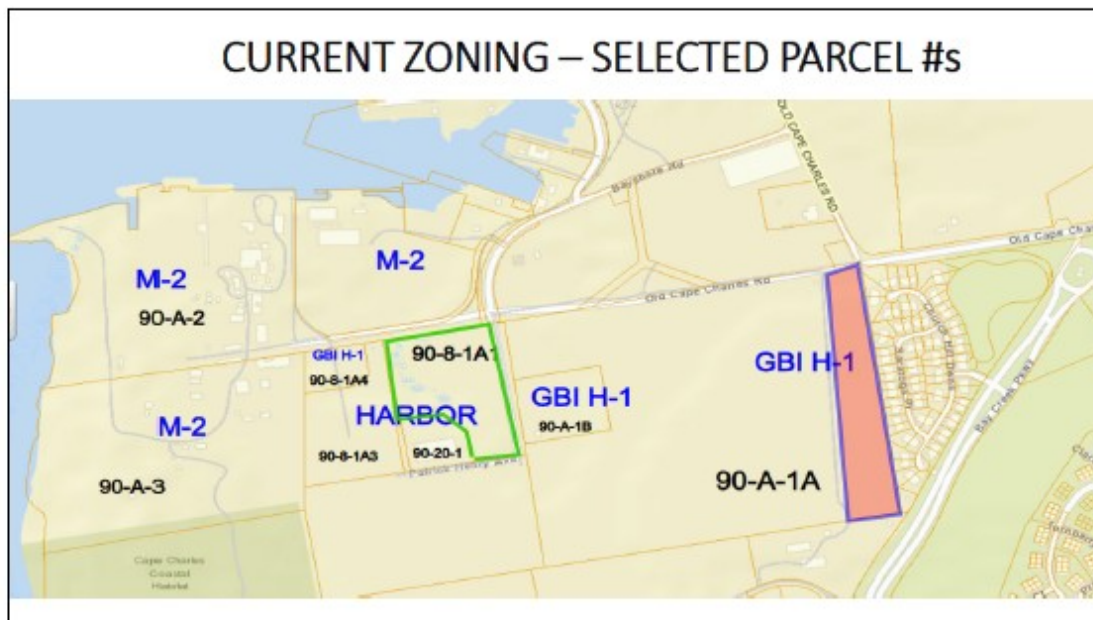
Planning Technician

DRAFT

**Interim Planner/Zoning Administrator PowerPoint Presentation
July 13, 2021, Planning Commission/Town Council Joint Public Hearing**



1



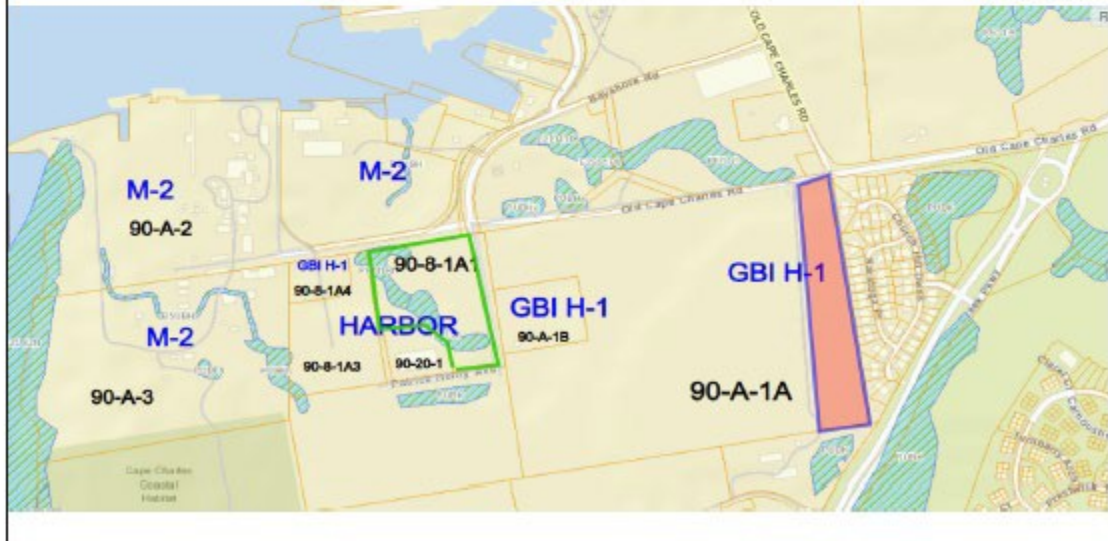
2

CURRENT ZONING with SELECTED PARCEL #s & AERIAL IMAGING



3

WETLANDS OVERLAY



4

[illegible]

Comments Heard and Submitted in Writing
July 13, 2021, Planning Commission/Town Council Joint Public Hearing

Phil Goetkin, 602 Jefferson Avenue

Conservation and protection of the trees and tree canopy is a well-documented high priority for the citizens of Cape Charles. Just take a look at the language included in the recently approved Strategic Planning Document or our most recently approved Comprehensive Plan; take a look at our Master Tree Plan or take a look at Appendix F of the Zoning Ordinance otherwise known as the Tree Conservation and Preservation Ordinance. All of these documents reinforce the critical importance of trees in our town.

The intent of the Master Tree Plan and the Zoning Ordinance is to develop a vibrant green infrastructure in all of our Town districts by protecting existing trees and promoting the planting of new trees. Appendix F of the Zoning Ordinance applies to all undeveloped property and property undergoing redevelopment. It requires a ten percent (10%) tree canopy cover for any site zoned business, commercial or industrial. It also requires a permit before any tree may be destroyed or removed. The Town Council, the Planning Commission, and the Town Staff need to work together to insure the Tree Preservation and Conservation Ordinance is strictly administered and enforced.

The zoning changes and rezoning being discussed tonight will certainly enable Coastal Pre-Cast Systems (or whoever might develop property in question) to increase the industrial base of the Town. I think we can all agree that economic development is a good thing – more jobs and an increased tax base. At the same time, we need to be aware of the potential environmental costs the development of these properties (90-8-1A 11.79 acres and 90-A-1A 7.66 acres) might create. The natural resources on these properties are at risk – the forest and all of the plants and animals that exist within it.

A property owner has the right to develop her or his property in any way the laws, rules and regulations permit. However, it is critical that development be done in an environmentally and ecologically sustainable manner. The development that has occurred in this area of Town over the last several years has fallen dramatically short. Trees have been clear-cut all the way to property lines. As recently as last week many more trees were being cut down. If the zoning changes being proposed are approved, it is my belief that the trees on these properties in question will be clear-cut as well – thereby, permanently changing these critical natural landscapes forever.

Before any decision is made on the zoning text changes or the rezoning request, I am requesting that a detailed tree plan that follows the Zoning Ordinance be submitted and approved. It is critical to know which trees will be saved and how these trees will be saved. Also, this plan should also be made public to insure that all citizens of this town are aware of what the consequences of this development could be.

Finally, I am requesting that the decision on these text changes and rezoning be deferred until additional input by all stakeholders can be developed and evaluated.

Good evening, Chairman Stramm, Mayor Dize and members of the Commission and Council. Thank you for the opportunity to speak to the proposed changes in the text of the Cape Charles zoning ordinances which would allow rezoning of parcel 90-8-1A1 from Harbor to General Business/ Light Industrial H1 (GBH/H1).

My name is Margaret Ballard. My husband and I reside full-time at 115 Mason Avenue, Cape Charles. I want to emphasize that my husband and I are NOT opposed to Precast Coastal Systems. We applaud the efforts of Dan McGhee, the plant manager, and the owners for keeping the doors of communication open. Our request is that the Planning Commission and Town Council create a much stronger vision of integrating the goals of Coastal Precast with the goals of ALL of the town's citizens, voters and property owners.

I also respectfully request that you delay the ordinance change until these proposals from Coastal Precast and the parcel owner have had a chance to be considered and completely reviewed by the boards and commissions the council has put in place to represent its citizens. (The Wetlands and Dune Commission, the Harbor District Review Board, the Tree Advisory board, and the Chesapeake Bay Preservation Board)

I would now like to review the Purposes of the GBH 1 District outlined in the current zoning ordinance.

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**

If the ordinance changes are passed without review by the various town organizations, where are the guard rails to ensure these purposes are fulfilled? Will the Commission recommend and the Town enact amendments that support these purposes?

Thank you.

July 13, 2021

My name is Joan Natali and I reside at 110 Blue Heaven Road in Cape Charles.

I have reviewed the complete agenda package and also reviewed the Zoning Ordinance referred to and under consideration tonight.

In general, I support the recommended revisions to Article III of the Zoning Ordinance and the rezoning of Tax Map #90-8-1A1 located at 1201 Bayshore Road from Harbor District (H) to General Business/Light Industrial H-1 (GBI H-1).

I have three concerns that I would like the Planning Commission and the Town Council to consider in their deliberations.

First: I understand that the change to the GBI H-1 District Conditional Use paragraph adds to statement 2:

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 one hundred twenty-five (125) additional feet from the required setback for all yards abutting residential properties.

I understand that any proposed development of a property in this district has to apply for and go through the Conditional Use process. That process includes review and public hearings before a permit is either granted or denied prior to the development of the property, I personally think a height of 75' is too high for our Town.

Consider the following Zoning Ordinance Height Regulations for the Districts currently in that area:

- Harbor District – 40' height, (55' with a Conditional Use)
- GBI District & Industrial District M-1 – 45'
- Industrial District M-2 – 45' for buildings; 50' for structures other than buildings
- **General Business/Light Industrial H-1 (GBI H-1)** – 40' for buildings; 50' for structures other than buildings; (with a Conditional Use, Structures, other than buildings, exceeding 50 feet and Buildings over 40 feet but equal or less than 50 feet

I would like you to revise the 75' height maximum to 55', which I believe is the highest height currently stated in the Zoning Ordinance for the Town of Cape Charles.

Second, I am concerned about section F. Additional Development Requirements:

#9. the removal of "sirens" and "or other devices"

Please consider adding wording to ensure that noise from sirens or other devices are not so loud as to become a public noise nuisance to nearby residential neighborhoods and neighboring business(s) in the area. If not now, maybe the subject can be considered in the near future.

Third: Please do everything you can to ensure that as many trees, bushes and plantings present along the perimeter of a property in the areas south of the Harbor and north and east of the PUD are preserved, maintained and replaced if and when they die. Also require hedges, or fast-growing shrubs to be planted and maintained within the buffer yards as a noise-reducing element.

Thank you for your time and consideration.

Good evening. I am grateful to address The Planning Commission and Town Council.

The respect for residents, business and regulatory input has made Cape Charles a wonderful place.

My comments address the importance of effective Zoning Ordinances, with respect to Time, Transparency and Process.

My goal is not to influence an outcome but, ask questions about how the process *leading* to the outcome can be as inclusive as possible.

Your decisions affect the way we live, legislate, vote, and develop economically.

Planning Commissioners invest time, expertise and thorough study with everyone's best interests in mind, to ensure that Ordinances remain effective over time and changes evolve consistently with the Comprehensive Plan.

Prudence and due diligence are the foundation of any resilient framework.

In the Rezoning and Text Amendment application before the Planning Commission tonight, two parties have rightfully sought modifications to the existing Zoning and Text of Zoning Ordinance.

There is no criticism here. Business people with an interest in bringing more commerce to Cape Charles, and be profitable, is economic development.

A sound proposal is one where the shared interests of industry, residents, property stability and environmental sustainability are considered.

Our Planning Commissioners can assure they are making quality decisions by engaging the community, *before* a Resolution is advanced to Town Council.

For the Commission to exercise due diligence consult with Citizen Groups, Boards, Commissions, and Agencies may encourage and refine the initial proposal.

It takes time.

Time to review zoning, maps, and ordinance text.

Time to study Staff Reports

Time to ask Questions.

No Commission regardless of expertise can submit to Council a well-considered opinion, in a week. Council should respect the time it takes for the Commission to submit a more informed recommendation.

The practice of swiftly re-negotiating planning, zoning, and ordinance language, to accommodate an implied sense of urgency - often means we compromise our responsibility to fully explore and question the implications that those changes mean to the public at large.

In summary,

I request that citizens have ample time to read and study related documents and seek out our elected council members to ask questions and offer insights before a resolution is passed.

Changes that have such a visible impact on the landscape of the Town can be scary.

Let's mitigate the presumptive fear that can snowball into hostility and distrust, let's replace it with framework where community partners meet face to face; foster a sense of mutual cooperation, transparency, and support around change and growth.

I implore the Planning Commission to please return a decision tonight to:

defer The Resolution of Intent to modify the Cape Charles Zoning Ordinance § 3.14.

And provide a timeframe for the due diligence process, in which to advance a thoughtfully considered opinion to the Town Council.

Thank you.

Mark Tillotson, 216 Blue Heaven Road
July 13, 2021

Planning Commission and Town Council
Cape Charles, VA



My name is Mark Tillotson, and I would like to make the following statement for the permanent record to the Cape Charles Planning Commission public hearing on the Zoning Text Amendment.

My wife, Susan Tillotson, and I are residents of Cape Charles, and speaking for both of us, we **strongly** encourage the Planning Commission **to reject** the proposed zoning changes written by Coastal Pre-Cast Systems (CPS) and submitted by Mr. S Eyre Baldwin.

Today, I wish to respond to the request to change the Zoning of Lot 90-8-1A1 (referred to in the document as **Lot Baldwin**) from Harbor (H) to General Business / Light Industrial (GBI/H1). We **disagree** with Mr. Baldwin's assertion that the previous re-zoning of Lot 83A3-11-2 (referred to here after as **Lot Yacht**) set a precedent. That lot is **further** from the residential area of Bay Creek. While this rezoning action had the potential to negatively affect the Cape Charles because it is visible to downtown Main

Street, it was in keeping with the nature of the **Land Use Plan** for the Harbor in the Comprehensive Plan since it was planned to be a **yacht repair facility**. The change in zoning was needed to allow for the building of the repair facility. However ... for the Lot in question (**Lot Baldwin**), this property is closer to residential property and is **not anticipated to support** Harbor Planning, so it is **not the same**, and we feel **no precedent** has been set and that this action must **be evaluated on its own merits**.

Currently we live at the north end of the Hollies in Bay Creek. Already the existing noise from the CPS plant is obnoxiously loud. This proposal being considered brings additional industrial sounds even closer to within ¼ mile to our house.

This proposed change directly affects the residential property at New Quarter and the Hollies on Bay Creek. But we contend, just as we are dissatisfied with the level of noise that exists today from even a greater distance, expanding the industrial operations towards Bay Creek would put the **sale of the new residential lots** at Bay Creek in the Bluffs (to include the Muirfield Bluffs being advertised now) and Village J at **higher risk**. This **certainly** would not be good for the economic benefit to Cape Charles since all of these residents shop on main street, eat at the town restaurants and generally support Cape Charles economically.

Making it **less desirable** for visitors to come enjoy the tranquility and charm of the town of Cape Charles, as well as less desirable to live on the northern end of Bay Creek does not sound like it is in Cape Charles best interest. This re-zoning is obviously opportunistic for some at the expense of most others in Cape Charles.

Cape Charles has **previously** modified the Comprehensive Plan and **approved** a revised Town Zoning Map **without** additional study. As a former US Army Corps of Engineers leader in charge of **environmental planning** and a former Department of Veterans Affairs leader in charge of **community planning**, I am intimately aware how supposedly **minor changes** to a city plan can have a **large** unintended but negative impact on the local environment and economy. Based on my reading of the **Planning Commission Staff recommendation**, it appears that the town is prepared to continue to **incrementally change** the Zoning Map **by fiat**, rather than to **fully study** the effects to the Land Use Plan for Cape Charles (death by a 1,000 cuts). We think this is **shortsighted** in the interests of the city. Plus this could have a **domino effect** on other properties in this area without the due diligence required for a full review. For example, has an Environmental Impact Study (EIS) been prepared, complete with an analysis of **alternative options**, to determine the effects from **point source pollution** control into the Chesapeake Bay, **air pollution** control, a **noise level** study, or a Virginia Department of Transportation (VDOT) **Road Study** to determine the **affect of traffic** and the **safety** of the town residents and visitors? We contend that rezoning is **premature**, and that Cape Charles and its citizens do not have **sufficient knowledge** of this proposal to make this decision at this time as to the consequences of implementation.

So ... our objection to the proposal to redesignate the Lot Baldwin from H to GBI/H1 is based on **inadequate analysis** of the effects of this proposal. We feel that the negative impact to the community outweighs the benefits. We **strongly encourage** the Planning Commission to **reject** the proposed zoning changes.

Susan Tillotson, 216 Blue Heaven Road
July 13, 2021

Planning Commission and Town Council
Cape Charles, VA

Good evening, my name is Susan Tillotson. My husband Mark Tillotson previously spoke about the rezoning.

My intent is to address the text changes in the General Business / Light Industrial (GBI/H1) Zone requirements. The proposed text changes to the zoning requirements for Lot 90-8-1A1 (which we called Lot Baldwin), would also affect the wooded Lot 90-A-1A (which I will refer to as Lot Buffer) that is directly adjacent to the residential property on Bay Creek communities. In Section 3.14 General Business/Light Industrial H-1 (GBI H-1), A, the purpose of the "GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan". Currently, we know of no comprehensive development plan. This comprehensive development plan should:

1. Serve as a model for advancing the **traditional settlement patterns of Eastern Shore's town;**
2. Incorporate comprehensive, cost-effective approaches to resource conservation, **wise use of renewable resources**, and ecologically based industrial development in all aspects of the design and development of the project.

The July 2021 issue of "Southern Living" has an article titled: "The Best Little Beach Town in Virginia; Cape Charles Has Been Flying Under the Radar, but not Anymore." The article talks about historic Cape Charles as "the economic hub of the Eastern Shore until the decline of the railroad industry. Now more than 50 years later, the salty little hamlet has officially made a comeback, holding tight to its small-town character even as it welcomes a new and growing crowd of beach lovers." Changing zoning text will have a negative effect to this small-town character as defined later.

We are unaware of a comprehensive plan that is ecologically sound. Clearcutting trees (which is highly likely), while profitable for some, is certainly not ecologically sound nor probably a wise use of renewable resources. So, we object to adding "assembly and/or storage" as this will certainly have to be done by clearcutting trees since the existing lot is forested in order to make room for assembly and storage of large pre-cast items, those items that the company Coastal Pre-cast Systems indicate are primary products. The inevitable removal of trees will reduce the natural sound buffering for all adjacent properties.

Further, we do not support changing the height of buildings to 75'. This is 1.5 times higher than any structure in Cape Charles, other than the Water tower. Likewise for any other new owners, the provision for 75' high buildings in this area also would create the possibility of looming high-rise buildings over future residential areas.

As mentioned above, we strongly disagree with changing the text to allow sirens and OSHA warning signals (e.g. back up horn and door closure warnings) so close to a residential area. Allowing it on Lot Baldwin also allows these changes to Lot Buffer which is adjacent to residential neighborhoods.

We understand this to be in the economic interest of some entities. But it feels like this is the equivalent of clearcutting of a forest for strip mining extractions which you cannot suddenly reverse course and restore. You can expect there will be a rise in temperatures due to increased concrete / buildings where once stood groves of cooling and CO2 absorbing woods. Plus, flooding is more likely to be exacerbated on paved or hard packed ground. So, ask yourself these questions which have not been answered to our satisfaction without a study:

1. What is the effect on local agriculture?
2. What is the effect on local wildlife?
3. And ultimately, what will be the effect on the quality of life for residents and tourists in Cape Charles?

These are not just some tree-hugger perspectives. Cape Charles is a town with a permanent population of around 1,000 which swells to 4,000 in the "season". Those tourists and visitors are outdoorsy people, attracted by the bay, the beach, the town charm, the golf course, the fresh air, the bird life, the peace, a different pace of life. Have we really considered the risk to one of the largest employers in Cape Charles – the tourist and hospitality industry? We feel that this is an opportunistic short-term solution which has not been well thought out and researched. We strongly encourage the Planning Commission to reject the proposed zoning changes.

Instead, we propose a full study of possible options and better use of Mr. Baldwin's property that furthers both the town values and the economic well being of all residents, present and future. We also state for the record = these developments might best be underwritten by the town itself. Put it to a vote.

Laura Weigand, 632 Madison Avenue

July 13, 2021

Dear Honorable Mayor, members of town council and planning commissioners:

My wife and I have owned our home at 632 Madison Avenue for 5 years. We bought our home here originally as our future retirement home after falling in love with the peaceful, beautiful community here in Cape Charles. When the pandemic hit last year, we reassessed our life and decided it was time to move and enjoy this quiet beach community and live our happiest, healthiest life possible. We are now full-time residents of the Town of Cape Charles and oppose the amendment of the zoning text amendment and zoning map amendment which would allow for Coastal Concrete to use the land as industrial and erect buildings taller than 40 feet.

How ironic that we moved from Los Angeles to escape overcrowding and a concrete landscape to Cape Charles and have to battle the eyesore of a concrete industrial plant taking over the coastal views in the marina. We understand that the plant brings jobs, great, so do a lot of other industries that could be established in town without destroying the landscape and wildlands that have drawn the residents of Cape Charles to call this their home and invest their hard earned money to restore this beautiful town.

As elected officials of the residents of Cape Charles, you all have a duty to be the voice of the residents of Cape Charles. Your decisions should represent the residents of Cape Charles. And as you can see by the overwhelming response to this issue, the residents oppose the expansion of Coastal Concrete. If the sale of the land moves forward with rezoning to allow industrial use to this land, where will it end? Isn't it bad enough how much they have continued to encroach on the coast line? They are already an eyesore, causing noise pollution and dust to those merchants on Mason Ave. I am sure this hinders the merchants business which relies on tourism. Tourists don't want to see giant buildings in the line of sight from their dinner at the Shanty, stroll down Main Street or balcony on the two hotels in town, not to mention the numerous vacation rental homes business which could also be effected.

Don't let the charm of this town be taken over by big industry with big money. Please vote NO to the amendment to the land use for the lot in question being sold by Baldwin to Coastal Concrete.

I expect this to be read for the record if I am unable to speak myself in person.

Thank you,

Laura Weigand & Michele Molina

632 Madison Ave.

Cape Charles

Nikki Tiffany

Subject: Zoning Changes

We feel that the Cape Charles natural area and the surrounding wetlands should be preserved as much as possible to protect the unique habitat environment and the wildlife that reside there. For this reason, we do not agree with the rezoning requests.

Nicki & Paul Tiffany
22650 Benders Lane
Cape Charles VA 23310
585-313-7582

David J. Parham

Subject: Zoning Changes

Dear Mayor Dize and Honorable Members of Town Council & Dear Honorable Commissioners:

I am writing in advance of the Joint Meeting of the Planning Commission/Town Council to be held on Tuesday, July 13 at 6:00PM to consider changes to the text of the General Business/Light Industrial H1 zoning district (GBI/H1) and Re-zoning parcel 90-8-1A1 from Harbor to General Business/Light Industrial H1 (GBI/H1).

I believe these zoning changes could have a huge impact on the residents, businesses and general environment in Cape Charles and any decision related to zoning changes should not be rushed through without a proper and complete review. I don't feel that an educated decision on this matter could be made without such a thorough and complete review of all considerations and impacts and can't imagine how the Planning Commission and Town Council could decide without a complete comprehensive review. I respectfully request that any decision be postponed until all the potential impacts are thoroughly studied. I would suggest that all the various boards and commissions we have in Cape Charles should be given the opportunity to review any and all impacts of the proposed zoning changes, these include, but not limited to, the Wetlands and Dune Commission, Harbor District Review Board, Tree Advisory Board, and whoever is in charge of the Chesapeake Bay Preservation Ordinance. In addition, environmental impact studies should be conducted and impact of sound and dust pollution seriously considered.

We all agree that new business growth is desirable. However, years of comprehensive reviews along with professional consultation has set the comprehensive plan which is currently in place and has led to a rebirth of Cape Charles. The existing planning and zoning should not be hastily changed without a complete and proper evaluation of the economic impact to downtown businesses, commercial property values, taxes, and the impact on tourism along with any environmental impacts. This is a serious issue and requires a complete and thorough investigation before any decision is made.

Thank you for your considerations.

Best Regards;

David J. Parham

William Lowe

Subject: Comments from landowner for July 13 meeting

To the members of the Planning Commission and Town Council:

My wife and I own 101 Tazewell Avenue. We wish to comment on the proposed zoning changes allowing the expansion of the Coastal Concrete operation in Cape Charles.

Please have our opinions read into the record of the Town Council Meeting and Planning Commission Meeting on July 13, 2021. Additionally we ask that the comments also be read into the Record of the regular Town Council meeting on Thursday July 15, 2021. To begin with, we wish to say that we understand the importance of this business to the local economy, and their right to use the property in accordance with **current** zoning regulations. That being said, it does not enhance the view shed from Mason Avenue; it creates noise, dust, and negatively impacts the business district and tourism. We strongly oppose acquisition of more land to expand the operation. We object strongly to the proposed "Text" changes to GBI/H1 on its own merit and their impact on other parcels. We strongly oppose the rezoning request because of its impact on surrounding areas. We are also strongly opposed to any action that would allow buildings to exceed 40 feet.

Thank you for your consideration of our opinion in the matter.

Regards,

Karen Reed Lowe and William Richard Lowe

Dan Coffey

Subject: Coastal Concrete

We are full time Cape Charles residents, taxpayers and registered voters. We have kept silent over recent changes at the concrete plant realizing the long history of the concrete plant that offers much needed jobs. We were pleased by the apparent cooperation between the town and the concrete plant to reduce noise and dirt from the operation. However, the current rezoning proposal has caused us to realize that now is the appropriate time for us to voice our concern over the proposed rezoning as it may further destroy the delicate balance between industry and the scenic beauty of this town, one of our greatest and fragile resources.

We ask that the Town Council and Planning Commission take the time and due diligence to study the effects the proposed zoning changes may have on the Mason Avenue view shed, the Town Harbor, the parcel designated Wetlands/Harbor, the treescape, property values, the Baycreek development and the tourism industry. Of utmost concern is the request for an exemption for property zoned Light Industrial, to allow 75' tall buildings for the purpose of assembly and storage.

We wish Coastal Concrete success but also desire the continued success of Cape Charles. There is a delicate balance that is too important to the futures of both Cape Charles and Coastal Concrete. Please take the time and resources to insure that both Cape Charles and Coastal Concrete can work together for all.

Please read our comments into the record of both the July 13 Town Council/Planning Commission Joint Meeting as well as the July 15 Town Council Meeting.

Thank you.

Dan and Macy Coffey
615 Strawberry St.
Cape Charles, VA 23310

Dan Coffey
coffeyd@wlu.edu
(540) 460-1156

Macy Coffey
coffeym@wlu.edu
(540) 460-2390

Jim Granger

Subject: 13 July Joint Public Hearing – Town Council and Planning Commission

I am writing this to voice my opposition to the proposed amendments to the Cape Charles Zoning Ordinance, Section 3.14 General Business/Light Industrial H-1 and the Application for Zoning Map Amendment (ZMA) – Rezoning 1201 Bayshore Road (tax map # 90-8-1A1) from Harbor District to General Business/Light Industrial H-1. I recognize the industrial nature of the south side of Cape Charles Harbor, however, 1201 Bayshore Road is much closer to the Yacht Center and Hook at Harvey. Marinas and restaurants are, in my opinion, a better use for that parcel. Also, allowing buildings up to 75 feet high would have a major negative impact on the view shed and appearance of the Harbor. For those reasons, I oppose the proposed Zoning Ordinance amendments and the proposed rezoning of 1201 Bayshore Road.

Sincerely,

Jim Granger

524 Jefferson Avenue
Cape Charles, VA 23310

Margot Gorske

Subject: Tuesday July 13th, 2021 Joint Meeting

The Gorske Family
205 Madison Ave.
Cape Charles, VA 23310

July 11, 2021

RE: Joint Meeting of the Planning Commission/ Town Council
Tuesday, July 12, 2021 6pm.

Subject: To consider changes to the text of the GB/LI H1 zoning district and to Re-zone parcel 90-8-1A1 from Harbor to GB/LI H1

Dear Planning Commission Members, Town Council, Mayor, and Town Manager:

I ask that you defer a decision on the above requested changes at this time. Coastal Precast Systems and South Port Investors, LLC wrote the changes to the wording and zoning for their mutual benefit. While not opposed to business advancement or a land purchase, I am opposed to this being approved without additional consideration.

Our wetlands, residents of the Hollies and New Quarter, future residents of lots abutting this parcel, our town; all would be affected by these changes. Structures would be permitted to nearly double in height. Sirens, audible devices, and outside manufacturing/assembly and storage would also be permitted. The parcel in question for sale is designated wetlands and zoned Harbor. This would change. The clear cut by Coastal Precast has already impacted the greensward near Waco and this affect would only increase.

Due diligence requires that decisions on rezoning and changes to the text be deferred until fully examined by our extant, cogent boards. Cape Charles Tree Advisory Board and the Wetlands Board need to review this proposal in consideration of current ordinances such as the Chesapeake Bay Preservation ordinance, Wetlands Ordinance, and the Tree Conservation and Preservation Ordinance.

This joint meeting of council and Planning commission followed by a meeting of Town Council next week is a clear effort to expeditiously decide this request. From 2008- 2021 only five zoning changes have occurred. I believe this underscores that we have time for due diligence before approving these changes. Please conclude today's meeting with an approval to defer a decision for the text and zoning changes until due diligence of cogent boards has occurred.

Sincerely,

The Gorske Family

Cape Charles Tree Advisory Board

TO: Cape Charles Town Council & Planning Commission

FROM: Cape Charles Tree Advisory Board

The Cape Charles Tree Advisory Board is concerned about the proposed zoning and text changes to accommodate the sale of Harbor area property to Coastal Precast Systems. There are many legal, aesthetic, economic and environmental aspects to consider in granting approval

for these changes; however, the focus of this letter is primarily on the environmental impact to this property and to the Town of Cape Charles.

This proposal would rezone a current heavily forested area with a section of wetland to light industrial. It would change the wording to allow indoor and outdoor "Assembly and Storage" and increase the size of the structures on this property to allow buildings up to 75 feet tall, the equivalent of a 5-story building. Additionally, any wording on landscape screening or environmental protection is, at best, vague.

With this, if the changes are approved, there is a high risk that the new owner would plan to treat this property as they have done the parcel of land recently purchased. The recently purchased land, directly to the north of the Cape Charles Nature Preserve, once offered a pristine approach through a native maritime forest which led to a lovely view of the Chesapeake Bay. It not only had value for its peacefulness and beauty, but it also offered shade to visitors seeking a cool respite during the hot summer months. This is no longer the case since all of the trees were cut down, leaving the land bare and destroying a high value asset for Cape Charles residents and visitors.

In evaluating the proposed zoning and text changes, TAB asks that the town to seriously consider the quality of life and environmental value that would be sustained through protecting this forested/wetland area. The existing flora and fauna residing on these properties provide a richness which could be forever lost if the changes were approved as written.

In weighing the pros and cons, the Town of Cape Charles would be wise to acknowledge the value that the existing trees provide to our town, to the Chesapeake Bay, and to the region as a whole. The reduction of air pollution, a serious health threat that causes asthma, respiratory and heart disease, and cancer, is one of the most valuable ways that trees benefit the community. This is done by removing harmful gases that contribute to smog, acid rain, and the greenhouse effect, a proven contributor to climate change. Trees sequester carbon dioxide in their roots, trunks, stems and leaves with one acre of forest able to absorb six tons of carbon dioxide per year according to the US Department of Agriculture. Just think of all the CO₂ absorbed by the many acres of trees under consideration which are now at risk of being replaced by the expansion of a concrete manufacturing plant!

If approved, the strong likelihood that existing trees will be removed from these parcels of land would result in even more negative impact. Residential properties adjacent to these areas would experience a loss of value as well as quality of life. With the ability of trees to slow down stormwater runoff, there is a risk that pressure on the town's wastewater filtration system would increase. And, with the proposal to expand plant operations to place it within view of Mason Avenue, the town's "Mayberry" image would be at risk of being replaced, instead, with the image of a small industrial town. The town would be wise to consider the aesthetic and economic impact to downtown businesses, property values, and tourism by the replacing the current tree line with unsightly industrial operations that offer no protection from the sounds of beeping and banging of heavy equipment and from residual air and water pollution.

It is to be noted, also, that there are current ordinances and regulations that address the management of Cape Charles trees. These legal guidelines provide the town with leverage to decline and, if necessary, control the amount of tree coverage allowed in a given area. The Town of Cape Charles' Zoning Ordinance, Appendix F, Tree Conservation and Preservation Act contains two specific requirements for tree preservation that apply in this instance. First, Section 1.4.1 A requires a ten percent (10%) tree canopy for a site zoned business, commercial or industrial. Second, Section 2.2 A requires that a property owner submit and have approved a tree removal permit before any tree can be removed or destroyed. It is incumbent on Town staff insure that such requirements are met by all applicants.

In summary, there is much to be considered in the response to the proposed zoning and text changes that are necessary to enable the expansion of the existing concrete plant. Before being too hasty in approving these changes, the town should exercise due diligence in evaluating all aspects of this proposal and obtaining input from all stakeholders. TAB encourages the town to weigh heavily the negative environmental impact that could result through the implementation of these proposed changes.

Respectfully Submitted by Members of Cape Charles Tree Advisory Board:

Christine Williams
Phil Goetkin
Barbara O'Hare
Joe Fehrer
Charlie Grizzard
Jane McKinley

Gary McKinney

Subject: Coastal Concrete Plant Expansion/Proposed Property Purchase and Rezoning
Cape Charles Town Council and Planning Commission,

As full-time residents of Cape Charles, Gary and I strongly oppose the expansion of the concrete facility. We are hopeful Town Council and the Planning Commission will also strongly oppose any expansion for Coastal Concrete by rezoning this property to allow large scale industrial use.

We already experience a huge amount of dust and noise on certain days from the facility. The dust has an unhealthy impact on the community and adversely affects our homes.

It is my understanding the parcel in question for sale is at present zoned harbor and a portion is designated wetlands. Therefore, should not the Chesapeake Bay Preservation Board and possibly other state entities be consulted prior to approval. Why is this being pushed through so quickly? At the very least, all residents and business owners should be given notice of these changes and proposals and given time to respond. Especially since the repercussions of approval would impact property values, the View Shed from Mason Avenue, and the wetlands.

We are asking you, as our Town Council and Planning Commission, to not make this worse! Please keep Cape Charles as magical as it is now.

Thank you for your consideration,
Gary and Shiela McKinney
14 Bay Avenue
Cape Charles, VA 23310

Luke Saunders

Subject: Coastal Concrete Concerns (to be read into the record of the Joint Meeting on July 13)

To whom it may concern:

My wife and I are relatively new to town. We decided to purchase in Cape Charles because it felt refreshingly removed from corporate commotion and the unchecked encroachment of inconsiderate industrial and commercial development.

That sentiment has changed as Coastal Precast Systems has continued to ramp up operations. It's been unfortunate to see CPS negatively impact much of the feel of the harbor and to some degree Mason Ave. It's noisy, it's an eyesore and it benefits very few in the town of Cape Charles.

I would like for us to strongly consider taking more time to evaluate the holistic impact that we would be enabling by allowing CPS to rezone and develop on more natural land along the harbor. I would also urge us to consider what other governing bodies or environmental agencies we should feel ethically obligated to partner with in making this decision.

Thanks for your consideration,

Luke Saunders
516 Madison

Robert D. Brown

Subject: 90-8-1A1 rezoning

Good evening,

I, Robert Brown and my wife, Donna Brown are property owners and residents of Bay Creek. We would recommend against rezoning the property adjacent to the resort as requested by the concrete plant. The area and adjacent property is part of the nature preservation area and is adjacent to housing in Bay Creek. Changes in the zoning of this area and commercial development would be detrimental to the environment and to quality of the life experience there.

Please consider the impact this would have on the environment, natural habitat, and socially in the area and deny a change in the zoning in this area.

Sincerely,

Robert Brown

Mary Barrow

Subject: To consider changes to the text of the GB/LI H1 zoning district and to Re-zone parcel 90-8-1A1 from Harbor to GB/LI H1

Dear Planning Commission Members, Town Council, Mayor, and Town Manager:

As a home-owner in the Historic district of Cape Charles, I am writing to request that any decision regarding the text of the General Business/Light Industrial H1 zoning district (GB1/H1) and Re-zoning parcel 90-8-1A1 from Harbor to General Business/Light Industrial H1 (GB1/H1) be **DEFERRED** until consideration can be given, and summaries submitted, from the various boards and commissions available to Cape Charles as objective resources for projections regarding the consequences of this decision. These entities would include but are not limited to:

- 1) The Wetlands and Dune Commission
- 2) The Harbor District Review Board
- 3) The Tree Advisory Board
- 4) The Historic Review Board
- 5) Any Chesapeake Bay environmental study committee(s)
- 6) Any real estate association
- 7) Mainstreet

While I believe that Coastal Cement has every right to ask for the changes suggested, I also believe that such changes may have unforeseen and potentially detrimental consequences to the town of Cape Charles.

I appreciate your consideration.

Sincerely,

Mary Barrow

Monroe Avenue

Lori Blewitt

Subject: Wetland, Cape Charles and Harbor Concerns

Does our community want more industry right on the bay? More noise and dust.

Once it's done, can it be undone? Why is this such a rush job? It appears to be a recent request within the last sixty (60) days. I think we should step back and not be pressured into making this decision without studying and considering all impacts this change could have on our environment and town. Who does this benefit?

Has the EPA and the Nature Conservancy been notified of this potential change and the impact it may have on the Chesapeake Bay? Is it against the law to make this type of decision without having notified these entities? The Chesapeake Bay has lost 90% of it submerged and 50% of its coastal marshes per the EPA. What will be the impact

on the nearby wetlands from the development of this parcel? Isn't it in the communities' best interest to preserve any wetlands in and around Cape Charles?

Do we want to contribute to this loss?

We have a Tree Conservation and Preservation Ordinance and a Tree Advisory Board. We are also bound by the Chesapeake Bay Preservation Ordinance. To date, it appears that none of those Boards or ordinances have been consulted. I did not see any minutes to this respect.

Noted from the Joint Meeting Planning Commission/Town Council Tuesday, July 13 at 6:00P: #6 -The purpose of the joint meeting of the Planning Commission and the Town Council is to gain the approval of the Planning Commission on July 13 and then allow the Town Council to approve it on July 22. This is too quick to fully understand the ramifications of the proposed amendment changes and the re-zoning.

I've heard recently that the town is trying to promote tourism in Cape Charles. In fact, we appear to be all about it if you own a rental home, restaurant or retail store. Eroding our nature is not conducive to this end if that is where we are heading.

Do we want to see and I quote from the Joint Meeting Planning Commission/Town Council Tuesday, July 13 at 6:00P:

"potentially outdoor pilings of raw and waste materials and newly assembled products awaiting transport and/or delivery and warehousing in newly constructed facilities of 75' tall)".

When Coastal Precast purchased this facility, I would think they knew what they were getting and that it would be sufficient for their needs. Or, were they hedging their bets and given the wink, wink on expanding and expecting the town to allow them to do just that without question.

We want to see new job opportunities but not at the expense of our natural environment.

From what we've heard town council has already rubber stamped this huge change. How can that be decided so quickly? How can you do this without all of the environmental agencies being involved and to analyze and consider the impact. I am certainly not qualified, are you?

Please consider your vote carefully that you are about to take - does this truly benefit Cape Charles, our community and the Chesapeake Bay?

Sincerely,

Lorian Gallagher-Blewitt
A Come Here of 30+ years
Cape Charles, VA

John D. and Jeanne B. Evans, 4512 Park Road, Alexandria

Dear Ladies and Gentlemen:

This letter is from John & Jeanne Evans, owners since 2004 of the house and property located at 207 Monroe Ave in Cape Charles. We are writing in reference to the joint meeting of the Planning Commission and the Town Council to be held on July 13, 2021. First of all, thank you for providing homeowners and residents with an opportunity to express our thoughts and opinions on the proposed changes to the Zoning Code which would allow for expansion of the cement factory. In short, we are strongly opposed to the requested change in zoning and to any expansion of the factory so close to the Town Center and recreational areas adjacent to the town harbor, including the beach and the fish pier. Please do not rush to a decision in this matter that is so critical to the Town and its future. This matter is far too important to be decided without proper studies and recommendations by experts in land use management, environmental studies, conservation of land and animal species.

When we read of the proposed plans, the first thought that came to our minds was a quote from Thoreau: "Thank God they cannot cut down the clouds!"

We want to see people on the lower Eastern Shore being given the opportunity for employment that the factory provides. At the same time, we want to see that the

beauty of the land and green spaces surrounding the harbor are preserved and protected and, also, that the air quality standards are met and the air is safe to breathe. We are greatly concerned that the proposed growth of the cement factory will increase the amount of dust we are breathing and also increase the level of noise pollution that already exists with the present size of the factory.

Cape Charles has a charm that deserves protection and we do not believe that expanding the size of the cement factory is in the best interests of the residents or visitors. Tourists and new home buyers coming here in recent years have made a significant impact on the local economy and we believe many will no longer want to return here if the dust, noise, air quality and unsightly machinery increase in size and volume.

We urge the Planning Commission and the Town Council to adopt an environmentally sound approach and vote to deny or at least delay the rezoning request for the property adjacent to Fuji Waco Lab and the nearby conservation area pending in-depth studies of the long-range implications of such a critical decision. We thank you in advance for your consideration of our concerns and urge you to vote for preservation and protection. With climate change increasing around the world, we all need to do what we can to counter global warming in our own backyard and to do our best to protect the environment and manage precious resources.

Thank you for this opportunity for public comment. Please do not rush to judgement, but consider public opinion and request expert assistance. This decision is far too important to be taken without adequate input from experts and feedback from constituents.

Yours sincerely,

(signed)

John D. Evans and Jeanne B. Evans

July 12th, 2021

To the members of Cape Charles Town Council and Planning Commission

Dear members,

I understand you will discuss some serious amendments to Cape Charles zoning. I am in favor of business development in the municipality of Cape Charles if it benefits the People living here full time.

Regarding the project currently discussed, I would like to know how it will:

- Generate substantial revenues to the town?
- Protect the environment (I already notice serious deforestation)?
- Improve the quality of life of the residents?

If Cape Charles is an historic town with a beach then the view, the noise, and the dust generated by the existing concrete plant does not fit the description of who we are and want to remain.

Cape Charles is experiencing a major population change mostly due to the property values. Do not jeopardize the opportunity to attract higher income patrons to the existing retailers by transforming Cape Charles into an industrial park.

Your administration has been weak to raise revenues for the town outside increasing taxes; everything is free for the visitors: parking, pier, beach and concerts. Maybe it is time to think out of the box. Instead of granting an out-of-control extension of the concrete plant, maybe one could focus on attracting other businesses more related to who lives and visits Cape Charles. Don't you feel there is need for entertainment like a good size minigolf and an indoor shooting range for example. These businesses will buy or lease the land necessary for the activities.

I count on you to do the right thing. Do not change the character of Cape Charles, the concrete plant is big enough and bigger will not be better for all of us.

Sincerely,

Eric Feuillatte



Lothar and Cornelia Haselberger, 208 Harbor Avenue

Subject: Joint Meeting on July 13th, 2021

Members of the Planning Commission and the Town Council,

Please read this into the record of the Joint Meeting on July 13th:

It is with great concern that we – home owners in Cape Charles since 2007 – see both the haste and the magnitude of what is under consideration at today's meeting. We would like to voice our views as we cannot attend the meeting in person.

In one hastily scheduled decision, major zoning changes are requested that, directly or indirectly, will impact indefinitely those who work, live, or vacation in Cape Charles – all this for a text change in current zoning that allows the one requesting person to receive a higher sales value for property owned.

The consequences will be permanent and irreversible and, we believe, to the detriment of our community. The wording in the "Community Call" leaves no doubt about:

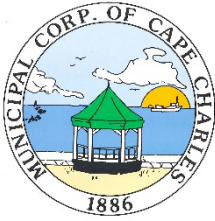
- the domino effect on developers and corporations intending to bring light industry to Cape Charles
- the massively intensified use of current lots for the monoculture of one heavy industry (intending to nearly double the existing factory building heights to 75 feet!)
- the lasting side effects on
 - the view sheds from Cape Charles
 - the adjacent Nature Preserve (parcel 90-A-4C)
 - the existing WACO Fuji Lab
 - the adjacent private properties.

We urge the Planning Commission and the Town Council to resist both the temptation and the pressure of the proposed changes,

Respectfully,

Lothar and Cornelia Haselberger

DK



DRAFT
TOWN COUNCIL
Regular Meeting & Executive Session
Cape Charles Civic Center
July 22, 2021
6:30 PM

At approximately 6:30 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Regular Meeting and Executive Session of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Vice Mayor Bennett was out of town on business travel and participated by conference call from Cape Canaveral, FL. Also, in attendance were Town Manager John Hozey, Zoning Administrator Katie Nunez, Chief Jim Pruitt, Community Relations Manager Jennifer Lewis, and Town Clerk Libby Hume. There were 76 members of the public physically in attendance, and 72 viewers on Facebook.

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

Mayor Dize asked everyone in attendance to be respectful of each other, and to silence their phones. There would be no cheering, no whooping, etc. or he would ask the chief of police to escort you out of the Council chambers. He appreciated everyone's cooperation regarding the proceedings this evening.

Mayor Dize asked that the Approval of Agenda Format be moved out of the Consent Agenda to item #2A.

Motion made by Councilwoman Holloway, seconded by Councilman Grossman, to move the Approval of Agenda Format to item 2A. The motion was approved by unanimous vote.

A. Approval of Agenda Format

Mayor Dize asked for the addition of New Business item #7G – Moving of Railroad Car on Strawberry Street Plaza which would be presented by Councilwoman Holloway, and the addition of a presentation by Zoning Administrator Katie Nunez as item 3A. Also, if the applicant wished to speak, they could do so after Ms. Nunez's presentation.

Motion made by Councilman Buchholz, seconded by Councilman Grossman to add New Business item #7G, and item #3A – presentation by Zoning Administrator Katie Nunez followed by the applicant. The motion was approved by unanimous vote.

RECOGNITION OF VISITORS / PRESENTATIONS:

- A. Zoning Administrator Katie Nunez gave a presentation regarding the proposed zoning ordinance text and zoning map amendments. (Please see attached.) Ms. Nunez concluded by stating that the Planning Commission voted in favor, by majority vote, of approval of the proposed text and zoning map amendments.

Messrs. Dan Brown, representing South Port Investors, LLC., and Brandon Mowrey, representing Cape Charles Properties, addressed the Council regarding the proposed text and zoning map amendments. (Please see attached.)

PUBLIC COMMENTS:

Joan Natali

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

Laura Weigand

Ms. Weigand stated that she had owned her property since 2016 but became a full-time resident this year. She would not be redundant in comments although she wanted it known for the record that she was against two particular points – 1) the endangerment of the wetlands; and 2) the 75' height. It was detrimental to bird and butterfly migration which this area was known for. She asked for Council's consideration and pointed out that Council members were elected by their constituents, which were the residents of Cape Charles, not business owners who lived outside of town. She concluded by thanking Council and asked them to be the voice of their constituents.

Jim Granger

Mr. Granger addressed Council regarding the proposed rezoning and text amendments. (Please see attached.)

Kim Starr

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

Ed Wells

Mr. Wells addressed Council regarding item 7A of the agenda, stating that using his name in a public display was wrong doing by staff. This should not appear on his permanent record and the basis was fundamentally flawed. The decision was made behind closed doors and he was not given the time to address the issues. There had been no communication with him prior to the decision being made. There was no meeting to discuss matters of concern. He emailed Council regarding their concerns and received no response. He was appointed by Council to the Historic District Review Board (HDRB) in May 2019. He had over 40 years in home building and contracting with experience in historic architecture. His experience fit with the HDRB. He was passionate about this but realized that he needed to be more politically correct. He publicly apologized if he disrespected anyone. Mr. Wells concluded by asking Council to reconsider his removal from the HDRB.

Herb Thom

Mr. Thom stated that he was the co-chair for the HDRB and wanted to speak on behalf of Edward Wells. He had been on the board for three years and the HDRB had gone through several chairmen during his tenure. Mr. Wells had done a fantastic job chairing the board. He was passionate, forgiving and a good mentor to the other members of the HDRB. Mr. Thom explained that the situation with 4 Randolph Avenue began on a weekend. When approached by Messrs. Thom and Wells, the property owner had no remorse, which affected the way Mr. Wells responded to the property owner during the Zoom meeting. Mr. Thom asked Council to reconsider their decision to remove Mr. Wells from the HDRB.

Bill Ballard

Mr. Ballard addressed Council regarding the proposed rezoning and text amendments. (Please see attached.)

Kevin Cosgrove, Hunton Andrews Kurth, representing Concerned Citizens of Cape Charles

Mr. Cosgrove addressed Council regarding the proposed rezoning and text amendments. (Please see attached.)

Pam Green

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

Jane McKinley

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

Phil Goetkin

Mr. Goetkin requested that the decision on the rezoning and text amendment be deferred until additional input from all stakeholders could be evaluated. He addressed the Planning Commission last week with his concern of trees and natural resources, which applied to all undeveloped property. The Town's Tree Conservation and Preservation Ordinance needed to be adhered to. It was critical that any development was done in an environmentally sustainable manner. The development in Town the last several years was anything but that. Trees were clear cut as recently as last week and permanently changed the critical landscape forever. Were any permits issued? Before making a decision regarding the requested rezoning and text amendment, require the submittal of a detailed tree plan that followed the tree ordinance. Everything needed to be made public, so all were aware of the consequences. A win-win solution needed to be demonstrated. There was not enough information from the applicant to approve their request.

Dianne Davis

Ms. Davis began by stating that in looking around, she did not see five people in attendance who were here when she grew up in this town. During that time, Cape Charles had a real downtown with stores, grocery stores, etc. It was before integration. There were still a lot of activities for the kids. Once the ferry left, the Town went down. She went away and then came back. In 1964, the concrete plant came here, and it was a blessing with the creation of jobs. The area where Bay Creek is now, used to be fields and many people worked there. It was very fulfilling when Bayshore Concrete came here, and Coastal Precast after Bayshore closed. Jobs were needed. Young people were working part-time with no benefits. Please keep in mind that we needed jobs. People needed to make a living. Let's do what we could to help everybody.

Mary Barrow

Ms. Barrow stated that most of her concerns had already been expressed. She asked for Council consideration. In this country we had a democracy and laws changed. The letter of the law was not in sync with the spirit of the law. She would like to see Council consider the spirit of the law and look beyond past ordinances and rules, especially related to the environment.

Mike Strub

Mr. Strub stated that he would be brief and direct. As the third member of the HDRB speaking this evening, he requested that item 7A be deleted from the agenda or deferred. He made this request in the best interest of the Town.

Town Clerk Libby Hume read comments submitted in writing prior to the meeting from Karen Reed Lowe and William Richard Lowe, Dan and Macy Coffey, Margot Gorske, Lori Blewitt, Randolph Smith, Cheryl Carver, Margaret Ballard, Earl (Chip) Moore, Sarah Fullam, Melisa Klem, David Parham, Tree Advisory Board, Alfred Ewell, Lori Smith, Jo Ann Bawiec, Liz Jones, Will Jones, and two emails forwarded by Lori Blewitt from Patrick Fanning from the Chesapeake Bay Foundation and Jim McGowan from the Nature Conservancy. (Please see attached.)

There were no additional comments received in writing prior to the meeting nor during the public comment period.

CONSENT AGENDA

B. Approval of Minutes:

- i. June 17, 2021 Town Council FY 2022 Budget Public Hearing, Regular Meeting, Executive Session & Emergency Preparedness Training
- ii. June 24, 2021 Special Meeting & Executive Session
- iii. May 25, 2021 Town Council Work Session
- iv. June 1, 2021 Planning Commission/Town Council Joint Public Hearing

C. Approval of May 31, 2021 Financial Report

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

UNFINISHED BUSINESS:

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

Town Manager John Hozey stated that Zoning Administrator Katie Nunez did a great job explaining the issue and the staff report was well done so he had nothing further to add at this time. Staff's recommendation was for approval of the proposed text amendment.

Motion made by Councilman Buchholz, seconded by Councilman Grossman, to accept the recommendation of the Planning Commission and approve the zoning text amendments to Sections 3.14 (B), 3.14 (C)(2), and 3.14 (F).

There was much discussion regarding this item, the comments heard, and by-right versus conditional uses in the General Business/Light Industrial district. i) Councilman Grossman stated that on the Planning Commission, he voted to proceed with both matters – the zoning ordinance text and zoning map amendments. He struggled with the dilemma of the by-right uses in this district, where if someone wanted to create a railroad with terminals or warehousing facility, they would be permitted to do so with no discussion. The request would be submitted to the zoning administrator for review. The concrete plant's request, in looking at the permitted uses, was not any more dramatic than the other by-right uses. In this case, Coastal Precast Systems needed working changes. He came to the conclusion during the Planning Commission meeting, that the changes were not so drastic with little impact to the environment. Coastal Precast was not any different from other industries listed as by-right in the district. In listening tonight, he could see where submittal of plans could justify the working changes and could give us a better idea. He was on the fence regarding this issue; ii) Mayor Dize stated that the Council appointed a town manager and zoning administrator to follow the guidelines set forth by Council. The Town had a comprehensive plan that was reviewed and updated every five years. Some of the people in attendance this evening had not been here for five years. The process had been followed with proper advertising of a public hearing and deliberation by the Planning Commission which voted to recommend Council approval of the text amendment. He understood the frustration, but the applicant had to follow the permitting process for cutting down trees, construction, etc. He added that he was not on the fence regarding this issue; iii) Councilman Follmer suggested deferring the vote for 30 days adding that there was a lot of misinformation that needed to be cleared up. He heard a lot of people who were entrenched in their positions and not open to listening. Everyone needed to engage in the process with an open mind, especially with so much misinformation being spread. Conceptually, he was not opposed to the rezoning, but the decision needed to be based on the best interest of the whole town. This was the first opportunity for Council to discuss this issue and to accuse the Council of rubber-stamping the issue was not constructive. The misinformation needed to be cleared up and we needed to act as a community in the best interest of everybody; iv) Councilwoman O'Brien agreed that 30 days was needed. The comments tonight were a symptom of a bigger problem in the lack of trust. Open communication was needed; v) Councilman Buchholz expressed his agreement with Mayor Dize. This was a text amendment being done legally and with transparency. It was the same process as five years ago when the harbor property was rezoned. The only change with the by-right uses was the addition of storage. Nothing else would change. When the applicant planned to construct a building, a conditional use permit application was required. We needed to try to keep jobs here. We needed year-round jobs, not jobs where three months of the year there was no work. The concrete plant had been here for over 60 years with the exception of a couple of years. He moved to Cape Charles when Bayshore Concrete was fully operational. There was never a dust problem. Wind studies were done and no wind blew from the south. We needed to look at the big picture. If tourism went away, what would we fall back on? Nothing. A balance was necessary. We needed to be diversified or we would rail. We relied solely on tourism over the last five to eight years. Prior to that, over 100 years was spent on industrial growth. We had to learn to live together – Coastal Precast Systems, Bay Creek, and the Town. We've always worked together in the past but now

we had a new crop of people here who wanted to change things; vi) Councilwoman Holloway stated that she was on Council and made a commitment to hear the citizens. We had to do our homework. She did not feel that she had enough information to move forward. She did not feel that the residents were acknowledged during last week's Planning Commission meeting. She expressed her agreement with Councilman Follmer. Many people thought that since she owned a Bed & Breakfast and was on Cape Charles Main Street, that she was all about tourism, but that was not the case. Industry was very important for the town. Balance was needed. Whether the Council felt that the process was done correctly, others felt differently. She wanted a more complete understanding of what was planned to be built and wanted to know more about the proposal. We needed to do our due diligence. She supported the 30-day delay to obtain more information. Coastal Concrete was looking into a green energy project which would be great. When making a zoning change, it was not just for one property owner but for everything in that district. The Baldwins had done a lot of good, but she knew there were some anti-development people here as well. The decision needed to be made for the Town for the long term; and vii) Vice Mayor Bennett stated that personally, he leaned in the same direction as Councilman Grossman that at the end of the Planning Commission meeting, he did not see anything out of the ordinary. He heard the applicants state that they wanted the property for a lay-down area. One of the biggest concerns was the potential 75' building height, which would have to go through a conditional use application process. A building this tall could not be built on this property and no one acknowledged this fact. This building would be used for assembly of wind energy products and the height of the building was based on the size of the components. Wind energy products were an aspiration that would be pursued if Coastal Precast Systems was awarded the contract. If it came to fruition and a conditional use permit application was received, one of the conditions he would ask for was a sound mitigation study and a wall that surrounded the industrial zone. People needed to review the zoning ordinance to see the types of uses that were already permitted by-right. There were so many people who misunderstood what Coastal Precast Systems was intending to do on the property. He also heard that the zoning change would be permanent, which was not true. He had not seen or heard anything that should prevent this application from moving forward.

Motion made by Councilman Follmer, seconded by Councilwoman Holloway, to defer the vote until the August 19th Town Council Regular Meeting.

Councilman Follmer stated that we had the opportunity to hold a public forum to clarify information with better visuals and maps and giving the citizens the opportunity to ask questions. This would be the opportunity to provide a clear picture to help everyone make up their minds. There was further discussion regarding the necessity of a public forum and the information to be provided.

The motion was approved by majority vote. Roll call vote: Bennett, no; Buchholz, no; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

John Hozey noted that the original motion was still in play, but the vote was deferred until the August 19 regular meeting.

B. *Application for Zoning Map Amendment – Tax Parcel #90-8-1A1:*

John Hozey recommended a similar procedure for this item as done for the previous item.

Motion made by Councilman Buchholz, seconded by Councilman Grossman, to accept the recommendation of the Planning Commission and approve the zoning map amendment of Tax Map #90-8-1A1 located at 1201 Bayshore Road from Harbor to General Business/Light Industrial Harbor-1.

Motion made by Councilman Follmer, seconded by Councilwoman Holloway, to defer the vote until the August 19th Town Council Regular Meeting. The motion was approved by majority

vote. Roll call vote: Bennett, no; Buchholz, no; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

At 9:03 p.m., Mayor Dize recessed the meeting for 10 minutes.

Mayor Dize called the meeting back to order at 9:13 p.m.

NEW BUSINESS:

A. *Removal of Edward Wells from the Historic District Review Board:*

John Hozey explained that this topic was similar to a personnel matter which was not discussed in public. When Council expressed their concerns, an executive session was scheduled to discuss the matter. The agenda was very discrete in how it was labeled. As a result of those discussions, Council instructed him to put the item on tonight's agenda. The topic had to be disclosed on the agenda and the information had to be included in a staff report.

Councilman Follmer added that efforts were made to keep this issue from getting to this point.

Motion made by Councilman Follmer, seconded by Councilwoman O'Brien, for the removal of Edward Wells from the Historic District Review Board effective immediately.

There was much discussion regarding this item and the reasoning behind the call for removal. i) Councilman Grossman stated that the behavior interacting with the applicants needed to be differentiated from the performance on the Historic District Review Board (HDRB) relating to research, etc. He had personally observed interactions that he considered inappropriate but did not agree with this action. He attended the HDRB meetings and watched the Zoom meetings. No training or expectations were provided to board or commission members and there was no procedure in place for removal of a member. For employees, normal performance reviews were completed dealing with competencies of job performance. An employee's performance would be monitored, and issues would be discussed with them. If there was no change in performance, the employee would receive a written warning and performance would be monitored for change. If there was still no change, the final action would be termination. He observed the inappropriate behavior, and instances where HDRB discussion strayed into zoning areas, but never talked to Mr. Wells about it. He recommended Mr. Wells and Mayor Dize meet face to face and explain our expectations, then monitor the behavior. He did not agree with termination at this time; ii) Councilman Buchholz expressed his agreement with Councilman Grossman; iii) Councilwoman O'Brien expressed her view of the situations and behavior over the last week, adding that she had not seen the best version of ourselves. It was up to the Town Council to lead in a way that was empathetic, showing compassion and to encourage volunteerism from the community. She did not want this to be perceived as a witch hunt or personality clash. She did not think that Mr. Wells should be removed from the HDRB, but Council needed to work with him. The guidelines needed revisions. She understood that Mr. Wells' behavior was probably not the best, but she was not always at her best either; iv) Mayor Dize stated that we had procedures and steps in place for staff. Council appointed the town manager. If Council had an issue with the town manager's performance, a meeting would be scheduled to address the issues. Councilman Buchholz agreed that the procedure followed for appointed staff, should be applied to other appointed officials; and v) Councilwoman Holloway expressed her embarrassment for being in this position adding that she felt badly for Mr. Wells. There should be due process and Mr. Wells deserved the right to sit down and talk to Council so he would know the issues. She knew attempts were made to set up a meeting but did not know how much of the specifics were shared with Mr. Wells. The Town Council was doing their best but sometimes were unaware of our mirror image.

The motion was defeated by unanimous vote.

B. *Cape Charles Library Board Member Reappointments:*

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to reappoint Mss. Dianne Davis and Karen Mahaffy to the Library Board for another four-year term. The motion was approved by unanimous vote.

C. *Updates to Cape Charles Guidelines for Citizen Participation:*

John Hozey stated that an incorrect version of the guidelines was included in the packet and distributed the revised version. The change was on page 3 with the addition of the Applicability paragraph which stated, "While these guidelines reference the Town Council specifically, they shall also apply to all Town boards, commissions, and committees as appropriate." The existing guidelines were adopted in 2013 and a number of items were added with this revision: i) Eligibility. Only citizens with standing in the Town would be provided the opportunity to provide input. Standing was defined as a full-time resident, property owner, business owner, or state, federal or county officials representing/serving the Town. In the future, when someone spoke, they would be asked for their name and standing versus address; ii) The second addition related to the provision of written comments to be read into the record. Currently, written comments had an unfair advantage in that the entire comment was included in the minutes and individuals who took the time to attend a meeting and speak, were cut off after three minutes. For consistency, only the portion of written comments that were read by the Clerk within three minutes would be included in the minutes; and iii) the third change was the Applicability paragraph which was read earlier.

Councilman Follmer proposed the addition of language stating comments must come directly from the sender, not forwarded like two of the emails that were read earlier. Comments should not be included in the record without the author's permission. John Hozey noted that language stating "Comments must be received from the person with standing" would be added to the second page of the guidelines.

Motion made by Councilman Buchholz, seconded by Councilman Follmer, to adopt the revised Guidelines for Citizen Participation as discussed. The motion was approved by unanimous vote.

D. *Approval of Town Code of Ethics and Rules of Order:*

John Hozey stated that the existing Code of Ethics was adopted in 2006, and the Rules of Order was adopted in 2009. This revision combined both into one document. Other than minor wording changes and grammar, the majority of the documents were the same. The changes were as follows: i) Conflict of Interest was now a standalone section with additional language relating to abstentions and the questions of when Council members should or should not participate in discussion. He had seen instances in the past, in other localities, where officials would abstain in order to avoid controversial issues for political reasons, which was inappropriate. It was the Council member's duty to disclose the potential conflict and up to the remainder of Council to approve the recusal. Another item that came up a lot was the representation of third-party interests. Just having an association with a group or organization was not necessarily a conflict, but if representing the other group or organization, there could be a potential conflict; and ii) The Meeting Rules of Order procedures appeared to be written by an attorney. An acknowledgement section was added to the last page for a record showing that the individual read and understood the procedures. The signed acknowledgment page would be kept by the clerk.

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to adopt the revised Code of Ethics and Rules of Order as presented. The motion was approved by unanimous vote.

E. *Boating Infrastructure Grant Program Resolution:*

John Hozey stated that the Town routinely received grants with federal funding. The Boating Infrastructure Grant (BIG) was one of the federal grants which was used for harbor improvements. A resolution was now required for the Town to acknowledge its obligations and to formally accept the terms of the U.S. Fish and Wildlife Service BIG.

Mayor Dize read Resolution 20210722A.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to adopt Resolution 20210722A Regarding Useful Life, Obligation, and Maintenance of the Town of Cape Charles Harbor Marina at 11 Marina Road, Cape Charles, Virginia. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

F. *Cape Charles Post Office Parking Request for VDOT:*

John Hozey stated that a request was received from the Cape Charles Post Office requesting support with an application to the Virginia Department of Transportation (VDOT) for a 15-minute parking restriction on Randolph Avenue in front of the post office located at 299 Randolph Avenue for postal customer parking. A resolution from the Town Council supporting the request was required by VDOT.

Motion made by Councilman Grossman, seconded by Councilwoman O'Brien, to adopt Resolution 20210722B In Support of the Request from the Cape Charles Post Office for 15-Minute Parking Restrictions on Randolph Avenue in Front of the Post Office. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

G. *Moving of Railroad Car at Strawberry Street Plaza:*

Councilwoman Holloway stated that this issue was time sensitive adding that the train car restoration was put on hold due to COVID-19, but Cape Charles Main Street (CCMS) had remained in contact with Canonie Railroad. Canonie agreed to complete the asbestos abatement and the rail car needed to be moved. Some other rail cars were being relocated and this car could be moved at the same time. She spoke with Mayor Dize regarding their desire to position the car vertically but with the potential change in land ownership, a better location needed to be determined. She asked for Council's preference in moving the car slightly east or west. After preliminary discussion, the CCMS board recommended moving the car to the west. CCMS obtained a \$15K grant for repairs, to begin after completion of the asbestos abatement. Canonie agreed to extend the Town's parking lot lease, at no additional cost, to include property to the west for relocation of the rail car.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to extend the Town's parking lot lease westward, at no additional cost to the Town, for the relocation of the rail car. The motion was approved by unanimous vote.

John Hozey stated that the Town's insurance company would be notified of this addition upon execution of the new lease agreement.

TOWN MANAGER COMMENTS

John Hozey commented as follows: i) The Small Business Recovery Assistance Grant Program Design was revised updating the eligibility requirements. When Council originally approved the guidelines, authority to revise the guidelines was delegated to the Program Management Team with the requirement that Council would be informed of the changes; ii) The contract for mosquito spraying was executed and spraying should begin in August; iii) The Town recently hired two new employees – Betsy Doherty was the new library assistant, and Tavon Owens was the new seasonal employee for litter patrol; and iv) He would be out of the office the last week of August and first week of September for his annual trip to Alaska to visit his kids and grandkids.

MAYOR AND COUNCIL COMMENTS

Mayor Dize commented as follows: i) The Coastal Virginia Chamber of Commerce was starting a program – Salute to COVID Heroes and asked him to nominate a group. He nominated CCMS and their executive director for an award for their work in securing the grant to provide assistance to

small businesses. CCMS was in constant contact with businesses and citizens and were well deserving of this award. The ceremony would be on September 9 in Virginia Beach; ii) All the citizens' comments were heard. Based on the comments received, Council deferred the decision for 30 days. He did not know if the outcome would be different 30 days from now. He would like to see more citizen involvement, especially with the comprehensive plan. There had been a lot of changes in Cape Charles over the years and we needed input from the citizens; and iii) He thanked everyone for their comments. All were heard even if we did not all agree.

Vice Mayor Bennett comments as follows: i) He asked for a copy of the documents that were provided this evening. John Hozey would send him the two documents; ii) He agreed with Mayor Dize regarding the COVID award; and iii) This was his second time calling into a meeting and the electronics had improved.

Councilwoman O'Brien stated her agreement with Mayor Dize's comments. The Town was very dependent on the community to volunteer. It was important to demonstrate that we were listening. She agreed that the outcome might not be different, but we owed it to the citizens to defer the decision until August.

Councilman Follmer commented as follows: i) He thanked staff for their hard work. The last couple of weeks had been very challenging for everyone and there were far few hands to get everything done; and ii) He assumed that CCMS was to be thanked for the wayfinding signs on Mason Avenue and Strawberry Street. Councilwoman Holloway stated that Karen Zamorski had donated them, and John Lockwood arranged their installation.

Councilman Grossman had no additional comments.

Councilwoman Holloway commented as follows: i) She expressed her agreement that public input and listening were important. She learned from this process. Council had agreed on joint public hearings with the Planning Commission for non-controversial topics. She felt that the process needed to be slowed down to think through a topic as we did not always know when a topic could be construed as controversial. She felt that the bigger issue was that the Planning Commission did not appear to listen to the citizens' comments; and ii) She thanked Mayor Dize for nominating CCMS and Karen Zamorski. She also wanted to thank staff for helping to implement the grant. It was one thing to obtain the grant, but another to implement it.

Councilman Buchholz agreed with the previous comments adding that everyone had their own opinions. Timelines had to be dealt with. We needed to focus on the tasks for the project and could not deal in "what ifs." We needed to be careful going down the road as we could be setting things up for other problems in the future. It was impossible to appease everyone.

Mayor Dize read the announcements, adding that the August 5, 2021 and September 2, 2021 work sessions would not be necessary. John Hozey noted that another meeting would be scheduled in August based on tonight's discussion.

Motion made by Councilman Buchholz, seconded by Councilman Grossman, and unanimously approved to go into Closed Session in accordance with Section 2.2-3711-A of the Code of Virginia of 1950, as amended for the purpose of: Paragraph 7: Consultation with legal counsel pertaining to actual litigation, where such consultation or briefing in open meeting would adversely affect the litigating posture of the public body.

Specifically: David Fauber v. Town of Cape Charles

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

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

Council went into executive session at 10:17 p.m.

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

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

The open portion of the meeting resumed at 10:43 p.m.

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

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

The Regular Meeting and Executive Session adjourned at 10:44 p.m.

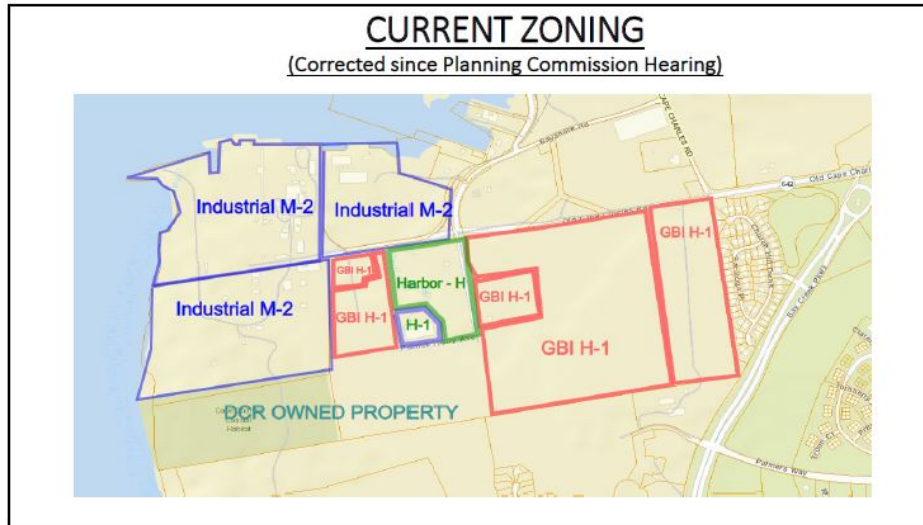
Mayor Dize

Town Clerk

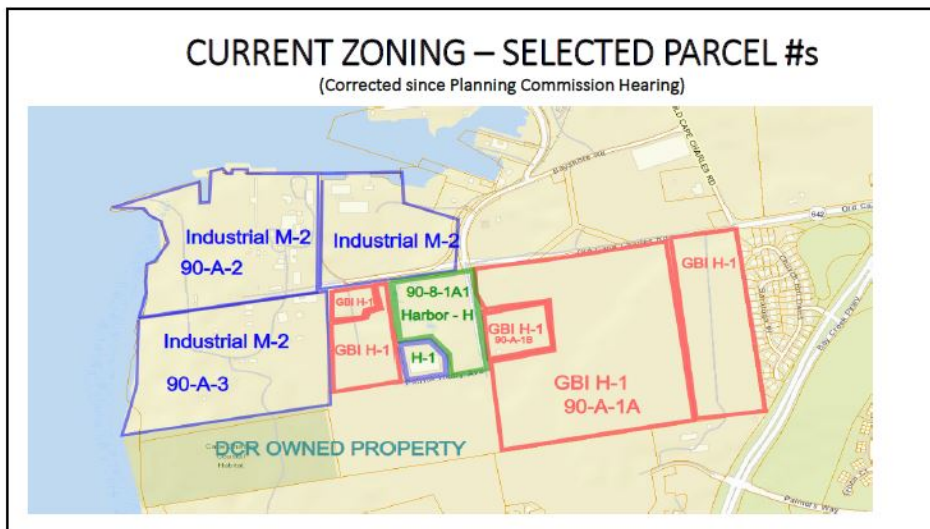
**Comments & Information Provided in Writing
July 22, 2021 Town Council Regular Meeting**

#3A – Recognition of Visitors & Presentations

Zoning Administrator Katie Nunez:



1



2



3

PROPOSED TEXT AMENDMENT TO SECTION 3.14 GENERAL BUSINESS/LIGHT INDUSTRIAL H-1 (GBI H-1)

4

NOTE – CHANGES ARE SHOWN AS FOLLOWS:

Existing Text – in black font

Proposed Additions – in red font

Proposed Deletions – in ~~strike~~through red font

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.

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PROPOSED TEXT AMENDMENTS (cont.)

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. Manufacture, processing, fabrication, ~~assembly~~ and/or ~~assembly 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 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

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PROPOSED TEXT AMENDMENTS (cont.)

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
36. Warehousing facility (excluding mini-storage facility)
37. Water storage tank
38. Wholesale trade establishment

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PROPOSED TEXT AMENDMENTS (cont.)

- 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 other than building may be constructed to a maximum height of 75 feet if the building is set back at least one hundred twenty-five (125) additional feet from the required setback for all yards abutting residential properties.
- 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

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PROPOSED TEXT AMENDMENTS (cont.)

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.

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PROPOSED TEXT AMENDMENTS (cont.)

- 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:
- 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.
 - 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.
 - 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:
- A 50-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.
 - 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.
 - 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.

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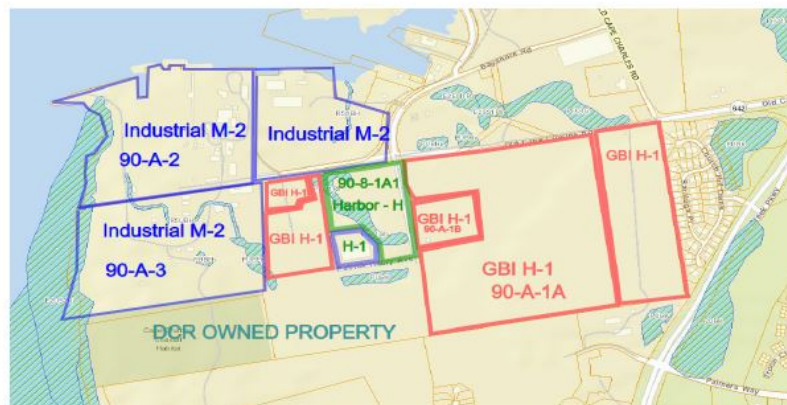
PROPOSED TEXT AMENDMENTS (cont.)

F. Additional Development Requirements.

- 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.
- 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.
- All parking must comply with Appendix B - Off Street Parking and Loading Requirements
- Parking is not permitted in the front yard of a lot.
- No parking or drive aisles shall be located within the required buffer yards.
- No outside storage of parts, materials, fossil fuels, raw materials, or petroleum shall be permitted within the GBI H-1 District.
- ~~No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.~~
- 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.
- No outside loudspeakers, intercoms, sirens, paging systems, whistles, horns, bells, or other devices 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.
- No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
- 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.

11

WETLANDS OVERLAY



12

WETLANDS OVERLAY WITH AERIAL IMAGING



13

REZONING REQUEST

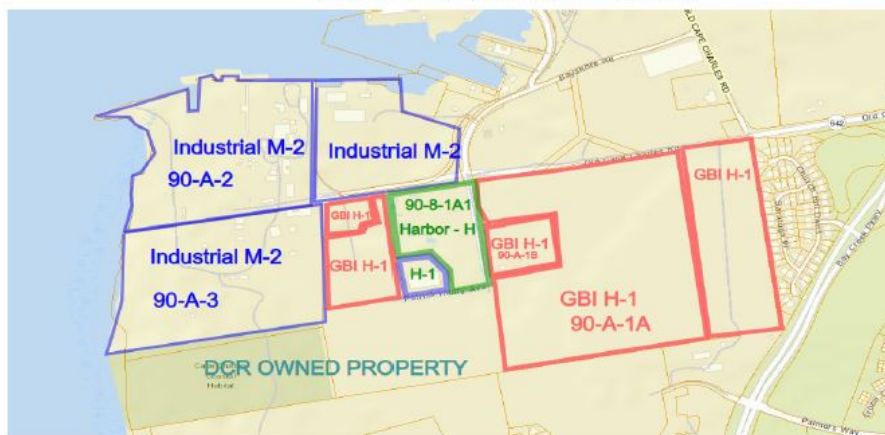
TAX MAP PARCEL 90-8-1a1

From Harbor to GBI H-1

14

CURRENT ZONING – SELECTED PARCEL #s

(Corrected since Planning Commission Hearing)



15

Current Zoning:

Section 3.9 Harbor District (revised 11-21-19)

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.

PROPOSED REQUESTED ZONING:

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.

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REVIEW OF COMPREHENSIVE PLAN

In Section III – Future Land Use: Guiding Decisions for the Coming Decades, this describes each land use designation and indicates that the guiding principle is to mirror and extend the existing historic pattern of development in the town as it grows and adapts to new land uses and building types over time. The Future Land Use Plan strongly reinforces the current form of the town and recommends that new development should be an extension of the traditional patterns of growth and settlement in Cape Charles.

In this area adjacent to the harbor, there are three primary land designations which are described in the Comprehensive Plan as:

III.3.2 Industrial: The industrial designation permits certain industries, which may detract from residential desirability, and will not be permitted to locate in any area adjacent to a residential area. This category should contribute to the existing maritime and industrial nature of Cape Charles and may consist of buildings used for manufacturing and warehousing. All properties adjacent to the harbor have an alternative future land use of Harbor Mixed Use designation.

III.3.3 Industrial District M-2: The Industrial District M-2 designation provides for mixed industrial and employment land uses which encourage the revitalization of the local industrial economy and the historic Port of Cape Charles and Northampton County, create family-wage employment and training opportunities for local residents, serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers, and encourage cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development.

III.3.4 General Business/Light Industrial H-1 District: The General Business/Light Industrial H-1 designation allows for a planned mixed industrial and employment park with a comprehensive development plan which encourages the revitalization of the local industrial economy and historic Port of Cape Charles and Northampton County; creates family-wage employment and training opportunities for local residents; serves as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers; and 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.

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COMP PLAN (cont)

Under Chapter II – SETTINGS, Section II.4 - Economy states the following:

"Cape Charles has experienced increased commercial activity recently. Several new restaurants have opened and a new yacht refurbishing operation has opened for business. If this trend continues, economic opportunities will improve. The town must achieve an atmosphere conducive to the growth of new and existing businesses through cooperation with private, county and regional economic development partners. Cooperation with other towns and Northampton County is needed to plan development near the town's boundaries. Commercial investment should be encouraged where it is needed in revitalizing the county's towns not in development of agricultural land or along Route 13. The town should encourage development of the area formerly known as the STIP (Sustainable Technologies Industrial Park) and several other large land tracts. It must continue support of existing economic infrastructure including the harbor and railroad. The town's other strengths, such as its natural environment and historical character, must be preserved as well to encourage economic prosperity.

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Cape Charles Harbor Area Conceptual Master Plan dated August 4, 2006

It is necessary to also consider the Cape Charles Harbor Area Conceptual Master Plan since it is referenced in the Zoning Description for Harbor District. To that end, provided is the conceptual map of the Land Use Plan over the harbor area, along with the text accompanying said map from that document.

The Land Use Plan is overlaid on top of the basic circulation and open space networks developed above. The general locations and types of land uses reflect the vision for the area as a mixed-use district that incorporates residential, employment, Industrial and transportation uses, with a working waterfront and public amenities. The diagram below shows the general disposition of land uses in the area. The location of land use elements also took into account the pattern of ownership in the area, as well as the discussions with property owners in the area for development intentions on their properties. The primary uses anticipated in the Harbor area include:

- | | | | |
|-------------------------|---------------|-------------------------|--------------|
| • Main Street Mixed Use | • Employment | • Rail Yard | • Industrial |
| • Employment Mixed Use | • Civic | • Residential Mixed Use | |
| • Working Waterfront | • Nature Area | • Public Utilities | |

This is not intended to be an exhaustive list or a definitive prescription of permitted uses in the area, as would be found in a zoning ordinance. Moreover, the uses are not described definitively in this document. The intent is to provide a general guide, with ultimate flexibility to respond to opportunities for new development in the area that are consistent with the overall design concept and vision, and compatible with the design guidelines described in this document.

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CAPE CHARLES HARBOR AREA CONCEPTUAL MASTER PLAN

LAND USE PLAN



20

APPLICANT PRESENTATION

21

Application for Zoning Text Amendment – Section 3.14 Gen Business/Light Industrial H-1
TIMELINE

May 11th 2021 – South Port Investors submitted correspondence to Town Manager John Hozey requesting consideration be given to integrating text amendments to the current General Business/Light Industrial H-1 (GBI H-1 Section 3.14) zoning classification.

May 20th 2021 – Town Council passed a Resolution of Intent to advance the proposed text amendments to Section 3.14 to the Planning Commission.

June 30th 2021 – Public Hearing advertisement run in Eastern Shore News

July 1st 2021 - Town of Cape Charles Planning and Zoning Administrator - Katie Nunez - issued a Staff Report in full support of the proposed text amendments. *"Staff is supportive of the proposed zoning text amendments."*

July 2nd 2021 - Public Hearing advertisement run in Eastern Shore Post

July 7th 2021 - Public Hearing advertisement run in Eastern Shore News

July 13th 2021 - A joint public hearing was held by the Planning Commission and Town Council.

Three motions were made addressing the proposed text amendments. Results were as follows:

Recommend the zoning text amendment to Section 3.14 (B) (14) Passed 5-1

Recommend the zoning text amendment to Section 3.14 (C) (2) Passed 5-0

Recommend the zoning text amendments to Section 3.14 (F) Passed 5-1

"Town Council is requested to review the proposed zoning text amendment, staff report and the public comments received during the joint public hearing and to consider acting favorably on the Zoning Text Amendment (ZTA) to General Business/Light Industrial Harbor-1 (GBI H-1) and to accept the Planning Commission's recommendation."

July 22nd 2021 – Town Council Regular Meeting & Executive Session

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Application for Zoning Map Amendment – Tax Parcel #90-8-1A1

TIMELINE

May 11th 2021 – South Port Investors submitted Zoning Map Amendment Application to Town Manager John Hozey identifying tax map parcel 90-8-1A1 as the subject property.

May 20th 2021 – Town Council passed a Resolution of Intent to consider a change to the zoning map within the Harbor District.

June 30th 2021 – Public Hearing advertisement run in Eastern Shore News

July 1st 2021 - Town of Cape Charles Planning and Zoning Administrator - Katie Nunez - issued a Staff Report in full support of the proposed map amendments. *"Staff is recommending a favorable consideration of the Zoning Map Amendment since it is supported by the Comprehensive Plan and creates a more cohesive Zoning Map for the parcels to the south of the harbor."*

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July 7th 2021 - Public Hearing advertisement run in Eastern Shore News

July 13th 2021 - A joint public hearing was held by the Planning Commission and Town Council.

A motion was made to approve the proposed map amendments. The motion carried convincingly 5-1.
The Planning Commission provided the following motion for the Council consideration:

The Cape Charles Town Council accepts the recommendation of the Planning Commission and to approve the zoning map amendment of Tax Map #90-8-1A1 located at 1201 Bayshore Road from Harbor to General Business/Light Industrial Harbor-1 (GBI H1); said rezoning is consistent with the Comprehensive Plan as detailed fully in the Staff Report provided to the Planning Commission and the Town Council as part of the agenda packet for the Joint Public Hearing held on July 13, 2021.

July 22nd 2021 – Town Council Regular Meeting & Executive Session

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Dan Brown, CFO, South Port Investors, LLC.

Dear members of the Cape Charles Town Council,

My name is Dan Brown. I am the CFO of South Port Investors, LLC. I am here this evening to ask you to support two zoning related agenda items:

1. Application for Zoning Text Amendment – Section 3.14 General Business/Light Industrial H-1
2. Application for Zoning Map Amendment – Tax Parcel #90-8-1A1

With regard to Item 1: Application for Zoning Text Amendment, the following text amendments have been identified, supported by your professional Planning and Zoning staff, and recommended for acceptance by your appointed Planning Commissioners.

- 1) Allow assembly and/or storage of products as a by-right use under Sec. 3.14 B (14);
- 2) Allow buildings up to 75 ft in height with a required setback of 125 feet through a Conditional Use Permit (Sec. 3.14 C (2));
- 3) Deletion of Section 3.14 (F) (7) which currently does not allow manufacturing, assembly or servicing of products used on the property nor the use of trucks or automobiles used in conjunction with or for the transport of materials to the district; and
- 4) Other minor changes

I'd like to refer to the timeline worksheet I've prepared for this Application for Zoning Text Amendment.

*(See Timeline – Application for Zoning **Text** Amendment)*

As you can see, the public was given the proper notice of all events related to this application. To say this process was rushed or expedited is unfair. All resolutions and hearing announcements are made available immediately to the public. This is a formal process which began in early May. We hope we can reach a positive conclusion now – the end of July.

With regard to Item 2: Application for Zoning Map Amendment – Tax Parcel #90-8-1A1, we request you approve changing the zoning from Harbor District to Light Industrial. This request has also received the full support of your professional Planning and Zoning staff and has been highly recommended for acceptance by your appointed Planning Commissioners.

Let's refer to the timeline worksheet for this Application for Zoning Map Amendment.

*(See Timeline – Application for Zoning **Map** Amendment)*

It is important to note that most of the land on the south side of Cape Charles Harbor has some form of industrial zoning. In 2006 there was heavy emphasis placed on mixed use zoning and as a result, some lots on the harbor's south side were batched into this classification. The mixed use – Harbor District – zoning has enjoyed immense success on Mason Avenue and areas close to our retail district. The concept never resonated over to the south side of the harbor.

More recently our group purchased the old Zappatta-Haney fish plant property located in between the existing concrete factory and the Cape Charles Yacht Center. Coincidentally this land sits adjacent to the parcel we are attempting to rezone today. **(See Zappatta Haney image)** This retired fish plant property was zoned Harbor District. We quickly recognized the existing zoning was an impediment and requested a zoning change to Heavy Industrial M2 – completely skipping over Light Industrial. The Zoning Administrator fully supported the amendment via his Staff Report. The Planning Commission hearing produced only favorable comments from the public, the Commission voted unanimously to approve the zoning change, and the Council also voted unanimously approving the request. Obviously, a precedent has been established given the recent nature of the prior approval. Couple this with the close proximity of the two lots and we feel this is a justified request.

Before I turn the program over to my colleague – Brandon Mowrey – I'd like to close with some concise points.

The applications up for consideration have nothing to do with wetlands, deforestation, land disturbance, air quality, groundwater quality, or conservation. All of those issues are important. We are not minimizing the importance of each. However, they are regulated by their respective agencies and boards. Tonight we are assembled to consider:

1. Rezoning a parcel of land with strong precedent established.
2. Text amendments allowing for outdoor storage and assembly of product or materials.
3. A provision for any Light Industrial landowner to request permission to build a structure over 50' yet under 75'.
4. Deletion of a section of Additional Development Requirements allowing for outside manufacturing and assembly and use of trucks – under Conditional Uses.
5. Other minor changes.

You have tasked your Zoning Administrative Staff with evaluating all of these items. Their professional opinion is one of strong support as evidenced by their Staff Reports.

You tasked your appointed Planning Commissioners with hearing the matters and considering all aspects of the issues. They have done so and voted in overwhelming favor of all items. They have presented to you their approval and have recommended a motion for your consideration.

We are asking you today to trust your judgement and the judgement of the people you have chosen to evaluate the appropriateness of these applications. Please approve these applications here tonight.

Thank you for your time.

Application for Zoning Text Amendment – Section 3.14 Gen Business/Light Industrial H-1

TIMELINE

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“Town Council is requested to review the proposed zoning text amendment, staff report and the public comments received during the joint public hearing and to **consider acting favorably on the Zoning Text Amendment (ZTA) to General Business/Light Industrial Harbor-1 (GBI H-1) and to accept the Planning Commission’s recommendation.**”

July 22nd 2021 – Town Council Regular Meeting & Executive Session

Application for Zoning Map Amendment – Tax Parcel #90-8-1A1

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July 22nd 2021 – Town Council Regular Meeting & Executive Session



Cape Charles Properties
1316 Yacht Drive • Chesapeake, VA 23320
P: (757) 545-5215 • F: (757) 545-6296

GOOD EVENING MR. MAYOR AND COUNCIL MEMBERS

MY NAME IS BRANDON MOWREY, REPRESENTING CAPE CHARLES PROPERTIES, THE PURCHASER, AND AM ALSO AN EMPLOYEE OF COASTAL PRECAST SYSTEMS. THANKFULLY, OUR BUSINESS HAS BEEN STRONG AND LOOKING TO GET BUSIER. WE HAVE NUMEROUS CONTRACTS IN THE WORKS AND OTHERS SCHEDULED FOR PRODUCTION (ONE OF WHICH IS THE HAMPTON ROADS BRIDGE TUNNEL). FOR HRBT WE ARE LEASING OUT SOME LAND FOR A CONTRACTOR TO FABRICATE AND STORE THE 21,000 TUNNEL LINERS NEEDED FOR THIS \$3.8 BILLION DOLLAR JOB. STORING THESE TUNNEL LINERS OBVIOUSLY TAKES UP SPACE AND ADDITIONAL LAY-DOWN STORAGE AREA MIGHT BE NEEDED. WE KNEW THE ADJACENT SOUTH PORT PROPERTY WAS FOR SALE AND DETERMIND IT SERVED OUR NEEDS PERFECTLY SO WE MADE AN OFFER.

ACQUIRING THE LAND AND APPROPRIATE ZONING WILL ENABLE US ADDITIONAL LAY-DOWN STORAGE. MOST IMPORTANTLY, IT WILL ALLOW US TO BID OUR FACILITY MORE COMPETITIVELY TO RENEWABLE ENERGY CONTRACTORS. AS I MENTIONED LAST WEEK, THERE ARE CURRENTLY 22 OFF-SHORE WIND FARMS ON THE EAST COAST. WITH LIMITED DEEP WATER SITES, CONTRACTORS ARE CURRENTLY SECURING LOCATIONS FOR THEIR FACILITIES AT A RAPID RATE. THIS POTENTIAL OPPORTUNITY IS EXCITING FOR US AND I HOPE CAPE CHARLES, AS IT WOULD BRING AS MANY AS 50-100 MORE JOBS TO THE AREA. FORTUNATELY, CONTRACTORS HAVE ALREADY REACHED OUT TO US REGARDING OUR LOCATION AND ARE IN NEED OF PROPOSALS SOON. ONE CONTRACTOR, WHO'S DEVELOPING THE NORTH CAROLINA (KITTY HAWK) WIND FARM, NEEDS A PROPOSAL FROM US AS SOON AS NEXT WEEK! LIKE MOST GREAT OPPORTUNITIES, YOU HAVE TO ACT FAST OR THEY WILL PASS YOU BY.

AS MR. BROWN MENTIONED, WE HAVE DONE THIS THE RIGHT WAY. I THINK MANY OF YOU WILL AGREE THAT THE CURRENT ZONING ORDINANCES ARE IN DIRE NEED OF REVIEW AND MODIFICATIONS TO MATCH OTHER LOCAL CITIES AND TOWNS. WE HAVE WORKED WITH MRS. NUNEZ AND MR. HOZEY TO REACH AN AGREEMENT ON AMMICABLE ZONING AMMENDMENTS THAT APPEASE BOTH THE TOWN



Cape Charles Properties
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WHILE FITTING OUR NEEDS. WE WOULD LIKE TO THANK THEM BOTH FOR THEIR TIME AND GUIDANCE THROUGHOUT THIS PROCESS.

AN APPROVAL THIS EVENING WILL ENABLE US TO GROW OUR BUSINESS RESPONSIBLY AND SECURE MANY MORE JOB OPPORTUNITIES MOVING FORWARD. A REJECTION OR EVEN TABLING THIS VOTE TO A LATER DATE WILL UNFORTUNATELY TAKE US OUT OF CONTENTION FOR MANY OF THESE EXCITING RENEWABLE ENERGY OPPORTUNITIES AS WELL AS OTHER INFRASTRUCTURE AND NATIONAL DEFENSE PROJECTS WE WILL BE FORCED TO PASS ON DUE TO STORAGE CONSTRAINTS.

I THANK YOU FOR YOUR TIME AND CONSIDERATION.

Joan Natali

My name is Joan Natali and I reside at 110 Blue Heaven Road in Cape Charles.

I have reviewed the complete agenda package and reviewed the Zoning Ordinance referred to and under consideration tonight.

In general, I support the recommended revisions to Article III of the Zoning Ordinance and the rezoning of Tax Map #90-8-1A1 located at 1201 Bayshore Road from Harbor District (H) to General Business/Light Industrial H-1 (GBI H-1).

I have three concerns that I would like the Planning Commission and the Town Council to consider in their deliberations.

1. CU Height of 75 feet
2. Removal of "sirens" and "or other devices"
3. Require as a compromise, a sound/noise barrier for any lots which adjoin/about a residential area.

Regarding the first, I understand that any proposed development of a property in this district must apply for a Conditional Use process. That process includes review and public hearings before a permit is either granted, with conditions or denied prior to the development of the property, I personally think a height of 75' is far too high for our Town.

I would like you to revise the 75' height maximum to 55', which is the highest height currently stated in the Zoning Ordinance for the Town of Cape Charles.

Second, I am concerned about #9. the removal of "sirens" and "or other devices." Please consider adding wording to ensure that noise from sirens or other devices are not so loud as to become a public noise nuisance to nearby residential neighborhoods and neighboring business(s) in the area. If not now, maybe the subject can be considered in the near future.

Third: As a compromise, please consider requiring a sound/noise barrier, not just adding additional trees or bushes, but a real sound barrier be required for any lot lines which adjoin/about a residential area.

On another agenda item, I want to express my deep concern and dismay about the Council's treatment and/or dismissal (asking members to resign and if they refuse, dismissing them) of Town committee members! Shame!

Thank you for your time and consideration.

Jim Granger

Subject: 22 July 2021 Town Council Meeting

I attended the debacle of the 13 July Joint Public Hearing which was led by the Planning Commission. Over 67 of my fellow citizens attended in person, others attended online, and many submitted written comments, the overwhelming majority of which were opposed to the proposed actions. The hearing was orderly to that point. When the petitioner addressed the crowd directly, in an arrogant and insulting manner, the atmosphere got very heated, and the police were summoned in case things got even more out of hand. To make matters worse, one of the Planning Commission members made insulting and sexist remarks to one of the female members, accusing her of "creating drama", when she was actually asking insightful questions. I sincerely hope that tonight's meeting will be fair, honest, respectful, and transparent, with the views of all citizens taken into consideration.

Since the Planning Commission did not address any of the issues before voting to recommend approval of the proposed actions to the Town Council, I can't form my position until I get those answers. I ask the Town Council to return the action back to the Planning Commission and direct them to address the issues raised by the citizens before voting on the action and passing it to Town Council. If that won't work, I strongly recommend that Town Council delay the vote until the issues raised by citizens are addressed. The prevailing feeling among town citizens seems to be that their elected and appointed officials don't listen to them. Fixing that problem is, in my opinion, perhaps more important than the proposed amendments and rezoning issues.

Sincerely,
Jim Granger

My name is Kim Starr. I have lived and worked in Cape Charles for 26 Years. I own Chesapeake Properties. We do real estate sales and manage 40 Vacation rentals in town. We provide much needed Transient Occupancy Tax here. I pay a living wage. I provide jobs and support other businesses by utilizing numerous independent contractors -helping them provide good jobs. Most tourism businesses support these auxiliary sources of employment. We need to recognize this fact.

Many here tonight do not know what the town was like before we had a Tourism Industry.

Cape Charles was severely depressed and rundown. Downtown was a wasteland of empty buildings - the stench from public urination would knock you over! The Palace Theater was showing x-rated movies and wreaked of smoke and urine. Drug deals were openly conducted in the streets. The youth had absolutely nothing to look forward to.

No one cared!

At the time Bayshore Concrete was thriving - Cape Charles was anything but.

Over these many, many years I have watched how new people -Come-Heres like the ones that founded Cape Charles, bring money and new ideas and join forces with those stalwart locals who never gave up on their beloved home. And with a growing tourism industry, here we are now with a revitalized, beautiful town, our own Cinderella-story.

I came to Cape Charles because I got involved in the fight against the maximum-security prison the town and county wanted to locate behind Kiptopeake Elementary School in the midst of 3 African American communities. We were told the same thing then: Jobs Jobs Jobs -this is our only hope for economic development. We were poor and rural, this is what we get. A strong coalition of local folks and come-here's banded together. We pushed for good governance, to slow down and study the potential impacts. The prison was defeated.

This was my wake-up call to speak up – to challenge – because home is always worth fighting for.

I've been here a long time – I have seen Cape Charles at its bottom.

Now my heart is full seeing entrepreneurs open businesses on Mason Ave, watching homes being renovated, young families on the beach, children on bikes, Bay Creek coming back to life... *Southern Living* recognizing our unique town.

I've spent considerable time in prayer over this. I feel strongly about good governance. This proposed rezoning has not been a transparent process. Where is the consensus building? Have we examined the long- range impacts? Surely if we take the time, we can balance the needs of your constituents and a thriving Tourism Industry, with the needs of the Concrete Plant.

Please slow down. Please take this back to the planning commission for further study and public input. There are way too many unanswered questions and much, too much at stake to rush.

Bill Ballard

My name is Bill Ballard. My wife and I live at 115 Mason Ave. We are full time residents and registered voters.

We are here tonight to implore you to postpone action on these **two** zoning issues **until** there has been a comprehensive examination of the impact these changes will have on our community.

This is not about Coastal Precast Systems. That company has been open to listening to the concerns of citizens and has been responsive.

This is about the governance of this town. This is about the leaders of this community doing what is right and listening to the concerns of its citizens and being responsive.

Last week, the owner of Coastal Precast told me that they have several ideas for the property but, if you will pardon the pun, no concrete plans. This is an opportunity to control the adjacent property. That may be good business, but it is not a guarantee the town will be the beneficiary of higher taxes or an increase in jobs nor that this opportunity will disappear if this decision is deferred. Indeed, the owner said that he does not expect much action on their part for three to four years.

The town manager, in response to queries by some residents said,

"The Town has gone through previous lengthy public processes that established our current guidance regarding land use. It is the responsibility of the Planning Commission, the Town Council, and staff to follow that publicly developed and endorsed guidance unless there are extraordinary circumstances to the contrary. To do otherwise would invalidate the public process that established this guidance."

Before you vote tonight, tell us what extraordinary circumstances warrant changing this ordinance and zoning. Since Council has been mute on these issues, most of us have had to rely on rumors. Please give us the facts.

The manager went further to say,

"there needs to be a deliberate public process to amend that guidance. That does not happen quickly, nor should it. There are long term implications to setting land use policy, so it is not wise to alter that policy/guidance based on one night of public comment."

I ask you, the Town Council for all of Cape Charles for that deliberate public process. Defer this action and listen to your constituency.

Cape Charles may have been founded as an industrial town but it darn near died as an industrial town at a time when Bayshore Concrete employed over 400. Its renaissance has been due to the preservation of its historic district, the development of Bay Creek, tourism, and an influx of retirees. This town survives **only** because of real estate taxes that have grown due to these factors. Yet the zoning applications before you potentially threaten all of them.

Are you willing to risk the future of this town? Were I you, I would want to make sure. I would take extra time to look at this thing inside and out, up and down, left to right, because once you make the decision to turn your backs on those people who have reborn this town, it will really hard to turn back.

Kevin Cosgrove

Remarks of Kevin J. Cosgrove, Esq.
Representing Concerned Citizens of Cape Charles

Good evening Mayor Dize and Town Council Members. My name is Kevin Cosgrove. I am an attorney with the law firm of Hunton Andrews Kurth. My office is located in Norfolk. I am here tonight on behalf of a number of concerned citizens of who reside here in Cape Charles. My comments concern agenda items 6A and 6B.

My clients do not understand why these applications are being rushed through the re-zoning process. Instead of two public hearings, they were double advertised so only one was held. The roughly 1,000 residents of Cape Charles have a right to expect transparency from their elected officials. The residents who have signed the petition demand it. In turn, elected officials have a duty to provide such transparency. Thus far, there has been no transparency at all.

My clients request that these applications be deferred for 90 days. During that time, we request that you direct the buyer of parcel 90-8-1A1 to meet with town residents and explain—in detail-- its vision for that parcel and the adjoining two parcels that would be affected by the zoning text amendments. If it cannot articulate such a vision, then these applications should be rejected.

In a typical re-zoning, the applicant submits an application that explains what is intended to be done with the parcel. Then the governing body can make an intelligent decision as to whether the proposed use is acceptable. But this application turns the usual process on its head. This applicant comes before you and says "I don't know what I want to do on these parcels, but please re-zone them and I'll figure it out later. You simply cannot evaluate a re-zoning application without knowing what the end use will be.

One final point. At the dual public hearing it was stated that the additional development requirements in zoning section 3.14 (F) don't apply to permitted uses within the light industrial district. I have reviewed your ordinance. I do not understand that conclusion. I'd be happy to discuss that issue with appropriate town personnel.

Pamela Green

Town Council of
Cape Charles, Virginia
July 22, 2021

Re: Zoning Ordinance Text Amendments and Rezoning Parcel 90-81A1
Submitted by Erye Baldwin and South Port Investors LLC

Dear Members of the Town Council of Cape Charles:

Thank you for the opportunity to submit my concerns regarding the proposed zoning amendments to facilitate the sale of property owned by South Port Investors to Coastal Precast.

Like the other signatories to the petition submitted to you on behalf of now over 500 Cape Charles residents, I am deeply concerned about the unintended consequences that may result if this request is approved now. I strongly believe that it is in the best interests of the entire town that full and careful consideration be given to this request. The implications for the quality of life of Cape Charles' citizens, the economic harm to the tourist industry and the environmental impacts on air quality, noise pollution, potentially water pollution and the impact on wildlife and marine life should, in my opinion, be considered *before* this request is approved.

I understand that Cape Charles has a tradition of being a working port and that no town should put all its eggs in one basket. We should not rely solely on one industry for economic viability. We need tourism: Cape Charles is gaining popularity as a tourist destination, especially as we emerge from the lockdown of 2020. We also need other industries and sources of revenue for a sustainable future. But our future should be not just *economically* sustainable, but *environmentally* sustainable as well. This is nothing new, but over the past two years or so it has become very much more apparent. There seems to be an influx of people looking for a place to work from home, where their kids can attend school, and breathe fresh air without wearing a mask. We are fortunate enough to be located a reasonable driving distance from major population centers where new residents and visitors can come "enjoy our nature", as the Eastern Shore motto goes. Let's not mess that up.

My request for your consideration is this. You, the Town Council are in an unenviable position as you consider this matter before you. Frankly, I am glad I am not in your chairs although I am grateful that you are all willing to devote your time, attention and expertise to the governing of Cape Charles. But please, on this decision, consider whether you have to do it alone.

Is it possible for the town to hold a referendum on this issue? Let the various committees that have been established by and for the town, such as the tree committee, consider the ordinance change request. Give the public a chance to gain a better understanding of the request and provide time for studies to be conducted of the environmental implications for Cape Charles and the Chesapeake Bay on what appears to be a significant expansion of Coastal Precast's operations, should the ordinance changes be approved. We, the registered voters of Cape

Charles, could vote on this issue during the gubernatorial and other elections already scheduled for this fall.

In the interest of transparency and in addition to the questions posed in the petition and the letter accompanying it currently on *change.org*, I have the following questions:

- Who owns Up Front Storage and what is that owner's position on the requested ordinance change?
- With all due respect, are there Council Members who have familial or economic ties to South Port Investors or Coastal Precast or their owners or managers?
- If there are Council Members with such ties, will he or she recuse him or herself from any vote that does take place on the requested ordinance changes?
- There was some discussion at the Town Planning Commission meeting of a road on the east side of the 70 acre parcel that may be sold by South Port to Coastal Precast. It is unclear to me whether that is a county road. Is it a county road? Who will access it and has the Northampton County and/or the Commonwealth of Virginia approved it?

Thank you again for the opportunity to weigh in on this issue. It is an important one and I sincerely hope that it gets the time, attention and study that it deserves by all the residents of Cape Charles.

I request that this letter in its entirety be made part of the record.

Sincerely,



Pamela Green
645 Tazewell Ave.
Cape Charles

Jane McKinley

I would like to express my concern regarding the Planning Commission's swift approval of the proposed zoning and text changes to accommodate the sale of Harbor area property to Coastal Pre-Cast Systems and to encourage Town Council to give serious thought to approving this proposal. My name is Jane McKinley, and I am a permanent resident of Cape Charles living at 526 Tazewell Avenue in the Historic District.

This issue reminds me of when I lived in Cape Charles for the month of January 2016 to decide whether to move here permanently. During my stay I met with as many people in town as possible including the mayor and a member of Town Council. When I mentioned to the Town Council member that it was a shame that the concrete factory spoiled the pristine coastline view from Cape Charles, I was advised to consider the economic value of this industry to the town. This gave me pause, and I've come to accept the value added. But I wonder if adding more industry would threaten the town's robust tourism revenue and, consequently, offset any benefits of industrial expansion.

It was mentioned at the Planning Commission meeting that this expansion will bring 50 new jobs to the area. And I'm sure that we all agree that jobs are critical. But do we actually know that it would be as many as 50 fulltime jobs? And do we know that these jobs would be filled by local workers or would they require skills not available on the Shore? And do we know that these jobs would offer training and career paths for the workers and pay a wage to allow them to live comfortably?

There was much discussion about what would be manufactured at this site. Brandon Mallory of Coastal Pre-Cast indicated that they were hoping to land a contract to assemble and store components for offshore wind turbines. I applaud this plan and very much support the addition of this type of renewable industry to our state. I wonder, however, what the chances are that they will be able to "snag" this opportunity. I wonder what their plans are for utilizing the land for this purpose. And, if not wind turbines, what other industry is on their radar. I believe these are some of the questions that should be answered before being too hasty in our approvals.

I would also be remiss in not mentioning the environmental impact of these changes. Would it not be wise to obtain more input from expert sources such as the Chesapeake Bay Foundation and the EPA before merely accepting the additional buffer requirements for the adjoining residential neighborhood and trusting the company to keep as many of the trees and shrubs as possible? And does the town have the resources to enforce existing regulations (which is already a challenge) the scope of which would expand under these changes?

In conclusion, I encourage Town Council to take a cautious approach to the evaluation of this proposal. It would benefit all stakeholders to do more research into the details and impact of this seemingly minor change. Perhaps members of the Planning Commission, Town Council, experts in the field, and citizen representatives could form a group to study the long-term impact of these proposed changes. I believe that this approach would result in informed decisions and compromises leading to in a "win-win" for all parties. Something we could all be proud of!

Karen Reed Lowe and William Richard Lowe
Subject: Public comments for 7/15/21 meeting

To the members of the Town Council:

My wife and I own 101 Tazewell Avenue. We wish to comment on the proposed zoning changes allowing the expansion of the Coastal Concrete operation in Cape Charles.

To begin with, we wish to say that we understand the importance of this business to the local economy, and their right to use the property in accordance with **current** zoning regulations. That being said, it does not enhance the view shed from Mason Avenue; it creates noise, dust, and negatively impacts the business district and tourism. We object strongly to the proposed "Text" changes to GBI/H1 on its own merit and the subsequent impact on other parcels. We strongly oppose the rezoning request because of its impact on surrounding areas. We are also strongly opposed to any action that would allow buildings or any structure to exceed 40 feet. In addition we wish to concur with points that several speakers at the Planning Commission made in the joint Town Council/Planning Commission meeting:

There needs to be more public notice and time for additional hearings

There needs to be environmental impact studies

All relevant town committees must schedule time to assess the impact on the proposed changes.

The Town Council must analyze the tax benefit/cost to the town of making these changes. There needs to be an analysis of the loss of value to lots in Bay Creek and the resulting loss of tax revenue on those lots and on the houses that would have been built on them. How much impact will the enlargement of the industrial facility have on the desirability of the town as a tourist destination? Seventy foot tall structures will soar above the tree line and impact the entire town.

One speaker pointed out that an expansion of the concrete business would bring more jobs to the county; this is true but at what cost? New home construction in Bay Creek, more tourists in our restaurants and gift shops will also create more jobs and more revenue to the town.

As one speaker queried last night, who DO we want to be? Choose between a charming, family-oriented, historic town that appeals to people from all over our country, or a growing industrial complex!

Thank you for your consideration of our opinion in the matter.

Regards,

Karen Reed Lowe and William Richard Lowe

Dan and Macy Coffey

Subject: Coastal Concrete

We are full time Cape Charles residents, taxpayers and registered voters. We have kept silent over recent changes at the concrete plant realizing the long history of the concrete plant that offers much needed jobs. We were pleased by the apparent cooperation between the town and the concrete plant to reduce noise and dirt from the operation. However, the current rezoning proposal has caused us to realize that now is the appropriate time for us to voice our concern over the proposed rezoning as it may further destroy the delicate balance between industry and the scenic beauty of this town, one of our greatest and fragile resources.

We ask that the Town Council and Planning Commission take the time and due diligence to study the effects the proposed zoning changes may have on the Mason Avenue view shed, the Town Harbor, the parcel designated Wetlands/Harbor, the treescape, property values, the Baycreek development and the tourism industry. Of utmost concern is the request for an exemption for property zoned Light Industrial, to allow 75' tall buildings for the purpose of assembly and storage.

We wish Coastal Concrete success but also desire the continued success of Cape Charles. There is a delicate balance that is too important to the futures of both Cape Charles and Coastal Concrete. Please take the time and resources to insure that both Cape Charles and Coastal Concrete can work together for all.

Thank you.

Dan and Macy Coffey

Margot Gorske

Dear Mayor, Town Manager, and Council Members;

Thank you for allowing me this opportunity. My purpose is to explain why I hope that you vote to delay any changes and refer this back to the Planning Commission for further review.

Concrete batch plants impose a trifecta of impact on public health and well-being in that they emit air, light, and noise pollution. Particulate matter air pollution is created from the concrete production process as well as the diesel emissions of numerous trucks and other machinery that feed plant operations. Noise and light pollution weigh heavily on nearby residents as production is frequently permitted for 24 hours a day, 7 days a week operation.

Particulate matter pollution is more than just a neighborhood nuisance. Both short and long-term exposure to Particulate Matter (PM2.5) has been associated with a range of respiratory diseases and cancer. This is a widespread pollutant, consisting of a mixture of solid and liquid particles suspended in the air, and it is one of six pollutants subject to national ambient air quality standards (NAAQS). Higher values of heavy metals and of a biomarker of renal toxicity were found in the exposed compared to unexposed populations. In another study, medical Dr. Crawford states that living w/in 5 miles of a plant is the high danger zone, and w/in twenty miles is still a danger zone.

No one here has a crystal ball. All accept that the plant is here to stay. I understand Mr. Hozey's explanations of process and issues. With that said, I urge you all to vote to delay any decisions, refer this back to the Planning Commission, and allow ample time for studies to conclude that the above cited risks do not pertain to this particular plant and our town.

Respectively,

Margot Gorske

Lori Blewitt

Subject: Wetland, Cape Charles and Harbor Concerns

Does our community want more industry right on the bay? More noise and dust.

Once it's done, can it be undone? Why is this such a rush job? It appears to be a recent request within the last sixty (60) days. I think we should step back and not be pressured into making this decision without studying and considering all impacts this change could have on our environment and town. Who does this benefit?

Has the EPA and the Nature Conservancy been notified of this potential change and the impact it may have on the Chesapeake Bay? Is it against the law to make this type of decision without having notified these entities? The Chesapeake Bay has lost 90% of it submerged and 50% of its coastal marshes per the EPA. What will be the impact on the nearby wetlands from the development of this parcel? Isn't it in the communities' best interest to preserve any wetlands in and around Cape Charles?

Do we want to contribute to this lost?

We have a Tree Conservation and Preservation Ordinance and a Tree Advisory Board. We are also bound by the Chesapeake Bay Preservation Ordinance. To date, it appears that none of those Boards or ordinances have been consulted. I did not see any minutes to this respect.

Noted from the Joint Meeting Planning Commission/Town Council Tuesday, July 13 at 6:00P: #6 -The purpose of the joint meeting of the Planning Commission and the Town Council is to gain the approval of the Planning Commission on July 13 and then allow the Town Council to approve it on July 22. This is too quick to fully understand the ramifications of the proposed amendment changes and the re-zoning.

I've heard recently that the town is trying to promote tourism in Cape Charles. In fact, we appear to be all about it if you own a rental home, restaurant or retail store. Eroding our nature is not conducive to this end if that is where we are heading.

Do we want to see and I quote from the Joint Meeting Planning Commission/Town Council Tuesday, July 13 at 6:00P:

“potentially outdoor pilings of raw and waste materials and newly assembled products awaiting transport and/or delivery and warehousing in newly constructed facilities of 75’ tall”.

When Coastal Precast purchased this facility, I would think they knew what they were getting and that it would be sufficient for their needs. Or, were they hedging their bets and given the wink, wink on expanding and expecting the town to allow them to do just that without question.

We want to see new job opportunities but not at the expense of our natural environment.

From what we’ve heard town council has already rubber stamped this huge change. How can that be decided so quickly? How can you do this without all of the environmental agencies being involved and to analyze and consider the impact. I am certainly not qualified, are you?

Please consider your vote carefully that you are about to take - does this truly benefit Cape Charles, our community and the Chesapeake Bay?

Sincerely,
Lorian Gallagher-Blewitt
A Come Here of 30+ years
Cape Charles, VA

Randolph Smith

Subject: Re: Rezoning Industrial Area

As a homeowner at 35+ year homeowner at 3 Mason Ave, I am opposed to the rezoning of the M2 Industrial area not only to change the building height to 75' but to convert a property to M2 zoning that abuts a conservation area. There has been no studies done that I can see on the impact to the area & bay.

We all know that a concrete plant doesn't need a 75' building for storage. I'm certainly not opposed to jobs in Cape Charles but I feel this proposal has been done in haste to slip something through, I just heard about it today!

I'm asking that the vote on this be delayed until this proposal can be thoroughly be discussed & vetted through the proper agencies.

Thank you,
Randolph Smith

Cheryl Carver

Subject: Rezoning effort

Dear Town Council,

Being a part time resident of Cape Charles doesn't give me much of a voice in anything that happens to my much loved second home. I'm using what voice I have to ask you to please not rezone the area by the Nature Preserve to industrial use. I realize Coastal Precast has created much needed jobs to the area but so has the tourism industry that has blossomed in the past few years because Cape Charles is such a uniquely wonderful place. We sit on our Randolph Ave porch in the morning and listen to the clanking and the back up beeps and watch the dust blow down Pine. Do you all honestly think anyone is going to want to visit if the plant is three times larger than it is now and becomes a larger eye sore on the other side of the marina than it is now? Town is truly at a crossroads and needs to decide if they want to be known as “the best little beach town in VA” or the home of a giant concrete plant.

Margaret Ballard

Subject: Fwd: July 22 Town Council Meeting

Dear Mayor Dize and Honorable Council Members;

Concerning Item 6, Unfinished Business, on the agenda for the upcoming Regular Meeting and Executive Session, please **DELAY, STOP** before voting on items A and B. In my 45- year career in business government affairs; state, federal, local legislation; financial public relations; and as a p.r. consultant to USAA, I learned there is a **PROCESS** for strategic and comprehensive planning. It goes like this:

1. Environmental Impact Study (EIS): this can include business demographics and financial planning as well as the natural environment;

2. Vision Statement and Strategic Planning
3. Comprehensive Plan.

As you'll see in the attached email to Mr. Hozey, an EIS study request was made to him over a year ago and turned down. His vision for the town and the vision of many of the property owners and voters, who pay the largest amount of taxes, are clearly at odds.

Thank you,
Margaret Ballard

Earl (Chip) Moore

Subject: Concrete plant expansion

To whom it may concern, please read this into the record at the July 22nd Cape Charles town council meeting:

I am a full time, tax paying resident of Cape Charles. I live at 156 Sunset Blvd.

I support the concrete plant expansion. This town and county need an industry with decent paying jobs. Jobs that will attract families as fulltime residents/property owners/tax payers.

As of now this county's industries are limited...watermen, agriculture and tourism. Growth opportunities for the first two are limited.

As for tourism the town can't seem to handle what they have now. There aren't enough employees for the shops and restaurants. Just walk down Mason and look at the help wanted signs or the hour plus wait at any of our fine restaurants. The town's beach can't handle the number of weekend visitors because it is small and shrinking.

Maybe a strong, growing concrete plant will attract families who will live here fulltime. This may help alleviate the tax burden that is put on all of us. Maybe those families will have teenage kids who could work at restaurants or in retail shops. Maybe those fulltime residents will support the local businesses in the off season. As of now we have an aging fulltime community with no younger growth.

Part time property owners do not pay town or county personal property tax on their cars, trucks, rvs, boats, etc. or income tax but a fulltime resident does.

Just a few thoughts...I would rather hear a safety alarm than deal with a rental house full of loud obnoxious vacationers. I would rather pass a licensed commercial truck driver on the street vs a drunk tourist or a child driving a golf cart. As for the dust clouds in the harbor area, most of it comes from people driving too quickly into the parking lot at the Shanty/Town marina. Also, there are lots of noise/back-up alarms coming from the construction equipment working in Bay Creek (we just saw/heard it today). That equipment did not have any "muffling" modifications. Is anyone positive that the offending noises are truly just coming from the concrete plant??

Thank for considering this point of view.

Sincerely,
Earl (Chip) Moore

Sarah Fullam

Subject: Message for this week's Town Council mtg

Dear Town Council,

I am writing in regards to the zoning text amendment to update the General Business/Light Industrial categorization and the application for zoning map amendment to 1201 Bayshore Rd from Harbor District to General Business/Light Industrial.

As I understand it, the two are closely related. The change to the zoning text amendment allows for parcels designated as Light Industrial to allow storage and assembly of products and to allow buildings up to 75 ft to be constructed when a conditional use permit is sought and approved. Piggy backing off of this request is a change of 1201 Bayshore Rd from Harbor to Light Industrial to allow for these conditions on this property.

I do not outright oppose either of these asks. What does give me pause is that Town Council has been tasked with making a decision without ever seeing an intended site plan or summary of proposed new jobs that will be created for our community from the requestor. As of March 2020 Coastal Precast was only the 27th largest employer in Northampton County. As I understand it, Coastal Precast will not be purchasing the aforementioned land unless the ZTA and ZMA are approved by Town Council. Once the land is purchased, little physical room is left for other industry to enter our town. We have an opportunity now, before approving, to request more information in order to ensure the most responsible and forward thinking decision is made regarding this space.

Kind regards,
Sarah Fullam

Melisa Klem

Re: Section 3:14 General Business/Light Industry, and rezoning of Tax Parcel 90-81A1
From: Petitioners to Deny Zoning Ordinance Text Amendments and rezoning 90-81A1 submitted by Erye Baldwin and South Port Investors LLC.

To the Mayor, Town Council, Town Manager and Town Attorney of Cape Charles:

We are presenting here, and would like entered into the official record, a petition with nearly 400 signatures circulated among and signed by Cape Charles residents opposed to the proposed amendments to the town's zoning ordinance requested by Erye Baldwin and his company, South Port Investors LLC., that would allow for the expansion of business operations by Coastal Precast Systems.

Citizens of Cape Charles are concerned about the noise pollution and air quality that is adversely impacting their property, businesses and quality of life. Existing operations at Coastal Precast conflict sharply with the town's own stated vision for Cape Charles as a tourist friendly, quaint, quiet small town.

Expanding Coastal Precast operations will, residents and business owners fear, exacerbate the noise and air pollution unabashedly washing over the town from the precast facility.

Several key points regarding this proposal have, in the minds of Cape Charles residents and business owners, not been thoroughly or openly vetted. They include but are not limited to:

1. How much tax revenue generated by the Coastal Precast Systems is paid directly to the Town of Cape Charles?
2. What, if any, legally binding assurances does the town have from Coastal Precast that noise and air pollution from the plant will be significantly mitigated should the plant expand operations?
3. What legally binding assurances does the Town have that Coastal Precast will operate at reasonable hours during the day, and not run the plant in the middle of the night or around-the-clock, as has been the case.
4. What assurances does the Town and Northampton County have that the jobs created by the Coastal Precast Expansion be filled with Town or County residents.
5. How does the expansion of Coastal Precast fit within the recently drafted vision statement for the town, and the mission of the downtown Cape Charles business district?
6. Have any recent or definitive studies been conducted to assess the current and potentially future impacts on water or air pollution, and noise levels inflicted by Coastal Precast on the Town, its residents, or the Chesapeake Bay and Town Harbor?
7. Have proper, up-to-date state and federal impact statements been completed or are underway?
8. Has the Town Council considered that by allowing additional warehousing and assembly facilities at Coastal Precast that the company intends to significantly ramp up the heavy industrial part of its operations to fill those facilities with product?
9. Should members of the Town Council with personal or business ties to Erye Baldwin recuse themselves from considering this zoning amendment request or other business brought to the Town Council or board by Mr. Baldwin or his companies or associates?
10. Will the Town honor Freedom of Information Act requests for all correspondence and emails between Erye Baldwin and members of the Town Council and boards regarding this zoning amendment proposal?

Given the gravity of the impact of Coastal Precast on the Town's image, lifestyle, air quality, noise pollution, and deleterious effect on the flourishing Mason Ave. business community, we the signed petitioner strongly encourage the Town Council to deny the zoning amendment requests until the above questions are answered satisfactorily, and proper and enforceable assurances are made that Coastal Precast will significantly mitigate

the noise and air pollution from its operations. It is also imperative Town of Cape Charles receives in revenues and substantial portion of the taxes collected from those operations, since it suffers the burden of the precast plant's operations.

Respectfully submitted,
Cape Charles residents

David Parham

Subject: Proposed Zoning Changes

Dear Mayor Dize and Honorable Members of Town Council:

I am writing in advance of the Town Council meeting to consider changes to the text of the General Business/Light Industrial H1 zoning district (GBI/H1) and Re-zoning parcel 90-8-1A1 from Harbor to General Business/Light Industrial H1 (GBI/H1).

I believe these zoning changes could have a huge impact on the residents, businesses and general environment in Cape Charles and any decision related to zoning language/text changes should not be rushed through without a proper and complete review. I don't feel that an educated decision on this matter could or should be made without such a thorough and complete review of all considerations and impacts and can't imagine how the Town Council could decide without a comprehensive review.

I have not heard or seen any reason or compelling argument for the Town Council to approve these changes and have seen many solid arguments against approval. There is absolutely no reason for the Town Council to rush this decision through as you represent all the residents and stakeholders in Cape Charles, not just the few who would benefit from these changes.

I respectfully request that any decision be postponed until all the potential impacts, both short term and long term, are thoroughly studied. I would suggest that all the various boards and commissions we have in Cape Charles should be given the opportunity to review any and all impacts of the proposed zoning changes, these include, but are not limited to, the Wetlands and Dune Commission, Harbor District Review Board, Tree Advisory Board, and whoever is in charge of the Chesapeake Bay Preservation Ordinance. In addition, environmental impact studies should be conducted and impact of sound and dust pollution seriously considered.

We all agree that new business growth is desirable. However, years of comprehensive reviews along with professional consultation has set the comprehensive plan which is currently in place and has led to a rebirth of Cape Charles. The existing planning and zoning should not be changed without a complete and proper evaluation of the economic impact to downtown businesses, commercial property values, taxes, and the impact on tourism along with any environmental impacts. This is a serious issue and requires a complete and thorough investigation before any decision is made.

Best Regards;
David J. Parham

Tree Advisory Board

TO: Cape Charles Town Council

On behalf of the Cape Charles Tree Advisory Board this letter is being submitted subsequent to the Planning Commission's approval of the proposed zoning and text changes to accommodate the sale of Harbor area property to Coastal Precast Systems. As mentioned in our prior letter, there are many aspects to consider in granting approval for these changes; however, in support of the fact that not all success is measured by economic development, the focus of this letter is primarily on the environmental impact to this property and to the Town of Cape Charles,

If the requested changes are approved by Town Council it would, then, require only a single step to obtain a Conditional Use Permit to allow changes which, seemingly minor on the surface, could have a large unintended impact. It could put at risk the delicate balance in the current existing mature forest which includes valuable trees such as the oaks and hickories, as identified by the Virginia Department of Conservation and Recreation. While it may seem that "there are plenty of trees in the area," fragmented habitat reduces the ability to support wildlife and migratory birds. Ecotourism is important to our economy here, and there are consequences to clear cutting areas. What is the trade-off in more jobs created by Coastal Precast Systems vs. the economic impact on tourism? Clearing this area could diminish the quality of life in our town, to a great degree attributed to the stand of trees both in town and along its perimeters. And it

could increase the noise and air pollution which could be partially abated by maintaining the existing forest along the edge of town and the Bay Creek development.

If allowed, how can we ensure that Coastal Pre-Cast will respect the environmental value of this land and not clear cut it as they did the parcel north of the Cape Charles Nature Preserve? Although an additional 125 feet of setback along the border of Bay Creek will help, do we know that this will be sufficient to keep the forest vibrant? Why not require a buffer on the side facing the town? What we do know is that there was an environmental study done prior to the development of the Cape Charles Sustainable Technology and Industrial Park (STIP) but that was almost 30 years ago! What might be known now about environmental impact that was not known at that time? And what are the permitted "by-right" uses allowed to the owner? We believe that these questions deserve answers before proceeding with approval of this proposal.

Multiple concerns were raised by the citizens of Cape Charles at the Planning Commission meeting. These concerns included quality of life, intrusive noise, and air pollution – all of which can be abated by a healthy stand of trees. We have all experienced the benefits of a walk in the woods – in fact, research has shown that visual exposure to settings with trees, such as the View Shed from Monroe Avenue, produce significant recovery in high blood pressure and muscle tension. From a noise perspective, a buffer composed of trees and shrubs has been proven to reduce noise by five to ten decibels for every 100 feet of woodland, especially sharp tones, and reduces noise to the human ear by approximately 50%. And, as mentioned in the prior letter, the reduction of air pollution through the "inhaling" of CO₂ is one of the most valuable ways that trees benefit the community.

The Town of Cape Charles is lucky to have current regulations that address the management of our trees, and which is one of the underpinnings of the town's designation as an Arbor Day Foundation "Tree City." These legal guidelines provide the town with leverage to control the amount of tree coverage allowed in each zoned area, including a ten percent (10%) tree canopy for a site zoned business, commercial or industrial. The town's zoning ordinance also requires that a property owner submit and have an approved permit before any tree can be removed or destroyed. It is worrisome to know that there have been instances where these regulations were not enforced. And by loosening the zoning text, is this presenting an even greater opportunity for these regulations to be disregarded?

In considering all the benefits and losses to our town, to its citizens, to the Chesapeake Bay, and to the region as a whole, Town Council would be wise to take a step back and fully evaluate this proposal, perhaps appointing an ad hoc group whose mission is to gain information from all perspectives. Clarifications as to the intent of Coastal Pre-Cast for the use of this property, full evaluation of the scope of this change and its implications, input from the town and county boards and commissions, knowledge gained from such entities as the Chesapeake Bay Foundation and EPA, and input from other stakeholders should be obtained prior to rushing into a decision that we may all regret in the long run.

Respectfully Submitted by Members of Cape Charles Tree Advisory Board:

Christine Williams
Phil Goetkin
Barbara O'Hare
Joe Fehr
Charlie Grizzard
Jane McKinley

Alfred Ewell

Subject: 7/22 meeting comments

Anyone wanting to shut down the Coastal plant's growth should be stunted themselves. Tourists are more of a nuisance than the plant. It gives you something to watch when the weather isn't pretty. If CC became just a destination it wouldn't be unique and would lose enough of its appeal to be overwhelmed by recession, epidemics, and disillusionment with travel. One Kent Island, one Cambridge, and one Easton MD are enough. People here need work. Those rentals need someone to pay the heat. If all the local working people left, not only would that depress property, wait staff would all have to be hired from ATB, driving up restaurant costs, a taste of which seen lately. If there are valid problems, they can be worked through. Remember the fish plant and the Corvair both improved until the problems were solved but blind opposition eliminated both. You could be unwittingly eliminating Cape Charles.

Alfred Ewell

Lori Smith

Subject: For tonight's meeting

Good afternoon, I attended last week's Planning Commission meeting and was quite surprised as to the behavior of some on the Planning Commission. I, personally, appreciated the insightful questions asked by Ms. D'Amico as well as the knowledge that she had on the contentious matter that was at hand. She was certainly well prepared and it was apparent that she did her homework. Others did not seem to share that knowledge and frankly didn't come across as caring about the issue. As a result of the questions that she asked, she was told that she was "creating drama." This was inappropriate and insulting behavior, and certainly was not deserved. Moving forward, it is my hope that Ms. D'Amico and all others on the Town Boards will be treated with respect and in a professional manner.

Thank you for your time.

Lori Smith

Jo Ann Bawiec

Subject: Town Council - July 22

Town Council, Town Manager and Mayor,

It's disappointing that Mr Wells is being asked to resign his position from the Historic Review Board. It appears that there is an issue with how Mr Wells has navigated his role on this Board.

It seems hypocritical that just last week during the Zoning meeting there was much inappropriate behavior on display and it doesn't appear that those individuals involved are being held accountable for their actions. Whether a person is on a volunteer board or an elected official, all need to act respectfully, especially toward each other. Especially in a public forum.

I agree there needs to be standards established and set for appropriateness. What are those standards? How are they communicated?

I completely disagree with the very public forum and manner in which Mr. Wells is being treated, and how volunteers in the future will be treated. Perhaps any questionable behavior of a volunteer or staff could and should be handled more privately and professionally.

Let's not forget, Mr. Wells is a long standing and respected community member. He is a friend and a neighbor to many.

Thank you.

Jo Bawiec

Liz Jones

Town Council members,

I wish I could be present tonight to share my thoughts on the expansion of Coastal Precast Systems, as I'm afraid my written word will not show the emotion I have behind this matter. Me, my husband and three children (and two rascally dogs) have called this wonderful town of Cape Charles home for the past 14 years. My husband was born and raised on the Eastern Shore and we are so incredibly proud to be part of this unique, quirky, loving and hard working community. We have watched our sweet town turn from a nobody into a somebody, and we've loved every minute of it.

I was literally shocked when I found out that there was a group of people have been petitioning against the expansion of Coastal Precast Systems. For those who know, or care to know, the history of Coastal Precast, it once was Bay Shore and employed so many of our hard-working residents of Northampton. It was so sad when they closed, years ago, and to see so many people out of work. When they came back to life, as Coastal Precast a few years ago, we were thrilled.... thrilled because there were JOBS for our hard-working full time Northampton residents! Our county needs year-around, stable jobs and Coastal Precast brings this to us and to our hard-working community.

I know there have been complaints about noise, dust and just the overall visual of a concrete/manufacturing plant. Please! To me, that noise is a sound of life, it's a reminder that so many of our local residents have a paycheck and can provide for their family.... a reminder of what this town was built upon so many years ago... hard-working, blue-collar people!

To Coastal Precast, THANK YOU! Thank you for choosing Cape Charles to be your home and for being a great business partner. I have done my research and understand that you have been more than willing to accommodate the complaints about noise and have bent over backwards to be good business partners with our community.

Members of Town Council, please don't let the 'noise' be a distraction for what our full-time residents of Northampton County so desperately need.

Thank you for hearing me out.

Sincerely,
Liz Jones

Will Jones

Town Council members,

I'm writing this letter in support of Coastal Precast Systems and the jobs it creates for our town and county. My family lives in the historic district and very close to the harbor and Coastal Precast System plant. We have lived in town as full-time residents for over 14 years and both my father and uncle graduated from Cape Charles High School and grew up in town.

We were so discouraged to see Bayshore Concrete close and leave so many hard working employees out of work and we were equally as encouraged when we heard the news that another company would be taking over the site to employ residents of our town and county.

We understand the importance of education in our county and quality, year-round jobs that can be available to our town and county residents. This will help our town and county grow and attract more business and better jobs.

Sincerely,
Will Jones

Email forwarded by Lori Blewitt

From: Lori Blewitt

To: Libby Hume

Subject: Please read at Thursday July 22 Town Council meeting

Date: Wednesday, July 21, 2021 6:46:46 PM

Hi Ms. Gallagher-Blewitt:

Thanks for your email alerting CBF to this issue. We have heard from others as well and are engaging with Town Council to seek a 30-day extension of the Council's consideration of this issue so that we can better understand the environmental risks of this proposed change.

Look forward to learning more and seeing how we can minimize environmental impacts of this proposal.

Best,
Patrick J. Fanning
VA Staff Attorney
Chesapeake Bay Foundation

Email forwarded by Lori Blewitt

From: Lori Blewitt

To: Libby Hume

Subject: Please read at July 22, 2021 town council meeting.

Date: Wednesday, July 21, 2021 6:48:13 PM

Dear Ms. Gallagher-Blewitt,

Liz Blaine of The Nature Conservancy's Virginia office asked me to respond to your message of July 20, 2021, below.

The Nature Conservancy is aware of the proposed Town of Cape Charles zoning amendment. We certainly agree that it is in the communities' best interest to protect wetlands in Town of Cape Charles. It is, however, up to the Town government to balance development needs with environmental protection. There is no

requirement that the EPA or any other entity be informed of the proposed zoning ordinance change. Our understanding of the process is that the decision will be made by the Cape Charles Town Council. The Cape Charles Planning Commission, Tree Advisory Board and the Tree Conservation and Preservation Ordinance should be involved in any decisions made at the local level. If the non-tidal wetlands on the property are proposed for development, the owner will need to submit a Joint Permit Application for review by the Cape Charles Wetlands Board and possibly the Virginia Marine Resources Commission and the U.S. Army Corps of Engineers. If the wetlands are developed, the developer will be required to mitigate the impact by replacing the wetlands within the same watershed.

On behalf of The Nature Conservancy, I would like to thank you for contacting us and for your interest in conservation.

Sincerely yours,

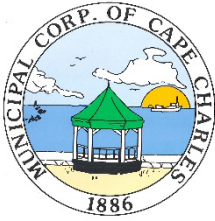
Jim McGowan

Land Protection Manager

The Nature Conservancy

Virginia Coast Reserve

DRAFT



DRAFT
TOWN COUNCIL
Town Hall Meeting
Cape Charles Civic Center
August 10, 2021
6:00 PM

At approximately 6:00 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Town Hall Meeting. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz and Grossman, and Councilwomen Holloway and O'Brien. Councilman Follmer was not in attendance. Also, in attendance were Town Manager John Hozey, Zoning Administrator Katie Nunez, Community Relations Manager Jennifer Lewis, Police Chief Jim Pruitt, and Town Clerk Libby Hume. There were 73 members of the public physically in attendance, and 60 viewers on Facebook.

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

Mayor Dize thanked everyone for coming and asked all attendees not to cheer or talk over others, stay on topic and show respect for other speakers. Mayor Dize also asked the members of Council to show the same respect for the citizens. The evening would begin with Town Manager John Hozey's presentation. Afterwards, the floor would be opened for questions and discussion. All speakers would come to the podium and speak into the microphone so they could be heard on the Facebook stream.

TOPICS FOR DISCUSSION

- Town Zoning Process
- Pending Zoning Requests

John Hozey began by thanking the attendees for their participation. Tonight's meeting was not a public hearing and was meant to be in real time with open dialogue. Mr. Hozey went on to provide a brief presentation regarding parcels on the south side of the harbor and their current zoning, as well as the Town's zoning process. Mr. Hozey asked Brandon Mowery, representative from Coastal Precast Systems, to explain their plans for parcels 90-8-1A1 and 90-A-1A. (Please see attached.)

The attendees were invited to ask questions regarding the process and requested zoning ordinance text and map amendments, and Coastal Precast Systems' plans for land use and the potential for creating additional full-time employment.

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

The meeting adjourned at 7:38 p.m.

Mayor Dize

Town Clerk

August 10, 2021 Town Hall Meeting
Presentation Slides

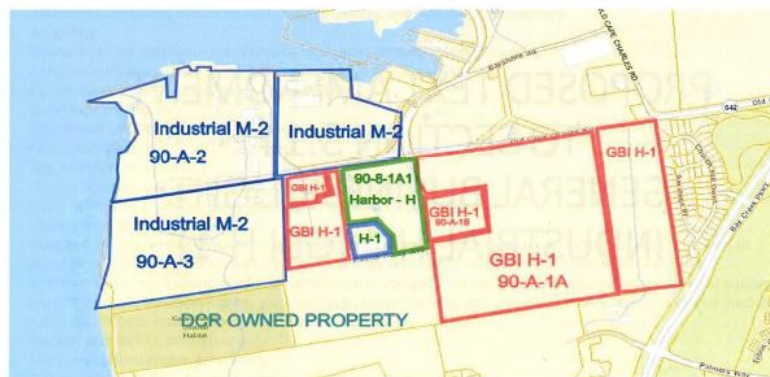


Town Hall Meeting
August 10, 2021

1

CURRENT ZONING – SELECTED PARCEL #s

(Corrected since Planning Commission Hearing)



2



3



4

Cape Charles Comprehensive Plan

...In public meetings for this Comprehensive Plan, citizens stated clearly that they want to preserve these small-town qualities while leveraging the Town's assets to improve local lifestyles and opportunities. The citizens stated they want Cape Charles to be a clean, diverse, family friendly place where the young can find jobs and affordable housing, and the old can continue to live in their homes...

...Cape Charles will grow a sustainable economy by taking advantage of its existing assets, particularly the Chesapeake Bay, the town's public beach, the town's deep-water harbor, the Bay Creek golf and marina communities, and the town's historical and environmental assets. Economic development efforts will continue to support existing businesses, community-oriented commerce, tourism, and marine-related business. Therefore, access to the waterfront is essential...

III-B.3 Economic Plan Objectives

These objectives have been identified below and fall under the following categories:

- Attract tourists, vacation and second homeowners
- Attract full time residents, including retirees
- Attract small and "work from home" businesses
- Attract and expand the industrial/commercial base

Although defined in more detail in the sections listed above, the core assets can be summarized as follows:

...Excellent regional access – one of the few deep-water harbors on the Chesapeake Bay and part of the intracoastal waterway on the Eastern Shore of Virginia and just 10 miles from the Atlantic Ocean. It is in close proximity to the Hampton Roads area...

5

Industry Financial Impacts

May/June 2019
(TOT & Meals to Town)
\$106,439

May/June 2021
(TOT & Meals to Town)
\$163,710
\$57,271 Increase (54%)

Aug/Sept 2019
(Harbor Dockage)
\$58,969

Aug/Sept 2020
(Harbor Dockage)
\$90,925
\$31,956 Increase (54%)

From 2019 to 2021 property values town-wide have also increased

June/July 2019
(Sales Tax to NHC)
\$235,000

June/July 2021
(Sales Tax to NHC)
\$365,000
\$130,000 Increase (55%)

6

What do we get out of it?

- 1) We get to keep our tourism related economy
- 2) We accomplish our long-term planning goal of economic diversification
- 3) We work towards another long-term planning goal of population diversity (jobs)
- 4) We receive significant additional revenue to the County (and potentially to the Town)

DRAFT

June 2021 Treasurer's Report

Page 1 – Cash Position

- The Town received the 1st ARPA/CSLFRF payment of \$528,615 from the federal government. The second tranche should be received in 12 months. A new money market account will be opened to hold those funds apart from operating funds.
- An unclaimed property payment from the state for an old undocumented library CD for \$11,131.01 was not previously classified as reserved on the treasurer's report. This was corrected this month.

Page 2 – Revenue vs. Expenditures

- There are still accounting year end entries to be made – all these totals will change somewhat before the 2021 fiscal year is closed on Sept 30th, 2021. It does appear, however, that most funds will end the year on a good financial note. The sanitation fund has a small budgeted loss (to be covered by its fund balance) to subsidize an increase in contractor costs.
- \$561,210 in facility fees was added to the reserve fund in FY2021. In addition, \$105,100 in connection fees was earned for the year. Connection fees may be used for operating expenditures in the utility fund.

Page 3 – Capital Projects

- No comment.

Page 4 – Tax Collection Rate

- No comment

Page 5 – Tax Revenue Trends

- Of note: Meals tax revenue was \$50K in June 2019, \$18.5K in June 2020, and \$67.5K in June 2021. Sales and use tax, although a relatively small portion of the revenue received, is up an average of \$1,400 per month since November 2020.

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

<u>Cash on Hand</u>	<u>5/31/2021</u>	<u>6/30/2021</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$829,577	\$1,233,965	\$404,388
Atlantic Union Bank Money Market Account	\$1,999,739	\$2,050,268	\$50,529
LGIP Account 1 - Unrestricted	\$104,221	\$104,225	\$5
LGIP Account 2 - Unrestricted	\$295,455	\$295,470	\$15
Total Cash On Hand	\$3,228,993	\$3,683,929	\$0

<u>Restricted and Reserved Cash Balances</u>	<u>5/31/2021</u>	<u>6/30/2021</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Savings Account - Facility Fees Rsrvd (Utilities)	\$1,079,326	\$1,640,458	\$561,132
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	\$0	\$11,131	\$11,131
Atlantic Union Checking Acct - E-Summons Revenue Rsrvd	\$5,471	\$5,629	\$159
US Bank - Reserved per VRA Interest Free Loan Requirements	\$257,582	\$257,584	\$1
Wells Fargo 2010 Debt Service pass through account #300	\$2,898	\$2,898	\$0
Wells Fargo 2010 Debt Service pass through account #308	\$761	\$761	\$0
Total Cash Held in Reserve	\$1,382,279	\$1,954,702	\$572,423
Total Cash - All Accounts	\$4,611,272	\$5,638,631	\$1,027,359

DEBT SERVICE

Net Debt as of Current Reporting Month End \$6,633,495
(Excludes USDA vehicle and equipment loans)

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

June 30, 2021

REVENUE VS. EXPENDITURES

FUND	CURRENT MONTH	PRIOR YEAR-TO-DATE	CURRENT YEAR-TO-DATE	INCREASE/ (DECREASE) YTD	ANNUAL BUDGET	% REALIZED/ EXPENDED FY21
GENERAL						
REVENUE - Operating	\$481,114	\$2,582,917	\$4,010,988	\$1,428,070.79	\$4,177,677	96.01%
EXPENDED - Operating	\$242,662	\$2,178,157	\$3,009,912	\$831,755.37	\$3,866,830	77.84%
NET	238,452	404,761	1,001,076	596,315	310,847	
REVENUE - CAPITAL GRANTS & LOANS	592,636	2,042	765,500	763,458	329,817	232.10%
EXPENDED - CAPITAL PROJECTS & DEBT SVC	8,548	343,271	521,756	178,485	640,664	81.44%
TRANSFER TO HARBOR TO TRUE UP FUND						
BALANCE	0	1,953,072	0	(1,953,072)	0	
TOWN CONTRIB. & PENDING GRANTS	584,088	(2,294,301)	243,744	2,538,045	(310,847)	
PUBLIC UTILITIES						
REVENUE - Operating	156,891	1,563,485	1,807,285	243,801	1,750,836	103.22%
EXPENDED - Operating (less facility fees rsrvd)	97,160	771,791	380,191	(391,600)	1,604,799	23.69%
NET	59,731	791,694	1,427,094	635,400	146,037	
REVENUE - CAPITAL GRANTS, LOANS, & FACILITY FEES	58,300	227,867	564,486	336,619	275,551	204.86%
EXPENDED - CAPITAL PROJECTS, DEBT SVC, & FACILITY FEES	0	712,199	1,032,166	319,968	421,588	244.83%
TOWN CONTRIB. & PENDING GRANTS	58,300	(484,331)	(467,680)	16,651	(146,037)	
HARBOR						
REVENUE - Operating	114,524	525,555	963,884	438,329	761,102	126.64%
EXPENDED - Operating	98,165	555,010	772,123	217,113	681,900	113.23%
NET	16,359	(29,456)	191,761	221,217	79,202	
REVENUE - GRANTS & LOANS	0	212,800	10,586	(202,214)	95,054	11.14%
TRANSFERRED FM GEN FUND TO TRUE UP FUND BALANCE	0	1,953,072	0	(1,953,072)	110,101	
EXPENDED - Capital Projects, Debt Svc	0	640,594	240,067	(400,526)	284,357	84.42%
TOWN CONTRIB. & PENDING GRANTS	0	1,525,279	(229,481)	(1,754,760)	(79,202)	
SANITATION						
REVENUE	17,564	183,728	204,552	20,823	220,274	92.86%
EXPENDED	36,123	201,666	207,935	6,269	220,274	94.40%
NET	(18,559)	(17,937)	(3,383)	14,554	0	

MUNICIPAL CORPORATION OF CAPE CHARLES
June 30, 2021

YTD 2020 Real Estate Tax Collections

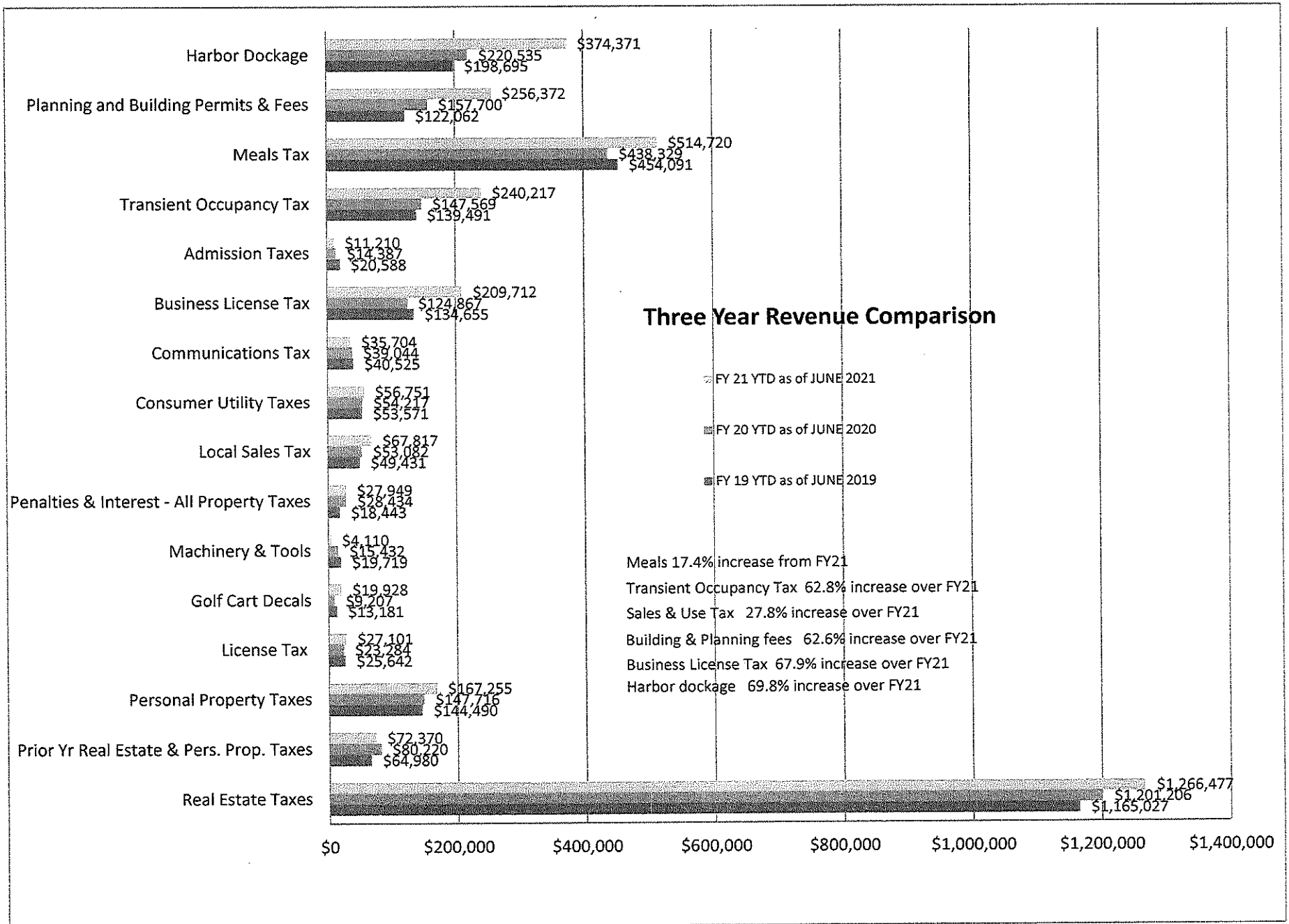
Total Taxable Land Value	179,736,100	
Total Improvement Value	291,966,800	
Exemptions	(2,650,000)	
Additional Assessments (SCC Utility)	3,796,381	
Total Real Estate Value (taxable)	472,849,281	
Total Budgeted	1,223,505	
Total Tax Billed	1,291,310	
Total Adjustments	(3,708)	
Total Collected YTD (percent of billed)	<u>1,266,477</u>	98%
Amount Due per Accounts Receivable	21,125	

**YTD 2020 Personal Property Tax, Machinery and Tools Tax
& 2020 License Tax Collections**

Total Personal Property Value	13,824,800	
2020 Initial Assessment Exonerations	(393,342)	
Personal Property Value, billed	13,431,458	
2020 Supplemental Assessments	3,411,200	
2020 Supplemental PPTRA & Prorations	(1,776,358)	
Personal Property Value, billed	1,634,842	
Total Value for 2020 and 2020 supplemental	15,066,300	
Total Budgeted	175,000	
Total Tax Billed less PPTRA	207,905	
2020 Supplemental Tax Billing	34,452	
Total Adjustments & Additional Exonerations	(10,257)	
Total Collected YTD (percent of billed)	<u>198,466</u>	100%
Amount Due per Accounts Receivable	33,634	

**YTD Prior Year Real Estate Tax, Personal Property Tax, Interest and Penalty
Collections**

Total Budgeted	75,300	
Total Collected (percent of budget)	<u>100,319</u>	133%
Amount Due Per Budget	(25,019)	

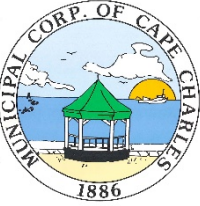


FY 2021 Capital Improvement Project Tracking Report

As of:
6/30/2021

	FY21 Status or Start Date	Percent of Completion	FY21 Budgeted	FY21 QTR 1 Expended	FY21 QTR 2 Expended	FY21 QTR 3 Expended	FY21 QTR 4 Expended	FY21 YTD Expended	(Over)/Under Budget
General Fund									
Police Vehicle	On backorder	0%	\$ 38,940	\$ -	\$ -	\$ -	\$ -	\$ -	38,940
Permit Department Software	Complete	82%	\$ 7,000	\$ -	\$ -	\$ -	\$ 5,745	\$ 5,745	1,255
Public Works Shop Heaters	Complete	100%	\$ 6,868	\$ -	\$ 6,528	\$ -	\$ -	\$ 6,528	340
Grounds Maintenance Equipment	Complete	100%	\$ 22,240	\$ -	\$ -	\$ 29,412	\$ -	\$ 29,412	(7,172)
Central Park Zipline	Complete	72%	\$ 14,000	\$ -	\$ -	\$ -	\$ 10,031	\$ 10,031	3,969
Portable ADA Equipped Restroom Trailer	Suspended	0%	\$ 35,000	\$ -	\$ -	\$ -	\$ -	\$ -	35,000
Mason Avenue Re-striping	Planning/Request	68%	\$ 5,000	\$ -	\$ -	\$ -	\$ 3,392	\$ 3,392	1,608
Parking Lots (Mason & Harbor Shanty Area)	Suspended	0%	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	10,000
Video Surveillance System	Complete	100%	\$ 35,000	\$ -	\$ 56	\$ 34,287	\$ -	\$ 34,343	657
Municipal Building Project Evaluation	Engineering bid	0%	\$ 45,000	\$ -	\$ -	\$ -	\$ -	\$ -	45,000
Multi-Use Trail Phase 2 Closeout	Complete	100%	\$ 305,000	\$ -	\$ -	\$ 308,000	\$ -	\$ 308,000	(3,000)
Multi-Use Trail Phase 3 Engineering	Engineering	0%	\$ -	\$ -	\$ -	\$ -	\$ 3,531	\$ 3,531	(3,531)
subtotal			\$ 524,048	\$ -	\$ 6,584	\$ 371,699	\$ 22,699	\$ 400,981	\$ 123,067
Water Fund									
SCADA System	In process	22%	\$ 15,000	\$ -	\$ -	\$ -	\$ 3,277	\$ 3,276.99	11,723
Remote Read Water Meters - starter setup	On hold- FY22	0%	\$ 51,985	\$ -	\$ -	\$ -	\$ -	\$ -	51,985
Pickup Truck	Complete	0%	\$ 32,766	\$ -	\$ -	\$ -	\$ -	\$ -	32,766
Water Tower Mixers	On hold	0%	\$ 55,000	\$ -	\$ -	\$ -	\$ -	\$ -	55,000
subtotal			\$ 154,751	\$ -	\$ -	\$ -	\$ 3,277	\$ 3,277	\$ 151,474
Harbor Fund									
Inner Harbor Rehabilitation Phase I carryover	Complete	100%	\$ 60,390	\$ 60,390	\$ -	\$ -	\$ -	\$ 60,390	(0)
WiFi/Security Cameras/Lighting Project	Complete	100%	\$ 35,000	\$ -	\$ 8,201	\$ 7,570	\$ -	\$ 15,771	19,229
Inner Harbor Rehabilitation Phase II	Complete	100%	\$ 85,700	\$ -	\$ 5,359	\$ 64,854	\$ 55	\$ 70,267	15,433
subtotal			\$ 181,090	\$ 60,390	\$ 13,559	\$ 72,423	\$ 55	\$ 146,428	\$ 34,662
Sanitation Fund									
Trash Can Replacements	Complete	100%	\$ 11,796	\$ -	\$ 11,796	\$ -	\$ -	\$ -	11,796
subtotal			\$ 11,796	\$ -	\$ 11,796	\$ -	\$ -	\$ -	\$ 11,796
TOTAL			\$ 871,685	\$ 60,390	\$ 31,939	\$ 444,122	\$ 26,031	\$ 550,686	\$ 320,999

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT

 TOWN OF CAPE CHARLES	AGENDA TITLE: Application for Zoning Text Amendment – Section 3.14 General Business/Light Industrial H-1		AGENDA DATE July 22, 2021
	SUBJECT/PROPOSAL/REQUEST: Zoning Text Amendment to Section 3.14 General Business/Light Industrial H1 (GBI-H1)		ITEM NUMBER: 6A
	ATTACHMENTS: Planning Commission Staff Report & Proposed Text Amendment Changes and correspondence from Southport Investors and Coast Pre-Cast Systems, Ordinance 20210819A, Town Manager's memo		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

At their July 22, 2021 Regular Meeting, the Town Council voted to defer action until the August 19, 2021 Regular Meeting.

BACKGROUND:

South Port Investment LLC has met with the Town Manager and the Interim Zoning Administrator regarding property owned by them adjacent to the concrete plant and has indicated that Cape Charles Properties, Inc dba Coastal Pre-Cast Systems (CPS) is interested in purchasing this property, which is approximately 11.79 acres, to be used in an ancillary capacity to their current operations; however, there are proposed changes that would be needed to the General Business/Light Industrial-H1 (GBI-H1) District regulations that are supportive and reflective of a light industrial zoning designation whereas the current language in the Cape Charles Zoning Ordinance Section 3.14 contain several provisions that are prohibitive to a light industrial use.

As you are aware, Code of Virginia does not allow a property owner to submit an application for a zoning text amendment but only the Town Council and/or the Planning Commission can petition for a zoning text amendment.

To that end, the interested purchaser has provided the proposed zoning text amendments to Section 3.14 to the Town Manager who proposed a resolution to the Town Council to advance them to public hearing. In addition, the current property owner has also provided a letter requesting text amendments to Section 3.14.

Town Council, at your meeting on Thursday, May 20, 2021, passed a Resolution of Intent to advance the proposed text amendments to Section 3.14 to the Planning Commission.

Planning Commission and Town Council held a joint public hearing on the zoning text amendments on Tuesday, July 13, 2021

ITEM SPECIFICS:

The proposed zoning text amendments to Cape Charles Zoning Ordinance Section 3.14 General Business/Light Industrial H-1 (GBI H-1) are as follows:

- 1) Allow assembly and/or storage of products as a by-right use under Sec. 3.14 B (14);
- 2) Allow buildings up to 75 ft in height with a required setback of 125 feet through a Conditional Use Permit (Sec. 3.14 C (2));
- 3) Deletion of Section 3.14 (F) (7) which currently does not allow manufacturing, assembly or servicing of products used on the property nor the use of trucks or automobiles used in conjunction with or for the transport of materials to the district; and
- 4) Other minor changes

The current zoning district regulations for GBI-H1 contain a provision (Section 3.14 (F) (7) that restrict light industrial use and needs to be considered for removal from the district regulations, regardless of any potential

buyer interest in any specific tract in the town.

Additionally, changes have been proposed to expand possible light industrial uses but in a manner that allows for Town review and determination through a Conditional Use Permit based upon a height consideration and addresses noise issues that have been raised in and around the harbor in the past.

A joint public hearing was held by the Planning Commission and Town Council on Tuesday, July 13, 2021. There were 15 verbal comments and 15 written comments provided at the hearing. The comments expressed concern about the proposed height of buildings, the potential noise impact on neighboring residential properties, and claims of insufficient review by both the general public and the various boards and commissions of the Town. The majority of the comments are opposed to the proposed text amendments as well as the impact said text amendments would have on the property being proposed for rezoning (subsequent public hearing item) but as well as any additional property that is currently zoned GBI H-1 which includes the adjacent parcel owned by Southport which is adjacent to the Baycreek residential development. Concerns were expressed about the current condition of the property being proposed for rezoning as well as the adjacent property (both owned by Southport Investors), specifically the trees on the property and the need for tree preservation on these properties. One comment stated that there needs to be a focus on economic development and a broader view of this matter should be taken and indicated support for this proposal.

The public comment was closed on this matter and the Planning Commission reviewed the application, heard from the property owner (Eyre Baldwin, agent for Southport Investors, and Dan Brown, Chief Financial Officer for Southport Investors) and the proposed purchaser of the property being proposed for rezoning at the subsequent public hearing item (Brandon Mallory, agent for Coastal Pre-Cast Systems), reviewed staff report and discussed the matter.

Following a robust discussion about the proposed zoning text amendments and the properties located adjacent to the concrete plant and the current zoning, the following motions were made:

- 1) Recommend the zoning text amendment to Section 3.14 (B) (14) as presented by Commissioner Butta and seconded by Commissioner McCoy. The motion was approved with only Commissioner D'Amico voting nay.
- 2) Recommend the zoning text amendment to Section 3.14 (C) (2) as presented by Commissioner McCoy and seconded by Commissioner Butta. The motion was approved with only Commissioner D'Amico abstaining with a stated position that she believed this entire zoning district ordinance should be rewritten.
- 3) Recommend the zoning text amendments to Section 3.14 (F) – all items under this section – by Commissioner Grossman and seconded by Commissioner McCoy. The motion was approved with only Commissioner D'Amico voting nay.

RECOMMENDATION:

Town Council is requested to review the proposed zoning text amendment, staff report and the public comments received during the joint public hearing and to consider acting favorably on the Zoning Text Amendment (ZTA) to General Business/Light Industrial Harbor-1 (GBI H-1) and to accept the Planning Commission's recommendation.

The following motion is provided for the Town Council's consideration:

The Cape Charles Town Council accepts the recommendation of the Planning Commission and to approve the zoning text amendments to Section 3.14 (B), Section 3.14 (C) (2) and Section 3.14 (F) – all items under this section – which are further detailed in the document entitled “PROPOSED ZONING TEXT AMENDMENTS FOR PUBLIC HEARING ON JULY 13, 2021.”

PROPOSED ZONING TEXT AMENDMENTS FOR PUBLIC HEARING ON JULY 13, 2021

NOTE – CHANGES ARE SHOWN AS FOLLOWS:

Existing Text – in black font

Proposed Additions – in blue font

Proposed Deletions – in ~~strikethrough~~ blue font

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.

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. Manufacture, processing, fabrication, assembly and/or assembly 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 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
36. Warehousing facility (excluding mini-storage facility)
37. Water storage tank
38. 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 other than building may be constructed to a maximum height of 75 feet if the building is set back at least one hundred twenty-five \(125\) additional feet from the required setback for all yards abutting residential properties.](#)

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 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 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.
- 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.

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, materials, fossil fuels, raw materials, or petroleum shall be permitted within the GBI H-1 District.
- 7. ~~No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.~~
- 8. 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.
- 9. No outside loudspeakers, intercoms, sirens, paging systems, whistles, horns, bells, ~~or other devices~~ 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.
- 10. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
- 11. 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.



PLANNING COMMISSION

STAFF REPORT

Meeting Date: July 13, 2021

Item #: 3a & 7a

Type of Application:	Zoning Text Amendment
Prepared By:	Katie H. Nunez – Interim Planning & Zoning Administrator
Applicant:	Cape Charles Town Council
Owner:	South Port Investment LLC
Proposed:	Amendments to Cape Charles Zoning Ordinance Section 3.14: General Business/Light Industrial H-1 (GHI H-1)

Background:

South Port Investment LLC has met with the Town Manager and the Interim Zoning Administrator regarding property owned by them adjacent to the concrete plant and has indicated that Cape Charles Properties, Inc dba Coastal Pre-Cast Systems (CPS) is interested in purchasing this property, which is approximately 11.79 acres, to be used in an ancillary capacity to their current operations; however, there are proposed changes that would be needed to the General Business/Light Industrial-H1 (GBI-H1) District regulations that are supportive and reflective of a light industrial zoning designation whereas the current language in the Cape Charles Zoning Ordinance Section 3.14 contain several provisions that are prohibitive to a light industrial use.

To that end, the interested purchaser has provided the proposed zoning text amendments to Section 3.14 to the Town Council who has reviewed them and determined to advance them to public hearing. In addition, the current property owner has also provided a letter requesting text amendments to Section 3.14.

Town Council, at their meeting on Thursday, May 20, 2021, passed a Resolution of Intent to advance the proposed text amendments to Section 3.14 to the Planning Commission.

Staff Analysis:

The current zoning district regulations for GBI-H1 contain a provision (Section 3.14 (F) (7) that restrict light industrial use and needs to be considered for removal from the district regulations, regardless of any potential buyer interest in any specific tract in the town.

Additionally, changes have been proposed to expand possible light industrial uses but in a manner that allows for Town review and determination through a Conditional Use Permit based upon a

height consideration and addresses noise issues that have been raised in and around the harbor in the past.

Staff Recommendation:

Staff is supportive of the proposed zoning text amendments and will assist the Planning Commission in developing any proposed motion based upon the public comments, discussion and review of the proposed zoning text amendments.

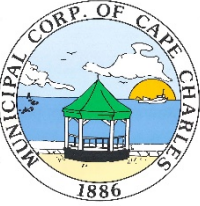
Attachments:

Attachment 1 – Proposed Zoning Text Amendments – Tracking Documents to Original Zoning Ordinance

Attachment 2 – Letter from South Port Investors dated May 11, 2021

Attachment 3 – Letter from Cape Charles Properties dated May 11, 2021 with proposed text amendments

Attachment 4 – Cape Charles Town Council Resolution of Intent dated May 20, 2021

 TOWN OF CAPE CHARLES	AGENDA TITLE: Resolution of intent to consider zoning text amendments to Section 3.14 of the zoning ordinance		AGENDA DATE May 20, 2021
	SUBJECT/PROPOSAL/REQUEST: Consideration of referral to Planning Commission		ITEM NUMBER: 7A
	ATTACHMENTS: Resolution of Intent 20210520A		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Both the Town zoning ordinance and Virginia Code 15.2-2286 (A) (7) requires a resolution of intent from the governing body to initiate any change to a zoning ordinance or zoning map.

ITEM SPECIFICS:

Approving this resolution does not constitute approval of any change. It merely identifies that sufficient public necessity, convenience, general welfare, or good zoning practice exists within the proposal to conduct a public process that more fully explores the proposed changes. This resolution will formally establish that the proposed changes meet the requirements to be referred to the Planning Commission for public hearing and their recommendation. Final and formal consideration of any change will be brought back to the Town Council following action by the Planning Commission.

RECOMMENDATION:

Staff recommends adoption of Resolution of Intent 20210520A Zoning Ordinance Text Amendment to Section 3.14 General Business/Light Industrial by roll call vote.

RESOLUTION OF INTENT 20210520A
ZONING ORDINANCE TEXT AMENDMENT TO
SECTION 3.14 GENERAL BUSINESS/LIGHT INDUSTRIAL

WHEREAS, in accordance with Code of Virginia § 15.2-2286.A, the Cape Charles Zoning Ordinance § 2.7.1 includes regulations pertaining to initiation of amendments, supplements, change in the regulations, district boundaries or classifications of property contained in the zoning ordinance; and

WHEREAS, the need to update the current zoning ordinance has been discussed in the past; and

WHEREAS, Cape Charles Zoning Ordinance § 3.14 General Business/Light Industrial H-1 (GBI H-1) may require amendment to be consistent with light industrial uses.

NOW, THEREFORE, BE IT RESOLVED that for purposes of public necessity, convenience, general welfare or good zoning practice, the Cape Charles Town Council hereby adopts a resolution of intent to consider amending the Cape Charles Zoning Ordinance § 3.14 and any other sections of the Zoning Ordinance deemed to be appropriate to achieve the purposes described herein.

Adopted by the Town Council of the Town of Cape Charles on May 20, 2021.

By: _____
Mayor Dize

Attest:

Town Clerk

South Port Investors, LLC

**PO Box 395
Eastville, VA 23347**

May 11, 2021

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

Attn: John Hozey - Town Manager

Dear Mr. Hozey,

Please let this correspondence serve as a request to consider integrating text amendments to the current General Business/Light Industrial H-1 (GBI H-1 Section 3.14) zoning classification.

As you know, our company currently owns the only piece of property in town with the GBI H-1 classification (Tax Map 90-A-1A.) We have contracted to sell this parcel to an existing Cape Charles business - Cape Charles Properties, LLC. Unfortunately, the language in current zoning ordinance will restrict the end user from being able to effectively utilize the property. Similar amendments to your M2 District were accomplished in April 2018 with numerous alterations to text being approved unanimously by Planning Commission and Town Council. Copies of Zoning Administrator Staff Report, minutes from corresponding Planning Commission approval, and minutes from corresponding Town Council Meetings relating to the 2018 M2 District edits are enclosed.

Also enclosed is a correspondence from the buyer detailing the requested zoning amendments. The modification of the existing regulations will benefit the Town of Cape Charles by promoting the growth of Cape Charles' largest employer. The opportunity to grow this business will lead to an increase in year-round jobs as well as an increase in tax revenue for local government. We are mindful of the need for balance regarding local industry and tourism. These proposed amendments have been designed with concern and respect for the Town's citizens and tourism market.

We would also like some clarification from the Town with regard to Additional Development Requirements found in the District Regulations. Our legal research suggests these requirements are only enforceable to the extent they do not compromise Permitted Uses. Would you please provide a formal written response which describes the relationship of Additional Development Requirements and Permitted Uses?

Please present the above request to Council for text amendment consideration and legal opinion. The existing zoning language is restrictive in nature and ineffective for this parcel. The south side of the harbor has much industrial promise. This is an area of town which has always been

designed to accommodate industrial users. In a controlled and collaborative fashion, the value of the south side of Cape Charles Harbor can be unlocked responsibly. Thank you for your time.

Sincerely,

S. Eyre Baldwin

Executive Director - South Port Investors



Cape Charles Properties
1316 Yacht Drive • Chesapeake, VA 23320
P: (757) 545-5215 • F: (757) 545-6296

May 11, 2021

Ralph W. Dodd & Associates LLC
16464 Courthouse Rd, Eastville
Eastville, Virginia, 23347

Attn: Dan Brown

RE: Intentions for Property and Request for General Business/Light Industrial H-1 (GBI H-1) Additions/Amendments

Mr. Brown,

Below are the areas Coastal Precast feels need to be amended to the current General Business/Light Industrial H-1 (GBI H-1) Ordinance. Our comments/suggestions are in red. City of Chesapeake's Zoning Ordinance for General Business/Light Industrial was used to help further define business operations.

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

B. Permitted Uses.

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



Cape Charles Properties
1316 Yacht Drive • Chesapeake, VA 23320
P: (757) 545-5215 • F: (757) 545-6296

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 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



- 36. Warehousing facility (excluding mini-storage facility)
- 37. Water storage tank
- 38. 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 other than building may be constructed to a maximum height of 75 feet if the building is set back at least one hundred twenty-five (125) additional feet from the required setback for all yards abutting residential properties.

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 use 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



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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 by Town of Cape Charles Zoning Ordinance 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 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 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.

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.



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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, ~~materials~~, fossil fuels, ~~raw materials~~, or petroleum shall be permitted within the GBI H-1 District.
- ~~7. No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.~~
8. 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.
9. No outside loudspeakers, intercoms, ~~sirens~~, paging systems, whistles, horns, bells, ~~or other devices~~ 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.~~
10. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
11. 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.

Sincerely,

Coastal Precast Systems, LLC

Brandon Mowrey

ORDINANCE 20210819A

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, a letter dated May 11, 2021 was received from South Port Investors, LLC, requesting text amendments to Cape Charles Zoning Ordinance Section 3.14 – General Business/Light Industrial H-1 citing that the current language was restrictive in nature; and

WHEREAS, the letter also stated that the south side of the harbor had much industrial promise and in a controlled and collaborative fashion the value of the area could be unlocked responsibly; and

WHEREAS, the proposed text amendments would i) allow assembly and/or storage of products as a by-right use under Section 3.14.B(14); ii) allow buildings up to 75 feet in height with a required additional setback of 125 feet from residential property through a Conditional Use Permit (Section 3.14.C(2)); iii) deletion of Section 3.14.F(7) which currently did not allow manufacturing, assembly or servicing of products used on the property nor the use of trucks or automobiles used in conjunction with or for the transport of materials to the district unless associated with a use by right; and iv) other minor changes; and

WHEREAS, pursuant to Code of Virginia §§ 15.2-2285 and 15.2-2204, after proper notice, a joint public hearing was held with the Town Council and Planning Commission, followed by the Planning Commission's regular meeting for review and deliberation of the proposed revisions and discussion about the properties located adjacent to the concrete plant; and

WHEREAS, the Planning Commission approved, by majority vote, making recommendation for Town Council approval of the revisions made to Sections 3.14.B(14), 3.14.C(2), and 3.14.F. The revised language is as follows:

Section 3.14.B. Permitted Uses. Within the GBI H-1 District, the following permitted uses shall be allowed.

Item 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 wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.

Section 3.14.C. Conditional Uses. Within the GBI H-1, the following conditional uses may be allowed, subject to the issuance of a Conditional Use Permit.

Item 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 one hundred twenty-five (125) additional feet from the required setback for all yards abutting residential properties.

Section 3.14.F. Additional Development Requirements.

Item 6: No outside storage of parts, fossil fuels, or petroleum shall be permitted within the GBI H-1 District.

Item 7: (item deleted)

Item 8 (now becomes item 7 – no other changes)

Item 9 (now becomes item 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 OSHA requirements shall be adhered to; any OSHA-accepted alternative warning devices are encouraged.

THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 22nd day of July 2021, that Cape Charles Zoning Ordinance Section 3.14 be revised as shown above, as may be amended by Council, to become effective immediately.

Adopted by the Town Council of Cape Charles on August 19, 2021.

By: _____
Mayor

ATTEST:

Town Clerk

Memorandum



From: John Hozey, Town Manager

Date: August 19, 2021

To: Mayor and Town Council

RE: Pending Zoning Actions

On July 22 the Town Council voted to delay consideration on two zoning actions until the regular meeting of August 19, 2021. These two actions included a request to rezone a parcel south of the harbor from Harbor District to General Business/Light Industrial H-1, and to make several text changes to the General Business/Light Industrial H-1 District. The Planning Commission has forwarded positive recommendations on both actions.

Due to strong public interest in these actions the Council requested more time to consider the implications and to allow for additional interaction with the public. On August 10th a Town Hall style informal meeting was held to allow a back-and-forth dialog with the public, to answer their questions, and to explain why town staff agreed with the Planning Commission and also offered positive recommendations.

As a result of this additional time and dialog, two issues were brought into greater focus. The first was that the type of allowable activity being proposed in the area under consideration requires a Conditional Use Permit (CUP) in a heavy industrial zone but is by right in a light industrial zone. This seemed odd.

The second issue was the applicability of a portion of this section of the zoning ordinance (paragraph F), entitled "Additional Development Requirements." This portion of the code does not appear to be clear. A strong case can be made that this paragraph does not apply to the permitted (or by right) uses of this section. However, it is not written that specific and so there is no way of telling how a court might actually rule if this were ever challenged.

To proactively address both of these issues, staff has developed proposed additional text amendments (attached). This attachment shows the originally requested changes in red, and the new suggested additional changes in green. Staff believes that both, the original changes, and these additional changes combined, will allow the property owners to accomplish their purposes, while also better protecting the interests of the Town.

By means of summary, the proposed additional text amendments would move the by right uses being considered here to a Conditional Use category. Meaning the property owner would have to return later with actual site plans and details of the proposed operation before the Town would sign off on that specific use.

Regarding paragraph F, the proposed changes would remove any ambiguity and specify that this paragraph does apply to all uses in this section. However, it would also provide a mechanism for special circumstances to be considered by the Zoning Administrator for exceptions.

While in the opinion of staff, these additional text changes are desirable, approving them will take more time. Changes this significant cannot be considered on August 19th and would have to be referred back to the Planning Commission to re-start the public process.

The issue with further delay is that it could come at a serious opportunity cost, threatening the current land purchase agreement and/or the ability of Cape Charles to successfully compete for wind turbine contracts that are being aggressively pursued by other locations. Light industrial activity of this nature (as approved by a conditional use permit) would be a relatively low impact way of diversifying our economy, providing many more high-quality jobs, and bringing much greater revenue to the County and eventually the Town.

Note: there are currently two distinct actions on the floor. The first is consideration of text amendments and the second is consideration of a zoning map change. These are independent items, not formally tied to each other, and will be voted upon separately. There are several options for moving forward:

Option A

Action 1 (text changes): Approve the current text changes (in red); then move to send the additional text changes (in green) to the Planning Commission to start another public process

Action 2 (zoning map change): Approve the requested rezone

This option makes all the zoning in that area contiguous and in conformance with our Comprehensive Plan and long-term goals. It also removes any concern of opportunity cost by allowing both the land purchase to go forward and for the new owners to submit proposals for potential wind turbine contracts immediately. By the time any contract that would trigger development of the land could be reasonably acquired, the second text change would likely be in place, requiring that land development to seek a conditional use permit.

Option B

Action 1 (text changes): Move to send all text changes (red and green) back to the Planning Commission to start another public process

Action 2 (zoning map change): Approve the requested rezone

This option makes all the zoning in that area contiguous and in conformance with our Comprehensive Plan and long-term goals. Approving the rezone but delaying the text changes

might be enough to allow the land purchase to go forward, mitigating some of the opportunity cost. But because there would not yet be the option for a conditional use permit for a building large enough to handle wind turbine contracts, the new owners would not be able to submit proposals for potential contracts until all the text changes were approved (anywhere from 1 to 4 months, depending on how the process unfolds). However, this process would ensure that a conditional use permit process was in place.

Option C

Action 1 (text changes): Move to send all text changes (red and green) to the Planning Commission to start another public process

Action 2 (zoning map change): Delay approval of the requested rezone until all text changes are approved

This option would again ensure that a conditional use permit process was in place before any other action could occur. But it would significantly increase the opportunity cost that the land purchase agreement would expire and that Cape Charles would be less competitive for wind turbine contracts.

Option D

Action 1 (text changes): Deny all text changes

Action 2 (zoning map change): Turn down the requested rezone

This option would result in the continuation of dissimilar zoning in that area and the termination of the current land purchase agreement, leaving control of that area to Eyre Baldwin. It would forgo adding the conditional use permit process to all future development in that area. And it would fully realize the opportunity cost of lost economic diversity, good jobs, and increased revenues to the County and Town.

While there could be a number of other permutations of action combinations, the ones provided here are the most salient. The above options are presented in the order of staff's recommendation. Option A is the first, then Option B, etc.

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. ~~Manufacture, processing, fabrication, assembly and/or assembly 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 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
 36. Warehousing facility (excluding mini-storage facility)
 37. Water storage tank
 38. 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 other than building may be constructed 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 for all yards abutting residential properties~~ from all property boundaries.
 3. Manufacture, processing, fabrication, assembly and/or ~~assembly~~ 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 wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.
 4. Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Appendix A, applicable category

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:

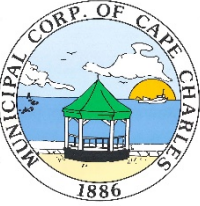
- a. When a zoning lot within the GBI H-1 District adjoins any R zoning district within the PUD, the following shall be required along all lot lines within the GBI H-1 District adjoining the R zoning district within the PUD.
 - i. A 200-foot natural buffer over and above any landscape requests otherwise 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, ~~materials~~, fossil fuels, ~~raw materials~~, or petroleum shall be permitted within the GBI H-1 District.
7. ~~No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.~~
8. 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.
9. No outside loudspeakers, intercoms, ~~sirens~~, sirens, paging systems, whistles, horns, bells, ~~or other devices~~ 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.
10. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
11. 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. ~~by truck or rail between 11 p.m. and 5 a.m.~~ Monday through Saturday and no such deliveries to or from the property shall occur on Sunday.
12. The requirements of this paragraph F. shall apply to all uses of Section 3.14. The Zoning Administrator may consider 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.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Application for Zoning Map Amendment – Tax Parcel #90-8-1A1		AGENDA DATE July 22, 2021
	SUBJECT/PROPOSAL/REQUEST: Zoning Map Amendment (ZMA): Rezone 1201 Bayshore Road (Tax Map #90-8-1A1) from Harbor District to General Business/Light Industrial H-1		ITEM NUMBER: 6B
	ATTACHMENTS: Application, Town Council Resolution, Staff Report & Cape Charles Zoning Ordinance Section, Ordinance 20210819B, Town Manager's memo		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

At their July 22, 2021 Regular Meeting, the Town Council voted to defer action until the August 19, 2021 Regular Meeting.

BACKGROUND:

Pursuant to Cape Charles Zoning Ordinance Section 2.7.2, South Port Investment LLC is seeking to rezone Tax Map #90-8-1A1 located at 1201 Bayshore Road, which is approximately 11.79 acres, from Harbor District (H) to General Business/Light Industrial H-1 (GBI H-1) for a proposed use of manufacturing, assembly and storage of products.

AERIAL MAP



ITEM SPECIFICS:

There are many factors to consider in examining this request to change the zoning designation from Harbor (H) to General Business/Light Industrial-Harbor 1 (GBI H1):

- A) the current zoning map & ordinance;
- B) the Cape Charles Harbor Area Conceptual Master Plan; and
- C) the Comprehensive Plan.

The staff report prepared and submitted to the Planning Commission provides an analysis of this rezoning request based upon the three primary adopted policy documents that are examined relative to this property; said report is attached for your review. Specifically, a review of the adopted Comprehensive Plan is essential to determine if the rezoning request is in accord with this document. To that end, the Comprehensive Plan states as follows:

In Section III – Future Land Use: Guiding Decisions for the Coming Decades, this describes each land use designation and indicates that the guiding principle is to mirror and extend the existing historic pattern of development in the town as it grows and adapts to new land uses and building types over time. The Future Land Use Plan strongly reinforces the current form of the town and recommends that new development should be an extension of the traditional patterns of growth and settlement in Cape Charles.

In this area adjacent to the harbor, there are three primary land designations which are described in the Comprehensive Plan as:

III.3.2 Industrial: The industrial designation permits certain industries, which may detract from residential desirability, and will not be permitted to locate in any area adjacent to a residential area. This category should contribute to the existing maritime and industrial nature of Cape Charles and may consist of buildings used for manufacturing and warehousing. All properties adjacent to the harbor have an alternative future land use of Harbor Mixed Use designation.

III.3.3 Industrial District M-2: The Industrial District M-2 designation provides for mixed industrial and employment land uses which encourage the revitalization of the local industrial economy and the historic Port of Cape Charles and Northampton County, create family-wage employment and training opportunities for local residents, serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers, and encourage cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development.

III.3.4 General Business/Light Industrial H-1 District: The General Business/Light Industrial H-1 designation allows for a planned mixed industrial and employment park with a comprehensive development plan which encourages the revitalization of the local industrial economy and historic Port of Cape Charles and Northampton County; creates family-wage employment and training opportunities for local residents; serves as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers; and 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.

Under Chapter II – SETTINGS, Section II.4 - Economy states the following:

"Cape Charles has experienced increased commercial activity recently. Several new restaurants have opened and a new yacht refurbishing operation has opened for business. If this trend continues, economic opportunities will improve. The town must achieve an atmosphere conducive to the growth of new and existing businesses through cooperation with private, county and regional economic development partners. Cooperation with other towns and Northampton County is needed to plan development near the town's boundaries. Commercial investment should be encouraged where it is needed in revitalizing the county's towns not in development of agricultural land or along Route 13. The town should encourage development of the area formerly known as the STIP (Sustainable Technologies Industrial Park) and several other large land tracts. It must continue support of existing economic infrastructure including the harbor and railroad. The town's other strengths, such as its natural environment and historical character, must be preserved as well to encourage economic prosperity.

As economic opportunities and expansions of existing industries have arisen over the last decade, the Town has considered each of these items and has responded accordingly through a rezoning consideration. The area directly adjacent to the concrete plant continues to support the operations of the plant itself and this rezoning application is seeking to utilize this property for this purpose which is consistent with the Comprehensive Plan. While the land use designations have not mirrored the Harbor Area Master Conceptual Plan, this document

envisioned it be a tool with flexibility to respond to economic opportunities which is what has occurred and has remained consistent with existing historic industry and its growth.

The tract is not located directly on the Harbor and the change of the Zoning Designation would align best with the proposed use of the property. As indicated in the application, the property is under contract for sale to Coastal Precast Systems who intends to use the property for light industrial uses, pursuant to the Cape Charles Zoning Ordinance GBI H-1 District.

A joint public hearing was held by the Planning Commission and Town Council on Tuesday, July 13, 2021. There were 15 verbal comments and 15 written comments provided at the hearing. There was a zoning text amendment public hearing held subsequent to this matter concerning Section 3.14 General Business/Light Industrial Harbor 1 (GBI H-1) and most of the comments focused on the proposed zoning text amendment changes.

The comments expressed concern about the proposed height of buildings, the potential noise impact on neighboring residential properties based upon the possible allowed uses and claims of insufficient review by both the general public and the various boards and commissions of the Town. The majority of the comments are opposed to the proposed text amendments as well as the impact said text amendments would have on the property being proposed for rezoning (subsequent public hearing item) but as well as any additional property that is currently zoned GBI H-1 which includes the adjacent parcel owned by Southport which is adjacent to the Baycreek residential development. Concerns were expressed about the current condition of the property being proposed for rezoning as well as the adjacent property (both owned by Southport Investors), specifically the trees on the property and the need for tree preservation on these properties. One comment stated that there needs to be a focus on economic development and a broader view of this matter should be taken and indicated support for this proposal.

The public comment was closed on this matter and the Planning Commission reviewed the application, heard from the property owner (Eyre Baldwin, agent for Southport Investors, and Dan Brown, Chief Financial Officer for Southport Investors) and the proposed purchaser of the property being proposed for rezoning at the subsequent public hearing item (Brandon Mallory, agent for Coastal Pre-Cast Systems), reviewed staff report and discussed the matter.

Commissioner Grossman motioned to recommend the rezoning of Tax Map #90-8-1A1 from Harbor to General Business/Light Industrial – Harbor 1 (GBI H-1) and was seconded by Commissioner Holloway. The motion was approved with Commissioner D’Amico voting nay.

RECOMMENDATION:

Town Council is requested to review the proposed zoning map amendment, staff report and the public comments received during the joint public hearing and to consider acting favorably on the Zoning Map Amendment (ZMA) of Tax Map #90-8-1A1 from Harbor to General Business/Light Industrial Harbor-1 (GBI H-1) and to accept the Planning Commission’s recommendation.

The following motion is provided for the Town Council’s consideration:

The Cape Charles Town Council accepts the recommendation of the Planning Commission and to approve the zoning map amendment of Tax Map #90-8-1A1 located at 1201 Bayshore Road from Harbor to General Business/Light Industrial Harbor -1 (GBI H1); said rezoning is consistent with the Comprehensive Plan as detailed fully in the Staff Report provided to the Planning Commission and the Town Council as part of the agenda packet for the Joint Public Hearing held on July 13, 2021.



PLANNING COMMISSION

STAFF REPORT

Meeting Date: July 13, 2021

Item #: 3b & 7b

Prepared By:	Katie H. Nunez, Interim Planning & Zoning Administrator
Site Address:	1201 Bayshore Road (Tax Map 90-8-1A1) – acreage is 11.79 acres
Applicant:	South Port Investment LLC
Owner:	South Port Investment LLC
Current Zoning:	Harbor District (H)
Proposed Zoning:	General Business/Light Industrial H-1 (GBI H-1)

Pursuant to Cape Charles Zoning Ordinance Section 2.7.2, South Port Investment LLC is seeking to rezone Tax Map #90-8-1A1 located at 1201 Bayshore Road, which is approximately 11.79 acres, from Harbor District (H) to General Business/Light Industrial H-1 (GBI H-1) for a proposed use of manufacturing, assembly and storage of products.

AERIAL MAP



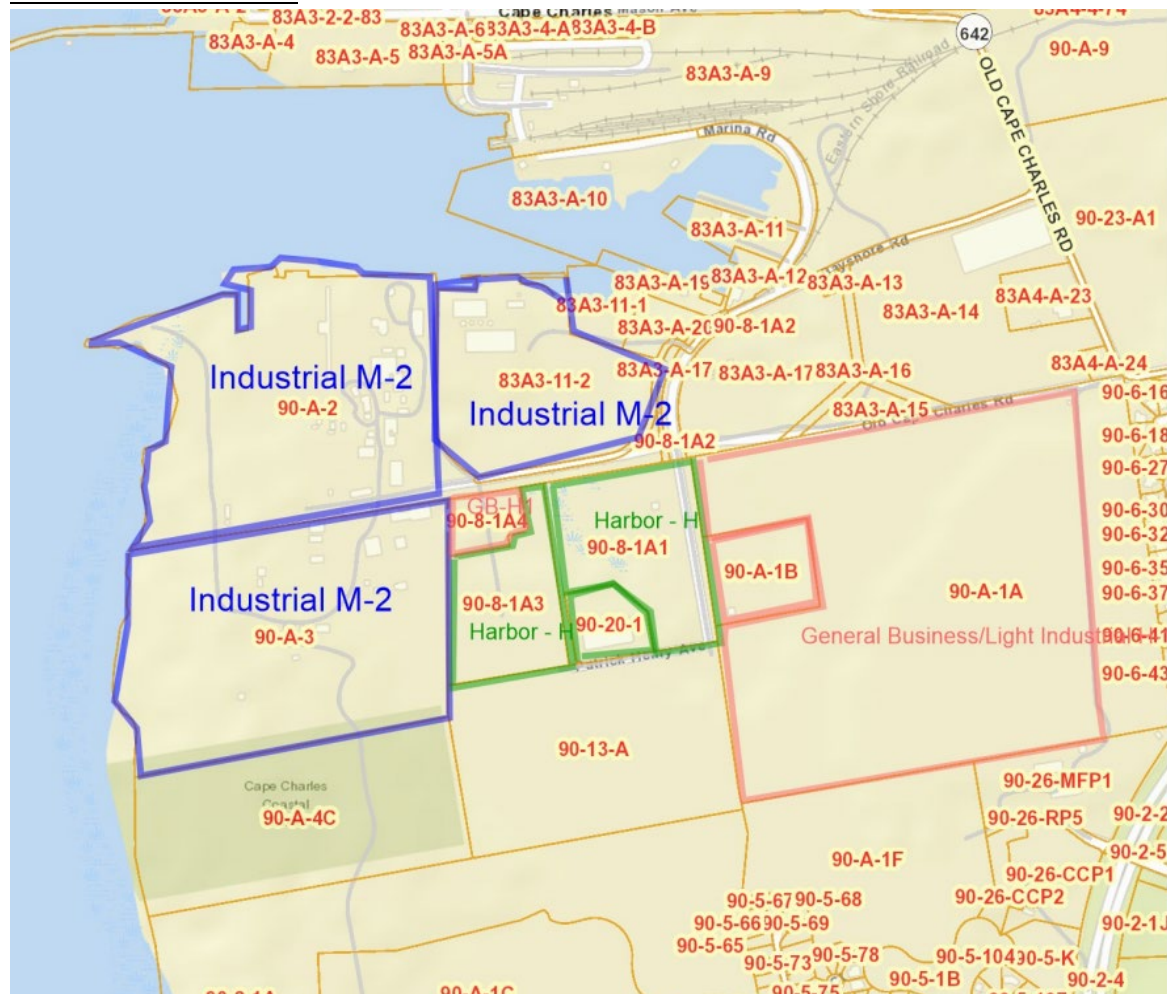
Staff Analysis:

There are many factors to consider in examining this request to change the zoning designation from Harbor (H) to General Business/Light Industrial-Harbor 1 (GBI H1):

- A) the current zoning map & ordinance;
- B) the Cape Charles Harbor Area Conceptual Master Plan; and
- C) the Comprehensive Plan.

A) CURRENT ZONING MAP & ORDINANCE

The current zoning map (below) shows that there is a range of zoning designations at the south end of the harbor, highlighting only the parcels that have either some type of industrial zoning designation or harbor designation.

CURRENT ZONING MAP

The description of each zoning designation is fully listed in the Zoning Ordinance with the intent and purpose of the current zoning of the parcel in question (90-8-1A1) provided herein.

Current Zoning:

Section 3.9 Harbor District (revised 11-21-19)

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.

PROPOSED REQUESTED ZONING:

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.

B) Cape Charles Harbor Area Conceptual Master Plan dated August 4, 2006

It is necessary to also consider the Cape Charles Harbor Area Conceptual Master Plan since it is referenced in the Zoning Description for Harbor District. To that end, provided is the conceptual map of the Land Use Plan over the harbor area, along with the text accompanying said map from that document.

The Land Use Plan is overlaid on top of the basic circulation and open space networks developed above. The general locations and types of land uses reflect the vision for the area as a mixed-use district that incorporates residential, employment, Industrial and transportation uses, with a working waterfront and public amenities. The diagram below shows the general disposition of land uses in the area. The location of land use elements also took into account the pattern of ownership in the area, as well as the discussions with property owners in the area for development intentions on their properties. The primary uses anticipated in the Harbor area include:

- Main Street Mixed Use
- Employment
- Rail Yard
- Industrial
- Employment Mixed Use
- Civic
- Residential Mixed Use

- Working Waterfront
- Nature Area
- Public Utilities

This is not intended to be an exhaustive list or a definitive prescription of permitted uses in the area, as would be found in a zoning ordinance. Moreover, the uses are not described definitively in this document. The intent is to provide a general guide, with ultimate flexibility to respond to opportunities for new development in the area that are consistent with the overall design concept and vision, and compatible with the design guidelines described in this document.

LAND USE PLAN



C) REVIEW OF COMPREHENSIVE PLAN

In Section III – Future Land Use: Guiding Decisions for the Coming Decades, this describes each land use designation and indicates that the guiding principle is to mirror and extend the existing historic pattern of development in the town as it grows and adapts to new land uses and building types over time. The Future Land Use Plan strongly reinforces the current form of the town and recommends that new development should be an extension of the traditional patterns of growth and settlement in Cape Charles.

In this area adjacent to the harbor, there are three primary land designations which are described in the Comprehensive Plan as:

III.3.2 Industrial: The industrial designation permits certain industries, which may detract from residential desirability, and will not be permitted to locate in any area adjacent to a residential area. This category should contribute to the existing maritime and industrial nature of Cape Charles and may consist of buildings used for manufacturing and warehousing. All properties adjacent to the harbor have an alternative future land use of Harbor Mixed Use designation.

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Under Chapter II – SETTINGS, Section II.4 - Economy states the following:

“Cape Charles has experienced increased commercial activity recently. Several new restaurants have opened and a new yacht refurbishing operation has opened for business. If this trend continues, economic opportunities will improve. The town must achieve an atmosphere conducive to the growth of new and existing businesses through cooperation with private, county and regional economic development partners. Cooperation with other towns and Northampton County is needed to plan development near the town's boundaries. Commercial investment should be encouraged where it is needed in revitalizing the county's towns not in development of agricultural land or along Route 13. The town should encourage development of the area formerly known as the STIP (Sustainable Technologies Industrial Park) and several other large land tracts. It must continue support of existing economic infrastructure including the harbor and railroad. The town's other strengths, such as its natural environment and historical character, must be preserved as well to encourage economic prosperity.

As economic opportunities and expansions of existing industries have arisen over the last decade, the Town has considered each of these items and has responded accordingly through a rezoning consideration. The area directly adjacent to the concrete plant continues to support the operations of the plant itself and this rezoning application is seeking to utilize this property for this purpose which is consistent with the Comprehensive Plan. While the land use designations have not mirrored the Harbor Area Master Conceptual Plan, this document

envisioned it be a tool with flexibility to respond to economic opportunities which is what has occurred and has remained consistent with existing historic industry and its growth.

The tract is not located directly on the Harbor and the change of the Zoning Designation would align best with the proposed use of the property. As indicated in the application, the property is under contract for sale to Coastal Precast Systems who intends to use the property for light industrial uses, pursuant to the Cape Charles Zoning Ordinance GBI H-1 District.

Staff Recommendation:

Staff is recommending a favorable consideration of the Zoning Map Amendment since it is supported by the Comprehensive Plan and creates a more cohesive Zoning Map for the parcels to the south of the harbor. However, this recommendation is contingent upon the favorable consideration of the Zoning Text Amendment application to General Business/Light Industrial Harbor-1 (GBI H-1) which was the subject of a public hearing prior to the public hearing on the Zoning Map Amendment. Without those proposed zoning text changes, the current language of the GBI H-1 does not limit this district to a light industrial application which is of concern since this parcel is approximately 2,100 feet or .41 miles from residentially zoned property.

Staff is prepared to assist the Planning Commission in crafting a motion with supportive reasoning language regarding your recommendation on this rezoning application.

Attachments:

Attachment 1: Application and Documents

Attachment 2: Cape Charles Zoning Ordinance Section 2.7.2; Section 3.9; and Section 3.14

Section 2.7.2 Procedures for Amending Chapter or Zoning Map

- A. All proposed amendments or reenactments of this Chapter, and all proposed amendments to the zoning map, shall be referred by the Town Council to the Town's Planning Commission for its recommendations. Failure of the Planning Commission to report within 100 days after the first meeting of the Planning Commission after the proposed amendment or reenactment has been referred to it shall be deemed approval of the proposal by the Planning Commission, unless the proposal has been withdrawn by the applicant prior to the expiration of said time period. In the event of such withdrawal, processing of the proposal shall cease without further action.
- B. Prior to issuing its recommendations, the Planning Commission shall hold at least one public hearing after notice of same has been published once a week for two successive weeks in some newspaper having general circulation in the Town. Such public hearing shall be held not less than six nor more than 21 days after the second advertisement appears. Such additional and further notice shall be given as required by Virginia Code Section 15.2-2204. The Planning Commission may make appropriate changes in the proposed amendments as a result of the public hearing. Upon the completion of its work, the Planning Commission shall present the proposed amendments, including revised district maps, to the Town Council together with its recommendations and appropriate explanatory materials.
- C. Prior to approving and adopting any amendment to this Chapter or the zoning map, the Town Council shall hold at least one public hearing after giving such public notice as may be required by Virginia Code Section 15.2-2204, after which the Council may make appropriate changes or corrections in the proposed amendment. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the Town's then effective comprehensive plan. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after such notice as is required by Virginia Code Section 15.2-2204. Following the required public hearing(s), the Town Council shall act on the proposed amendment in the same manner as adopting any other ordinance.

Section 3.9 Harbor District (revised 11-21-19)

- A. *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.

B. 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 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.

- C. 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.

D. Permitted Uses. The following uses are permitted by right:

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
 - a. 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
 - 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
- 8. Public Utility Facility

E. *Conditional Uses.* 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
 - 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.
 - (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.

F. *Lot and Height Requirements.* Within the Harbor District, the following standards shall apply:

1. *Minimum lot requirements.*

lot area.....11,200 square feet
lot frontage.....80 feet
lot depth.....140 feet

2. *Height.*

- a. *Measurement criteria.* For the purpose of the Harbor District, height means the vertical distance measured from the crown of the nearest street to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs. When the crown of the nearest street has an elevation greater than three feet above the adjacent ground elevation of the building, the adjacent ground elevation shall be used in place of the crown of the nearest street when measuring height. Note: Mechanical equipment, chimneys, air conditioning units, elevator penthouses, church spires and steeples, water towers, and similar appurtenances are exempted from height restrictions. However, these exclusive items may not exceed the height limit by more than fifteen feet.
- b. *Maximum permitted height.* No building shall have the same continuous elevation for a distance of more than 80 linear feet. Building heights greater than 40 feet and equal to or less than 55 feet may also be permitted in other parts of the Harbor District, subject to securing a conditional use permit as provided for in this

ordinance. When reviewing a conditional use permit application for the height of a building in the Harbor District, the following criteria shall be met:

- (1.) On each block, the average height of all buildings greater than 40 feet and equal to or less than 55 feet in height shall not exceed 45 feet. For the purpose of this section, a block is defined as the property fronting on one side of a right-of-way or waterway, and lying between two intersecting rights-of-way or otherwise limited by a waterway or other physical barrier of such nature as to interrupt the continuity of development.
- (2.) The application shall adhere to policies established in the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines, the Comprehensive Plan, and other officially adopted plans of the Town.

3. *Setback Regulations.*

- a. Waterfront setback requirement. No building or structure shall be located within 30 feet of the Cape Charles Harbor or within 30 feet of a Resource Protection Area not part of an Intensely Developed Area (IDA), or within 30 feet of Marina Road, Bayshore Road, or Parcel 83A3-A-10. This requirement shall not preclude any other applicable regulations, including but not limited to those associated Chesapeake Bay Preservation Areas. The following shall be exempt from the waterfront setback requirement when permitted by all other applicable regulations:
 - (1.) Water-dependent facilities as defined by Zoning Ordinance Section 7.3.
 - (2.) Walkways, promenades, decks, gazebos, permitted signs, and similar structures intended to accommodate or provide amenities for pedestrians.

G. *Required open space.* Open space shall be provided equivalent to twenty-five (25) percent of lot area. For the purpose of this section, the term open space shall be construed to consist of open space amenities and spacing between buildings. Open space amenities include plazas, esplanades, landscaped areas, walkways, public recreational facilities, and the like designed and maintained for use by pedestrians and open to the public. Such open space amenities shall not be open to vehicular uses except for public safety purposes, and shall be directly accessible from street level. Where feasible, open space shall be designed to serve as part of a coordinated pedestrian circulation system.

H. *Utilities.* All utilities shall be installed underground.

I. *Harbor Development Certificate required.* No zoning clearance shall be issued for location, construction, or enlargement of any building or structure within the Harbor District until a Harbor Development Certificate has been issued. Submission of a Harbor Development Certificate Application and approval by the Town Council shall be required to obtain a Harbor Development Certificate.

1. *Content of Harbor Development Certificate Application.* The Harbor Development Certificate Application shall consist of the General Application and the Detailed Application.

- a. *General Application.* The General Application shall include the following items:
 - (1.) An application on forms provided by the Zoning Administrator.
 - (2.) A fee established by the Town Council.
 - (3.) A letter of application stating in general terms the proposed use of the property, the effect of the changes on the surrounding area, and the reason for the request.

- (4.) A plot plan in accordance with the Site Plan Ordinance.
- b. *Detailed Application.* The contents of the Detailed Application may be delineated on the plot plan required for the General Application, or provided in separate maps, elevations, or written document as appropriate. The Detailed Application shall indicate the following:
 - (1.) Location, amount, character and continuity of open space.
 - (2.) A delineation of those general areas that have scenic assets or natural features deserving protection and preservation, including elevations demonstrating protection of views from existing streets, and a statement of how such will be accomplished.
 - (3.) Convenience of access through and between buildings or in other locations where appropriate for public purposes and where such access will reduce pedestrian congestion on public streets.
 - (4.) Separation of pedestrian and vehicular traffic.
 - (5.) Landscape plans delineating dimensions and distances and the location, type, size, and description of all existing and proposed plant materials.
 - (6.) Location and dimensions of on-site signage.
 - (7.) Conceptual renderings of building exteriors.
 - (8.) Such other matters as are appropriate to determinations in the specific case. Other information may be requested by the Zoning Administrator, the Harbor Area Review Board, or Town Council.
- 2. *Review procedure.*
 - a. *Pre-application meeting.* Prior to application submission, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a pre-application meeting. The purpose of the meeting shall be to discuss the general goals of the project and application procedures.
 - b. *General Application.* Following the pre-application meeting, the applicant shall submit a General Application. The contents of the General Application are detailed in Section 3.9.I.1.a.
 - c. *Post-application meeting.* Within thirty (30) days of receipt of the complete General Application, the Zoning Administrator and the Harbor Area Review Board shall meet in a post-application meeting. The purpose of the meeting shall be to discuss the content of the General Application and to formulate recommendations for the applicant.
 - d. *First review meeting.* Within thirty (30) days of the post application meeting, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a first review meeting. The purpose of the meeting shall be to provide the applicant with the Harbor Area Review Board's recommendations and to provide notice to proceed with the Detailed Application.
 - e. *Town Council summary.* Following the first review meeting, the Harbor Area Review Board will present the Town Council with the General Application and a general description of discussion held at the first review meeting. The Town Council summary will be provided at a Town Council regular session or a Town Council work session for informational purposes.
 - f. *Detailed Application.* Following the first review meeting, the applicant shall submit a Detailed Application. The contents of the Detailed Application are provided in Section 3.9.H.1.b.

- g. *Zoning Administrator action.* Following the Zoning Administrator's receipt of the Detailed Application and his determination that it is complete pursuant to Section 3.9.H.1.b, the Zoning Administrator shall prepare a thorough review and analysis of the Harbor Development Certificate Application and a written staff report. The Zoning Administrator's written report shall be forwarded to the Harbor Area Review Board within 45 days of receipt of the Detailed Application.
 - h. *Second review meeting.* After receipt of the Detailed Application, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a second review meeting. The purpose of the meeting shall be to review the Harbor Development Certificate Application, consisting of the General Application and the Detailed Application, and provide the applicant with any necessary recommendations. Follow up meetings may be scheduled to further review the application or to review modifications to the application.
 - i. *Harbor Area Review Board action.* After the second review meeting, the Harbor Area Review Board shall forward its recommendation to approve, deny, or approve subject to modification, to the Town Council along with written findings of fact supporting its recommendation.
 - j. *Town Council action.* After receipt of the Harbor Area Review Board's recommendations and findings, the Town Council shall decide to approve, deny, or approve subject to modification.
 - k. *Concurrent review permitted.* Other development applications, including application for any necessary Certificate of Appropriateness, may be submitted concurrently with an application for a Harbor Development Certificate.
3. *Criteria for review.* In reviewing the Harbor Development Certificate Application, the Zoning Administrator, the Harbor Area Review Board, and the Town Council shall consider the following criteria:
- a. Use characteristics of the proposed development.
 - b. Preservation of historic structures; preservation of significant features of existing buildings when such buildings are to be renovated; relation to nearby historic structures or districts including a need for height limits.
 - c. Location and adequacy of off-street parking and loading provisions, including the desirability of bicycle parking.
 - d. Vehicular circulation within the development and its relation to other existing and proposed transportation facilities.
 - e. Inclusion of alleys to enhance vehicular transportation within the development.
 - f. Provision of concealed commercial loading and unloading areas adjacent to alleys to prevent loading, unloading, and trash collection along public rights of way.
 - g. Traffic generation characteristics of the proposed development in relation to street capacity.
 - h. Provision of open space to meet the requirements of the district; the location, design, landscaping and other significant characteristics of this public open space, and its relation to existing and planned public and private open space.
 - i. Multi-modal transportation facilities within the proposed development and their relation to public open space and pedestrian circulation patterns.
 - j. Architectural relationships, both formal and functional, of the proposed development to surrounding buildings, including building siting, massing, proportion, and scale.

- k. Use of architectural details, storefront design, window openings, roof shapes, porches, and columns to balance the proportions of facades into pleasant and cohesive compositions.
 - l. Microclimate effects of proposed development, including effects on wind velocities, sun reflectance, and sun access to streets and/or existing buildings and/or public open space.
 - m. Protection of significant views and view corridors, particularly views of the Cape Charles Harbor from existing road intersections.
 - n. Relationship of on-site lighting and landscaping to other surrounding lighting and landscaping designs both public and private.
 - o. Relationship of on-site signage to architectural elements of the proposed development and relationships to nearby development.
 - p. Adherence to policies included in the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines, the Comprehensive Plan, and other officially adopted plans of the Town.
 - q. Adherence to the intent and requirements of the Harbor District.
4. Other requirements. Issuance of a Harbor Development Certificate shall not exempt a property owner from obtaining other necessary zoning clearances and building permits as required.

J. *Exemption.*

Railroad activities in this district are subject to federal preemption to the extent that the activities are an integral part of the railroad's interstate operations. 49 U.S.C. 10501 (b). Therefore, "state and local permitting or pre-clearance requirements [such as building permits, zoning clearances, and site plan requirements] which, by their nature, interfere with interstate commerce by giving the [Town of Cape Charles] the ability to delay or deny the [railroad's] right to construct facilities or conduct operations are preempted." *Borough of Riverdale v. New York Susquehanna & Western Railway Corporation*, Surface Transportation Board, Docket No. FD 33466 0, September 9, 1999.

However, environmental and other public health and safety issues and "activities and facilities not integrally related to the provision of rail service are not subject to [Surface Transportation Board] jurisdiction or subject to federal preemption." *Id.* Also, "interstate railroads ... are not exempt from certain local fire, health, safety and construction regulations and inspections." *Id.*

- K. Modifications may be allowed that do not change the wall to window area ratio, and do not add to or reduce the number and type of porches\balconies. Modification is solely at the discretion of the zoning administrator, the building official, and the town manager upon approval of a Harbor Development Certificate.
- L. Modifications may be allowed to balconies and building architectural projections, and there is no change to street\sidewalk access or percentage of open space upon approval of a Harbor Development Certificate. Modification is solely at the discretion of the zoning administrator, the building official, and the town manager.
- M. Modification may be allowed if the required percentage of open space, required landscape, buffering, and Dark Sky compliance are met upon approval of a Harbor development

Certificate. Modification is solely at the discretion of the zoning administrator, the building official, and the town manager.

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.
- 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. 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.
 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
36. Warehousing facility (excluding mini-storage facility)
37. Water storage tank
38. 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

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 street10 feet
minimum rear yard.....20 feet

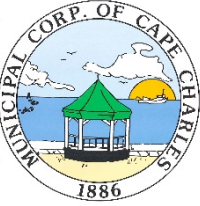
3. Maximum building height
 - buildings.....40 feet
 - structures other than buildings.....50 feet
4. Building coverage. No more than 50 percent of the land area of the lot may be covered by structures.
5. Buffer yards. Where the GBI H-1 District adjoins the R (residential) zoning districts within the 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 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 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.
- 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.

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, materials, fossil fuels, raw materials, or petroleum shall be permitted within the GBI H-1 District.
- 7. No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.
- 8. 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.
- 9. No outside loudspeakers, intercoms, sirens, paging systems, whistles, horns, bells, or other devices or signals audible outside any buildings shall be allowed on the property.
- 10. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
- 11. 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.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Resolution of intent to consider a change to the zoning map within the Harbor District		AGENDA DATE May 20, 2021
	SUBJECT/PROPOSAL/REQUEST: Consideration of referral to Planning Commission		ITEM NUMBER: 7B
	ATTACHMENTS: Resolution of Intent 20210520B		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manger	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Both the Town zoning ordinance and Virginia Code 15.2-2286 (A) (7) requires a resolution of intent from the governing body to initiate any change to a zoning ordinance or zoning map.

ITEM SPECIFICS:

Approving this resolution does not constitute approval of any change. It merely identifies that sufficient public necessity, convenience, general welfare, or good zoning practice exists within the proposal to conduct a public process that more fully explores the proposed changes. This resolution will formally establish that the proposed changes meet the requirements to be referred to the Planning Commission for public hearing and their recommendation. Final and formal consideration of any change will be brought back to the Town Council following action by the Planning Commission.

RECOMMENDATION:

Staff recommends adoption of Resolution of Intent 20210520B Zoning Map Amendment of a Parcel Within the Harbor District by roll call vote.

RESOLUTION OF INTENT 20210520B
ZONING MAP AMENDMENT OF A PARCEL
WITHIN THE HARBOR DISTRICT

WHEREAS, in accordance with Code of Virginia § 15.2-2286.A, the Cape Charles Zoning Ordinance § 2.7.1 includes regulations pertaining to initiation of amendments, supplements, change in the regulations, district boundaries or classifications of property contained in the zoning ordinance; and

WHEREAS, the owner of a parcel within the Harbor District has requested a modification in the land use to General Business/Light Industrial to match the current land use of the adjacent parcels.

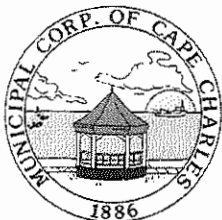
NOW, THEREFORE, BE IT RESOLVED that for purposes of public necessity, convenience, general welfare or good zoning practice, the Cape Charles Town Council hereby adopts a resolution of intent to consider amending the Cape Charles Zoning Map modifying the land use for one parcel to match the land use of its adjacent parcels.

Adopted by the Town Council of the Town of Cape Charles on May 20, 2021.

By: _____
Mayor Dize

Attest:

Town Clerk



ZONING MAP AMENDMENT APPLICATION

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

received
5/12/2021

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

- ☒ Completed application
- ☒ Letter of intent
- ☒ Existing site plan or survey
- ☐ Proposed site plan or survey (if applicable)
- ☒ Names and addresses of adjacent property owners
- ☒ Payment of fees (\$1,000)

PROJECT INFORMATION

Name of Project: _____
Property Address: TAX ID 90-8-1A1
Brief Description of Project: _____
Current Zoning District: HARBOR Proposed Zoning District: GBI-H1
Current Use: RAW LAND Proposed Use: Manufact./Assembly/Storage

OWNER INFORMATION

Name and Company: South Port Investors, LLC
Mailing Address: PO Box 395 Eastville, VA 23347
Phone Number: 757-695-0265 Email: danbrowncpa@gmail.com

APPLICANT INFORMATION

☒ check here if applicant is owner

Name: _____
Mailing Address: _____
Phone Number: _____ Email: _____

CERTIFICATION OF APPLICANT

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

Signature of Applicant: _____ Date: 5/12/21

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

South Port Investors, LLC

**PO Box 395
Eastville, VA 23347**

May 12, 2021

John Hozey - Town Manager
2 Plum Street
Cape Charles, VA 23310

Re: Rezoning request for Lot 90-8-1A1 Cape Charles Industrial Park

Dear Mr. Hozey,

As we have discussed, South Port Investors is currently under contract to sell Lot 90-8-1A1, an approximate 10 acre parcel located in the Cape Charles STIP on the south side of the harbor. South Port's sale of this property is contingent upon its ability to provide the buyer with property allowing for light industrial permitted uses. We are requesting a zoning change on this lot from Harbor District to General Business/Light Industrial (GBI-H1.)

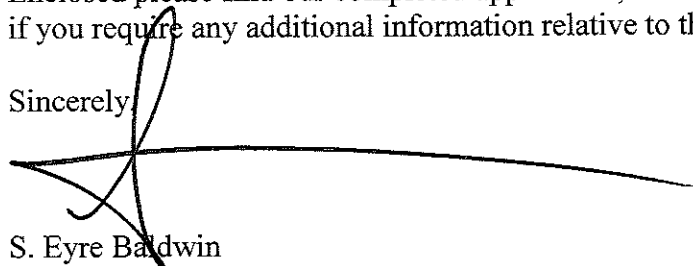
The acquiring company, Cape Charles Properties LLC, requires use capabilities which resemble the provisions in the GBI-H1 zone. The company plans to utilize the land for manufacturing, processing, fabrication, assembly and/or storage of products. Production of renewable energy components is the basis of this initiative.

While the Harbor District zoning classification has proven successful on the north side of the harbor, the south side has not recognized any such traction in the last decade. Harbor District success relies on the proximity to Downtown Cape Charles and the retail foot traffic which it promotes. No such environment exists in the industrial park vicinity.

In 2016, our group registered a similar zoning change request on Lot 83A3-11-2. This is a 20 acre parcel on Cape Charles Harbor which was zoned Harbor District. We approached the Town with our request to alter zoning from Harbor District to Industrial District M-2. The application was approved. Lot 90-8-1A1 is in close proximity to Lot 83A3-11-2. We feel a precedent has been established and are seeking application approval.

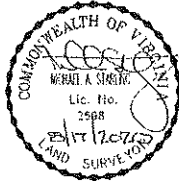
Enclosed please find our completed application, survey, and application fee. Please let me know if you require any additional information relative to this request. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Eyre Baldwin', with a long horizontal flourish extending to the right.

S. Eyre Baldwin
Executive Director - South Port Investors

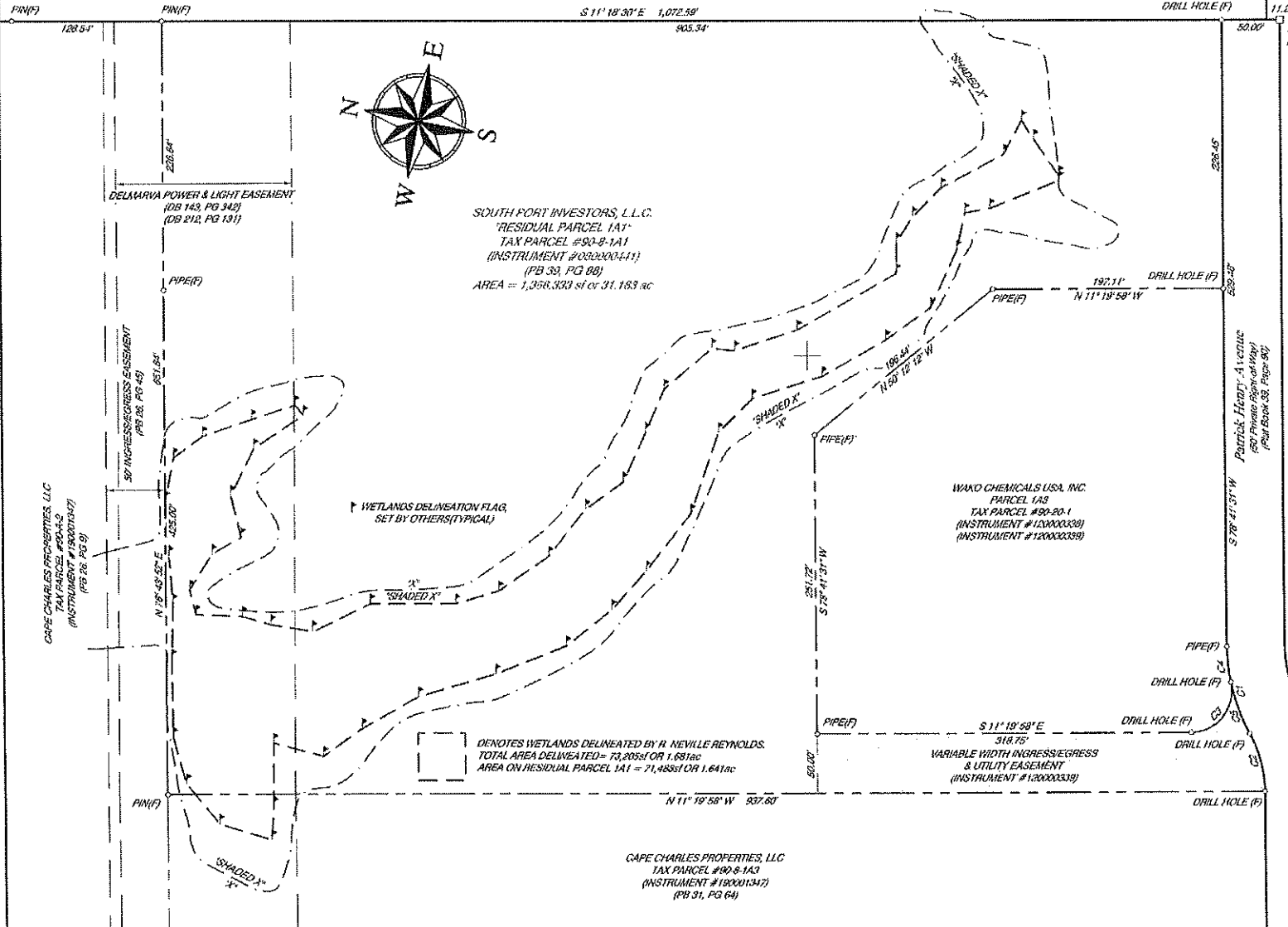
I, HEREBY CERTIFY THAT THIS PLAT IS BASED ON A CURRENT FIELD SURVEY, AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IS CORRECT AND COMPLIES WITH THE MINIMUM PROCEDURES AND STANDARDS ESTABLISHED BY THE VIRGINIA STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS.



SOUTH PORT INVESTORS, L.L.C.
TAX PARCEL #90-A-1A
(INSTRUMENT #060000441)
(PB 39, PG 68)
(PB 27, PG 23)

Bayshore Road - State Route 1117
(80' Right-of-Way)
(Plat Book 39, Page 88)

CURVE TABLE						
CURVE #	LENGTH	RADIUS	DELTA	BEARING	CHORD	TANGENT
C1	76.51'	150.00'	29° 13' 24"	S 64° 04' 49" W	75.68'	30.10'
C2	50.91'	100.00'	29° 10' 07"	S 64° 03' 11" W	50.56'	26.02'
C3	62.01'	35.00'	101° 30' 28"	S 62° 05' 12" E	54.21'	42.84'
C4	30.19'	150.00'	11° 31' 57"	S 72° 55' 33" W	30.14'	15.15'
C5	40.31'	150.00'	17° 41' 27"	S 69° 18' 51" W	40.13'	22.24'



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

FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM FEMA 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 DETERMINE THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.

THIS PROPERTY APPEARS TO FALL IN:
FLOOD ZONES: 'X' & 'SHADED X'
COMMUNITY NO.: 510105
PANEL: 0256F DATED: MARCH 2, 2016

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.

THE NORTH MERIDIAN OF THIS PLAT IS BASED ON A SURVEY PREPARED BY THE TAX GROUP DATED JANUARY 3, 2001 AND RECORDED IN PLAT BOOK 29 AT PAGE 29.

THE WETLANDS SHOWN HEREON WERE DELINEATED BY H. NEVILLE REYNOLDS ON JULY 17, 2020.

WETLANDS EXHIBIT OF

'Residual Parcel 1A1'

'SUBDIVISION OF SUSTAINABLE
TECHNOLOGIES INDUSTRIAL PARK'
(INSTRUMENT #120000339)
(PLAT BOOK 39, PAGE 88)
TAX PARCEL #90-B-1A1
TOWN OF CAPE CHARLES
NORTHAMPTON COUNTY, VIRGINIA
FOR

South Port Investors, L.L.C.
AUGUST 3, 2020

Shoreline Surveyors

23314 Courthouse Avenue - P.O. Box 735
Accomac, Virginia 23001
PHONE (757) 760-3050 FAX (757) 760-3952



GRAPHIC SCALE
SCALE: 1" = 60'

DRAWN: MAS
FIELD BOOK: 3, PAGES 55-57
JOB #12081
SHEET 1 OF 1

Adjacent Property Owners

Lot 90-8-1A3
Cape Charles Properties, LLC
1316 Yacht Drive
Chesapeake, VA 23320

Lot 90-13-A
Commonwealth of Virginia
Department of Conservation and Recreation
600 East Main Street
12th Floor
Richmond, VA 23219

Lot 90-A-1A
South Port Investors, LLC
PO Box 395
Eastville, VA 23347

Lot 90-A-1B
Up Front Storage, LLC
10605 Oliver Street
Fairfax, VA 22030

ORDINANCE 20210819B

ADOPTING CAPE CHARLES ZONING MAP AMENDMENT FOR TAX PARCEL #90-8-1A1 FROM HARBOR DISTRICT TO GENERAL BUSINESS/LIGHT INDUSTRIAL H-1

WHEREAS, pursuant to Cape Charles Zoning Ordinance Section 2.7.2, South Port Investors, LLC is seeking to rezone Tax Map #90-8-1A1 located at 1201 Bayshore Road, which is approximately 11.79 acres, from Harbor District (H) to General Business/Light Industrial H-1 (GBI H-1) for a proposed use of manufacturing, assembly and storage of products; and

WHEREAS, factors to consider in examining this request to change the zoning designation from Harbor to General Business/Light Industrial H-1 include: i) the current zoning map and ordinance; ii) the Cape Charles Harbor Area Conceptual Master Plan; and iii) the Comprehensive Plan; and

WHEREAS, Cape Charles Zoning Ordinance Section III – Future Land Use: Guiding Decisions for the Coming Decades, describes each land use designation and indicates that the guiding principle is to mirror and extend the existing historic pattern of development in the town as it grows and adapts to new land uses and building types over time. The Future Land use strongly reinforces the current form of the town and recommends that new development should be an extension of the traditional patterns of growth and settlement in Cape Charles; and

WHEREAS, in this area adjacent to the harbor, there are three primary designations which are described in the Comprehensive Plan as: Industrial (Section III.3.2), Industrial District M-2 (Section III.3.3) and General Business/Light Industrial H-1 District (Section III.3.4); and

WHEREAS, Comprehensive Plan Section II.4 - Economy, states “Cape Charles has experienced increased commercial activity recently. Several new restaurants have opened, and a new yacht refurbishing operation has opened for business. If this trend continues, economic opportunities will improve. The town must achieve an atmosphere conducive to the growth of new and existing businesses through cooperation with private, county, and regional economic development partners. Cooperation with other towns and Northampton County is needed to plan development near the town’s boundaries. Commercial investment should be encouraged where it is needed in revitalizing the county’s towns not in development of agricultural land or along Route 13. The town should encourage development of the area formerly known as the STIP (Sustainable Technologies Industrial Park) and several other large land tracts. It must continue support of existing economic infrastructure including the harbor and railroad. The town’s other strengths, such as its natural environment and historical character, must be preserved as well to encourage economic prosperity;” and

WHEREAS, as economic opportunities and expansions of existing industries have arisen over the last decade, the Town has considered each of these items and responded accordingly through rezoning consideration. The area directly adjacent to the concrete plant continues to support the operations of the plant and this rezoning application seeks to utilize this property for purposes which are consistent with the Comprehensive Plan; and

WHEREAS, this parcel is not located directly on the Harbor and the proposed change of zoning designation would align best with the proposed use of the property; and

WHEREAS, this property is under contract for sale to Coastal Precast Systems which intends to use the property for light industrial uses, pursuant to the Zoning Ordinance General Business/Light Industrial H-1 District; and

WHEREAS, pursuant to Code of Virginia §§ 15.2-2285 and 15.2-2204, after proper notice, a joint public hearing was held with the Town Council and Planning Commission, followed by the Planning Commission's regular meeting for review and deliberation of the proposed zoning map amendment; and

WHEREAS, the Planning Commission approved, by majority vote, making recommendation for Town Council approval of the rezoning of Tax Map #90-8-1A1 from Harbor to General Business/Light Industrial H-1; now

THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 22nd day of July 2021, that Cape Charles Zoning map be amended as recommended by the Planning Commission, to rezone Tax Map #90-8-1A1 (1201 Bayshore Road) from Harbor District to General Business/Light Industrial H-1, to become effective immediately.

Adopted by the Town Council of Cape Charles on August 19, 2021.

By: _____
Mayor

ATTEST:

Town Clerk

Memorandum



From: John Hozey, Town Manager

Date: August 19, 2021

To: Mayor and Town Council

RE: Pending Zoning Actions

On July 22 the Town Council voted to delay consideration on two zoning actions until the regular meeting of August 19, 2021. These two actions included a request to rezone a parcel south of the harbor from Harbor District to General Business/Light Industrial H-1, and to make several text changes to the General Business/Light Industrial H-1 District. The Planning Commission has forwarded positive recommendations on both actions.

Due to strong public interest in these actions the Council requested more time to consider the implications and to allow for additional interaction with the public. On August 10th a Town Hall style informal meeting was held to allow a back-and-forth dialog with the public, to answer their questions, and to explain why town staff agreed with the Planning Commission and also offered positive recommendations.

As a result of this additional time and dialog, two issues were brought into greater focus. The first was that the type of allowable activity being proposed in the area under consideration requires a Conditional Use Permit (CUP) in a heavy industrial zone but is by right in a light industrial zone. This seemed odd.

The second issue was the applicability of a portion of this section of the zoning ordinance (paragraph F), entitled "Additional Development Requirements." This portion of the code does not appear to be clear. A strong case can be made that this paragraph does not apply to the permitted (or by right) uses of this section. However, it is not written that specific and so there is no way of telling how a court might actually rule if this were ever challenged.

To proactively address both of these issues, staff has developed proposed additional text amendments (attached). This attachment shows the originally requested changes in red, and the new suggested additional changes in green. Staff believes that both, the original changes, and these additional changes combined, will allow the property owners to accomplish their purposes, while also better protecting the interests of the Town.

By means of summary, the proposed additional text amendments would move the by right uses being considered here to a Conditional Use category. Meaning the property owner would have to return later with actual site plans and details of the proposed operation before the Town would sign off on that specific use.

Regarding paragraph F, the proposed changes would remove any ambiguity and specify that this paragraph does apply to all uses in this section. However, it would also provide a mechanism for special circumstances to be considered by the Zoning Administrator for exceptions.

While in the opinion of staff, these additional text changes are desirable, approving them will take more time. Changes this significant cannot be considered on August 19th and would have to be referred back to the Planning Commission to re-start the public process.

The issue with further delay is that it could come at a serious opportunity cost, threatening the current land purchase agreement and/or the ability of Cape Charles to successfully compete for wind turbine contracts that are being aggressively pursued by other locations. Light industrial activity of this nature (as approved by a conditional use permit) would be a relatively low impact way of diversifying our economy, providing many more high-quality jobs, and bringing much greater revenue to the County and eventually the Town.

Note: there are currently two distinct actions on the floor. The first is consideration of text amendments and the second is consideration of a zoning map change. These are independent items, not formally tied to each other, and will be voted upon separately. There are several options for moving forward:

Option A

Action 1 (text changes): Approve the current text changes (in red); then move to send the additional text changes (in green) to the Planning Commission to start another public process

Action 2 (zoning map change): Approve the requested rezone

This option makes all the zoning in that area contiguous and in conformance with our Comprehensive Plan and long-term goals. It also removes any concern of opportunity cost by allowing both the land purchase to go forward and for the new owners to submit proposals for potential wind turbine contracts immediately. By the time any contract that would trigger development of the land could be reasonably acquired, the second text change would likely be in place, requiring that land development to seek a conditional use permit.

Option B

Action 1 (text changes): Move to send all text changes (red and green) back to the Planning Commission to start another public process

Action 2 (zoning map change): Approve the requested rezone

This option makes all the zoning in that area contiguous and in conformance with our Comprehensive Plan and long-term goals. Approving the rezone but delaying the text changes

might be enough to allow the land purchase to go forward, mitigating some of the opportunity cost. But because there would not yet be the option for a conditional use permit for a building large enough to handle wind turbine contracts, the new owners would not be able to submit proposals for potential contracts until all the text changes were approved (anywhere from 1 to 4 months, depending on how the process unfolds). However, this process would ensure that a conditional use permit process was in place.

Option C

Action 1 (text changes): Move to send all text changes (red and green) to the Planning Commission to start another public process

Action 2 (zoning map change): Delay approval of the requested rezone until all text changes are approved

This option would again ensure that a conditional use permit process was in place before any other action could occur. But it would significantly increase the opportunity cost that the land purchase agreement would expire and that Cape Charles would be less competitive for wind turbine contracts.

Option D

Action 1 (text changes): Deny all text changes

Action 2 (zoning map change): Turn down the requested rezone

This option would result in the continuation of dissimilar zoning in that area and the termination of the current land purchase agreement, leaving control of that area to Eyre Baldwin. It would forgo adding the conditional use permit process to all future development in that area. And it would fully realize the opportunity cost of lost economic diversity, good jobs, and increased revenues to the County and Town.

While there could be a number of other permutations of action combinations, the ones provided here are the most salient. The above options are presented in the order of staff's recommendation. Option A is the first, then Option B, etc.

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. ~~Manufacture, processing, fabrication, assembly and/or assembly 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 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
 36. Warehousing facility (excluding mini-storage facility)
 37. Water storage tank
 38. 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 other than building may be constructed 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 for all yards abutting residential properties~~ from all property boundaries.
 3. Manufacture, processing, fabrication, assembly and/or ~~assembly~~ 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 wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.
 4. Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Appendix A, applicable category

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, ~~materials~~, fossil fuels, ~~raw materials~~, or petroleum shall be permitted within the GBI H-1 District.
- ~~7. No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.~~
8. 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.
9. No outside loudspeakers, intercoms, ~~sirens~~, ~~sirens~~, paging systems, whistles, horns, bells, ~~or other devices~~ 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.
10. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
11. 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. by truck or rail between 11 p.m. and 5 a.m.~~ Monday through Saturday and no such deliveries to or from the property shall occur on Sunday.
12. The requirements of this paragraph F. shall apply to all uses of Section 3.14. The Zoning Administrator may consider 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.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Reappointment of Member to Building Code Board of Appeals		AGENDA DATE: August 19, 2021
	SUBJECT/PROPOSAL/REQUEST: Reappointment of Building Code Board of Appeals Member		ITEM NUMBER: 7A
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

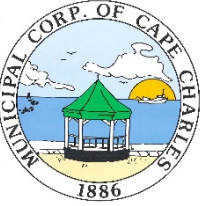
The Building Code Board of Appeals meets as needed and consists of five members each serving five-year terms.

DISCUSSION:

Mr. Matthew Brown currently serves on the Building Code Board of Appeals and his term will be expiring on September 10, 2021. Mr. Brown has expressed his interest in continuing his service on the Board for another term.

RECOMMENDATION:

Staff recommends Council reappoint Mr. Matthew Brown to the Building Code Board of Appeals for another five-year term.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Contract for Historic District Consulting Services with Commonwealth Preservation Group		AGENDA DATE August 19, 2021
	SUBJECT/PROPOSAL/REQUEST: Approval of contract with Commonwealth Preservation Group for Historic District Consulting Services		ITEM NUMBER: 7B
	ATTACHMENTS: Agreement for Services		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Over the past 25 years opinions and attitudes regarding the historic district have tended to shift/evolve. Upon review of the Town's 1996 preservation plan and other guiding documents, one can find conflicting concepts that can result in different interpretations, depending upon one's personal views. Due to this sometimes-inconsistent guidance, differences of opinion had begun to form, especially over the past several years, over the true intent and purpose of our ordinances and procedures.

The most basic concept that needed clarification was whether the goal of our ordinance was to preserve the true historic integrity of our structures and neighborhoods, or was it to just preserve the character (look and feel) of the history the town represents. This was the fundamental question, since the procedures and processes going forward would be completely different depending on which was chosen.

On April 13, 2021 the Town Council conducted a joint work session with the Planning Commission and the Historic District Review Board (HDRB). The purpose of the work session was to reach consensus on the issues outlined above. The result was development of a new Historic District Guiding Philosophy that leaned toward protecting the character (look and feel) of the district over a strict preservationist approach; as well as accompanying revisions to Articles II and VIII of the zoning ordinance.

ITEM SPECIFICS:

Due to the new guiding philosophy and ordinance revisions, the design guidelines used by the HDRB needed to be revised as well. This is a complex job that requires more expertise and bandwidth than currently available on staff. So in late April the Town issued a Request for Proposals for consultants to assist. We initially received four proposals, but one later pulled out. Due to other unanticipated priorities this summer, review of these proposals was delayed. However, a selection committee comprised of myself, the Zoning Administrator, and Councilman Grossman recently reviewed the remaining proposals and selected Commonwealth Preservation Group (CPG) as the best option for this work.

The timeline to perform this scope is longer than we had initially anticipated. But all proposers had similar timelines, indicating that we had probably underestimated the time required to complete this project. We've therefore worked with CPG to consolidate activities as much as practicable, and now understand that this, as well as other zoning projects the Town intends to undertake soon, will take longer than initially hoped.

RECOMMENDATION:

Staff recommends approval of the attached Agreement with Commonwealth Preservation Group for Historic District Consulting Services.



AGREEMENT

This Agreement is made August 20, 2021 between the **Town of Cape Charles** (Owner) and **Commonwealth Preservation Group** (Contractor) for **Historic District Zoning Consulting Services**, in accordance with all terms and provisions of the attached documents, hereby incorporated by reference:

1. Owner Request for Proposals dated April 22, 2021
2. Contractor Proposal dated May 28, 2021; as amended on August 2, 2021

Price. The lump sum price for the work is \$40,465.

Payment. Contractor shall submit an invoice to the Owner's Representative for progress payment monthly. Payment shall be made by Owner within thirty (30) days of receipt.

Owners Representative: John Hozey, Town Manager, 757-331-3259, x12 or john.hozey@capecharles.org

Owner

Contractor

Date

Date

April 22, 2021

Request for Proposals (RFP)
Town of Cape Charles
Historic District Zoning Consulting Services

- I. **Introduction.** The Town of Cape Charles, Virginia, is requesting proposals for consulting services to review the existing historic district zoning provisions and guidelines, and to recommend changes to reflect a new philosophy.
- II. **Project Overview.** The Town is conducting a comprehensive review of all articles of the zoning ordinance, guidelines, and procedures associated with the Town's Historic District Overlay. The Town has recently developed an updated philosophy regarding the historic district and is seeking a consultant to help draft revisions to the zoning ordinance and design guidelines to be consistent with this updated philosophy.
- III. **Statement of Work.** The work will include, but not be limited to:
 - Review all articles of the existing zoning ordinance (with special attention to articles II, III and VIII), as well as the design guidelines and guiding philosophy associated with the historic district
 - Identify any inconsistencies among the articles, zoning districts, associated documents, or with current state codes
 - From these documents, as it relates to zoning, determine what can be considered a requirement versus a recommendation for all zones within the historic district
 - Based on the Town's new historic district guiding philosophy, propose recommendations that place all requirements within an appropriate article of a draft ordinance, and all recommendations within appropriate draft guidelines
 - Provide a recommendation regarding the adequacy/update of the Historic District Overlay map
 - Develop two versions of design guidelines: one for contributing structures and another for non-contributing/new infill construction
 - Meet with Town officials to present recommendations and to revise final form of all documents as required
 - Provide final form of ordinance and guidelines for use in the adoption process

- Publish final form of design guidelines in an easy to read/use format, suitable for both hard copy and electronic usage

The new historic district guiding philosophy is at Attachment 1. The existing zoning ordinance and associated design guidelines may be found at www.capecharles.org, under Government, Departments, Planning and Zoning.

IV. Instructions to Offerors.

A. Proposals must be submitted in accordance with the instructions and requirements contained in this RFP. Failure to do so may result in the proposal being considered non-responsive and it may be rejected. Submit one original, signed by an authorized representative, and three copies of the proposal providing the following:

1. Qualifications of the offeror, including time in the business.
2. Experience developing historic district zoning ordinances.
3. Experience developing historic district zoning action procedures.
4. Experience developing historic district design guidelines.
5. Schedule for performing each task enumerated in the statement of work.
6. Fixed lump sum price to perform the statement of work.

B. Offerors must promptly notify the Town of any ambiguity, inconsistency, or error which may be discovered upon examination of the RFP.

C. For clarification or interpretation of this RFP, or to arrange a site visit, contact the town manager, Mr. John Hozey at 757-331-3259 ext. 12, or john.hozey@capecharles.org.

D. The proposal must be submitted to the Town of Cape Charles, 2 Plum Street, Cape Charles, Virginia 23310, in a sealed envelope clearly labeled **“Request for Proposals, Historic District Zoning Consulting Services”**. Deadline for submission is 2:00 PM, May 28, 2021.

E. The Town may request additional information, clarification, or presentations from any of the offerors after review of the proposals received.

F. The Town has the right to use any or all ideas presented in reply to this RFP, subject only to the limitations regarding proprietary/confidential data of the offeror.

G. The Town is not liable for any costs incurred by any offeror in connection with this RFP or any response by any offeror in connection to this RFP. The expenses incurred in the preparation, submission, and presentation of the proposal are the sole responsibility of the offeror and may not be charged to the Town.

V. **Contract Award.** This solicitation is being conducted per Code of Virginia, Section 2.2-4302.2. A. 3. Proposals will be evaluated based on the factors contained in IV.A, above, and competitive negotiations will be conducted with the two highest ranked offerors. Award will be made by the Town Manager to the offeror judged to have made the best proposal at the best value.

VI. **Miscellaneous.**

- A. Ownership of all data, materials, and documentation originated and prepared for the Town pursuant to the RFP shall belong exclusively to the Town and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by the offeror shall not be subject to public disclosure under the Freedom of Information Act, unless otherwise required by law or a court. **However, the offeror must invoke the protection of Section 2.2-4342(F) of the Code of Virginia, in writing, either before or at the time the data or other material is submitted.** The written notice must SPECIFICALLY identify the data or materials to be protected and state the reason why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary, or trade secrets, is NOT ACCEPTABLE and may result in rejection of the proposal.
- B. No information regarding the proposal records or the contents of proposals will be released except in accordance with Section 2.2-4342 of the Code of Virginia. Once an award has been made, all proposals will be open to public inspection subject to the provisions set forth above.
- C. Any interpretation, correction or change of the RFP will be made by an addendum. Interpretations, corrections, or changes of this RFP made in any other manner will not be binding and offerors must not rely upon such interpretations, corrections, or changes. Addenda will be emailed or mailed to all who are listed as having received the RFP. Acknowledgement of receipt of all addenda issued and taken into consideration in the submittal of any proposal is required as part of the proposal package.
- D. No offeror shall confer on any public employee having official responsibility for a purchasing transaction any payment, loan, subscription, advance, deposit or money, service, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value.

- E. The Town may make investigations to determine the ability of the offeror to perform or supply the services as described in this RFP. The Town reserves the right to reject any proposal if the offeror fails to satisfy the Town that it is qualified to carry out the obligations of the proposed contract.
 - F. The successful offeror must comply with the nondiscrimination provisions of Virginia Code Section 2.2-4311, which are incorporated herein by reference.
 - G. The successful offeror must comply with the drug-free workplace provisions of Virginia Code Section 2.2-4312, which are incorporated herein by reference.
 - H. It is the policy of the Town to maximize participation by minority and women owned business enterprises in contracting opportunities.
 - I. The successful offeror shall comply with all applicable Town, State and Federal laws, codes, provisions, and regulations.
 - J. Providers of any subcontract services shall be subject to the same conditions and requirements as the successful offeror regarding law, code, or regulation compliance. The Town reserves the right of approval for any subcontract work, including costs thereof.
 - K. Ethics in Public Contracting. The provisions, requirements, and prohibitions as contained in Sections 2.2-4367 through 2.2-4377, of the Virginia Code, pertaining to bidders, proposers, contractors, and subcontractors are applicable to this RFP.
 - L. Conflict of Interests Act. The provisions, requirements, and prohibitions as contained in Sections 2.2-3100, et. seq., of the Virginia Code are applicable to this RFP.
 - M. All firms doing business in the Town are required to be licensed in accordance with the Business, Professional and Occupational Licensing (BPOL) Tax ordinance. Questions concerning business licenses should be directed to the Town Treasurer at 757-331-3259, X23.
- VII. Contract Terms and Conditions.** The Town intends to use the **Agreement** at Attachment 2 for this contract. Below are additional terms and conditions applicable to any contract that may be awarded:
- A. Choice of Law and Venue: Any disputes that cannot be resolved between the Town and the Contractor must be resolved in the Courts of Northampton County, Virginia. The contract shall be governed by the laws of the Commonwealth of Virginia.

- B. Termination: It shall be the sole right of the Town to terminate the contract upon written notification to the Contractor.
- C. Modification: The contract shall not be amended, modified, or otherwise changed except by a written change order. Change orders may be proposed by either the Contractor or the Town.
- D. Nondiscrimination: In accordance with Section 2.2-4311 of the Code of Virginia, during the performance of this contract the Contractor agrees as follows:
 - 1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - 2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - 3. Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - 4. The Contractor shall include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.
- E. Unauthorized Aliens: In accordance with Section 2.2-4311.1 of the Code of Virginia, during the performance of this contract the contractor shall not knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- F. Insurance: The contractor shall purchase and maintain in force, at his own expense:
 - 1. Workers' Compensation Insurance – Standard Virginia Worker's Compensation Policy.
 - 2. Broad Form Comprehensive General Liability - \$1,000,000 Combined Single Limit coverage to include: Premises – Operations; Products/Completed

Operations; Contractual; Independent Contractors; County and Contractor's Protective; Personal Injury (Libel, Slander, Defamation of Character, etc.).

3. Professional Liability Coverage (errors and omissions) - \$1,000,000 minimum.
4. Automobile liability insurance shall be written with a Comprehensive Form and include coverage for owned, hired, and non-owned vehicles the limit for any one accident or loss shall be \$1,000,000.

The insurance specified herein shall name the Town as additional insured regarding work performed under any Contract. All policies shall provide that the Town is to receive written notice by certified mail, thirty (30) days in advance of cancellation or alteration of any policy. The Contractor shall provide the Town with copies of certificates of insurance coverage and proof of payment for all premiums

- G. Drug Free Workplace: In accordance with Section 2.2-4312 of the Code of Virginia, during the performance of this contract the contractor agrees to:

1. Provide a drug-free workplace for the contractor's employees.
2. Post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition.
3. State in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace.
4. Include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of this contract.

- H. Faith-based Organizations: The Town does not discriminate against faith-based organizations in accordance with the Code of Virginia, Section 2.2-4343.1.
- I. Environmental Management: Contractor shall be responsible for complying with all applicable federal, state, and local environmental regulations, if any.

- J. Finance Charges: The Town will not pay any finance charges imposed on any invoices submitted by the contractor relative to this Contract.
 - K. Assignment: Contractor may not assign his rights and obligations hereunder unless approved by the Town.
 - L. Applicable to Successors and Assigns: The Town and Contractor agree that the rights and obligations under this Contract shall inure to and be binding on their respective successors and permitted assigns.
- VIII. Sham or Collusion.** The proposal of any offeror or offerors who engage in collusion shall be rejected. Any offeror who submits more than one proposal in such a manner as to make it appear that the proposals submitted are on a competitive basis from different parties shall be considered a collusive offeror.
- IX. Debarment.** By submitting their proposal, offerors certify that they are not now debarred by the United States, the Commonwealth of Virginia, or any town, city or county within the Commonwealth of Virginia, from submitting proposals on contracts for the services described in this RFP, nor are they an agent of any person or entity that is now so debarred.
- X. Rejection of Proposal.** The Town reserves the right to reject any and all proposals, to waive any informality or irregularity in the proposals received, and to make the award to the offeror whose proposal is deemed to be in the best interest of the Town.

Response to Request for Proposals (RFP)
Town of Cape Charles
Historic District Zoning Consulting Services
Dated April 22, 2021

Response Date: May 28, 2021

Submitted by:



536 W 35th Street • Norfolk, VA • 23508

Qualifications of Offeror/Firm Profile

Commonwealth Preservation Group (CPG) is a small, micro, woman owned, minority owned business (see copy of certificate attached) established in 2004. CPG provides preservation planning and design, historic rehabilitation tax credit, and historic resource and National Register nomination consulting services. CPG has worked with homeowners, architects, historical societies, developers, religious institutions, and state and local government to guide proper rehabilitation of historic buildings, identify and survey historic resources, ensure compliance with appropriate state and Federal regulations, and to promote sound preservation planning. CPG performs work throughout the country. To date, CPG has consulted on over 450 preservation projects to ensure compliance with the Secretary of the Interior's Standards for Rehabilitation. In addition, CPG has completed over 75 historic district and individual nominations for properties listed on state historic registers and the National Register of Historic Places; this designation not only provides state and federal recognition of historic resources, but also opens the door to the availability of historic tax credits for contributing buildings. CPG staff has consulted on Section 106/Environmental Compliance projects for the US Navy, US Army, US Army Corps of Engineer, National Park Service, US Department of Agriculture, and various state and local governments as well as private sector clients. CPG has also provided preservation planning services for the City of Virginia Beach, Brunswick County, the City of Alexandria, VA, the City of Norfolk, VA, the City of Suffolk, VA, the Virginia Department of Historic Resources, and Preservation Virginia.

CPG has a long track record of working with local governments on their local historic district review process, guidelines and ordinances. CPG staff is currently working on several design guidelines projects which also involve ordinance review and update recommendations. We are working in the Town of Herndon, the City of Suffolk, and the City of Virginia Beach on similar projects to the one outlined in the Town of Cape Charles RFP. **For more specific information about our experience in developing historic district zoning ordinances, historic district zoning action procedures, and historic district design guidelines, please see enclosed team member resumes.**

Principals-in-Charge

Paige and Marcus Pollard are the company owners, and are personally involved in each project that the firm undertakes. In addition to the principals, CPG employs 8 staff members. All professional staff meet the US Department of the Interior's Professional Qualification Standards for History, Architectural History and Historic Architecture.

Paige received her undergraduate degree in City Planning with a minor in Architecture from the University of Virginia, and a graduate degree in Historic Preservation from the University of Georgia. Prior to establishing CPG, she managed the Virginia Department of Historic Resources Local Government Assistance Programs (including managing the Certified Local Government program and Cost Share Survey and Planning program) as well as the department's Tidewater Region Preservation Program, working with property owners and local governments from over 30 cities and counties. In addition, Paige has experience at the municipal level having worked for the City of Norfolk as a historic preservation planner. In that role, she revised the local historic

district design guidelines, expanded the Virginia Landmarks Register and National Register listed Downtown Norfolk Historic District, and reported to the Norfolk Design Review Committee, City Planning Commission and City Council on issues related to historic resources. Paige started her career as staff Architectural Historian for the Georgia Department of Transportation, handling Section 106 and Section 4(f) compliance, evaluation and mitigation for projects throughout the state of Georgia.

Marcus received his undergraduate degree in History and Art History from the University of Virginia. Prior to working at CPG, Marcus taught advanced placement high school courses in European History, Government and Art History. Marcus left a teaching position with Norfolk Collegiate School in 2005 to take over development of various state and National Register nominations for the firm. Since then, he has led the preparation of numerous nominations ranging from an historic African American public school to industrial warehouse complexes to small and large historic district nominations. Marcus' strong background in history and research is evident in the nominations he prepares, as they are known for the breadth and depth of information explaining the context and significance of the resources being nominated.

COMMONWEALTH OF VIRGINIA



DEPARTMENT OF SMALL BUSINESS & SUPPLIER DIVERSITY

101 N. 14th Street, 11th Floor
Richmond, VA 23219

COMMONWEALTH PRESERVATION GROUP, LLC

is a certified Small, Micro, Women Owned, Minority Owned
Business meeting all the requirements set forth under the Code of Virginia Section 2.2-16.1 et seq.
and Administrative Code 7VAC 13-20 et seq.

Certification Number: 674867

Valid Through: Jan 11, 2023

Accordingly Certified

A handwritten signature in blue ink, appearing to read "Tracey G. Willey".

Tracey G. Willey, Director



PAIGE WEISS POLLARD

(757) 923-1900

paige@commonwealthpreservationgroup.com



EDUCATION

University of Virginia, School of Architecture

May 1995

Bachelor of City Planning

Minor in Architectural Design

Concentration in planning, architecture, and historic preservation.

University of Georgia, School of Environmental Design

May 1999

Master of Historic Preservation

Coursework in design guidelines, historic preservation law, landscape management, urban policy, and real estate.

PROFESSIONAL EXPERIENCE

Commonwealth Preservation Group, LLC

2004 - Present

Principal

Own and operate Commonwealth Preservation Group, LLC, a small, women-owned historic preservation consulting firm specializing in Historic Preservation Planning, Historic Rehabilitation Tax Credit applications, National Register of Historic Places and Virginia Landmarks Register nominations, and Cultural Resource Management. Tasks involve overseeing staff, managing projects which involve building treatment, including evaluation, mitigation and environmental compliance, building renovation plans, finishes, code compliance and hazard mitigation strategies. Also serve as primary manager for work related to historic preservation review and compliance.

Virginia Department of Historic Resources

2001 - 2004

Local Government Assistance Programs Manager/Architectural Historian

Primary responsibilities included management of the Department's Local Government Assistance Programs, which includes the statewide Cost Share Survey and Planning (Cost Share) program and the Certified Local Government (CLG) Program; and management of the Department's Portsmouth Region preservation program for 30 cities and counties. Acted as departmental liaison to all localities throughout the state on preservation planning issues; developed and conducted Architectural Review Board training and provided guidance in the development and improvement of local preservation ordinances. The regional preservation program involved development and oversight of education, outreach, training, and advocacy activities for departmental programs, including the Virginia Rehabilitation Tax Credit Program, National Register of Historic Places, Virginia Landmarks Register, and Easement Programs, among others.

City of Norfolk Department of Planning

1999 - 2001

Senior Planner

Staff to the Norfolk Design Review Committee and City Planning Commission (review bodies for applications for locally designated historic properties and new construction projects with City involvement). Responsible for preparing and presenting proposals for historic preservation and new design initiatives and activities to City Council, city departments, neighborhood groups, and other organizations. Represented the Department of Planning on interdepartmental and external committees (including those managed by the Norfolk Redevelopment & Housing Authority); committee assignments focused on those related to design, infill construction & building rehabilitation initiatives. City liaison to the Virginia Department of Historic Resources; support and management of historic preservation activities within the City of Norfolk including coordination of Historic Preservation Week, Design Review Awards, etc.

Georgia Department of Transportation

1995 - 1997

Senior Planner

Served as staff in the Office of Environmental Compliance evaluating projects to determine if they triggered Section 106 of Section 4(f) obligations under the NEPA. Surveyed and evaluated eligibility, established area of potential effect, evaluated impact and prepared submittals for review and acceptance by the Georgia Historic Preservation Division (GA SHPO). Conducted coordination with consulting parties, community outreach and engagement, and developed mitigation strategies to best advantage of interested parties and historic preservation best practices. Undertook mitigation including medium and large format photographic documentation, historic research and public programming.

SELECTED PROJECTS

Winton Country Club, VA

Consultant to private developer seeking funds from USDA for installation of solar arrays on historic Winton Farm, and also within the Clifford-New Glasgow Historic District. Performed site analysis, assessment of effects and recommended mitigation for adverse effect resulting from installation of solar arrays. Currently assisting with development of Memorandum of Agreement prior to initiating mitigation work. Served as prime for cultural resource compliance, and sub-contracted archaeological work to ensure appropriate assessment of sub-surface impacts.

Norfolk, VA

Architectural Historian and historic rehabilitation tax credit consultant for conversion of numerous multi-unit residential buildings in Downtown Norfolk, Ghent, and Park Place to owner occupied condominiums utilizing State and/or Federal Historic Rehabilitation Tax Credits. Project partners include the City of Norfolk, Norfolk Redevelopment & Housing Authority, and private developers.

Portsmouth, VA

Principal Investigator for mitigation documents for Dry Docks 1 and 4, including National Historic Landmark documentation and large format photography for the Norfolk Naval Shipyard Dry Dock Flood Protection Improvement projects. Prepared preliminary assessment, mitigation projections

(including scope and pricing) for Dry Dock 3 as part of Moffatt & Nichol team under J/V with Burns McDonald. Scope included coordination with Cultural Resource Managers (CRMs) from NAVFAC Midlant, NNSY, and Public Information Officers, as well as the Virginia Department of Historic Resources. Currently overseeing renovations and 106 compliance efforts for NNSY Building 11 in coordination with NAVFAC Midlant and NNSY CRMs.

Indian Head, MD

Principal Investigator for evaluation of Building 303, preparation of building assessment and quality assurance plan/historic structure treatment plan for rehabilitation in accordance with stipulations imposed by the Maryland Historic Trust (MHT) resulting from 106 review.

VA Department of Corrections, Various Locations

Principal Investigator on various survey and documentation projects triggered by environmental review by the Virginia Department of Historic Resources. Current projects include the Culpeper Correctional Facility, Culpeper and the Virginia State Farm, Goochland & Powhatan Counties. Documentation includes historic research, architectural survey, assessment of effects and development of historic context for properties to inform future project review determinations.

PROFESSIONAL AFFILIATIONS

National Alliance of Preservation Commissions – Member	2001-Present
NAPC Board Member	2004-2012
NAPC Representative to Advisory Council on Historic Preservation	2010-2012
Virginia Conservation Network – Board Member	2005-2015
Preservation Virginia Member	2004-Present
City of Norfolk Historic and Architectural Preservation Committee	2010-2014
City of Norfolk Architectural Review Board Member	2014-2018

KATIE PAULSON

(540) 246-2496

katie@commonwealthpreservationgroup.com



EDUCATION

James Madison University

May 2006

Bachelor of Arts in Media Arts and Design;

Minor in Art History

Concentration in print journalism and graphic design.

The University of Texas at Austin, School of Architecture

May 2013

Master of Science in Historic Preservation

Coursework in graphic documentation, materials conservation, sustainable preservation, historic preservation law, and GIS.

PROFESSIONAL EXPERIENCE

Commonwealth Preservation Group, Norfolk, VA

2014 – Present

Preservation Project Manager

Specializes in building treatment, specifically Historic Rehabilitation Tax Credit applications. Responsibilities include researching properties, documenting building conditions, reviewing architectural plans, describing proposed scopes of work, and coordinating with homeowners, developers, and architects to create sensitive rehabilitations that adhere to and comply with the Secretary of the Interior's Standards for Rehabilitation.

Provides support for general preservation consulting projects, including local historic district design guidelines, treatment plans, and Section 106 compliance. Deliverables for completed projects include local historic district guidelines for Suffolk and Herndon, a prototype for an Architectural Review Board training program, and treatment guidance documents for historic resources at Fort Monroe and Fort Norfolk.

Cornland School Foundation

2013 – 2014

Executive Director

Directed program development for the rehabilitation and future use of a historic schoolhouse in a volunteer capacity. Main responsibilities included advising the Board of Directors and subcommittees on preservation planning and practice, establishing a business plan for the organization, and researching grant and fundraising options.

Preservation Austin

2010 – 2013

Administrative Assistant

Responsible for bookkeeping and administrative tasks for preservation non-profit, including database management (Excel and Access), customer service, and event support. Served on Preservation Committee aiding in the development and implementation of policies and positions for the organization.

SELECTED PROJECTS

Suffolk, VA

Primary author of local historic design guidelines rewrites and redesign. 2018-present.

Norfolk, VA

Architectural Historian and historic rehabilitation tax credit consultant for on-going rehabilitation of three historic warehouses. Scope of work includes coordination of single development project into three historic tax credit applications. 2017-2020.

Norfolk, VA

Architectural Historian and historic rehabilitation tax credit consultant for the rehabilitation of the Old Dominion Peanut complex into a mixed-use development. Scope of work includes coordination of single development project into six historic tax credit applications. 2017-2020.

Norfolk, VA

Architectural Historian and historic rehabilitation tax credit consultant for the rehabilitation of the Basilica of St. Mary of the Immaculate Conception. Scope of work included updating the National Register nomination to accurately describe the existing resources, site conditions and allow for the inclusion of a 1960s school building as a contributing secondary resource. 2015-2021.

Petersburg, VA

Architectural Historian and historic rehabilitation tax credit consultant for rehabilitation of the Petersburg Ice Plant into Trapezium Brewing Co. and adjacent multi-unit residential building. 2014-2016.

PROFESSIONAL AFFILIATIONS

Virginia Beach Historic Preservation Commission	2014-Present
Historical Register Review Committee, Chair	2014-Present
Executive Committee, Secretary	2015-2017
National Trust for Historic Preservation – Member	2012-Present
National Alliance of Preservation Commissions – Member	2016-Present
Society of Architectural Historians – Southeast Chapter Member	2019-Present

JERYL ROSE PHILLIPS, AICP

(757) 923-1900

jeryl@commonwealthpreservationgroup.com



EDUCATION

University of Virginia, School of Architecture

May 1991

Master of Urban + Environmental Planning

Concentration in land use and environmental planning.

College of William and Mary

May 1989

B.A., Government

Minor in English

Concentration in local and state government.

PROFESSIONAL EXPERIENCE

Commonwealth Preservation Group, LLC

2018 – Present

Planning Associate

Assists on a variety of historic preservation planning projects for small historic preservation consulting firm. Current projects include: federal military facilities Section 106 NHPA compliance annual reporting and training, project management for the RISE Resiliency Innovation Fund grant to Building Resilient Solutions, LLC (CPG-affiliated startup), and Brunswick County, VA IDA public engagement and community visioning for Town of Lawrenceville Historic District. Recent projects: Historic Context Report for the Fort A. P. Hill Architectural Survey (Caroline County, VA), Historic District Survey photo inventory (Warrenton, VA), and historic research support for the Sylvania Industrial Plant (Spotsylvania, VA) Preliminary Information Form for a National Register of Historic Places nomination. Provides support for Historic Rehabilitation Tax Credit Parts 1 and 3 applications assembly as needed.

City of Virginia Beach, VA

Department of Planning and Community Development

2010 – 2016

Comprehensive Planning Coordinator

Managed the Department's Comprehensive Planning Division. Primary responsibilities included preparation and maintenance of City's Comprehensive Plan (Comprehensive Plan update – *It's Our Future: A Choice City*, 2016); area master planning (Strategic Growth Areas *et als*) including consultant management; comprehensive plan amendments; comprehensive plan consistency reviews for discretionary applications requiring City Planning Commission and City Council

action; historic preservation planning and management program oversight; and, Division budget preparation and management. Other responsibilities included coordination with various city departments and the City Manager's Office and planning coordination with Community Planning Liaison Officers (CPLOs) at NAS Oceana and JEB Little Creek-Ft. Story for strategic growth area planning, comprehensive planning, and base encroachment conflict management. Served as department representative to Quality Physical Environment Strategic Issue Team and City Manager's Working Group on Sea Level Rise & Recurrent Flooding.

City of Norfolk, VA Department of Planning

2008 - 2010

City Planning Manager-Long Range

Managed the Department's Long-Range Planning Division responsibilities including comprehensive planning; area and neighborhood planning, including consultant management; comprehensive plan consistency reviews for discretionary applications requiring City Planning Commission and City Council action; General Plan amendments and updates (initial preparation of *PlaNorfolk 2030*, update of 1992 General Plan); VDOT 527 transportation impact analysis reviews for comprehensive plan amendments; long-range planning coordination with adjacent localities; coordination with Community Planning Liaison Officers at NS Norfolk, NSA Norfolk and JEB Little Creek-Ft. Story; and, neighborhood planning and development activity coordination and publicly-assisted housing capital program coordination with Norfolk Redevelopment and Housing Authority. Related responsibilities included land use planning support for current planning initiatives, including Transit-Oriented Development General Plan amendment and ordinance drafting in support of City's Light Rail Transit Starter Line; and program management of the Neighborhood Commercial Corridor Program (capital projects/corridor studies and commercial façade aesthetic improvement matching grants) and Cannonball Trail (heritage site markers).

City of Norfolk, VA

Department of Neighborhood Preservation, Office of Housing 2007-2008

Programs Manager for Neighborhood Planning

Promoted to City Planning Manager-Long Range after 6 months.

City of Suffolk, VA

**Office of Assistant City Manager for Development
*Plans & Policy Officer***

2002 - 2007

**City of Hampton, VA Department of Planning
*City Planner***

2001 - 2002

**City of Suffolk, VA Department of Planning
*Principal Planner***

1998 - 2001

**Hampton Roads Planning District Commission
*Principal Physical & Environmental Planner***

1991 - 1998

Physical & Environmental Planner II

SELECTED PROJECTS

Hampton Roads, VA

Project Manager for Building Resilient Solutions (BRS), a CPG-affiliate data library for recurrent flooding retrofit solutions for historic structures and the built environment. Recipient of inaugural RISE Coastal Community Challenge Resiliency Innovation Fund Grant (\$237,000). Grant project administration including: scope of work and budget preparation, procurement, accounts payable/receivable invoicing, data harvesting management, monthly reporting, business development and outreach, grant writing. Client report development. Business operations management and collaboration with preservation partner organizations. Application preparation for Historic Buildings in Special Flood Hazard Areas (SFHAs) Exemption Request (Norfolk, VA).

Various Air Force Bases

Preparation of Annual Reports to State Historic Preservation Officers (SHPO) for Barksdale, Langley and Bolling Privatized Housing (BLBPH), LLC (Hunt Military Communities) in compliance with Programmatic Agreements and Memorandum of Understanding stipulations regarding management of historic properties at federal facilities. Prepared and presented with CPG Principal a training module for BLBPH Community Directors and maintenance personnel on an overview of NHPA Section 106 and Programmatic Agreement/MOA Stipulations for historic properties management. Intended to be annual refresher and on-boarding training August 2018-present; multi-year contract.

Alexandria, VA

Historic research for state historic preservation easement property and VDHR Historic Highway Marker text revision.

Caroline County, VA

Conducted site reconnaissance and historical research to prepare the Historic Context Report portion of the Fort A. P. Hill Architectural Survey on an expedited deliverable schedule. October 2018 – February 2019.

Lawrenceville, VA

Historic District revitalization visioning exercise, preparation of PAR/PER (planning and zoning consistency analysis for Sledge & Barkley Building), preparation of Lawrenceville Historic District National Register Nomination Update (Sections 8 and 9), ongoing projects.

Spotsylvania County, VA

Assisted with historic research for PIF and National Register nomination for Sylvania Industrial Plant.

Warrenton, VA

Historic District survey photo inventory.

Various properties in Norfolk, VA, North Carolina, and Maryland

Parts 1 and 3 Federal and State Historic Rehabilitation Tax Credit Projects support to project manager, and preparation of local Historic Landmark application.

PROFESSIONAL CERTIFICATIONS AND AFFILIATIONS

American Institute of Certified Planners (AICP) – Member	2003-present
American Planning Association (APA) – Member	1990-present
Virginia Chapter of the American Planning Association (APA Virginia) – Member	1990-present
Board of Directors	1990-2017
Chapter President	2008-2012

JESS ARCHER

(818) 468-8896

jessica@commonwealthpreservationgroup.com



EDUCATION

University of Georgia

May 2004

Bachelor of Family and Consumer Sciences

Concentration in Furnishings and Interiors

Washington State University, Spokane

May 2012

Master of Arts, Interior Design

Savannah College of Art and Design

May 2014

Master of Fine Arts, Architectural History

Certificate in Historic Preservation

PROFESSIONAL EXPERIENCE

Commonwealth Preservation Group, Norfolk, VA

2019 - Present

Architectural Historian / Graphics Lead

Specializes in historic building reports, survey, and graphic design for individual properties and historic districts. Responsibilities include existing conditions and proposed work documentation of buildings and sites in alignment with the Secretary of Interior's Standards for Rehabilitation, detailed photography, field measuring and site sketches, reviewing and analyzing architectural plans, historic photos and related documents, and coordinating with property owners, developers, and local and state officials. Work related to graphic design includes operating PowerPoint, AutoCAD, Photoshop, InDesign, and Sketch Up for various projects and presentations.

Ithaca College

2016 - 2019

Interior Design/Project Coordinator

Interior designer, project manager, procurement liaison, and installer. Worked with faculty, staff, and students on various projects throughout the campus including renovation of computer labs, student meeting spaces, classrooms, offices, and conference rooms. Along with addressing ADA and health/safety concerns, managed contracts, orders, invoicing, and installations from vendors and contractors. Operation of AutoCAD on a daily basis for projects. Honed knowledge of construction, building materials, and project management.

Society of Architectural Historians

2015 - 2016

Archival Research Intern

Archived the Richard Longstreth photography collection for SAH's online database, SAHARA. Researched pertinent architectural history and geographical information regarding the 1,700+ donated photographs. Correct classifications within SAHARA and ARTSTOR were applied to the photographs to ensure the finding aid's consistency.

Keeping Interiors
Assistant Interior Designer

2015 - 2016

Paramount Pictures
Interior Design Assistant

2007 - 2009

SELECTED PROJECTS

Suffolk, VA

Graphics specialist on a redesign of the city's historic district guidelines. Scope of work includes performing field visits to the city and photographing most of the district's building stock to assess current status, developing more graphic-based standards. Clarity and simplification of the standards while maintaining best practices was the main goal.

Lawrenceville, VA

Architectural Historian and historic rehabilitation tax credit consultant for multiple properties in the Downtown Lawrenceville Historic District. Scope of work includes coordination with the Brunswick County Industrial Development Authority and private developers on rehabilitating vacant buildings throughout the downtown area by documenting site conditions, preparing AutoCAD drawings, and writing historic tax credit applications.

Lawrenceville, VA

Architectural Historian and graphics specialist for the Sledge and Barkley Building Preliminary Architectural/Engineering Report. Completed building documentation, detailed photography, and intensive-level survey of the Sledge and Barkley Building to create the Preliminary Architectural Report. Work also included measuring and producing scaled AutoCAD drawings of existing conditions as well as creating potential blocking plans and digital renderings for marketing and development purposes. Final document layout and graphics were also developed.

Lawrenceville, VA

Survey lead for the Downtown Lawrenceville Historic District update. Scope of work included field work preparation and past survey analysis, reconnaissance-level survey of 460 resources documented in the original district nomination, updating the Virginia Cultural Resource Information System, mapping, and site drawings.

Virginia Beach, VA

Architectural Historian for the Francis Land House Preservation Treatment Plan. Scope of work includes preliminary site visit for photographic and site documentation, review of proposed construction plans and analyzing them against the Secretary of Interior's Standards for Rehabilitation, and creating a treatment plan that makes recommendations based on the SOIS-R.

PROFESSIONAL AFFILIATIONS

Society of Architectural Historians, Member	2012-Present
Southeastern Society of Architectural Historians, Member	2012-Present
Phi Kappa Literary Society, University of Georgia, Alumni	2003-Present
American Association of Geographers, Member	2015-2017

Project Understanding

CPG understands that the Town of Cape Charles is requesting a review of all articles of the existing zoning ordinance (with special attention to Articles II, III, and VIII), as well as the design guidelines and guiding philosophy associated with the historic district and the recently completed public opinion survey and report. After reviewing the referenced documents, CPG staff will tour the district and document character defining features and any potential areas for boundary revisions. CPG will then identify any inconsistencies among the articles, zoning districts, associated documents and current state code. Using this information, we will develop map and boundary updates, recommended ordinance revisions, (including any items that can be inserted into the ordinance as Standards for Review), and also recommend items for Administrative Approval.

CPG will develop draft design guidelines that include an educational component intended to assist property owners and designers in understanding the expectations of the board in application development, as well as guidelines for the board to apply in review of applications. The guidelines will be broken into chapters for contributing resources, non-contributing resources and new construction as each, necessarily, will have different expectations. The guidelines will be developed in accordance with the Secretary of the Interiors Standards for Rehabilitation in order to ensure that the Town will maintain its CLG designation. They will also be developed using the new guiding philosophy that was adopted by Town Council as a foundational document.

In all, this effort will result in a streamlined set of design guidelines which will clarify expectations, and the approach to treatment of designated properties (contributing, non-contributing, and new construction). The end result will be a user friendly, graphically oriented, yet technically sophisticated document for more effective and efficient implementation of the local historic district regulations. The supplementary work will enable the Town to champion appropriate ordinance updates to address inconsistencies in existing documents, to establish Standards where feasible, and to accommodate Administrative Review in areas that are not detrimental to maintaining the historic character of the district and implementing the newly adopted preservation philosophy for the town.

As a Certified Local Government, the Town of Cape Charles must also coordinate its policies and procedures with the Virginia Department of Historic Resources (VDHR). CPG understands this obligation and welcomes the involvement of VDHR staff in any way. We will ensure the deliverables meet VDHR requirements and will coordinate any review or approvals which are necessary or desirable for the Town of Cape Charles.

In order to ensure a seamless process of adoption (including the necessary public hearing), CPG recommends engaging property owners within the district during development of the guidelines. We recognize all of the excellent outreach and engagement that has occurred so far, but in order to build trust among property owners who will be regulated by the design guidelines, it is very important to intentionally engage them during the process. This will enable us to explain the approach and address questions from property owners in advance of the public hearing to consider adoption of the guidelines.

CPG proposes to provide digital copies of all draft and final materials via a platform and application that is acceptable to the Town of Cape Charles. If hard copy documents are requested, CPG will provide those at cost based on the number of copies requested and format specifications.

Proposed Schedule

June 15, 2021	Notice to Proceed
June 15-June 30, 2021	Review all existing documents and identify inconsistencies/recommended revisions
June 30, 2021	Project Kick Off Meeting & Site Visit City Staff to Provide: • Sample Application • Sample Staff Report(s) • Sample Complete Application • Sample Approval Letter • Sample Appeal • Identify repeat complaints about current guidelines/process • Identify items working well in current guidelines/process • Copy of CLG agreement document Collect Process/Procedure Insight • Staff Perspective • Board Perspective • Property Owner Perspective
July 1-Sept 1, 2021	CPG develops outline and graphic sample of guidelines CPG develops outline of recommended ordinance updates
Sept 1-Sept 15, 2021	Town Staff (and VDHR as appropriate) review outlines and return comments
Sept 15-Nov 1, 2021	CPG develops design guidelines text draft CPG develops ordinance text draft CPG develops revised historic district map
Nov 1-Nov 15, 2021	Town Staff (and VDHR as appropriate) review drafts and return comments
Nov 15, 2022	Public Engagement Meeting
Nov 15-Jan 15, 2022	CPG revises draft – delivers Pre-Final draft (including map)
January 15-Feb 1, 2022	Town Staff (and VDHR as appropriate) review pre-final draft and return comments
Feb 1-March 1, 2022	CPG finalizes Guidelines and Ordinance language
March 1, 2022	CPG delivers final documents to Town (and VDHR as appropriate)
April 2022	Town of Cape Charles public hearing for adoption

Proposed Staffing and Fee

Cape Charles Design Guidelines			
TASK	HOURS	COST	STAFF
Review zoning, previous engagement, ordinance, guidelines, and processes	20	\$2,100.00	KP/JP
Summarize findings/recommendations	8	\$760.00	KP/JP
Visit and document district	8	\$760.00	JA/JP
Review boundaries, recommend map updates and prepare updated map	12	\$1,140.00	KP/JP/JA
Recommendations for ordinance update – including CLG agreement requirements, draft language	32	\$3,040.00	JA/KP
Designated Property Owner Input	8	\$760.00	KP/JP
Design guidelines text development	125	\$11,875.00	KP/JP
Design guidelines graphic development	100	\$9,500.00	KP/JA
Meeting/Presentation to Town Officials	18	\$1,710.00	KP/JP/PWP
Draft standards revisions	28	\$2,860.00	KP/JP
Draft Guidelines Public Presentation	16	\$1,520.00	KP/JP/PWP
Pre-final draft standards revisions	18	\$1,830.00	PWP/KP
Final Standards	10	\$1,090.00	KP/JP
Public hearing and presentation support	16	\$1,520.00	KP/JP/PWP
Total	419	\$40,465.00	

Cape Charles HD Design Guidelines – Revised Proposed Schedule – 8.2.2021

August 20, 2021	Notice to Proceed
Aug 20-Sept 8, 2021	Review all existing documents and identify inconsistencies/recommended revisions
Sept 8, 2021	Project Kick Off Meeting & Site Visit City Staff to Provide: • Sample Application • Sample Staff Report(s) • Sample Complete Application • Sample Approval Letter • Sample Appeal • Identify repeat complaints about current guidelines/process • Identify items working well in current guidelines/process • Copy of CLG agreement document Collect Process/Procedure Insight • Staff Perspective • Board Perspective • Property Owner Perspective
Aug 20-Nov 1, 2021	CPG develops outline and graphic sample of guidelines CPG develops outline of recommended ordinance updates
Nov 1-Nov 8, 2021	Town Staff (and VDHR as appropriate) review outlines and return comments
Nov 8-Dec 23, 2021	CPG develops design guidelines text draft CPG develops ordinance text draft CPG develops revised historic district map
Jan 7, 2022	Town Staff (and VDHR as appropriate) review drafts and return comments
Jan 24, 2022	Public Engagement Meeting
Jan 7-Feb 4, 2022	CPG revises draft – delivers Pre-Final draft (including map)
Feb 4 – Feb 11, 2022	Town Staff (and VDHR as appropriate) review pre-final draft and return comments
Feb 14- Feb 25, 2022	CPG finalizes Guidelines and Ordinance language
Feb 28, 2022	CPG delivers final documents to Town (and VDHR as appropriate)
TBD	Town of Cape Charles public hearing for adoption

 TOWN OF CAPE CHARLES	AGENDA TITLE: Dockage for Attraction Vessels		AGENDA DATE August 19, 2021
	SUBJECT/PROPOSAL/REQUEST: Approve Dockage Relief for Attraction Vessels		ITEM NUMBER: 7C
	ATTACHMENTS:		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Previous harbor masters have historically provided free or reduced dockage fees for certain vessels of public interest (attraction vessels); such as tall ships, historic vessels, and Navy ships, if such vessel were opened to the public while in our harbor. Research going back to 2000 and 2005, show some previous Council interest in allowing exceptions to dockage fees for this purpose; however, this practice has not been recently captured in any Council approved rate structures for the harbor.

ITEM SPECIFICS:

The newly hired Town contractor for harbor management (CCYC) is required to follow the published rate structure approved by the Council. To allow for CCYC consideration of dockage relief for attraction vessels, the Council is being asked to formally set a policy on this matter. The following policy is recommended:

Attraction Vessels, which include but are not limited to, tall ships, historic boats, and Navy vessels, will be provided free dockage at the Town harbor for up to three nights under the following conditions:

- The vessel provides notice 48 hours in advance and there is sufficient vacant space available at the time of notification
- The vessel is open to the general public for tours each day, for a minimum of 4 hours per day
- The vessel shall not charge for visitation, but may accept donations
- If the vessel is in Town for an established special event, an additional two days before and two days after will be allowed

RECOMMENDATION:

Staff recommends approval of the above policy.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Discussion of Town priorities		AGENDA DATE August 19, 2021
	SUBJECT/PROPOSAL/REQUEST: Discussion of short-term priorities for the town manager		ITEM NUMBER: 7D
	ATTACHMENTS: n/a		FOR COUNCIL: Action () Information (X)
	STAFF CONTACT (s): John Hozey, Town Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

At the February 18, 2021 regular Town Council meeting, the Council was asked to help prioritize a list of then current special projects. It has been six months since that discussion, and it is time for an update on the status of these projects, and to bring forward the next round of expected work.

ITEM SPECIFICS:

The following is the prioritized list and status of what was classified as unique projects in February; meaning things that were not part of the typical daily, weekly, or monthly duties of the town manager:

- Facilitate, draft, and publish a new Community Strategic Plan **(complete)**
- Meet with Departments and begin the FY22 budget development process **(complete)**
- Coordinate a critical administrative update to the zoning ordinance & hire a new zoning administrator
 - Zoning ordinance update **partially underway, but multi-faceted – see below**
 - Hire new zoning administrator **(complete) – planner position now needed**
- Manage the ongoing PPEA process for potential utility sale and recruit/hire consultant to advise
 - Hire PPEA consultant **(complete)**
 - Managing overall PPEA process – **ongoing**
- Review & revise HDRB ordinances, guidelines, and procedures
 - Initial review and new philosophy **(complete)**
 - Hire consultant for design guidelines revision **(complete) – final update pending**
- Assist in the development of the Town's Comprehensive Plan update – **pending**
- Push through the “reverse the reverse” parking issue on Mason Ave
 - Hire engineering consultant **(complete)**
 - Design exception submitted to VDOT **(complete) – final approval, design, and restriping pending**
- Assist with development projects as they come up (ie. old ferry dock area or potential rezones) – **ongoing**
- Address options for Town Hall replacement/renovation (#1 on the CAMP)
 - Issue RFP for architect **(complete)**
 - Review of proposals – **in progress**
- Continue cooperative efforts with CPS to minimize their operational impact to the Town – **ongoing**
- Develop and bring forward short term rental regulations/ordinances – **pending**
- Develop a plan with recommendations for boat/RV parking issues in the historic district – **pending**
- Develop tougher ordinances on golf cart violations **(completed)**

Projects still pending from above:

- Hire consultant to conduct a comprehensive review and update of the entire zoning ordinance
- Work with our consultant to finish due diligence on unsolicited proposals to acquire our utilities and begin the public process
- Work with our consultant and begin the six-month public process to finish review & revision of HDRB ordinances, guidelines, and procedures
- Work with our consultant on VDOT design exception and implement the reverse the reverse parking scheme on Mason Ave
- Engage architect to evaluate town facility deficiencies and develop options to address
- Hire consultant to manage the Comprehensive Plan update and assist with the public process
- Develop and bring forward short term rental regulations/ordinances
- Develop a plan with recommendations for boat/RV parking issues in the historic district

New Projects needed:

- Put together options and public discussion on recently received ARPA funding
- Put together comprehensive beach/dune development and maintenance plan
- Strategic plan annual survey and update

CAMP priorities:

- Municipal building deficiencies (listed above)
- Harbor Capital Evaluation Plan – pending
- Washington Ave sewer pump station upgrade – pending
- Mason Ave reverse the reverse (listed above)
- Trail Project – phase 3 - Peach Street – pending
- Park gazabo repairs (complete)
- Harbor structural piling repair – CCYC
- Conduct phase 2 of storm drain mapping – WWTP
- East Inter Harbor Rehab – CCYC
- Sewer pod controllers – WWTP
- Trash can replacement – PW

Combined Prioritized list:

- Continue working with our consultant to finish due diligence on unsolicited proposals to acquire our utilities and begin the public process
- Work with our consultant and begin the six-month public process to finish review & revision of HDRB ordinances, guidelines, and procedures
- Work with our consultant on VDOT design exception and implement the reverse the reverse parking scheme on Mason Ave
- Trail Project – Phase 3 - Peach Street
- Engage architect to evaluate town facility deficiencies and develop options to address
- Engage engineer to assess harbor infrastructure and develop capital plan
- Put together options and public discussion on recently received ARPA funding
- Hire consultant to manage the Comprehensive Plan update and assist with the public process
- Washington Ave sewer pump station upgrade
- Hire consultant to conduct a comprehensive review and update of the entire zoning ordinance
- Put together comprehensive beach/dune development and maintenance plan
- Strategic plan annual survey and update
- Develop and bring forward short term rental regulations/ordinances
- Develop a plan with recommendations for boat/RV parking issues in the historic district

Note, while the Town has many dedicated staff members doing very important work, it is critical to underscore that these public servants are typically fully engaged in their day-to-day duties and have very little “extra” time to take on unique projects. These types of unique projects (listed above), more often than not, fall to the town manager. However, the town manager too has many routine duties and must often deal with unanticipated issues that consume the majority of a normal working day. Therefore, when evaluating how quickly these types of projects can be accomplished, it is requested that expectations remain reasonable.

The combined list is presented in a recommended order of priority. Council is therefore asked if there is consensus to move any of these projects/initiatives up or down in priority.