

TOWN COUNCIL
Public Hearing & Regular Meeting
July 21, 2022
Cape Charles Civic Center
6:30 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Moment of Silence and Pledge of Allegiance
3. Public Hearing:
 - A. Conditional Use Permit Application for 211 Madison Avenue for an Accessory Dwelling Unit and Swimming Pool
 - B. Conditional Use Permit Application for 11 Randolph Avenue for an Accessory Dwelling Unit
– *(The application for 11 Randolph Avenue has been removed from the public hearing due to the cancellation of the July 5 Planning Commission Meeting.)*
4. Recognition of Visitors / Presentations / Recognitions
 - A. Recognition of Employee Celebrating a Significant Anniversary
5. Public Comments for items not subject to the advertised public hearing (3 minutes per speaker)
6. *Consent Agenda
 - A. Approval of Agenda Format
 - B. Approval of Minutes
 - C. Approval of May 31, 2022 Financial Report – *Due to technical issues, the May 31, 2022 Financial Report is not available for review.*
7. Unfinished Business:
 - *A. None
8. New Business:
 - *A. Virginia DHCD Industrial Revitalization Fund Grant for Rosenwald School Rehabilitation
 - *B. Conditional Use Permit Application – 211 Madison Avenue
 - *C. Rezoning Application – 238 Randolph Avenue
 - *D. Request to VDOT for Installation of Crosswalks
 - *E. Reappointment of Library Board Member
 - *F. Town Code Revision Ordinance Amendment for Section 42-17
 - *G. Wastewater Extension
9. Town Manager Comments
10. Mayor & Council Comments (5 minutes per speaker)
11. Announcements
 - August 4, 2022 – Town Council Work Session, 6:30 PM
 - August 18, 2022 – Town Council Public Hearing & Regular Meeting, 6:30 PM
12. Adjournment

TOWN OF CAPE CHARLES
Town Council – Public Hearing

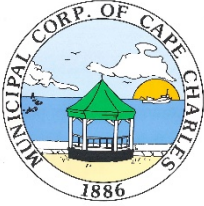
The Cape Charles Town Council will hold a public hearing on Thursday, July 21, 2022, at 6:30 pm in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive comment on the following requests:

- A. A Conditional Use Permit (CUP) 2022-003 application from Michelle and Nathan Davidson at 211 Madison Avenue (Tax Map #83A1-1-210 & 211) in the Residential-1 Zoning District for an accessory dwelling unit pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) and for a swimming pool pursuant to Cape Charles Zoning Ordinance Section 3.2 (C) (5).
- B. A Conditional Use Permit (CUP) 2022-004 application from Barbara and Bill O'Hare at 11 Randolph Avenue (Tax Map #83A3-2-3-1) in the Residential-1 Zoning District for an accessory dwelling unit pursuant to Cape Charles Zoning Ordinance Section 4.2 (J).

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

AD PLACED: Eastern Shore Post - Monday, June 27, 2022

AD TO RUN: Friday, July 1, 2022 & July 8, 2022

 TOWN OF CAPE CHARLES	AGENDA TITLE: Conditional Use Permit Application – 11 Randolph Avenue		AGENDA DATE July 21, 2022
	SUBJECT/PROPOSAL/REQUEST: CUP 2022-004: Barbara & Bill O'Hare at 11 Randolph Avenue		ITEM NUMBER: 3B
	ATTACHMENTS: CUP Application and Staff Report to Planning Commission on CUP ADU at 11 Randolph Avenue		FOR COUNCIL: Action () Information (X)
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning & Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The following legal ad was placed in the Eastern Shore Post in anticipation of a public hearing being held by the Planning Commission on July 5, 2022 to be followed by a Public Hearing by the Town Council on July 21, 2022.

A Conditional Use Permit (CUP) 2022-004 application from Barbara and Bill O'Hare at 11 Randolph Avenue (Tax Map #83A3-2-3-1) in the Residential-1 Zoning District for an accessory dwelling unit pursuant to Cape Charles Zoning Ordinance Section 4.2 (J).

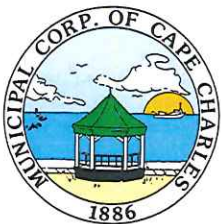
However, the Planning Commission did not have a quorum for their July 5, 2022 meeting so the meeting was cancelled and staff has already submitted revised legal public notices, moving the public hearings to August at our respective meeting dates of August 2, 2022 for the Planning Commission and August 18, 2022 for the Town Council.

ITEM SPECIFICS:

Since the Planning Commission has not heard this matter and has not provided any recommendation to the Town Council, the Town Council is not able to take any votes on this matter to approve, approve with conditions, or deny this application. Because of the lack of the quorum, this has required the Town to reschedule and re-advertise the public legal notification for both bodies for your respective Regular meeting calendars in the month of August.

RECOMMENDATION:

I would recommend that the Town Council announce this information and indicate that this matter has been rescheduled to August 18, 2022 but will allow and accept anyone who has chosen to attend the July 21, 2022 their comments will be entered into the record both for the July meeting as well as the August meeting



CONDITIONAL USE PERMIT APPLICATION

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

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

- ☒ Completed application (if applicable, attach accessory dwelling checklist and documents)
- ☒ Letter of intent clearly explaining project
- ☒ Existing site plan or survey
- ☒ Proposed site plan or survey (if applicable)
- ☒ Names and addresses of adjacent property owners
- ☒ Payment of Fees (single-family detached residential \$600; all other \$800)

PROJECT INFORMATION

Name of Project: Living Area in Garage
Property Address: 11 Randolph Ave. Cape Charles
Brief Description of Project: Garage Renovation
Zoning District: R1 Current Use: garage Proposed Use: garage & living area

OWNER INFORMATION

Name and Company: Barbara & Bill O'Hare
Mailing Address: 11 Randolph Ave, Cape Charles
Phone Number: 410-707-1610 Email: barboh5@gmail.com
443-472-7434 billohare1@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: Barbara O'Hare Date: 4/29/2022

W. B. O'Hare

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

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: 4/29/2022

Address: 11 Randolph Ave.

The following criteria are required for one accessory dwelling to be maintained on a property in the R-E, R-1, R-2, and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3:

1. Is the accessory dwelling unit located in an accessory building? YES ☒ NO ☐
2. Does the accessory dwelling floor area exceed of forty-five (45) percent of the floor area of the main building? YES ☐ NO ☒ Accessory Dwelling Unit square footage 720 sq ft
3. Does the accessory dwelling have one kitchen ^{etc} and one bathroom? YES ☒ NO ☐ microwave & fridge
4. Does the accessory building/dwelling differentiate from the single-family dwelling? YES ☒ NO ☐

The following conditions must be maintained for an accessory dwelling unit on a property in the R-E, R-1, R-2, and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3:

1. Occupancy characteristics.
 - a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.
 - b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.
2. Other requirements.
 - a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.
 - b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
 - c. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6. (Table of Parking Standards) using both on and off-street parking areas.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.

CERTIFICATION OF APPLICANT

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

Signature of Owner: Burtal O'Hare

Applicant
Signature of Applicant: AW B O'Hare

April 29, 2022

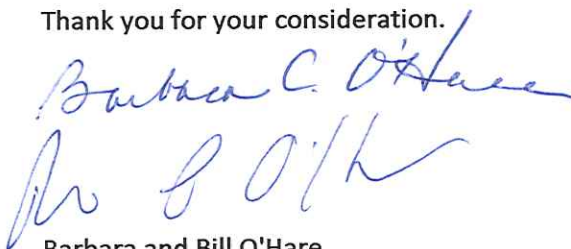
Ms. Katie Nunez
Town of Cape Charles
Planning and Zoning Department
2 Plum Street
Cape Charles, VA 23310

Dear Ms. Nunez:

We are asking for approval to expand our living area at our home by building a room in our existing garage at 11 Randolph Ave. The garage currently has room for one car, as well as a tool bench, open storage, and storage room. Half of the building will remain a garage.

Currently, our house has three rooms upstairs, one of which my husband uses as an office, and an open living room area and kitchen on the main floor. We would finish the room in the garage as additional living space. We would also add a small bathroom and a kitchenette area with a mini-fridge and a microwave. This room will give us space for Barbara to move her desk and computer out of the kitchen!

Thank you for your consideration.

Handwritten signatures of Barbara C. O'Hare and Bill O'Hare in blue ink.

Barbara and Bill O'Hare
11 Randolph Ave.

Neighbors:

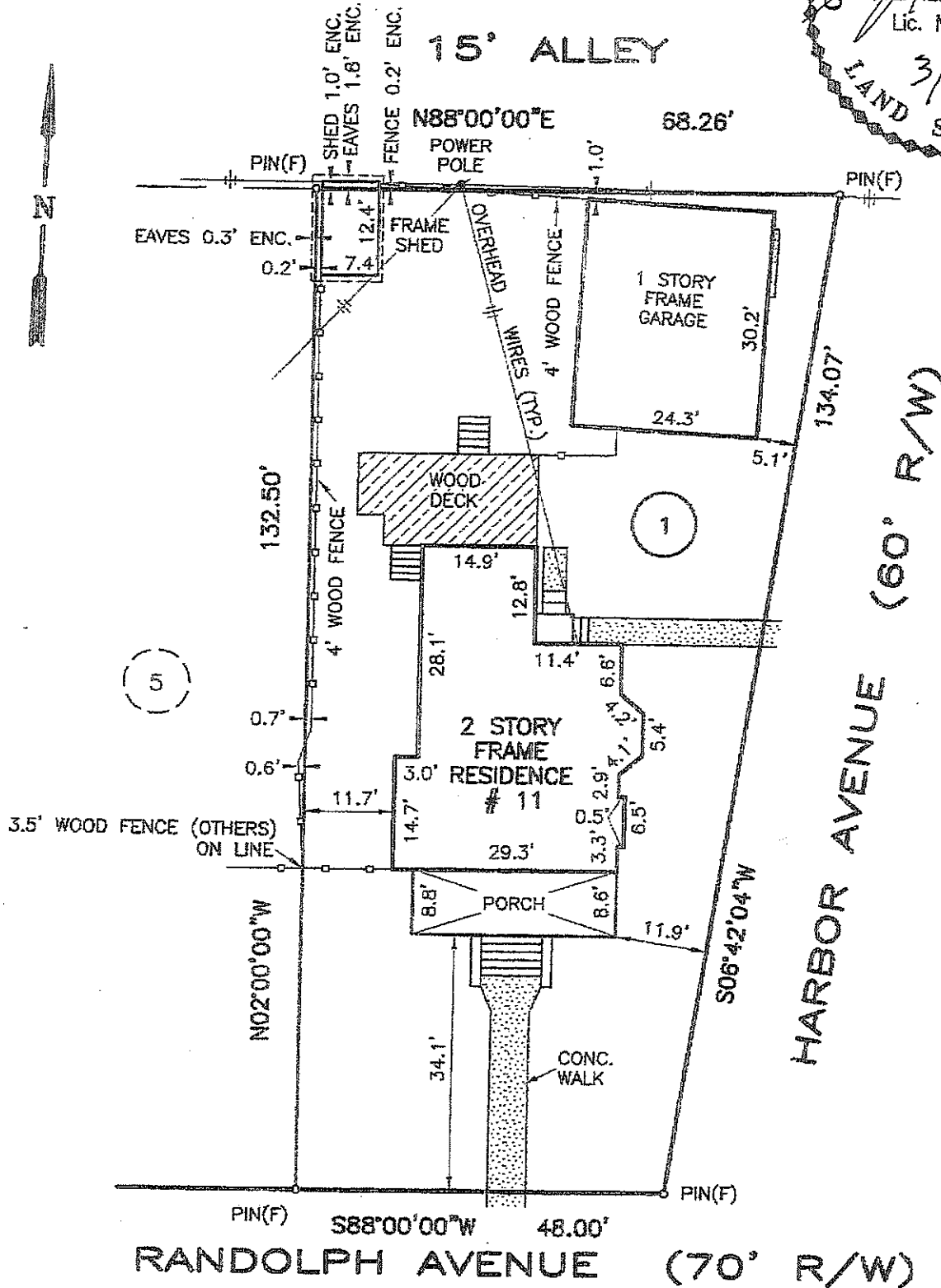
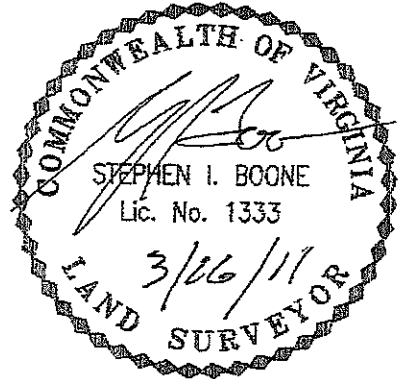
Steve and Claudine Pierce 10 Tazewell Ave.

Nick and Elaine Alpern 9 Randolph Ave.

THIS IS TO CERTIFY THAT ON MARCH 11, 2011, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE SHOWN ON THIS PLAT. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.

THE RESIDENCE SHOWN HEREON APPEARS TO BE IN FLOOD ZONE "AE"
FIRM MAP TOWN OF CAPE CHARLES COMMUNITY NO. 510106
MAP REVISION: AUG. 28, 2008 MAP/PANEL NO. 51131C0295E

THIS SURVEY PERFORMED WITHOUT
THE BENEFIT OF A TITLE REPORT.





PLANNING COMMISSION STAFF REPORT

Meeting Date: July 5, 2022

Item #4A & 7A – CUP 2022-004

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

Date: June 28, 2022

APPLICANT: Bill & Barbara O'Hare

SITE ADDRESS: 11 Randolph Avenue

TAX MAP: 83A3-2-3-1

LOT SIZE: 8,960 sq ft

TYPE OF APPLICATION: Conditional Use
Permit 2022-04

SPECIFIC REQUEST: An Accessory Dwelling
Unit within an Existing Accessory Structure

ZONING ORDINANCE: Section 4.2 (J)

CURRENT ZONING: Residential (R-1)

DATE RECEIVED: March 26, 2022

DATE DEEMED COMPLETE: May 30, 2022

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): August 30, 2022

NARRATIVE OF PROPOSAL

The applicant is seeking to obtain a Conditional Use Permit to convert 50% of an existing, 720 square foot Garage Accessory Structure for an Accessory Dwelling Unit. The applicant has provided a signed Accessory Dwelling Unit Affidavit and is aware of the requirements regarding Length of Stay but has indicated in her narrative that she is primarily looking to utilize as personal office space for herself.

The property is in zoning compliance, and she is not seeking to add square footage but to convert a portion of an existing accessory structure for this purpose and currently provides one on-lot parking space which would comply with our ordinance requirements, since no on-lot parking spaces are required for the principal residence in the R-1 District

AERIAL MAP: Property outlined in blue



ORDINANCE REQUIREMENTS

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

Accessory Dwellings. One accessory dwelling may be maintained on a property in the R-E, R-1, R-2 and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3, and subject to the following:

1. Physical characteristics.

- a. Accessory dwellings shall be located in an accessory building.*
- b. Accessory dwellings shall not have a floor area exceeding forty-five (45) percent of the floor area of the main building.*
- c. Accessory dwellings shall have one kitchen and one bathroom.*
- d. Accessory buildings shall not have the appearance of a single-family dwelling.*

2. Occupancy characteristics.

- a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.*
- b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.*

3. Other requirements.

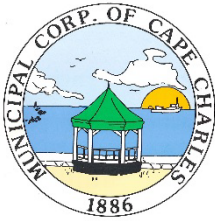
- a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.*
- b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.*
- c. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6. (Table of Parking Standards) using both on and off-street parking areas.*
- d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.*

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission review the application and conduct the public hearing and consider an affirmative recommendation on CUP2022-004: Conditional Use Permit for an Accessory Dwelling Unit at 11 Randolph Avenue on an application filed by Barbara & Bill O'Hare, pursuant to Cape Charles Zoning Ordinance Section 4.2 (J).

Attachments:

Attachment 1 – CUP Application Packet



DRAFT
TOWN COUNCIL
Regular Meeting
Cape Charles Civic Center
June 16, 2022
6:30 PM

At approximately 6:30 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Regular Meeting 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 arrived at 6:38 p.m. Also, in attendance were Town Manager John Hozey, Interim Planner/Zoning Administrator Katie Nunez, Police Chief Jim Pruitt, Assistant to the Town Manager Julie Pruitt, and Town Clerk Libby Hume. There were 15 members of the public physically in attendance, and 24 viewers on Facebook.

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

RECOGNITION OF VISITORS / PRESENTATIONS:

A. *Recognition of Employees Celebrating Significant Anniversaries:*

Mayor Dize stated that there were three employees celebrating significant anniversaries that he would like to recognize.

Bob Panek was celebrating 15 years of service effective March 6, 2022, and had been in a lot of different roles with the Town including consultant, manager, and part-time project manager. He appreciated all the work Mr. Panek had done for the Town. Mr. Panek was not in attendance this evening, so the certificate was given to John Hozey.

Andrew Spencer celebrated 10 years of service effective April 3, 2022. Mr. Spencer was now a police officer but was hired initially for a position at the harbor. Officer Spencer was not in attendance, so his certificate was given to Chief Pruitt.

Dejohn Stratton celebrated 5 years of service effective June 5, 2022. Mr. Stratton was a member of the Public Works crew. Mayor Dize expressed his appreciation for all Mr. Stratton did to help keep the Town clean.

B. *Best of Virginia Presentation – Cape Charles Beach:*

Councilwoman Holloway, in her role as past president of Cape Charles Main Street, stated that earlier this week, 23 Best of Virginia awards were presented to businesses and other entities. The Cape Charles Beach won for Best Tourist Attraction. Councilwoman Holloway thanked the Public Works crew for the great job they did to help keep the beach clean. The award was presented to Mayor Dize.

PUBLIC COMMENTS: (3 MINUTES PER SPEAKER)

Tom Weaver, homeowner

Mr. Weaver began by thanking all involved in the budget process adding that it was a rigorous and time-consuming effort to put everything together. Mr. Weaver stated the following: i) He compared the numbers from FY 2021 to FY 2022-2023 and noticed some significant changes; ii) He asked whether there was anyone on the Town’s staff who could pursue federal and state grants which were available to help the Town do specific things and suggested that it might be something Council might want to consider; iii) Health insurance was a significant expense and he asked about the percentage breakdown for the Town and employees. John Hozey responded that the Town paid for the employee at 100%, but not for dependents.

Mayor Dize stated that although the public comment period was not for open discussion, he wanted to respond to Mr. Weaver about grants. Grants were available for certain projects. When he was the harbor master, grants were obtained for many of the harbor improvements. Bob Panek saved the Town a considerable amount of money by applying for grants for the wastewater treatment plant. The Town also received grants for the Community Trail project. Grants were good as a funding source but were not guaranteed and required staff time to administer.

Dianne Davis, homeowner

Ms. Davis addressed Council regarding the historic district and guidelines, consultation with Chief Pruitt regarding decisions affecting safety, and budgeting for sidewalks. (Please see attached.)

Tevya Griffin, president of the Cape Charles Rosenwald School Restoration Initiative (CCRSRI)

Ms. Griffin began by thanking the Council for the opportunity to speak then proceeded as follows: i) She thanked the Town for its continued support of the Rosenwald School, especially for the donation of adjacent property on Old Cape Charles Road. The property would be used for a parking lot as well as for recreation and open space. Recreational trails were being planned; ii) To date over \$565K had been raised for phase 1 of the project which included demolition of interior items within the building, roof replacement, tree trimming and removal, historic window restoration, and temporary electrical service. Two bids were obtained for the roofing, and permits had already been obtained from the Town for the tree removal; iii) There was an opportunity through the Virginia Department of Housing and Community Development (DHCD) for an Industrial Revitalization Funds (IRF) grant. This year, each locality was permitted to apply for two projects, and she was hopeful that the Rosenwald School project could be one of the Town's projects. It could apply for up to \$1M in funding, with no match required. Phase 2 of the project was estimated at \$985K and could be covered by this grant. Phase 2 included framing, electrician roughing, HVAC, sprinkler system, a kitchen vent hood, fire suppression system, window installation, and other work. The IRF grant application submittal deadline was August 19, 2022. She believed the project met all the criteria for the grant and a Town Council resolution was needed; iv) She recognized Beth Walker, project manager; Dianne Davis, member of the CCRSEI Board and former student of the school; William Knight, CCRSI Board member; and Dave Wilcox, from the Global Skills Exchange, who was helping to identify potential uses for the building. CCRSRI was working with Mr. Wilcox regarding workforce development and training, and a commercial kitchen; v) CCRSRI saw the project as a multi-generational use facility which could help improve opportunities for the residents of Northampton County. They were also working with the Eastern Shore Community College which would have class space in the facility to provide education and employment opportunities.

Jim Altadonna, resident

Mr. Altadonna addressed the Council regarding the potential sale of the water and wastewater systems: i) Had anyone checked with the county regarding the assessed value of the infrastructure? ii) He had spoken with John Hozey and understood that although the Hampton Roads Sanitation District (HRSD) could now maintain water systems, they were limited to systems with up to 1K users. He asked Council to split the water and sewer systems so HRSD could take over the sewer service; iii) The Town outsourced trash and asked how many Town employees were moved to the private entity when this was done. How many employees would transfer to the company taking over the water and sewer services? Mayor Dize stated that this period was for Council to listen to public comments, not for engaging with discussion or debate with the public. Councilwoman Holloway noted that these questions had been discussed in previous meetings and suggested that Mr. Altadonna watch the video recordings; iv) If the water and sewer systems were outsourced, John Hozey's duties would be reduced so what role would he take on then?

Loraine Huchler, non-resident property owner

Ms. Huchler addressed Council regarding a new municipal building and the water and wastewater plants. (Please see attached.)

Town Clerk Libby Hume read comments submitted in writing from Mr. Sam Jones and Ms. Julie Jones. (Please see attached.)

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

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. May 5, 2022 Town Council Work Session
 - ii. May 12, 2022 Town Council Work Session
 - iii. May 19, 2022 Town Council Public Hearing & Regular Meeting
 - iv. May 26, 2022 Town Council Work Session
 - v. June 9, 2022 Town Council Public Hearing
- C. Approval of April 30, 2022 Financial Report

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

UNFINISHED BUSINESS:

There was no unfinished business for review.

NEW BUSINESS:

A. *Adoption of Budget Management Policy:*

Town Manager John Hozey stated that during the Fiscal Year (FY) 2023 budget development process, it was noted that there was no formal guidance from the Town Council delegating responsibility to the town manager regarding his authority to manage funds within the budget once the budget was adopted and appropriated. A Budget Management Policy was developed and reviewed during the budget work sessions allowing the town manager some discretion within set parameters to move money within funds to react in real time to unanticipated needs of the Town. The procedures were also reviewed by the Town's auditors who agreed that the policies were reasonable and prudent.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt Resolution 20220616 Establishing a Budget Management Policy. The motion was approved by unanimous vote. Roll call vote: Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

B. *Adoption of FY 2023 Budget:*

John Hozey stated that the Town Council held work sessions to develop the proposed FY 2023 budget. At the May 12, 2022 work session, it was determined that projected revenues were in excess of current and strategic requirements and there was a consensus to reduce the real estate tax rate by \$.0985 per \$100 to \$.2159 per \$100; and the personal property tax rate by 50% to \$1.00 per \$100. The proposed budget included \$4M for the General Fund, \$1.9M for the General Capital Projects Fund, \$249K for the General Debt Service Fund, \$919K for the General Special Activities Fund, \$2.6M for the Public Utilities Fund, \$1.1M for the Harbor Fund, and \$442K for the Sanitation Fund. Contract support for trash collection increased over the last year requiring the increase of the trash collection fee by \$1.60 for a total of \$18.28 per month per receptacle. An updated schedule of building and zoning fees was included in this budget authorization. All other proposed rates and fees, including utility fees, were unchanged from FY 2022. The public hearing was held on June 9, 2022 with one comment received.

Motion made by Councilman Grossman, seconded by Councilman Follmer, to adopt Ordinance 20220616 Approving the Budget for Fiscal Year 2023 and Building, Planning and Zoning Fee Schedule, and Making Appropriations for the Fiscal Year. The motion was approved by

unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

C. *Myrtle Landing Apartments Local Economic Development Authority Financing:*

John Hozey stated that Myrtle Landing Renewal LLC submitted an application requesting assistance from the Economic Development Authority of Northampton County and Towns (EDA) by the issuance of the EDA's revenue bonds in an amount not to exceed \$10,250,000 to assist in financing or refinancing certain costs of acquisition, construction, rehabilitation, renovation and equipping of the Myrtle Landing Apartments. The EDA conducted a public hearing on April 19, 2022 regarding the request and adopted a resolution authorizing the issuance of the revenue bonds. The next step was for the Town to adopt Resolution 20220616B approving the issuance of the bonds as well.

Motion made by Councilman Grossman, seconded by Councilwoman O'Brien, to adopt Resolution 20220616B – Resolution of the Town Council of the Town of Cape Charles, Virginia with Respect to Economic Development Authority Financing for Myrtle Landing Renewal LLC. The motion was approved by unanimous vote. Roll call vote: Bennett, yes, Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

D. *Zoning Map Amendment Application – 238 Randolph Avenue:*

Interim Planner/Zoning Administrator Katie Nunez provided an update regarding the Zoning Map Amendment Application for 238 Randolph Avenue for a conditional rezoning from Residential-1 to Commercial-1 as follows: i) a joint public hearing with the Planning Commission and Town Council was held on May 3, 2022 at which the applicant submitted a revised Proffer Statement along with a revised Site Plan prior to the start of the hearing; ii) At the close of the public hearing, the Commissioners requested clarification of the businesses and/or properties referenced in the Proffer Statement to be allowed propane delivery/access and trash collection/servicing. Members of the Commission indicated that some resolution was needed to continue to allow the essential services, such as trash collection and propane delivery, to be provided and particularly to see if there was a way to do so and leaving the lot as residentially zoned. The Commission requested staff to conduct research as to this possibility, such as a legal non-conforming consideration. Research was performed regarding use of the property and unfortunately, she was unable to find where the property met the non-conforming status for the entire length of time; iii) The Commission recommended the use of dumpsters for trash collection versus trash receptacles, adding that if the hotel was expanded, either the number of dumpsters or the frequency of dumping needed to be increased. The Commissioners also recommended changes to the landscaping and screening of the dumpster(s); iv) The Commissioners determined that golf carts were not an essential service of a hotel and recommended removal of the golf cart portion of the request; v) Katie Nunez stressed that proffers were voluntary from the applicant and the Town could not require proffers nor request changes to the proffers. David Gammino, the applicant, was reviewing the information from the Commissioners and stated that he would notify her within a week if he would be willing to make changes to his proffers. He had indicated that he would not be amenable to eliminating the golf carts.

There was some discussion as follows: i) Councilman Follmer stated that while golf carts might not be considered an essential hotel accommodation, Cape Charles was a golf cart town and if the hotel could not offer golf carts, visitors would rent them and need a place to park them. If the golf carts were not permitted to park behind the hotel, they would take up parking spaces along Mason Avenue and Mason Avenue was already too congested with inadequate parking. Councilwoman Holloway expressed her agreement with Councilman Follmer adding that charging the golf carts was also a big problem; ii) Councilman O'Brien asked about the zoning for the former Kool Eat property. Katie Nunez responded that Cape Charles was currently in that location which was in the residential zoning district. That was a legal non-conforming use in the location since it had been in continuous commercial use for over 62 years, as a barber shop, ice

cream shop, sandwich shop, etc. There was a break in commercial use for 238 Randolph Avenue which negated the non-conforming use provision; iii) Councilwoman Holloway thanked Katie Nunez for her significant research; iv) Councilman Grossman noted that if Mr. Gammino responded with his willingness to change his proffers, the matter would come directly to the Town Council versus going back to the Planning Commission.

This summary was provided for informational purposes only.

E. *Harbor Development Certificate Application – Gazebo at the Town Harbor:*

Katie Nunez stated that an application was submitted by John Hozey on behalf of the Town Council to the Harbor Area Review Board (HARB) for placement of a gazebo on Town Property (Tax Map #83A3-A-10) at the far east end of the harbor just as you enter Marina Road, adjacent to the Coast Guard station. The HARB met on May 27, 2022 and voted unanimously to recommend Council approval of a Harbor Development Certificate for the placement of a gazebo at the Town Harbor.

Councilwoman Holloway suggested installing electrical service to the gazebo during construction as it would most likely be used for future events. John Hozey responded that electrical would eventually be added. The project was being done in steps. An ADA ramp was being built. There was still a lot of work to be done but no additional money had been budgeted.

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, to approve the issuance of the Harbor Development Certificate for the placement of a gazebo at the Town Harbor as discussed. The motion was approved by unanimous vote.

F. *Town Facilities Design and Engineering:*

John Hozey began by stating that the Town went through a competitive process by the issuance of a Request for Proposals (RFP) and these items were included in the RFP as potential add-ons. He continued to state that, with the assistance of HBA, an analysis of alternatives was completed to address the many deficiencies of the current Town facilities housing the administrative, police, library and council chamber functions. Council selected Option 5 to construct a new building for all functions except the library which would remain at its current location and undergo renovations. During the budget work sessions, Council added the beach restroom into this project. Unfortunately, the quote for the beach restroom was not received in time for this staff report, but once received, a second amendment to the contract would be brought to Council for review. At that time, the restroom by the train car and the beach restroom would be grouped as a project in an attempt to have the restrooms completed before the 2023 summer season.

Motion made by Councilman Follmer, seconded by Councilman Buchholz, to authorize the town manager to execute change order 1 to the HBA contract for architectural services as presented.

Vice Mayor Bennett expressed his concerns as follows: i) It appeared that there were no cost estimates until 100% design was completed. He felt that there was a need for cost estimates at 60% to ensure that the project remained within budget. If it was over budget at that time, Council would have time to develop options; ii) The design schedule was fairly long for a relatively small project; iii) The overall fee did not look too out of line, but he felt the architectural component was excessive adding that the quote had a lot of architectural hours for a simple design; iv) The cost estimating consultant fee was extremely high especially if only one estimate was received.

Councilwoman Holloway asked how Vice Mayor Bennett's concerns would be addressed, adding that we were fortunate to have someone with his expertise on Council.

Councilman Grossman amended the motion to table the decision until the July regular meeting. Councilwoman O'Brien seconded the motion. The amended motion was approved by unanimous vote.

Mayor Dize commented that for years he had watched staff inhale diesel smoke and fumes from the fire engines and watched elderly and disabled individuals trying to get up the stairs in the Town Hall. He understood Ms. Huchler's comments, but the Town also needed to look out for the individuals who worked for the Town.

John Hozey noted that the first motion was still on the table for July.

G. Code 4-3 – Adoption of State Law:

John Hozey stated that in order to have the authority to enforce any new laws in the Commonwealth of Virginia, each year a new ordinance must be passed accepting any and all amendments to the provisions and requirements set by the Code of Virginia in matters of regulation of motor vehicles and traffic in the Town and any penalties for traffic violations.

Motion made by Councilman Follmer, seconded by Councilwoman O'Brien, to adopt Ordinance 20220616B to Adopt Amendments to the Code of Virginia § 46.2 and Title 16.1, Chapter 11, Article 9 (§ 16.2-278 et seq.) and Title 18.2, Chapter 7, Article 2 (§ 18.2-266 et seq.), if any, for Incorporation into the Cape Charles Town Code Chapter 42-Motor Vehicles and Traffic. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

H. Purpose for Accessory Dwelling Units:

John Hozey stated that in November 2018, the Town adopted a zoning ordinance addressing Accessory Dwelling Units (ADU). On May 3, 2022, a joint public hearing with the Planning Commission was held, and on May 19, 2022, the Town Council considered a zoning text amendment to this ordinance as recommended by the Planning Commission and rejected the proposed text amendment. Since the initial ADU ordinance was adopted, there had been considerable turnover in staff as well as several new members on the Town Council. During this intervening time, the purpose and intent of the original ADU ordinance might have been misinterpreted or changed. Current staff understood that the initial purpose of the ADU ordinance was to address critically needed affordable long-term rental units, precluding Town approval of any building permit for an ADU if it was to be used just as a means to extend the capacity of the primary structure or for short-term rentals. However, property owners felt that once built, an ADU should be available for whatever use they wanted. Since homeowner expectations were at odds with the currently understood intent of ADUs, the Planning Commission attempted to clarify the initial ordinance and close any unintentional loopholes. Since the Town Council rejected the recommended amendment, it would seem prudent to get an updated vision and purpose for ADUs from the currently seated Town Council to provide to the Planning Commission.

There was much discussion as follows: i) Councilman Grossman stated his opinion that the Council could make their changes and approve the ordinance without the need to send it back to the Planning Commission. John Hozey responded that if Council had not voted down the motion, they could have amended and approved the ordinance, but since Council voted it down, it died and was no longer valid. It now had to go back through the process again; ii) Councilman Grossman noted the two items of contention last month were family usage of the ADU and the definition of a kitchen; iii) Vice Mayor Bennett stated that Councilman Follmer made a point about use of the ADU by family; iv) Councilman Follmer stated that he was not on Council at that time but he followed the deliberations and did not think that the Council wanted to be as restrictive with the intent; v) Councilman Buchholz noted that he was on the Planning Commission at the time and Council did not want to allow ADUs. Council's intent was to promote long-term rentals as affordable housing. Family use of the ADU was not discussed. In his opinion, family use should be by right; vi) Councilwoman O'Brien expressed her concern regarding enforcement of ADUs

being used as short-term rentals. John Hozey responded that short-term rentals were advertised, and staff monitored the various sites searching for rental units; vii) There was also discussion about property owners living in the ADU and renting out the main house as a short-term rental, which was not Council's intent. Councilman Follmer stated that exceptions should be made for hardship cases where a spouse may have passed away, so the surviving spouse moved into the ADU and rented the main house as the only way to keep the property; viii) There was some discussion regarding the change in process from a conditional use permit (CUP) to an annual affidavit. Councilwoman Holloway added that her property received a CUP in the mid-1990s, and it conveyed with the house, but no one had checked on it since she had owned the property. Adding an annual affidavit made sense; ix) There was a consensus among Council to keep the 60-day stay requirement but also allow the property owners to have their family and non-paying friends stay in the ADU. There was some concern of property owners leasing the ADU for 60 days, but allowing the tenant to leave after a week or days in order to circumvent the requirement; x) The definition of a kitchen needed to be revised to require more than a sink and a microwave.

John Hozey asked Katie Nunez if she had any questions or needed any clarification of Council's intent since she would be taking this item back to the Planning Commission. Katie Nunez recommended keeping the CUP requirement in place and expressed her concern of allowing ADUs by right. If ADUs were permitted by right, and each house had an ADU with people living in them, additional regulations would be needed to address safety issues, etc.

Since Council had provided direction regarding their intent for an ADU, he did not think a motion was necessary. He felt that Councilman Grossman and Katie Nunez understood Council's goals and would be able to take this back to the Commissioners. He believed the new recommendation would be very similar to the initial one, but with a few tweaks.

TOWN MANAGER COMMENTS

John Hozey commented as follows: i) He and Deborah Pocock had already met with the CCRSRI. His initial reticence was the impact on staff to manage the grant, expecting something similar to the procedures for the Department of Housing and Community Development (DHCD) COVID grant. This grant was more streamlined and not as onerous on the Town. He and Deborah Pocock felt comfortable that staff could handle the administration. This item and resolution would be brought back to Council for action in July; ii) Dianne Davis had been talking to staff regarding crosswalks, which were not included in the last resolution adopted by Council for pedestrian signage. Ms. Davis was concerned with pedestrians crossing Fig Street and Randolph Avenue and asked for consideration of a request to VDOT for marked crosswalks. He thanked Libby Hume for her research and work done on this project. In looking at the information, multiple crosswalks might be needed. Unless there was an objection from Council, this item would also be added to the July agenda; iii) He was planning his summer vacation taking the last two weeks of July off but when he made his plans, he did not realize that the July meeting was on the 21st. He asked that he be able to join the meeting via conference call.

MAYOR AND COUNCIL COMMENTS

Councilwoman O'Brien commented as follows: i) She asked if it would be possible to tour the water and wastewater treatment plants as she had never been to them. She felt that it was important for Council to know about the operations since we would be going into negotiations regarding a potential sale. John Hozey stated that tours would be arranged; ii) She noted that a bike rack was laying on the ground by the Cape Charles Distillery, and a light fixture by Kelly's Tavern was crooked. She went on to thank the Public Works crew for all their work on Strawberry Street; iii) Public Works crew member Dejohn Stratton lost his home in a fire last night. Mr. Stratton and his wife were safe, and their pets were okay, but all their belongings were lost. Cape Charles Christian School was taking donations to help the family and she felt that we needed to help them get back on their feet.

Councilman Grossman commented as follows: i) He asked about the status of the capacity study. John Hozey responded that staff was reviewing some interim data but the completed study had not yet been received; ii) He was looking for the responses for the utility questions raised during the work session. John Hozey responded that he just received them; iii) Council approved a harbor development certificate earlier this evening and suggested consideration be given to revise the process to be more similar to the Historic District Review Board process where the Board approved the applications and Council only needed to review them if the Board's decision was appealed. In his opinion, the Town Council did not need to be reviewing and approving an application for a gazebo. John Hozey agreed that the process could be changed; iv) The contract for the Kiptopeke Inn was signed and the affordable housing project was moving forward. The old gas station building had been removed.

Councilman Follmer did not have any additional comments.

Vice Mayor Bennett stated that at a previous meeting, Councilwoman Holloway had commented that new signage was coming for the area at Route 13 and asked about the status of the signage.

Councilwoman Holloway responded to Vice Mayor Bennett and commented as follows: i) Cape Charles Main Street (CCMS) had plans for new signage at Route 13 as well as on Fig Street but needed to know who had the authority over the signs. CCMS would be happy to obtain grants to work on the signs but wanted to make sure that it would be appropriate for them to do so. The consensus among Council was that it would be fine for CCMS to take on the projects; ii) She and Councilman Buchholz were officially done with their duties on CCMS, although she had one more year on the board as past president; iii) CCMS had two Main Street signs that need to go up. They had been working with VDOT to get approval but having difficulty in identifying locations. They were trying to have one placed just before the Cape Charles Brewing Company and one along Cassatt Parkway by Bayshore Road; iv) CCMS applied for eight Northampton County Infrastructure grants and received over \$83K. \$25K for the restroom on Mason Avenue, \$30K for work on the train car; \$8K for Festive Fridays, \$3.5K for the Love Run, \$5K for benches and trash cans, \$5K for a walking tour app, and \$6K to reprint more copies of the map. The Eastern Shore of Virginia Tourism Commission (ESVTC) received \$130K from the American Rescue Plan Act (ARPA) for tourism, which was different than the ARPA funding received for the COVID grant. This was strictly for tourism. Cape Charles would be receiving \$50K from that grant from the ESVTC, which could be used for renovations on the train car for a welcome center; v) She thanked Deborah Pocock, Libby Hume and John Hozey for all the work getting the budget prepared. The residents only saw the end product, but it took hours of work to get there.

Councilman Buchholz also gave kudos to staff adding that he had been on Council for six years and the budget process got easier every year. It helped that we had good tracking of expenditures and that the various items had been separated into their own funds for better transparency.

Mayor Dize comments as follows: i) He began by stating that the Town Council provided oversight for town operations and set policies. If someone reached out to the Council, their concern might fall through the cracks. Using the Report a Concern feature on the Town's website was the fastest way to get things done. The Town had four appointed officials – John Hozey, Jim Pruitt, Libby Hume and Deborah Pocock – who handled the day-to-day operations. It might take staff some time to research an issue, but they were the ones to be contacted first. If they had been contacted and were unable to resolve an issue, then the Council could be contacted; ii) Next Tuesday, June 21st, was the last day to sign up to run for Mayor or Council for the November elections. If anyone was thinking about it, they should submit their paperwork; iii) To expand on Councilwoman Holloway and Councilman Buchholz's comments regarding the budget process, he added that with the development of a capital improvement plan and having everything available was a huge improvement from past years. He remembered that when he was the harbor master, Council held a three-day retreat, followed by weekly meetings to go over the budget requests, etc. It was nice to have things more streamlined.

Mayor Dize read the announcements. John Hozey stated that July 7th would not work for an executive session and proposed either June 28th or July 12th, adding that the joint work session with the Planning Commission was scheduled for July 12th and the executive session could be held afterwards. Council agreed to schedule the executive session to immediately follow the July 12th joint work session.

Councilwoman Holloway added that she just received word that CCMS had been awarded national accreditation from National Main Street. CCMS would draft a press release making the announcement.

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

The Regular Meeting adjourned at 8:11 p.m.

Mayor Dize

Town Clerk

June 16, 2022 Town Council Regular Meeting Comments and Information Provided in Writing

Dianne Davis, resident/homeowner

I understand that we have hired a special company to redo our guidelines for the Historic District. With the structure of the new homes built here and the houses that have been renovated where is the historic district? We have all kinds of designs now in our town. A precedent was set when the Council approved renovations and homes that were denied by the Historic District Review Board. Later the HDRB was changing so often whereby one board disapproved a structure then another board came in and approved the same structure.

I think that we are wasting money for new guidelines because the damaged has been done, and we only have a few lots left. How can you say no to one person and approved the same thing for another person on a different occasion?

Questions

1. I know that you as the Council make the final decisions about many things that happen in this town. Do you communicate with Chief Pruitt in reference to the safety of our citizens walking, riding bicycles, scooters, etc. in town due to the increase in traffic in certain areas? Chief Pruitt and his staff are riding up and down these streets and avenues daily, and is aware of certain areas that could be dangerous because of the traffic in and out of town (especially this time of the year).
- 2 In reference to the budget, did you include anything in reference to sidewalks for the town?

Loraine Huchler, non-resident/property owner

2022 06 16 Town of Cape Charles Budget Meeting

Loraine Huchler, P.E., CMC®, FIMC, huchler@verizon.net, 757-442-5308

Thank you for the opportunity to speak to the council – again. I suspect that you are ready to get this budget finalized, so I will thank you for your consideration in advance and get to the key points.

New Municipal Building. There's a request to expand the contract for the initial study to include architectural and engineering and bidding services for \$584K. I was surprised that the town wouldn't conduct a competitive bid to ensure that they received the best value. What exactly is the value of a new town hall have for residents and property owners – the vast majority of stakeholders? A new town hall project is pure expense; it doesn't generate revenues or attract visitors or improve the quality of life for residents. I haven't seen any articles in the Gazette or the local newspapers discussing the benefits. I believe that building a new town hall at this time is not in the best interest of the stakeholders. I believe that a vote to approve this contract is essentially a vote to spend \$4.5M (or more) for a project that is not in the best interest of the voters, residents, or business owners.

Water & Wastewater Plants. You can relax, my comments are not about the potential sale. It's about the risk of partially-treated sewage being discharged into the Bay due to continued failures of the membranes at the wastewater plant. This membrane bioreactor uses bacteria to break down harmful components to non-toxic compounds before releasing the treated water to the Bay.

In the May 26 work session, I heard about the continual failures of the structural components and deterioration of the membranes. In some cases, severe damage forces operators to abandon that section of the bioreactor, reducing the operating capacity until new membranes are available. Operating with fewer membranes increases the stress and shortens the life of the membranes.

The normal service life of these membranes is 8 to 10 years; the plant is 9 years old. The delivery time for new membranes is one year. The current budget shows replacement of 50% of the membranes in FY2025 and 2026. The Town Manager stated that the wastewater plant is "barely hanging on." When a membrane or the structural components fail, the operator must take time from regular duties to close valves one at a time to find the damaged component and remove it from service. Operators are not heroes; troubleshooting takes time and the risks of discharge violations and possible closure of the beach will continue to increase. And the wastewater plant is short-staffed by over 50%.

The town has spent placed the first down payment on one set of replacement membranes. Why won't the town purchase additional sets of membranes with the ~\$309K of ARPA funds? I believe that minimizing the risks in the wastewater plant are a high priority and are in the best interest of a broad group of stakeholders. After all, none of want to be told to limit the number of flushes and showers, right?

Sam Jones, resident

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

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

Thank you for the thoughtful way you are considering the issue of Accessory Dwelling Units in Cape Charles. I offer several comments.

First, there have been some suggestions that use of Accessory Dwelling Units for other than long-term workforce housing will increase the population density of Cape Charles. I believe the Town addressed the density issue when it allowed both short-term and long-term rentals on a single property. In any event, it is hard to see how the use of ADU's for family and friends on holidays or vacations creates greater density than a long-term rental who may be there year-round.

Second, in his briefing document the Town Manager highlighted the following: "Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options". At this point the interpretation of the current ordinance and the language in the draft ordinance rejected by the Town Council focus solely on the affordable/workforce housing issue. I believe this focus goes far beyond "Promoting ADU's to add to the diversity of housing units".

Finally, I give two examples of what can be considered "by right" use. Currently under consideration by the Planning Commission is a request by a homeowner to convert part of a garage to a home office with a bath and kitchen. Earlier this year, another homeowner requested approval to convert the upper floor of their garage to provide overflow space for family and friends on special occasions. I believe that both of these should be considered "by right" use of property and require only the appropriate building permits to move forward.

Please consider addressing these type of issues as you provide guidance back to the Planning Commission.

Thank you.

Julie Jones, resident

Good evening, Mayor Dize, Councilmen and Councilwomen, and Town Manager Hozey,

My husband and I reside at 538 Monroe Avenue, here in Cape Charles.

We split our time between the home in Cape Charles and our home in Williamsburg.

Williamsburg is also a tourist town, as well as home to The College of William and Mary, plus the people who are residents, and has some of the same issues currently facing the town of Cape Charles: specifically housing and parking.

Residents of the City of Williamsburg are issued parking stickers, because there are problems with students and tourists parking in residential areas, either because of proximity to their destination, or to avoid the cost of paid parking.

Williamsburg also has property owners who either rent out their accessory units or an entire house. In order to make these rentals affordable, sometimes a lot of students will try to cram into one house or ADU. This exacerbates the parking shortage and also increases the density and noise level. In response, the City of Williamsburg has put restrictions on the number of unrelated people who can occupy one dwelling.

In light of your current consideration of regulating ADUs in the Town of Cape Charles, I have two questions:

1) is there a limit as to the number of people who are allowed to occupy an ADU?

Is there any kind of fire regulation governing this, especially since these are typically small spaces? Do the people living long-term in an ADU have to be related, i.e. family, or could several unrelated people share an ADU?

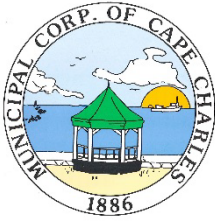
2) is there a limit as to the number of vehicles that could be associated with an ADU? For that matter, is there a limit as to the number of vehicles associated with a short-term rental property? Parking is an ever-increasing problem, and it is frustrating, as a homeowner, to not be able to park in relative proximity to our home...for which we do pay considerable taxes.

Some visionaries in Williamsburg have begun to convert some of the old motels, of which there are many, into affordable apartments, to help meet the housing needs of the many people who are employed in jobs related to the tourist industry. The potential conversion of the Kiptopeke Inn to affordable apartments is similar to what is being done in Williamsburg.

Sam and I have been so blessed, since purchasing our home here in 2015, by the beauty and peaceful nature of this sweet little town. We are so appreciative of the time and energy each of you contribute, as well as the sacrifices you make, in your service to the Town of Cape Charles.

Sincerely yours,
Julie Jones

DRAFT



DRAFT
TOWN COUNCIL
Executive Session
Cape Charles Civic Center
June 16, 2022
Immediately Following the Regular Meeting

At approximately 8:11 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Executive Session of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Also, in attendance was Town Manager John Hozey.

Motion made by Councilwoman O'Brien, seconded by Vice Mayor Bennett, and unanimously approved to go into Executive Session in accordance with Section 2.2-3711.A of the Code of Virginia for the purpose of: Paragraph 3: Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Options for Possible Purchase of a Portion of Railroad Property

The members of the public in attendance, as well as staff, with the exception of Town Manager John Hozey, left the room.

Council went into executive session at 8:12 p.m.

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

The open portion of the meeting resumed at 8:32 p.m.

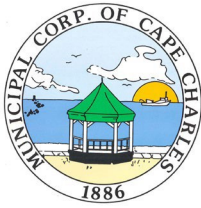
Certification, to the best of each member's knowledge, that (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, 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 Buchholz, seconded by Councilman Grossman, to adjourn the Town Council Executive Session. The motion was approved by unanimous vote.

The Executive Session adjourned at 8:33 p.m.

Mayor Dize

Town Clerk



DRAFT
TOWN COUNCIL & PLANNING COMMISSION
Joint Work Session
Cape Charles Civic Center
July 12, 2022
6:30 p.m.

At 6:30 p.m., Mayor William “Smitty” Dize, having established a quorum, called to order the Work Session 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. Staff in attendance were Town Manager John Hozey, Interim Planner/Zoning Administrator Katie Nunez, Planning Technician Tracy Outten, and Town Clerk Libby Hume. Ann Darby and Michael Stapor from Summit Design and Engineering Services were also in attendance. There were two members of the public in attendance.

Chairman Bill Stramm, having established a quorum, called to order the Work Session of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Paul Grossman, Jim Holloway, Dennis McCoy, and Michael Strub. Commissioner Kenneth Butta was not in attendance. There was one vacancy on the Commission.

ITEM FOR DISCUSSION:

Comprehensive Plan Update

- Existing Conditions Report
- Vision Goals, Objectives and Strategies
- Future Land Use Map

John Hozey stated that the documents being reviewed this evening were still drafts. The goal was to schedule public meetings in September to engage the public and obtain their input.

Ann Darby began by expressing her excitement for the progress made on the Comprehensive Plan update and went on to provide an update on the progress and process. (Please see attached.)

John Hozey stated that the project management group, consisting of Katie Nunez, Councilman Paul Grossman, Commissioner Bill Stramm and himself, had been working closely with Summit providing input on the draft documents. The items needing discussion were the group’s questions, which were highlighted in yellow, and the language/items shown in red were items that the group felt could be deleted, but input from the Council and Commission was being requested. John Hozey explained that the strategic plan was being incorporated into the comprehensive plan as the implementation tool since it was updated annually whereas the comprehensive plan was updated every five years. The vision statement was taken verbatim from the strategic plan.

The review began with the Existing Conditions Report with discussion regarding the following: i) The list of major employers needed to be updated as some of the businesses shown on the list were no longer open. Councilwoman Holloway noted that Cape Charles Main Street (CCMS) develops a similar list which could be used; ii) Councilman Grossman stated that the Existing Conditions Report did not have any language relating to the Town’s facilities, particularly the public utilities. Ms. Darby stated that it was an oversight, and the facilities would be added to the Existing Conditions Report; iii) Councilman Buchholz commented that the numbers related to housing were from 2020. With this document being dated 2022, the 2020 numbers were outdated. Ms. Darby stated that the numbers used were from the Census data updated in 2020. Councilman Buchholz went on to state that the

information kept in the building department could be a good reference to update these figures; iv) Councilman Follmer stated that a hot topic was the percentage of full-time occupied dwelling units versus short term rentals. This could be tracked by business licenses. People who would read the comprehensive plan would be looking for this information. He agreed that 2020 data was fairly recent but suggested that it could be updated with the information gathered by the Town; v) Councilman Grossman stated that he had a number of little nits which he would send in writing.

The review continued with the Vision, Goals, Objectives & Strategies with discussion as follows:

Housing: i) Alternative language was suggested for items 1b, 5a, and 6; ii) Item 7 was deleted.

Community Facilities & Services: i) Item 6 was deleted and language relating to “playspaces” would be included with item 9; ii) Ms. Darby stated that an implementation matrix and list would be included at the end of the document; iii) John Hozey stated his preference to leave the language vague in relation to park and recreation facilities to allow flexibility to the Town when considering future amenities.

Economy: i) There was much discussion regarding item 8 and “chains of activity.” Ms. Darby explained the intent was to show that there was so much to do in Cape Charles that it couldn’t be done in one day, a weekend, etc. Councilwoman Holloway added that the Eastern Shore of Virginia Tourism Commission already did this for the Town and Eastern Shore; ii) There was some discussion regarding item 9 and “placemaking.” Councilwoman Holloway stated that CCMS currently worked on placemaking locations, adding that bicycle racks were needed in areas of the Town; iii) Councilman Grossman commented that item 10 was good to include, but the Accawmacke Plantation Planned Unit Development (PUD) documents needed to be updated. Katie Nunez stated that she was working with Bay Creek to update their PUD documents. John Hozey added that this document would provide guidance for Bay Creek to update their PUD documents.

Transportation: i) Regarding items 2b, c and d, it was noted that not all pedestrian crossings were ADA compliant and needed to be addressed. Ms. Darby added that badly designed crossings could create more of a danger than having no crossing. There was also some discussion regarding having VDOT install “continuous sidewalks;” ii) The program management group had recommended item 3 be deleted, but there was much discussion regarding the increasing number of golf carts and the need for signage and enforcement of fines. Councilman Buchholz suggested printing stickers showing the fines to be provided to all golf cart owners and rental companies. Councilwoman Holloway added that stop signs were needed at the ends of the alleys, especially the alley behind her house which was also the entrance to Central Park. It was just a matter of time before someone going into the park got hit by a golf cart; iii) It was suggested that rather than deleting item 3, that the title/language could be changed to relate more to golf carts. It was noted that Cape Charles was a golf cart town and it was appropriate to have language included in this document.

Town Design: i) The project management group had recommended this section be deleted as being redundant since we had separate design guidelines for the historic and harbor districts; ii) There was much discussion regarding this section. Vice Mayor Bennett suggested reducing this section to one paragraph with language directing people to the various design guidelines for more details.

Environment: i) Councilman Grossman expressed his concern regarding much of the language in this document being written as directives versus considerations; ii) A change was suggested to item 1a stating that the Town would “support” the monitoring of the bay’s health versus “intensifying” the monitoring...; iii) Councilman Grossman stated that some things were nice to say but impractical to implement and suggested removing items 1b and c; iii) It was explained that item 4c was included for the future, that after that railroad property was developed, access to the town harbor should be

provided. Several Council members agreed that it was a goal for the future to have a road from Mason Avenue to the harbor. The downtown area could be extended with future development in this area; iv) Ms. Darby clarified that when talking about the harbor area, it was referencing the railroad property; v) Councilman Grossman asked about the practicality of item 5a when we had specific requirements regarding the materials and construction projects in the historic district, adding that the language needed to be changed to “consider” versus being a directive. Katie Nunez stated that staff followed the building code for construction projects; vi) The state code required item 7 be included in the comprehensive plan; vii) Councilman Grossman stated that the Existing Conditions Report included language to consider creating a committee to address resiliency to flooding and felt that it should also be included in this document.

Land Use: i) There was some discussion regarding item 2b, specifically “incentivizing” development versus “encouraging;” ii) Councilman Grossman felt that item 3b should be deleted. John Hozey noted that this item was deleted in the file provided to Summit from the program management group and he was unsure the number of other changes that were not reflected in this document. Ms. Darby stated that she thought all the changes submitted by the program management group had been updated in this document but realized that it had not all been completed. She would review both documents and get the requested changes made; iii) Commissioner Holloway noted, in reference to item 5, that CCMS performed a parking study several years ago. It was noted that CCMS’ study was for the commercial district.

The Council and Commission went on to review the Future Land Use with the following discussion: i) Several corrections in land use classification were noted; ii) It was noted that the PUD classification on the north end of Town showed the lakes as conservation/open space, but the PUD area on the south end did not; iii) It was suggested that the railroad property be depicted as a separate color from the harbor district. Ms. Darby would work with staff to determine the boundaries of the railroad property so this change could be made; iv) John Hozey noted that anything currently being worked on relating to land use should be reflected in the Future Land Use Map; v) Councilman Grossman asked whether the historic downtown mixed-use classification could be extended along Mason Avenue to the hump. It was agreed to do so; vi) The description of the Harbor District showed inclusion of structures up to six stories which exceeded the Town’s current limit. Vice Mayor Bennett noted that some of the existing buildings at the concrete plant were about six stories tall and Council had approved a conditional use permit for a 75’ structure at the plant. There was much discussion regarding reference to stories or height; vii) Katie Nunez cautioned that the comprehensive plan established policy. If we did not want six story buildings, this language needed to be changed. Also, if heights were established, we needed to ensure that emergency vehicles could reach that height. She suggested that the language could go back to a limit of four stories and requests for anything more could be handled individually; viii) John Hozey stated that a lot of territory was included in the Entrance Corridor (in orange) and some additional work was needed in the orange and blue (harbor district) areas; ix) Councilman Grossman stated that the property next to Rayfield’s where the old ballpark was located was shown as M-2 Industrial and asked how to reflect the ultimate desire to not have heavy industry on this parcel. Ms. Darby stated that this was the place to show that. Future Land Use did not affect the current use/zoning. If the zoning was changed, the current use (farming) would be grandfathered unless the use was stopped for a period of two years.

There were no other comments regarding the draft documents reviewed this evening.

Ms. Darby stated that she would ensure that the requested changes from the project management group would be incorporated, and the updated drafts would be provided to the Town prior to making the new changes discussed this evening. The goal was to have the final draft for September review by the public.

Motion made by Commissioner Grossman, seconded by Commissioner McCoy, to close the Planning Commission work session. The motion was approved by unanimous vote.

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

The joint work session was adjourned at 8:08 p.m.

Planning Commission Chair

Mayor Dize

Town Clerk

**July 12, 2022 Town Council & Planning Commission
Joint Work Session Presentation**

Summit Design and Engineering Services Agenda and Presentation



TOWN OF CAPE CHARLES

COMPREHENSIVE PLAN

JOINT TOWN COUNCIL AND PLANNING COMMISSION WORKING SESSION

Date: Tuesday, July 12, 2022

Time: 6:30pm

Location: Cape Charles Civic Center

1. Introductions
2. Project Overview
3. Feedback and discussion on Existing Conditions and Goals and Objectives documents
4. Description of plan composition
5. Discussion: Draft Future Land Use Map and category descriptions
6. Discussion: Harbor District and the Comprehensive Plan
7. Discussion: Planned Unit Development and the Comprehensive Plan
8. Deliverables and next steps

Richmond Office

2201 W. Broad Street, #204, Richmond, VA 23220

804.204.1022 // www.summitde.com



1



Summit's Team.



Anne Darby, AICP
Project Lead, Planning Manager



Michael Stapor, AICP
Planner II



Noah Holmes Foster
Planner I



Joel Webne
GIS / Graphics Tech

+ Other Summit staff, as needed...

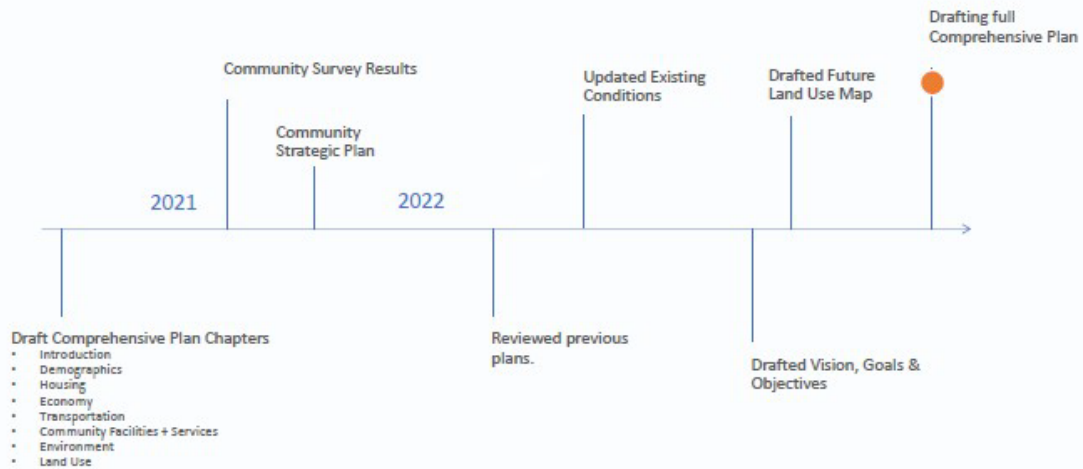
2

The Process So Far (Recap).



3

We are Here.



4

The Process.

```
graph LR; A((Previous Work + Community Strategic Plan 2021)) --> B[Cape Charles Comprehensive Plan]; B --> C[Cape Charles Zoning & Subdivision Ordinance];
```

Previous Work + Community Strategic Plan 2021

Cape Charles Comprehensive Plan

Cape Charles Zoning & Subdivision Ordinance

5

Our Work So Far (Recap).

Began Mapping

Reviewed Previous Work

KEY FACTS

- Population: 921
- Median Age: 35.1
- Median Household Income: \$58,324
- Median Home Value: \$106,141

EDUCATION

- High School Graduate: 75%
- Some College: 27%
- Bachelor's Degree: 27%
- Master's Degree: 4%

HOUSING

- Total Housing Units: 92
- Total Population: 617

INDUSTRY

- Manufacturing: 10%
- Construction: 10%
- Retail: 10%
- Healthcare: 10%
- Education: 10%
- Government: 10%
- Finance: 10%
- Other: 10%

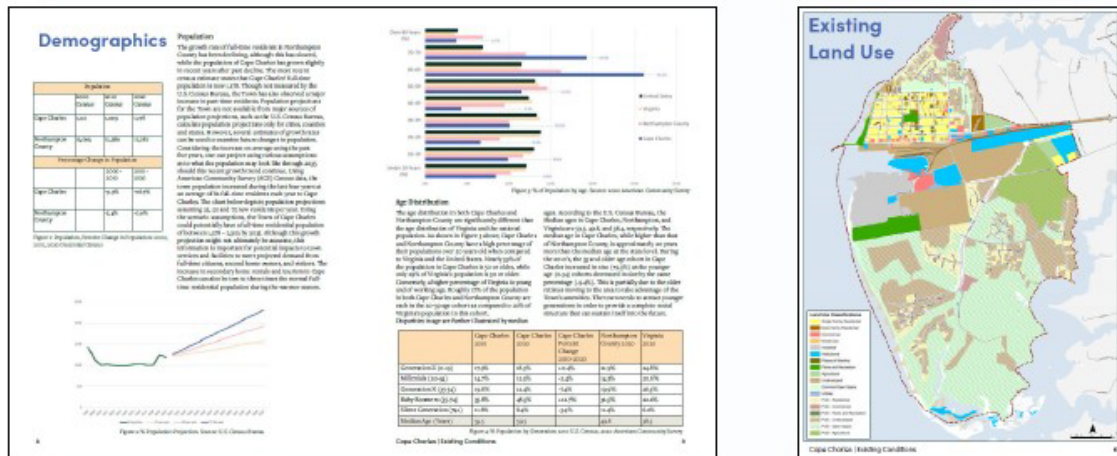
PERFORMANCE

- Population Growth: 10%
- Income Growth: 10%
- Housing Growth: 10%
- Education Growth: 10%

Updated Demographic Information

6

Existing Conditions Update.



Updated with latest available demographic information.

New / Updated Maps

7

Vision, Goals, Objectives & Strategies.

"Preserve our historical, natural, and cultural resources, while fostering a sense of community that enhances well-being and prosperity, now and for generations to come"

Vision from Community Strategic Plan

Community Facilities & Services

"Create vibrant community facilities through facilities, attractive architecture, and year-round programming for individuals of different ages and incomes."

Objectives and Strategies

1. Maintain and enhance existing assets to residents.
 - a. Enhance existing assets to residents, including historic properties, historic architecture, and historic architecture.
 - b. Enhance existing assets to residents, including historic properties, historic architecture, and historic architecture.
2. Maintain and enhance Central Park, which can be used for active and passive recreation throughout the year by residents and visitors of all ages.
 - a. Enhance Central Park, which can be used for active and passive recreation throughout the year by residents and visitors of all ages.
 - b. Enhance Central Park, which can be used for active and passive recreation throughout the year by residents and visitors of all ages.
3. Maintain and enhance green infrastructure on town-owned lands.
 - a. Enhance green infrastructure on town-owned lands, including historic properties, historic architecture, and historic architecture.
 - b. Enhance green infrastructure on town-owned lands, including historic properties, historic architecture, and historic architecture.
4. Enhance the implementation of "Younger" to all park facilities to enhance the play, rather than traditional play structures. Utilize the natural landscape for play and to expand the play area to the natural landscape.
 - a. Enhance the implementation of "Younger" to all park facilities to enhance the play, rather than traditional play structures. Utilize the natural landscape for play and to expand the play area to the natural landscape.
 - b. Enhance the implementation of "Younger" to all park facilities to enhance the play, rather than traditional play structures. Utilize the natural landscape for play and to expand the play area to the natural landscape.
5. Provide adequate lighting and other amenities (parking, trash receptacles, water fountains, etc.) for these designated facilities.
 - a. Provide adequate lighting and other amenities (parking, trash receptacles, water fountains, etc.) for these designated facilities.
 - b. Provide adequate lighting and other amenities (parking, trash receptacles, water fountains, etc.) for these designated facilities.
6. Plan for the creation of modernized, accessible, and welcoming municipal facilities.
 - a. Plan for the creation of modernized, accessible, and welcoming municipal facilities.
 - b. Plan for the creation of modernized, accessible, and welcoming municipal facilities.
7. Enhance efficient, cost-effective management, maintenance, and operation of water and sewer utilities, in accordance with all regulatory requirements.
 - a. Enhance efficient, cost-effective management, maintenance, and operation of water and sewer utilities, in accordance with all regulatory requirements.
 - b. Enhance efficient, cost-effective management, maintenance, and operation of water and sewer utilities, in accordance with all regulatory requirements.

Vision, Goals, Objectives & Strategies

Draft Strategies per topic area

8

For Discussion.

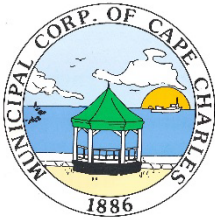
1. Draft Future Land Use Map & Category Descriptions.
2. Harbor District & the Comprehensive Plan
3. Planned Unit Development & The Comprehensive Plan

11

Next Steps.

1. Draft the document
2. Public Meetings to review “final” draft
3. Begin Zoning Ordinance rewrite

12



DRAFT
TOWN COUNCIL
Special Meeting
Cape Charles Civic Center
July 12, 2022
Immediately Following the Joint Work Session
with the Planning Commission

At approximately 8:17 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Special Meeting of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Also, in attendance were Town Manager John Hozey, Project Manager Bob Panek, and Town Clerk Libby Hume. There were no members of the public physically in attendance, and eight viewers on Facebook.

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

PUBLIC COMMENTS ON AGENDA ITEMS ONLY: (3 MINUTES PER SPEAKER)

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

ORDER OF BUSINESS:

A. *Town Facilities Design and Engineering:*

Town Manager John Hozey stated that Vice Mayor Bennett's concerns were provided to HBA, the consulting firm contracted for the design and engineering for the Town's facilities, and staff had worked with HBA to address the comments.

Vice Mayor Bennett stated that most of his concerns had been addressed, adding that he was still unsatisfied regarding the fee but did not want to hold up the project.

John Hozey explained that the cost estimate for the bathrooms came in much higher than anticipated and the amount budgeted. The bathrooms could possibly be separated into another bid/contract. There were advantages in bidding the projects out together, so staff's recommendation was to move forward with both. The downtown bathroom could possibly be prioritized over the beach bathroom. The bathroom designs were reduced. The downtown bathroom would have four stalls versus six – three regular stalls and one ADA stall. The beach bathroom was to be increased to four, but an alternate design was to keep the existing structure for the regular stalls and build an addition for the ADA stalls. This alternative would also preserve much of the original Eagle Scout project.

Councilwoman Holloway reminded everyone that Cape Charles Main Street had obtained a \$25K grant for the bathroom facility in the commercial district.

There was some discussion regarding the proposed location of the downtown bathroom. Bob Panek stated that bathroom would be located just east of the rail car behind Strawberry Street Plaza and staff had asked Canonie Railroad to add that portion of the property to the Town's lease.

Councilman Grossman noted that hazmat abatement costs at the library were excluded from the proposal. Bob Panek responded that the renovation to the library building would basically be systems only. The only area where walls would be disturbed would be in the two bathrooms and there could be some lead paint that might need encapsulation.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to proceed with the contract as outlined in the staff report. The motion was approved by unanimous vote.
TOWN MANAGER COMMENTS

John Hozey stated that due to the unfortunate accident on July 4th, the fireworks vendor would be refunding our deposit. He was initially going to have it roll over for next year but was considering using the deposit for a New Year's Eve fireworks if the vendor was available.

There was some discussion regarding New Year's Eve fireworks. The majority of the Council members were not in favor of fireworks on New Year's Eve.

MAYOR AND COUNCIL COMMENTS

Vice Mayor Bennett, Councilmen Buchholz and Follmer, and Councilwomen Holloway and O'Brien did not have any additional comments.

Councilman Grossman stated that the Northampton County Board of Supervisors (BOS) was meeting tonight regarding three items: i) A resolution to support Virginia America 250 to commemorate the 250th anniversary of the American Revolution, the Revolutionary War and the independence of the United States. He was not sure if the Town was considering this but wanted to bring it to Council's attention; ii) The YMCA was adding a gym with about 6,300 square feet; iii) The BOS would be looking at the elderly and handicapped tax relief exemptions ordinance. He forwarded this information to the town manager, mayor and treasurer to possibly update the Town's ordinance as well.

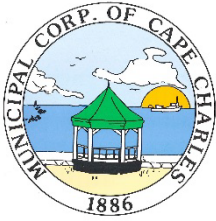
Mayor Dize thanked everyone for their hard work on July 4th, the police officers, fire department, and others who responded to the fireworks mishap. Overall, the Town had a really good 4th of July.

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

The Special Meeting adjourned at 7:30 p.m.

Mayor Dize

Town Clerk



DRAFT
TOWN COUNCIL
Executive Session
Cape Charles Civic Center
July 12, 2022
Immediately Following the Special Meeting

At approximately 8:33 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Executive Session of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Also, in attendance was Town Manager John Hozey.

Motion made by Councilman Buchholz, seconded by Councilman Grossman, and unanimously approved to go into Executive Session in accordance with Section 2.2-3711.A of the Code of Virginia for the purpose of: Paragraph 3: Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Negotiation Strategy for Potential Utility System Sale & Options for Possible Purchase of a Portion of Railroad Property

There were no members of the public in attendance at this time.

Council went into executive session at 8:34 p.m.

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

The open portion of the meeting resumed at 10:03 p.m. There were no members of the public waiting to return to the meeting.

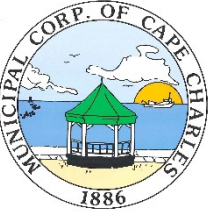
Certification, to the best of each member's knowledge, that (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, 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 Buchholz, seconded by Councilman Grossman, to adjourn the Town Council Executive Session. The motion was approved by unanimous vote.

The Executive Session adjourned at 10:04 p.m.

Mayor Dize

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Industrial Revitalization Fund Grant Application for Cape Charles Rosenwald School Restoration Initiative Building Rehabilitation		AGENDA DATE: July 21, 2022
	SUBJECT/PROPOSAL/REQUEST: Adopt Resolution 20220721 authorizing grant application submittal for Industrial Revitalization funding for rehabilitation of the Rosenwald School		ITEM NUMBER: 8A
	ATTACHMENTS: Resolution 20220721		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume, Town Clerk	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Cape Charles Rosenwald School Restoration Initiative (CCRSRI) is a non-profit organization founded a number of years ago to purchase and rehabilitate the former Rosenwald School building located on Old Cape Charles Road to be used as a community and education center.

DISCUSSION:

Staff met with members of the CCRSRI Board of Directors regarding a potential grant opportunity through the Virginia Department of Housing and Community Development (DHCD) for an Industrial Revitalization Funds (IRF) grant for up to \$1M with no match required. The grant was available to localities for qualifying projects.

Staff reviewed the grant administrative requirements and was comfortable that staff could handle the administration. A Town Council resolution was required to accompany the grant application.

RECOMMENDATION:

Staff requests Council review and adoption of Resolution 20220721 Authorizing Application Submittal for Industrial Revitalization Funding for the Rehabilitation of the Rosenwald School by roll call vote.

RESOLUTION 20220721

AUTHORIZING APPLICATION SUBMITTAL FOR INDUSTRIAL REVITALIZATION FUNDING FOR THE REHABILITATION OF THE ROSENWALD SCHOOL

WHEREAS, the Virginia Department of Housing and Community Development Industrial Revitalization Funds Program provides funding assistance targeting vacant non-residential structures whose poor condition creates physical and economic blight to the surrounding area in which the structure is located; and

WHEREAS, eligible properties include structures formerly used for manufacturing, warehousing, mining, transportation, and power production, as well as large-scale white elephant structures, such as department stores, theaters, hotels and shopping centers; and

WHEREAS, in accordance with the Virginia Department of Housing and Community Development's Industrial Revitalization Funds Grant guidelines, the property located at 1500 Old Cape Charles Road (Tax Parcel #83A4-A-23) has been certified as a blighted property to the definition cited in Code of Virginia § 36-3; and

WHEREAS, only local governments or regional or local economic or industrial development authorities may apply for the funds; however, localities may designate a redevelopment authority or other similar organization as the designated agent for implementation and administration of activities, or partner with private and nonprofit entities; and

WHEREAS, \$600,000 from other grants and contributions, as detailed in the attached Projected Sources of Funding for Building Grand Opening in 2024, will also be expended on this project, it is projected that thousands of Town and County residents will benefit from the implementation of the Cape Charles Rosenwald School Building Rehabilitation; and

WHEREAS, the Fiscal Year 2023 Industrial Revitalization Funds application period runs from June 1 until August 19, 2022; now

THEREFORE, BE IT RESOLVED by the Town Council of the Town of Cape Charles that the Town of Cape Charles wishes to apply for \$1,000,000 of Industrial Revitalization Funds for the Cape Charles Rosenwald School Building Rehabilitation for a community and education center.

BE IT FURTHER RESOLVED that Town Manager John Hozey is hereby authorized to sign and submit appropriate documents for the submittal of this Industrial Revitalization Fund proposal.

Adopted by the Town Council of Cape Charles on this 21st day of July 2022.

By: _____
Mayor William "Smitty" Dize

ATTEST:

Clerk of Council

CAPE CHARLES ROSENWALD SCHOOL RESTORATION INITIATIVE, INC.
PROJECTED SOURCES OF FUNDING FOR BUILDING GRAND OPENING IN 2024
AS OF JUNE 30, 2022

FUNDING REQUIRED FOR PROJECT COMPLETION:

Projected Cost of Rehabilitation in Phases:

Phase I	\$ 535,000
Phase II	935,000
Phase III	555,000
Phase IV	<u>175,000</u>

PROJECTED COST TO COMPLETE **\$ 2,200,000**

Cash Available for Rehabilitation Project:

Grant - Woodson Center	\$ 250,000
Contributions - Proceeds of Sale from Donated Land	244,000
Contributions - General	75,500
Grant - ESVA Community Foundation	50,000
Grant - Hotel Cape Charles	5,000
Contributions - Brick Campaign	<u>2,500</u>
Cash on Hand	\$ 627,000
Less: Reserve toward ongoing G&A	<u>(27,000)</u>

CASH AVAILABLE FOR BUILDING REHABILITATION **\$ 600,000**

FUNDING REQUIRED FOR PROJECT COMPLETION **\$ 1,600,000**

POTENTIAL FUNDING SOURCES FOR PROJECT COMPLETION:

POTENTIAL 2023 IRF/ARPA GRANT AWARD	\$ 1,000,000
--	---------------------

Board Member Funding Contingent on \$1M IRF/ARPA Grant Award:

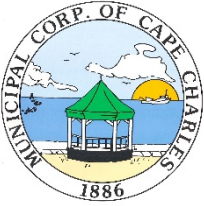
Major Gifts Campaign Pledge - Eyre Baldwin	\$ 100,000
Major Gifts Campaign Bridge Loan - Beth Walker	\$ 250,000
Major Gifts Campaign Bridge Loan - Kim Abod	<u>\$ 250,000</u>

BOARD MEMBER FUNDING CONTINGENT ON \$1M IRF/ARPA AWARD **\$ 600,000**

TOTAL FUNDING CONTINGENT ON \$1M IRF/ARPA AWARD **\$ 1,600,000**

Notes: The CCRSRI acquired the building and land free and clear of debt in 2019.

Fundraising efforts are ongoing and the Major Gifts Campaign is expected to begin in the Fall of 2022.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Conditional Use Permit Application – 211 Madison Avenue		AGENDA DATE July 21, 2022
	SUBJECT/PROPOSAL/REQUEST: Conditional Use Permit 2022-03 – Michelle & Nathan Davidson		ITEM NUMBER: 8B
	ATTACHMENTS: PC Agenda Packet from 6-7-2022 Meeting for CUP 2022-03 from Michelle & Nathan Davidson		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning & Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The applicant is seeking to obtain a Conditional Use Permit for a 648 sq ft accessory dwelling unit and an inground pool.

In the initial application submission, the survey and associated square footage for the structure were incorrect. The applicant has provided a revised survey and corrected the application to comply with all elements of the zoning ordinance.

ITEM SPECIFICS:

The Planning Commission held a public hearing on June 7, 2022 where the staff presented the application. No public comments were offered and the hearing was closed to public comments. The Planning Commission took up this item under New Business following the public hearing and there was no discussion nor any clarification requested concerning the application.

RECOMMENDATION:

A motion was made by Paul Grossman, seconded by Michael Strub, to recommend Town Council approve the Conditional Use Permit (CUP 2022-003) for an Accessory Dwelling Unit and an In-ground Pool at 211 Madison Avenue on an application filed by Michelle and Nathan Davidson pursuant to Cape Charles Zoning Ordinance Section 4.2 (J), and a Conditional Use Permit for an in-ground pool pursuant to Cape Charles Zoning Ordinance Section 3.2 (C) (5). The motion was approved by unanimous vote.

Town Council is requested to conduct their public hearing, review the application packet and staff report included in the Planning Commission agenda packet from their June 7, 2022 meeting and consider a favorable consideration of this Conditional Use Permit Application. Staff is available to assist in the development of any motion regarding this application.



PLANNING COMMISSION STAFF REPORT

Meeting Date: June 7, 2022

Item #: 4A & 7A– CUP 2022-003

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

Date: June 1, 2022

APPLICANT: Michelle & Nathan Davidson

SITE ADDRESS: 211 Madison Avenue

TAX MAP: 83A1-1-211 & 210

LOT SIZE: 10,320 sq ft

TYPE OF APPLICATION: Conditional Use Permit 2022-03

SPECIFIC REQUEST: An Accessory Dwelling Unit & Inground Pool

ZONING ORDINANCE: Section 4.2 (J) & Section 3.2 (C) (5)

CURRENT ZONING: Residential (R-1)

DATE RECEIVED: March 26, 2022

DATE DEEMED COMPLETE: May 19, 2022

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): August 19, 2022

NARRATIVE OF PROPOSAL

The applicant is seeking to obtain a Conditional Use Permit for a 648 sq ft accessory dwelling unit and an inground pool. When this application was initially submitted and provided to the Planning Commission last month, staff had not had an opportunity to discuss the application with the applicant in order to bring it into zoning compliance. Since then, we have corrected/addressed the following items from last month's submission: 1) using the wrong survey - reminded the applicant and their designer that the survey they were utilizing in their initial submission to the Town was not correct and did not match the Vacation of Lot Line Survey and Plat that was reviewed and approved by the Town on 3/15/2022 and recorded in the Clerk's Office in Eastville which shows a lot frontage of 80 ft and lot depth of 140 ft. with a total lot square footage of 11,200; 2) the proposed, new accessory structure was too large (755 sq ft) and exceeded the allowance of 660 square feet for all accessory structures; and 3) the retention of the existing shed at 80 sq ft in conjunction with the new accessory structure increases the overage of the allowed accessory structure square footage.

To correct, the approved survey is now being used and shows the placement of all structures (current and proposed for their site plan submission and the size of the proposed new accessory structure has been rescaled to come into compliance with the zoning ordinance and the existing shed will not be retained by the property owner. All building heights have been provided to the office and are within the zoning ordinance requirements.

AERIAL MAP: Property outlined in blue



ORDINANCE REQUIREMENTS

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

Accessory Dwellings. One accessory dwelling may be maintained on a property in the R-E, R-1, R-2 and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3, and subject to the following:

1. Physical characteristics.

- a. Accessory dwellings shall be located in an accessory building.*
- b. Accessory dwellings shall not have a floor area exceeding forty-five (45) percent of the floor area of the main building.*
- c. Accessory dwellings shall have one kitchen and one bathroom.*
- d. Accessory buildings shall not have the appearance of a single-family dwelling.*

2. Occupancy characteristics.

- a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.*
- b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.*

3. Other requirements.

- a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.*
- b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.*

- c. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6. (Table of Parking Standards) using both on and off-street parking areas.*
- d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.*

In addition, Section 3.2 (C) requires a conditional use permit for an inground pool in the Residential-1 Zoning District.

STAFF RECOMMENDATION:

The applicant has provided the Accessory Dwelling Unit Affidavit and has indicated that her mother will be residing in the ADU and stated that the pool would be utilized as part of the health and care regimen for their son.

Staff finds the application and site plan to be in zoning compliance and would only seek to remind the applicant of the Zoning Ordinance requirements in Section 4.7 - Swimming Pool Regulations needs to be adhered to including any Building Code requirements.

Staff recommends that the Planning Commission hold the public hearing on this application and would recommend the Planning Commission favorably recommend CUP2022-003 at 211 Madison Avenue on an application filed by Michelle & Nathan Davidson, pursuant to Cape Charles Zoning Ordinance Section 4.2 (J), for an Accessory Dwelling Unit above a garage and also for an inground pool pursuant to Cape Charles Zoning Ordinance Section 3.2 (C) (5).

Attachments:

Attachment 1 – CUP Application Packet
Site Plan Survey as amended by Katie Nunez
E-mail from Applicant dated 5-18-2022



CONDITIONAL USE PERMIT APPLICATION

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

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

- ☒ Completed application (if applicable, attach accessory dwelling checklist and documents)
- ☒ Letter of intent clearly explaining project
- ☒ Existing site plan or survey
- ☒ Proposed site plan or survey (if applicable)
- ☒ Names and addresses of adjacent property owners
- ☒ Payment of Fees (single-family detached residential \$600; all other \$800)

PROJECT INFORMATION

Name of Project: Davidson Family Apartment / Garage
Property Address: 211 Madison Ave.
Brief Description of Project: 2 story garage-apt for mother, Geri Lewis
Zoning District: _____ Current Use: land Proposed Use: apartment/garage
with pool (inground)

OWNER INFORMATION

Name and Company: Michelle & Nathan Davidson
Mailing Address: 416 Brougham Ct. Chesapeake, VA 23322
Phone Number: 703-298-3247 Email: mychile@chesapeakepsych.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: Michelle R. Davidson Date: 3/10/2022

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

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: 3/10/2022

Address: 211 Madison Ave.

The following criteria are required for one accessory dwelling to be maintained on a property in the R-E, R-1, R-2, and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3:

1. Is the accessory dwelling unit located in an accessory building? YES ☒ NO ☐
2. Does the accessory dwelling floor area exceed of forty-five (45) percent of the floor area of the main building? YES ☐ NO ☐ Accessory Dwelling Unit square footage 1438
3. Does the accessory dwelling have one kitchen and one bathroom? YES ☒ NO ☐
4. Does the accessory building/dwelling differentiate from the single-family dwelling? YES ☒ NO ☐

The following conditions must be maintained for an accessory dwelling unit on a property in the R-E, R-1, R-2, and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3:

1. Occupancy characteristics.
 - a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.
 - b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.
2. Other requirements.
 - a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.
 - b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
 - c. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6. (Table of Parking Standards) using both on and off-street parking areas.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.

CERTIFICATION OF APPLICANT

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

Signature of Owner: Michelle R. Davidson

Signature of Applicant: Michelle R. Davidson

Michele & Nathan Davidson
416 Brougham Court
Chesapeake, VA 23322
703-298-3247
michele@chesapeakebaypsych.com

February 23, 2022

To Whom It May Concern.

We are requesting a certificate of appropriateness for an addition into our home at 211 Madison Avenue along with a garage with an apartment. The addition will enable our 14 year-old son to access and live full-time in the home. Presently, there is no accessible bedroom or space for someone in a wheelchair. We are proposing adding a wheelchair accessible half bath, master bedroom for him with a wheelchair accessible bathroom, and a den for his own use and equipment needs. The addition is 755 square feet and also includes a wheelchair ramp to access the home which will be constructed on the side. We purchased the adjoining lot next to our home for this purpose.

We are also requesting to add a garage apartment onto our property to enable us to build a apartment for my elderly mother who will also be moving to Cape Charles with us full-time. The apartment will enable her to live as independently as possible while still allowing her to be in close proximity to us. The proposed garage is 24 x 32 feet in size and will also be located on the current and adjacent lot which we have applied to be joined.

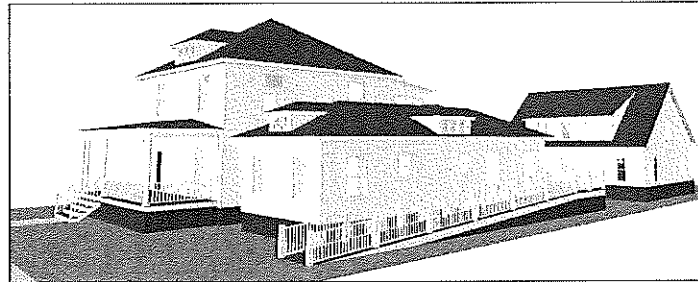
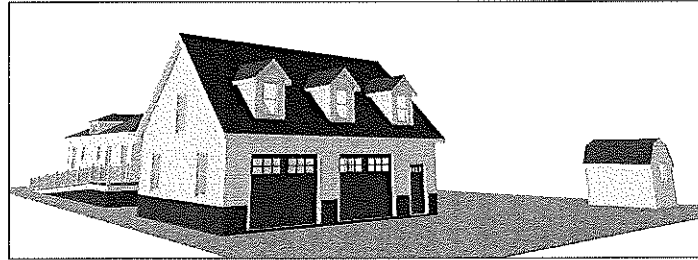
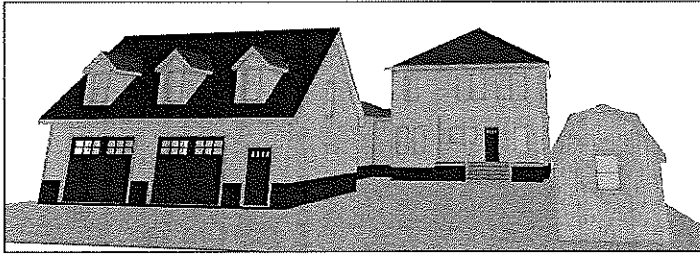
We are also hoping to add a salt water pool for our son as well behind our home that is 12.5 feet x 30 feet to provide aquatic therapy for him. We would like to include a picket 4 foot vinyl fence in accordance to building codes for safety purposes.

The addition of the rooms and garage will enable our family to relocate to Cape Charles on a full-time basis and become permanent residents here. Please let us know if you have questions or need additional information about this exciting project.

Kind regards,

A handwritten signature in black ink that reads "Michele Davidson". The signature is written in a cursive, flowing style.

Michele Davidson



PLAN REFERENCE NORTH



GRAPHIC SCALE
1/4" = 1'-0"

DESIGN DEVELOPMENT
DRAWING & DESIGN SERVICES LLC
PO BOX 189
CHANGELINE, VA 22447
757-304-8704
designdevelopmentllc@comcast.net
10-01-2022

DAVIDSON RESIDENCE
ADDITIONS & ALTERATIONS
211 MADISON AVENUE
CAPE CHARLES VIRGINIA 23310

SHEET 5 OF 5
PREPARED BY KAM
DATE: APRIL 11 2022



REAR ELEVATION

SCALE 1/4" = 1'-0"



REAR ELEVATION W/ PROPOSED GARAGE

SCALE 1/4" = 1'-0"



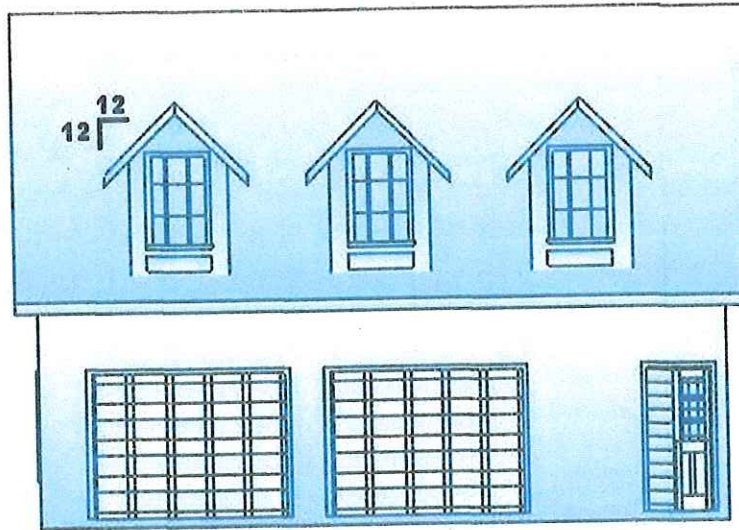
PLAN REFERENCE NORTH



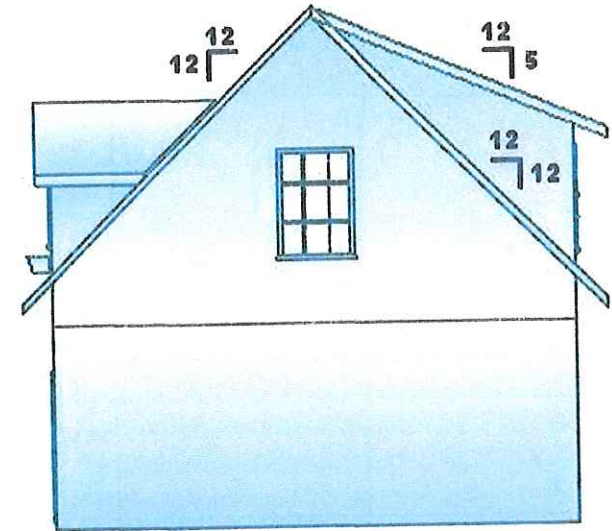
DESIGN DEVELOPMENT
CRAFTSMAN DESIGN SERVICES LLC
PO BOX 185
CHANDLER VA 22047
757-104-8701
dave@craftsmandesign.com
www.craftsmandesign.com

DAVIDSON RESIDENCE
ADDITIONS & ALTERATIONS
211 MADISON AVENUE
CAPE CHARLES VIRGINIA 23310

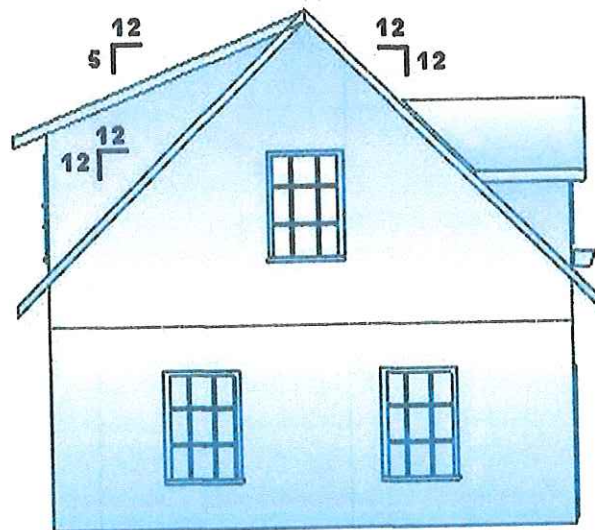
SHEET 4 OF 5
PREPARED BY KAM
DATE APRIL 11 2022



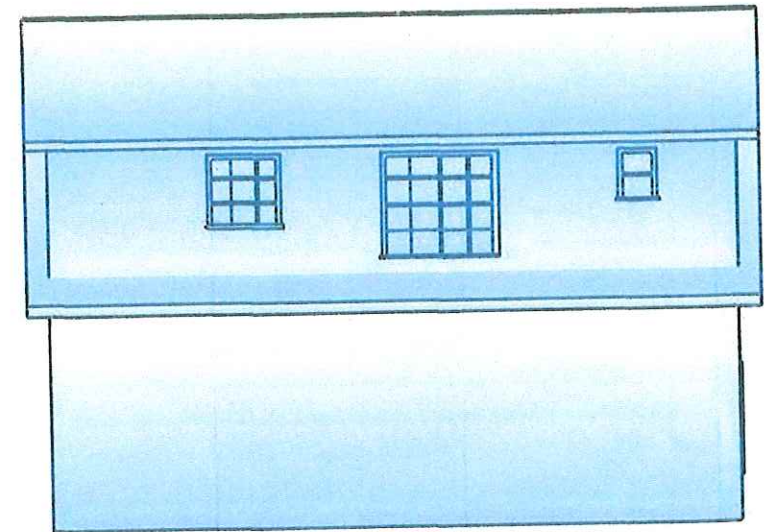
Front Elevation



Right Elevation



Left Elevation



Rear Elevation



ALTERNATIVE HOUSING SOLUTIONS

24'x 32' Garage Apartment

Page 2 of 12

03/10/2010

DESIGNER Terry L. Cardwell

Elevations

**Copyrighted Material
DO NOT COPY**

www.EasyCabinDesigns.com

Michele & Nathan Davidson
211 Madison Avenue
Cape Charles, VA 23310

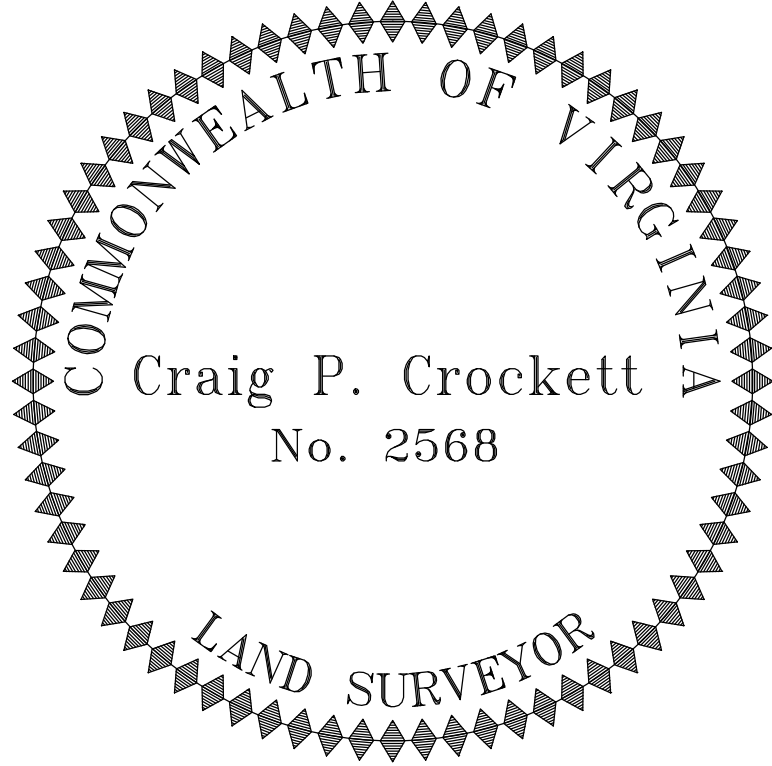
Names & Addresses of Adjacent Property Owners

Jim & Jody Outland
213 Madison Avenue
Cape Charles, VA 23310

David O'Kelly
209 Madison Avenue
Cape Charles, VA 23310

SURVEYORS CERTIFICATION

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



GENERAL NOTES:

1. OWNERS: NATHAN S. DAVIDSON, II & MICHELE R. DAVIDSON

2. SOURCES OF TITLE: INST. 190000519 (83A1-1-210)
INST. 170001600 (83A1-1-211)

3. TAX PARCELS: 83A1-1-210 & 211

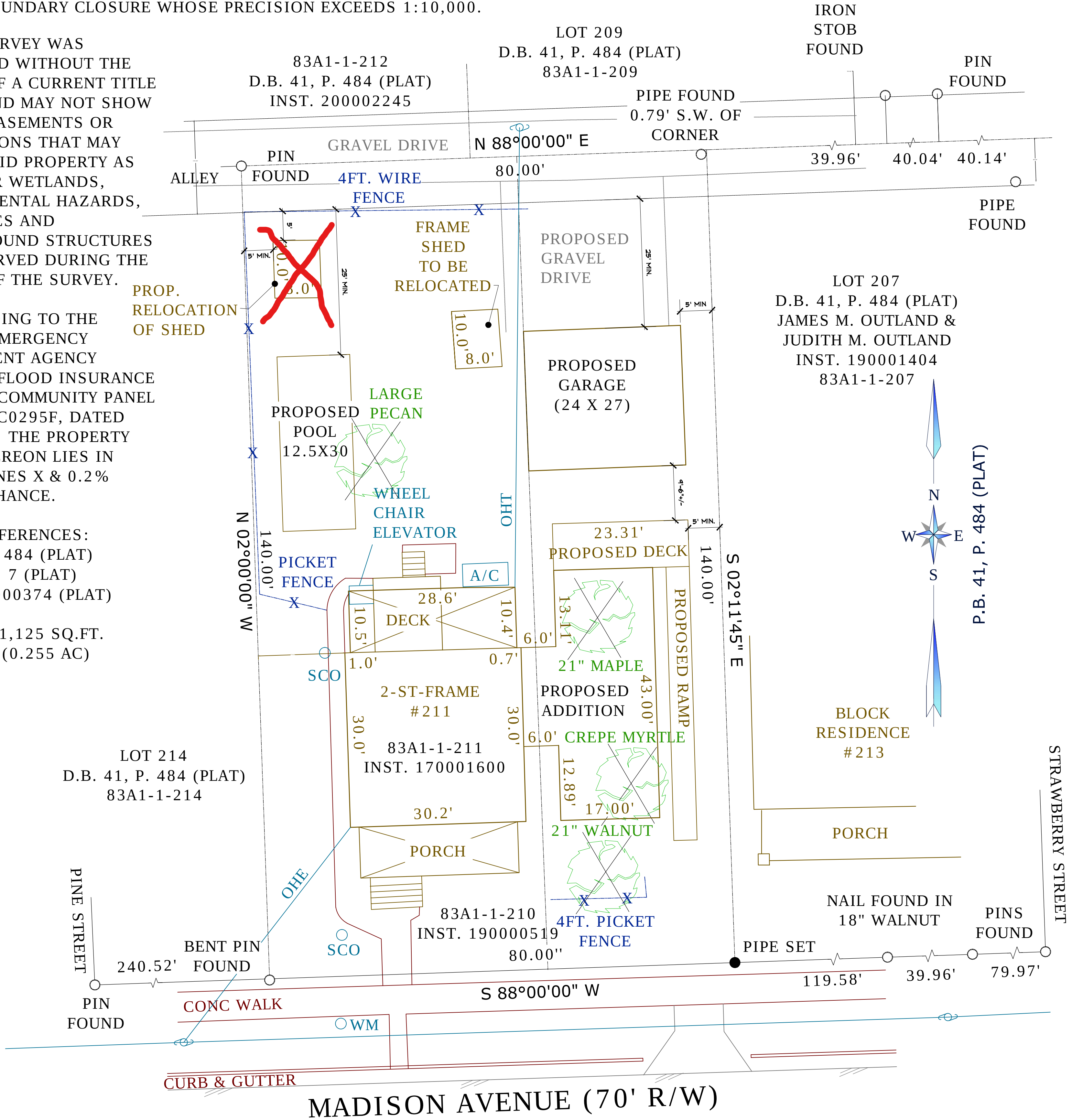
4. A SURVEY WAS PERFORMED ON THIS PROPERTY IN MARCH 2022
WITH A BOUNDARY CLOSURE WHOSE PRECISION EXCEEDS 1:10,000.

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

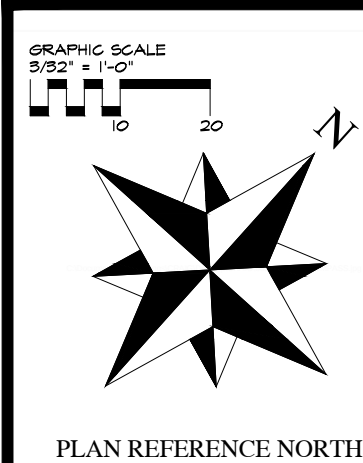
6. ACCORDING TO THE
FEDERAL EMERGENCY
MANAGEMENT AGENCY
(F.E.M.A.) FLOOD INSURANCE
RATE MAP COMMUNITY PANEL
NO. 51131C0295F, DATED
03-02-15, THE PROPERTY
SHOWN HEREON LIES IN
FLOOD ZONES X & 0.2%
ANNUAL CHANCE.

7. PLAT REFERENCES:
D.B. 41, P. 484 (PLAT)
D.B. 291 P. 7 (PLAT)
INST. 190000374 (PLAT)

8. AREA: 11,125 SQ.FT.
(0.255 AC)



SITE PLAN
LOT 211 & THE WESTERN 32' OF LOT 210
MAP OF THE TOWN OF
CAPE CHARLES
CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VIRGINIA
SCALE: 1" = 20' MARCH 11, 2022
MADE FOR NATHAN S. DAVIDSON & MICHELE R. DAVIDSON



POINT NORTH	
POINT NORTH SURVEYING LLC	
P.O. Box 701, (757) 709-3008	
Onley, VA. 23418 pointnorthsurveying@gmail.com	
DRAWN BY: PARKER	FIELD BOOK: FILE COPY
BACK TRAV: CROCKETT	PROJ. NO: 22028

Tracy Outten

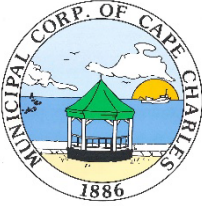
From: Katie Nunez
Sent: Thursday, May 19, 2022 11:35 AM
To: Tracy Outten
Subject: FW: Message Received

From: Michele Davidson <michelerdavidson@gmail.com>
Sent: Wednesday, May 18, 2022 8:54 AM
To: Katie Nunez <knunez@capecharles.org>
Subject: Message Received

Hi Katie,

I received your message about the shed and understand. Let me know if I still need to call you or if the application is complete. Can you also let me know the date of meeting I need to attend and if Kevin who did the plans needs to attend as well for clarification purposes.

Thanks,
Michele Davidson

 TOWN OF CAPE CHARLES	AGENDA TITLE: Rezoning Application – 238 Randolph Ave		AGENDA DATE July 21, 2022
	SUBJECT/PROPOSAL/REQUEST: ZMA 2022-001: 238 Randolph Avenue – Conditionally Rezone from Residential -1 (R-1) to Commercial -1 (C-1)		ITEM NUMBER: 8C
	ATTACHMENTS: Amended Proffer Statement submitted 07-12-2022; Staff Report dated June 16, 2022		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

An update of the joint public hearing which was held on May 3, 2022 was provided at the Town Council meeting on June 16, 2022. As I stated, the Planning Commission did vote to recommend the Rezoning of Tax Map 83A3-1-625A but not with the then submitted Proffer Statement dated May 3, 2022 but detailed conditions to its recommendation which are stated here:

PLANNING COMMISSION RECOMMENDATION: Commissioner Grossman motioned to recommend approval of the Rezoning of Tax Map 83A3-1-625A, further identified as 238 Randolph Avenue, from Residential-1 (R-1) to Commercial-1 (C-1), but with the following revisions/conditions to the terms of the Proffer Statement, with the understanding and proviso that the Town can not require the Applicant to amend the Proffer Statement:

- 1) Section II (Land Use) (B – Permitted Uses) (1) Deliveries: Provide clarification regarding “other service related deliveries” to eliminate ambiguity and clearly specific type and purpose of “other service related deliveries; if unable to craft said language, then this phrase “other service related deliveries” should be stricken.
- 2) Section II (Land Use) (B – Permitted Uses) (2) Waste Management: All trash should be collected and stored in a dumpster (not the trash receptacle supplied by the Town) on the site and said dumpster shall be serviced by a third party vendor at expense of the property owner/applicant and said dumpster shall be serviced at least twice a week during the summer season of March to November). Revise the site plan to show the location of the dumpster and provide appropriate screening of dumpster through a fence. If the hotel expands its # of rooms from the acquisition of 7 Strawberry Street expansion, then this site plan will be amended to either accommodate 2 dumpsters or the property owner/applicant will increase the frequency of weekly servicing of the trash dumpster.
- 3) Section II (Land Use) (B – Permitted Uses), (3) Golf Carts: Remove any mention or allocation of land on this lot for the storage, charging or holding of golf carts for the hotel and any associated screening and /or landscaping for golf carts.
- 4) Section III (Landscaping & Screening) (C): Fully explain/ define the term “convenience containers” to be reviewed and determined if acceptable by the Town; otherwise, this term should be removed.

The motion was seconded by Commissioner Holloway and the motion carried with a vote of three in favor (Grossman, Holloway and McCoy) and two against (Butta and Strub).

This recommendation was also forwarded to the applicant for his consideration to see if he would willingly amend the Proffer Statement to incorporate any element of the Planning Commission conditions contained in their recommendation of approval.

ITEM SPECIFICS:

The applicant has submitted a revised Proffer Statement dated July 7, 2022. The applicant has made some revisions based upon the recommendation from the Planning Commission but did not fully agree with all of the recommendations, including the Planning Commission's recommendation to eliminate the golf cart charging station and dedicated parking space on this lot. The applicant also amended the site plan that accompanies the Proffer Statement so that it reflects the placement of a dumpster further back on the lot, shows 6 spaces for golf carts and some space within that overhead enclosure for the golf carts to be dedicated for bicycles. The Proffer Statement does provide some additional stipulation/clarification regarding deliveries, specifically the weight limit type of vehicle that will not be allowed to utilize this lot for deliveries. The revised Proffer Statement and Site Plan are attached for your full review.

As I have previously stated, Proffer Statements are voluntary offers by an applicant to place specified conditions or stipulations to either restrict by-right usage of the Zoning Ordinance or to increase or supplement any named improvements above the minimum requirements of the ordinance. The Proffer Statement needs to be submitted prior to the convening of the public hearing (which these were submitted timely) and may be further tweaked as long as they are not materially changed from what was part of the public hearing process and are fully and voluntarily offered by the applicant (which the amended Proffer Statement with Site Plan complies with this requirement).

STAFF ANALYSIS (From Prior Staff Reports)

A. REVIEW WITH RESPECT TO COMPREHENSIVE PLAN

The Cape Charles Comprehensive Plan notes and stresses the Town's historic layout pattern and the primary intent to preserve the Town's historic character as noted in Section II.9 below.

Section II (Settings): II.9 Land Use and Community Character

Cape Charles is distinguished by its historical residential and commercial areas, access to the Chesapeake Bay, the railroad, new planned communities, and a great deal of natural beauty and shoreline scenery. The most desirable future development will respond conscientiously to the town's established character and natural setting. The Historic District's late nineteenth and early twentieth century character is a key element in the town's interest and attractiveness to residents and tourists. It is important that the town's historic character be protected, not only for its intrinsic value, but also to continue to attract and expand tourism in Cape Charles.

The Future Land Use Map maintains the Residentially Zoned Districts as mapped on the Zoning Map and also retains the Commercial-1 (C-1) Zoning District as mapped on the Zoning Map.

This application is not consistent with the Comprehensive Plan relative to land use designations. The Comprehensive Plan does emphasize the role of tourism and tourism supported businesses as a key component of its Economic Component which the Hotel Cape Charles clearly embodies.

B. REVIEW WITH RESPECT TO ZONING ORDINANCE: ZONING DISTRICTS – INTENT

CCZO Section 3.2 Single Family Residential District R-1

A. Statement of intent. The intent of this basic zoning district is to provide quiet, medium density, single-family residential development plus provide open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to restrict all activities of a commercial nature as described in Section 3.6-A of this ordinance, known as Commercial District C-1, which states "These commercial activities are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments," and to promote a convenient, attractive, and harmonious community. This section is created in recognition of the existence of developed areas where single-family and duplex dwelling currently exist on lots of 5,600 square feet and where the characteristics of the neighborhood include both permanent as well as seasonal residents.

CCZO Section 3.6 Commercial District C-1

A. Statement of Intent. The intent of this zoning district is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.

C. GENERAL ANALYSIS

Impacts to Adjacent Property

The support services that typically occur “behind the scenes” are needed for this establishment which has been successful and providing a needed service in our community. However, I think there was an inadequate analysis of what site planning and requirements are needed to host and operate a full-scale hotel operation.

Clearly, there has been an impact on the adjacent residential properties where there is a row of trash receptacles that is appropriate for a commercial establishment but out of scale for a residential use. The same can be said for the # of golf carts and the staging and charging of said golf carts as well as the frequency of propane deliveries and utilizing this residential lot as a “quasi-alley” to service not only the hotel but adjacent other commercial businesses.

There are visual and noise impacts that have fully intruded into the residential neighborhood on Randolph Avenue of a commercial nature and are noticeable and impactful to the two existing residences on either side of the lot in question. The proffers offered by the applicant are attempting to respond and mitigate some of this impact, including addressing and installing appropriate landscaping to shield and screen visually this lot from the rest of the neighborhood, to propose screening for the golf cart parking/staging/charging area and the proposed trash receptacle areas. But the amount of space proposed to dedicate for these services is substantial and will be evident to the adjacent residential landowners and will be constant during the summer season and possibly throughout the entire year as more people choose to visit and/or vacation in Cape Charles and have need of hotel lodging. There has been insufficient exploration of alternative ways to reduce some of this “behind the scenes” support services, such as increased trash collection, thus reducing the # of trash receptacles; discrepancy from the original application narrative/property to the latest revised site plan which has already increased the # of golf carts being indicated for placement on the property.

TOWN COUNCIL INFORMATION: The Town Council is able to do one of three actions following a review of the entire record on this application, including the amended Proffer Statement and Site Plan:

- 1.) Vote to approve ZMA 2022-001: 238 Randolph Avenue – Conditionally Rezone from Residential -1 (R-1) to Commercial -1 (C-1) with the amended Proffer Statement and Site Plan. Said vote should incorporate Comprehensive Plan support.
- 2.) If the Proffer Statement does not fully address the concerns and issues raised through the staff reports and during the Public Hearing and as recommended by the Planning Commission, continue discussions with the applicant to raise the remaining issues that the Town feels need to be addressed in order for an affirmative vote to be taken and table the matter for a defined period to allow for additional consideration by the applicant to see if he would be able to address the concerns expressed by Town Council.
- 3.) Vote to deny ZMA 2022-001: 238 Randolph Avenue – Conditionally Rezone from Residential-1 (R-1) to Commercial-1 (C-1). Said vote should articulate all reasons for said denial.

Staff is prepared to assist in the development of any motion proposed by Town Council to ensure that there is supportive reasoning offered, depending upon which course of action you wish to proceed with.

Prepared by:

Christopher M. Mackenzie, Esquire (VSB# 84141)
Sands Anderson PC
2400 Bank of America Center
1111 East Main Street (23219), P.O. Box 1998
Richmond, Virginia 23218-1998

After recording return to:
Town of Cape Charles
Department of Planning & Zoning
2 Plum Street
Cape Charles, VA 23310

Tax Map #: 83A3-1-625A

VOLUNTARY PROFFER STATEMENT

Applicant & Owner: Cape Charles Ventures LLC (the “**Applicant**”)

Representative: Christopher M. Mackenzie, Esquire (VSB# 84141)
Sands Anderson PC
2400 Bank of America Center
1111 East Main Street (23219), P.O. Box 1998
Richmond, Virginia 23218-1998
Phone: 804-783-7280
Email: CMackenzie@SandsAnderson.com

Subject Property: Northampton County Tax Parcel 83A3-1-625A, with a street address of 238 Randolph Avenue, Cape Charles, Virginia, consisting of approximately 1 acre (the “**Property**”)

Benefited Properties: Northampton County Tax Parcel 83A3-1-623, with a street address of 235 Mason Avenue, Cape Charles, Virginia (the “**Hotel Parcel**”); 227, 231, 237, 239, and 241 Mason Avenue, Cape Charles, Virginia; and 7 Strawberry Street, Cape Charles, Virginia if acquired by Applicant

Date: July 6, 2022

Site Plan: Entitled “Site Plan – 238 Randolph”, prepared by Kendra Taylor Landscape Architecture, LLC, dated June 28, 2022, as revised, attached hereto as **Exhibit A** (the “**Site Plan**”)

Rezoning Request: From R-1 to C-1

Rezoning File No.: ZMA 2022-001

RECITALS

- A. Applicant is the owner of the Property and has initiated the conditional amendment to the zoning map of the Town of Cape Charles, Virginia, by petition addressed to the Town of Cape Charles, a municipal corporation of the Commonwealth of Virginia (the “**Town**”).
- B. The purpose of this Voluntary Proffer Statement (the “**Proffers**”) is to rezone the Property from the R-1 Zoning District to C-1 Zoning District.
- C. The Town’s policy is to provide for the orderly development of land for various purposes, including commercial purposes, through zoning and other land development legislation.
- D. Applicant desires to offer the Town the following conditions for the enhancement of the community and to provide for the highest quality and orderly development of the Property.
- E. The conditions outlined in this Agreement have been proffered by Applicant and allowed and accepted by Town as a part of the amendment of the Town Zoning Ordinance and the Zoning Map. These conditions shall continue in full force and effect until a subsequent amendment changes the zoning of the Property; provided, however, that such conditions shall continue if the subsequent amendment is part of the comprehensive implementation of a new or substantially revised zoning ordinance of the Town.

CONDITIONS

I. General Information.

The Applicant, and its successors and assigns, hereby agrees that the use and development of the Property, subsequent to the Town’s approval of the rezoning application to which these Proffers are attached, will be in conformance with the Site Plan and the below proffered conditions pursuant to §§ 15.2-2303 and 15.2-2303.4, et al. of the *Code of Virginia* (1950, as amended), and Section 2.7 of the Zoning Ordinance of the Town, as amended. The Proffers are the only conditions offered in this rezoning application, and any prior proffers affecting the Property are hereby superseded by these Proffers, and thus are void and of no further force and effect upon said approval. The Proffers will be effective only upon the Town’s full and final approval of rezoning application # ZMA 2022-001, submitted by the Applicant to reclassify the Property from R-1 to C-1.

These Proffers are made voluntarily and without any requirement by or exaction from the Town or its governing body and without any element or compulsion or quid pro quo for zoning, rezoning, site plan, building permit or subdivision approval, and covenants and agrees that these Proffers shall constitute covenants running with the Property, which shall be binding upon the Property, and upon all persons and entities claiming under or through the Applicant, its heirs successors and assigns, grantees and other successors in interest or title to the Property.

II. Land Use.

A. General Development. The Property will be developed in general conformance with the Site Plan. Notwithstanding the foregoing, all parcel lines, parcel sizes, improvement sizes and locations, private driveway and travelway locations, landscaping and lighting locations, utility locations, storm water management facilities, and dimensions of undeveloped areas shown on the Site Plan may be reasonably adjusted for purposes of the final site plans to allow the Applicant to address final development, engineering and design requirements, fulfill compliance with state and federal agency regulations including, but not limited to, DHR, VDOT, DEQ, DCR, Army Corps., etc., and compliance with the requirements of the Town's development regulations and design standards manual.

B. Permitted Uses. The use of the Property shall be limited to uses in support of and in association with the permitted uses for which the Hotel Parcel is utilized, and namely the following:

1. **Deliveries.** Propane and other service-related deliveries for the Hotel Parcel and the properties located at 227, 231, 237, 239, and 241 Mason Avenue, Cape Charles, Virginia, excluding deliveries made by heavy-duty commercial vehicles (classified as having a gross vehicle weight rating (GWVR) over 26,000 lbs) such as tractor-trailers.
2. **Waste Management.** Storage and use of a commercial waste management dumpster for the Hotel Parcel and the properties located at 237, 239 Mason Avenue, Cape Charles, Virginia and 7 Strawberry Street, Cape Charles, Virginia, if acquired by the Applicant or an entity associated with the Applicant, which will be emptied on an as-needed basis.
3. **Golf Cart and Bicycle Storage.** Parking, storage, charging, and use of golf carts, bicycles, and similar recreation equipment owned and operated by the Applicant in association with the Hotel Parcel.

III. Landscaping & Screening.

The Applicant agrees to install, maintain, and, if necessary, replace, the landscaping and screening improvements shown on the Site Plan in conformance with the following:

A. The landscaped buffer areas shown on the Site Plan shall be maintained in good, healthy state by the owner of the Property. Fallen, diseased, and dead plant growth shall be removed and replaced with comparable (at maturity) healthy plant materials.

B. The Property may include additional plantings, signage, and/or fencing, as otherwise permitted under the Town's Zoning Ordinance.

C. Dumpsters shall be located as depicted on the Site Plan reasonably screened from public view at ground level.

D. Golf carts and bicycles shall be stored overnight in the locations designated on the Site Plan, with a maximum of six (6) golf carts stored therein and with the bicycles stored at the end of the shelter closer to Randolph Avenue, as shown on the diagram entitled "Newport 7-40" included in Exhibit A.

III. Lighting. Any lighting of the Property shall be directed in a way to minimize glare on public roads and adjacent structures.

[Signature pages follow]

The Applicant makes these proffers voluntarily, in support of its rezoning application.

WITNESS the following signatures:

APPLICANT & OWNER:

Cape Charles Ventures LLC,
a Virginia limited liability company

By: [Signature]

Name: David Gammino

Title: Manager

Date: 7/6/22

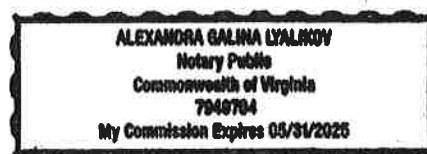
COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF RICHMOND

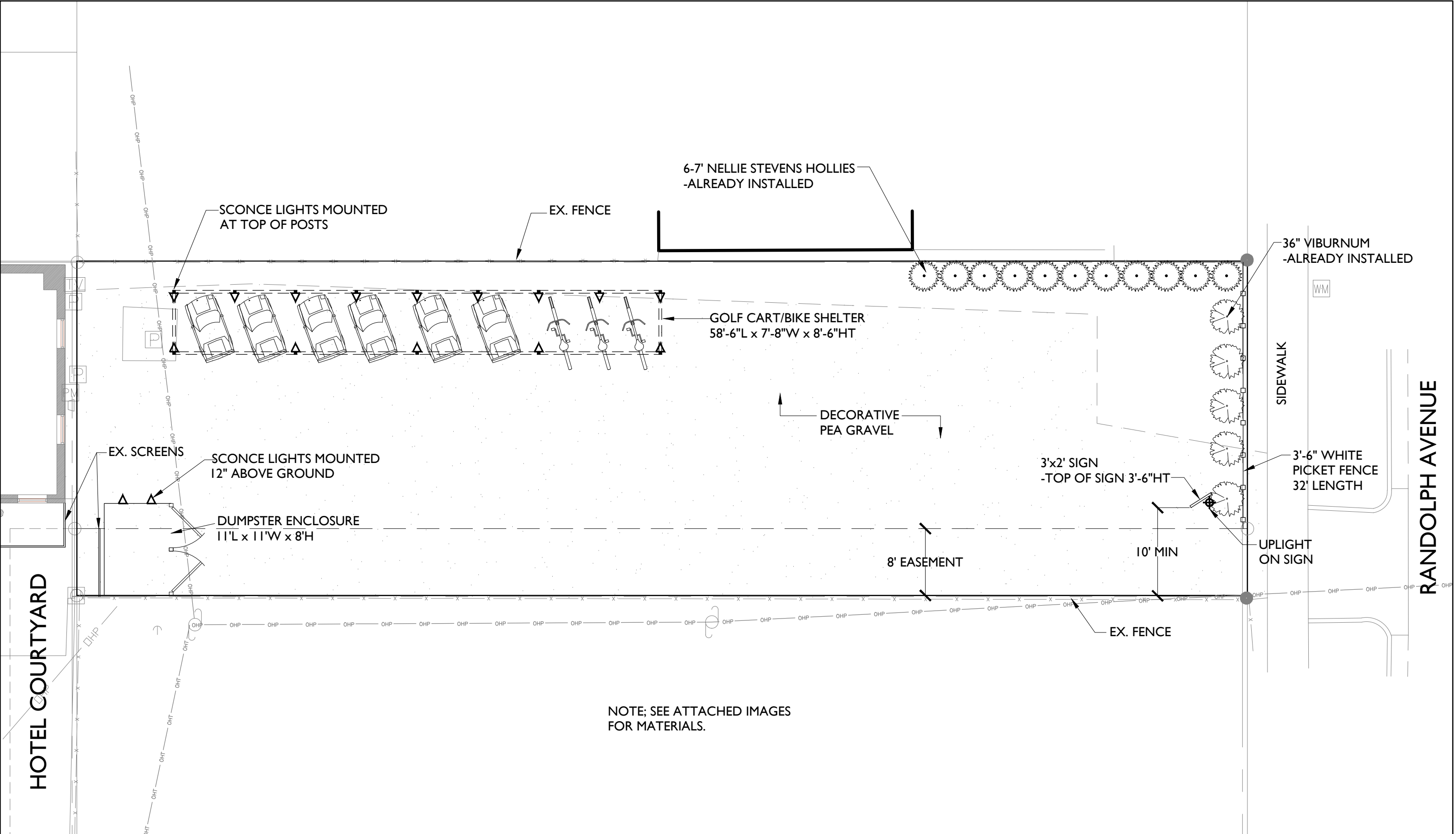
The foregoing was subscribed, sworn to and acknowledged before me this 6 day of July, 2022 by that David Gammino, whose name is signed to the foregoing instrument as (title) Manager of Cape Charles Ventures LLC, a Virginia limited liability company, on behalf of said company. He/she ☐ is personally known to me or ☒ has produced VIRGINIA DRIVER'S LICENSE as identification.

[Signature]
Notary Public

Alexandra Galina Lyalkov

My commission expires: 5.31.2025
Registration No. 7949704





SITE PLAN - 238 RANDOLPH

 TOWN OF CAPE CHARLES	AGENDA TITLE: Zoning Map Amendment Application – 238 Randolph Avenue		AGENDA DATE June 16, 2022
	SUBJECT/PROPOSAL/REQUEST: ZMA 2022-001: 238 Randolph Avenue – Conditionally Rezone from Residential -1 (R-1) to Commercial -1 (C-1)		ITEM NUMBER: 7D
	ATTACHMENTS: Supplemental Staff Report dated June 1, 2022; revised Site Plan and Material Images; Amended Proffer Statement submitted 05-03-2022		FOR COUNCIL: Action () Information (X)
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

A joint public hearing was held on May 3, 2022 at which the applicant submitted a revised Proffer Statement prior to the start of said public hearing and also submitted a revised Site Plan with Images.

At the close of the public hearing, the Planning Commission requested clarification about the businesses and/or properties that are referenced in the Proffer Statement as to which would be allowed propane delivery/access vs. trash collection/servicing which the applicant provided. Members of the Commission indicated that some resolution is needed to continue to allow the essential services to be provided and serviced for these businesses, particularly to see if there is a way to leave the lot as Residentially Zoned but provide a narrow and limited allowance for trash collection and servicing as well as propane delivery but nothing further and requested staff to conduct research to see if there is a possibility to do this, such as a legal non-conforming consideration.

ITEM SPECIFICS:

The Town adopted its Zoning Ordinance on July 14, 1992 and within that document, it defines “legal, non-conforming” as ***Any legal use, building, or structure existing at the time of adoption of this ordinance or any amendment thereto may be continued even though such use, building, or structure may not conform with the provisions of this ordinance for the district in which it is located. Such use, building, or structure shall be deemed a “Non-Conforming Use.”***

If a determination is made to classify either a use and/or lot/parcel as legal, non-conforming, the Cape Charles Zoning Ordinance further stipulates in Section 2.5.1 thru 2.5.5 that the legal, non-conforming use may continue under certain conditions:

- 1. No such non-conforming use, building, or structure shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of the adoption of this ordinance, unless said enlargement does not result in an increase in nonconformity or result in a change to a use permitted in the district.***
- 2. No such non-conforming use, building, or structure shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use, building, or structure at the effective date of adoption of this ordinance or amendment of this chapter, unless such move results in decreasing the degree of nonconformity with the requirements of this district.***
- 3. No additional structures which do not conform to the requirements of this ordinance shall be erected in connection with such non-conforming use of land. No additional uses of a nature which would be prohibited generally in the district involved shall be permitted.***
- 4. Any non-conforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance.***

5. ***When any non-conforming use is superseded by a permitted use, the use shall thereafter conform to the regulations for the district, and no non-conforming use shall thereafter be resumed with the exception of existing duplexes specifically designed as such.***
6. ***If any such non-conforming use or structure ceases for any reason for a period of more than two years, except when government action impedes access to the premises, any subsequent use of such land or structure shall conform to the regulations specified by this chapter for the district in which such land or structure is located with the exception of existing duplexes specifically designed as such.***

Staff conducted a title review of both the residential lot as well as the hotel lot in front of this parcel only as far back as just prior to July 14, 1992 when the Town adopted its zoning ordinance. In 1983, Mustang Agreement purchased both the hotel lot on Mason Avenue and the residential lot behind it that fronts on Randolph from Margaret Dickson. While these properties sold several times in the intervening years, both the hotel and residential lot were sold in tandem and remained in common ownership from 1983 thru July 29, 2010. It is relevant to point out that the 8 ft easement across the residential lot has been part of all deed transaction for the hotel property itself (for full history on the easement/alley across this residential lot, see Supplement Staff Report to the Planning Commission dated June 1, 2022).

At that time, the hotel property was sold as a result of a bank default to Cape Charles Ventures, LLC; however, the residential lot did not sell at the same time as the hotel lot and was not sold until 12/18/2014 to Cape Charles Ventures, LLC. I consider this a break in service under the CCZO Section 2.5.1 (6) and removes the residential lot and any usage by the hotel as being classified as Legal, Non-Conforming. Therefore, I have determined that the Residential Lot at 238 Randolph Avenue and the uses currently occurring on the lot by the Hotel, with the exception of the established easement for water/sewer utilities and the delivery of propane to the propane tank which was allowed to be placed on the residential lot and service the hotel building when the hotel obtained a building permit for renovations to the hotel, are not legal, non-conforming uses and are uses occurring in violation of the Zoning Ordinance.

Commissioner Grossman indicated that he does not agree with this Zoning Determination and felt that it was possible that the uses were still occurring by the hotel property from 2010 to 2014 on the residential lot, even though the residential lot was owned by a different party than the owner of the Hotel Lot. I stated that I have no information to confirm or contradict his assumption but I did not find it necessary to know that since the two lots had different owners and unless there was a signed agreement from the owners of the residential lot to allow that lot to be used by the owners of the Hotel Lot then any use on the residential lot by the Hotel Lot during that time frame would not be legal and I stand by my Zoning Determination.

Therefore, the consideration before the Planning Commission was to either recommend the Conditional Rezoning Application as presented, recommend a rezoning but with further revisions or conditions using the Proffer Statement as a jumping off point in their deliberations, or to not recommend the rezoning application.

At this point, the Planning Commission went through the Proffer Statement section by section and the affiliated Site Plan and offered the following comments:

- 1) Section II (Land Use) (B – Permitted Uses) (1) Deliveries: Need clarification regarding “other service related deliveries”. As currently written, this is too broad and uncertainty about what falls under that umbrella. Does this mean the Sysco Food Truck? Or John Doe Electrician coming for 3 full days of repairing the electricity in the building? How does the use of the designated loading zone differ from this Proffer Condition to allow other service related deliveries for the Hotel Parcel and the listed properties?
- 2) Section II (Land Use) (B – Permitted Uses) (2) Waste Management: Staff indicated that in conversations with applicant, there was a discussion about the # of Town Issued Trash Receptacles (which is shown as 15 on the Site Plan and to be surrounded by a fence with gate enclosure for screening purposes) and should we consider a dumpster placed on the site a better option which would be serviced by a third party vendor paid by the Hotel and thus eliminating the large # of trash

receptacles and bringing them out to the street on a weekly basis for Town trash removal, especially since 15 trash bins is not typical for a residential lot anywhere else on Randolph Avenue. This would eliminate any concerns about the timing of placement of the trash bins onto the sidewalk on pick-up day as well as removal of the emptied bins back onto the hotel property. If the dumpster approach is amenable to both parties, then the site plan would need to be revised accordingly and some sort of screening, such as a fence around the dumpster, would need to be part of this condition.

Additionally, if this is an amenable approach, there may need to be consideration of considering the frequency of emptying of the dumpster beyond once a week, especially during the summer season. The summer season should be considered March to November.

Lastly, if the hotel expansion is pursued, possibly through the acquisition of 7 Strawberry Street, then an increase to at least 2 dumpsters should be an acknowledged stipulation or an increase in the frequency of the weekly emptying of the one trash dumpster to reflect the increase in the # of hotel rooms and the increased trash generation that would come from an increase in the # of hotel rooms.

- 3) Section II (Land Use) (B – Permitted Uses), (3) Golf Carts: Staff indicated that golf carts were not deemed essential in the provision of services needed for the operation and management of the hotel and was actually an expansion of the services that historically were provided from the rear of the hotel property (i.e., propane deliveries, trash collection and storage). The Planning Commission members indicated consensus that they do not view the offering of golf carts and providing a charging station for said golf carts (and the screening noted for such) are not essential to the hotel and support the removal of this condition of use on the lot (238 Randolph Avenue) as well as the associated screening in Section III (D).
- 4) Section III (Landscaping & Screening) (C): Staff was unable to fully explain the term “convenience containers” and the PC members stated that if we don’t fully understand and can’t state clearly what this is then the term should be deleted from this condition.
- 5) The Commission members wanted clarification regarding the addresses listed in the Proffer Statement and what businesses were associated/located at those addresses. I stated that these addresses reflected businesses located in real estate owned by Cape Charles Ventures II, LLC which is the corporate entity for Hotel Cape Charles. So, the businesses that would be benefiting from this zoning application are the Hotel itself, subsidiary businesses of the hotel’s LLC entity operating within space of the hotel building or that the hotel’s LLC entity has leased to third parties to operate a business (such as the Credit Union or the Almeta Coffee Shop).

Commissioner Butta stated that he is not supportive of approving this application, even with the points raised during the discussion, since he believed the design and construction of the hotel created this issue, specifically the courtyard which is at the back of the building where the zoning is Commercial-1 and where the trash receptacles used to be stored. Additionally, he felt that the courtyard should be relocated to the residential lot and the other uses be moved to operate from the portion of the Commercial-1 Zoned Lot that the hotel sits on and he does not think the rezoning is supported by the Comprehensive Plan. Commissioner Strub also indicated that he did not think this application was supported by the Comprehensive Plan.

As I have previously stated, Proffer Statements are voluntary offers by an applicant to place specified conditions or stipulations to either restrict by-right usage of the Zoning Ordinance or to increase or supplement any named improvements above the minimum requirements of the ordinance. The Proffer Statement needs to be submitted prior to the convening of the public hearing (which these were submitted timely) and may be further tweaked as long as they are not materially changed from what was part of the public hearing process and are fully and voluntarily offered by the applicant.

PLANNING COMMISSION RECOMMENDATION:

Commissioner Grossman motioned to recommend approval of the Rezoning of Tax Map 83A3-1-625A, further identified as 238 Randolph Avenue, from Residential-1 (R-1) to Commercial-1 (C-1), but with the following

revisions/conditions to the terms of the Proffer Statement, with the understanding and proviso that the Town can not require the Applicant to amend the Proffer Statement:

- 1) Section II (Land Use) (B – Permitted Uses) (1) Deliveries: Provide clarification regarding “other service related deliveries” to eliminate ambiguity and clearly specific type and purpose of “other service related deliveries; if unable to craft said language, then this phrase “other service related deliveries” should be stricken.
- 2) Section II (Land Use) (B – Permitted Uses) (2) Waste Management: All trash should be collected and stored in a dumpster (not the trash receptacle supplied by the Town) on the site and said dumpster shall be serviced by a third party vendor at expense of the property owner/applicant and said dumpster shall be serviced at least twice a week during the summer season of March to November). Revise the site plan to show the location of the dumpster and provide appropriate screening of dumpster through a fence. If the hotel expands its # of rooms from the acquisition of 7 Strawberry Street expansion, then this site plan will be amended to either accommodate 2 dumpsters or the property owner/applicant will increase the frequency of weekly servicing of the trash dumpster.
- 3) Section II (Land Use) (B – Permitted Uses), (3) Golf Carts: Remove any mention or allocation of land on this lot for the storage, charging or holding of golf carts for the hotel and any associated screening and /or landscaping for golf carts.
- 4) Section III (Landscaping & Screening) (C): Fully explain/ define the term “convenience containers” to be reviewed and determined if acceptable by the Town; otherwise, this term should be removed.

The motion was seconded by Commissioner Holloway and the motion carried with a vote of three in favor (Grossman, Holloway and McCoy) and two against (Butta and Strub).

TOWN COUNCIL INFORMATION:

I have spoken with the applicant and informed him of the various items raised by the Planning Commission and provided him a copy of this report. I have indicated that the Town is fully aware that they can not require he incorporate any of the items raised by the Planning Commission into his Proffer Statement and that, if he is willing to consider and revise his Proffer Statement to try and address the issues raised by the Planning Commission, then that would be appreciated and acceptable to make such revisions to the Proffer Statement since that would not materially change the Proffer Statement conditions that were part of the public hearing process.

He did indicate that he would review this information thoroughly and provide a response to the Town but may not have a response submitted prior to the Town Council meeting on June 16, 2022. I indicated that I would be providing this as Information Only to the Town Council for the 6/16/2022 meeting and would provide a place marker for potential action by the Town Council on their July 21, 2022 meeting agenda. He also indicated his initial reaction to the Planning Commission’s position regarding the golf carts is total disagreement but will reserve any further comments until he has fully read my report regarding the Planning Commission’s actions and recommendation to the Town Council.



PLANNING COMMISSION & TOWN COUNCIL JOINT PUBLIC HEARING STAFF REPORT

Meeting Date: May 3, 2022

Item #: 4B – ZMA 2022-001

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

Date: April 26, 2022

APPLICANT : Cape Charles Ventures, LLC

TYPE OF APPLICATION: Zoning Map
Amendment (ZMA) 2022-01

SITE ADDRESS: 238 Randolph Avenue

SPECIFIC REQUEST: Conditionally rezone parcel
from Residential-1 to Commercial-1

TAX MAP: 83A3-1-625A

ZONING ORDINANCE: Section 2.7

LOT SIZE: 5,600 sq ft

CURRENT ZONING: Residential (R-1)

PROPOSED ZONING: Commercial-1 (C-1)

DATE RECEIVED: March 4, 2022

DATE DEEMED COMPLETE: March 16, 2022

LEGAL DEADLINE: 100 days from 1st Receiving Application: July 14, 2022

NARRATIVE OF PROPOSAL

Cape Charles Ventures, LLC, on March 4, 2022, filed a conditional rezoning map amendment application to rezone 238 Randolph Avenue (Tax Map # 83A3-1-625A) from Residential-1 to Commercial-1 with proffers to limit the commercial activity of said proposed rezoning but to legally allow for the support services to be located on this lot and continue as the applicant has been utilizing this lot for the last few years and has expanded some services, such as golf carts for guest usage which are parked and charged on this lot. Additionally, the trash receptacles serving Hotel Cape Charles are stored on this lot and this lot is the entry point for limited utility deliveries, including propane for the Hotel as well as adjacent commercial properties which have been specifically listed in the Proffer Statement from the applicant.

This application was forwarded to the Town Council and on March 17, 2022, the Town Council adopted Resolution of Intent 20220317B to accept the application and forwarded to the Planning Commission who then scheduled this matter for joint public hearing with Town Council on May 3, 2022.

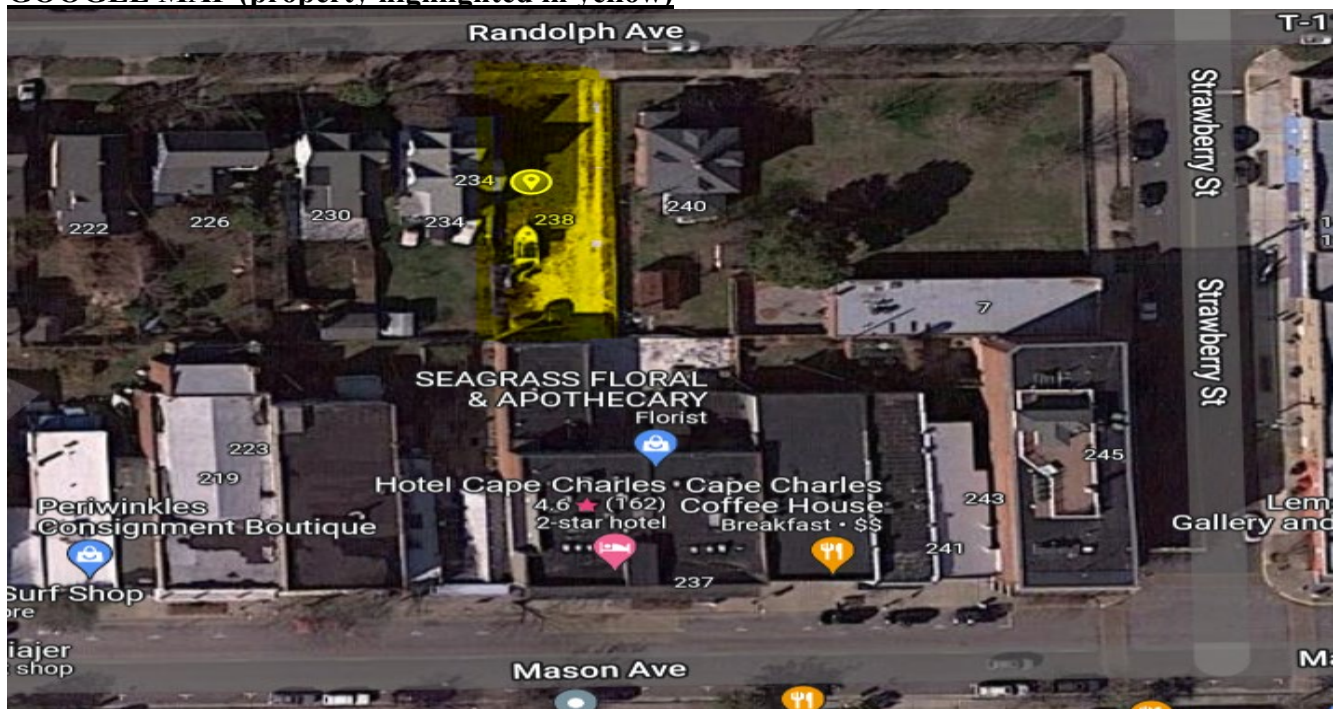
Staff has continued to work with the applicant regarding his site plan and proffers to the Town and has included an updated proffer statement and site plan, but it is possible that there may be additional adjustments to these two documents submitted prior to the 6:00 p.m. start time of the 5/3/2022 meeting, based upon my conversations with the applicant and his agent.

AERIAL MAP: Property outlined in blue - & Surrounding Land Use

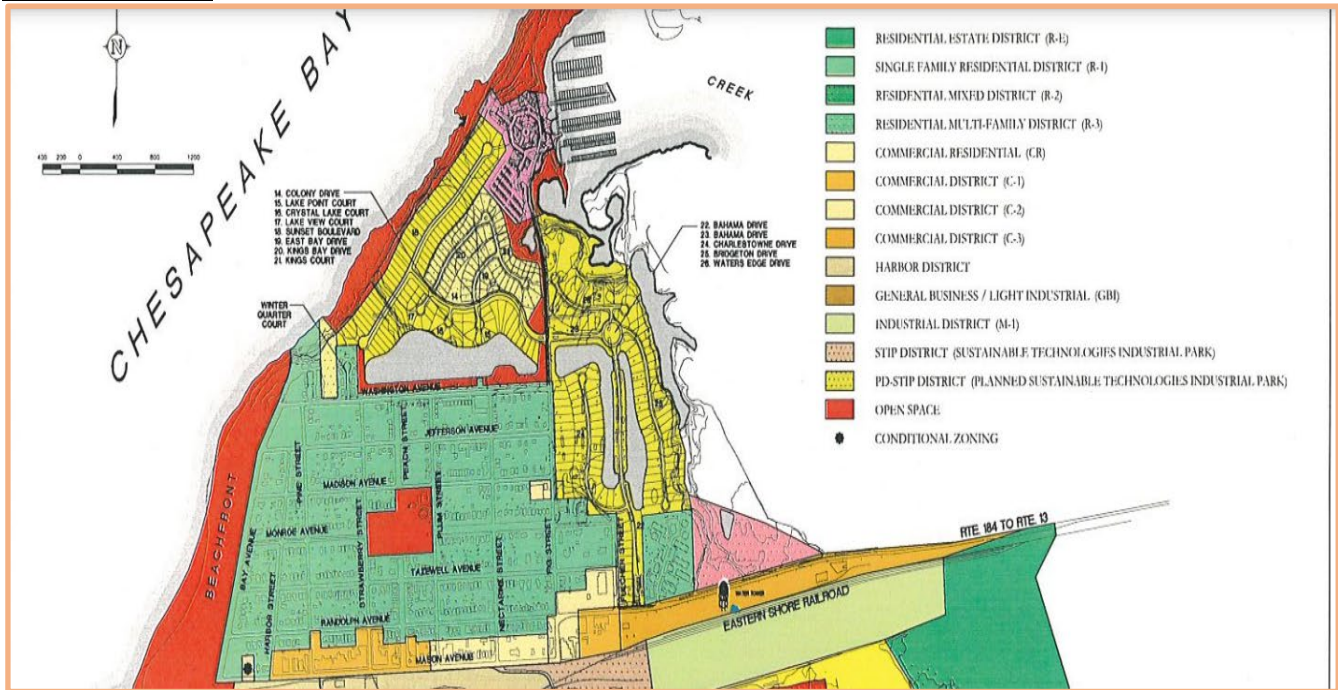
On Mason Avenue, the adjacent lots to the east and west are zoned Commercial-1. The lots located behind this row of Commercially zoned lots to the north are zoned Residential-1. It is important to note that the side streets of Pine Street and Strawberry Street between Mason Avenue and Randolph Avenue are zoned Commercial-1 for the first row of lots.



GOOGLE MAP (property highlighted in yellow)



ZONING MAP



BACKGROUND

I met with the property owner in late summer/early fall 2021 to discuss his desire and intent to submit an expansion plan for the Hotel Cape Charles on the subject property itself. At that time, I informed the property owner that my office had received a complaint about activities occurring on the residential lot located directly behind the hotel, which is owned by Cape Charles Ventures, LLC, that are not in keeping with allowable residential uses pursuant to the zoning district. It was clear that the lot was being utilized by the hotel to handle the support functions for the hotel (locating the multiple trash collection containers there, using the lot as parking for the hotel golf carts which are utilized by staff and guests as a hotel amenity, and the lot was being used for employee parking). All of these uses are clearly supportive and incidental to the hotel operations and the Residential-1 Zoning District does not include, either by right or by conditional use permit, the ability to have this type of commercial activity on the lot.

I indicated to him that these violations (which were not being actively enforced by the department due to staffing shortage) would need to be resolved as part of any expansion concept.

In February, Cape Charles Ventures, Inc. submitted an application for a variance to the height requirements of the C-1 zoning district regarding 7 Strawberry Street (aka The Betis Building), indicating that they were under a purchase agreement to acquire this lot and would seek their expansion of hotel rooms by renovating and adding floors to this building. As part of the staff review of this application, I again noted that he had not sufficiently addressed the use of the residential lot at 238 Randolph Avenue and to move all of these activities onto commercially zoned property under his control. The applicant did withdraw this application before the public hearing could be held by the

Board of Zoning Appeals and subsequently filed the Conditional Zoning Map Amendment application to rezone the residential lot from Residential-1 to Commercial-1 and included a proffer statement limiting the type of commercial activity that would occur on this property.

I have continued to speak with the applicant to review the proffers provided and he has submitted a revised proffer statement in a format recommended by staff. I continue to discuss the proposed proffers with the applicant and his representative and believe that an additional revision to the proffer statement will be submitted prior to the start of the public hearing.

PLEASE NOTE that my discussions with the applicant regarding operational issues re: trash, landscaping, golf cart charging area, etc are intended to provide a complete and comprehensive application package with site plan and proffers, if the Town is favorably inclined toward approving the rezoning application; this assistance does not convey staff support for the rezoning application.

I indicated that he may wish to consider some other items to incorporate as proffers to address compatibility of this lot within the residential neighborhood it is located within, such as (1) language committing to the submitted landscaping plan on the proposed site plan, including a replacement commitment if the trees/shrubs should not survive, and (2) consideration of a seasonal commitment to increasing the frequency of trash collection at his expense to reduce the collection of a high volume of trash on the lot; and (3) if an expansion of the hotel is still under consideration, possibly through acquiring the commercial property at 7 Strawberry Street, then this would need to be reflected in the lots have been identified in the proffers to date, but making it conditional for inclusion only if he acquires 7 Strawberry Street as part of the hotel. I indicated that the Planning Commission may also raise issues or concerns with this rezoning application that I have not considered which may be able to be resolved, potentially through a proffer. He did indicate that he would be pursuing his hotel expansion plan through the acquisition of 7 Strawberry Street in the near future but wanted to first address a full resolution of the violations that the Town had indicated concerning his business. It is important to note that the Town has delayed the full pursuit of enforcement action of the violations at 238 Randolph Avenue while the property owner has been pursuing these applications (both the variance application and now zoning map amendment application) since Town action on these applications could resolve or alleviate the violations at this lot.

I did stress to him that the Town fully understands that proffers can not be required by the Town from the applicant and that proffers are extended by the property owner to modify the regulations for the zoning district or to establish additional conditions for the uses sought based upon the zoning district regulations. Specifically, the law is as follows:

Conditional Rezoning is authorized by Virginia Code §15.2-2296 and more specifically authorized for the Town of Cape Charles thru §15.2-2303 and allows the ability of the petitioner to submit reasonable conditions (referred to as proffers) governing the use of the property, where the conditions are in addition to, or the modification of, the regulations provided for in a particular zoning district. Proffers are more specifically defined as an offer by a landowner during the rezoning process to perform an act or donate money, a product, or services to justify the propriety of a proposed rezoning. If the rezoning and proffers are accepted and approved by the Town, said proffers become part of the Zoning Ordinance.

REVIEW WITH RESPECT TO COMPREHENSIVE PLAN

The Cape Charles Comprehensive Plan notes and stresses the Town's historic layout pattern and the primary intent to preserve the Town's historic character as noted in Section II.9 below.

Section II (Settings): II.9 Land Use and Community Character

Cape Charles is distinguished by its historical residential and commercial areas, access to the Chesapeake Bay, the railroad, new planned communities, and a great deal of natural beauty and shoreline scenery. The most desirable future development will respond conscientiously to the town's established character and natural setting. The Historic District's late nineteenth and early twentieth century character is a key element in the town's interest and attractiveness to residents and tourists. It is important that the town's historic character be protected, not only for its intrinsic value, but also to continue to attract and expand tourism in Cape Charles.

The Future Land Use Map maintains the Residentially Zoned Districts as mapped on the Zoning Map and also retains the Commercial-1 (C-1) Zoning District as mapped on the Zoning Map.

This application is not consistent with the Comprehensive Plan relative to land use designations. The Comprehensive Plan does emphasize the role of tourism and tourism supported businesses as a key component of its Economic Component which the Hotel Cape Charles clearly embodies.

REVIEW WITH RESPECT TO ZONING ORDINANCE: ZONING DISTRICTS – INTENT

CCZO Section 3.2 Single Family Residential District R-1

- A. Statement of intent. The intent of this basic zoning district is to provide quiet, medium density, single-family residential development plus provide open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to restrict all activities of a commercial nature as described in Section 3.6-A of this ordinance, known as Commercial District C-1, which states "These commercial activities are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments," and to promote a convenient, attractive, and harmonious community. This section is created in recognition of the existence of developed areas where single-family and duplex dwelling currently exist on lots of 5,600 square feet and where the characteristics of the neighborhood include both permanent as well as seasonal residents.

CCZO Section 3.6 Commercial District C-1

- A. Statement of Intent. The intent of this zoning district is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.

ANAYLSIS

Impacts to Adjacent Property

The support services that typically occur “behind the scenes” are needed for this establishment which has been successful and providing a needed service in our community. However, I think there was an inadequate analysis of what site planning and requirements are needed to host and operate a full-scale hotel operation.

Clearly, there has been an impact on the adjacent residential properties where there is a row of trash receptacles that is appropriate for a commercial establishment but out of scale for a residential use. The same can be said for the # of golf carts and the staging and charging of said golf carts as well as the frequency of propane deliveries and utilizing this residential lot as a “quasi-alley” to service not only the hotel but adjacent other commercial businesses.

There are visual and noise impacts that have fully intruded into the residential neighborhood on Randolph Avenue of a commercial nature and are noticeable and impactful to the two existing residences on either side of the lot in question. The proffers offered by the applicant are attempting to respond and mitigate some of this impact, including addressing and installing appropriate landscaping to shield and screen visually this lot from the rest of the neighborhood, to propose screening for the golf cart parking/staging/charging area and the proposed trash receptacle areas. But the amount of space proposed to dedicate for these services is substantial and will be evident to the adjacent residential landowners and will be constant during the summer season and possibly throughout the entire year as more people choose to visit and/or vacation in Cape Charles and have need of hotel lodging. There has been insufficient exploration of alternative ways to reduce some of this “behind the scenes” support services, such as increased trash collection, thus reducing the # of trash receptacles; discrepancy from the original application narrative/property to the latest revised site plan which has already increased the # of golf carts being indicated for placement on the property.

STAFF RECOMMENDATION

Staff is requesting the Planning Commission and Town Council to convene and hold the public hearing and consider all comments received and determine if there are additional issues raised that were not considered by staff which may need to be considered. Staff is not recommending approval of this rezoning since the Comprehensive Plan does not support the expansion of the Commercial-1 Zoning District into the Residential -1 Zoning District but states very clearly the need to retain the historic development pattern of the Town and the proffers and site plan, as presented, does not fully address and mitigate the impact to the adjacent residential properties.

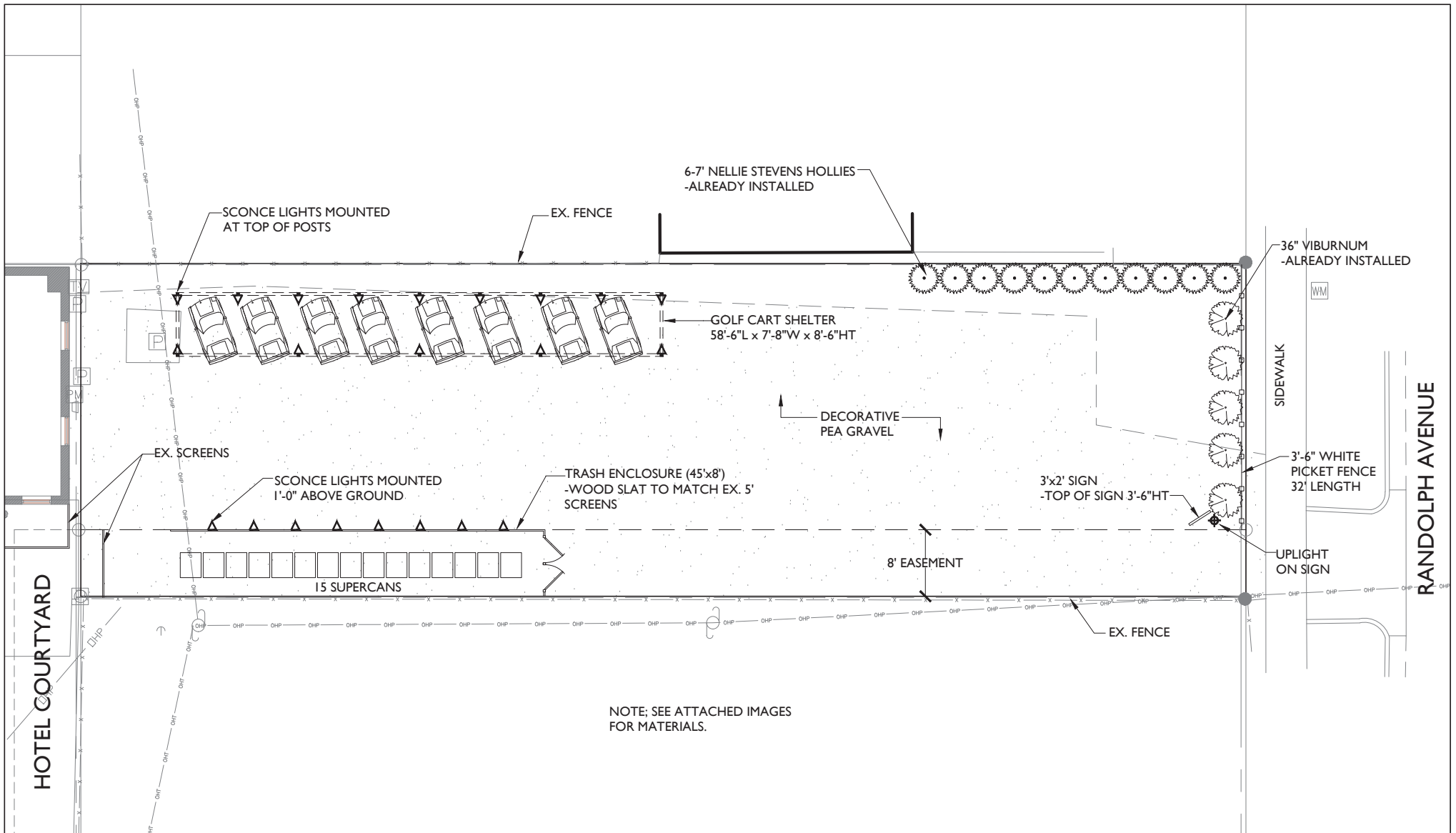
The continued growth of the Town’s commercial corridor must be studied further by the Town and the Planning Commission and we may wish to create a new zoning district that can be applied to address this type of situation in a uniform and comprehensive manner relative to trash, deliveries, utilities, enhanced guest services (such as golf cart rentals), lighting, hours of operations, landscaping as a restricted, lower-level type commercial zoning for support activities only. However, such a concept would need to be fully discussed and debated through public input sessions and public hearings with the Town citizens and the Comprehensive Plan should be amended to reflect this type of zoning district creation and applicability on identified land parcels.

Staff is prepared to work with the Planning Commission on a motion regarding a recommendation on ZMA 2022-01 from Cape Charles Ventures, LLC to conditionally rezone Tax Map #83A3-1-625A, located at 238 Randolph Avenue, from Residential-1 to Commercial-1, including the proffer statement as currently submitted and which may be further amended by the applicant up to the start of the public hearing.

Just as a point of information, the Code of Virginia (Sections 15.2-2297 & 2303) does state that the governing body may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal. Therefore, if the public hearing process and input identifies additional items or concerns that the staff or the Planning Commission have not considered, then those items can be considered and included in the Planning Commission recommendation on the application, which may result in the applicant choosing to amend the proffer statement, in compliance with the requirements of the Code of Virginia.

Attachments:

- Attachment 1 – ZMA Application Packet
- Attachment 2 - Amended Site Plan
- Attachment 3 – Amended Proffer Statement
- Attachment 4 – Cape Charles Zoning Ordinance Sections



SITE PLAN - 238 RANDOLPH

KENDRA TAYLOR LANDSCAPE ARCHITECTURE, LLC

SCALE: 3/32" = 1'-0"



HOTEL CAPE CHARLES
CAPE CHARLES, VIRGINIA
APRIL 20, 2022

GOLF CART SHELTER

Newport | Bike Shelter

SPECIFICATIONS

Newport is a flexible and economical bike shelter that offers a variety of parking options. Small enough to be installed in a parking spot, Newport is accessible from all sides and can easily provide coverage for existing bike racks. High density bike parking is achieved by using the models designed for our 2-sided MaxRack System. Newport is also modular and can be made to any length. Class 2 Bike Shelter: Canopy style

- Can fit in 1 parking space
- Gable, Barrel or Flat roof styles
- Covers new or existing bike racks
- Accessible from all sides



Newport (Barrel Roof)

GENERAL INFORMATION

Frame: 6063-T52 Alloy Aluminum fabricated with Integrated Water Drainage

Finish: Anodized ■ Dark Bronze or ■ Clear (Silver)

Posts: 4" x 4" Tubing

Roof Styles/Materials: **GABLE ROOF** | **BARREL ROOF:** 6 mm Twinwall Polycarbonate, UV Coated **FLAT ROOF:** 1/4" Endurax 300

Installation: Prefabricated roof for quick assembly. Anchor securely to level, concrete pad

Bike Racks: Not included

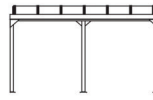
VIEWS



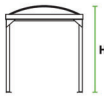
TOP



ISOMETRIC



FRONT



SIDE

DIMENSIONS/CAPACITY*

Newport 7/8	Length	Width	Roof Height	Bikes (Max.)
Newport 7- Clear height 7'				
Newport 8- Clear height 8'				
 = Fits in 1 parking space				
Newport 7-10	14' 11"	7' 8"	9' 4" GABLE ROOF 8' 10" BARREL ROOF 9' 10" FLAT ROOF	7' 6" 10
Newport 7-20	29' 5"	7' 8"	9' 4" 8' 10" 9' 10"	7' 6" 20
Newport 7-30	44'	7' 8"	9' 4" 8' 10" 9' 10"	7' 6" 30
Newport 8-16	14' 11"	7' 8"	10' 4" 9' 10" 8' 6"	8' 6" 16
Newport 8-40	29' 5"	7' 8"	10' 4" 9' 10" 8' 6"	8' 6" 40
Newport 8-60	44'	7' 8"	10' 4" 9' 10" 8' 6"	8' 6" 60

*Bike capacity varies with rack style



Gable Roof



Barrel Roof



Flat Roof

Newport for Parking Lots
1 Space = 10 to 16 Bikes
Newport 7-10 and Newport 8-16 fit in one standard parking space.

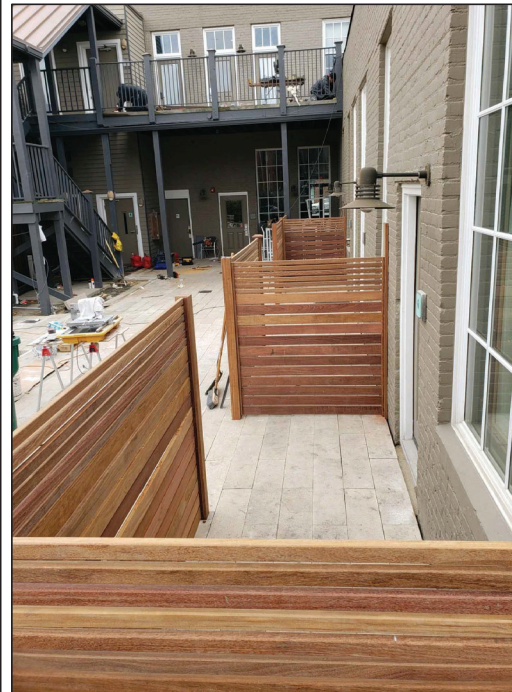


BIKE PARKING SOLUTIONS Bike Shelters | Bike Racks | Bike Storage Systems

973-264-9100
32 Ann Street Clifton, NJ 07013
info@velodomeselters.com
www.velodomeselters.com

© Copyright 2019 Velodome LLC. All Rights Reserved | L.P.030014 | 070919

TRASH ENCLOSURE SCREEN



PICKET FENCE ALONG RANDOLPH



MATERIALS - 238 RANDOLPH

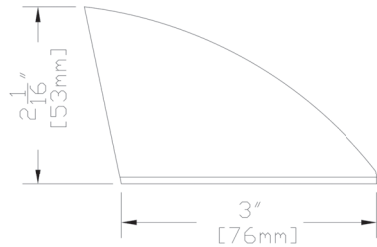
KENDRA TAYLOR LANDSCAPE ARCHITECTURE, LLC

SCALE: 3/32" = 1'-0"

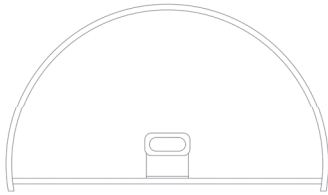


HOTEL CAPE CHARLES
CAPE CHARLES, VIRGINIA
APRIL 06, 2022

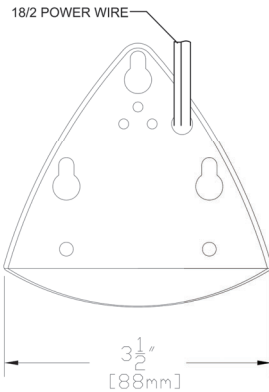
SCONCE LIGHT



SIDE VIEW WITH DIMENSIONS



FRONT VIEW



BOTTOM VIEW

FEATURES:

- SOLID COPPER CONSTRUCTION
- PORCELAIN BI-PIN OR MINI WEDGE SOCKET WITH 6R 18/2 POWER LEAD

FINISHES:

- NATURAL COPPER
- ANTIQUE COPPER
- VERDE
- ANTIQUE RUST

LAMPS:

- 12V 10 & 20 WATT BI-PIN, 20 WATT MAXIMUM
- 7, 11 & 18 WATT MINI WEDGE BASE, 18 WATT MAXIMUM

STANDARD MOUNTING:

- FLUSH MOUNT WITH 3 SCREWS & ANCHORS

ACCESSORIES:

- 25R & 50R 16/2 LEADS AVAILABLE



SHOWN IN ANTIQUE FINISH

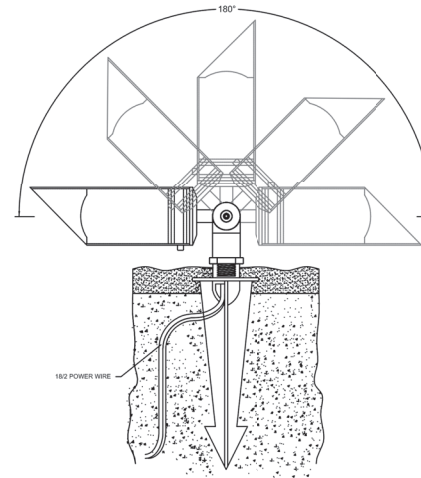


CopperMoon DECK, SURFACE & STEP
CM.820

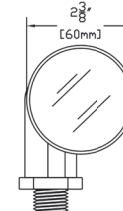
901 3rd AVE.
WEST POINT, GA 31833
1.800.727.5483
www.coppermoon.com

SIZE: A DRAWN BY: CHAG SANDERS CLASSIFICATION: DECK, SURFACE & STEP DATE: JAN 11, 2011

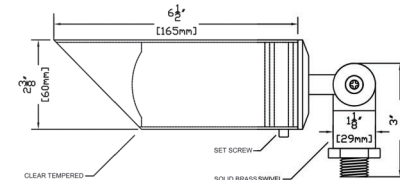
UPLIGHT ON SIGN



SIDE VIEW WITH ROTATION



FRONT VIEW



SIDE VIEW WITH DIMENSIONS

FEATURES:

- Solid Copper and Brass Construction
- Solid Copper 45 Degree Shroud for Glare Minimization
- High Heat Silicone O-Rings
- Beryllium Socket with 3ft 18/2 Power Lead

FINISHES:

- Natural Copper
- Antique
- Dark Antique
- Black
- Verde
- Rust

LAMPS:

- 12 Volt MR-16 in 10, 20, 35 & 50 Watts with a 12, 24, 36 & 60 Degree Spread (EXCEPTION: 10 watt only available in 32 degree spread)
- LED MR-16's
- 50 Watt Maximum

LENS:

- 3mm CLEAR FORGED BOROSILICATE GLASS

MOUNTING:

- Black ABS Ground Stake 8 1/2" Long with Female 1/2" NPT (STANDARD)
- Brass Threaded (Female 1/2" NPT) or Non-Threaded Ground Stake 9 1/2" Long
- Brass Threaded (Female 1/2" NPT) or Non-Threaded Flush Mount (Deep or Shallow Housing)
- Aluminum Tree Mount (Female 1/2" NPT) with Brown Powder Coat Finish
- Copper Stem Risers-1" Diameter (Female 1/2" NPT) or 3/4" Diameter (Female 1/2" NPT)
- Available in custom heights

ACCESSORIES:

- MR-16 Honeycomb Louver
- MR-16 Lamp Clip
- MR-16 Clear Spread Lens
- MR-16 Prismatic Lens
- MR-16 Colored Lens (Ice Blue, Lavender, Amber, MV Green, Red & Rose)
- 25ft. & 50 ft. 16/2 Leads Available



SHOWN IN ANTIQUE FINISH



CopperMoon BULLET & ACCENT
CM.115

901 3rd AVE.
WEST POINT, GA 31833
1.800.727.5483
www.coppermoon.com

SIZE: A DRAWN BY: CHAG SANDERS CLASSIFICATION: BULLET & ACCENT DATE: 04/03/2011

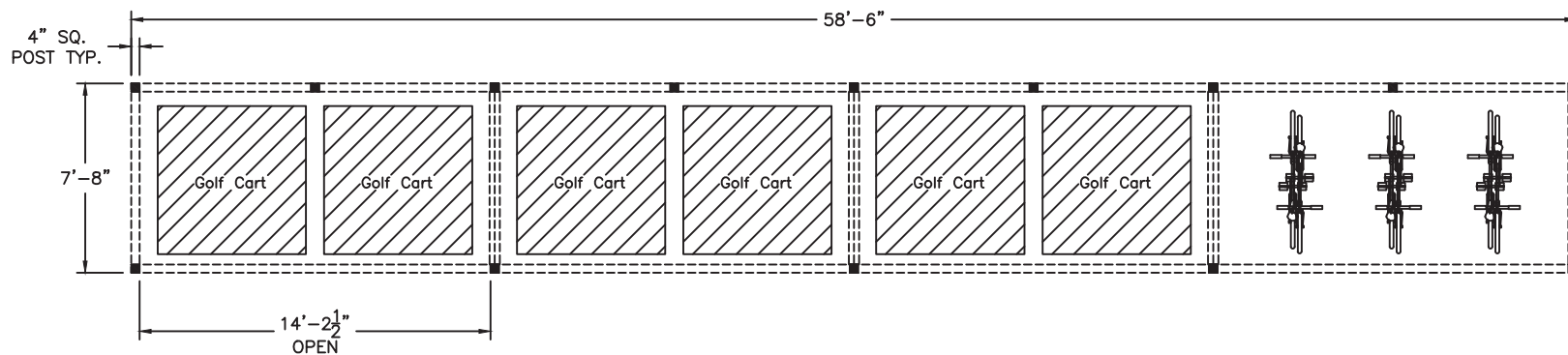
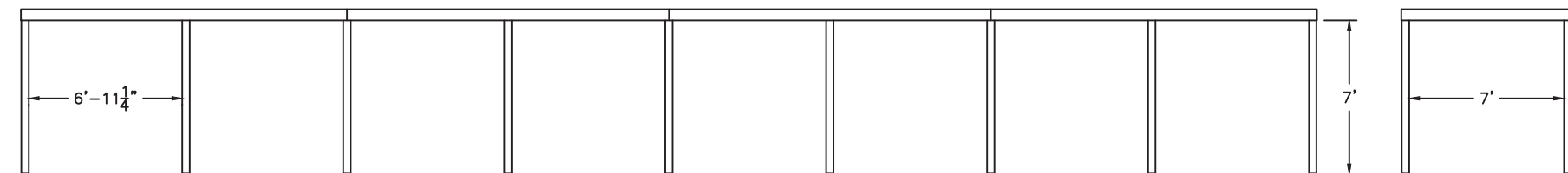
MATERIALS - 238 RANDOLPH

KENDRA TAYLOR LANDSCAPE ARCHITECTURE, LLC



SCALE: 3/32" = 1'-0"

HOTEL CAPE CHARLES
CAPE CHARLES, VIRGINIA
APRIL 06, 2022



NEWPORT 7-40

ALUMINUM: 6063-T52
 AVAILABLE FINISHES: DARK BRONZE ANODIZE
 CLEAR ANODIZE
 CUSTOM COLOR POWDER-COAT
 GLAZING: 1/4" CLEAR TEMPERED GLASS
 ROOF PANELS: 1/4" ENDUREX 300 PANELS
 BLACK OR SILVER
 BENCH/BACKREST: EXTRUDED ALUMINUM

Handi-Hut®
 PHONE: 973-614-1800

Prepared by:

Christopher M. Mackenzie, Esquire (VSB# 84141)
Sands Anderson PC
2400 Bank of America Center
1111 East Main Street (23219), P.O. Box 1998
Richmond, Virginia 23218-1998

After recording return to:
Town of Cape Charles
Department of Planning & Zoning
2 Plum Street
Cape Charles, VA 23310

Tax Map #: 83A3-1-625A

VOLUNTARY PROFFER STATEMENT

Applicant & Owner: Cape Charles Ventures LLC (the “**Applicant**”)

Representative: Christopher M. Mackenzie, Esquire (VSB# 84141)
Sands Anderson PC
2400 Bank of America Center
1111 East Main Street (23219), P.O. Box 1998
Richmond, Virginia 23218-1998
Phone: 804-783-7280
Email: CMackenzie@SandsAnderson.com

Subject Property: Northampton County Tax Parcel 83A3-1-625A, with a street address of 238 Randolph Avenue, Cape Charles, Virginia, consisting of approximately 1 acre (the “**Property**”)

Benefited Properties: Northampton County Tax Parcel 83A3-1-623, with a street address of 235 Mason Avenue, Cape Charles, Virginia (the “**Hotel Parcel**”);
227, 231, 237, 239, and 241 Mason Avenue, Cape Charles, Virginia; and
7 Strawberry Street, Cape Charles, Virginia if acquired by Applicant

Date: May 3, 2022

Site Plan: Entitled “Site Plan – 238 Randolph”, prepared by Kendra Taylor
Landscape Architecture, LLC, dated April 6, 2022, as revised, attached
hereto as **Exhibit A** (the “**Site Plan**”)

Rezoning Request: From R-1 to C-1

Rezoning File No.: ZMA 2022-001

RECITALS

- A. Applicant is the owner of the Property and has initiated the conditional amendment to the zoning map of the Town of Cape Charles, Virginia, by petition addressed to the Town of Cape Charles, a municipal corporation of the Commonwealth of Virginia (the “**Town**”).
- B. The purpose of this Voluntary Proffer Statement (the “**Proffers**”) is to rezone the Property from the R-1 Zoning District to C-1 Zoning District.
- C. The Town’s policy is to provide for the orderly development of land for various purposes, including commercial purposes, through zoning and other land development legislation.
- D. Applicant desires to offer the Town the following conditions for the enhancement of the community and to provide for the highest quality and orderly development of the Property.
- E. The conditions outlined in this Agreement have been proffered by Applicant and allowed and accepted by Town as a part of the amendment of the Town Zoning Ordinance and the Zoning Map. These conditions shall continue in full force and effect until a subsequent amendment changes the zoning of the Property; provided, however, that such conditions shall continue if the subsequent amendment is part of the comprehensive implementation of a new or substantially revised zoning ordinance of the Town.

CONDITIONS

I. General Information.

The Applicant, and its successors and assigns, hereby agrees that the use and development of the Property, subsequent to the Town’s approval of the rezoning application to which these Proffers are attached, will be in conformance with the Site Plan and the below proffered conditions pursuant to §§ 15.2-2303 and 15.2-2303.4, et al. of the *Code of Virginia* (1950, as amended), and Section 2.7 of the Zoning Ordinance of the Town, as amended. The Proffers are the only conditions offered in this rezoning application, and any prior proffers affecting the Property are hereby superseded by these Proffers, and thus are void and of no further force and effect upon said approval. The Proffers will be effective only upon the Town’s full and final approval of rezoning application # ZMA 2022-001, submitted by the Applicant to reclassify the Property from R-1 to C-1.

These Proffers are made voluntarily and without any requirement by or exaction from the Town or its governing body and without any element or compulsion or quid pro quo for zoning, rezoning, site plan, building permit or subdivision approval, and covenants and agrees that these Proffers shall constitute covenants running with the Property, which shall be binding upon the Property, and upon all persons and entities claiming under or through the Applicant, its heirs successors and assigns, grantees and other successors in interest or title to the Property.

II. Land Use.

A. General Development. The Property will be developed in general conformance with the Site Plan. Notwithstanding the foregoing, all parcel lines, parcel sizes, improvement sizes and locations, private driveway and travelway locations, landscaping and lighting locations, utility locations, storm water management facilities, and dimensions of undeveloped areas shown on the Site Plan may be reasonably adjusted for purposes of the final site plans to allow the Applicant to address final development, engineering and design requirements, fulfill compliance with state and federal agency regulations including, but not limited to, DHR, VDOT, DEQ, DCR, Army Corps., etc., and compliance with the requirements of the Town's development regulations and design standards manual.

B. Permitted Uses. The use of the Property shall be limited to uses in support of and in association with the permitted uses for which the Hotel Parcel is utilized, and namely the following:

- 1. Deliveries.** Propane and other service related deliveries for the Hotel Parcel and the properties located at 227, 231, 237, 239, and 241 Mason Avenue, Cape Charles, Virginia.
- 2. Waste Management.** Storage and use of Town waste management receptacles for the Hotel Parcel and the properties located at 237, 239 Mason Avenue, Cape Charles, Virginia and 7 Strawberry Street, Cape Charles, Virginia, if acquired by the Applicant or an entity associated with the Applicant.
- 3. Golf Cart and Bicycle Storage.** Parking, storage, charging, and use of golf carts, bicycles, and similar recreation equipment owned and operated by the Applicant in association with the Hotel Parcel.

III. Landscaping & Screening.

The Applicant agrees to install, maintain, and, if necessary, replace, the landscaping and screening improvements shown on the Site Plan in conformance with the following:

A. The landscaped buffer areas shown on the Site Plan shall be maintained in good, healthy state by the owner of the Property. Fallen, diseased, and dead plant growth shall be removed and replaced with comparable (at maturity) healthy plant materials.

B. The Property may include additional plantings, signage, and/or fencing, as otherwise permitted under the Town's Zoning Ordinance.

C. Dumpsters and/or trash cans, not including convenience containers, shall be reasonably screened from public view at ground level.

D. Golf carts and bicycles shall be stored overnight in the locations designated on the Site Plan, with a maximum of six (6) golf carts stored therein and with the bicycles stored at the end of the shelter closer to Randolph Avenue, as shown on the diagram entitled “Newport 7-40” included in Exhibit A.

III. Lighting. Any lighting of the Property shall be directed in a way to minimize glare on public roads and adjacent structures.

[Signature pages follow]

The Applicant makes these proffers voluntarily, in support of its rezoning application.

WITNESS the following signatures:

APPLICANT & OWNER:

Cape Charles Ventures LLC,
a Virginia limited liability company

By: [Signature]

Name: David M. Gammino

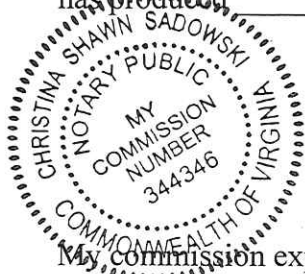
Title: Manager

Date: 5/3/22

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Richmond

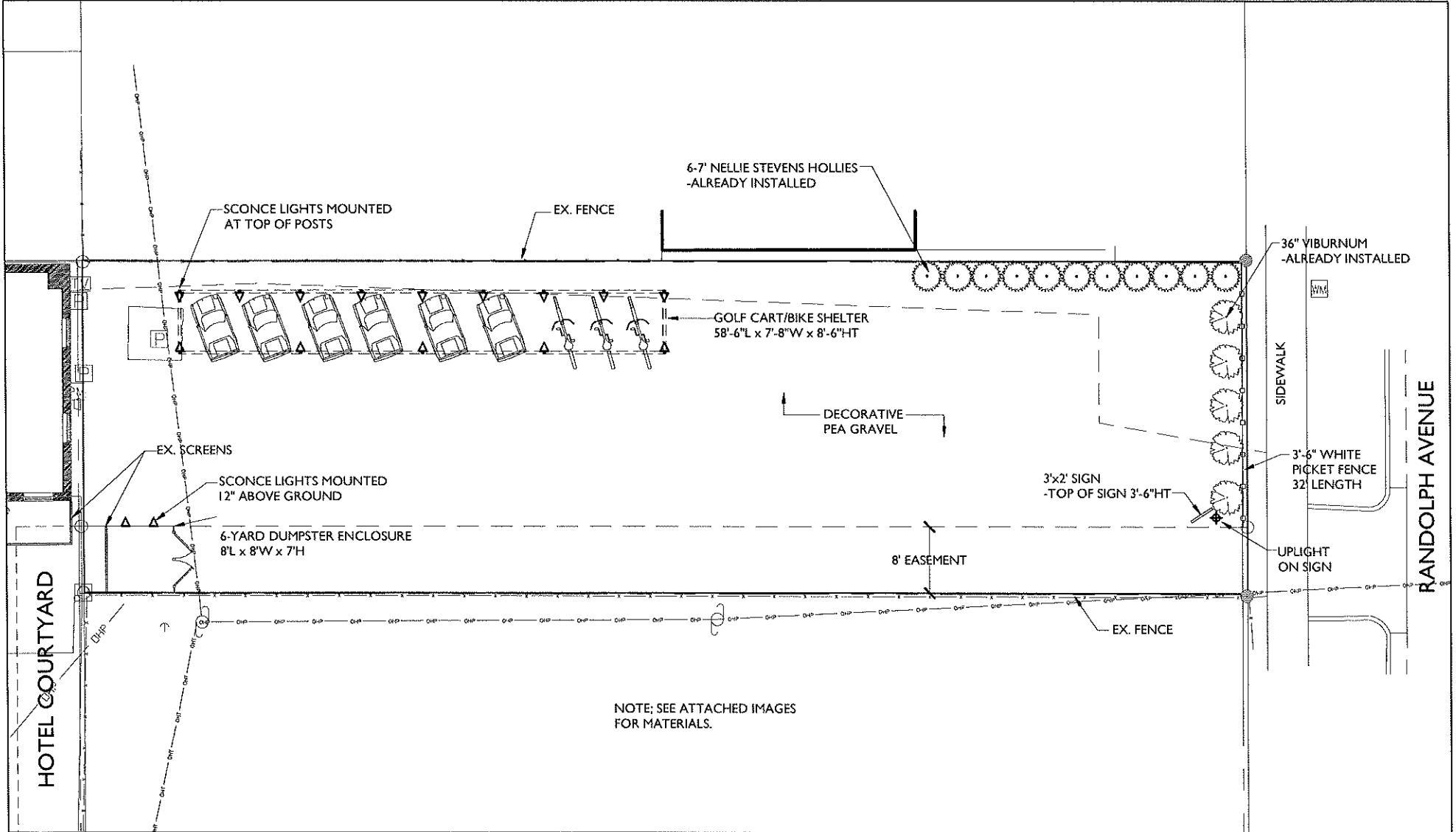
The foregoing was subscribed, sworn to and acknowledged before me this 3rd day of May, 2022 by that David M. Gammino, whose name is signed to the foregoing instrument as (title) owner of Cape Charles Ventures LLC, a Virginia limited liability company, on behalf of said company. He/she ☒ is personally known to me or ☐ has produced N/A as identification.



[Signature]
Notary Public

My commission expires: 6/30/2024
Registration No. 344346

Exhibit A
Site Plan



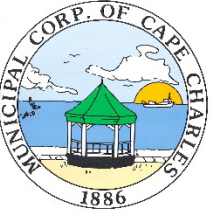
SITE PLAN - 238 RANDOLPH

KENDRA TAYLOR LANDSCAPE ARCHITECTURE, LLC



SCALE: 3/32" = 1'-0"

HOTEL CAPE CHARLES
CAPE CHARLES, VIRGINIA
MAY 03, 2022

 TOWN OF CAPE CHARLES	AGENDA TITLE: Request to VDOT for Installation of Crosswalks		AGENDA DATE: July 21, 2022
	SUBJECT/PROPOSAL/REQUEST: Adoption of resolution authorizing submittal of request to VDOT for installation of marked crosswalks		ITEM NUMBER: 8D
	ATTACHMENTS: Resolution 20220721B, diagram of proposed crosswalk locations		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

In 2021, in an effort to ensure the safety of the residents and visitors to the Town of Cape Charles, a request was submitted to VDOT for the installation of pedestrian crossing signage at key locations along Mason Avenue, Fig Street, and Randolph Avenue/Stone Road warning motorists of pedestrians who may also be on or near active roadways. The pedestrian crossing signage was installed by VDOT in April 2022.

The number of vehicles travelling the Town's streets has increased significantly over the last several years, especially during the tourist season. To continue in the effort to ensure the safety of pedestrians and those with disabilities, a request was received for the addition of three marked crosswalks in the heavily travelled intersections of Fig Street and Randolph Avenue, and Fig Street Extended and Mason Avenue. This would enable pedestrians' safer passage to Rayfield's Pharmacy.

VDOT's regulations were thoroughly researched and proposed locations for the marked crosswalks were determined and are shown in the attached map of the area.

DISCUSSION:

In order to submit a request to VDOT, Council needed to adopt a resolution requesting the installation of marked crosswalks along with reasons for the requested locations. The adopted resolution would be submitted to VDOT for consideration.

RECOMMENDATION:

Staff recommends Council adoption of Resolution 20220721B – Request to VDOT for the Installation of Marked Crosswalks on Cape Charles' Streets by roll call vote.

RESOLUTION 20220721

REQUEST TO VDOT FOR THE INSTALLATION OF MARKED CROSSWALKS ON CAPE CHARLES' STREETS

WHEREAS, the Town of Cape Charles is a “walkable” community with a large population of elderly and disabled residents; and

WHEREAS, many of the residents and visitors routinely walk along the sidewalks throughout the Town; and

WHEREAS, many of the residents at the Myrtle Landing Apartments walk or use wheelchairs and scooters as their mode of transportation to Rayfield’s Drug Store, Peach Street Convenience Store, the Cape Charles Memorial Library and the retail establishments on Mason Avenue; and

WHEREAS, the amount of vehicular traffic has increased significantly within the Town limits, especially during the tourist season which typically runs from April to November of each year; and

WHEREAS, in an effort to ensure the safety of the residents and visitors to the Town of Cape Charles, pedestrian crossing signage was installed at key locations along Mason Avenue, Fig Street, and Randolph Avenue/Stone Road warning motorists of pedestrians who may also be on or near active roadways; and

WHEREAS, to continue in the effort to ensure the safety of pedestrians and those with disabilities, a request was received for the addition of three (3) marked crosswalks in the heavily travelled intersections of Fig Street and Randolph Avenue, and Fig Street Extended and Mason Avenue; and

WHEREAS, the three (3) suggested locations are in areas with existing sidewalks and curb cuts and shown on the attached map; now

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Town Council of the Town of Cape Charles hereby approves the submittal of a request to the Virginia Department of Transportation for the installation of three (3) marked crosswalks across 1) Fig Street at Randolph Avenue; 2) Randolph Avenue at Fig Street; and 3) Fig Street Extended at Mason Avenue junction.

Adopted by the Town Council of Cape Charles on this 21st day of July 2022.

By: _____
Mayor William “Smitty” Dize

ATTEST:

Town Clerk



Per discussion with Ms. Dianne Davis, three (3) crosswalks are needed to ensure safe passage for residents of Myrtle Landing Apartments, and other residents in town.

#1 – Existing sidewalk runs along the Fig Street road frontage of all properties from the Myrtle Landing Apartments. Appropriate curb cuts have been installed at the intersection of Fig Street and Randolph Avenues on the north side of the street.

#2 - Existing sidewalk runs along the east side of Fig Street Extended and many pedestrians travel this route daily.

#3 – A curb cut exists at this corner. A crosswalk at one of the two indicated locations would enable pedestrians walking down the sidewalks on Mason Avenue and Fig Street Extended to cross over Fig Street Extended or Mason Avenue to get to Rayfield's Pharmacy.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Reappointment of Library Board Member		AGENDA DATE: July 21, 2022
	SUBJECT/PROPOSAL/REQUEST: Reappointment of Library Board member for another term		ITEM NUMBER: 8E
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

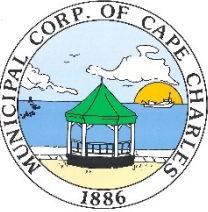
The Library Board meets monthly and consists of seven members each serving four-year terms.

DISCUSSION:

On January 12, 2022, Cathy Fox was appointed to the Library Board to complete a term which will be expiring on August 8, 2022. Ms. Fox has expressed her interest in continuing her service on the Library Board for another term.

RECOMMENDATION:

Staff recommends Council reappoint Ms. Cathy Fox to the Library Board for another four-year term.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Town Code Revision Ordinance Amendment		AGENDA DATE: July 21, 2022
	SUBJECT/PROPOSAL/REQUEST: Amendment to Ordinance 20210415 to add adoption of revisions to Town Code Section 42-17		ITEM NUMBER: 8F
	ATTACHMENTS: Ordinance 20220721		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume, Town Clerk	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

On April 15, 2021, the Town Council adopted Ordinance 20210415 Adopting Revisions to Cape Charles Town Code Chapter 42 (Motor Vehicles and Traffic) Sections 42-17, 42-71, and Chapter 50 (Offenses and Miscellaneous Provisions) 50-192 per Chief Pruitt's recommendation to create a new violation book for various parking, golf cart and other violations.

DISCUSSION:

During the Town Code update review, it was discovered that the language in Ordinance 20210415 did not include formal adoption of the revisions to Section 42-17. Ordinance 20220721 is included in the packet to formally adopt this revision.

RECOMMENDATION:

Staff requests Council review and adoption of Ordinance 20220721 Amending Ordinance 20210415 Adding Adoption of Revisions to Cape Charles Town Code Chapter 42, Article II, Section 42-17 by roll call vote.

ORDINANCE 20220721

**AMENDING ORDINANCE 20210415 ADDING ADOPTION
OF REVISIONS TO CAPE CHARLES TOWN CODE CHAPTER 42,
ARTICLE II, SECTION 42-17**

WHEREAS, the Cape Charles Town Code is a compilation of ordinances enacted by the Cape Charles Town Council and periodic revisions are required to reflect policy initiatives, conform to new federal or state law, and to recognize changes in organizational structure, etc.; and

WHEREAS, Chief Pruitt recommended the creation of a new violation book supporting the Town Code and addressing numerous violation issues; and

WHEREAS, the recommended changes enabling the modifications to the violation book was adopted on April 15, 2021 by Ordinance 20210415 Adopting Revisions to Cape Charles Town Code Sections 42-17, 42-71 and 50-192; and

WHEREAS, it was discovered that the language in Ordinance 20210415 excluded formal adoption of the revisions to Cape Charles Town Code Chapter 42 (Motor Vehicles and Traffic), Article II (Local Vehicle License Tax), Section 42-17 that stated the following:

Sec. 42-17. - Violations of article.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a fine of not more than \$250.00. Such violation may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the license required by this article has been obtained.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 21st day of July 2022, that Cape Charles Town Code Article II, Section 42-17 Violations of article be revised as shown above to become effective immediately.

Adopted by the Town Council of Cape Charles on July 21, 2022.

By: _____
Mayor

ATTEST:

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Wastewater Extension		AGENDA DATE: July 21, 2022
	SUBJECT/PROPOSAL/REQUEST: Approve assignment of plans, specifications and associated documents for wastewater extension.		ITEM NUMBER: 8G
	ATTACHMENTS: None.		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Bob Panek, Project Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

In March 2020, Town Council approved a change order to the Hurt & Proffitt (H&P) contract, previously assigned to the Town by the Eastern Shore of Virginia Public Service Authority (ESVPSA), to complete design and prepare construction plans, specifications, bidding documents, etc., for a wastewater force main along Old Cape Charles Road. This project is a portion of the proposed ESVPSA Southern Node wastewater collection system which had been substantially designed. H&P completed the work and delivered the documents in December 2020. The construction plans and bidding documents are structured for a base bid to construct the first segment to the R-3 zoned property, with two bid alternates extending to the contiguous Town-owned property and then to the Town boundary.

DISCUSSION:

A potential developer has been in discussions with the Town on building workforce housing on the R-3 property. The availability of wastewater service is critical to achieve the site development density required for affordable housing. The developer has requested that the Town provide the wastewater force main plans, specifications and associated documents so that the project may be bid for construction.

RECOMMENDATION:

Staff recommends that Council approve assignment of the Southern Node, Phase 1 plans, specifications and associated documents to Lot 4 Holdings, LLC or any other company designated by the developer.