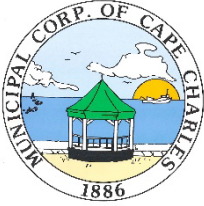




TOWN COUNCIL
Special Meeting
November 2, 2023
Cape Charles Civic Center
6:00 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Moment of Silence and Pledge of Allegiance
3. Special Meeting Order of Business:
 - *A. [Resolution of Intent - Rezoning of Tax Parcels #83A3-1-644 & 83A3-1-641](#)
 - *B. [Reappointment of Planning Commissioner](#)
 - *C. [Reappointment of Board of Zoning Appeals Member](#)
 - *D. [Reappointment of Wetlands & Coastal Dune Board Member](#)
4. Adjournment of Special Meeting

 TOWN OF CAPE CHARLES	AGENDA TITLE: Resolution of intent to consider a change to the zoning map for Tax Map #83A3-1-644 & 83A3-1-641 (11,301.22 square feet) from Commercial -1 (C-1) to Residential -1		AGENDA DATE November 2, 2023
	SUBJECT/PROPOSAL/REQUEST: Consideration of referral to Planning Commission		ITEM NUMBER: 3A
	ATTACHMENTS: Zoning Map Amendment (ZMA) 2023-04 Application from Cape Charles Town Manager, on behalf of the Town Council		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Planning & Zoning Director	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

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

ITEM SPECIFICS:

In February 2023, the Town issued a broad request for proposals seeking developer concepts for the redevelopment of the Library building, including possible consideration of the two lots located directly behind the library which front on Randolph Avenue

Map of Proposed Parcels for Rezoning



Based upon the responses received and subsequent discussions by the Library Project Review Committee with the proposers, the Town will be advancing discussion and contract negotiations with City & Guilds to purchase and renovate the Library building with the Town buying back the library portion of the building through a Condominium Agreement and the remaining portion of the building and third floor would be developed into a single residential unit and to also purchase the two lots behind the library. However, through this process, it was deemed that the two lots should be rezoned from Commercial-1 to Residential-1 which should be done by the Town prior to the Library project contracts are finalized.

A resolution is prepared below to acknowledge and accept that the Town Manager is authorized to submit the rezoning application on behalf of Town Council in accordance with the discussions concerning the Library project, specifically concerning the two lots behind the library at Tax Map #83A3-1-644 (5,649.69 square feet) & 83A3-1-641 (5,651.53 square feet) to petition to rezone from Commercial-1 to Residential-1.

It is important to know that consideration and approval of this resolution does not constitute approval of any change to the Town Zoning Map. It merely identifies that a Zoning Map Amendment Application has been received and the application identifies that sufficient public necessity, convenience, general welfare or good

zoning practice exists within the proposed Application to conduct a public process that more fully explores the proposed change.

This resolution will formally establish that the proposed changes meet the requirements to be referred to the Planning Commission for public hearing and their recommendation. The Planning Commission recommendation, once issued, will be returned to the Town Council to schedule their public hearing on the matter. Final and formal consideration of any change will be the responsibility of the Town Council, following their public hearing and in consideration of the recommendation by the Planning Commission.

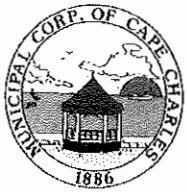
POTENTIAL SCHEDULE:

The Code of Virginia provides a 100-day review time frame for the Planning Commission once an application is referred and received by them, unless the Town Council votes to establish a shorter period of review. Below is a potential calendar for both the Planning Commission and Town Council; please note the calendar could be extended to the maximum time frames allotted for review by the Planning Commission and deliberation by the Town Council. This calendar is to outline the staff's consideration of a reasonable calendar assuming each Board acts as quickly as possible.

<u>DATE</u>	<u>BOARD</u>	<u>ACTION</u>
10/17/2023	Town Council Meeting	Receive and acknowledge Zoning Map Amendment Application and vote, through Resolution, to refer it to the Planning Commission to commence the required public hearing process and authorize staff to commence the necessary advertisement and public notice as required by law.
11/10/2023 & 11/17/2023	Eastern Shore Post	Public Hearing Notice runs in Eastern Shore Post for the Planning Commission public hearing. (<i>First notice appearing no more than 14 days before and run for two successive weeks</i>) Additionally, staff will issue letters of notification to adjacent property owners.
11/20/2023	Planning Commission Meeting	Public Hearing on Zoning Map Amendment Application. This meeting and hearing date establishes the 100 day clock for the PC to reach a recommendation on this application, unless the Town Council has established a shorter time frame to provide their recommendation. Planning Commission may vote on recommendation regarding Zoning Map Amendment application.
12/8/2023 & 12/15/2023	Eastern Shore Post	Public Hearing notice runs in Eastern Shore Post for the Town Council public hearing. (<i>First notice appearing no more than 14 days before and run for two successive weeks</i>) Additionally, staff will issue letters of notification to adjacent property owners.
12/21/2023	Town Council Meeting	Public Hearing on Zoning Map Amendment Application.
12/21/2023	Town Council	Town Council voted on Zoning Map Amendment Application. The Town Council has the right to defer action no later than one year from referral to Planning Commission to act upon Zoning Map Amendment

RECOMMENDATION:

Staff recommends that Town Council vote to adopt Resolution of Intent 20231102 regarding Zoning Map Amendment (ZMA) 2023-04 application from Town Manager John Hozey on behalf of the Town Council to rezone Tax Map #83A3-1-644 & 83A3-1-641 from Commercial-1 to Residential-1.



Zoning Map Amendment Application

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

Revised 08/2023

Taxes

Violations

Fee \$

Decision

Budget Code: MISPL 100-3100-1070

PART 1. APPLICATION NOTES

1. A pre-application conference is mandatory prior to submission of an application for a zoning map amendment.
2. A zoning map amendment application should be consistent with the Comprehensive Plan and therefore, may also require a Comprehensive Plan amendment, which should be approved prior to the zoning map amendment application.
3. The Town Council may not add conditions of approval to a zoning map amendment application.
4. If proffers are being offered, the proffer statements may not be less restrictive than the requested base zoning district standards.
5. If proffers are being offered, proffer statements may not be amended after the public notification of a public hearing to consider the application has been sent. The applicant may voluntarily offer proffered conditions as part of their application, which must be listed in a separate voluntary proffer statement using the template found on our website.
6. **Fees: Regular Rezoning – (a) Non-PUD = \$500 + \$50/acre****
(b) PUD = \$1,000 + \$50/acre (l) Amendment to Comp. Plan; Concept Approvals: \$550/app**
Conditional Rezoning = \$1000 + \$50/acre**
****plus, any actual cost for advertising & adjacent property owner notification mailings**

PART 2: PROPERTY INFORMATION

Property Address: 210 Randolph Avenue	Tax Map #: 83A3-1-644 & 83A3-1-641
Project name: 2 Town Lots behind Library Building	Current Zoning District: C-1
Does this application include proffers? ☒ No ☐ Yes, if so, attach separate form	Proposed Zoning District: R-1

PART 3: PROPERTY OWNER INFORMATION

Applicant Name: Municipal Corporation of Cape Charles	
Mailing Address: 2 Plum Street, Cape Charles, VA 23310	
Email address: john.hozey@capecharles.org	Phone: 757-331-3259

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

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

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

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

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

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

These two lots are vacant on the corner of Randolph Avenue and Pine Street and sit directly behind the Library Building. The Library Building, which is located in a former bank building, is zoned Commercial-1. Adjacent to the two lots to the east, the rest of the block is zoned Residential-1 and is comprised of single family dwellings. Across Randolph Avenue to the north and across Pine Street to the west, it is zoned Residential-1.

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

In February 2023, the Town issued a broad request for proposals seeking developer concepts for the redevelopment of the Library building, including possible consideration of the two lots located directly behind the library which front on Randolph Avenue as part of the development proposal. The Town will be advancing discussion and contract negotiations with City & Guilds to purchase and renovate the Library building with the Town buying back the library portion of the building through a Condominium Agreement and the remaining portion of the building and third floor would be developed into a single residential unit and to also purchase the two lots behind the library. However, through this process, it was deemed that the two lots should be rezoned from Commercial-1 to Residential-1 which should be done by the Town prior to the Library project contracts are finalized.

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

Rezoning of these two parcels from Commercial-1 to Residential-1 is consistent with the Future Land Use.

- D) Describe why the proposed rezoning is necessary.

These two parcels, both sized at 5,600 square feet or slightly greater, are in conformance with Residential-1 zoning, and are more compatible with the neighborhood to be developed as Residential and not commercial and this meets the proposal considerations from City and Guilds regarding the Library Project Request for Proposals as the best use of these two lots behind the library.

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

Once the library project is finalized with City and Guilds who would be purchasing the two lots as part of this project and would develop them in accordance with the Cape Charles Zoning Ordinance Residential-1 requirements as well as the Historic District Overlay requirements and guidelines.

Applicant's signature: _____

Date: _____

Zoning Administrator's Signature: _____

Date: _____

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

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

RESOLUTION OF INTENT 20231102

ZONING MAP AMENDMENT 2023-04 APPLICATION

**From John Hozey, Town Manager on behalf of the Town Council
for Tax Map #83A3-1-644 & 83A3-1-641
from Commercial-1 to Residential-1 Zoning.**

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

WHEREAS, the Municipal Corporation of Cape Charles is the owner of Tax Map #83A3-1-644 & 83A3-1-641, which both parcels are currently zoned Commercial-1; and

WHEREAS, the Town is seeking to rezone these two parcels to Residential-1 as part of the Library Renovation project;

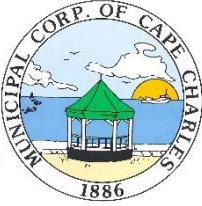
NOW, THEREFORE, BE IT RESOLVED that for purposes of public necessity, convenience, general welfare or good zoning practice, the Cape Charles Town Council hereby adopts a resolution of intent to consider amending the Cape Charles Zoning Map by modifying the land use for these two parcels from Commercial-1 zoning to Residential-1 Zoning and to refer said application to the Planning Commission to initiate and undertake review and required public notification of said application.

Adopted by the Town Council of the Town of Cape Charles on November 2, 2023.

By: _____
Mayor Charney

Attest:

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Reappointment of Planning Commissioner		AGENDA DATE November 2, 2023
	SUBJECT/PROPOSAL/REQUEST: Approval of Planning Commissioner reappointment		ITEM NUMBER: 3B
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Planning Commission serves as an advisory body to the Town Council for planning-related matters and consists of seven members – six citizen members each serving four-year terms and one member representing the Town Council.

ITEM SPECIFICS:

Michael Strub is a current Planning Commission member whose term will be expiring on October 31, 2023. Mr. Strub has served Cape Charles with distinction. He has been on the Planning Commission for 13 years and has been the Planning Commission's representative on the Historic District Review Board for 3 years. His contributions are many. However, Mr. Strub believes it may now be time to step back and make this seat available, allowing others the opportunity to serve.

Staff can't thank Mr. Strub enough for all his work on behalf of the people of Cape Charles. However, we did ask him if he would be willing to continue serving until his replacement could be appointed. Mr. Strub graciously agreed.

Staff will immediately begin recruitment of applications from interested citizens.

RECOMMENDATION:

Staff recommends that the Council allow Mr. Strub to continue serving on the Planning Commission beyond October 31st until his replacement can be appointed.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Reappointment of Board of Zoning Appeals Member		AGENDA DATE: November 2, 2023
	SUBJECT/PROPOSAL/REQUEST: Reappointment of Member to the Board of Zoning Appeals		ITEM NUMBER: 3C
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume, Town Clerk	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Board of Zoning Appeals (BZA) hears zoning appeals and reviews variance and special exception applications. All appointments are approved by the Circuit Court of Northampton County. The Board consists of five members each serving five-year terms.

DISCUSSION:

William Murphy currently serves on the BZA, and his term will be expiring on October 31, 2023. Mr. Murphy has expressed his interest in continuing his service on the BZA for another term.

RECOMMENDATION:

Staff requests Council review and, if deemed appropriate, reappoint Mr. William Murphy to the Board of Zoning Appeals for another term.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Reappointment of Wetlands and Coastal Dune Board Member		AGENDA DATE: November 2, 2023
	SUBJECT/PROPOSAL/REQUEST: Reappointment of a member to the Wetlands and Coastal Dune Board		ITEM NUMBER: 3D
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

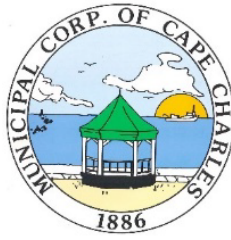
The Wetlands & Coastal Dune Board reviews applications for certain activities in wetlands and dune areas. The Board meets as needed and consists of five members each serving five-year terms.

DISCUSSION:

Ms. Elizabeth Pruitt was appointed to the Wetlands Board & Coastal Dune Board in April 2023 to complete a term which expires on November 12, 2023. Ms. Pruitt expressed her interest in continuing her service on the Board.

RECOMMENDATION:

Staff requests Council review and, if deemed appropriate, reappoint Ms. Elizabeth Pruitt to the Wetlands and Coastal Dune Board for another term.



TOWN COUNCIL & PLANNING COMMISSION

Joint Work Session

November 2, 2023

Cape Charles Civic Center

Immediately following the Special Meeting

1. Call to Order:
 - A. Town Council
 - i. Roll Call
 - B. Planning Commission
 - ii. Roll Call
2. Items for Discussion:
 - A. Short-Term Rental Committee Recommendations
3. Adjournment
 - A. Town Council
 - B. Planning Commission

Memorandum



From: John Hozey, Town Manager
Date: November 2, 2023
To: Town Council and Town Planning Commission
RE: Short-Term Rentals

Earlier this year I created an ad hoc committee to research short-term rental (STR) issues. Over the past five months, this committee has been reviewing related information and considering possible suggestions for STR regulations that the Town Council and Planning Commission might consider. This committee had no formal authority nor any decision-making ability. It was simply a working group assisting staff, that brought together varying perspectives. This six-member committee had the following representation:

- Town Council/Planning Commission
- Cape Charles Historic District Civic League
- Cape Charles Vacation Homeowners Association
- Bay Creek Community Association
- Town Zoning Administrator
- Town Manager

The consensus among these committee members was that our work should be guided by the following question: ***How do we best protect/preserve the town's sense of community; while recognizing the existing proliferation of STR's and their associated economic benefits?***

Note that the rationale to consider some type of limitation or regulation of STR activity was not only driven by our desire to protect the character of our residential communities, but also to address concerns of stress on the Town's infrastructure. In other words, the town is only so big, and can only accommodate so many people before saturation of public infrastructure occurs. Staying ahead of this curve is unquestionably in the Town's best interest.

So, this was a balancing act to be sure; pitting economic needs against practical concerns. Nobody wanted to take anything away from those already vested in any STR interest, nor did anyone want any STR impact to unnecessarily affect our residents. Therefore, the attached list of recommendations attempts to thread that needle.

It is important to note that the presentation of these recommendations does not represent the end of a process, but rather the beginning of one. This is just a starting point. If during the joint work session of the Council and Planning Commission a consensus can be found on what to move forward; public input would then be solicited. This would likely take the form of a Town Hall style meeting. Only after full public vetting would anything be considered for the formal adoption process.



TOCC STR Regulation Committee Recommendations

11/02/23

- 1) Effective date for all recommendations is January 1, 2025. This allows time to fully vet and develop these concepts, without them impacting operators during mid-season. It also provides additional time for those engaged in the development of an STR to potentially finish what's already been started
- 2) Set an initial cap on STRs at the number being operated per zoning district (or by village in Bay Creek) on the effective date. Establish the final cap for STRs (based on those actually operating) twelve months after the initial cap is set (to weed out those who grabbed a permit before the deadline, but who did not operate an STR). Note caps are by number, not percentage. This preserves all existing uses, while decreasing the overall density as additional construction occurs
- 3) Future changes to STR caps, or to establish caps in districts initially without STRs, would require a zoning text amendment for the affected district; enabling the Planning Commission and Town Council to evaluate the merits of such changes against the greater needs of the Town at that time
- 4) The established cap in the R-1 (historic) district may be increased for specific instances where significant investment is committed to rehabilitate a dilapidated (as determined by the Town) dwelling
- 5) STR's will require an annual permit that will be applied for with their business license. Permits once issued (valid for one year), will automatically renew each subsequent year upon approval of the associated annual business license. Any break in business license coverage for a period of one year, or if a STR remains vacant or not used as a valid short-term rental for a period of one year, will constitute termination of the permit; requiring reapplication the following year, and going to the bottom of a waiting list (if any)
- 6) STR permits in good standing are transferable with the sale of the property
- 7) There will be no STR registry. STRs will be tracked via the business license database. Business license applications will be expanded to collect additional information. This database will include points of contact for all businesses, to include 24/7 contacts for STRs. A listing of all businesses (grouped by type), with their contact information, will be posted on the Town website

- 8) Occupancy will be determined by the square footage of bedrooms, as already defined in ZO Article II; exception: children under the age of 10 are excluded from occupancy count
- 9) Initial inspections will be required for all STRs to confirm occupancy limits and other safety/building code requirements. Annual recertifications of these requirements will be made by the property owner at time of business license renewal. Reinspection will occur upon a change in property ownership or management entity. The Town reserves the right to inspect any property to investigate potential violations, with adequate notice
- 10) An STR permit will be suspended for the following calendar year (to minimize impacts on reservations in the current calendar year), if any of the violations described below occur. An applicant with a suspended permit will be required to reapply once the suspension period is over. Depending on the availability of permits under the applicable district cap, this may cause the application to go to the bottom of a waiting list.

Qualifying violations include:

- a. Failure to pay business or real/personal property taxes
- b. Failure to pay transient occupancy tax
- c. Cancellation of insurance and/or failure to notify the Town of insurance cancellation
- d. Operating without a business license
- e. Owner or management entity knowingly allow exceedance of occupancy limits
- f. Failure to adhere to safety/building code requirements following reasonable notice
- g. Falsifying annual certifications or resident parking applications
- h. Applicable zoning violations
- i. Failure to provide responsive contacts (as determined through Town investigations)

Note: individual nuisance, noise, or parking citations will not be counted against the STR owner/operator, but issued directly to the offending party

- 11) Violations will be determined by the Treasurer, Zoning Administrator, Code Official, or Police Chief as appropriate. Appeals may be made to the Town Manager, who will conduct, or cause to be conducted, an investigation. The Town Manager's ruling, based on the investigation, will be final
- 12) There are no additional parking requirements for STRs. Instead, we will add to ZO Article IV, a new section for On-Street Parking within the R-1 District designating parking areas for permanent residents of the Town. The following requirements will apply:
 - a. Applicable only to permanent residents of R-1 (homeowner or long-term renters) who physically reside in the R-1 District for a minimum of 185 days per year
 - b. Allow up to two parking spaces along the primary residence property frontage (for developed lots only) not to exceed 40' in length. If there is a driveway, only one on-street parking spot will be available (maximum 20' in length)

- c. Curb will be identified as permanent resident parking (painted green or other color)
- d. Permanent residents of R-1 must apply for the specific number of spaces they require (up to two) and receive stickers for their vehicle(s). Copy of vehicle registration will be required for each spot requested
- e. This does not constitute reserved parking for any resident; a permanent resident displaying a valid sticker may park in ANY area designated for permanent residents
- f. Signage and implementation requirements will need to be further explored with VDOT
- g. An application for a short-term rental permit will prompt a review of off-street parking designations for that property
- h. All other areas not designated for permanent resident parking will be open parking and available on a first come, first served basis, to all part-time residents, visitors, or STR guests

13) Other miscellaneous STR provisions:

- a. There are no restrictions on the types of homes that can be used for an STR (i.e., single family, duplex, condos, etc.)
- b. Except for existing legal non-conforming uses, STRs are prohibited in accessory dwelling units or accessory structures
- c. There is no requirement for owner occupancy or residency on site
- d. No simultaneous STR rentals under separate contracts within a single residence
- e. No Subleasing
- f. If within an HOA, proof that HOA has been notified
- g. No commercial events or gatherings
- h. Signage will comply with newly updated zoning requirements
- i. No person or entity may have an ownership interest in more than five STRs
- j. Refuse requirements: one and two bedroom units require one trash receptacle; three or more bedroom units require two receptacles