



TOWN COUNCIL & PLANNING COMMISSION

Joint Public Hearing

July 13, 2021

Cape Charles Civic Center

6:00 PM

1. Call to Order – Planning Commission
 - A. Roll Call
 - B. Establish quorum

2. Call to Order – Town Council
 - A. Roll Call
 - B. Establish quorum

3. Public Hearing:
 - A. Proposed text amendments to the Cape Charles Zoning Ordinance, Section 3.14 General Business/Light Industrial H-1 as follows:
 - i. Allow assembly and/or storage of products as a by-right use under Section 3.14.B(14)
 - ii. Allow buildings up to 75 feet in height with a required setback of 125 feet through a Conditional Use Permit (Section 3.14.C(2))
 - iii. Other minor changes

 - B. Application for Zoning Map Amendment (ZMA) – Rezoning 1201 Bayshore Road (tax map # 90-8-1A1) from Harbor District to General Business/Light Industrial H-1

4. Town Council Adjournment

TOWN OF CAPE CHARLES
Notice of Public Hearing – Zoning Text Amendment

The Cape Charles Planning Commission will hold a joint public hearing with the Cape Charles Town Council, pursuant to Cape Charles Zoning Ordinance Section 2.7.1, on Tuesday, July 13, 2021 at 6:00 pm in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive comment on zoning text amendments to Section 3.14 General Business/Light Industrial H-1 (GBI H-1) as follows:

- 1) Allow assembly and/or storage of products as a by-right use under Sec. 3.14 B (14)
- 2) Allow buildings up to 75 ft in height with a required setback of 125 feet through a Conditional Use Permit (Sec. 3.14 C (2))
- 3) Other minor changes

The Planning Commission will hold a meeting immediately following the public hearing to consider the request. The application is available for public review on our website at www.capecharles.org. 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.

The Town Council will hold their meeting on July 22, 2021 at 6:30 p.m. at the Cape Charles Civic Center to consider the above zoning text amendments.

AD PLACED: Eastern Shore News - Thursday, June 24, 2021 by 12:00 pm
AD TO RUN: Wednesday, June 30, 2021 & July 7, 2021

AD PLACED: Eastern Shore Post – Monday, June 28, 2021
AD TO RUN: Friday, July 2, 2021

TOWN OF CAPE CHARLES
Notice of Public Hearing – Rezoning Application

The Cape Charles Planning Commission will hold a joint public hearing with the Cape Charles Town Council on Tuesday, July 13, 2021 at 6:00 pm in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive comment on a request made by South Port Investors, LLC to rezone 1201 Bayshore Road (Tax Map # 90-8-1A1) which is approximately 11.79 acres from Harbor District (H) to General Business/Light Industrial H-1 (GBI H-1) for a proposed use of manufacturing, assembly and storage of products, pursuant to Cape Charles Zoning Ordinance Section 2.7.2.

The property is under contract for sale contingent upon this rezoning request to permit light industrial uses, pursuant to the Cape Charles Zoning Ordinance GBI H-1 District

The Planning Commission will hold a meeting immediately following the public hearing to consider the request. The application is available for public review on our website at www.capecharles.org. 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.

The Town Council will hold their meeting on July 22, 2021 at 6:30 p.m. at the Cape Charles Civic Center to consider this rezoning request.

AD PLACED: Eastern Shore News - Thursday, June 24, 2021 by 12:00 pm
AD TO RUN: Wednesday, June 30, 2021 & July 7, 2021

AD PLACED: Eastern Shore Post – Monday, June 28, 2021
AD TO RUN: Friday, July 2, 2021



PLANNING COMMISSION

STAFF REPORT

Meeting Date: July 13, 2021

Item #: 3a & 7a

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

Background:

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

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

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

Staff Analysis:

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

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

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

Staff Recommendation:

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

Attachments:

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

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

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

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

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

NOTE – CHANGES ARE SHOWN AS FOLLOWS:

Existing Text – in black font

Proposed Additions – in red font

Proposed Deletions – in ~~striketrough~~ red font

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

A. Purpose of the District. The GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan. The purpose of the district is to:

1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County
2. Create family-wage employment and training opportunities for local residents
3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture
4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers
5. Incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.

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

1. Adult and/or child day care center
2. Agriculture (excluding livestock), horticulture, forestry, and/or fishery/aquaculture
3. Art gallery
4. Business service establishment (including mail order or electronic catalog sales)
5. Conference center
6. Communication and telecommunications centers
7. Commuter parking lot
8. Educational institution
9. Flex industrial use
10. Fire, police, rescue stations
11. Food production, packaging, packing, and canning
12. Hotel, serving as an ancillary and interrelated component of the Park
13. Library or other municipal building
14. Manufacture, processing, fabrication, assembly and/or assembly storage of products such as but not limited to scientific and precision instruments, renewable energy technology components, photographic equipment, communications equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceuticals, household items, glass products, electric lighting and wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.
15. Medical care facility, outpatient only
16. Museum, cultural center, arboretum
17. Offices--administrative, business, professional, and telecommunication

18. Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Appendix A, applicable category
 19. Park, plaza, or natural area
 20. Parking structure
 21. Performing arts center
 22. Post office, drop off and pick up, mail courier and parcel services
 23. Printing service
 24. Public utility service center, without outdoor storage
 25. Rail and/or intermodal terminals, including transfer, storage, handling, inspection, processing and/or transport of containerized bulk and/or other cargo
 26. Recording studio
 27. Recreational facilities
 28. Recycling drop-off collection center serving the Park
 29. Research, experimental testing or development activities
 30. Restaurant, indoor and outdoor (excluding drive-through)
 31. Telecommunications, television, or radio microwave dishes or antennas
 32. Training center (excluding rehabilitation and institutional facilities)
 33. Utility generating plant and transmission facilities using renewable energy sources
 34. Utility installations
 35. Utility substations provided storage or maintenance facilities shall not be permitted and provided further that utilities substations, other than transformers, shall be landscaped in accordance with Appendix A, applicable category, sufficient to screen area
 36. Warehousing facility (excluding mini-storage facility)
 37. Water storage tank
 38. Wholesale trade establishment
- C. Conditional Uses. Within the GBI H-1, the following conditional uses may be allowed, subject to the issuance of a Conditional Use Permit.
1. Structures, other than buildings, exceeding 50 feet
 2. Buildings over 40 feet but equal or less than 50 feet or building or structure other than building may be constructed to a maximum height of 75 feet if the building is set back at least one hundred twenty-five (125) additional feet from the required setback for all yards abutting residential properties.
- D. Accessory Uses. Within the GBI H-1 District, the following accessory uses shall be allowed.
1. Only those that are customarily accessory and clearly incidental and subordinate to the principal uses and structures
 2. Temporary licensed uses such as festivals, displays, educational exhibits, outdoor gatherings or performances, and outdoor food markets
- E. Lot, Yard, Height, and Density Requirements. Within the GBI H-1 District, the following standards shall apply.
1. Minimum lot requirements

lot area.....	15,000 square feet
lot width	100 feet
 2. Yard requirements

minimum front yard	10 feet
--------------------------	---------

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

3. Maximum building height

buildings 40 feet
structures other than buildings..... 50 feet

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

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

- a. When a zoning lot within the GBI H-1 District adjoins any R zoning district within the PUD, the following shall be required along all lot lines within the GBI H-1 District adjoining the R zoning district within the PUD.
 - i. A 200-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within 200 feet of any zoning district or zoning classification within the PUD that permits residential as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where residential use is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 100 feet wide and run continuously for the length of the buffer.
- b. When a zoning lot within the GBI H-1 District adjoins a CO Land Use Classification, the following shall be required along all lot lines within the GBI H-1 District adjoining the CO Land Use Classification:
 - i. A 100-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within 100 feet of any zoning district or zoning classification within the PUD that permits CO Land Use Classification as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where CO Land Use Classification is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.
- c. When a zoning lot within the GBI H-1 District adjoins a C district, the following shall be required along all lot lines within the GBI H-1 District adjoining the C district:

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

F. Additional Development Requirements.

- 1. Placement of drives and parking areas. Excluding entrances and exits, no drive or parking area shall be located within any front yard or minimum side or rear yards.
- 2. Placement of drives and parking areas when adjacent to public right-of-way. Excluding entrances and exits, no drive or parking area shall be located closer than twenty feet from any public right-of-way line for a contiguous public street. Landscaping, hedges, or fast-growing shrubs on a gradual berm shall be installed within a portion of this buffer area unless to do so will jeopardize existing natural vegetation within the buffer area. See Appendix A, Category I for requirements.
- 3. All parking must comply with Appendix B - Off Street Parking and Loading Requirements
- 4. Parking is not permitted in the front yard of a lot.
- 5. No parking or drive aisles shall be located within the required buffer yards.
- 6. No outside storage of parts, ~~materials~~, fossil fuels, ~~raw materials~~, or petroleum shall be permitted within the GBI H-1 District.
- 7. ~~No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.~~
- 8. Any exterior lighting on the property shall be directed down and away from any area zoned R (residential) or PUD where residential development is a permitted use to prevent the disbursement or bleeding of light beyond the limits of the developed portions of the property.
- 9. No outside loudspeakers, intercoms, ~~sirens~~, paging systems, whistles, horns, bells, ~~or other devices~~ or signals audible outside any buildings shall be allowed on the property. Any and all OSHA requirements shall be adhered to; any OSHA-accepted alternative warning devices are encouraged.
- 10. 10. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
- 11. No delivery or transmission of materials or products shall be permitted to or from the property by truck or rail between 11 p.m. and 5 a.m. Monday through Sunday.

South Port Investors, LLC

**PO Box 395
Eastville, VA 23347**

May 11, 2021

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

Attn: John Hozey - Town Manager

Dear Mr. Hozey,

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

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

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

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

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

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

Sincerely,

S. Eyre Baldwin

Executive Director - South Port Investors



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

May 11, 2021

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

Attn: Dan Brown

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

Mr. Brown,

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

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

A. Purpose of the District.

The GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan. The purpose of the district is to:

1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County
2. Create family-wage employment and training opportunities for local residents
3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture
4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers
5. Incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project

B. Permitted Uses.

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



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

1. Adult and/or child day care center
2. Agriculture (excluding livestock), horticulture, forestry, and/or fishery/aquaculture
3. Art gallery
4. Business service establishment (including mail order or electronic catalog sales)
5. Conference center
6. Communication and telecommunications centers
7. Commuter parking lot
8. Educational institution
9. Flex industrial use
10. Fire, police, rescue stations
11. Food production, packaging, packing, and canning
12. Hotel, serving as an ancillary and interrelated component of the Park
13. Library or other municipal building
14. Manufacture, processing, fabrication, **assembly and/or storage** of products such as but not limited to scientific and precision instruments, renewable energy technology components, photographic equipment, communications equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceuticals, household items, glass products, electric lighting and wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.
15. Medical care facility, outpatient only
16. Museum, cultural center, arboretum
17. Offices--administrative, business, professional, and telecommunication
18. Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Appendix A, applicable category
19. Park, plaza, or natural area
20. Parking structure
21. Performing arts center
22. Post office, drop off and pick up, mail courier and parcel services
23. Printing service
24. Public utility service center, without outdoor storage
25. Rail and/or intermodal terminals, including transfer, storage, handling, inspection, processing and/or transport of containerized bulk and/or other cargo
26. Recording studio
27. Recreational facilities
28. Recycling drop-off collection center serving the Park
29. Research, experimental testing or development activities
30. Restaurant, indoor and outdoor (excluding drive-through)
31. Telecommunications, television, or radio microwave dishes or antennas
32. Training center (excluding rehabilitation and institutional facilities)
33. Utility generating plant and transmission facilities using renewable energy sources
34. Utility installations
35. Utility substations provided storage or maintenance facilities shall not be permitted and provided further that utilities substations, other than transformers, shall be landscaped in accordance with Appendix A, applicable category, sufficient to screen area



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

C. Conditional Uses.

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

- 1. Structures, other than buildings, exceeding 50 feet
- 2. Buildings over 40 feet but equal or less than 50 feet or building or structure other than building may be constructed to a maximum height of 75 feet if the building is set back at least one hundred twenty-five (125) additional feet from the required setback for all yards abutting residential properties.

D. Accessory Uses.

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

- 1. Only those that are customarily accessory and clearly incidental and subordinate to the principal use and structures
- 2. Temporary licensed uses such as festivals, displays, educational exhibits, outdoor gatherings or performances, and outdoor food markets

E. Lot, Yard, Height, and Density Requirements.

Within the GBI H-1 District, the following standards shall apply.

- 1. Minimum lot requirements
 - lot area..... 15,000 square feet
 - lot width 100 feet
- 2. Yard requirements
 - minimum front yard 10 feet
 - maximum front yard 25 feet
 - minimum side yard between buildings ... none or 5 feet
 - minimum side yard adjacent to street.... 10 feet
 - minimum rear yard 20 feet
- 3. Maximum building height
 - buildings 40 feet
 - structures other than buildings.....50 feet
- 4. Building coverage. No more than 50 percent of the land area of the lot may be covered by structures.
- 5. Buffer yards. Where the GBI H-1 District adjoins the R (residential) zoning districts within the PUD or CO Land Use Classifications or C districts within the PUD, buffer yards are required as follows:
 - a. When a zoning lot within the GBI H-1 District adjoins any R zoning district within the PUD, the following shall be required along all lot lines within the GBI H-1 District adjoining the R zoning district within the PUD.
 - i. A 200-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required



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

prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.

ii. No loading facilities, loading docks, or loading bays shall be permitted within 200 feet of any zoning district or zoning classification within the PUD that permits residential as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where residential use is allowed.

iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 100 feet wide and run continuously for the length of the buffer.

b. When a zoning lot within the GBI H-1 District adjoins a CO Land Use Classification, the following shall be required along all lot lines within the GBI H-1 District adjoining the CO Land Use Classification:

i. A 100-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval by Town of Cape Charles Zoning Ordinance and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.

ii. No loading facilities, loading docks, or loading bays shall be permitted within 100 feet of any zoning district or zoning classification within the PUD that permits CO Land Use Classification as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where CO Land Use Classification is allowed.

iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.

c. When a zoning lot within the GBI H-1 District adjoins a C district, the following shall be required along all lot lines within the GBI H-1 District adjoining the C district:

i. A 50-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.

ii. No loading facilities, loading docks, or loading bays shall be permitted within 75 feet of any zoning district or zoning classification within the PUD that permits commercial as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where commercial use is allowed.

iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.



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

F. Additional Development Requirements.

1. Placement of drives and parking areas. Excluding entrances and exits, no drive or parking area shall be located within any front yard or minimum side or rear yards.
2. Placement of drives and parking areas when adjacent to public right-of-way. Excluding entrances and exits, no drive or parking area shall be located closer than twenty feet from any public right-of-way line for a contiguous public street. Landscaping, hedges, or fast-growing shrubs on a gradual berm shall be installed within a portion of this buffer area unless to do so will jeopardize existing natural vegetation within the buffer area. See Appendix A, Category I for requirements.
3. All parking must comply with Appendix B - Off Street Parking and Loading Requirements
4. Parking is not permitted in the front yard of a lot.
5. No parking or drive aisles shall be located within the required buffer yards.
6. No outside storage of parts, ~~materials~~, fossil fuels, ~~raw materials~~, or petroleum shall be permitted within the GBI H-1 District.
- ~~7. No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.~~
8. Any exterior lighting on the property shall be directed down and away from any area zoned R (residential) or PUD where residential development is a permitted use to prevent the disbursement or bleeding of light beyond the limits of the developed portions of the property.
9. No outside loudspeakers, intercoms, ~~sirens~~, paging systems, whistles, horns, bells, ~~or other devices~~ or signals audible outside any buildings shall be allowed on the property. ~~Any and all OSHA requirements shall be adhered to; any OSHA-accepted alternative warning devices are encouraged.~~
10. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
11. No delivery or transmission of materials or products shall be permitted to or from the property by truck or rail between 11 p.m. and 5 a.m. Monday through Sunday.

Sincerely,

Coastal Precast Systems, LLC

Brandon Mowrey

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

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

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

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

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

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

By: _____
Mayor Dize

Attest:

Town Clerk



PLANNING COMMISSION

STAFF REPORT

Meeting Date: July 13, 2021

Item #: 3b & 7b

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

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

AERIAL MAP



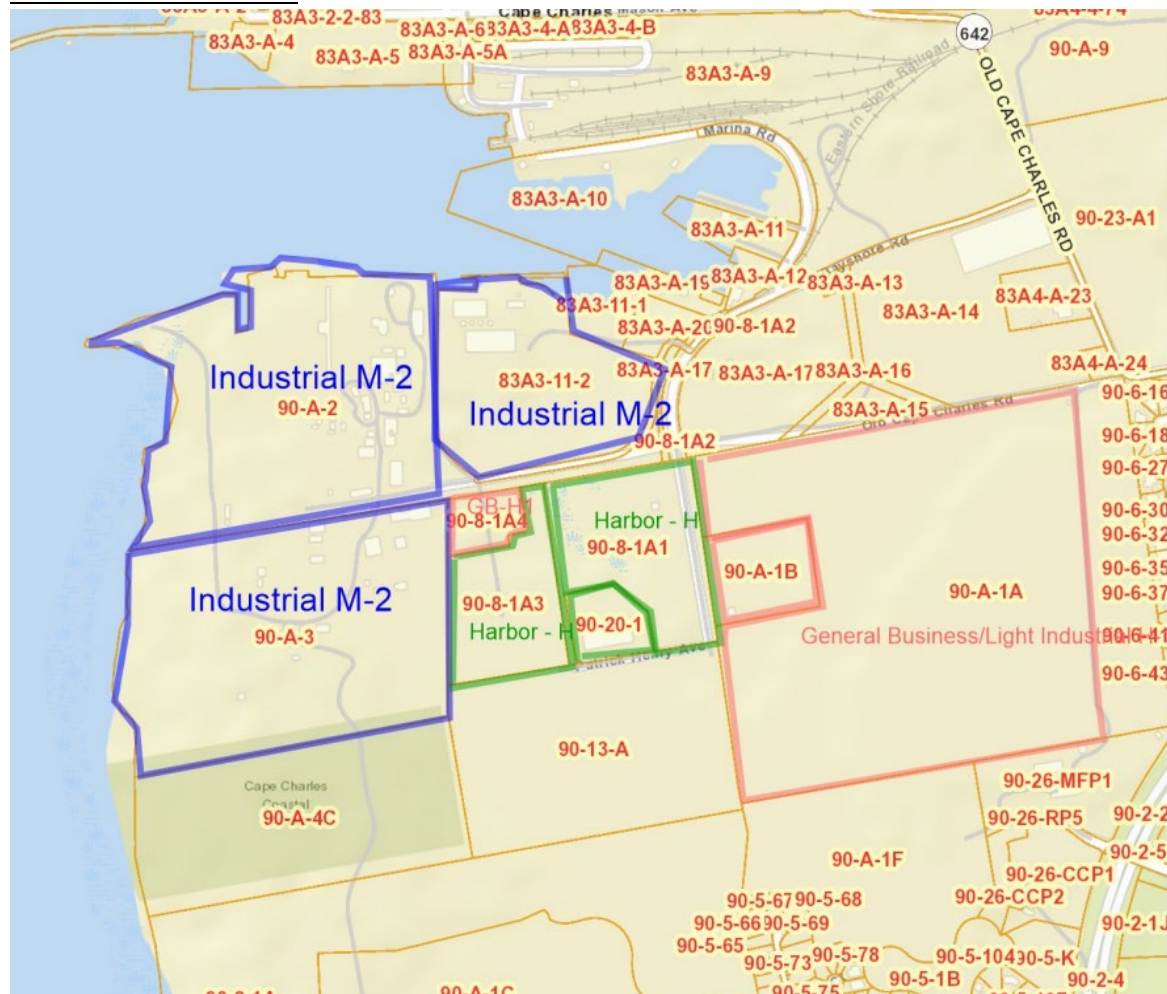
Staff Analysis:

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

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

A) CURRENT ZONING MAP & ORDINANCE

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

CURRENT ZONING MAP

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

Current Zoning:

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

Statement of Intent. The intent of this zoning district is to encourage a vibrant working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions. Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs. This zoning district is also intended to implement the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines as an overall guide to the future development and redevelopment of the harbor area.

PROPOSED REQUESTED ZONING:

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

A. Purpose of the District. The GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan. The purpose of the district is to:

1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County
2. Create family-wage employment and training opportunities for local residents
3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture
4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers
5. Incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.

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

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

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

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

- Working Waterfront
- Nature Area
- Public Utilities

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

LAND USE PLAN



C) REVIEW OF COMPREHENSIVE PLAN

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

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

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

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

III.3.4 General Business/Light Industrial H-1 District: The General Business/Light Industrial H-1 designation allows for a planned mixed industrial and employment park with a comprehensive development plan which encourages the revitalization of the local industrial economy and historic Port of Cape Charles and Northampton County; creates family-wage employment and training opportunities for local residents; serves as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers; and incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.

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

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

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

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

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

Staff Recommendation:

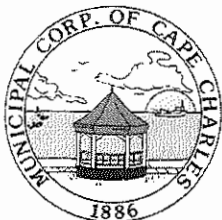
Staff is recommending a favorable consideration of the Zoning Map Amendment since it is supported by the Comprehensive Plan and creates a more cohesive Zoning Map for the parcels to the south of the harbor. However, this recommendation is contingent upon the favorable consideration of the Zoning Text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

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

Attachments:

Attachment 1: Application and Documents

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



ZONING MAP AMENDMENT APPLICATION

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

received
5/12/2021

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

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

PROJECT INFORMATION

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

OWNER INFORMATION

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

APPLICANT INFORMATION

☒ check here if applicant is owner

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

CERTIFICATION OF APPLICANT

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

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

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

South Port Investors, LLC

**PO Box 395
Eastville, VA 23347**

May 12, 2021

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

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

Dear Mr. Hozey,

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

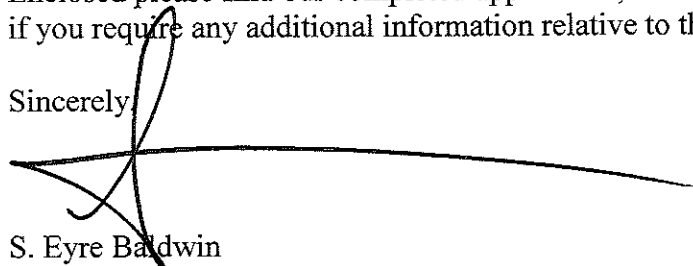
The acquiring company, Cape Charles Properties LLC, requires use capabilities which resemble the provisions in the GBI-H1 zone. The company plans to utilize the land for manufacturing, processing, fabrication, assembly and/or storage of products. Production of renewable energy components is the basis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

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

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

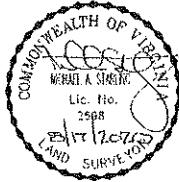
Enclosed please find our completed application, survey, and application fee. Please let me know if you require any additional information relative to this request. Thank you.

Sincerely,

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

S. Eyre Baldwin
Executive Director - South Port Investors

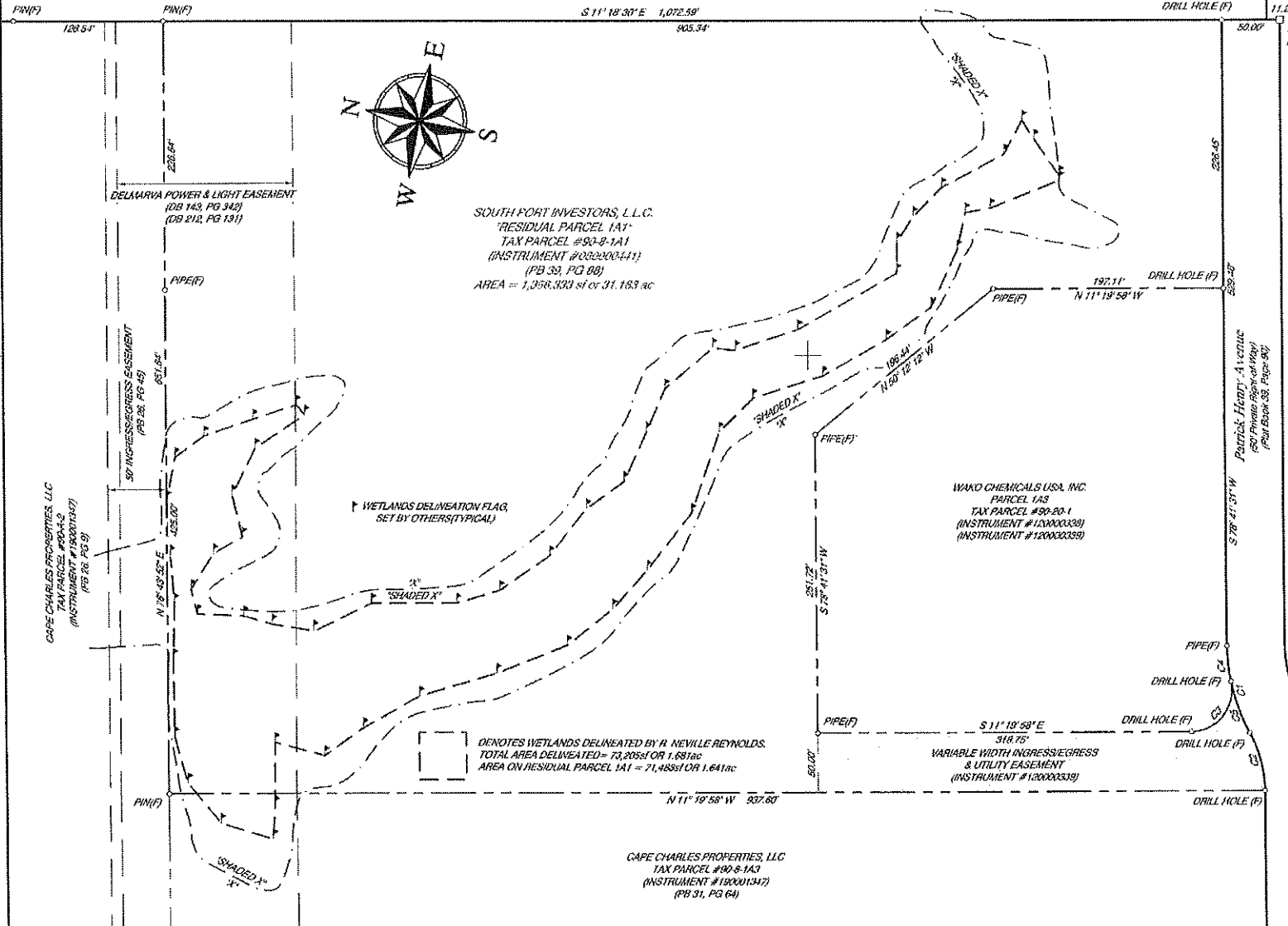
I HEREBY CERTIFY THAT THIS PLAT IS BASED ON A CURRENT FIELD SURVEY, AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IS CORRECT AND COMPLIES WITH THE MINIMUM PROCEDURES AND STANDARDS ESTABLISHED BY THE VIRGINIA STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS.



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

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

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



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

FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM FEMA FLOOD MAPS. SHORELINE SURVEYORS IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON. FOR FURTHER INFORMATION AND TO DETERMINE THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.

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

FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAPS AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE.

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

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

WETLANDS EXHIBIT OF

Residual Parcel 1A1

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

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

Shoreline Surveyors

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



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

Adjacent Property Owners

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

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

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

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

Section 2.7.2 Procedures for Amending Chapter or Zoning Map

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

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

- A. *Statement of Intent.* The intent of this zoning district is to encourage a vibrant working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions. Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs. This zoning district is also intended to implement the Cape Charles Harbor

Area Conceptual Master Plan and Design Guidelines as an overall guide to the future development and redevelopment of the harbor area.

B. Mainstreet Mixed-use Area.

1. The area of the Harbor District along the south side of Mason Avenue, beginning at the western edge of Parcel 83A3-A-5, and projecting eastward to Nectarine Street, and southward a distance of 120 feet from the south side of Mason Avenue, is defined as the "Mainstreet Mixed-Use Area." All buildings in the Mainstreet Mixed-use Area shall meet the following requirements:
 - a. Each building shall be a minimum of two stories and shall have only residential uses above the first floor.
 - i. Residential portions of the building shall have at least two entrances/exit ways to the ground floor that are separate from the entrances/exit ways used by occupants of nonresidential portions of the building.
 - ii. The primary entrance for the residential portion of the building shall be clearly visible from Mason Avenue and shall face Mason Avenue.
 - b. Ground floor uses shall be limited to non-motor vehicle related uses, including restaurants, sales and rental of goods, merchandise or equipment establishments, banks and financial institutions, or offices.
 - c. Drive-through facilities are prohibited.
 - d. The primary façade shall face Mason Avenue. On a corner lot, each side adjacent to a street shall be considered a primary façade.
 - e. All blocks shall align with and be equal in frontage length to the blocks on the north side of Mason Avenue so that existing viewsheds to the harbor are maintained.
 - f. No building or structure shall exceed 40 feet in height.
 - g. The front setback shall be the prevailing setback of adjacent properties along the south side of Mason Avenue.
 - h. Development design standards in this area shall be subject to both the Historic District Review Board and the Harbor Area Review Board.
 - i. Whenever the provisions of subsection 3.9.B.1 impose standards that are more restrictive than are required in or under any other statute, ordinance or resolution, these standards shall prevail, unless otherwise specified in this Zoning Ordinance.

- C. The maximum FAR for the Harbor District shall be 1.75 by right and up to 2.0 with a Conditional Use Permit. Nothing in this paragraph shall modify or waive the open space requirement set forth in subsection F of this Article III.

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

1. Accessory uses customarily associated and clearly incidental and subordinate to a principal use.
2. Food service-related uses of the following types:
 - a. Bakeries, confectionaries, delicatessens, and catering services
 - b. Cafes and coffee shops
 - c. Delicatessens

- d. Eating and drinking establishments
- e. Ice cream parlors
- f. Restaurants
- 3. Marine-related uses of the following types:
 - a. Bait and tackle shops
 - b. Boat rentals
 - c. Marinas, docks and wharves if contiguous to harbor
 - a. Sail and canvas making and repair
 - e. Ship stores and chandleries
- 4. Office and institutional uses of the following types:
 - a. Business studios
 - b. Civic and government facilities
 - c. Educational facilities
 - d. Financial institutions
 - b. Medical clinics
 - c. Medical, dental and other laboratories
 - d. Offices
 - e. Office supply stores
 - f. Real estate sales and rentals
- 5. Recreational, cultural, and entertainment uses of the following types:
 - a. Art galleries and art studios
 - b. Athletic clubs
 - c. Conference centers
 - d. Health and fitness facilities
 - e. Libraries and galleries
 - f. Museums and cultural centers
 - g. Outdoor recreational uses
 - h. Parks
- 6. Retail goods establishments of the following types with 2,500 square feet or less of gross floor area:
 - a. Antique shops
 - b. Bookstores, new and used
 - c. Camera shops
 - d. Candy stores
 - e. Clothing stores
 - f. Dry goods stores
 - g. Florists, gift shops, card shops, and stationery shops
 - h. Grocery stores
 - i. Music stores
 - j. Newsstands
 - k. Tobacco stores
 - l. Upholstering shops and fabric stores
 - m. Video stores
 - n. Watch and jewelry stores
- 7. Retail service establishments of the following types with 2,500 square feet or less of gross floor area:
 - a. Beauty and barbershops
 - b. Bicycle, moped, and street legal golf cart sales and rentals

- c. Blueprinting shops
- d. Dressmaking, tailoring, millinery, dry cleaning
- 8. Public Utility Facility

E. *Conditional Uses.* The following uses may also be permitted, subject to securing a conditional use permit as provided for in this ordinance:

1. Marine-related uses of the following types:
 - a. Boat and marine engine repair shops
 - b. Boatels
 - c. Marine and sports equipment consignment stores
2. Markets of the following types:
 - a. Crafts markets
 - b. Farmers' markets
 - c. Watermen's markets
3. Recreational, cultural, and entertainment uses of the following types:
 - a. Assembly halls
 - b. Auditoriums
 - c. Commercial recreational uses
 - d. Entertainment establishments
 - e. Theaters
4. Retail goods establishments of the following types with more than 2,500 square feet of gross floor area:
 - a. Antique shops
 - b. Bookstores, new and used
 - c. Camera shops
 - d. Candy stores
 - e. Clothing stores
 - f. Dry goods stores
 - g. Florists, gift shops, card shops, and stationery shops
 - h. Grocery stores
 - i. Music stores
 - j. Newsstands
 - k. Tobacco stores
 - l. Upholstering shops and fabric stores
 - m. Video stores
 - n. Watch and jewelry stores
5. Retail service establishments of the following types with more than 2,500 square feet of gross floor area:
 - a. Beauty and barbershops
 - b. Bicycle moped, and golf cart sales and rentals
 - c. Blueprinting shops
 - d. Dressmaking, tailoring, millinery, dry cleaning
6. Single-family and multi-family dwellings provided the following requirements are met:
 - a. All dwelling units shall have direct access to the street level. Means of access may be shared with other dwelling units, but not commercial uses. Access through a commercial establishment on the first level is not permitted.
 - b. Dwelling units shall occupy no more than 50 percent of the first floor of any building.

- c. The first floor of all building facades adjacent to a public street shall have a commercial appearance and shall not have a residential appearance.
- 7. Other miscellaneous uses of the following types:
 - a. Bed and breakfasts and tourist homes, provided the following requirements are met:
 - (1.) The owner and family must occupy the residence. The owner and his/her appointed agent are responsible for supervising guests.
 - (2.) The single-family dwelling appearance must be maintained.
 - (3.) Parking should be considered on a case-by-case basis as part of the conditional use application, ensuring adherence to Section 4.8.E.2 (Table of Parking Standards) using both on and off-street parking areas.
 - (4.) A sign no larger than four square feet shall be permitted.
 - (5.) The number of room accommodations shall be subject to recommendation by the Planning Commission and approved by the Town Council.
 - (6.) The dwelling must meet all of the requirements of Section 3.9.D.6.
 - b. Childcare and childcare education centers
 - c. Hotels and motels
 - d. Laundromats
 - e. Liquor and package stores
 - f. Off-site parking
- 8. Any other use which is compatible in nature with the foregoing permitted and conditional uses and which the Zoning Administrator determines to be compatible with the intent of the District and is concurred with by the Planning Commission.

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

1. *Minimum lot requirements.*

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

2. *Height.*

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

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

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

3. *Setback Regulations.*

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

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

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

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

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

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

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

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

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

J. *Exemption.*

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

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

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

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

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

- A. Purpose of the District. The GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan. The purpose of the district is to:
1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County
 2. Create family-wage employment and training opportunities for local residents
 3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture
 4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers
 5. Incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.
- B. Permitted Uses. Within the GBI H-1 District, the following permitted uses shall be allowed.
1. Adult and/or child day care center
 2. Agriculture (excluding livestock), horticulture, forestry, and/or fishery/aquaculture
 3. Art gallery
 4. Business service establishment (including mail order or electronic catalog sales)
 5. Conference center
 6. Communication and telecommunications centers
 7. Commuter parking lot
 8. Educational institution
 9. Flex industrial use
 10. Fire, police, rescue stations
 11. Food production, packaging, packing, and canning
 12. Hotel, serving as an ancillary and interrelated component of the Park
 13. Library or other municipal building
 14. Manufacture, processing, fabrication and/or assembly of products such as but not limited to scientific and precision instruments, renewable energy technology components, photographic equipment, communications equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceuticals, household items, glass products, electric lighting and wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.
 15. Medical care facility, outpatient only
 16. Museum, cultural center, arboretum
 17. Offices--administrative, business, professional, and telecommunication
 18. Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Appendix A, applicable category

19. Park, plaza, or natural area
20. Parking structure
21. Performing arts center
22. Post office, drop off and pick up, mail courier and parcel services
23. Printing service
24. Public utility service center, without outdoor storage
25. Rail and/or intermodal terminals, including transfer, storage, handling, inspection, processing and/or transport of containerized bulk and/or other cargo
26. Recording studio
27. Recreational facilities
28. Recycling drop-off collection center serving the Park
29. Research, experimental testing or development activities
30. Restaurant, indoor and outdoor (excluding drive-through)
31. Telecommunications, television, or radio microwave dishes or antennas
32. Training center (excluding rehabilitation and institutional facilities)
33. Utility generating plant and transmission facilities using renewable energy sources
34. Utility installations
35. Utility substations provided storage or maintenance facilities shall not be permitted and provided further that utilities substations, other than transformers, shall be landscaped in accordance with Appendix A, applicable category, sufficient to screen area
36. Warehousing facility (excluding mini-storage facility)
37. Water storage tank
38. Wholesale trade establishment

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

1. Structures, other than buildings, exceeding 50 feet
2. Buildings over 40 feet but equal or less than 50 feet

D. Accessory Uses. Within the GBI H-1 District, the following accessory uses shall be allowed.

1. Only those that are customarily accessory and clearly incidental and subordinate to the principal uses and structures
2. Temporary licensed uses such as festivals, displays, educational exhibits, outdoor gatherings or performances, and outdoor food markets

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

1. Minimum lot requirements

lot area	15,000 square feet
lot width.....	100 feet
2. Yard requirements

minimum front yard.....	10 feet
maximum front yard.....	25 feet
minimum side yard between buildings....	none or 5 feet

minimum side yard adjacent to street10 feet
minimum rear yard.....20 feet

3. Maximum building height
 - buildings.....40 feet
 - structures other than buildings.....50 feet
4. Building coverage. No more than 50 percent of the land area of the lot may be covered by structures.
5. Buffer yards. Where the GBI H-1 District adjoins the R (residential) zoning districts within the PUD or CO Land Use Classifications or C districts within the PUD, buffer yards are required as follows:
 - a. When a zoning lot within the GBI H-1 District adjoins any R zoning district within the PUD, the following shall be required along all lot lines within the GBI H-1 District adjoining the R zoning district within the PUD.
 - i. A 200-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within 200 feet of any zoning district or zoning classification within the PUD that permits residential as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where residential use is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 100 feet wide and run continuously for the length of the buffer.
 - b. When a zoning lot within the GBI H-1 District adjoins a CO Land Use Classification, the following shall be required along all lot lines within the GBI H-1 District adjoining the CO Land Use Classification:
 - i. A 100-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within 100 feet of any zoning district or zoning classification within the PUD that permits CO Land Use Classification as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where CO Land Use Classification is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.
 - c. When a zoning lot within the GBI H-1 District adjoins a C district, the following shall be required along all lot lines within the GBI H-1 District adjoining the C district:
 - i. A 50-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation

easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.

- ii. No loading facilities, loading docks, or loading bays shall be permitted within 75 feet of any zoning district or zoning classification within the PUD that permits commercial as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where commercial use is allowed.
- iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.

F. Additional Development Requirements.

- 1. Placement of drives and parking areas. Excluding entrances and exits, no drive or parking area shall be located within any front yard or minimum side or rear yards.
- 2. Placement of drives and parking areas when adjacent to public right-of-way. Excluding entrances and exits, no drive or parking area shall be located closer than twenty feet from any public right-of-way line for a contiguous public street. Landscaping, hedges, or fast-growing shrubs on a gradual berm shall be installed within a portion of this buffer area unless to do so will jeopardize existing natural vegetation within the buffer area. See Appendix A, Category I for requirements.
- 3. All parking must comply with Appendix B - Off Street Parking and Loading Requirements
- 4. Parking is not permitted in the front yard of a lot.
- 5. No parking or drive aisles shall be located within the required buffer yards.
- 6. No outside storage of parts, materials, fossil fuels, raw materials, or petroleum shall be permitted within the GBI H-1 District.
- 7. No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.
- 8. Any exterior lighting on the property shall be directed down and away from any area zoned R (residential) or PUD where residential development is a permitted use to prevent the disbursement or bleeding of light beyond the limits of the developed portions of the property.
- 9. No outside loudspeakers, intercoms, sirens, paging systems, whistles, horns, bells, or other devices or signals audible outside any buildings shall be allowed on the property.
- 10. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
- 11. No delivery or transmission of materials or products shall be permitted to or from the property by truck or rail between 11 p.m. and 5 a.m. Monday through Sunday.