



PLANNING COMMISSION & TOWN COUNCIL
Joint Public Hearing
Cape Charles Civic Center
May 3, 2022
6:00 p.m.

At 6:00 p.m., Chairman Bill Stramm, having established a quorum, called to order the Public Hearing and Regular Meeting of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Kenneth Butta, Diane D'Amico, Paul Grossman, Jim Holloway, Dennis McCoy, and Michael Strub. Also, in attendance were Interim Planning/Zoning Administrator Katie Nunez, and Planning Technician Tracy Outten. There were 18 members of the public in attendance and 22 viewers on Facebook.

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

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

PUBLIC HEARING PUBLIC COMMENTS:

Chairman Stramm read the Notice of Public Hearings:

- A. A Zoning Text Amendment 2022-01 application from the Town of Cape Charles to amend Section 4.2 (J) – Accessory Dwelling Units, and Section 2.9 – Definitions associated with Accessory Dwelling Units (ADU)
- B. A Zoning Map Amendment 2022-01 application from Cape Charles Ventures, LLC to conditionally rezone 238 Randolph Avenue (Tax Map #83A3-1-625A) from Residential-1 to Commercial-1 with proffers to limit the commercial activity of said proposed rezoning
- C. A Conditional Use Permit 2022-01 application from Cynthia Emrich and Charles van Dyck at 420 Randolph Avenue for an Accessory Dwelling Unit Permit After the Fact

Interim Planning/Zoning Administrator Katie Nunez provided a summary of each item scheduled for public hearing prior to the acceptance of public comments for the particular item.

- A. *Zoning Text Amendment 2022-01 – Section 4.2 (J) Accessory Dwelling Units, and Section 2.9 Definitions associated with Accessory Dwelling Units:*

There were no comments to be heard from the members of the public in attendance. Planning Technician Tracy Outten read comments submitted in writing from Sam Jones. (Please see attached.)

Katie Nunez stated that the Commissioners should consider the comments received, determine whether additional changes should be considered as a result of the comments, and the recommendation for Town Council approval of the proposed amendments.

Motion made by Commissioner Grossman, seconded by Commissioner Butta, to recommend Council adoption of the proposed text amendments to Sections 4.2 (J) and 2.9.

Commissioner D'Amico expressed her concerns as follows: i) Making ADUs a by-right use could prompt every property owner who could meet the requirements to have an ADU. It would affect the Town's population and add to parking problems. This would only impact the properties in

the Historic District. Could the Commission look at possibly including Bay Creek; ii) In looking at the criteria, the explanation was to make it easier for staff to enforce, but the criteria was not much different from the current criteria; iii) Allowing increased density in certain zoning districts was also a concern. The stated reason was to assist in meeting the housing needs of the town, but the needs had not been spelled out. Were we looking for workforce housing, affordable housing or long-term vacation rentals? iv) People did not understand what an ADU was. The letter received from Mr. Jones asked that ADUs could be used for relatives to stay in regardless of the length of their stay. If that were to be permitted, the definition of an ADU needed to be changed; v) Did we want to make it so that an ADU would be rented long-term, but the main house be used as a short-term vacation rental with the owner living out of town; vi) The Commission had discussed the definitions of kitchen, bathroom, and sleeping areas versus a bedroom. The parking requirement was one space per bedroom, but if a sleeping area had three bunkbeds and could house six people, how many parking spaces would be required; vii) She did not see any hurry to get these changes completed. The Commission needed to take more time for further review and get everything right.

Bill Stramm stated that a motion and second had been received and asked for a vote.

The motion was approved by majority vote with Commissioner D'Amico opposed.

Mayor Dize requested for the next two items of the public hearing, that the content be limited to the staff summary and citizen comments, and the Commission's deliberations be done after the closing of the public hearing. The Town Council would adjourn their public hearing, then the Commission could proceed with their regular meeting.

- B. *Zoning Map Amendment 2022-01 – Application from Cape Charles Ventures, LLC to conditionally rezone 238 Randolph Avenue (Tax Map #83A3-1-625A) from Residential-1 to Commercial-1 with proffers to limit the commercial activity of said proposed rezoning:*

Applicant David Gammino stated the following: i) He was served a notice of violation indicating that if the rezoning request was not approved, he would be sanctioned with penalties going back to February 10th until the violation was alleviated. His dilemma was that he could not alleviate the violations and still operate the hotel. The lot in question was used for trash service, location of the propane tank, fire department access, etc. An 8-foot easement was also provided to the Town for utility maintenance; ii) He apologized to Mrs. Loomis, a property owner and resident of an adjacent lot, for stating in his original submission that she was not opposed to his application. He did not think she was opposed to the application and did not mean to misrepresent his case; iii) Ms. Nunez' report stated that she could not support approval of the application since it was not consistent with the comprehensive plan. She indicated the need for further study. He suggested a possible new zoning district that would address this situation; iv) In the meantime, he was doing all that he could to reasonably mitigate the commercial activity on the lot. It was a unique situation. He had been operating in this manner for 10 years without any complaints until an investor recently purchased a house, renovated it and resold it; v) The Town needed to address this situation with the comprehensive plan. He proffered the best way he could so some commercial activity could be performed on the lot; vi) He purchased the hotel and lot 10 years ago. Many years ago, Northampton County and the Town allowed the lot to be split into a 32-foot parcel and an 8-foot easement. He consolidated the two lots when he purchased them and granted the 8-foot easement to the Town; vii) When the Cape Charles Coffee House needed a new sewer line, he permitted the Town to install it on this lot as he had no intention of developing the lot; viii) He recognized that the comprehensive plan talked about retaining the historic character of the neighborhood, and realized the impact to the neighbors. He did not think the neighbors had a problem with the current activity on the lot; ix) The hotel brought in \$7M to 10M in gross revenue to the Town and he could not operate the hotel without the lot being rezoned. He

narrowly tailored his application so that he could get along with the neighbors and still operate the business and asked that his request be looked upon favorably.

The floor was opened for public comments relating to this item.

Steve Loomis, resident

Mr. Loomis addressed the Commission and Council as follows: i) He was opposed to the rezoning adding that he did not think anyone would want a commercial lot between two residential lots; ii) He provided historical information regarding the lot in question adding that the 1924 Sanborn maps showed the 8-foot easement. The easement went to the end of the block behind the Parsons building for the use of the businesses for trash pickup, etc. The corner two lots of this block were commercial and according to the 1910 Sanborn map, there was a hotel located at the corner. There was also a duplex on the 32-foot lot although it was very tight for trucks to get by; iii) The back of the Hotel Cape Charles building, where the patio and courtyard were now located, was the area where the trash was picked up; iv) He asked, as a resident of the Town, that the zoning request be denied.

Chica Golibart, resident

Ms. Golibart expressed her agreement with Mrs. Loomis and her wishes for the lot next to her house to remain zoned for residential. The lot was currently being used for commercial purposes. Mrs. Loomis had a beautiful house and property with windows facing this lot and every vehicle entering the property day and night affects Mrs. Loomis' property.

Jawn Dolph, General Manager of Hotel Cape Charles

Mr. Dolph addressed the Commission and Council as follows: i) He had served as the general manager of the hotel since 2017; ii) The lot served a critical use with shared access for the Cape Charles Coffee House, The Almeta Café, Cravings, Eastern Shore Popcorn and the credit union for trash services and propane. With the rezoning of the lot, the five businesses would be able to continue to operate and six to ten additional parking spaces would become available along Mason Avenue; iii) There was a large electrical transformer on the lot to service the hotel so the lot would never be used for residential purposes; iv) He had worked in many hotels and was also a travel consultant. Credit needed to be given to Mr. Gammino and the hotel. It was a very nice hotel and small towns like Cape Charles did not have nice, \$300 per night hotels. The Commission and Council needed to keep this in mind; v) He had never encountered an owner so aggressively wanting to provide a financial commitment to a town and hotel. A lot of work had been put into the hotel and continued to be completed on the hotel annually when they closed for the season.

Judy Loomis, resident/property owner

Mrs. Loomis stated that she owned four lots in the Town – two commercial and two residential. Her house was the only one adjacent to Mr. Gammino's lot. She had lived in her house for 50 years so was very familiar with the commercial and residential areas. When Mr. Gammino bought the hotel, all services were located at the back of the hotel behind her property. Mr. Gammino later purchased the residential lot next to hers, put in a courtyard behind the hotel, and proceeded to gradually use the residential lot as he needed to service the hotel. She never complained. She could see that when expanding the hotel more space was needed but it was now out of hand. How were golf carts a necessity for the hotel? If the lot was rezoned for commercial, the hotel and all its equipment would continue to be placed on that lot. She did not think there should be one commercial lot permitted amongst all the other residential lots. She requested that the rezoning application be denied.

There were no additional comments to be heard from the members of the public in attendance. Planning Technician Tracy Outten read comments submitted in writing from Sherri Landon, Laurie Klingel, Eddie Compo, Amy Townsend, Karen Duer-Potts, Margaret Van Clief, Patsy Harris,

and Alana Smith. (Please see attached.)

Chairman Stramm stated that Commissioner deliberation and action would be done after conclusion of the public hearing to accommodate Council's request.

C. *Conditional Use Permit 2022-002 – Application from Cynthia Emrich & Charles van Dyck for an Accessory Dwelling Unit Permit After the Fact at 420 Randolph Avenue*

Katie Nunez stated that the Town was permitting any existing reservations to be honored but no new reservations could be accepted until finalization of the ADU permit application.

The applicant, Cynthia Emrich, stated that she would not be speaking on the application but was available to answer any questions.

There were no comments to be heard from the members of the public in attendance, nor any written comments submitted prior to the hearing.

Motion made by Commissioner Grossman, seconded by Commissioner Strub, to close the public hearing portion of the Planning Commission meeting. The motion was approved by unanimous vote.

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

The joint public hearing was adjourned at 7:31 p.m.

Planning Commission Chair

Mayor Dize

Town Clerk

**May 3, 2022 Planning Commission & Town Council Joint Public Hearing
Comments and Information Provided in Writing**

Interim Planner/Zoning Administrator PowerPoint Presentation

JOINT MEETING PLANNING COMMISSION & TOWN COUNCIL

TUESDAY, MAY 3, 2022

6:00 PM

1

PUBLIC HEARING ZTA 2022-01: ACCESSORY DWELLING UNIT & DEFINITIONS

- Addition of Intent Statement
- Conditional Use Permit process vs. By-Right process
- Expansion/addition of definitions for kitchen, bathroom, bedroom, sleeping area
- Expansion of timeframe for occupancy of unit from 30 to 60 days
- Added additional requirements
 - ADUS to have own trash receptacle separate from main house
 - Obtain Certificate of Completion from Building Official , similar to C of O
 - Annual Certifications for Zoning Compliance and Safety Compliance

2

PUBLIC HEARING
ZMA 2022-01 - Rezone 238 Randolph Avenue from
Residential-1 to Commercial-1 with Proffers

Cape Charles Ventures, LLC dba Hotel Cape Charles petitioned to rezone 238 Randolph Avenue, which they own, from R-1 to C-1 with proffers limiting commercial use the uses specified in the Proffer Statement with a proposed Site Plan as an Exhibit to the Proffer Statement.

Proffers:

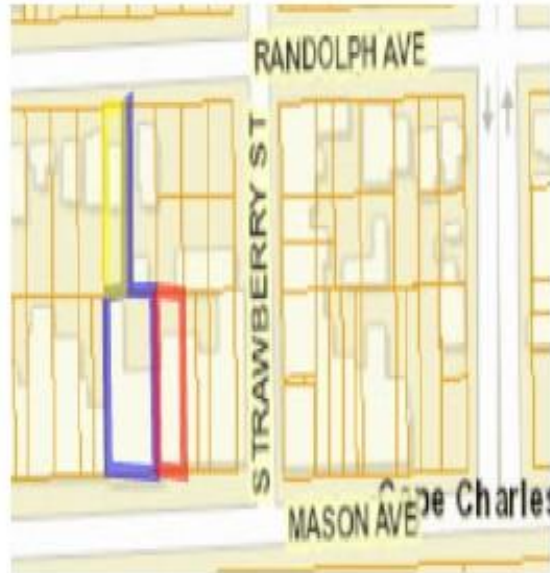
- Deliveries: Propane and other service related deliveries from the Hotel Parcel and properties at 227, 231, 239, and 241 Mason Avenue
- Waste Management for Hotel Parcel and properties at 237, 239 Mason & 7 Strawberry St, if this property is acquired by Applicant or utilized as part of the hotel.
- Golf Cart & Bicycle Storage
- Landscaping & Screening

3

GIS AERIAL MAP – Properties Outlined



GIS MAP without AERIAL – Properties Outlined



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Cape Charles Ventures, LLC granted an easement to the Town of Cape Charles on 4/25/2014 to utilize the 8 ft easement area on Lot 625 (now being referred to as Lot 625B on surveys) for a sewer easement via Instrument # 140001422 – the thin blue line in the 2 maps below that extends from the back of the hotel to Randolph Avenue. Said easement is to provide sewer service for the Grantor (Cape Charles Ventures, LLC) as well as reserves the right to the Grantor to grant to other parties the nonexclusive right to use the Easement Area for any and all purposes that are not inconsistent with the easement rights granted.

Cape Charles Ventures, LLC purchased the residentially zoned lot behind the hotel located at 238 Randolph Avenue (aka Lot 625A on surveys) on 12/18/2014 – the parcel outlined in yellow in the 2 maps below.

Since then, the property owner (Cape Charles Ventures, LLC) consolidated the lots by vacating the lot lines between the individual parcels which was submitted to the Town and approved in March 2019 and recorded in the Clerk's office on June 4, 2019. It is important to note that this is a legal process allowed under the Code of Virginia to vacate lot lines for common ownership but does not alter the zoning designation that the Town has delegated to the parcels and contained in the Town and approved in March 2019 and recorded in the Clerk's office on June 4, 2019. It is important to note that this is a legal process allowed under the Code of Virginia to vacate lot lines for common ownership but does not alter the zoning designation that the Town has delegated to the parcels and contained in the Town

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Sam Jones, resident/property owner
Subject: New Language; Accessory Dwelling Unit

Dear Town Council and Planning Commission members:

I am Sam Jones and my wife and I live at 538 Monroe Avenue.

Thank you for your work to clarify issues regarding accessory dwelling units (ADU) in Town. In reviewing the proposed language, it does not appear to adequately address the personal use of ADU's by the property owner.

To address this issue I suggest the following language be added at the end of the proposal:

"Nothing in this ordinance shall prevent or restrict the "by right" use of an Accessory Dwelling Unit by the homeowner to house family members or family guests at the homeowners discretion and with no time requirements."

Thank you for considering this additional language.
Sam Jones

Sherri Landon, property owner
Subject: Hotel Cape Charles

To Whom It May Concern,

We have just purchased the property at 234 Randolph Ave.

After speaking with the hotel manager, we wanted to let you know that we have no problems with them using their lot for golf carts and trash cans.

If you need to reach me for further clarification, please feel free to call me at 757-268-4399.

Sincerely,
Sherri Landon

Laurie Klingel, owner of Chuckletown Productions

Chuckletown Productions
237 Mason Avenue
Cape Charles, VA 23310
laurie@capechuck.com
757-695-1029

May 2nd 2022

Dear Planning Commissioners & Town Council,

I own and operate Chuckletown Productions, a boutique souvenir store located at 237 Mason Avenue on the ground floor of the Hotel Cape Charles. I have maintained tenancy of this location for eight years.

My store is one of the several mentioned in the application as relying upon the use of 238 Randolph for trash removal. Our trash cans do not fit in our store and cannot move through our store. If they did, they would occupy several parking spaces on Mason Avenue. We rely on a few very basic support services, but reasonable trash removal is a critical component of maintaining a busy retail establishment.

Two thirty-eight Randolph has always been available for these critical-to-business activities and has been impeccably maintained by the applicant during my tenure there. For these reasons, I wholeheartedly support this application.

Respectfully submitted,
Laurie Klingel
Owner, Chuckletown Productions

Eddie Compo, owner of The Almeta Cafe

Subject: Hotel Cape Charles support

To whom it may concern,

My name is Eddie Compo and I own The Almeta Cafe on Mason Avenue. I'm writing this to show my support for approving the variance request made by Hotel Cape Charles. Myself and 4 other Mason Avenue businesses rely on their "alley" for trash disposal, propane, and loading/unloading without adding to the traffic on Mason Avenue. Denying their request would have a negative impact on the successful operation of my business as well as multiple others.

Thank you for your time,
Eddie Compo
The Almeta

Amy Townsend & Rev. Clark Cundiff, property owners

Subject: Opposition to Mr. Gamino's Rezoning Request

Good afternoon,

My husband and I own a condominium in the Wilson Building (Unit 203) on Mason Avenue. We purchased the property many years ago. As so many others, we fell in love with the charm and friendliness of the town and spend as much time as possible there.

It has recently been brought to our attention that a property owner (Mr. Gammino) is requesting a zoning change (from residential to commercial) for the property he owns on Randolph Ave. We strongly oppose the encroachment of commercial property within the residential area. If this is approved, it will set precedents for other buildings in the area and we believe this to be in conflict with the comprehensive plan for Cape Charles.

Thank you for your careful consideration of this important matter.

With kind regards,
Amy Townsend
Rev. Clark Cundiff

Karen Duer-Potts, resident

May 2, 2022

Katie H. Nunez
Interim Planning/Zoning Administrator at Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310

Dear Katie, Planning Commission and Town Council:

Good morning. I am writing in regards to the request to reclassify the zoning of the property located at 238 Randolph Avenue by Mr. Gammino of Hotel Cape Charles Ventures LLC.

As a native Eastern Shoreman, I have watched how the Town of Cape Charles has transformed itself back into the days I remember growing up as a child. The Historic District is such a wonderful, lively place for friends and family to gather.

Having watched the tide turn in Cape Charles over the last several years, I caution turning a property that is located in the residential Historic District into something other than residential. Doing so will set a precedent for other residential properties in the Historical District and once the door is opened, it's open.

I strongly encourage a no vote to this request.

Thank you for your service to the town and thank you for allowing me the opportunity to voice my concern.

Sincerely,


Karen Duer-Potts
502 Fig Street

Margaret Van Clief, resident

Subject: for 5/3 Planning Commission & Town Council Joint Public Hearing

As a full-time resident of Cape Charles and the family member of a full-time resident of the Wilson's Building, I'm concerned about news that I've heard regarding the possibility of building a four-story expansion of the Hotel Cape Charles on top of the Betis Building. First there is the "close to home" worry about covering residential windows of those with north facing condos in the Wilson's and the added parking issue on Strawberry Street which is already often too full for residents to find a spot. But more perhaps more importantly in the long term is the concern of residential space being possibly rezoned as commercial and the precedent that sets in town as we struggle to find places for the people who work in the town and county to live even now. I would urge the town to think very carefully about the encroachment of new commercial property within the residential area of historic Cape Charles. Given the information I've gathered so far, I am opposed to this proposed rezoning. It does not sound to me to be in the best interest of our town culture.

Thank you for your time and consideration.

Best,
Margaret Van Clief
Tazewell Avenue

Patsy Harris, resident

Subject: Attn: TC and Planning commission members

To Whom it May Concern,

I am in favor of the request by Hotel Cape Charles to have the empty lot behind the hotel rezoned to use for golf cart parking and trash can storage going forward.

Hotel Cape Charles has been a boon to this town and I think we should do whatever we can to help them operate the business in the best way possible.

Thank you for your consideration

Patsy Harris
630 Carousel Place
Cape Charles

Alana Smith, owner of Eastern Shore Popcorn

Subject: Empty lot Randolph Ave

I support the hotels proposal to rezone the empty lot behind the hotel on Randolph Ave. We rely on access from that lot for utilities.

Sincerely,
Eastern Shore Popcorn
Alana Smith
757-672-0752