

TOWN COUNCIL
Regular Meeting
April 15, 2021
Cape Charles Civic Center
6:30 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Moment of Silence and Pledge of Allegiance
3. Recognition of Visitors / Presentations / Recognitions
 - A. Tree City USA Presentation – Phil Goetkin
 - *B. Arbor Day 2021 Proclamation
 - *C. National Building Safety Month Proclamation – May 2021
 - *D. National Police Week Proclamation – May 9-15, 2021
 - *E. National Public Works Week Proclamation – May 16-23, 2021
 - *F. Professional Municipal Clerks Week Proclamation – May 2-8, 2021
4. Public Comments (3 minutes per speaker)
5. *Consent Agenda
 - A. Approval of Agenda Format
 - B. Approval of Minutes
 - C. Approval of February 28, 2021 Financial Report
6. Unfinished Business: None
7. New Business:
 - *A. Revisions to Town Code Sections 42-17, 42-71 and 50-192
 - *B. Conditional Use Permit Application – 1 Fig Street (tax map #83A3-1-534)
 - *C. Conditional Use Permit Application – 301 Mason Avenue (tax map #83A3-1-615B)
 - *D. Cape Charles Community Trail, Phase 4
 - *E. Request to VDOT for Speed Limit Reduction on Route 184/Stone Road
8. Town Manager Comments
9. Mayor & Council Comments (5 minutes per speaker)
10. Announcements
 - May 6, 2021 – Town Council Special Meeting
 - May 20, 2021 – Town Council Regular Meeting
11. Adjournment

The Mayor, Town Council and management are confident that the Civic Center can safely accommodate ten (10) guests and members of the public for in-person attendance while meeting the social distancing guidelines. The first ten individuals arriving at the Civic Center will be admitted. If more than 10 people arrive for the meeting, individuals will be asked to leave the building after providing their comments to allow entry for others. Masks will be required. This meeting will be [live streamed on Facebook](#) and the computer lab at the Cape Charles Memorial Library will be open for those who do not have internet or computer access at their homes. Public comments may be emailed to clerk@capecharles.org prior to the meeting and during the Public Comment period.

PROCLAMATION 20210415

Item #3B
4/15/21 Regular Mtg



WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, Arbor Day is now observed throughout the nation and the world, and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and

WHEREAS, trees increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal, and

WHEREAS, there are 59 Tree City USA communities in Virginia and Cape Charles is the first Tree City USA community in Northampton County, Virginia.

NOW, THEREFORE, I, William "Smitty" Dize, Mayor of the Town of Cape Charles, do hereby proclaim April 30, 2021 as



in the Town of Cape Charles, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

FURTHER, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Adopted by the Town Council of Cape Charles on this 15th day of April 2021.

Mayor William "Smitty" Dize

ATTEST:

Town Clerk



PROCLAMATION 20210415A
BUILDING SAFETY MONTH — MAY 2021

WHEREAS, the Town of Cape Charles is committed to recognizing that our growth and strength depends on the safety and economic value of the homes, buildings and infrastructure that serve our citizens, both in everyday life and in times of disaster, and;

WHEREAS, our confidence in the resilience of these buildings that make up our community is achieved through the devotion of vigilant guardians – building safety and fire prevention officials, architects, engineers, builders, tradespeople, design professionals, laborers, plumbers and others in the construction industry – who work year-round to ensure the safe construction of buildings, and;

WHEREAS, these guardians are dedicated members of the International Code Council, a nonprofit that brings together local, state and federal officials that are experts in the built environment to create and implement the highest-quality codes to protect us in the buildings where we live, learn, work, play; and

WHEREAS, our nation benefits economically and technologically from using the International Codes that are developed by a national, voluntary consensus codes and standards developing organization, our government is able to avoid the high cost and complexity of developing and maintaining these codes, which are the most widely adopted building safety and fire prevention codes in the world; and

WHEREAS, these modern building codes include safeguards to protect the public from hazards such as hurricanes, snowstorms, tornadoes, wildland fires, floods and earthquakes; and

WHEREAS, Building Safety Month is sponsored by the International Code Council to remind the public about the critical role of our communities' largely unknown protectors of public safety – our local code officials – who assure us of safe, sustainable, energy efficient and livable buildings that are essential to America's prosperity; and

WHEREAS, "Prevent, Prepare, Protect. Building Codes Save," the theme for Building Safety Month 2021, encourages all Americans to raise awareness about the importance of safe and resilient construction; fire prevention; disaster mitigation, energy conservation; water safety; training the next generation; and new technologies in the construction industry; and

WHEREAS, each year, in observance of Building Safety Month, people all over the world are asked to consider the commitment to improve building safety, resilience and economic investment at home and in the community, and to acknowledge the essential service provided to all of us by local and state building departments, fire prevention bureaus and federal agencies in protecting lives and property.

NOW, THEREFORE, I, William "Smitty" Dize, Mayor of the Town of Cape Charles, do hereby proclaim the month of May 2021 as Building Safety Month. Accordingly, I encourage our citizens to join with the community in participation in Building Safety Month activities.

Adopted by the Town Council of Cape Charles on this 15th day of April 2021.

Mayor William "Smitty" Dize

ATTEST:

Town Clerk

**TOWN OF CAPE CHARLES
PROCLAMATION #20210415B**

**TO RECOGNIZE NATIONAL PEACE OFFICERS' MEMORIAL DAY
AND NATIONAL POLICE WEEK 2021**

To honor the service and sacrifice of those law enforcement officers killed in the line of duty while protecting our communities and safeguarding our democracy.

WHEREAS, in 1962, President John F. Kennedy signed a proclamation which designated May 15 as Peace Officers' Memorial Day and the week in which that date falls as Police Week; and

WHEREAS, May 15, 2021 has been designated as National Police Officers' Memorial Day and May 9-15, 2021 as National Police Week; and

WHEREAS, there are more than 800,000 law enforcement officers serving in communities across the United States, including the dedicated members of the Town of Cape Charles Police Department; and

WHEREAS, the members of the Cape Charles Police Department play an essential role in safeguarding the rights and freedoms of the citizens of the Town of Cape Charles and provide vital public service; and

WHEREAS, since the first recorded death in 1786, more than 22,500 law enforcement officers in the United States have made the ultimate sacrifice and have been killed in the line of duty; and

WHEREAS, the National Law Enforcement Officers Memorial Fund will host their 33rd Candlelight Vigil virtually on May 13, 2021 at 8:00 p.m. to memorialize those who sacrificed all for their communities. An in-person event honoring the fallen will be held during National Police Weekend on October 13-17, 2021; now

THEREFORE, BE IT PROCLAIMED that the Cape Charles Town Council formally designates May 15, 2021 as Peace Officers' Memorial Day in honor of all fallen officers and their families and U.S. flags should be flown at half-staff; and

BE IT FURTHER PROCLAIMED that the Cape Charles Town Council formally designates May 9-15, 2021 as Police Week in the Town of Cape Charles and publicly salutes the service of law enforcement officers in our community and in communities across the nation.

Adopted by the Town Council of Cape Charles on this 15th day of April 2021.

Mayor William "Smitty" Dize

ATTEST:

Town Clerk



**Stronger
Together**

**PROCLAMATION 20210415C
National Public Works Week
May 16 – 23, 2021
“Stronger Together”**

**Item #3E
4/15/21 Regular Mtg**

WHEREAS, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of the Town of Cape Charles; and

WHEREAS, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation’s transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and

WHEREAS, it is in the public interest for the citizens, civic leaders and children in the Town of Cape Charles to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and

WHEREAS, the year 2021 marks the 61st annual National Public Works Week sponsored by the American Public Works Association/Canadian Public Works Association; now

BE IT PROCLAIMED, that the Cape Charles Town Council hereby designates May 16-22, 2021 as National Public Works Week and urges all citizens to join with representatives of the American Public Works Association/Canadian Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they make to protecting our national health, safety, and quality of life.

Adopted by the Town Council of Cape Charles on this 15th day of April 2021.

Mayor William “Smitty” Dize

ATTEST:

Town Clerk

Proclamation 20210415D

52nd ANNUAL PROFESSIONAL MUNICIPAL CLERKS WEEK

May 2 - May 8, 2021

WHEREAS, The Office of the Professional Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

WHEREAS, The Office of the Professional Municipal Clerk is the oldest among public servants, and

WHEREAS, The Office of the Professional Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

WHEREAS, Professional Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and

WHEREAS, The Professional Municipal Clerk serves as the information center on functions of local government and community; and

WHEREAS, Professional Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Professional Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, provincial, county and international professional organizations; and

WHEREAS, It is most appropriate that we recognize the accomplishments of the Office of the Professional Municipal Clerk.

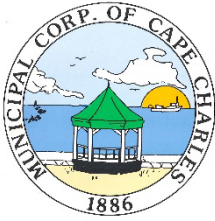
NOW, THEREFORE, BE IT PROCLAIMED, that the Cape Charles Town Council hereby recognizes the week of May 2 through May 8, 2021 as Professional Municipal Clerks Week, and further extend appreciation to our Professional Municipal Clerk Libby Hume, MMC and to all Professional Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Adopted by the Town Council of Cape Charles on this 15th day of April 2021.

Mayor William "Smitty" Dize

ATTEST:

Town Clerk



DRAFT
TOWN COUNCIL
Public Input Session
Cape Charles Civic Center
March 13, 2021
2:00 PM

At 2:00 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Town Council Public Input Session regarding the Draft Community Strategic Plan. In addition to Mayor Dize, in attendance were Councilmen Buchholz, Follmer and Grossman, and Councilwoman Holloway. Vice Mayor Bennett arrived at 2:01 p.m. There is currently one vacancy on the Council. Also, in attendance were Town Manager John Hozey, Community Relations Manager Jennifer Lewis and Town Clerk Libby Hume. There was one member of the public physically in attendance, and 21 viewers on Facebook.

PUBLIC INPUT:

Phil Goetkin.

Please see attached for Mr. Goetkin's input.

Town Clerk Libby Hume read comments submitted in writing from Bill Prickett, Susan Burger, Libby Gray, Lisa Guzzardo, Frank and Andrea Giardina, Dianne Davis, and Jim Granger. (Please see attached.)

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

Motion made by Councilwoman Holloway, seconded by Councilman Follmer, to adjourn the Town Council Public Input Session. The motion was approved by unanimous vote.

The meeting adjourned at 2:21 p.m.

Mayor Dize

Town Clerk

Comments Provided in Writing March 13, 2021 Town Council Public Input Session

Phil Goetkin

Our Strategic Planning Document includes a wonderful vision statement:

Our Vision:

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

Two of the specific goals included in this document together with their objectives are essential to achieving this vision:

- **To plan for coastal resiliency**
 - Metric: develop an implementable plan
 - a. Develop an implementable plan, to include the Resilience Adaptation Feasibility Tool (RAFT) recommendations
- **To protect and improve public green/open space infrastructure**
 - Metric: develop an implementable plan
 - a. Review existing/previous plans and develop an implementable plan

I believe that both of these goals need to be given higher priority in this Strategic Plan.

Time is of the essence for being able to accomplish these two goals and their associated objectives. Unfortunately, neither of these objectives are included in the 2021/2022 work plans identified in this Strategic Plan. I realize that the Town has a funding shortfall, but we need to take immediate actions to accomplish these objectives. If we procrastinate on these issues, we will run out of time. We can't wait 2,3,5 or 10 years to start working on them.

Scientists overwhelmingly acknowledge the concept of Climate Change and Global Warming. Cape Charles will continue to become more and more impacted.

The University of Virginia's study published in December of 2018, "Strategies for Conserving the Green Infrastructure of Cape Charles, VA" offers many wonderful ideas that need to be reviewed and implemented.

Commercial, residential and industrial development and re-development has been significant in Cape Charles over the last several years. Unfortunately, this progress has resulted in the net loss of many of our trees. Immediately, we need to start the strict enforcement of our Tree Conservation and Preservation Ordinance as included in the Cape Charles Zoning Ordinance. We also need to comply with the tenants of the town's Master Tree Plan.

Finally, the Town needs to develop and implement a tree planting plan. Many opportunities exist to plant trees in our public right of ways especially on Mason Avenue in the space abutting the Tavi Property.

Bill Prickett

Subject: Community Strategic Plan

Thank you for the work that you put in on this initiative. It's good to have a plan.

Since this initial plan is quite broad and does not address the specific implementation and costs of the stated goals and objectives, there is little to disagree with.

I would like to address the plan's statement regarding budget shortfall and offer two words (and they are not "Raise Taxes"):

PAID PARKING

Here are some eye popping numbers:

Dewey Beach DE Population 341, Annual Parking Revenue \$1+ Million Bethany Beach DE Population 854, Annual Parking Revenue \$2+ Million Rehoboth Beach DE Population 1,400, Annual Parking Revenue \$6+ Million Lewes DE Population 2,747, Annual /Parking Revenue \$500+ Thousand

Parking revenue information is from the published budgets of the respective towns and is gross revenue before associated expenses.

I urge you to seriously consider what could be a very significant source of revenue to not only close any current budget gap, but also to help fund the future of our town.

Susan Burger

Subject: Strategic Plan

I was pleased to see volunteerism mentioned in the strategic plan. I have a lot of experience with coordinating volunteer programs/services and would be happy to volunteer to work with whoever is appropriate to try to help with organizing a volunteer pool within town for various services. I have found, if a volunteer program is well run, that volunteers can be depended on to get a lot of jobs done, save organizations money, and be valuable resources. I think there is also ways to incorporate a volunteer initiative with internships and apprenticeships for students, both high school and community college (also mentioned in the plan). It's also a way to foster a lot of public/private partnerships. Please, however is necessary, let this be my comment on the strategic plan.

Thank you so much!

Libby Gray

Subject: Strategic Plan Input

I believe it worth pointing out that 2 items listed separately in the draft Strategic Plan,

- a) workforce-affordable housing and
- b) review of short-term rental regulations are inextricably interlaced, and also speak indirectly to 'Sense of Community' in the Plan.

If our town is so business-friendly that short-term rental properties are permitted unlimited increase in number, what motive is there for any current property owner to focus on workforce housing? The fact that the vacation rental market (compared to residence market) is so lucrative is undeniably linked to workforce housing shortage.

How does one get homeowners to commit to longer-term rentals?

Perhaps an increased fee on short-term rentals could be used to generate a subsidy (to offset income loss) for homeowners who agree to only rent on a longer-term basis, (perhaps 3 or 6 month rental contracts)?

Or, alternately, a cap on the number of weekly rental properties registered each season would free up housing supply. A cap in rental properties would also allow those owners who DID get permits to charge higher rates, through basic supply-and-demand outcomes, creating both higher profits for owners and tax revenues for the town.

Either of these ideas could be revenue-neutral to the town if executed carefully, and there are probably more clever solutions out there than these.

I do not have a rental property, but it seems obvious that if those who DO can make 3- or 4- or 5- times as much money with weekly AirBnBs (compared to renting to young families/workforce) you're just not going to make housing affordable for renters here, so the two issue cannot be divorced from each other in discussions.

Thank you for your solicitation of community input, and your work on this Draft Strategic Plan.

Lisa Guzzardo

Subject: Community Strategic Plan Feedback

Hello, Thanks very much to the team of people who put this plan together...and thank you for requesting our input. My husband, Earl (Chip) Moore and I live at 156 Sunset Blvd in Cape Charles. We are full time residents (since 2017) and have owned multiple properties for 10 years.

Comments are below:

Community Values:

- Friendliness - excellent first value, will be great to encourage friendliness (and many of the other values) across political differences, "come-heres" vs "been-heres," full-time vs part-time residents, Bay Creek vs town residents, and all other differences.
- Are plans underway to post and publicize these Values, along with the town Vision? The more we all see them, the more likely people will live them and hopefully hold ourselves and others accountable.

Goals:

- Well written. All very important to the town. Happy to see that an overtly stated goal to become a tourist mecca has NOT been included. The stated goals may encourage tourism, but not for tourism's sake alone.

Objectives:

- Glad to see "Encourage Citizen Engagement" (p.5)
- Maintain/Improve walkability (p.6): Sidewalks will be excellent to have consistently throughout the community; however, the "enforcement" of installing sidewalks is not fair or equitable. Someone buys an empty lot and is required to pay for the installation of sidewalks in order to receive their Occupancy permit. Someone buys an existing home but is NOT required to put in sidewalks. This is not fair. All transfers of property ownership should require sidewalks to be installed where they do not exist.
- Safe Golf Cart Culture (p.6): Enhancing golf cart "infrastructure" should not be at the expense of non-golf cart owners. Everyone is not interested in this culture. Registration fees, taxes, fines, or other revenue generating ideas should be created to fund these changes. Is there a personal property tax on golf carts -- as there is on cars and boats?? Better enforcement of "rules" is critical. As of now nothing is enforced (at least as it appears). We see people drinking alcohol in their carts. We see clearly underage children driving carts - either alone or on the laps of their parents. Traffic rules are barely obeyed. We've seen drunken(?) or what seem to be impaired teens/kids driving carts up and down the "boardwalk" on Bay Avenue. In general they are a danger, a nuisance and an inconvenience to law abiding citizens!!! We, and several of our neighbors, refer to their behavior as "vacation brains"!! :)
- Review and update the ordinances and guidelines of the HDRB (p.6): Not only HDRB, but also zoning and planning related -- Realtors must be required to thoroughly disclose the town's ordinances and guidelines to potential property buyers. As we listen in on the various Board (Zoom) calls, it sounds like the new property owners are being turned down for renovations or expansions that they should have known were unlikely to be approved. Why did they think they could do these things when they purchased the properties? For example, new Kool Eatz owner (C1/R1 properties), previous owners of the Kellogg building who sold since they could not renovate as hoped (rumor or truth??), church at the corner of Strawberry and Madison, various porch renovations, setback requirements from the Chesapeake Bay, etc.... There needs to be better communications between the potential buyers, realtors, and the town so buyers are not sadly disappointed in their purchase.
- Protect and maintain the harbor (p.7): Don't understand what the RFP is requesting. "...determine market forces necessary to promote healthy balance..." Could this be clarified?
As long time boaters up and down the Chesapeake Bay (and beyond!), coming to towns with a great mix of commercial and recreational harbor cultures make the destinations much more interesting. Retaining the watermen and charter boats in the harbor is more enticing and quaint than the sterile, corporate feeling found in some marinas such as Cambridge (Hyatt) and Kings Mill. Please don't push them out!! Keep the traditions alive. Hold CC Yachting Center accountable for running the harbor marina as the town wants it to be run, not as New Englanders think it should work!!!!
- Improve business access to workforce resources AND Advance a variety of housing options for younger families and workforce(p.7): Good objectives!! To enable the town to support the businesses that we love (restaurants, shops, galleries, etc.), there must be a worker-friendly culture. Glad to see these included.

Implementation:

- Annual Citizen survey -- excellent idea!
- Taxes: Very sore subject. Here are some general comments:
 - "The town has not significantly raised taxes in 12 years" - At this time, property values are increasing. That will increase revenue without increasing the tax rates. What other ideas exist for raising revenue - beyond tax percentages? Possibly consider increases on rental income/residences similar to the Floridian model. Full time homesteaders (lower taxes) vs part-time/rental residents. The full-timers are the ones who support the CC businesses year round.

- Fear of water and sewer rate increases due to the potential take over of the water/sewer by an outside firm. These rates are already high. What will be the impact of this potential change?
- Personal property tax (generally shocking)! Is it legal to be taxed by both the town and county? Is revenue being lost by having residents "hide"/register their property in other states/counties: Cars, boats, RVs, etc. (due to the crazy expensive personal prop tax)?
- Do retirees realize the extent of this taxation? Of course, it is up to all of us to research this before moving here, but, those of us coming from other states have never heard of this type of taxation!! We will never buy another high-end, new vehicle while living here. Would more residents purchase boats and patronize the marinas if the PP tax was not so high?
- States like Florida and Delaware are becoming more attractive for retirees. In general, cost of living is increasing -- food, gas, etc. making relocation and retirement a challenge. Many of the people considering a move to CC fall into this category.
- Planning horizon - understand the need for resources (both human and financial), but 6 years sounds very long.

Work plans: Please summarize the items targeted for 2021 and 2022. I could go through and mark anything not listed on the FY23 and beyond list, but it would be helpful to have the 21 and 22 list outlined in the document.

Disappointing to see items like "programs with high schools/ESCC", job fairs and internships delayed until 2023 and beyond. Business owners and other retirees in the town should be able to assist with these.

Well thought-out document overall. Thanks again for the hard work and the request for comments. If anything that has been written above could use some clarification, please let us know.

Very sincerely,
Lisa C. Guzzardo
Earl (Chip) Moore

Frank Giardina

Subject: Cape Charles Strategic Plan comments
Hello

This is Frank & Andrea Giardina at 301 Madison Ave, Cape Charles.

We reviewed the draft of the plan, and feel it touches on many important issues. We would just like to add a few thoughts or ideas to consider as follows:

Cleaner water

Recycling pick up- it seems that many people just throw away recyclables in the regular trash because they don't feel like driving it to the Recycling center.

Beaches- there are pilons on the water that can be hazardous as they go under water when the tide is up. Plus is it reasonable to have daily beach clean up.

Home renovations- it seems the process is complicated and unclear to the average homeowner.

Thank you.

Dianne Davis

COMMUNITY STRATEGIC PLAN

In the section entitled Our Community Values, I think you should really pay close attention to that list because it needs to be realized that these values are for the entire town—not just for a particular group of people.

When you say caring, Wonder who we are suppose to be caring about. This town now is mostly centered around retirees that have moved here—which is great, and tourism.

Adaptability is just a word now, what is happening now is that we are planning our town as a special place for retirees who are moving here.

Caring – I read this document several times and I did not see one thing included as recreation for our children. Yes, Cape Charles we do have some children living here year round. We have a very nice park that can always be used if you want to play soccer or tennis. We have the kids playground for children up to 12 years old, but what about the other children?

Why it is that after all these years we have not been concerned enough about our children to put something in the park for them? We could at least have it so that they can play volleyball and basketball any time. It is a shame that we have all this great publicity about our town and activities for our children are left completely out.

In the summer we have music in the park that is well attended by adults. This is usually a great time for the adult to have fun, but the park should be more than that.

I was really excited when the talk first started about the park because I just knew that it would be a place for our children to play and have fun. Once the park was completed, it seemed to have become a place for adults to come and have fun. This park is such a nice place—we need to have something there so that it can be used by more of our children. The places where I have seen parks were always children friendly-- please make our park friendly for all people. When I say all people, I am talking about the children, teenagers, and adults.

As a concerned citizen and concerned about recreation for our children, I do believe in the park. I not only donated to the park, but I spent time working there when help was needed. Again, please do not forget recreation for our children in your future plans.

Town Clerk – Have you really look at the responsibilities of your town clerk? She should have the title of Administrative Assistant in addition to Town Clerk and FOIA Officer, plus she should be paid accordingly. It would be very hard to replace Mrs. Libby Hume with all the experiences she has as well as her responsibilities. Please pay attention to your employees that you many times just take for granted. **Mrs. Hume is definitely an asset to you and to our town.**

Dianne Davis

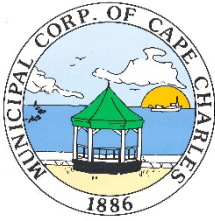
Jim Granger

Subject: Strategic Plan Feedback
Mayor Dize, Members of Town Council,

Overall, I think the Strategic Plan is a very solid plan. It balances the many aspects of the town that make Cape Charles a wonderful place to live, particularly the beach and downtown. That said, I think it overlooks a typically overlooked segment of our population, and some key potential partners.

Cape Charles is one of the most affluent towns on the Eastern Shore, and more money is pouring into town. Unfortunately that is squeezing the less affluent families in town, particularly those in the Seabreeze Apartments and Myrtle Landing. We also have a large number of senior citizens in town. I feel that the Town needs to consider those populations and their needs in the Strategic Plan. We are also fortunate to have nine churches in town, including Trinity UMC which hosts the Food Bank of the Lower Eastern Shore. I think the Town should include churches in its community partnerships, especially since they focus more on the lesser-privileged citizens of the Town.

Sincerely,
Jim Granger



DRAFT
TOWN COUNCIL
Regular Meeting, Work Session & Executive Session
Cape Charles Civic Center
March 18, 2021
6:30 PM

At approximately 6:30 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Regular Meeting, Work Session and Executive Session of the Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwoman Holloway. There was one vacancy on the Council. Also, in attendance were Town Manager John Hozey, Chief Jim Pruitt, Community Relations Manager Jennifer Lewis and Town Clerk Libby Hume. There were no members of the public physically in attendance, and 19 viewers on Facebook.

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

RECOGNITION OF VISITORS / PRESENTATIONS:

A. *Proclamation Honoring Councilman L.G. “Chris” Bannon:*

Mayor Dize read Proclamation 20210318 Honoring Former Councilman L.G. “Chris” Bannon for His Service to the Town of Cape Charles.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt Proclamation 20210318. The motion was approved by unanimous vote.

B. *Recognition of Town Employee Celebrating Significant Anniversary:*

Mayor Dize recognized Planning Technician Tracy Outten for five years of service to the town effective April 4, 2021.

PUBLIC COMMENTS:

Town Clerk Libby Hume read comments submitted in writing from Susan and Howard Thibodeau, Jim Granger, and Ellen O’Brien. (Please see attached.)

There were no other comments received in writing prior to the meeting or during the public comment period.

CONSENT AGENDA

A. Approval of Agenda Format

B. Approval of Minutes:

- i. February 6, 2021 Town Council/Planning Commission Strategic Planning Retreat – Day 1
- ii. February 7, 2021 Town Council/Planning Commission Strategic Planning Retreat – Day 2
- iii. February 18, 2021 Town Council Regular Meeting & Work Session
- iv. February 20, 2021 Town Council/Planning Commission Strategic Planning Retreat – Day 3
- v. February 23, 2021 Town Council Executive Session
- vi. March 4, 2021 Town Council Special Meeting

C. Approval of January 31, 2021 Financial Report

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

UNFINISHED BUSINESS:

There was no unfinished business to review.

Motion made by Councilman Follmer, seconded by Vice Mayor Bennett, to recess to work session. The motion was approved by unanimous vote.

The regular meeting was recessed at 6:43 p.m.

WORK SESSION ORDER OF BUSINESS:

Review Public Comment and Amend the Draft Community Strategic Plan as Necessary

Town Manager John Hozey distributed the Citizen Comment – Main Take-Aways document and updated draft Community Strategic Plan which incorporated the comments received and proceeded to go through the documents explaining the changes.

There was discussion as follows: i) John Hozey mentioned that the most significant comment offered was to add an environmental responsibility goal to include recycling and electric car charging stations. While he did not disagree with the concept, he was concerned that if major changes were made, the public deserved the opportunity to review the document and provide additional input. This was also one person's comment. There had been over 500 views to his Facebook video, and he assumed hundreds of people reviewed the strategic plan and only 12 comments were provided. He felt that the majority of the people were satisfied with the plan or they would have commented; ii) Councilwoman Holloway stated that a couple of comments related to the protection of trees adding that she felt this was significant and an item that was missed during the discussions at the retreat; iii) Councilman Follmer stated that the quality of comments were excellent and most items could be addressed during implementation, but given the process that Council, the Commissioners and staff went through, he did not know if the plan needed to be amended; iv) Mayor Dize stated that the plan was a live document and would be updated when needed. The issues brought up were valid, but we needed to continue moving forward with adoption of this plan. John Hozey added that the plan would be updated in a year; and v) Councilman Grossman stated that he did not see any comments where the goals needed to be changed, but some attributed beneath the goals were worthy of discussion.

Council proceeded to review the updated draft plan by page and the following was discussed:

Page 3: Our Community Values was amended by combining "Diversity, Tolerance and Respect," deleting "Citizenship" since it was similar to "Sense of Community," and adding "Environmental Stewardship."

Page 4: In the seventh bullet, the metric was changed to read "increase in business licenses, increase in business-related revenues, and data from building permits issued and an annual questionnaire on employment."

Page 5: Item b. iv. was changed to holding an annual Town Hall meeting versus a semi-annual meeting.

Page 6: Recreation had not been discussed during the strategic planning sessions. It was added to item e. – "Promote the arts, entertainment and recreation." Item i. was revised to state "Providing services and venues at low or no cost to local non-profits." It was agreed that some events were larger and used more Town resources for setting up, monitoring and cleaning up. It was felt that the Town should not have to absorb all the costs for larger events. There was some discussion regarding fees currently charged to cover damages.

New item ii. was added "Develop volleyball/basketball courts." Item g. – Foster a safe golf cart culture was amended deleting iii. "Establish charging stations."

Page 7: Under "Protect and maintain the harbor, there had been some confusion regarding the language "Issue a Request for Proposals (RFP) to determine market forces necessary to promote a healthy balance of commercial and recreational users." The phrase "Issue a Request for Proposals to determine" was deleted and replaced with "Research."

Page 8: A new item was added under "Meet our residents' expectation for Town services." "d. Evaluate the need for additional services" with sub items "i. Recycling; and ii. Electric automobile charging stations." Councilwoman Holloway added that recycling comes up often and the Town needed to explain why it was not offered. This could be added to the annual survey showing the

specific costs associated with recycling. It was noted that the electric automobile charging stations would have meters for payment.

John Hozey stated the following: i) The volleyball/basketballs courts were included in the category for 2023 or later; ii) He did not address the comment "Clean Water" because there was not enough specificity to address this item; iii) He also did not address pilons at the beach since it did not fit in any of the items and was probably better discussed during the review of the Capital Asset Management Program and Projects. He understood that the pilons were remnants of the old pier. Mayor Dize added that the pilons were on private property and the Town Code addressed removal of old broken piles. Several of the Council members felt that a lot of residents and visitors liked seeing the old pilons in the water.

Motion made by Councilman Follmer, seconded by Councilman Buchholz, to reconvene the regular meeting. The motion was approved by unanimous vote.

The regular meeting was reconvened at 7:16 p.m.

NEW BUSINESS:

A. *Adoption of Community Strategic Plan:*

Town Manager John Hozey stated that Council considered the comments received and reached a consensus on a substitute document that incorporated most of the comments.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt the substitute Community Strategic Plan that was developed during the work session including the Main Take-Aways sheet as part of the record for purposes of addressing implementation, revenue and budget issues as described in the sheet. The motion was approved by unanimous vote.

B. *Petition to Schedule a Special Election:*

John Hozey stated that Councilman Bannon tendered his resignation from the Council on March 4, 2021. In accordance with Code of Virginia § 24.2-226, the Town Council needed to petition the Northampton County Circuit Court to issue a writ of election to fill the vacancy on Council within 15 days of the date of resignation, which would be March 19, 2021. Typically, special elections were scheduled to coincide with a general election. The next general election for the Commonwealth of Virginia was scheduled for November 2, 2021.

Notification of Mr. Bannon's resignation was issued along with a solicitation for qualified residents to submit their letters of interest to the Town Clerk by March 23, 2021. Interviews would be scheduled after that date for Council to appoint an interim Council member to serve until the special election.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt Resolution 20210318 Petition to Schedule a Special Election. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

C. *Set Public Hearing - Rezoning Application 303 and 309 Jefferson Avenue from R-1 to C-1:*

John Hozey stated that the action for this evening was only to schedule a public hearing for the rezoning application for 303 and 309 Jefferson Avenue. A proffer statement was offered by the applicant which was included in the agenda documentation.

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to schedule a public hearing for April 15, 2021 for the rezoning application for 303 and 309 Jefferson Avenue. The motion was approved by unanimous vote.

D. *IT Support Services Contract Renewal:*

John Hozey stated that on April 24, 2019, the Town entered into a two-year, non-exclusive contract with Inversa Minds, LLC for IT Support Services. The contract included a provision for subsequent renewals at two-year intervals. The Town received excellent service and timely responses from Inversa Minds during the initial term of this contract. This was a very cost-

effective way to handle IT support and he recommended renewal of this contract for another two-year term to provide this critical support.

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to authorize the town manager to execute a two-year contract renewal with Inversa Minds, LLC for IT Support Services. The motion was approved by unanimous vote.

TOWN MANAGER COMMENTS

John Hozey commented on the following:

- 1) He continued to monitor the COVID numbers which were declining overall. There had been no word from the Governor regarding relaxing the standards. He was still planning for a phased reopening in April, similar to what was done in October 2020. The Department Heads were tasked with getting prepared for the reopening on April 5 unless something happened, or the Governor made other changes.
- 2) Five proposals were received in response to the request for proposals (RFP) for a PPEA Consultant. This would be an expert to help the Town evaluate the unsolicited proposals received to potentially acquire the water and wastewater systems. He thanked Vice Mayor Bennett for volunteering to serve on the evaluation team which would be reviewing the proposals over the next couple of weeks. He was hopeful that the team's recommendation could be presented at the April 15 meeting for Council approval.
- 3) The Historic District Review Board (HDRB) held an election for their chair and vice chair. Edward Wells was elected as the chair, and Herb Thom was elected as the vice-chair of the board. He was scheduled to meet with them tomorrow to review a number of items. It was an opportunity to coach the new chair and he would obtain their thoughts and input. The update to the HDRB guidelines and ordinances was an ongoing project. He met with Councilman Grossman and would like the opportunity to meet with him again. After things had been drafted, he would like to schedule a work session with the Town Council, Planning Commission and the HDRB.
- 4) The next scheduled meeting date was April 1, 2021. There was no current business on the agenda, but it would be an appropriate date to schedule interviews to fill the vacant Council seat. One letter of interest was received so far, and he received a phone call earlier today from an interested individual. The submittal deadline was next Tuesday, March 23rd.

MAYOR AND COUNCIL COMMENTS

Councilman Grossman commented as follows: i) He asked John Hozey to look into the situation regarding the tax penalty. John Hozey stated that he had looked into it and it was a Code issue and staff's hands were tied. The residents admitted to being late with the payment. If the treasurer removed the penalty, she would become personally responsible. He informed the Thibodeaus that the Town Council were the only ones who could change the law so that's why the letter came to Council; ii) He thanked Libby Hume for the six sets of minutes included in the meeting packet; iii) Northampton County's RFP for a regional housing study would be out soon. He would keep Council apprised; iv) He was recently named to the Accomack-Northampton Groundwater Commission and will be sitting on that board representing the town; and v) Once he submitted his financials reports and had them certified, he would be assigned to the Economic Development Authority, which was formerly the Northampton County Industrial Development Authority.

Vice Mayor Bennett thanked Chris Bannon for his service to the Town and added that it would be very strange moving forward without him. He went on to state that he was now the Council member with the longest service.

Councilwoman Holloway commented as follows: i) Cape Charles Main Street (CCMS) was working to establish a jobs listing to put on their website. They were working with the Eastern Shore Community College and the high school. So many businesses were posting their job openings on Facebook. Jen Lewis brought the idea to CCMS and had a good point in that all the businesses were posting on Facebook but the age group that they wanted to reach were not using Facebook. CCMS was having their strategic planning session this Saturday and would be moving forward on this and would keep

Jen Lewis in the loop. CCMS would also point people to Cape Charles Happenings, the Eastern Shore Post, etc. and hoped that it was not too late for this year; ii) CCMS was working with the Town and Jen Lewis to resurrect the Easter Egg Hunt on April 3rd. Businesses were running specials and the Easter Bunny would be handing out goodies on Mason Avenue before the Easter Egg Hunt in Central Park; iii) CCMS and Jen Lewis were also working together for a sidewalk sale in the commercial district from April 16 to 18, and a community yard sale on April 17; and iv) Robie Marsh resigned as executive director of the Eastern Shore of Virginia Tourism Commission and Eastern Shore Chamber of Commerce, to accept a position with A & N Electric Cooperative. The board was still trying to fill the joint position. Mr. Marsh's last day was April 1.

Councilmen Follmer and Buchholz had no additional comments.

Mayor Dize stated that over the past couple of weeks, he and John Hozey had been meeting with the offsite departments. I) There was much work to be done at the library such as repairing the leak in the front area of the building, installation of the ADA doors, and construction of ADA restrooms; ii) All seemed to be running smoothly at the water and wastewater plants although the staff at both plants were concerned about the potential sale of the facilities; iii) The public works crew finished installation of the new street signs and were working on the franksweeper. The crew had been doing a really good job. It was exciting about the purchase of the new water meters; iv) A number of things were discussed with the police department. He volunteered to meet with the golf cart rental companies regarding issues with golf carts; v) He still had to meet with the staff in the Town Hall, but he typically saw the Town Hall staff more than those offsite; and vi) He thanked Chris Bannon for all his years of service to the Town. Chris was a big part of the harbor and helped him considerably when he was the harbormaster.

Mayor Dize read the announcements adding that he was unsure whether he would be able to attend the meeting on April 1 since that was opening day at Cherrystone Campground.

Motion made by Councilwoman Holloway, seconded by Councilman Grossman, and unanimously approved to go into Closed Session in accordance with Section 2.2-3711-A of the Code of Virginia of 1950, as amended for the purpose of:

Paragraph 1: Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specified public officers, appointees, or employees of any public body.

Specifically: Town Manager Performance Evaluation.

Specifically: Discussion of Potential Candidates to Fill Town Council Vacancy

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

The members of staff in attendance, with the exception of John Hozey, left the room.

Council went into executive session at 7:39 p.m.

Town Clerk Libby Hume rejoined the meeting at 8:19 during the discussion regarding potential candidates to fill the Town Council vacancy.

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

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

The open portion of the meeting resumed at 8:24 p.m.

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

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

The meeting adjourned at 8:25 p.m.

Mayor Dize

Town Clerk

**Comments & Information Provided in Writing
March 18, 2021 Town Council Regular Meeting**

Susan and Howard Thibodeau

Dear Council Members,

We write to you after numerous verbal and written attempts with the town treasurer, manager, and a letter to the mayor to resolve this problem. Last week, more than **two months** after the tax due date we received a penalty notice for late payment. We contacted the treasurer and asked her to waive the penalty plus interest of \$150.35. Her response was "We always send out the delinquent letters in January) after the dust has settled from the flood of payments and cleaning up accounts that people have called us about that have errors with addresses and property sales and the like. The bill was actually due on December 7th, but I stated the 5th." Where does it state you can tell citizens that the date is different than the code? I asked to see our mailing envelop which she said in conversation she kept. She sent me a copy of an envelope that was not ours. I asked again by email and received no response. We have a copy of our check which was cancelled on December 11th. We spoke to the Postmaster in Virginia Beach who said there were numerous delays in December due to the pandemic compounded by the holidays.

Additionally, the treasurer stated in her email: "I am aware that Virginia Beach did offer a tax relief program, however our small town has no method of offering such – real property taxes are a primary source of revenue and we have no means by grant or other revenue source to fill the void that such a program would cause. I have not heard of any similar relief being offered anywhere else, certainly not in a small town or Northampton County." Depending on penalties and interest as a primary source of revenue can be a serious problem for the town.

Several towns and cities in Virginia offered some form of leniency due to the pandemic as noted on their web sites. These are unprecedented times and to penalize residents for **paying** their taxes is unacceptable and an unexpected financial hardship for us. Additionally, both my spouse and I were sick with the virus when we made a trip to the post office to ensure the taxes got mailed.

We did not ask that the taxes be waived, they were paid in full. We asked to have the PENALTY PLUS INTEREST the waived. The delinquency notice was sent to us **two months** after the tax due date which is hardly good customer service.

We would greatly appreciate having this penalty removed. Our credit has always been excellent and to have an inappropriate penalty reported to the credit bureau would be so wrong and unnecessarily costly to us in a time when finances are so poor.

We are appealing to you as the council and hope you can understand our situation. Please review this with whoever needs to be involved. We would appreciate hearing back from you.

Thank you,
Susan and Howard Thibodeau

Jim Granger

Subject: Opposition to Rezoning of 303 and 309 Jefferson Avenue

Members of the Planning Commission and Town Council,

I strongly oppose the rezoning of 303 and 309 Jefferson from R-1 to C-1. I have lived on Jefferson Avenue since 2015, first at 408 Jefferson, and now at 524 Jefferson, and feel that C-1 zoning is incompatible with the neighborhood.

The description of C-1 zoning - "These commercial activities are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments," says it all. That location is surrounded by residences and a church, and is only a block from Central Park. Operating a small eating establishment under variance like CC Kool Eatz is acceptable, but rezoning to C-1 would potentially open the area up to any type of industry. With C-1 zoning, someone could open up an auto repair shop, nightclub, Porta Potty service, etc – all incompatible with the character of the surrounding area. We have worked very hard on Cape Charles Main Street as the ideal location and climate for businesses; Jefferson Avenue needs to stay residential.

Sincerely,
Jim Granger

Ellen O'Brien

Subject: Thursday, March 18, 2021 Town Council Regular Meeting, Work Session & Executive Session

Hello Town Council,

I am writing to express my **opposition to the rezoning request for the properties at 303 and 309 Jefferson Avenue**. Thanks to the background provided by Katie Nunez, we now have an understanding of the accurate zoning of this property.

The Comprehensive Plan Future Land Use (Section III.2.1.3) lists this area as continued Traditional Residential, which is described as primarily as single-family dwellings with some multi-family housings, including row houses containing two to four dwelling units per structure and single-family house which have been converted into two-or multi-family dwelling units. **This category is intended to promote and encourage a suitable environment for family life where there are children, and to restrict all activities of a commercial nature.**

It is important to recognize that the owner is able to operate the business planned without rezoning the property.

However, it appears rezoning is sought to permit the addition of a 'golf cart drive thru'. Worth mentioning too, is there has **already been work completed to offer entrance and exit for golf cart passage.**

Jefferson Avenue is a two way street, that allows for on street parking on both sides of the street.

There is a residential driveway directly across from the area where the proposed 'golf cart drive thru' is proposed.

This request is clearly not considering the potential risks associated with current vehicle and pedestrian traffic. Furthermore, the property in question is **located on the corner of Jefferson and Strawberry**, vehicles and pedestrians on foot and bicycle's would be put at **risk** with the addition of a 'golf cart drive thru'.

The business owner has made the decision to NOT allow indoor seating and this decision should not drive the requirement or request for a 'golf cart drive thru', nor should it drive the requirement for off street golf cart parking.

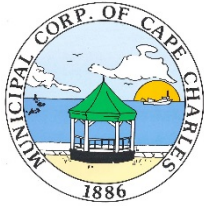
It is important to point out: The owner is fully able to operate the business planned without rezoning the property and creating of a golf cart drive thru.

The proposed expansion of the business into the vacant adjacent lot for expanded outdoor seating and a drive-thru window for golf cart patrons is changing the character and nature of the historic nature of the usage on this property and the neighborhood as a whole.

It is not compatible with the Comprehensive Plan, and should NOT be considered for re-zoning with Special Conditions, especially since the business can open their doors today without making a zoning change that will have far reaching implications in the future.

Vote NO and you will be doing something today, that your future self will thank you for.

Respectfully,
Ellen O'Brien



DRAFT
PLANNING COMMISSION/TOWN COUNCIL
Joint Public Hearing via Electronic Communications
April 6, 2021
6:00 p.m.

This Joint Public Hearing of the Cape Charles Town Council and Planning Commission was held by video conference in accordance with Code of Virginia § 2.2-3708.2, subsection A.3, resulting from Governor Northam's March 12, 2020 declaration of a state of emergency for the Commonwealth of Virginia arising from the Novel Coronavirus (COVID-19) pandemic.

The purpose of this hearing was to receive public comment regarding the following:

1. A conditional use permit application from Penelope and Derrick Kinsey with consent from property owner Joshua Lattimore at 1 Fig Street (tax map 83A4-A-21) for a residential unit above first floor commercial, pursuant to Cape Charles Zoning Ordinance § 3.7 (C)
2. A conditional use permit application from Chris Elam, AIA, on behalf of the property owners, John and Clelia Shephard, Lemon Tree Gallery, at 301 Mason Avenue (tax map 83A3-1-615B) for two residential units above first floor commercial, pursuant to Cape Charles Zoning Ordinance § 3.6 (C)

The public hearing was live-streamed on Facebook, as well as video-taped for viewing from the Town's website after processing.

At 6:01 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 Diane D'Amico, Paul Grossman, Jim Holloway, Dennis McCoy and Michael Strub. Commissioner Ken Butta was not in attendance. Also, in attendance were Interim Town Planner/Zoning Administrator Katie Nunez and Deputy Clerk Tracy Outten. There were nine viewers on Facebook.

Vice Mayor Steve Bennett, having established a quorum, called to order the Public Hearing of the Town Council. In addition to Vice Mayor Bennett, present were Councilmen Buchholz and Grossman, and Councilwoman Holloway. Councilman Follmer had technical difficulties and was unable to join the meeting via Zoom. Mayor Dize was not in attendance. There was one vacancy on the Council. Also, in attendance was Town Clerk Libby Hume.

PUBLIC HEARING PUBLIC COMMENTS:

Chairman Stramm read the Notice of Public Hearing.

There were no written comments submitted prior to or during the public hearing.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to close the Town Council Public Hearing. The motion was approved by unanimous vote.

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

The Town Council Public Hearing adjourned at 6:09 p.m.

Chairman Bill Stramm

Vice Mayor Bennett

Town Clerk

February 2021 Treasurer's Report

Page 1 – Cash Position

- There was a \$164,065 debt service payment made on the VML VACo 2010 bonds.
- Cash was transferred from the money market to the operating account for the final payment on the trail project.

Page 2 – Revenue vs. Expenditures

- No comments.

Page 3 – Capital Projects

- The Wi-Fi/security camera project at the harbor is ongoing.
- The Inner Harbor rehab project is in process.
- The video surveillance system was installed.
- The final payment on the Trail Phase 2 project was made. Grant reimbursement from VDOT is pending.

Page 4 – Tax Collection Rate

- Tax collections are a little above what was budgeted.

Page 5 – Tax Revenue Trends

- The very high increase in dockage may be in small part due to a corrective change in invoicing practices at the harbor in FY20 and FY21 for seasonal and annual slip-holders. However, the February 2021 dockage revenue alone was \$18,000 higher than February 2020, therefore it is possible that much of the increase is due to natural growth.
- Business License (BPOL) is higher by 63.9% than 2020, however the due date for BPOL was extended from April to September last year.
- Sales and Use tax revenue is 17.5% higher than in 2020.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
February 28, 2021

<u>Cash on Hand</u>	<u>1/31/2021</u>	<u>2/28/2021</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$494,219	\$595,594	\$101,376
Atlantic Union Bank Money Market Account	\$2,428,733	\$1,948,978	-\$479,755
LGIP Account 1 - Unrestricted	\$104,188	\$104,197	\$9
LGIP Account 2 - Unrestricted	\$305,272	\$305,301	\$29
Total Cash On Hand	\$3,332,412	\$2,954,071	\$0

<u>Restricted and Reserved Cash Balances</u>	<u>1/31/2021</u>	<u>2/28/2021</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Savings Account - Facility Fees Rsrvd (Utilities)	\$1,079,281	\$1,079,281	\$0
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$25,890	\$25,890	\$0
Atlantic Union Bank Checking Acct - E-Summons Revenue Rsrvd	\$4,628	\$4,788	\$160
US Bank - Reserved per VRA Interest Free Loan Requirements	\$257,585	\$257,587	\$1
Wells Fargo 2010 Debt Service pass through account #300	\$2,898	\$2,898	\$0
Wells Fargo 2010 Debt Service pass through account #308	\$761	\$761	\$0
Total Cash Held in Reserve	\$1,371,474	\$1,371,636	\$162
Total Cash - All Accounts	\$4,703,886	\$4,325,707	-\$378,179

DEBT SERVICE

Net Debt as of Current Reporting Month End (Excludes USDA vehicle and equipment loans)	\$6,754,081
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MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

February 28, 2021

REVENUE VS. EXPENDITURES

FUND	CURRENT MONTH	PRIOR YEAR-TO-DATE	CURRENT YEAR-TO-DATE	INCREASE/ (DECREASE) YTD	ANNUAL BUDGET	% REALIZED/ EXPENDED FY21
GENERAL						
REVENUE - Operating	\$344,678	\$2,513,171	\$2,918,083	\$404,911.99	\$4,177,677	69.85%
EXPENDED - Operating	\$251,283	\$1,636,177	\$2,014,835	\$378,657.67	\$3,866,830	52.11%
NET	93,395	876,993	903,248	26,254	310,847	
REVENUE - CAPITAL GRANTS & LOANS	0	2,042	0	(2,042)	329,817	0.00%
EXPENDED - CAPITAL PROJECTS & DEBT SVC	372,513	259,718	499,393	239,674	640,664	77.95%
TRANSFER TO HARBOR TO TRUE UP FUND						
BALANCE	0	0	0	0	0	
TOWN CONTRIB. & PENDING GRANTS	(372,513)	(257,676)	(499,393)	(241,716)	(310,847)	
PUBLIC UTILITIES						
REVENUE - Operating	145,411	1,142,578	1,190,056	47,478	1,750,836	67.97%
EXPENDED - Operating	56,056	581,565	436,231	(145,334)	1,604,799	27.18%
NET	89,355	561,013	753,824	192,811	146,037	
REVENUE - CAPITAL GRANTS, LOANS, & FACILITY FEES	21,200	206,667	248,510	41,842	275,551	90.19%
EXPENDED - CAPITAL PROJECTS, DEBT SVC, & FACILITY FEES	86,944	586,448	595,602	9,155	421,588	141.28%
TOWN CONTRIB. & PENDING GRANTS	(65,744)	(379,780)	(347,093)	32,687	(146,037)	
HARBOR						
REVENUE - Operating	26,049	432,307	635,770	203,463	761,102	83.53%
EXPENDED - Operating	16,128	460,923	485,810	24,887	681,900	71.24%
NET	9,921	(28,616)	149,960	178,576	79,202	
REVENUE - GRANTS & LOANS	0	0	0	0	95,054	0.00%
TRANSFERRED FM GEN FUND TO TRUE UP FUND BALANCE	0	0	0	0	110,101	
EXPENDED - Capital Projects, Debt Svc	73,531	313,520	191,081	(122,438)	284,357	67.20%
TOWN CONTRIB. & PENDING GRANTS	(73,531)	(313,520)	(191,081)	122,438	(79,202)	
SANITATION						
REVENUE	17,178	134,588	135,819	1,232	220,274	61.66%
EXPENDED	17,727	132,913	136,038	3,124	220,274	61.76%
NET	(549)	1,674	(218)	(1,893)	0	

FY 2021 Capital Improvement Project Tracking Report

As of:
2/28/2021

	FY21 Status or Start Date	Percent of Completion	FY21 Budgeted	FY21 QTR 1 Expended	FY21 QTR 2 Expended	FY21 QTR 3 Expended	FY21 QTR 4 Expended	FY21 YTD Expended	(Over)/Under Budget
General Fund									
Police Vehicle	on backorder	0%	\$ 38,940	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 38,940
Permit Department Software	partially installed	0%	\$ 7,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,000
Public Works Shop Heaters	Complete	100%	\$ 6,868	\$ -	\$ 6,528	\$ -	\$ -	\$ 6,528	\$ 340
Grounds Maintenance Equipment	Complete	132%	\$ 22,240	\$ -	\$ -	\$ 29,412	\$ -	\$ 29,412	\$ (7,172)
Central Park Zipline	Pending	0%	\$ 14,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 14,000
Portable ADA Equipped Restroom Trailer	On Hold	0%	\$ 35,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 35,000
Mason Avenue Re-striping	On Hold	0%	\$ 5,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,000
Parking Lots (Mason & Harbor Shanty Area)	Pending	0%	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,000
Video Surveillance System	Complete	100%	\$ 35,000	\$ -	\$ 56	\$ 34,287	\$ -	\$ 34,343	\$ 657
Municipal Building Project Evaluation	Preliminary process	0%	\$ 45,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 45,000
Multi-Use Trail Phase 2 Closeout	Complete	100%	\$ 305,000	\$ -	\$ -	\$ 308,000	\$ -	\$ 308,000	\$ (3,000)
<i>subtotal</i>			\$ 524,048	\$ -	\$ 6,584	\$ 371,699	\$ -	\$ 378,282	\$ 145,766
Water Fund									
SCADA System	pending	0%	\$ 15,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,000
Remote Read Water Meters - starter setup	pending	0%	\$ 51,985	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 51,985
Pickup Truck	ordered	0%	\$ 32,766	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 32,766
Water Tower Mixers	pending	0%	\$ 55,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 55,000
<i>subtotal</i>			\$ 154,751	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 154,751
Harbor Fund									
Inner Harbor Rehabilitation Phase I carryover	Complete	100%	\$ 60,390	\$ 60,390	\$ -	\$ -	\$ -	\$ 60,390	\$ (0)
WiFi/Security Cameras/Lighting Project	In process	45%	\$ 35,000	\$ -	\$ 8,201	\$ 7,570	\$ -	\$ 15,771	\$ 19,229
Inner Harbor Rehabilitation Phase II	In process	14%	\$ 85,700	\$ -	\$ 5,359	\$ 6,957	\$ -	\$ 12,316	\$ 73,384
<i>subtotal</i>			\$ 181,090	\$ 60,390	\$ 13,559	\$ 14,527	\$ -	\$ 88,477	\$ 92,613
Sanitation Fund									
Trash Can Replacements	Complete	100%	\$ 11,796	\$ -	\$ 11,796	\$ -	\$ -	\$ -	\$ 11,796
<i>subtotal</i>			\$ 11,796	\$ -	\$ 11,796	\$ -	\$ -	\$ -	\$ 11,796
TOTAL			\$ 871,685	\$ 60,390	\$ 31,939	\$ 386,226	\$ -	\$ 466,759	\$ 404,926

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT

MUNICIPAL CORPORATION OF CAPE CHARLES
February 28, 2021

YTD 2020 Real Estate Tax Collections

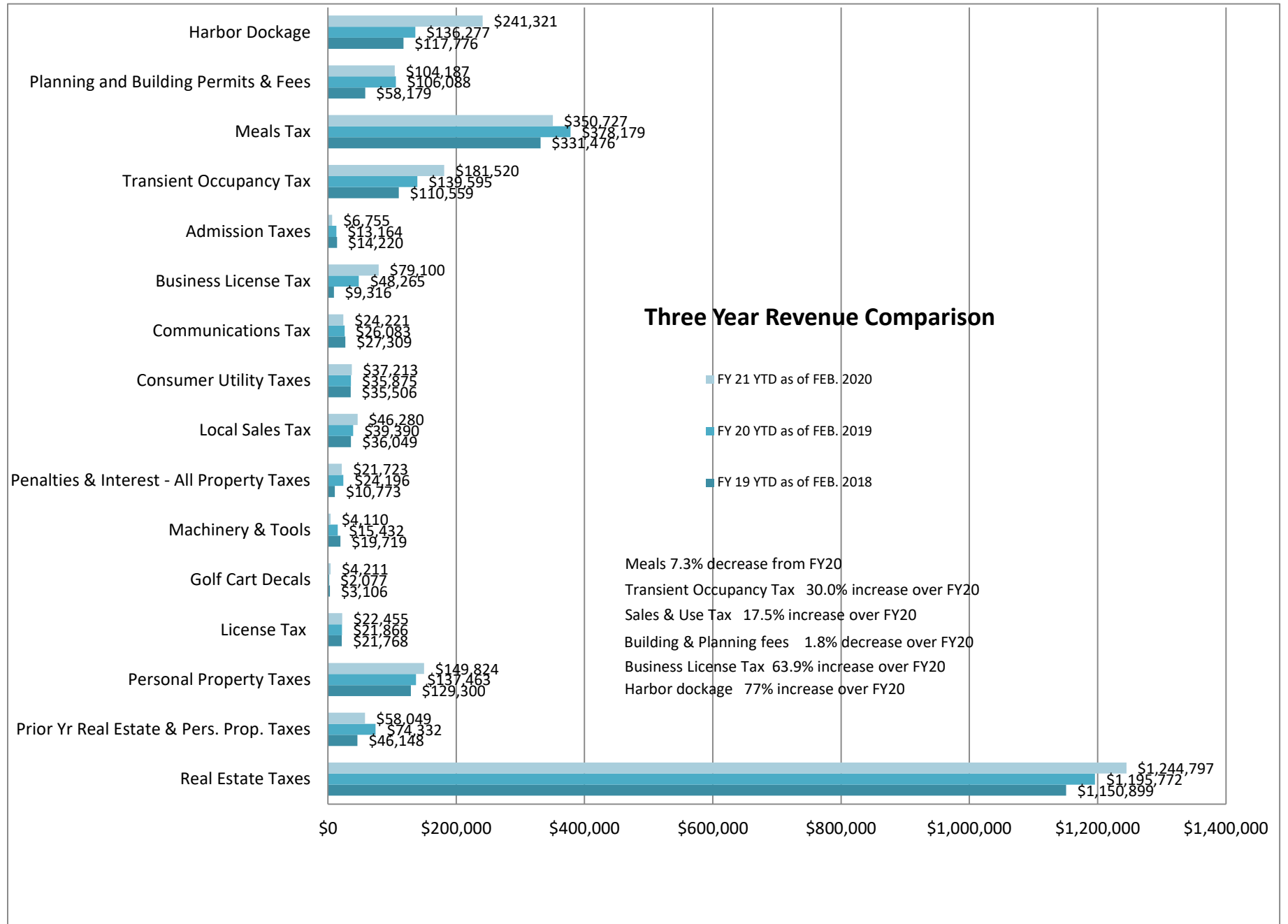
Total Taxable Land Value	179,736,100	
Total Improvement Value	291,966,800	
Exemptions	(2,650,000)	
Additional Assessments (SCC Utility)	3,796,381	
Total Real Estate Value (taxable)	472,849,281	
Total Budgeted	1,223,505	
Total Tax Billed	1,291,310	
Total Adjustments	(3,277)	
Total Collected YTD (percent of billed)	<u>1,244,797</u>	96%
Amount Due per Accounts Receivable	43,236	

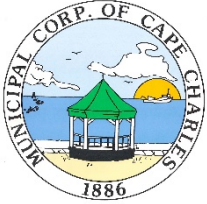
**YTD 2020 Personal Property Tax, Machinery and Tools Tax
& 2020 License Tax Collections**

Total Personal Property Value	13,824,800	
2020 Initial Assessment Exonerations	(393,342)	
Personal Property Value, billed	13,431,458	
Total Budgeted	175,000	
Total Tax Billed less PPTRA	207,905	
Total Adjustments & Additional Exonerations	(7,846)	
Total Collected YTD (percent of billed)	<u>176,389</u>	88%
Amount Due per Accounts Receivable	23,670	

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

Total Budgeted	75,300	
Total Collected (percent of budget)	<u>79,772</u>	106%
Amount Due Per Budget	(4,472)	



 TOWN OF CAPE CHARLES	AGENDA TITLE: Revisions to Town Code Sections 42-17, 42-71 and 50-192 and approval of a Code Violation Notice		AGENDA DATE: April 15, 2021
	SUBJECT/PROPOSAL/REQUEST: Consider an ordinance revising sections 42-17, 42-71 and 50-192 of the Town Code, and Code Violation Penalties		ITEM NUMBER: 7A
	ATTACHMENTS: - Draft Code Violation Notice - Recommended revisions to Sec. 42-17, 42-71 and 50-192 - Proposed Ordinance 20210415		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT(S): Chief Jim Pruitt	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The recently adopted Community Strategic Plan includes an objective to foster a safe golf cart culture. One milestone under this objective involves better enforcement of the rules. In an effort to better define these rules and establish the authority necessary for proper enforcement, minor revisions to the Town Code and the Town notice of violation are required.

DISCUSSION:

During discussions of how to achieve the Strategic Plan objective mentioned above, it was determined that the most effective way was to authorize a penalty of a fine sufficient to deter any undesired behavior. This is accomplished with the use of a code violation notice, whose authority is derived in Code. However, when we looked at the current notice of violation book, it became clear that it was out of date and needed revision beyond just concerns surrounding golf carts.

A revised notice was then developed that increased the fines for parking violations, as well as adding new violations and fines. Choosing the level of fine necessary to provide a sufficient deterrent, while not being overly punitive is not an exact science. Staff has given this some thought and proposes the schedule of fines on the attached draft Code Violation Notice. However, staff welcomes Council's input on any of these fines, and should adjustments be desired, amendments may be offered now to make any changes.

It is critical that the Mayor, Council, Town Manager, and Chief of Police all agree to the penalties set, so that once they are implemented, we can all back each other up.

RECOMENDATION:

Consider the proposed changes. If acceptable, staff recommends a roll call vote to adopt Ordinance 20210415 and the Code Violation Notice.

CODE AND ORDINANCE VIOLATION NOTICE

Item 7A – Attachment #1
4/15/2021 Regular Mtg

Cape Charles Police Department
2 Plum Street
Cape Charles, VA 23310

No:11111

Name _____

Address _____

Vehicle:

Make _____ Model _____ License _____ State _____

Please take notice that on (Date) _____ Time _____

You were in violation of:

PARKING (\$50 fine per occurrence):

- | | |
|--|---|
| ☐ Too close to fire plug | ☐ Wrong direction |
| ☐ Prohibited area | ☐ Double parked |
| ☐ Too close to intersection | ☐ In cross walk |
| ☐ Blocking alley | ☐ Parked in handicapped zone (\$100.00 fine) |

OTHER:

- ☐ Dog on beach/at large (\$50.00 fine)
- ☐ Unlicensed golf cart driver (\$100.00 fine first offense/ \$250.00 second offense)
- ☐ Bicycles, skateboards, or other wheeled conveyances on prohibited walkways (\$50.00 fine)
- ☐ Golf carts on walkways or other prohibited areas (\$50.00 fine)
- ☐ Failure to display town golf cart decal (\$50.00 fine)

Officer _____

Badge No. _____

Chapter 42 - MOTOR VEHICLES AND TRAFFIC

ARTICLE IV. - STOPPING, STANDING AND PARKING

Sec. 42-17. - Violations of article.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a ~~class 4 misdemeanor~~ fine of not more than \$250.00. Such violation may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the license required by this article has been obtained.

Sec. 42-71. - Procedure for parking violations.

- (a) Law-enforcement officers of the town shall attach to any vehicle parked in violation of any provision of this article a notice to the owner thereof that such vehicle is parked in violation and instructing such owner to deliver or mail to the town, within seven days of such notice, the sum of ~~\$20.00~~ \$50.00 in satisfaction of such violation. The sum of \$100.00 for a handicap parking violation.

Chapter 50 – OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE X. - OFFENSES REGARDING ANIMALS

Sec. 50-192. - Violation of this article.

It shall be an unlawful act if any person violates any provision of this article and it shall constitute a ~~class 4 misdemeanor~~ fine of not more than \$250.00.

ORDINANCE 20210415

**ADOPTING REVISIONS TO CAPE CHARLES TOWN CODE
SECTIONS 42-17, 42-71 AND 50-192**

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

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

WHEREAS, the recommended changes to the violation book requires revisions to Town Code Sections 42-17, 42-71 and 50-192 as follows:

Sec. 42-17. - Violations of article.

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

Sec. 42-71. - Procedure for parking violations.

(a) Law-enforcement officers of the town shall attach to any vehicle parked in violation of any provision of this article a notice to the owner thereof that such vehicle is parked in violation and instructing such owner to deliver or mail to the town, within seven days of such notice, the sum of \$50.00 in satisfaction of such violation. The sum of \$100.00 for a handicap parking violation.

Sec. 50-192. - Violation of this article.

It shall be an unlawful act if any person violates any provision of this article and it shall constitute a fine of not more than \$250.00.

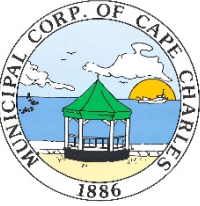
NOW, THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 15th day of April 2021, that Cape Charles Town Code Sections 42-71 Procedure for parking violations, and 50-192 Violation of this article be revised as shown above to become effective immediately.

Adopted by the Town Council of Cape Charles on April 15, 2021.

By: _____
Mayor

ATTEST:

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Conditional Use Permit Application – 1 Fig Street (tax map #83A3-1-534)		AGENDA DATE April 15, 2021
	SUBJECT/PROPOSAL/REQUEST: Conditional Use Permit for 1 Fig Street		ITEM NUMBER: 7B
	ATTACHMENTS: Planning Commission Staff Report & CUP Application		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

On February 1, 2021, an application was received from Joshua Lattimore, applicant, for a Conditional Use Permit for the property located at 1 Fig Street (Tax Map 83A4-A-21) which has since been amended to substitute Penelope and Derrick Kinsey as the applicant with intent to purchase the property from the current owner and with the owner's full consent for said substitution.

The property is zoned Commercial District C-2 which allows for a dual use of Commercial/ Residential. The applicant has submitted a floor plan for one residential unit on the second floor of this building.

The Cape Charles Zoning Order, pursuant to Section 3.7 (C), allows for a residential unit above first floor commercial provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (no access through the commercial establishment on the first floor) through a Conditional Use Permit.

The applicant is seeking to renovate the second floor into a dwelling unit with one bedroom and two bathrooms with access through the front.

This property previously applied for and was approved for a Conditional Use Permit for a residential unit on the second floor of the building with the first floor as a commercial establishment by the Town Council on January 3, 2017. However, the Conditional Use Permit was not acted upon in a timely manner, as outlined in the Cape Charles Zoning Ordinance Section 4.3 (D) and became null and void one year from its approval date by Town Council.

ITEM SPECIFICS:

Cape Charles Zoning Ordinance Section 4.3 states that "conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:

1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. Be in conflict with the purpose of the comprehensive plan of the town.

In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

Additionally, approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit

within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications. If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit.

A joint public hearing was held by the Planning Commission and Town Council on Tuesday, April 6, 2021. There were no public comments received and the hearing was closed. The Planning Commission reviewed the application and staff report and discussed the matter. A motion was made by Commissioner Dennis McCoy and seconded by Commissioner Paul Grossman to recommend approval of a Conditional Use Permit at 1 Fig Street (Tax Map #83A4-A-21), pursuant to Cape Charles Zoning Ordinance Section 3.7 (C) for a residential dwelling unit above commercial usage with the following conditions:

- 1.) the entrance for the residential unit has direct access to the street level and not be through the commercial use space;
- 2.) the applicant applies and obtain Historic District Review Board approval for all exterior improvements, in accordance with the Historic District Overlay and Guidance Documents; and
- 3.) the applicant obtains all required permits and approvals from the Building and Planning Department for all interior and exterior renovations;

and further finds that the CUP standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan. The motion was unanimously approved.

RECOMMENDATION:

Town Council is requested to review the application and staff report and to consider acting favorably on the Conditional Use Permit requested for 1 Fig Street and to accept the Planning Commission's recommendation.

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

The Cape Charles Town Council accepts the recommendation of the Planning Commission and approves a Conditional Use Permit at 1 Fig Street (Tax Map #83A4-A-21), pursuant to Cape Charles Zoning Ordinance Section 3.7 (C) for a residential dwelling unit above commercial usage with the following conditions:

- 1.) the entrance for the residential unit has direct access to the street level and not be through the commercial use space;*
- 2.) the applicant applies and obtain Historic District Review Board approval for all exterior improvements, in accordance with the Historic District Overlay and Guidance Documents; and*
- 3.) the applicant obtains all required permits and approvals from the Building and Planning Department for all interior and exterior renovations;*

and further finds that the CUP standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan.



JOINT MEETING REPORT FOR PLANNING COMMISSION & TOWN COUNCIL STAFF REPORT

Meeting Date: April 6, 2021

Item #: 3a & 6b

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

Date: March 30, 2021

APPLICANT: Penelope & Derrick Kinsey
w/consent from property owner
Joshua Lattimore, Kellogg, LLC
SITE ADDRESS: 1 Fig Street

TAX MAP: 83A4-A-21

TYPE OF APPLICATION: Conditional Use Permit
REQUEST: Section 3.7 (C) – Residential Unit
above first floor commercial
CURRENT ZONING: Commercial C-2 District &
Historic District Overlay
LOT SIZE: 6,183 sq. ft.

DATE RECEIVED: February 1, 2021

DATE APPLICATION DEEMED COMPLETE: February 10, 2021

PLANNING COMMISSION PUBLIC HEARING: April 6, 2021

TOWN COUNCIL PUBLIC HEARING: April 6, 2021 (held jointly with Planning Commission)

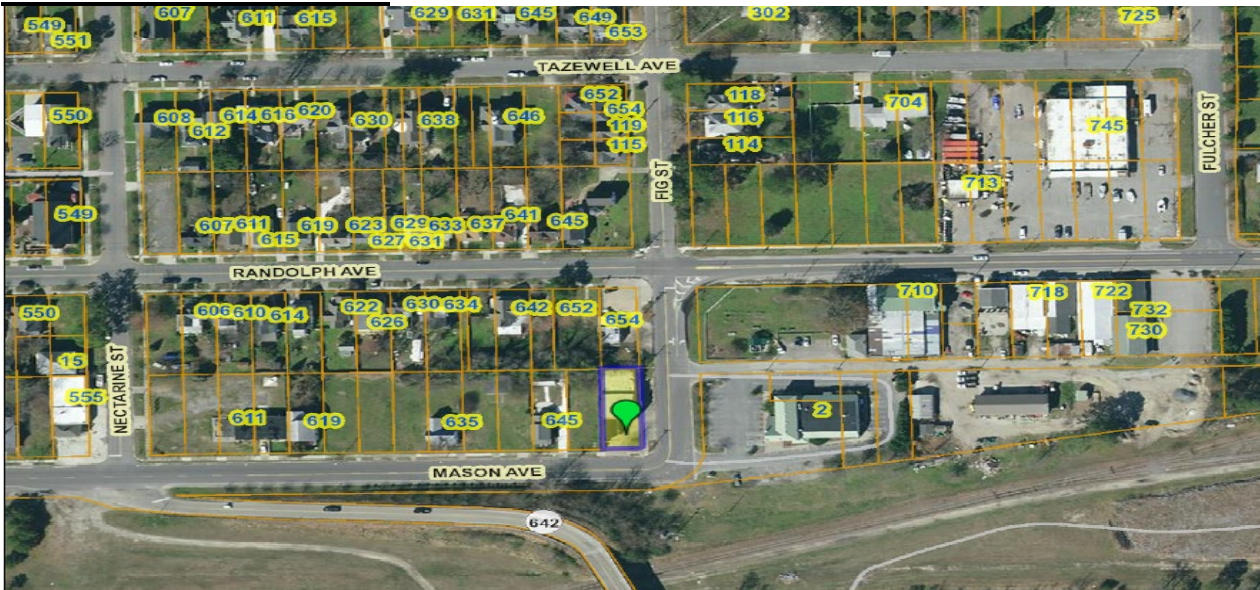
LEGAL DEADLINES: Planning Commission Review Period (45 Days after Public Hearing): 5/21/2021
Town Council Decision (generally 90 days but not restrictive): 7/4/2021

On February 1, 2021, an application was received from Joshua Lattimore, applicant, for a Conditional Use Permit for the property located at 1 Fig Street (Tax Map 83A4-A-21) which has since been amended to substitute Penelope and Derrick Kinsey as the applicant with intent to purchase the property from the current owner and with the owner's full consent for said substitution.

The property is zoned Commercial District C-2 which allows for a dual use of Commercial/Residential. The applicant has submitted a floor plan for one residential unit on the second floor of this building. The Cape Charles Zoning Order, pursuant to Section 3.7 (C), allows for a residential unit above first floor commercial provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (no access through the commercial establishment on the first floor) through a Conditional Use Permit.

The applicant is seeking to renovate the second floor into a dwelling unit with one bedroom and two bathrooms with access through the front.

LOCATION/AERIAL MAP



STREET VIEW



This property previously applied for and was approved for a Conditional Use Permit for a residential unit on the second floor of the building with the first floor as a commercial establishment by the Town Council on January 3, 2017. However, the Conditional Use Permit was not acted upon in a timely manner, as outlined in the Cape Charles Zoning Ordinance Section 4.3 (D) and became null and void one year from its approval date by Town Council.

ORDINANCE REQUIREMENTS:

Cape Charles Zoning Ordinance Section 4.3 states that “conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:

1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. Be in conflict with the purpose of the comprehensive plan of the town.

In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

Additionally, approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications. If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit.

STAFF ANALYSIS:

The application for the renovation of the second story into a residential unit with the first floor to be developed for commercial usage is consistent with the intent of the Cape Charles Zoning Ordinance Commercial C-2 District which is to recognize the existing commercial areas which are less densely developed than the C-1 District and to encourage compatible commercial uses and density. This area generally has been developed with larger lots and larger individual buildings. The specific intent of this district is to recognize the existing and possibly new freestanding commercial development.

The Cape Charles Comprehensive Plan Section III.2.1.1. recognizes that the Commercial District is a mix of small-scale, mixed use buildings characterized by retail, office, restaurant, educational, civic and entertainment uses on the street level, with residential uses on upper floors. Section III-A.5.1.3 has stated an overall policy to promote the mixed use as the preferred form of development in the Commercial District, specifically allowing residential and retail/commercial uses within the same building.

The renovation of this building through the addition of a residential dwelling unit on the second floor and the intent of commercial usage on the first floor would be a tremendous improvement to this area of the town and would be harmonious within that Town block and across the street at Rayfield's Pharmacy. All exterior proposed improvements are subject to Historic District Review Board approval and obtaining a

building permit for all proposed work to the interior and exterior work as required by the Building Code and Town Ordinances.

Staff finds that the application for a Conditional Use Permit pursuant to Section 3.7 (C) for a residential dwelling unit above commercial usage with the provision that the entrance for the residential dwelling unit have direct access to the street level and not be through the commercial use meets and satisfies the requirements of the Town Zoning Ordinance, Section 4.3, as follows:

- 1) it does not adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood or adversely affect other land uses within the particular surrounding neighborhood;
- 2) it is not detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- 3) it is not in conflict with the purpose of the comprehensive plan of the town.

Staff acknowledges that additional issues or comments may arise through the public hearing on this matter and request that the Planning Commission consider said issues and/or comments as part of their deliberations.

RECOMMENDED ACTION FOR PLANNING COMMISSION:

Staff recommends that the Planning Commission consider recommending approval of the Conditional Use Permit to the Town Council with the following motion:

The Cape Charles Planning Commission recommends approval of a Conditional Use Permit at 1 Fig Street (Tax Map #83A4-A-21), pursuant to Cape Charles Zoning Ordinance Section 3.7 (C) for a residential dwelling unit above commercial usage with the following conditions:

- 1.) the entrance for the residential unit has direct access to the street level and not be through the commercial use space;*
- 2.) the applicant applies and obtain Historic District Review Board approval for all exterior improvements, in accordance with the Historic District Overlay and Guidance Documents; and*
- 3.) the applicant obtains all required permits and approvals from the Building and Planning Department for all interior and exterior renovations;*

and further finds that the CUP standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan.

RECOMMENDED ACTION FOR TOWN COUNCIL:

Staff recommends that the Town Council accept the Planning Commission's recommendation and consider approval of the Conditional Use Permit application at their scheduled meeting on April 15, 2021.

Attachments:

Attachment 1 - Application dated February 1, 2021

Attachment 2 – Cape Charles Zoning Ordinance Sections 3.7 & 4.3

Section 3.7 Commercial District C-2

- A. Statement of Intent. The intent of this zoning district is to recognize the existing commercial areas which are less densely developed than the C-1 District and to encourage compatible commercial uses and density. This area generally has been developed with larger lots and larger individual buildings.

The specific intent of this district is to recognize the existing and possibly new freestanding commercial development.

- B. Permitted Uses. The following uses are permitted by right:

1. All uses as allowed in C-1
2. Nursing/retirement homes
3. Any other commercial or professional use which is compatible in nature with the allowed uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission.

- C. Conditional Uses: Single family and multi-family dwellings provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (not access through commercial establishment on the first level).

- D. Height Regulations: Buildings may be erected up to 35 feet in height from the adjacent ground elevations.

- E. Area Regulations: The following area regulations shall apply as minimums for new development in this district:

1. Lot width at setback line 60
2. Area requirements (60 x 150) 9,000
3. Side yard 10
4. Rear yard 10 or prevailing rear yard if less
5. Front setback shall be determined by the average setback of the existing built up commercial area.

- F. Development/Redevelopment Standards, Other Requirements, and Accessory Uses. The standards for development and/or redevelopment, specific additional requirements, and accessory uses shall be the same as those listed and described for the C-1.

- G. Sign design shall relate to the architectural character of the building and, if ground mounted, shall be appropriately landscaped.

Section 4.3 Conditional Use Permits

A. Statement of Intent. The purpose of this section is to recognize certain uses which, by nature, can have a potentially unfavorable impact on or be incompatible with other uses of land within a given zoning district. These uses, as described, may be permitted within given designated districts under controls, limitations, and regulations of a conditional use permit. It shall be the duty of the Town Council under the provisions of this ordinance to evaluate the impact and the compatibility of each use and to stipulate such conditions and restrictions including those specifically contained herein as will assure the use being compatible with the neighborhood in which it is located, both in terms of existing land uses and conditions and in terms of development proposed or permitted by right in the area or, where that cannot be accomplished, to deny the use as not being in accordance with the adopted comprehensive plan or as being incompatible with the surrounding neighborhood.

B. Conditions for Issuance. Conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:

1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. Be in conflict with the purpose of the comprehensive plan of the town.

In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

C. Procedures. Written application for a conditional use permit may be made by any property owner, tenant, department, board, or bureau of any government agency. The application shall be filed with the Zoning Administrator on forms provided by the town. The application shall be accompanied by a fee established by separate ordinance by the Town Council to defray cost of advertising and processing the application. A site plan in accordance with the site plan ordinance shall be submitted with each application. A list of additional required permits shall be submitted with the application and shall be submitted to the Planning Commission with the application, and the Zoning Administrator may add any additional required permits. Changes to the additional permit list may be made by mutual consent of the applicant and the commission. No changes shall be made to the list after the Planning Commission recommendations to Town Council. Conditional use permits shall include a disclosure statement, signed by the applicant and notarized, of the equitable ownership of the real estate affected, which shall list the names and addresses of all the adjacent property owners and interested parties, including applicant, owners, contractors, purchasers, and lessees of the land described in the application, all partners, both general and limited, and partnerships, stockholders, officers, and directors. The applicant shall keep this information current at all times during the processing of the application. The procedures for approval of a conditional use permit shall be the same as those prescribed for zoning changes as set forth in this ordinance.

1. Action by the Zoning Administrator. The Zoning Administrator shall study the application and determine whether the proposed conditional use conforms to the general purpose and intent of the comprehensive plan, any applicable regulations that have been adopted, and the requirements of this ordinance. Upon completion of such review, if the administrator shall determine that any proposal in the application does not meet the requirements of this ordinance, he/she shall reject the application and return it to the applicant. If the applicant does meet the requirements of this ordinance, the administrator shall transmit all the findings and recommendations to the Planning Commission. However, nothing herein shall prohibit the administrator from accepting a conditional use permit application if failure to meet applicable requirements is due solely to area or dimension insufficiency of the lot upon which it is proposed. Any appeal of the Zoning Administrator may be made directly to the town manager.
 2. Action by the Planning Commission. After receiving the report of the administrator with all pertinent materials, the Planning Commission shall give notice of and hold a public hearing. Within 45 days after the hearing, the Commission shall submit its recommendations to the Town Council through the Zoning Administrator. Upon mutual agreement between the Commission and the applicant, such time may be extended.
 3. Action by the Town Council. After receiving the recommendations of the Zoning Administrator and the Planning Commission, the Town Council shall hold a public hearing and act upon the proposed conditional use permit, granting the applicant in whole or in part, with or without modifications, or denying the proposed application. In addition to the general or specific requirements set forth in the ordinance concerning the proposed use, which shall be considered minimum requirements with respect to the permit, additional requirements, conditions, and safeguards may be added by the Town Council as required for the protection of the public interest in the specific case.
- D. Approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications.
1. Staff shall notify Town Council of the date that all additional permits have been approved which date shall be the commencement date for the one (1) year Conditional Use Permit
 2. Staff shall notify Town Council of the status of the project at a regular meeting prior to the expiration of the one (1) year Conditional Use Permit.
- If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown

before the expiration of the Conditional Use Permit. Town Council may make additional one-year extensions for good cause. To be considered acted upon one (1) or more of the following is required:

1. The procurement of a Cape Charles Building Permit
 2. Payment of Water and Wastewater Connection and Facility Fees
 3. Completed Plans stamped by a Virginia Licensed Professional
- E. No application for a use permit for the same conditional use on a lot, parcel, or tract shall be considered by the Town Council within a one-year period from its last consideration. The provisions, however, shall not impair the right of the Town Council to propose a use permit on its own motion if it finds that there is public benefit to be gained.
- F. Revocation of a Conditional Use. If the provisions of this ordinance or the requirements of the conditional use permit are not met, then the Town Council may revoke the conditional use permit provided that ten days' written notice is given to the applicant.



CONDITIONAL USE PERMIT APPLICATION

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

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

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

PROJECT INFORMATION

Name of Project: Kellogg Building
Property Address: 3 Fig Street
Brief Description of Project: Dual Use
Zoning District: _____ Current Use: _____ Proposed Use: Commercial/Residential

OWNER INFORMATION

Name and Company: Kellogg, LLC
Mailing Address: P.O. Box 135, Nassawadox VA 23413
Phone Number: 757-710-3381 Email: josh@northamptonlumber.com

APPLICANT INFORMATION

☒ check here if applicant is owner

Name: Joshua E Lathmore
Mailing Address: P.O. Box 135, Nassawadox VA 23413
Phone Number: 710-3381 Email: josh@northamptonlumber.com

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: Joshua E Lathmore Date: 2-1-2021

Penelope Kinsey
2274 Doc Holiday Drive, Park City, Utah 84060

Tracy Outten
Planning Technician
757.331.3259 x24
tracy.outten@capecharles.org

March 10, 2021

Dear Tracy,

I am writing in regards to the pending conditional use permit application for Three Fig Street, or the Kellogg Building. I understand the original application was put in by Mr. Joshua Lattimore proposing to make the second-floor residential space. I am informing you that my husband, Derrick Kinsey, and myself are purchasing Three Fig Street, or the Kellogg Building, from Joshua Lattimore, Kellogg, LLC. Closing is set for March 16, 2021. Attached in this packet is Mr. Lattimore's project plan. We have the same plan in mind as Mr. Lattimore, to turn the second floor in to residential space, an apartment and would like to use his attached plan.

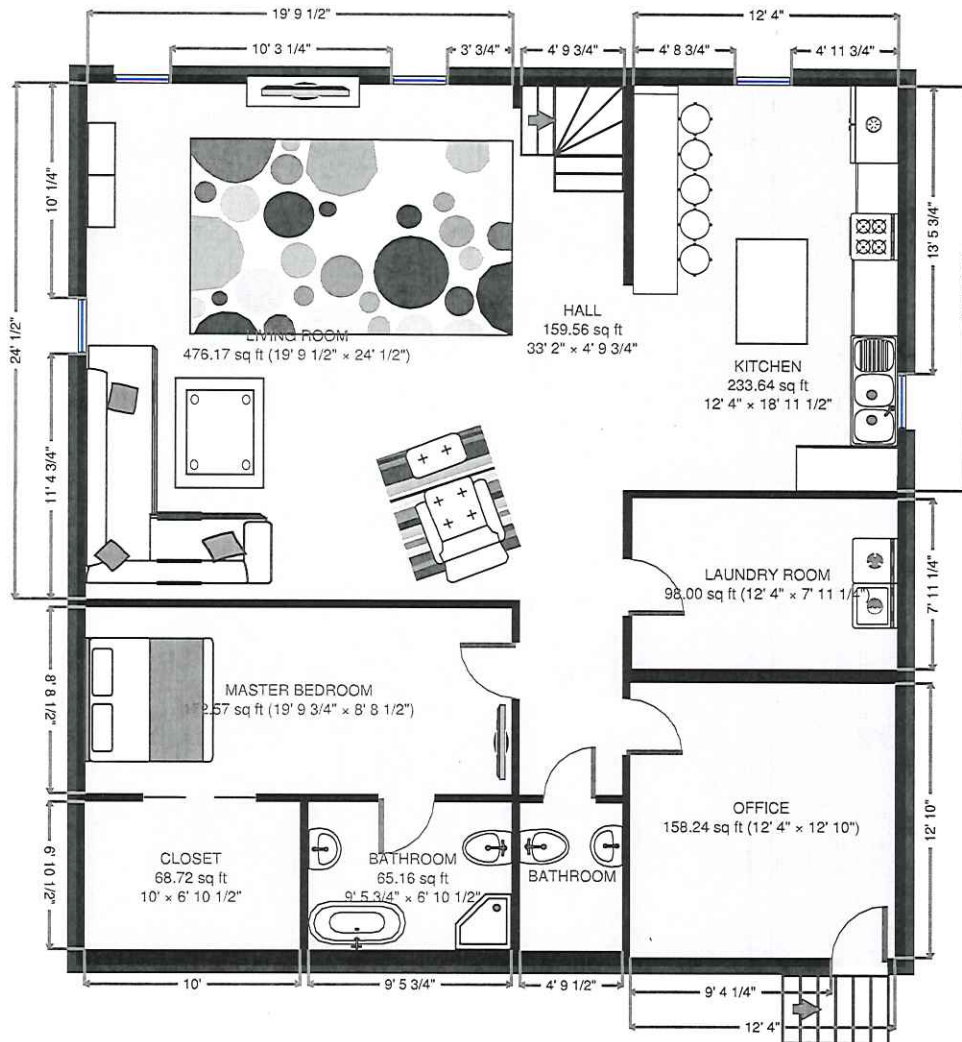
Thank you for your consideration. Please let me know if you need any further information.

Regards,



Penelope Kinsey
pennkinsey@gmail.com
435-640-6061

2nd Floor



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Plan 2

7907-11314 Hotze Street, Indianapolis, Indiana, United States 46259



2016-11-29

1465 sq ft

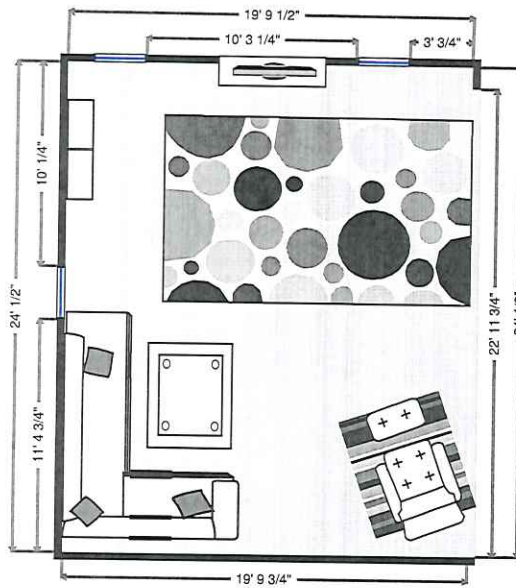
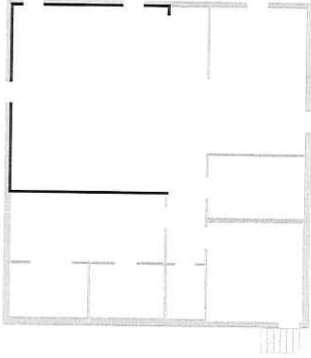
1 Floor

1 Bedroom

2 Bathrooms

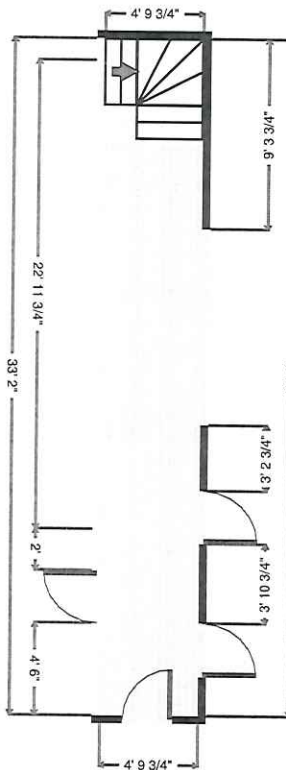
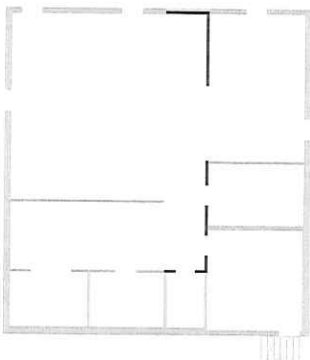
Living Room

Width: 19' 9 1/2"
 Length: 24' 1 1/2"
 Area: 476.17 sq ft
 Perimeter: 87' 8 1/4"



Hall

Width: 4' 9 3/4"
 Length: 33' 2"
 Area: 159.56 sq ft
 Perimeter: 75' 11 1/2"



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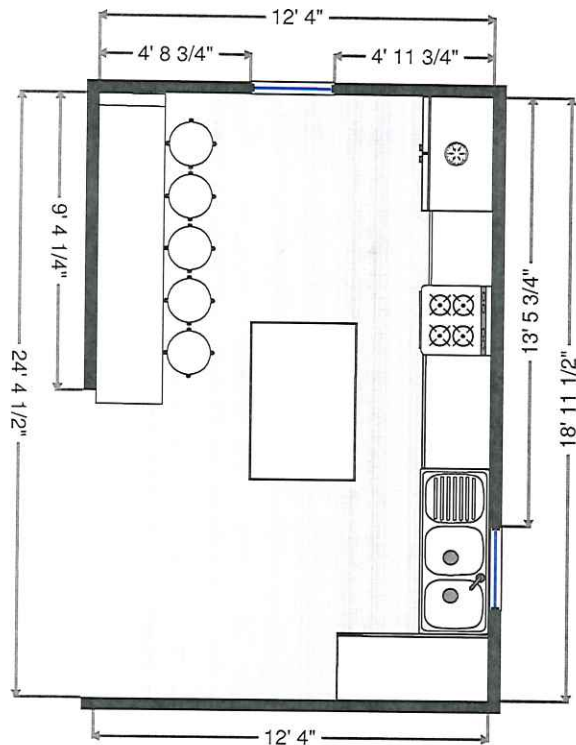
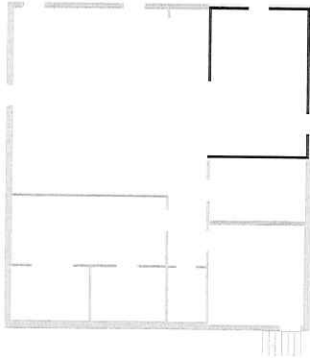


Plan 2

2016-11-29

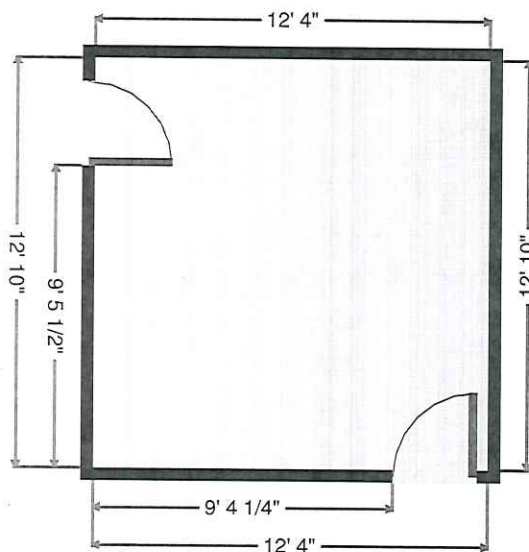
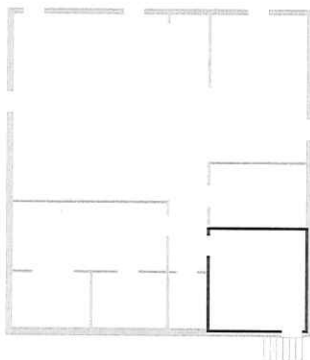
Kitchen

Width: 12' 4"
 Length: 18' 11 1/2"
 Area: 233.64 sq ft
 Perimeter: 62' 6 3/4"



Office

Width: 12' 4"
 Length: 12' 10"
 Area: 158.24 sq ft
 Perimeter: 50' 4"



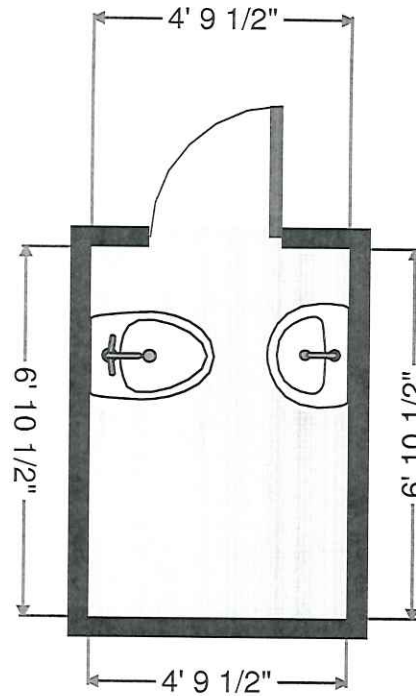
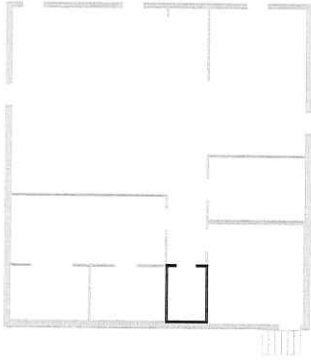
Plan 2

2016-11-29

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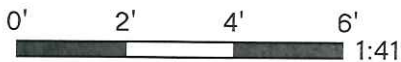
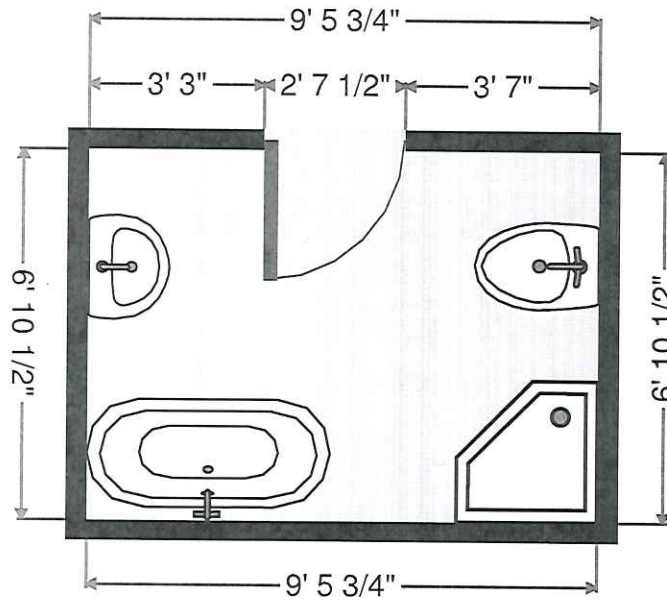
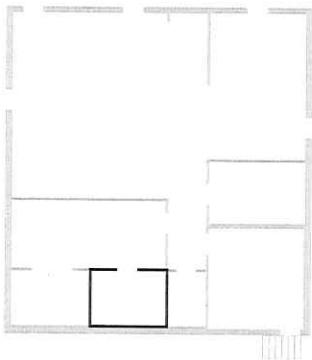
Bathroom

Width: 4' 9 1/2"
 Length: 6' 10 1/2"
 Area: 32.94 sq ft
 Perimeter: 23' 4"



Bathroom

Width: 6' 10 1/2"
 Length: 9' 5 3/4"
 Area: 65.16 sq ft
 Perimeter: 32' 8 1/2"



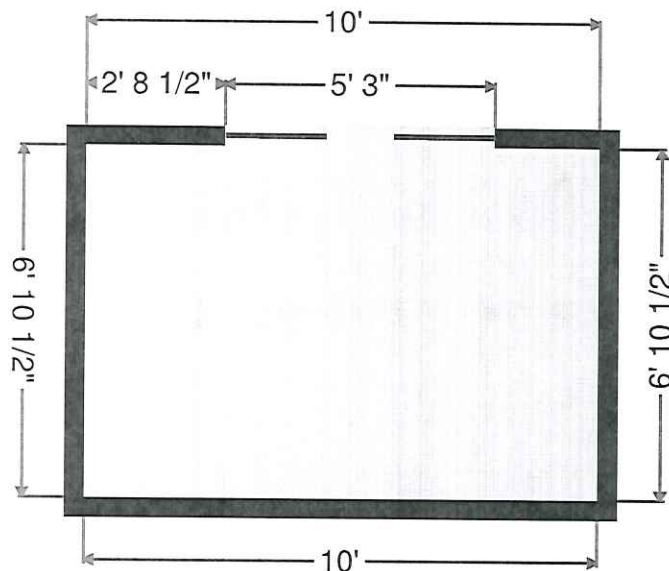
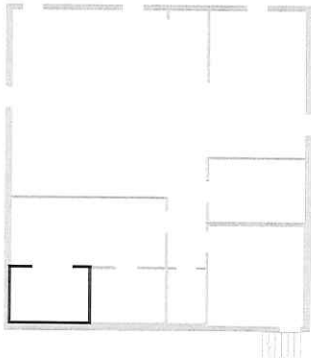
Plan 2

2016-11-29

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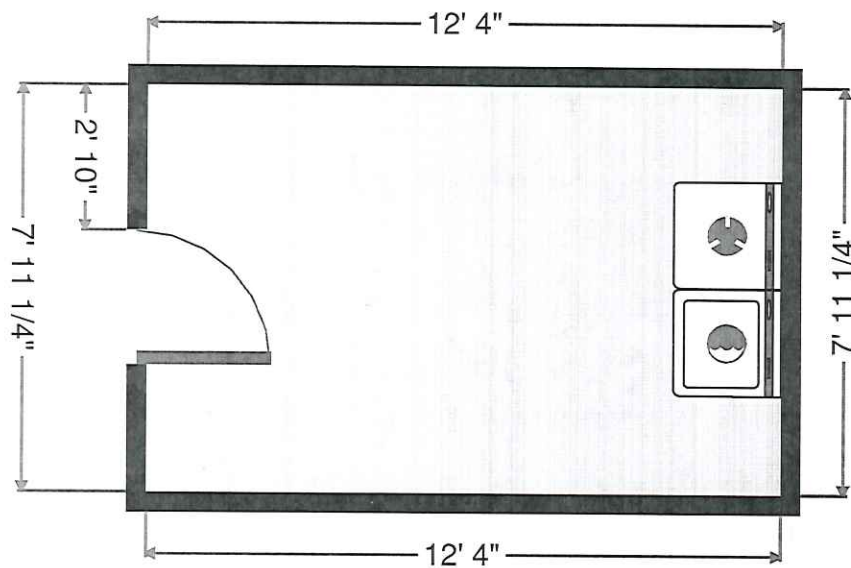
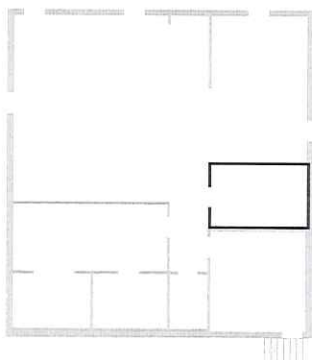
Closet

Width: 6' 10 1/2"
 Length: 10'
 Area: 68.72 sq ft
 Perimeter: 33' 9"



Laundry Room

Width: 7' 11 1/4"
 Length: 12' 4"
 Area: 98.00 sq ft
 Perimeter: 40' 6 3/4"



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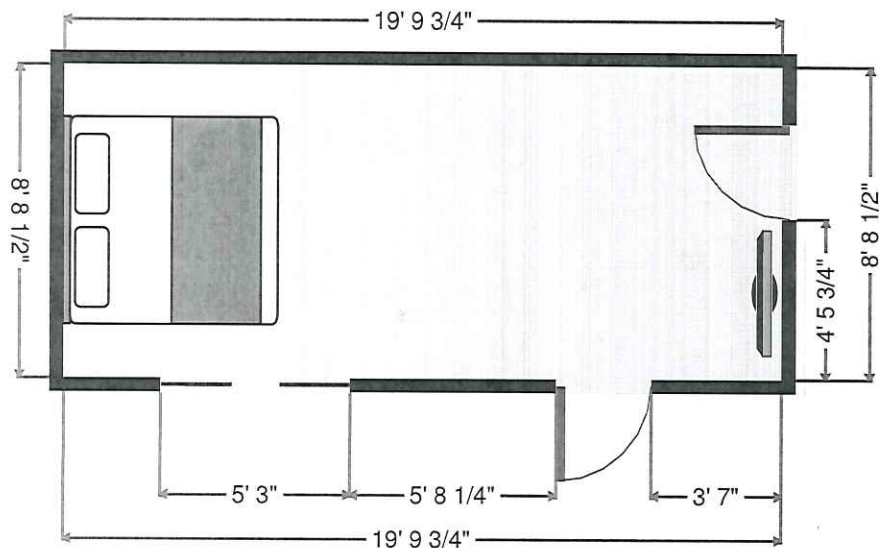
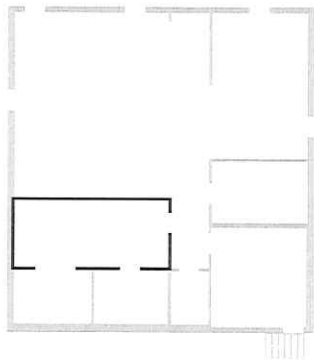


Plan 2

2016-11-29

Master Bedroom

Width: 8' 8 1/2"
Length: 19' 9 3/4"
Area: 172.57 sq ft
Perimeter: 57' 3/4"



Plan 2

2016-11-29

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Section 3.7 Commercial District C-2

- A. Statement of Intent. The intent of this zoning district is to recognize the existing commercial areas which are less densely developed than the C-1 District and to encourage compatible commercial uses and density. This area generally has been developed with larger lots and larger individual buildings.

The specific intent of this district is to recognize the existing and possibly new freestanding commercial development.

- B. Permitted Uses. The following uses are permitted by right:
1. All uses as allowed in C-1
 2. Nursing/retirement homes
 3. Any other commercial or professional use which is compatible in nature with the allowed uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission.
- C. Conditional Uses: Single family and multi-family dwellings provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (not access through commercial establishment on the first level).
- D. Height Regulations: Buildings may be erected up to 35 feet in height from the adjacent ground elevations.
- E. Area Regulations: The following area regulations shall apply as minimums for new development in this district:
1. Lot width at setback line 60
 2. Area requirements (60 x 150) 9,000
 3. Side yard 10
 4. Rear yard 10 or prevailing rear yard if less
 5. Front setback shall be determined by the average setback of the existing built up commercial area.
- F. Development/Redevelopment Standards, Other Requirements, and Accessory Uses. The standards for development and/or redevelopment, specific additional requirements, and accessory uses shall be the same as those listed and described for the C-1.
- G. Sign design shall relate to the architectural character of the building and, if ground mounted, shall be appropriately landscaped.

Section 4.3 Conditional Use Permits

A. Statement of Intent. The purpose of this section is to recognize certain uses which, by nature, can have a potentially unfavorable impact on or be incompatible with other uses of land within a given zoning district. These uses, as described, may be permitted within given designated districts under controls, limitations, and regulations of a conditional use permit. It shall be the duty of the Town Council under the provisions of this ordinance to evaluate the impact and the compatibility of each use and to stipulate such conditions and restrictions including those specifically contained herein as will assure the use being compatible with the neighborhood in which it is located, both in terms of existing land uses and conditions and in terms of development proposed or permitted by right in the area or, where that cannot be accomplished, to deny the use as not being in accordance with the adopted comprehensive plan or as being incompatible with the surrounding neighborhood.

B. Conditions for Issuance. Conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:

1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. Be in conflict with the purpose of the comprehensive plan of the town.

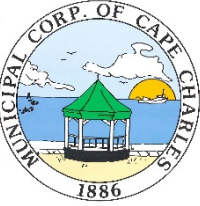
In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

C. Procedures. Written application for a conditional use permit may be made by any property owner, tenant, department, board, or bureau of any government agency. The application shall be filed with the Zoning Administrator on forms provided by the town. The application shall be accompanied by a fee established by separate ordinance by the Town Council to defray cost of advertising and processing the application. A site plan in accordance with the site plan ordinance shall be submitted with each application. A list of additional required permits shall be submitted with the application and shall be submitted to the Planning Commission with the application, and the Zoning Administrator may add any additional required permits. Changes to the additional permit list may be made by mutual consent of the applicant and the commission. No changes shall be made to the list after the Planning Commission recommendations to Town Council. Conditional use permits shall include a disclosure statement, signed by the applicant and notarized, of the equitable ownership of the real estate affected, which shall list the names and addresses of all the adjacent property owners and interested parties, including applicant, owners, contractors, purchasers, and lessees of the land described in the application, all partners, both general and limited, and partnerships, stockholders, officers, and directors. The applicant shall keep this information current at all times during the processing of the application. The procedures for approval of a conditional use permit shall be the same as those prescribed for zoning changes as set forth in this ordinance.

1. Action by the Zoning Administrator. The Zoning Administrator shall study the application and determine whether the proposed conditional use conforms to the general purpose and intent of the comprehensive plan, any applicable regulations that have been adopted, and the requirements of this ordinance. Upon completion of such review, if the administrator shall determine that any proposal in the application does not meet the requirements of this ordinance, he/she shall reject the application and return it to the applicant. If the applicant does meet the requirements of this ordinance, the administrator shall transmit all the findings and recommendations to the Planning Commission. However, nothing herein shall prohibit the administrator from accepting a conditional use permit application if failure to meet applicable requirements is due solely to area or dimension insufficiency of the lot upon which it is proposed. Any appeal of the Zoning Administrator may be made directly to the town manager.
 2. Action by the Planning Commission. After receiving the report of the administrator with all pertinent materials, the Planning Commission shall give notice of and hold a public hearing. Within 45 days after the hearing, the Commission shall submit its recommendations to the Town Council through the Zoning Administrator. Upon mutual agreement between the Commission and the applicant, such time may be extended.
 3. Action by the Town Council. After receiving the recommendations of the Zoning Administrator and the Planning Commission, the Town Council shall hold a public hearing and act upon the proposed conditional use permit, granting the applicant in whole or in part, with or without modifications, or denying the proposed application. In addition to the general or specific requirements set forth in the ordinance concerning the proposed use, which shall be considered minimum requirements with respect to the permit, additional requirements, conditions, and safeguards may be added by the Town Council as required for the protection of the public interest in the specific case.
- D. Approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications.
1. Staff shall notify Town Council of the date that all additional permits have been approved which date shall be the commencement date for the one (1) year Conditional Use Permit
 2. Staff shall notify Town Council of the status of the project at a regular meeting prior to the expiration of the one (1) year Conditional Use Permit.
- If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown

before the expiration of the Conditional Use Permit. Town Council may make additional one-year extensions for good cause. To be considered acted upon one (1) or more of the following is required:

1. The procurement of a Cape Charles Building Permit
 2. Payment of Water and Wastewater Connection and Facility Fees
 3. Completed Plans stamped by a Virginia Licensed Professional
- E. No application for a use permit for the same conditional use on a lot, parcel, or tract shall be considered by the Town Council within a one-year period from its last consideration. The provisions, however, shall not impair the right of the Town Council to propose a use permit on its own motion if it finds that there is public benefit to be gained.
- F. Revocation of a Conditional Use. If the provisions of this ordinance or the requirements of the conditional use permit are not met, then the Town Council may revoke the conditional use permit provided that ten days' written notice is given to the applicant.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Conditional Use Permit Application – 301 Mason Avenue (tax map #83A3-1-615B)		AGENDA DATE April 15, 2021
	SUBJECT/PROPOSAL/REQUEST: Conditional Use Permit for 301 Mason Avenue		ITEM NUMBER: 7C
	ATTACHMENTS: Planning Commission Staff Report & CUP Application		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

On February 15, 2021, an application was received Chris Elam, applicant, with consent from the property owner John & Clelia Sheppard, for a Conditional Use Permit for the property located at 301 Mason Avenue (Tax Ma 83A3-1-615B) with the project name of Lemon Tree Apartments.

The property is zoned Commercial District C-1 which allows for a dual use of Commercial/ Residential. The applicant has submitted a floor plan for two residential units on the second floor of this building.

The Cape Charles Zoning Ordinance, pursuant to Section 3.6 (C), allows for a residential unit above first floor commercial provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (no access through the commercial establishment on the first floor) through a Conditional Use Permit.

The applicant, Chris Elam, AIA, has stated that the property owner is seeking to remodel/renovate the second floor of the existing structure to create 2 apartment suites. If the Conditional Use Permit is acted upon favorably by the Town, they would also be seeking all required Town approvals to add a column-supported porch above the existing front entry thus creating a second story outdoor balcony and adding “juliette” style balconies at the existing second floor windows along Strawberry Street.

ITEM SPECIFICS:

Cape Charles Zoning Ordinance Section 4.3 states that “conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:

1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. Be in conflict with the purpose of the comprehensive plan of the town.

In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

Additionally, approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications. If not acted upon within one (1) year, the conditional use permit shall become null and void,

unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit.

A joint public hearing was held by the Planning Commission and Town Council on Tuesday, April 6, 2021. There were no public comments received and the hearing was closed. The Planning Commission reviewed the application and staff report and discussed the matter. A motion was made by Commissioner Paul Grossman and seconded by Commissioner Jim Holloway to recommend approval of a Conditional Use Permit at 301 Mason Avenue (Tax Map #83A3-1-615B), pursuant to Cape Charles Zoning Ordinance Section 3.6 (C) for a residential dwelling unit above commercial usage with the following conditions:

- 1.) the entrance for the residential unit has direct access to the street level and not be through the commercial use space;
- 2.) the applicant applies and obtain Historic District Review Board approval for all exterior improvements, in accordance with the Historic District Overlay and Guidance Documents; and
- 3.) the applicant obtains all required permits and approvals from the Building and Planning Department for all interior and exterior renovations;

and further finds that the CUP standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan. The motion was unanimously approved.

RECOMMENDATION:

Town Council is requested to review the application and staff report and to consider acting favorably on the Conditional Use Permit requested for 301 Mason Avenue and to accept the Planning Commission's recommendation.

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

The Cape Charles Town Council accepts the recommendation of the Planning Commission and approves a Conditional Use Permit at 301 Mason Avenue (Tax Map #83A3-1-615B), pursuant to Cape Charles Zoning Ordinance Section 3.6 (C) for a residential dwelling unit above commercial usage with the following conditions:

- 1.) the entrance for the residential unit has direct access to the street level and not be through the commercial use space;*
- 2.) the applicant applies and obtain Historic District Review Board approval for all exterior improvements, in accordance with the Historic District Overlay and Guidance Documents; and*
- 3.) the applicant obtains all required permits and approvals from the Building and Planning Department for all interior and exterior renovations;*

and further finds that the CUP standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan.



JOINT MEETING REPORT FOR PLANNING COMMISSION & TOWN COUNCIL STAFF REPORT

Meeting Date: April 6, 2021

Item #: 3b & 5c

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

Date: March 30, 2021

APPLICANT: Chris Elam, AIA,
w/consent from property owner
John & Clelia Shephard

SITE ADDRESS: 301 Mason Avenue

TAX MAP: 83A3-1-615B

TYPE OF APPLICATION: Conditional Use Permit

REQUEST: Section 3.6 (C) – Residential Units
above first floor commercial

CURRENT ZONING: Commercial C-1 District &
Historic District Overlay

LOT SIZE: 2,848 sq. ft.

DATE RECEIVED: February 15, 2021

DATE APPLICATION DEEMED COMPLETE: February 17, 2021

PLANNING COMMISSION PUBLIC HEARING: April 6, 2021

TOWN COUNCIL PUBLIC HEARING: April 6, 2021 (held jointly with Planning Commission)

LEGAL DEADLINES: Planning Commission Review Period (45 Days after Public Hearing): 5/21/2021
Town Council Decision (generally 90 days but not restrictive): 7/4/2021

On February 15, 2021, an application was received from Chris Elam, applicant, with consent from the property owner John & Clelia Sheppard, for a Conditional Use Permit for the property located at 301 Mason Avenue (Tax Ma 83A3-1-615B) with the project name of Lemon Tree Apartments.

The property is zoned Commercial District C-1 which allows for a dual use of Commercial/Residential. The applicant has submitted a floor plan for two residential units on the second floor of this building. The Cape Charles Zoning Order, pursuant to Section 3.6 (C), allows for a residential unit above first floor commercial provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (no access through the commercial establishment on the first floor) through a Conditional Use Permit.

The applicant, Chris Elam, AIA, has stated that the property owner is seeking to remodel/renovate the second floor of the existing structure to create 2 apartment suites. If the Conditional Use Permit is acted upon favorably by the Town, they would also be seeking all required Town approvals to add a column-supported porch above the existing front entry thus creating a second story outdoor balcony and adding “juliette” style balconies at the existing second floor windows along Strawberry Street.

Cape Charles Zoning Ordinance Section 4.3 states that “conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:

1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. Be in conflict with the purpose of the comprehensive plan of the town.

In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

Additionally, approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications. If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit.

STAFF ANALYSIS:

The application for the renovation of the second story into two residential units with the first floor remaining as active commercial usage is consistent with the intent of the Cape Charles Zoning Ordinance Commercial C-1 District which is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.

The Cape Charles Comprehensive Plan Section III.2.1.1. recognizes that the Commercial District is a mix of small-scale, mixed use buildings characterized by retail, office, restaurant, educational, civic and entertainment uses on the street level, with residential uses on upper floors. Section III-A.5.1.3 has stated an overall policy to promote the mixed use as the preferred form of development in the Commercial District, specifically allowing residential and retail/commercial uses within the same building.

The renovation of this building through the addition of two residential dwelling units on the second floor and the commercial usage on the first floor is complementary to the district and provides a residential dwelling opportunity in space that was previously underutilized and it would be harmonious within the main commercial district. All exterior proposed improvements are subject to Historic District Review Board approval and obtaining a building permit for all proposed work to the interior and exterior work as required by the Building Code and Town Ordinances.

Staff finds that the application for a Conditional Use Permit pursuant to Section 3.6 (C) for a residential dwelling unit above commercial usage with the provision that the entrance for the 2 residential dwelling

units have direct access to the street level and not be through the commercial use meets and satisfies the requirements of the Town Zoning Ordinance, Section 4.3, as follows:

- 1) it does not adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood or adversely affect other land uses within the particular surrounding neighborhood;
- 2) it is not detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- 3) it is not in conflict with the purpose of the comprehensive plan of the town.

Staff acknowledges that additional issues or comments may arise through the public hearing on this matter and request that the Planning Commission consider said issues and/or comments as part of their deliberations.

RECOMMENDED ACTION FOR PLANNING COMMISSION:

Staff recommends that the Planning Commission consider recommending approval of the Conditional Use Permit to the Town Council with the following motion:

The Cape Charles Planning Commission recommends approval of a Conditional Use Permit at 301 Mason Avenue (Tax Map #83A3-1-615B), pursuant to Cape Charles Zoning Ordinance Section 3.6 (C) for a residential dwelling unit above commercial usage with the following conditions:

- 1.) the entrance for the residential units have direct access to the street level and not be through the commercial use space;*
- 2.) the applicant applies and obtain Historic District Review Board approval for all exterior improvements, in accordance with the Historic District Overlay and Guidance Documents; and*
- 3.) the applicant obtains all required permits and approvals from the Building and Planning Department for all interior and exterior renovations;*

and further finds that the CUP standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan.

RECOMMENDED ACTION FOR TOWN COUNCIL:

Staff recommends that the Town Council accept the Planning Commission's recommendation and consider approval of the Conditional Use Permit application at their scheduled meeting on April 15, 2021.

Attachments:

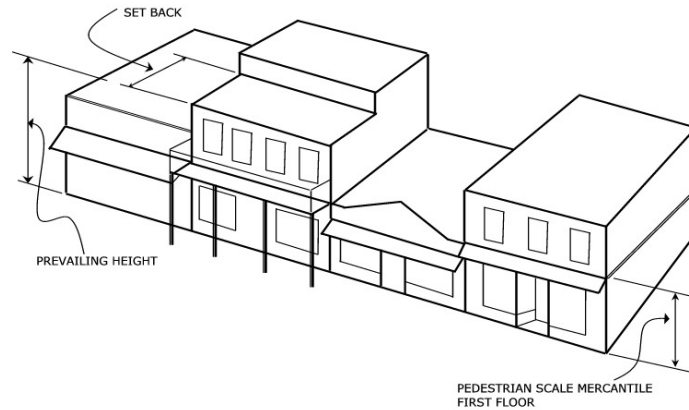
Attachment 1 - Application dated February 15, 2021

Attachment 2 – Cape Charles Zoning Ordinance Sections 3.6 & 4.3

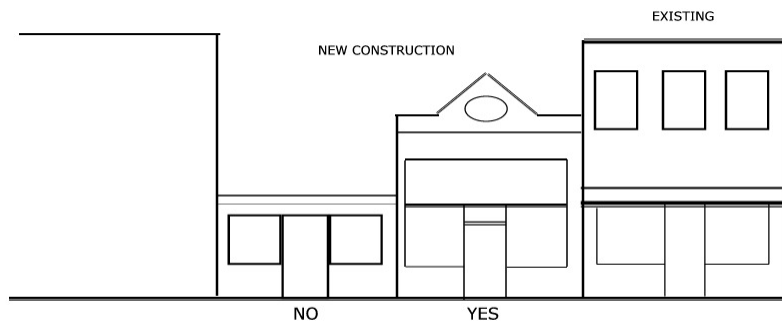
Section 3.6 Commercial District C-1

- A. Statement of Intent. The intent of this zoning district is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.
- B. Permitted Uses. The following uses are permitted by right:
1. Art or antique shops
 2. Auditoriums, theaters, and assembly halls
 3. Automobile repair and small engine repair
 4. Automobile service stations
 5. Bakeries, confectionaries, delicatessens, and catering services
 6. Barber shops and beauty parlors
 7. Bicycle and moped sales and rentals
 8. Blueprinting shops
 9. Boat sales
 10. Business and vocational schools
 11. Business studios, offices, and clinics
 12. Childcare and child care education centers
 13. Commercial schools of instruction
 14. Drug stores
 15. Dressmaking, tailoring, and millinery shops, dry cleaning shops
 16. Eating and drinking establishments
 17. Financial institutions
 18. Florists, gift shops, card shops, and stationery shops
 19. Funeral homes
 20. Furniture repair, sales and household appliance sales and repair, carpet and flooring sales
 21. Greenhouses and plant nurseries
 22. Grocery stores
 23. Hotels and motels
 24. Liquor stores
 25. Libraries, museums, or galleries
 26. Music stores
 27. Medical or dental or other laboratories
 28. Offices, office supply stores
 29. Public facilities, public buildings
 30. Restaurants
 31. Pet shops and pet supply stores
 32. Radio and television sales
 33. Upholstering shops and fabric stores
 34. Watch and jewelry stores
 35. Any use allowable in the S-C District.
 36. Any other commercial or professional use which is compatible in nature with the foregoing uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission.

- C. Conditional Uses: Single family and multi-family dwellings provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (not access through commercial establishment on the first level).
- D. Height Regulations: Buildings may be erected up to 40 feet in height from the adjacent ground elevations.
- E. Area Regulations: The following area regulations shall apply as minimums for new development in this district:
 - 1. Lot width at setback line 40
 - 2. Area requirements (40 x 140) 5,600
 - 3. Side yard 0; 5 and 10 feet in Route 184 area
 - 4. Rear yard 10 or prevailing rear yard if less
 - 5. Front setback shall be determined by the average setback of the existing built up commercial area. Front setback along Route 184 (aka Randolph Avenue extended; Old Stone Road) where existing VDOT right of way is 70 feet shall be measured at 80 feet from the center of the right of way.
- F. Development/Redevelopment Standards:
 - 1. Statement of Intent. The development standards below are intended to help preserve the architectural character of the Town of Cape Charles' commercial districts by requiring that all façade reconstruction/ rehabilitation must conform to the building style as described in the U.S. Department of Interior National Register without the addition to or removal of contributing elements. New construction, additions, and alterations must be compatible, sympathetic, and complementary to the original or existing buildings in built-up areas. Development concepts are illustrated below to clarify the intent of the development standards.
 - a. Scale. When the scale of neighborhood buildings is relatively consistent, new construction should be discouraged from drastically altering these relationships. In the Town of Cape Charles, the two- and three-story structure is the norm, and structures which digress from this standard to any great degree seriously impact the character of the Town of Cape Charles. If construction is to be allowed, particular attention should be given to the location, siting, setbacks, and façade treatments of the proposed building. No matter what size of the new building, the base of the building should be scaled to pedestrians.



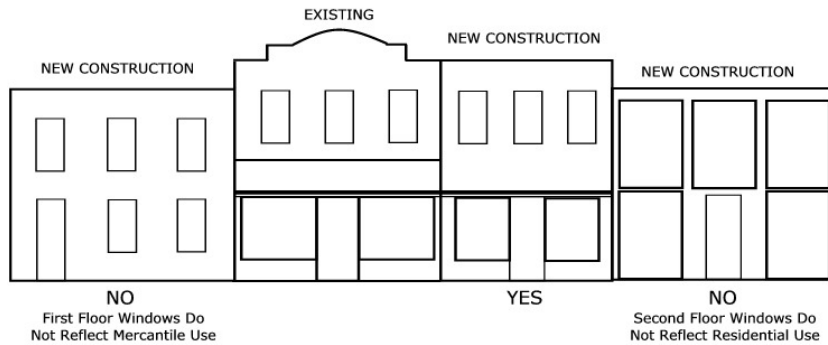
- b. **Floor-to-Floor Heights.** This important element of scale is often ignored in new construction, which tends toward lower ceiling heights. Floor-to-floor heights of new construction should be within 10 percent of neighborhood construction, where a relatively consistent floor-to-floor height is expressed in the facades of a given street.



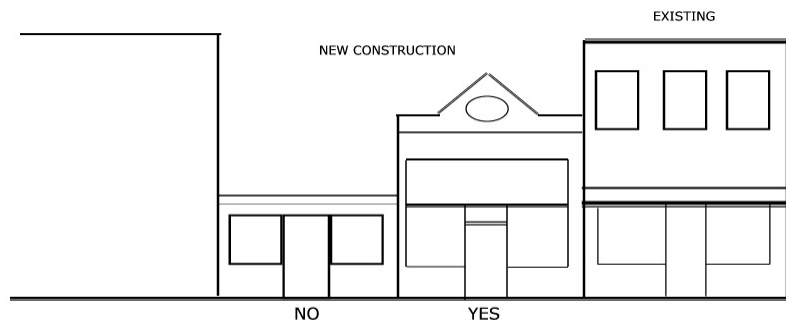
Single Story Buildings Should Reflect Scale of Neighborhood

- c. **Windows and Cornice Lines.** All first-floor facades shall have large glass areas which denote mercantile use. First-floor walls should be more than 50 percent glass. The first floor shall be distinguished from the upper floors by a cornice line if appropriate or other delineations such as transom windows, fabric awnings, or porches.

Windows above the first floor are to be more residential in scale and should be double hung, single or multiple, and vertical in proportion. Walls above the first floor should be more than 50 percent solid.



New construction of one-story buildings, such as some convenience stores and fast-food restaurants in commercial districts, intrude upon the character of the Town of Cape Charles and will only be permitted in infill situations and must meet all other development standards. There are many examples of convenience stores and fast-food chain restaurants being successfully integrated into a historic context.



Single Story Buildings Should Reflect Scale of Neighborhood

- d. Massing. The facades of new construction should reflect the sense of lightness or weight of neighboring buildings by using similar proportions of solids (siding or walls) to void (window and door openings) and projecting bays and overhangs.
- e. Materials. New construction should use materials in a manner sympathetic to the historic buildings in the Town of Cape Charles. Materials should be of similar or complementary color, size, texture, scale, craftsmanship, and applicability to function performed.

It should be noted that the sympathetic use of materials does not imply that materials used in new construction will replicate the old in detail nor that new construction will attempt to imitate historic structures. Rather, it is a matter of determining the compatibility of the new with the old. Certain materials are potentially so visually intrusive that their use for new construction in the Town will not be permitted. These materials include:

- aluminum or vinyl siding
- asphalt siding

- carpeted porch floors and steps
 - corrugated metal, except for roof applications
 - exposed concrete block above foundation level
 - exposed concrete masonry
 - faux brick and stone (brick face)
 - flush exterior doors
 - inappropriate window treatments
 - jalousie windows
 - picture windows
 - windows with horizontal glazing
 - metal or wood awnings
 - open mesh-type fencing
 - ornamental pierced concrete masonry screens and walls
 - painted concrete masonry
 - unpainted wood
 - vertical plywood siding
 - vertical wood siding on primary structures
 - wrought iron and aluminum porch columns
- f. Siting. The siting of new construction in the commercial district shall conform to the building line of adjacent buildings. New commercial buildings should occupy the full width of their lot at the street line except in the Route 184 corridor. Freestanding "object" buildings that do not conform to the street and lot lines will not be permitted in the Mason Avenue from Harbor to Peach historic context. Where a commercial building is built adjacent to a vacant lot, it should be built with a party wall in anticipation of subsequent new construction being built adjacent and up to the property line. Probably the single most damaging siting of a commercial building is toward the rear of the lot with parking between the building and the street.
- g. Utilities. Upon installation or replacement of utility access lines, such lines shall be installed underground.
1. Demolition. The owner of a building or structure within the Town shall be entitled to raze or demolish such building or structure provided that he has applied to the Building Official for such right. An owner is entitled to raze or demolish his property pursuant to the procedure outlined in Article IV of the Town Zoning Ordinance.
3. Demolition-By-Neglect. No officially designated contributing building, structure, or site within the Town shall be allowed to deteriorate due to neglect by the owner which would result in violation of the intent of this ordinance. Demolition-by-neglect shall include any one or more of the following courses of action or inaction:
- a. Deterioration of the exterior of a building to the extent that it creates or permits a hazardous or unsafe condition.
 - b. Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, windows, brick, plaster or mortar to the extent that it adversely affects the character of the district or could lead to irreversible damage to the structure.

- c. Defective or deteriorated flooring or floor supports or flooring or floor supports of insufficient size to carry imposed loads with safety.
- d. Any fault in the building or structure which renders the same structurally unsafe or not properly watertight.

If the Building Official determines that a structure is being demolished by neglect, it shall send notification to the owners stating the reasons therefore and shall give the owner thirty days to respond with a plan of action and ninety days from the date of the notice in which to commence work. If appropriate action is not taken at this time, the Zoning Administrator may initiate appropriate legal action as provided further in this chapter.

4. Penalties for Noncompliance.

- a. Failure to correct a defect after a notice that the Building Official has determined that a property is being demolished by neglect according to Section 4.11 of this ordinance shall constitute a misdemeanor. Such misdemeanor shall be punished as set forth in §§ 18.2-9, 18.2-11 and §15.2-1429 of the Code of Virginia 1950 as amended. Each day that the violation continues is a separate offense.
- b. Any property owner in the District who does not obtain approval as required within this ordinance shall be guilty of a misdemeanor and may be punished as set forth in §§ 18.2-9, 18.2-11 and §15.2-1429 of the Code of Virginia 1950 as amended.
- c. Nothing in this chapter shall be deemed to restrict or prohibit the Town Council to acquire in any legal manner any historic area, site, building, or structure or the land pertaining thereto for the use, observation, education, pleasure, and welfare of the citizens of the Town.

G. Additional Requirements

- 1. Architectural Treatment. No building exterior (whether front, side, or rear) will consist of architectural materials inferior in quality, appearance, or detail to any other exterior of the same building. Nothing in this section shall preclude the use of different materials on different building exteriors (which would be acceptable if representative of good architectural design) but rather shall preclude the use of inferior materials on sides which face adjoining property and thus might adversely impact existing or future development causing a substantial depreciation of property values. No portion of a building constructed of unadorned concrete or concrete block or corrugated and/or sheet metal shall be visible from any adjoining agricultural or residential district or public right-of-way. Mechanical equipment whether ground level or roof top shall be shielded and screened from public view and designed to be perceived as an integral part of the building.
- 2. Driveways and Parking Areas. Driveways and parking areas shall be paved with concrete, bituminous concrete, or other similar material. Surface penetration treated parking areas and drives shall be prohibited. Concrete curbs and gutters shall be installed around the perimeter of all driveways and parking areas. Other curbing material of similar quality like brick or cobblestone shall be permitted at

the discretion of the director of planning. Drainage shall be designed to meet the requirements of the Virginia Department of Transportation.

3. New in-fill structures or change of use projects on the first floor of structures in C-1 shall be exempt from complying with the exact requirements of Section 4.5.(A), Section 4.6, and Table 4.8. Owners are encouraged to provide off street parking for themselves, employees, and loading facilities where possible (i.e., alleys to backyard areas). Owners shall evaluate existing parking and access and submit proposed plan to Town for review. Projects will be evaluated on a case-by-case basis. New or change of use second- or third-floor projects shall be required to conform to the parking requirements as set forth herein.
4. Outside Storage Areas. All outdoor storage areas shall be visually screened from public streets, internal roadways, and adjacent property. Screening shall consist of either a ventilated solid board fence, masonry wall, dense evergreen plant materials, or such other materials as may be approved. All such screening shall be of sufficient height to screen storage areas from view. Outdoor storage shall include the parking of all company owned and operated vehicles with the exception of passenger vehicles.

H. Accessory Uses: Within the C-1 District the following accessory uses shall be permitted:

1. Only those uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure;
2. Temporary licensed uses such as festivals, outdoor displays, gatherings, performances, and open-air food markets;
3. Porches, terraces, balconies, sun porches, decks, patios, etc. may not be enclosed without obtaining proper permits and variances from the Board of Zoning Appeals if required by the regulations of this ordinance.

Section 4.3 Conditional Use Permits

A. Statement of Intent. The purpose of this section is to recognize certain uses which, by nature, can have a potentially unfavorable impact on or be incompatible with other uses of land within a given zoning district. These uses, as described, may be permitted within given designated districts under controls, limitations, and regulations of a conditional use permit. It shall be the duty of the Town Council under the provisions of this ordinance to evaluate the impact and the compatibility of each use and to stipulate such conditions and restrictions including those specifically contained herein as will assure the use being compatible with the neighborhood in which it is located, both in terms of existing land uses and conditions and in terms of development proposed or permitted by right in the area or, where that cannot be accomplished, to deny the use as not being in accordance with the adopted comprehensive plan or as being incompatible with the surrounding neighborhood.

B. Conditions for Issuance. Conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:

1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. Be in conflict with the purpose of the comprehensive plan of the town.

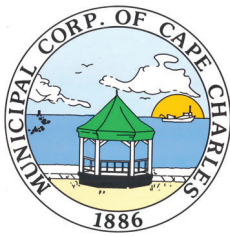
In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

C. Procedures. Written application for a conditional use permit may be made by any property owner, tenant, department, board, or bureau of any government agency. The application shall be filed with the Zoning Administrator on forms provided by the town. The application shall be accompanied by a fee established by separate ordinance by the Town Council to defray cost of advertising and processing the application. A site plan in accordance with the site plan ordinance shall be submitted with each application. A list of additional required permits shall be submitted with the application and shall be submitted to the Planning Commission with the application, and the Zoning Administrator may add any additional required permits. Changes to the additional permit list may be made by mutual consent of the applicant and the commission. No changes shall be made to the list after the Planning Commission recommendations to Town Council. Conditional use permits shall include a disclosure statement, signed by the applicant and notarized, of the equitable ownership of the real estate affected, which shall list the names and addresses of all the adjacent property owners and interested parties, including applicant, owners, contractors, purchasers, and lessees of the land described in the application, all partners, both general and limited, and partnerships, stockholders, officers, and directors. The applicant shall keep this information current at all times during the processing of the application. The procedures for approval of a conditional use permit shall be the same as those prescribed for zoning changes as set forth in this ordinance.

1. Action by the Zoning Administrator. The Zoning Administrator shall study the application and determine whether the proposed conditional use conforms to the general purpose and intent of the comprehensive plan, any applicable regulations that have been adopted, and the requirements of this ordinance. Upon completion of such review, if the administrator shall determine that any proposal in the application does not meet the requirements of this ordinance, he/she shall reject the application and return it to the applicant. If the applicant does meet the requirements of this ordinance, the administrator shall transmit all the findings and recommendations to the Planning Commission. However, nothing herein shall prohibit the administrator from accepting a conditional use permit application if failure to meet applicable requirements is due solely to area or dimension insufficiency of the lot upon which it is proposed. Any appeal of the Zoning Administrator may be made directly to the town manager.
 2. Action by the Planning Commission. After receiving the report of the administrator with all pertinent materials, the Planning Commission shall give notice of and hold a public hearing. Within 45 days after the hearing, the Commission shall submit its recommendations to the Town Council through the Zoning Administrator. Upon mutual agreement between the Commission and the applicant, such time may be extended.
 3. Action by the Town Council. After receiving the recommendations of the Zoning Administrator and the Planning Commission, the Town Council shall hold a public hearing and act upon the proposed conditional use permit, granting the applicant in whole or in part, with or without modifications, or denying the proposed application. In addition to the general or specific requirements set forth in the ordinance concerning the proposed use, which shall be considered minimum requirements with respect to the permit, additional requirements, conditions, and safeguards may be added by the Town Council as required for the protection of the public interest in the specific case.
- D. Approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications.
1. Staff shall notify Town Council of the date that all additional permits have been approved which date shall be the commencement date for the one (1) year Conditional Use Permit
 2. Staff shall notify Town Council of the status of the project at a regular meeting prior to the expiration of the one (1) year Conditional Use Permit.
- If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown

before the expiration of the Conditional Use Permit. Town Council may make additional one-year extensions for good cause. To be considered acted upon one (1) or more of the following is required:

1. The procurement of a Cape Charles Building Permit
 2. Payment of Water and Wastewater Connection and Facility Fees
 3. Completed Plans stamped by a Virginia Licensed Professional
- E. No application for a use permit for the same conditional use on a lot, parcel, or tract shall be considered by the Town Council within a one-year period from its last consideration. The provisions, however, shall not impair the right of the Town Council to propose a use permit on its own motion if it finds that there is public benefit to be gained.
- F. Revocation of a Conditional Use. If the provisions of this ordinance or the requirements of the conditional use permit are not met, then the Town Council may revoke the conditional use permit provided that ten days' written notice is given to the applicant.



CONDITIONAL USE PERMIT APPLICATION

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

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

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

PROJECT INFORMATION

Name of Project: Lemon Tree Apartments

Property Address: 301 Mason Ave.

Brief Description of Project: remodel of existing second floor to be used as 2 apartments

Zoning District: C-1 Current Use: business Proposed Use: residential

OWNER INFORMATION

Name and Company: John & Clelia Sheppard_ Lemon Tree Gallery

Mailing Address: 301 Mason Ave.

Phone Number: 757-651-1000 Email: cleliart@hotmail.com

APPLICANT INFORMATION

☐ check here if applicant is owner

Name: Chris Elam, AIA

Mailing Address: 4356 Bonney Rd., Bldg #3, suite #102, Virginia Beach, VA 23452

Phone Number: 757-498-9800 Email: celam@gmfplus.com

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: Chris Elam Digitally signed by Chris Elam
Date: 2021.02.15 14:04:53 -05'00' Date: 2-15-21

GMF+ ASSOCIATES

4356 BONNEY RD. BLDG 3, SUITE 102, VIRGINIA BEACH, VA 23452
(757) 498-9800

Planning Department
Town of Cape Charles
2 Plum Street
Cape Charles, Virginia 23310

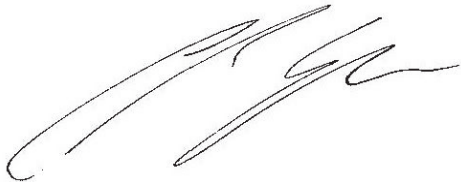
February 17, 2021

Subject: 301 Mason Ave. Conditional Use Application Letter of Intent

The proposed project includes remodeling of the existing second floor space at 301 Mason Ave. to convert existing, non-occupied commercial space into two (2) apartment units. One unit is planned to be 932 sf of rentable square feet with a 320 square foot balcony. The second unit is planned to be 912 sf of rentable square feet. The new balcony will be constructed in the area currently covered by an awning and currently enclosed at the street level by an existing metal railing.

The existing stairwell which provides access to the second floor, and which serves two properties and is within an easement, will be left in place with new stairs being constructed within.

If you have any other questions regarding the information provided here, please do not hesitate to inform us. We will do everything possible to respond quickly.



Sincerely,

Christopher Elam, AIA



SURVEYOR'S CERTIFICATION

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

OWNER TABLE

TAX PARCEL	OWNER(S)	SOURCE OF TITLE	REFERENCE PLAT(S)
83A3-1-613B	ARTS ENTER CAPE CHARLES, INC	D.B. 306, P.532	P.B. 26, P. 92
83A3-1-615A	ARTS ENTER CAPE CHARLES, INC.	D.B. 299, P. 30	P.B. 4, P. 171
83A3-1-615B	THOMAS & MALVINA FAMILY LIMITED PARTNERSHIP & GEORGE J. SAVAGE	D.B. 315, P. 575 W.B. 60, P. 481	P.B. 4, P. 171
83A3-1-614C	ARTS ENTER CAPE CHARLES, INC.	D.B. 299, P. 30	P.B. 4, P. 171
83A3-1-612A	PATRICK HAND	INST. 100001394	D.B. 144, P. 43 (PLAT)
83A3-1-616A	PATRICK HAND	INST. 100001394	D.B. 144, P. 43 (PLAT)
83A3-1-614B	AUSTIN C. DAVIS & KAREN JOLLY DAVIS	D.B. 315, P. 146	P.B. 4, P. 171
83A3-1-611A	PATRICK HAND	INST. 100001394	D.B. 144, P. 43 (PLAT)
83A3-1-616C	ARTS ENTER CAPE CHARLES, INC	D.B. 306, P.532 D.B. 293, P.120	P.B. 26, P. 92
83A3-1-612B	PATRICK HAND	INST. 100001394	D.B. 140, P. 40 (PLAT) P.B. 26, P. 92

GENERAL NOTES:

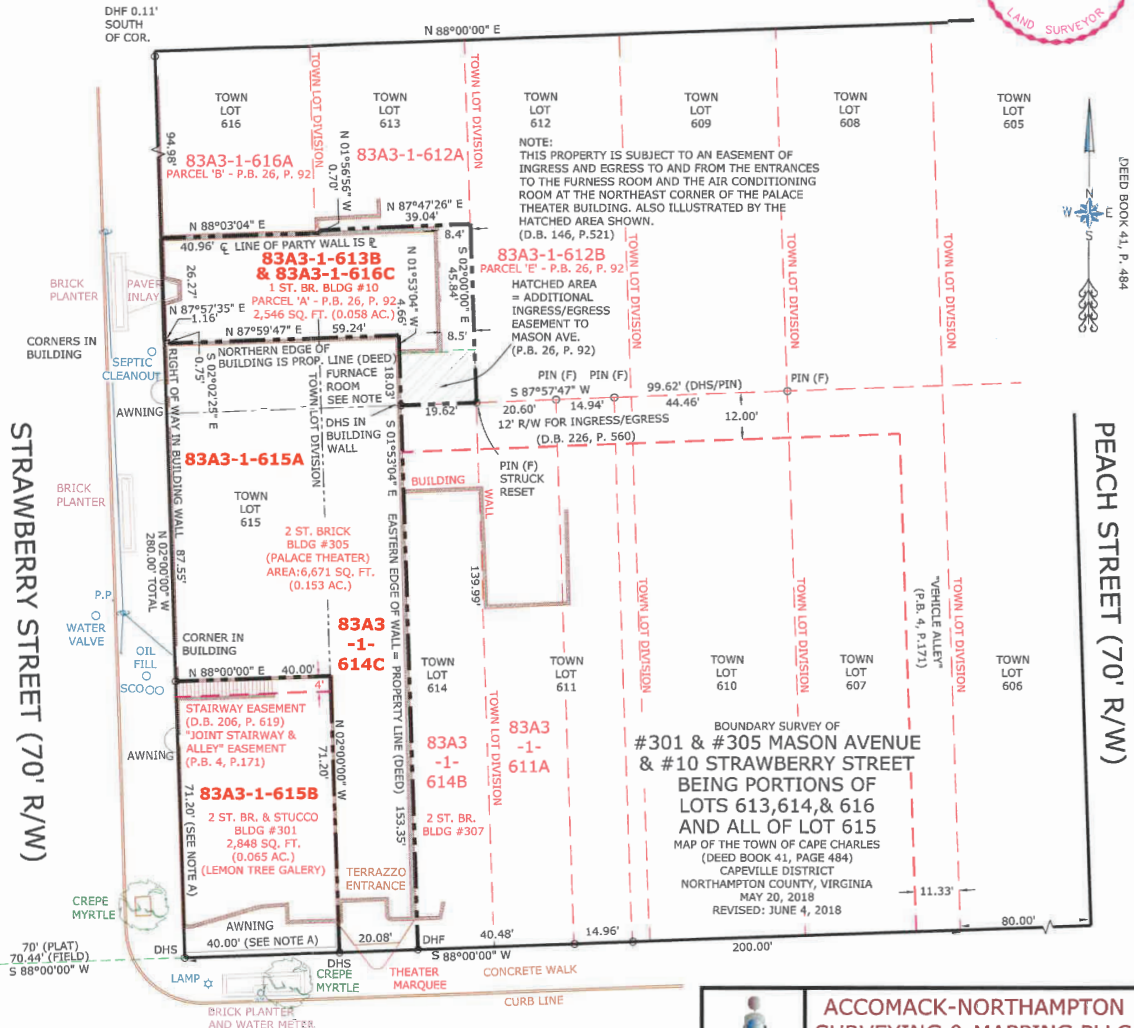
1. A SURVEY WAS PERFORMED ON THIS PROPERTY IN MAY 2018 WITH A BOUNDARY CLOSURE WHOSE PRECISION EXCEEDS 1:10,000.
2. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN OR WETLANDS, ENVIRONMENTAL HAZARDS, CEMETERIES AND UNDERGROUND STRUCTURES NOT OBSERVED DURING THE COURSE OF THE SURVEY.
3. ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 51131C0295F, DATED 03-02-15, THE PROPERTY SHOWN HEREON LIES IN FLOOD ZONE X. FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAP AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE. FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAPS. FOR FURTHER INFORMATION AND TO CONFIRM THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.
4. PLAT REFERENCES:
D.B. 144, P. 43 (PLAT)
D.B. 41, P. 484 (PLAT)
P.B. 25, P. 91
P.B. 26, P. 92
P.B. 4, P. 171
D.B. 97, P. 289 (PLAT)

NOTE A
D.B. 315, P. 575 : PARCEL 1-CAPEVILLE DRUG STORE
GIVES DIMENSIONS OF 40'8" X 63'3" FOR THE
BOUNDARY OF 83A3-1-615B. IT IS THE OPINION OF
THIS SURVEYOR THAT THE MEASUREMENTS REPORTED
WERE AS MEASURED BY J. THOMAS SAVAGE ALONG
THE BUILDINGS AND NOT ALONG THE PROPERTY LINE
AND RIGHT OF WAY LINE.

RANDOLPH AVENUE (70' R/W)

STRAWBERRY STREET (70' R/W)

MASON AVENUE (70' R/W)



DEED BOOK 41, P. 484

PEACH STREET (70' R/W)

BOUNDARY SURVEY OF
#301 & #305 MASON AVENUE
& #10 STRAWBERRY STREET
BEING PORTIONS OF
LOTS 613, 614, & 616
AND ALL OF LOT 615
MAP OF THE TOWN OF CAPE CHARLES
(DEED BOOK 41, PAGE 484)
CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VIRGINIA
MAY 20, 2018
REVISED: JUNE 4, 2018

ACCOMACK-NORTHAMPTON SURVEYING & MAPPING PLLC

36308 Lankford Highway, Belle Haven, Virginia 23306
Mail Address: 11403 Heron Drive, Machipongo, Virginia 23405
Phone: (757) 709-4192

DRAWN BY: CROCKETT SCALE: 1" = 20'
CHK'D BY: M.B.P. BACK TRAV. BY: CROCKETT
FIELD BOOK: 17, P. 13 JOB NUMBER: 770



VIEW FROM SOUTH WEST

LEMON TREE MIXED USE

A PROPOSED MIXED USE REMODEL/RENOVATION

301 MASON AVE.
CAPE CHARLES, VA

12/22/20

NEW JULIET BALCONY
& FRENCH DOORS AT
EXISTING WINDOW LOCATION

RESTORED HISTORIC MURAL

NEW BALCONY W/ BLACK
METAL GUARD RAIL & BLACK
METAL COLUMNS



AERIAL VIEW FROM WEST

LEMON TREE MIXED USE

A PROPOSED MIXED USE REMODEL/RENOVATION

301 MASON AVE
CAPE CHARLES, VA

12/22/20

GMF+ASSOCIATES

4356 BONNEY ROAD
BUILDING 3, SUITE 102
VIRGINIA BEACH, VA 23452
757 498-9900
WWW.GMFLUX.COM

© GMF ASSOCIATES 2020

NEW JULIET BALCONY
& FRENCH DOORS AT
EXISTING WINDOW LOCATION

NEW BALCONY W/ BLACK
METAL GUARD RAIL & BLACK
METAL COLUMNS

NEW DOORS IN EXISTING
WINDOW LOCATIONS



AERIAL VIEW FROM SOUTH WEST

LEMON TREE MIXED USE

A PROPOSED MIXED USE REMODEL/RENOVATION

301 MASON AVE
CAPE CHARLES, VA

12/22/20

YEAR EDITION OF CODE	2015 VIRGINIA EXISTING BUILDING CODE W/ PROVISIONS OF THE 2015 VIRGINIA CONSTRUCTION CODE
OCCUPANCY	MIXED USE, UNSEPARATED OCCUPANCIES R-3 (APARTMENT) AND M (MERCANTILE)
CONSTRUCTION TYPE	CONSTRUCTION TYPE Y-B SPRINKLERS FULL BUILDING NFPA 13R SPRINKLER SYSTEM LEVEL 3 ALTERATIONS TO A HISTORIC BUILDING
REQUIRED EXITS	MAXIMUM OCCUPANT LOAD OF SPACE WITH ONE EXIT= 10 TABLE 1006.2.1 FOR SPRINKLERED R-3 OCCUPANCY

ALLOWABLE AREA PER STORY	TABULAR R3- UNLIMITED M- 27,000 SF
ALLOWABLE STORIES ABOVE GRADE PLANE	TABULAR R3- 4 M- 2

GROUND FLOOR RETAIL SPACE
APPROXIMATELY 2,140 SQFT

APARTMENT UNIT #1
APPROXIMATELY 932 SQFT
BALCONY AREA: 320 SQFT

APARTMENT UNIT #2
APPROXIMATELY 912 SQFT

SHARED CORRIDOR
APPROXIMATELY 185 SQFT

ACCESSORY STORAGE SPACE
APPROXIMATELY 178 SQFT

EXISTING CONSTRUCTION
TO REMAIN

NEW FULL HEIGHT WALL



1 GROUND FLOOR PLAN



GMF+ASSOCIATES

4356 BONNEY ROAD
BUILDING 3, SUITE 102
VIRGINIA BEACH, VA 23452
(757) 498-9800

WEBSITE:
www.gmfplus.com

PRELIMINARY
NOT FOR
CONSTRUCTION

[illegible]

LEMON TREE MIXED USE

301 MASON AVE
CAPE CHARLES, VA

SHEET # *A-10*

DATE : OCTOBER, 2020

SCALE : AS NOTED

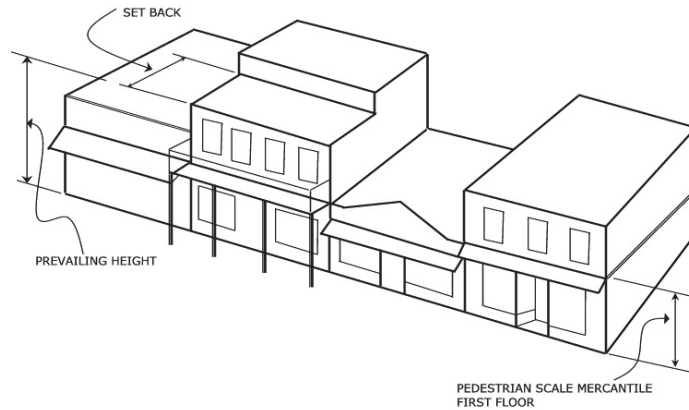
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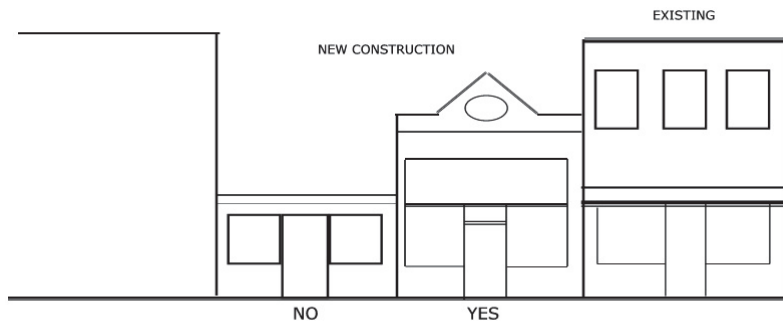
Section 3.6 Commercial District C-1

- A. Statement of Intent. The intent of this zoning district is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.
- B. Permitted Uses. The following uses are permitted by right:
1. Art or antique shops
 2. Auditoriums, theaters, and assembly halls
 3. Automobile repair and small engine repair
 4. Automobile service stations
 5. Bakeries, confectionaries, delicatessens, and catering services
 6. Barber shops and beauty parlors
 7. Bicycle and moped sales and rentals
 8. Blueprinting shops
 9. Boat sales
 10. Business and vocational schools
 11. Business studios, offices, and clinics
 12. Childcare and child care education centers
 13. Commercial schools of instruction
 14. Drug stores
 15. Dressmaking, tailoring, and millinery shops, dry cleaning shops
 16. Eating and drinking establishments
 17. Financial institutions
 18. Florists, gift shops, card shops, and stationery shops
 19. Funeral homes
 20. Furniture repair, sales and household appliance sales and repair, carpet and flooring sales
 21. Greenhouses and plant nurseries
 22. Grocery stores
 23. Hotels and motels
 24. Liquor stores
 25. Libraries, museums, or galleries
 26. Music stores
 27. Medical or dental or other laboratories
 28. Offices, office supply stores
 29. Public facilities, public buildings
 30. Restaurants
 31. Pet shops and pet supply stores
 32. Radio and television sales
 33. Upholstering shops and fabric stores
 34. Watch and jewelry stores
 35. Any use allowable in the S-C District.
 36. Any other commercial or professional use which is compatible in nature with the foregoing uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission.

- C. Conditional Uses: Single family and multi-family dwellings provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (not access through commercial establishment on the first level).
- D. Height Regulations: Buildings may be erected up to 40 feet in height from the adjacent ground elevations.
- E. Area Regulations: The following area regulations shall apply as minimums for new development in this district:
 - 1. Lot width at setback line 40
 - 2. Area requirements (40 x 140) 5,600
 - 3. Side yard 0; 5 and 10 feet in Route 184 area
 - 4. Rear yard 10 or prevailing rear yard if less
 - 5. Front setback shall be determined by the average setback of the existing built up commercial area. Front setback along Route 184 (aka Randolph Avenue extended; Old Stone Road) where existing VDOT right of way is 70 feet shall be measured at 80 feet from the center of the right of way.
- F. Development/Redevelopment Standards:
 - 1. Statement of Intent. The development standards below are intended to help preserve the architectural character of the Town of Cape Charles' commercial districts by requiring that all façade reconstruction/ rehabilitation must conform to the building style as described in the U.S. Department of Interior National Register without the addition to or removal of contributing elements. New construction, additions, and alterations must be compatible, sympathetic, and complementary to the original or existing buildings in built-up areas. Development concepts are illustrated below to clarify the intent of the development standards.
 - a. Scale. When the scale of neighborhood buildings is relatively consistent, new construction should be discouraged from drastically altering these relationships. In the Town of Cape Charles, the two- and three-story structure is the norm, and structures which digress from this standard to any great degree seriously impact the character of the Town of Cape Charles. If construction is to be allowed, particular attention should be given to the location, siting, setbacks, and façade treatments of the proposed building. No matter what size of the new building, the base of the building should be scaled to pedestrians.



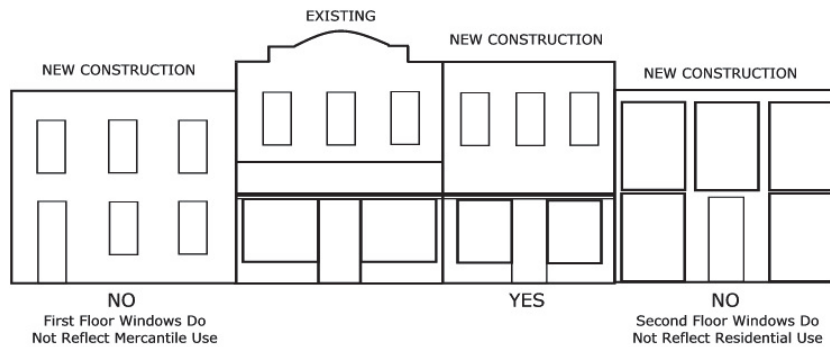
- b. Floor-to-Floor Heights. This important element of scale is often ignored in new construction, which tends toward lower ceiling heights. Floor-to-floor heights of new construction should be within 10 percent of neighborhood construction, where a relatively consistent floor-to-floor height is expressed in the facades of a given street.



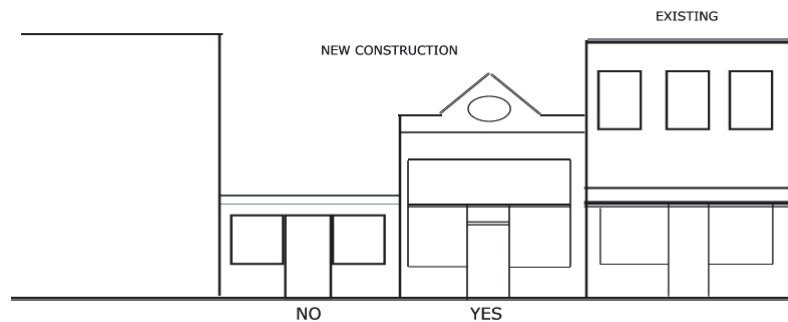
Single Story Buildings Should Reflect Scale of Neighborhood

- c. Windows and Cornice Lines. All first-floor facades shall have large glass areas which denote mercantile use. First-floor walls should be more than 50 percent glass. The first floor shall be distinguished from the upper floors by a cornice line if appropriate or other delineations such as transom windows, fabric awnings, or porches.

Windows above the first floor are to be more residential in scale and should be double hung, single or multiple, and vertical in proportion. Walls above the first floor should be more than 50 percent solid.



New construction of one-story buildings, such as some convenience stores and fast-food restaurants in commercial districts, intrude upon the character of the Town of Cape Charles and will only be permitted in infill situations and must meet all other development standards. There are many examples of convenience stores and fast-food chain restaurants being successfully integrated into a historic context.



Single Story Buildings Should Reflect Scale of Neighborhood

- d. Massing. The facades of new construction should reflect the sense of lightness or weight of neighboring buildings by using similar proportions of solids (siding or walls) to void (window and door openings) and projecting bays and overhangs.
- e. Materials. New construction should use materials in a manner sympathetic to the historic buildings in the Town of Cape Charles. Materials should be of similar or complementary color, size, texture, scale, craftsmanship, and applicability to function performed.

It should be noted that the sympathetic use of materials does not imply that materials used in new construction will replicate the old in detail nor that new construction will attempt to imitate historic structures. Rather, it is a matter of determining the compatibility of the new with the old. Certain materials are potentially so visually intrusive that their use for new construction in the Town will not be permitted. These materials include:

- aluminum or vinyl siding
- asphalt siding

- carpeted porch floors and steps
 - corrugated metal, except for roof applications
 - exposed concrete block above foundation level
 - exposed concrete masonry
 - faux brick and stone (brick face)
 - flush exterior doors
 - inappropriate window treatments
 - jalousie windows
 - picture windows
 - windows with horizontal glazing
 - metal or wood awnings
 - open mesh-type fencing
 - ornamental pierced concrete masonry screens and walls
 - painted concrete masonry
 - unpainted wood
 - vertical plywood siding
 - vertical wood siding on primary structures
 - wrought iron and aluminum porch columns
- f. Siting. The siting of new construction in the commercial district shall conform to the building line of adjacent buildings. New commercial buildings should occupy the full width of their lot at the street line except in the Route 184 corridor. Freestanding "object" buildings that do not conform to the street and lot lines will not be permitted in the Mason Avenue from Harbor to Peach historic context. Where a commercial building is built adjacent to a vacant lot, it should be built with a party wall in anticipation of subsequent new construction being built adjacent and up to the property line. Probably the single most damaging siting of a commercial building is toward the rear of the lot with parking between the building and the street.
- g. Utilities. Upon installation or replacement of utility access lines, such lines shall be installed underground.
1. Demolition. The owner of a building or structure within the Town shall be entitled to raze or demolish such building or structure provided that he has applied to the Building Official for such right. An owner is entitled to raze or demolish his property pursuant to the procedure outlined in Article IV of the Town Zoning Ordinance.
3. Demolition-By-Neglect. No officially designated contributing building, structure, or site within the Town shall be allowed to deteriorate due to neglect by the owner which would result in violation of the intent of this ordinance. Demolition-by-neglect shall include any one or more of the following courses of action or inaction:
- a. Deterioration of the exterior of a building to the extent that it creates or permits a hazardous or unsafe condition.
 - b. Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, windows, brick, plaster or mortar to the extent that it adversely affects the character of the district or could lead to irreversible damage to the structure.

- c. Defective or deteriorated flooring or floor supports or flooring or floor supports of insufficient size to carry imposed loads with safety.
- d. Any fault in the building or structure which renders the same structurally unsafe or not properly watertight.

If the Building Official determines that a structure is being demolished by neglect, it shall send notification to the owners stating the reasons therefore and shall give the owner thirty days to respond with a plan of action and ninety days from the date of the notice in which to commence work. If appropriate action is not taken at this time, the Zoning Administrator may initiate appropriate legal action as provided further in this chapter.

4. Penalties for Noncompliance.

- a. Failure to correct a defect after a notice that the Building Official has determined that a property is being demolished by neglect according to Section 4.11 of this ordinance shall constitute a misdemeanor. Such misdemeanor shall be punished as set forth in §§ 18.2-9, 18.2-11 and §15.2-1429 of the Code of Virginia 1950 as amended. Each day that the violation continues is a separate offense.
- b. Any property owner in the District who does not obtain approval as required within this ordinance shall be guilty of a misdemeanor and may be punished as set forth in §§ 18.2-9, 18.2-11 and §15.2-1429 of the Code of Virginia 1950 as amended.
- c. Nothing in this chapter shall be deemed to restrict or prohibit the Town Council to acquire in any legal manner any historic area, site, building, or structure or the land pertaining thereto for the use, observation, education, pleasure, and welfare of the citizens of the Town.

G. Additional Requirements

- 1. Architectural Treatment. No building exterior (whether front, side, or rear) will consist of architectural materials inferior in quality, appearance, or detail to any other exterior of the same building. Nothing in this section shall preclude the use of different materials on different building exteriors (which would be acceptable if representative of good architectural design) but rather shall preclude the use of inferior materials on sides which face adjoining property and thus might adversely impact existing or future development causing a substantial depreciation of property values. No portion of a building constructed of unadorned concrete or concrete block or corrugated and/or sheet metal shall be visible from any adjoining agricultural or residential district or public right-of-way. Mechanical equipment whether ground level or roof top shall be shielded and screened from public view and designed to be perceived as an integral part of the building.
- 2. Driveways and Parking Areas. Driveways and parking areas shall be paved with concrete, bituminous concrete, or other similar material. Surface penetration treated parking areas and drives shall be prohibited. Concrete curbs and gutters shall be installed around the perimeter of all driveways and parking areas. Other curbing material of similar quality like brick or cobblestone shall be permitted at

the discretion of the director of planning. Drainage shall be designed to meet the requirements of the Virginia Department of Transportation.

3. New in-fill structures or change of use projects on the first floor of structures in C-1 shall be exempt from complying with the exact requirements of Section 4.5.(A), Section 4.6, and Table 4.8. Owners are encouraged to provide off street parking for themselves, employees, and loading facilities where possible (i.e., alleys to backyard areas). Owners shall evaluate existing parking and access and submit proposed plan to Town for review. Projects will be evaluated on a case-by-case basis. New or change of use second- or third-floor projects shall be required to conform to the parking requirements as set forth herein.
4. Outside Storage Areas. All outdoor storage areas shall be visually screened from public streets, internal roadways, and adjacent property. Screening shall consist of either a ventilated solid board fence, masonry wall, dense evergreen plant materials, or such other materials as may be approved. All such screening shall be of sufficient height to screen storage areas from view. Outdoor storage shall include the parking of all company owned and operated vehicles with the exception of passenger vehicles.

H. Accessory Uses: Within the C-1 District the following accessory uses shall be permitted:

1. Only those uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure;
2. Temporary licensed uses such as festivals, outdoor displays, gatherings, performances, and open-air food markets;
3. Porches, terraces, balconies, sun porches, decks, patios, etc. may not be enclosed without obtaining proper permits and variances from the Board of Zoning Appeals if required by the regulations of this ordinance.

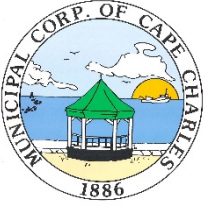
Section 4.3 Conditional Use Permits

- A. Statement of Intent. The purpose of this section is to recognize certain uses which, by nature, can have a potentially unfavorable impact on or be incompatible with other uses of land within a given zoning district. These uses, as described, may be permitted within given designated districts under controls, limitations, and regulations of a conditional use permit. It shall be the duty of the Town Council under the provisions of this ordinance to evaluate the impact and the compatibility of each use and to stipulate such conditions and restrictions including those specifically contained herein as will assure the use being compatible with the neighborhood in which it is located, both in terms of existing land uses and conditions and in terms of development proposed or permitted by right in the area or, where that cannot be accomplished, to deny the use as not being in accordance with the adopted comprehensive plan or as being incompatible with the surrounding neighborhood.
- B. Conditions for Issuance. Conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:
1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
 2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
 3. Be in conflict with the purpose of the comprehensive plan of the town.
- In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.
- C. Procedures. Written application for a conditional use permit may be made by any property owner, tenant, department, board, or bureau of any government agency. The application shall be filed with the Zoning Administrator on forms provided by the town. The application shall be accompanied by a fee established by separate ordinance by the Town Council to defray cost of advertising and processing the application. A site plan in accordance with the site plan ordinance shall be submitted with each application. A list of additional required permits shall be submitted with the application and shall be submitted to the Planning Commission with the application, and the Zoning Administrator may add any additional required permits. Changes to the additional permit list may be made by mutual consent of the applicant and the commission. No changes shall be made to the list after the Planning Commission recommendations to Town Council. Conditional use permits shall include a disclosure statement, signed by the applicant and notarized, of the equitable ownership of the real estate affected, which shall list the names and addresses of all the adjacent property owners and interested parties, including applicant, owners, contractors, purchasers, and lessees of the land described in the application, all partners, both general and limited, and partnerships, stockholders, officers, and directors. The applicant shall keep this information current at all times during the processing of the application. The procedures for approval of a conditional use permit shall be the same as those prescribed for zoning changes as set forth in this ordinance.

1. Action by the Zoning Administrator. The Zoning Administrator shall study the application and determine whether the proposed conditional use conforms to the general purpose and intent of the comprehensive plan, any applicable regulations that have been adopted, and the requirements of this ordinance. Upon completion of such review, if the administrator shall determine that any proposal in the application does not meet the requirements of this ordinance, he/she shall reject the application and return it to the applicant. If the applicant does meet the requirements of this ordinance, the administrator shall transmit all the findings and recommendations to the Planning Commission. However, nothing herein shall prohibit the administrator from accepting a conditional use permit application if failure to meet applicable requirements is due solely to area or dimension insufficiency of the lot upon which it is proposed. Any appeal of the Zoning Administrator may be made directly to the town manager.
 2. Action by the Planning Commission. After receiving the report of the administrator with all pertinent materials, the Planning Commission shall give notice of and hold a public hearing. Within 45 days after the hearing, the Commission shall submit its recommendations to the Town Council through the Zoning Administrator. Upon mutual agreement between the Commission and the applicant, such time may be extended.
 3. Action by the Town Council. After receiving the recommendations of the Zoning Administrator and the Planning Commission, the Town Council shall hold a public hearing and act upon the proposed conditional use permit, granting the applicant in whole or in part, with or without modifications, or denying the proposed application. In addition to the general or specific requirements set forth in the ordinance concerning the proposed use, which shall be considered minimum requirements with respect to the permit, additional requirements, conditions, and safeguards may be added by the Town Council as required for the protection of the public interest in the specific case.
- D. Approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications.
1. Staff shall notify Town Council of the date that all additional permits have been approved which date shall be the commencement date for the one (1) year Conditional Use Permit
 2. Staff shall notify Town Council of the status of the project at a regular meeting prior to the expiration of the one (1) year Conditional Use Permit.
- If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown

before the expiration of the Conditional Use Permit. Town Council may make additional one-year extensions for good cause. To be considered acted upon one (1) or more of the following is required:

1. The procurement of a Cape Charles Building Permit
 2. Payment of Water and Wastewater Connection and Facility Fees
 3. Completed Plans stamped by a Virginia Licensed Professional
- E. No application for a use permit for the same conditional use on a lot, parcel, or tract shall be considered by the Town Council within a one-year period from its last consideration. The provisions, however, shall not impair the right of the Town Council to propose a use permit on its own motion if it finds that there is public benefit to be gained.
- F. Revocation of a Conditional Use. If the provisions of this ordinance or the requirements of the conditional use permit are not met, then the Town Council may revoke the conditional use permit provided that ten days' written notice is given to the applicant.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Cape Charles Community Trail, Phase 4		AGENDA DATE April 15, 2021
	SUBJECT/PROPOSAL/REQUEST: Decide whether to commit to project execution.		ITEM NUMBER: 7D
	ATTACHMENTS: 2020 CAMP Schedule		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Bob Panek, Project Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Council adopted the Master Trail Plan on September 11, 2007. This multi-use trail is being constructed in phases. Eighty percent of the cost is funded by Federal grants under the Transportation Alternatives Program (TAP), administered by the Virginia Department of Transportation (VDOT). To date, \$4.4M of grant funding has been awarded. About \$1M was utilized for the Master Plan and for design, engineering and construction of Phase 1 in Central Park. About \$1.6M was utilized for Phase 2, north Peach St. and Washington Ave. About \$0.8M is allocated for Phase 3, south Peach St., and \$1M for Phase 4, Bay Avenue. Execution of the Phase 4 project has been delayed because of delays in closing out the Phase 2 contract and awarding the Phase 3 contract. A settlement agreement has been reached with the Phase 2 contractor and we are waiting approval by VDOT. However, VDOT is planning to deallocate the Phase 4 funding if the Town does not commit to execute the project.

DISCUSSION:

After receiving two high bids for construction of Phase 3, the plans and specifications were reviewed to incorporate cost reduction measures. The changes are being finalized for submission to VDOT by the end of April. We plan to advertise for bids in June and start construction in October if the project is included in the FY 2022 budget. The construction estimate is about \$930K, including a \$226K match by the Town. This project is included in the CAMP project schedule for FY 2022.

The Phase 4 project is being administered by VDOT, as it would have been difficult for the Town to satisfy the new requirements for project administration by localities. Staff has been working with the VDOT project manager to develop the project scope and cost estimate. The current estimate is \$981.4K; \$183.4K for engineering and \$798K for construction. The project would include the following: repairs to the concrete boardwalk, additional ADA ramps at Monroe and Washington, rebuilding the steps to include handrails, replacing the utility poles and highway style lights along the west side with decorative pedestrian lighting, two portable ADA beach access mats, new benches and trash receptacles. Engineering would occur in one fiscal year with construction the following year. The Town share would be \$36.7K and \$159.6K, respectively. This project is planned to commence in FY 2023 in the CAMP project schedule. To avoid deallocation of the TAP grant, VDOT is requiring that the Town execute a project agreement to commence engineering in FY 2022, one year earlier than now planned. If the TAP funds are deallocated, the Town will need to submit a new grant application which is due October 1. If approved, the new grant funds would be available in October 2022.

Approving the Phase 4 project agreement would commit the Town to include \$36.7K for the engineering work in the FY 2022 budget. This would preserve \$785K of already available TAP grant funding. When added to the match required for Phase 3 construction, the Town would be committing almost \$263K to the community trail project in FY 2022 and \$159.6K in FY 2023. This leverages almost \$1.5 million of currently available grant funding and is consistent with the community strategic goal recently approved by Council: To retain the small-town character of Cape Charles; maintain/improve walkability; continue community trail. The alternative is to reapply for the Phase 4 grant and, if approved, implement the project at least a year later.

We realize that this is putting the Council in a very tough spot. VDOT is not giving us the time to properly consider this as part of our normal FY22 budget process. Forcing us to make a decision now, in effect defeats the purpose of all the work we've been doing over the past year; in that we would not be making decisions strategically, but rather reactionarily, focusing on just one thing in isolation, without regard to the larger picture.

The current CAMP schedule calls for over \$780,000 of needs in FY22. Given our current operating deficit, we have not yet identified resources for any of it. The most important priority in the CAMP was scored against objective criteria and determined to be the Town Hall replacement-renovation. The Community Trail Projects scored below that (Phase 4 far below that).

This is not to say that we have no flexibility, or that the Council should not consider the value of potentially losing the leveraged funds. Only that if such a decision is made to elevate this project, we must acknowledge it comes at the opportunity cost of doing other things in the CAMP. For that reason, a copy of the latest approved CAMP schedule is included for reference.

RECOMMENDATION:

Staff recommends that Council consider the matter and provide direction.

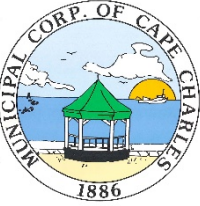
General Fund

Project List

Project name	Priority	Category	Level	Town Cost	2021	2022	2023	2024	2025	2026
Municipal Building Renovation or Replacement	High	I	A	\$ 985,000	\$ 85,000	\$ 450,000	\$ 450,000			
Storm Drain CCTV & Mapping, Phase 2	High	II	A	\$ 30,000		\$ 30,000				
Replace PW Butler Building	Medium	I	A	\$ 120,000			\$ 120,000			
Multi-Use Trail Phase 2 Closeout*	High	II	A	\$ 20,000	\$ 20,000					
Mason Ave Pull-in Parking	High	III	B	\$ 20,000	\$ 5,000	\$ 15,000				
Multi-Use Trail Phase 3 Construction*	High	III	B	\$ 200,000		\$ 200,000				
Replace Zip Line & Gaga Ball Pit in Park*	Medium	II	B	\$ 14,000		\$ 14,000				
South Beach Restroom Renovation*	Medium	II	B	\$ 40,000			\$ 40,000			
Beach Sand Mover/Blower	Medium	II	B	\$ 10,300			\$ 10,300			
Beach ADA Access Mats	High	III	B	\$ 10,000			\$ 10,000			
Park Gazebo Upgrades	Medium	II	B	\$ 25,000		\$ 25,000				
Tazewell Beach Access	Medium	II	B	\$ 25,000			\$ 25,000			
Town Trash Can Replacements	Medium	II	B	\$ 25,000		\$ 25,000				
Street Sweeper*	Medium	III	B	\$ 150,000			\$ 150,000			
Sidewalk Infill	Low	IV	C	\$ 582,000			\$ 22,000	\$ 20,000	\$ 365,000	\$ 175,000
Adult Game Area in the Park*	Low	IV	C	\$ 10,200			\$ 10,200			
Pine St Parking Lot	Low	IV	C	\$ 230,000				\$ 10,000	\$ 70,000	\$ 150,000
Multi-Use Trail Phase 4*	Low	IV	C	\$ 256,324			\$ 36,200	\$ 220,124		
Multi-Use Trail Phase 5*	Low	IV	C	\$ 119,200					\$ 19,000	\$ 100,200

GF Total - 2020 dollars	\$ 2,872,024	\$ 110,000	\$ 759,000	\$ 873,700	\$ 250,124	\$ 454,000	\$ 425,200
Inflation adjusted dollars (3%)	\$ 3,087,987	\$ 110,000	\$ 781,770	\$ 926,122	\$ 272,635	\$ 508,480	\$ 488,980
Harbor Fund	\$ 52,000		\$ 42,000	\$ 10,000			
Utilities Fund	\$ 8,707,000	\$ 55,000	\$ 136,000	\$ 792,000	\$ 340,000	\$ 2,050,000	\$ 5,400,000
Sanitation Fund	\$ 12,000					\$ 12,000	
Grand Total - 2020 dollars	\$ 11,643,024	\$ 165,000	\$ 937,000	\$ 1,675,700	\$ 590,124	\$ 2,516,000	\$ 5,825,200
Inflation adjusted dollars (3%)	\$ 13,018,687	\$ 165,000	\$ 965,110	\$ 1,776,242	\$ 595,435	\$ 2,817,920	\$ 6,698,980

*Partially Grant Funded

 TOWN OF CAPE CHARLES	AGENDA TITLE: Request VDOT to Reduce the Speed Limit on Portions of Stone Road		AGENDA DATE April 15, 2021
	SUBJECT/PROPOSAL/REQUEST: Approve Resolution 20210415 Requesting VDOT to Reduce the Speed Limit on Portions of Stone Road		ITEM NUMBER: 7E
	ATTACHMENTS: Resolution 20210415		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Cape Charles is a golf cart friendly community, where residents and visitors alike routinely travel around town on golf carts. When the Cape Charles Brewing Company (Brewery) opened, there was concern that patrons would try to travel there via golf carts as well. But due to safety concerns golf carts are only permitted to operate within speed zones of 25 MPH or less, and the speed limit at the Brewery was above this limit.

To enable safe passage of golf carts to the Brewery, the Town Council passed resolution 20170420 in 2017 requesting VDOT to extend the existing speed limit of 25 MPG on Stone Road all the way to the Brewery. In response to the Town's request VDOT conducted a traffic study of that area in 2018 and determined that a reduction in the speed limit was not warranted.

ITEM SPECIFICS:

The 2018 VDOT traffic study was conducted before the Brewery was fully operational and established a successful business. During the intervening years, traffic to/from the Brewery has increased, and additional businesses are in development in the same portion of Stone road between the Museum and the Brewery.

Due to continuing concerns about general safety (not just golf cart traffic) on this portion of Stone Road, the Town Council expressed interest in considering another resolution to again request VDOT to consider reducing the speed limit in this area. The attached resolution is provided for this purpose.

RECOMMENDATION:

Consider the proposed resolution. If acceptable, staff recommends a roll call vote to adopt Resolution 20210415

RESOLUTION 20210415

REQUESTING THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO MODIFY THE SPEED LIMIT ON A PORTION OF ROUTE 184/STONE ROAD

WHEREAS, the Town of Cape Charles was designated a Golf Cart Community by the Virginia General Assembly and the use of golf carts is promoted as an alternative means of transportation within the town; and

WHEREAS, due to safety concerns, golf carts may only operate within speed zones of 25 MPH or less; and

WHEREAS, the Cape Charles Brewing Company, located at 2198/2218 Stone Road, is within the town limits of Cape Charles and has approximately 1,500 feet of road frontage on Stone Road, which is maintained by the Virginia Department of Transportation (VDOT); and

WHEREAS, the current speed limit on Route 184/Stone Road is 55 MPH and drops to 40 MPH on the eastern portion of Cape Charles Brewing Company's property; and

WHEREAS, approximately 1,500 feet from the property, the speed limit drops to 25 MPH with the majority of the town at that speed limit; and

WHEREAS, the Town of Cape Charles adopted Resolution 20170420 requesting VDOT to reduce the speed limit on Stone Road by the Cape Charles Brewing Company's property; and

WHEREAS, VDOT concluded a traffic study of the subject area on June 29, 2018 that did not recommend reduction of the speed limit; and

WHEREAS, the VDOT traffic study was conducted before the Cape Charles Brewing Company fully opened and became a thriving destination, increasing traffic flow and other traffic incidents; and

WHEREAS, since the VDOT traffic study was conducted, several additional businesses have begun development along Stone Road near the Cape Charles Brewing Company; and

WHEREAS, the Cape Charles Brewing Company is a production site and retail restaurant/tasting room with about twenty (20) employees on a daily basis and attracts large numbers of residents, tourists and visitors annually; and

WHEREAS, the business receives a number of deliveries from suppliers and distributors on a daily basis; and

WHEREAS, due to the Cape Charles Brewing Company's building proximity to the road and the continued development of the area; the reduction in speed would more safely accommodate the public and allow motorists to more easily and safely travel on Route 184/Stone Road;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of Cape Charles, Virginia supports the extension of the existing 25 MPH speed limit past the Cape Charles Brewing Company property located at 2198/2218 Stone Road to Hermitage Road, for the safety of the employees, customers, residents, and visitors to the Cape Charles Brewing Company and the Town of Cape Charles; and

BE IT FURTHER RESOLVED that the Town Council of Cape Charles, Virginia supports a step-down speed limit of 40 MPH from the intersection of Route 184 and VA-462 (Cassatt Parkway) and

the intersection of Route 184 and Hermitage Road; and

BE IT FURTHER RESOLVED that the Town Council of Cape Charles, Virginia requests that upon reduction of the speed limits as outlined, a “rumble strip” or other physical means of alerting drivers, be installed on the west bound lane of Route 184 just east of the 25 MPH zone.

Adopted by the Town Council of the Town of Cape Charles on April 15, 2021.

By: _____
Mayor Dize

Attest:

Town Clerk