



TOWN COUNCIL

Public Hearing & Regular Meeting

January 18, 2024
Cape Charles Civic Center
6:00 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Moment of Silence and Pledge of Allegiance
3. Public Hearing
 - A. [Zoning Map Amendment 2023-04 – Rezone Tax Map #83A3-1-644 & 83A3-1-641 from Commercial-1 to Residential-1](#)
 - B. [Proposed Master Tree Plan](#)
4. Recognition of Visitors / Presentations / Recognitions
 - A. None
5. Public Comments (3 minutes per speaker for topics not subject to this evening's public hearing)
6. *Consent Agenda
 - A. Approval of Agenda Format
 - B. [Approval of Minutes](#)
 - C. [Approval of November 30, 2023 Financial Report](#)
7. Unfinished Business:
 - *A. None
8. New Business:
 - *A. [Proposed Master Tree Planting Plan - Resolution 20240118](#)
 - *B. [Zoning Map Amendment 2023-04 - Tax Map #83A3-1-644 & 83A3-1-641](#)
9. Town Manager Comments
10. Mayor & Council Comments (5 minutes per speaker)
11. Announcements
 - February 1, 2024 – Town Council Public Hearing & Special Meeting
 - February 15, 2024 – Town Council Regular Meeting
 - February 19, 2024 – Town offices closed for Presidents' Day
 - February 24, 2024 – Strategic Planning Joint Work Session
12. Adjournment

TOWN OF CAPE CHARLES
Town Council – Public Hearing

The Cape Charles Town Council will hold a public hearing on Thursday, January 18, 2024 at 6:00 pm in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive comment on the following request:

- A. A Zoning Map Amendment (ZMA) 2023-04 application from Municipal Corporation of Cape Charles to rezone Tax Map #83A3-1-644 & 83A3-1-641 (11,301.22 square feet) from Commercial-1 (C-1) to Residential-1 (R-1) pursuant to Cape Charles Zoning Ordinance §§ 2.7.2 and 3.2.

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

AD PLACED: Eastern Shore Post on Wednesday, December 20, 2023
AD TO RUN: Fridays, January 5, 2024 & January 12, 2024



PLANNING COMMISSION PUBLIC HEARING STAFF REPORT

Meeting Date: November 20, 2023

Item #5A & 8A – ZMA-2023-04

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

Date: November 15, 2023

APPLICANT: Municipal Corporation of Cape Charles

SITE ADDRESS: 210 Randolph Avenue (2 lots behind the library property)

TAX MAP: 83A3-1-644 & 83A3-1-641

LOT SIZE: 11.301.22 square feet

TYPE OF APPLICATION: Zoning Map Amendment (ZMA) 2023-04

SPECIFIC REQUEST: Rezone 2 parcels from Commercial-1 (C-1) to Residential-1 (R-1)

ZONING ORDINANCE: CCZO Section 2.7.2 & 3.2

CURRENT ZONING: Commercial-1

PROPOSED ZONING: Residential-1

DATE RECEIVED: November 3, 2023

DATE DEEMED COMPLETE: November 3, 2023

LEGAL DEADLINE: 100 days from 1st Receiving Application: February 10, 2024

NARRATIVE OF PROPOSAL

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

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

Town Council passed a Resolution of Intent, as required by the Town Zoning Ordinance and Virginia Code §15.2-2286 (A) (7), on November 2, 2023 which is attached along with the application to rezone Tax Map #83A3-1-644 and 83A3-1-641 from Commercial-1 to Residential-1.

Attached is a survey of the library property after the purchase of the four parcels that comprise the library property in December 2012.



BACKGROUND:

The front library building & parcel (83A3-1-643A) was a bank since 1934 when the lot was acquired by Farmers & Merchants Trust Bank. The middle open lot behind the library building (83A3-1-643B & 642B) was referred to in the deed when the Town acquired this lot as the former “Chesapeake Hotel Property”. This lot serves as parking to the library building, several trash dumpsters have been placed there and are utilized by a few surrounding businesses, and the two lots outlined in blue with road frontage on Randolph Avenue (83A3-1-644 & 83A3-1-641) were purchased in the 1943-1945 time period by Frank Parsons Jr which were then conveyed through his will to Margaret P. Dickinson. There is a note in the deed when the Town bought these 4 parcels from the bank that these parcels were a compilation of property that was conveyed to the bank or through its predecessors and they show the direct transfers of each parcel to the bank.

There is an easement on one of the Randolph frontage lots which the Town will need to address (either for redirecting that easement behind the library building or retain as part of any development plan for this lot by a third party.

Additionally, the Town is aware of uses occurring on their lot behind the library building that may have been agreed to informally over the last few years and has indicated that these will be addressed as the Town is working with the potential purchaser of the library property in negotiating the contracts for sale and development of the library building and property. However, these do not impact consideration of the rezoning request for the 2 lots that front on Randolph Avenue.

REVIEW WITH RESPECT TO COMPREHENSIVE PLAN

On Randolph Avenue between Pine Street and Strawberry Street, the Future Land Use Map has designated the land the following classification:



Historic District Residential: The Historic District Residential category covers the majority of the original street grid in Cape Charles. Any new development in this area is intended to reflect the historic character of the core residential area and compliment features of existing structures.

Future Land Use Map December 2022



REVIEW WITH RESPECT TO ZONING ORDINANCE: ZONING DISTRICTS – INTENT

The Cape Charles Zoning Ordinance provides a statement of intent or purpose for the current 2 zoning districts that are on this parcel as follows:

Single Family Residential District R-1 A. Statement of intent. The intent of this basic zoning district is to provide quiet, medium density, single-family residential development plus provide open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to restrict all activities of a commercial nature

as described in Section 3.6-A of this ordinance, known as Commercial District C-1, which states “These commercial activities are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments,” and to promote a convenient, attractive, and harmonious community. This section is created in recognition of the existence of developed areas where single-family and duplex dwelling currently exist on lots of 5,600 square feet and where the characteristics of the neighborhood include both permanent as well as seasonal residents.

It appears that these two parcels have been zoned Commercial-1 since the Town adopted zoning in 1994 which seemed appropriate when these two parcels were considered part of the bank that operated on the front two parcels. However, these two parcels that front on Randolph Avenue were sized at 5,600 square feet each which is consistent with the general layout of the residential district in the original part of town.

There is no evident development of these two parcels relative to when they were affiliated with the bank and the Town has not utilized them in any substantial way relative to the operations of the library building.

STAFF RECOMMENDATION

Staff is requesting the Planning Commission to convene and hold the public hearing and consider all comments received and determine if there are additional issues raised that were not considered by staff which may need to be considered. Please note that the Town has received a written comment from Mark Pugh of K-Coast Surf Shops operating under the auspices of Kookaburra LLC which we have enclosed with his attachments.

Staff supports rezoning the two parcels to Residential-1 zoning.

POSSIBLE PLANNING COMMISSION MOTION

I would recommend the following motion for the Planning Commission’s consideration: ***Motion to recommend ZMA 2023-004 to rezone Tax Map Parcel # 83A3-1-644 & 83A3-1-641 from Commercial-1 to Residential-1 zoning as consistent with the Comprehensive Plan and Future Land Use Map.***

Attachments:

Attachment 1 – 2023-004 ZMA Application

Attachment 2 – Survey Library Building Area 2015-05-14

Attachment 3 – Town Council Resolution of Intent

Attachment 4 – Letter from Adjacent Property Owners: Kookaburra Letter with 4 attachments



Zoning Map Amendment Application

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

Revised 08/2023

Taxes

Violations

Fee \$

Decision

Budget Code: MISPL 100-3100-1070

PART 1. APPLICATION NOTES

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

****plus, any actual cost for advertising & adjacent property owner notification mailings**

PART 2: PROPERTY INFORMATION

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

PART 3: PROPERTY OWNER INFORMATION

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

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

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

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

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

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

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

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

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

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

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

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

- D) Describe why the proposed rezoning is necessary.

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

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

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

Applicant's signature: _____

Date: _____

Zoning Administrator's Signature: _____

Date: _____

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

Date Application Received in Office:

Application #: ZMA

Planning Commission

Town Council

Date referred:

Date received from Planning Commission:

Action deadline (100 days from receipt):

Action deadline (max. 365 days from referral to PC):

Public hearing date:

Public hearing date:

Decision:

Decision:

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

BACKGROUND:

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

ITEM SPECIFICS:

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

Map of Proposed Parcels for Rezoning



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

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

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

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

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

POTENTIAL SCHEDULE:

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

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

RECOMMENDATION:

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



Zoning Map Amendment Application

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

Revised 08/2023

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Decision

Budget Code: MISPL 100-3100-1070

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

Applicant's signature: _____

Date: 10/12/23

Zoning Administrator's Signature: _____

Date: _____

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

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

RESOLUTION OF INTENT 20231102

ZONING MAP AMENDMENT 2023-04 APPLICATION

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

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

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

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

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

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

By: _____
Mayor Charney

Attest:

Town Clerk

Kookaburra LLC

November 14, 2023

211 Mason Avenue
Cape Charles, VA 23310

Dear Town Manager and Town Planner:

This is a letter in opposition to the change in zoning request submitted by the Town of Cape Charles for Tax Map #83A3-1-644 and Tax Map #83A3-1-641.

The main reason for this opposition is the affect it will have on commercial access to the deeded 16 foot Ingress/Egress Easement (Deed Book 171, Pg 700 and DB 180, Pg 351) (Attachment #1) and the ensuing "Can of Worms" it will open as it affects adjoining commercial properties.

The reason for such an access to the rear of the busy commercial area is to avoid congestion and traffic stress on Mason Avenue. We deliver hundreds of thousands of dollars in merchandise in thousands of boxes through the rear entrance of our property. Without easy rear access, these deliveries would create a logistical nightmare with traffic and pedestrians affected on Mason Avenue. Kookaburra LLC has several questions and concerns we will pose in this letter to the Town Council, Manager and Planner. We would like this letter to be read at the public hearing and to have our questions addressed prior to any vote of the proposed rezoning.

We will pose the questions in two sections under "Public Awareness" and "Can of Worms".

Public Awareness:

1. There has been no survey completed with current conditions, nor proposed changes, for such an important change in zoning status. The only visual made available to the public is a Google Earth view with general delineations as in the Town Council packet of October 19, 2023. This would not suffice for a building permit so it should not suffice for a change in zoning.
2. There has been no survey done of the entire length of the deeded Ingress/Egress Easement to allow commercial access to the rear of the many Mason Avenue commercial properties. If the Town fails to provide such a survey, Kookaburra LLC will have one done at our expense.
3. In addition to a survey, there has been no study done to determine how a change in zoning will affect the deeded Ingress/Egress access, given residential setbacks and potential fences, with commercial delivery vehicles. This is critical given the deeded access width of 16 feet and current condition of the curb cut on Randolph Avenue.
4. There has been no study done to the trash refuse/dumpster situation behind the library. Surely in the future, any residential property owner is not going to want smelly summer dumpsters in the rear of the property. Will a large garbage truck be able to access the dumpsters in the same manner if a fence is built along the property line?

Can of Worms:

1. According to the enclosed Town Plat provided (Attachment #2), the redevelopment of 213 Mason Avenue was approved to use two parking spaces (Attachment #4) in what may be the deeded 16 foot Ingress/Egress Easement abutting each other to meet the off street parking requirement for two of the five residential units. The provided survey of 213 (Attachment #3) does not show the continuance of the Ingress/Egress that is shown on the Town Plat and included in the survey of 211 Mason Ave (Attachment #1) and should be fully vetted prior to any final decision on the proposed zoning changes. This is another reason a survey of the entire access should be done prior to any rezoning of the commercial town lots.

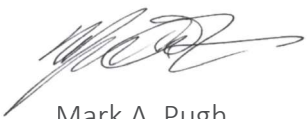
2. Given that the Town has created a very difficult situation where:

- a. The east parked vehicle (Vehicle #2 on the enclosed Attachment #3) must always be moved (!?) for the other vehicle (Vehicle #1 on the enclosed Attachment #3) to be moved, as it would be blocked in, or:
- b. The west vehicle that is blocked in will only have access to that required off street parking space via the deeded Ingress/Egress Easement partially on our property and must only leave it in REVERSE as it will not have enough space to turn around. This creates a potentially dangerous situation with serious liability concerns for the town and created by the town, especially given the commercial use of the access.

As this redevelopment, and now potential rezoning, of commercial properties affects our access, we would like to have the Town Planner explain in a public forum how the above scenarios will affect the deeded Ingress/Egress Easement shown on the Town Plat.

We look forward to your responses to our questions and concerns that will impact the future commercial operations of the affected properties.

Sincerely,

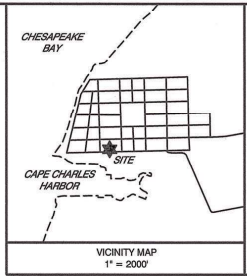


Mark A. Pugh

Kookaburra LLC

Randolph Avenue - State Route T-1112
(70' Right-of-Way)
(Deed Book 41, Page 484)

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



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

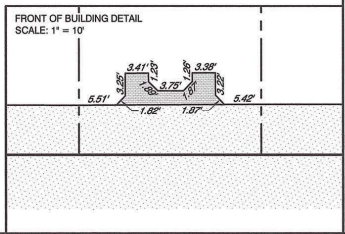
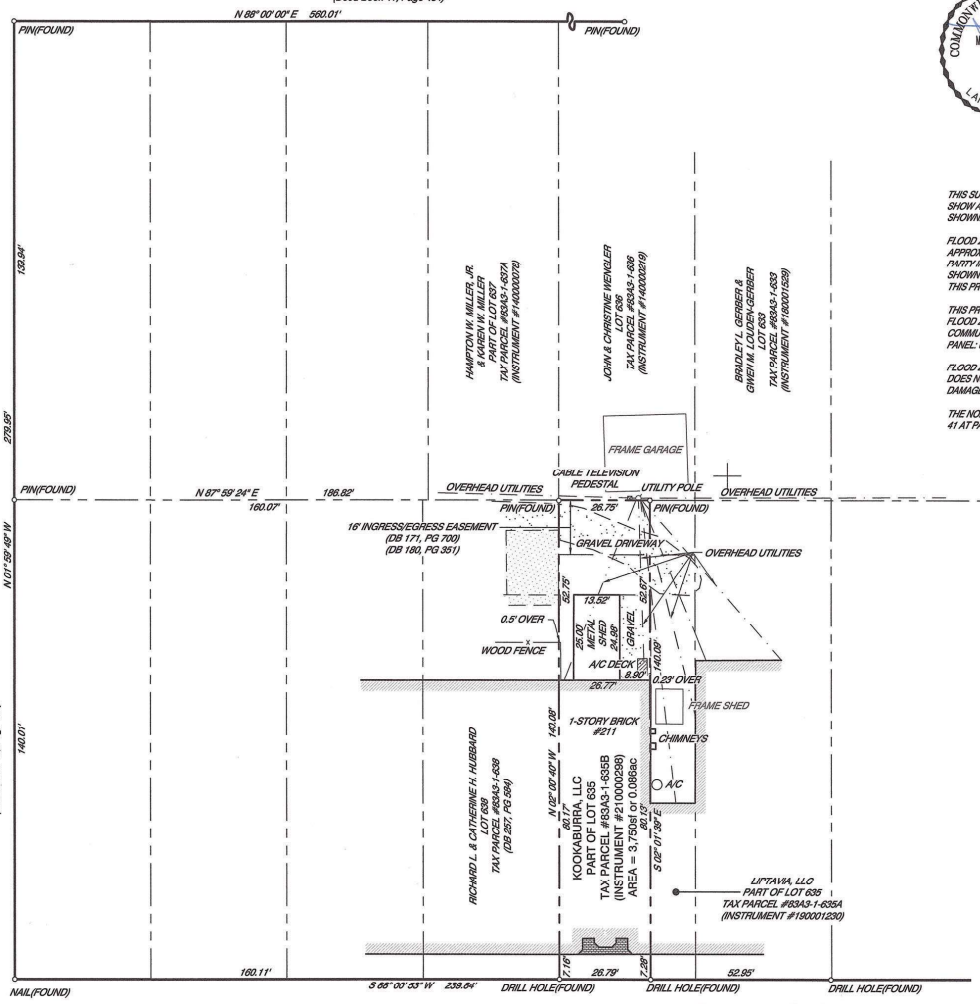
FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM FEMA FLOOD MAPS. SHORELINE SURVEYORS IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON. FOR FURTHER INFORMATION AND TO CONFIRM THE FLOOD ZONE FOR THIS PROPERTY, CONTACT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

THIS PROPERTY APPEARS TO FALL IN:
FLOOD ZONE: "X"
COMMUNITY NO.: 510108
PARCEL: 0385 DATED: MARCH 2, 2015

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

THE NORTH MERIDIAN OF THIS PLAT IS BASED ON A SURVEY RECORDED IN DEED BOOK 41 AT PAGE 484.

Pine Street - State Route T-1101
(70' Right-of-Way)
(Deed Book 41, Page 484)



Shoreline Surveyors
23314 Courthouse Avenue - P.O. Box 75
PHONE (757) 789-3960 FAX (757) 789-3962
SCALE: 1" = 20'
DRAWN: MAS
FIELD BOOK 91, PAGES 31 & 32
FIELD BOOK 91, PAGE 14
JOB #2118
SHEET 1 OF 1

PHYSICAL SURVEY
OF
A PORTION OF
Lot 635
Map of the Town of Cape Charles
(DEED BOOK 41, PAGE 484)
TAX PARCEL #8343-1-638
NORTHAMPTON COUNTY, VIRGINIA
FOR
Kookaburra, LLC
NOVEMBER 28, 2021

Mason Avenue - State Route 184
(70' Right-of-Way)
(Deed Book 11, Page 484)

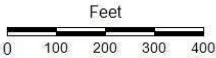
Northampton County, Virginia

Legend

- County Boundaries
- Town Names
- Route Numbers
- Road Labels
- Parcels
- Driveways



Map Printed from Northampton
<https://parcelviewer.geodecisions.com/Northampton/>



Title:

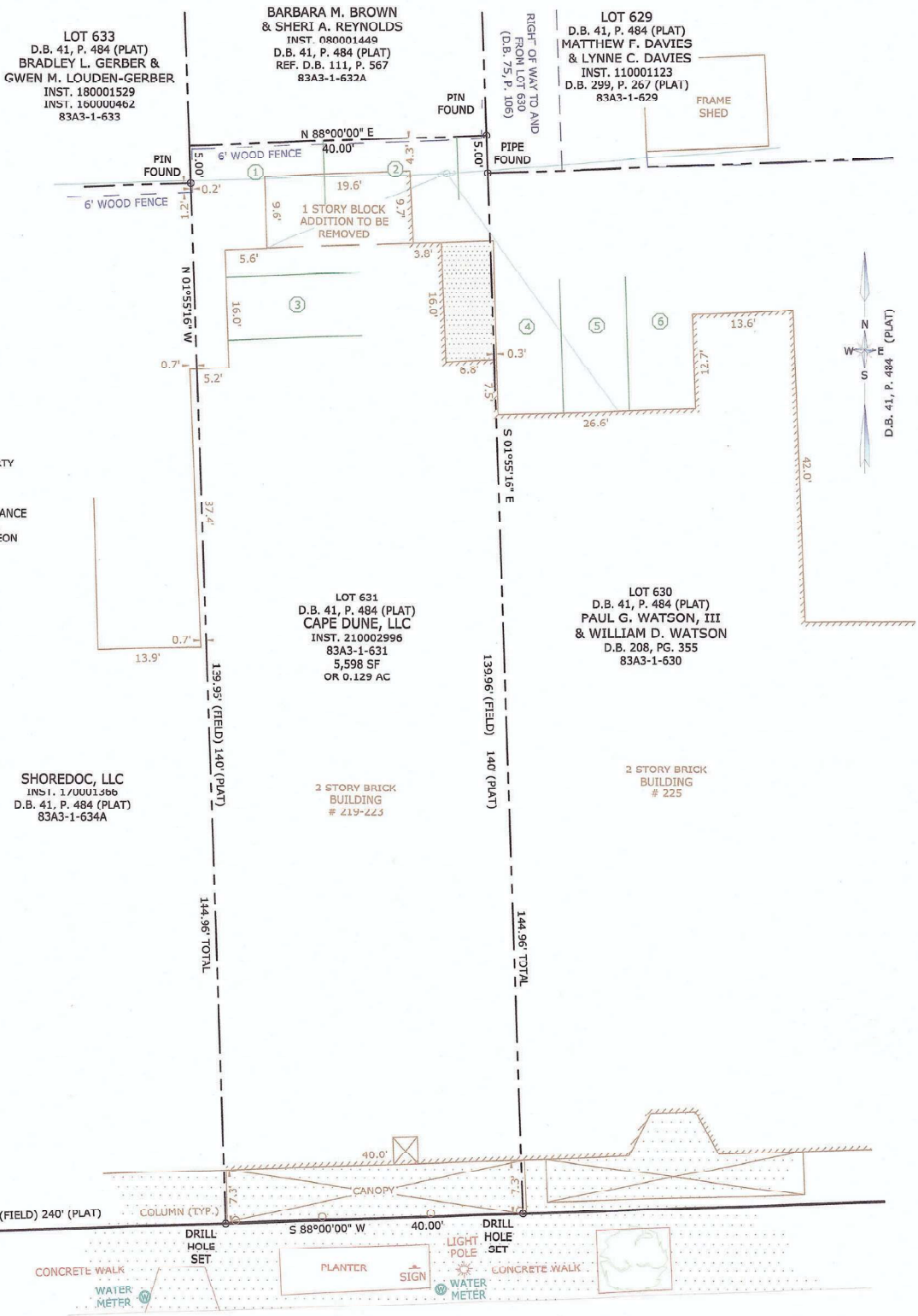
Date: 1/18/2021

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Northampton County is not responsible for its accuracy or how current it may be.

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

GENERAL NOTES:

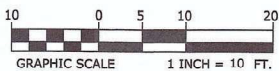
- OWNERS: CAPE DUNE, LLC
- SOURCE OF TITLE: INST. 210002996
- TAX PARCEL: 83A3-1-631
- A SURVEY WAS PERFORMED ON THIS PROPERTY ON SEPTEMBER 8, 2021.
- ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 51131C295F, DATED 03-07-15, THE PROPERTY SHOWN HEREON LIES IN FLOOD ZONE X.
- PLAT REFERENCES:
D.B. 41, P. 484 (PLAT)
INST. 160000442 (PLAT)
D.B. 299, P. 267 (PLAT)
- AREA: 5,798 SQ. FT. (0.129 AC.)
- PARKING SPACES SHOWN THUS "①" ARE MINIMUM 8.5' X 18'.



Craig P. Crockett
Craig P. Crockett
No. 2568
12-01-2021
LAND SURVEYOR

MASON AVENUE (70' R/W)

SURVEY OF
LOT 631
MAP OF THE TOWN OF
CAPE CHARLES
CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VIRGINIA
MADE FOR
CAPE DUNE, LLC
SCALE: 1" = 10' DECEMBER 1, 2021



APPROVED

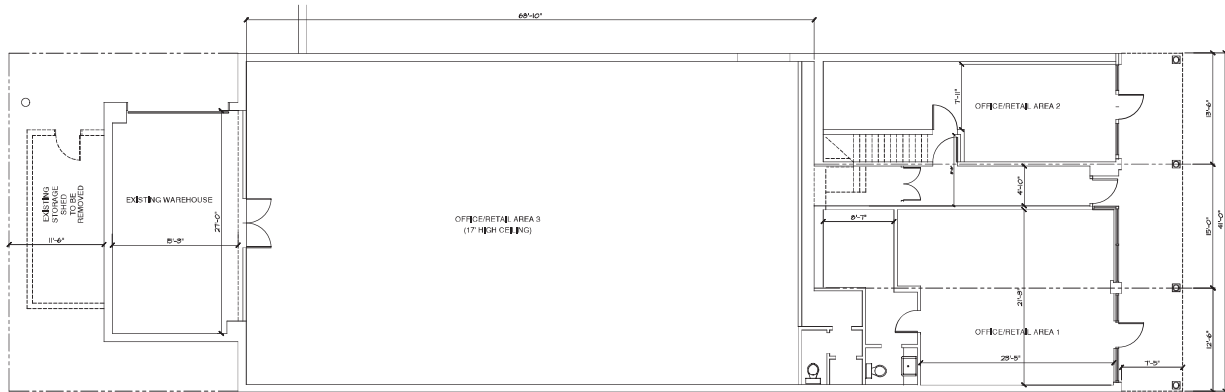
DIRECTOR OF PLANNING
CAPE CHARLES, VA.

DATE

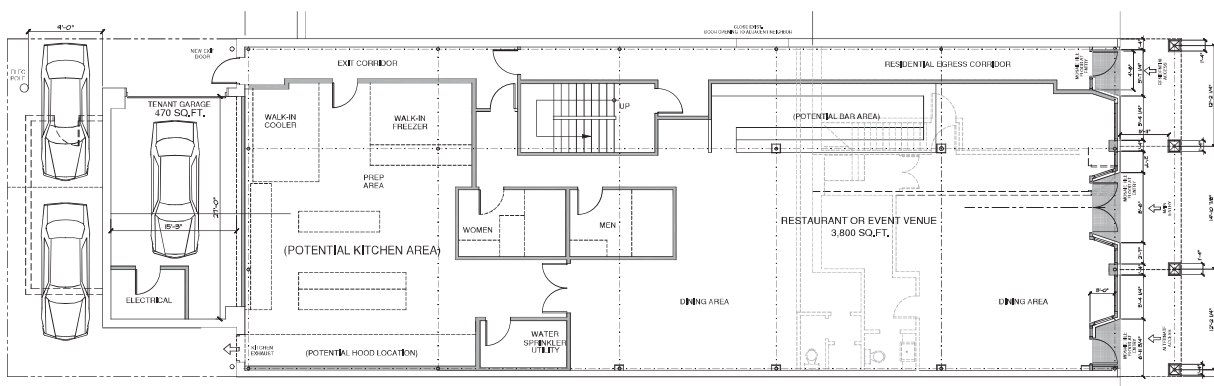
REVISED DECEMBER 1, 2021
TO SHOW PARKING SPACES



POINT NORTH
POINT NORTH SURVEYING LLC
P.O. Box 701, (757) 709-3008
Onley, VA. 23418 pointnorthsurveying@gmail.com
DRAWN BY: CROCKETT FIELD BOOK: FILE COPY
BACK TRAY: CROCKETT PROJ. NO. 21160



FIRST FLOOR PLAN
EXISTING CONDITIONS
SCALE: 3/8"=1'-0"



FIRST FLOOR PLAN
PROPOSED IMPROVEMENTS
4,856 GROSS SQ. FT.
SCALE: 3/8"=1'-0"



PROPOSED HISTORIC RENOVATION
218 MASON AVENUE
CAPE CHARLES, VIRGINIA
TODD & LUANNA BROKEN

SUBMITTALS

NO.	DATE	DESCRIPTION
1	10/1/2020	PRELIMINARY
2	10/1/2020	REVISIONS
3	10/1/2020	REVISIONS
4	10/1/2020	REVISIONS
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100	10/1/2020	REVISIONS

H-3

TOWN OF CAPE CHARLES
Town Council – Public Hearing

The Cape Charles Town Council will hold a public hearing on Thursday, January 18, 2024 at 6:00 pm in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive comment on the proposed multi-year Master Tree Plan for the Cape Charles Historic and Harbor Districts.

The proposed plan is available for public review on our website at www.capecharles.org under Agendas and Minutes/Town Council. This item will be brought to a vote during the regular meeting which follows the public hearing.

AD PLACED: Eastern Shore Post on Wednesday, January 3, 2024

AD TO RUN: Friday, January 12, 2024

AD placed on website on Wednesday, January 3, 2024

The background of the slide is a photograph of green leaves and dark, round berries, possibly from a holly or similar plant. The image is slightly blurred and has a soft, natural feel.

Cape Charles Tree Advisory Board

P R O P O S A L

Cape Charles Master Tree Plan

January 2024

Cape Charles Master Tree Plan

This proposal by the Cape Charles Tree Advisory Board (TAB) describes a multi-year plan for the purchase, installation, and maintenance of additional tree canopy in the Cape Charles Historic District and Harbor. Year One, for which details are provided, utilizes the current budget of \$10,000 and is slated for spring 2024 planting. Future years include a general description of plantings on Mason Ave along with additional canopy and understory trees throughout the Historic District and Harbor Park.

This proposal is being presented to the Cape Charles Town Council, via the town manager, for approval of the Year One plan and future year concepts.

Cape Charles Master Tree Plan

- ❖ **Year One** (2023/24), utilizing the available budget of \$10,000, includes 10 canopy trees and 3 understory trees. This option focuses on more heavily traveled areas such as the entrance to town along Randolph Ave and Central Park surrounding area. Trees are to be planted in March/April 2024.
 - Competitive pricing is being obtained, with additional consideration being given to response time, “track record”, level of service, and maintenance needs (i.e., watering was a significant decision point). The project will remain within the budgeted amount of \$10,000
 - TAB has begun facilitating the process to meet VDOT requirements for long-range planning of verge (“hell”) strips. Completion of these tasks will require input and support from the Town, including Town Council
 - A draft letter from the Town to homeowners affected by the installation of new trees in front of their homes has been provided for approval and dissemination. A representative of the Tree Advisory Board has begun contacting affected homeowners with positive results thus far

Cape Charles Master Tree Plan

❖ Future Year Concept (2024/25 – 2026/27)

- The 2024/25 proposal includes the purchase and installation of approximately 13 additional canopy and understory trees. The focus of these trees will remain along Randolph Ave and Central Park surrounding area along with the west end of Mason Ave
- Subsequent years include the vision of extending the tree canopy into additional locations where there is an opportunity for that coverage. These locations will be determined based on available budget and Town priorities. Locations may include the addition of canopy trees at the future Visitor Center and at Harbor Park
- VDOT and stakeholder requirements will be satisfied prior to the approval of future year phases
- The scope of future year plans will be dependent on funding by Town and grant sources

Cape Charles Master Tree Plan – Year One

Proposed Trees & Their Location

Tree #	Proposed Trees					Location	Size	Total #
	Red Oak	White Oak	Sw'bay Magnolia	Redbud	Fringe-tree			
Canopy Trees							25- 30 gal, 2-2.5" caliper	10
1	1					In median at the north corner of Peach & Tazewell. Town to remove dying crepe myrtle.		
2-4	3					Harbor Park		
5	1					Tazewell, in 'hell strip' in front of House 304		
6	1					Randolph, in 'hell strip' between House 426-428		
7	1					Randolph, in 'hell strip' in front of House 634		
8	1					Randolph, in 'hell strip' in front of House 642		
9	1					Randolph, in 'hell strip' in front of House 654		
10		1				West side of Plum along Central Park fence		
Understory Trees							15 gal, 1-1.5" caliper'	3
11					1	Randolph, in 'hell strip' in front of House 649		
12			1			East side of Strawberry across from Post Office		
13				1		Tazewell, in 'hell strip' in front of House 309		

Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 1

Proposed Tree – Red Oak

Location - In median at the north corner of Peach & Tazewell. Town to remove dying crepe myrtle.



Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 2-4

Proposed Tree – Red Oak

Location – Harbor Park; exact locations will be determined jointly

Picture to be inserted after
locations agreed upon.

Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 5

Proposed Tree – Red Oak

Location – Tazewell, in 'hell strip' in front of House 304



Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 6

Proposed Tree – Red Oak

Location – Randolph, in 'hell strip' between House 426-428



Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 7

Proposed Tree – Red Oak

Location – Randolph, in 'hell strip' in front of House 634



Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 8

Proposed Tree – Red Oak

Location – Randolph, in 'hell strip' in front of House 644



Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 9

Proposed Tree – Red Oak

Location – Randolph, in 'hell strip' in front of House 654



Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 10

Proposed Tree – White Oak

Location – West side of Plum along Central Park fence



Cape Charles Master Tree Plan – Year One

Understory Trees & Their Location

Tree # - 11

Proposed Tree – Fringetree

Location – Randolph, in 'hell strip' in front of House 649. VDOT to remove dead crepe myrtle.



Cape Charles Master Tree Plan – Year One

Understory Trees & Their Location

Tree # - 12

Proposed Tree – Sweetbay Magnolia

Location – East side of Strawberry across from Post Office



Cape Charles Master Tree Plan – Year One

Understory Trees & Their Location

Tree # - 13

Proposed Tree – Redbud

Location – Tazewell, in 'hell strip' in front of House 309.



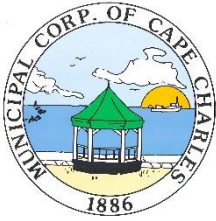
Cape Charles Master Tree Plan – Future Phases

Implementation of Mason Ave Plan

- Location: two blocks on south side of Mason Avenue (north side of fence line) between Bay Avenue & Pine Street
- Three groupings of one Red Oak with two Wax Myrtle shrubs on either side
- Groupings will be positioned to soften the view of industrial areas from retail establishments across the street
- Pricing to be determined

Continued Installation of Canopy & Understory Trees in Historic District & Harbor

- Location: various locations as recommended by TAB including possibility of adding up to three canopy trees to shade the future Visitor Center and creating a forested area at the Harbor following the [Miyawaki Method](#), a proven approach to rapidly establish a forested area
- Pricing to be determined



**DRAFT
TOWN COUNCIL
Regular Meeting
Cape Charles Civic Center
December 21, 2023
6:00 PM**

At approximately 6:00 p.m. Vice Mayor Steve Bennett, having established a quorum, called to order the Regular Meeting of the Cape Charles Town Council. In addition to Vice Mayor Bennett, in attendance were Councilmen Buchholz, Butta, Follmer and Grossman, and Councilwoman Holloway. Mayor Adam Charney was not in attendance. Also, in attendance were Town Manager John Hozey, Planner/Zoning Administrator Katie Nunez, Planning & Zoning Assistant Tracy Outten, Police Chief Jim Pruitt and Town Clerk Libby Hume. There were 10 members of the public physically in attendance, and 9 viewers on Facebook.

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

APPEAL OF HISTORIC DISTRICT REVIEW BOARD DECISION – 114 PINE STREET:

- A. Staff Presentation of the Case: Planner/Zoning Administrator Katie Nunez provided an overview of the case as follows: i) On November 21, 2023, the Historic District Review Board (HDRB) received an application for an extension of an expired Certificate of Appropriateness (COA) at 114 Pine Street for construction and installation of a 3' tall vinyl vertical panel fence in the front and side yard and 6' vertical panel privacy fence in the rear yard. The COA expired on July 21, 2022 without the fence installation being started. After extensive discussion, the HDRB voted to deny the application; ii) At the time of approval of the COA, on July 21, 2021, vinyl was an acceptable material choice for fencing; iii) On December 15, 2022, the Town Council adopted the new Historic District Guidelines and amendments to the Cape Charles Zoning Ordinance relative to Article III (General Zoning District Regulations) and Article VIII (Historic District Overlay). One of the changes made was that vinyl was no longer an acceptable fencing material; iv) The Planning & Zoning office received a complaint in September 2023 which was investigated, and two violations were found. One violation, concerning the shed on the property, had been fully resolved and was now in compliance with the zoning ordinance. The second violation was the fence being installed without an active COA. Work relative to the fence had been occurring sporadically in August and September 2023. Additionally, the fence material was vinyl, which was not allowed under the ordinance. A Notice of Violation was issued to the property owner on October 11, 2023 indicating that the Corrective Action Order to be taken to resolve this violation was 1) No work on the construction of the fence could proceed until a valid COA was issued by the HDRB and any permits required by the Code Official were obtained; 2) A completed COA application and all required documentation needed to be submitted to the Planning & Zoning Department; 3) Reference to Section 9.2 (2)(d) of the Cape Charles Historic District Overlay Design Guidelines which stated that vinyl, PVC or synthetic fences were inappropriate in the Historic District; v) On November 2, 2023, Katie Nunez met with the property owners, Barrett Cree and Gerry Forbes, concerning the violation and available options. Mr. Cree was adamant that the fence was a continuous part of the house renovation project and wanted the opportunity to make that argument before the HDRB; vi) Staff recommended that two applications be submitted for the November 21, 2023 HDRB meeting: 1) a Request for Extension of the Expired COA and 2) a new Renovation COA application for the fence along with the request and reason(s) why a vinyl fence should be allowed on this property; vii) The property owners only submitted a Request for Extension of the Expired COA which was reviewed by the HDRB at their November 21, 2023 meeting. Board discussion focused on the fact that during the term of the COA (July 21, 2021 through July 21, 2022) there was no construction activity relative to the fence, whether an extension request

could be filed 16 months after expiration of the permit, and if the material choice of a vinyl fence could be considered since it was no longer considered an acceptable material choice in the Historic District. The property owner confirmed that some work on the fence, installation of some posts, first occurred in the summer of 2023; viii) After much discussion amongst the HDRB and property owners, Vice Chairman Thom motioned to approve a 6-month extension to the previously approved and expired COA at 114 Pine Street. The motion failed by a vote of two in favor and three opposed, therefore, the application was denied; ix) On November 27, 2023, the property owners were notified in writing of the HDRB decision and immediately filed an appeal to the Town Council.

There was some discussion as follows: i) Councilman Grossman stated that there were no procedural issues dealing with the case, adding that he felt the staff and HDRB followed the process as outlined in the guidelines and ordinance. Katie Nunez also expressed her belief that staff and the HDRB followed the outlined process; ii) Vice Mayor Bennett noted the appeal process was not more formal, adding that in the past, Council received HDRB appeals for review at almost every meeting. The Council deliberated and determined whether they agreed with the decision of the HDRB rather than reviewing procedural issues; iii) Katie Nunez explained that this was a semi-judicial process, and Council's decision could be appealed to the circuit court so procedural steps needed to be followed and statements must be truthful. The previous guidance under the ordinance provided more latitude to the Council, and the process guidelines were not adhered to. During the update process, the Town's consultant informed us of the contentious issues related to appeals and this new process was recommended, reviewed by the HDRB, Planning Commission, Town Council and the public at large. The appeals process was now more easily understandable and related to procedural issues. She added that this was not an issue of whether we liked the appearance, etc. of the fence, but whether the request was in compliance with the guidelines and ordinance. The issue was could there be an extension of a COA that had expired over 16 months ago; iv) Vice Mayor Bennett thanked Katie Nunez for the explanation adding that he wanted to ensure that all Council members understood the issue being voted upon this evening.

- B. Appellant Testimony: Ms. Gerry Forbes thanked the Council for hearing their appeal and went on to state that they went through the COA application process and were approved for a fence using a very high grade material which was compatible with the architectural style of the neighboring properties. They did not realize they were not in compliance and would not have jeopardized over \$13K of fencing. Work began within the first year. A third of the fence had already been installed. She humbly asked for good faith and understanding to allow the completion of the fence so as not to cause any further hardship.

C. Public Comments:

Ann Hayward Walker, resident & property owner

Ms. Walker asked Council to consider approving the COA extension, adding that she tried to do her homework by reviewing the COA extension form, staff report and Section 9.2 of the new guidelines. She respected the work of the Town staff and HDRB but also understood the importance of administering the guidelines in a consistent manner. She believed everyone was trying to do the right thing. There were extenuating circumstances making this a fair request. The application was submitted during the pandemic. During that time, there was an influx of new owners with lots of money doing lots of renovations. She also did some renovations and experienced so many delays with contractors as larger jobs rose to the top of the list for contractors while others fell to the bottom. This fence should be grandfathered under the previous guidelines. It was unfair to penalize the appellants under these circumstances.

Barrett Cree, appellant

Mr. Cree stated that he respected the HDRB members and did not mean to do anything wrong. The delays were not of their choosing. He worked every day between medical treatments and procedures. He had no idea that the code had changed and did not realize that he needed to do anything else other than diligently working on the project. He humbly asked that the Council allow them to finish the fence installation.

Jack Forgosh

Mr. Forgosh stated that he had known both Mr. Cree and Ms. Forbes for 10 years. Ms. Forbes helped him purchase his house. He remembered the fence being on the property in 2021 and did not know who stated that the work on the fence did not start until 2023. It was a challenge with delays to completing projects with contractors. The materials were on site and needed to be timed with the other scheduled work. He asked for Council approval of the application.

Town Clerk Libby Hume read letters submitted by John and Gundrun Cordle, Sheila Shields, Bob McClanahan, and Marlene Cree. (Please see attached.)

D. Council Deliberation and Vote:

There was discussion as follows: i) Councilwoman Holloway asked about the discrepancy regarding the timing of when the work on the fence began. Katie Nunez referred to Attachment 1 – November 21, 2023 Historic District Review Board Regular Meeting Draft Minutes Excerpt which described discussion from that meeting. Vice Chairman Thom had asked Mr. Cree if the fence installation had started and Mr. Cree responded that some posts on the back had been installed in the summer of 2023; ii) Councilman Buchholz asked when the COA had expired. Katie Nunez responded that the COA expired on July 21, 2022; iii) Councilman Grossman stated that during the joint work session in September 2022, the design guidelines were reviewed page by page. He reviewed the minutes regarding this particular area where he noted that the update would limit the Town Council to determination of whether or not a procedural or application error had occurred, not to override the HDRB's decision; iv) Councilwoman Holloway asked if the applicant still had the ability to submit a new application to the HDRB to obtain approval of the fence as previously recommended by staff. Katie Nunez responded that she had advised that both the extension application and new COA application be submitted but the appellant had opted to only submit the extension application. A new application could still be submitted, petitioning the HDRB to use new materials citing extenuating circumstances; v) Councilman Follmer asked whether the holes that were dug in May 2022 constituted activity. Katie Nunez stated that even though some holes were dug, heavy equipment was parked in the area for some time causing the holes to collapse according to the building official; vi) Councilman Butta asked if any COAs that had been expired for more than 6 months had been granted an extension in the past. Katie Nunez stated that several were granted that were 2 or 3 months past expiration, but she was not aware of any past 6 months and definitely not over a year; vii) Councilman Grossman noted that the guidelines were even tougher now with the requirement that the COA had to be acted upon within 6 months of approval versus 12 months; viii) Vice Mayor Bennett commented that the appellant had 2 options to getting this fence approved and they chose the extension route. They could still submit a new application for a chance to get this done, especially with all the support they had. The timeframe to act upon the COA would also start over. Katie Nunez agreed, adding that with the extenuating circumstances for the materials, she felt they had a strong case, but the HDRB could still deny the request. The applicant could also ask for another appeal; ix) Vice Mayor Bennett stated that the appeal was only for procedural discrepancies and at this point, he did not see any procedural deficiencies. From the applicant's perspective, it was a very difficult decision to make. He personally leaned toward approving the application but did not see an opportunity to do so with the process as

outlined in the guidelines; x) Councilman Follmer stated that this was difficult since he loved what had been done to the house. His inclination was to allow the applicant to complete the fence but had no substance to support it. He would like to grant as much latitude as possible but could not defend supporting an extension 16 months after expiration of the COA; xi) Councilman Buchholz noted that the guidelines were changed based on the number of appeals that had been received in the past. Councilman Grossman commented that the new guidelines had been improved for clarity, etc.; xii) Councilwoman Holloway stated that the Town Council was not in a position to make this decision adding that she wished the applicant had submitted a new COA application as suggested by Katie Nunez.

Motion made by Councilman Grossman, seconded by Councilman Follmer, to deny the appeal and uphold the decision of the Historic District Review Board. The motion was approved by unanimous vote.

The appeal of the Historic District Review Board decision was closed at 6:38 p.m.

RECOGNITION OF VISITORS / PRESENTATIONS/RECOGNITIONS:

There were no visitors, presentations or recognitions for review.

PUBLIC COMMENTS: (3 MINUTES PER SPEAKER)

Libby Hume read an email from Ms. Julie Jones regarding short-term rentals. (Please see attached.)

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

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. October 26, 2023 Town Council Work Session
 - ii. November 2, 2023 Town Council Special Meeting
 - iii. November 2, 2023 Town Council & Planning Commission Joint Work Session
 - iv. November 16, 2023 Town Council Public Hearing & Regular Meeting
 - v. November 30, 2023 Town Council Work Session
- C. Approval of October 31, 2023 Financial Report

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

UNFINISHED BUSINESS:

There was no unfinished business for review.

NEW BUSINESS:

A. *Town Harbor Management Contract Extension:*

John Hozey stated that on September 17, 2020, the Town Council approved a three-year contract with Cape Charles Marine Services for management of the Town Harbor. The current contract would be expiring on December 31, 2023. Town administration was pleased overall with the performance of services under this contract; however, would like the opportunity to re-evaluate all options going forward. To allow the necessary time to conduct such an evaluation, the contractor and Town administration agreed to a one-year extension to the current contract. The only proposed change to the contract was related to credit card fees. 50% of the fees would be paid by the consumers, 25% by the contractor and 25% by the Town. All other provisions of the existing contract would remain in force.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway to approve a one-year extension to the harbor management contract with Cape Charles Marine Services. The motion was approved by unanimous vote.

B. *Beachfront Master Plan Contract Award:*

John Hozey stated that beachfront master planning was identified by our residents as a top priority in the 2022 Strategic Plan Citizen's Survey, and the Town Council approved this planning effort as part of the 2023 update to the Community Strategic Plan. On August 28, 2023, the Town issued a request for proposals for a consultant who could assist with community outreach, planning and engineering associated with this project. Five proposals were received and reviewed by a committee of community stakeholders formed by the town manager. The committee consisted of representatives from Cape Charles Main Street, Citizens for Central Park, Cape Charles Yacht Club and the Historic District Civic League as well as the Public Works manager, Mayor Charney and John Hozey. Three firms were selected for interviews which were held in November. The committee selected Vanasse Hangen Brustlin, Inc. (VHB) as the best fit for our community with their history of working in town and doing other similar work, together with a thorough understanding of what we were trying to accomplish. Since this was a professional services solicitation, by state code, no cost information could be considered until after the determination of the best qualified firm was made. The cost proposal from VHB was less than the committee's second choice firm and consistent with the third choice. There was sufficient appropriation in the town manager's budget to fully fund this contract; however, during the mid-year budget adjustment, reimbursement of approximately \$60K would be sought for these accounts.

VHB was currently working on the Rails to Trails but expected to be able to begin around February 1. All three finalists had similar timelines.

Councilman Grossman stated his preference to budget the \$99K expense across two fiscal years if possible. John Hozey responded that this could be discussed at the mid-year budget review work session.

Councilman Buchholz noted that Mr. Neville Reynolds of VHB had extensive knowledge about Cape Charles which would be beneficial to this project.

Motion made by Councilman Buchholz, seconded by Councilwoman Holloway, to approve the professional services agreement with VHB, Inc. for Phase 1 services associated with the Beachfront Master Planning in the amount of \$99,840. The motion was approved by unanimous vote.

C. *VDOT Resolution – Handicap Parking Space at 627 Jefferson Avenue – Charlene Riley:*

John Hozey stated that in October 2023, the Town received a request from Ms. Charlene Riley, resident of 627 Jefferson Avenue, asking for assistance in obtaining a designated handicap parking space in front of her residence. Ms. Riley had a medical condition which made it difficult for her to walk any distance. The parking issues in the historic district were well known with no reserved parking on the streets. Especially during the busy tourist season, it was often very difficult for residents to find parking in front of or within a close proximity to their homes. Staff contacted VDOT and was advised that the request needed to be submitted by the Town, along with a Town Council resolution and drawing showing the preferred location of the parking space, along with a reason for the request. The request would be reviewed by VDOT's traffic engineering division and approved if deemed appropriate. Upon approval, VDOT would provide the Town with installation details.

John Hozey went on to state that the aerial shot of the proposed property and handicap parking space showed a vehicle in a driveway which initially caused some concern as it did not appear

that there was a need for a designated handicap parking space. He spoke to Ms. Riley and visited the property. The aerial photo was old and showed an empty lot next door now had a house built on it which was very close to the driveway. Ms. Riley had difficulty maneuvering into the driveway and was afraid of hitting her neighbor's house. The curb cut was also very steep and a car with low clearance would scrape bottom. He provided photos showing the driveway, proximity of the house next door and the area of the curb cut. After his visit to the property, he recommended supporting Ms. Riley's request to ask VDOT to establish a handicap parking space in front of the property.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to adopt Resolution 20231221 In Support of the Request from Charlene Riley for the Designation of a Handicap Parking Space at 627 Jefferson Avenue. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Butta, yes; Follmer, yes; Grossman, yes; Holloway, yes.

Councilman Buchholz suggested contacting VDOT to repair the curb cut since it was dangerous and a big tripping hazard.

TOWN MANAGER COMMENTS

John Hozey commented as follows:

- i) He just signed the Memorandum of Understanding with ANEC for the electric vehicle charging stations. He hoped that the stations would be installed soon.
- ii) Personnel items: Jordan Yee was hired as a new police officer and would be attending the academy in January. Meadow Noonan submitted her resignation and would be leaving her position at the water plant in January.
- iii) The work session for the mid-year budget review was scheduled for January 4th. Work on the budget documentation was going well. Debbie Pocock had been coming in to assist and Katie Nunez had been assisting as well. He would provide the documentation to Council for review in advance of the work session.
- iv) Madison Avenue Parking Issue: He was waiting to hear back from VDOT regarding a field study and their recommendations. With the holidays coming up, he was not optimistic that this would happen in December. He would bring the options back to Council upon receipt.
- v) 2024 Strategic Plan Update: The community survey was out with a closing date of January 12th. About 230 responses had been received and there were approximately 60 hard copy responses that needed to be input. The responses would be presented to Council on February 1st. As in the past, binders would be provided to Council containing all comments. The data would be used to update the strategic plan, which needed to be completed prior to work beginning on next year's budget.

There was some discussion regarding dates for the strategic planning session. February 24th was set, and staff would check on availability of the Cabana Room at the Oyster Farm.

- vi) He would be out of the office on December 28 and 29, but would be back for the Dropping of the Crab Pot.

MAYOR AND COUNCIL COMMENTS

Councilmen Buchholz and Follmer did not have any additional comments.

Councilwoman Holloway commented as follows: i) She congratulated the Citizens for Central Park (CCP) for a great 10th anniversary concert season, as well as their special project with the planters. CCP also had a group of volunteers working in the park every week cleaning up. She was happy to see Mark Usry still in attendance so he could be thanked personally; ii) She gave special congratulations to the Town staff and Cape Charles Main Street for an amazing Festive Fridays, adding that the final Festive Friday for the year would be tomorrow night; iii) The employee Christmas party was wonderful. It was a nice opportunity for everyone to be together.

Councilman Butta commented as follows: i) He echoed Councilwoman Holloway regarding Festive Fridays; ii) He recognized the Education Foundation for doing so much for the public schools; iii) The Cookie Trail was very successful. He heard that there were 650 attendees. It was always a wonderful event.

Councilman Grossman commented as follows: i) He stated that the HDRB appeal process was not in the zoning ordinance and requested that it be added for consistency; ii) He and Katie Nunez went to Richmond, at the request of VML and the Virginia Housing Authority, to discuss housing subjects with other localities. It was a good exchange of information with short-term rentals (STRs) as a specific subject. It was mentioned that AirBNB hired a second lobbyist and proposed legislation would be back regarding STRs and collection processes. We needed to keep abreast of this issue. There were not a lot of bills submitted yet and he heard that some were being held until Day 1 of the session. It was really important to notify our delegate and senator of our concerns and stance on the issues.

Vice Mayor Bennett wished everyone a merry Christmas and a happy new year.

Councilman Buchholz congratulated Vice Mayor Bennett on his retirement on December 22nd.

Vice Mayor Bennett read the announcements.

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

The Regular Meeting adjourned at 7:13 p.m.

Vice Mayor Bennett

Town Clerk

**December 21, 2023 Town Council Regular Meeting
Comments and Information Provided in Writing**

John and Gudrun Cordle

*John and Gudrun Cordle
300 Mason Ave 2D
Cape Charles, VA 23310*

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

12/19/2023
Ref: 114 Pine St. Appeal

Greetings Town Council! I reside at 300 Mason Ave Unit 2D and would like to lend my support to Mr. Cree's and Gerry Forbes Appeal. We moved here because of the sense of community and mutual support that we feel in Cape Charles.

In this spirit we hope you'll support their petition. Their property: it sets a positive example for the town, and they should not bear a financial burden for a rule change that occurred after his initial investment. I hope the Town Council will listen to its constituents and citizens and find in his favor.

Thank you for your consideration in this matter, John and Gudrun Cordle

Sheila Shields, resident

December 20, 2023

Sheila Shields
209 Mason Avenue, Unit 1B Cape Charles, VA 23310

Cape Charles Town Council

Ref: COA Extension Request Cape Charles, VA 23310

Dear Town Council Board Members,

I am writing this letter regarding the Historic Review Boards' (HRB) recent decision denying the extension request for the original Certificate of Appropriateness (COA) for the existing fence at 114 Pine Street.

Prior to the HRB's decision denying this couple's extension request, without any regards to the financial harm it would cause, the HRB approved an After-The-Fact COA and then approved a 2nd modification on another COA. I believe the outcome was substantially unfair to these property owners!

Their property is directly across from my property. I have watched as these owners have put in an exorbitant amount of time, money, and effort to improve this property, which had been an eyesore. Their fence undeniably enhances the overall property and matches most other fences in the Historic District. It is unfair this couple should have to incur such financial hardships for a fence partially installed that went through the correct process and approval.

I am asking that the Town Council please reconsider HRB's decision. I believe that allowing the fence to be completed, as was initially approved, is a much fairer decision for any good standing member of our community. I ask that my comments be read into record. Thank you for considering my comments.

Sincerely,

Sheila Shields

Bob McClanahan, resident

December 20, 2023

Bob McClanahan

300 Mason Avenue 301, Cape Charles, VA 23310

Cape Charles Town Council

Ref: COA Extension Request Cape Charles, VA 23310

Dear Town Council Members,

Good evening and thank you for allowing me to weigh in on the Historic Review Boards' denial of the fence extension request at 114 Pine Street.

As a builder, I'm well aware of the constraints and obstacles when working on such a small and difficult size lot. The grading, fence and landscape are always the last items. I believe an extension to allow the final leg of a fence that met the Town Code and received full approval at time of purchase would be more than appropriate under these circumstances.

Thank you for your consideration in this matter.

Sincerely,

Bob McClanahan

Marlene Cree, business owner

December 20, 2023

Marlene Cree

Blue Heron Realty Co

113 Mason Avenue, Cape Charles, VA 23310

To : Cape Charles Town Council

Ref: COA Extension Request Cape Charles, VA 23310

Dear Town Council Members,

Thank you for allowing me to comment on the Historic Review Boards' recent denial of the extension request for the original Certificate of Appropriateness of the fence at 114 Pine Street.

My son and Gerry have poured their sweat and equity into this property. They went through the appropriate approval process and made this expensive, top-of-line fence purchase based on the Town's code. It is a very attractive fence and already 35% has been completed. They have worked hard and in good faith to complete their project, and the resulting effect has improved this property which benefits everyone, including the town's tax base.

A serious financial hardship was imposed on this couple when the Historic Board denied such a reasonable extension request.

Please reconsider the Historic Review Boards decision, by simply allowing them to complete the fence as originally fully approved. I ask that my comments please be read into record in my absence.

Thank you for your consideration in this matter.

Marlene Cree

Julie Jones, resident

Subject: STRs in Cape Charles

Good evening Mr. Mayor, Vice Mayor, members of Town Council, and Town Manager,

My name is Julie Jones. My husband, Sam, and I live full time at 538 Monroe Avenue, which we purchased in 2015...a very good year!

At the work session last month, where Mr. Hozey presented the recommendations of the committee regarding short term rentals, most of you indicated that you needed "more information."

I do not know if any of you live in close proximity to one or more STRs, but Sam and I do, so I want to share with you an experience we had last June, as a form of "more information" about STRs.

The STR two doors over from us was rented for a week in June by a lovely, 3 generation family from Tennessee.

Over the course of the week, we observed them playing games with the children in the median, going as a group to enjoy the park and the beach, and playing music with banjo, guitar and fiddle on the front porch.

As a retired music teacher, I especially enjoyed hearing Ashokan Farewell, live!

Exactly the kind of folks you would hope would be renting houses in our town.

Towards the end of their week, as they were coming back from the beach, a ruckus burst out from one of the STR duplexes across the street.

Two men, on the sidewalk, screaming at each other, and the word, "pedophile," coming across loud and clear.

The Tennessee family stopped in their tracks, in front of our house, in horror.

Eventually, someone must have called 911, because two Cape Charles policemen showed up.

People with families come to Cape Charles because of the perception that it is a safe place, being referred to as "Mayberry" by some.

Because of the perceived safety, many families give their children free rein to ride bikes, or walk to the park, or the beach, or just around town, without an accompanying adult.

Do owners of STRs do background checks on the people who rent their houses?

Sex offenders have to register where they live, and that information is available, but what about when they go on vacation, spending a week in close proximity to families with young children, both those who live in Cape Charles, and those who vacation here.

Don't owners of STRs owe it to the people who live in Cape Charles, to ensure that no one who is a "pedophile" is unidentified in our midst?

I know that up until that point, the family from Tennessee was having an idyllic family vacation, making wonderful memories together.

Wonder if they will come back?

Wonder what they told their friends back in Tennessee, about Cape Charles?

We truly do appreciate your service to our town, and do not envy you the hard decisions you have to make, to ensure that the Cape Charles we fell in love with, in 2015, is still that charming town, with a strong sense of safety and community, when our children and grandchildren eventually inherit our wonderful old home.

Sincerely,
Julie Jones

November 2023 Treasurer's Report

Page 1 – Cash Position

- The increase in our total cash position over October, is attributed to the collection of real estate and personal property taxes.
- Facility Fee Reserve cash balance at 11-30-23 is \$3,383,285.

Page 3 – Capital Projects

- Our initial contract payment was processed in the amount of \$48,994 paid to Conrad Brothers of Virginia on the Multi-use Trail project phase III, i.e., South Peach Street. Total contract amount: \$759,567.

Page 4 – Tax Collection Rate

- 2023 real estate tax bills were processed and mailed to taxpayers on October 26. As of November 30, total year-to-date collections were \$1,203,425, representing 70% of our billed amount.
- 2023 personal property taxes (including license taxes) were billed on November 8. Through November 30, a total of \$64,870 has been collected, representing 35% of the amount billed.

Page 5 – Tax Revenue Trends

- Fiscal year-to-date (July through November) meals tax revenue of \$487,228 is nearly 10% higher than a year ago. This tax represents primarily the restaurant owner's October gross receipts.
- Fiscal year-to-date transient occupancy tax revenue of \$398,151 is running almost 10% higher than this time last year.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
November 30, 2023

<u>Cash on Hand</u>	<u>10/31/2023</u>	<u>11/30/2023</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$450,314	\$442,355	-\$7,959
Atlantic Union Bank Money Market Account	\$523,694	\$1,398,997	\$875,303
LGIP Account 1 - Unrestricted	\$110,653	\$111,157	\$504
LGIP Account 2 - Unrestricted	\$321,149	\$322,751	\$1,602
Virginia Investment Pool Liquidity Unassigned	\$2,311,753	\$2,322,339	\$10,586
Virginia Investment Pool 1-3 Year Unassigned	\$1,018,780	\$1,029,304	\$10,524
Total Cash On Hand	\$4,736,343	\$5,626,903	\$890,560

<u>Restricted and Reserved Cash Balances</u>	<u>10/31/2023</u>	<u>11/30/2023</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$30,562	\$30,562	\$0
Atlantic Union Checking Account Library CD converted to cash	\$11,131	\$11,131	\$0
Atlantic Union Bank Checking Account - E-Summons Revenue Rsrvd	\$13,631	\$13,854	\$223
US Bank - Reserved per VRA Interest Free Loan Requirements	\$262,784	\$263,890	\$1,106
ComputerShare 2010 Debt Service pass through account #300	\$3,155	\$3,169	\$14
ComputerShare 2010 Debt Service pass through account #308	\$1,113	\$1,118	\$5
Atlantic Union Money Market # ARPA CRF #5847	\$595,986	\$596,231	\$245
Virginia Investment Pool Liquidity Acct#1 Facility Fees Rsrvd (Utilities)	\$3,346,711	\$3,383,285	\$36,574
Total Cash Held in Reserve	\$4,265,504	\$4,303,671	\$38,167
Total Cash - All Accounts	\$9,001,846	\$9,930,573	\$928,727

DEBT SERVICE

Net Debt as of Current Reporting Month End
(Excludes USDA vehicle and equipment loans)

\$4,984,974

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

November 30, 2023

REVENUE VS. EXPENDITURES

<u>FUND</u>	<u>CURRENT MONTH</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>INCREASE/ (DECREASE) YTD</u>	<u>ANNUAL BUDGET</u>	<u>% REALIZED/ EXPENDED FY24</u>
GENERAL Fund						
REVENUE	\$1,497,680	\$1,964,345	\$3,086,029	\$1,121,684	\$5,719,837	53.95%
EXPENDITURES	\$248,755	\$1,520,442	\$1,617,647	\$97,205	\$5,719,837	28.28%
NET	\$1,248,924	\$443,903	\$1,468,383	\$1,024,480	\$0	
GENERAL Capital Fund						
REVENUE	\$6,552	\$44,463	\$49,378	\$4,915	\$2,446,213	2.02%
EXPENDITURES	\$60,174	\$162,569	\$142,890	-\$19,679	\$2,446,213	5.84%
NET	(\$53,622)	(\$118,106)	(\$93,512)	\$24,594	\$0	
GENERAL Debt Service Fund						
REVENUE	\$0	\$104,498	\$104,561	\$63	\$255,223	40.97%
EXPENDITURES	\$0	\$104,498	\$104,561	\$63	\$255,223	40.97%
NET	\$0	\$0	\$0	\$0	\$0	
GENERAL Special Activities Fund						
REVENUE	\$44,491	\$567,270	\$63,991	-\$503,279	\$296,350	21.59%
EXPENDITURES	\$0	\$61,460	\$58,491	-\$2,969	\$296,350	19.74%
NET	\$44,491	\$505,810	\$5,500	(\$500,310)	\$0	

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

November 30, 2023

REVENUE VS. EXPENDITURES

<u>FUND</u>	<u>CURRENT MONTH</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>INCREASE/ (DECREASE) YTD</u>	<u>ANNUAL BUDGET</u>	<u>% REALIZED/ EXPENDED FY24</u>
PUBLIC UTILITIES Fund						
REVENUE - Operating	\$177,240	\$974,092	\$939,852	-\$34,240	\$2,051,988	45.80%
EXPENDITURES - Operating	\$118,169	\$804,934	\$590,967	-\$213,967	\$1,982,118	29.81%
NET	\$59,070	\$169,158	\$348,885	\$179,727	\$69,869	
REVENUE - CAPITAL GRANTS, LOANS, FUND BALANCE	\$0	\$0	\$0	\$0	\$2,036,728	
REVENUE - FACILITY FEES	\$10,600	\$138,600	\$159,000	\$20,400	\$466,400	34.09%
EXPENDED - FACIL FEES, CAPITAL PROJECTS,DEBT SVC	\$14,411	\$300,125	\$668,946	\$368,821	\$2,572,997	26.00%
TOWN CONTRIB. & PENDING GRANTS	(\$3,811)	(\$161,525)	(\$509,946)	(\$348,421)	(\$69,869)	
HARBOR Fund						
REVENUE - Operating	\$41,762	\$537,854	\$504,550	-\$33,304	\$1,008,625	50.02%
EXPENDITURES - Operating	\$63,422	\$453,865	\$429,504	-\$24,361	\$1,082,312	39.68%
NET	(\$21,660)	\$83,989	\$75,046	(\$8,943)	(\$73,687)	
REVENUE - GRANTS & LOANS	\$0	\$0	\$0	\$0	\$228,687	0.00%
TRANSFERRED FM GEN FUND FOR DEBT SERVICE OR HARBOR FUND BALANCE	\$0	\$32,825	\$32,220	-\$605	\$450,115	7.16%
EXPENDED - Capital Projects, Debt Svc	\$4,688	\$32,825	\$54,957	\$22,132	\$605,115	9.08%
TOWN CONTRIB. & PENDING GRANTS	(\$4,688)	\$0	(\$22,738)	(\$22,738)	\$73,687	
SANITATION Fund						
REVENUE	\$28,040	\$116,915	\$138,646	\$21,731	\$314,265	44.12%
EXPENDITURES	\$25,120	\$104,008	\$116,609	\$12,601	\$314,265	37.11%
NET	\$2,920	\$12,907	\$22,037	\$9,130	\$0	

FY 24 Capital Improvement Project Tracking Report

As of:
11/30/2023

	FY24 Status or Start Date	Percent of Completion	FY24 Budgeted	QTR 1 Expended	QTR 2 Expended	QTR 3 Expended	QTR 4 Expended	FY24 YTD Expended	(Over)/Under Budget
General Capital Fund									
Multi-Use Trails, Phase 3 Construction	<u>In Process</u>	5.8%	\$ 929,922	\$ 4,150	\$ 49,998			\$ 54,148	\$ 875,774
Municipal Space Replacement Planning (ARPA)	<u>In Process</u>	35%	\$ 210,000	\$ 62,755	\$ 11,623			\$ 74,378	\$ 135,622
Welcome Center Design & Contruction - HBA	<u>In Process</u>	1.0%	\$ 455,000	\$ 4,070	\$ 541			\$ 4,611	\$ 450,389
3 Police Vehicles; 1 ARPA/2 USDA	<u>Pending</u>	0%	\$ 126,000					\$ -	\$ 126,000
Library Upgrade & Condo-ization - HBA	<u>In Process</u>	1%	\$ 310,000	\$ 4,323	\$ 212			\$ 4,534	\$ 305,466
Storage Facility Roofing	<u>Pending</u>	0%	\$ 20,000					\$ -	\$ 20,000
Capital Project Contingency	<u>Pending</u>	0%	\$ 41,141					\$ -	\$ 41,141
subtotal	\$ -		\$ 2,092,063	\$ 75,297	\$ 62,374	\$ -	\$ -	\$ 137,671	\$ 1,954,392
Utility Fund -Water									
Keck Well Connection	<u>In Process</u>	2%	\$ 1,150,000	\$ 15,243	\$ 3,811			\$ 19,054	\$ 1,130,946
Utility Fund - Wastewater									
WWTP Membrane Replacement	<u>In Process</u>	97%	\$ 465,000		\$ 451,986			\$ 451,986	\$ 13,014
Sewer Pod Controller Upgrades	<u>Pending</u>	0%	\$ 14,500					\$ -	\$ 14,500
subtotal	\$ -		\$ 1,629,500	\$ 15,243	\$ 455,797	\$ -	\$ -	\$ 471,040	\$ 1,158,460
Harbor Fund									
Inner Harbor Fixed Dock Repair	<u>Pending</u>	0%	\$ 13,000					\$ -	\$ 13,000
Inner Harbor King Pile & Waler Replacement Design	<u>In Process</u>	7%	\$ 306,000	\$ 18,050	\$ 4,688			\$ 22,738	\$ 283,263
Inshore Breakwater Repair/Upgrade	<u>Pending</u>	0%	\$ 180,000					\$ -	\$ 180,000
subtotal	\$ -		\$ 499,000	\$ 18,050	\$ 4,688	\$ -	\$ -	\$ 22,738	\$ 476,263
TOTAL	\$ -		\$ 4,220,563	\$ 108,590	\$ 522,859	\$ -	\$ -	\$ 631,449	\$ 3,589,114

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT

MUNICIPAL CORPORATION OF CAPE CHARLES

November 30, 2023

YTD 2023 Real Estate Tax Collections

Total Taxable Land Value	318,538,900	
Total Improvement Value	486,197,800	
Exemptions	(9,908,530)	
Additional Assessments (SCC Utility)	3,384,443	
Total Real Estate Value (taxable)	798,212,613	
 Total Budgeted Real Tax Revenue	 1,605,700	
Total Tax Billed	1,724,622	
Total Adjustments	(1,665)	
Total Collected YTD (percent of billed)	<u>1,203,425</u>	70%
Amount Due per Accounts Receivable	519,532	

**YTD 2023 Personal Property Tax, Machinery and Tools Tax
& 2023 License Tax Collections**

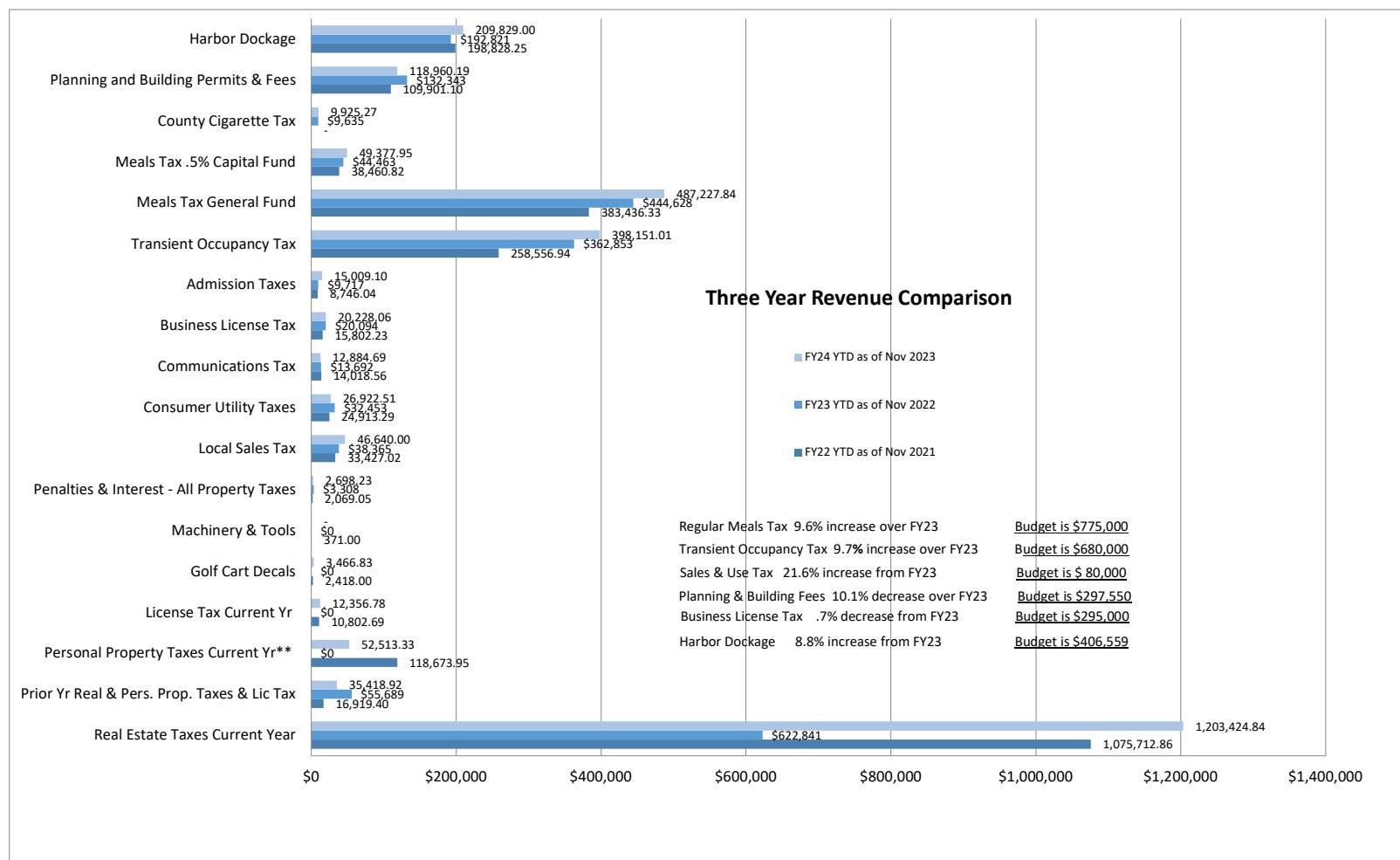
Total Personal Property Value	21,720,600	
2023 Reduction Due to Proration	(362,825)	
Personal Property Billable Valuation	21,357,775	
2023 PPTRA Valuation Amount	(9,687,117)	
 2022 Supplemental Assessments billed in July 23	 4,930,700	
2022 Supplemental PPTRA & Exonerations	(2,078,492)	
Personal Property Value Billed	2,852,208	
 2023 Supplemental Assessments	 -	Will bill in Spring '24
2023 Supplemental PPTRA & Exonerations	-	
Personal Property Value, billed	-	

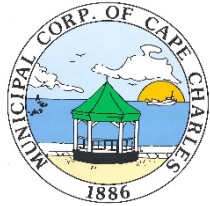
Total Taxable Assessment Value 2023 & 2022	24,209,983
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Total Personal Property & License Tax Budgeted	117,800	
Total 2023 Tax Billed less PPTRA	178,532	
2023 Supplemental Tax Billing	-	
Total Adjustments & Additional Exonerations	4,958	
Total Collected YTD (percent of billed)	<u>64,870</u>	35%
Amount Due per Accounts Receivable	108,704	

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

Total Budgeted	93,050	
Total Collected (percent of budget)	<u>38,117</u>	41%
Amount Due Per Budget	54,933	





**TOWN OF
CAPE CHARLES**

AGENDA TITLE: Resolution 20240118 – Adopting a Master Tree Planting Plan for Cape Charles

AGENDA DATE
January 18, 2024

SUBJECT/PROPOSAL/REQUEST: Approval of Master Tree Planting Plan for Cape Charles

ITEM NUMBER:
8A

ATTACHMENTS: Resolution 20240118; Master Tree Planting Plan

FOR COUNCIL:
Action (X)
Information ()

STAFF CONTACT (s):
John Hozey, Town Manager

REVIEWED BY:
John Hozey, Town Manager

BACKGROUND:

While the Cape Charles Tree Advisory Board (TAB) was never formally established by the Town Council, since it was first proposed in 2019, the Town Council and staff have recognized TAB as an advisory group of well-intended citizens who work hard to promote trees and to help protect the Town's valuable tree canopy.

During the development of the FY24 Town budget TAB requested, and was granted, a line item within the Public Works budget which could be used to further promote trees, especially within the historic district. This line item was funded at \$10,000 for the current fiscal year.

ITEM SPECIFICS:

Following the approval of the current budget, TAB began working on various plans to establish a tree planting program for the town. Since most existing and proposed new trees fall within the public rights-of-way, mostly under the jurisdiction of VDOT, TAB reached out to the state to coordinate its efforts. But before VDOT will consider approving any new trees in the ROW, they require a Council Resolution adopting a planting plan. This resolution and plan will satisfy that requirement, while also ensuring Town Council support for the project.

While the attached plan refers to a multi-year approach, it is intended to be updated each year based on available funding and changing circumstances. Therefore, primary focus should only be on the Year One phase. Future phases will be brought back for additional approvals.

RECOMMENDATION:

Staff recommends approval of Resolution 20240118 – Adopting a Master Tree Planting Plan for Cape Charles.

RESOLUTION 20240118

ADOPTING A CAPE CHARLES MASTER TREE PLANTING PLAN

WHEREAS, although never formally established by the Cape Charles Town Council, since it was first proposed in 2019, the Town Council and staff have recognized the Cape Charles Tree Advisory Board (TAB) as an advisory group of well-intended citizens who work hard to promote trees and to help protect the Town's valuable tree canopy; and

WHEREAS, during the development of the Fiscal Year 2024 budget, the TAB requested, and was granted, a line item within the Public Works budget which included \$10,000 in funding which could be used to further promote trees, especially within the historic district; and

WHEREAS, the TAB submitted a proposal for a multi-year plan for the purchase, installation and maintenance of additional trees in the Cape Charles Historic and Harbor Districts; and

WHEREAS, the proposed Master Tree Planting Plan is separated into phases to include "Year One" and "Future Phases;" and

WHEREAS, since the Master Tree Planting Plan includes recommendations for plantings in the VDOT rights-of-way (ROW), VDOT approval must be obtained prior to planting any of the new trees in their ROW; and

WHEREAS, VDOT requires a Town Council resolution adopting the Master Tree Planting Plan prior to their consideration to approve any new trees in the ROW.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Town Council of the Town of Cape Charles hereby adopts the Master Tree Planting Plan submitted by the Cape Charles Tree Advisory Board and requests VDOT approval for the recommended plantings within their Rights-of-Way.

Adopted by the Town Council of Cape Charles on this 18th day of January 2024.

By: _____
Mayor Adam Charney

ATTEST:

Town Clerk

The background of the slide is a photograph of green leaves and dark, round berries, possibly from a holly or similar plant. The image is slightly blurred and has a soft, natural feel.

Cape Charles Tree Advisory Board

P R O P O S A L

Cape Charles Master Tree Plan

January 2024

Cape Charles Master Tree Plan

This proposal by the Cape Charles Tree Advisory Board (TAB) describes a multi-year plan for the purchase, installation, and maintenance of additional tree canopy in the Cape Charles Historic District and Harbor. Year One, for which details are provided, utilizes the current budget of \$10,000 and is slated for spring 2024 planting. Future years include a general description of plantings on Mason Ave along with additional canopy and understory trees throughout the Historic District and Harbor Park.

This proposal is being presented to the Cape Charles Town Council, via the town manager, for approval of the Year One plan and future year concepts.

Cape Charles Master Tree Plan

- ❖ **Year One (2023/24)**, utilizing the available budget of \$10,000, includes 10 canopy trees and 3 understory trees. This option focuses on more heavily traveled areas such as the entrance to town along Randolph Ave and Central Park surrounding area. Trees are to be planted in March/April 2024.
 - Competitive pricing is being obtained, with additional consideration being given to response time, “track record”, level of service, and maintenance needs (i.e., watering was a significant decision point). The project will remain within the budgeted amount of \$10,000
 - TAB has begun facilitating the process to meet VDOT requirements for long-range planning of verge (“hell”) strips. Completion of these tasks will require input and support from the Town, including Town Council
 - A draft letter from the Town to homeowners affected by the installation of new trees in front of their homes has been provided for approval and dissemination. A representative of the Tree Advisory Board has begun contacting affected homeowners with positive results thus far

Cape Charles Master Tree Plan

❖ Future Year Concept (2024/25 – 2026/27)

- The 2024/25 proposal includes the purchase and installation of approximately 13 additional canopy and understory trees. The focus of these trees will remain along Randolph Ave and Central Park surrounding area along with the west end of Mason Ave
- Subsequent years include the vision of extending the tree canopy into additional locations where there is an opportunity for that coverage. These locations will be determined based on available budget and Town priorities. Locations may include the addition of canopy trees at the future Visitor Center and at Harbor Park
- VDOT and stakeholder requirements will be satisfied prior to the approval of future year phases
- The scope of future year plans will be dependent on funding by Town and grant sources

Cape Charles Master Tree Plan – Year One

Proposed Trees & Their Location

Tree #	Proposed Trees					Location	Size	Total #
	Red Oak	White Oak	Sw'bay Magnolia	Redbud	Fringe-tree			
Canopy Trees							25- 30 gal, 2-2.5" caliper	10
1	1					In median at the north corner of Peach & Tazewell. Town to remove dying crepe myrtle. Harbor Park		
2-4	3							
5	1					Tazewell, in 'hell strip' in front of House 304		
6	1					Randolph, in 'hell strip' between House 426-428		
7	1					Randolph, in 'hell strip' in front of House 634		
8	1					Randolph, in 'hell strip' in front of House 642		
9	1					Randolph, in 'hell strip' in front of House 654		
10		1				West side of Plum along Central Park fence		
Understory Trees							15 gal, 1-1.5" caliper'	3
11					1	Randolph, in 'hell strip' in front of House 649		
12			1			East side of Strawberry across from Post Office		
13				1		Tazewell, in 'hell strip' in front of House 309		

Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 1

Proposed Tree – Red Oak

Location - In median at the north corner of Peach & Tazewell. Town to remove dying crepe myrtle.



Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 2-4

Proposed Tree – Red Oak

Location – Harbor Park; exact locations will be determined jointly

Picture to be inserted after
locations agreed upon.

Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 5

Proposed Tree – Red Oak

Location – Tazewell, in 'hell strip' in front of House 304



Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 6

Proposed Tree – Red Oak

Location – Randolph, in 'hell strip' between House 426-428



Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 7

Proposed Tree – Red Oak

Location – Randolph, in 'hell strip' in front of House 634



Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 8

Proposed Tree – Red Oak

Location – Randolph, in 'hell strip' in front of House 644



Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 9

Proposed Tree – Red Oak

Location – Randolph, in 'hell strip' in front of House 654



Cape Charles Master Tree Plan – Year One

Canopy Trees & Their Location

Tree # - 10

Proposed Tree – White Oak

Location – West side of Plum along Central Park fence



Cape Charles Master Tree Plan – Year One

Understory Trees & Their Location

Tree # - 11

Proposed Tree – Fringetree

Location – Randolph, in 'hell strip' in front of House 649. VDOT to remove dead crepe myrtle.



Cape Charles Master Tree Plan – Year One

Understory Trees & Their Location

Tree # - 12

Proposed Tree – Sweetbay Magnolia

Location – East side of Strawberry across from Post Office



Cape Charles Master Tree Plan – Year One

Understory Trees & Their Location

Tree # - 13

Proposed Tree – Redbud

Location – Tazewell, in 'hell strip' in front of House 309.



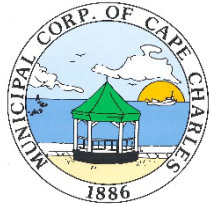
Cape Charles Master Tree Plan – Future Phases

Implementation of Mason Ave Plan

- Location: two blocks on south side of Mason Avenue (north side of fence line) between Bay Avenue & Pine Street
- Three groupings of one Red Oak with two Wax Myrtle shrubs on either side
- Groupings will be positioned to soften the view of industrial areas from retail establishments across the street
- Pricing to be determined

Continued Installation of Canopy & Understory Trees in Historic District & Harbor

- Location: various locations as recommended by TAB including possibility of adding up to three canopy trees to shade the future Visitor Center and creating a forested area at the Harbor following the [Miyawaki Method](#), a proven approach to rapidly establish a forested area
- Pricing to be determined



**TOWN OF
CAPE CHARLES**

AGENDA TITLE: Zoning Map Amendment (ZMA) 2023-04

AGENDA DATE
January 18, 2024

SUBJECT/PROPOSAL/REQUEST: ZMA 2023-04 -
Rezoning of Tax Map #83A3-1-644 & 83A3-1-641 from
Commercial-1 to Residential-1

ITEM NUMBER:
3A & 8B

ATTACHMENTS: ZMA Application, Survey of Library
Building Area 2015-05-14; Town Council Resolution of Intent; and
Letter from Adjacent Property Owners: Kookaburra Letter with 4
attachments; and Staff Report to Planning Commission dated
November 20, 2023; Ordinance 20240118

FOR COUNCIL:
Action (X)
Information ()

STAFF CONTACT (s):
Katie H. Nunez, Planning & Zoning Administrator

REVIEWED BY:
John Hozey, Town Manager

BACKGROUND:

On November 2, 2023, Town Council passed a Resolution of Intent, as required by the Town Zoning Ordinance and Virginia Code §15.2-2286 (A) (7) authorizing staff to file the necessary paperwork to rezone Tax Map #83A3-1-644 & 83A3-1-641 from Commercial-1 to Residential-1. Said application was initiated as part of the entire Library Building Project which proposals were solicited and reviewed seeking to redevelop the library building and potentially the lots affiliated with the library, which include these two residentially sized lots directly behind the library building that front on Randolph Avenue. As part of the review of the received proposals, Town Council determined that they did not feel a commercial development or high intensity residential development on these two lots was characteristic of the Randolph Avenue neighborhood or the entire length of Randolph as one of the entrance corridors to the downtown area, specifically heading towards the beachfront.

Therefore, Town Council directed staff that the zoning of these two lots is better suited as Residential-1, with the intent of seeking and having in place the rezoning of these two lots, prior to the finalization of any development contract for the library project which initially included these two lots. Since this process was begun, the selected developer, City and Guilds (whom the Town is still in negotiations with) has now modified his proposal to exclude the 2 rear lots. It is important to note that the timeframe to seek and consider the rezoning of these two lots is not as critical as when the lots were part of the package deal relative to the library building; this is a point that I will return to following the report on the Planning Commission public hearing process and a subsequent meeting staff held with the adjacent property owners to the library property.

Attached is a survey of the library property after the purchase of the four parcels that comprise the library property in December 2012.

The front library building & parcel (83A3-1-643A) (see aerial map below) was a bank since 1934 when the lot was acquired by Farmers & Merchants Trust Bank. The middle open lot behind the library building (93A3-1-643B & 642B) was referred to in the deed when the Town acquired this lot as the former “Chesapeake Hotel Property”. This lot serves as parking to the library building, several trash dumpsters have been placed there and are utilized by a few surrounding businesses, and the two lots outlined in blue with road frontage on Randolph Avenue (83A3-1-644 & 83A3-1-641) were purchased in the 1943-1945 time period by Frank Parsons Jr which were then conveyed through his will to Margaret P. Dickinson. There is a note in the deed when the Town bought these 4 parcels from the bank that these parcels were a compilation of property that was conveyed to the bank or through its predecessors and they show the direct transfers of each parcel to the bank.

The Town is aware of uses occurring on their lot behind the library building that may have been agreed to informally over the last few years and has indicated that these will be addressed as the Town is working with

the potential purchaser of the library property in negotiating the contracts for sale and development of the library building and property.

Additionally, there is an easement on one of the Randolph frontage lots which the Town will need to address (either by retaining it as part of any development plan for this lot by a third party or establish a more efficient and appropriately designed easement coming in from Pine Street and most likely coming across the parking lot adjacent to the rear property line of these two lots that would better align with the easement that runs behind the Mason Avenue buildings for approximately 115 feet. However, this easement alongside the interior of these two Randolph Avenue facing lots do not impact consideration of the rezoning request for these 2 lots.



PLANNING COMMISSION PUBLIC HEARING:

The Planning Commission held a public hearing on ZMA 2023-04 on Monday, November 20, 2023, and the staff report was presented.

I reported that these two lots were acquired as part of the purchase of the Bank of America building and that these two lots had never been developed nor utilized in the operation of the bank nor since the library occupied the former bank building. I also reported that the intent of Town Council was to put these two lots out for sale in the near future and that a minimum bid price would be established for each of these lots as part of that process.

As part of the staff report presented at that public hearing, I discussed how this rezoning application is evaluated pursuant to the Comprehensive Plan (see below) and to the Zoning Ordinance District Intent statements (see below).

REVIEW WITH RESPECT TO COMPREHENSIVE PLAN

On Randolph Avenue between Pine Street and Strawberry Street, the Future Land Use Map has designated the land the following classification:



Historic District Residential: The Historic District Residential category covers the majority of the original street grid in Cape Charles. Any new development in this area is intended to reflect the historic character of the core residential area and compliment features of existing structures.

Future Land Use Map December 2022



REVIEW WITH RESPECT TO ZONING ORDINANCE: ZONING DISTRICTS – INTENT

The Cape Charles Zoning Ordinance provides a statement of intent or purpose for the current 2 zoning districts that are on this parcel as follows:

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

It appears that these two parcels have been zoned Commercial-1 since the Town adopted zoning in 1994 which seemed appropriate when these two parcels were considered part of the bank that operated on the front two parcels. However, these two parcels that front Randolph Avenue were sized at 5,600 square feet each which is consistent with the general layout of the residential district

in the original part of town.

There is no evident development of these two parcels relative to when they were affiliated with the bank and the Town has not utilized them in any substantial way relative to the operations of the library building.

At the public hearing, the following public comments were received.

PUBLIC HEARING COMMENTS:

Mark A. Pugh, 211 Mason Avenue, Lives in 245 Mason Avenue

He has no problem with the rezoning of the lot right on the corner of Pine and Randolph Avenue; however, he has an issue with doing anything with the other lot (Tax Map #83A3-1-641) since there is an easement/driveway that must be preserved and retained. He does think that this neighborhood has changed and was not adequately addressed in the Town's application for rezoning. Many of the businesses at this end of Mason Avenue use the alley/easement that comes off this Town lot from Randolph Avenue to come into the backside of their business. He believes there is a prescriptive easement under the law for this easement/alley and cautions the Town proceeding forward with the rezoning of these two lots.

John Barrett owns a unit in The Loggias at 209 Mason Ave. He sold 207 Mason Avenue earlier in the year and there was a survey done at that time and there is evidence in that survey that the long easement that runs parallel to Mason Avenue belongs to 207 & 209 Mason Avenue. He indicated that he was not speaking about the cross easement that comes in from Randolph Avenue which Mr. Pugh just spoke about. He asked if these 2 lots would be used for apartments or single-family homes. He inquired as to what would happen to the pecan tree on this lot. He indicated that The Loggias Condominiums have a trash unit back there and there is a great deal of stuff behind the library that would benefit from cleaning some of this up.

There were no further comments so Commissioner Strub motioned to close the public hearing at 6:16 pm and was seconded by Commissioner Holloway and the motion was unanimously approved.

PLANNING COMMISSION DISCUSSION:

Commissioner Ashworth asked for clarification regarding the alley/easement/driveway and how that may be impacted by this rezoning application.

Ms. Nunez stated that there is no driveway from Randolph Avenue across the lot in questions leading to the backside of the Mason Avenue commercial buildings but it is an easement. She does not feel a rezoning of the properties impacts the easement and its existence. The easement/alley is not a public alley but is owned by the property owners that abut it. The Town's thought process at this point is asking staff to see if a solution can be crafted which may include the establishment of a proper alley/easement across the town lot which is currently the parking lot for the library with the alley/easement coming in from Pine Street and coming up to approximately the building at 213 Mason Avenue. In addition, the Town is hoping to address the placement of and use of various dumpsters on the Town lot by several commercial establishments without a legal agreement with the Town memorializing and approving these uses on Town property.

Commissioner Ashworth asked about the claim of prescriptive rights advanced by Mr. Pugh and Ms. Nunez stated that that is a legal determination that would need to be resolved by the courts.

Mr. Pugh was recognized by the Chairman and he stated that he thinks the size and location of the driveway on Randolph is not being fairly represented by Ms. Nunez. Chairman Stramm stated that the Town has not indicated that the easement will be eliminated but rather the Town is trying to see if a new solution of access & trash management and parking can be devised for the commercial properties at this end of Mason Avenue.

Commissioner Ashworth verified that the Planning Commission is being asked to vote on a recommendation to rezone these two lots from Commercial to Residential-1.

PLANNING COMMISSION RECOMMENDATION:

Motion made by Commissioner Holloway, seconded by Commissioner Ashworth, to recommend in favor of Zoning Map Amendment (ZMA) 2023-04 application from Municipal Corporation of Cape Charles to rezone Tax Map #83A3-1-644 & 83A3-1-641 (11,301.22 square feet) from Commercial -1 (C-1) to Residential-1 (R-1) pursuant to CCZO Section 2.7.2 and Section 3.2. The motion was approved by unanimous vote.

NEIGHBORHOOD/ADJACENT PROPERTY OWNER MEETING HELD

Since the Planning Commission public hearing, at the request of Town Manager John Hozey, I and Project Manager Bob Panek convened a meeting of the adjacent property owners/interested and affected parties relative to the easement discussion as well as the trash dumpster use and location and other ancillary services. At this meeting, all parties were given an overview of the matter as we have determined through deed research and outlined what has transpired on the parking lot property, sometimes through assent of Town officials and sometimes by action from an adjacent property owner, relative to dumpsters for trash, dumpster for recycling cardboard materials, cooking oil receptacle, parking for residential units. As a result of this meeting, it is possible that several of the attendees at this meeting may work together to present a proposal to the Town relative to one of these lots but, if that should occur, then additional time may be requested for Town Council to table action on this rezoning to allow sufficient time to develop and advance any such proposal. All parties were made aware of this Town Council meeting and the need to inform either myself or Town Manager John Hozey if there seemed to be a possibility of a proposal forthcoming with some additional time.

The Town Council has a full 365 days from the date this matter was received by the Planning Commission, which gives you until November 1, 2024, before you must take action on the application. Therefore, it is fully within the ability of the Town to table this matter if you feel additional time is necessary to reach your decision on this application. Nevertheless, I am still going to provide a recommendation to Town Council as motioned by the Planning Commission but am available, as needed, to assist in the development of an alternate motion.

TOWN COUNCIL

Town Council is requested to hold the public hearing on ZMA 2023-04 and to consider the Planning Commission Recommendation on the matter. Staff is proposing the following motion for Town Council's consideration:

To adopt Ordinance 20240118 to approve Zoning Map Amendment (ZMA) 2023-04 application from Municipal Corporation of Cape Charles to rezone Tax Map #83A3-1-644 & 83A3-1-641 (11,301.22 square feet) from Commercial -1 (C-1) to Residential-1 (R-1) pursuant to CCZO Section 2.7.2 and Section 3.2.

Attachments:

Attachment 1 – 2023-004 ZMA Application

Attachment 2 – Survey Library Building Area 2015-05-14

Attachment 3 – Town Council Resolution of Intent

Attachment 4 – Letter from Adjacent Property Owners: Kookaburra Letter with 4 attachments

Attachment 5 – Ordinance #20240118



PLANNING COMMISSION PUBLIC HEARING STAFF REPORT

Meeting Date: November 20, 2023

Item #5A & 8A – ZMA-2023-04

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

Date: November 15, 2023

APPLICANT: Municipal Corporation of Cape Charles

SITE ADDRESS: 210 Randolph Avenue (2 lots behind the library property)

TAX MAP: 83A3-1-644 & 83A3-1-641

LOT SIZE: 11.301.22 square feet

TYPE OF APPLICATION: Zoning Map Amendment (ZMA) 2023-04

SPECIFIC REQUEST: Rezone 2 parcels from Commercial-1 (C-1) to Residential-1 (R-1)

ZONING ORDINANCE: CCZO Section 2.7.2 & 3.2

CURRENT ZONING: Commercial-1

PROPOSED ZONING: Residential-1

DATE RECEIVED: November 3, 2023

DATE DEEMED COMPLETE: November 3, 2023

LEGAL DEADLINE: 100 days from 1st Receiving Application: February 10, 2024

NARRATIVE OF PROPOSAL

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

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

Town Council passed a Resolution of Intent, as required by the Town Zoning Ordinance and Virginia Code §15.2-2286 (A) (7), on November 2, 2023 which is attached along with the application to rezone Tax Map #83A3-1-644 and 83A3-1-641 from Commercial-1 to Residential-1.

Attached is a survey of the library property after the purchase of the four parcels that comprise the library property in December 2012.



BACKGROUND:

The front library building & parcel (83A3-1-643A) was a bank since 1934 when the lot was acquired by Farmers & Merchants Trust Bank. The middle open lot behind the library building (83A3-1-643B & 642B) was referred to in the deed when the Town acquired this lot as the former “Chesapeake Hotel Property”. This lot serves as parking to the library building, several trash dumpsters have been placed there and are utilized by a few surrounding businesses, and the two lots outlined in blue with road frontage on Randolph Avenue (83A3-1-644 & 83A3-1-641) were purchased in the 1943-1945 time period by Frank Parsons Jr which were then conveyed through his will to Margaret P. Dickinson. There is a note in the deed when the Town bought these 4 parcels from the bank that these parcels were a compilation of property that was conveyed to the bank or through its predecessors and they show the direct transfers of each parcel to the bank.

There is an easement on one of the Randolph frontage lots which the Town will need to address (either for redirecting that easement behind the library building or retain as part of any development plan for this lot by a third party.

Additionally, the Town is aware of uses occurring on their lot behind the library building that may have been agreed to informally over the last few years and has indicated that these will be addressed as the Town is working with the potential purchaser of the library property in negotiating the contracts for sale and development of the library building and property. However, these do not impact consideration of the rezoning request for the 2 lots that front on Randolph Avenue.

REVIEW WITH RESPECT TO COMPREHENSIVE PLAN

On Randolph Avenue between Pine Street and Strawberry Street, the Future Land Use Map has designated the land the following classification:



Historic District Residential: The Historic District Residential category covers the majority of the original street grid in Cape Charles. Any new development in this area is intended to reflect the historic character of the core residential area and compliment features of existing structures.

Future Land Use Map December 2022



REVIEW WITH RESPECT TO ZONING ORDINANCE: ZONING DISTRICTS – INTENT

The Cape Charles Zoning Ordinance provides a statement of intent or purpose for the current 2 zoning districts that are on this parcel as follows:

Single Family Residential District R-1 A. Statement of intent. The intent of this basic zoning district is to provide quiet, medium density, single-family residential development plus provide open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to restrict all activities of a commercial nature

as described in Section 3.6-A of this ordinance, known as Commercial District C-1, which states “These commercial activities are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments,” and to promote a convenient, attractive, and harmonious community. This section is created in recognition of the existence of developed areas where single-family and duplex dwelling currently exist on lots of 5,600 square feet and where the characteristics of the neighborhood include both permanent as well as seasonal residents.

It appears that these two parcels have been zoned Commercial-1 since the Town adopted zoning in 1994 which seemed appropriate when these two parcels were considered part of the bank that operated on the front two parcels. However, these two parcels that front on Randolph Avenue were sized at 5,600 square feet each which is consistent with the general layout of the residential district in the original part of town.

There is no evident development of these two parcels relative to when they were affiliated with the bank and the Town has not utilized them in any substantial way relative to the operations of the library building.

STAFF RECOMMENDATION

Staff is requesting the Planning Commission to convene and hold the public hearing and consider all comments received and determine if there are additional issues raised that were not considered by staff which may need to be considered. Please note that the Town has received a written comment from Mark Pugh of K-Coast Surf Shops operating under the auspices of Kookaburra LLC which we have enclosed with his attachments.

Staff supports rezoning the two parcels to Residential-1 zoning.

POSSIBLE PLANNING COMMISSION MOTION

I would recommend the following motion for the Planning Commission’s consideration: ***Motion to recommend ZMA 2023-004 to rezone Tax Map Parcel # 83A3-1-644 & 83A3-1-641 from Commercial-1 to Residential-1 zoning as consistent with the Comprehensive Plan and Future Land Use Map.***

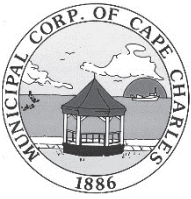
Attachments:

Attachment 1 – 2023-004 ZMA Application

Attachment 2 – Survey Library Building Area 2015-05-14

Attachment 3 – Town Council Resolution of Intent

Attachment 4 – Letter from Adjacent Property Owners: Kookaburra Letter with 4 attachments



Zoning Map Amendment Application

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

Revised 08/2023

Taxes

Violations

Fee \$

Decision

Budget Code: MISPL 100-3100-1070

PART 1. APPLICATION NOTES

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

****plus, any actual cost for advertising & adjacent property owner notification mailings**

PART 2: PROPERTY INFORMATION

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

PART 3: PROPERTY OWNER INFORMATION

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

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

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

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

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

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

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

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

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

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

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

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

- D) Describe why the proposed rezoning is necessary.

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

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

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

Applicant's signature: _____

Date: _____

Zoning Administrator's Signature: _____

Date: _____

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

Date Application Received in Office:

Application #: ZMA

Planning Commission

Town Council

Date referred:

Date received from Planning Commission:

Action deadline (100 days from receipt):

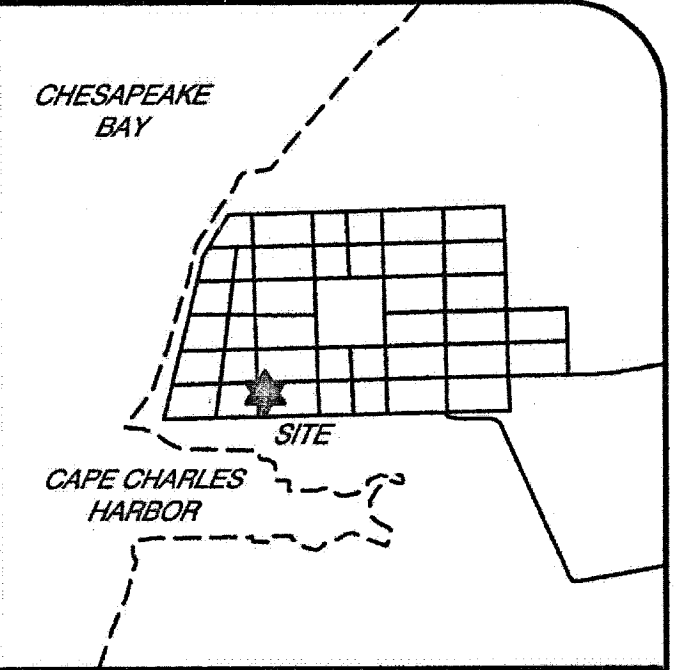
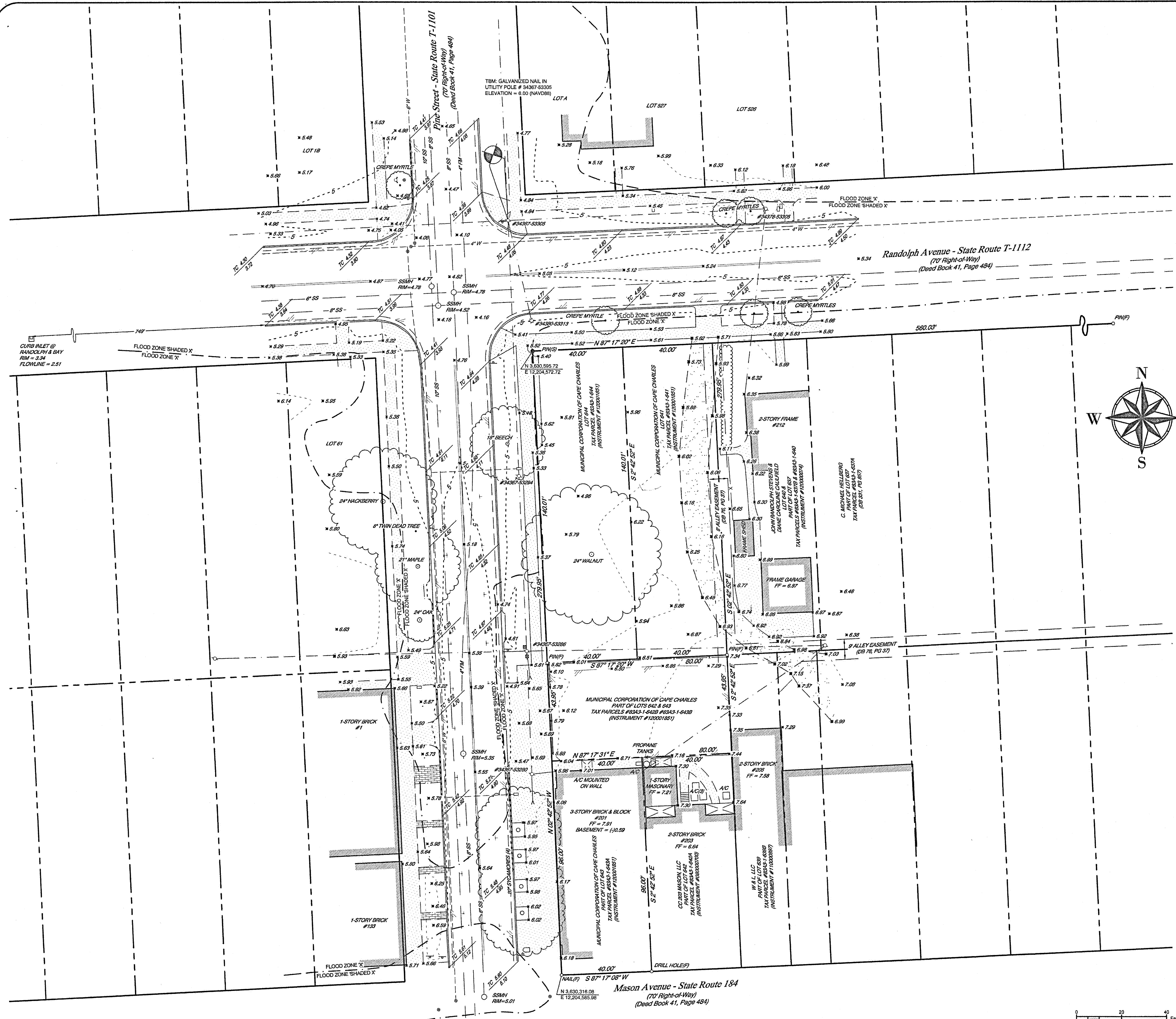
Action deadline (max. 365 days from referral to PC):

Public hearing date:

Public hearing date:

Decision:

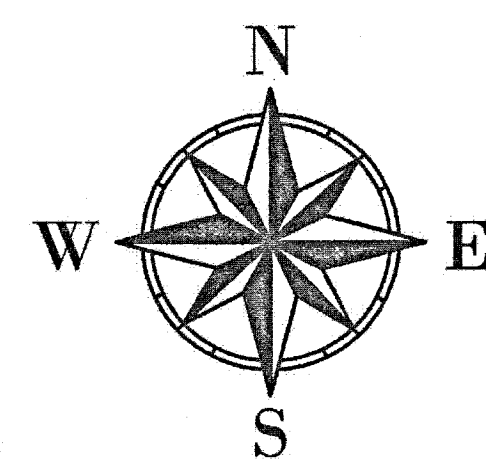
Decision:



VICINITY MAP
1" = 2000'

LEGEND

○	MANHOLE
⊗	UTILITY POLE
⊕	WATER VALVE
+	SIGN
⊞	WATER METER
☆	LIGHT POLE
□	MAILBOX
⊞	TELEPHONE PEDESTAL
—	EDGE OF PAVEMENT
■	CONCRETE
▨	BRICK



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

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

THIS PROPERTY APPEARS TO FALL IN:
FLOOD ZONES: 'X' & 'SHADED X'
COMMUNITY NO.: 510108
PANEL: 0285F DATED: MARCH 2, 2015

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

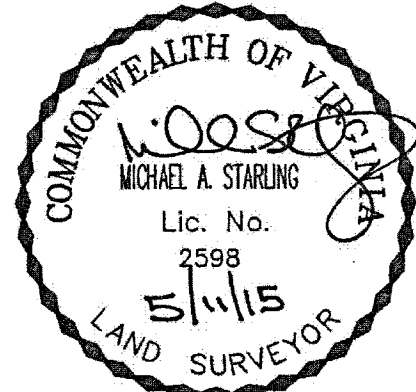
THE NORTH MERIDIAN OF THIS PLAT IS BASED ON THE VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD83.

ELEVATIONS SHOWN HEREON ARE BASED ON USGS DISK "Z 313"
ELEVATION = 11.32 (NAVD83)

UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON CAPE CHARLES AS-BUILT DRAWINGS DATED SEPTEMBER, 1990, REVISED DECEMBER 21, 1990.

IT IS BELIEVED THAT THERE IS A 1.5' CONCRETE GUTTER PAN ALONG ALL ROADS, THE EDGE OF WHICH HAS BEEN PAVED OVER.

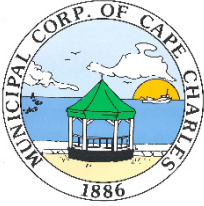
THIS TOPOGRAPHIC SURVEY WAS COMPLETED UNDER THE DIRECT AND RESPONSIBLE CHARGE OF MICHAEL A. STARLING FROM AN ACTUAL GROUND SURVEY MADE UNDER MY SUPERVISION; THE ORIGINAL DATA WAS OBTAINED ON APRIL 24-27, 2015; AND THIS PLAT MEETS MINIMUM ACCURACY STANDARDS UNLESS OTHERWISE NOTED.



TOPOGRAPHIC SURVEY
OF
Lots 641 - 644
"Map of the Town of Cape Charles"
(DEED BOOK 41, PAGE 483)
TAX PARCELS #83A3-1-641, #83A3-1-642A, #83A3-1-642B,
#83A3-1-643A, #83A3-1-643B & #83A3-1-644
TOWN OF CAPE CHARLES
NORTHAMPTON COUNTY, VIRGINIA
FOR
Land Studio, PC
APRIL 30, 2015

Shoreline Surveyors
23314 Courthouse Avenue - P.O. Box 735
Accomac, Virginia 23418
PHONE (757) 789-3960 FAX (757) 789-3962

SCALE: 1" = 20'
DRAWN: MAS
FIELD BOOK: 32, PAGES 66 & 69
JOB #15045
SHEET 1 OF 1

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

BACKGROUND:

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

ITEM SPECIFICS:

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

Map of Proposed Parcels for Rezoning



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

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

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

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

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

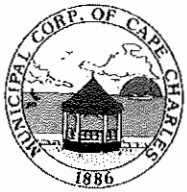
POTENTIAL SCHEDULE:

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

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

RECOMMENDATION:

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



Zoning Map Amendment Application

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

Revised 08/2023

Taxes	
Violations	
Fee	\$
Decision	

Budget Code: MISPL 100-3100-1070

PART 1. APPLICATION NOTES

1. A pre-application conference is mandatory prior to submission of an application for a zoning map amendment.
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3. The Town Council may not add conditions of approval to a zoning map amendment application.
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6. **Fees: Regular Rezoning – (a) Non-PUD = \$500 + \$50/acre****
(b) PUD = \$1,000 + \$50/acre (l) Amendment to Comp. Plan; Concept Approvals: \$550/app**
Conditional Rezoning = \$1000 + \$50/acre**
****plus, any actual cost for advertising & adjacent property owner notification mailings**

PART 2: PROPERTY INFORMATION

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

PART 3: PROPERTY OWNER INFORMATION

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

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

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

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

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

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

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

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

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

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

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

- D) Describe why the proposed rezoning is necessary.

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

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

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

Applicant's signature: _____

Date: 10/12/23

Zoning Administrator's Signature: _____

Date: _____

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

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

RESOLUTION OF INTENT 20231102

ZONING MAP AMENDMENT 2023-04 APPLICATION

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

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

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

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

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

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

By: _____
Mayor Charney

Attest:

Town Clerk

Kookaburra LLC

November 14, 2023

211 Mason Avenue
Cape Charles, VA 23310

Dear Town Manager and Town Planner:

This is a letter in opposition to the change in zoning request submitted by the Town of Cape Charles for Tax Map #83A3-1-644 and Tax Map #83A3-1-641.

The main reason for this opposition is the affect it will have on commercial access to the deeded 16 foot Ingress/Egress Easement (Deed Book 171, Pg 700 and DB 180, Pg 351) (Attachment #1) and the ensuing "Can of Worms" it will open as it affects adjoining commercial properties.

The reason for such an access to the rear of the busy commercial area is to avoid congestion and traffic stress on Mason Avenue. We deliver hundreds of thousands of dollars in merchandise in thousands of boxes through the rear entrance of our property. Without easy rear access, these deliveries would create a logistical nightmare with traffic and pedestrians affected on Mason Avenue. Kookaburra LLC has several questions and concerns we will pose in this letter to the Town Council, Manager and Planner. We would like this letter to be read at the public hearing and to have our questions addressed prior to any vote of the proposed rezoning.

We will pose the questions in two sections under "Public Awareness" and "Can of Worms".

Public Awareness:

1. There has been no survey completed with current conditions, nor proposed changes, for such an important change in zoning status. The only visual made available to the public is a Google Earth view with general delineations as in the Town Council packet of October 19, 2023. This would not suffice for a building permit so it should not suffice for a change in zoning.
2. There has been no survey done of the entire length of the deeded Ingress/Egress Easement to allow commercial access to the rear of the many Mason Avenue commercial properties. If the Town fails to provide such a survey, Kookaburra LLC will have one done at our expense.
3. In addition to a survey, there has been no study done to determine how a change in zoning will affect the deeded Ingress/Egress access, given residential setbacks and potential fences, with commercial delivery vehicles. This is critical given the deeded access width of 16 feet and current condition of the curb cut on Randolph Avenue.
4. There has been no study done to the trash refuse/dumpster situation behind the library. Surely in the future, any residential property owner is not going to want smelly summer dumpsters in the rear of the property. Will a large garbage truck be able to access the dumpsters in the same manner if a fence is built along the property line?

Can of Worms:

1. According to the enclosed Town Plat provided (Attachment #2), the redevelopment of 213 Mason Avenue was approved to use two parking spaces (Attachment #4) in what may be the deeded 16 foot Ingress/Egress Easement abutting each other to meet the off street parking requirement for two of the five residential units. The provided survey of 213 (Attachment #3) does not show the continuance of the Ingress/Egress that is shown on the Town Plat and included in the survey of 211 Mason Ave (Attachment #1) and should be fully vetted prior to any final decision on the proposed zoning changes. This is another reason a survey of the entire access should be done prior to any rezoning of the commercial town lots.

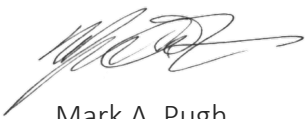
2. Given that the Town has created a very difficult situation where:

- a. The east parked vehicle (Vehicle #2 on the enclosed Attachment #3) must always be moved (!?) for the other vehicle (Vehicle #1 on the enclosed Attachment #3) to be moved, as it would be blocked in, or:
- b. The west vehicle that is blocked in will only have access to that required off street parking space via the deeded Ingress/Egress Easement partially on our property and must only leave it in REVERSE as it will not have enough space to turn around. This creates a potentially dangerous situation with serious liability concerns for the town and created by the town, especially given the commercial use of the access.

As this redevelopment, and now potential rezoning, of commercial properties affects our access, we would like to have the Town Planner explain in a public forum how the above scenarios will affect the deeded Ingress/Egress Easement shown on the Town Plat.

We look forward to your responses to our questions and concerns that will impact the future commercial operations of the affected properties.

Sincerely,

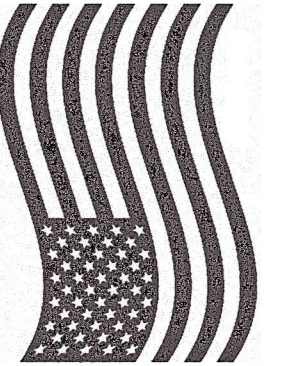
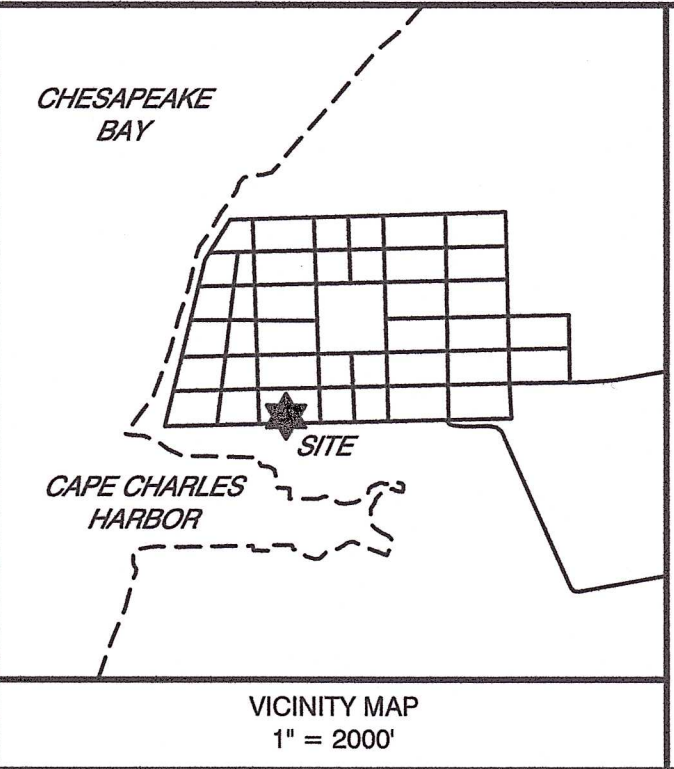


Mark A. Pugh

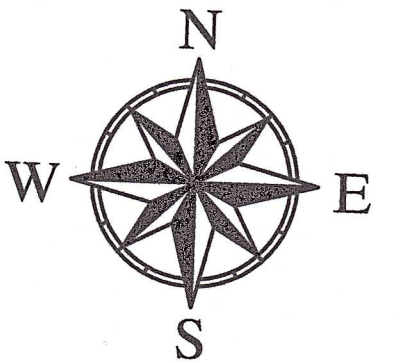
Kookaburra LLC

Randolph Avenue - State Route T-1112
(70' Right-of-Way)
(Deed Book 41, Page 484)

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



MADE IN AMERICA



THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT
SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS
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FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS
APPROXIMATELY SCALED FROM F.E.M.A. FLOOD MAPS. SHORELINE SURVEYORS IS NOT A
PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY
SHOWN HEREON. FOR FURTHER INFORMATION AND TO CONFIRM THE FLOOD ZONE FOR
THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.

THIS PROPERTY APPEARS TO FALL IN:
FLOOD ZONE: "X"
COMMUNITY NO.: 510106
PANEL: 0285F DATED: MARCH 2, 2015

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

THE NORTH MERIDIAN OF THIS PLAT IS BASED ON A SURVEY RECORDED IN DEED BOOK
41 AT PAGE 484.

Shoreline Surveyors

23314 Courthouse Avenue - P.O. Box 735
Accomac, Virginia 23301
PHONE (757) 789-3960 FAX (757) 789-3962

SCALE: 1" = 20'

DRAWN: MAS

FIELD BOOK: 50, PAGES 31 & 32

FIELD BOOK: 12, PAGE 14

JOB #21108

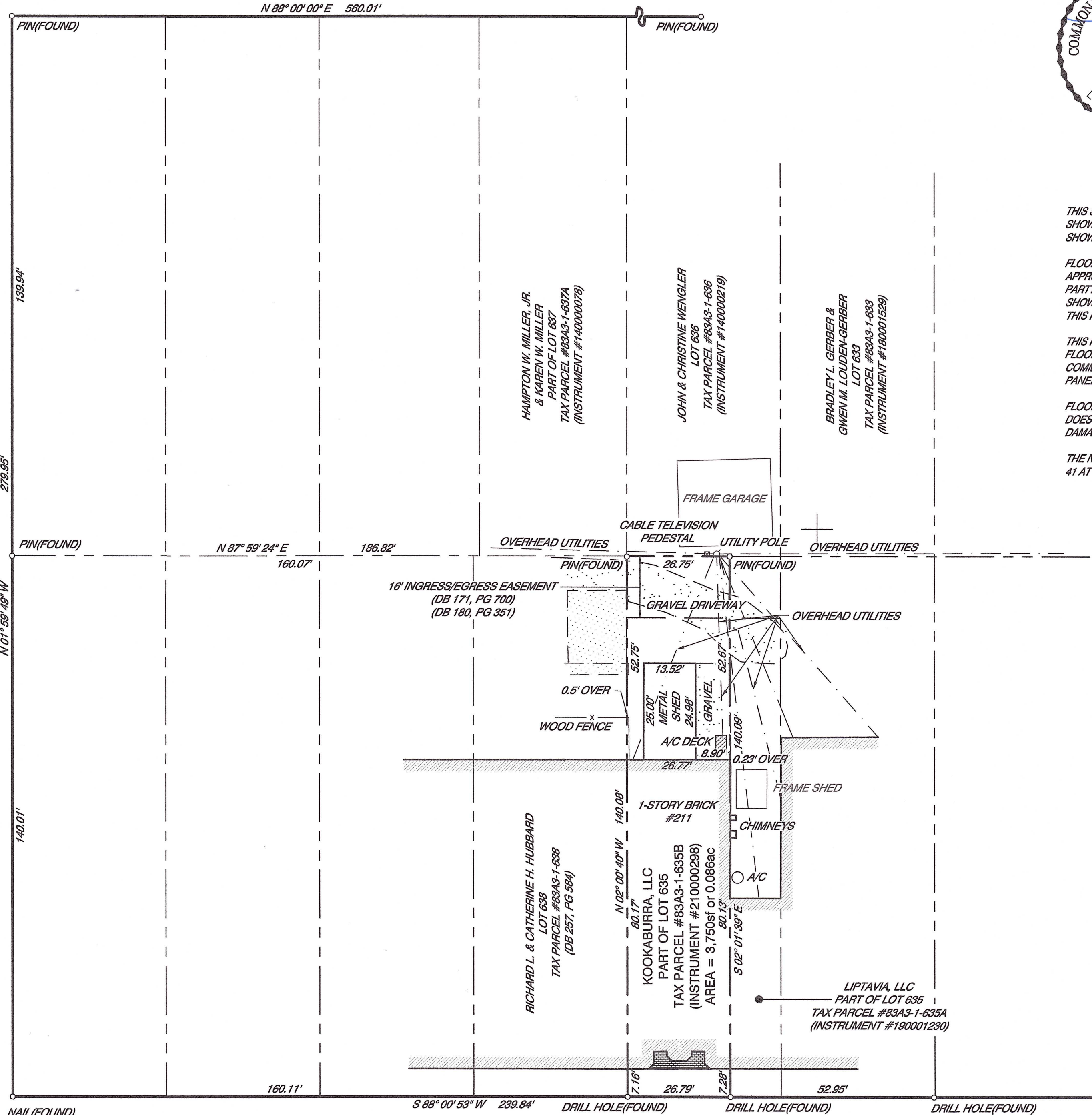
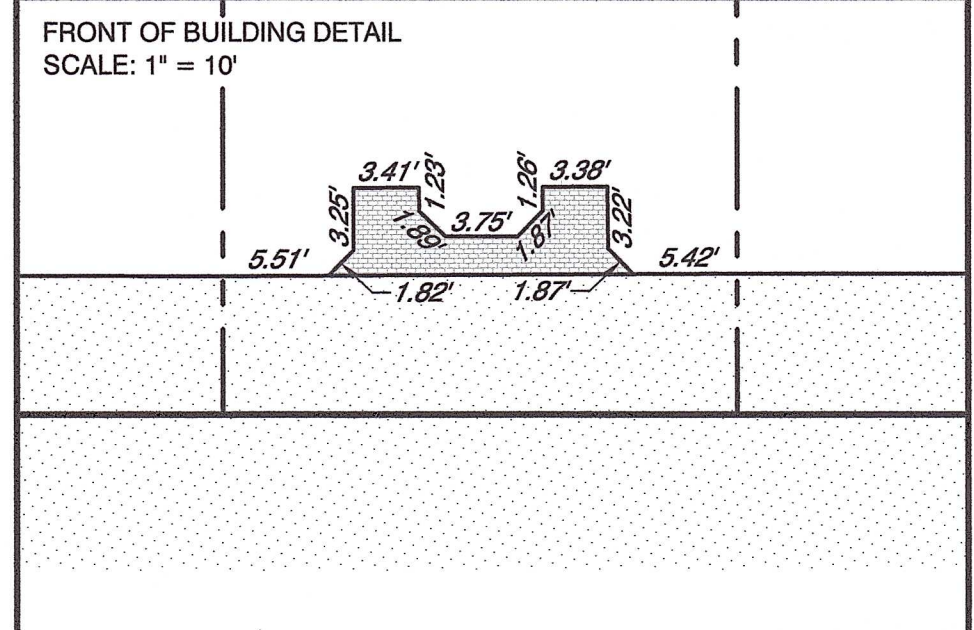
SHEET 1 OF 1

PHYSICAL SURVEY
OF
A PORTION OF

Lot 635
"Map of the Town of Cape Charles"

(DEED BOOK 41, PAGE 484)
TAX PARCEL #083A3-(011)-00-0635B
TOWN OF CAPE CHARLES
NORTHAMPTON COUNTY, VIRGINIA

FOR
Kookaburra, LLC
NOVEMBER 25, 2021



Mason Avenue - State Route 184
(70' Right-of-Way)
(Deed Book 41, Page 484)

Pine Street - State Route T-1101
(70' Right-of-Way)
(Deed Book 41, Page 484)

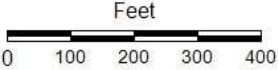
Northampton County, Virginia

Legend

- County Boundaries
- Town Names
- Route Numbers
- Road Labels
- Parcels
- Driveways



Map Printed from Northampton
<https://parcelviewer.geodecisions.com/Northampton/>



Title:

Date: 1/18/2021

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Northampton County is not responsible for its accuracy or how current it may be.

SURVEYORS CERTIFICATION

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

GENERAL NOTES:

- OWNERS: CAPE DUNE, LLC
- SOURCE OF TITLE: INST. 210002996
- TAX PARCEL: 83A3-1-631
- A SURVEY WAS PERFORMED ON THIS PROPERTY ON SEPTEMBER 8, 2021.
- ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 51131C295F, DATED 03-02-15, THE PROPERTY SHOWN HEREON LIES IN FLOOD ZONE X.
- PLAT REFERENCES:
D.B. 41, P. 484 (PLAT)
INST. 160000442 (PLAT)
D.B. 299, P. 267 (PLAT)
- AREA: 5,798 SQ. FT. (0.129 AC.)
- PARKING SPACES SHOWN THUS "①" ARE MINIMUM 8.5' X 18'.

LOT 633
D.B. 41, P. 484 (PLAT)
BRADLEY L. GERBER &
GWEN M. LOUDEN-GERBER
INST. 180001529
INST. 160000462
83A3-1-633

**BARBARA M. BROWN
& SHERI A. REYNOLDS**
INST. 080001449
D.B. 41, P. 484 (PLAT)
REF. D.B. 111, P. 567
83A3-1-632A

LOT 629
D.B. 41, P. 484 (PLAT)
MATTHEW F. DAVIES
& LYNNE C. DAVIES
INST. 110001123
D.B. 299, P. 267 (PLAT)
83A3-1-629

SHOREDOC, LLC
INST. 170001389
D.B. 41, P. 484 (PLAT)
83A3-1-634A

LOT 631
D.B. 41, P. 484 (PLAT)
CAPE DUNE, LLC
INST. 210002996
83A3-1-631
5,598 SF
OR 0.129 AC

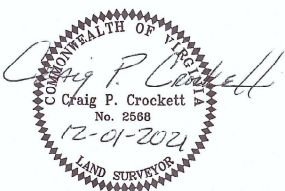
LOT 630
D.B. 41, P. 484 (PLAT)
PAUL G. WATSON, III
& WILLIAM D. WATSON
D.B. 208, PG. 355
83A3-1-630

**2 STORY BRICK
BUILDING
225**

**2 STORY BRICK
BUILDING
219-223**

PINE STREET (70' R/W)

MASON AVENUE (70' R/W)



APPROVED

DIRECTOR OF PLANNING
CAPE CHARLES, VA.

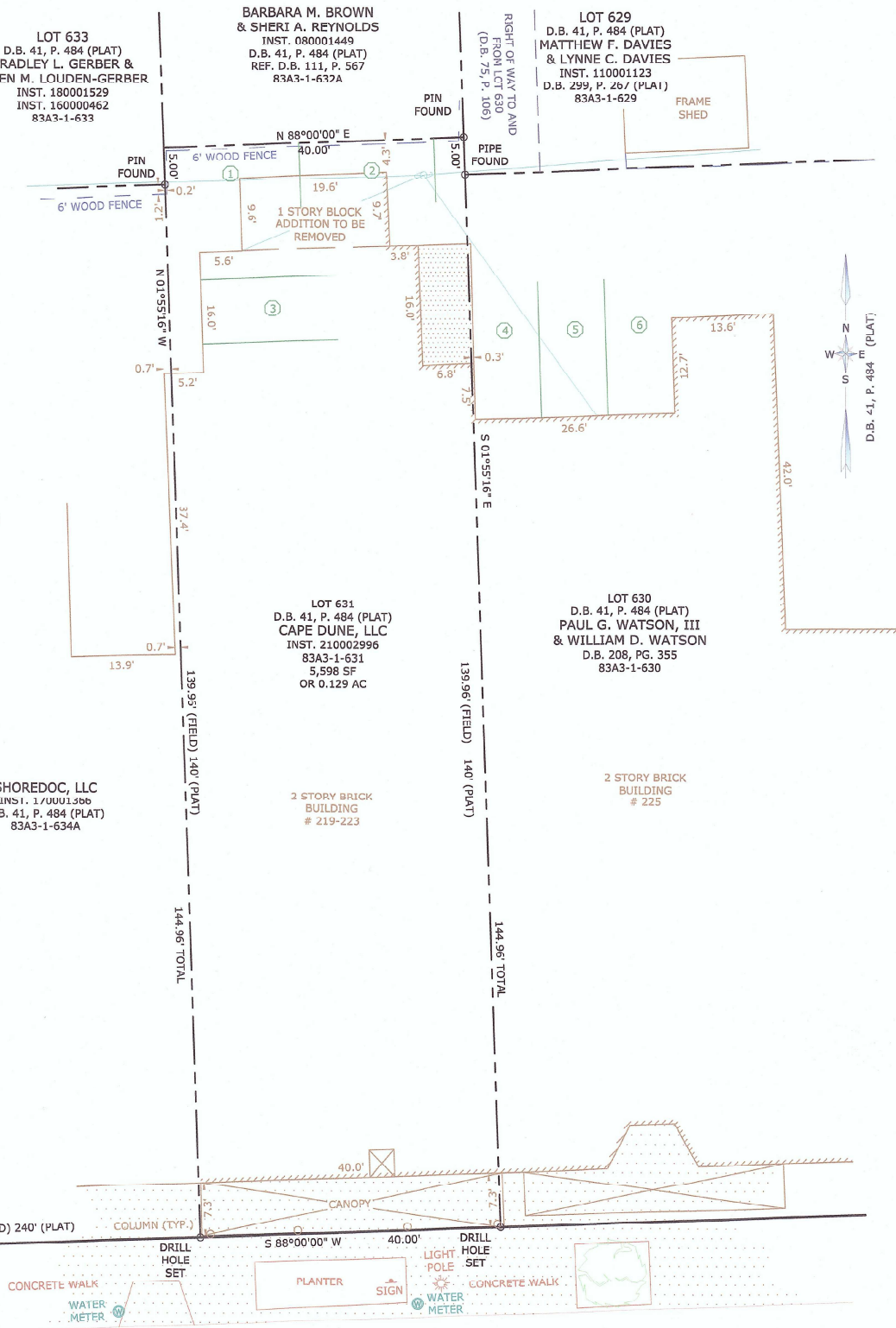
DATE

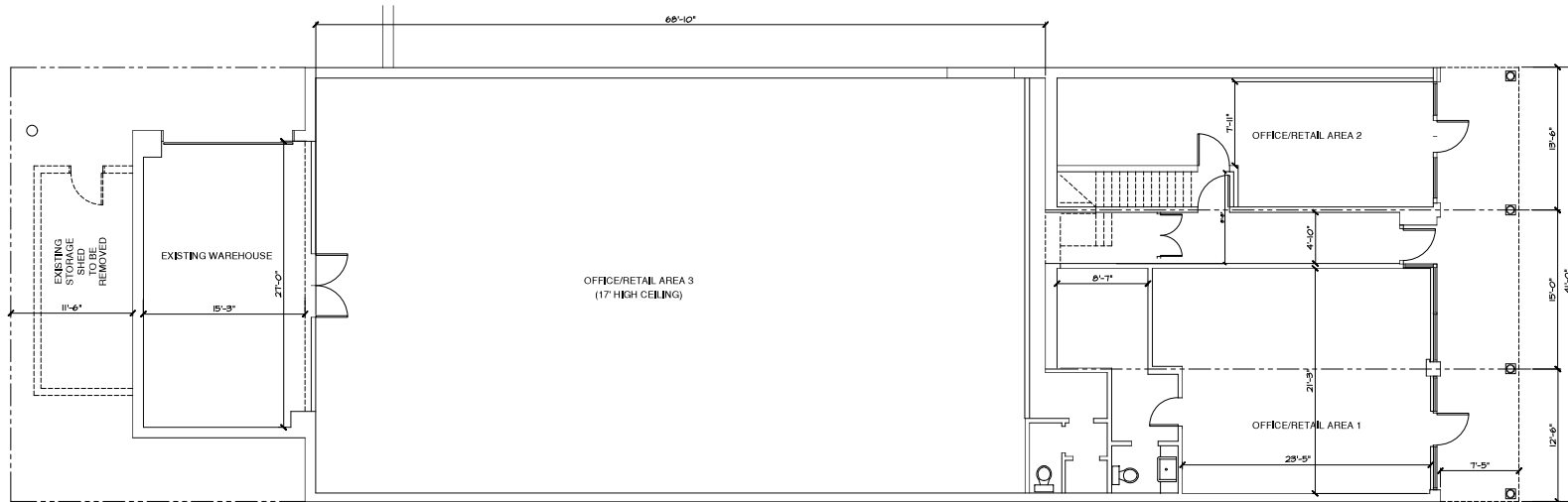
REVISED DECEMBER 1, 2021
TO SHOW PARKING SPACES



POINT NORTH

POINT NORTH SURVEYING LLC
P.O. Box 701, (757) 709-3008
Onley, VA. 23418 pointnorthsurveying@gmail.com
DRAWN BY: CROCKETT FIELD BOOK: FILE COPY
BACK TRAV: CROCKETT PROJ. NO: 21160

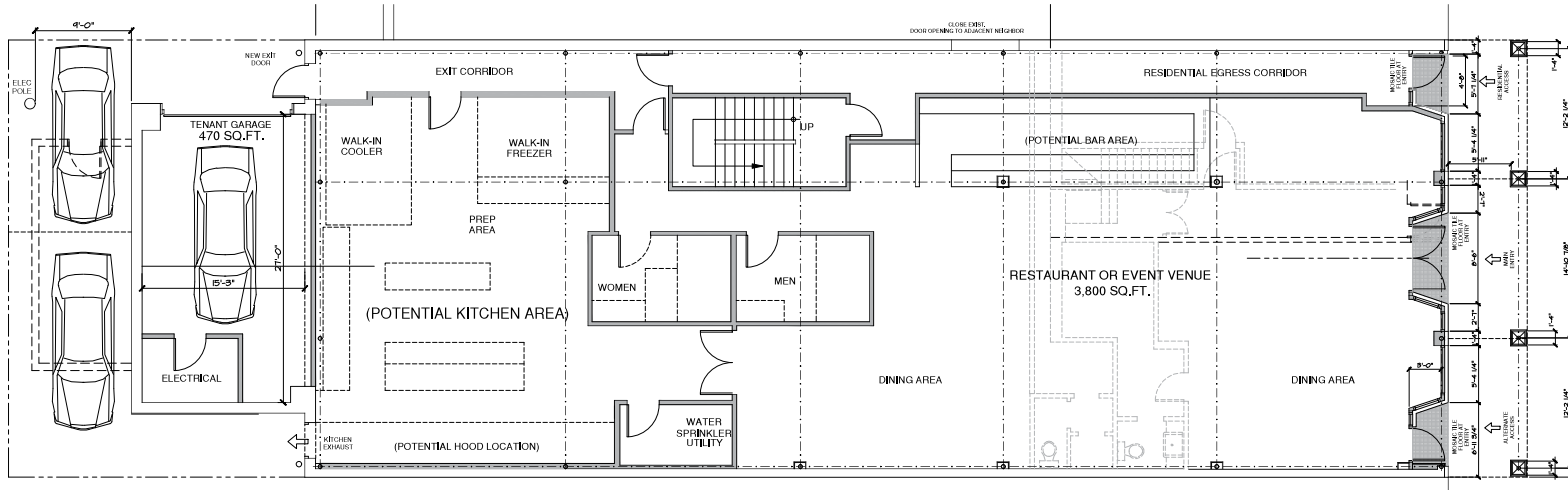




FIRST FLOOR PLAN

EXISTING CONDITIONS

SCALE: 3/16"=1'-0"



FIRST FLOOR PLAN

PROPOSED IMPROVEMENTS

4,250 GROSS SQ.FT.

SCALE: 3/16"=1'-0"



SUBMITTALS

DATE	REVISION
11-15-18	1. INITIAL DESIGN
1-20-19	2. REVISED DESIGN
1-20-19	3. REVISED DESIGN
1-20-19	4. REVISED DESIGN

FIRST FLOOR PLAN

PROPOSED HISTORIC RENOVATION

2119 MASON AVENUE

CAPE CHARLES, VIRGINIA

TODD & LLIANNA BRICKEN

SHEET NO.

H-3

PROJ. NO.: 2018-03

ORDINANCE 20240118

AMENDING CAPE CHARLES ZONING FOR TAX MAP PARCELS #83A3-1-644 & 83A3-1-641 FROM COMMERCIAL-1 TO RESIDENTIAL-1

WHEREAS, the Cape Charles Zoning Ordinance is a compilation of ordinances establishing zoning regulations for the Town of Cape Charles and providing for the administration and enforcement of the regulations; and

WHEREAS, the Zoning Ordinance classifies the territory under the Town's jurisdictions into districts and within each district a set of regulations for the use of land, buildings, structures, and their size, construction, etc.; and

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

WHEREAS, throughout the RFP process, it was deemed that the two lots fronting Randolph Avenue should be rezoned from Commercial-1 (C-1) to Residential-1 (R-1) prior to the finalization of the Library project contracts; and

WHEREAS, on November 2, 2023, the Cape Charles Town Council adopted Resolution of Intent 20231102 authorizing staff to file the necessary paperwork to rezone tax parcels #83A3-1-644 and 83A3-1-641 from C-1 to R-1; and

WHEREAS, the Planning Commission held their public hearing on November 20, 2023 and two comments were received related to the preservation of the easement/alleyway that ran parallel to Mason Avenue; and

WHEREAS, following the public hearing, the Planning Commission discussed the application and unanimously recommended Town Council approval of ZMA 2023-04 rezoning Tax Map Parcels #83A3-1-644 and 83A3-1-641 from C-1 to R-1; and

WHEREAS, pursuant to Code of Virginia §§ 15.2-2285 and 15.2-2204, after proper notice, a public hearing was held by the Town Council; now

THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 18th day of January 2024, that the Cape Charles Zoning Map be amended to show Tax Map Parcels #83A3-1-644 and 83A3-1-641 in the Residential-1 (R-1) Zoning District to become effective immediately.

Adopted by the Town Council of Cape Charles on January 18, 2024.

By: _____
Mayor

ATTEST:

Town Clerk