



PLANNING COMMISSION

Regular Meeting

Cape Charles Civic Center

December 1, 2020

6:00 p.m.

At 6:00 p.m., Chairman Bill Stramm, having established a quorum, called to order the Public Hearing and Regular Meeting of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Ken Butta, Diane D'Amico, Paul Grossman, Jim Holloway, and Dennis McCoy. Michael Strub attended via telephone. Also, in attendance were Town Planner Allyson Finchum and Planning Technician Tracy Outten. There was one member of the public in attendance.

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

Bill Stramm welcomed new commissioner Ken Butta.

PUBLIC COMMENTS:

There were no public comments.

CONSENT AGENDA

Motion made by Michael Strub, seconded by Dennis McCoy, to approve the agenda as formatted. The motion was approved by unanimous vote.

The Commissioners reviewed the minutes from the October 6, 2020 Planning Commission Joint Public Hearing with Town Council and Regular Meeting, the October 20, 2020 Planning Commission Work Session, the November 4, 2020 Planning Commission Regular Meeting, and the November 17, 2020 Planning Commission Work Session.

Paul Grossman would like the following summary statement to be included in the November 17, 2020 Planning Commission Work Session: (v) Paul Grossman suggested converting the 2008 Comprehensive Plan chapter into a word document so that it could be edited. The updated chapter would be the 2019-2020-chapter appendix containing the detailed data. Then, extract the pertinent/salient points from the appendix that would summarize the chapter material along with the goals and strategies.

Motion made by Paul Grossman, seconded by Dennis McCoy, to approve the minutes from the October 6, 2020 Planning Commission Joint Public Hearing with Town Council and Regular Meeting, the October 20, 2020 Planning Commission Work Session, and the November 4, 2020 Planning Commission Regular Meeting as presented; and minutes from the November 17, 2020 Planning Commission Work Session as amended. The motion was approved by unanimous vote.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

A. *Annual Election of Officers*

Paul Grossman nominated Bill Stramm for chair and Dennis McCoy for vice-chairman.

Motion made by Paul Grossman, seconded by Michael Strub, to elect Bill Stramm as the Chair and Dennis McCoy as Vice-Chairman for the Planning Commission. The motion was approved by unanimous vote.

B. *Town Zoning Ordinance text amendment discussion.*

Paul Grossman thought the “Story” definition in the Town of Cape Charles Zoning Ordinance needed to be clearer. He added that various definitions needed to be deleted or added when dealing with the words “Story” or “Stories” in the zoning ordinance. He said that Town Planner Allyson Finchum and Code Official Jeb Brady had to agree with any changes. (Please see attached.)

Discussion was as follows: (i) Dennis D’Amico said that the words “finish grade” needed to be defined and then some wording may need to be changed; (ii) Dennis McCoy liked the proposed definition of “Story”. Allyson Finchum agreed the definition was clearer; (iii) Paul Grossman suggested deleting the definition for “Story Above Grade”; (iv) Diane D’Amico asked why the wording “retaining walls” was in the explanation for “Height of the Main Structure”. Paul Grossman answered that this would help people avoid doing this; (v) Ken Butta asked what the floor area of half a story was. Paul Grossman said half of the maximum of a story; (vi) Diane D’Amico wanted to know if neighborhood buildings were defined; Article III; (vii) Paul Grossman would get feedback from Jeb Brady, change the definition of a “Story”, and define “Finish Grade”.

Allyson Finchum thought the definition for motel needed to be amended to be clearly defined and in sync with other agencies. (Please see attached)

Allyson Finchum presented a text amendment for Condominiums and Cooperatives for the commissioners to review. (Please see attached) The commissioners would like to know the Town attorney’s opinion and asked that this be added to a work session agenda.

Allyson Finchum informed the commission of an upcoming application for a food truck to be placed on private property on Mason Avenue. She would like the following to be considered: (i) the distance from the food truck and a brick-and-mortar food establishment; (ii) the noise abatement; and (iii) research ordinances in other localities.

OTHER BUSINESS

There was no other business.

ANNOUNCEMENTS

There were no announcements.

Motion made by Paul Grossman, seconded by Jim Holloway, to adjourn the Planning Commission Regular Meeting. The motion was approved by unanimous vote.

The meeting adjourned at 7:38 p.m.

Chairman Bill Stramm

Planning Technician

'Story' and 'Stories' search in Cape Charles Ordinances

Article II

BASEMENT means that portion of a building that is partly or completely below grade. A basement is a level within a building that has its floor surface below the adjoining ground level. ~~Often due to grading conditions, a basement will also be considered as a story above grade, thereby contributing to the building height.~~

CRAWL SPACE is a space between the ceiling of one **story** and floor of the next **story**, which usually contains pipes, ducts, wiring and lighting fixtures, and permits access but is too low for standing.

FLOOR AREA shall mean the gross horizontal areas of a building, including mezzanines and lofts, exclusive of garages, parking structures, basements, open balconies and porches, and equipment and service areas, measured from the exterior face of the exterior walls of a building. *For a half story, the useable floor area shall be considered to be only that portion having a clear height above it of five feet or more.*

STORY is that portion of a building included between the surface of any floor and the surface of the floor above it, then the space between the floor and the ceiling above it. ~~,and including those basements used for principal use.~~

OR

STORY means that portion of a building included between the surface of any floor and the floor next above it or, if there is no floor above it, the space between the floor and the ceiling next above it. A basement shall be counted as a story if over 50 percent of its height is above finished grade.

AND STRIKE STORY ABOVE GRADE [too complicated]

STORY ABOVE GRADE is any story having its finished floor surface entirely above grade plane, except that a basement shall be considered as a story above grade plan where the finished surface of the floor above the basement is: 1. More than 6 feet above grade plane; or 2. More than 6 feet above the finished ground level for more than 50% of the total building perimeter; or 3. More than 12 feet above the finished ground level at any point.

STORY, HALF, means the part of a building between a pitched roof and the uppermost full story, such part having a floor area which does not exceed one-half the floor area of the full story.

DWELLING, MOBILE HOME or MANUFACTURED HOME means a special form of one-family dwellings with the following characteristics:

4. intended to be used other than as a component in a structure two or more **stories** in height.

***HEIGHT OF THE MAIN STRUCTURE** is the difference between grade and the highest point of elevation of the building or structure (excluding roof structures such as chimneys or ventilation stacks). Retaining walls cannot be used to raise 'grade' and increase the allowable height of the structure.*

Article III

District: C-1

Scale. When the scale of neighborhood buildings is relatively consistent, new construction should be discouraged from drastically altering these relationships. In the Town of Cape Charles, the two- and three-**story** structure is the norm, and structures which digress from this standard to any great degree seriously impact the character of the Town of Cape Charles. If construction is to be allowed, particular attention should be given to the location, siting, setbacks, and façade treatments of the proposed building. No matter what size of the new building, the base of the building should be scaled to pedestrians.

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

District: R-1

E. Height Regulations. Buildings may be erected up to 2 ½ **stories** and to a height up to 40 feet from the adjacent ground elevation.

District: Harbor, Mainstreet Mixed-Use Area

Each building shall be a minimum of two **stories** and shall have only residential uses above the first floor.

Article IV

Accessory Buildings

5. A two-**story** building shall not be located any closer than five feet (5') to any lot line.

9. Where the main structure possesses no more than one **story** above grade, no accessory structure shall be higher than the main structure.

10. Where the main structure possesses more than one story above grade, no accessory structure shall be higher than two-thirds **the height of the main structure** or twenty-four feet (24'), whichever is lesser.

Date: December 1, 2020

To: Planning Commission

From: Allyson Finchum, Planner

Re: Text Amendment – Motel

The Town of Cape Charles Zoning Ordinance defines motel as stated below. The definition varies from the Town's Zoning Ordinance for the definition of hotel as well as the definition of the Virginia Health Department of motel, which, in both cases, require continual on-sight supervision. The definition of motel, as it currently exists, is allowing probable unintended use that is unregulated due to the discrepancy between local building code, zoning ordinance and state health regulations. The consequences of lack of oversight by VDH or the property owner may be problematic for the Town. Staff is recommending correcting the discrepancy which will enable regulatory agencies to operate together for the benefit of the Town citizens.

The proposed text amendment is shown underlined in red below.

HOTEL is a building in which lodging or boarding and lodging facilities are provided for transient guests, and offered to the public for compensation and in which ingress and egress to and from all rooms are through an inside lobby or office supervised by a person in charge at all hours.

MOTEL is one or more buildings in which lodging or board and lodging are provided for transient guests for compensation. Ingress and egress to and from all rooms are made primarily directly from an exterior walkaway rather than from an inside lobby. An inside lobby or office shall exist on premise and be supervised by a person in charge at all hours.

Date: December 1, 2020

To: Planning Commission

From: Allyson Finchum, Planner

Re: Text Amendment – Condominiums and Cooperatives

The Town of Cape Charles Zoning Ordinance allows conversion condominiums and cooperatives by right in all residential zoning districts. The Town Attorney has provided an opinion that in the case where there is no ordinance in Cape Charles providing for the necessity of a special use permit, special exception, or a variance, then the Town cannot require further review or approval to record condominium instruments that merely provide for the same nonconforming physical use of the property, just under a different form of ownership.

By Town ordinance, new construction of condominiums presently requires a special use permit from the Board of Zoning Appeals. However, local government oversight may also be helpful for all condominium conversions to provide assurance that each parcel is reviewed on an individual basis by the process of a public hearing allowing for merits and concerns to be considered by the governing body.

The proposed text amendment is shown underlined in red below.

Section 2.8 Condominiums and Cooperatives

Condominiums and cooperative real estate develop must meet all requirements and regulations of the Virginia Condominium Act or Virginia Real Estate Cooperative Act, as appropriate (Code of Virginia Section 55-79.39 et seq.; Section 55-424 et seq.). Condominiums and cooperatives of new construction are permitted only with a special use permit from the Town Council Board of Zoning Appeals of the Town of Cape Charles in Districts C-1, CR, R-1, R-2, R-3 and H. Conversion condominiums and cooperatives (governed by the Code of Virginia, Sec 55-79.43 and Sec. 55-429, respectively) are permitted by right in all districts in which residential uses are permitted by right or conditional use.