



PLANNING COMMISSION

Special Meeting

Cape Charles Civic Center

February 2, 2021

6:00 p.m.

This Special Meeting of the Planning Commission was held by video conference in accordance with Code of Virginia § 2.2-3708.2, subsection A.3, resulting from Governor Northam's March 12, 2020 declaration of a state of emergency for the Commonwealth of Virginia arising from the Novel Coronavirus (COVID-19) pandemic. It was deemed impractical and unsafe to assemble physically due to the highly contagious nature of COVID-19.

The purpose of this meeting was to hear public input on the potential rezoning to expand the concrete plant, to schedule a public hearing date for an application to rezone 303 Jefferson Avenue and 309 Jefferson Avenue, to discuss future concurrence use of miniature golf in the Commercial - 3 District and the comprehensive plan update. An audio recording was made of the meeting, and the meeting was also live-streamed on Facebook, as well as video-taped for viewing from the Town's website after processing. Public comments were accepted in writing prior to the meeting. Viewers could also submit their comments via Facebook Live, emails to the planner and clerk.

At approximately 6:00 p.m., Chairman Bill Stramm, having established a quorum, called to order the Special Meeting of the Planning Commission. Physically present at the Civic Center were Commissioner Jim Holloway, Town Planner Allyson Finchum, and Planning Technician Tracy Outten. In attendance via Zoom were Commissioners Ken Butta, Diane D'Amico, Paul Grossman, Dennis McCoy, and Michael Strub. Also in attendance were Bill Ballard and Mollie Pickron. There were no members of the public physically in attendance, but there were 25 viewers on Facebook Live.

PUBLIC COMMENTS RE: Agenda Items Only

Planning Technician Tracy Outten read comments submitted in writing from David J. Parham, Margot and Scot Gorske, Bill and Margaret Ballard, Marrow Barrow, Vonnie Malek, James and Nancy Turner, and Phil Goetkin.

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

CONSENT AGENDA

Motion made by Paul Grossman, seconded by Michael Strub, to approve the agenda format as presented. The motion was approved by unanimous vote. Roll call vote: Dennis McCoy, yes; Michael Strub, yes; Paul Grossman, yes; Jim Holloway, yes; Ken Butta, yes; Diane D'Amico, yes.

SPECIAL MEETING ORDER OF BUSINESS

A. *Public Input to Potential Rezoning of Concrete Plant Expansion*

Bill Stramm stated that no formal proposal has been received and this agenda item was just to hear public comment on the matter. He continued by introducing the speakers Bill Ballard and Mollie Pickron, representatives from the Concerned Citizens of Cape Charles, (CCCC). (Please see attached.)

Bill Stramm asked if the planning department had any comments. Allyson Finchum said no formal comments at this time.

Discussion and questions were as followed: (i) Diane D'Amico wanted to know why comments were being heard if nothing has been filed and what outcome was the CCCC hoping to get tonight. Bill Ballard stated that the planning commission was a governing body that handled rezoning and wanted them to be aware of the concerns; (ii) There was much discussion on if the zoning ordinance was being followed and if the current zoning was light industrial. Allyson Finchum would do some research; and (iii) Diane D'Amico wanted to know if the Tree Preservation Plan was being enforced. Allyson Finchum would need to reach out to the town attorney for some answers.

B. *Future Rezoning of 303 Jefferson and 309 Jefferson Avenue – set public hearing.*

Allyson Finchum informed the commissioners that a rezoning application has been received requesting to rezone 303 Jefferson Avenue and 309 Jefferson Avenue, and Town Council referred it to the Planning Commission to have a public hearing and give their recommendation.

Discussion and questions were as follows: (i) Dennis McCoy asked if a buffer was required between a residential zoned property and a commercial zoned property. Allyson Finchum would research buffer requirements; (ii) Dennis McCoy questioned if the hours of operation would possibly have a noise concern during the neighboring church's service. Allyson Finchum was looking into the hours. Michael Strub thought the church was not active; (iii) Diane D'Amico stated that there was a special condition currently in place for them to operate; (iv) Paul Grossman said normally a staff report along with the full application was presented to the commissioners before a public hearing was scheduled; and (v) Jim Holloway asked how this could be rezoned commercial. Allyson Finchum explained that a non-conforming use could not be expanded so, rezoning was an option.

A public hearing to hear comment on an application to rezone 303 Jefferson Avenue and 309 Jefferson Avenue from residential to commercial would be scheduled for March 2, 2021.

C. *Concurrence on use of Miniature Golf in Zoning District C-3*

Allyson Finchum read the staff memo and email that was received.

Some discussion ensued on potential complaints, setbacks, parking requirements, and visual aesthetics on Stone Road. Allyson Finchum said once an actual plan has been submitted, these issues would be addressed.

Motion made by Paul Grossman, seconded by Dennis McCoy, to agree to proceed with allowing a golf course in the Commercial-3 District under the condition that a Conditional Use Permit was reviewed by the Planning Commission. The motion was approved by majority vote with Diane D'Amico opposed. Roll call vote: Dennis McCoy, yes; Michael Strub, yes; Paul Grossman, yes; Jim Holloway, yes; Ken Butta, yes; Diane D'Amico, no.

D. *Comprehensive Plan Update Discussion*

Bill Stramm would like work sessions to be scheduled and suggested having one on a Saturday. Ken Butta was willing to help with any chapter.

Motion made by Jim Holloway, seconded by Dennis McCoy, to adjourn the Planning Commission Special Meeting. The motion was approved by unanimous vote. Roll call vote: Dennis McCoy, yes; Michael Strub, yes; Paul Grossman, yes; Jim Holloway, yes; Ken Butta, yes; Diane D'Amico, yes.

The meeting adjourned at 7:44 p.m.

Chairman Bill Stramm

Planning Technician

**Comments submitted in writing
February 2, 2021 Planning Commission Special Meeting**

David J. Parham

Subject: Negative Economic effects on Cape Charles from Industrial Zone

Dear Honorable Commissioners;

I am writing to request your support in addressing the growing noise and air pollution problems from the Coastal Precast Concrete Plant (CPC). As a resident of Cape Charles I am voicing my concerns over the damage to the town this plant's operation is causing.

The town has experienced a revitalization of it's economy, largely due to expanded tourist industry and relocated retirees who appreciate the historic fabric and peaceful, quiet qualities of the town, beach & marina. However, since March 2020 the operation of the Coastal Precast Concrete Plant has greatly damaged these qualities which made Cape Charles a destination and will negatively hurt the long term economic growth of the town going forward.

The noise & air pollution from the plant is a large annoyance and major health concern to residents and renters. The dust from the plant can cause serious health issues to residents and renters and is damaging to boats in the marina not to mention possible chemicals which could be carried into the harbor. The noise while greatly upsetting the peace and serenity of the town also presents health concerns to our residents.

My request to the Commission is twofold. First that the light industrial zoning requirements for the Coastal Precast Concrete plant are enforced and actions are taken to reduce the noise and air pollution emitted from the plant to acceptable levels at acceptable times. Secondly, that the Commission does NOT endorse or approve any expanded or new Industrial zoning of any kind in the town limits or surrounding environs.

As the plant in its current configuration is greatly damaging the Town we love, no plant expansion or new industrial zoning should be permitted as that would further damage the Town and its economic future. I believe that the Commission has always believed and taken action to revitalize the economy of the town through expanded tourism and strongly agree that the economic benefits of a robust Tourism industry and a vibrant active group of residents supporting the local businesses and real estate market far outweighs the income from the Precast Concrete Plant. I respectfully request your consideration and support of this position.

Best regards & stay safe;

David J. Parham

8 Bay Avenue

Cape Charles, Virginia

Margot Gorske

Subject: Cape Charles Planning and Zoning Commission Meeting

To all;

I have written previously and cited cogent town articles and ordinance. I will not repeat here.

I do have specific requests for the town's officials to consider for the next town meeting scheduled for the second of February.

1. Do not rezone or amend any existing area from residential or commercial to heavy or light industry.
2. Do not rezone light industry areas to heavy industry areas.
3. Do not rezone any other lands, not mentioned above, to light or heavy industry areas.

4. Do not expand the current designated land area of the industrial park.

Thank you,
Margot and Scot Gorske
205 Madison Ave.
Cape Charles, VA

Bill Ballard

Subject: Land use issues affecting the future of Cape Charles

Dear Chairman Stram and Members of the Cape Charles Planning Commission:

My wife, Margaret, and I are members of Concerned Citizens of Cape Charles (CCCC). Last Thursday, January 21, 2021, I spoke to Town Council to voice the concerns of CCCC and the concerns of many others apart from CCCC, regarding the future of our town. I mentioned in my remarks that there are many residents and property owners in Cape Charles who believe the issues of noise and dust, not to mention others of slightly less importance, are so detrimental to the identity, vitality, and prosperity of the town, that should they go unresolved, they could lead to the demise of the community as we know it.

A lot of time, effort, and money has gone into the development and implementation of a comprehensive plan to assure the future of Cape Charles is positive. That plan calls for a vision “that gives all citizens the opportunity for prosperity, cultural enrichment, access to environmental treasures, and secure, sustainable homes.” It goes on further to say “citizens stated they want Cape Charles to be a clean, diverse, family friendly place where the young can find jobs and affordable housing and the old can continue to live in their homes.” These visions and expressed desires cannot be achieved if those issues are not mitigated and resolved.

Of particular interest is the Preservation Plan, written by John Milner Associates, commissioned in 1994 and adopted in 1996, and readopted in 2016 as part of the Comprehensive Plan for the town. It is a treasure of information regarding the past and the future of Cape Charles. It appears that it was not only adopted but embraced as a guide for what Cape Charles has become.

It cites four “Alternative Economic Futures” (p.3-3 – 3-4). The first is “no-change”. That scenario envisions a future with “a depressed economy and little increase in economic activity”. This approach would result in “a loss of historic buildings, a loss of significant building fabric, a degrading of the streetscape, and a diminishing of community character.” Thankfully, the town decided that no change was not acceptable.

The second proposes “a concerted promotion of tourism in Cape Charles” that “would lead to a gradual improvement of the town’s economic climate.” This would result in “an increased interest in town properties as a second residence and a gradual increase of tourism-based commercial activity” and “would help increase tourism and outside investment by potential homebuyers.”

The third scenario talks about implementation of the Accawmacke Plantation proposal, which has become the Bay Creek development. As with the second, the scenario envisions that “tourism, commercial activity, and land values would increase.”

Finally, the fourth alternative is related to the sustainable development industrial park initiative. **“A fundamental tenet of this initiative is the preservation, enhancement, and compatible use of the town’ natural and cultural resources.”**

The study goes further (p.8-2) to say “the concept of sustainable development is fully compatible with the principles and objectives of historical preservation, adaptive reuse, economic development and enhancement of community character”.

The noise and dust generated by Coastal Precast Systems threatens these last four objectives, particularly the community character. They jeopardize the preservation, enhancement, and compatible use of the town’s natural and cultural resources. Without resolution, we may see Cape Charles revert to a condition similar to that of “no change” envisioned in the Preservation Plan.

CCCC looks to the Planning Commission to take steps to address these issues. CCCC is in favor of compatible light industrial development that heightens Cape Charles as a clean, diverse, family friendly place.

Sincerely,
Bill and Margaret Ballard

Mary Barrow
Subject: Rezoning
January 28, 2021

Dear Members of the Town of Cape Charles,

Please do not sell or rezone any more property for heavy industry or for the use of Precast.

For the past several months my concerns about the cement plant have been dismissed when mentioned to town officials. As these concerns are becoming ever more paramount, please don’t tell me again that the cement plant was already there when I moved here four years ago so now I just have to ‘put up and shut up.’

Yes, Bayshore was there when I bought the house, but it was barely operating. Yes, I was aware of it and asked about it, but was assured the harbor area was going to be expanding marina services and would become more attractive for visitors – NOT BECOME AN INDUSTRIAL SITE.

So, let me describe what has changed for me since the arrival of Precast.

1) The rumblings and vibrations.

My house was built in 1921. In the past 100 years it had settled. During the first three years of our living in it, there were no indications that it was settling further. In 2020, that changed. There are now days of continuous vibrations during the loading and unloading of boulders at Precast. The result is that we have new cracks in the house, as well as floor slanting, and doors not closing. Further, the old addition at the back is pulling away from the main frame of the house. Could I prove a direct correlation? With the help of engineers, yes. Is it obvious? Yes.

If I can feel the vibrations from Precast throughout the house, will the vibrations cause damage to the foundation? Yes, of course.

CONSEQUENCE: I am in the midst of making arrangements for a full, two story extension to the back of the house. I've worked with a wonderful architect, (Leon Parham) and look forward to working with an excellent local contractor (Scott Simms). I've paid for the drawings, a survey and for a building permit, so I'm ready to start. WHAT WOULD YOU DO?

2) The noise. I know that many residents of the Historic District are complaining about the time, consistency and the effects of the endless noise from the plant. I don't think I need to reiterate their complaints or arguments. They all apply to me and to my house. Simply add my name to their list.

3) Dust. Cement dust is clearly a health threat. Clouds can be seen rolling towards the Historic District. Soot is wiped from the porch. Plants are being washed with it and our lungs? Read Margot Gorske's letter with this attachment:
<https://www.epa.gov/newsreleases/owners-portland-cement-plant-martinsburg-west-virginia-pay-more-15-million-penalty-air>

4) The boardwalk through the Nature Reserve was the perfect distance for a healthy walk, and a delight. Sadly, as the plant has expanded to within feet of the railings, it is destroyed.

I don't expect closure of Precast. I do hope, however, the town will not compound one mistake with another. Please do not rezone so Precast can expand.

Thank you,
Mary Barrow
206 Monroe Avenue

Vonnie Malek

Subject: Concrete Plant

I would like to express my concern about the proposed expansion of the physical plant as well as hours of operation. The main issues are the noise and pollution. I am so excited about the renewal of our downtown. Having outdoor dining and events would be difficult with both the noise and pollution. Also, I have lung disease and my health would be directly affected. I am hoping a compromise can be reached so we all can live together. Thank you.

Vonnie Malek
304 Fig Street

Jim Turner

Subject: Public feedback to Cape Charles planning commission regarding rezoning for Coastal Concrete

Dear Planning Commission Planner of Cape Charles,

We are residents of Cape Charles, residing about one mile south of the Coastal Concrete operation in Bay Creek. We strongly object to any consideration zoning changes that allow expansion of that industrial operation because of the potential increase in noise and air pollution that already emanates from the plant.

We purchased our property in December 2018, while the old Bayshore plant was dormant and seemingly abandoned. Visits to Cape Charles a number of times over the preceding 2-3 years never demonstrated any issues with noise or air pollution during that time. Inquiries with our real estate agent indicated no known firm plans were in place for the site, though it was for sale as an industrial site. So we plunged ahead with building our vacation/retirement home.

In the last 10 months since moving here we have noticed dramatically increased noise and air pollution coming from the plant site, particularly noticeable when winds are from the North. Particularly noticeable are industrial back up warning bells on heavy equipment, noise of rocks being dumped into barges, and general Diesel engine noises. In addition, in the last few months there have been frequent episodes of heavy smoke and particulate matter coming from the work site. Smoke is so heavy that it interferes with breathing necessitating going inside and closing up the house. One day in mid-December we alerted the Bay Creek Golf shop that we thought there was a forest/brush fire north of the Nicklaus golf course. After investigation by the course superintendent, we were reassured it was simply coming from "Coastal Concrete".

We appreciate the importance of job-producing businesses in the community; but don't think we should have to constantly have our quality of life impacted, living nearly a mile away. We are also concerned about the health impact of the air pollution, as well as protecting the environs of downtown Cape Charles. Finally, the successful development of Bay Creek in and around the Nicklaus golf course is threatened by the consequences of Coastal Concrete's operation.

Thank you for the opportunity to provide input to the Planning Commission.

James and Nancy Turner
518 Walbridge Bend
Cape Charles, Virginia

Phil Goetkin

From: Phil Goetkin 602 Jefferson Ave Cape Charles, VA 23310

To: Chairman Stramm and Members of the Cape Charles Planning Commission

Subject: Coastal Precast Systems Potential Rezoning of Plant Expansion **Date:** February 2, 2021

Background and Issues: I have lived with my wife at 602 Jefferson Avenue in Cape Charles since June of 2015. Prior to that time, we lived for six months in Bay Creek. One of the primary reasons we moved to Cape Charles was its incredible natural beauty including the Chesapeake Bay, its vast wildlife and other natural areas. During this time, I have been generally supportive of the activities of Bayshore Concrete Products. However, since the new owners, Coastal Precast Systems (CPS), have taken over operation, I have become quite disturbed especially from the standpoint of

pollution and the degradation of Cape Charles' natural assets, resources and environment. Not only has the viewshed of our natural resources been adversely affected by CPS's development, sound and air pollution has put these precious assets at serious risk.

Just make a visit to the Cape Charles Natural Area Preserve; take a walk along the beach; or take a ride in a boat in the harbor out into the Bay. Sound, air and light pollution being generated by CPS is extensive.

As stated in section II.5 of the current Comprehensive Plan:

An abundance of natural resources exist in Cape Charles. Critical wildlife habitats, such as wetlands, natural areas, and the public beach, are present within the town's boundaries and nearby. These natural environments are delicate and should be protected from degradation. **Land use policies must continue to take into account the importance of the local environment to protect these resources for present and future generations.**

The intent of the Cape Charles Master Tree Plan, an addendum to the Comprehensive Plan, is to develop vibrant green infrastructure in all town districts by promoting the planting of appropriate new trees, and protecting appropriate existing trees. The plan's purpose is to ensure the beauty and ecological health of Cape Charles for its citizens and guests. In the last few months, CPS has cut down virtually every tree right up to the Cape Charles Natural Area Preserve property line. Tens if not hundreds of mature native trees have been cut down. I walk the Preserve boardwalk almost every day. Now, with no buffer between CPS and the Preserve, the noise, dust and light pollution is dramatic, not only for me, but more importantly for the plants and animals that live in this preserve. Recently, CPS has been conducting open fires that have produced smoke and ash that has further degraded the preserve. Nothing better than enjoying nature while having problems seeing and breathing.

Conclusion: CPS's development and operation has had significant negative impacts on Cape Charles' natural assets and the quality of life for its citizens. As CPS continues to expand its operations on its current property, it is also planning to further expand its operation through additional land acquisition and rezoning.

I am totally against rezoning on any property that CPS now owns or acquires in the future.

Signed, Phil Goetkin

Mollie Pickron

Good Evening Chairman Stramm and members of the Planning Commission:

The purpose for this message is to ask you for support and action to protect the economic and lifestyle well being of the Cape Charles residents, businesses, and visitors.

My name is Mollie Pickron and my husband and I have owned the house at 501 Monroe Ave since 2000. We are members of the Concerned Citizens group relating to the noise, dust, and ugly landscape of the concrete plant (which I never noticed much in the previous 18 years before the plant was sold to the current owners). The Concerned Citizens group approached the plant with a good neighbor relationship attitude last year but unhappily the noise and dust are still huge problems.

I recently reviewed the Town Comprehensive Plan updates from 2019 where workshops collected important data on priorities and vision from the public. These priorities include among other things, Healthy Living, Economic Development, Economic Resiliency, and Concrete Plant Cleanup.

The current state of the concrete plant's excessive noise and dust negatively impacts each of these items and it seems as if the plant is operating as if they are zoned heavy industrial. Here are some of the impacts I see to the Comprehensive Plan updates:

- **Healthy Living**-It is obvious to anyone that the dust and noise generated by the plant are health hazards.
- **Economic Development**-Cape Charles has made great strides in this area. The Treasurer's Report from Oct 31, 2020 shows great growth even considering the pandemic. I believe the continued excess noise will adversely affect the attraction and satisfaction of tourists and cause current residents to seek retirement elsewhere where there is peace and quiet. All this will certainly affect the bottom line for our businesses and for the Town. We have made great strides in our growth previous to the new owners getting established.
Transient Occupancy Tax -**21.9% increase** over the previous fiscal year
Sales & Use Tax - **2.2% increase**
Business License Tax - **97.5% increase**
Harbor dockage - **61.8% increase**
- **Concrete Plant Cleanup**- The visual impact of the plant is a big negative and the plant intends to continue to grow. The promise by the Plant to build a shielding wall to help with noise and negative visual appeal has stalled and there is no definitive timeline on its completion.
- **Economic resiliency**- If our residents move away and tourists choose to visit elsewhere, our economic condition will certainly deteriorate, and businesses will falter and close.

I've worked with the Cape Charles Main Street organization for several years and have witnessed the tremendous effort expended in partnership with the Town to support and grow the town businesses, attract new businesses, enhance the sense of community pride and the quality of life for the local residents, and solidify our area as a valued destination for visitors. Neither tourists nor residents want to be awakened at 5 am by the plant noise. Who wants to enjoy a cocktail outside at a local establishment overlooking the beautiful bay or in a backyard gathering and have to shout over the beeping and crashing of heavy equipment? In addition, we have already heard from some boaters who were in the CC Harbor this past summer who say they will not come back because of the noise and dust.

I am concerned that all the effort and progress of the Town will be negated if we cannot find a solution to the adverse environmental impact of the plant.

We are not asking for the plant to be shut down! The plant provides jobs and contributes to the town tax revenues. We are concerned about the quality of life for the residents and tourists which will preserve and encourage the growth of the town!

Specifically, we are asking you to: 1) Support light industrial zoning ONLY in the future; 2) Ensure the plant operates consistently with their light industrial zoning requirements 3) Pressure the plant to finish the wall the owners promised to build.

Thank you for your consideration.

Mollie Pickron
501 Monroe Ave
pickronm@gmail.com
410-440-3236