

Planning Commission
Public Hearing and Special Meeting
Cape Charles Civic Center – 500 Tazewell Avenue
via Electronic Communications
March 2, 2021 6:00 P.M.

1. Introduction
2. Call to Order
 - a. Roll call and establish a quorum
3. Public Hearing
 - a. Application for Zoning Map amendment - Rezoning of 303 Jefferson Avenue (tax map #83A1-1- 84C) and 309 Jefferson Avenue (tax map #83A1-1-81C) from Residential – 1 (R-1) to Commercial – 1 (C-1).
 - b. Close public hearing.
4. Public Comments re: Agenda Items Only
5. Special Meeting Order of Business
 - a. Application for Zoning Map amendment - Rezoning of 303 Jefferson Avenue (tax map #83A1-1- 84C) and 309 Jefferson Avenue (tax map #83A1-1-81C) from Residential – 1 (R-1) to Commercial – 1 (C-1) – review and make recommendation to Town Council.
 - b. Application for Conditional Use Permit to allow a second-floor residential dwelling unit above the first floor commercial at 1 Fig Street (tax map #83A3-1-534) – set public hearing.
 - c. Application for Conditional Use Permit to allow two residential dwelling units above the first floor commercial at 301 Mason Avenue (tax map #83A3-1-615B) – set public hearing.
6. Adjourn

Notice of Public Hearing

The Cape Charles Planning Commission will hold a public hearing via electronic communications on Tuesday, March 2, 2021 at 6:00 pm in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive comment on a request made by Patina Green, LLC dba Suzy's Old Fashioned Frozen Custard to rezone 303 Jefferson Avenue (tax map # 83A1-184C) and 309 Jefferson (tax map # 83A1-1-81C) from Residential – 1 (R-1) to Commercial – 1 (C-1); said services thru said rezoning would enable the addition of a golf cart drive-thru service window to the existing structure and improved exterior seating. The intent is to operate a frozen custard shop with a golf cart drive-thru service.

The Planning Commission will hold a meeting immediately following the public hearing to consider the request. The application is available for public review on our website at www.capecharles.org. Please contact the Planning Department at 331-2036, or by email at planner@capecharles.org if you have any questions or require additional information.



PLANNING COMMISSION

STAFF REPORT

Meeting Date: March 2, 2021

Item #: 5a

Prepared By: Katie H. Nunez, Interim Planning/Zoning Administrator
Site Address: 303 & 309 Jefferson Avenue (Tax Map #83A1-184C &81C)
Applicant: Suzanne B. Baker
Owner: Patina Green, LLC dba Suzy's Old Fashioned Frozen Custard

Rezoning Application:

To rezone two parcels from Residential-1 (R-1) to Commercial-1 (C-1)

Proposed Development:

To expand the services of the previous business to offer the addition of a golf cart drive-thru service window and improve exterior seating; the intent is to operate a frozen custard shop in the existing structure with a golf-cart drive-thru service. The prior establishment at 309 Jefferson Avenue was a business called CC Kool EatZ (ice cream and sandwich shop) which operated under a variance granted on September 9, 2015; previous to that, the property had been a barbershop for approximately 50 years until 2014.

Current Zoning:

Single-Family Residential (R-1): This zoning district is intended 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.

Historic District Overlay: The purpose of this district is to provide for protection against destruction or encroachment upon historic areas, buildings, monuments, or other features, or buildings and structures of recognized architectural significance which contribute or will contribute to the cultural, social, economic, political, artistic, or architectural heritage of the Town of Cape Charles and the Commonwealth of Virginia. It is the purpose of the district to preserve the designated historic areas and historic landmarks and other historic or architectural

features, and their surroundings within a reasonable distance, from destruction, damage, defacement, and obvious incongruous development or uses of land and to ensure that buildings, structures, streets, walkways, or signs shall be erected, reconstructed, altered, or restored so as to be kept architecturally compatible with the character of the general area in which they are located and with the historic buildings or structures within the district.

PROPOSED REQUESTED ZONING:

Commercial (C-1): This zoning district is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.

The Historic District Overlay would remain on this property and in conjunction with the underlying zoning.

Site Description:

The subject property has an existing structure which has been used as a commercial property for almost 54 years. It is located on the corner of Jefferson Avenue and Strawberry Street. Directly adjacent to the north is a residence and to the east is a church. Across Jefferson Avenue to the south are several residences and across Strawberry Street to the west are two vacant house lots and then several residences.



History of the Property

The property was a barbershop for approximately 50 years and ceased as such in 2014. This use was deemed a non-conforming use pursuant to the Cape Charles Zoning Ordinance Section 2.5.

In 2015, the property was purchased by John Hanson, Dawn Hanson and Carol Selby to convert the use of the structure from a barbershop to a restaurant, specifically an ice cream and sandwich shop/restaurant. They filed an application with the Town and were advised to seek a variance from the Board of Zoning Appeals to receive a determination if this proposed use would be considered a use of a similar nature, pursuant to Cape Charles Zoning Ordinance Section 2.5.4 which states that *“the use of a non-conforming building or structure may be changed to the same use or a use of a more restrictive classification, but where the use of a non-conforming building or structure is hereafter changed to a use of a more restrictive nature, it shall not thereafter be changed to a use of a less restrictive nature with the exception of existing duplexes specifically designed as such.”*

It was deemed that the use would be a continuation of the non-conforming use of the property & structure since the barbershop use would have been considered a personal services usage which was a use allowed by right under the Commercial District uses and a restaurant is also a use allowed by right under the Commercial District uses, thus a “like” or similar use. During this hearing, the adjacent vacant lot was referenced and noted that this lot may have been used informally as on-site parking but was not part of the non-conforming use and could not be considered for any expansion of the non-conforming use since that is not allowed per the Cape Charles Zoning Ordinance Section 2.5.1 (A) (1) which states that *“No such non-conforming use, building, or structure shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of the adoption of this ordinance, unless said enlargement does not result in an increase in nonconformity or result in a change to a use permitted in the district.”*

From 2015 to 2020, the building was home to Kool EatZ Ice Cream and Sandwich Shop which had indoor seating of approximately 10 seats and outdoor seating directly adjacent to the building on both Randolph and Strawberry Street.

The property sold in 2020 and the new property owner, Patina Green, Inc., indicated that they would like to continue operating a similar type of business (restaurant, specifically frozen custard as well as coffee and pastries and other baked and prepared goods) but wished to add a drive-thru window component for golf cart use only with the drive-thru proposed to be located on the adjacent vacant lot and to expand the outdoor seating capacity on the adjacent vacant lot.

The proposed expansion of the business operation onto the vacant lot is not permissible under the non-conforming section of the Town Zoning Ordinance (Section 2.5.1 (A) (1) and the applicant was advised that the only way to proceed was to petition the Town to rezone this property from Residential to Commercial where the proposed use would be a use allowed by right.

Description of Proposed Project:

The owner has consolidated the two lots through a vacation of the lot lines between the parcels, which was approved by the Town on 2/2/2021 and recorded on February 9, 2021. The owner is seeking to rezone the property from Residential-1 (R-1) to Commercial (C-1) in order

to operate a small business for drive-up and carry out food and beverage production and sales; specifically, the addition of addition of a drive-thru window to the existing structure solely for golf-cart drive-thru usage and expanded outdoor seating.

The applicant has provided in a letter dated November 6, 2020 the following narrative:

“The intended use of 303 and 309 Jefferson is a contiguous business location of Suzy’s Old Fashioned Frozen Custard, purveying seasonal (April through October) desserts constructed primarily with soft-serve frozen custard made on premises, 7 days a week. Food and beverage will be prepared and purchased from the existing 303 Jefferson Building...Walk up customers will enter the building from the existing Strawberry Street door. There will not be indoor customer seating.”

The applicant, in this same letter, indicated that there would be a drive-thru window for golf cart drive-thru service, the ability of three golf carts to park on the property for customer usage only, and to have increased outdoor seating.

The applicant has supplemented her application via e-mail dated February 15, 2021 with clarifying information about the hours and days of operation, # of anticipated employees, and the manner in which lighting, and trash will be addressed on the property to mitigate the impact to any adjacent property. She has also included information regarding landscaping and materials for all improvements to the building and outside furniture/property improvements for Historic District Review Board compliance.

Staff Analysis:

The building located on 309 Randolph Street is deemed a legal, non-conforming use since it has had a business for over 54 years (first a barbershop then transitioned to a restaurant in 2015 which was deemed a similar use in accordance with the non-conforming ordinance requirements. There appeared to be nominal impact to the neighborhood with the hours of operation during the daytime hours and the customer base was both vehicular and pedestrian. The proposed expansion of the business into the vacant adjacent lot for expanded outdoor seating and a drive-thru window for golf cart patrons is changing the character and nature of the historic nature of the usage on this property and the neighborhood as a whole.

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

While the Comprehensive Plan does support the provision and expansion of economic activity that supports the commercial needs of the community, including the tourists/vacation/and

second home owners as well as full-time residents and the type of establishment being proposed by the applicant fits within these economic objectives (Section III-1 thru 4), the type of expanded commercial activity being sought by rezoning from Residential-1 to Commercial-1 within the confines of a residential neighborhood is not fully compatible with the Comprehensive Plan, since a rezoning without any limitations opens up the property and the neighborhood to all of the uses allowed by-right in the Commercial-1 district

If the Town supports favorably this rezoning application, Historic District Review Board review and approval is still required as well as all required zoning clearances and building permits.

Staff Recommendation:

Staff recommends a recommendation of **DENIAL** of a Rezoning of 303 & 309 Jefferson Avenue (Tax Map #83A1-184C &81C) from Residential-1 to Commercial-1 for the reasons contained within the Staff Analysis Section of this report.

Attachments:

Attachment 1 – Application and Packet

Attachment 2 – Letter from Adjacent Property Owner received as of 2/23/2021



ZONING MAP AMENDMENT APPLICATION

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

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

- ☒ Completed application
- ☒ Letter of intent
- ☒ Existing site plan or survey
- ☒ Proposed site plan or survey (if applicable)
- ☒ Names and addresses of adjacent property owners
- ☒ Payment of fees (\$1,000)

PROJECT INFORMATION

Name of Project: Suzy's Old Fashioned Frozen Custard
Property Address: 303 and 309 Jefferson Avenue, Cape Charles, VA 23310
Brief Description of Project: Food/beverage prep/sales-bldg; cart drive-thru/seating on lot
Current Zoning District: R-1 Proposed Zoning District: _____
Current Use: Commercial bldg/vacant lot Proposed Use: Commercial

OWNER INFORMATION

Name and Company: Patina Green, LLC dba Suzy's Old Fashioned Frozen Custard
Mailing Address: 208 Bay Avenue
Phone Number: 484-809-0875 Email: cinnamonsuzy@gmail.com

APPLICANT INFORMATION

☒ check here if applicant is owner

Name: SUZANNE B. BAKER
Mailing Address: 208 Bay Ave, Cape Charles, VA 23310
Phone Number: 484-809-0875 Email: cinnamonsuzy@gmail.com

CERTIFICATION OF APPLICANT

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed. Furthermore, I certify that the changes to the improvement before or during construction will be provided to the Zoning Administrator and Building Official before such changes are constructed.

Signature of Applicant: Suzanne B Baker Date: 1 FEB 2021

Town of Cape Charles Planning & Zoning Department
2 Plum St. • Cape Charles, VA 23310 • 757-331-2036 • capecharles.org



SUZANNE BAKER

Owner-Operator

CONTACT

PHONE:
484-809-0875

Patina Green, LLC
208 Bay Avenue
Cape Charles, VA 23310

EMAIL:
cinnamonsuzy@gmail.com

Planning & Zoning Department
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310

1 February 2021

Dear Ms. Finchum,

I am requesting a zone map amendment to allow commercial use of my property on the corner of Strawberry Street and Jefferson Avenue in Cape Charles.

Currently the lots are 303 and 309 Jefferson Avenue owned by Patina Green, LLC dba Suzy's Old Fashioned Frozen Custard. The building is vacant, awaiting Town modification authorizations.

By 2 February 2021, the enclosed proposed survey will be notarized and delivered to the Town for approval.

VDOT approved a curb cut and plans for a concrete apron and landscaping on the State right of way.

My intention is to operate the consolidated lot as small business for drive up and carry out food and beverage production and sales.

Two existing ground level decks provide seating for two parties of 4, on the carry out entrance side of the building. There is no customer seating inside the building. My intention is to build an at-grade deck in the center of the cart path "U", seating four parties of 2, and a smaller deck against the low (4 foot) fence on the East property line, seating 4.

I cannot offer a safe and comfortable area for customers, other than the public sidewalk, if not allowed to use the whole property commercially. Realistically, I won't have the capability to stop customers from congregating on the lot that is obviously Suzy's real estate. In short, I need to have authorization for the building and the outside area, to operate the business successfully.

Regards.


Suzanne Baker

Existing Site plan / Survey

Parcel 1: All that certain lot or parcel of land beginning at the northeast corner of Strawberry Street and Jefferson Avenue, thence running in a northerly direction thirty-four feet (34 ft.) along Strawberry Street to a certain stob, thence in an easterly direction forty feet (40 ft.) to Lot No. 81, thence in a southerly direction along Lot No. 81, thirty-four feet (34 ft.) to Jefferson Avenue, and thence in a westerly direction along Jefferson Avenue to the point of beginning. It being the most southerly thirty-four feet (34 ft.) of Lot No. 84, according to a map or plat of the Town of Cape Charles recorded in the Clerk's Office of Northampton County Circuit Court, with a deed from William L. Scott and wife to William Bauman, in Deed Book 41, at pages 483, 484 and 485, and more particularly described on the plat made by G. W. Doult, on February 25, 1951, and attached to a certain deed dated March 2, 1961 and recorded in Deed Book 144 at page 7, in the aforesaid Clerk's Office.

And being the same parcel of land conveyed to the Grantors by deed from Barkley E. Sample, Evelyn Sample-Oates, Sabrina Sample, John Barkley Sample, IV and Courtney Alyce Sample, dated May 20, 2015, and recorded in the aforementioned Clerk's Office as Instrument Number 150000734.

(For Identification Purposes Only: Tax Map #83A1-1-84C)

Parcel 2: All that certain lot or parcel of land, with the buildings thereon, situate and being on the easterly side of Strawberry Street, between Jefferson and Washington Avenues, in the Town of Cape Charles, Virginia, consisting and comprising a part of the lot numbered with the number Eighty-One (81) according to the plat of the said Town of record in the Clerk's Office of Northampton County, Virginia, with a deed from William

L. Scott et ux, to William Bauman, et als, in Deed Book 41, pages 483 et seq, unto which reference is made. This land is further described as starting from the southeast corner of Lot Number 81 and running a due westerly course forty feet, thence in a due northerly course a distance of thirty-four feet, thence a due easterly course a distance of forty feet, thence a due southerly course a distance of thirty-four feet to the starting point. It being the most southerly thirty-four feet (34 ft.) of Lot No. 81, according to a map or plat of the Town of Cape Charles recorded in the Clerk's Office of Northampton County Circuit Court, with a deed from William L. Scott and wife to William Bauman, in Deed Book 41, at pages 483, 484 and 485.

And being the same parcel of land conveyed to the Grantors by deed from James W. Elliott, Special Commissioner, on behalf of Paul Edward Sample, Louise W. Battle and Oliver C. Battle, dated April 28, 2015, and recorded in the aforementioned Clerk's Office as Instrument Number 150000580.

(For Identification Purposes Only: Tax Map #83A1-1-81C)

Proposed Survey

GENERAL NOTES:

1. TAX PARCEL: 83A1-1-81C & 83A1-1-84C
2. OWNERS: PATINA GREEN LLC
3. SOURCE OF TITLE: INST #200001386.
4. A SURVEY WAS PERFORMED ON THIS PROPERTY IN JULY 2015 WITH A BOUNDARY CLOSURE WHOSE PRECISION EXCEEDS 1:10,000.
5. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN OR WETLANDS, ENVIRONMENTAL HAZARDS, CEMETERIES AND UNDERGROUND STRUCTURES NOT OBSERVED DURING THE COURSE OF THE SURVEY.
6. ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 51131C 0295 F, DATED 3-2-15, THE PROPERTY SHOWN HEREON LIES IN FLOOD ZONE X. FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAP AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE. FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAPS. FOR FURTHER INFORMATION AND TO CONFIRM THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.
7. PLAT REFERENCES:
 - A) MAP OF THE TOWN OF CAPE CHARLES (D.B. 41, P. 484 - PLAT)
 - B) PROPERTY TO BE CONVEYED BY ROSS SAWYER WILSON TO JOHN SAMPLE, JR. (D.B. 144, P. 09)
 - C) THE PURPOSE OF THIS PLAT IS TO VACATE THE PROPERTY LINE BETWEEN PARCELS 83A1-1-81C & 83A1-1-84C. NO PHYSICAL FEATURES SHOWN.

SURVEYORS CERTIFICATION:

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



OWNER'S CONSENT AND DEDICATION

THE PROPERTY LINE VACATION AND CREATION OF "PARCEL A" IS WITH FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNER. ALL STATEMENTS AFFIXED TO THIS PLAT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

DATE: _____

MANAGING MEMBER PATINA GREEN LLC

COUNTY OF _____, STATE OF _____, TO WIT:

I, _____, A NOTARY PUBLIC IN, AND FOR

THE COUNTY AND STATE AFORESAID, DO HEREBY CERTIFY THAT

WHOSE NAME IS SIGNED TO THE FOREGOING WRITING,

BEARING DATE ON THE _____ DAY OF _____, 20____

HAS ACKNOWLEDGED THE SAME BEFORE ME IN MY COUNTY

AND STATE AFORESAID, GIVEN UNDER MY HAND THIS _____

DAY OF _____, 20____.

NOTARY PUBLIC

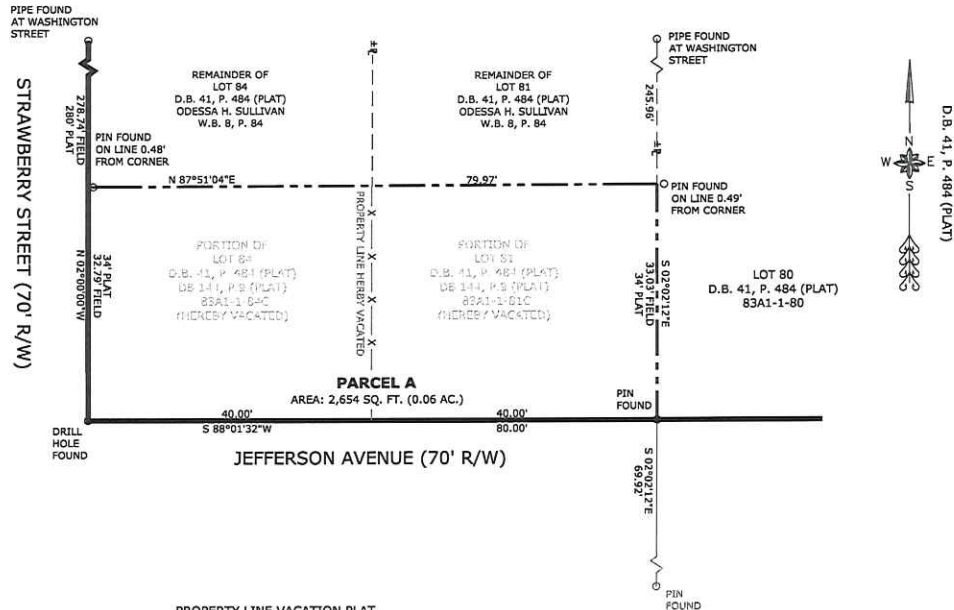
MY COMMISSION EXPIRES: _____

APPROVED:

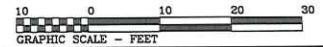
THIS PLAT OF SURVEY IS APPROVED TO BE RECORDED INTO THE LAND RECORDS OF NORTHAMPTON COUNTY, VIRGINIA.

DATE: _____

TOWN OF CAPE CHARLES, VIRGINIA



PROPERTY LINE VACATION PLAT
CREATING
"PARCEL A"
PORTIONS OF
LOTS 81 & 84
MAP OF THE
TOWN OF
CAPE CHARLES
(DEED BOOK 41, PAGE 484-PLAT)
CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VIRGINIA
JANUARY 30, 2021



ACCOMACK-NORTHAMPTON SURVEYING & MAPPING PLLC

36308 Lankford Highway, Belle Haven, Virginia 23306
MAIL: 22248 Parker's Landing Road Bloxom, Virginia 23308
Phone: (757) 709-4192

DRAWN BY: PARKS	SCALE: 1"=10'
CHKD BY: 2995	BACK TRAV. BY: MBP
FIELD BOOK: NEVO	JOB NUMBER: 1134

EXISTING DECKING

6 FOOT PRIVACY FENCE 44'6"
WOODEN DOG EAR FENCE

CLAM SHELL CART PATH 365 SQ FT 67 FT X 5 FT WIDE

CLAM SHELL CART PARKING 300 SQ FT 18 X 18

PL

HVAC

DRIVE THRU SERVICE WINDOW

BENCHES

PLANTERS

AT-GRADE DECKING
WITH PICNIC TABLES
15'6" X 17'7"

AT-GRADE DECKING
WITH PICNIC TABLES
10' X 10'

3 FOOT FENCE
33 FT WOODEN PICKET

TING CONCRETE SIDEWALKS

REMOVE CONCRETE

EXISTING CURB CUT

NEW STREET TREES

NEW CURB CUT
AND APRON

* VDOT HAS ISSUES
PERMIT FOR THIS WORK.

From: cinnamonsuzy@gmail.com
To: [Tracy Outten](mailto:Tracy.Outten)
Subject: FW: Suzy's Old Fashioned Frozen Custard Zoning Application - Amplification
Date: Monday, February 15, 2021 11:13:33 AM
Attachments: [VDOT PERMIT 536-124194.pdf](#)

Email address correction...

From: cinnamonsuzy@gmail.com <cinnamonsuzy@gmail.com>
Sent: Monday, February 15, 2021 10:37 AM
To: tracyoutten@capecharles.org
Subject: Suzy's Old Fashioned Frozen Custard Zoning Application - Amplification

Tracy,

Katie Nunez requested the attachment (VDOT permit to install curb cut on 309 Jefferson) and following clarifications:

- 1 – **GOLF CART PATH:** Building drive through service window height and adjacent drive up path are restricted via width, stabilizing underlayment, design, and sign to GOLF CART and SURREY use only.
- 2 – **OPERATING HOURS:** 7 days a week, 0600 to 2100.
- 3 – **EMPLOYEES:** 2 employees will be on-site from 0530 to 2200 Monday – Thursday. 3 employees will be on-site from 0530 to 2200 Friday-Sunday. A maximum of 6 employees will be in the building on weekends, during shift change.
- 4 – **LIGHTING:** The building already has under-eave recessed lights. After awnings are installed (over all windows), the drive through windows will probably need additional illumination. The planned Victorian era 5-globe streetlight centered at top of the golf cart path is powder-coated aluminum (that looks like cast iron) 11-foot lamp post with commercial grade polycarbonate globes (clear cracked ice texture). Metal-Halide 100 watt bulbs (8,500 lumens) (typical streetlights are 150 watt/13,300 lumens). Exterior lighting will be energized during business hours (0600 to 0800 on sunny days; 1630 to 2100 every day; 0600-2100 stormy days).
- 5 – **TRASH:** 4 replicas of the Town's blue-roof trash boxes will be staged around the property and emptied daily (minimum) by staff into the Town's wheeled carts. Water, Sewer, Trash utility is already active.

Regards,
Suzanne Baker

Commonwealth Of Virginia

Department Of Transportation

Land Use Permit



Permit No 536-124194

Status APPROVED

This permit only grants permission to use whatever rights the Commonwealth Transportation Board and the Department of Transportation have in the right of way and no more, and it is the obligation of the permittee to secure any other releases or permission that may be needed in order to perform the work.

Effective Date Oct 06, 2020

Expiration Date Apr 04, 2021

Reinstatement Date

Permittee Information		Your Job#	Surety & Account Receivable Information
Owner & Address	Patina Green 208 Bay Avenue Cape Charles Virginia 23310	Agent	Name Patina Green / Navy Federal Credit Union
Contact	Suzanne B. Baker	Contact	Surety Account 1195
Phone#	484-809-0875	Phone#	Surety Type Cash/Check
Fax#		Fax#	Amount 500.00
24 Hr#	484-723-3572	24 Hr#	Obligation Amount 500.00
			Surety Holder CUSTOMER

AUTHORIZATION: In compliance with your application, permission is hereby given insofar as the Commonwealth Transportation Board has the right, power, and authority under sections 33.2 - 210;33.2 - 240;33.2 - 241 of the Code of Virginia as amended, to grant by Special Agreement and/or by Land Use Permit for you to perform the work and or activity(s) described below:

Location			
County/City/Town	Northampton County	Highway Route(s)	1103 - Jefferson Avenue
From Route Number		From Route Name	
To Route Number		To Route Name	

Work Description

Install 6' wide depressed curb and concrete golf cart entrance at Tax Map No. 83A1-01-81C in Cape Charles. Also remove old concrete driveway and landscaping between sidewalk and curb and replace with three new crepe myrtle trees planted at least 3' behind curb. All construction methods and materials shall be in accordance with current VDOT standards and specifications. Contact Dale Pusey @ 757-787-5932 with any other technical questions and to provide at least 48 hours notice prior to commencement of ANY work approved by this permit. All areas of the VDOT R/W disturbed by this work shall be restored, stabilized, and seeded prior to acceptance.

NOTES: TRAFFIC CONTROLS, SIGNAGE, FLAGGING OPERATIONS, ETC. REQUIRED SHALL CONFORM TO THE 2011 (REVISION 2) VA WORK AREA PROTECTION MANUAL AND MUTCD GUIDELINES

Fee Description	Fee
Permit Fee	\$100.00

Applicant has compiled with VA Code Section 56-265.15 Affidavit is attached.

TERMS:Applicable as stated in the VDOT Land Use Permit Regulations (current edition) and/or as per approved plans, and/or regulatory instructions, including but not limited to the LUP-SPG and/or agreement(s) attached hereto.

COMMONWEALTH TRANSPORTATION BOARD



By:

Oct 07, 2020

Dale Pusey, PE

- C Call before you dig
- A Allow the required time for marking
- R Respect and protect the marks/flags
- E Excavate carefully

Call Miss Utility
811

[] When checkbox is marked, by approving this permit, the issuing official certifies that the entrance was designed in accordance with Appendix F of the Road Design Manual

FINAL INSPECTION & SURETY REQUIREMENTS: Upon completion of the work or activity(s) authorized under this Land Use Permit, the permittee shall contact the following office in writing or by electronic communication to request final inspection and release of the surety obligation for this permit.

Accomac Residency
23096 Courthouse Ave Email:HRpermits@vdot.virginia.gov
Accomac VA 23301

Permit No.536-124194

VDOT's Web Site: www.vdot.virginia.gov

Permittee Copy



PRE-APPLICATION INFORMATION FORM

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

APPLICANT INFORMATION

Name: Patina Green, LLC dba Suzy's Old Fashioned Frozen Custard
Mailing Address: 208 Bay Avenue; Cape Charles VA 23310
Phone Number: 484-809-0875 Email: cinnamonsuzy@gmail.com

PROJECT SUMMARY

Address of Project: 303 and 309 Jefferson Avenue
Application Type (rezoning, variance, etc.): Zoning variance & window/door replacement
Total Acreage of Project: .04 Each Parcel (i.e., .08 acre)

Detailed Description (Include proposed use(s) and square footage of floor area for each use):
Provide Golf Cart drive-thru window service (replace and enlarge windows with vertical
"double hung" pass through windows on 303 Jefferson East Wall), landscape 309
Jefferson with golf cart one-way path, 3 space parking, at-grade decks umbrella 4-top
table seating.

Signature of Applicant: *Reganne Baker* Date: 23 Nov 2020

For Internal Use Only:

Pre-Application Meeting Date: _____

Staff Printed Name: _____ Signed: _____

HDRB Rep Printed Name: _____ Signed: _____

Patina Green, LLC
DBA Suzy's Old Fashioned Frozen Custard
208 Bay Avenue
Cape Charles, VA 23310
484-809-0875

Town of Cape Charles Planning & Zoning Department
2 Plum Street
Cape Charles, VA 23310

6 November 2020

Ms. Allyson Finchum,

Patina Green, LLC purchased two parcels of land identified by emergency calling as 303 Jefferson (land and building) and 309 Jefferson Avenue (land) with intent to own and operate Suzy's Old Fashioned Frozen Custard. 303 Jefferson is zoned commercial; CC Kool EatZ operated from the site since 2015. 309 Jefferson is the adjacent 34' X 40' vacant lot, zoned residential. To the passerby, the lot appears to be the small side yard of 303 Jefferson.

The intended use of 303 and 309 Jefferson is a contiguous business location of Suzy's Old Fashioned Frozen Custard, purveying seasonal (April through October) desserts constructed primarily with soft-serve frozen custard made on premises, 7 days a week. Food and beverages will be prepared and purchased from the existing 303 Jefferson building (after painting, awnings, windows, A/C compressor relocation approved by Historic Review Board). Walk up customers will enter the building from the existing Strawberry Street door. There will not be indoor customer seating. Upon approval of this Variance Application, customers of Suzy's Old Fashioned Frozen Custard will be able to drive a golf cart onto 309 Jefferson via an existing curb cut on 303 Jefferson (currently zoned commercial), purchase food and beverages from 303 Jefferson's drive through window, park in three cart spaces on 309 Jefferson parcel, or exit the property via the curb cut on 309 Jefferson. Per the attached landscaping plan, 309 Jefferson will have outdoor seating similar in construction and appearance to the existing decks on the Strawberry Street entrance side of the property, furthering a cohesive street appearance.

VDOT issued Patina Green, LLC a permit on 10/6/2020 to install a curb cut and concrete apron on 309 Jefferson (the vacant lot) and to maintain the existing curb cut with concrete apron on 303 Jefferson, enabling a one-way golf cart path to enter 303 Jefferson and exit 309 Jefferson. The path on the North side of the sidewalk will be reinforced and covered with oyster shells. Going forward with the VDOT permit and with our Landscape contract relies on receiving the Town zoning variance allowing commercial use of the 309 Jefferson parcel. Your earliest approval of our application is greatly appreciated.

Suzanne B. Baker
Member/Owner

cinnamonsuzy@gmail.com
484.809.0875

From: [Odessa Sullivan](#)
To: [Tracy Outten](#)
Subject: Request of rezoning at 303 Jefferson Ave
Date: Thursday, February 18, 2021 10:44:01 AM

My name is Odessa Sullivan. My address is 606 Strawberry St at Jefferson Ave. I am contacting you regarding rezoning at 303 Jefferson Ave at Strawberry St. My answer is NO.

I have lived here for many years. This area has always been residential. I was born on this very spot 74 years ago. I do not wish to live in a commercial area.

With the previous owners of the eatery; several times I had to go in and request that the car be moved from blocking my driveway. There was a lot of traffic without a golf-cart window. Adding a drive thru will increase traffic. I as well want to enjoy my summer, but without commercial traffic.

The more people in a commercial area the more careless they become discarding their trash. It's a NO for me. Resident and taxpayer of the town of Cape Charles.

ODESSA Sullivan



PLANNING COMMISSION

PRELIMINARY STAFF REPORT

Meeting Date: March 2, 2021

Item #: 5b

Type of Application:	Conditional Use Permit (CUP) – Request to Schedule Public Hearing
Date:	February 23, 2021
Prepared By:	Katie H. Nunez, Interim Planning/Zoning Administrator
Site Address:	1 Fig Street (tax map #83A4-A-21)
Applicant:	Joshua E. Latimore
Owner:	Kellogg, LLC
Zoning District:	Commercial District C-2
Lot Size:	The lot is 6,183 square feet.
Request:	The applicant is requesting a conditional use permit for a residential unit above first floor commercial at 1 Fig Street (Kellogg Building), pursuant to Cape Charles Zoning Ordinance Section 3.7 (C) which allows residential dwelling units provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (no access through the commercial establishment on the first floor) through a Conditional Use Permit.

On February 1, 2021, an application was received from Joshua Lattimore, applicant, for a Conditional Use Permit for the property located at 1 Fig Street (Tax Ma 83A4-A-21). The property is zoned Commercial District C-2 which allows for a dual use of Commercial/Residential. The applicant has submitted a floor plan for one residential unit on the second floor of this building.

LOCATION/AERIAL MAP



STREET VIEW



The applicant, Joshua Lattimore, has stated that this property previously applied for and was approved for a Conditional Use Permit for a residential unit on the second floor of the building with the first floor as a commercial establishment by the Town Council on January 3, 2017. However, the Conditional Use Permit was not acted upon in a timely manner, as outlined in the Cape Charles

Zoning Ordinance Section 4.3 (D) and became null and void one year from its approval date by Town Council.

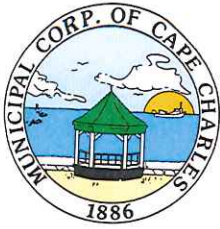
Staff is requesting the Planning Commission to review the application submitted and provide input and direction to the staff regarding any items of potential concern or clarification and authorize staff to schedule a public hearing on this application for your April 5, 2021 meeting. Due to the personnel vacancies in the department and my recent engagement as Interim Planning/Zoning Administrator, I did not have sufficient time to prepare a full and comprehensive staff report for this agenda packet. However, I am advancing this preliminary report so that the public hearing date can be advanced and properly advertised and I will have a full staff report with recommendation prior to the public hearing for the Planning Commission's consideration.

RECOMMENDATION: Staff recommends that the Planning Commission schedule a public hearing on the Conditional Use Permit filed by Joshua Lattimore at 1 Fig Street (Tax Map 83A4-A-21) for a residential unit above first floor commercial, pursuant to Cape Charles Zoning Ordinance Section 3.7 (C), at the April 5, 2021 meeting.

Attachments:

Attachment 1 - Application dated February 1, 2021

Attachment 2 - Cape Charles Zoning Ordinance Section 3.7 & 4.3



CONDITIONAL USE PERMIT APPLICATION

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

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

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

PROJECT INFORMATION

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

OWNER INFORMATION

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

APPLICANT INFORMATION

☒ check here if applicant is owner

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

CERTIFICATION OF APPLICANT

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed. Furthermore, I certify that the changes to the improvement before or during construction will be provided to the Zoning Administrator and Building Official before such changes are constructed.

Signature of Applicant: Joshua E Lathmore Date: 2-1-2021

CONDITIONAL USE PERMIT

I am applying to reinstate the conditional use permit that was approved by the Town in November 2016, please see attached documentation for reference, that allows for a dual use (Commercial/Residential) at the property on 3 Fig Street. The proposed residential unit is detailed in the attached documents as well. Thank you for your consideration, please feel free to contact me directly any time with additional questions.

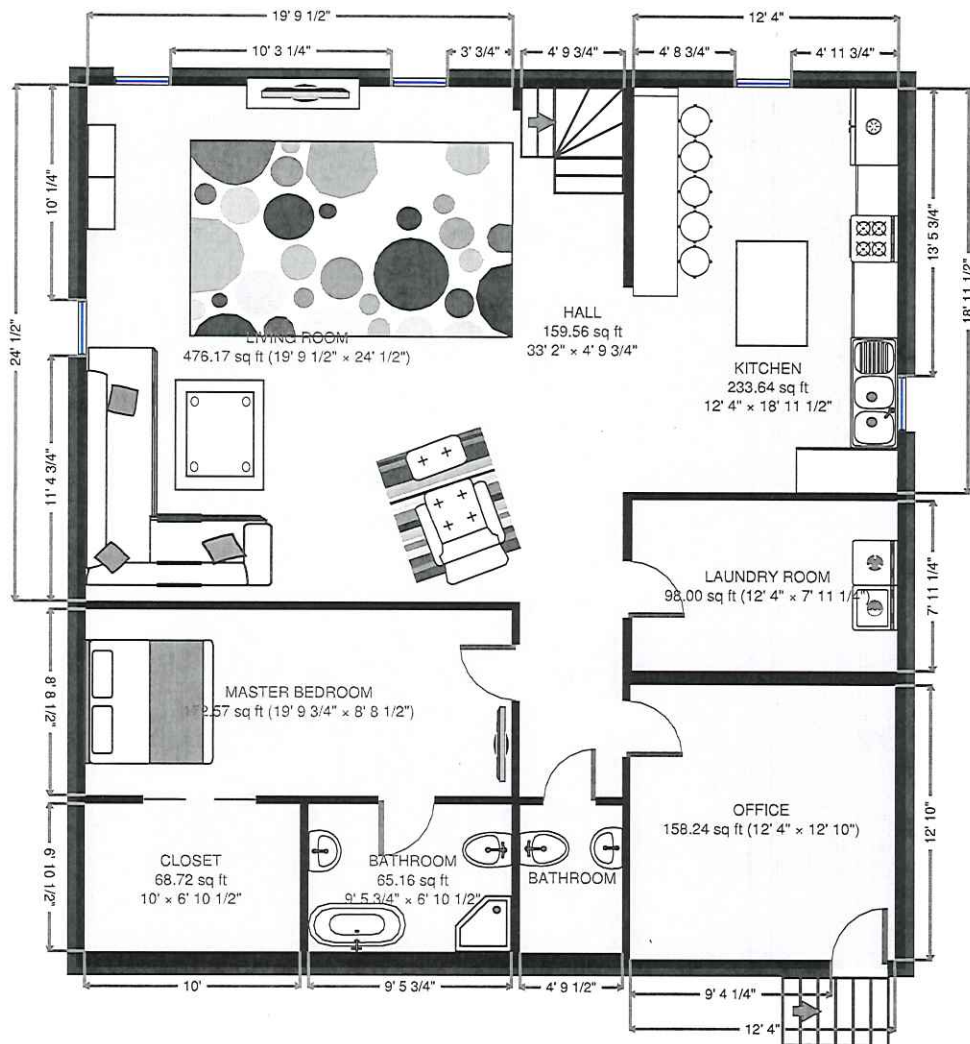
Thank you,

A handwritten signature in black ink, appearing to read "Joshua E. Lattimore". The signature is fluid and cursive, with the first name "Joshua" being more prominent.

Joshua E. Lattimore

757-710-3381

2nd Floor



THIS FLOORPLAN IS PROVIDED WITHOUT WARRANTY OF ANY KIND. SENSIOPIA DISCLAIMS ANY WARRANTY INCLUDING, WITHOUT LIMITATION, SATISFACTORY QUALITY OR ACCURACY OF DIMENSIONS.



Plan 2

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



2016-11-29

1465 sq ft

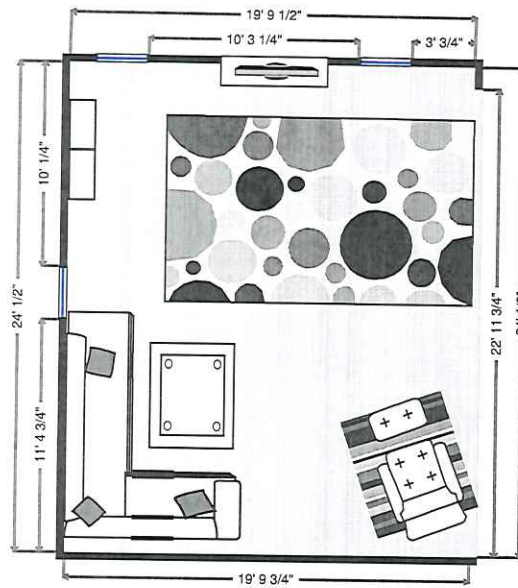
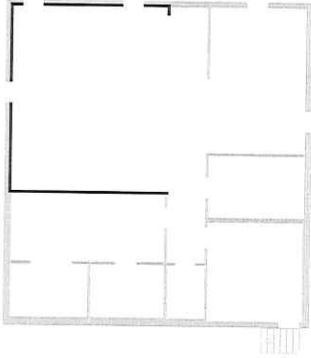
1 Floor

1 Bedroom

2 Bathrooms

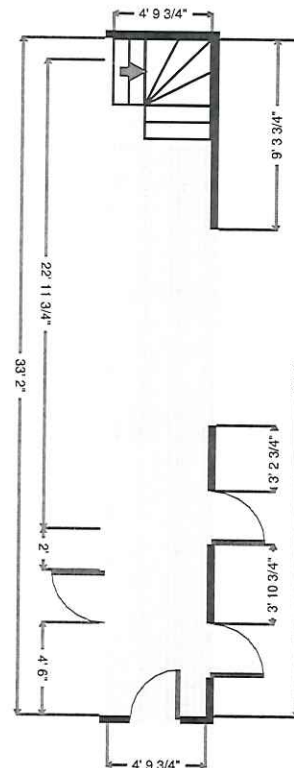
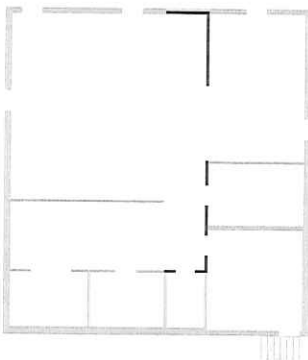
Living Room

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



Hall

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



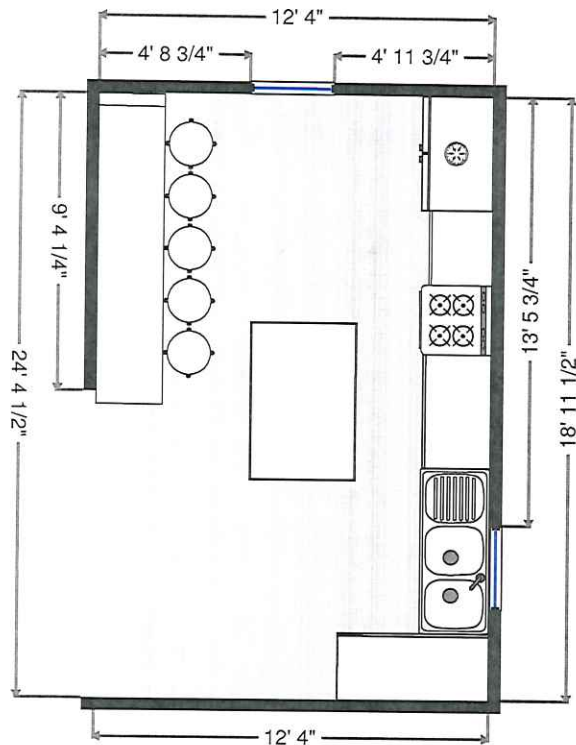
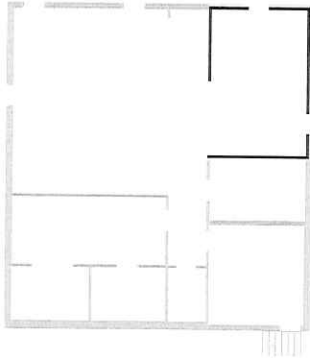
Plan 2

2016-11-29

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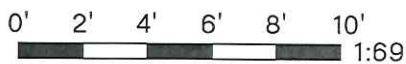
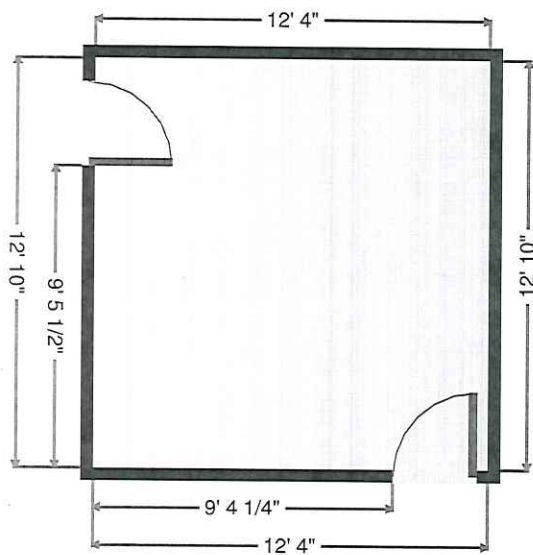
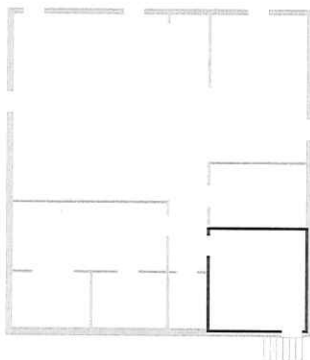
Kitchen

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



Office

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



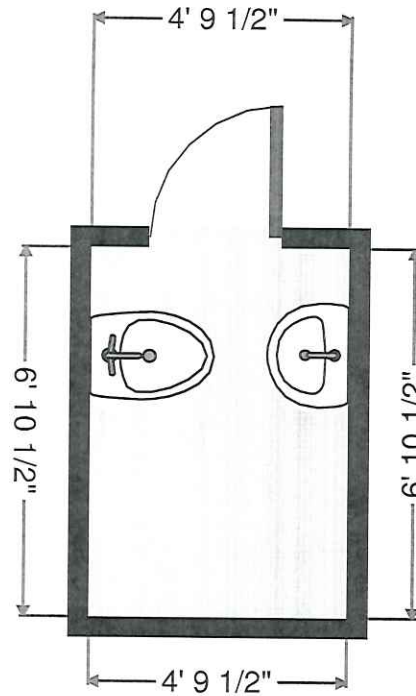
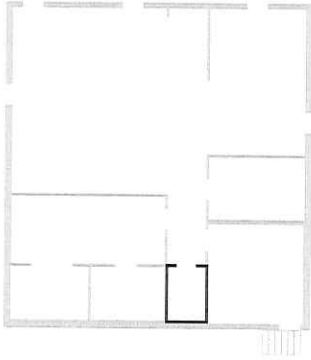
Plan 2

2016-11-29

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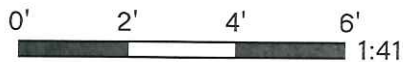
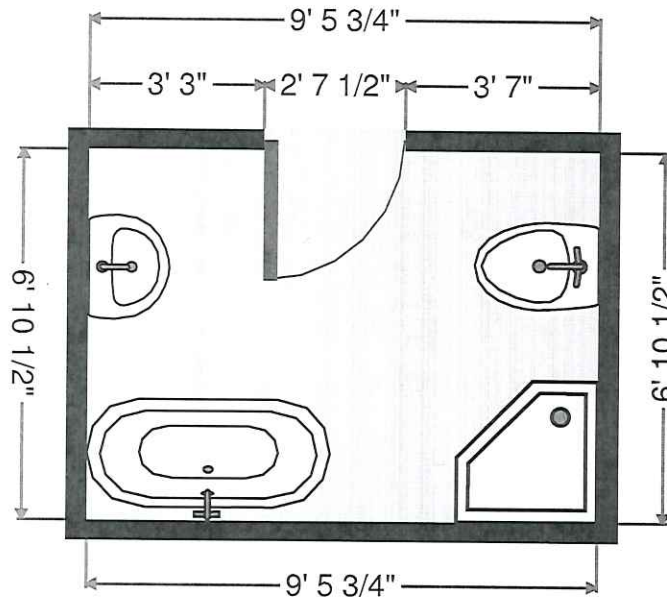
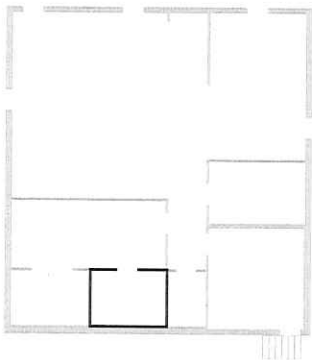
Bathroom

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



Bathroom

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



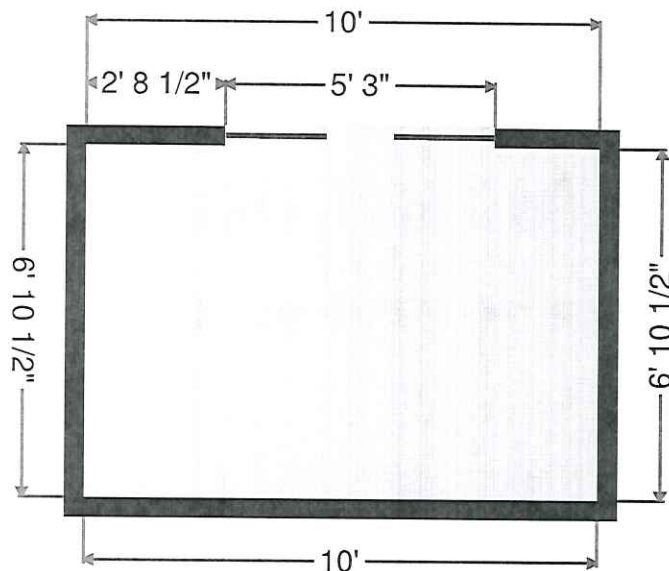
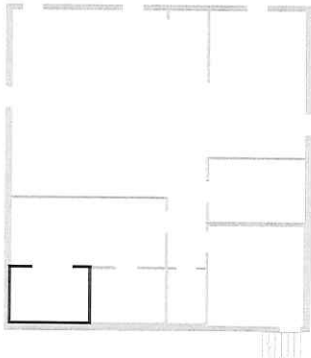
Plan 2

2016-11-29

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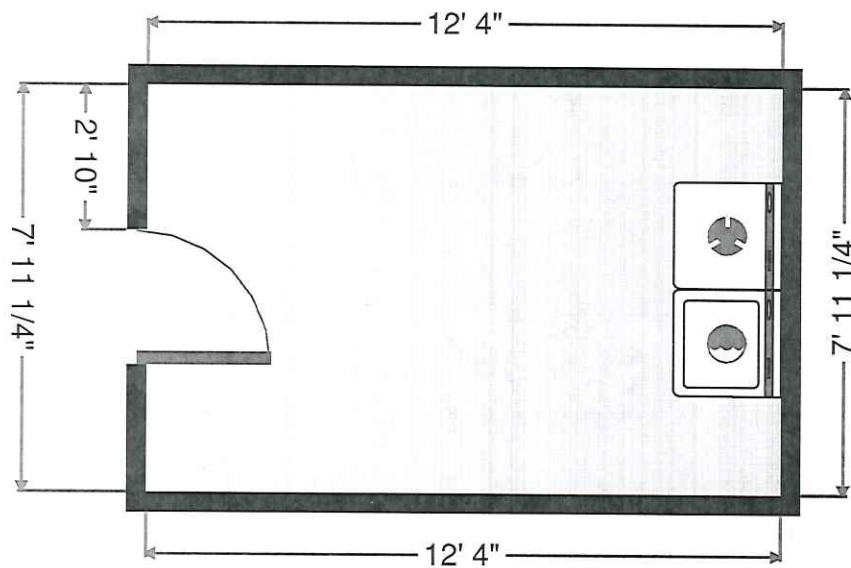
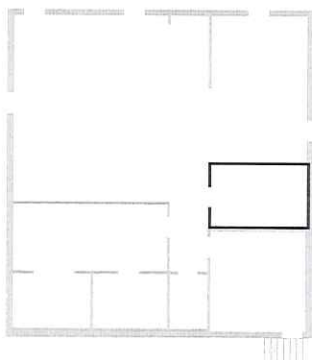
Closet

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



Laundry Room

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



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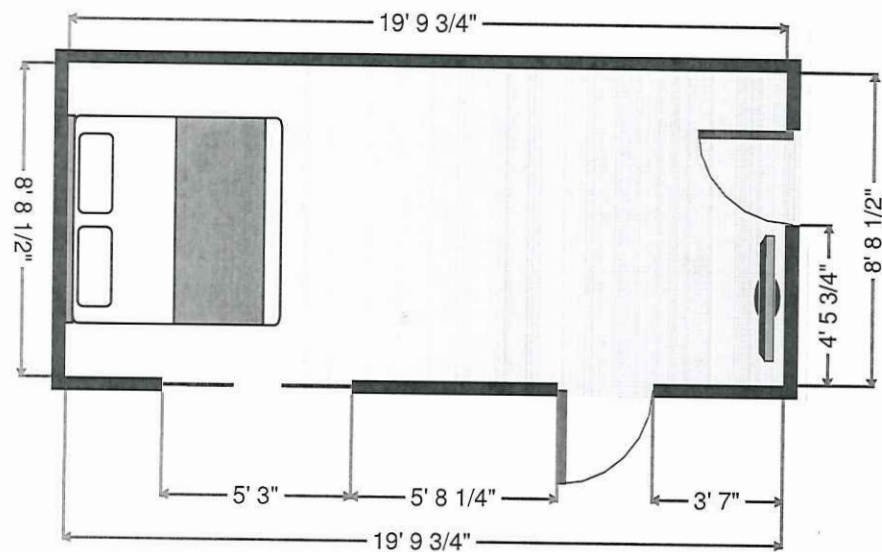
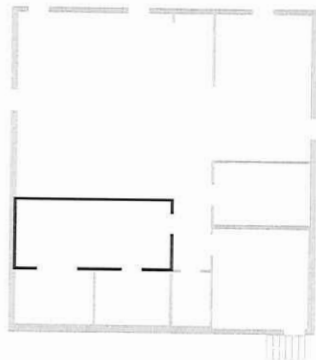


Plan 2

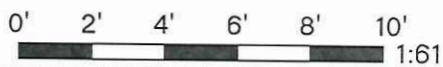
2016-11-29

Master Bedroom

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



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Plan 2

2016-11-29

Section 3.7 Commercial District C-2

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

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

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

Section 4.3 Conditional Use Permits

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

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

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

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

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

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

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

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



PLANNING COMMISSION

PRELIMINARY STAFF REPORT

Meeting Date: March 2, 2021

Item #: 5c

Type of Application:	Conditional Use Permit (CUP) – Request to Schedule Public Hearing
Date:	February 23, 2021
Prepared By:	Katie H. Nunez, Interim Planning/Zoning Administrator
Site Address:	301 Mason Avenue (tax map #83A3-1-615B)
Applicant:	Chris Elam, AIA
Owner:	John & Clelia Sheppard, Lemon Tree Gallery
Zoning District:	Commercial District C-1
Lot Size:	The lot is 2,848 square feet.
Request:	The applicant is requesting a conditional use permit for 2 residential units (apartments) above first floor commercial at 301 Mason Avenue, pursuant to Cape Charles Zoning Ordinance Section 3.6 (C) which allows residential dwelling units provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (no access through the commercial establishment on the first floor) through a Conditional Use Permit.

On February 15, 2021, an application was received from Chris Elam, AIA, applicant on behalf of the property owners, for a Conditional Use Permit for the property located at 301 Mason Avenue (Tax Map 83A3-1-615B). The property is zoned Commercial District C-1 which allows for a dual use of Commercial/Residential. The applicant has submitted a floor plan for two residential units on the second floor of this building.

LOCATION/AERIAL MAP



STREET VIEW



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

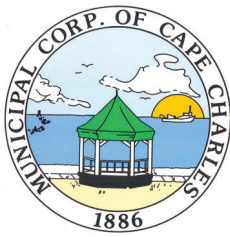
Staff is requesting the Planning Commission to review the application submitted and provide input and direction to the staff regarding any items of potential concern or clarification and authorize staff to schedule a public hearing on this application for your April 5, 2021 meeting. Due to the personnel vacancies in the department and my recent engagement as Interim Planning/Zoning Administrator, I did not have sufficient time to prepare a full and comprehensive staff report for this agenda packet. However, I am advancing this preliminary report so that the public hearing date can be advanced and properly advertised and I will have a full staff report with recommendation prior to the public hearing for the Planning Commission's consideration.

RECOMMENDATION: Staff recommends that the Planning Commission schedule a public hearing on the Conditional Use Permit filed by Chris Elam, AIA, on behalf of the property owners John & Clelia Shephard, Lemon Tree Gallery at 301 Mason Avenue (Tax Map 83A3-1-615B) for two residential units above first floor commercial, pursuant to Cape Charles Zoning Ordinance Section 3.6 (C), at the April 5, 2021 meeting.

Attachments:

Attachment 1 - Application dated February 15, 2021

Attachment 2 - Cape Charles Zoning Ordinance Section 3.6 & 4.3



CONDITIONAL USE PERMIT APPLICATION

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

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

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

PROJECT INFORMATION

Name of Project: Lemon Tree Apartments

Property Address: 301 Mason Ave.

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

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

OWNER INFORMATION

Name and Company: John & Clelia Sheppard_ Lemon Tree Gallery

Mailing Address: 301 Mason Ave.

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

APPLICANT INFORMATION

☐ check here if applicant is owner

Name: Chris Elam, AIA

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

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

CERTIFICATION OF APPLICANT

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed. Furthermore, I certify that the changes to the improvement before or during construction will be provided to the Zoning Administrator and Building Official before such changes are constructed.

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

GMF+ ASSOCIATES

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

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

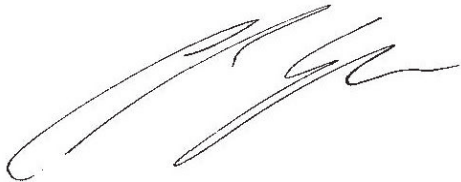
February 17, 2021

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

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

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

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



Sincerely,

Christopher Elam, AIA



SURVEYOR'S CERTIFICATION

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

OWNER TABLE

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

GENERAL NOTES:

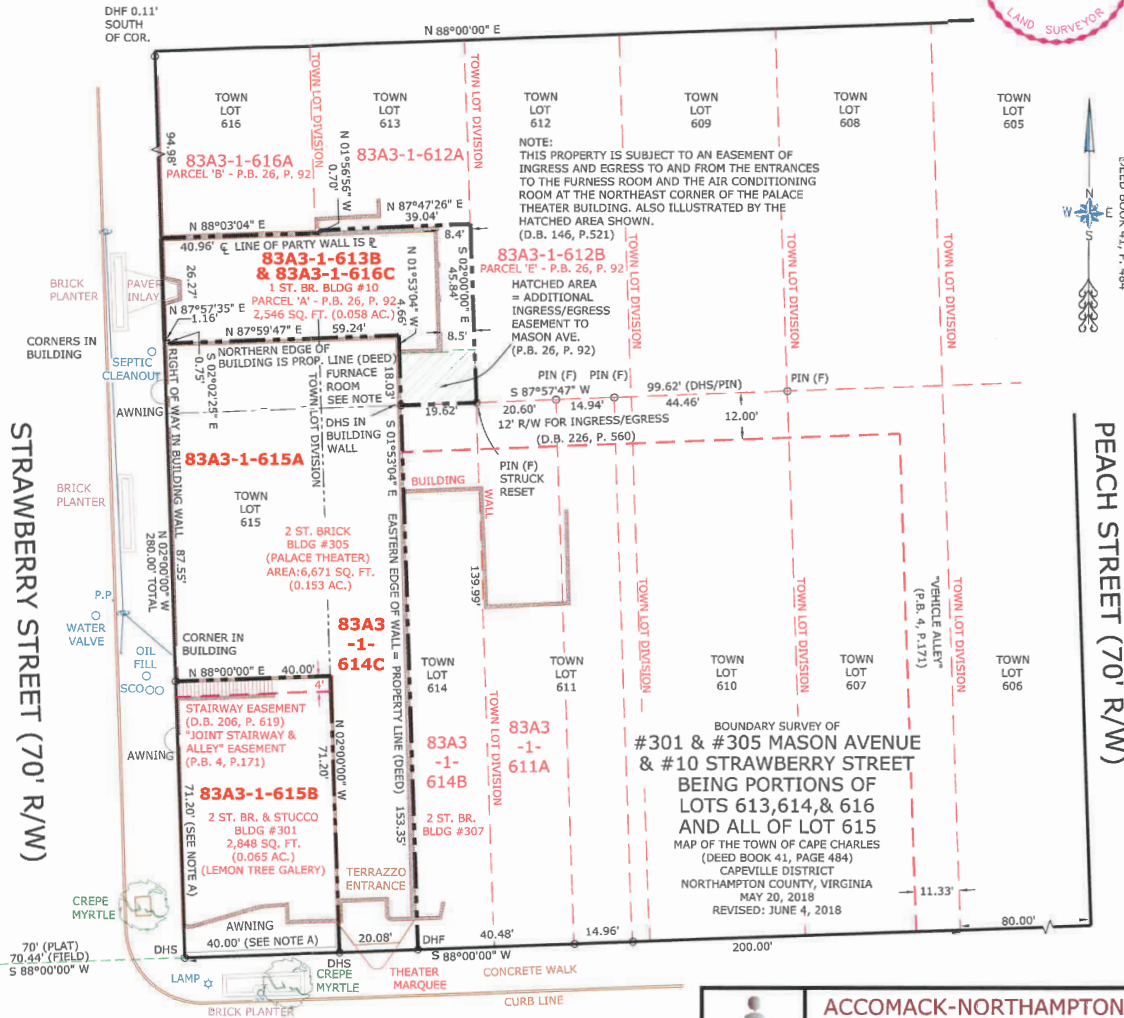
1. A SURVEY WAS PERFORMED ON THIS PROPERTY IN MAY 2018 WITH A BOUNDARY CLOSURE WHOSE PRECISION EXCEEDS 1:10,000.
2. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN OR WETLANDS, ENVIRONMENTAL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

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

RANDOLPH AVENUE (70' R/W)

STRAWBERRY STREET (70' R/W)

MASON AVENUE (70' R/W)



DEED BOOK 41, P. 484

PEACH STREET (70' R/W)

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

ACCOMACK-NORTHAMPTON SURVEYING & MAPPING PLLC

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

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



VIEW FROM SOUTH WEST

LEMON TREE MIXED USE

A PROPOSED MIXED USE REMODEL/RENOVATION

301 MASON AVE.
CAPE CHARLES, VA

12/22/20

NEW JULIET BALCONY
& FRENCH DOORS AT
EXISTING WINDOW LOCATION

RESTORED HISTORIC MURAL

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



AERIAL VIEW FROM WEST

LEMON TREE MIXED USE

A PROPOSED MIXED USE REMODEL/RENOVATION

301 MASON AVE
CAPE CHARLES, VA

12/22/20

GMF+ASSOCIATES

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

© GMF ASSOCIATES 2020

WEBSITE:
www.gmfplus.com

NEW JULIET BALCONY
& FRENCH DOORS AT
EXISTING WINDOW LOCATION

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

NEW DOORS IN EXISTING
WINDOW LOCATIONS



AERIAL VIEW FROM SOUTH WEST

LEMON TREE MIXED USE

A PROPOSED MIXED USE REMODEL/RENOVATION

301 MASON AVE
CAPE CHARLES, VA

12/22/20

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

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

GROUND FLOOR RETAIL SPACE
APPROXIMATELY 2,140 SQFT

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

APARTMENT UNIT #2
APPROXIMATELY 912 SQFT

SHARED CORRIDOR
APPROXIMATELY 185 SQFT

ACCESSORY STORAGE SPACE
APPROXIMATELY 178 SQFT

EXISTING CONSTRUCTION
TO REMAIN

NEW FULL HEIGHT WALL



SCALE: 1/4" = 1'-0"



SCALE: 1/4" = 1'-0"



PRELIMINARY
NOT FOR
CONSTRUCTION

[illegible]

LEMON TREE MIXED USE

301 MASON AVE
CAPE CHARLES, VA

SHEET # A-10

DATE: OCTOBER, 2020

SCALE : AS NOTED

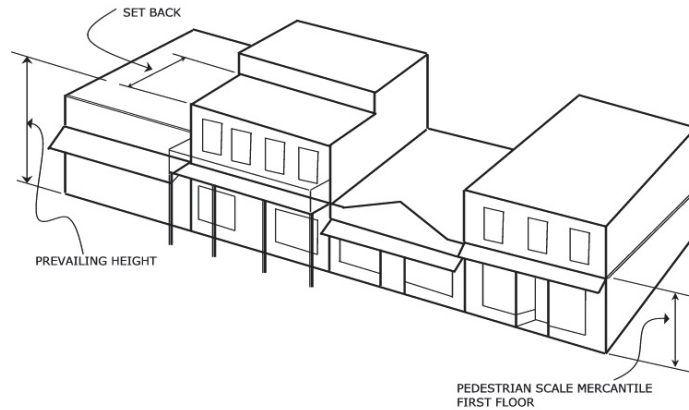
DRAWN : CLE

CHECKED BY: *GLE*

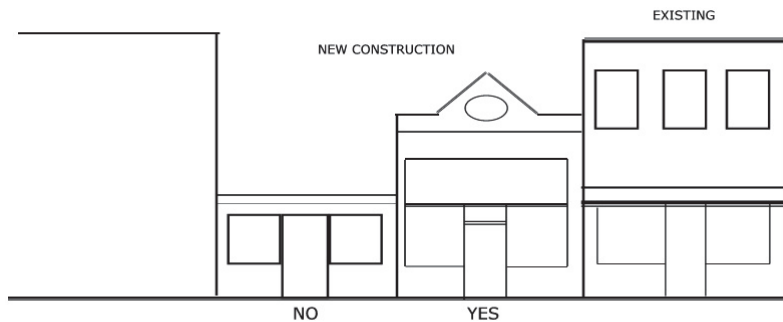
Section 3.6 Commercial District C-1

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

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



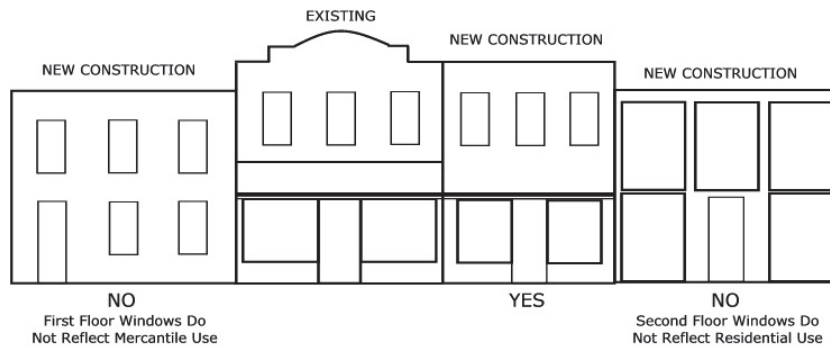
- b. **Floor-to-Floor Heights.** This important element of scale is often ignored in new construction, which tends toward lower ceiling heights. Floor-to-floor heights of new construction should be within 10 percent of neighborhood construction, where a relatively consistent floor-to-floor height is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



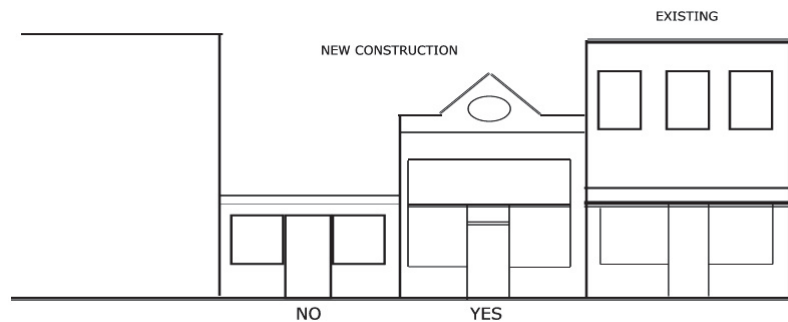
Single Story Buildings Should Reflect Scale of Neighborhood

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

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



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



Single Story Buildings Should Reflect Scale of Neighborhood

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

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

- aluminum or vinyl siding
- asphalt siding

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

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

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

4. Penalties for Noncompliance.

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

G. Additional Requirements

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

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

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

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

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

Section 4.3 Conditional Use Permits

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

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

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

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