



PLANNING COMMISSION
Joint Public Hearing with Town Council & Regular Meeting
Cape Charles Civic Center
June 1, 2021
6:00 p.m.

At 6:00 p.m., Chairman Bill Stramm, having established a quorum, called to order the Public Hearing and Regular Meeting of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Kenneth Butta, Diane D'Amico, Paul Grossman, Jim Holloway, Dennis McCoy, and Michael Strub. Also, in attendance were Town Planner Ben Sullivan, Interim Zoning Administrator Katie Nunez, and Planning Technician Tracy Outten. There were four members of the public in attendance and fourteen viewers on Facebook Live.

Mayor William "Smitty" Dize, having established a quorum, called to order the Public Hearing of the Town Council. In addition to Mayor Dize, present were Vice-Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Also, in attendance were Town Manager John Hozey and Town Clerk Libby Hume.

Chairman Stramm welcomed new Town Planner Ben Sullivan.

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

PUBLIC HEARING PUBLIC COMMENTS:

Chairman Stramm read the Notice of Public Hearings and opened the floor for comments.

There were no public comments to be heard.

Planning Technician Tracy Outten read comments submitted in writing from Janet Dudley and Edward Wells. (Please see attached.)

Motion made by Paul Grossman, seconded by Michael Strub, to close the public hearing portion of the Planning Commission meeting. The motion was approved by unanimous vote.

Motion made by Councilman Buchholz, seconded by Vice-Mayor Bennett, to adjourn the Town Council Public Hearing. The motion was approved by unanimous vote.

PUBLIC COMMENTS:

There were no public comments.

AGENDA

Diane D'Amico requested item 6A be removed from the agenda since the map was missing and an expert opinion was needed for other issues. Michael Strub thought that was what tonight's discussion was about.

Motion made by Paul Grossman, seconded by Dennis McCoy, to approve the agenda as presented. The motion was approved by majority vote with Diane D'Amico opposing.

The commissioners reviewed minutes from the March 2, 2021 Planning Commission Public Hearing and Special Meeting and the April 6, 2021 Planning Commission and Town Council Joint Public Hearing and Planning Commission Special Meeting.

Michael Strub said the word “no” needs to be added before comments on page 2 of the April 6, 2021 minutes.

Motion made by Paul Grossman, seconded by Dennis McCoy, to approve the minutes from the March 2, 2021 Planning Commission Public Hearing and Special Meeting and the April 6, 2021 Planning Commission and Town Council Joint Public Hearing and Planning Commission Special Meeting as amended. The motion was approved by unanimous vote.

UNFINISHED BUSINESS

A. *Application for proposed text amendments to the Cape Charles Zoning Ordinance from Town Council*

- *Article II – Definitions*

Non-Contributing Structure means a structure ~~built after 1940~~ 1964 ~~OR which has been altered to such a degree that is no longer representative of the period in which it was built or is in such poor physical condition that its retention is difficult. that is not a contributing structure. (from the Historic guidelines)~~

After some discussion, the commissioners thought the definition of non-contributing structure needed to be defined clearer.

Motion made by Paul Grossman, seconded by Michael Strub, to change the definition of a “Non-Contributing Structure” in the proposed text amendment document as follows: are those that were built after 1964 or have been altered to such a degree that they are no longer representative of the period which they were built or are in such poor physical condition that their retention is difficult. The National Register of Historic Places (amended 2019) provides the listing of non-contributing structures and properties. Should a building or structure within the boundaries of the historic district not be listed in the national register, the building or structure will be classified as non-contributing. The motion was approved by unanimous vote.

Design Guidelines are those set of guidelines, standard, and regulation and recommendations adopted pursuant §8.20 and §9.20 of this code. Guidelines are parameters within which the Historic District Review Board has the discretion to act and make will consult when making decisions.

Motion made by Paul Grossman, seconded by Michael Strub, to strike the last sentence from the “Design Guidelines” definition in the proposed text amendment document. The motion was approved by unanimous vote.

Standards are requirements that are evaluated by the Zoning Administrator or Code Official and not under discretion of the Historic District Review Board.

Motion made by Paul Grossman, seconded by Kenneth Butta, to add the words “Zoning Ordinance” after the word “are” to the definition of “Standards” in the proposed text amendment document. The motion was approved by unanimous vote.

Motion made by Michael Strub, seconded by Paul Grossman, to recommend the Town Council approval of the Town of Cape Charles Zoning Ordinance Article II Definitions of the Proposed Text Amendment Document, as amended by the Commissioners concerning Definition of “Non-Contributing Structure”, “Design Guidelines” and “Standards”. The motion was approved by unanimous vote.

- *Article VIII – Historic District Overlay*

Katie Nunez briefly read through the staff report.

After a brief review of the Cape Charles Historic District Guiding Philosophy, the commissioners decided to focus on the proposed Cape Charles Zoning Ordinance text amendments.

Discussion and recommendations on Article VIII were as follows:

Article VIII Historic District Overlay

Diane D'Amico and Michael Strub said the Cape Charles Historic District Guidelines needs to be referenced in this section.

Section 8.1 Purpose of the District

Diane D'Amico asked why the words "provide for protection" were being replaced with the word "guard". Dennis McCoy answered for clarity and John Hozey added to move away from a strict preservation approach.

Section 8.3 Inventory of Landmarks and Contributing Properties Established

The "period of significance" needed to be amended as follows: Pending further amendment of this ordinance, the period of significance for the Town of Cape Charles will be from 1883 to 1964 as delineated in the Cape Charles Historic District National Register of Historic Places (amended 2019).

Michael Strub thought a map would be a good reference. Paul Grossman informed him that an inventory map was nonexistent.

Motion made by Paul Grossman, seconded by Dennis Mccoy, to recommend the Town Council amend the year of significance from 1883 to 1964 in the Town of Cape Charles Zoning Ordinance §8.3 proposed text amendment document. The motion was approved by majority vote with Michael Strub opposing.

Section 8.13 Historic District Review Board; Procedures

John Hozey said this was just to ensure cooperation of the boards. Ben Sullivan suggested a procedure manual and thought this could cause conflict if staff had to appeal a Town Manager decision to the Town Council. Paul Grossman said the board would appeal to the Town Council on their own with a letter to the mayor.

Section 8.14 Historic District Review Board; Powers and Duties

- (i) Paul Grossman pointed out what separated standards and guidelines to Michael Strub.
- (ii) Diane D'Amico had concerns that the town was not interested in preservation or restoration at all.

Section 8.15 Summary of Administrative Review Procedures

Diane D'Amico said standard and guidelines needed to be made clearer. Katie Nunez explained that standards were zoning ordinance requirements and guidelines were policies. Ben Sullivan suggested having a note referencing where definitions can be found.

§8.15.A. Actions related to "Standards" will be exclusively the purview of the Zoning Administrator or Code Official.

Ben Sullivan said this could become an issue if the board did not like the outcome of one official, they could call another and suggested it be changed to just Zoning Official since that was who the Town Council appoints. John Hozey thought it was fine. Katie Nunez disagreed and said the code official did not have zoning administrative power; adding that building code was state, and zoning was town law.

Motion made by Paul Grossman, seconded by Dennis McCoy, to strike out the words “or Code Official” from the Town of Cape Charles Zoning Ordinance §8.15.A. The motion was approved by unanimous vote.

Section 8.16 Approval of Historic District Review Board Required

§8.16.H. Additions or deletions to an existing building which are not visible from a public right of way and which will not significantly alter the character of the building. Alleys in this context are not to be considered public places.

Ben Sullivan said staff needed some clarity on the definition of public right of way as stated in Article III. Paul Grossman suggested not visible from a public street.

Motion made by Paul Grossman, seconded by Jim Holloway, to change the wording to “Additions or deletions to an existing building which are not visible from a public street or sidewalk. Alleys in this context are not considered public places.” of the Town of Cape Charles Zoning Ordinance §8.16.H proposed text amendment document. The motion was approved by unanimous vote.

Katie Nunez said fencing was still unclear and thought in past conversations they would be approved administratively.

Section 8.18 Approval of Historic District Review Board Required

§8.18.B. Contributing accessory structures will be treated as contributing primary structures only under the following conditions:

Diane D’Amico thought this would mean historic structures like the out houses on Tazewell Avenue could be knocked down. Ken Butta suggested removing the word primary and added it seemed the intent was the use would trump historic preservation.

Motion made by Paul Grossman, seconded by Dennis McCoy, to remove the word “primary” from the Town of Cape Charles Zoning Ordinance §8.18.B in the proposed text amendment document. The motion was approved by majority vote with Diane D’Amico opposing.

§8.18.B.3. It is not being used as, or being considered for, accessory dwelling units. In such cases, the accessory structure will be considered non-contributing.

Ben Sullivan said §8.18.B.3 was unclear and asked what the meaning was. John Hozey explained this was only if the non-contributing structure was considered an accessory dwelling unit. Kenneth Butta suggested removing the second sentence.

Motion made by Paul Grossman, seconded by Dennis McCoy, to remove the second sentence of the Town of Cape Charles Zoning Ordinance §8.18.B.3 in the proposed text amendment document. The motion was approved by unanimous vote.

§8.18.C.3.c. Any change or alteration of the exterior architectural style of a structure including removal or rebuilding of porches, openings, dormers, window sashes, chimneys, columns, structural elements, stairways, terraces, and the like.

Katie Nunez talked about what the Historic District Review Board governs. Dennis McCoy thought the words “the like” were problematic. Diane D’Amico suggested removing the examples. Ben Sullivan recommended using the words “examples being”.

Motion made by Paul Grossman, seconded by Dennis McCoy, to make the following changes to the Town of Cape Charles Zoning Ordinance §8.18.C.3.c: (1) the words “some examples being” would replace the word “including”; (2) remove the words “and the like”; and (3) add the word “and” before “terraces” in the proposed text amendment document. The motion was approved by unanimous vote.

§8.18.C.3.d. Any change or alteration of ~~the exterior color scheme of the structure or~~ any of its significant elements, including porches, openings, dormers, window sashes, awnings, canopies, chimneys, columns, stairways, terraces, decks, fences, or any other structural elements. This also applies to all structures on the site.

Motion made by Jim Holloway, seconded by Paul Grossman, to strike the words “change or” in the Town of Cape Charles Zoning Ordinance §8.18.C.3.d in the proposed text amendment document. The motion was approved by unanimous vote.

Kenneth Butta said all alterations that the board reviewed were listed out in the above two sections and suggesting combining them.

Motion made by Jim Holloway, seconded by Paul Grossman, to combine §8.18.C.3.c and §8.18.C.3.d in the Town of Cape Charles Zoning Ordinance. §8.18.C.3.c proposed text amendment document would read as follows: Any alteration of the exterior architectural style of a structure or its significant elements, some examples being removal or rebuilding of porches, openings, dormers, window sashes, chimneys, columns, stairways, terraces, decks, fences, or any other structural elements. The motion was approved by unanimous vote.

Ben asked about removing the last sentence in §8.18.C.3.d.

Motion made by Paul Grossman, seconded by Diane D’Amico, to strike the last sentence from §8.18.C.3.d in the Town of Cape Charles Zoning Ordinance proposed text amendment document. The motion was approved by unanimous vote.

Motion made by Kenneth Butta, seconded by Paul Grossman, to move §8.18 before §8.16 in the proposed text amendment document. The motion was approved by unanimous vote.

Diane D’Amico asked who was delegated to issue violations for the work being done without permission and permits. Katie Nunez answered that those issues were covered in another chapter and were handled by the respective departments.

Section 8.19 Certificate of Appropriateness

Michael Strub asked why the certificate of appropriateness was changed from “by” to “issued” on behalf of the Historic District Review Board (HDRB). Paul Grossman said staff distributes them.

Section 8.20 Design Guidelines; ~~Standards~~ Recommendations for Review

§8.20.A. The Historic District Review Board shall be guided in its decisions by the design guidelines but must also use independent judgement and discretions to consider the unique characteristics of each request. The board is expected to work with each applicant to assist them in achieving their goal while preserving the character of the district.

Discussion and questions were as follows: (i) Michael Strub thought this section looked strong; (ii) Diane D'Amico was concerned that Section (A) was too adversarial and thought it said the board gave way to the applicant. Dennis McCoy said it was in line with the changes to say the HDRB was not a preservation board. Diane D'Amico worried that none of the history or character would be preserved and added that the second sentence was not encouraging; and (iii) After much discussion on §8.20.A, the commissioners decided to remove the last sentence and add one pertaining to the pre-application process.

Motion made by Paul Grossman, seconded by Jim Holloway, to replace the second sentence with the following: "The board shall utilize the pre-application review process as defined in §8.25.A." to §8.20.A in the Town of Cape Charles Zoning Ordinance proposed text amendment document. The motion was approved by unanimous vote.

8.21 Demolition: Alternate Procedure: Offer to Sell

Paul Grossman informed the commissioners this was the state code and reinstated because it was previously deleted.

8.25 Receipt of Application

§8.25.A. Pre-application review

Michael Strub thought having a pre-application with the full board worked well. Paul Grossman said the wording allowed the board to determine if that was necessary.

§8.25.D. Require applicants to submit three (3) hard copies and one electronic version of material required to permit compliance with the foregoing.

Motion made by Paul Grossman, seconded by Dennis McCoy, to change the number of hard copies submitted from three to one in in the Town of Cape Charles Zoning Ordinance §8.25.D proposed text amendment document. The motion was approved by unanimous vote.

Motion made by Paul Grossman, seconded by Dennis McCoy, to recommend Town Council favorable approval of the Town of Cape Charles Zoning Ordinance Article VIII Historic Overlay District proposed text amendment document with the following amendments made: (1) §8.3 - amend the year of significance from 1883 to 1964; (2) §8.15.A - strike out the words "or Code Official"; (3) §8.16.H - change the wording to "Additions or deletions to an existing building which are not visible from a public street or sidewalk. Alleys in this context are not considered public places."; (4) §8.18.B - to remove the word "primary; (5) §8.18.B.3 - to remove the second sentence; (6) §8.18.C.3.c - (i) the words "some examples being" would replace the word "including"; (ii) remove the words "and the like"; and (iii) add the word "and" before "terraces"; (7) §8.18.C.3.d - strike the words "change or"; (8) combine §8.18.C.3.c and §8.18.C.3.d; (9) §8.18.C.3.d - strike the last sentence; (10) move §8.18 before §8.16; (11) §8.20.A - to replace the second sentence with the following: "The board shall utilize the pre-application review process as defined in §8.25.A."; and (12) §8.25.D - change the number of hard copies submitted from three to one. The motion was approved by majority vote with Diane D'Amico opposing.

NEW BUSINESS

- A. *Request to schedule a public hearing on an Application for text amendments to the Cape Charles Zoning Ordinance Article III, Section 3.14.*

Katie Nunez said all information was in the staff report.

Paul Grossman clarified that the Town Council has not reviewed the proposed text amendments prior to the Planning Commission and Town Council Joint Public Hearing.

Motion made by Paul Grossman, seconded by Dennis McCoy, to schedule a public hearing on July 6, 2021 for an application for text amendments to the Cape Charles Zoning Ordinance Article III, Section 3.14. The motion was approved by unanimous vote.

- B. *Request to schedule a public hearing on an Application for a Rezoning of Tax Map #90-8-1A1 from Harbor (H) to General Business/Light Industrial H-1 (GBI-H1).*

Motion made by Paul Grossman, seconded by Dennis McCoy, to schedule a public hearing on July 6, 2021 for an application to rezone Tax Map #90-8-1A1 from Harbor (H) to General Business/Light Industrial H-1 (GBI-H1). The motion was approved by unanimous vote.

OTHER BUSINESS

- A. *Comprehensive Plan Update – Discussion and Review of work done to date and develop revised schedule to complete the update to the Comprehensive Plan*

June 21, 2021 – 3:00 p.m. – 5:00 p.m.

ANNOUNCEMENTS

There were no announcements.

Motion made by Paul Grossman, seconded by Kenneth Butta, to adjourn the Planning Commission Public Hearing and Regular Meeting. The motion was approved by unanimous vote.

The meeting adjourned at 9:38 p.m.

Chairman Bill Stramm

Planning Technician

Comments Submitted in Writing
June 1, 2021 Planning Commission/Town Council Joint Public Hearing

Janet Dudley

PROPOSAL

HISTORIC DISTRICT REVIEW BOARD

First I think the board should have guidelines for themselves before they consider guidelines for the homeowners of Cape Charles, by this I mean they should remember three words in their decision making, REASONABLE PRACTICAL, and CONSISTENCE. Everyone knows that when you buy historic or not, a budget is most always in the thinking of the new homeowners, most time that budget is the determining factor in the upgrades being made. The board should never assume there are unlimited funds, which I have the sense they do assume this. So guidelining themselves should be their primary gold before each meeting.

Contributing and non contributing well that goes a long way in the determination of how far the board takes their GUIDELINES, as far as telling a homeowner what they can or cannot use is a little too finite, as far as what width siding they have to use or what thickness is going a little too far, and hardy board as opposed to other materials that are just as durable and still looks the same as the rest in the neighbor hood seems reasonable and practicle to me. Chimneys: have heard that some are allowed and some have been turned down for removal ?????? makes no sense, inside a residents that has no function, and impedes passage thru a doorway denied. as long as the above roof lever can be seen, why can't the inside part be removed, has no function cannot be seen from the outside and has no function, some have been apporved and others denied?????? makes no sense.

If a home is on the registry of historic home then I think someone, be it the real estate agent, the town or town planner, should make the homeowner aware of differnece in the guidelines that apply. Not everyone is savey when it comes to what the differences are in contributing and non contributing guidelines.

I do think that the board should take seriously, and consider that everyone who buys a house here doesn't have unlimited resourses to buy the most expensive materials, but does have the possibility to get a good quality product for a lot less money. And still make a presentable look to their house .

Submitted by
Janet Dudley

Edward Wells

Edward Wells

HDRB Chairman

1st June 2021

I would like to address :

The Mayor, Town Council, Planning board and Town Manager

I would like to thank you all for your time and efforts put into the town.

I would first like to start by stating some facts about the Historic Review Board (HDRB). From May of 2020 until today June 1st 2021 (1) years time . We have held 18 total meetings, 103 total pre applications and final certificates of appropriateness, 1892 total pages of documents, plans , diagrams, photos and material descriptions. I and the board personally have spent hours not only reading through this material but also physically inspecting applicants' properties. (Not trespassing) all of this time and effort and only one appeal to council. My point being I believe we on the board are cognizant of the facts of evolving building practices and materials. I believe we are working with the town residents and businesses in a fair and reasonable manner on a case by case basis. I do not agree with having one gratuitous meeting , a questionable survey and a preconceived notion of a historic philosophy. I do not agree with some of the "Cape Charles Historic District Guiding Philosophy " Some of the assumptions are not consistent with current guidelines. We (HDRB) do not stop homeowners or business owners from making changes to their property which is implied in the "New" philosophy. I never considered HDRB guidelines as law . (again implied) To start changing current wording in the guidelines specifically "Synthetic Material" and using the appropriate metric "that it has a genuine authentic appearance such that a typical observer would not be able to discern a visual difference from the original material/design from any public right of way. This metric is too broad of scope. What is a typical observer ? What is in historical appearance to one may not be to another. It has the potential for too many different opinions in which we try to base conclusions on. I think the guidelines should be revised and updated by persons with an architectural history background along with historic renovators ,builders and contractors with backgrounds with building materials and uses. In the current guidelines in the introduction it states " These guidelines are tailored to your community. They are based on extensive study of Cape Charles historic district, including the types of buildings in the district ,their condition,and the current policies and goals of the town. Thank you , Ed Wells