



PLANNING COMMISSION

Public Hearing and Regular Meeting

Cape Charles Civic Center
September 7, 2021
6:00 p.m.

At 6:00 p.m., Chairman Bill Stramm, having established a quorum, called to order the Regular Meeting of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Kenneth Butta, Diane D'Amico, Paul Grossman, Dennis McCoy, and Michael Strub. Jim Holloway was not in attendance. Also, in attendance were Town Manager John Hozey, Interim Planning/Zoning Administrator Katie Nunez, Planning Technician Tracy Outten, and Town Clerk Libby Hume. There were eight members of the public in attendance and nineteen viewers on Facebook Live.

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

PUBLIC HEARING:

- A. *Application for Zoning Text Amendment (ZTA) to Cape Charles Zoning Ordinance Section 3.14, General Business/Light Industrial H-1 as follows:*
1. *Add language that PUD, PUD Districts or Appendices in the PUD refers to the Accawmacke Plantation Planned Unit Development (PUD) Ordinance to 3.14 (A) (6)*
 2. *Remove the following permitted uses from Section 3.14 (B) and add them to Conditional Uses in Section 3.14 (C)*
 - a. *Manufacture, processing, fabrication, assembly and/or ~~assembly~~ storage of products such as but not limited to scientific and precision instruments, renewable energy technology components, photographic equipment, communications equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceuticals, household items, glass products, electric lighting and wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.*
 - b. *Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Appendix A, applicable category*
 3. *Under Section 3.14 (C) - Conditional Use, Item #2 which currently reads "Buildings over 40 feet but equal or less than 50 feet", add the following language at the end of the sentence: "or building or structure may be constructed to a maximum height of 75 feet if the building or structure is set back at least one hundred twenty-five (125) additional feet from the required set back from all property boundaries"*
 4. *Under Section 3.14 (F) - Additional Requirements, the following items are proposed for change:*
 - a. *Item #6 – delete the strikethrough words shown: No outside storage of parts, ~~materials~~, fossil fuels, ~~raw materials~~, or petroleum shall be permitted within the GBI H-1 District.*
 - b. *Item #7 - delete in its entirety: "No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed."*
 - c. *Item #9 – delete the strikethrough words shown: No outside loudspeakers, intercoms, ~~sirens~~, sirens, paging systems, whistles, horns, bells, ~~or other devices~~ or signals audible outside any buildings shall be allowed on the property.*
 - d. *Item #9 – add the following at the end of the current sentence. "Any and all OSHA requirements shall be adhered to; any OSHA-accepted alternative warning devices are encouraged. A sound impact study will be required as part of any conditional use"*

permit application, and additional sound mitigation barriers may be required in addition to the natural buffer yard requirements in paragraph E (5) above.”

- e. Item #11 – to change the times when delivery or transmission of materials or products are not allowed to or from the property:*

CURRENT REQUIREMENT: Not allowed between 11 pm and 5 am Monday through Sunday

PROPOSED REQUIREMENT: Not allowed before 8 am and not after 9 pm Monday through Saturday and no such deliveries to or from the property shall occur on Sunday.

- f. Add a new Item #12 to read as follows: “The requirements of this paragraph F. shall apply to all uses of Section 3.14. The Zoning Administrator may consider exceptions to these requirements in conformance with the following standards:*

a. That the exception is reasonably necessary due to customary processes or physical constraints of the site;

b. That the exception does not compromise the intent of this Ordinance;

c. That the exception is the minimum departure from applicable standards necessary to provide relief;

d. That the design, location, and operation of proposed on-site improvements are compatible with existing developed sites contiguous with the site of the proposed development;

e. That the granting of the exception will not substantially affect adversely the use of adjacent property;

f. That the granting of the exception will not impair the health, safety, or welfare of the inhabitants of the Town

Chairman Stramm summarized the Notice of Public Hearings and opened the public hearing.

Interim Planning/Zoning Administrator Katie Nunez explained that the the proposed text amendments to the Cape Charles Zoning Ordinance Section 3.14 were made by Town Council after hearing public comments. She read through each one. Katie Nunez thought outside storage should be kept by-right and conditions could be set.

John Hozey stated that some amendments were approved by Town Council.

Diane D’Amico asked how many properties were zoned General Business/Light Industrial H-1 (GBI H-1). Katie Nunez would get back to her. Diane D’Amico stated that she had done a lot of research and was confused how certain properties were rezoned. Much discussion ensued on the zoning of the Sustainable Technology Industrial Park property. Katie Nunez said that although the zoning maps had not been amended the rezoning was done properly.

Paul Grossman asked if moving the outside storage to by-right was in accordance with Appendix A; no. Discussion continued about outside storage being a by-right use.

Dan Brown, representative for Southport Investors, made a statement. (Please see attached.)

There were no comments to be heard nor any written comments submitted prior to the meeting.

Motion made by Paul Grossman, seconded by Kenneth Butta, to close the Public Hearing portion of the Planning Commission meeting. The motion was approved by unanimous vote.

Section 3.14.A (6):

Motion made by Paul Grossman, seconded by Kenneth Butta, to recommend Town Council approval of the application for the Town of Cape Charles Zoning Ordinance Article III,

Section 3.14.A (6) proposed text amendments. The motion was approved by majority vote with Diane D'Amico opposing.

Section 3.14.B (14) and Section 3.14.C (3):

Motion made by Paul Grossman, seconded by Kenneth Butta, to recommend Town Council approval of the application for proposed text amendments to the Town of Cape Charles Zoning Ordinance to move Article III, Section 3.14.B (14) to Section 3.14.C (3). The motion was approved by majority vote with Diane D'Amico opposing.

Motion made by Paul Grossman, seconded by Michael Strub, to recommend Town Council keep outside storage as a by-right use with specific standards in material, size, height, and location. The motion was approved by majority vote with Diane D'Amico opposing.

3.14.C (2):

Much discussion ensued on screening height and if the setback was enough.

Motion made by Paul Grossman, seconded by Dennis McCoy, to recommend Town Council amend the Town of Cape Charles Zoning Ordinance Article III, Section 3.14.C (2) proposed text amendments. The motion was approved by majority vote with Diane D'Amico opposing.

Section 3.14.F (9):

Motion made by Paul Grossman, seconded by Dennis McCoy, to recommend Town Council approval of the application for the Town of Cape Charles Zoning Ordinance Article III, Section 3.14.F (9) proposed text amendments. The motion was approved by majority vote with Diane D'Amico opposing.

Diane D'Amico asked if a sound study was only required with a Conditional Use Permit Application; yes.

Section 3.14.F (11):

Motion made by Paul Grossman, seconded by Dennis McCoy, to recommend Town Council approval of the application for the Town of Cape Charles Zoning Ordinance Article III, Section 3.14.F (11) proposed text amendments. The motion was approved by majority vote with Diane D'Amico opposing.

Diane D'Amico thought the time frame was too long. John Hozey said that it was consistent with the heavy industrial ordinance. Diane D'Amico asked who the enforcer would be; the zoning administrator.

Section 3.14.F (12):

Motion made by Paul Grossman, seconded by Kenneth Butta, to recommend Town Council approval of the application for the Town of Cape Charles Zoning Ordinance Article III, Section 3.14.F (12) proposed text amendments. The motion was approved by majority vote with Diane D'Amico opposing.

Discussion and questions were as follows: (i) Michael Strub thought that exceptions could be warranted but, this was a lot of responsibility and would like the commission to have a chance to weigh-in on approvals. Katie Nunez said this was to give flexibility; (ii) Katie Nunez said this was to consider all issues that could come forward. Diane D'Amico asked if this wording was taken from other localities or case law. John Hozey answered the wording had been used in other localities; and (iii) Diane D'Amico was concerned that the wrong parcels were under consideration for rezoning that was why she was against the amendments.

PUBLIC COMMENTS:

Susan Eidam, 646 Tazewell Avenue

Ms. Eidam would like the decision makers for the Town to consider the following: (1) hiring a Zoning Manager and a Historic Planner; (2) updating the zoning map; and (3) increase public participation. She thanked the commissioners for their time.

There were no additional comments to be heard nor any written comments submitted prior to the meeting.

AGENDA

Motion made by Paul Grossman, seconded by Dennis McCoy, to approve the agenda as amended to remove the Unfinished Business Items A and B from the agenda and discuss them at a future Work Session. The motion was approved by unanimous vote.

The Planning Commission reviewed the minutes from the June 21, 2021 Planning Commission Comprehensive Plan Work Session, the July 13, 2021 Planning Commission Joint Public Hearing with Town Council and Regular Meeting, the June 21 2021 Planning Commission Comprehensive Plan Work Session, and the July 19, 2021 Planning Commission Comprehensive Work Session.

Diane D'Amico does not think all her comments were recorded in the minutes from the July 13, 2021 Planning Commission Joint Public Hearing with Town Council and Regular Meeting. She would like to have time to submit her comments to Tracy Outten.

Motion made by Michael Strub, seconded by Dennis McCoy, to approve the minutes from the June 21 2021 Planning Commission Comprehensive Plan Work Session and the July 19, 2021 Planning Commission Comprehensive Work Session. The motion was approved by unanimous vote.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

A. *Schedule public hearings for the following Conditional Use Permit Applications:*

1. *602 Tazewell Avenue (Tax Map #83A3-1-448): Lucatello, Renato & Jody – An accessory dwelling unit pursuant to CCZO Section 3.2 (C) (7) & 4.2 (J)*

Katie Nunez summarized the staff report. Paul Grossman thought that the staff report should capture the accessory structure. Diane D'Amico asked if owners must reside at the location; no, that was not stated in the ordinance.

Motion made by Paul Grossman, seconded by Michael Strub, to schedule a public hearing on October 5, 2021 for a Conditional Use Permit for an accessory dwelling unit at 602 Tazewell Avenue. The motion was approved by unanimous vote.

2. *206A Jefferson Avenue (Tax Map #83A1-1-220): Susan, John & Kelly Robinson - An accessory dwelling unit pursuant to CCZO Section 3.2 (C) (7) & 4.2 (J)*

Katie Nunez summarized the staff report. Paul Grossman asked if a site plan was required, no. Bill Stramm said the accessory dwelling unit exceeding the size requirement per the zoning ordinance. Katie Nunez explained that this was a pre-existing structure.

Motion made by Paul Grossman, seconded by Kenneth Butta, to schedule a public hearing on October 5, 2021 for a Conditional Use Permit for an accessory dwelling unit at 206A Jefferson Avenue. The motion was approved by unanimous vote.

3. *325 Madison Avenue (Tax Map #83A1-1-191): Jose & Diana Gonzalez - accessory dwelling unit pursuant to CCZO Section 4.2 (J)*
Katie Nunez summarized the staff report.

Motion made by Paul Grossman, seconded by Dennis McCoy, to schedule a public hearing on October 5, 2021 for a Conditional Use Permit for an accessory dwelling unit at 325 Madison Avenue. The motion was approved by unanimous vote.

4. *654 Monroe Avenue (Tax Map #83A3-1-323): Michael Ryan & Donna Lee Wilkins - accessory dwelling unit pursuant to CCZO Section 4.2 (J)*
Katie Nunez summarized the staff report and said some internal information was still needed for zoning approval.

Motion made by Paul Grossman, seconded by Michael Strub, to schedule a public hearing on October 5, 2021 for a Conditional Use Permit for an accessory dwelling unit at 654 Monroe Avenue. The motion was approved by unanimous vote.

5. *219 Mason Avenue (Tax Map #83A3-1-631): Todd Bricken - accessory dwelling unit pursuant to CCZO Section 3.6 (C)*
Katie Nunez briefly read through the staff report and said that staff was asking for authorization to schedule a public hearing once all information was received. Diane D'Amico was worried that this application was incomplete.

Motion made by Michael Strub, seconded by Paul Grossman, to authorize staff to schedule a public hearing once a completed application is received for a Conditional Use Permit for second-floor dwelling units above first-floor commercial at 219 Mason Avenue. The motion was approved by majority vote with Diane D'Amico opposing.

OTHER BUSINESS

- A. *Award of Historic District Consulting Services Contract – Commonwealth Preservation Group*
Katie Nunez updated the Commissioners on the Commonwealth Preservation Group being awarded the service contract to update the Historic District guidelines. Diane D'Amico asked if more details were available, yes, contact John Hozey.

ANNOUNCEMENTS

- Regular Session – October 5, 2021, at 6:00 p.m. in the Civic Center
- Comprehensive Plan Work Sessions at 3:00 p.m. – 5:00 p.m. in the Civic Center:
 - September 20, 2021: Community Facilities (Diane D'Amico) & Bylaws Discussion
 - October 18, 2021: Transportation (Bill Stramm)
 - November 15, 2021: Land Use (Ken Butta/Jim Holloway)

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

The meeting adjourned at 8:26 p.m.

Chairman Bill Stramm

Planning Technician

September 7, 2021 Planning Commission Public Hearing Comments

Dan Brown
2237 Kirwan Hall Lane
Eastville, VA 23347

Dear Planning Commissioners,

My name is Dan Brown. I represent Southport Investors. Our company owns various Light Industrial parcels located on the south side of Cape Charles Harbor. It is no secret that our company has contracted to sell (2) of these Light Industrial parcels to Cape Charles Properties - owners of the Coastal Precast concrete manufacturing business. The sale is contingent upon subdivision and zoning modifications - most of which have been accomplished. We are hopeful some of the changes you are considering tonight enable us to proceed to closing so the acquiring entity can solicit renewable energy contracts destined for the mid-Atlantic.

You are considering a number of changes this evening. We have concerns with the following considerations:

1. Item 2(a) The proposed language would require Assembly and Storage of products to be removed from "Permitted Uses" and re-characterized as "Conditional Uses."

We understand the need to control manufacturing, production, and fabrication. It is reasonable to apply risk control measures to these types of activities. It is overly restrictive and prohibitive to include assembly and storage however.

2. Item 2(b) The proposed language would prohibit any and all Outdoor Storage without a Conditional Use Permit.

Approaching the town for permission to store or temporarily house product and material isn't reasonable for neither the Town nor the Operator. The municipality will be perpetually dedicating staff resources to the application, advertising, and hearing process. Landscape screening requirements already exist to control aesthetics and noise. Natural buffers are also required per existing requirements. Outdoor Storage should remain a permitted use.

3. Item 3 The proposed language for the construction of a building up to 75' building would require a 125' setback in addition to the existing zoning setback requirement.

This is an unreasonable request. We understand the need for additional setback provisions where industrial lots boarder residential lots. The default zoning setback should suffice for non-residential adjacent lots. Please consider modifying the proposition such that the additional 125' requirement only be imposed on boundaries adjoining a residential parcel.

There are a number of items up for your consideration this evening. We hope you will consider the three alterations I have detailed this evening. Doing so will enable Cape Charles Properties to aggressively move forward with renewable energy opportunities which Town of Cape Charles would benefit from greatly.

Thank you.