

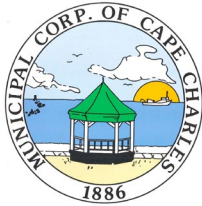
Planning Commission

Public Hearing and Regular Session Agenda

Cape Charles Civic Center – 500 Tazewell Avenue
November 9, 2021, at 6:00 P.M.

1. Call to Order
 - A. Roll call and establish a quorum
2. Invocation and Pledge of Allegiance
3. Annual Reorganization of Board:
 - A. Election of Officers for a term of one year: Chairman and Vice-Chairman
4. Consent Agenda
 - A. Approval of agenda format
 - B. Approval of Minutes:
August 3, 2021 – Regular Session
September 7, 2021 – Regular Session
5. Public Hearing
 - A. 410 Harbor Avenue (Tax Map #83A3-2-8-7): Sam & Amy Scharpf for a Conditional Use Permit (CUP) for an accessory dwelling unit pursuant to CCZO Section 3.2 (C) (7) & 4.2 (J)
 - B. Randolph Avenue, directly across from Heritage Acres Court (Tax Map #83A4-1-B-26, 83A4-1-B-27, 83A4-1-28, and 83A4-1-B-29): Tom & Katie Austin (contract purchasers) dba Cape Charles Mini Golf, Inc. with consent from property owners (John F. & Loraine A. Huchler & Daniel C. Dabinett) for a Conditional Use Permit for a Mini-Golf Course, pursuant to CCZO Section 3-8 (B) (2).
 - C. 219 Mason Avenue (Tax Map #83A3-1-631): Todd Bricken (contract purchaser) with consent from property owners (Paul G. Watson III & William D. Watson) for a Conditional Use Permit for 5 Dwelling Units on second floor above first-floor commercial, pursuant to CCZO Section 3.6 (C)
6. Citizen Comment Period, for any item not subject to an advertised public hearing
7. Unfinished Business: None
8. New Business
 - A. Schedule public hearings for the following Conditional Use Permit Applications:
 - 1) 630 Tazewell Avenue (Tax Map # 83A3-1-436): Kate & Steve Keeler for an Accessory Structure with Dwelling Unit pursuant to CCZO 4.2 (J)
9. Report of Officers and Committees
10. Standing Staff Reports
 - A. Subdivision Agent Monthly Report
 - B. Report on Applications filed with Board of Zoning Appeals, pursuant to Code of Virginia §15.2-2310 – NONE FILED FOR EITHER NOVEMBER NOR DECEMBER
 - C. Annual Report of the Activities of the Planning Commission for 2020 and 2021
11. Announcements - Next Meetings:
December 7, 2021 @ 6:00 pm

Work Session Schedule for Comprehensive Plan Work – these meetings are from 3:00 – 5:00 p.m., Civic Center
 - November 15, 2021: Land Use (Ken Butta/Jim Holloway)
 - December 20, 2021: Community Facilities (Diane D'Amico)
12. Adjourn



DRAFT
PLANNING COMMISSION
Regular Meeting
Cape Charles Civic Center
August 3, 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, Jim Holloway, Dennis McCoy, and Michael Strub. Also, in attendance were Interim Planning/Zoning Administrator Katie Nunez, Planning Technician Tracy Outten, and Town Clerk Libby Hume. There were no members of the public in attendance and seventeen viewers on Facebook Live.

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

PUBLIC HEARING:

There was no public hearing scheduled.

PUBLIC COMMENTS:

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

AGENDA

Michael Strub suggested starting the Planning Commission Bylaws revision review with Article IX.

Motion made by Paul Grossman, seconded by Dennis McCoy, to approve the agenda as presented. The motion was approved by unanimous vote.

The commissioners reviewed the minutes from the June 1, 2021 Town Council and Planning Commission Joint Public Hearing and Planning Commission Regular Meeting.

Bill Stramm made the following corrections: (i) Page 3: under Section 8.13 delete the words "to make was" from the first sentence; (ii) Page 4: under Section 8.18.B change the word "work" to "word" in the second sentence; (iii) Page 5: under Section 8.19 delete the words "the change" and use the word "changed" in the first sentence; and (iv) under Section 8.20.A discussion item iii delete the word "a".

Motion made by Michael Strub, seconded by Jim Holloway, to approve the minutes from the June 1, 2021 Town Council and Planning Commission Joint Public Hearing and Planning Commission Regular Meeting as amended. The motion was approved by unanimous vote.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

- A. *Discussion of proposed revisions to the Planning Commission's Bylaws. – PLEASE NOTE that any changes to the Bylaws require a 30-day notice before these changes can be adopted*
Katie Nunez reminded the Commissioners that the bylaws cannot be approved tonight, and all boards were reviewing their bylaws.

Discussion and questions were as follows:

Article Nine: Hearings

9.1

Katie Nunez explained that this wording was added to have flexibility to schedule public hearings. Diane D'Amico thought it sounded as though the Planning Commission needed Town Council approval to hold a public hearing. Ken Butta agreed and suggested changing the wording from "following Town Council approval" to "Town Council may also refer to Planning Commission".

9-2

Katie Nunez informed this was from the Virginia Code.

9-3 The procedures normally followed for a public hearing on any matter shall be:

Katie Nunez thought the public hearing process needed to be updated. Dennis McCoy did not think the process needed to change. Diane D'Amico and Ken Butta agreed actual procedures are needed. Bill Stramm said that it was time for a change after the actions of the applicants and citizens at the last public hearing.

9.3.3

Diane D'Amico asked if a timer would be set for the applicant. Katie Nunez answered yes, it was the chairperson's responsibility to manage the time. Ken Butta confirmed that this period was only for an applicant or their agent to make comments not for questions by the commissioners; correct questions could be asked in Section 9.3.4. Diane D'Amico thought it needed to be made clear that all persons speaking on an applicant's behalf had a combined time of fifteen minutes. Paul Grossman suggested adding the word "and" in front the wording "or legal representative" to firm up the time limit.

9.3.5

Paul Grossman said that "or submit written comments" needed to be added after the word "speak" to cover all public comments.

9.3.6

Ken Butta recommended adding "and staff are" after the word "applicant" to this section to give staff time to comment further on the application; therefore, the word "each" needed to be added before the word "limited".

9.3.7

Katie Nunez explained that this would be where the staff report would be presented along with a template of what the motion should include.

Some discussion ensued on how staff recommendations may impact others' opinions or how citizens may think the outcome had already been decided. Katie Nunez would try to make it clear on the staff report was based on the application supporting the Comprehensive Plan and the Cape Charles Zoning Ordinance.

9.3.8

Ken Butta wanted to know if additional information could be requested after the public hearing closed; yes. Diane D'Amico asked who would receive and distribute the information, staff.

Article Ten

10-1

Katie Nunez said this was for correspondences to the applicant.

Jim Holloway said an “s” needed to be added to the word “function”.

10-3

Diane D’Amico asked if the action deadline for the application began when it was completed and presented to the Planning Commission; yes.

4-1

Diane D’Amico did not like the wording “comparable Town position or their designee” because it was too broad. Katie Nunez would work on the wording.

Dennis McCoy suggested starting with Article VII at next month’s meeting.

B. *Appendices to the Bylaws:*

1. *Citizen Participation Guidelines adopted by Town Council on 7/22/2021*

Katie Nunez read through the guidelines. Ken Butta asked if the Cape Charles Police Department would attend meetings, no.

2. *Code of Ethics and Meeting Rules of Order adopted by Town Council on 7/22/2021*

Katie Nunez briefly read through the documents and asked all commissioners to sign the acknowledgment sheet.

C. *Overview of the Freedom of Information Act (FOIA), Conflict of Interest Act (COIA) and Public Records Act*

Katie Nunez gave a PowerPoint presentation of the Freedom of Information Act, the Conflict of Interest Act, and the Public Records Act. (Please see attached.) She reiterated that all commissioners needed to use their town emails and copy in staff on all correspondences.

OTHER BUSINESS

There was no other business.

ANNOUNCEMENTS

- Regular Session – September 7, 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:
 - August 16, 2021: Population/Demographics (Paul Grossman)
 - September 20, 2021: Community Facilities (Diane D’Amico)
 - October 18, 2021: Transportation (Bill Stramm)
 - November 15, 2021: Land Use (Ken Butta/Jim Holloway)

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

The meeting adjourned at 8:22 p.m.

Chairman Bill Stramm

Planning Technician

PLANNING COMMISSION MEETING AUGUST 3, 2021

Overview of the
Freedom of Information Act (FOIA),
Conflict of Interest Act (COIA) and
Public Records Act

1

CODE OF CONDUCT

- ▶ Uphold on all laws and regulations.
- ▶ Loyalty to the highest moral principles.
- ▶ Adopt policies and programs that support the entire population, not just certain segments.
- ▶ Do not place you or your family in a position of accepting favors or benefits based on your role as an appointed official (CONFLICT OF INTEREST ACT).
- ▶ Make no private promises that will bind you.
- ▶ Do not use info. gained confidentially for private gain.
- ▶ Be current with all taxes.
- ▶ Always conduct public business in view of the public in accordance with the Freedom of Information Act (FOIA).

2

CODE OF CONDUCT (CONT.)

- ▶ **Attend all Committee meetings that you are assigned.**
- ▶ **Be courteous and considerate toward all colleagues, staff and citizens during discussions.**
- ▶ **Avoid criticizing colleagues or staff in front of the media.**
- ▶ **Build a strong relationship with colleagues, department staff.**
- ▶ **Follow chain of command by communicating directly with Planning & Zoning Administrator.**
- ▶ **Address criticism of colleagues or town employees in an appropriate forum.**

3

FREEDOM OF INFORMATION ACT (FOIA)

- ▶ Act was first adopted in 1968 by General Assembly and is intended to govern citizen access to records of public entities and to their meetings.
- ▶ Meetings of public bodies should be open to the public and that all public records should be open to citizen inspection. There are exemptions allowed under the act for both open meeting and confidential records but they are specific and narrowly construed.
- ▶ Meetings are defined as any gathering of more than 2 members of a public body, if the members are discussing the public body's business.
 - ▶ Minutes are required
 - ▶ Posting of meetings
 - ▶ Emergency Meetings
 - ▶ Availability of Board packet to public
 - ▶ Informal Polling
- ▶ A closed meeting may be held only if certain procedures are strictly followed and only for one of the 26 specific, limited exempt purposes listed in the act (Code §2.2-3711)
 - Voting, minutes, other attendees during closed session, & what can you say afterwards

Sub Committee(s) of the Planning Commission: does not "convert" to Planning Commission meeting

4

FREEDOM OF INFORMATION ACT (FOIA)/ PUBLIC RECORDS ACT

- Public Records – any compilation of letters, words, or numbers created, owned, or possessed by a public body, regardless of its physical form or characteristics or the manner in which it is stored. Written, printed, magnetic and electronic records are all included if they have been created or accumulated in the transaction of public business.

Importance of County-Issued E-mail Address:

E-mails have generated much controversy since they began being used in government business operation. E-mails that deal with public business are public records. E-mails kept on the home computer of a council member or local government employee that relate to the transaction of public business are public and subject to inspection and copying by a citizen who makes a request to see the records. Text messages have become the subject of many FOIA requests as well. These must be produced if requested and are subject to the records retention rules as well.

RULE OF THUMB: If you respond to an e-mail as a Planning Commission member, cc either the department generic account (planner@casecharles.org) or the Staff Member for the Department (planningtech@casecharles.org)

If you are transacting public business, the ownership of the device is irrelevant.

WHAT RECORDS MIGHT BE EXEMPT RE: PLANNING COMMISSION

- Proprietary records and trade secrets: § 2.2-3705.6.
- Written advice of legal counsel to state, regional or local public bodies or public officials, and any other records protected by the attorney-client privilege." § 2.2-3705.1(2)
- Information contained in engineering and construction drawings and plans for any single family residential dwelling submitted for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) shall be confidential and shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except to the applicant or the owner of the property upon the applicant's or owner's request. § 36-105.3
- The name, address and phone number of a person complaining about another person on a Zoning, Building Code or Fire Prevention Code complaint are exempt from disclosure. This provision is not limited to criminal complaints; it applies in any investigation of the complaint. § 2.2-3705.3(B).

5

CONFLICT OF INTEREST ACT

TITLE 2.2, CHAPTER 31 OF THE CODE OF VIRGINIA, § 2.2-3100 ET SEQ.



Regulates the financial relationship of council members, as well as elected and appointed officials, in 3 general areas:

- General provisions covering bribes and other illegal behavior.
 - prohibition on taking gifts and opportunities while serving as a public official. §§ 2.2-3103(5), (6), (8), (9) & 2.2-3103.1. The act prohibits a member from accepting money, loans, gifts, services, business opportunities, or other benefits if it is reasonable to construe that the benefit was given to influence the member in his or her duties.
 - Gifts: \$50 limit

6

CONFLICT OF INTEREST ACT (CONT)

2. Regulation of financial interests a member may have in business dealings with his locality and with agencies related to his locality (Personal Interest in a Contract).

8 Exceptions that apply to all local government officials and employees. § 2.2-3110(A).

1. Any sale, lease, or exchange of real property between a member and his or her locality is allowed as long as the member doesn't participate in the deal on behalf of his board or commission, and the fact that the member wasn't involved is recorded in the public record of the government involved in the transaction.
2. The prohibition does not apply to contracts for the publication of official notices, presumably so that local newspaper may be used for ads required by state law even when a member is an owner or employee of that paper.
3. Town population under 10,000 allows for contracts between a member and his or her locality despite the general prohibition, if the total of those contracts does not exceed \$5,000 per year. Further, contracts up to \$25,000 are allowed if the contract is awarded by competitive sealed bidding. This higher level only applies if the public official has filed a statement of economic interests form.
4. If the sole personal interest the member has in the contract is his or her employment by the contracting business and the member's annual salary exceeds \$5,000, the business may contract with the locality. The council member and members of his or her immediate family must have no authority to participate in the deal, and must not participate in the deal. Further, the member must not participate in the deal on behalf of the locality.

7

CONFLICT OF INTEREST ACT (CONT)

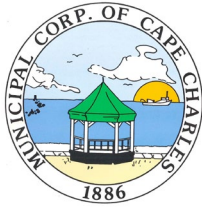
8 Exceptions that apply to all local government officials and employees. § 2.2-3110(A).

5. If the member is employed by a public service corporation, a bank, a savings and loan association, or a public utility, and if he or she disqualifies himself from participating on behalf of the city or town and does not participate for his or her locality, then the utility, bank, etc., may contract with the locality. § 2.2-3110(A)(6).
6. The prohibition does not apply to contracts for goods or services below \$500. But if a locality normally purchased paper on an annual contract, for example, could it split up a year's worth of paper contracts so that each is less than \$500? While the section is silent on splitting up a larger contract to meet this exception, the consensus is that this circumvention would violate the law. § 2.2-3110(A)(7).
7. Program grants made to a member are allowed if the rates or amounts paid to all qualified applicants are uniform and are established solely by the agency administering the grants. § 2.2-3110(A)(8).
8. If the spouse of a council member is employed by the locality, the personal interest prohibition does not apply if the spouse was employed by the agency five or more years prior to marrying the council member. § 2.2-3110(A)(9). If one spouse is the supervisor of the other spouse, the conflict does not exist if the subordinate spouse earns less than \$35,000 per year. § 2.2-3110(B).

8

CONFLICT OF INTEREST ACT

3. Regulation of the level of involvement a member may have in an item being considered by his locality that involve his business, property or other personal financial interest (Personal Interest in a Transaction).
4. If a council member is disqualified from participating in a transaction, the act requires several steps. § 2.2-3112:
 5. 1. The council member must disclose the interest that causes the disqualification by identifying the interest, including the name and address of the business or property. § 2.2-3115(F). The disclosure is required whether the law requires the disqualification or the council member voluntarily disqualifies himself out of an abundance of caution. The disclosure can be in a written record to the Clerk or verbally and recorded in the minutes of a public meeting.
 6. 2. The disclosure must be kept for five years in the records of the board.
 7. 3. The member may not vote on or participate in discussion on the transaction. It is a best practice for the member to sit in the audience during the discussion and vote.
 8. 4. The member may not attend the portion of a closed meeting at which the transaction is discussed.
 9. 5. The member may not discuss the matter with anyone in the government who is involved in the transaction.



DRAFT
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.

TOWN OF CAPE CHARLES
Planning Commission – Public Hearing

The Cape Charles Planning Commission will hold a public hearing on Tuesday, November 9, 2021, at 6:00 pm in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive comment on the following requests:

- A. A Conditional Use Permit application from Sam & Amy Scharpf at 410 Harbor Avenue (Tax Map #83A3-2-8-7) in the Residential-1 Zoning District for an accessory dwelling unit pursuant to CCZO Section 3.2 (C) (7) & 4.2 (J).
- B. A Conditional Use Permit application from Tom & Katie Austin (contract purchasers) dba Cape Charles Mini Golf, Inc. with consent from property owners (John F. & Loraine A. Huchler & Daniel C. Dabinett) at Randolph Avenue, directly across from Heritage Acres Court (Tax Map #83A4-1-B-26, 83A4-1-B-27, 83A4-1-28, and 83A4-1-B-29) in the Commercial-3 Zoning District for a Mini-Golf Course, pursuant to CCZO Section 3-8 (B) (2).
- C. A Conditional Use Permit application from Todd Bricken (contract purchaser) with consent from property owners (Paul G. Watson III & William D. Watson) at 219 Mason Avenue (Tax Map #83A3-1-631) in the Commercial-1 Zoning District for 5 Dwelling Units on second floor above first-floor commercial, pursuant to CCZO Section 3.6 (C).

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.

AD PLACED: Eastern Shore Post on Friday, October 21, 2021
AD TO RUN: Friday, October 29, 2021 and Friday, November 5, 2021



PLANNING COMMISSION STAFF REPORT

Meeting Date: November 9, 2021

Item #: 5A

Prepared by: Katie H. Nunez, Interim Planning/Zoning Administrator

Date: November 1, 2021

APPLICANT: Sam & Amy Scharpf
SITE ADDRESS: 410 Harbor Avenue
(& 100 Madison Avenue)
TAX MAP: 83A3-2-8-7

LOT SIZE: 4,640 sq. ft.

TYPE OF APPLICATION: Conditional Use Permit
SPECIFIC REQUEST: An accessory dwelling unit located
on second floor of accessory structure (garage) – 390 sq ft
ZONING ORDINANCE: Section 4.2 (J) & Section 3.2
(c)(7)
CURRENT ZONING: Residential (R-1)

DATE RECEIVED: September 16, 2021

DATE DEEMED COMPLETE: September 23, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): December 23, 2021

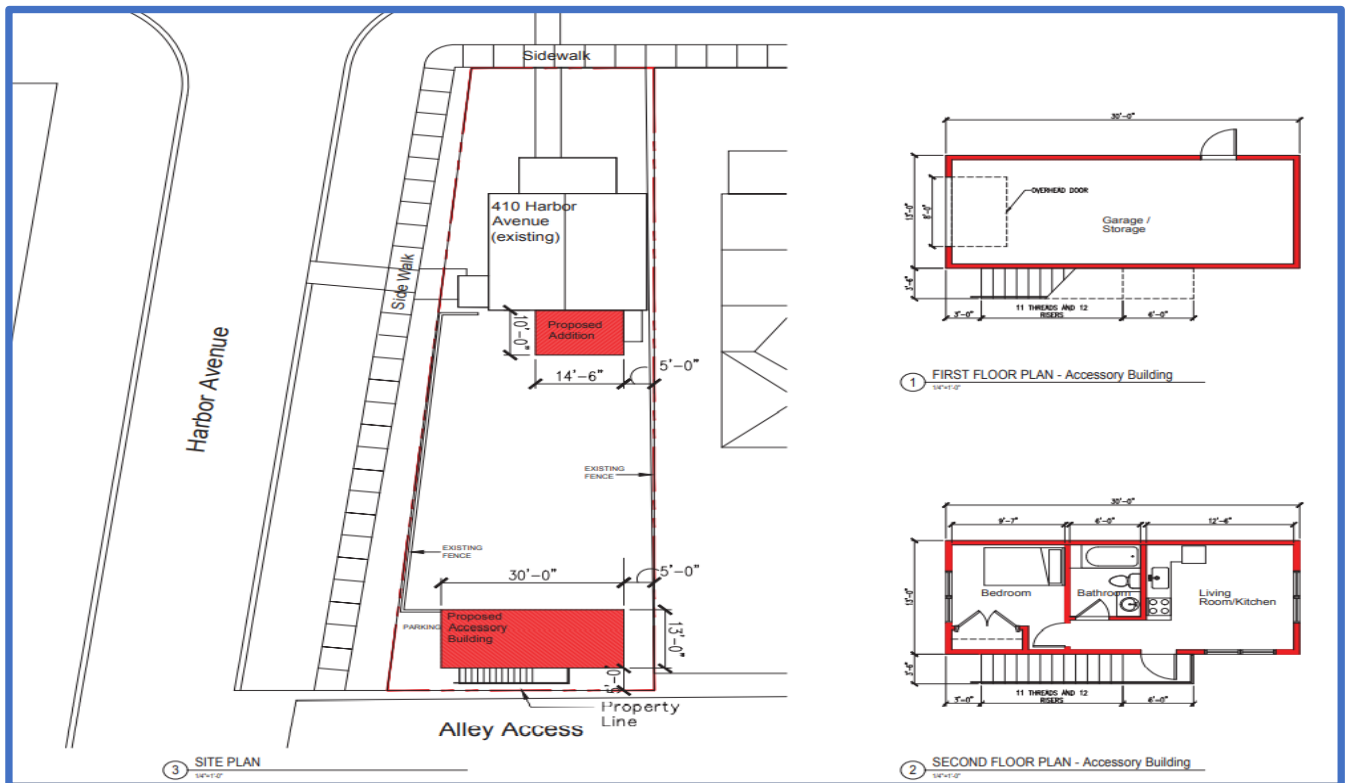
NARRATIVE OF PROPOSAL

The applicant is seeking a Conditional Use Permit, pursuant to Section 4.2 J & Section 3.2 (C) (7) at 410 Harbor Avenue (Tax Map #83A3-2-8-7) for an accessory dwelling unit.

The applicant is seeking to remove an existing shed and replace with a new accessory structure, sized 13' x 30' (390 sq. ft) with the first floor to be used as a garage and storage space and the second story of this accessory structure to be used as an accessory dwelling unit.

The applicant has appeared before the Historic District Review Board on November 17, 2020 and April 20, 2021 regarding renovations and addition to the existing house as well as to discuss the removal of the existing shed and informed them of their intent to seek a new accessory structure with dwelling on second floor. The HDRB, at their 4/20/2021, approved a Certificate of Appropriateness for the work on the main house and the removal of the shed. It was noted as part of that meeting that the applicant needed to seek a Conditional Use Permit for the accessory structure as a dwelling and then come back before the HDRB for review of a Certificate of Appropriateness for the new accessory structure.

Staff has been working with the applicant since April 2021 in submitting a complete application for the accessory structure, including the application for a Conditional Use Permit (CUP) as well as documentation that will be required to also be reviewed by the Historic District Review Board if the CUP is approved.



ORDINANCE REQUIREMENTS:

Cape Charles Zoning Ordinance Section 4.2 (J) states that:

Accessory Dwellings. One accessory dwelling may be maintained on a property in the R-E, R-1, R-2 and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3, and subject to the following:

1. Physical characteristics.

- a. Accessory dwellings shall be located in an accessory building.*
- b. Accessory dwellings shall not have a floor area exceeding forty-five (45) percent of the floor area of the main building.*
- c. Accessory dwellings shall have one kitchen and one bathroom.*
- d. Accessory buildings shall not have the appearance of a single-family dwelling.*

2. Occupancy characteristics.

- a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.*
- b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.*

3. Other requirements.

- a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.*
- b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.*
- c. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6. (Table of Parking Standards) using both on and off-street parking areas.*
- d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.*

Cape Charles Zoning Ordinance Section 3.2 (C) states that for Single Family Residential -1 (R-1) Zoning Districts for Conditional Uses: *The following uses may also be permitted, subject to securing a use permit as provided for in this ordinance and specifically (7) states that “residential dwelling units in square footage area below the minimum or above the maximum stated in Section 3.2.F.2”. This lot is a legal non-conforming lot at 4,640 sq. ft and Section 3.2.F.2 states that “Non-conforming lots smaller than 5,600 square feet in the R-1 District the total footprint area of all accessory building lot coverage shall not exceed 10%.*

Cape Charles Zoning Ordinance Section 4.3 states that “*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.”

Additionally, 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. 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.

STAFF ANALYSIS:

The application for the construction of an accessory structure of 390 square feet with garage space on first floor and an accessory dwelling unit on second floor demonstrates consistency with the requirements of the Cape Charles Zoning Ordinance Section 4.2 (J). **The applicant has also completed and signed the affidavit regarding knowledge and compliance with the component of Section 4.2(J)**

The accessory structure is less than 464 square feet, so this complies with Section 3.2(C) (7) and 3.2.F.2 & 4 of the ordinance, requiring the total of all accessory building footprints to be no greater than 10% and the lot size for this lot is 4,640.

The full zoning review finds the application in compliance with all other elements of the zoning ordinance.

The Cape Charles Comprehensive Plan Section III.A.5.2. identifies a goal to “Promote compatible infill development and renovation within established neighborhoods” and to specifically “Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options”.

Staff finds that the application for a Conditional Use Permit pursuant to Section 4.2 (J) for an accessory dwelling unit as part of an accessory structure in the Residential-1 Zoning District meets and satisfies the requirements of the Town Zoning Ordinance, Section 4.3, as follows:

- 1) it does not adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood or adversely affect other land uses within the particular surrounding neighborhood;
- 2) it is not detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- 3) it is not in conflict with the purpose of the comprehensive plan of the town.

Staff acknowledges that additional issues or comments may arise through the public hearing on this matter and request that the Planning Commission consider said issues and/or comments as part of their deliberations.

RECOMMENDED ACTION FOR PLANNING COMMISSION:

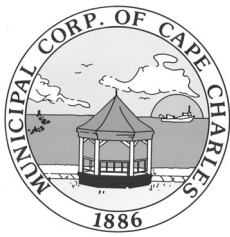
Staff recommends that the Planning Commission consider recommending approval of the Conditional Use Permit to the Town Council with the following motion:

The Cape Charles Planning Commission recommends approval of a Conditional Use Permit for an Accessory Dwelling Unit at 410 Harbor Avenue/100 Madison Avenue on an application filed by Sam & Amy Scharpf, pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) & Section 3.2(C) (7) with the following conditions:

- 1.) the applicant applies and obtain Historic District Review Board approval for all exterior improvements, in accordance with the Historic District Overlay and Guidance Documents; and***
- 2.) the applicant obtains all required permits and approvals from the Building and Planning Department; and further finds that the CUP standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan.***

Attachments:

Attachment 1 – CUP Application, Letter of Intent and Proposal, CUP Accessory Dwelling Unit Checklist, Survey & Drawings/Photos



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: 410 Harbor Ave. Accessory Dwelling
Property Address: 410 Harbor Ave. Cape Charles, VA 23310
Brief Description of Project: Tear-down of shed and construction of Accessory Dwelling
Zoning District: HIST Current Use: Residential Proposed Use: Long term rental

OWNER INFORMATION

Name and Company: Sam & Amy Scharpf
Mailing Address: 410 Harbor Ave. Cape Charles, VA 23310
Phone Number: 202.365.4814 Email: samscharpf@yahoo.com

APPLICANT INFORMATION

☒ check here if applicant is owner

Name: Sam & Amy Scharpf
Mailing Address: 7829 Fulbright Court, Bethesda, MD 20817
Phone Number: 202.365.4814 Email: samscharpf@yahoo.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: Samford A. Scharpf Digitally signed by Samford A. Scharpf
Date: 2021.09.16 15:10:26 -04'00' Date: 9/16/2021

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

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: 9/16/2021

Address: 410 Harbor Ave. Cape Charles, VA

The following criteria are required for one accessory dwelling to be maintained on a property in the R-E, R-1, R-2, and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3:

1. Is the accessory dwelling unit located in an accessory building? YES ☒ NO ☐
2. Does the accessory dwelling floor area exceed of forty-five (45) percent of the floor area of the main building? YES ☐ NO ☒ Accessory Dwelling Unit square footage 390
3. Does the accessory dwelling have one kitchen and one bathroom? YES ☒ NO ☐
4. Does the accessory building/dwelling differentiate from the single-family dwelling? YES ☒ NO ☐

The following conditions must be maintained for an accessory dwelling unit on a property in the R-E, R-1, R-2, and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3:

1. Occupancy characteristics.
 - a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.
 - b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.
2. Other requirements.
 - a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.
 - b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
 - c. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6. (Table of Parking Standards) using both on and off-street parking areas.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.

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. I am providing authorization to the town authorities to enter my properties to confirm accuracy of information contained in this application.

Signature of Owner: Samford A. Scharpf

Digitally signed by Samford A. Scharpf
Date: 2021.09.16 15:22:37 -04'00'

Signature of Applicant: Samford A. Scharpf

Digitally signed by Samford A. Scharpf
Date: 2021.09.16 15:22:47 -04'00'

Letter of Intent for: 410 Harbor Ave. Accessory Dwelling

We would like to tear down the existing dilapidated shed and build a two-story structure in its place. The first floor would serve as a garage and storage space for tools and yard items. The second floor would contain a living room, kitchen, bathroom, and bedroom, and ultimately serve as a long-term rental unit for local workers, like teachers and other professionals.

Sam & Amy Scharpf

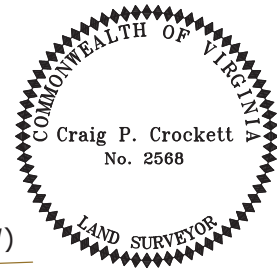
410 Harbor Ave.

Cape Charles, VA 23310

202.210.4590

SURVEYORS CERTIFICATION

I, CRAIG P. CROCKETT, 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.



GENERAL NOTES:

1. OWNERS: SAMFORD ADAMS SCHARPF & AMY CHEN SCHARPF

2. TAX PARCEL: 83A3-2-8-7

3. SOURCE OF TITLE: INST. 180001287

4. A SURVEY WAS PERFORMED ON THIS PROPERTY IN JANUARY 2020 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. 51131C0295F, DATED 03-02-15, THE PROPERTY SHOWN HEREON FALLS IN ZONE OF 0.2% ANNUAL CHANCE.

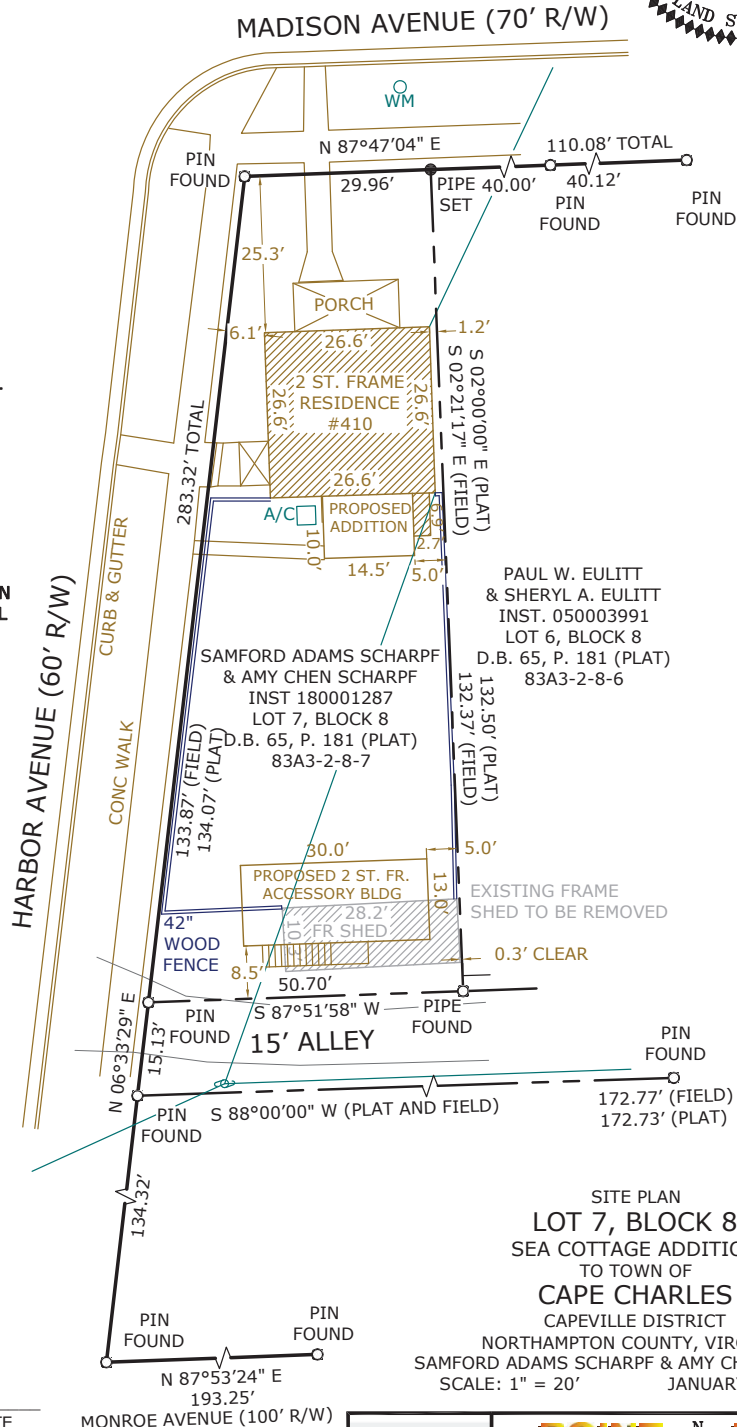
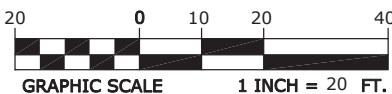
7. PLAT REFERENCES:
D.B. 41, P. 484 (PLAT)
D.B. 65, P. 181 (PLAT)



APPROVED

PLANNER, TOWN OF
CAPE CHARLES

DATE



SITE PLAN
LOT 7, BLOCK 8
SEA COTTAGE ADDITION
TO TOWN OF
CAPE CHARLES

CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VIRGINIA
SAMFORD ADAMS SCHARPF & AMY CHEN SCHARPF
SCALE: 1" = 20'
JANUARY 13, 2020

REVISED 02-04-2021
CHANGES TO PROPOSED
HOUSE AND ACCESSORY
BUILDING



POINT NORTH

POINT NORTH SURVEYING LLC

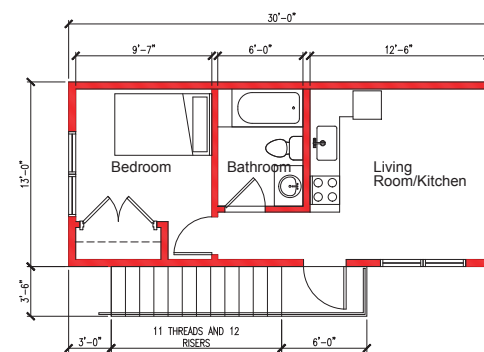
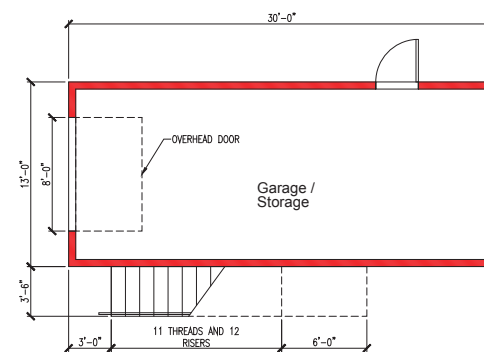
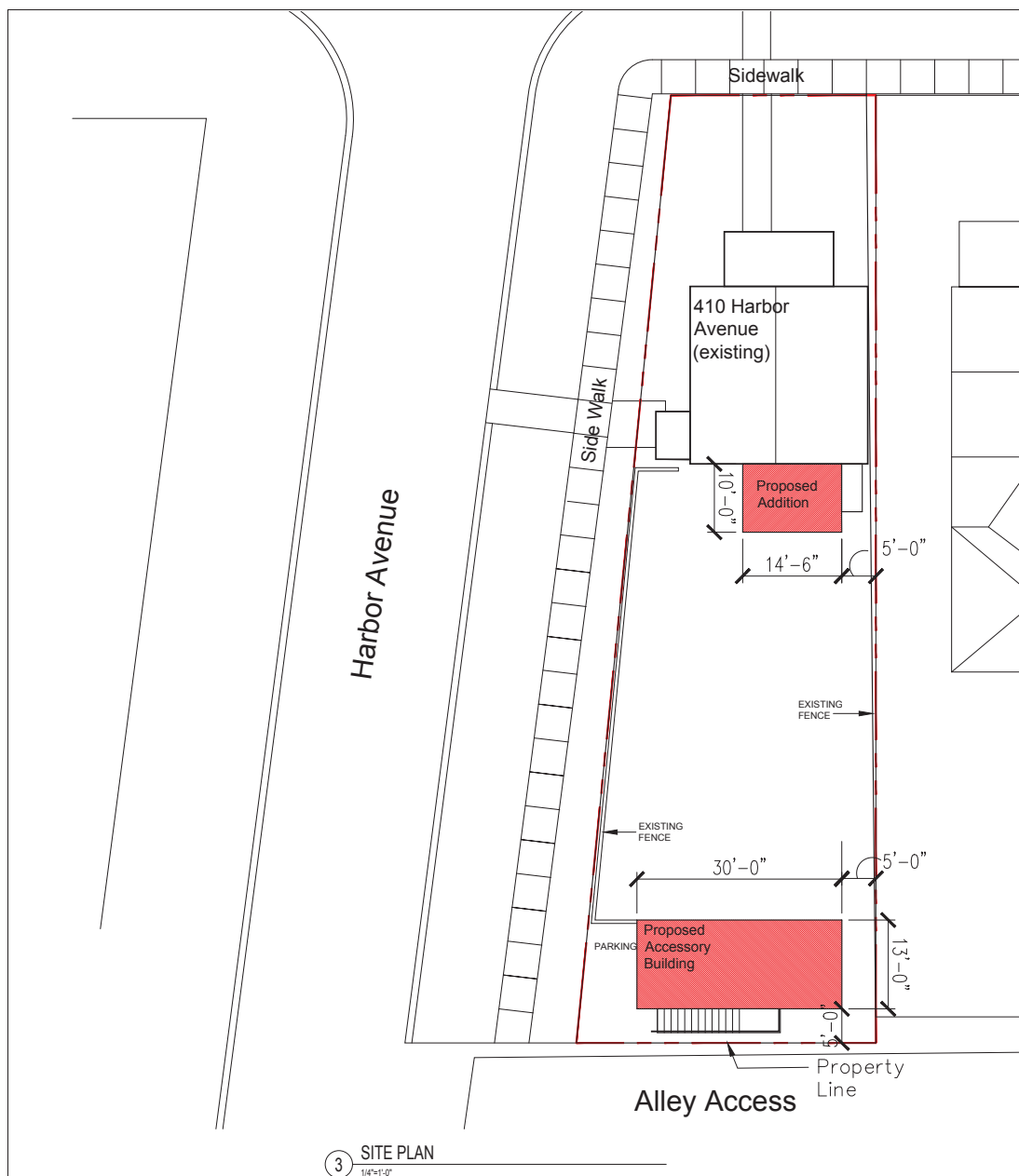
P.O. Box 701, Onley, VA. 23418 (757) 709-3008
pointnorthsurveying@gmail.com

DRAWN BY: CROCKETT FIELD BOOK: FILE COPY
BACK TRAV: CROCKETT PROJ. NO: 20001B



A1





DESIGN

Project Team

Architect
Dan Chen, AIA, LEED AP
36 Marlboro Street
Belmont, MA 02478
617.470.4722

Surveyor
Point North Surveying, LLC
P.O.Box 701
Onley, VA 23418
757.709.3008

410 HARBOR AVENUE

410 Harbor Avenue
Cape Charles, VA. 23310

DRAWING NOTES:

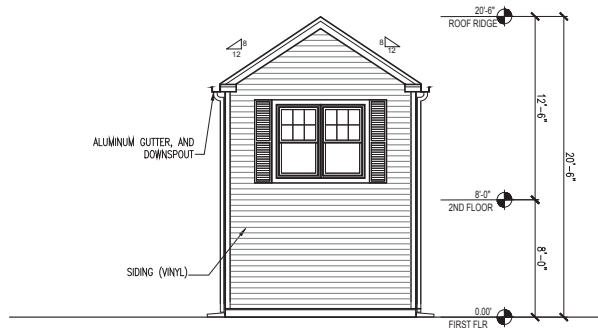
THIS DRAWING SHALL REMAIN THE PROPERTY OF THE ARCHITECT. REPRODUCTION OF THIS DRAWING OR THE SPECIFICATIONS ASSOCIATED WITH THIS PROJECT WITHOUT THE ARCHITECT'S AGREEMENT IS FORBIDDEN. THE PLANS AND SPECIFICATIONS OF THIS PROJECT SHALL NOT BE USED BY THE OWNER ON OTHER PROJECTS EXCEPT BY AGREEMENT IN WRITING AND WITH APPROPRIATE COMPENSATION TO THE ARCHITECT.

THE DRAWINGS ARE DIAGRAMMATIC. DO NOT SCALE.
CONTRACTOR TO VERIFY ALL SITE CONDITIONS AND
RESPONSIBLE FOR DIMENSIONAL COORDINATION WITH
SUBCONTRACTORS WORK PRIOR START OF WORK.

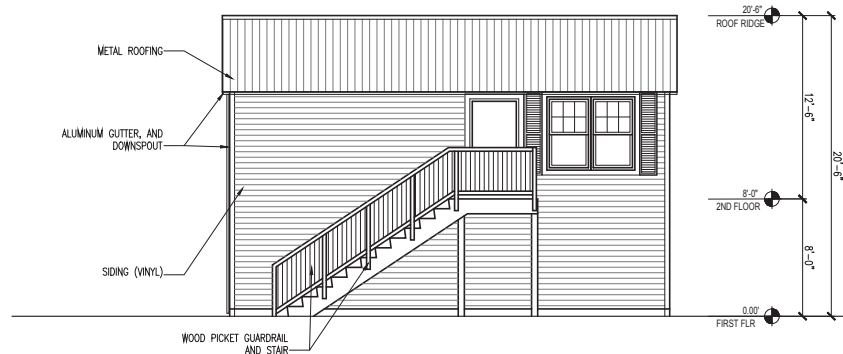
FLOOR PLAN AND SITE PLAN

SCALE: AS NOTED
DATE: Jan. 20, 2021
DRAWN BY:
CHECKED BY:

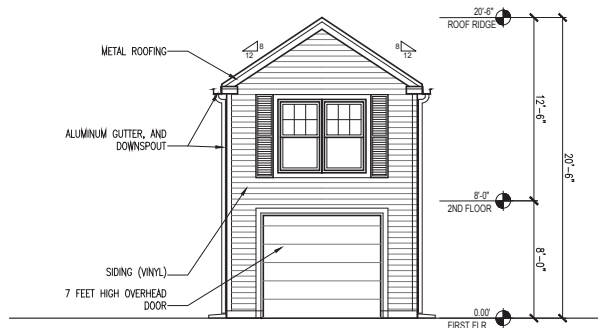
A2



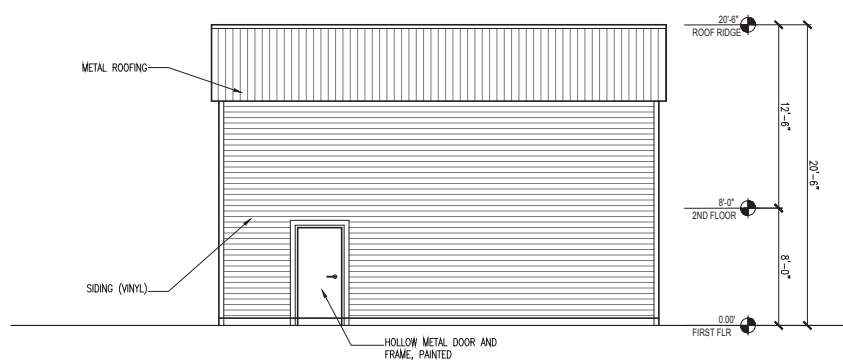
3 ELEVATION - EAST
1/4"=1'-0"



1 ELEVATION - SOUTH
1/4"=1'-0"



4 ELEVATION - WEST
1/4"=1'-0"



2 ELEVATION - NORTH
1/4"=1'-0"

DESIGN

Project Team

Architect
Dan Chen, AIA, LEED AP
36 Marlboro Street
Belmont, MA 02478
617.470.4722

Surveyor
Point North Surveying, LLC
P.O. Box 701
Onley, VA 23418
757.709.3008

410 HARBOR AVENUE

410 Harbor Avenue
Cape Charles, VA 23310

DRAWING NOTES:
THIS DRAWING SHALL REMAIN THE PROPERTY OF THE ARCHITECT. REPRODUCTION OF THIS DRAWING OR THE SPECIFICATIONS ASSOCIATED WITH THIS PROJECT WITHOUT THE ARCHITECT'S AGREEMENT IS FORBIDDEN. THE PLANS AND SPECIFICATIONS OF THIS PROJECT SHALL NOT BE USED BY THE OWNER ON OTHER PROJECTS EXCEPT BY AGREEMENT IN WRITING AND WITH APPROPRIATE COMPENSATION TO THE ARCHITECT.
THE DRAWINGS ARE DIAGRAMMATIC. DO NOT SCALE. CONTRACTOR TO VERIFY ALL SITE CONDITIONS AND RESPONSIBLE FOR DIMENSIONAL COORDINATION WITH SUBCONTRACTORS WORK PRIOR START OF WORK.

ELEVATIONS

SCALE: AS NOTED
DATE: Jan. 20, 2021
DRAWN BY:
CHECKED BY:

A3

Adjacent Neighbors for: 410 Harbor Ave. Accessory Dwelling

Next door, on Madison:

Vogt, William Joseph

102 Madison Ave

Cape Charles, VA

Behind house, on Monroe:

Hubbell, Brian & Andrea

101 Monroe Ave

Cape Charles, VA

Across the street, on Madison:

Headley, Robert

10 Madison Ave

Cape Charles, VA

Across the street, on Madison:

Hall, Betty Drummond

101 Madison Ave

Cape Charles, VA



PLANNING COMMISSION STAFF REPORT

Meeting Date: November 9, 2021

Item #: 5B

Prepared by: Katie H. Nunez, Interim Planning/Zoning Administrator

Date: November 1, 2021

APPLICANT: Tom & Katie Austin (contract purchasers) dba Cape Charles Mini Golf, Inc.

TYPE OF APPLICATION: Conditional Use Permit

PROPERTY OWNER: John F. & Loraine A. Huchler & Daniel C. Dabinett

SITE ADDRESS: Randolph Avenue, directly across from Heritage Acres Court

ZONING ORDINANCE: Section 3-8 (B) (2)

TAX MAP: 83A4-1-B-26, 83A4-1-B-27, 83A4-1-B-28, and 83A4-1-B-29

CURRENT ZONING: Commercial-3 (C-3)

LOT SIZE: .56 acres (approximately 25,000 sq. ft.)

DATE RECEIVED: September 17, 2021

DATE DEEMED COMPLETE: September 24, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): December 24, 2021

NARRATIVE OF PROPOSAL:

The applicant is under contract to purchase the 4 lots at Tax Map #83A4-1-B-26, 27, 28, & 29 (4 properties on Randolph Avenue) to construct a Mini-Golf course.

These lots are zoned Commercial-3, and the proposed use of a Mini-Golf is a permitted use under Section 3-8 (B) (2) which states *“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.”* This proposed use was brought to the Planning Commission at their meeting on 2/2/2021 and the Planning Commission stated that this use would be compatible with other uses allowed in the C-1 and C-2 and C-3 zoning districts but indicated that only through a Conditional Use Permit application so that parking, lighting, landscaping, setbacks and visual aesthetics of the proposed project can be adequately reviewed and addressed in relation to the other development occurring on this stretch of Randolph/Stone Road.

Staff has been working with the applicant since April 2021 in the development of their proposed site plan and landscaping plan in order to bring this matter to public hearing for a Conditional Use Permit.

Industry guidelines for mini-golf course development indicate that 13,000 to 30,000 square feet is the minimum lot size for an outdoor 18-hole mini-golf course layout with the average size being 22,000 square feet. The American with Disabilities Act (ADA), which is administered by the U.S Access Board, indicates that new 18-hole mini-golf courses must have a minimum of 9 ADA compliant holes.

AERIAL MAP: *Property outlined in blue*



SITE PLAN – GOLF COURSE LAYOUT



ORDINANCE REQUIREMENTS

Cape Charles Zoning Ordinance Section 4.3 states that “*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.”

Additionally, 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. 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.

COMPREHENSIVE PLAN

The Comprehensive Plan Section III B.2 identifies Cape Charles as a diversified residential community comprised of a mixture of long-term residents and new arrivals. To create a baseline for economic vitality, the Comprehensive Plan identifies the following as the broad direction of economic focus:

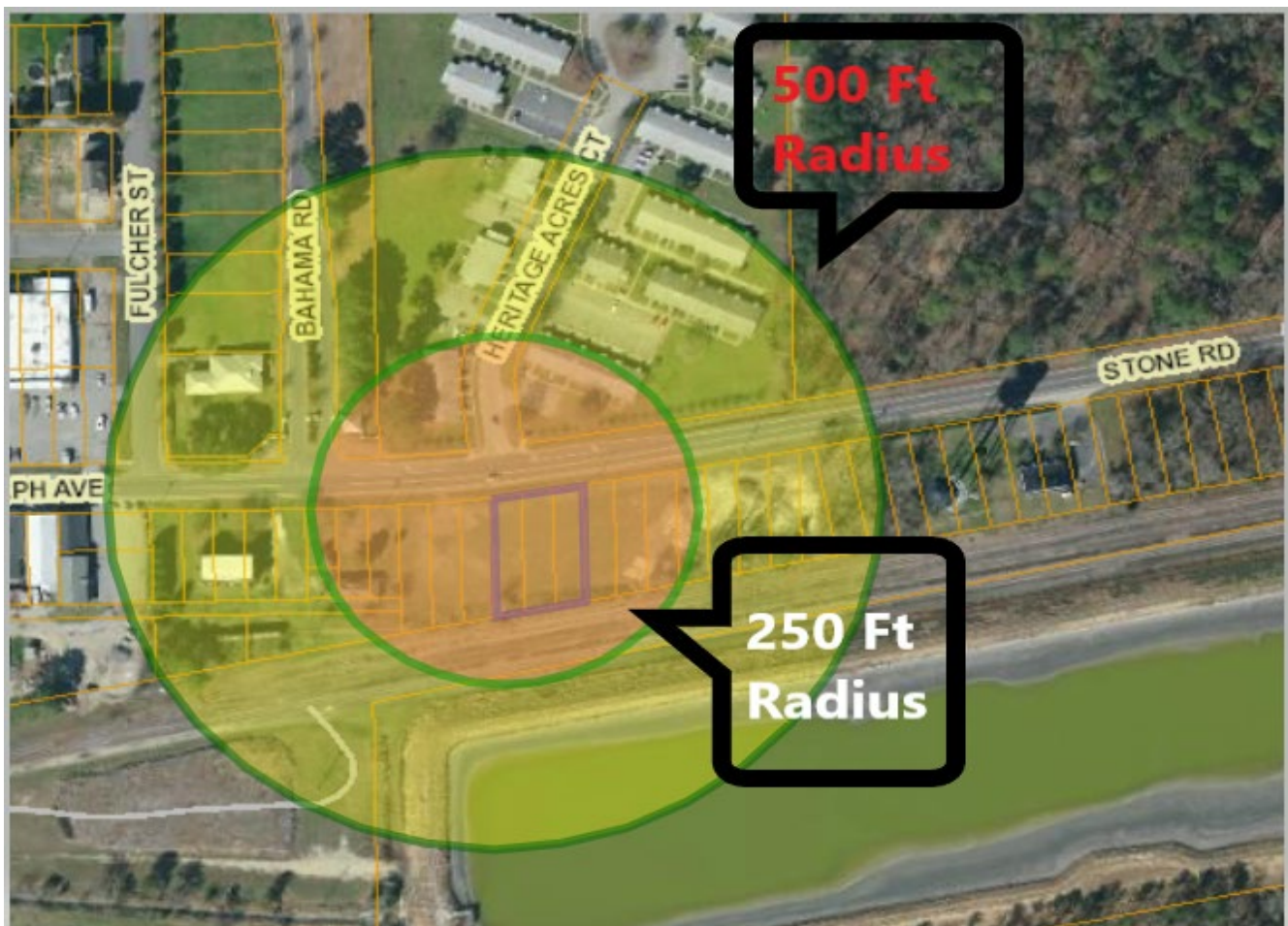
- Cape Charles is a **tourist and second home location attracting**:
 - o Eastern Shore visitors
 - o Weekly, monthly and seasonal renters
 - o Golfers, fishermen, boaters, eco-tourists and birders
- Cape Charles is a retirement destination
- Cape Charles’ working citizens are primarily in the service sector
- Cape Charles has an industrial infrastructure and history
- Cape Charles has a history of commercial fishing

One of the primary objectives for Economic Development as stated in Section III B.3 is to “Attract tourists, vacation and second homeowners”. Specifically, the Plan notes the need to continue to grow the hospitality sector and expand the offerings in Cape Charles to strengthen the town as the tourist destination of choice on the Eastern Shore (Section III B.5).

DISCUSSION ITEMS

These 4 lots, totaling approximately 5,600 square feet, are zoned Commercial-3 and located directly across Stone Road/Randolph Avenue from Heritage Acres which is zoned Residential-1. On the same side of the street as Heritage Acres to the west is PUD-R-2 zoning along Bahama Drive. The block between Fulcher Street/Randolph Avenue is zoned Commercial-2 (where the old Meatland Building is located). To the west of these four lots is the Cape Charles Museum lots which are zoned Commercial-1 and to the east of these four lots the zoning is Commercial-3 and there are ongoing approved projects on several of these lots (Beach Market, Custom Carts).

This corridor is the main corridor into Town and is comprised of a mix of uses (residential, commercial, vacant with zoning designation for commercial development). Any proposed use needs to be compatible within that area and cognizant that uses may sometime pose a conflict to existing uses, especially residential uses. Below is an aerial map with the 4 lots outlined in blue and overlaid on that is a 250 foot radius (pink circle) as well as a 500 foot radius (yellow circle) to the subject project to show the properties contained within those distances



- 1) Should the Commission recommend any parameters regarding outdoor speakers/sound systems relative to broadcasting music on the property?

- 2) The site plan shows a fence at the edge of the golf course but there is insufficient detail about the size and material and construction of the fence to determine if it addresses the primary concern that there is a sufficient barrier or deterrent to prevent any golf balls from departing the property and not to impact any of the traveling vehicles on Stone Road/Randolph Avenue.
- 3) The site plan needs to incorporate the requirements of CCZO Section 4.5 (M) which details the placement and screening for dumpsters.
- 4) The site plan, specifically the layout of the club house building, indicate the possibility of some food service. However, the applicant's narrative does not include an affirmative nor negative statement relative to food service as well as if there are any plans for alcoholic beverage sales. The Town does not control the licensing for retail sales of alcoholic beverages but it should be indicated if that is part of the business plan at this property.
- 5) The applicant has not indicated hours of operation. It is important to note that this proposed use is directly across from a residential development and the Town may wish to restrict or limit hours of operation so as to not intrude about the established residential uses in this area, such as curtailing hours at 11:00 pm until 9:00 am.
- 6) This type of recreational activity is a complementary business to serve the tourist community as well as to serve as an additional activity for year-round residents who reside in Northampton County. The town previously had a mini-golf course located on Mason Avenue. This location allows for a diversification of offerings to visitors to our community so that not all of the tourist sites or businesses are solely concentrated on Mason Avenue/Bay Avenue. The applicant has also indicated that they are accommodating golf cart traffic at the rear of their property from the established golf cart path.
- 7) Staff finds that the applicant has provided a robust landscape plan which exceeds the requirement of Appendix F (Tree Conservation and Preservation Ordinance) but would request Planning Commission review of the proposed landscape plan.
- 8) Staff finds that the site plan meets the requirement of CCZO Section 4.5 (B) (g) (3) which requires a minimum of 20 parking spaces.
- 9) A full lighting plan has not been completed and submitted yet but it will need to fully comply with Section 4.4 (E) – Exterior Lighting which states:
 1. *All exterior lighting shall be arranged and installed so that the direct or reflected illumination does not exceed (0.5) foot candles above the background measured at the lot line of any adjoining parcel.*
 2. *Lighting standards shall be of a directional type capable of shielding the light source from direct view from any adjoining parcel.*
 4. *All lighting shall comply with Dark Sky standards.*
- 8) The applicant will need to submit an application for signage for the business, in accordance with CCZO Section 4.1-Sign Regulations.
- 9) It is important to note that there are additional reviews required for the site plan if the Conditional Use Permit is favorably acted upon by the Town and that the approvals of these third-party reviews should be a considered condition and that the site plan presented at this time is subject to those reviews and a final site plan will need to be submitted to the Town which incorporates all comments from these reviews.. The reviews that will need to be obtained are:
 - a) Stormwater Plans by DEQ
 - b) Site Plan regarding Commercial Entrance Permit by VDOT

- c) Erosion and Sediment Control & Land Disturbance Plans - review by Town's Third Party Reviewer, Enviro-Management LLC (Joe Gilbert).

The Final Site Plan will be subject to review by the Zoning Administrator to ensure compliance with the Cape Charles Zoning Ordinance and any conditions imposed as part of a Conditional Use Permit, if one is approved by the Town.

- 10) Cape Charles Town Code Chapter 62-4 states that *"The town council may require and compel the owner of property within the town to construct or maintain sidewalks abutting on the property of such owner along existing streets."* From the corner of Fig Street and Randolph Avenue and running along Randolph Avenue to the subject property, there is not a functional side walk on this side of Randolph Avenue. At this time, there has been no discussion nor requirement for this project to include a sidewalk along the approximately 160 ft of road frontage. Should a sidewalk be required installation as part of this Conditional Use Permit review and conditions?
- 11) Lastly, a Certificate of Appropriateness review by the Historic District Review Board (HDRB) is required since the Town Council assigned review of all development in the Commercial-3 (C-3) Zoning District to the HDRB.

RECOMMENDED ACTION FOR PLANNING COMMISSION:

Staff is supportive of this Conditional Use Permit for the use proposed as an 18-hole mini-golf course, conditional upon discussion of the items raised above and is prepared to assist in the development of any proposed motion on the application. At a minimum, if the Planning Commission is supportive of this application, I would propose the following basic components for a motion:

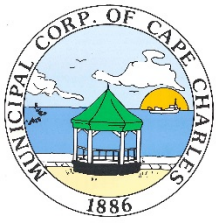
The Planning Commission recommends approval of a Conditional Use Permit for a Mini-Golf Course on Randolph Avenue for Tax Map #83A4-1-B-26, 83A4-1-B-27, 83A4-1-B-28, and 83A4-1-B-29 on an application filed by Tom & Kate Austin along with all attachments, pursuant to Cape Charles Zoning Ordinance Section 3-8 (B) (2), as determined by the Planning Commission at their meeting on 2/2/2021 that this use type requires a Conditional Use Permit; and that said application is in accordance with the Comprehensive Plan; and said Conditional Use Permit is subject to the following conditions:

- 1) All signage shall comply with the sign requirements in Cape Charles Zoning Ordinance Section 4.1-Sign Regulations and a sign permit application will be filed and approved by the Town prior to any signage being installed.***
- 2) At least 20 parking spaces will be provided as required by Cape Charles Zoning Ordinance Section 4.5 (B) (g) (3)***
- 3) A full lighting plan will be submitted as part of the Final Site Plan that fully complies with Cape Charles Zoning Ordinance Section 4.4 (E) – Exterior Lighting.***
- 4) Final Site Plan is conditional upon affirmative third party reviews (DEQ, VDOT, Town's Third Party Reviewer, Enviro-Management, LLC) and incorporation of all comments from said reviews into a revised and submitted Final Site Plan.***
- 5) Final Site Plan will incorporate the requirements of Cape Charles Zoning Ordinance Section 4.5 (M) which details the placement and screening for dumpsters.***

- 6) Any other conditions as a result of the public hearing and discussion of the applications and items raised through the Staff Report – will need to be detailed and included as Item #6, et seq.

Attachments:

- Staff Memo dated 2/2/2021 from Allyson Finchum to Planning Commission re: C-3 Uses
- Planning Commission minutes of 2/2/2021 meeting
- Full Application Packet which includes Application, Site Plan dated 8/10/2021, Golf Course Layout Plan, Landscape Plan, Club House Architectural Rendering and Layout, Applicant Letter of Intent.
- E-mail Comment from Benjamin Lewis



Municipal Corp. of Cape Charles

Date: February 2, 2021

To: Planning Commission

From: Allyson Finchum, Zoning Administrator

Re: Planning Commission Concurrence on Use in C-3

A request has been received by Cape Charles Planning Department to construct a putt-putt golf course as a commercial use in the C-3 zoning district on Stone Road within the Town of Cape Charles.

Permitted uses in C-3, outlined in the Town Zoning Ordinance, Section 3.8 (B)(2), include all that are presently allowed in the C-1 and C-2 districts and *“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.”*

It seems a putt-putt golf course may be compatible with other allowable uses in the C-3 district and the Zoning Administrator requests the Planning Commission’s review to determine if there are any concerns with the matter. If the Planning Commission concurs, the use will be allowed by right on any parcel in the C-3 district, unless, the Planning Commission requires it to be approved only on a case-by case basis by a conditional use permit.

Below are the current uses allowed in C-3 to assist in assessing harmony of uses.

The following uses are permitted by right in the C-1 district:

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
- Town of Cape Charles Zoning Ordinance
Article III – District Regulations
Revised 12-2019 Article III, Page 14
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.

The following uses are permitted by conditional use in the C-1 district:
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).

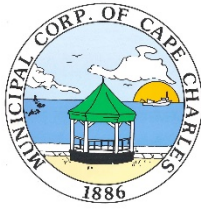
The following uses are permitted by right in the C-2 district:

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.

The following uses are permitted by conditional use in the C-2 district:
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).

The following uses are permitted by right in the C-3 district:

1. All uses as allowed in C-1 and C-2
2. 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.



PLANNING COMMISSION

Special Meeting

Cape Charles Civic Center

February 2, 2021

6:00 p.m.

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

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

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

PUBLIC COMMENTS RE: Agenda Items Only

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

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

CONSENT AGENDA

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

SPECIAL MEETING ORDER OF BUSINESS

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

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

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

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

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

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

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

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

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

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

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

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

D. *Comprehensive Plan Update Discussion*

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

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

The meeting adjourned at 7:44 p.m.

Chairman Bill Stramm

Planning Technician

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

David J. Parham

Subject: Negative Economic effects on Cape Charles from Industrial Zone

Dear Honorable Commissioners;

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

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

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

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

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

Best regards & stay safe;

David J. Parham

8 Bay Avenue

Cape Charles, Virginia

Margot Gorske

Subject: Cape Charles Planning and Zoning Commission Meeting

To all;

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

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

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

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

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

Bill Ballard

Subject: Land use issues affecting the future of Cape Charles

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

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

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

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

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

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

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

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

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

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

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

Sincerely,
Bill and Margaret Ballard

Mary Barrow
Subject: Rezoning
January 28, 2021

Dear Members of the Town of Cape Charles,

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

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

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

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

1) The rumblings and vibrations.

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

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

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

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

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

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

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

Thank you,
Mary Barrow
206 Monroe Avenue

Vonnie Malek

Subject: Concrete Plant

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

Vonnie Malek
304 Fig Street

Jim Turner

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

Dear Planning Commission Planner of Cape Charles,

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

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

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

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

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

James and Nancy Turner
518 Walbridge Bend
Cape Charles, Virginia

Phil Goetkin

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

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

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

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

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

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

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

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

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

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

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

Signed, Phil Goetkin

Mollie Pickron

Good Evening Chairman Stramm and members of the Planning Commission:

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

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

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

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

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

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

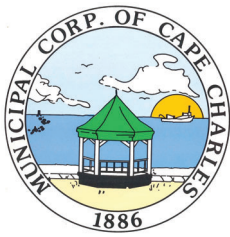
I am concerned that all the effort and progress of the Town will be negated if we cannot find a solution to the adverse environmental impact of the plant.

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

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

Thank you for your consideration.

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



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: Cape Charles Mini Golf

Property Address: Randolph Ave. Cape Charles, VA 23310

Brief Description of Project: Miniature Golf

Zoning District: C3 Current Use: Unimproved Land Proposed Use: Mini Golf

OWNER INFORMATION

Name and Company: John/Lorraine Huchler (Lot 26/27) and Daniel Dabinette (Lot 28/29)

Mailing Address: 35 PO Box 607 Cape Charles VA 23310

Phone Number: (609)896-4457 Email: huchler@verizon.net

APPLICANT INFORMATION

☐ check here if applicant is owner

Name: Thomas and Katherine Austin

Mailing Address: 39 Sunset Dr. Severna Park, MD 21146

Phone Number: (410)652-4746 Email: taustin777@yahoo.com

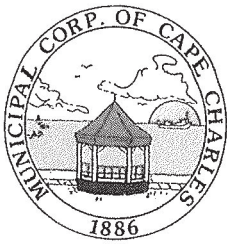
CERTIFICATION OF APPLICANT

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: Thomas Austin Date: 9/17/2021

Town of Cape Charles Planning & Zoning Department

2 Plum St. • Cape Charles, VA 23310 • 757-331-2036 • capecharles.org



OWNER PERMISSION AFFIDAVIT

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

PROPERTY INFORMATION

Subject Property Street Address: Lot 26 + 27 Randolph Ave Extended Cape
Subject Property Tax ID Number: 8344-1-B-26 8344-1-B-27 Charles
VA: 23310

OWNER INFORMATION

Name (Person, Firm, Corporation, or Agency): John + Lorraine Hutchler
Mailing Address: 35 Viburnum Court Lawrenceville, NJ 08648
Phone Number: 609-891-4457 Email: Hutchler@Verizon.net

APPLICANT INFORMATION (If applicable)

Name: Cape Charles Mini Golf, LLC
Mailing Address: 818 Randolph Avenue, Cape Charles, VA
Phone Number: 40-652-4746 Email: touristin77@yahoo.com 23310

I am applying for, or I hereby give authority to the applicant to file an application for:

mini putt putt golf course

X Signature of Owner: John F. Hutchler Date: 7/21/21
Lorraine A. Hutchler 7/21/21

Commonwealth of Virginia

County of Northampton

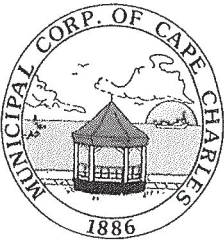
The foregoing instrument was acknowledged before me this 21 day of July,
2021, by Paul Grantham Watson (name of person acknowledged).

Signature of Notarial Officer: Paul Grantham Watson

Notary Registration Number: 70-96-521

My Commission Expires: 3-31-23

(Seal)



OWNER PERMISSION AFFIDAVIT

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

PROPERTY INFORMATION

Subject Property Street Address: Lot 28 & Lot 29 Randolph Extended
Subject Property Tax ID Number: 83A4-1-B-29 83A4-1-B-28 Cape Charles
VA 23310

OWNER INFORMATION

Name (Person, Firm, Corporation, or Agency): Daniel Dakinoff
Mailing Address: 35 P O Box 407 Cape Charles VA 23310
Phone Number: _____ Email: _____

APPLICANT INFORMATION (If applicable)

Name: Cape Charles Mini Golf LLC
Mailing Address: 818 Randolph Avenue Cape Charles, VA 23310
Phone Number: 410-652-4146 Email: forestin777@yahoo.com

I am applying for, or I hereby give authority to the applicant to file an application for:

mini Putt Putt Golf Course

✓ Signature of Owner: DCD Date: 7/21/21

Commonwealth of Virginia

County of Northampton

The foregoing instrument was acknowledged before me this 21 day of July,
20 21, by Paul Granville Warden (name of person acknowledged).

Signature of Notarial Officer: [Signature]

Notary Registration Number: 7096-521

My Commission Expires: 3-31-23

(Seal)

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

Town of Cape Charles Planning Commission and Zoning Administration,

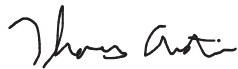
Per the meeting on 2/2/2021, we have attached all necessary documentation needed for review of our conditional use permit on Randolph Avenue for mini golf business (lots 26, 27, 28, and 29). We took note of all commentary from the planning commission and are confident that this proposal will be in line with the vision put forth by the comprehensive plan/ planning commission.

Our miniature golf will be a great place for the community to engage in family friendly fun and recreation. This will be a family run business, as we plan on moving full time to our house at 506 Nectarine Street.

As you will see in the landscape plan, we took into account the planning commission's comments on beautifying the town entrance. The landscape plan includes planting 195 trees/shrubs, which includes 23 medium – large trees such as cherries, oaks, cypress, and myrtles. The course itself will be professionally landscaped by Browder-Hite and will include a vast array of evergreens, perennials, and annuals. It is very important for us to ensure that our business fits in with the historical and quaint nature of the town.

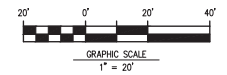
Please let us know if you have any further questions.

Thomas Austin

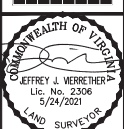


Katie Austin





- MSA, P.C.**
Environmental Sciences • Surveying
Civil & Environmental Engineering
5032 Rouse Drive, Suite 100
Virginia Beach, VA 23462-3764
757-490-9264 | www.msonline.com



DATE 5/24/2021

APPROVED JUV

CHECKED JUV

DRAWN CJS

DESIGNED _____

THE COPIES OF THE OLD PROPERTY OF NEW J.C. (HUMAN RIGHTS) IS THE REPRESENTATION OF THE STATUS OF PEOPLE IN THE NEW PROPERTY

FROM YEAR WAS INFLUENCED BY NEW J.C. (HUMAN RIGHTS) IS THE REPRESENTATION OF THE STATUS OF PEOPLE IN THE NEW PROPERTY

TOPOGRAPHIC SURVEY
of
TAX PARCELS 83A4-1-B-26, 83A4-1-B-27,
83A4-1-B-28 AND 83A4-B-29
(PB 5, PG 184)
CAPE CHARLES, NORTHAMPTON COUNTY
VIRGINIA

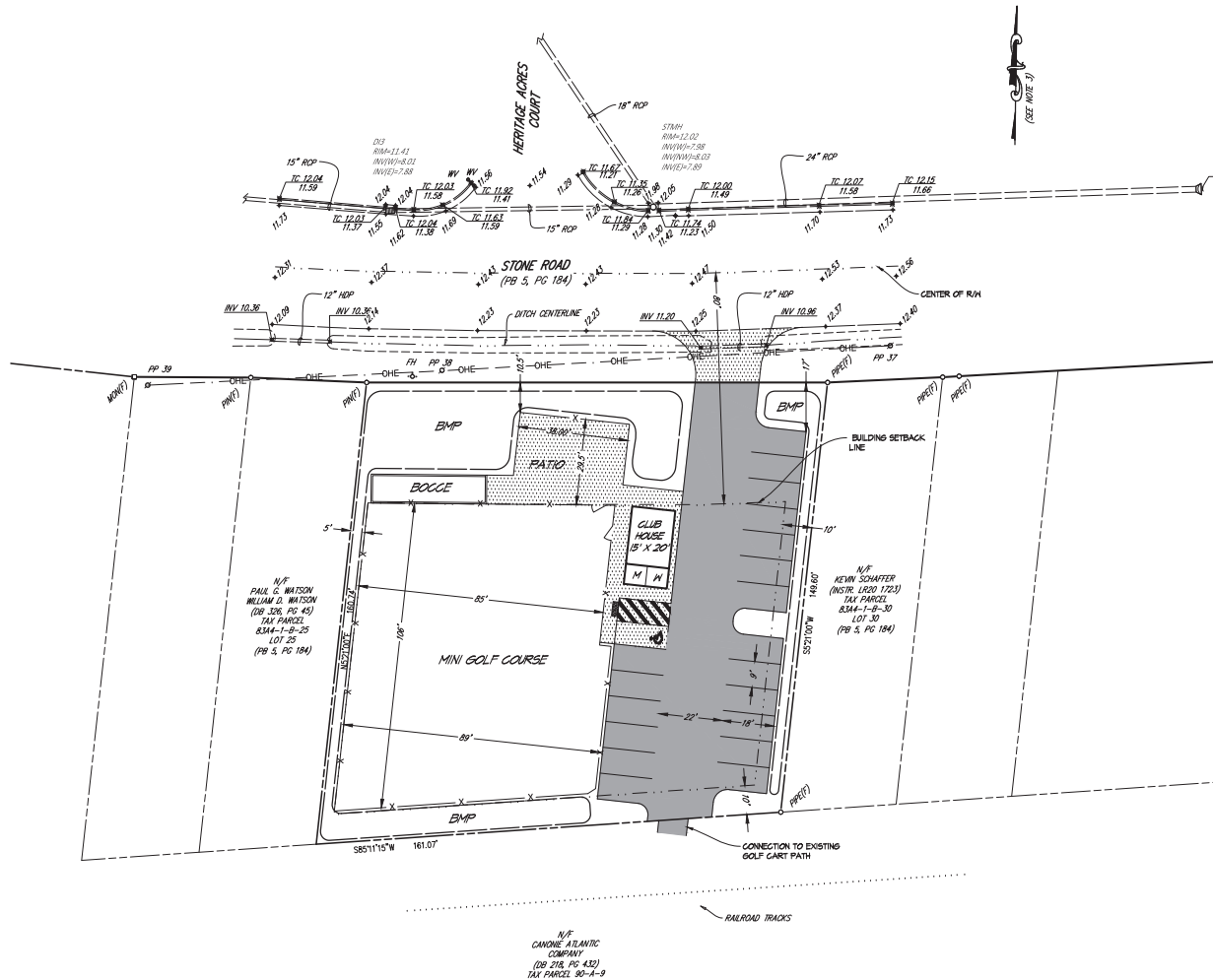
SHEET	1
1 of 1 Sheets	
SCALE:	1" = 20'
PROJ. NO.:	21080

CONCEPTUAL SITE LAYOUT PLAN OF CAPE CHARLES MINI-GOLF ISLE OF WIGHT, VIRGINIA

Site Area:	± 0.56 AC
Tax Parcels:	83A4-1-B-26 83A4-1-B-27 83A4-1-B-28 83A4-1-B-29
Existing Zoning:	C-3
Existing Use:	Undeveloped
Proposed Use:	Mini Golf
Parking Required:	20 Spaces
Parking Provided:	19 Spaces 1 ADA Space
	20 Total Spaces
BMP Provided:	± 3,600 SF (± 15% of Site Area)

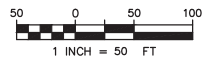
BUILDING SETBACKS
FRONT: 80' FROM CENTER OF R/W
SIDE: 5' & 10'
REAR: 10'

PATIO SETBACK 10.5' FROM R/W



DATE: 08/10/2021

THIS DRAWING IS CONCEPTUAL AND HAS BEEN PREPARED WITH A SITE SURVEY PREPARED BY OTHERS, THEREFORE, PROPERTY LINES, WETLAND BOUNDARIES, AND OTHER SITE SPECIFIC DATA ARE APPROXIMATE. CONCEPT DRAWINGS ARE GENERAL IN NATURE AND ARE INTENDED ONLY TO ILLUSTRATE THE DEVELOPMENT POTENTIAL FOR A PROPERTY; THEY SHOULD NOT BE RELIED UPON AS THE SOLE BASIS FOR ANY FINANCIAL OR LEGALLY BINDING TRANSACTION.

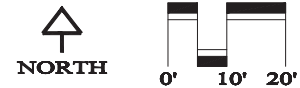


ORBIS
LANDSCAPE
ARCHITECTURE
ORBIS-LA.COM

Proposed Miniature Golf Course 9,600 sf.



Notes:
Handicap accessible portions of the course(s) are designed in accordance with ADAAG (Americans with Disabilities Act Accessibility Guidelines) Chapter 10 Section 1007.
ADA gate shown will consist of two 4x4 wooden posts, two eye hooks, and rope with hooks.



HORWATH Miniature Golf Courses

ALL DESIGN, IMAGES AND PLANS SHOWN ARE ONLY TO BE USED BY BOB HORWATH MINIATURE GOLF COURSES UNLESS GIVEN WRITTEN CONSENT.

Project:
**Proposed Miniature Golf
CAPE CHARLES**

DATE: **07/20/2021**

**Layout
Plan**

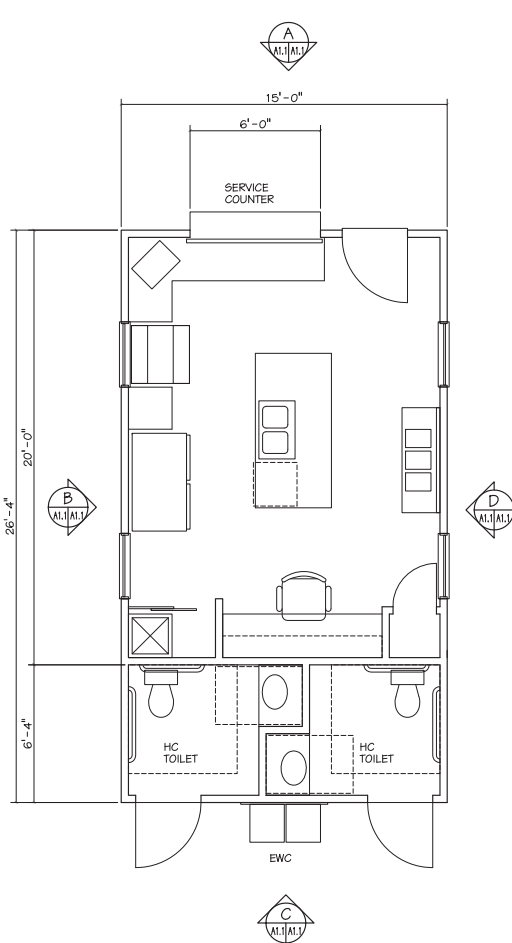
SCALE:
1"=10'-0"

DRAWN BY:
MVC

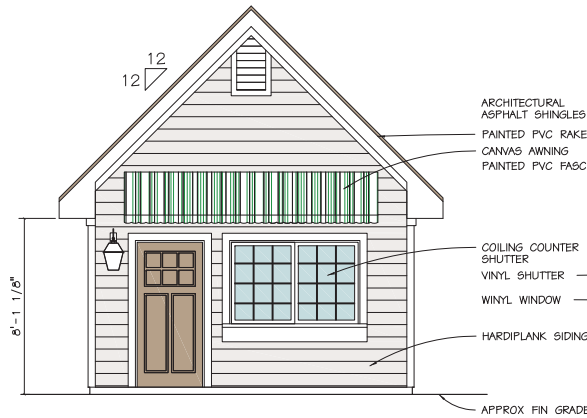
SHEET #:
2 JOB #:
01-21

REVISIONS:	
MVC	August 9, 2021
MVC	September 1, 2021
DATE PRINTED:	September 1, 2021

GRAPHICS KEY	
R - ROUGH	
M - MOUND	
P - PLANTER	
ST - SAND TRAP	



FLOOR PLAN
3/8" = 1'-0"



A
EXTERIOR ELEVATION
3/8" = 1'-0"

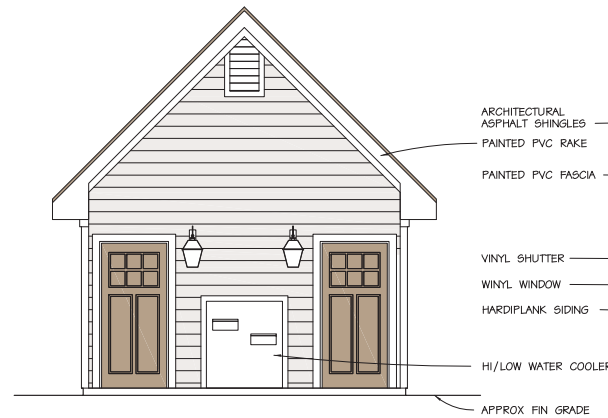
ARCHITECTURAL
ASPHALT SHINGLES
PAINTED PVC RAKE
CANVAS AWNING
PAINTED PVC FASCIA

COILING COUNTER
SHUTTER
VINYL SHUTTER
VINYL WINDOW
HARDPLANK SIDING

APPROX FIN GRADE



B
EXTERIOR ELEVATION
3/8" = 1'-0"



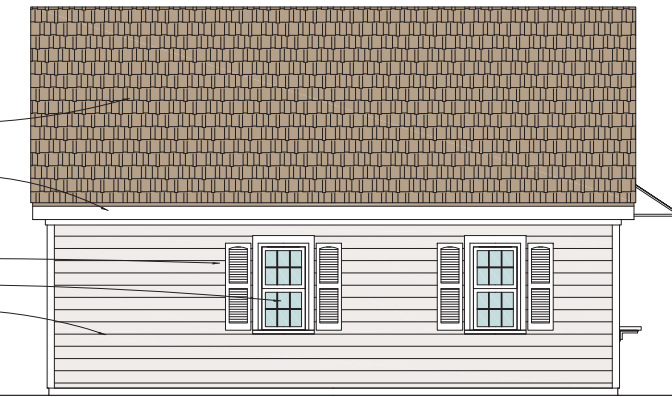
C
EXTERIOR ELEVATION
3/8" = 1'-0"

ARCHITECTURAL
ASPHALT SHINGLES
PAINTED PVC RAKE
PAINTED PVC FASCIA

VINYL SHUTTER
VINYL WINDOW
HARDPLANK SIDING

HI/LOW WATER COOLER

APPROX FIN GRADE



D
EXTERIOR ELEVATION
3/8" = 1'-0"

PROGRESS
PRINT
10-11-21

PROJECT NO.	PROJ. MGR.	SRL	DESIGNED	SRL	DRAWN	CHECKED	SRL
21091							
DATE	REVISION	SYMBOL	DATE	REVISION	SYMBOL	DATE	REVISION
21 SEP 2021							

CAPE CHARLES MINI GOLF
CAPE CHARLES, VIRGINIA
STONE RD
SHEET TITLE
PROPOSED PLAN AND ELEVATIONS

LEMOLE
ARCHITECTS
2809 PRODUCTION
SUITE 102
VIRGINIA BEACH, VIRGINIA 23464
757-228-2520
SRLEMOLE@GMAIL.COM

SHEET NUMBER

A-1.1

XX of XX

Names of adjacent Property owners:

Lot 83A4-1-B-25 Paul and William Watson

Lot 83A4-1-B-30 Kevin Schaffer

Tracy Outten

From: Benjamin Lewis <blewis@browderhite.com>
Sent: Tuesday, October 19, 2021 4:35 PM
To: Katie Nunez; Tracy Outten; Katie Nunez
Subject: Cape Charles Mini Golf

I'm writing on behalf of Tom and Katie Austin and their mini golf project. The project is a great step in the right direction for our town. As a resident, I'm glad to see something like this come along for young families with children. It will be a positive calling card for tourists. Additionally, it will be a BPOL tax generator along with elevated real estate taxation once the project is complete. Tom and Katie plan to move full time to Cape Charles and operate the business. Both of them are upstanding people who will add to the character and strength of our town. As a contractor helping the Austin's get this project completed, I can say with confidence the building and plants will all blend well together. There will be no garish ornamentation inside the golf course (as is commonly found elsewhere). In fact, the plan is to use Cape Charles landmarks as part of the course decoration. These touches and many others are why this project is essential as we build back Cape Charles one home, business and customer at a time.

Best, Benjamin



Benjamin Lewis, President
Browder-Hite, Inc.
757-442-5296 (O) 757-442-5295 (F)
VA Contractors Class A License #2705127359 / VA Pesticide Business License #7808



PLANNING COMMISSION STAFF REPORT

Meeting Date: November 9, 2021

Item #: 5C

Prepared by: Katie H. Nunez, Interim Planning/Zoning Administrator

Date: November 2, 2021

APPLICANT: Todd Bricken
SITE ADDRESS: 219 Mason Avenue

TAX MAP: 83A3-1-631
LOT SIZE: 5,359 sq. ft.

TYPE OF APPLICATION: Conditional Use Permit
SPECIFIC REQUEST: 5 Residential Units above Commercial
ZONING: Section 3.6 (C)
CURRENT ZONING: Commercial -1 (C-1) & Historic District Overlay

DATE RECEIVED: July 29, 2021

DATE DEEMED COMPLETE: October 21, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): January 21, 2022

NARRATIVE OF PROPOSAL:

The applicant is in the process of purchasing 219 Mason Avenue with an anticipated closing date of November 2021. The applicant is proposing to renovate the second floor above 1st floor commercial at 219 Mason Avenue to five residential units.

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 five residential units on the second floor of this building. Three of the units are one-bedroom apartments or lofts and two of the units are two-bedroom apartments.

The Cape Charles Zoning Order, pursuant to Section 3.6 (C), allows for a residential unit above first floor commercial 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. Please note that my office has been working with the applicant since May 2021 and the initial concept was for three residential units; however, as the applicant has worked with his structural engineer and architect, the most recent proposal is for five residential units on the second floor. As part of the proposal, the applicant is also proposing to provide for 3 on-site parking spaces for the residential units to assist in meeting a portion of the parking requirements.

The first-floor uses are for two distinct commercial spaces with their own entrance as well as a distinct entrance for the residential units.

AERIAL MAP: *Property outlined in blue*



STREET VIEW



ORDINANCE REQUIREMENTS:

Cape Charles Zoning Ordinance Section 4.3 states that “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.

Additionally, 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. 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.

The Cape Charles Zoning Ordinance Section 3.6 (C) for property zoned Commercial-1 (C-1) states that:

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).

STAFF ANALYSIS:

The application for the renovation of the second story into five residential units with the first floor remaining as active commercial usage is consistent with the intent of the Cape Charles Zoning Ordinance Commercial C-1 District which 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.

This building used to house a movie theater and most recently was used as a side component of the Watson Hardware store. The opening between this building and the original Watson Hardware building will be closed off and the applicant intends on building an entire second story floor across the full building span (in the area marked “Warehouse” on the First Floor of the Existing Conditions Site Plan).

This will allow for five residential units to be provided on the second floor and the applicant intends on providing a common laundry facility for use by the residential units. The applicant has indicated that 3 parking spaces will be provided on site at the rear of the property to address the parking requirements in the Cape Charles Zoning Ordinance. It does not fully meet the ordinance requirements for parking which requires 6 parking spaces.

The Cape Charles Comprehensive Plan Section III.2.1.1. recognizes that the Commercial District is a mix of small-scale, mixed-use buildings characterized by retail, office, restaurant, educational, civic and entertainment uses on the street level, with residential uses on upper floors. Section III-A.5.1.3 has stated an overall policy to promote the mixed use as the preferred form of development in the Commercial District, specifically allowing residential and retail/commercial uses within the same building.

The renovation of this building through the addition of five residential dwelling units on the second floor and the commercial usage on the first floor is complementary to the district and provides a residential dwelling opportunity in space that was previously underutilized, and it would be harmonious within the main commercial district. All exterior proposed improvements are subject to Historic District Review Board approval and obtaining a building permit for all proposed work to the interior and exterior work as required by the Building Code and Town Ordinances.

Staff finds that the application for a Conditional Use Permit pursuant to Section 3.6 (C) for a residential dwelling unit above commercial usage meets the provision that the entrance for the 5 residential dwelling units have direct access to the street level and not be through the commercial use; however, the parking requirements are not in compliance with the ordinance which would require 6 parking spaces and the applicant has shown the provision of 3 parking spaces on-site but has not been able to provide a solution for the other 3 parking spaces.

I have spoken with the applicant about the possibility of trying to secure a shared parking arrangement through recorded easements or even consideration of a remote parking location outside of the immediate downtown area, but this matter has not been resolved. Meeting the parking requirement for residential units above the first floor of commercially zoned properties in the C-1 Zoning District is a significant impediment to this type of redevelopment application. In the absence of any shared parking agreement to provide the 3 additional required parking spaces, the applicant would need to petition the Board of Zoning Appeals for a variance from the parking requirements and receive favorable consideration in order – this would need to be a condition to any consideration of this Conditional Use Permit application.

Staff acknowledges that additional issues or comments may arise through the public hearing on this matter and request that the Planning Commission consider said issues and/or comments as part of their deliberations.

RECOMMENDED ACTION FOR PLANNING COMMISSION:

Staff is prepared to assist the Planning Commission in the development of any motions regarding the Conditional Use Permit to Town Council.

Attachments:

Attachment 1 – CUP Application Packet



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: _____
Property Address: 219 Mason Ave Cape Charles Va
Brief Description of Project: Commercial 1st Floor Residential 2nd Floor
Zoning District: TCC Current Use: Commercial Proposed Use: Mixed Commercial/Residential
C1

OWNER INFORMATION

Name and Company: Paul G Watson III William D Watson
Mailing Address: 225 mason Ave Cape Charles Va 23310
Phone Number: _____ Email: _____

APPLICANT INFORMATION

☐ check here if applicant is owner

Name: Todd A. Briden
Mailing Address: 4090 Della Drive Westminster Md 21157
Phone Number: 3014180786 Email: CHARCHEF@MINDSPRING.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: Todd A Briden Date: 07/29/2021

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: _____

Address: _____

The following criteria are required for one accessory dwelling to be maintained on a property in the R-E, R-1, R-2, and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3:

1. Is the accessory dwelling unit located in an accessory building? YES ☐ NO ☐
2. Does the accessory dwelling floor area exceed of forty-five (45) percent of the floor area of the main building? YES ☐ NO ☐ Accessory Dwelling Unit square footage _____
3. Does the accessory dwelling have one kitchen and one bathroom? YES ☐ NO ☐
4. Does the accessory building/dwelling differentiate from the single-family dwelling? YES ☐ NO ☐

The following conditions must be maintained for an accessory dwelling unit on a property in the R-E, R-1, R-2, and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3:

1. Occupancy characteristics.
 - a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.
 - b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.
2. Other requirements.
 - a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.
 - b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
 - c. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6. (Table of Parking Standards) using both on and off-street parking areas.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.

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. I am providing authorization to the town authorities to enter my properties to confirm accuracy of information contained in this application.

Signature of Owner: _____

William D Watson

8/17/2021 6:45:11 AM EDT

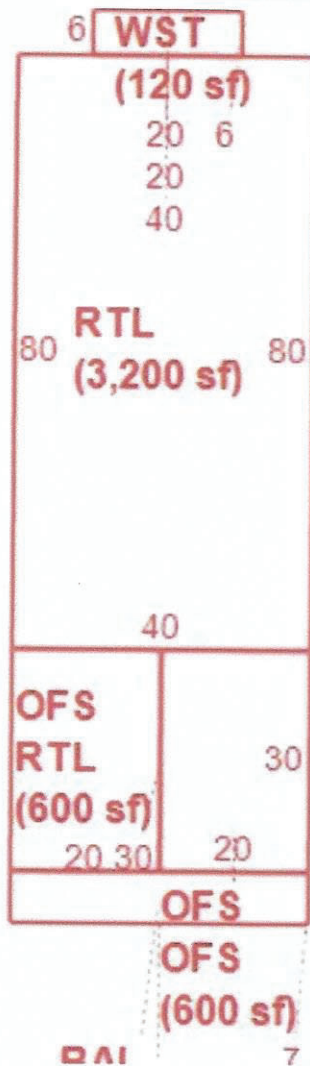
Paul G Watson III

8/17/2021 6:45:34 AM EDT

Signature of Applicant: _____

Todd A. Bricken

8/16/2021 6:32:06 PM EDT

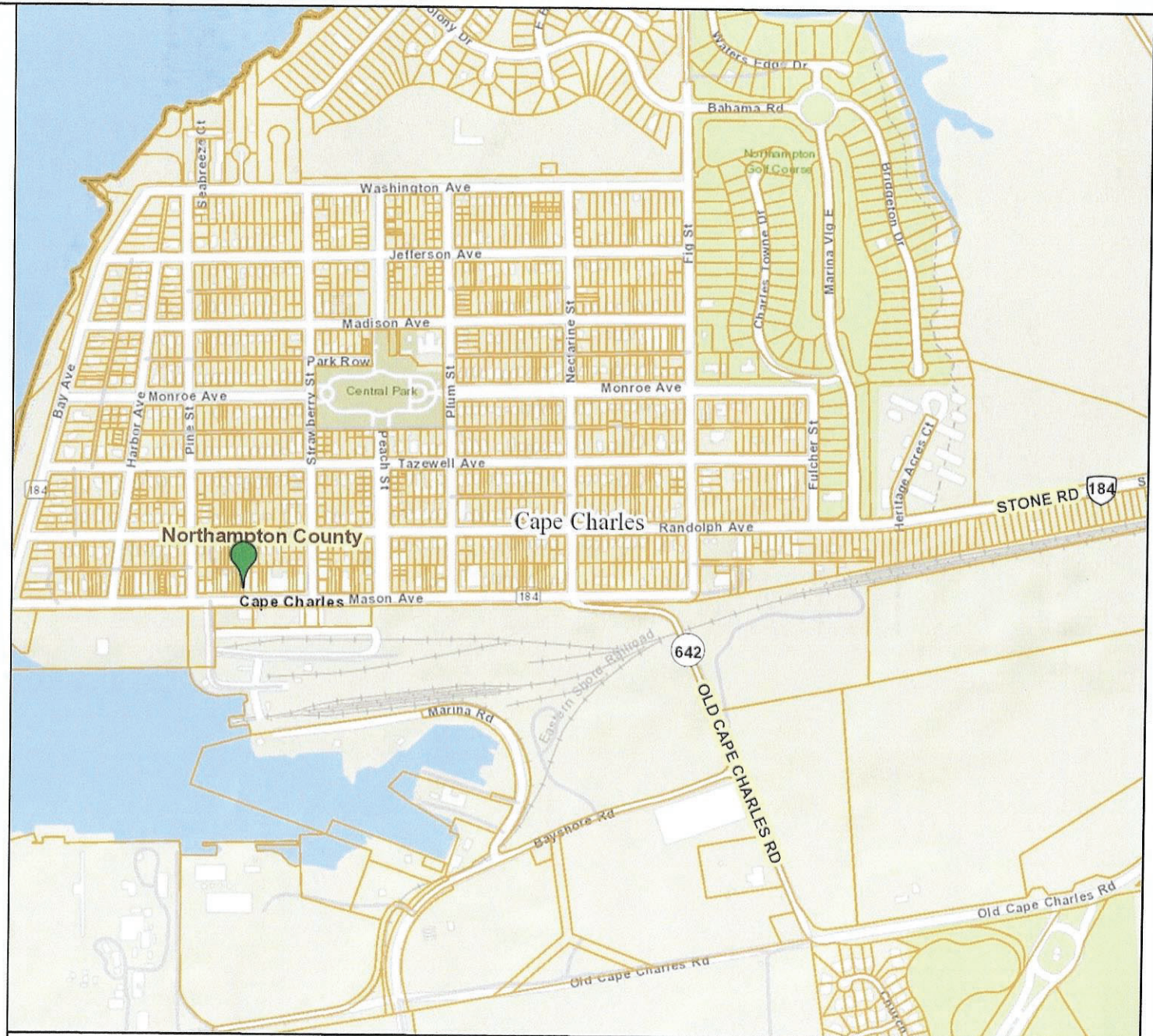


Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAL	Balcony - 1.00	280	0
OFS	Office - Standard - 1.00	1,800	0
RTL	Retail - 1.00	3,800	0
WST	Warehouse Storage - 1.00	120	0
		6,000	0

Northampton County, Virginia

Legend

- County Boundaries
- Town Names
- Route Numbers
- Road Labels
- Parcels
- Driveways



Map Printed from Northampton
<https://parcelviewer.geodecisions.com/Northampton/>

Feet
0 200 400 600 800
1:9,028 / 1"=752 Feet

Title:

Date: 7/28/2021

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Northampton County is not responsible for its accuracy or how current it may be.



OWNER PERMISSION AFFIDAVIT

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

PROPERTY INFORMATION

Subject Property Street Address: 219 Mason Ave, Cape Charles, VA 23310
Subject Property Tax ID Number: 83A3-1-631

OWNER INFORMATION

Name (Person, Firm, Corporation, or Agency): Paul G Watson III & William D Watson
Mailing Address: PO BOX 5 CAPE CHARLES VA 23310
Phone Number: 757-695-2779 Email: CHIP@CAPECHARLES.COM
&SANDYSHOESCOTTAGE@YAHOO.COM

APPLICANT INFORMATION (If applicable)

Name: Todd A. Bricken
Mailing Address: 4090 Della Dr. WESTMINSTER, Maryland 21157
Phone Number: 301-418-0786 Email: charchef@mindspring.com

I am applying for, or I hereby give authority to the applicant to file an application for:

Conditional Use Permit

Signature of Owner: Paul G Watson III Date: 08/17/2021
8/17/2021 6:45:33 AM EDT

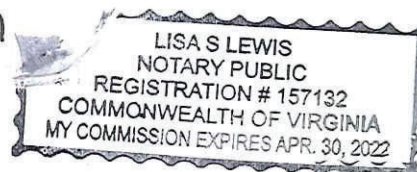
William D Watson 08/17/2021
8/17/2021 6:45:09 AM EDT

Commonwealth of Virginia

County of Northampton

The foregoing instrument was acknowledged before me this 17 day of August, 2021, by Paul G Watson III (name of person acknowledged).

Signature of Notarial Officer: Lisa S Lewis
Notary Registration Number: 157132
My Commission Expires: 4/30/2022



(Seal)

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

From: [Bill Ellison](#)
To: [Katie Nunez](#); [charchef](#)
Subject: Fw: Initial Drawings - 219 Mason Avenue
Date: Thursday, September 2, 2021 2:51:29 PM
Attachments: [Bricken - Cape Charles 8-31-21.pdf](#)

Good Afternoon Katie,

At the request of Tood Bricken, I'm forwarding our current concept drawings for 219 Mason Avenue:

- Ex-1 Existing Conditions Plan
- A1.1 - Proposed Improvement Plans
- A1.2 - Enlargement of Apartment Area

You'll see that we are intending to expand the existing second-floor-front to establish three (3) loft style (short term rental) apartments and one separate second-floor-apartment in the rear.

The first floor could be either one or two separate commercial tenants as illustrated; the larger one being well suited for a potential restaurant, brewery, etc.; exploiting a large portion of the existing large and tall room; leaving a small single-exit retail space. Or, the first floor space could be readily demised as two more equitably sized spaces, each with a second exit at the rear.

We are continuing to work on some alternate concepts including the expansion of the rear unit to have a loft-type bedroom (still at the second floor); and another concept that would provide two separate apartments at the rear (giving up the rest of the high ceiling in the commercial space.

In summary we see establishing 4 residential units; (with the possibility of a fifth)....
Please feel free to contact me with any questions, comments or concerns.

Best Regards,

Bill Ellison

President - Caddworks, Inc.
Principle - Ellison & Benjamin Architecture
301-695-9121 ext.21
<http://www.caddworks.net>

From: Bill Ellison <bellison@caddworks.net>

Sent: Tuesday, August 31, 2021 5:35 PM
To: todd <charchef@mindspring.com>
Subject: Initial Drawings - 219 Mason Avenue

Todd,
See attached; my initial drawing and design concept.

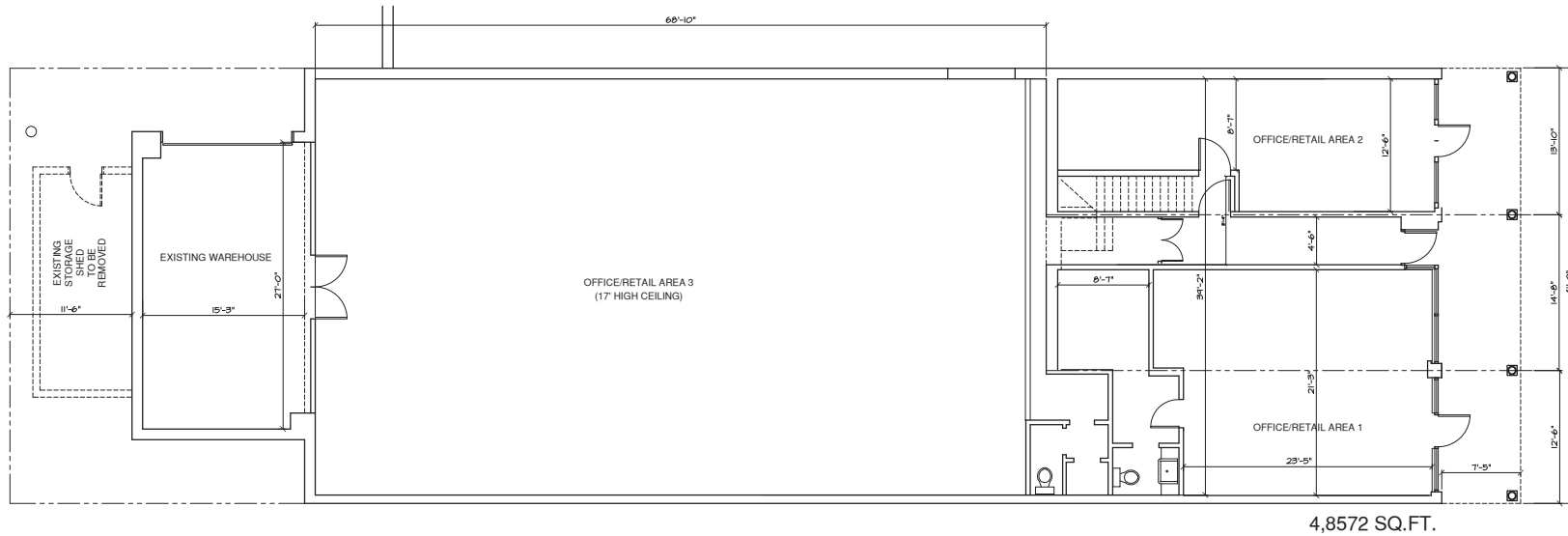
- Ex-1 Existing Conditions Plan
- A1.1 - Proposed Improvement Plans
- A1.2 - Enlargement of Apartment Area

I'll look forward to discussing these layouts; along with other possible scenarios.
Hope you're pleased with the initial effort.

Best Regards,
Bill

Bill Ellison

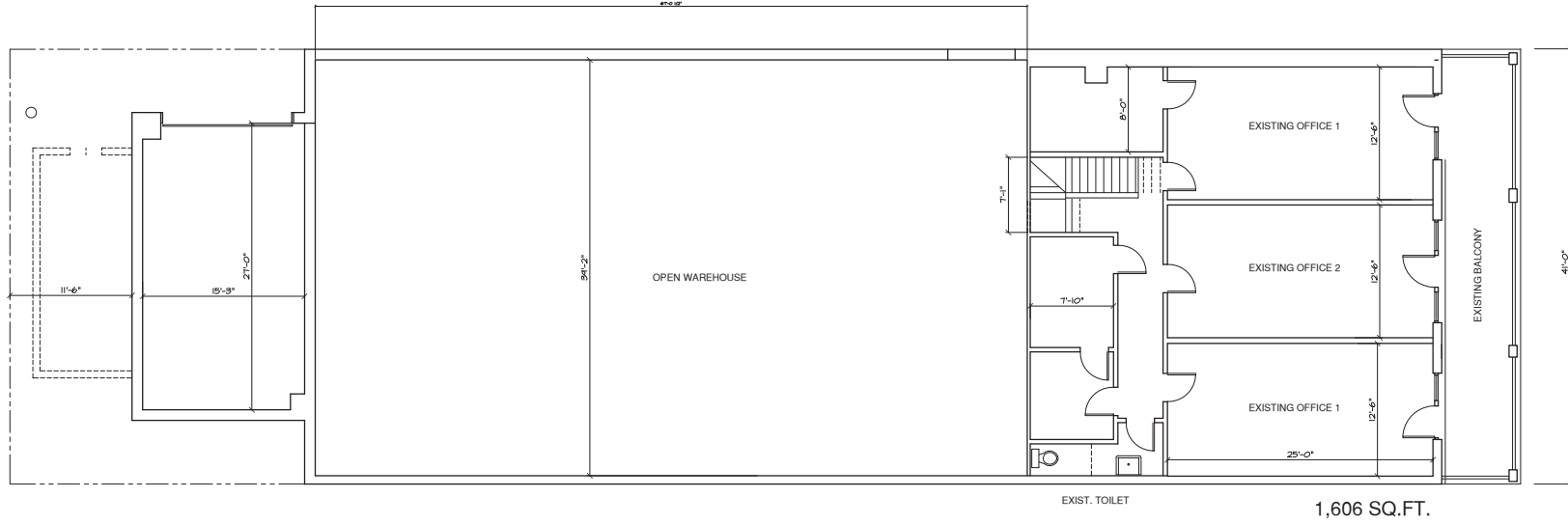
President - Caddworks, Inc.
301-695-9121 ext.21
<http://www.caddworks.net>



FIRST FLOOR PLAN

EXISTING CONDITIONS

SCALE: 1/8"=1'-0"



SECOND FLOOR PLAN

EXISTING CONDITIONS

SCALE: 1/8"=1'-0"

PROPOSED RENOVATION

219 MASON AVENUE

CAPE CHARLES, VIRGINIA

TODD & LILIANA BRICKEN

SHEET NO.
EX1

PROJ. NO.: 558-03

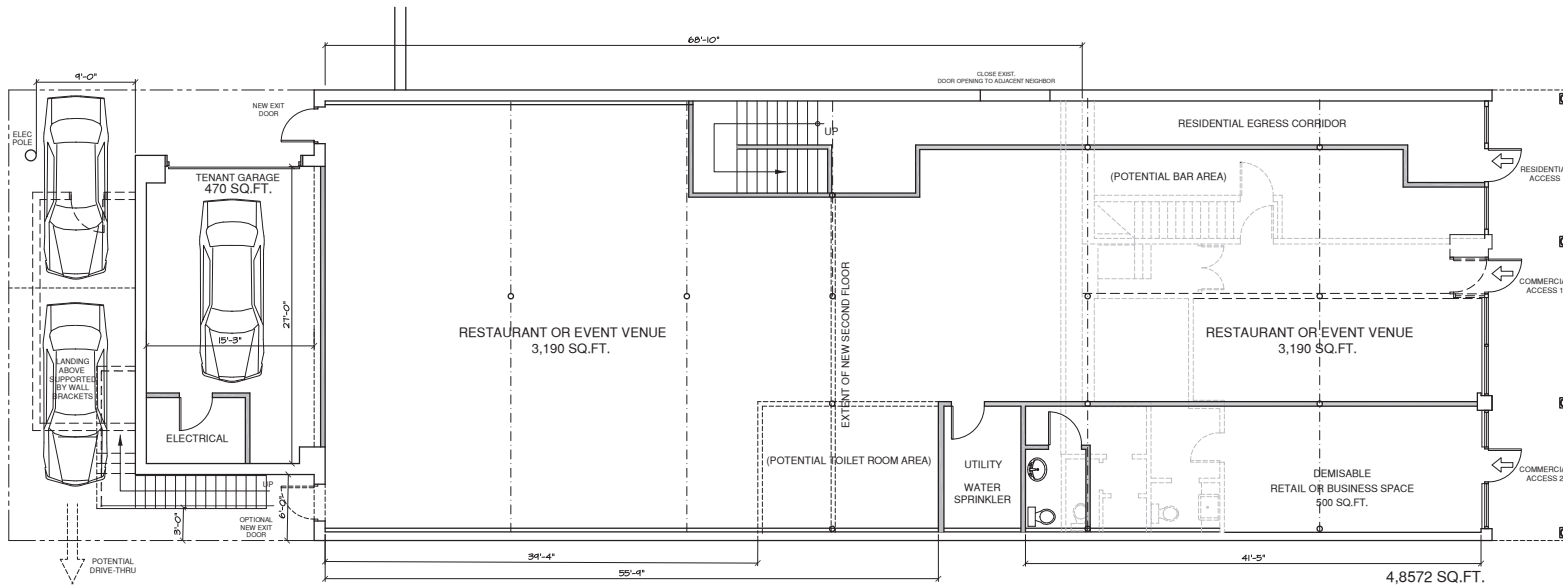
SUBMITTALS

ISSUE	DATE	DRAWN BY	REMARKS
1	8-21-21	PHE	EXIST. CONDITIONS AND CONCEPT DINGS
2	8-24-21	PHE	SCHEME 2
3	10-21-21	PHE	PARKING OPTION - THIRD SPACE
4			
5			
6			



332 WEST PATRICK STREET / FREDERICK, MD / 21701
(V) 301.495.9721 (E) DESIGN@CADDWORKS.NET
(F) 301.495.4648 (W) WWW.CADDWORKS.NET

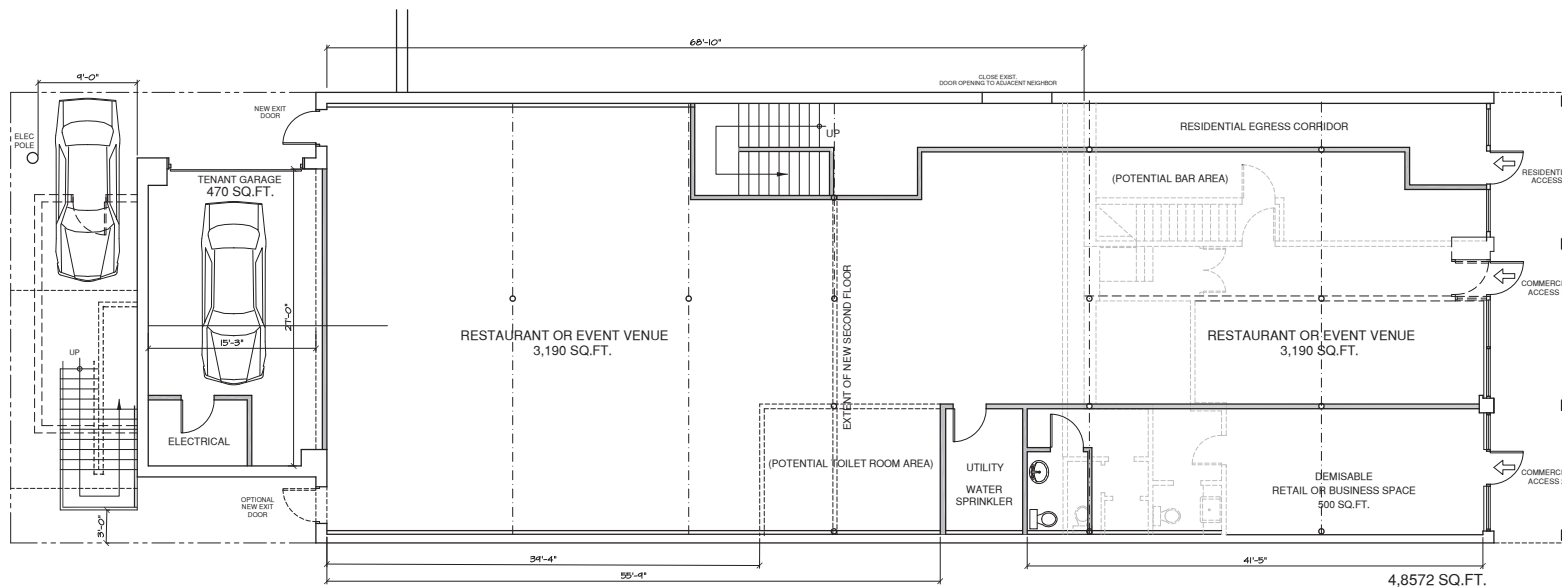
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FIRST FLOOR PLAN - SCHEME 2A

PROPOSED IMPROVEMENTS
THIRD PARKING SPACE

SCALE: 1/8"=1'-0"



FIRST FLOOR PLAN - SCHEME 2

PROPOSED IMPROVEMENTS

SCALE: 1/8"=1'-0"



RESIDENTIAL DESIGN
332 WEST PATRICK STREET / FREDERICK, MD / 21701
(V) 301.495.9721 (E) DESIGN@CADDWORKS.NET
(F) 301.495.4648 (W) WWW.CADDWORKS.NET

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SUBMITTALS

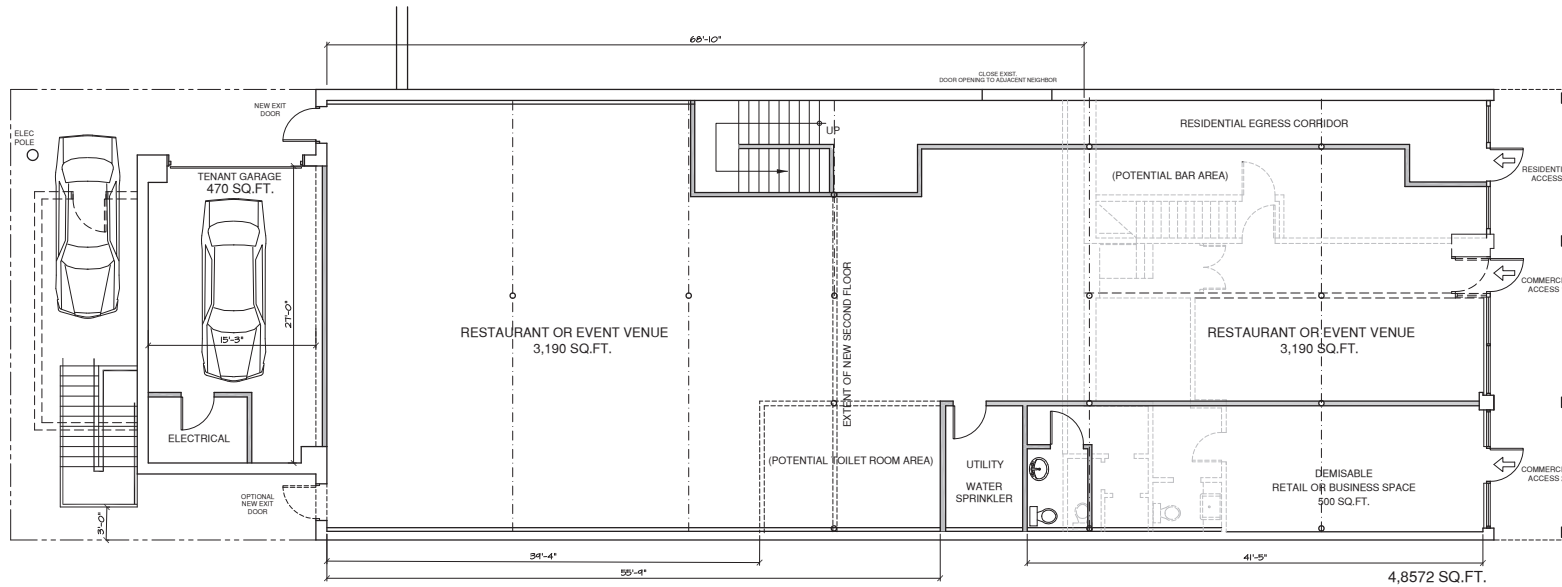
ISSUE	DATE	DRAWN BY	REMARKS
1	8-21-21	PHE	EXIST. CONDITIONS AND CONCEPT DRWG
2	9-24-21	PHE	SCHEME 2
3	10-21-21	PHE	PARKING OPTION - THIRD SPACE

SCHEME 2 PROPOSED RENOVATIONS

PROPOSED RENOVATION
219 MASON AVENUE
CAPE CHARLES, VIRGINIA
TODD & LILIANA BRICKEN

SHEET NO.
A-1.2

PROJ. NO.: 558-03



FIRST FLOOR PLAN - SCHEME 2

PROPOSED IMPROVEMENTS

SCALE: 1/8"=1'-0"

PROPOSED RENOVATION

219 MASON AVENUE

CAPE CHARLES, VIRGINIA

TODD & LILIANA BRICKEN

SHEET NO.

A-1.2

PROJ. NO.: 558-03

SUBMITTALS

ISSUE DATE	DRAWN BY	REMARKS
8-21-21	MJE	EXIST. CONDITIONS AND CONCEPT DYNOS
8-24-21	MJE	SCHEME 2



RESIDENTIAL DESIGN

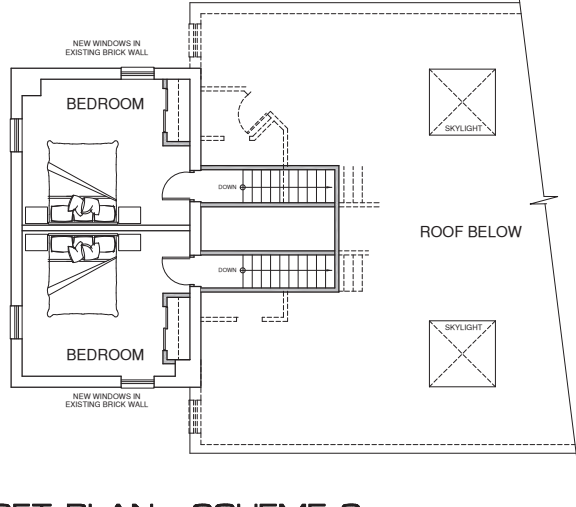
332 WEST PATRICK STREET / FREDERICK, MD / 21701

(T) 301.695.9721 (E) DESIGN@CADDWORKS.NET

(F) 301.695.4848 (W) WWW.CADDWORKS.NET

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2 BEDROOM APARTMENT
873 SQ.FT. + 470 SQ.FT. LOFT

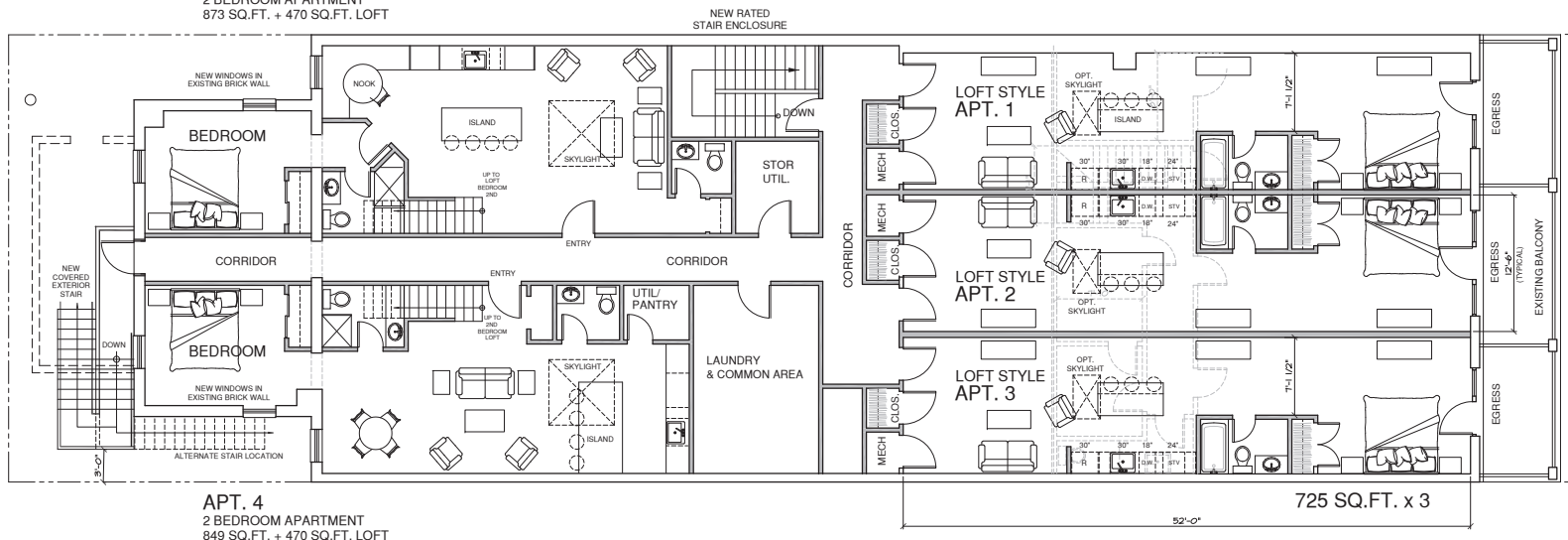


LOFT PLAN - SCHEME 2

PROPOSED IMPROVEMENTS

SCALE: 1/8"=1'-0"

APT. 5
2 BEDROOM APARTMENT
873 SQ.FT. + 470 SQ.FT. LOFT



SECOND FLOOR PLAN - SCHEME 2

PROPOSED IMPROVEMENTS

SCALE: 1/8"=1'-0"

SUBMITTALS

ISSUE	DATE	DRAWN BY	REMARKS
1	8-21-21	PHE	EXIST. CONDITIONS AND CONCEPT DINGS
2	9-24-21	PHE	SCHEME 2
3	10-21-21	PHE	PARKING OPTION - THIRD SPACE

**SCHEME 2
PROPOSED
RENOVATIONS
5 APT.**

PROPOSED RENOVATION

**219 MASON AVENUE
CAPE CHARLES, VIRGINIA
TODD & LILIANA BRICKEN**

SHEET NO.
A-2

PROJ. NO.: 558-03



PLANNING COMMISSION PRELIMINARY STAFF REPORT

Meeting Date: November 9, 2021

Item #: 8A (1)

Prepared by: Katie H. Nunez, Interim Planning/Zoning Administrator

Date: November 2, 2021

APPLICANT: Kate & Steve Keeler
SITE ADDRESS: 630 Tazewell Avenue

TAX MAP: 83A3-1-437 & 436
LOT SIZE: 11,200 sq. ft.

TYPE OF APPLICATION: Conditional Use Permit
SPECIFIC REQUEST: An accessory dwelling unit located on second floor of accessory structure
ZONING ORDINANCE: Section 4.2 (J)
CURRENT ZONING: Residential (R-1)

DATE RECEIVED: October 13, 2021

DATE DEEMED COMPLETE: October 25, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): January 24, 2022

NARRATIVE OF PROPOSAL

The applicant has an existing accessory structure on the property with the first floor used as a garage and a second floor that the new owners of the property would like to build out and use as an overflow area for family and guests but not as a rental unit. Since the proposed utilization of the second floor of the accessory structure meets the requirement of the Accessory Dwelling definition, I advised the applicant to apply for a Conditional Use Permit to ensure full compliance with the zoning ordinance.

AERIAL MAP: *Property outlined in blue*



ORDINANCE REQUIREMENTS

The Cape Charles Zoning Ordinance Section 4.2 (J) states that:

Accessory Dwellings. One accessory dwelling may be maintained on a property in the R-E, R-1, R-2 and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3, and subject to the following:

1. Physical characteristics.

- a. Accessory dwellings shall be located in an accessory building.*
- b. Accessory dwellings shall not have a floor area exceeding forty-five (45) percent of the floor area of the main building.*
- c. Accessory dwellings shall have one kitchen and one bathroom.*
- d. Accessory buildings shall not have the appearance of a single-family dwelling.*

2. Occupancy characteristics.

- a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.*
- b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.*

3. Other requirements.

- a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.*
- b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.*
- c. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6. (Table of Parking Standards) using both on and off-street parking areas.*
- d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.*

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 December 7, 2021, meeting. Staff will prepare a comprehensive staff report for that public hearing which evaluates the application in compliance with the requirements of the Cape Charles Zoning Ordinance and any other matters identified by the Planning Commission.

RECOMMENDATION TO THE PLANNING COMMISSION:

Staff recommends that the Planning Commission schedule a public hearing December 7, 2021, for a Conditional Use Permit for an Accessory Dwelling Unit at 630 Tazewell Avenue on an application filed by Amy & Steve Keeler, pursuant to Cape Charles Zoning Ordinance Section 4.2 (J).

Attachments:

Attachment 1 – CUP Application Packet



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: Keddey Carriage House
Property Address: 630 Tazewell Ave
Brief Description of Project: Build out of second floor of Ex. Two story Garage
Zoning District: R-1 Current Use: Accessory bldg Proposed Use: Accessory dwelling unit

OWNER INFORMATION

Name and Company: Kate and Steve Keddey
Mailing Address: 630 Tazewell Ave, Cape Charles Va 23310
Phone Number: 540-931-4281 Email: Kate.obenshain@gmail.com

APPLICANT INFORMATION

☐ check here if applicant is owner

Name: Claudine Pierce Peacock Cottage LLC
Mailing Address: 10 Tazewell Ave, Cape Charles Va 23310
Phone Number: 703-609-5818 Email: mypeacockcottage@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: Claudine A Pierce Date: 10/13/21

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

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: Address: 630 Tarzwell Ave The following criteria are required for one accessory dwelling to be maintained on a property in the R-E, R-1, R-2, and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3:

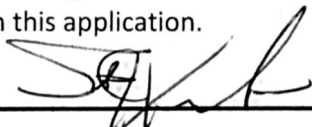
1. Is the accessory dwelling unit located in an accessory building? YES ☒ NO ☐
2. Does the accessory dwelling floor area exceed of forty-five (45) percent of the floor area of the main building? YES ☐ NO ☒ Accessory Dwelling Unit square footage 638 sq.ft.
3. Does the accessory dwelling have one kitchen and one bathroom? YES ☐ NO ☐
4. Does the accessory building/dwelling differentiate from the single-family dwelling? YES ☒ NO ☐

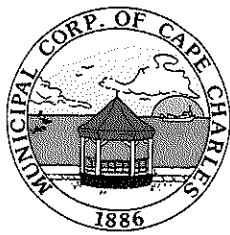
The following conditions must be maintained for an accessory dwelling unit on a property in the R-E, R-1, R-2, and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3: 1. Occupancy characteristics.

- a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.
 - b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.
2. Other requirements.
- a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.
 - b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
 - c. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6. (Table of Parking Standards) using both on and off-street parking areas.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.

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. I am providing authorization to the town authorities to enter my properties to confirm accuracy of information contained in this application.

Signature of Owner: 



OWNER PERMISSION AFFIDAVIT

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

PROPERTY INFORMATION

Subject Property Street Address: 630 Tazewell Ave
Subject Property Tax ID Number: _____

OWNER INFORMATION

Name (Person, Firm, Corporation, or Agency): Kate Keeler
Mailing Address: 630 Tazewell Ave, Cape Charles, VA 23310
Phone Number: 540-931-4281 Email: kate.obenshain@gmail.com

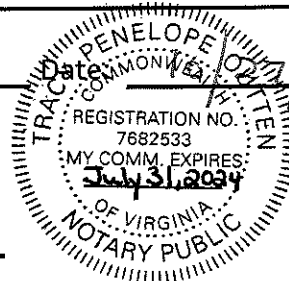
APPLICANT INFORMATION (If applicable)

Name: Peacock Cottage LLC - Claudine Pierce
Mailing Address: 10 Tazewell Ave
Phone Number: 703-609-5818 Email: mypeacockcottage@gmail.com

I am applying for, or I hereby give authority to the applicant to file an application for:

Steven and Kate Keeler

Signature of Owner: Kate Keeler



Commonwealth of Virginia

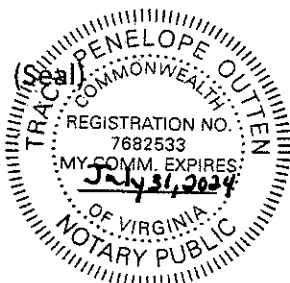
County of Northampton

The foregoing instrument was acknowledged before me this 27 day of October,
2021, by Kate Keeler (name of person acknowledged).

Signature of Notarial Officer: Traci Outten

Notary Registration Number: 7682533

My Commission Expires: July 31, 2024



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

PEACOCK COTTAGE LLC

10 Tazewell Ave.
Cape Charles, VA 23310
mypeacockcottage@gmail.com

October 13th, 2021

To: Zoning Administrator
Town of Cape Charles

Re: Letter of Intent
Conditional Use Permit for an Accessory Dwelling Unit
630 Tazewell Avenue

Dear Katie

The owner's of 630 Tazewell have an existing two story carriage house located on the rear east side of their property that currently houses a two car garage on the first floor and an open finished space on the second floor. The existing accessory building was permitted and built by a previous owner and is not considered a historic contributing structure.

The new owners, Kate and Steve Keeler, would like to maintain the garage space on the first floor and build out the second floor to provide a family overflow area for the main house. The proposed second floor layout would contain a bathroom and a kitchenette area. The Keelers do not intend to use this building now or in the future as a rental unit or for profit of any sort.

The exterior renovations associated with the proposed new build out were approved by the Historic District Review Board on 7/21/21. There is also off street parking for at least five cars provided in the existing driveway.

The proposed accessory dwelling unit meets all "physical characteristics" as per Article IV Section J.1 and "other requirements" per Article IV Section J.3 including off street parking.

We have attached an existing site plan, drawings of the carriage house as approved by the Historic District Review and the Certificate of Appropriateness.

Please let us know if you need any additional information to complete this application.

Best,



Claudine Pierce
703-609-5818

PEACOCK COTTAGE LLC

10 Tazewell Ave.
Cape Charles, VA 23310
mypeacockcottage@gmail.com

October 13th, 2021

To: Zoning Administrator
Town of Cape Charles

Re: 630 Tazewell Ave
Conditional Use Permit
List of adjacent property owners.

Dear Katie,

Per the Conditional Use Permit Checklist here are the names and addresses of the adjacent property owners.

Properties on either side of 630 Tazewell:

620 Tazewell Ave:
Claudette Lajoie
127 Peach Street.
Cape Charles, VA 23310

638 Tazewell:
Robert and Wendi White
375 Outwater Lane
Saddlebrook, NJ 07662

Properties across the street from 630 Tazewell:

615 Tazewell Ave:
David and Fleur Howgill
215 6th St SE
Washington DC 20003

Lot across the Street from the Keelers - we could not find the information for these owner's but they are currently building a new house there.

629 Tazewell:
Sarah and Jim Severs
113 Buckingham Pl.
Waynesboro, VA 22980

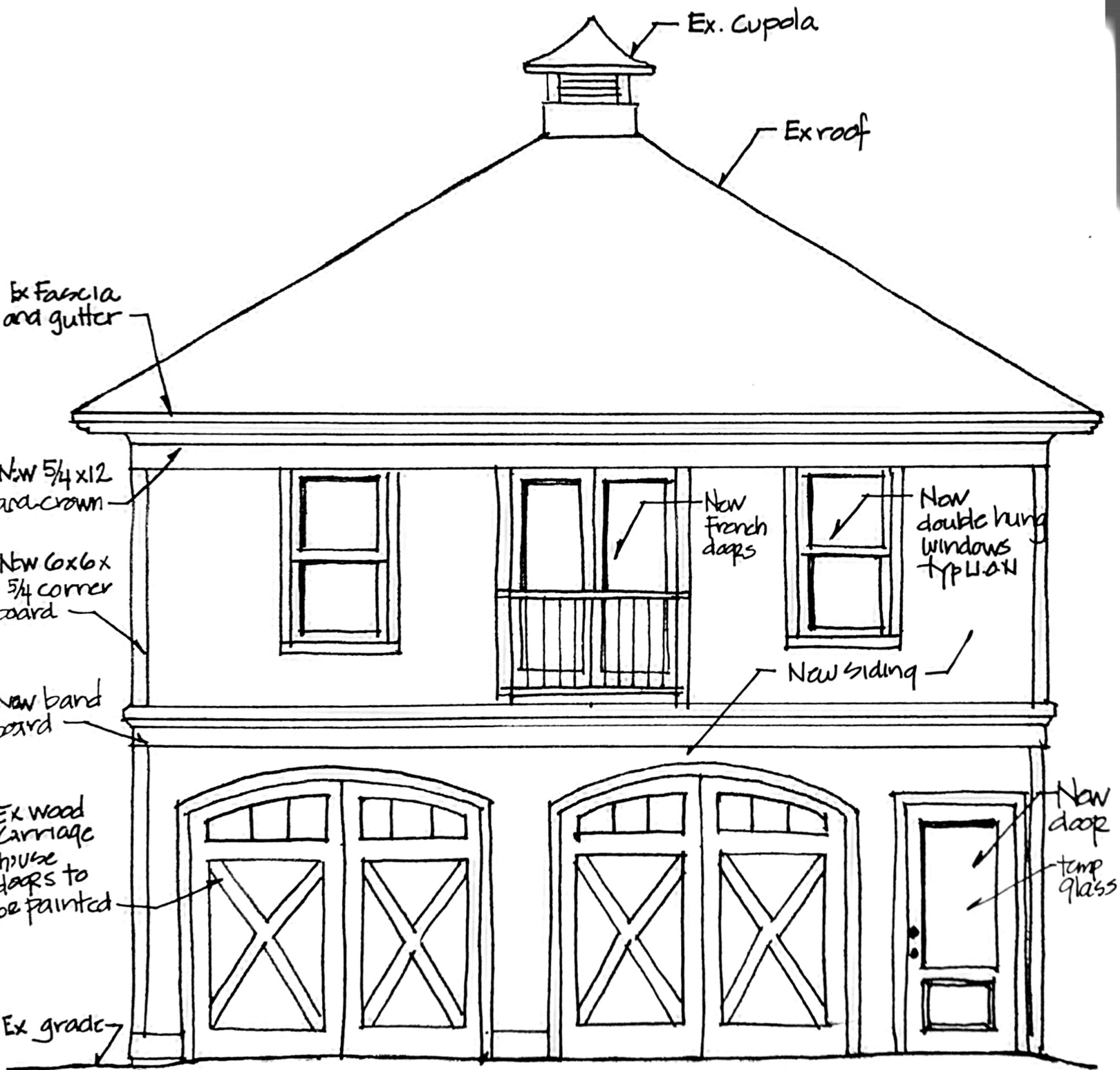
Behind 630 Tazewell:

627 Randolph [empty lot]
Traci Hawthorne
13190 Fawborough Rd
Montpelier, VA 23192

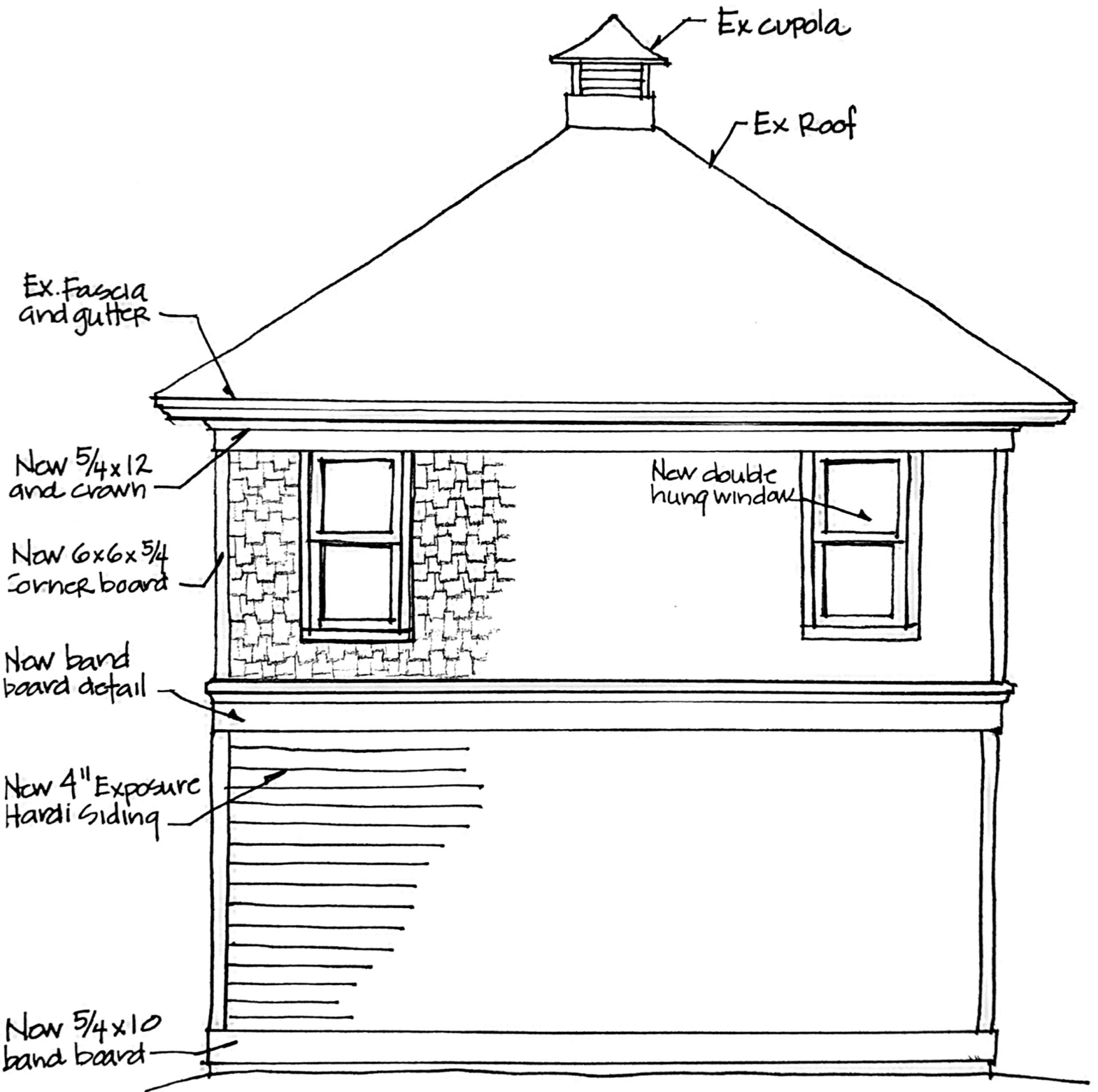
Please let me know if you need anything else.

Best,

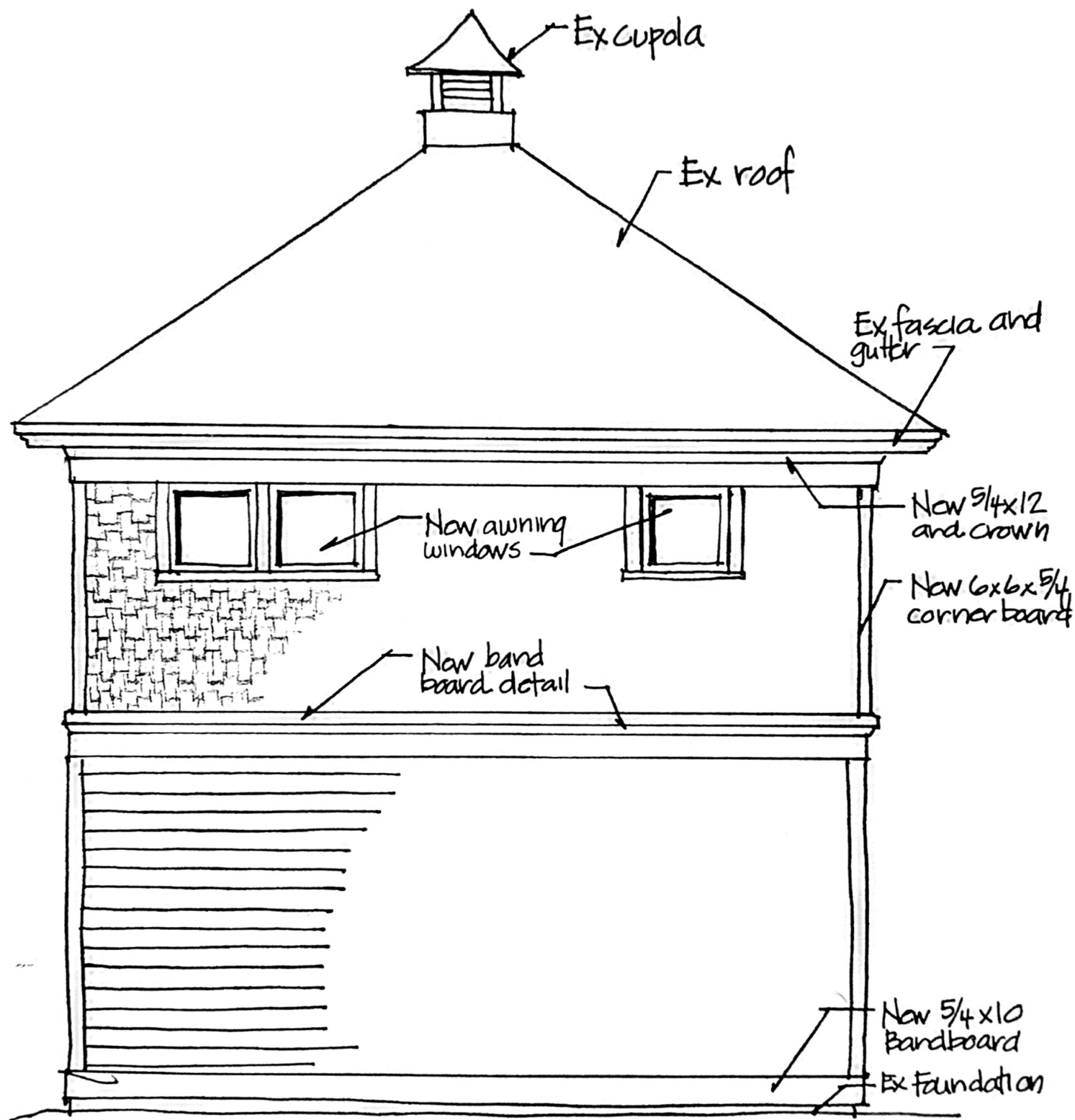
Claudine Pierce
Claudine Pierce
703-609-5818



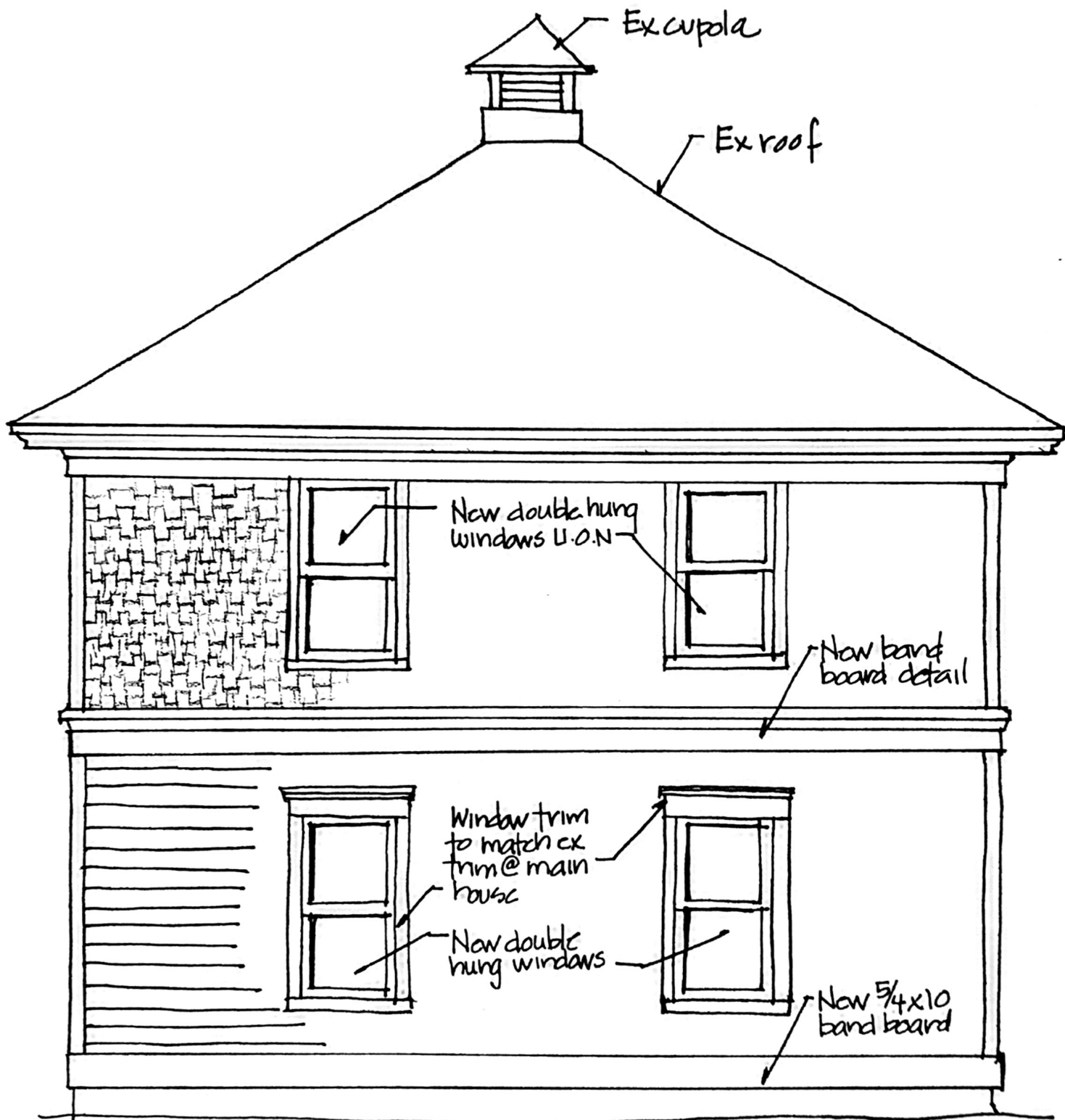
North Elevation - Tazewell Side



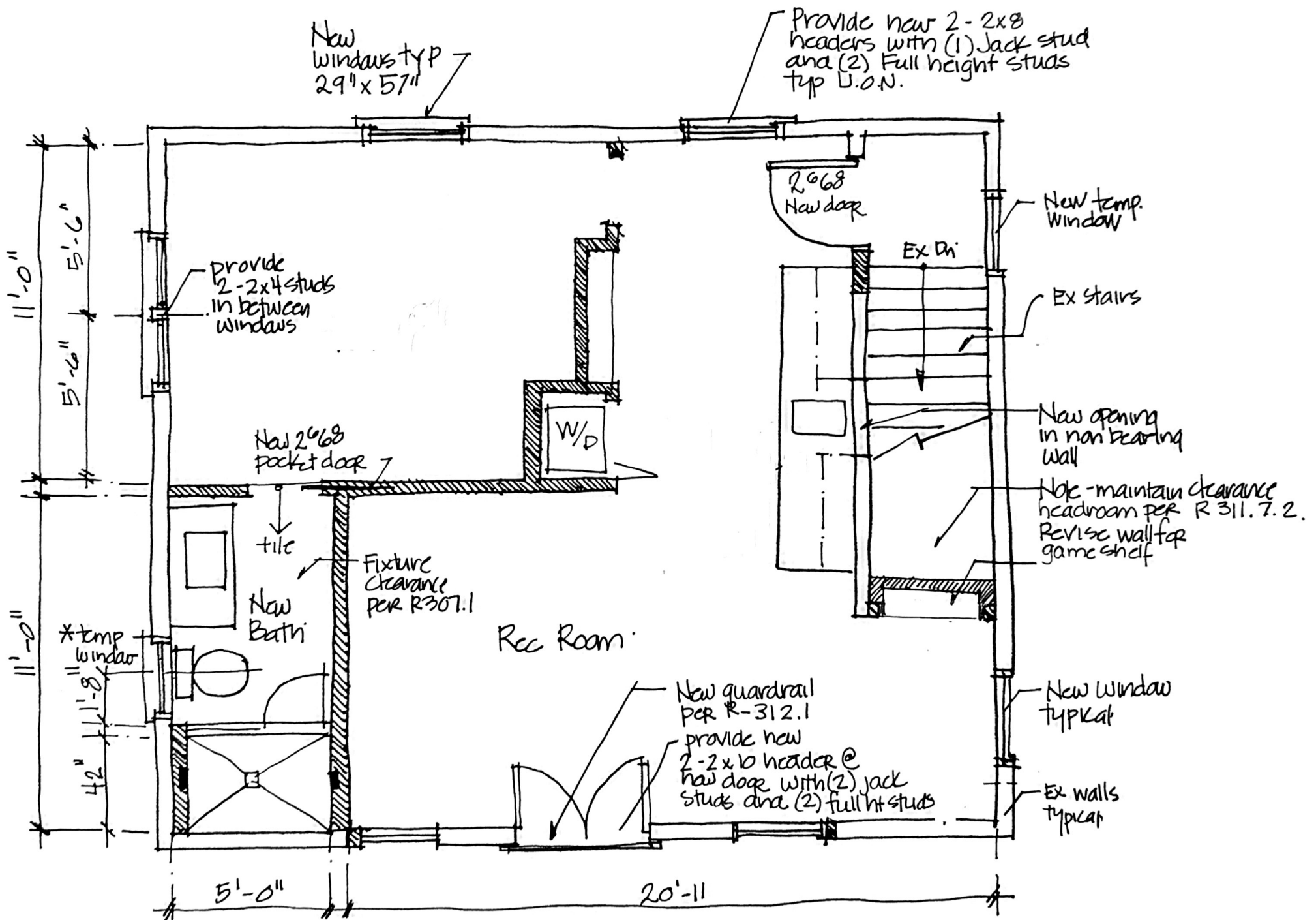
West Side Elevation



East Side Elevation



South Side Elevation



Proposed Floor Plan.



**MUNICIPAL CORPORATION OF
CAPE CHARLES
HISTORIC DISTRICT REVIEW BOARD**

Date Issued: 7/21/2021

Issued to: Claudine Pierce, Peacock Cottage LLC
10 Tazewell Avenue
Cape Charles, VA 23310

For Property: 630 Tazewell Avenue
Cape Charles, VA 23310

This Certificate of Appropriateness has been issued for the above-noted property for the purpose of:

Renovating the existing two-story garage as follows: (1) replace existing first floor service door with new, painted door with a single glass panel over two double raised wood panels. Will retain the garage doors – just refreshing with paint; (2) replace existing second floor left and right side windows on the north side with new double hung windows in similar size to the house windows; (3) replace the middle window on the second floor with a pair of French doors; (4) add double hung windows on the second floor south and east side where there are currently no windows; (5) replace the existing awning windows on the west side with new double hung windows in a similar size as the existing house windows; and (6) replace the existing vinyl shingle scalloped upper siding with new painted Hardie shingle siding and the lower vinyl siding with new 5" exposure Hardie siding on the lower half and add a mid-point trim band. New windows will be trimmed to match the existing home window trim detail using composite materials. The Historic District Review Board approved the application as presented.

Designated conditions to be met are as follows: N/A

This Certificate of Appropriateness shall be valid for only the specific use described above. It is valid for a period of one year after the date of approval; if not acted upon within one year, or if work is suspended or abandoned for a period of twelve months after work has commenced, this Certificate of Appropriateness shall become null and void.

There is a thirty day right of appeal of this decision by the owner of the property or by any party aggrieved, pursuant to Cape Charles Zoning Ordinance Section 8.32.

Edward Wells

Chair, Historic District Review Board

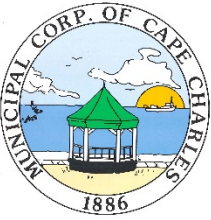
7/21/2021

Date

Planning Technician

7/21/2021

Date

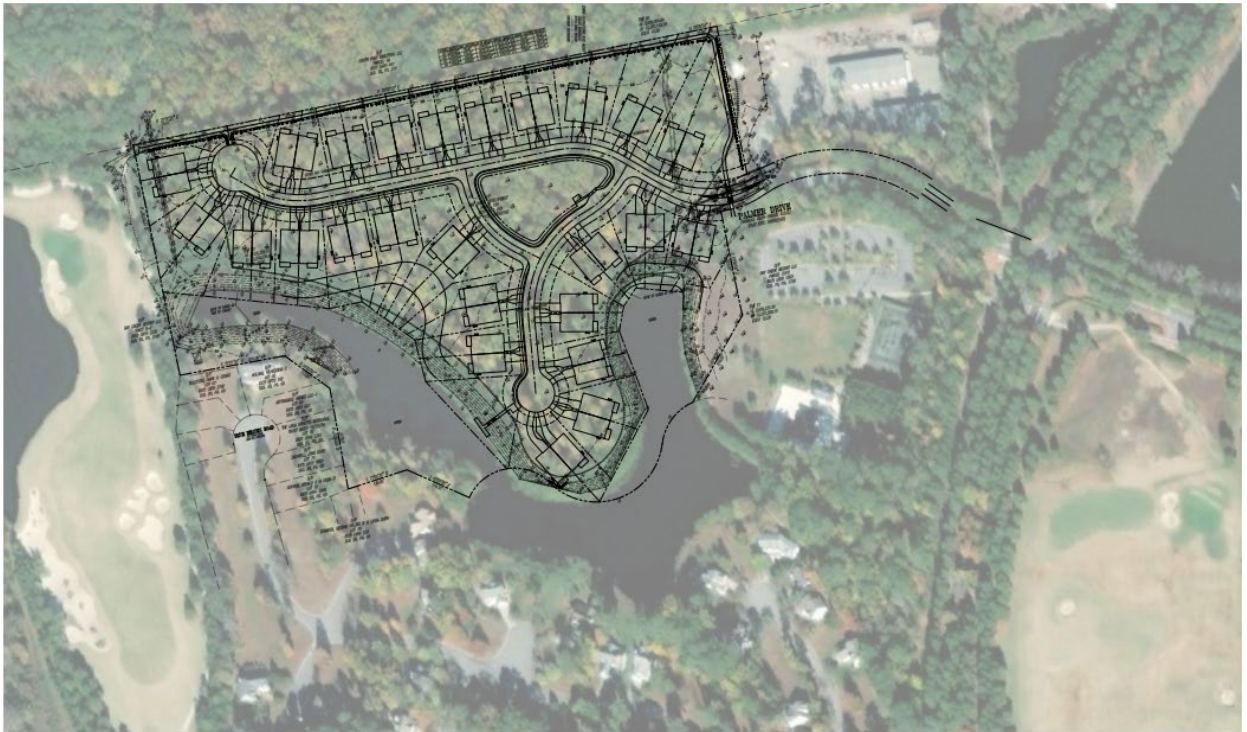


Municipal Corp. of Cape Charles

OCTOBER 2021 MONTHLY REPORT

Katie H. Nunez, Interim Planning/Zoning Administrator

- 1) Subdivision Agent:
 - A) Dreams by the Bay – 10 lot subdivision – tax map # 83A1-A-2 –Engineer has submitted revisions to VDOT on 10/21/2021 but has not resubmitted to the Town at this time.
 - B) Bay Creek – Village J (Palmer Drive) – tax map #90-30-P20 – 50 duplex units



- 2) Board of Zoning Appeals - Code of Virginia Section 15.2-2310
[Planning Commission shall be provided any applications filed with the Board of Zoning Appeals.]

There were no applications filed or heard for the November BZA Meeting and no applications have been filed by the deadline of November 2, 2021 for their December 14, 2021 meeting.