Planning Commission

Joint Public Hearing with Town Council &

Regular Session Agenda

Cape Charles Civic Center – 500 Tazewell Avenue

May 3, 2022, at 6:00 P.M.

1. Call to Order
   A. Roll call and establish a quorum

2. Invocation and Pledge of Allegiance

3. Consent Agenda
   A. Approval of agenda format
   B. Approval of Minutes
      1. November 9, 2021 – Regular Session
      2. December 7, 2021 – Regular Session
      3. December 20, 2021 – Work Session
      4. January 4, 2022 – Regular Meeting
      5. February 1, 2022 – Regular Meeting

4. Public Hearings:
   A. Joint public hearing on Zoning Text Amendment (ZTA) 2022-01: Accessory Dwelling Unit and Definitions
   B. Joint public hearing on Zoning Map Amendment (ZMA) 2022-01: Application from Cape Charles Ventures, LLC to conditionally rezone 238 Randolph Avenue (Tax Map # 83A3-1-625A) from Residential-1 to Commercial-1 with proffers to limit the commercial activity of said proposed rezoning
   C. Joint public hearing on Conditional Use Permit (CUP) 2022-002: Application from Cynthia Emrich & Charles van Dyck at 420 Randolph for an Accessory Dwelling Unit Permit After the Fact

5. Citizen Comment Period, for any item not subject to an advertised public hearing

6. Unfinished Business: None

7. New Business:
   A. Schedule public hearing on Conditional Use Permit (CUP) 2022-003: Application from Michelle and Nathan Davidson at 211 Madison Avenue for an Accessory Dwelling Unit and In-Ground Pool

8. Report of Officers and Committees

9. Standing Staff Reports
   A. Interim Planning & Zoning Administrator Monthly Report for April 2022
      1.) Subdivision Agent Report
      2.) Report on Applications filed with Board of Zoning Appeals, pursuant to Code of Virginia §15.2-2310

10. Announcements - Next Meetings:
    - Regular Session: June 7, 2022 @ 6:00 pm

11. Adjourn

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PLANNING COMMISSION
Public Hearing and Regular Meeting
Cape Charles Civic Center
November 9, 2021
6:00 p.m.

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

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

ANNUAL REORGANIZATION OF BOARD

A. Election of Officers for a term of one year: Chairman and Vice-Chairman

Bill Stramm accepted the nomination for Chairman to the Planning Commission.

Motion made by Paul Grossman, seconded by Jim Holloway, to accept the nomination of Bill Stramm for Chairman of the Cape Charles Planning Commission.

Dennis McCoy accepted the nomination for Vice-Chairman to the Planning Commission.

Motion made by Michael Strub, seconded by Paul Grossman, to accept the nomination of Dennis McCoy for Vice-Chairman of the Cape Charles Planning Commission.

AGENDA

Chairman Bill Stramm approved the agenda format and minutes from the Planning Commission August 3, 2021 Regular Session and from the September 7, 2021 Regular Session as presented by unanimous consent.

Chairman Bill Stramm read the Notice of Public Hearings and opened the public hearings.

PUBLIC HEARING:

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 Cape Charles Zoning Ordinance Section 3.2 (C) (7) & 4.2 (J)

Katie Nunez read the staff report and pointed out that this was a corner lot, and the applicants would need to obtain a Certificate of Appropriateness from the Historic District Review Board. She thought that was in line with the Comprehensive Plan. Ms. Nunez said the applicants were available by phone for any questions.

Sam Scharf, owner, stated that the goal was to provide living space for a teacher or another long-term tenant.

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

Motion made by Paul Grossman, seconded by Jim Holloway to close the public hearing for a Conditional Use Permit for an Accessory Dwelling Unit at 410 Harbor Avenue. The motion was approved by unanimous vote.

Motion made by Paul Grossman, seconded by Michael Strub, to recommend Town Council approval of a Conditional Use Permit for an Accessory Dwelling Unit at 410 Harbor Avenue on an application filed by Sam and Amy Scharf, pursuant to Cape Charles Zoning Ordinance Sections 3.2 (C) (7) and 4.2 (J) 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 Departments; and further finds that the Conditional Use Permit (CUP) standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan. The motion was approved by unanimous vote.

B. *A Conditional Use Permit application for a Mini Golf Course 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) on Randolph Avenue, directly across from Heritage Acres Court (Tax Map #83A4-1-B-26,27,28, & 29): pursuant to CCZO Section 3.8 (B) (2).*
Katie Nunez read the staff report. Paul Grossman said he counted only nineteen parking spaces not twenty on the plans. Katie Nunez confirmed that the parking requirement has been meant and it was twenty spaces.

Tom and Katie Austin, applicants, explained that the mini-golf course would be fun for all ages. Katie Austin went through the proposed layout and added that they were going for a quaint charm and while having beautiful landscaping.

Discussion and questions were as follows: (i) Michael Strub asked if there would be alcohol sold; yes, beer, wine, and canned cocktails. He added that there were some concerns about the noise and that the residential district deserved to be quiet. The applicants were only proposing speakers and wanted a family atmosphere not a bar scene. (iii) Paul Grossman wanted the applicants to address the concerns that were listed in the staff report. The applicants' comments were as follows: (1) two small speakers located closer to the patio were the only sound system being used; no live music; (2) the proposed black aluminum fence would be 4 feet tall; (3) the 6 feet by 6 feet deep dumpsters would be placed on the southeast corner; (4) The club house would not be an eat in facility and they were thinking about serving sandwiches, chips, ice cream, and other carry out items. Michael Strub wanted to make sure there would be adequate disposal for trash so litter would not become an issue. (5) The closing time would be 9:00 p.m. and could potentially be earlier in the shoulder season. (6) Katie Nunez read her comment. (7) The landscaping would be used as a buffer for noise. (8) Lighting would be dark sky compliant and have a similar design to the Cape Charles Central Park lamp post. Dennis McCoy asked if the bulbs were lighting emitting diode (LED); yes. Jim Holloway asked if the lighting was intended for golf play; no, for landscaping lighting in the course. (9) The sign would be polyvinyl chloride (PVC) and they understood the approval process. (10) MSA, PC Surveyors would be submitting a stormwater site plan. (11) Katie Nunez that the sidewalk requirement needed to be discussed by the Planning Commission and the Town Council. and (iv) Jim Holloway asked if a plan was in place to have a golf cart entrance along the golf cart path that runs along the former rail tracks; no. Bill Stramm stated that that path goes past this property. Ken Butta would like to see a golf cart path run behind the Commercial – 3 District.

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

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Motion made by Paul Grossman, seconded by Dennis McCoy, to close the public hearing for a Conditional Use Permit for a Mini-Golf Course on Tax Map #83A4-1-B-26, 83A4-1-B-27, 83A4-1-B-28, and 83A4-1-B-29. The motion was approved by unanimous vote.

Motion made by Paul Grossman, seconded by Jim Holloway, to recommend Town Council approval of a Conditional Use Permit for a Mini-Golf Course on 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. and 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. The motion was approved by unanimous vote.

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 #83A1-1-191) in the Residential-1 Zoning District for an accessory dwelling unit pursuant to Cape Charles Zoning Ordinance Section 4.2 (J).*
Katie Nunez read the staff report.

Todd Bricken, applicant, said that he intended to retire in Cape Charles. He hired an architect that has experience with historic buildings and was dedicated a parking space on the inside of the building.

Discussion and questions were as follows: (i) Dennis McCoy thought this was an incomplete application. Katie Nunez disagreed. (ii) Paul Grossman asked if the alleyway was wide enough for cars; yes. Dennis McCoy wanted to know if emergency vehicle could use it. Jim Holloway thought bringing up safety issues now was good. (iii) Bill Stramm was concerned about parking. The applicant would like to find another property owner to do shared parking with. Paul Grossman said parking was an issue and reminded everyone of the updated section in the Cape Charles Zoning Ordinance. Jim Holloway would like the parking table to be explained. and (iv) The first floor of the building would be leased for commercial use and second floor would be used for short-term rentals.

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

Motion made by Dennis McCoy, seconded by Jim Holloway, to close the public hearing for a Conditional Use Permit for five (5) Dwelling Units on second floor above first floor commercial. The motion was approved by unanimous vote.

Motion made by Jim Holloway, seconded by Dennis McCoy, to recommend Town Council approval of a Conditional Use Permit for five (5) Dwelling Units on second floor above

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first floor commercial at 219 Mason Avenue on an application filed by Todd A. Bricken, pursuant to Cape Charles Zoning Ordinance Section 3.6 (C) with the following condition: the applicant must reach compliance on the parking requirements with a shared parking arrangement or by asking The Board of Zoning Appeals for relief on the parking standards. The motion was approved by unanimous vote.

CITIZEN COMMENTS:
There were no citizen comments to be heard nor any written comments submitted prior to the meeting.

UNFINISHED BUSINESS
There was no unfinished business.

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 – An accessory dwelling unit pursuant to CCZO Section 3.2 (C) (7) & 4.2 (J)*
      Katie Nunez summarized the staff report.

      Paul Grossman has a hardship with this application and does not think it fits in with the Comprehensive Plan or the intent of what was envisioned for an accessory dwelling unit. Kenneth Butta agreed.

Motion made by Paul Grossman, seconded by Jim Holloway, to schedule a public hearing on December 7, 2021 for a Conditional Use Permit for an Accessory Dwelling Unit at 630 Tazewell Avenue on an application filed by Kate and Steve Keeler, pursuant to Cape Charles Zoning Ordinance Sections 3.2 (C) (7) and 4.2 (J). The motion was approved by unanimous vote.

REPORT OF OFFICERS AND COMMITTEES
There were no reports from the officers or committees.

STANDING STAFF REPORTS
Katie Nunez gave updates on the following: (i) Two subdivisions: Dreams by the Bay and Bay Creek Village J (Palmer Drive); and (ii) There were no applications filed in December for the Board of Zoning Appeals.

ANNOUNCEMENTS
- Public Hearing & Regular Session – December 9, 2021, at 6:00 p.m. in the Civic Center
- Comprehensive Plan Work Sessions from 3:00 p.m. – 5:00 p.m. in the Civic Center:
  - November 15, 2021: Land Use (Ken Butta/Jim Holloway)
  - December 20, 2021: Community Facilities (Diane D'Amico)

Motion made by Jim Holloway, seconded by Dennis McCoy, to adjourn the Planning Commission Public Hearings and Regular Meeting at 7:43 p.m. The motion was approved by unanimous vote.

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Chairman Bill Stramm

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Planning Technician

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PLANNING COMMISSION
Public Hearing and Regular Meeting
Cape Charles Civic Center
December 7, 2021
6:00 p.m.

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

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

AGENDA
Chairman Bill Stramm approved the consent agenda as presented by unanimous consent.

Chairman Bill Stramm read the Notice of Public Hearing and opened the public hearing.

PUBLIC HEARING:

A. *A Conditional Use Permit application from Claudine Pierce, Peacock Cottage LLC, with consent from the property owners Steve and Katie Keeler at 630 Tazewell Avenue (Tax Map #83A3-1-436) in the Residential-1 Zoning District for an accessory dwelling unit pursuant to Cape Charles Zoning Ordinance Section 4.2 (J).*
Katie Nunez read the staff report and informed the commission that an amended letter of intent had been received. (Please see attached.)

Paul Grossman asked if an existing structure was being renovated; yes.

Steve and Kate Keeler, owners, thanked the staff and commissioners for their time and read the amended letter of intent.

Discussion and questions were as follows: (i) Paul Grossman wanted to confirm that if this was being used for family overflow it would be for over thirty days or this space would not be used. Kate Keeler ensured him that the accessory dwelling unit would be used as the ordinance intended. (ii) Diane D'Amico asked if they understood it had to be the same person for thirty days, yes. The owners thought their older parents or kids would be using the space. Diane D'Amico questioned the applicants if this could potentially become workforce housing; that depended on the circumstances. Paul Grossman said the intent for infill was to provide affordable housing for the workforce. and (iii) Michael Strub said the comprehensive plan was in the process of being updated and an affordable housing section needed to be included. He thought the applicants understood the intended use.

Tracy Outten read a comment submitted in writing by Jill and Ken Monarch. There were no public comments to be heard nor any additional written comments submitted prior to the meeting for this application.

Motion made by Paul Grossman, seconded by Jim Holloway to close the public hearing at 6:20 p.m. for a Conditional Use Permit for an Accessory Dwelling Unit at 630 Tazewell Avenue. The motion was approved by unanimous vote.

Motion made by Paul Grossman, seconded by Dennis McCoy, to recommend Town Council approval of a Conditional Use Permit for an Accessory Dwelling Unit at 630 Tazewell Avenue on an application filed by Claudine Pierce, Peacock Cottage LLC, with consent from the property owners Steve and Katie Keeler, pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) based on the owners spoken testimony and the amended letter of intent dated December 6, 2021 with the following conditions: 1) the applicant follows any approvals received from the Historic District Review Board 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 Departments; and further finds that the Conditional Use Permit (CUP) standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan. The motion was approved by majority vote with Diane D'Amico opposing.

CITIZEN COMMENTS:
There were no citizen comments to be heard nor any written comments submitted prior to the meeting.

UNFINISHED BUSINESS
There was no unfinished business.

NEW BUSINESS
There was no new business.

REPORT OF OFFICERS AND COMMITTEES
There were no reports from the officers or committees.

STANDING STAFF REPORTS
Katie Nunez gave updates on the following: (i) Approval of a subdivision and boundary line adjustment plat between the Town of Cape Charles and the Cape Charles Rosenwald School; (ii) There were no applications filed for the Board of Zoning Appeals but, one potentially for a variance to allow residential on the 1st floor of a commercial building. and (iii) Three proposals have been received in response to the comprehensive plan consulting services request for proposals.

ANNOUNCEMENTS
- Regular Session – January 4, 2022, at 6:00 p.m. in the Civic Center
- Comprehensive Plan Work Sessions from 3:00 p.m. – 5:00 p.m. in the Civic Center:
    - December 20, 2021: Community Facilities (Diane D'Amico)

Motion made by Paul Grossman, seconded by Jim Holloway, to adjourn the Planning Commission Public Hearing and Regular Meeting at 6:47 p.m. The motion was approved by unanimous vote.

Chairman Bill Stramm

Planning Technician

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Amended Letter of Intent and Comment Submitted in Writing
December 7, 2021, Planning Commission Public Hearing

December 6, 2021

To: Zoning Administrator
Town of Cape Charles

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

Dear Katie:

Thanks to feedback from you, we understand the "family overflow" comment in our letter of intent has caused concern for members of the Planning Commission. We understand that concern, and are hopeful that the Commission will grant our permit with the understanding that we will abide by the Occupancy Characteristics requirement: "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."

We have six adult children between the ages of 19 and 25. We also have an 87 year old mother and 86 year old father. We envision this space as being available for the grown children and/or our parents to come and reside for a period of time--perhaps a few months in between jobs--in the case of our children--or for a more extended time for one of our parents, should that become necessary.

When we submitted this application we did not consider that we would ever rent our space for workforce housing, but after living in Cape Charles for some months now, we realize that need is, indeed, extreme. We would certainly consider renting the space to a teacher or other member of our local workforce; in fact, we would love to make that contribution to the community as we've seen the impact of the local housing shortage on local businesses, schools and other organizations.

We respectfully ask that our letter of intent be amended to reflect our understanding of the 30-day occupancy requirement, and our willingness to consider renting our space for longer-term periods toward providing workforce housing. We continue to maintain that we have no intention of using the space for short term rentals.

Thank you for your consideration.

Sincerely,

Steve and Kate Keeler

Jill and Ken Monarch,
Subject: Steve and Kate Keeler at 630 Tazewell Ave

To the Cape Charles Planning Commission,

Our names are Jill and Ken Monarch. We are building the home at 621 Tazewell across the street from the Keelers. We received a letter regarding the work the Keelers would like to do to their home. We would like the commission to know that we support the Keelers in their endeavor to make their home/garage/property suitable for their family needs. We hope the town is able to find a way to accommodate their request. Thank you.

Jill and Ken Monarch

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PLANNING COMMISSION
Work Session
Cape Charles Civic Center
December 20, 2021
3:00 p.m.

At approximately 3:00 p.m., Chairman, Bill Stramm having established a quorum, called to order the Work Session of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Kenneth Butta, Diane D'Amico, Jim Holloway, Dennis McCoy, and Michael Strub. Paul Grossman was not in attendance. Also, in attendance were Interim Town Planner/Zoning Administrator Katie Nunez and Planning Technician Tracy Outten. There were no members of the public in attendance.

Katie Nunez informed the commissioners that Summit Design and Engineering Services was awarded the contract for the Comprehensive Plan and Zoning updates.

APPROVAL OF AGENDA

Motion made by Michael Strub, seconded by Jim Holloway, to approve the agenda format as presented. The motion was approved by unanimous vote.

ORDER OF BUSINESS

A. *Comprehensive Plan update*
   i. *Community Facilities and Services*
   Diane D'Amico gave an overview of how the chapter was written.

   Discussions were on the following: (i) Water and Wastewater data: Bob Panek and Katie Nunez were in the midst of working with an engineer to figure out the capacity; (ii) internet hotspot locations in the Town; (iii) The Harbor District Overlay; (iv) whether or not to include the Cape Charles Yacht Center; (v) include beach maintenance as service; (vi) Action amenities need to be written out; (vii) Diane D'Amico based emphasis on year-round residents rather than tourist. (viii) The section written about the Historic District should be moved to the Land Use chapter. (ix) The Streetscapes section would be better placed in the Land Use and Environment chapters. (x) The Tree Advisory Committee and Tree City USA were mentioned in the Environment chapter. and (xi) All schools in our area need to be included in the comprehensive plan.

Motion made by Jim Holloway, seconded by Dennis McCoy, to adjourn the Planning Commission Work Session. The motion was approved by unanimous vote.

The meeting adjourned at 5:00 p.m.

Chairman Bill Stramm

Planning Technician

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PLANNING COMMISSION
Regular Meeting
Cape Charles Civic Center
January 4, 2022
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, Town Clerk Libby Hume, and the applicants. There were no members of the public in attendance and twenty-one viewers on Facebook Live.

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

AGENDA
Chairman Bill Stramm approved the agenda format presented by unanimous consent.

PUBLIC HEARING:
There was no public hearing.

CITIZEN COMMENTS:
There were no citizen comments to be heard nor any written comments submitted prior to the meeting.

UNFINISHED BUSINESS
There was no unfinished business.

NEW BUSINESS
A. *Schedule public hearing for the following Conditional Use Permit Application:*
   1. *520 Randolph Avenue (Tax Map #83A3-1-580): Kathleen and Todd Glaser – An Accessory Structure with Dwelling Unit pursuant to CCZO Section 4.2 (J).*
   Katie Nunez summarized the staff report.

   Dennis McCoy asked if the Conditional Use Permit for the bed and breakfast would now be converted for short-term rentals. Katie Nunez answered no and explained that the applicant was relinquishing the bed and breakfast conditional use permit as one of the requirements was that the owner resides on site.

   Kathy Glaser, applicant, briefly explained that she needed a place to live while renovating the main house on this property.

Motion made by Paul Grossman, seconded by Dennis McCoy, to schedule a public hearing on February 1, 2022 for a Conditional Use Permit for an Accessory Dwelling Unit at 520 Randolph Avenue on an application filed by Kathleen and Todd Glaser pursuant to Cape Charles Zoning Ordinance Section 4.2 (J). The motion was approved by unanimous vote.

REPORT OF OFFICERS AND COMMITTEES
There were no reports from the officers or committees.

STANDING STAFF REPORTS

Katie Nunez gave updates on the following: (i) Two subdivisions: Dreams by the Bay and Bay Creek Village J (Palmer Drive); (ii) An application was filed seeking a variance to allow first floor residential in the Commercial – 1 District for the February Board of Zoning Appeals meeting. (iii) Summit Design and Engineering Services was awarded the contract for Comprehensive Plan and Zoning Updates on December 16, 2021 by Town Council. (iv) The Commonwealth Preservation Group and the Town Council will be hosting a Town Hall style meeting on Thursday, January 27, 2022. and (v) Annual Report was being finalized.

ANNOUNCEMENTS

- Regular Session – February 1, 2022, at 6:00 p.m. in the Civic Center
- Work Session – January 24, 2022 from 3:00 p.m. – 5:00 p.m. in the Civic Center

Motion made by Paul Grossman, seconded by Dennis McCoy, to adjourn the Planning Commission Regular Meeting at 6:22 p.m. The motion was approved by unanimous vote.

Chairman Bill Stramm

Planning Technician

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PLANNING COMMISSION
Public Hearing and Regular Meeting
Cape Charles Civic Center
February 1, 2022
6:00 p.m.

At 6:00 p.m., Chairman Bill Stramm, having established a quorum, called to order the Public Hearing and Regular Meeting of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Kenneth Butta, Diane D'Amico, Paul Grossman, Jim Holloway, Dennis McCoy, and Michael Strub. Also, in attendance were Interim Planning/Zoning Administrator Katie Nunez, Planning Technician Tracy Outten, Town Clerk Libby Hume, and the applicants. There were no members of the public in attendance and twenty-one viewers on Facebook Live.

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

AGENDA
Motion made by Paul Grossman, seconded by Jim Holloway, to approve the agenda format as presented. The motion was approved by unanimous vote.

PUBLIC HEARING:

A. *A Conditional Use Permit application from Kathleen and Todd Glaser at 520 Randolph Avenue (Tax Map #83A3-1-580) in the Residential-1 Zoning District for an accessory structure with dwelling unit pursuant to Cape Charles Zoning Ordinance Section 4.2 (J).*
Katie Nunez read her report and analysis. She informed the commission that the applicant did not indicate how the accessory dwelling unit would be used after the house renovations were completed.

Dennis McCoy asked if this application should be suspended until all questions were answered and since this could be considered an incomplete application. Paul Grossman was satisfied with the documentation received since the accessory dwelling unit checklist was signed. Kenneth Butta said an affidavit and conditions could be added if this application was approved.

Diane D'Amico asked if the parking requirements were being met; yes.

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

Motion made by Paul Grossman, seconded by Dennis McCoy to close the public hearing for a Conditional Use Permit for an Accessory Dwelling Unit at 520 Randolph Avenue at 6:10 p.m. The motion was approved by unanimous vote.

Motion made by Paul Grossman, seconded by Kenneth Butta, to recommend Town Council approval of a for a Conditional Use Permit for an Accessory Dwelling Unit at 520 Randolph Avenue on an application filed by Kathleen and Todd Glaser pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) 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; 2) the applicant obtains all required permits and approvals from the Building and Planning

Departments; and further finds that the Conditional Use Permit (CUP) standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan; and 3) upon the occupancy of the Accessory Structure as a dwelling by the applicant at 520 Randolph Avenue, then the CUP issued by the Town on July 18, 2016 for a Bed and Breakfast, owned and operated by the applicant at 530 Randolph Avenue, will be relinquished by the applicant since the requirements of the CUP will not be met, particularly the residency requirement for Bed and Breakfast establishments. The motion was approved by unanimous vote.

CITIZEN COMMENTS:
There were no citizen comments to be heard nor any written comments submitted prior to the meeting.

UNFINISHED BUSINESS
There was no unfinished business.

NEW BUSINESS
There was no new business.

REPORT OF OFFICERS AND COMMITTEES
There were no reports from the officers or committees.

STANDING STAFF REPORTS
Katie Nunez gave updates on the following: (i) Three subdivisions: Bay Creek Village J (Palmer Drive), Dreams by the Bay, and Bay Creek Village L; and Cape Charles Mini Golf Site Plan; (ii) The applicant withdrew the application filed seeking a variance to allow first floor residential in the Commercial – 1 District for the February Board of Zoning Appeals meeting. (iii) Summit Design and Engineering Services Kick-Off meeting for Comprehensive Plan and Zoning Updates is on February 2, 2022. and (iv) She was working on revising job descriptions and staffing organization of the department.

ANNOUNCEMENTS
- Regular Session – March 1, 2022 at 6:00 p.m. in the Civic Center
- Joint Meeting with Town Council – February 2, 2022 at 6:00 p.m. in the Civic Center for the Comprehensive Plan and Zoning Ordinance update contract Kick-Off Meeting with Summit Design Engineering

Motion made by Paul Grossman, seconded by Jim Holloway, to adjourn the Planning Commission Public Hearing and Regular Meeting at 6:18 p.m. The motion was approved by unanimous vote.

Chairman Bill Stramm

Planning Technician

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TOWN OF CAPE CHARLES
Joint Public Hearings
Planning Commission & Town Council

The Cape Charles Planning Commission will hold a joint public hearing with Town Council on Tuesday, May 3, 2022, at 6:00 pm in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive comment on the following applications:

A. A Zoning Text Amendment (ZTA) 2022-01 application from the Town of Cape Charles to amend Section 4.2 (J) – Accessory Dwelling Units - and Section 2.9 Definitions associated with Accessory Dwelling Units.
B. A Zoning Map Amendment (ZMA) 2022-01 application from Cape Charles Ventures, LLC to conditionally rezone 238 Randolph Avenue (Tax Map #83A3-1-625A) from Residential-1 to Commercial-1 with proffers to limit the commercial activity of said proposed rezoning.
C. A Conditional Use Permit (CUP) 2022-01 application from Cynthia Emrich & Charles van Dyck at 420 Randolph Avenue for an Accessory Dwelling Unit Permit After the Fact

These applications are available for public review on our website at www.capecharles.org, under Agendas & Minutes / Planning Commission. Please contact the Planning Department at 757-331-2036, or by email at planner@capecharles.org if you have any questions or require additional information.

AD PLACED: Eastern Shore Post on Wednesday, April 6, 2022
AD TO RUN: Friday, April 15, 2022 and Friday, April 22, 2022

JOINT PUBLIC HEARING
PLANNING COMMISSION & TOWN COUNCIL
STAFF REPORT

Meeting Date: May 3, 2022
Item #: 4A
Prepared by: Katie H. Nunez, Interim Planning/Zoning Administrator
Date: April 26, 2022

APPLICANT: Planning Commission & Town Council

TYPE OF APPLICATION: Zoning Text Amendment

SITE ADDRESS: All Zoning Districts

SPECIFIC REQUEST: ZTA2022-01: to amend Accessory Dwelling Unit section and associated definitions

Attached is 3-page document titled "PROPOSED ZONING TEXT AMENDMENTS SECTION 4.2 (J) – ACCESSORY DWELLING UNITS & SECTION 2.9 – DEFINITIONS AS OF 3/1/2022"

NARRATIVE OF PROPOSAL

Cape Charles Zoning Ordinance §4.2 (J) – Accessory Dwelling Units was adopted in November 2018 and a review was recently performed to ascertain if the ordinance was working as intended by the Planning Commission and Town Council, including a review of §2.9 – Definitions for terms associated with the Accessory Dwelling Units zoning ordinance. Since January 2022, you have conducted three meetings focused on this review and reached a final draft text amendment which was forwarded to Town Council for their meeting on March 17, 2022.

A staff report was provided that detailed the significant proposed changes to the zoning ordinance and received input from the Town Council which included the following comments, which are not unanimous from the Town Council but offered by individual members:

- Glad to see that this is still focused on a long-term rental concept and would not mind a requirement of owner occupancy of one of the 2 structures on the property with the other structure being allowed for rental.
- Concerned about having too many requirements or regulations, including too extensive of definitions relative to kitchens; recognize that people would like the flexibility to use these types of structures as overflow housing for relatives or friends visiting.
- Appreciative and support of the 2 affidavits verifying annual compliance with zoning ordinance and safety components of the Building Code.
- Want to ensure that we have sufficient staff to continue to administer and monitor issued permits for ADUs

STAFF REVIEW

These proposed changes to the Zoning Ordinance were debated over several work sessions. Below, please find an expanded rationale or background on the proposed changes as a result of those meetings of the Planning Commission.

Section 4.2 (J) – removal of Conditional Use Permit requirement

Based upon the process to date, we felt that if we could improve and strengthen the criteria and requirements for an Accessory Dwelling Unit and make them components of the application for a Zoning Permit for an Accessory Dwelling Unit, then it was not necessary to secure this through a Conditional Use Permit process. Staff noted that a Conditional Use Permit (CUP) process requires a public hearing through the Planning Commission and the Town Council and also requires a legal advertisement in the local paper and notification by letter to the adjacent property owners and generally takes approximately 4 to 5 months from when an application is received to when Town Council is able to vote on the matter and requires an application fee of $600. Typically, a CUP process is utilized when the proposed use may be unique and consideration of conditions imposed due to unique site conditions/noise/traffic or other business operational issues that could impact a neighborhood which may need to be mitigated.

The request for an Accessory Dwelling Unit is not unique or requiring imposition of conditions to address any unique property constraints or operational concerns. Additionally, as long as the square footage lot requirement is met and that the accessory dwelling unit conforms to its maximum size limitation as a result of the lot size, principal structure square footage and height relationship (which are contained in the Zoning Ordinance) and all parking requirements as well as compliance with any other required elements of an ADU, such as length of stay are acknowledged and adhered to, then this could all be handled by a specific application being completed that obtains all of this information and includes places for affidavit acknowledgment of these requirements by the property owner, then this could be handled by the Zoning Administrator and the Department's issuance of a Zoning Permit for an Accessory Dwelling Unit.

This would eliminate costs to the property owner as well as reduce the workload of staff by removing the public hearing requirement which includes the drafting and placing of a legal ad, the adjacent property owner notification and mailing and at least 3 staff reports bringing this matter through the public hearing process.

Section 4.2(J) – add a new Statement of Intent:

It was determined that adding a Statement of Intent at the beginning of the section would help provide the proper context as to the discussions regarding the addition of Accessory Dwelling Units to the zoning ordinance and the specific type of housing need this is seeking to fill in the community. **Additionally, we wanted to emphasize that the ability to provide for an increased housing density allowance on a minimum lot size in the residential districts is being offered under very specific conditions and criteria which were identified through the Comprehensive Plan to help bring additional housing units for long-term rental use to help fill an identified void in the housing market.**

Section 4.2(J) (1) – expansion of physical characteristics requirements of one kitchen area, one bathroom, and a sleeping area as well as including a definition for each of these terms and the term BEDROOM:

These terms are not currently defined in the Cape Charles Zoning Ordinance and there has been ambiguity and confusion over the exact meaning and intent of these terms, particularly the term kitchen. The Building Code requires the inclusion of a stove as part of the definition of kitchen; however, based upon the changes and proliferation of kitchen equipment for cooking/heating/backing, we did not feel that a stove is an essential element of a kitchen, especially one for an accessory dwelling unit which is square footage limited in relation to the principal residence and the utilization of these other types of kitchen equipment (microwave, toaster oven, slow cooker, air fryer, etc) may be a more reasonable inclusion as part of equipping a kitchen from a space consideration.

Section 4.2 (J) (2) – Changes to the length of stay section from 30 to sixty (60) consecutive days:

This proposed change was discussed extensively and researched among other Virginia localities. The increased # of days is proposed to strengthen the Statement of Intent that this type of housing unit is being provided to encourage the development and provision of rental units for longer-term rentals, such as work force housing, and not to be confused or intermingled with a short-term vacation rental which many of the principal houses are being utilized in such a fashion.

We discussed if additional requirements, such as owner-occupied requirements for one of the structures on the property, should be proposed but ultimately, we did not include this requirement. We recognized that it is not an uncommon occurrence in town that an individual may own more than one residential property in town.

Section 4.2 (J) (3) – Addition of new criteria re: separate trash cans for ADUS, annual safety inspection checklist and zoning compliance affidavits

Each of these changes are proposed to strengthen our administrative oversight of the ADUS and to place some responsibility to the property owner of the requirements and obligations annually in verifying compliance with the zoning ordinance and building code re: safety inspections.

STAFF RECOMMENDATION TO PLANNING COMMISSION:

Staff recommends that the public hearing be held, and a review and consideration of any comments received; determine if additional changes should be considered as a result of the public comments; and favorable consideration of recommending approval of the changes proposed to date to Town Council for ZTA2022-01 to amend Section 4.2 (J) and Section 2.9 - Definitions of the Cape Charles Zoning Ordinance for Accessory Dwelling Units.

Staff is prepared to assist with any further revisions considered to the Zoning Ordinance and to assist in the consideration of any motion relative to a recommendation regarding ZTA2022-01 to amend Section 4.2 (J) and Section 2.9- Definitions – concerning Accessory Dwelling Units

Attachments:

(1) PROPOSED ZONING TEXT AMENDMENTS - SECTION 4.2 (J) – ACCESSORY DWELLING UNITS & SECTION 2.9 – DEFINITIONS AS OF 3/1/2022

The previously provided attachments can be viewed as part of the 3/17/2022 Town Council Agenda Packet: Here is link if you wish to re-review that material: https://www.capecharles.org/files/documents/7A-ResolutionofIntent-Considerationoagenda119781468031122-103108AMd.pdf

(2) Staff Report to Town Council 2022-03-17
(3) Planning Commission Work Session Agenda Packet of 1/24/2022
(4) Planning Commission Work Session Agenda Packet of 2/1/2022
(5) Planning Commission Work Session Agenda Packet of 3/1/2022

PROPOSED ZONING TEXT AMENDMENTS
SECTION 4.2 (J) – ACCESSORY DWELLING UNITS &
SECTION 2.9 – DEFINITIONS
AS OF 3/1/2022

Legend of Changes in the document:
Current Zoning Text: Regular Text
Proposed Deletions: Shown as ~~**bold, strike-through text**~~
Proposed Additions: Shown in *Red Italic Font*

A. PROPOSED ZONING TEXT AMENDMENTS TO CCZO SECTION 4.2 (J)

1. ADD A NEW SECTION AS THE FIRST PARAGRAPH in SECTION 4.2 (J)
STATEMENT OF INTENT: *To establish criteria and standards for Accessory Dwelling Units to implement one component of the goal from the Town's Comprehensive Plan to add diversity of housing type while maintaining the neighborhood character and providing affordable housing options. The intent is to allow an increased density on a lot in specific zoning districts to provide opportunity in the creation of long-term rental units to assist in meeting the housing needs of the Town and County.*

2. ORIGINAL ORDINANCE of SECTION 4.2 (J):
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 *area*, one bathroom, and a *sleeping area.*

d. Accessory buildings ~~**and**~~ shall not have the appearance of a single-family dwelling.

2. Occupancy characteristics.

a. Length of stay – ~~**No**~~ *An* accessory dwelling unit shall be occupied ~~**by any person or persons**~~, whether paying a fee for such occupancy or not, *by the same person or persons* for a period *no* less than ~~**thirty (30)**~~ *sixty (60*) 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. Accessory dwellings will be required to have its own municipally issued trash receptacle, separate from the main residence/structure.
   c. Accessory dwellings meeting the requirements of all of the physical characteristics of 4.2 (J) (1) above must obtain a Certificate of Completion for Accessory Dwellings from the Code Official, which is equivalent to a Certificate of Occupancy. In order to issue said Certificate, the Code Official will conduct an inspection to determine compliance with the Building Code.
   ~~b.~~ d. 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.~~ e. Parking shall ~~be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to~~ *be in compliance with* Section 4.5.~~**1.C.6. (Table of Parking Standards)**~~ using both on and off-street parking areas.
   ~~d.~~ f. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.
   ~~e.~~ *g. Annual Certifications to be submitted to the Town by March 15 of each year to the Building and Planning Department.*
      1. The property owner will submit an annual affidavit on Town Affidavit Form for Accessory Dwellings attesting to their acknowledgement and adherence to the Zoning Ordinance requirements for Accessory Dwelling Units.
      2. The property owner will submit an annual affidavit on Town Affidavit Form for Safety Compliance for Accessory Dwellings Units.
      3. If the property owner changes between March 16 and December 31 of the calendar year, the new property will be required to submit both a new Town Affidavit Form for Accessory Dwellings and a Town Affidavit Form for Safety Compliance for Accessory Dwelling Units no later than 30 days from the property transfer.

B. PROPOSED ZONING TEXT AMENDMENTS TO SECTION 2.9 – Definitions

1. Add the following Definitions to Section 2.9

KITCHEN means a space within a structure designated for the preparation of food that includes a sink.

BATHROOM means a room or area that includes a sink and toilet. It may also include a bathtub, shower, or bidet.

BEDROOM is a room, or space within a structure intended for sleeping. Requirements include:

- *A minimum size of 70 sq. ft; if more than one person occupies the room, there must be 50 sq. ft per occupant.*
- *Access to a bathroom without crossing another bedroom.*
- *Every bedroom must have access to natural ventilation and have a permanent heat source.*
- *Two means of egress: one that leads to the rest of the home without going through another bedroom and one that leads directly to the outside. If the outside egress is a window, it must be at least 5.7 sq. ft and can be no more than 44 inches from the room floor, unless there is a permanent step installed. It shall be illegal to have locking bars or grates covering an egress window.*
- *Ceiling height must be no less than 7 feet.*

SLEEPING AREA is an area in a room or house where a person can sleep and may utilize a bed, bunk beds, daybed, or other furniture identified for sleeping purposes, including and without limitation, a pull-out couch or futon.

2. Correct the following definition in Section 2.9
   BUILDING, ACCESSORY means a subordinate and separate building located upon the same lot occupied by the main structure or where a main structure was previously located. Accessory buildings shall not be used as dwelling units, unless a ~~**conditional permit is issued for an accessory dwelling**~~ *zoning permit is issued in compliance with Section 4.2 (J).*

PLANNING COMMISSION & TOWN COUNCIL
JOINT PUBLIC HEARING
STAFF REPORT

Meeting Date: May 3, 2022
Item #: 4B – ZMA 2022-001
Prepared by: Katie H. Nunez, Interim Planning/Zoning Administrator
Date: April 26, 2022

APPLICANT : Cape Charles Ventures, LLC

SITE ADDRESS: 238 Randolph Avenue

TAX MAP: 83A3-1-625A
LOT SIZE: 5,600 sq ft

TYPE OF APPLICATION: Zoning Map Amendment (ZMA) 2022-01
SPECIFIC REQUEST: Conditionally rezone parcel from Residential-1 to Commercial-1
ZONING ORDINANCE: Section 2.7
CURRENT ZONING: Residential (R-1)
PROPOSED ZONING: Commercial-1 (C-1)

DATE RECEIVED: March 4, 2022
DATE DEEMED COMPLETE: March 16, 2022
LEGAL DEADLINE: 100 days from 1st Receiving Application: July 14, 2022

NARRATIVE OF PROPOSAL

Cape Charles Ventures, LLC, on March 4, 2022, filed a conditional rezoning map amendment application to rezone 238 Randolph Avenue (Tax Map # 83A3-1-625A) from Residential-1 to Commercial-1 with proffers to limit the commercial activity of said proposed rezoning but to legally allow for the support services to be located on this lot and continue as the applicant has been utilizing this lot for the last few years and has expanded some services, such as golf carts for guest usage which are parked and charged on this lot. Additionally, the trash receptacles serving Hotel Cape Charles are stored on this lot and this lot is the entry point for limited utility deliveries, including propane for the Hotel as well as adjacent commercial properties which have been specifically listed in the Proffer Statement from the applicant.

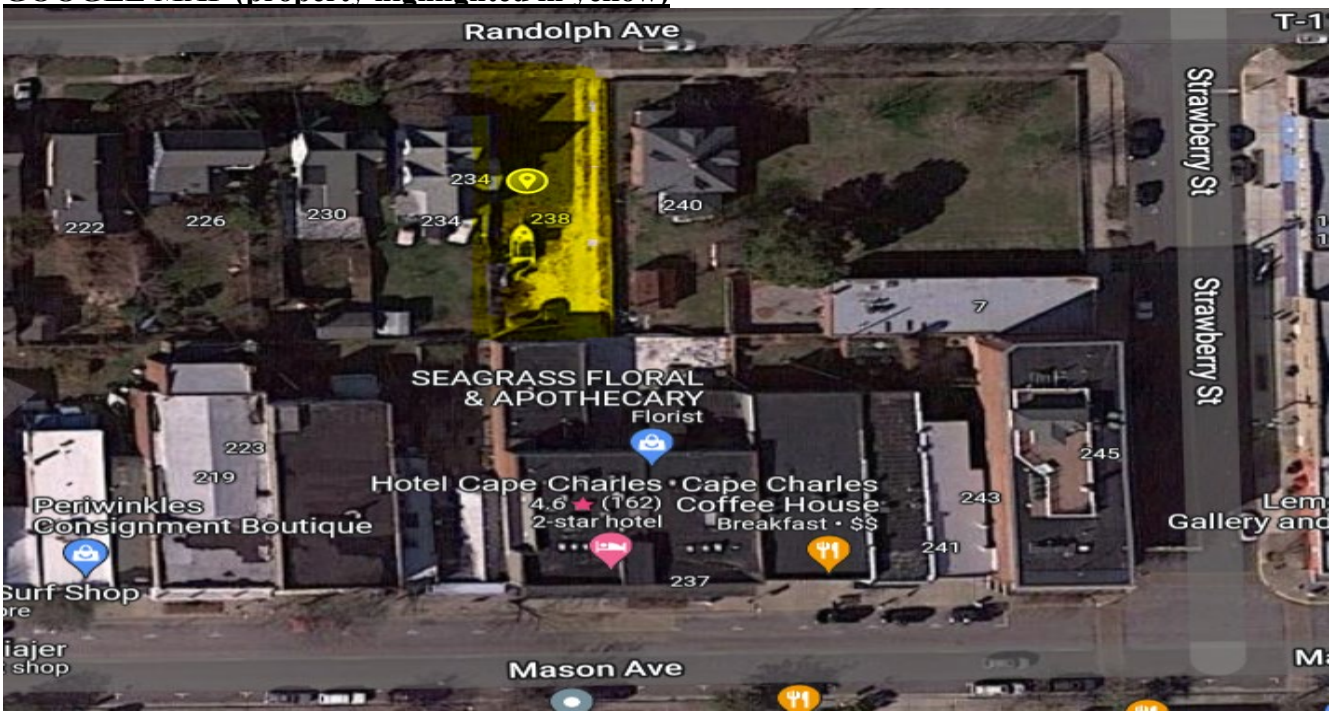
This application was forwarded to the Town Council and on March 17, 2022, the Town Council adopted Resolution of Intent 20220317B to accept the application and forwarded to the Planning Commission who then scheduled this matter for joint public hearing with Town Council on May 3, 2022.

Staff has continued to work with the applicant regarding his site plan and proffers to the Town and has included an updated proffer statement and site plan, but it is possible that there may be additional adjustments to these two documents submitted prior to the 6:00 p.m. start time of the 5/3/2022 meeting, based upon my conversations with the applicant and his agent.

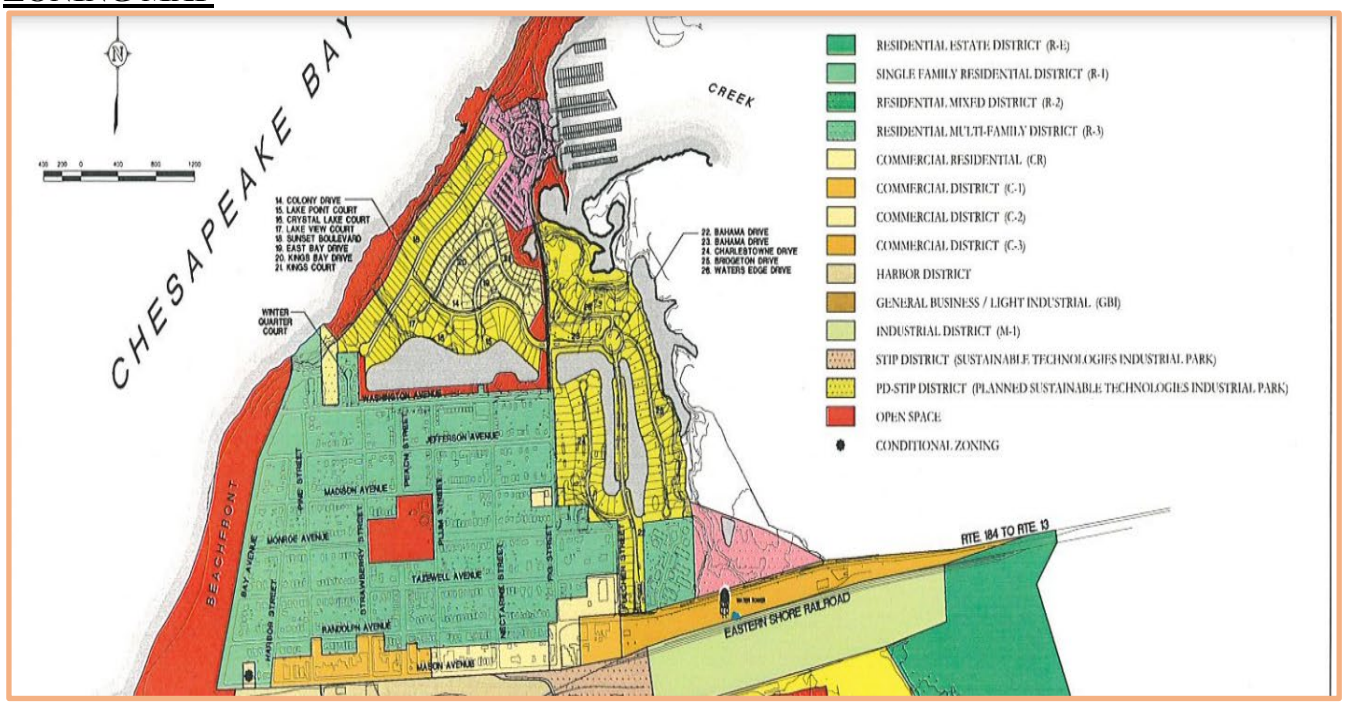
AERIAL MAP: ***Property outlined in blue - & Surrounding Land Use***

On Mason Avenue, the adjacent lots to the east and east are zoned Commercial-1. The lots located behind this row of Commercially zoned lots to the north are zoned Residential-1. It is important to note that the side streets of Pine Street and Strawberry Street between Mason Avenue and Randolph Avenue are zoned Commercial-1for the first row of lots.

GOOGLE MAP (property highlighted in yellow)



ZONING MAP



BACKGROUND

I met with the property owner in late summer/early fall 2021 to discuss his desire and intent to submit an expansion plan for the Hotel Cape Charles on the subject property itself. At that time, I informed the property owner that my office had received a complaint about activities occurring on the residential lot located directly behind the hotel, which is owned by Cape Charles Ventures, LLC, that are not in keeping with allowable residential uses pursuant to the zoning district. It was clear that the lot was being utilized by the hotel to handle the support functions for the hotel (locating the multiple trash collection containers there, using the lot as parking for the hotel golf carts which are utilized by staff and guests as a hotel amenity, and the lot was being used for employee parking). All of these uses are clearly supportive and incidental to the hotel operations and the Residential-1 Zoning District does not include, either by right or by conditional use permit, the ability to have this type of commercial activity on the lot.

I indicated to him that these violations (which were not being actively enforced by the department due to staffing shortage) would need to be resolved as part of any expansion concept.

In February, Cape Charles Ventures, Inc. submitted an application for a variance to the height requirements of the C-1 zoning district regarding 7 Strawberry Street (aka The Betis Building), indicating that they were under a purchase agreement to acquire this lot and would seek their expansion of hotel rooms by renovating and adding floors to this building. As part of the staff review of this application, I again noted that he had not sufficiently addressed the use of the residential lot at 238 Randolph Avenue and to move all of these activities onto commercially zoned property under his control. The applicant did withdraw this application before the public hearing could be held by the

Board of Zoning Appeals and subsequently filed the Conditional Zoning Map Amendment application to rezone the residential lot from Residential-1 to Commercial-1 and included a proffer statement limiting the type of commercial activity that would occur on this property.

I have continued to speak with the applicant to review the proffers provided and he has submitted a revised proffer statement in a format recommended by staff. I continue to discuss the proposed proffers with the applicant and his representative and believe that an additional revision to the proffer statement will be submitted prior to the start of the public hearing.

PLEASE NOTE that my discussions with the applicant regarding operational issues re: trash, landscaping, golf cart charging area, etc are intended to provide a complete and comprehensive application package with site plan and proffers, if the Town is favorably inclined toward approving the rezoning application; this assistance does not convey staff support for the rezoning application.

I indicated that he may wish to consider some other items to incorporate as proffers to address compatibility of this lot within the residential neighborhood it is located within, such as (1) language committing to the submitted landscaping plan on the proposed site plan, including a replacement commitment if the trees/shrubs should not survive, and (2) consideration of a seasonal commitment to increasing the frequency of trash collection at his expense to reduce the collection of a high volume of trash on the lot; and (3) if an expansion of the hotel is still under consideration, possibly through acquiring the commercial property at 7 Strawberry Street, then this would need to be reflected in the lots have been identified in the proffers to date, but making it conditional for inclusion only if he acquires 7 Strawberry Street as part of the hotel. I indicated that the Planning Commission may also raise issues or concerns with this rezoning application that I have not considered which may be able to be resolved, potentially through a proffer. He did indicate that he would be pursuing his hotel expansion plan through the acquisition of 7 Strawberry Street in the near future but wanted to first address a full resolution of the violations that the Town had indicated concerning his business. It is important to note that the Town has delayed the full pursuit of enforcement action of the violations at 238 Randolph Avenue while the property owner has been pursuing these applications (both the variance application and now zoning map amendment application) since Town action on these applications could resolve or alleviate the violations at this lot.

I did stress to him that the Town fully understands that proffers can not be required by the Town from the applicant and that proffers are extended by the property owner to modify the regulations for the zoning district or to establish additional conditions for the uses sought based upon the zoning district regulations. Specifically, the law is as follows:

> *Conditional Rezoning is authorized by Virginia Code §15.2-2296 and more specifically authorized for the Town of Cape Charles thru §15.2-2303 and allows the ability of the petitioner to submit reasonable conditions (referred to as proffers) governing the use of the property, where the conditions are in addition to, or the modification of, the regulations provided for in a particular zoning district. Proffers are more specifically defined as an offer by a landowner during the rezoning process to perform an act or donate money, a product, or services to justify the proprietary of a proposed rezoning. If the rezoning and proffers are accepted and approved by the Town, said proffers become part of the Zoning Ordinance.*

REVIEW WITH RESPECT TO COMPREHENSIVE PLAN

The Cape Charles Comprehensive Plan notes and stresses the Town's historic layout pattern and the primary intent to preserve the Town's historic character as noted in Section II.9 below.

Section II (Settings): II.9 Land Use and Community Character

Cape Charles is distinguished by its historical residential and commercial areas, access to the Chesapeake Bay, the railroad, new planned communities, and a great deal of natural beauty and shoreline scenery. The most desirable future development will respond conscientiously to the town's established character and natural setting. The Historic District's late nineteenth and early twentieth century character is a key element in the town's interest and attractiveness to residents and tourists. It is important that the town's historic character be protected, not only for its intrinsic value, but also to continue to attract and expand tourism in Cape Charles.

The Future Land Use Map maintains the Residentially Zoned Districts as mapped on the Zoning Map and also retains the Commercial-1 (C-1) Zoning District as mapped on the Zoning Map.

This application is not consistent with the Comprehensive Plan relative to land use designations. The Comprehensive Plan does emphasize the role of tourism and tourism supported businesses as a key component of its Economic Component which the Hotel Cape Charles clearly embodies.

REVIEW WITH RESPECT TO ZONING ORDINANCE: ZONING DISTRICTS – INTENT

CCZO Section 3.2 Single Family Residential District R-1

A. Statement of intent. The intent of this basic zoning district is to provide quiet, medium density, single-family residential development plus provide open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to restrict all activities of a commercial nature as described in Section 3.6-A of this ordinance, known as Commercial District C-1, which states "These commercial activities are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments," and to promote a convenient, attractive, and harmonious community. This section is created in recognition of the existence of developed areas where single-family and duplex dwelling currently exist on lots of 5,600 square feet and where the characteristics of the neighborhood include both permanent as well as seasonal residents.

CCZO Section 3.6 Commercial District C-1

A. Statement of Intent. The intent of this zoning district is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.

ANAYLSIS

Impacts to Adjacent Property

The support services that typically occur "behind the scenes" are needed for this establishment which has been successful and providing a needed service in our community. However, I think there was an inadequate analysis of what site planning and requirements are needed to host and operate a full-scale hotel operation.

Clearly, there has been an impact on the adjacent residential properties where there is a row of trash receptacles that is appropriate for a commercial establishment but out of scale for a residential use. The same can be said for the # of golf carts and the staging and charging of said golf carts as well as the frequency of propane deliveries and utilizing this residential lot as a "quasi-alley" to service not only the hotel but adjacent other commercial businesses.

There are visual and noise impacts that have fully intruded into the residential neighborhood on Randolph Avenue of a commercial nature and are noticeable and impactful to the two existing residences on either side of the lot in question. The proffers offered by the applicant are attempting to respond and mitigate some of this impact, including addressing and installing appropriate landscaping to shield and screen visually this lot from the rest of the neighborhood, to propose screening for the golf cart parking/staging/charging area and the proposed trash receptacle areas. But the amount of space proposed to dedicate for these services is substantial and will be evident to the adjacent residential landowners and will be constant during the summer season and possibly throughout the entire year as more people choose to visit and/or vacation in Cape Charles and have need of hotel lodging. There has been insufficient exploration of alterative ways to reduce some of this "behind the scenes" support services, such as increased trash collection, thus reducing the # of trash receptacles; discrepancy from the original application narrative/property to the latest revised site plan which has already increased the # of golf carts being indicated for placement on the property.

STAFF RECOMMENDATION

Staff is requesting the Planning Commission and Town Council to convene and hold the public hearing and consider all comments received and determine if there are additional issues raised that were not considered by staff which may need to be considered. Staff is not recommending approval of this rezoning since the Comprehensive Plan does not support the expansion of the Commerical-1 Zoning District into the Residential -1 Zoning District but states very clearly the need to retain the historic development pattern of the Town and the proffers and site plan, as presented, does not fully address and mitigate the impact to the adjacent residential properties.

The continued growth of the Town's commercial corridor must be studied further by the Town and the Planning Commission and we may wish to create a new zoning district that can be applied to address this type of situation in a uniform and comprehensive manner relative to trash, deliveries, utilities, enhanced guest services (such as golf cart rentals), lighting, hours of operations, landscaping as a restricted, lower-level type commercial zoning for support activities only. However, such a concept would need to be fully discussed and debated through public input sessions and public hearings with the Town citizens and the Comprehensive Plan should be amended to reflect this type of zoning district creation and applicability on identified land parcels.

Staff is prepared to work with the Planning Commission on a motion regarding a recommendation on ZMA 2022-01 from Cape Charles Ventures, LLC to conditionally rezone Tax Map #83A3-1-625A, located at 238 Randolph Avenue, from Residential-1 to Commercial-1, including the proffer statement as currently submitted and which may be further amended by the applicant up to the start of the public hearing.

Just as a point of information, the Code of Virginia (Sections 15.2-2297 & 2303) does state that the governing body may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal. Therefore, if the public hearing process and input identifies additional items or concerns that the staff or the Planning Commission have not considered, then those items can be considered and included in the Planning Commission recommendation on the application, which may result in the applicant choosing to amend the proffer statement, in compliance with the requirements of the Code of Virginia.

Attachments:
Attachment 1 – ZMA Application Packet
Attachment 2 - Amended Site Plan
Attachment 3 – Amended Proffer Statement
Attachment 4 – Cape Charles Zoning Ordinance Sections

ZONING MAP AMENDMENT APPLICATION

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

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

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

PROJECT INFORMATION

Name of Project: Hotel Cape Charles Commercial Services

Property Address: 238 Randolph

Brief Description of Project: reclassify zoning w/ conditions limiting development

Current Zoning District: R-1 Proposed Zoning District: C-1

Current Use: vacant lot hotel Proposed Use: same - on going services / access

OWNER INFORMATION

Name and Company: Cape Charles Ventures LLC

Mailing Address: 219 E Leigh St Suite 1 Richmond 23219

Phone Number: 8045395961 Email: david@hotelcapecharles.com

APPLICANT INFORMATION

[x] check here if applicant is owner

Name: Same as above David Gemmino

Mailing Address: _____

Phone Number: _____ Email: _____

****

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: _____ Date: 3/4/22

March 3, 2022

Katie H. Nunez

Interim Planning/Zoning Administrator at Town of Cape Charles.

2 Plum Street, Cape Charles, VA 23310

Re: 238 Randolph Conditional Rezoning

Dear Ms. Nunez attached please find application and requisite documents for above captioned property/project.

As you are aware, the Hotel Cape Charles (and 6 other businesses on Mason Ave) currently utilize 238 Randolph Ave in apparent violation of the underlying R-1 Zoning Ordinance.

We seek a conditional rezoning to C-1 in order ensure that the ongoing operations of the Hotel Cape Charles is no longer in violation of the Town Zoning Ordinance. We would proffer to limit the commercial activity to the following **current uses**:

1. Deliveries-propane and other service-related deliveries for the benefit of:
    a. 217, 219, 223, 235, 237, 239, and 241 Mason Ave
2. Waste Management-Town of Cape Charles receptacles and storage and conveyance to street for benefit of:
    a. 235, 237, 239 Mason Avenue
3. Golf cart parking/charging as currently configured (6 carts/chargers)

In support of this request, we would note the following:

1. This lot has been utilized as detailed above by the Hotel Cape Charles (and others) since 2012, without complaint (until 2021 purchase of 234 Randolph Avenue). The Town of Cape has knowingly permitted commercial activity on 238 Randolph Avenue for at least the past 10 years and the businesses on Mason have come to rely upon that usage as essential to their operations.
2. The Hotel Cape Charles was granted a Certificate of Occupancy to open in 2012 by the Town of Cape Charles with the knowledge and consent that commercial trash storage and removal services were accessed on 238 Randolph Avenue.
3. The Town of Cape Charles permitted the installation of the electrical transformer which services the Hotel Cape Charles on 238 Randolph Ave.
4. The Town of Cape Charles permitted the installation of the propane tank which services the Hotel Cape Charles on 238 Randolph Avenue.

5. The current and long-time occupant of 240 Randolph (Judy Ann Loomis) does not oppose this reclassification.
6. Until recently consolidated as one lot, 238 Randolph was historically comprised of two separate parcels-one 32' wide parcel and one 8' strip of land which for decades served as an alley/easement to the rear of these Mason Ave commercial properties.
7. In 2014, the Town of Cape Charles sought the right to install a sewer lateral across applicant's property at 238 Randolph Ave to connect the Cape Charles Coffee House to the Town wastewater system. This applicant voluntarily granted this easement, to the detriment of his future development rights. This easement precludes applicant or any subsequent owners from building a residence which encroaches on eastern 8' of the vacant lot. With other zoning mandated setbacks, the buildable width is at a maximum 27'.
8. This rezoning will allow the Hotel guests to continue to use the rear lot for golf-cart parking, rather than adding 6 more carts on Mason Avenue.

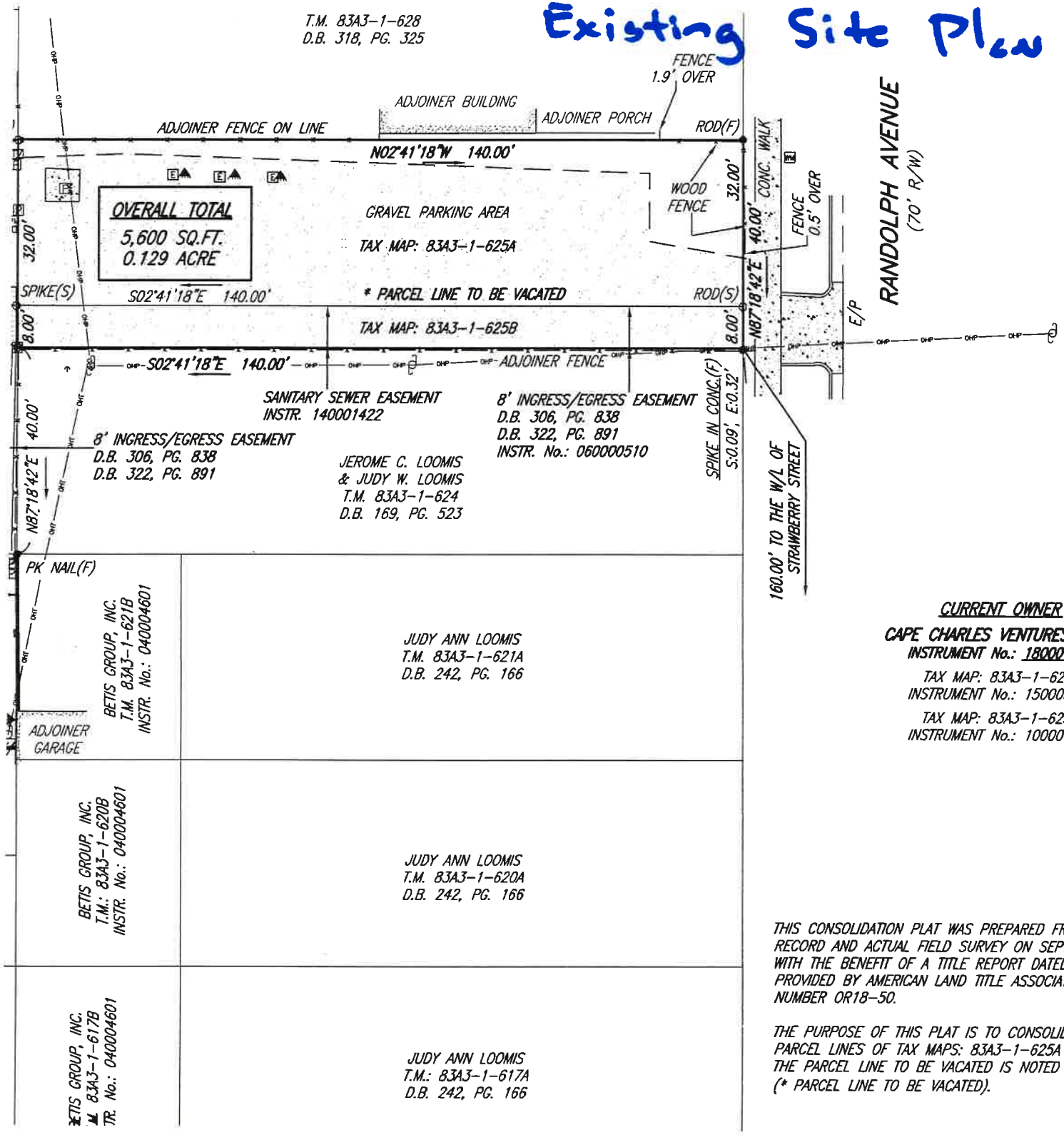
Best Regards

David M Gammino

Hotel Cape Charles Operating LLC

Cape Charles Ventures LLC

Existing Site Plan



HVAC	HVAC
PM	POWER METER
P	POWER TRANSFORMER
	SIAMESE "FDC" CONNECTION
	SIGN POST
	STORM INLET (GRATE)
T	TELEPHONE PEDESTAL
	UTILITY POLE
	WALL/GROUND LIGHT
WM	WATER METER

TEXT LEGEND

(SQ.FT.)	SQUARE FEET
(CONC.)	CONCRETE
(R/W)	RIGHT OF WAY
(℄)	CENTERLINE
(P.B.)	PLAT BOOK
(D.B.)	DEED BOOK
(PG.)	PAGE
(O/H)	OVERHANG
(E/P)	EDGE OF PAVEMENT

LINETYPE LEGEND

OHP	OVERHEAD POWER
OHT	OVERHEAD TELEPHO
x x	FENCE

(A) 10' RIGHT OF WAY
INSTR. No.: 090001950

CURRENT OWNER

CAPE CHARLES VENTURES, L.L.C.
INSTRUMENT No.: 180001858

TAX MAP: 83A3-1-625A
INSTRUMENT No.: 150000062

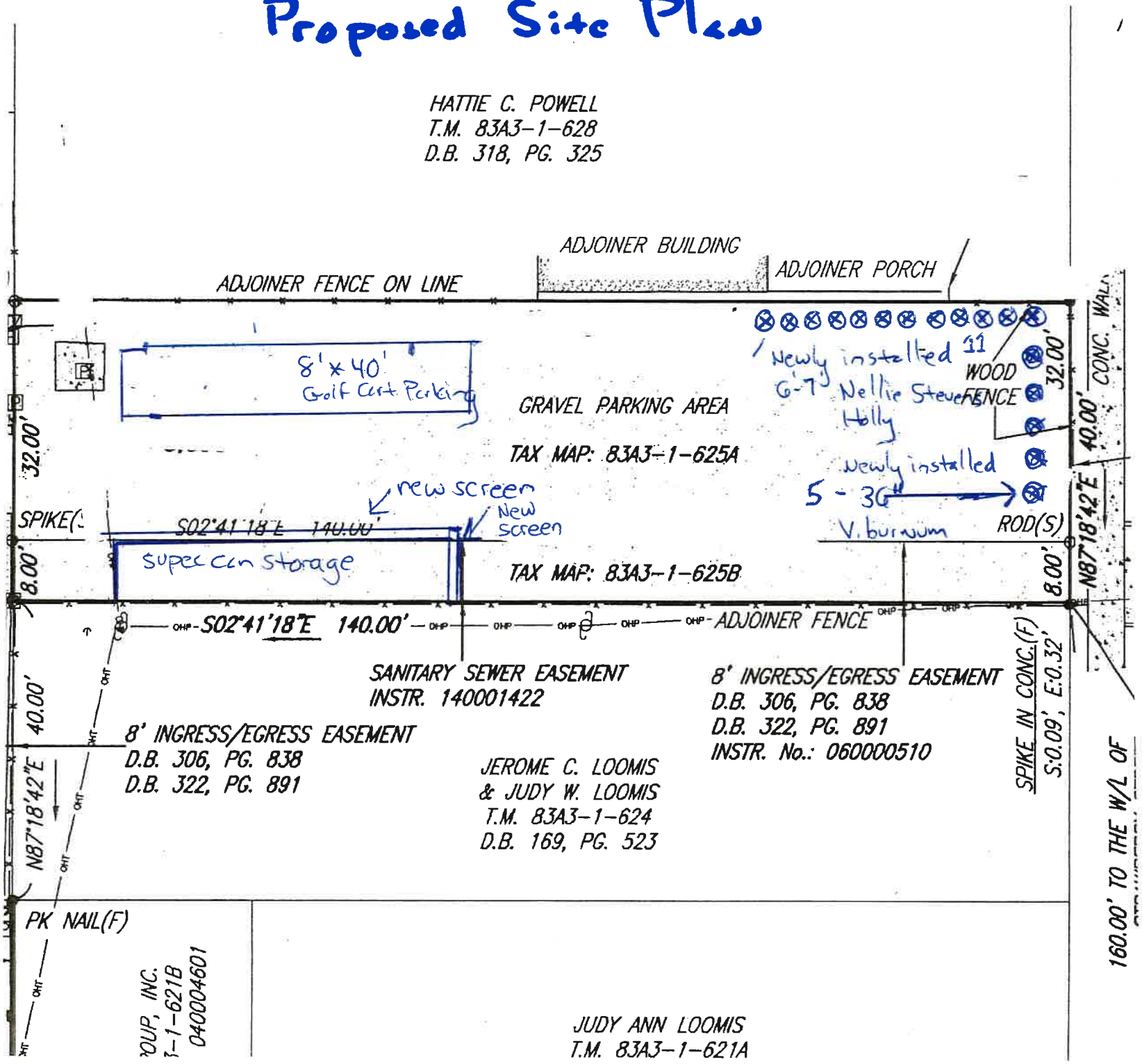
TAX MAP: 83A3-1-625B
INSTRUMENT No.: 100001310

THIS CONSOLIDATION PLAT WAS PREPARED FROM DEEDS/PLATS OF RECORD AND ACTUAL FIELD SURVEY ON SEPTEMBER 24, 2018 WITH THE BENEFIT OF A TITLE REPORT DATED OCTOBER 24, 2018 PROVIDED BY AMERICAN LAND TITLE ASSOCIATION, COMMITMENT NUMBER OR18-50.

THE PURPOSE OF THIS PLAT IS TO CONSOLIDATE THE INTERIOR PARCEL LINES OF TAX MAPS: 83A3-1-625A & 83A3-1-625B. THE PARCEL LINE TO BE VACATED IS NOTED AS SUCH (* PARCEL LINE TO BE VACATED).

COMMONWEALTH OF VIRGINIA
Christopher M. Finley
Lic. No. 3375
03-13-2019
LAND SURVEYOR

Proposed Site Plan



ADJACENT PROPERTY OWNER INFORMATION

240 Mason Ave

Judy Ann Loomis

240 Mason Ave

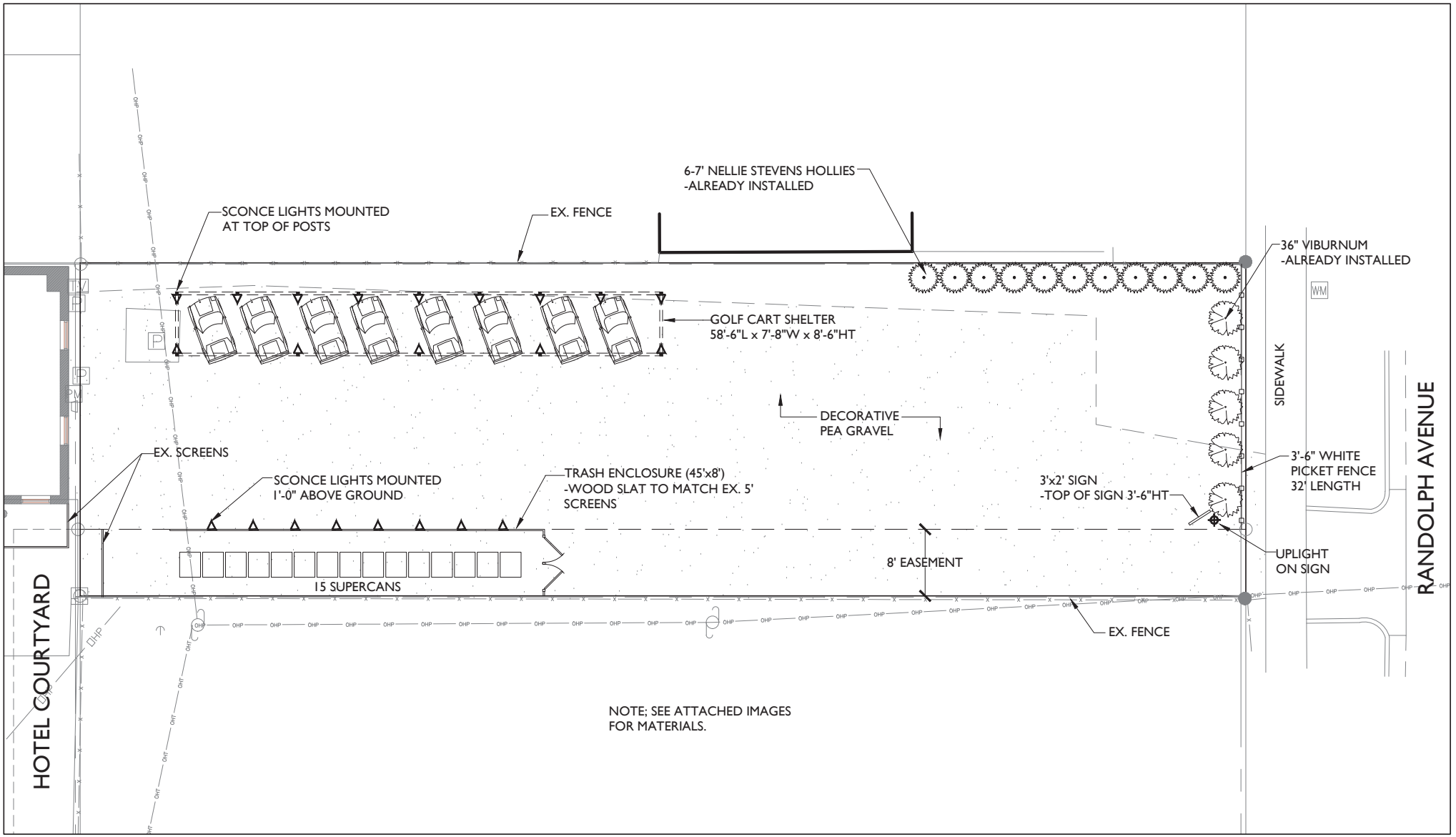
Cape Charles Va 23310

234 Mason Ave

234 Mason Ave LLC

492 Hope Springs Lane

Manakin Sabot Va 23103



SITE PLAN - 238 RANDOLPH

KENDRA TAYLOR LANDSCAPE ARCHITECTURE, LLC

NORTH

SCALE: 3/32" = 1'-0"

HOTEL CAPE CHARLES
CAPE CHARLES, VIRGINIA
APRIL 20, 2022

GOLF CART SHELTER

Newport | Bike Shelter

SPECIFICATIONS

Newport is a flexible and economical bike shelter that offers a variety of parking options. Small enough to be installed in a parking spot, Newport is accessible from all sides and can easily provide coverage for existing bike racks. High density bike parking is achieved by using the models designed for our 2-sided MaxRack System. Newport is also modular and can be made to any length.
Class 2 Bike Shelter: Canopy style

- *Can fit in 1 parking space*
- *Gable, Barrel or Flat roof styles*
- *Covers new or existing bike racks*
- *Accessible from all sides*

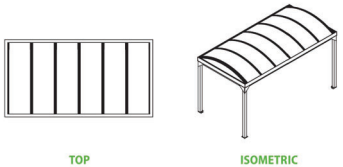
Newport (Barrel Roof)

© Copyright 2019 Velodome LLC. All Rights Reserved | LPP300.014 | 070919

GENERAL INFORMATION

Frame: 6063-T52 Alloy Aluminum fabricated with Integrated Water Drainage
Finish: Anodized Dark Bronze or Clear (Silver)
Posts: 4" x 4" Tubing
Roof Styles/Materials: **GABLE ROOF | BARREL ROOF:** 6 mm Twinwall Polycarbonate, UV Coated **FLAT ROOF:** 1/4" Endurax 300
Installation: Prefabricated roof for quick assembly. Anchor securely to level, concrete pad
Bike Racks: Not included

VIEWS



DIMENSIONS/CAPACITY*

Newport 7/8	Length	Width	Roof Height			Bikes (Max.)
Newport 7- Clear height 7' *Newport 8- Clear height 8'* = Fits in 1 parking space			GABLE ROOF	BARREL ROOF	FLAT ROOF	
Newport 7-10	14' 11"	7' 8"	9' 4"	8' 10"	7' 6"	10
Newport 7-20	29' 5"	7' 8"	9' 4"	8' 10"	7' 6"	20
Newport 7-30	44'	7' 8"	9' 4"	8' 10"	7' 6"	30
Newport 8-16	14' 11"	7' 8"	10' 4"	9' 10"	8' 6"	16
Newport 8-40	29' 5"	7' 8"	10' 4"	9' 10"	8' 6"	40
Newport 8-60	44'	7' 8"	10' 4"	9' 10"	8' 6"	60

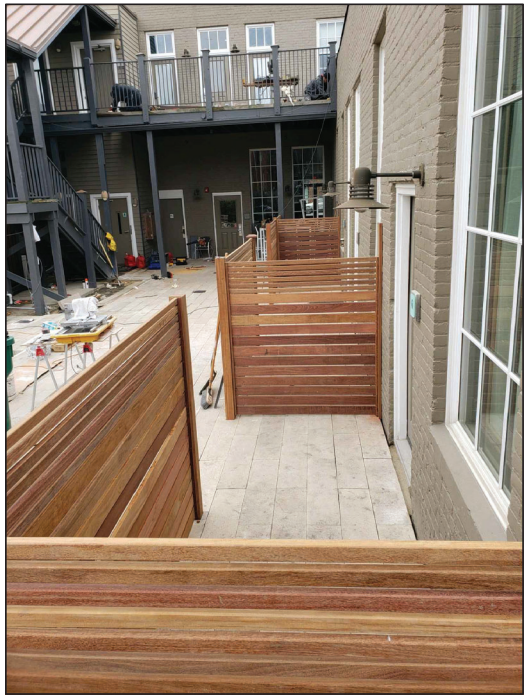
Bike capacity varies with rack style

Newport for Parking Lots
1 Space = 10 to 16 Bikes
Newport 7-10 and Newport 8-16 fit in one standard parking space.

velodomeshelters
BIKE PARKING SOLUTIONS Bike Shelters | Bike Racks | Bike Storage Systems

973-264-9100
32 Ann Street Clifton, NJ 07013
info@velodomeshelters.com
www.velodomeshelters.com

TRASH ENCLOSURE SCREEN



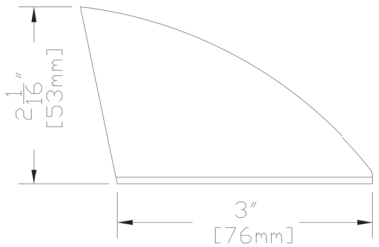
PICKET FENCE ALONG RANDOLPH

MATERIALS - 238 RANDOLPH

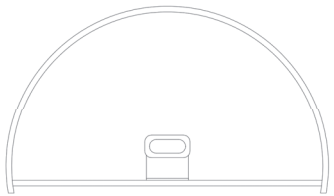
KENDRA TAYLOR LANDSCAPE ARCHITECTURE, LLC
NORTH
SCALE: 3/32" = 1'-0"

HOTEL CAPE CHARLES
CAPE CHARLES, VIRGINIA
APRIL 06, 2022

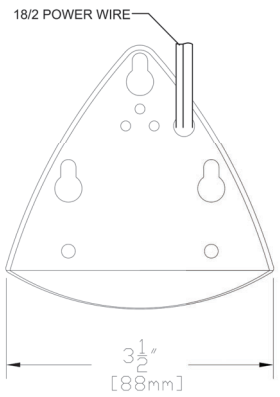
SCONCE LIGHT



SIDE VIEW WITH DIMENSIONS



FRONT VIEW



BOTTOM VIEW

FEATURES:
-SOLID COPPER CONSTRUCTION
-PORCELAIN BI-PIN OR MINI WEDGE SOCKET WITH 6ft 18/2 POWER LEAD

FINISHES:
-NATURAL COPPER
-ANTIQUE COPPER
-VERDE
-ANTIQUE RUST

LAMPS:
-12v 10 & 20 WATT BI-PIN, 20 WATT MAXIMUM
-7,11 &18 WATT MINI WEDGE BASE,18 WATT MAXIMUM

STANDARD MOUNTING:
-FLUSH MOUNT WITH 3 SCREWS & ANCHORS

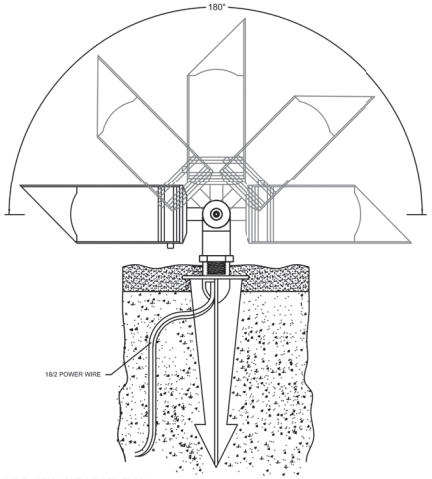
ACCESSORIES:
-25ft & 50ft 16/2 LEADS AVAILABLE

SHOWN IN ANTIQUE FINISH

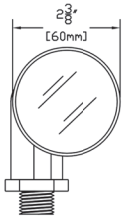
CopperMoon DECK, SURFACE & STEP
CM.820
901 3rd AVE.
WEST POINT, GA. 31833
1.800.727.5483
www.coppermoon.com

SIZE	DRAWN BY:	CLASSIFICATION:	DATE:
A	CRAIG SANDERS	DECK, SURFACE & STEP	JAN 11, 2011

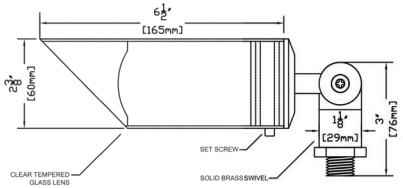
UPLIGHT ON SIGN



SIDE VIEW WITH ROTATION



FRONT VIEW



SIDE VIEW WITH DIMENSIONS

FEATURES:
-Solid Copper and Brass Construction
-Solid Copper 45 Degree Shroud for Glare Minimization
-High Heat Silicone O-Rings
-Beryllium Socket with 3ft 18/2 Power Lead

FINISHES:
-Natural Copper
-Antique
-Dark Antique
-Black
-Verde
-Rust

LAMPS:
-12 Volt MR-16 in 10, 20, 35 & 50 Watts with a 12, 24, 36 & 60 Degree Spread (EXCEPTION: 10 watt only available in 32 degree spread)
-LED MR-16's
-50 Watt Maximum

LENS:
-3mm CLEAR FORGED BOROSILICATE GLASS

MOUNTING:
-Black ABS Ground Stake 8 ½" Long with Female 1/2" NPT (STANDARD)
-Brass Threaded (Female ½" NPT) or Non-Threaded Ground Stake 9 1/2 " Long
-Brass Threaded (Female ½" NPT) or Non-Threaded Flush Mount (Deep or Shallow Housing)
-Aluminum Tree Mount (Female ½" NPT) with Brown Powder Coat Finish
-Copper Stem Risers-1" Diameter (Female ½" NPT) or ¾' Diameter (Female ½" NPT)
-Available in custom heights

ACCESSORIES:
-MR-16 Honeycomb Louver
-MR-16 Lamp Clip
-MR-16 Clear Spread Lens
-MR-16 Prismatic Lens
-MR-16 Colored Lens (Ice Blue, Lavender, Amber, MV Green, Red & Rose)
-25ft. & 50 ft. 16/2 Leads Available

SHOWN IN ANTIQUE FINISH

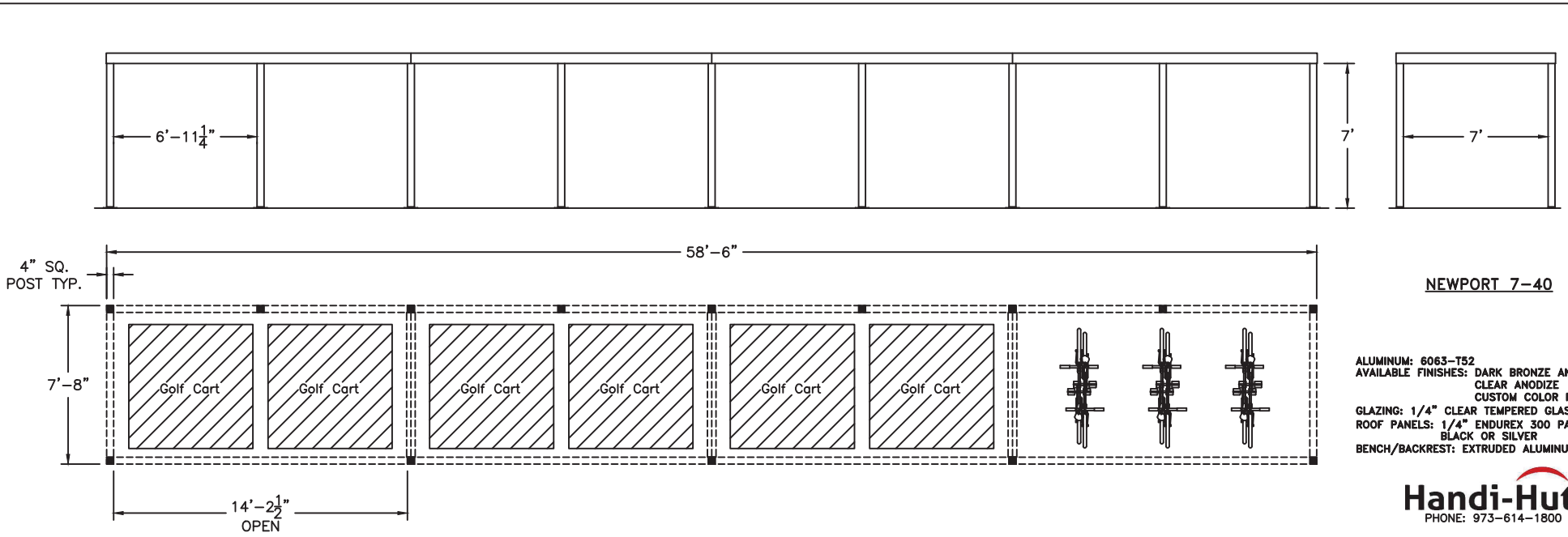
CopperMoon BULLET & ACCENT
CM.115
901 3rd AVE.
WEST POINT, GA. 31833
1.800.727.5483
www.coppermoon.com

SIZE	DRAWN BY:	CLASSIFICATION:	REV 1 DATE: 09/15/2016
A	CRAIG SANDERS	BULLET & ACCENT	

MATERIALS - 238 RANDOLPH

KENDRA TAYLOR LANDSCAPE ARCHITECTURE, LLC
NORTH
SCALE: 3/32" = 1'-0"

HOTEL CAPE CHARLES
CAPE CHARLES, VIRGINIA
APRIL 06, 2022



NEWPORT 7-40

ALUMINUM: 6063-T52
AVAILABLE FINISHES: DARK BRONZE ANODIZE
CLEAR ANODIZE
CUSTOM COLOR POWDER-COAT
GLAZING: 1/4" CLEAR TEMPERED GLASS
ROOF PANELS: 1/4" ENDUREX 300 PANELS
BLACK OR SILVER
BENCH/BACKREST: EXTRUDED ALUMINUM

Handi-Hut®
PHONE: 973-614-1800

Prepared by:

Christopher M. Mackenzie, Esquire (VSB# 84141)
Sands Anderson PC
2400 Bank of America Center
1111 East Main Street (23219), P.O. Box 1998
Richmond, Virginia 23218-1998

After recording return to:
Town of Cape Charles
Department of Planning & Zoning
2 Plum Street
Cape Charles, VA 23310

Tax Map #: 83A3-1-625A

VOLUNTARY PROFFER STATEMENT

Applicant & Owner:	Cape Charles Ventures LLC (the "**Applicant**")
Representative:	Christopher M. Mackenzie, Esquire (VSB# 84141) Sands Anderson PC 2400 Bank of America Center 1111 East Main Street (23219), P.O. Box 1998 Richmond, Virginia 23218-1998 Phone: 804-783-7280 Email: CMackenzie@SandsAnderson.com
Subject Property:	Northampton County Tax Parcel 83A3-1-625A, with a street address of 238 Randolph Avenue, Cape Charles, Virginia, consisting of approximately 1 acre (the "**Property**")
Benefited Properties:	Northampton County Tax Parcel 83A3-1-623, with a street address of 235 Mason Avenue, Cape Charles, Virginia (the "**Hotel Parcel**"); 227, 231, 237, 239, and 241 Mason Avenue, Cape Charles, Virginia; and 7 Strawberry Street, Cape Charles, Virginia if acquired by Applicant
Date:	April __, 2022
Site Plan:	Entitled "Site Plan – 238 Randolph", prepared by Kendra Taylor Landscape Architecture, LLC, dated April 6, 2022, as revised, attached hereto as **Exhibit A** (the "**Site Plan**")
Rezoning Request:	From R-1 to C-1
Rezoning File No.:	ZMA 2022-001

RECITALS

A. Applicant is the owner of the Property and has initiated the conditional amendment to the zoning map of the Town of Cape Charles, Virginia, by petition addressed to the Town of Cape Charles, a municipal corporation of the Commonwealth of Virginia (the "**Town**").

B. The purpose of this Voluntary Proffer Statement (the "**Proffers**") is to rezone the Property from the R-1 Zoning District to C-1 Zoning District.

C. The Town's policy is to provide for the orderly development of land for various purposes, including commercial purposes, through zoning and other land development legislation.

D. Applicant desires to offer the Town the following conditions for the enhancement of the community and to provide for the highest quality and orderly development of the Property.

E. The conditions outlined in this Agreement have been proffered by Applicant and allowed and accepted by Town as a part of the amendment of the Town Zoning Ordinance and the Zoning Map. These conditions shall continue in full force and effect until a subsequent amendment changes the zoning of the Property; provided, however, that such conditions shall continue if the subsequent amendment is part of the comprehensive implementation of a new or substantially revised zoning ordinance of the Town.

CONDITIONS

I. General Information.

The Applicant, and its successors and assigns, hereby agrees that the use and development of the Property, subsequent to the Town's approval of the rezoning application to which these Proffers are attached, will be in conformance with the Site Plan and the below proffered conditions pursuant to §§ 15.2-2303 and 15.2-2303.4, et al. of the *Code of Virginia* (1950, as amended), and Section 2.7 of the Zoning Ordinance of the Town, as amended. The Proffers are the only conditions offered in this rezoning application, and any prior proffers affecting the Property are hereby superseded by these Proffers, and thus are void and of no further force and effect upon said approval. The Proffers will be effective only upon the Town's full and final approval of rezoning application # ZMA 2022-001, submitted by the Applicant to reclassify the Property from R-1 to C-1.

These Proffers are made voluntarily and without any requirement by or exaction from the Town or its governing body and without any element or compulsion or quid pro quo for zoning, rezoning, site plan, building permit or subdivision approval, and covenants and agrees that these Proffers shall constitute covenants running with the Property, which shall be binding upon the Property, and upon all persons and entities claiming under or through the Applicant, its heirs successors and assigns, grantees and other successors in interest or title to the Property.

II. Land Use.

A. General Development. The Property will be developed in general conformance with the Site Plan. Notwithstanding the foregoing, all parcel lines, parcel sizes, improvement sizes and locations, private driveway and travelway locations, landscaping and lighting locations, utility locations, storm water management facilities, and dimensions of undeveloped areas shown on the Site Plan may be reasonably adjusted for purposes of the final site plans to allow the Applicant to address final development, engineering and design requirements, fulfill compliance with state and federal agency regulations including, but not limited to, DHR, VDOT, DEQ, DCR, Army Corps., etc., and compliance with the requirements of the Town's development regulations and design standards manual.

B. Permitted Uses. The use of the Property shall be limited to uses in support of and in association with the permitted uses for which the Hotel Parcel is utilized, and namely the following:

1. **Deliveries.** Propane and other service related deliveries for the Hotel Parcel and the properties located at 227, 231, 237, 239, and 241 Mason Avenue, Cape Charles, Virginia.

2. **Waste Management**. Storage and use of Town waste management receptacles for the Hotel Parcel and the properties located at 237, 239 Mason Avenue, Cape Charles, Virginia and 7 Strawberry Street, Cape Charles, Virginia, if acquired by the Applicant or an entity associated with the Applicant.

3. **Golf Cart and Bicycle Storage**. Parking, storage, charging, and use of golf carts, bicycles, and similar recreation equipment owned and operated by the Applicant in association with the Hotel Parcel.

III. Landscaping & Screening.

The Applicant agrees to install, maintain, and, if necessary, replace, the landscaping and screening improvements shown on the Site Plan in conformance with the following:

A. The landscaped buffer areas shown on the Site Plan shall be maintained in good, healthy state by the owner of the Property. Fallen, diseased, and dead plant growth shall be removed and replaced with comparable (at maturity) healthy plant materials.

B. The Property may include additional plantings, signage, and/or fencing, as otherwise permitted under the Town's Zoning Ordinance.

C. Dumpsters and trash cans, not including convenience containers, shall be screened from public view at ground level at the perimeter of the Property as shown on the Site Plan.

D. Golf carts shall be stored overnight in the locations designated on the Site Plan.

III. **Lighting**. Any lighting of the Property shall be directed in a way to minimize glare on public roads and adjacent structures.

[*Signature pages follow*]

The Applicant makes these proffers voluntarily, in support of its rezoning application.

WITNESS the following signatures:

APPLICANT & OWNER:

Cape Charles Ventures LLC,
a Virginia limited liability company

By: _____

Name: _____
Title: _____
Date: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____

The foregoing was subscribed, sworn to and acknowledged before me this ____ day of _____, 20___ by that _____, whose name is signed to the foregoing instrument as (title)_____ of Cape Charles Ventures LLC, a Virginia limited liability company, on behalf of said company. He/she □ is personally known to me or □ has produced _____ as identification.

_____
Notary Public

My commission expires:_____
Registration No. _____

ORDINANCE REQUIREMENTS

Section 2.7 Amendments of Chapter and Zoning Map; Conditional Zoning

Section 2.7.1 Amendments Permitted; How Initiated

In accordance with Virginia Code Section 15.2-2286.A.7, whenever public necessity, convenience, general welfare or good zoning practice require, the Town Council may amend, supplement, or change the regulations, district boundaries or classifications of property contained in this Chapter. Any such amendment may be initiated by (a) resolution of the Town Council, (b) motion of the Town's Planning Commission, or (c) the petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefore, of the property which is the subject of the proposed zoning map amendment, addressed to the Town Council or the Town's Planning Commission, which shall forward such petition to the Town Council.

Section 2.7.2 Procedures for Amending Chapter or Zoning Map

A. All proposed amendments or reenactments of this Chapter, and all proposed amendments to the zoning map, shall be referred by the Town Council to the Town's Planning Commission for its recommendations. Failure of the Planning Commission to report within 100 days after the first meeting of the Planning Commission after the proposed amendment or reenactment has been referred to it shall be deemed approval of the proposal by the Planning Commission, unless the proposal has been withdrawn by the applicant prior to the expiration of said time period. In the event of such withdrawal, processing of the proposal shall cease without further action.

B. Prior to issuing its recommendations, the Planning Commission shall hold at least one public hearing after notice of same has been published once a week for two successive weeks in some newspaper having general circulation in the Town. Such public hearing shall be held not less than six nor more than 21 days after the second advertisement appears. Such additional and further notice shall be given as required by Virginia Code Section 15.2-2204. The Planning Commission may make appropriate changes in the proposed amendments as a result of the public hearing. Upon the completion of its work, the Planning Commission shall present the proposed amendments, including revised district maps, to the Town Council together with its recommendations and appropriate explanatory materials.

C. Prior to approving and adopting any amendment to this Chapter or the zoning map, the Town Council shall hold at least one public hearing after giving such public notice as may be required by Virginia Code Section 15.2-2204, after which the Council may make appropriate changes or corrections in the proposed amendment. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the Town's then effective comprehensive plan. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after such notice as is required by Virginia Code Section 15.2- 2204. Following the required public hearing(s), the Town

Council shall act on the proposed amendment in the same manner as adopting any other ordinance.

Section 2.7.3 Appeals
Every action contesting a decision of the Town Council adopting or failing to adopt a proposed amendment to this Chapter or the zoning map shall be filed within thirty days of the Town Council's decision with the Circuit Court of Northampton County.

Section 2.7.4 Conditional Zoning - Statement of Intent
In accordance with Virginia Code Sections 15.2-2296 et seq., it is the general policy of the Town of Cape Charles to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time recognize effects of change. It is the purpose of Sections 2.7.4 through 2.7.10 to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning. Conditional zoning allows a zoning reclassification subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. The provisions of Sections 2.7.4 through 2.7.10 shall not be used for the purpose of discrimination in housing.

Section 2.7.5 Conditional Zoning - Conditions as Part of a Rezoning or Amendment to the Zoning Map
As part of a rezoning or amendment to the zoning map, the owner of the parcel for which the rezoning or amendment is sought may voluntarily proffer, in writing made prior to the Town Council's public hearing on same, reasonable conditions in connection with the proposed rezoning or amendment. Applications for conditional zoning shall be handled in the same manner and following the same procedures as provided in Section 2.7.2 with respect to amendments generally. Once proffered and accepted as part of an amendment to this Chapter or the zoning map, such conditions shall continue in effect until a subsequent amendment changes the zoning of the property covered by such conditions. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

Section 2.7.6 Conditional Zoning - Enforcement and Guarantees
The Zoning Administrator is hereby vested with all necessary authority on behalf of the Town Council to administer and enforce conditions attached to a rezoning or amendment to the zoning map, including (a) the ordering in writing of the remedy of any noncompliance with the proffered and accepted conditions; (b) the bringing of legal action to ensure compliance with the conditions, including injunction, abatement, or other appropriate action or proceeding; and (c) requiring a guarantee satisfactory to the Town Council, in an amount sufficient for and conditioned upon the construction of any

physical improvements required by the conditions, or a contract for the construction of the improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the Town upon the submission of satisfactory evidence that construction of the improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

Section 2.7.7 Conditional Zoning - Records
The zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The Zoning Administrator shall keep in his or her office and shall make available for public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance creating the conditions in addition to the regulations provided for in a particular zoning district or zone.

Section 2.7.8 Conditional Zoning - Petition for Review of Decision
Any zoning applicant or other person who is aggrieved by a decision of the Zoning Administrator made pursuant to the provisions of Section 2.7.6 may petition the Town Council for review of the decision of the Zoning Administrator. All petitions for such review shall be filed with the Zoning Administrator and the Town Clerk within thirty days from the date of the decision for which review is sought and shall specify the ground upon which the petitioner is aggrieved.

Section 2.7.9 Conditional Zoning - Amendments and Variations of Conditions
There shall be no amendment or variation of conditions created pursuant to the provisions of Section 2.7.5 until after the Town Council holds a public hearing which hearing is advertised as required by Virginia Code Section 15.2-2204.

Section 2.7.10 Limitation on Reconsideration of Request for Amendment
No application for an amendment to this Chapter or the zoning map, including an application for conditional zoning, shall be considered by the Town Council within one year from the Council's last consideration of same. This limitation shall not apply to amendments proposed by either the Planning Commission or the Town Council on its own motion where that body finds it to be in the public interest to reconsider same.

JOINT PUBLIC HEARING
PLANNING COMMISSION & TOWN COUNCIL
STAFF REPORT

Meeting Date: May 3, 2022
Item #: 4C – CUP 2022-002
Prepared by: Katie H. Nunez, Interim Planning/Zoning Administrator
Date: April 26, 2022

APPLICANT: Cynthia Emrich & Charles van Dyck
SITE ADDRESS: 420 Randolph Avenue

TAX MAP: 83A3-1-593
LOT SIZE: 5,600 sq ft

TYPE OF APPLICATION: Conditional Use Permit 2022-02
SPECIFIC REQUEST: After the Fact Approval for an Accessory Dwelling Unit
ZONING ORDINANCE: Section 4.2 (J)
CURRENT ZONING: Residential (R-1)

DATE RECEIVED: March 16,2022
DATE DEEMED COMPLETE: March 30, 2022
LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): June 28, 2022

NARRATIVE OF PROPOSAL

The applicant is seeking to obtain an After the Fact Permit for a 548 sq ft accessory dwelling unit which was constructed in 2018/2019. Based upon a complaint to the Planning & Zoning Department, we investigated and determined that the accessory structure met the definition of accessory dwelling unit and that it was being rented on a weekly basis in conjunction with the main house on the property.

In working with the applicants/property owners to resolve the violation, we reached a corrective action plan to have them file an application for a Conditional Use Permit and bring the property into compliance with the elements of the Zoning Ordinance. I have recognized that this occurred during the transition time when the Town was crafting and adopting the Accessory Dwelling Unit ordinance and the applicant has responded swiftly in cooperation with the office to correct this violation.

Staff agreed to allow any confirmed reservations for summer 2022 to be honored and we have obtained a list of these bookings. No other bookings will be allowed that does not comport with the ordinance requirements.

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 and 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 RECOMMENDATION:

Staff recommends that the Planning Commission review the application and favorably recommend approval of the Conditional Use Permit for an Accessory Dwelling Unit After-the-Fact at 420 Randolph Avenue on an application filed by Cynthia Emrich and Charles van Dyck, 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: 420 Randolph Avenue - Accessory Dwelling Unit

Property Address: 420 Randolph Avenue

Brief Description of Project: ADU for use by family members of property owner

Zoning District: R-1 Current Use: R-1 Proposed Use: R-1

OWNER INFORMATION

Name and Company: Cynthia Gillian Emrich & Charles Tucker Van Dyck

Mailing Address: 3 Pollard Park, Williamsburg, VA 23185

Phone Number: Cynthia: 757-332-4230 Email: cynthia.emrich@gmail.com

APPLICANT INFORMATION

☑ check here if applicant is owner

Name: _____

Mailing Address: _____

Phone Number: _____ Email: _____

****

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: *Cynthia Gillian Emrich & Charles Tucker Van Dyck* Date: 16 March 2022

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: 22 March 2022 Address: 420 Randolph Avenue

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 548 sf, incl. front porch
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: Cynthia Gillian Emrich & Charles Tucker Van Dyck

Signature of Applicant: Cynthia Gillian Emrich & Charles Tucker Van Dyck

LETTER OF INTENT – CUP APPLICATION

Cynthia Gillian Emrich & Charles Tucker Van Dyck
420 Randolph Avenue, Cape Charles, VA 23310

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

DEAR KATIE NUNEZ & KEN BUTTA,

Thank you for a very productive conversation on 4 March 2022 regarding bringing our Guest Cottage at 420 Randolph Avenue into compliance as an Accessory Dwelling Unit that we will occupy ourselves (i.e., Cynthia & Tucker). As you know, we constructed it starting in May 2018 as part of a broader project that included a sensitive restoration of the original ca. 1890 Victorian and addition of a screen porch and in-ground pool.

Consistent with our conversation on 4 March 2022, and as outlined in the "Notice of Violation & Corrective Action" dated 9 March 2022, we have undertaken the following, requested steps to be in full compliance with CCZO Sections 4.2.J and 4.2.J.2.

- **"Remove references to the availability of the Guest Cottage in your advertising."** We list our property solely on Airbnb and have removed references to the Guest Cottage from that listing, with one exception noted below. You can review our listing by following this link: https://airbnb.com/h/eastofthesuncapecharles

  The Guest Cottage remains visible in a few photos of our home and backyard. Therefore, we do make one reference to the Guest Cottage in an attempt to pre-empt assumptions or queries regarding its availability: "There is a Guest Cottage on our property, but per the Town's zoning ordinance, it is not available for short-term rental. We (Cynthia & Tucker) are the only individuals permitted to occupy it".
- **"Provide the dates for which you have already committed to renting or using the Guest Cottage. You have already done this, and the dates are acceptable to us."** For ease of reference, we once again provide the dates when we are committed to renting the Guest Cottage in 2022. All weeks are weekly, and they commence on Saturdays:
  - 28 May, 4 June, 11 June, 25 June, 2 July, 16 July, 23 July, 30 July, 6 August

We are hosting family reunions the weeks of 18 June & 9 July. Otherwise, per our conversation with Katie Nunez & Ken Butta on 4 March 2022, only we will occupy Guest Cottage.

- **"Stop renting the accessory dwelling for periods of time less than 31 consecutive days after September 3, 2022."** We agree to this condition and enclose an "Accessory Dwelling Affidavit," in which we checked, "This unit will be used by family members or other non-paying guests of the principal property owner[s]."
- **"Apply for and receive a Conditional Use Permit for the Accessory Dwelling Unit.**" This letter is an enclosure to that Application.
- **"Complete and submit to this office a signed and notarized Accessory Dwelling Unit Affidavit.**" This Affidavit is enclosed as part of our CUP Application packet.

Thank you, again, for the spirit of positive intent and collaboration that the two of you brought to the conversation on 4 March 2022. We also thank you for clearly outlining a constructive path forward.

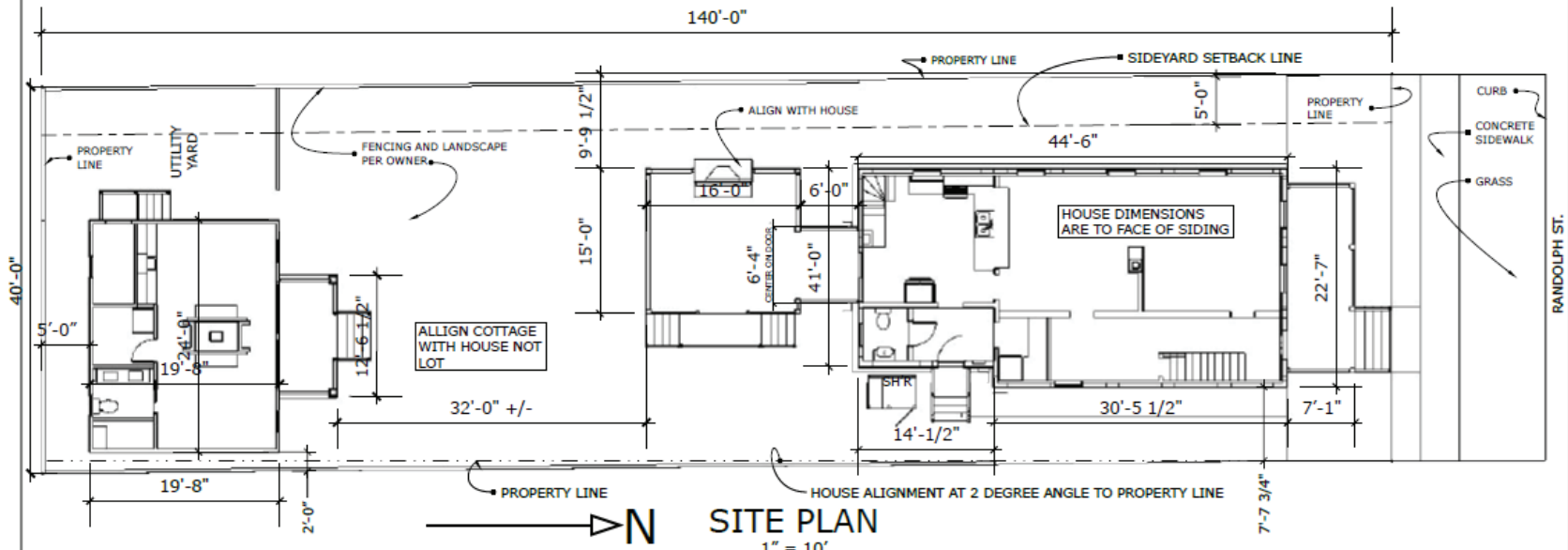
As we wrote in our email dated 28 February and repeated during our conversation, we never intended to run afoul of the Town's zoning ordinances and believed at the time that we were taking all the right steps to be good citizens of the Town. We will be happy to truly be in full compliance with all ordinances going forward.

Thank you, and take care.

Cynthia Gillian Emrich & Charles Tucker Van Dyck

Cynthia Gillian Emrich & Charles Tucker Van Dyck

Enclosure



SITE PLAN

1" = 10'

LOT AREA SUMMARY	ACTUAL (SF)	ACTUAL	ALLOWABLE
LOT AREA	5606		
HOUSE FOOTPRINT WITHOUT PORCHES	976		
HOUSE FOOTPRINT INCL. COVERED PORCHES	1450		
ACCESSORY BLDG FOOTPRINT INCL. COVERED PORCH	548		550 SF
TOTAL BUILDING COVERAGE	1998	35.6%	50% OF LOT AREA
ACCESSORY BUILDING % OF MAIN HOUSE		37.8%	50%

DEMOLITION SUMMARY

REMOVE ALL ALUMINUM SIDING AND ALUMINUM TRIM
REMOVE ANY NON-ORIGINAL DOORS AND WINDOWS
REMOVE ENTIRE COVERED FRONT PORCH AND STOOP
REMOVE SIDE AND REAR STOOPS
REMOVE ALL NON-SALVAGEABLE PLASTER & LATH; REMOVE ALL DRYWALL
REMOVE ALL INSULATION PRODUCTS

GENERAL NOTES

ALL CONSTRUCTION SHALL COMPLY WITH 2012 VIRGINIA RESIDENTIAL CODE.

SOIL CHARACTERISTICS

SOIL BEARING CAPACITY: ASSUMED 1500 PSF

ELASTICITY: ASSUMED NORMAL

DESIGN STANDARDS:

NO. 2 SOUTHERN YELLOW PINE , OR BETTER AND/OR MIN. Fb = 1200 PSI.

FOR SPANS OVER 16 FT.: SPRUCE/PINE/FIR AND/OR Fb = 1000 PSI

19% MAX. MOISTURE CONTENT

LVL BEAMS: MULTIPLE MEMBERS SHALL BE FASTENED TOGETHER WITH MIN. 2 ROWS 16D NAILS

HEADERS: UP TO 4' USE TWO 2X8'S. 4'- 6' USE TWO 2X10'S. 6' - 8' USE TWO 2X12'S UNLESS OTHERWISE NOTED.

TERMITE PROTECTION

BY PRESSURE PRESERVATIVE TREATED WOOD SILLS PER SECTION R319.1 VRC AND CHEMICAL TERMITICIDE TREATMENT AS PROVIDED IN SECTION R320.2 VRC.

SIDING

WOOD SMOOTH LAP SIDING, 6" EXPOSURE

EXTERIOR TRIM – WOOD. BACK PRIME ALL TRIM PRIOR TO INSTALLATION

INTERIOR TRIM: MATCH ANY EXISTING ORIGINAL TRIM

WINDOWS: RESTORE ALL 2 OVER 2 WINDOWS. REPLACE OTHERS WHERE NOTED

ENGINEERED LUMBER:

ALL LVL'S AND WOOD I-JOISTS SHOWN ON PLANS SHALL BE OF SIZES SHOWN AND INTALLE IN ACCORDANCE WITH MANUFACTURER'S STANDARDS

SHEET IS FORMATTED FOR PRINTING ON 12' X 18" SHEETS

ROGER S. GUERNSEY, ARCHITECT
113 SHELLBANK DRIVE, WILLIAMSBURG, VA 23185-1420
757-880-4984 ROGERGUERNSEY@GMAIL.COM

REVISIONS
SEE DATE OF SHEET

EMRICH-VAN DYCK RESIDENCE
420 RANDOLPH AVE.
CAPE CHARLES, VA 23301

DATE 1-2-19
DRAWN BY RSG
JOB. NO. 21607
SHEET NO. 2 OF 29 SHEETS

CONDITIONAL USE PERMIT APPLICATION –

420 Randolph Avenue, Cape Charles, VA 23301

Names & Addresses of Adjacent Property Owners

(South)
Lola May Young Bailey
433 Mason Avenue
Cape Charles, VA 23310

(East)
John P Tapscott & Paula Russo (424 Randolph Avenue)
3814 Mystic Cove Ct
Virginia Beach, VA 23455

(West)
June Pearlberg (416 Randolph Avenue)
405 Mount Carmel Rd
East Fallowfield, PA 19320

PLANNING COMMISSION
PRELIMINARY STAFF REPORT

Meeting Date: May 3, 2022
Item #: 7A – CUP 2022-003
Prepared by: Katie H. Nunez, Interim Planning/Zoning Administrator
Date: April 26, 2022

APPLICANT: Michelle & Nathan Davidson

SITE ADDRESS: 211 Madison Avenue

TAX MAP: 83A1-1-211 & 210

LOT SIZE: 10,320 sq ft

TYPE OF APPLICATION: Conditional Use Permit 2022-03

SPECIFIC REQUEST: An Accessory Dwelling Unit & Inground Pool

ZONING ORDINANCE: Section 4.2 (J) & Section 3.2 (C) (5)

CURRENT ZONING: Residential (R-1)

DATE RECEIVED: March 26,2022
DATE DEEMED COMPLETE:
LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory):

NARRATIVE OF PROPOSAL

The applicant is seeking to obtain a Conditional Use Permit for a 768 sq ft accessory dwelling unit and an inground pool. We are still obtaining application information concerning the height of the main house as well as the proposed height of the accessory structure and a site survey has been ordered but there is a backlog in getting surveys completed.

The current home has a building footprint of 1,136 sq. ft and seeking an addition of 755 sq. ft which would bring the new building footprint to 1,891 sq. ft. and since the applicant is combining two lots for a total lot size of 10,320 sq. ft, the maximum accessory building size that they could have is 660 sq. ft.

So, we are still working with the applicant to refine their request to comply with the zoning ordinance. Nevertheless, I am providing this application to you for your review since there are some pressing family needs driving the renovation and expansion needs for this property and I believe that we will bring the application into zoning compliance relative to height and size shortly.

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 and 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.

In addition, Section 3.2 (C) requires a conditional use permit for an inground pool in the Residential-1 Zoning District.

Staff is requesting the Planning Commission to review the application submitted and authorize staff to schedule a public hearing on this application at the earliest opportunity once the application is in zoning compliance.

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.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission authorize staff to schedule a public hearing on this application at the earliest opportunity once the application is in zoning compliance for a Conditional Use Permit for an Accessory Dwelling Unit at 211 Madison Avenue on an application filed by Michelle & Nathan Davidson, pursuant to Cape Charles Zoning Ordinance Section 4.2 (J), and a Conditional Use Permit for an inground pool pursuant to Cape Charles Zoning Ordinance Section 3.2 (C) (5).

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

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

PROJECT INFORMATION

Name of Project: Davidson Family Apartment / Garage

Property Address: 211 Madison Ave.

Brief Description of Project: 2 story garage-apt for mother, Geri Lewis

Zoning District: ____ Current Use: land Proposed Use: apartment/garage with pool (inground).

OWNER INFORMATION

Name and Company: Michelle & Nathan Davidson

Mailing Address: 416 Brougham Ct. Chesapeake, VA 23322

Phone Number: 703-298-3247 Email: michele@chesapeakebaypsych.com

APPLICANT INFORMATION

[x] check here if applicant is owner

Name: _____

Mailing Address: _____

Phone Number: _____ Email: _____

****

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: Michelle R. Davidson Date: 3/10/2022

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: 3/10/2022 Address: 211 Madison 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 1438
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: Michelle R. Davidson

Signature of Applicant: Michelle R. Davidson

Michele & Nathan Davidson
416 Brougham Court
Chesapeake, VA 23322
703-298-3247
michele@chesapeakebaypsych.com

February 23, 2022

To Whom It May Concern.

We are requesting a certificate of appropriateness for an addition into our home at 211 Madison Avenue along with a garage with an apartment. The addition will enable our 14 year-old son to access and live full-time in the home. Presently, there is no accessible bedroom or space for someone in a wheelchair. We are proposing adding a wheelchair accessible half bath, master bedroom for him with a wheelchair accessible bathroom, and a den for his own use and equipment needs. The addition is 755 square feet and also includes a wheelchair ramp to access the home which will be constructed on the side. We purchased the adjoining lot next to our home for this purpose.

We are also requesting to add a garage apartment onto our property to enable us to build a apartment for my elderly mother who will also be moving to Cape Charles with us full-time. The apartment will enable her to live as independently as possible while still allowing her to be in close proximity to us. The proposed garage is 24 x 32 feet in size and will also be located on the current and adjacent lot which we have applied to be joined.

We are also hoping to add a salt water pool for our son as well behind our home that is 12.5 feet x 30 feet to provide aquatic therapy for him. We would like to include a picket 4 foot vinyl fence in accordance to building codes for safety purposes.

The addition of the rooms and garage will enable our family to relocate to Cape Charles on a full-time basis and become permanent residents here. Please let us know if you have questions or need additional information about this exciting project.

Kind regards,

Michele Davidson

Michele Davidson

INST. 170001600 (83A1-1-211)

ELS: 83A1-1-210 & 211

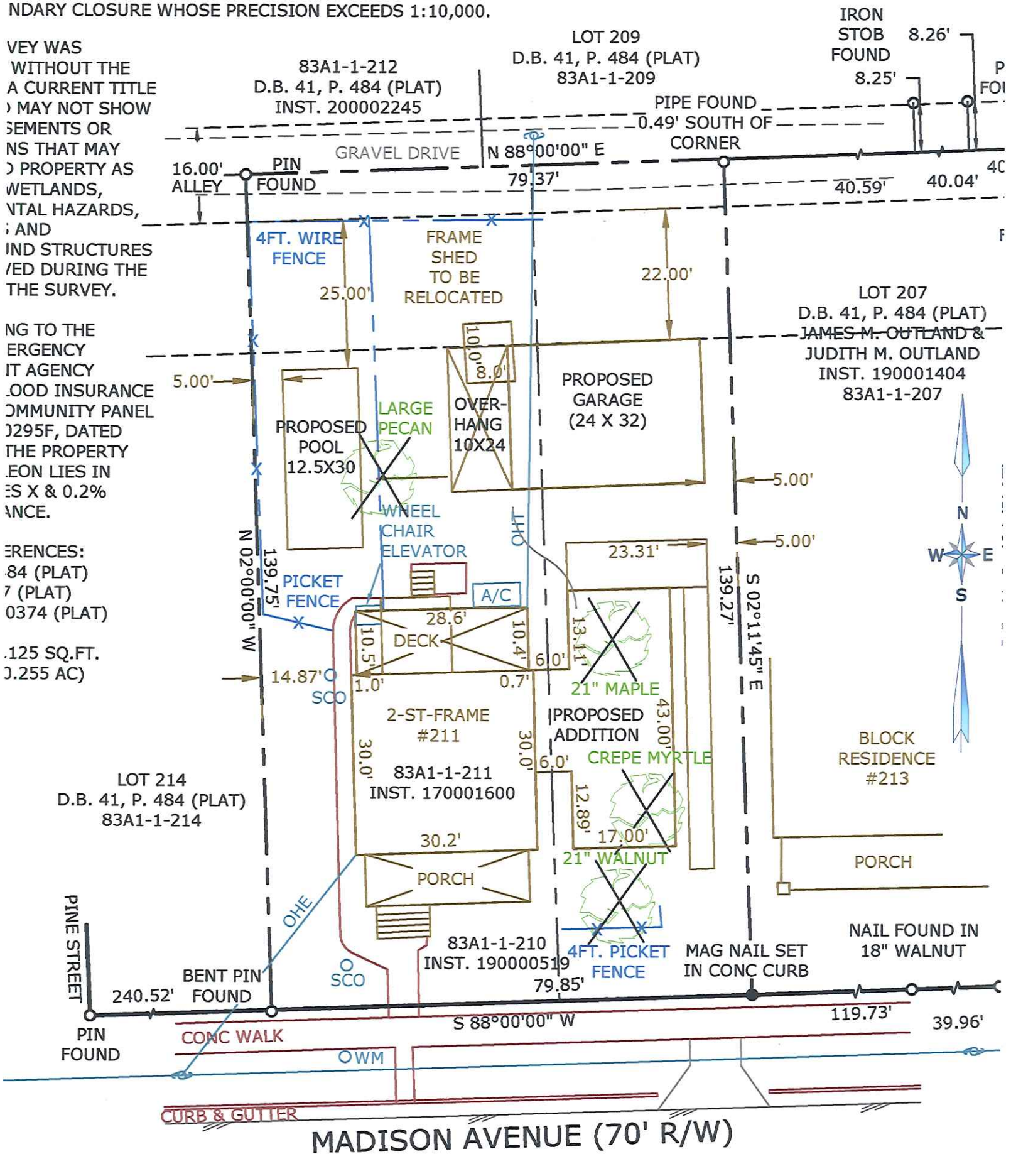
' WAS PERFORMED ON THIS PROPERTY IN MARCH 2022
NDARY CLOSURE WHOSE PRECISION EXCEEDS 1:10,000.

VEY WAS
WITHOUT THE
A CURRENT TITLE
) MAY NOT SHOW
SEMENTS OR
NS THAT MAY
) PROPERTY AS
WETLANDS,
NTAL HAZARDS,
; AND
IND STRUCTURES
/ED DURING THE
THE SURVEY.

NG TO THE
ERGENCY
IT AGENCY
.OOD INSURANCE
OMMUNITY PANEL
0295F, DATED
THE PROPERTY
.EON LIES IN
ES X & 0.2%
ANCE.

ERENCES:
84 (PLAT)
7 (PLAT)
0374 (PLAT)

.125 SQ.FT.
).255 AC)



SITE PLAN

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.

COMMONWEALTH OF VIRGINIA
Craig P. Crockett
No. 2568
LAND SURVEYOR

GENERAL NOTES:

1. OWNERS: NATHAN S. DAVIDSON, II & MICHELE R. DAVIDSON

2. SOURCES OF TITLE: INST. 190000519 (83A1-1-210)
INST. 170001600 (83A1-1-211)

3. TAX PARCELS: 83A1-1-210 & 211

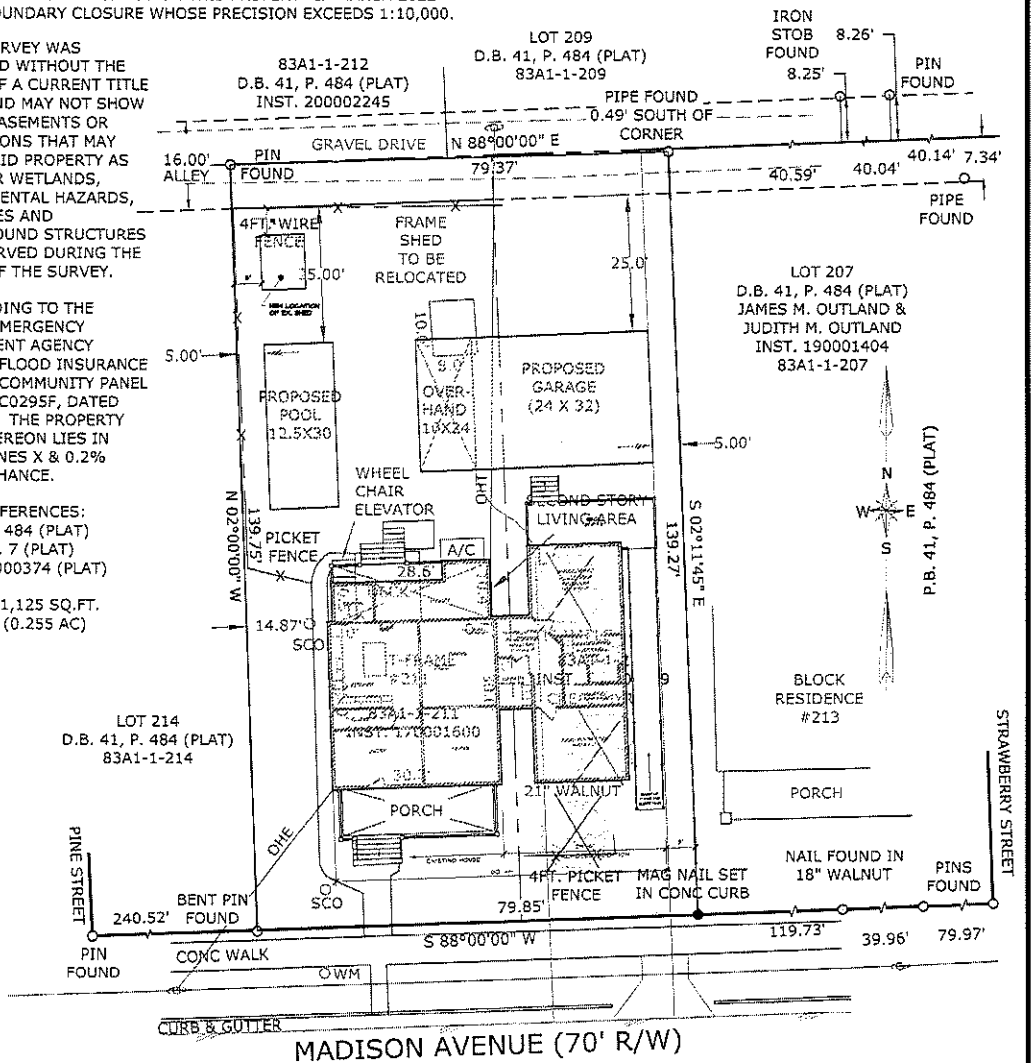
4. A SURVEY WAS PERFORMED ON THIS PROPERTY IN MARCH 2022 WITH A BOUNDARY CLOSURE WHOSE PRECISION EXCEEDS 1:10,000.

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 LIES IN FLOOD ZONES X & 0.2% ANNUAL CHANCE.

7. PLAT REFERENCES:
D.B. 41, P. 484 (PLAT)
D.B. 291 P. 7 (PLAT)
INST. 190000374 (PLAT)

8. AREA: 11,125 SQ.FT.
(0.255 AC)



SITE PLAN

LOT 211 & THE WESTERN 32' OF LOT 210

MAP OF THE TOWN OF

CAPE CHARLES

CAPEVILLE DISTRICT

NORTHAMPTON COUNTY, VIRGINIA

SCALE: 1" = 20' MARCH 11, 2022

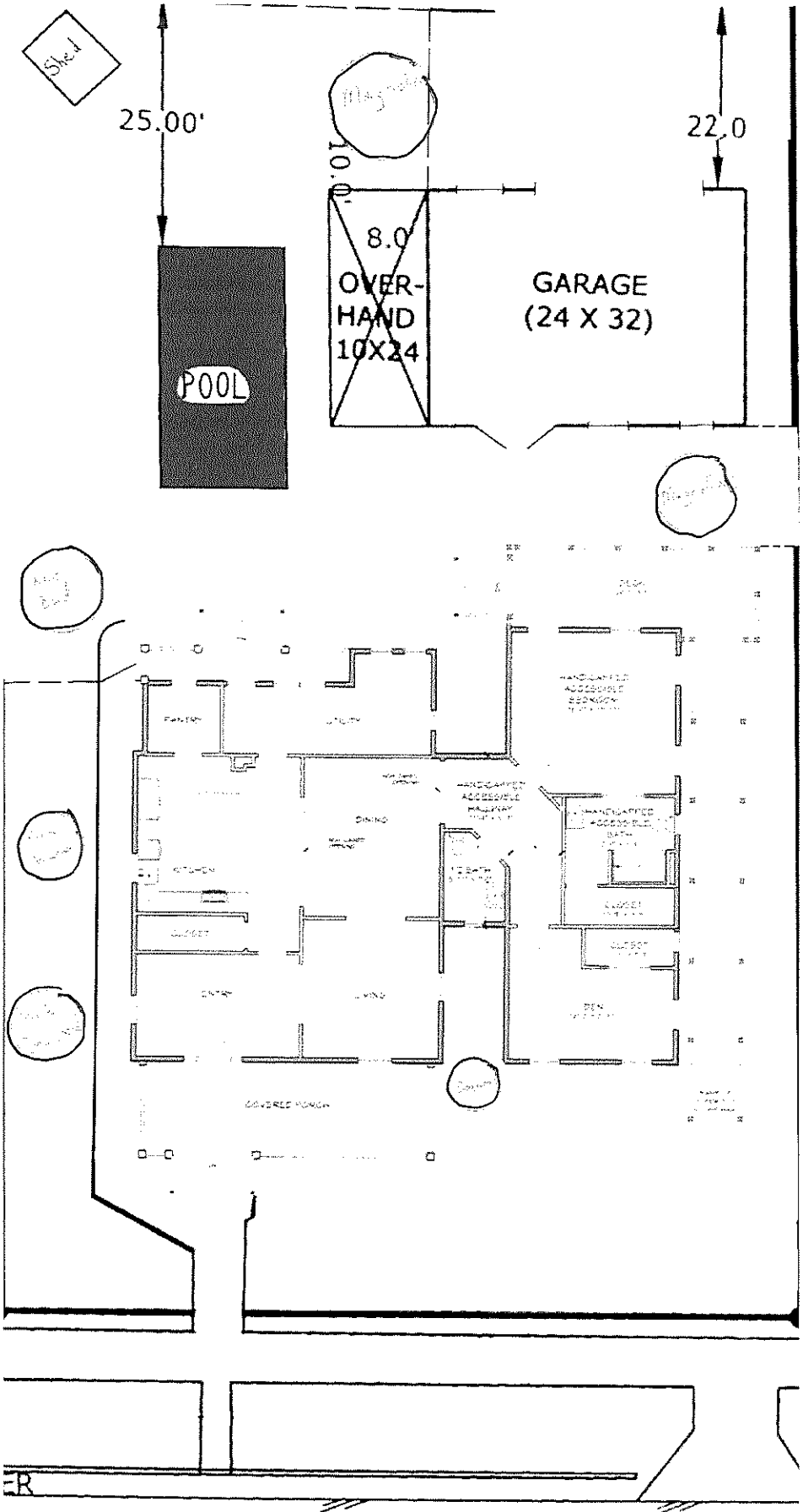
MADE FOR NATHAN S. DAVIDSON & MICHELE R. DAVIDSON

20 0 10 20 40

GRAPHIC SCALE 1 INCH = 20 FT.

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

DRAWN BY: PARKER	FIELD BOOK: FILE COPY
BACK TRAV: CROCKETT	PROJ. NO: 22028



Landscaping Plan

N

PLAN REFERENCE NORTH

GRAPHIC SCALE

1/4" = 1'-0"

DESIGN DEVELOPMENT
DRAFTING & DESIGN SERVICES LLC
PO BOX 193
ONANCOCK VA 23417
757-304-8101
deedevelopment@live.com
www.deedevelopment.net

DAVIDSON RESIDENCE
ADDITIONS & ALTERATIONS
211 MADISON AVENUE
CAPE CHARLES VIRGINIA 23310

SHEET 5 OF 5

PREPARED BY KAM
DATE: APRIL 11 2022

REAR ELEVATION

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

REAR ELEVATION W/ PROPOSED GARAGE

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

N

PLAN REFERENCE NORTH

GRAPHIC SCALE

1/4" = 1'-0"

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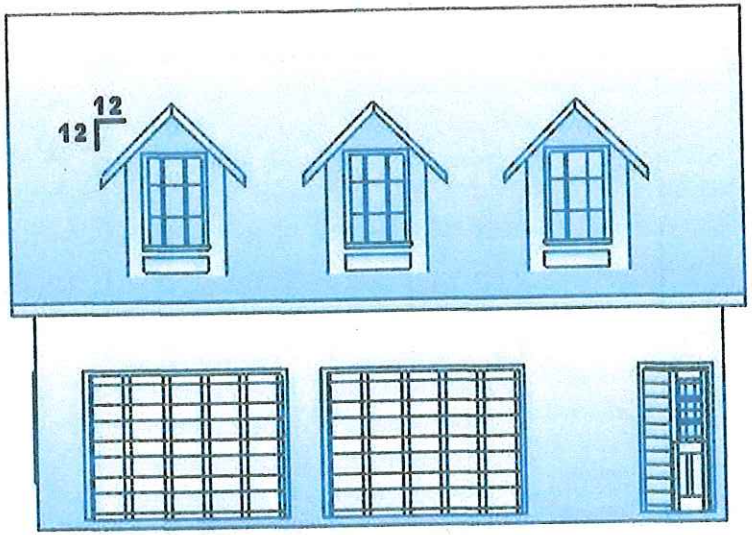
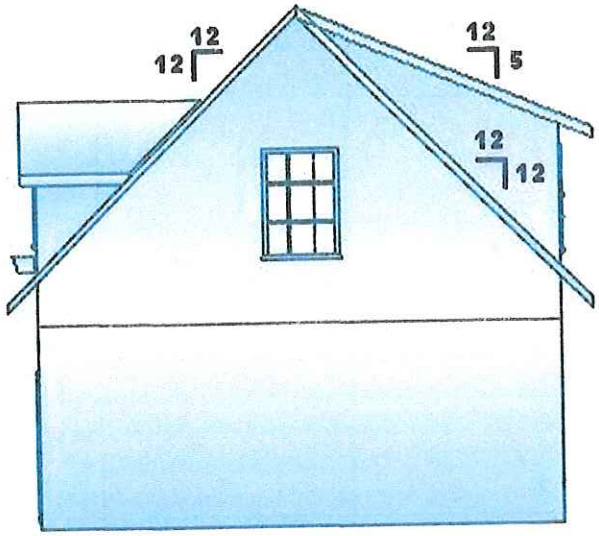
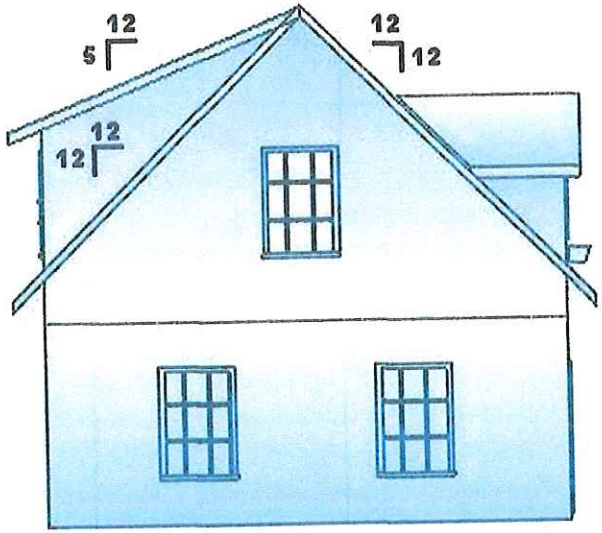


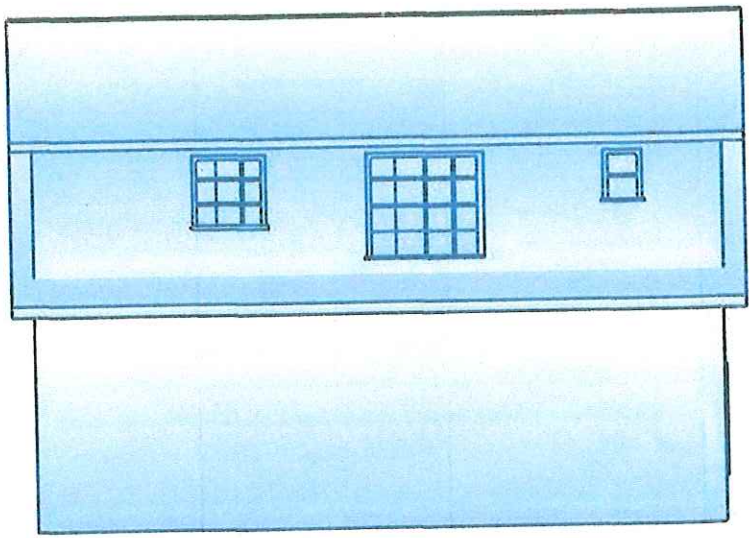
Front Elevation



Right Elevation



Left Elevation



Rear Elevation

ALTERNATIVE HOUSING SOLUTIONS	
24'x 32' Garage Apartment	
Page 2 of 12	03/10/2010
DESIGNER Terry L Cardwell	

Elevations

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Michele & Nathan Davidson
211 Madison Avenue
Cape Charles, VA 23310

Names & Addresses of Adjacent Property Owners

Jim & Jody Outland
213 Madison Avenue
Cape Charles, VA 23310

David O'Kelly
209 Madison Avenue
Cape Charles, VA 23310

unicipal Corp. of

Cape Charles

MAY 2022
MONTHLY REPORT
Katie H. Nunez, Interim Planning/Zoning Administrator

1. **Subdivision Agent:**
   - **A.** Final Plats:
     1. The Fairways - Residue of P-1 – The Commons Lots 27A-27D
     2. Bayside Village – Parcel P-5 – Lots B-111 to B-116
     3. Bayside Village – Parcel P-8 – Lots B-136 to B-137
     4. Bayside Village – Section XIII – Lot B-110A
     5. Plantation Pointe – Parcel P-3 – Lots PP-54 to PP-57

   - **B.** Preliminary Plats:
     1. Bayside Village – The Woodlands – Lot B-201 to B-208

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.]
   - **A.** No applications filed

Municipal Building · 2 Plum Street · Cape Charles, Virginia 23310
(757) 331-3259 Fax (757) 331-4820