



PLANNING COMMISSION

Public Hearing & Regular Meeting

Cape Charles Civic Center
August 2, 2022

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, Paul Grossman, Jim Holloway, Dennis McCoy and Michael Strub. There was one vacancy on the commission. Also, in attendance were Planning/Zoning Administrator Katie Nunez, Planning Technician Tracy Outten, and Town Clerk Libby Hume. There were no members of the public in attendance and seven viewers on Facebook Live.

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

CONSENT AGENDA:

Motion made by Paul Grossman, seconded by Michael Strub, to approve the Consent Agenda as present. The motion was approved by unanimous vote.

Bill Stramm read the public hearing notice and opened the public hearing.

PUBLIC HEARING COMMENTS:

- A. *Conditional Use Permit (CUP) 2022-004: Application from Barbara and Bill O'Hare at 11 Randolph Avenue (Tax Map #83A3-2-3-1) for an Accessory Dwelling Unit in the Residential-1 Zoning District pursuant to CCZO Section 4.2 (J).*

Katie Nunez summarized the staff report and read the public comment submitted by Steve Handy and Claudine Pierce. (Please see attached.)

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

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

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. *Discussion and Possible vote on Conditional Use Permit (CUP) 2022-004: Application from Barbara and Bill O'Hare at 11 Randolph Avenue (Tax Map #83A3-2-3-1) for an Accessory Dwelling Unit in the Residential-1 Zoning District pursuant to CCZO Section 4.2 (J).*

Motion made by Paul Grossman, seconded by Dennis McCoy, to recommend Town Council approve the Conditional Use Permit (CUP 2022-004) for an Accessory Dwelling Unit at 11 Randolph Avenue on an application filed by Barbara and Bill O'Hare pursuant to Cape Charles Zoning Ordinance Section 4.2 (J). The motion was approved by unanimous vote.

B. Discussion regarding zoning ordinance provisions regarding Accessory Dwelling Units.

Katie Nunez summarized the Town Council discussion and said the Commissioners needed to discuss how to proceed with revisions rewrite to the text amendments pertaining to Accessory Dwelling Units (ADU).

Discussion and questions were as follows: (i) Dennis McCoy asked what Town Council's problem was on the "Policies and Descriptions" document provided in the packet the number two description bullet was highlighted. Katie Nunez said this council does not want to be restrictive with the intent. Dennis McCoy pointed out that this was the identical phrasing from the study that the Berkley Group completed for the Northampton County. (ii) There was much discussion on the length of stay whether it be kept at thirty days or be changed to sixty days. (iii) Allowing family and friends to stay in the ADU when not in use as a long-term rental was discussed as an option. (iv) The commissioners were still unclear on the purpose of an ADU. (v) Bill Stramm asked if short-term rentals were being considered as an option; no. (vi) The definition for "kitchen" would be "a space within a structure designated for the preparation of food". (vii) Kenneth Butta stated that annual inspections and expiration dates were needed. (viii) Paul Grossman would like an ADU to be a by-right usage but was worried about how it could be monitored. Katie Nunez said that additional terms or conditions could be given. Paul Grossman thought the fines were not enough if a violation was to be placed on a property. Katie Nunez would like to have civil penalties instead of criminal. Paul Grossman asked if the Conditional Use Permit would be revoked if the ADU was being rented as a short-term rental. He added that the owners should have a financial penalty, permanent ban, and per day violation. (ix) Jim Holloway said safety should be paramount and the first question to be asked was can the fire department or other emergency department find the residence. Paul Grossman said all building requirements should be followed. Katie Nunez said the owners could provide a statement of attestation and added that she was working with Jeb Brady, Code Official, to issue a Certificate of Completion. and (x) Michael Strub asked if a definition for long term rental should be added; no, Town Council does not want to be restrictive and flexibility for family members to stay in an ADU was wanted. He then said make it easy and state "No short-term rentals.". Much discussion ensued on how to ensure it was understood that accessory dwelling units were for long-term rentals and not short-term rentals.

Katie Nunez would compile all discussion and revise the Cape Charles Zoning Text Amendments as necessary for review at the September meeting.

C. Discussion regarding report commissioned by Northampton County entitled: "Overcoming Land Use Ordinance Barriers to Housing Development" dated May 27, 2022 by the Berkley Group.
Katie Nunez briefly read through the staff report.

Paul Grossman provided a table compiled of his review of the report. (Please see attached.) He suggested forming a sub-committee of himself and one other commissioner. Bill Stramm was interested.

Paul Grossman, Bill Stramm, and Katie Nunez would schedule a meeting.

REPORT OF OFFICERS AND COMMITTEES

Bill Stramm would like a status report on the strategic plan for the sidewalks. He referenced the Sidewalk Study that had been conducted. Katie Nunez would ask Town Manager John Hozey.

STANDING STAFF REPORTS

Katie Nunez gave updates on the following: (i) Final Plats Approved: (1) Dreams by the Water Subdivision; Final Site Plan Approved: (1) Cape Charles Mini Golf; (ii) Board of Zoning Appeals: (1) Three variance applications.; and (2) Working with property owner, Nancy Rooney, on options to get allowance for a first-floor residential unit in the Commercial-1 District.

ANNOUNCEMENTS

- Regular Session – September 6, 2022, at 6:00 p.m. in the Civic Center

Motion made by Paul Grossman, seconded by Jim Holloway, to adjourn the Planning Commission Public Hearing and Regular Meeting at 7:21 p.m. The motion was approved by unanimous vote.

Chairman Bill Stramm

Planning Technician

Planning Commissioner Paul Grossmans Table

Paul Grossman (7/25/22)

Review of 'Overcoming Land Use Ordinance Barriers to Housing Development' Report (May 27,2022)

Factor 1: Diversity of Housing Stock

Item	Study Recommendation/ Comment	Study Reference Location	Town's Substantiation/Reference Location	Planning Commission Recommendations/ Actions and rationale	Recommendation Pros and Cons
1	Finding: Accessory dwelling units should be permitted more broadly across the localities. - Though some localities limit ADU residency to family members, this is not recommended as it is a difficult provision to enforce and limits the ability to create affordable rental options. - ADUs are not listed as permitted uses in the Town of Cape Charles. Expanding the permission of ADUs provides opportunity for additional affordable housing and aging in place.	P.17	Cape Charles does not limit occupants of ADU to family members. ADUs can be occupied by owners, family members or renters > 30 days duration. One accessory dwelling may be maintained on a property in the R-E, R-1, R-2 and CR zoning districts, <u>contingent upon approval as a conditional use</u> in accordance with Section 4.3. Section 4.2.J.	No changes recommended. Planning Commission/ Town Council currently revising ADU ordinance and considering removal of conditional use permit requirement (i.e., allow by-right).	Pro: Ordinance has sufficient requirements to allow review and approval by ZA. Reduces process time by eliminating public hearings and PC and TC engagement.
2	Finding: Impacts of Tourist/Transient Housing and Alternative Structures on Housing Cape Charles uses the term short-term rental. Taking a comprehensive look at the tourist/transient housing group across all localities reveals that each locality permits some form of these tourist/transient or "short-term" rentals by-right. Studies show that short-term rentals and similar tourist and transient housing can negatively affect housing affordability if they are not owner-occupied dwellings.	P.17			

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	Owner-occupancy can be a requirement as a performance standard for these uses.				
3	Recommendation 1: Create a consolidated use table/matrix similar to the table in Northampton County's ordinance, to clearly identify permitted uses within each district to ease interpretation and usability	P.18			
4	Recommendation 2: Modernize/expand permitted uses. Modernize permitted use lists in ordinances to incentivize and facilitate a diverse range of housing types not currently permitted, such as accessory dwelling units and middle housing (4–8-unit buildings) in appropriate zoning districts.	P.18			
5	Recommendation 3: Expand flexibility in residential use permissions. Examine whether residential uses that currently require approval of a special (or conditional) use permit may be appropriate by right with accompanying use/development standards. [Code of Virginia § 15.2-2288.1 specifically prohibits a locality from requiring special (or conditional) use permit approval for residential dwellings proposed in compliance with the use, height, and density permitted by-right under the zoning district regulations.]	P.18			
6	Recommendation 4: Evaluate manufactured home parks and subdivisions as affordable housing options.	P.18			

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	"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" does not include a park model recreational vehicle, which is a vehicle that is (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single chassis mounted on wheels; and (iv) certified by the manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard. [§ 46.2-100. Definitions.]				
7	Recommendation 5: Amend ordinances to ensure uses comply with the Code of Virginia. Ordinance for Cape Charles, should be amended to comply with the Code of Virginia § 15.2-2292.1 relative to temporary family health care structures.	P.18			

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	§ 15.2-2292.1. Zoning provisions for temporary family health care structures. Zoning ordinances for all purposes shall consider temporary family health care structures (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings. Such structures shall not require a special use permit or be subjected to any other local requirements beyond those imposed upon other authorized accessory structures, except as otherwise provided in this section. Such structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. Only one family health care structure shall be allowed on a lot or parcel of land. "Temporary family health care structure" means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in § 63.2-2200, as certified in writing by a physician licensed in the Commonwealth; (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.				
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