



PLANNING COMMISSION

Public Hearing & Regular Meeting

Cape Charles Civic Center
January 03, 2023

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 Paul Grossman, Jim Holloway, Dennis McCoy, Shannon Smith, and Bill Ashworth. Also, in attendance were Planning/Zoning Administrator Katie Nunez, Town Clerk Libby Hume, and Town Manager John Hozey. There were five members of the public in attendance and six viewers on Facebook Live.

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

Chairman Stramm thanked the two new members of the board Shannon Smith and Bill Ashworth.

Annual reorganization of the Board - Commissioner Stramm asked for nominations of Chairman and Vice-Chairman. Commissioner Grossman nominated Commissioner Stramm as Chairman and was seconded by Commissioner Ashworth. There were no other nominations for Chairman. All were in favor.

Chairman Stramm asked for nominations of Vice-Chairman. Commissioner Grossman nominated Dennis McCoy and was seconded by Commissioner Ashworth. All were in favor.

Update and adoption of revised planning commission bylaws - Katie Nunez asked that this item be deferred to February as she had not had the opportunity to review the bylaws.

CONSENT AGENDA:

Hearing no objections, Chairman Stramm approved the Consent Agenda as presented.

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

PUBLIC HEARING COMMENTS:

- A. *Zoning Text Amendment (ZTA) 2023-01 application from Lot 4 Holdings, LLC c/o Winmar Advisory to amend Article III to create a new zoning district called Bay Crossing Planned Unit Development and to amend any other sections of the Zoning Ordinances deemed appropriate to achieve the purposes described herein. 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. *Zoning Map Amendment (ZMA – 2023-01) application from Lot 4 Holdings, LLL c/o Winmar Advisory to rezone Tax Map #90-19-A from Residential-R3 to the new zoning district called Bay Crossing Planned Unit Development District if so created.*

Ms. Nunez gave a summary of the staff report.

Lance Marine, Lot 4 Holdings, LLC

Mr. Marine explained the concept to the Commission. Mr. Marine indicated that he had reached out to the mayor just about a year ago with the concept of this project and the vision and scope of the project has been honed after dialogue with business owners and refined based upon design work and in concert with cost consideration for all project costs. While there are some small differences

in the proposed PUD to the R-3 District, the one significant text amendment that he is seeking is to build residential units under 1,000 square feet.

The proposed design includes a main road to set the tone to create a neighborhood with a median as part of that proposal and a strong flavor of pedestrian access with raised sidewalks. He is seeking increased parking above the requirements of the Town zoning ordinance. 63 Units proposed in the 1st building for workforce housing. The plan shows the concept of a possible Phase 2, which is a mirror of the first building area. His second use beyond the residential development is the commercial use of an Electric Charging Station. He has included a 100 ft buffer from Old Cape Charles Road and does not intend to have an access point onto the property from Old Cape Charles Road unless required by VDOT which he believes would be limited to public safety vehicles only. He is proposing several community amenities, such as firepits, grills, etc. to create a community gathering space through the outdoor space. He did not include balconies since he believes that is contrary to the community outdoor space he is trying to create.

There was a question about what consideration has been made about high-speed internet access being brought to this property. Mr. Marine indicated that he has not focused on that utility for this property but will be exploring this. There was a question about Mr. Marine's understanding of the demand for this type of project and the take rate for these units. Mr. Marine indicated that there would need to be a marketing and educational campaign about the specifics of these units and that is why he is focused only on a Phase I build of 63 units initially. There was a question about the changing work/home model where so much of work was funneled into the home space and the need for some time of business center affiliated with the multi-family housing space. Mr. Marine indicated that there is some flexibility space within the proposed building that could meet that need.

Sam Jones, 530 Monroe Avenue

Mr. Jones stated that he is supportive of workforce housing. He serves on the board for Eastern Shore Habitat for Humanity and sees the need for all types of housing options. He did the math based upon the range indicated in the Statement of Intent and felt that the wage range seems correct based upon the workforce on the Shore. He wanted to ensure the Town was evaluating this project proposal not just from a 63-unit consideration but rather from, if the project is highly successful, then it is possible that there could be 4 buildings with a total of 252 units. Also, he hopes that the Town could also ensure through the ordinance that these units be long-term for work force housing and not converted into short-term rentals at all.

There were no other public comments.

Motion made by Commissioner Grossman and seconded by Commissioner McCoy to close the public hearing on Zoning Text Amendment (ZTA) 2023-01 application from Lot 4 Holdings, LLC c/o Winmar Advisory to amend Article III to create a new zoning district called Bay Crossing Planned Unit Development and to amend any other sections of the Zoning Ordinances deemed appropriate to achieve the purposes described herein.

CITIZEN COMMENTS:

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

UNFINISHED BUSINESS

- A. Request from Town Council to draft Zoning Text Amendments to Section 4.5 – Off-Street Parking and Loading Standards re: add golf cart parking spaces – appoint subcommittee. Commissioner Grossman was concerned with the definition of the parking of golf carts both municipal and public. Ms. Nunez explained.
Dennis McCoy and Shannon Smith volunteered for the Golf Cart Parking subcommittee.

NEW BUSINESS

- A. *Zoning Text Amendment (ZTA – 2023-01) application from Lot 4 Holdings, LLC c/o Winmar Advisory to amend Article III to create a new zoning district called Bay Crossing Planned Unit Development and to amend any other sections of the Zoning Ordinances deemed appropriate to achieve the purposes described herein.*

The discussion and questions were as follows: (i) Commissioner Smith asked if the EVC station would be a revenue generating proposal and Mr. Marine confirmed that it would be. (ii) She also asked if the EV station would be draining power from the local electric grid or if he planned to use solar. Mr. Marine replied that he was researching other means of powering the EV stations. (iii) She also asked if he consulted with the power company to see if they can generate enough power to support the EV station and he confirmed that there was no concern there. (iv) Commissioner Grossman asked if the plan is essentially a concept that may have some minor tweaks as it progresses, and Mr. Marine confirmed. (v) Commissioner Grossman asked for Mr. Marine's position for these units being used for short-term rental or subletting. Mr. Marine stated that short-term rental is totally misaligned with his vision for this project. (vi) Commissioner Grossman asked how Mr. Marine is interpreting how the 30% component contained in the Statement of Intent is applicable to the project. Mr. Marine stated that he believes the 30% component would be far more than the rent he would be charging. (vii) Commissioner Grossman then asked staff how this can be included since there is no space in zoning for oversight of rent or income-based housing. Ms. Nunez indicated that she provided the information to put the Statement of Intent into some numerical context for the public and it shows the range from the top to the bottom. (viii) Mr. Marine indicated that there would be no private sector debt on this project, and he is in discussion with Virginia Housing for financing and there are several models that could be applicable and will have to adhere to their requirements. For example, one program states that 60% of the units would have to be at 80% of AMI. He would seek to maximum his offerings and finance options since he does not intend any of his units to be "luxury" units. The other factor that is not viable for this project is that the unit size must be less than 1,000 square feet. (ix) Based upon that information from Mr. Marine, then Commissioner Grossman feels there is a disconnect in the Statement of Intent specific to the inclusion of the following sentence: "The targeted workforce housing segment income range is 80% to 150% of the Area Median Income (\$55,104 for Cape Charles) and no greater than 30% of income to be spent for housing costs (rents and utilities)". (x) Mr. Marine indicated that he believes the 80% re: income level should be removed based upon feedback he has received and believes that it was provided to illustrate for people what type of housing was intended, and he believes that this seems to lean closer to a pro-forma statement vs. a zoning ordinance and the actual request which is only to remove the minimum 1,000 square foot housing unit requirement. (xi) Commissioner Grossman believes that the Planning Commission may be overstepping its bounds by imposing what he would call "rent control". He does not believe state code provides that authority to the Planning Commission and he does not think the applicant is willing to live with this condition being imposed upon him, whether it is the range of the AMI or the 30% of income being spent on housing costs (Rent and Utilities). (xii) Ms. Nunez stated that the Planning Commission did not impose this upon Mr. Marine but rather this zoning text amendment was proposed by the applicant, including the Statement of Intent, and the Planning Commission is reviewing and commenting on whether the text amendment is ok as presented. (xiii) Mr. Marine indicated that based upon the conversations at this point then he does think the AMI reference, specifically the 80% reference, should be omitted and the 30% of income spent on housing costs (rent and utilities) should also be omitted, especially since this is not a public/private partnership and there is no funding from the County or the Town for this project. He stated that the term of workforce housing is a made-up term, and that stuff was included to be illustrative of what he would consider the workforce population that this type of development would serve. (xiv) Chairman Stramm indicated that the Town does not have a definition of workforce housing and the housing sub-committee is working on that issue. (xv) Commissioner Grossman asked what the "SC-District" is since the ordinance stated that this

PUD would be allowed any use which is also allowed in the SC District. Ms. Nunez indicated that the SC District is the Specialty Commercial District of the Accawmacke Plantation Planned Unit Development Ordinance, and she has already informed Mr. Marine that this would be proposed for removal of this reference from Article 3 of the Cape Charles Zoning Ordinance when the Accawmacke Plantation PUD is advanced this year for amendment before the Town. (xvi) Commissioner Grossman asked for clarification regarding Item 6B and Ms. Nunez stated that the use of the word “Chapter” means the entire Zoning Ordinance. (xvii) Ms. Nunez asked the Planning Commission to take note of the Resolution of Intent from the Town Council since it includes the reference to the various evaluations staff conducted of these applications against our policy documents. Ms. Nunez asked the Planning Commission to take note of the Resolution of Intent from the Town Council since it includes the reference to the various evaluations staff conducted of these applications against our policy documents.

REVIEW WITH RESPECT TO COMPREHENSIVE PLAN

The Cape Charles Comprehensive Plan, within its Housing Chapter (page 35), has stated as the primary intent is to “pursue land use, zoning and housing policies to meet and maintain the housing needs of all Cape Charles residents and support a strong local workforce, while preserving local character”.

The Plan has identified the lack of affordable housing as a key factor contributing to a worker shortage both in the Town as well as in Northampton County (page 44) and the Town has adopted as one of its goals and objectives in the Comprehensive Plan to “Encourage development of affordable workforce housing” (page 45).

REVIEW WITH RESPECT TO ZONING ORDINANCE: ZONING DISTRICTS – INTENT

The Cape Charles Zoning Ordinance allows for the creation and consideration of a Planned Unit Development (PUD) and specifically includes a statement of intent in Section 3.12 which states:

“The intent of this district is to promote creative and imaginative development designs for residential and commercial uses by allowing greater flexibility than is possible under the restrictions of conventional zoning regulations. It is further intended to promote more efficient use of land while encouraging variety and convenience for the overall development and the development of recreational areas and open spaces within the project.”

The proposed Bay Crossing PUD presumes the basis of a R-3 Zoning District concept but within the confines and requirements of the PUD Template. The R-3 Zoning District has a statement of intent which states that:

“to provide for relatively high density, multi-family residential development. This district is designed to promote and encourage a suitable environment for family life and to restrict activities of a commercial nature to those which serve the needs of the surrounding residential neighborhood.”

Motion made by Commissioner Grossman and seconded by Commissioner McCoy to recommend to Town Council to approve Zoning Text Amendment (ZTA) 2023-01 with the following amendment to the text ordinance:

Under Section 1, Item 1 “Statement of Intent”, second sentence, delete the sentence (~~The targeted workforce housing segment income range is 80% to 150% of the Area Median Income (\$55,104 for Cape Charles) and no greater than 30% of income to be spent for housing costs (rent and utilities)~~ and replace with the following: “The targeted housing market is the workforce housing segment.”

Under Section 1, Item 4: add to end of sentence – Minimum of 5 Acres for PUD District”.

The motion was unanimously approved.

B. *Zoning Map Amendment (ZMA – 2023-01) application from Lot 4 Holdings, LLL c/o Winmar Advisory to rezone Tax Map #90-19-A from Residential-R3 to the new zoning district called Bay Crossing Planned Unit Development District if so created.*

Motion made by Commissioner Grossman and seconded by Commissioner Holloway to recommend to Town Council to approve Zoning Map Amendment (ZMA) 2023-01 to rezone Tax Map #90-19-A from R-3 to new zoning district called Bay Crossing PUD and was seconded by Commissioner Holloway. The motion was unanimously approved.

C. *Planning Commission Annual Work Plan with proposed calendar for 2023*

Ms. Nunez summarized to the Planning Commission and presented a list of items that need to be addressed in 2023.

REPORT OF OFFICERS AND COMMITTEES

Housing Committee re: Land Use Ordinance Barriers to Housing Development.

Ms. Nunez presented the review of the Berkeley Group Study Factors 1 – 6 and suggested recommencing the housing subcommittee discussions and take recommendation back to the consultant. Two factors, 7 and 8 still need to be addressed. The housing subcommittee to meet on the 5th Monday of the month, January 30, 2023, from 3 – 5 pm. All agreed.

STANDING STAFF REPORTS

Ms. Nunez gave updates on the following: (i) Board of Zoning Appeals: application received for a rear yard setback at 112 Churchill Downs pursuant to the Accawmake plantation plan unit development.

2022 Annual Report of the Planning Commission and review of annual reports of the Zoning Appeals, Wetlands Board, Historic District Review Board and Harbor Area Review Board. Deferred.

ANNOUNCEMENTS

- Work Session January 30, 2023, at 3:00 to 5:00 PM at the Civic Center
- Regular Planning Commission Meeting on Tuesday February 07, 2023, at the Civic Center

Motion made by Commissioner McCoy, seconded by Commissioner Ashworth, to adjourn the Planning Commission Public Hearing and Regular Meeting at 7:27 p.m. The motion was approved by unanimous vote.

Chairman Bill Stramm

Planning Technician