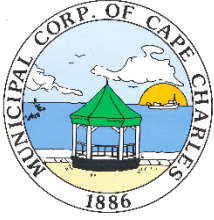


**Planning Commission**  
**Regular Session Agenda**  
**Cape Charles Civic Center – 500 Tazewell Avenue**  
**February 7, 2023, at 6:00 P.M.**

1. Call to Order
  - A. Roll call and establish a quorum.
2. Invocation and Pledge of Allegiance
3. Planning Commission Representatives for Harbor Area Review Board
4. Consent Agenda
  - A. Approval of agenda format
  - B. Approval of Minutes: None.
5. Public Hearings: None.
6. Citizen Comment Period, for any item not subject to an advertised public hearing
7. Unfinished Business:
  - A. Continued review of the work of the Housing Sub-Committee on the Land Use Ordinance Barriers to Housing Development: Excel Spreadsheets for Factors 6, 7 & 8
8. New Business:
  - A. Zoning Ordinance Review
  - B. Consideration by the Planning Commission to serve as the applicant for a Zoning Map Amendment (ZMA) Application for four lots on the corner of Mason Avenue and Harbor Avenue (Tax Map #83A2-1-77; 83A3-2-1-75B; 83A3-2-1-75A; & 83A3-2-1-74).from Commerical-1 (C-1) to Commercial-Residential (CR)
9. Report of Officers and Committees
10. Standing Staff Reports
  - A. Planning & Zoning Administrator Monthly Report for December 2022
    - 1.) Subdivision Agent Report
    - 2.) Report on Applications filed with Board of Zoning Appeals, pursuant to Code of Virginia §15.2-2310
  - B. 2022 Annual Report of the Planning Commission & review of annual reports for Board of Zoning Appeals, Wetlands Board, Historic District Review Board and Harbor Area Review Board
11. Announcements - Next Meetings:
  - Regular Session: Tuesday, March 7, 2023
12. Adjourn



## PLANNING COMMISSION STAFF REPORT

Meeting Date: February 7, 2023

Prepared by: Katie H. Nunez, Planning & Zoning Administrator

Date: February 1, 2023

Item #3: Planning Commission Representatives for Harbor Area Review Board

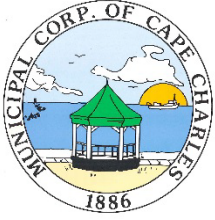
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Pursuant to Cape Charles Zoning Ordinance Section 9.7, the membership of the Harbor Area Review Board (HARB) is as follows:

*The members of said Harbor Area Review Board will be appointed by the Town Council. The Membership shall consist of seven citizens. One member shall also be a member of the Town Council, two members shall also be members of the Planning Commission, and one member shall also be a member of the Historic District Review Board.*

The two representatives from the Planning Commission had been Diane D'Amico and Ken Butta, both who are no longer members of the Planning Commission.

Therefore, the Planning Commission needs to select and appoint two of its members to serve on the Harbor Area Review Board. Said appointment will run concurrently with their appointment as Planning Commission members.



## **PLANNING COMMISSION STAFF REPORT**

Meeting Date: February 7, 2023

Prepared by: Katie H. Nunez, Planning & Zoning Administrator

Date: February 1, 2023

Regular Session: Item 7: Unfinished Business - Housing Subcommittee Work  
Product Review

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A work session was held on January 30, 2023 where the Planning Commission took up the review of the various work products from the Housing Sub-Committee and was able to complete the majority of the review. However, the Commission was not able to complete its review of the spreadsheets for Factors 6, 7 & 8 as well as the Table of Permitted Uses relative to Housing.

Therefore, it was agreed that these items would carry forward to the Regular Session of the February 7, 2023 meeting of the Planning Commission as Unfinished Business.

The Planning Commission is requested to continue its review, specifically the items that have been marked for possible amendments or change, and determine if the Commission concurs with the recommendation from the Housing Sub-committee.

### **Attachments:**

Review of Berkeley Group Study Factor 6 – 2023-01-11

Review of Berkeley Group Study Factor 7 – 2023-01-11

Review of Berkeley Group Study Factor 8 – 2023-01-11

Table of CC Permitted\_CUP Housing 2023-01-11

Factor 6: Development Approval Process

Paul Grossman (1/11/23)

Color legend: Green signifies PC review of actions/recommendations.

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

| Item | Study Recommendation/ Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Study Reference Location | Town’s Substantiation/Reference Location                                                                                                                                                                                                                                                                                                                                           | Planning Commission Recommendations/ Actions and rationale                                           | Recommendation Pros and Cons |
|------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|------------------------------|
| 1    | <b>Finding: Legislative development approvals add time and costs to development proposals</b> <ul style="list-style-type: none"><li>Cape Charles permit a considerable number of options for higher density residential uses by-right in residential zoning districts.</li><li>Ordinances for Cape Charles requires approval of Special (or Conditional) Use Permits for cluster development.</li><li>Legislative rezoning approvals are also required in Cape Charles for PUD districts.</li><li>Cape Charles’ Harbor District requires development plan approval by an appointed architectural review committee with subsequent approval by the Council.</li></ul> | P. 42                    |                                                                                                                                                                                                                                                                                                                                                                                    | No action required.                                                                                  |                              |
| 2    | <b>Finding: Subdivision ordinance standards need to be consistent with the Code of Virginia requirements.</b> <ul style="list-style-type: none"><li>Cape Charles subdivision references the correct Code of Virginia. (15.2-2240 et seq.)</li><li>s. Cape Charles’ Subdivision Ordinance allows optional submittal of a preliminary plat regardless of the number of lots within the subdivision.</li></ul>                                                                                                                                                                                                                                                          | P. 42                    |                                                                                                                                                                                                                                                                                                                                                                                    | Work in progress: Consultant is currently contracted to review ordinances for state code compliance. |                              |
| 3    | <b>Finding: Permitting administrative reviews of plats and plans can expedite approvals for diverse housing options.</b> <ul style="list-style-type: none"><li>Cape Charles allows for administrative review of subdivision plats and site plans.</li></ul>                                                                                                                                                                                                                                                                                                                                                                                                          | P. 43                    | Zoning Ordinance Appendix A: Subdivisions<br><br>Section 3.1<br>The agent appointed by the governing body is hereby delegated to administer this ordinance. In so doing, the agent shall be considered the agent of the governing body, and approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the governing body. The agent | No action required.                                                                                  |                              |

| Item | Study Recommendation/ Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Study Reference Location | Town's Substantiation/Reference Location                                                                    | Planning Commission Recommendations/ Actions and rationale                                                                                                                                                                                                                                     | Recommendation Pros and Cons |
|------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
|      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                          | may also consult with the Planning Commission on matters contained herein.                                  |                                                                                                                                                                                                                                                                                                |                              |
| 4    | <b>Finding: Clear, Code of Virginia compliant standards for timeliness of reviews and the length of validity for approved plats/plans enable developers to have surety of process and reasonable allowances for site construction</b> <ul style="list-style-type: none"> <li>Northampton County and Town's ordinances all include standards for timing of reviews and periods of validity for plats and plans. The localities' ordinances include approval times ranging between 45 to 90 days</li> <li>Northampton County provides validity for 5 years for subdivision plats and site plans; Cape Charles – 6 months for plats and 5 years for plans</li> </ul> | P. 43                    | See Appendix A below for details.                                                                           | Recommendation: Need to 1. review the adequacy of timelines associated with state-agency review, and 2.review the recording of plats and plans to determine state code compliance.<br><br>Work in progress: Consultant is currently contracted to review ordinances for state code compliance. |                              |
| 5    | <b>Finding: Ease of access to ordinances, Comprehensive Plans, and zoning maps assists developers, community stakeholders, officials, and staff.</b> <ul style="list-style-type: none"> <li>It would be beneficial to a locality's development process and engagement of developers, community stakeholders, officials, and staff for regulations to be available online in a searchable format, such as is available with the Municode platform.</li> <li>Localities should also consider providing a webbased Geographical Information System (GIS), so parcel-level zoning and future land use map information is readily available.</li> </ul>                | P. 43-44                 | Ordinances, comprehensive plan and zoning maps can be found on the Town's website.                          | Work in progress: zoning ordinances will be moved to Municode where Town Code currently resides.<br><br>Work in progress: GIS mapping is currently being constructed on a platform that will be available to the public.                                                                       |                              |
| 6    | <b>Recommendation: Amend ordinances to ensure plat and plan review processes and ordinances comply with the Code of Virginia.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | P.44                     |                                                                                                             | Work in progress: Consultant is currently contracted to review ordinances for state code compliance.                                                                                                                                                                                           |                              |
| 7    | <b>Recommendation: Consider adoption of a Unified Development Code.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | P.44                     |                                                                                                             | No actions required. Consultant will be reviewing to determine if anything else is needed.                                                                                                                                                                                                     |                              |
| 8    | <b>Recommendation: Evaluate plat and plan review processes to streamline processes and reduce review times where possible.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | P. 44                    | Process time reviewed requirements and deemed acceptable.                                                   | Note that staffing can be an issue, and if ZA feels that state code mandated timelines are being impacted, notification is to be made to Town Manager.                                                                                                                                         |                              |
| 9    | <b>Recommendation: Consider adoption of development standards and/or new zoning districts that could reduce the need for public hearings and actions by Planning Commission or governing body</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | P. 44                    | The number of CUPs being brought to the PC/TC cycle is minimal now that the ADU by-rights has been adopted. | No action required.                                                                                                                                                                                                                                                                            |                              |
| 10   | <b>Recommendation: Provide online access to ordinances, Comprehensive Plans, and zoning maps</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | P. 44                    | Ordinances, comprehensive plan and zoning maps can be found on the Town's website.                          | See item 5.                                                                                                                                                                                                                                                                                    |                              |

Appendix A

| State Requirements (15.2-2259 et seq)                                                                                                                                                                                                               | Cape Charles Requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Subdivision Plats/Plans acted on by locality within 60 days after submittal                                                                                                                                                                         | Section 6.5 Procedure<br>The agent or his appointed representative shall discuss the preliminary plat with the sub-divider in order to determine whether or not his preliminary plat generally conforms to the requirements of the subdivision ordinance and of the zoning ordinance. The sub-divider shall then be advised in writing within <b>60 days</b> , which may be by formal letter or by legible markings on his copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, an estimate of the cost of construction of improvements, and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat |
| If state agency approval is required, plat/plan must be acted on within 35 days after receipt of all state-agency approvals (who must act within 45 days after receiving the plat/plan) and within 90 days after the plat was officially submitted. | Section 5.4.1.7 Street Construction<br>Section 5.4.5 Storm Drainage Facilities<br>Highway engineer reviews may be required. However, no time table established.<br>Section 5.4.4 Sewage Facilities<br>Note that should the Town sell utilities, this external review will be required and time table established.<br>Section 6.4 Items to Accompany Preliminary Plat<br>Statement by Health Official<br>Statement by highway engineer<br>Statement from the Town regarding sewerage<br><b>External timelines not established.</b>                                                                                                                                                                                                                                           |
| Site plans and preliminary subdivision plats remain valid for 5 years, unless locality grants extension. An approval final plat that has been recorded is valid for 5 years and for 6 months if the final plat has not been recorded.               | Section 4 Procedure for Making and Recording Plats<br><b>There are no time limits stated.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

## Factor 7: Maintenance of Existing Housing

Paul Grossman (1/11/23)

Color Legend: Green signifies PC review of actions/recommendations.

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

| Item | Study Recommendation/ Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Study Reference Location | Town's Substantiation/Reference Location                                                                                                                                                                                                                   | Planning Commission Recommendations/ Actions and rationale       | Recommendation Pros and Cons |
|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|------------------------------|
| 1    | <b>Finding: Ordinances should consider flexibility for maintenance and reconstruction of non-conforming single-family dwellings.</b> <ul style="list-style-type: none"> <li>Ordinances for Northampton County and the Towns of Cape Charles, Cheriton and Nassawadox all specifically exempt single family dwellings from the requirements limiting the amount of reconstruction or alterations permitted to maintain, repair, or replace them if they are non-conforming to current standards</li> <li>The County and Towns should allow remodel, repair, and expansion of non-conforming single-family homes, provided it does not further increase the non-conformity.</li> </ul> | P.45                     | <p>Article III, Section 3.2 provides for non-conforming lots in R-1 district. The only limitation is footprint percentages for all accessory structures (10%) and setbacks.</p> <p>There are no limitations imposed for reconstruction or alterations.</p> | No further action required.                                      |                              |
| 2    | <b>Finding: Non-conforming manufactured homes must be permitted to be replaced by-right.</b> <ul style="list-style-type: none"> <li>Manufactured homes are not specifically addressed within the localities' non-conformity provisions. The Code of Virginia § 15.2-2307.H permits the replacement of non-conforming manufactured homes with another comparable manufactured home that meets the current HUD manufactured housing code. This provision should be specifically addressed within the localities' zoning ordinances.</li> </ul>                                                                                                                                         | P.45                     |                                                                                                                                                                                                                                                            | WIP: Consultant will be reviewing ordinances against state code. |                              |
| 3    | <b>Finding: Additions to non-conforming dwellings for accessibility is important for seniors aging in place.</b> <ul style="list-style-type: none"> <li>The Code of Virginia § 15.2-2283 provides for reasonable modifications in accordance with the Americans with Disabilities Act of 1990 and the Virginia Uniform Statewide Building Code (13VAC5-63-432.5. Chapter 4) requires</li> </ul>                                                                                                                                                                                                                                                                                      | P.45                     | Currently, building code trumps zoning ordinance as reviewed by Planning and Code Official.                                                                                                                                                                | Action: Zoning ordinance needs to be updated to codify.          |                              |

| Item | Study Recommendation/ Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Study Reference Location | Town's Substantiation/Reference Location                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Planning Commission Recommendations/ Actions and rationale                                                                                 | Recommendation Pros and Cons |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
|      | accessibility to existing structures be provided and/or maintained. All of the localities' ordinances should ensure that additions for accessibility such as ramps or lifts are excluded from standards which would prohibit them as additions                                                                                                                                                                                                                                     |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                            |                              |
| 4    | <b>Recommendation: Amend ordinances to ensure compliance with state codes regulating non-conforming uses.</b>                                                                                                                                                                                                                                                                                                                                                                      | P.46                     | See item 2.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                            |                              |
| 5    | <b>Recommendation: Amend ordinances to allow accommodations for accessibility</b>                                                                                                                                                                                                                                                                                                                                                                                                  | P.46                     | See item 3.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                            |                              |
| 6    | <b>Recommendation: Consider comprehensive plan and ordinance amendments outside of zoning to support preservation of existing housing stock.</b> <ul style="list-style-type: none"> <li>Local Rehabilitation Tax Abatement Programs</li> <li>Housing Rehab Toolkit for Property Owners.</li> <li>Revitalization Grants &amp; Loans.</li> </ul>                                                                                                                                     | P,46                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Town Council would need to address at a policy level. Planning staff should call this out in staff report when this material is presented. |                              |
| 7    | <b>Recommendation: Consider adopting ordinances to address unsafe, substandard housing</b> <ul style="list-style-type: none"> <li>Spot Blight Abatement, which allows the locality to take action against blighted properties. Staff must follow the procedures outlined in the Code of Virginia § 36-49.1:1.</li> <li>Virginia Maintenance Code - These ordinances, when properly enforced, can rectify dilapidation, or prevent properties from becoming dilapidated.</li> </ul> | P, 46,47                 | <p>Article III, Section 3.6, C-1 District identifies Code Official actions re demolition-by-neglect actions to be taken for unsafe structures.</p> <p>Article VIII, Historic District, Section 8.22, Maintenance and Repair Required covers code official jurisdiction for unsafe structures.</p> <p>Town Code, Article III, Section 18 deals with unsafe buildings and structures.</p> <p>Town Code, Article III, Section 18-10, Town adopted by reference the Virginia Statewide Building Code (USBC), including all related codes incorporated therein by reference</p> | No further action required.                                                                                                                |                              |



Factor 8: Location of Housing Growth

Paul Grossman (1/11/23)

Color Legend: Green signifies PC review of actions/recommendations.

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

| Item | Study Recommendation/ Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Study Reference Location | Town’s Substantiation/Reference Location           | Planning Commission Recommendations/ Actions and rationale                        | Recommendation Pros and Cons |
|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|----------------------------------------------------|-----------------------------------------------------------------------------------|------------------------------|
| 1    | <p><b>Finding: Comprehensive Plans guide a locality’s growth, including housing locations and diversity, and the provision of affordable housing options. The Code of Virginia in § 15.2-2223.D. also requires a Comprehensive Plan to include the designation of areas and implementation of measures for the construction, rehabilitation, and maintenance of affordable housing sufficient to meet the current and future needs of residents of all levels of income in a locality.</b></p> <p>For Cape Charles:</p> <ul style="list-style-type: none"><li>• The Comprehensive Plan identifies Residential Community areas and Mixed-Use areas to support housing development.</li><li>• Recommendations within these areas suggest the Town should:<ul style="list-style-type: none"><li>o Promote compatible infill development and renovation within established neighborhoods.</li><li>o Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options.</li><li>o Emphasize the preservation of the Town’s historic housing stock.</li><li>o Encourage the principle of incorporating mixed land uses by allowing residential and retail/commercial uses within the same building, promoting residential uses within close proximity to commercial/retail centers, and supporting live/work units in certain areas.</li></ul></li><li>• The Plan recognizes that the Town needs to be concerned with planning for quality affordable housing as its economy grows from new development. The Plan notes that it is necessary to reduce the</li></ul> | P. 48,49                 | Comprehensive Plan recently updated December 2022. | WIP: Consultant currently reviewing comprehensive plan against zoning ordinances. |                              |

| Item | Study Recommendation/ Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Study Reference Location | Town's Substantiation/Reference Location                                                          | Planning Commission Recommendations/ Actions and rationale                                                                                                                                                                                                 | Recommendation Pros and Cons |
|------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|---------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
|      | <p>percent of cost burdened households since this will help encourage people to live in stable neighborhoods in Town.</p> <ul style="list-style-type: none"> <li>The last revision of the Town's Comprehensive Plan in 2016 was considered a 'minor' update to the 2009 Plan. A current update to the Plan is underway and will incorporate land use recommendations after consideration of the Town's development trends which reportedly have resulted in substantial changes since 2009 and 2016</li> </ul> |                          |                                                                                                   |                                                                                                                                                                                                                                                            |                              |
| 2    | <p><b>Finding: A locality's zoning should align with the Comprehensive Plan goals for housing diversity and affordability</b></p> <p>For Cape Charles:</p> <ul style="list-style-type: none"> <li>Existing zoning aligns with the Town's goal to accommodate additional housing opportunities at varying density levels. With the Town's new Comprehensive Plan amendment, revisions to the zoning map should be made to follow the updated Plan's recommendations.</li> </ul>                                 | P.50                     | Comprehensive Plan recently updated December 2022.                                                | WIP: Consultant currently reviewing comprehensive plan against zoning ordinances.                                                                                                                                                                          |                              |
| 3    | <b>Recommendation: Participate in cooperative discussions for the provision of public utilities.</b>                                                                                                                                                                                                                                                                                                                                                                                                           | P.52                     | Not applicable to Cape Charles                                                                    | No action                                                                                                                                                                                                                                                  |                              |
| 4    | <p><b>Recommendation: Incentivize development of housing variety in growth areas</b></p> <ul style="list-style-type: none"> <li>Offer regulatory incentives for developments within desired growth areas. These incentives vary and may be found in modified development standards such as parking reductions, density bonuses, and alternative standards for lots, landscaping, and other requirements.</li> </ul>                                                                                            | P.52                     | As stated in previous Factors reviewed, Cape Charles offers a variety of housing within the town. | Action: Parking is an issue in the historic district and will be reviewed at a strategic level as identified in Town Council priorities. Incentivizing the relaxation of parking requirements to allow of increased housing variety may not be achievable. |                              |
| 5    | <p><b>Recommendation: Adopt inclusionary zoning regulations allowed by the Code of Virginia in targeted growth areas</b></p> <ul style="list-style-type: none"> <li>Localities should adopt inclusionary zoning regulations that mirror the state's inclusive zoning and bonus densities for development's that incorporate percentages of affordable units (Code of Virginia § 15.2-2305.1) in target areas where increased density can be accommodated by utilities.</li> </ul>                              | P.52                     |                                                                                                   | WIP: Consultant will be reviewing zoning ordinances against state code requirements.                                                                                                                                                                       |                              |

| Item | Study Recommendation/ Comment                                                                                                                                                                                                                                                                                                                                                                    | Study Reference Location | Town's Substantiation/Reference Location                                                                                                                                                                                                                                                                                                                                                        | Planning Commission Recommendations/ Actions and rationale                                                                                                 | Recommendation Pros and Cons |
|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 6    | <b>Recommendation: Ensure recommendations of Comprehensive Plans support densities to foster development of higher density affordable housing options</b> <ul style="list-style-type: none"> <li>Consideration should be given to incorporating language to accommodate higher density to offer housing diversity and affordable housing options in growth areas.</li> </ul>                     | P.52                     | <p>Article III, Section 3.9 Harbor District, allows for FAR of 1.75 by-rights and up to 2.0 with CUP in the Main Street Use Area.</p> <p>Article III, Section 3.12, Planned Unit Development allows for flexibility in housing diversity.</p>                                                                                                                                                   | No further action required.                                                                                                                                |                              |
| 7    | <b>Recommendation: Rezone properties to designate areas for desired housing</b> <ul style="list-style-type: none"> <li>Local governments can proactively rezone areas to permit preferred residential types as a step to obtaining the desired housing diversity and affordable housing units</li> </ul>                                                                                         | P.52                     | The Comprehensive Plan was updated in Dec 2022 and contains an updated future land use map.                                                                                                                                                                                                                                                                                                     | No further action required.                                                                                                                                |                              |
| 8    | <b>Recommendation: Support Comprehensive Plan policies and rezoning that allow for adaptive re-use of existing buildings for affordable housing options</b> <ul style="list-style-type: none"> <li>Analyze existing vacant buildings for the potential for conversion into affordable housing options. Grants and resources could then be pursued to support these types of projects.</li> </ul> | P.52                     | <p>The Planning staff currently assists in directing developers to various sources of grants in addition to the opportunities afforded through the various zones the town has (e.g., Opportunity Zone, Tourism Zone, etc).</p> <p>The Main Street organization has a listing of buildings and second story use, and have been discussing with owners what can be done with their buildings.</p> | Recommendation: Town staff and Main Street invite owners of under-developed buildings to a work session to discuss further opportunities afforded to them. |                              |

Factor 1, Item 4 and 6  
Recommendations for Changes to Uses

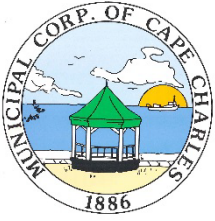
| Uses                                                                                                                    | Structure vs Business | Section 2.9 Definition (unless otherwise specified)                                                                                                                                                                                                                                                    | R-1            | R-2            | R-3    | R-E            | CR             | C-1    | C-2 | C-3 | Harbor | PUD | OSD | GBI | GBI H1 | M-1 | M-2 |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|--------|----------------|----------------|--------|-----|-----|--------|-----|-----|-----|--------|-----|-----|
| <u>Legend</u><br>P = permitted, by-right<br>C = Conditional Use Permit required<br>Color Red signifies changes proposed |                       |                                                                                                                                                                                                                                                                                                        |                |                |        |                |                |        |     |     |        |     |     |     |        |     |     |
| Accessory building*                                                                                                     | S                     | 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 use permit is issued for an accessory dwelling. | P              | P              | P      | P              | P              |        |     |     | P      | P   |     | P   |        | P   |     |
| Dwelling, Accessory (ADU)*                                                                                              | S                     | DWELLING, ACCESSORY is a dwelling unit which is an accessory use to a single-family dwelling or commercial use in the Commercial – Residential District.                                                                                                                                               | C to P<br>Done | C to P<br>Done |        | C to P<br>Done | C to P<br>Done |        |     |     |        |     |     |     |        |     |     |
| Dwelling, condominiums, conversion                                                                                      | S                     | DWELLING, CONDOMINIUM shall mean a single, separately owned dwelling unit in a multi-unit development or structure, with jointly owned and shared areas and facilities.                                                                                                                                | P              | P              | P      | P              | P              | P      | P   | P   | P      | P   |     | P   |        | P   |     |
| Dwelling, condominiums, new<br><br>Eliminate need to go through BZA with SUP                                            | S                     | DWELLING, CONDOMINIUM shall mean a single, separately owned dwelling unit in a multi-unit development or structure, with jointly owned and shared areas and facilities.                                                                                                                                | C to P         | C to P         | C to P | P              | C to P         | C to P | P   | P   | C to P | P   |     | P   |        | P   |     |
| Dwelling, cooperatives, conversion                                                                                      | S                     | Real estate owned by an association, each of the members of which is entitles, by virtue of his ownership interest in the association, to exclusive possession of a unit. (See Code of Virginia Section 55-424 et. seq.)                                                                               | P              | P              | P      | P              | P              | P      | P   | P   | P      | P   |     | P   |        | P   |     |
| Dwelling, cooperatives, new<br><br>Eliminate need to go through BZA with SUP                                            | S                     | Real estate owned by an association, each of the members of which is entitles, by virtue of his ownership interest in the association, to exclusive possession of a unit. (See Code of Virginia Section 55-424 et. seq.)                                                                               | C to P         | C to P         | C to P | P              | C to P         | C to P | P   | P   | C to P | P   |     | P   |        | P   |     |

Factor 1, Item 4 and 6  
Recommendations for Changes to Uses

| Uses                                                                                                                           | Structure vs Business | Section 2.9 Definition (unless otherwise specified)                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | R-1 | R-2 | R-3 | R-E | CR | C-1 | C-2 | C-3 | Harbor                                          | PUD | OSD | GBI | GBI H1 | M-1 | M-2 |
|--------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|-----|-----|----|-----|-----|-----|-------------------------------------------------|-----|-----|-----|--------|-----|-----|
| <u>Legend</u><br>P = permitted, by-right<br>C = Conditional Use Permit required<br>Color <b>Red</b> signifies changes proposed |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |     |     |     |     |    |     |     |     |                                                 |     |     |     |        |     |     |
| Dwellings, Duplex                                                                                                              | S                     | DWELLING, DUPLEX shall mean a building designed as a single structure, containing two separate dwelling units, has direct access to the outside, and each of which is designed or arranged to be occupied by two families living independently of each other.                                                                                                                                                                                                                                                               | P   | P   | P   |     | P  |     |     |     | No to Harbor since residential thru PUD process | P   |     | P   |        | P   |     |
| Dwellings, Group Homes (15.2-2291)                                                                                             | S                     | GROUP HOME is a residential facility, licensed by the Department of Behavioral Health and Developmental Services, in which no more than eight individuals with mental illness, mental retardation, or developmental disabilities reside, with one or more residential counselors or other staff persons. For the purposes of this ordinance, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in § 54.1-3401 of the Code of Virginia. | P   | P   | P   |     | P  |     |     |     |                                                 | P   |     | P   |        | P   |     |

Factor 1, Item 4 and 6  
Recommendations for Changes to Uses

| Uses                                                                                                                           | Structure vs Business | Section 2.9 Definition (unless otherwise specified)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | R-1 | R-2 | R-3 | R-E | CR | C-1 | C-2 | C-3 | Harbor | PUD | OSD | GBI | GBI H1 | M-1 | M-2 |
|--------------------------------------------------------------------------------------------------------------------------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|-----|-----|----|-----|-----|-----|--------|-----|-----|-----|--------|-----|-----|
| <b>Legend</b><br>P = permitted, by-right<br>C = Conditional Use Permit required<br>Color <b>Red</b> signifies changes proposed |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |     |     |     |     |    |     |     |     |        |     |     |     |        |     |     |
| Dwellings, Manufactured home                                                                                                   | S                     | DWELLING, MOBILE HOME or MANUFACTURED HOME means a special form of one-family dwellings with the following characteristics: 1. designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower, and kitchen facilities, with plumbing and electrical connections provided for attachments to outside systems 2. designed to be transported after fabrication on its own wheels 3. arriving complete at the site where it is to be occupied, usually including major appliances and furniture and ready for occupancy except for minor and incidental unpacking and assembly operations, location and provision of support on site, connection with utilities and the like 4. intended to be used other than as a component in a structure two or more stories in height. MANUFACTURED HOUSING means factory built, single-family structures that meet national standards. | P   | P   | P   | P   | P  |     |     |     |        |     |     |     |        |     |     |
| Dwellings, Multi-family                                                                                                        | S                     | DWELLING, MULTI-FAMILY shall mean a building designed for and containing two or more dwelling units.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |     |     | P   |     |    | C   | C   | P   | C      | P/C |     | P   |        | P   |     |
| Dwellings, Residential units below or above minimum or maximum SF                                                              | S                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | C   |     |     |     |    |     |     |     |        | C   |     |     |        |     |     |
| Dwellings, Single-family                                                                                                       | S                     | DWELLING, SINGLE FAMILY DETACHED shall mean a single-family dwelling that is located on an individual lot of record.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | P   | P   |     | P   | P  | €   | €   | P   | €      | P   |     | P   |        | P   |     |
| Dwellings, Townhouse                                                                                                           | S                     | DWELLING, SINGLE-FAMILY ATTACHED (TOWNHOUSE) shall mean a dwelling unit which is located on an individual lot of record and which is attached to another dwelling unit or any adjoining lot by a common wall.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |     | P   | P   |     | P  |     |     |     |        | P   |     | P   |        | P   |     |



## PLANNING COMMISSION STAFF REPORT

Meeting Date: February 7, 2023

Prepared by: Katie H. Nunez, Planning & Zoning Administrator

Date: February 1, 2023

Regular Session: Item 8A: Zoning Ordinance Review

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As you may recall, when the Town issued the Request for Proposals for Consulting Services for the Comprehensive Plan Update, we also included within that scope of work what we identified as Phase 2: Zoning Ordinance Review and Proposed Amendments. This work is now underway by our consultant, Summit Engineering, and it is a two-fold purpose: 1) to ensure that the Zoning Ordinance is not in conflict with the newly adopted Comprehensive Plan and actually carries out the goals and objectives of the Comprehensive Plan; and 2) a full review of the Zoning Ordinance to ensure that we are in compliance with state law and are correcting any issues or concerns that the Town has noted as part of its administration of the document over the years and to receive recommendations from the consultant on possible amendments, based upon best practices they have observed from their experience in the field.

As of 12/2/2022, I have assembled a list of possible zoning text amendments which I have provided to our consultant to assist in their review. I have attached that list as part of this staff report.

On January 25, 2023, I did a conference call with Anne Darby of Summit Engineering and we went through the first 4 chapters of the Zoning Ordinance and reviewed the comments/mark-ups she has made to the document to provide some direction to her. There are a few items that we discussed that I felt that I did not have a full understanding of its inclusion in the document and would like to bring to the Planning Commission for their consideration.

- 1.) Split zoning on tax parcels – in general, how does the Town feel about a parcel that may have two types of zoning separately the parcel? I have asked Anne to look through the GIS database and let me know if the Town actually has any parcel in that predicament today but I would raise the issue and see what the general consensus and position of the Town is on this matter.**
- 2.) Special Exception: Our ordinance lays out the administrative process if Special Exceptions are included in our Zoning Ordinance (see Section 2.6.) but do not actually list any type of uses that would need to obtain a Special Exception approval from the Town. Special Exceptions are considered similar to Conditional Use Permits or Special Use Permits.**

Virginia Code § 15.2-2201 defines special exception to mean “a special use that is a use not permitted in a particular district except by a special use permit granted under the [relevant state laws] and any zoning ordinances adopted herewith.” Special exceptions are also known as special use permits or conditional use permits though they may not all necessarily serve the same purpose in a particular locality.

Another term that may be considered interchangeable with special exception is variance but it is not interchangeable.

From the County of Albemarle Land Use Handbook (which is a reference book used by most land use professionals throughout the Commonwealth of Virginia) it states the following:

A variance “allows a property owner to do what is otherwise not allowed under the ordinance.” Bell v. City Council of the City of Charlottesville, 224 Va. 490, 496, 297 S.E.2d 810, 813-814 (1982). Stated a different way, variances allow someone to do something “in violation of the ordinance.” Bell, supra. By comparison, special use permits (which include special exceptions and conditional use permits) do not allow a landowner to do something in violation of the zoning regulations but, instead, allow the property to be developed in a way consistent with those regulations, but only with approval of the governing body following a case-specific review. Therefore, a governing body desiring to retain legislative control of its zoning ordinance should consider incorporating flexibility into zoning regulations and expanding the availability of special use permits.

Our consultant is going to put together a greater understanding of special exceptions and whether this might be a designation we wish to assign to particular uses and expand upon the criteria for evaluating the use based upon the proposed land location.

**3.) Viewshed: it is included as a defined term in our Zoning Ordinance as follows:**

**VIEWSHEDS** are the areas of land extending south from Washington Avenue to Bayshore Lane, that align in width and angle with the existing streets to the north (including Harbor Street and Peach Street), that shall be restricted to only ground- level development and their amenities, including but not limited to streets, pedestrian or multi-modal trails, or linear parks, so as to maintain the view from the north to the south and vice-versa.

**The definition is unclear as to what the Town is seeking to protect and further, when the term “viewshed” is used in the Zoning Ordinance, it does not reflect this definition. It is used in (1) Appendix A – Subdivision Ordinance with a very generic statement in Section 5.6 (BLOCKS) which states that “Where created by the subdivision of land, all new blocks shall respect viewsheds and shall comply with the following requirements.”; (2) It is found also in Section 3.9 for Harbor District, specifically for the Mainstreet Mixed-Use Area of the Harbor District which is stated to be along the south side of Mason Avenue, beginning at the western edge of Parcel 83A3-A-5, and projecting eastward to Nectarine Street, and southward a distance of 120 feet from the south side of Mason Avenue which also then has certain requirements that belie the viewshed definition. See below for CCZO Section 3.9 excerpt:**

**Section 3.9 Harbor District (revised 11-21-19)**

- A. *Statement of Intent. The intent of this zoning district is to encourage a vibrant working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles’ working maritime and rail heritage and its strong historic traditions. Any new development shall provide and encourage public access to the water’s edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs. This zoning district is also intended to implement the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines as an overall guide to the future development and redevelopment of the harbor area.*



*B. Mainstreet Mixed-use Area.*

1. *The area of the Harbor District along the south side of Mason Avenue, beginning at the western edge of Parcel 83A3-A-5, and projecting eastward to Nectarine Street, and southward a distance of 120 feet from the south side of Mason Avenue, is defined as the "Mainstreet Mixed-Use Area." All buildings in the Mainstreet Mixed-use Area shall meet the following requirements:*
  - a. *Each building shall be a minimum of two stories and shall have only residential uses above the first floor.*
    - i. *Residential portions of the building shall have at least two entrances/exit ways to the ground floor that are separate from the entrances/exit ways used by occupants of nonresidential portions of the building.*
    - ii. *The primary entrance for the residential portion of the building shall be clearly visible from Mason Avenue and shall face Mason Avenue.*
  - b. *Ground floor uses shall be limited to non-motor vehicle related uses, including restaurants, sales and rental of goods, merchandise or equipment establishments, banks and financial institutions, or offices.*
  - c. *Drive-through facilities are prohibited.*
  - d. *The primary façade shall face Mason Avenue. On a corner lot, each side adjacent to a street shall be considered a primary façade.*
  - e. *All blocks shall align with and be equal in frontage length to the blocks on the north side of Mason Avenue so that existing viewsheds to the harbor are maintained.*
  - f. *No building or structure shall exceed 40 feet in height.*
  - g. *The front setback shall be the prevailing setback of adjacent properties along the south side of Mason Avenue.*
  - h. *Development design standards in this area shall be subject to both the Historic District Review Board and the Harbor Area Review Board.*
  - i. *Whenever the provisions of subsection 3.9.B.1 impose standards that are more restrictive than are required in or under any other statute, ordinance or resolution, these standards shall prevail, unless otherwise specified in this Zoning Ordinance.*

**4.) Under CCZO Section 3.2 (C) (6), this is the Zoning District section for Residential-1 and through a Conditional Use Permit, this listed use is possible:**

***Adaptive Reuse** of existing structure is a new use different than the intended use for which the structure was originally constructed. The Reuse is generally a permitted, accessory or conditional use with an adaptation such as density or size that is greater than the ordinance allows.*

*The Reuse would require a conditional use permit (CUP). The following additional requirements must also be met:*

- i. *The use must be compatible with the permitted uses in the zone.*
- ii. *The Reuse plan must meet the table of parking and landscaping standards (unlike reuse in the C-1 Zone where parking requirements are on a case by case basis).*

- iii. *Replacement and new utility services shall be placed underground.*
- iv. *The structure shall be a contributing structure to the Cape Charles National Historic District or at least 50 years old and the exterior of the structure must be restored in accordance with the Cape Charles Historic District Guidelines.*

The consultant was uncertain what the Town meant by this and what objective they were trying to achieve or allow for, especially since this is only used within the R-1 Zoning District. I was also unclear what was intended for this and felt that bringing this to the full Planning Commission would be useful in providing at least context and intent within the ordinance. Additionally, within the criteria listed for Adaptive Reuse, it includes a statement that indicates the reuse is different here than what is intended in the C-1 Zone, except the terminology of “adaptive reuse” or just “reuse” is not found in the C-1 zoning district nor in the parking regulations or any where else in the ordinance except in Article 2 where there is a definition of Adaptive Reuse which says that it “*means the development of a new use for an older building or for a building originally designed for a special or specific purpose.*”

- 5.) Under CCZO Section 3.3, there is a zoning district called Residential Mixed District R-2; however, this zoning district has not been applied to any parcel of land within the Town. Does the Town wish to retain this as a zoning district with the possibility of a property owner being able to petition to rezone to this zoning district designation or do we think that it really is not a needed zoning district to remain within our zoning ordinance? I have included the full excerpt of Section 3.3 below:

As a part two to this issue, we might want to also look at the Industrially zoned districts (M-1; M-2, GBI, and GBI H-1) and confirm that we wish to retain all districts.

Section 3.3      Residential Mixed District R-2

- A. *Statement of Intent. The intent of this basic zoning district is to provide quiet, medium density residential development with a mixture of single-family and multi-family housing. 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 neighborhood itself.*
- B. *Permitted Uses. The following uses shall be permitted by right: [revised 10-20-2022]*
  - 1. *All uses permitted in R-1*
  - 2. *Duplex dwellings*
  - 3. *Accessory buildings*
  - 4. *Accessory Dwelling units by right in compliance with the requirements of Article 4.2(J).*
- C. *Conditional Uses. The following uses are permitted, subject to securing the proper permits:*
  - 1. *Elementary, middle, or high schools or institutions of higher education, but not including trade or business schools, provided that the lots are five acres or larger in size and that no structure or parking area is within 100 feet of*

*any property line.*

2. *Churches, synagogues, or similar places of worship provided that the lot is at least three acres in size, no structure or parking area is placed within 100 feet of any property line, and that such use shall be placed on a lot facing only a collector street.*
3. *Equestrian facilities provided that the lot is ten acres in size and that no structure or parking area is located within 100 feet of any property line.*
4. *Child care facilities provided that such use is conducted in a church, synagogue, or similar place of worship or elementary, middle, or high school or institution of higher education.*
5. *Home occupations*
  - a. *The home occupation shall be a secondary use of the dwelling and such use shall not exceed more than fifty percent of the total floor area of the dwelling and on-site business activities shall be conducted wholly within the building.*
  - b. *The dwelling shall maintain its residential appearance.*
  - c. *Display of a sign is permitted in accordance with the sign regulations of this ordinance for home occupations.*
  - d. *There shall be no outdoor display of goods or outside storage of equipment or materials used in such home occupations.*
  - e. *No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference which would be a public nuisance.*

D. *Accessory Uses. Within the R-2 Land Use Classification, the following accessory uses shall be allowed:*

1. *Swimming pools*
2. *Tennis courts*
3. *Private garages*
4. *Docks or piers*
5. *Gazebos*

E. *Lot, yard, height, and coverage requirements.*

1. *Minimum lot requirements*

|                       | <i>SF</i>    | <i>Patio</i> | <i>Duplex</i> | <i>Zero Lot Line</i> |
|-----------------------|--------------|--------------|---------------|----------------------|
| <i>lot area (sf)</i>  | <i>6,000</i> | <i>6,000</i> | <i>10,000</i> | <i>6,000</i>         |
| <i>lot width (ft)</i> | <i>50</i>    | <i>50</i>    | <i>60</i>     | <i>50</i>            |
| <i>lot depth (ft)</i> | <i>85</i>    | <i>85</i>    | <i>85</i>     | <i>85</i>            |

2. *Minimum yard requirements*

|                         | <i>SF</i> | <i>Patio</i>    | <i>Duplex</i> | <i>Zero Lot Line</i> |
|-------------------------|-----------|-----------------|---------------|----------------------|
| <i>front yard (ft)</i>  | <i>25</i> | <i>25</i>       | <i>25</i>     | <i>25</i>            |
| <i>side yard (ft)</i>   | <i>15</i> | <i>15 and 5</i> | <i>20</i>     | <i>15 and 0</i>      |
| <i>side yard corner</i> | <i>25</i> | <i>25</i>       | <i>30</i>     | <i>25</i>            |
| <i>rear yard corner</i> | <i>20</i> | <i>20</i>       | <i>20</i>     | <i>20</i>            |

3. *Maximum building height*

|                         |           |              |               |                      |
|-------------------------|-----------|--------------|---------------|----------------------|
|                         | <i>SF</i> | <i>Patio</i> | <i>Duplex</i> | <i>Zero Lot Line</i> |
| <i>vertical measure</i> | 40        | 40           | 40            | 40                   |

4. *No more than 50 percent of the lot may be covered by the principal building and accessory buildings.*
5. *Each single-family dwelling and single-family patio dwelling shall have a minimum habitable area of 1,000 square feet. Each dwelling unit in the duplex shall have a minimum habitable area of 850 square feet.*

6.) In CCZO Article 3 which details all of the various zoning districts, we include in the Residential-1 and the Commercial-1 zoning districts a whole section called “Development Standards”. The question is the placement/location of this within the zoning ordinance. Since the two districts where it is included comprise the Historic District, should we consider relocating this to Article VIII (Historic District Overlay) or should we consider putting into its own chapter? Also, we need to confirm that there is no conflict with the new Guidelines and/or consider some revision to include the minimum information as it relates to a zoning requirement and remove all else if it would be considered a standard/guideline and ensure it is addressed in the Historic District Guidelines. As an aside, I have requested our consultant to update any graphics that are in the ordinance now.

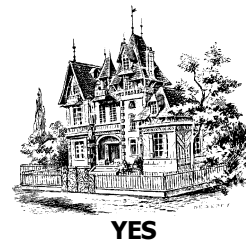
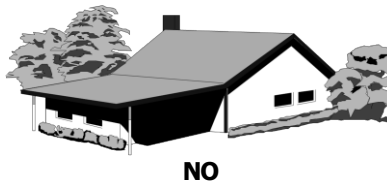
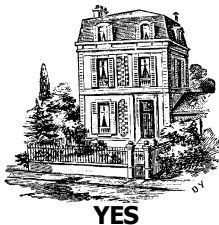
Below is the excerpt from CCZO Section 3.2 (I) for your consideration:

I. Development Standards

Statement of Intent. The development standards below are intended to help preserve the architectural cohesiveness of the Town of Cape Charles by stipulating that new construction and additions be compatible, sympathetic, and complementary to existing buildings. Development concepts are illustrated below to clarify the intent of the development standards.

1. Proportions. A building may be described by the height, footprint, volume, placement of door openings, window openings, porch columns, spacing, etc. The proportions of new construction should relate, 1:1, to the prevailing standards present in the neighborhood. Comparing new construction to the existing structures in a neighborhood is to see the 1:1 proportion of the building to another.

**Proportions**



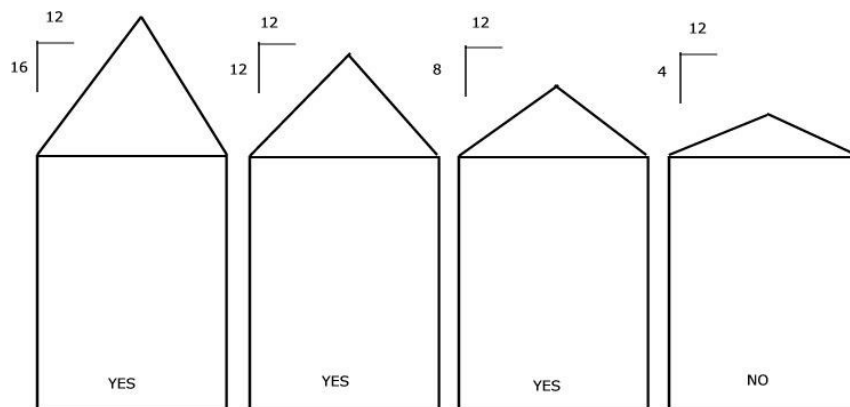
2. Scale and orientation. The elevation of the first floor on new construction must be the same or within six inches of the average of the prevailing

standard of neighborhood buildings but must meet the required floodplain elevation. The principal facade of new construction must be oriented in the same direction as the rest of the buildings in the neighborhood.

#### Scale and Orientation

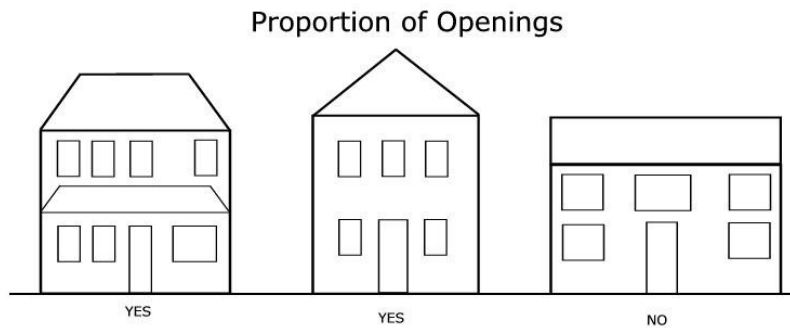


3. Roofs. Primary roof ridges of new construction must be parallel to the primary roof ridges of existing neighborhood buildings. New construction should reflect the prevailing roof pitch of neighborhood buildings within 20 percent. Where there is no prevailing standard, roof pitch should be no less than 8:12.



Roof Pitch Examples  
(Drawing Not To Scale)

4. Windows and doors. The facade of new construction must draw upon the proportion of neighborhood structures. Windows must be double hung windows or of a size and style similar to existing windows in the neighborhood. The following window treatments are allowed: Jalousie windows, picture windows and horizontal windows, only in traditional American ranch style architecture. Exterior doors should be paneled or have glass panels. Flush doors are not allowed.



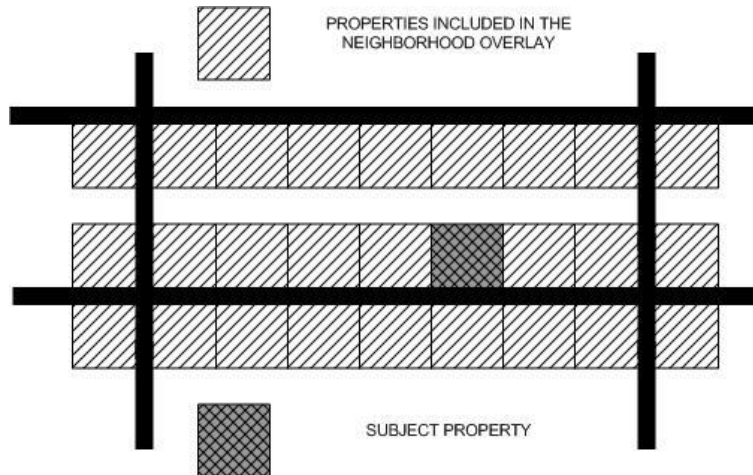
5. Porches. Porches must be constructed on the front of the house and must cover at least 80 percent of the building facade's width. Where there is no prevailing standard, porches may be reduced to be in keeping with the house style. Front porches must have a minimum depth of six feet. Porches on the side and rear of the house are also permitted. All porches must meet setback regulations.
6. Materials. New construction should use materials in a manner sympathetic to the character of the existing neighborhood houses. It is encouraged that materials should be of similar or complementary size, texture, scale, craftsmanship, and applicability to function performed. It should be noted that the sympathetic use of materials does not imply that materials used in new construction will replicate the old in detail nor that new construction will attempt to imitate existing structures. Rather, it is a matter of determining the compatibility of new construction. Certain materials are potentially so visually intrusive that their use for new construction in the R-1 District will not be permitted. These materials include:
  - a. asphalt siding, vertical plywood siding, aluminum siding
  - b. exposed concrete block above foundation level
  - c. corrugated metal, except for roof applications
  - d. flush doors (hollow or solid core)

Vinyl siding will be permitted as long as each individual clapboard is no wider than five inches.

7. Utilities. Upon installation of utility access lines, such lines shall be installed underground. The Town encourages replacement lines to be installed underground.

For the purposes of this Section 3.2 only, certain terms shall have the meanings ascribed to them as follows:

**NEIGHBORHOOD** For the purpose of this ordinance, a neighborhood overlay is defined as parts of a six-square block area, including all parcels on the subject block and all parcels facing on three sides, with the property in question located in the center block.



**PREVAILING STANDARDS** Prevailing standards exist when 50 percent or more of the buildings exhibit similar attributes in a neighborhood overlay. Where less than 50 percent of the buildings exhibit similar attributes, any of the range of attributes in the neighborhood would be acceptable.

- 7.) **General Formatting Notes:** in Article 3 which lists each zoning district and its attributes, the consultant will reformat so that each zoning district and its attributes are consistent in terms of things following in the same order in each district layout. Additionally, beside listing in a table format the Lot, Yard, Height, and Coverage Requirements by individual zoning district (currently it is done in some as pure text and others in a table format), we will include as type of appendix at the end of Article 3 showing these attributes in a table format but showing all the zoning districts at once.
- 8.) **The term FAR is used in the Harbor District (Section 3.9) ((C) – the acronym is not explained nor indicated how to calculate. This section actually states the following:**  
*The maximum FAR for the Harbor District shall be 1.75 by right and up to 2.0 with a Conditional Use Permit. Nothing in this paragraph shall modify or waive the open space requirement set forth in subsection F of this Article III.*

FAR means Floor Area Ratio which further means the “ratio of a building’s total usable floor area (Gross Floor Area) to the area of land upon which it is built”. So, the formula to employ it to add up the gross floor area for each story of the building and then divide by the area of the site/property to get the FAR. The Harbor District does have other criteria that are factored into lot development, including setbacks, height by right requirement (40 ft; but possibility of going to 55 ft through Conditional Use Permit) as well as meeting the Open Space Requirements which is calculated at 25% of the total lot square footage.

Does everyone understand what and how FAR is calculated and is this the intent and level of development envisioned on a lot by lot basis for the Harbor District. Our

consultant would like to be a part of this conversation so we may need to schedule a time to discuss with her in depth.

I am scheduled to have another conference call with the consultant in two weeks in which we will commence the review of her comments/questions for Chapters 6 thru 9 and Appendices A thru F. Again, the items listed in this report do not reflect all of the proposed zoning amendments from the consultant but only items that she is seeking some clarification from the Town as to our goal/objective or intent as to its current presentation in the ordinance so that she can refine her comments back as to whether she would propose an amendment for our consideration.

In advance of the next conference call with the consultant, I will have provided the full position of the Planning Commission on the work product done by the Housing Subcommittee to the consultant who has already been provided the same material that was the basis of the January 30, 2023 work session. She will then take up a review of that material as well and it may require an additional call just to review those documents.

In terms of presentation of the document when the consultant is completed with her review, we will be receiving a full mark-up of the entire zoning ordinance using color coding to help track items. This way you will be able to see the items within the proper context in the zoning ordinance to help in your review and evaluation of the proposed amendments.

Lastly, I am hopeful that by the end of February/mid-March, I can start fleshing out a possible calendar to bring the zoning ordinance amendments to public hearing to the Planning Commission as well as to the Town Council.

**ATTACHMENT:**

- List of Zoning Amendments as of 12-02-2022 prepared by Katie Nunez



\\192.168.0.188\Boards-Commission\Planning Commission\2023 Calender Year\02-07-2023\ITEM 8A - New Business - Zoning Ordinance Review\LIST OF  
**ZONING AMENDMENTS AS OF 2022-12-02 prepared by Katie Nunez**

|   | A                                                    | B              | C                                                        | D                                                                                                                                                                                                                                                                                                                                                                                                                   | E               |
|---|------------------------------------------------------|----------------|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| 1 | <u>ARTICLE</u>                                       | <u>SECTION</u> | <u>TITLE</u>                                             | <u>ISSUES from Town Staff (Katie Nunez, Tracy Outten and Ken Butta as Zoning Compliance Officer)</u>                                                                                                                                                                                                                                                                                                                | <u>COMMENTS</u> |
| 2 | II - GENERAL PROVISIONS                              | 2.3.3(b)       | DETERMINATION OF DISTRICT BOUNDARIES                     | In the last line, add "with" between such boundary shall be construed as moving " <b>with</b> " the actual shoreline.                                                                                                                                                                                                                                                                                               |                 |
| 3 | II - GENERAL PROVISIONS                              | 2.4.2          | PERMITS                                                  | Include the requirement that a demolition permit requires zoning clearance and zoning clearance is required fro any proposed use, structure, alteration or enlargement whether a building permit is required.                                                                                                                                                                                                       |                 |
| 4 | II - GENERAL PROVISIONS                              | 2.4.3          | VIOLATION AND PENALTY                                    | Needs to revised to add the maximum civil penalties allowed by Code of Virginia                                                                                                                                                                                                                                                                                                                                     |                 |
| 5 | II - GENERAL PROVISIONS                              | 2.5.4          | CHANGE OF USE                                            | Will need to look at this section if duplexes are re-inserted in the Residential zoning districts by-right                                                                                                                                                                                                                                                                                                          |                 |
| 6 | II - GENERAL PROVISIONS                              | 2.6.7          | EXPIRATION OF VARIANCES                                  | Don't believe this is in compliance with Code of Virginia Section 15.2-2309 (7)                                                                                                                                                                                                                                                                                                                                     |                 |
| 7 | III - DISTRICT REGULATIONS                           | 3.2 (F) (2)    | SINGLE FAMILY RESIDENTIAL DISTRICT R-1: Area Regulations | The second sentence "Specific dwelling unit square footage relative to the square footage of any lot or continguous assemblage of lots under common ownership", etc. : this is not a common provisions in a zoning ordinance and there have been problems when a structure has been built over lot lines that would normally be vacated to create a single building lot. Should discuss and consider removing this. |                 |
| 8 | III - DISTRICT REGULATIONS                           |                | COMMERCIAL DISTRICTS                                     | Should add Electric Charging Stations as a Use, possibly either by-right or through conditional use permit - establish criteria for an EV Charging Station<br><br>In Article IV, Section 4.5 (F), there are requirements to compel inclusion of Evs thru the parking requirements? Is that appropriate?                                                                                                             |                 |
| 9 | IV - GENERAL REGULATIONS APPLICABLE TO ALL DISTRICTS | 4.0            | HOME-BASED OCCUPATION                                    | Strangely composed as questions. This should be rewritten as requirements/standards. Include any limitations or standards relative to signage on the house, lot, etc.                                                                                                                                                                                                                                               |                 |

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**ZONING AMENDMENTS AS OF 2022-12-02 prepared by Katie Nunez**

|    | A                                                       | B                   | C                                                                                                                          | D                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | E               |
|----|---------------------------------------------------------|---------------------|----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| 1  | <u>ARTICLE</u>                                          | <u>SECTION</u>      | <u>TITLE</u>                                                                                                               | <u>ISSUES from Town Staff (Katie Nunez, Tracy Outten and Ken Butta as Zoning Compliance Officer)</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <u>COMMENTS</u> |
| 10 | IV - GENERAL REGULATIONS<br>APPLICABLE TO ALL DISTRICTS | 4.1                 | SIGN REGULATIONS                                                                                                           | <p>Confusing to have some definitions here but also state that these definitions are to be used for these terms that are used elsewhere in the ordinance and there is a whole section in Article II called "Definitions".</p> <p>This whole section is challenging to administer and difficult for the public to understand. Need to understand what are we trying to achieve about signs for the community. Need to simplify.</p> <p>At a minimum, need to know actual max sq. footage of a size; need definition of temporary sign; need to understand how to classify and length of time to allow for vacation rental signs vs. real estate for sale or long-term lease.</p> <p>Make it clear that zoning clearance is required and maybe Historic District Review is needed.</p> <p>What is a Real Estate Sign (see page 14)?</p> |                 |
| 11 | IV - GENERAL REGULATIONS<br>APPLICABLE TO ALL DISTRICTS | 4.1 (E) (9)         | SIGN REGULATIONS:<br>Exempt Signs                                                                                          | This section says the requirements are contained in Section H.2.f but there is no such section - need to create the requirements for political signs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                 |
| 12 | IV - GENERAL REGULATIONS<br>APPLICABLE TO ALL DISTRICTS | 4.1 (H)(2) (c) (3)  | SIGN REGULATIONS:<br>Specific Sign Requirements,<br>Temporary Signs/Special<br>Promotion, Event and Grand<br>Opening Signs | Missing the various Mixed Use Commercial Zoning Districts.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                 |
| 13 | IV - GENERAL REGULATIONS<br>APPLICABLE TO ALL DISTRICTS | 4.1 (H) (2) (e) (1) | SIGN REGULATIONS:<br>Specific Sign Requirements,<br>Temporary Signs/Other<br>Temporary Signs                               | Should read "single residential lots" and not "slot"                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                 |

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| 1  | <u>ARTICLE</u>                                          | <u>SECTION</u> | <u>TITLE</u>                                                                                    | <u>ISSUES from Town Staff (Katie Nunez, Tracy Outten and Ken Butta as Zoning Compliance Officer)</u>                                                                                                                                                                                                                                                                       | <u>COMMENTS</u> |
| 14 | IV - GENERAL REGULATIONS<br>APPLICABLE TO ALL DISTRICTS | 4.2 (F)        | EXCEPTIONS TO THE<br>REGULATIONS: Projections<br>Allowed in Required<br>Setbacks                | What would be the type of structures that are 16 in height or less<br>that would qualify under this? Are we good with that?                                                                                                                                                                                                                                                |                 |
| 15 | IV - GENERAL REGULATIONS<br>APPLICABLE TO ALL DISTRICTS | 4.3 (D)        | CONDITIONAL USE PERMITS                                                                         | Criteria for what is considered "action" for the permit to be active<br>and in legal should be reviewed and should also be consistent<br>language with Article 8 (Certificates of Appropriateness)<br><br>Time frame to act upon is one - year - should consider changing this<br>to 6 months.<br><br>In the uses under the general zoning districts, why are pools a CUP? |                 |
| 16 | IV - GENERAL REGULATIONS<br>APPLICABLE TO ALL DISTRICTS | 4.4 (D) (1)    | LANDSCAPING AND<br>SCREENING REGULATIONS:<br>Multi-family Developments<br>and Mobile-Home Parks | Screening must be required, not "may be required"                                                                                                                                                                                                                                                                                                                          |                 |
| 17 | IV - GENERAL REGULATIONS<br>APPLICABLE TO ALL DISTRICTS | 4.4 (E)        | LANDSCAPING AND<br>SCREENING REGULATIONS:<br>Exterior Lighting                                  | Need to expand to create standards, definitions, etc re: "Foot<br>candle", "Dark Sky standards", etc.                                                                                                                                                                                                                                                                      |                 |

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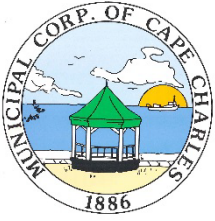
|    | A                                                       | B              | C                                           | D                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | E               |
|----|---------------------------------------------------------|----------------|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| 1  | <u>ARTICLE</u>                                          | <u>SECTION</u> | <u>TITLE</u>                                | <u>ISSUES from Town Staff (Katie Nunez, Tracy Outten and Ken Butta as Zoning Compliance Officer)</u>                                                                                                                                                                                                                                                                                                                                                                                                                                             | <u>COMMENTS</u> |
| 18 | IV - GENERAL REGULATIONS<br>APPLICABLE TO ALL DISTRICTS | 4.5 (A) & (B)  | Off-Street Parking and<br>Loading Standards | <p>Whole Thing needs to be looked at and possibly revised - need input from consultant</p> <p>Need to also factor into "Golf Cart Parking" and possible substitution into the required standards that would lessen the spaces for a traditional vehicle - Town Code has language about golf cart parking - should that be in only Town Code or should it be placed in zoning ordinance?</p> <p>Section (E) below in Seciton 4.5 provides basics on size, etc. - this should be merged with the parking section in (A) and (B) of Section 4.5</p> |                 |
| 19 | IV - GENERAL REGULATIONS<br>APPLICABLE TO ALL DISTRICTS | 4.5 (C)        | Shared Parking                              | This needs to be revised and beefed up - there is no discussion about distance or location of the shared parking to the business or original property location; length of time for the shared parking agreement; sample agreement document for a Shared Parking Agreement would be useful.                                                                                                                                                                                                                                                       |                 |
| 20 | IV - GENERAL REGULATIONS<br>APPLICABLE TO ALL DISTRICTS | 4.5 (M)        | Dumpsters                                   | Need to review and confirm that this is workable and what Town wants.                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                 |

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| 1  | <u>ARTICLE</u>                                          | <u>SECTION</u> | <u>TITLE</u>              | <u>ISSUES from Town Staff (Katie Nunez, Tracy Outten and Ken Butta as Zoning Compliance Officer)</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <u>COMMENTS</u> |
| 21 | IV - GENERAL REGULATIONS<br>APPLICABLE TO ALL DISTRICTS | 4.7            | Swimming Pool Regulations | There has been a recent change in the Building Code that now requires either fencing around the pool or an electric pool cover and the zoning ordinance as currently written does not require fences but indicates compliance with Building Code requirements. I will be recommending in tandem with our Building Official that we amend Section 4.7 to require fencing around pools as a zoning stipulation. Relative to the Historic District Guidelines, I do not believe that pools need to be added to Chapter 8 of the Guidelines as long as fencing becomes a zoning requirement around pools then pools would only be allowed in the side and rear yards and with fencing would be wholly screened from public view and thus not applicable to HDRB Review. However, if this zoning amendment does not occur, then the Town will need to revise the Guidelines. |                 |
| 22 |                                                         |                |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                 |
| 23 | NEW                                                     |                |                           | Need to inform PC and TC about the new state laws re: Marijuana and figure out what Town wants to do re: zoning                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                 |
| 24 |                                                         |                |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                 |
| 25 | STILL TO DO                                             |                |                           | KHN has not reviewed the following yet and is seeking Consultant review of these sections re: compliance with state law and any other comments they wish to propose to potentially improve our adminstration of these matters:<br>Article VI Flood Plain Ordinance<br>Article VII Chesapeake Bay Preservation Ordinance<br>Appendix A Subdivision Ordinance<br>Appendix B Site Plan Ordinance<br>Appendix C Coastal Primary Sand Dune Ordinance<br>Appendix D Erosion and Sediment Control Ordinance<br>Appendix E Wetlands Ordinance<br>Appendix F Tree Conservation and Preservation Ordinance                                                                                                                                                                                                                                                                        |                 |

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|    | A                                                                                                                                                                                                                                                                                                                    | B              | C            | D                                                                                                    | E               |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------|------------------------------------------------------------------------------------------------------|-----------------|
| 1  | <u>ARTICLE</u>                                                                                                                                                                                                                                                                                                       | <u>SECTION</u> | <u>TITLE</u> | <u>ISSUES from Town Staff (Katie Nunez, Tracy Outten and Ken Butta as Zoning Compliance Officer)</u> | <u>COMMENTS</u> |
| 26 |                                                                                                                                                                                                                                                                                                                      |                |              |                                                                                                      |                 |
| 27 | <p>Separate Document Submission due by KHN on 12/5/2022 re: work of the Housing Subcommittee which is full markup of definitions, uses for all zoning districtis and any other relevant sections concerning housing that were noted in the Berkeley Group Study re: Barriers to Housing in the Zoning Ordinance.</p> |                |              |                                                                                                      |                 |



## PLANNING COMMISSION STAFF REPORT

Meeting Date: February 7, 2023

Prepared by: Katie H. Nunez, Planning & Zoning Administrator

Date: February 1, 2023

Regular Session: Item 8B: ZMA Application Consideration for 4 Lots on  
Mason & Harbor Avenue

During the Comprehensive Plan process, I informed the Planning Commission and the Town Council about two potential map changes that I felt the Town should consider serving as the applicant in a future zoning map amendment application which we discussed when we were working on the Future Land Use Map. One concerned the corner lot at Peach Street and Randolph Avenue which received several public comments in opposition to any change of the residential zoning district designation. For that property, I will be informing that property owner that the Town will not be taking the lead for petitioning for a rezoning but that he would have the ability to file such an application if he would like to pursue it.

The other properties are 4 lots located on the corner of Mason Avenue and Harbor Avenue and are currently zoned Commercial-1. 2 Lots directly on the corner of Mason and Harbor Avenue are under common ownership of RL & B Seaside Investments LLC and are vacant – Tax Map #83A3-2-1-77 & 83A3-2-1-75B. 2 Lots adjacent to those are under the common ownership of Nancy Rooney with one lot being vacant and one lot with a 3,300 square foot, one story building – Tax Map #83A3-2-1-75A and 83A3-2-1-74.



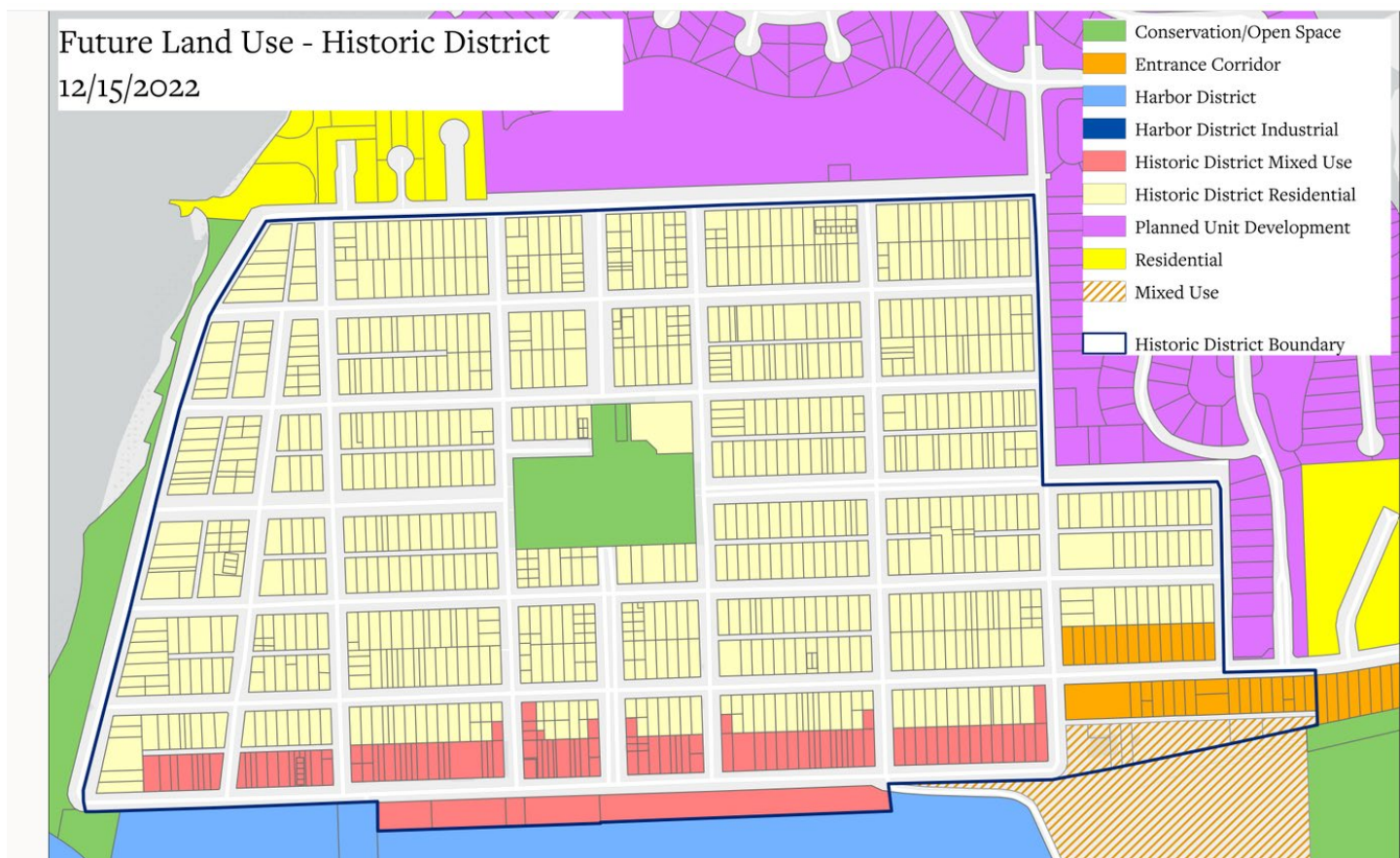
Over the last 5 or more years, the owners of the building on Tax Map #83A3-2-1-74 have approached the Town on several occasions for this property to be permitted for residential use. Under the Commercial-1 zoning district, the only way to approve residential use is through a conditional use permit process with a key criteria that residential use would only be considered for second story or above, never on the first floor. The owners indicated that they were not in a position to consider an addition to the property to meet this requirement. The



current owner has indicated that she would like to have the back half of the building utilized as a residence and the front half of the building used as commercial space.

As we went through the Future Land Use Map deliberations, it made sense to reconsider this particular ½ block on Mason Avenue and discuss a different Land Use designation and possibly zoning designation, especially since 3 of the 4 lots have remained vacant and there has not be any interest expressed to bring full commercial development to these lots since the Town adopted zoning in 1992. Additionally, the block on Mason Avenue between Bay Avenue up to Harbor Avenue is mostly zoned Residential-1 with the exception of the Northampton Hotel who petitioned the Town several years ago to conditionally rezone to Harbor for those particular lots.

Therefore, when we were putting together the Future Land Use Map, the whole of Mason Avenue is designated as Historic District Mixed Use and we indicated that it is possible that the blocks closer to the beachfront may move to a mixed zoning designation of Commercial-Residential (CR), especially this ½ block starting at the corner of Harbor and heading east along Mason Avenue, thus serving as a transition zone between the residential lots closer to the beach and the full commercial that starts in the adjacent building to Nancy Rooney’s building which currently is being rented by Buskey Cider and continues with several establishments with the corner lot on Pine Street and Mason Avenue being occupied by Kelly’s Gingerhut Pub.



So, I have spoken with both property owners of the 4 lots and they are supportive of rezoning these lots from Commercial-1 to Commercial-Residential. Therefore, I am inquiring if the Planning Commission is willing to serve as the applicant for a Zoning Map Amendment (ZMA) for these 4 lots from C-1 to CR to address a



planning issue that was identified during the Comprehensive Plan update process. If so, then I will prepare the paperwork and place the requisite legal notices to move this forward into public hearings for the March calendar for both the Planning Commission and the Town Council.



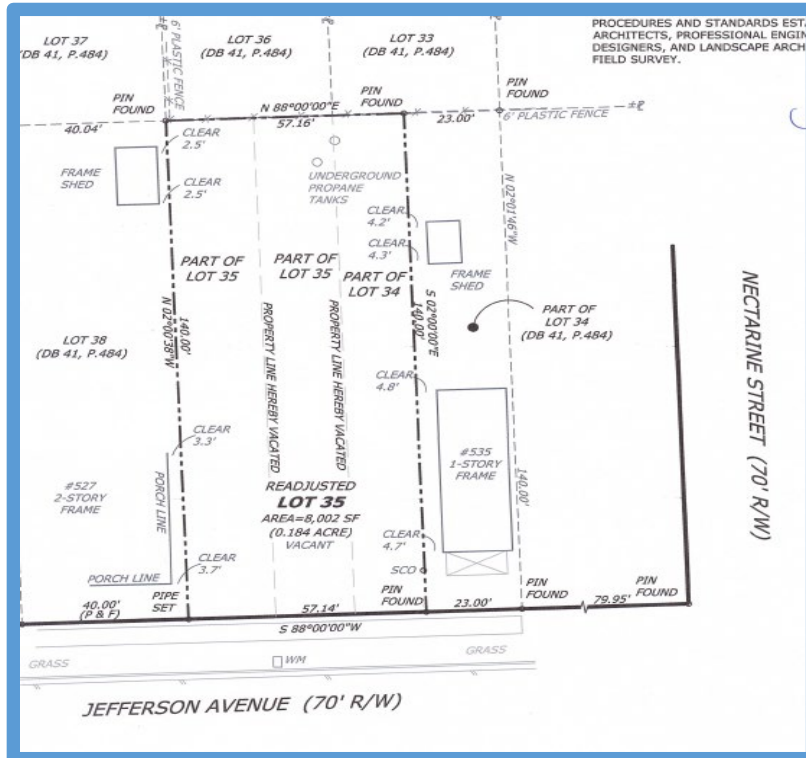
*Municipal Corp. of Cape Charles*

**FEBRUARY 2023  
MONTHLY REPORT**

Katie H. Nunez, Planning/Zoning Administrator

**A. Subdivision Agent:**

1. Vacation of Lot Lines – eliminate lot lines for Lot 83A1-1-34B (the center lot)



**B. 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.]* - No applications filed for February 2023.

**C. DEPARTMENT STAFFING**

Alyce Crockett has been hired as a Part-Time Administrative Assistant for the department which is a new position for the department and she started on January 24, 2023. She will be assisting me in staffing the Planning Commission meetings as well as the Harbor Area Review Board and the Wetlands & Coastal Sand Dunes Board. She will be providing administrative support in staffing the office as well and responding to citizen queries to the department.

Robert James has been hired as a Part-Time Zoning Compliance Officer, replacing Ken Butta who resigned as a result of his election to Town Council. He will be handling all investigations of complaints to the department regarding zoning compliance and will also be ensuring the issued permits and approvals of the department and the Town Council regarding land use applications are being carried out in accordance with said permits and within the timeframes specified. Additionally, he will also be assisting me in staffing the Board of Zoning Appeals meetings.

Tracy Outten will continue to serve as the Full-Time Planning & Zoning Technician with a concentrated focus on Preservation and Zoning Administration. Her primary responsibility will be on handling all administration of the Historic District Overlay and the applications submitted for the Historic District Review Board and/or administrative review by the department, working under my direction.