

Planning Commission
Regular Session Agenda
Cape Charles Civic Center – 500 Tazewell Avenue
May 2, 2023, at 6:00 P.M.

1. Call to Order
 - A. Roll call and establish a quorum.
2. Invocation and Pledge of Allegiance
3. Consent Agenda
 - A. Approval of agenda format
 - B. Approval of Minutes: None
4. Public Hearings:
 - A. A Conditional Use Permit application from Liquor Distillation Society LLC at 1 Fig Street (Tax Map #83A3-1-534) in the Commercial-2 (C-2) Zoning District for 3 single-family dwelling units located on the second floor above commercial space pursuant to CCZO Section 3.7 (C).
 - B. A Conditional Use Permit application from Cape Marine Services LLC at 6 Mason Avenue (Tax Map#83A3-A-5) in the Harbor Zoning District to operate a paid parking lot on 72,000 square feet (approximately 22.3% of the total lot size of 322,498 square feet), pursuant to CCZO Section 3-9 (E) (7) (f); said request is seeking a one-time seasonal approval until September 5, 2023 with relief from the landscaping requirements contained in CCZO Section 4.5 (J).
5. Citizen Comment Period, for any item not subject to an advertised public hearing
6. Unfinished Business:
 - A. Discussion regarding possible zoning ordinance amendment submitted by Cape Charles Main Street
7. New Business:
 - A. A Conditional Use Permit application from Liquor Distillation Society LLC at 1 Fig Street (Tax Map #83A3-1-534) in the Commercial-2 (C-2) Zoning District for 3 single-family dwelling units located on the second floor above commercial space pursuant to CCZO Section 3.7 (C).
 - B. A Conditional Use Permit application from Cape Marine Services LLC at 6 Mason Avenue (Tax Map#83A3-A-5) in the Harbor Zoning District to operate a paid parking lot on 72,000 square feet (approximately 22.3% of the total lot size of 322,498 square feet), pursuant to CCZO Section 3-9 (E) (7) (f); said request is seeking a one-time seasonal approval until September 5, 2023 with relief from the landscaping requirements contained in CCZO Section 4.5 (J).
8. Report of Officers and Committees
9. Standing Staff Reports
 - A. Planning & Zoning Administrator Monthly Report for April 2023
 - 1.) Subdivision Agent Report

- 2.) Report on Applications filed with Board of Zoning Appeals, pursuant to Code of Virginia §15.2-2310
- 3.) Harbor Development Certificates submitted to HARB & Town Council

10. Announcements - Next Meetings:

- Regular Session: Tuesday, June 6, 2023

11. Adjourn

TOWN OF CAPE CHARLES
Planning Commission – Public Hearing

The Cape Charles Planning Commission will hold a public hearing on Tuesday, May 2, 2023 at 6:00 pm in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive comment on the following requests:

- A. A Conditional Use Permit application from Liquor Distillation Society LLC at 1 Fig Street (Tax Map #83A3-1-534) in the Commercial-2 (C-2) Zoning District for 3 single-family dwelling units located on the second floor above commercial space pursuant to CCZO Section 3.7 (C).
- B. A Conditional Use Permit application from Cape Marine Services LLC at 6 Mason Avenue (Tax Map#83A3-A-5) in the Harbor Zoning District to operate a paid parking lot on 72,000 square feet (approximately 22.3% of the total lot size of 322,498 square feet), pursuant to CCZO Section 3-9 (E) (7) (f); said request is seeking a one-time seasonal approval until September 5, 2023 with relief from the landscaping requirements contained in CCZO Section 4.5 (J).

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

AD PLACED: Eastern Shore Post on Tuesday, April 11, 2023
AD TO RUN: Friday, April 14, 2023 and Friday, April 21, 2023



PLANNING COMMISSION STAFF REPORT

Meeting Date: May 2, 2022

Item #4A & 7A – CUP 2023-001

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

Date: April 24, 2023

APPLICANT: Liquor Distillation Society, LLC

SITE ADDRESS: 1 Fig Street

TAX MAP: 83A3-1-534

LOT SIZE : 11,200 sq ft

TYPE OF APPLICATION: Conditional Use Permit 2023-01

SPECIFIC REQUEST: 3 Single Family Dwelling Units Above 1st Floor Commercial Space

ZONING ORDINANCE: Section 3.7 (C)

CURRENT ZONING: Commercial-2 (C-2)

DATE RECEIVED: April 4, 2023

DATE DEEMED COMPLETE: April 7, 2023

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): July 7, 2023

NARRATIVE OF PROPOSAL

The applicant is seeking to obtain a Conditional Use Permit for 3 single family dwelling units above 1st floor Commercial Space. Previously, the Town approved a Conditional Use Permit on 1/19/2017 for one single dwelling unit on the 2nd floor above 1st floor Commercial Use in the Commercial-2 Zoning District.

Staff have been working with the property owner for over a year as this project has been progressing through the Historic District Review Board. Based upon the proposed re-use of the property as a restaurant, we were uncertain if full compliance with both town code and building code could be achieved for the use proposed without some additional land. The property owner successfully acquired the lot behind the building along Mason Avenue and the lot line between the two parcels has been vacated and this is now one parcel comprising 11,200 sq. ft. With this land acquisition, the applicant is seeking to construct a 30.1' x 55.3' two-story addition (total of 3,300 square feet) on the west rear side of the existing commercial building.

The addition on the first floor will be utilized for public bathrooms, storage, cooler and freezer space adjacent to the kitchen area and an office and a stairwell leading to the second story. The addition on the second story will be combined with existing square footage on the second story for a total of 4 residential units with individual bathrooms for each unit (the units sized from 150 sq. ft. to 198 sq. ft) and some storage space.

The applicant has indicated they would provide 4 parking spaces on the lot to be associated with the 4 residential units (see Attachment- 1 Fig Street Schematic Pkt Resized). They have also indicated that the residents' units would be housing for local employees.

NOTE: Additionally, the Town has also approved a variance on 1/5/2017 to this property providing full relief of the off-street parking requirements associated with a restaurant commercial use on the

AERIAL MAP: Property outlined in blue

[illegible]

ORDINANCE REQUIREMENTS

The Cape Charles Zoning Ordinance Section 3.7 (C) states that:

- C. Conditional Uses: Single family and multi-family dwellings provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (not access through commercial establishment on the first level).

Regarding compliance with the rest of the Cape Charles Zoning Ordinance for both the principal use of the first floor as a restaurant and the second floor as 4 residential units, the applicant fully complies or has received governmental approval for relief from requirements of the zoning ordinance, contingent upon receiving Town Council approval of this application.

STAFF RECOMMENDATION:

Staff is recommending that the Planning Commission consider a condition to this application that the residential units be required to a minimum lease term of no less than 30 days, similar to the requirement that the Town has established for Accessory Dwelling Units.

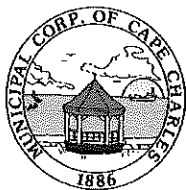
Staff recommends that the Planning Commission review the application and conduct the public hearing and consider an affirmative recommendation on CUP2023-001: Conditional Use Permit for 3 single family dwelling units above 1st floor Commercial Space based upon the site plan and application submitted and with the condition that the minimum lease term of no less than 30 days be assigned to the 3 residential units.

Attachments:

Attachment 1 – CUP Application Packet

Attachment 2 - 1 Fig Street Schematic Pkt Resized.pdf

Attachment 3 – CCZO Section 3



Conditional Use Permit Application

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-3259 x24

planningtech@capecharles.org

Revised 12/2022	
Taxes	Vpd MW
Violations	N/A
Fee	\$600 pd
Decision	

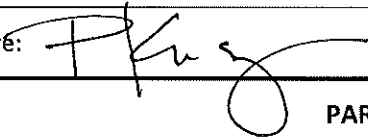
PART 1: APPLICATION NOTES

Certain land uses, by nature, can have a potentially unfavorable impact on or be incompatible with other uses of land within a given zoning district. These uses may be permitted within designated districts under controls, limitations, and regulations of a conditional use permit.

The Town Council has the responsibility to evaluate the impact and the compatibility of each use and to stipulate conditions and restrictions to assure the proposed use is compatible with the neighborhood in which it is located. The Council can deny the use as not being in accordance with the adopted comprehensive plan or as being incompatible with the surrounding neighborhood.

In addition to the information required in this application, all items from this checklist must be submitted before it can be evaluated

☐ Zoning Clearance Application ☐ Site Plan/Survey showing existing conditions and proposed changes

Owner signature: 

Date: 4/4/2023

PART 2: PROPERTY INFORMATION

Property Address: 1 FIG STREET

Tax Map #: 83A3-1-53A

Zoning District: C2

Current use: NOTHING

Proposed use: EMPLOYEE HOUSING

PART 3: PROPERTY OWNER INFORMATION

Name and/or Company: LIQUOR DISTILLATION SOCIETY, LLC

Mailing Address: 640 WASHINGTON AVE, CAPE CHARLES, VA 23310

Phone Number: 435.640.6061

Email: FRANKINSEY@gmail.com

If owner is not the applicant, an Owner's Permission Affidavit must be attached.

PART 4: APPLICANT INFORMATION

Name and/or Company: LIQUOR DISTILLATION SOCIETY, LLC

Mailing Address: 640 WASHINGTON AVE, CAPE CHARLES, VA 23310

Phone Number: 435.640.6061

Email: pennkinsey@gmail.com

PART 5: PROJECT INFORMATION

A. Neighborhood

1. What are the current uses and characteristics of the neighborhood? COMMERCIAL & RESIDENTIAL
2. How would this proposed use fit in with the neighborhood? ADD SPACES FOR LOCAL EMPLOYEES
3. Describe the effects that any noise or odor from the proposed use might have on the neighborhood. SHOULD NOT HAVE ANY

B. In the Commercial and Harbor Districts, a conditional use permit is required for residential use above 1st floor commercial use.

Number of residential floors 1 Number of residential units per floor 4
Number of parking spaces on premises 4 Number of parking spaces on street _____ deeded off-site _____
Amenities provided ROOM & BATHROOM

C. Description of Use

Days of Operation _____
Hours of Operation N/A
Hours of Delivery N/A

Number of full-time staff? 4 Part-time? N/A
If foodservice, will there be alcohol sales on premises? N/A

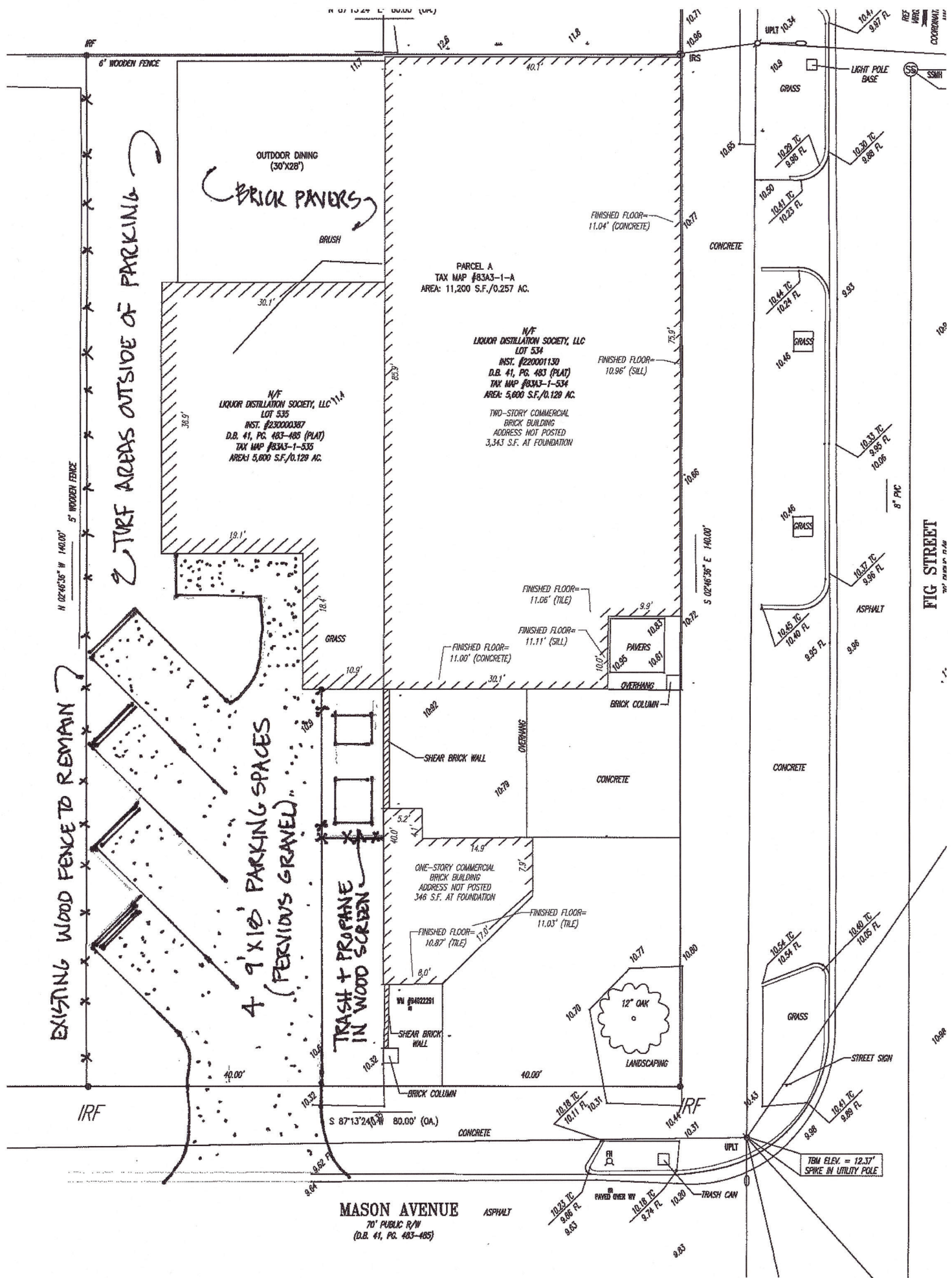
D. Site plan must also include Primary and any accessory structures (size & setbacks), Trash location, screening, fencing, lighting, utilities, landscaping and parking if required.

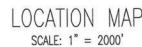
I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed.

Applicant's signature: _____

Date: _____

4/4/2023





VERTICAL DATA ESTABLISHED ON SITE VIA:

FLOOD INFORMATION INDICATED HEREON SHOULD NOT BE CONSTRUED AS A DETERMINATION OF THE NEED OR LACK OF NEED FOR FLOOD INSURANCE. PROPERTY OWNERS SHOULD CONTACT A LOCAL FLOOD OFFICIAL FOR MORE INFORMATION.

V = 1% CHANCE OF ANNUAL FLOOD WITH STORM INDUCED WAVES

AE = 1% CHANCE OF ANNUAL FLOOD

X-SHADED = 0.2% CHANCE OF ANNUAL FLOOD

X = MINIMAL FLOOD HAZARD AREA

GENERAL SURVEY NOTES:

1. THIS SURVEY WAS PRODUCED BY MID-ATLANTIC SURVEYING AND LAND DESIGN, INC. FOR L.J. KELLAM CONSTRUCTION, LLC.
2. THIS SURVEY WAS PRODUCED WITHOUT BENEFIT OF A TITLE REPORT. ALL EASEMENTS, SERVITUDES AND RESTRICTIONS MAY NOT BE SHOWN.
3. THE BOUNDARY LINES SHOWN ARE BASED ON A CURRENT FIELD BOUNDARY SURVEY.
4. THIS SURVEY IS NOT INTENDED TO SHOW ALL UNDERGROUND UTILITY FEATURES. IT IS THE RESPONSIBILITY OF THE OWNER OR CONTRACTOR TO CONTACT MISS UTILITY BEFORE ANY EXCAVATION OR OTHER EARTH MOVING WORK.

TOPOGRAPHIC SURVEY CERTIFICATION

THIS SURVEY

TOPOGRAPHIC BOUNDARY SURVEY
OF
LOT 534 (D.B. 41, PG. 483)

FOR
L.J. KELLAM CONSTRUCTION, LLC
CAPE CHARLES, VA
03/03/2023"

WAS COMPLETED UNDER THE DIRECT AND RESPONSIBLE CHARGE OF, BETH ANNE G. CAMPBELL FROM AN ACTUAL GROUND OR REMOTE-SENSING SURVEY MADE UNDER MY SUPERVISION; THAT THE IMAGERY AND/OR ORIGINAL DATA WAS OBTAINED ON 01/31/2022; AND THAT THIS PLAT, MAP, OR DIGITAL GEOSPATIAL DATA INCLUDING METADATA MEETS MINIMUM ACCURACY STANDARDS UNLESS OTHERWISE NOTED.

DATE: 02/10/2022

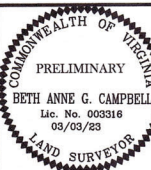
PRELIMINARY
BETH ANNE G. CAMPBELL, VA L.S. #003316

MISS UTILITY TICKET #	A202501570
DATE	01/25/2022

MAS-LD
Mid-Atlantic Surveying and Land Design

5257 Cleveland Street, Suites 109-110
Virginia Beach, VA 23462

757-557-0888
WWW.MAS-LD.COM
ADMIN@MAS-LD.COM



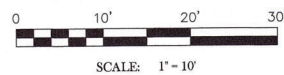
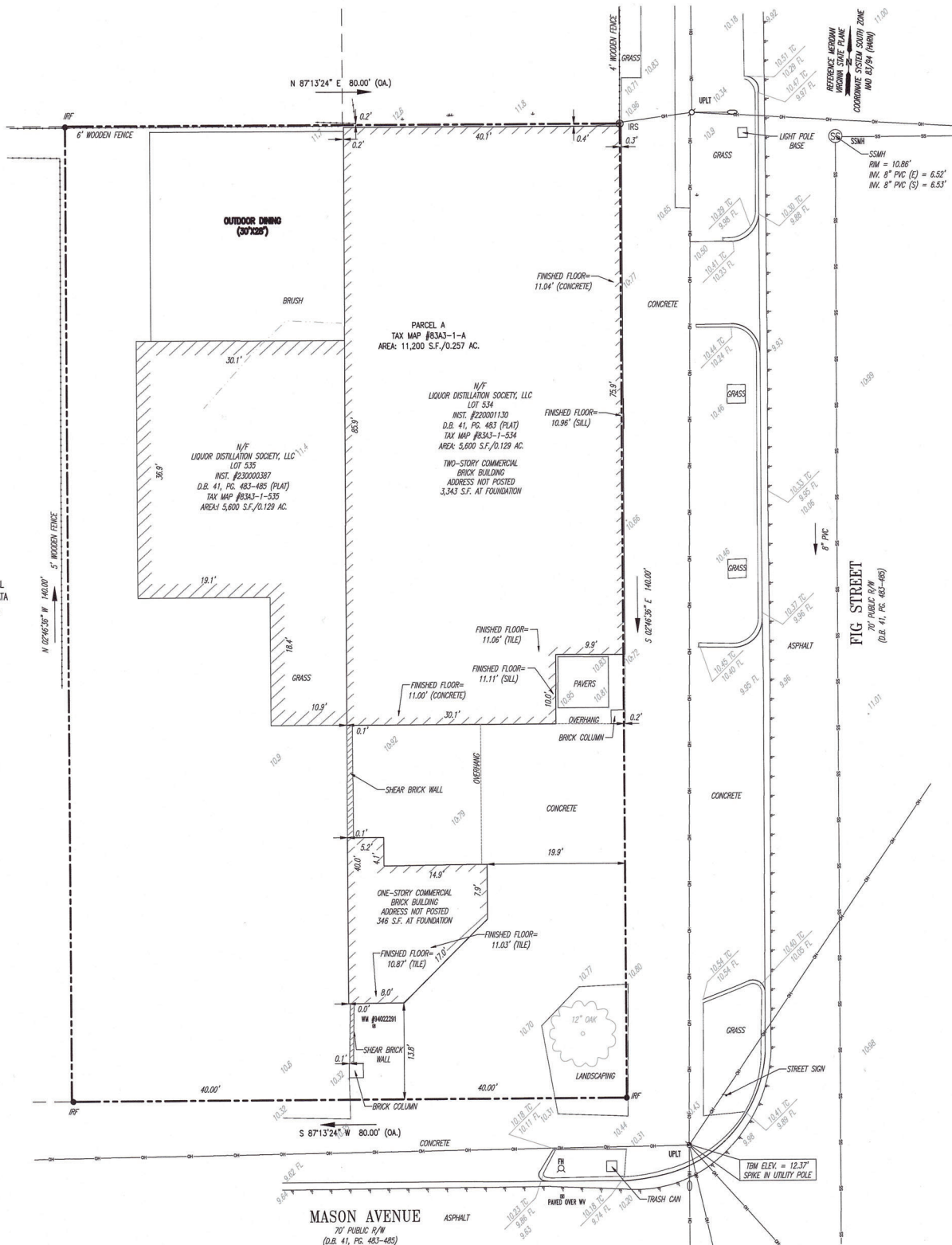
TOPOGRAPHIC BOUNDARY SURVEY
OF
LOT 534 (D.B. 41, PG. 483)

PROJECT #	22017.0
FIELD BY:	NJB
FIELD DATES:	01/31/2022
DRAWN BY:	MKL/NGM
CHECKED BY:	OSL/BAC

[illegible]

SCALE: 1" = 10'

SHEET
1 OF 1



GRADE | LEGEND

CL	CENTERLINE
FC	FACE OF CURB
FL	FLOWLINE
TB	TOP OF BANK
TC	TOP OF CURB
TS	TOE OF SLOPE

ABBREVIATIONS

APPROX

BLDG

CONC

D.B.

GPIN

HARN

INST.

INV

M.B.

NF

N/F

PG.

PIN

S.F.

APPROXIMATELY

BUILDING

CONCRETE

DEED BOOK

GEOREFERENCED PARCEL

IDENTIFICATION NUMBER

HIGH ACCURACY

REFERENCE NETWORK

INSTRUMENT

INVERT

MAP BOOK

NAIL FOUND

NOW OR FORMERLY

PAGE

PARCEL IDENTIFICATION NUMBER

SQUARE FEET

COMMUNICATIONS

CMH

CPED

CMH

COMMUNICATIONS: HAND HOLE

COMMUNICATIONS: PEDESTAL

COMMUNICATIONS: MANHOLE

COMMUNICATIONS: UNDERGROUND

CONTROL

TRF

TBM

CONTROL: TRAVERSE POINT

CONTROL: TEMPORARY BENCHMARK

FENCES

FENCE: SILT FENCE

FENCE: VINYL

FENCE: WOODEN

FENCE: METAL

GAS

GM

GV

GAS: METER

GAS: VALVE

GAS: UNDERGROUND PIPES

POWER

LP

LP

EP

UP

UPLT

EHL

POWER: LIGHT POLE

POWER: CONDUIT

POWER: LIGHT POLE: SINGLE ARM

POWER: LIGHT POLE: SINGLE BOX

POWER: TRANSFORMER

POWER: ELECTRIC PEDESTAL

POWER: GUY WIRE

POWER: UTILITY POLE

POWER: UTILITY POLE WITH LIGHT

POWER: ELECTRIC HANDHOLE

POWER: OVERHEAD LINES

POWER: UNDERGROUND

PROPERTY

DHS

DHF

IRF

IRS

NF

IPF

PPF

VDH

PROPERTY: DRILL HOLE FOUND

PROPERTY: DRILL HOLE SET

PROPERTY: IRON ROD FOUND

PROPERTY: IRON ROD SET

PROPERTY: NAIL FOUND

PROPERTY: IRON PIPE FOUND

PROPERTY: PINCHED PIPE FOUND

PROPERTY: VDOT MONUMENT

PROPERTY: BOUNDARY

PROPERTY: ADJACENT BOUNDARY

PROPERTY: EASEMENT

SANITARY

SSMH

CO

SANITARY: MANHOLE

SANITARY: CLEANOUT

SANITARY: PIPES

SANITARY: FORCE MAIN

SITE

SIGN

BOLLARD

STORM

SDMH

CDI

CB

RD

STORM: MANHOLE

STORM: CURB DROP INLET

STORM: CATCH BASIN

STORM: ROOF DRAIN

STORM: PIPES

TRAFFIC

TRMH

TRPED

TRMH

TRAFFIC: BOX

TRAFFIC: PEDESTAL

TRAFFIC: MANHOLE

WATER

WV

WM

IRR

FIH

SPIGOT

FDC

PIV

WATER: VALVE

WATER: METER

WATER: IRRIGATION

WATER: FIRE HYDRANT

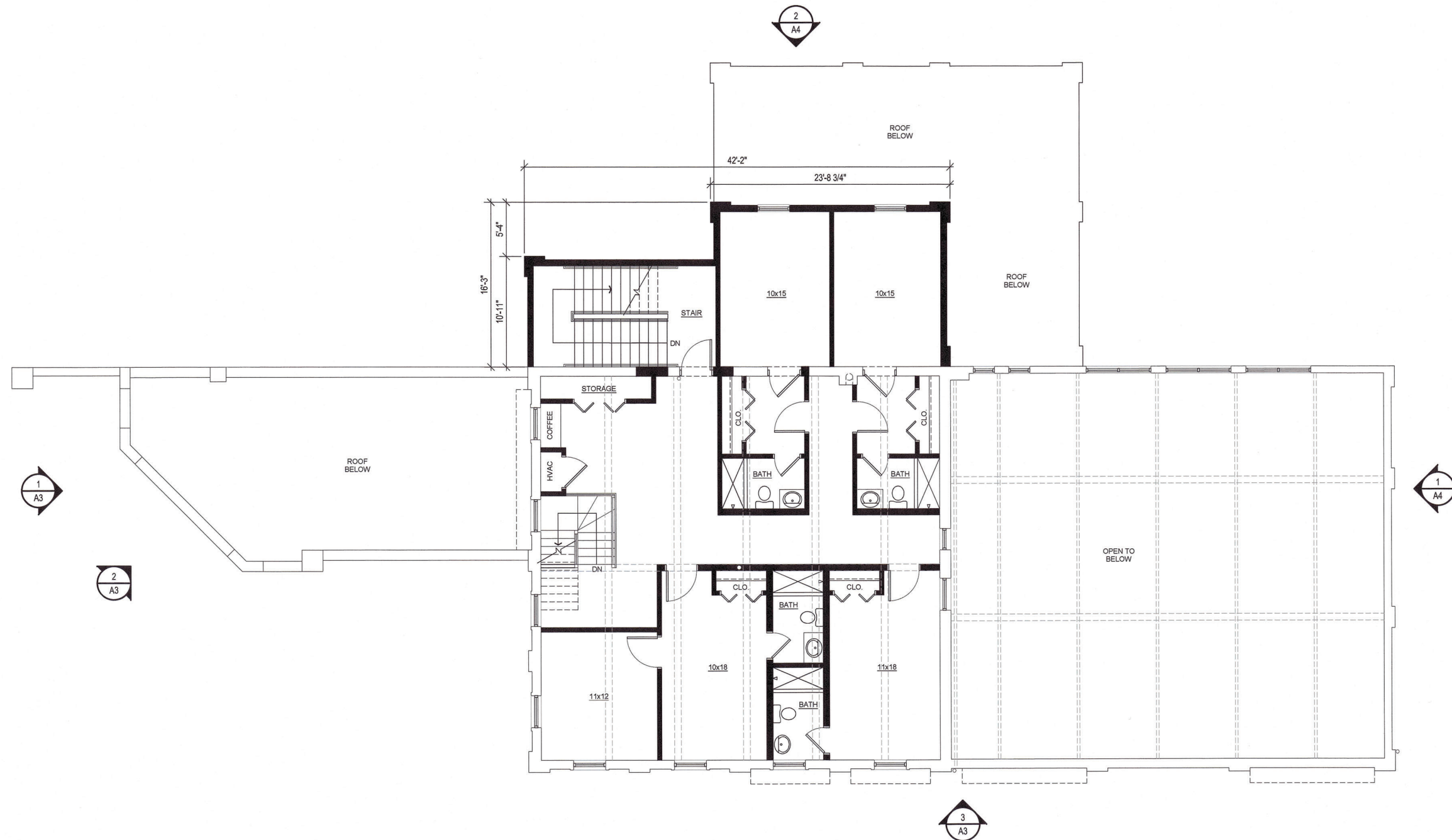
WATER: SPIGOT

WATER: FIRE DEPARTMENT CONNECTION

WATER: POST INDICATOR VALVE

WATER: UNDERGROUND PIPES

LINES



SECOND FLOOR PLAN
3/16" = 1'-0"

HISTORIC RENOVATION & RESTORATION TO THE
KELLOGG BUILDING
1 FIG STREET, CAPE CHARLES, VIRGINIA

REVISED 2/xx/23

3/16"=1'-0"



Dills Architects
1432 North Great Neck Rd,
#204 Virginia Beach, VA 23454



TOWN OF CAPE CHARLES

ZONING ORDINANCE

Section 3.7 Commercial District C-2

A. Statement of Intent. The intent of this zoning district is to recognize the existing commercial areas which are less densely developed than the C-1 District and to encourage compatible commercial uses and density. This area generally has been developed with larger lots and larger individual buildings. The specific intent of this district is to recognize the existing and possibly new freestanding commercial development.

B. Permitted Uses. The following uses are permitted by right:

1. All uses as allowed in C-1
2. Nursing/retirement homes
3. Any other commercial or professional use which is compatible in nature with the allowed uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission.

C. Conditional Uses: Single family and multi-family dwellings provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (not access through commercial establishment on the first level).

D. Height Regulations: Buildings may be erected up to 35 feet in height from the adjacent ground elevations.

E. Area Regulations: The following area regulations shall apply as minimums for new development in this district:

1. Lot width at setback line 60
2. Area requirements (60 x 150) 9,000
3. Side yard 10
4. Rear yard 10 or prevailing rear yard if less
5. Front setback shall be determined by the average setback of the existing built up commercial area.

F. Development/Redevelopment Standards, Other Requirements, and Accessory Uses. The standards for development and/or redevelopment, specific additional requirements, and accessory uses shall be the same as those listed and described for the C-1.

G. Sign design shall relate to the architectural character of the building and, if ground mounted, shall be appropriately landscaped.



PLANNING COMMISSION STAFF REPORT

Meeting Date: May 2, 2022

Item #4B & 7B – CUP 2023-002

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

Date: April 24, 2023

APPLICANT: Cape Marine Services LLC
John Kemp (Owner); William Dize (Representative)
SITE ADDRESS: 6 Mason Avenue
TAX MAP: 83A3-1-534

TYPE OF APPLICATION: Conditional Use
Permit 2023-02

SPECIFIC REQUEST: Paid Parking Lot

ZONING ORDINANCE: Section 3.9 (E) (7)
(f)

LOT SIZE : 11,200 sq ft

CURRENT ZONING: Harbor (H)

DATE RECEIVED: April 5, 2023

DATE DEEMED COMPLETE: April 7, 2023

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): July 7, 2023

NARRATIVE OF PROPOSAL

The applicant is seeking to obtain a Conditional Use Permit at 6 Mason Avenue (Tax Map#83A3-A-5) in the Harbor Zoning District to operate a paid parking lot on 72,000 square feet (approximately 22.3% of the total lot size of 322,498 square feet), pursuant to CCZO Section 3-9 (E) (7) (f); said request is seeking a one-time seasonal approval until September 5, 2023 with relief from the landscaping requirements contained in CCZO Section 4.5 (J).

When the property representative met with me to discuss this matter, we looked through the zoning ordinance to see the possibility of a paid parking lot and what other requirements are there relative to a paid parking lot. I suggested that he considered a seasonal conditional use permit application to allow the opportunity to try this venture for one season to see if viable, especially since this Town has provided free parking on Mason Avenue and elsewhere and there may not be a market for “paid” parking on a private lot. This approach would allow the applicant to also seek a waiver initially from the landscape requirements in CCZO Section 4.5 (J) and other paved surface requirements during this “seasonal” one-time permit before a significant investment in infrastructure improvements is made and altering the current state of the property.

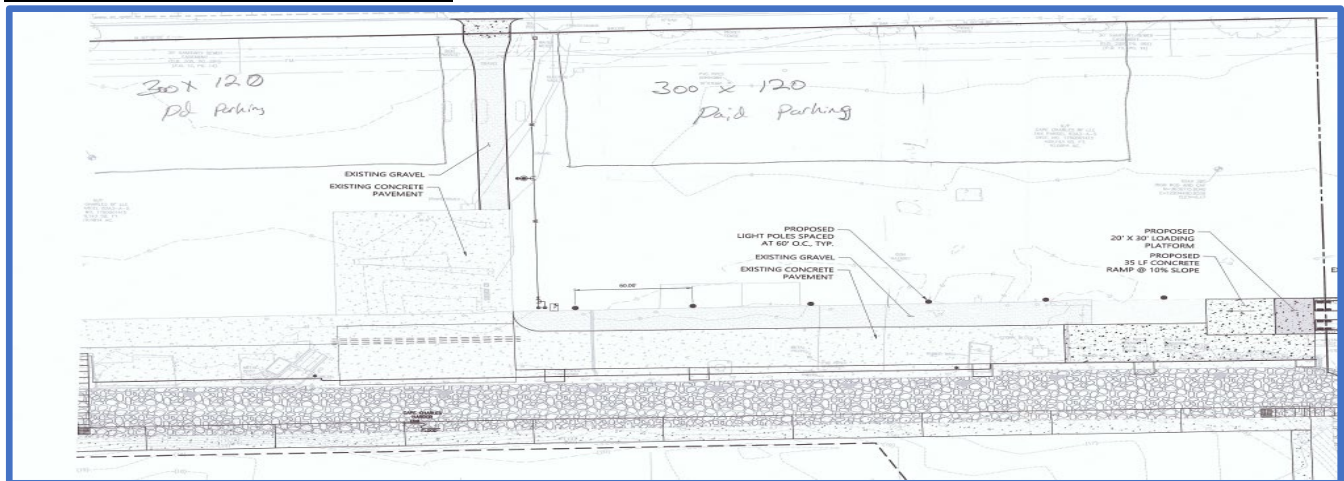
AERIAL MAP: Property outlined in blue



Approximate Location of proposed parking lots



Marked-Up Site Plan by Applicant



Staff has utilized the dimensions provided by the applicant and has staked this on the property (see green metal stakes with orange cones on them) so that you get a better understanding of the size and location on the property.

Based upon the site plan submitted and the application referring only to Tax Map 83A3-A-5 and indicating that there would be only one trash can provided at the “entrance, if needed and one chair and one umbrella for staff which would be taken down every day, the intended ingress and egress appears to be only from the center entrance directly off Mason Avenue, across from Harbor Avenue. The applicant needs to confirm this and if so, should detail how they will mark and/or restrict access into the paid parking lot from the entrance by the War Memorial Driveway (across from Brown Down) which is the

entrance that runs along Tax Map #83A3-A-5A. If not, then the applicant would need to be amended to pick up this adjacent lot (which is under the same ownership name as the original lot in question).

The application states that the lots will be for daily paid parking only from 8 am to dusk and that they would place signage that reads “Park at your risk and any vehicles on the property after dusk will be subject to towing at the owner’s expense.” This should also be included as a condition of this permit, if approved, so that this lot cannot be utilized as long-term parking nor overnight parking.

ORDINANCE REQUIREMENTS

The Cape Charles Zoning Ordinance Section 3.9 (E) (7) (f) states that:

- C. Conditional Uses: The following uses may also be permitted, subject to securing a conditional use permit as provided for in this ordinance:
 - 7. Other miscellaneous uses of the following types:
 - f. Off-site parking

The Cape Charles Zoning Ordinance defines *off-site parking* as “*parking provided for a specific use but located on a site other than the one on which the specific use is located*” and defines *Parking Lot or Parking Garage* as “*an area or building designated and designed for the temporary storage of vehicles*”.

In addition, the Cape Charles Zoning Ordinance contains a whole section under the General Regulations Applicable to All Districts the landscaping requirements contained in CCZO Section 4.5 (J). for a parking lot (attached), which the applicant is seeking a waiver of those requirements under this temporary or seasonal Conditional Use Permit application. Again, this particular request is not unreasonable if the Town wishes to allow a “trial run” of this type of use – a paid parking lot – that would not alter the natural landscape unnecessarily if it is not successful.

However, there is a provision in Cape Charles Zoning Ordinance Section 4.4 – Landscaping and Screening Regulations which states the following:

(B) General Requirements

- 1. Landscaping shall be required in all commercial and industrial districts.***
 - a. The owner or his agent shall be responsible for the maintenance, repair, and replacement of all landscaping materials as may be required by the provisions of this Article.***
 - b. All plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris at all times. All unhealthy, dying, or dead plant materials shall be replaced during the next planting season.***

- 2. Commercial and industrial district uses that abut residential zones shall provide a landscape buffer or screened area between districts.***

- 3. All parking lots shall be screened and landscaped from adjoining properties or every other use and zoning district.***

4. Land disturbance shall be limited to the area necessary to provide for the desired use or development. a. Ingress and egress during construction shall be limited to one access point unless otherwise approved by the Zoning Administrator.

5. Indigenous vegetation shall be preserved to the maximum extent possible with the use and the development permitted and in accordance with the Virginia Erosion and Sediment Control Handbook and the Chesapeake Bay Act.

a. Clearing shall be allowed only to provide necessary access, positive site drainage, water quality BMPs, and the installation of utilities as approved by the Zoning Administrator.

b. Prior to clearing or grading, suitable protective barriers such as safety fencing shall be erected five feet outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
Revised 10/20/2022 Article IV Page 26

c. Trees may be pruned or removed as necessary to provide sight lines and vistas provided that, where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint pollution from runoff. Preservation of existing trees is encouraged to provide continuity, improved buffering ability, pleasing scale, and image.

d. Any path shall be constructed and surfaced so as to effectively control erosion.

6. Any land-disturbing activity exceeding 2,500 square feet, including construction of single-family homes, shall comply with the requirements of the Erosion and Sediment Control Regulations.

7. The comprehensive plan for each parcel shall include the requirement to retain the 100 foot Resource Protection Area (RPA) and associated buffer area.

C. Commercial and Industrial Requirements

1. Required open spaces shall be landscaped in accordance with a landscape plan to be submitted with the site plan and approved by the Zoning Administrator.

2. Screening shall be provided along the common side and rear lot lines of every commercial and industrial district that abuts a residential use or zone. Such screening shall include either fencing or shrubs and trees that provide a six feet in height barrier to visual observation. Screening shall be shown on the landscape plan submitted.

3. Parking lots. There shall be a landscaped open space within the perimeter of the parking areas in the minimum amount of two square feet per parking space. At least one tree shall be planted for each forty square feet of landscaped area.

I can support a waiver from the interior landscaping requirements relative to the development of a parking lot (Section 4.5 (J)) but a full out-right waiver from the general landscaping requirements for the perimeter of the lot (Section 4.4 (B) & (C)) due to the use alone as a proposed parking lot should be adhered to and a requirement and condition of this permit, if approved.

STAFF RECOMMENDATION:

Staff is recommending that the Planning Commission hold the public hearing and consider all comments received. Enclosed is an e-mail received from Canonie Atlantic Co. who also raised the additional question which I have not addressed in this staff report regarding the type of items that could and would they be able to be parked in this parking lot, specifically boats, trailers, and motor homes in addition to cars and trucks.

Staff is supportive of a limited, seasonal Conditional Use Permit to expire 6/5/2023 with the following conditions:

1. A waiver from the landscape requirements in CCZO Section 4.5 (J) and other paved surface requirements during this “seasonal” one-time permit time-frame.
2. Sufficient trash receptacles be provided by the property owner and emptied on a regular basis at the expense of the property owner.
3. The entrance and exit to/from the parking lot is from the center entrance on Mason Avenue directly across from Harbor Avenue only.
4. Approved and permitted signage indicating the hours of operation of 8 am to Dusk & Daily Parking Only; NO OVERNIGHT PARKING, and Towing of Cars will be at Owner’s Expense.
5. Submit a landscape plan to the Zoning Administrator in compliance with CCZO Section 4.4 (B) & (C) and install said plantings.

Staff is available to assist in the development of a motion if the Planning Commission should need assistance.

Attachments:

Attachment 1 – CUP Application Packet

Attachment 2 - Site Plan

Attachment 3 – Comments from Adjacent Property Owners

Attachment 4 – CCZO Section 4.5 (J) – Landscaping Requirements for Parking Lots



Cape Charles Yacht Center
1011 Bayshore Road
Cape Charles, VA 23310

April 5, 2023

Re: Conditional Use Permit
Parcel: 83A3-A-5

Purpose:

This is to allow visitors to Cape Charles to pay for daytime-only parking on this lot. We believe that this will remove some stress for visitor parking on Bay and Mason Ave.

Project:

To utilize two 300ft x 120 ft sections of parcel 83A3-A-5 for paid parking. (See site plan and attached Map) This will be a seasonal project, with plans to be open from 8 am to dusk daily. Currently, there are no plans for grading and filling the parking area as this is a temporary trial and error, and the future for the property remains the same. If we decide to keep some areas for paid parking that will need to be graded, we will re-apply for town approval.

We will utilize Staked signage on the roadside of the fence that will be placed out and removed daily. These signs will read Paid Parking ahead. We will also have signs inside the fence that read Park at your own risk and any vehicles on the property after dusk will be subject to towing at the owner's expense. We will also put up and take down every day a chair and an umbrella for staff. We may install a trash can at the entrance if we see that one will be needed.

I'm applying for this Conditional Use Permit on behalf of the owner John Kemp, and an owner's affidavit is on file at the Town Offices.

Sincerely,

William "Smitty" Dize
General Manager



Conditional Use Permit Application

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-3259 x24

planningtech@capecharles.org

Revised 12/2022

Taxes

Violations

Fee \$600

Decision

PART 1: APPLICATION NOTES

Certain land uses, by nature, can have a potentially unfavorable impact on or be incompatible with other uses of land within a given zoning district. These uses may be permitted within designated districts under controls, limitations, and regulations of a conditional use permit.

The Town Council has the responsibility to evaluate the impact and the compatibility of each use and to stipulate conditions and restrictions to assure the proposed use is compatible with the neighborhood in which it is located. The Council can deny the use as not being in accordance with the adopted comprehensive plan or as being incompatible with the surrounding neighborhood.

In addition to the information required in this application, all items from this checklist must be submitted before it can be evaluated

☐ Zoning Clearance Application ☒ Site Plan/Survey showing existing conditions and proposed changes

Owner signature:

Date: 4/5/23

PART 2: PROPERTY INFORMATION

Property Address: 6 Mason Ave

Tax Map #: 83A3-A-5

Zoning District: Harbor

Current use: Empty Lot

Proposed use: Paid Parking

PART 3: PROPERTY OWNER INFORMATION

Name and/or Company: John Kemp - Cape Marine Services LLC

Mailing Address: 3611 Roland Ave., Baltimore, MD 21211

Phone Number:

Email: johnkemp@royalfarms.com

If owner is not the applicant, an Owner's Permission Affidavit must be attached.

PART 4: APPLICANT INFORMATION

Name and/or Company: William S. Dize Jr. - Cape Marine Services LLC

Mailing Address: 1011 Bayshore Rd., Cape Charles, VA 23310

Phone Number: 757-693-0098

Email: wdize@oasismarinas.com

PART 5: PROJECT INFORMATION

A. Neighborhood

1. What are the current uses and characteristics of the neighborhood? Mix Use Comercial and residential
2. How would this proposed use fit in with the neighborhood? This would establish additional summertime parking for beach goers and free up public street parking.
3. Describe the effects that any noise or odor from the proposed use might have on the neighborhood. None

B. In the Commercial and Harbor Districts, a conditional use permit is required for residential use above 1st floor commercial use.

Number of residential floors NA Number of residential units per floor NA
Number of parking spaces on premises 80 Number of parking spaces on street NA deeded off-site _____
Amenities provided None

C. Description of Use

Days of Operation Seasonal Sun - Sat Number of full-time staff? _____ Part-time? 4
Hours of Operation 8 am - dusk If foodservice, will there be alcohol sales on premises? NA
Hours of Delivery NA

D. Site plan must also include Primary and any accessory structures (size & setbacks), Trash location, screening, fencing, lighting, utilities, landscaping and parking if required.

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed.

Applicant's signature: [Signature]

Date: 4/5/23

Northampton County, Virginia

Legend

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

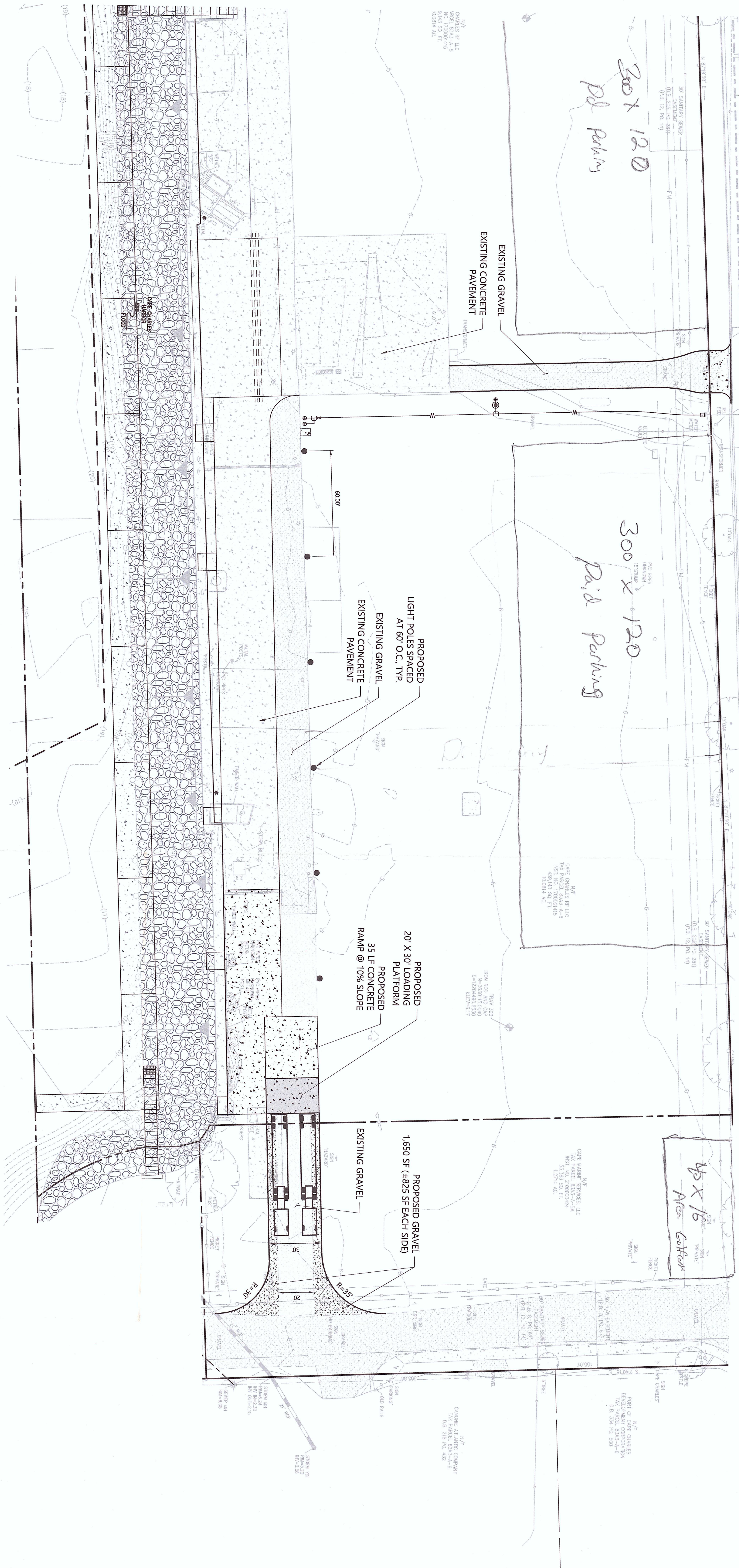
Map Printed from Northampton
<https://parcelviewer.geodecisions.com/Northampton/>



Title: 6 Mason Ave. Paid Parking

Date: 4/5/2023

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



APPROVED

DATE 11/30/2021

TOWN PLANNING ZONING ADMINISTRATOR

TOWN OF CAPE CHARLES

Legend

H-20 RATED CONCRETE PAVEMENT

vhb.com



351 McLaws Circle
Suite 3
Williamsburg, VA 23185
757.220.0500

Not Approved for Construction

Site Plan
Loading Platform Concept

Drawing Number

C02.00

Sheet 3 of 6

CAPE CHARLES
YACHT CENTER

Cape Charles Harbor
Town of Cape Charles, Virginia

No. Revision Date Approved

Designed by Checked by Date

Plotted by Date

Based on Date

Nov. 29, 2021

Alyce Crockett

From: joutland@canonieatlantic.com
Sent: Thursday, April 20, 2023 12:42 PM
To: Katie Nunez
Cc: 'H Spencer Murray'
Subject: 5/2 Conditional Use Permit Application Hearing: Cape Marine Services

Katie:

In regards to the above matter, Canonie Atlantic Co.'s Board of Directors Meeting is also scheduled for 5/2 so there will be no company representation at the permit application hearing. There are, however, some questions we'd like more clarity on regarding the conditional use parking application.

What is the planned ingress and egress for the proposed parking? There is none currently shown on the map.

Will ingress/egress to the parking area only be from the property's entrance at Mason and Harbor Ave?

Will ingress/egress to the parking area also be available from the property's entrance at Mason Ave and War Memorial Driveway (across from Brown Dog)?

If ingress/egress to the parking area will also be available from the Mason Ave and War Memorial Driveway, will the driveway be paved and/or the pot holes filled?

Will the pay for parking lots be available for short term, long term or both?

What type of vehicles will be authorized to park at the lots? Are boats, campers, and trailers included?

Thanks,

Jim

Jim Outland
General Manager
Canonie Atlantic Co.
P.O. Box 312
Cape Charles, Va 23310
(m) 804 928-8206
joutland@canonieatlantic.com



Virus-free. www.avast.com

**CAPE CHARLES ZONING ORDINANCE
ARTICLE IV**

Section 4.5 OFF STREET PARKING AND LOADING STANDARDS

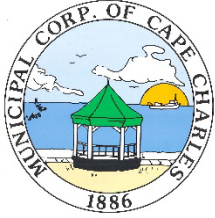
J. Landscaping in parking lots.

1. Interior landscaping for off-street parking areas shall be required for all surface parking lots designed for 20 or more spaces. The following requirements shall apply.

- a. Landscape islands shall be located no farther apart than every ten parking spaces and at the terminus of all rows of parking. Each landscaped island shall be at least 200 square feet in area with a minimum width of ten feet.
- b. There shall be at least one overstory tree, ten low shrubs and a minimum of 60 percent living ground cover, sod, and/or annual or perennial color in each landscaped island. Shrubs, sod and/or living ground cover shall not to exceed three feet in height.
- c. Vehicles shall be separated from sidewalks, driveways, and streets in public rights-of-way by wheel bumpers and by a strip of land at least ten feet wide, reserved as open space, and planted in grass containing at least one understory or overstory tree, as appropriate, and ten shrubs per 50 linear feet, and a minimum of 80 percent living ground cover, sod, and/or annual or perennial color in the landscape strip surface area. Wheel bumpers shall be placed a minimum of 48 inches from the nearest tree trunk.
- d. Head-to-head parking shall provide a five-foot grass strip with curb. The grass strip may be counted as part of the landscaped areas and shall have one tree every 50 feet containing at least one overstory tree, and ten shrubs, per 50 linear feet, and a minimum of 70 percent living groundcover, sod, and/or annual or perennial color in the landscape strip surface area.
- e. Perimeter landscape strips. The perimeter of a surface parking lot shall provide a five-foot wide landscape strip where such parking lot abuts side or rear property lines. The perimeter landscape strip shall be planted with a single row of overstory trees of a species appropriate for buffers and spaced every 40 linear feet of landscape strip, and evergreen shrubs spaced every 5 linear feet of landscape strip. The perimeter landscape strip shall be continuous except for near perpendicular crossings of driveways and sidewalks.
- f. Landscaped areas in parking lots shall provide drainage and irrigation that ensures full drainage to the storm drainage system.
- g. See the Cape Charles Master Tree Plan for trees that shall and shall not be permitted within parking lot landscape areas.

2. The minimum number of spaces required may be reduced where the Zoning Administrator has determined that the reductions are necessary to preserve a healthy tree or trees with a three-inch or greater diameter from being damaged or removed and where the site plan provides for the retention for said tree or trees.

3. Screening. Plantings which meet the standards for screening as approved by the Zoning Administrator will be required to screen vehicle accommodation areas other than those serving single-family and duplex dwellings from an adjacent residential district or use. Fencing may be substituted for plantings with the approval of the Zoning Administrator.



PLANNING COMMISSION STAFF REPORT

Meeting Date: May 2, 2023

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

Date: April 26, 2023

Regular Session: Item 6A: Zoning Ordinance Review

I have received a request from Karen Zamorski, Executive Director of Cape Charles Main Street, asking for the Town to consider amending the Sign Regulations specific to adding lights to the commercial district during certain seasonal events and possibly to remain in place for longer periods of time. Her request is as follows:

Since I have been the Executive Director (4 years now), I have repeatedly been asked why we cannot have more lights throughout town. During this past years' Festive Fridays, Cape Charles Main Street (CCMS) lit up the town by adding lights to the trees that run up and down Mason Ave. We did this not only for the decorative holiday aspect, but also to:

- a. To light the pathway to let people know there were more places to explore outside of a one or two block area to help our business community get more foot traffic
- b. To help alleviate safety concerns for people who hesitated to walk in unlit areas they weren't familiar with
- c. To help illuminate areas that are potentially dangerous from a physical safety aspect when walking after dark

Following Festive Fridays, CCMS received numerous requests to have the lights remain up permanently from both residents and businesses. It seems everyone was enamored with the addition of the lights. CCMS was actually asked if we could do more. Not only did it add an incredible ambiance to the area, it brought an increased feeling of safety and more visitors to the lighted parts of the district.

Of specific concern are those areas in the commercial district that are extremely dark such as Strawberry Street, Strawberry Street Plaza. Over the last few years, we have heard several complaints about the safety of these areas and personally received complaints from individuals who have fallen off uneven curbs they could not see when walking. Even with VDOT's recent work on Strawberry Street sidewalks, we had an incident during the last Festive Friday that sent one of our visitors to the doctor with a severely sprained ankle due to multiple step downs that they did not see after dark. Businesses on Strawberry have reported seeing incidents happen on several occasions.

I have spoken to both homeowners and businesses who agree that adding lights such as café lighting that crisscrosses the street or plaza would add both ambiance and safety and would be

open to having it added as an option that could be controlled via timer. The type of lighting we are talking about would be “dark sky friendly”, not adversely affecting our status as a Dark Sky Community. We are also asking to allow installation of this type of lighting in the commercial district only.

Please let me know if there is anything CCMS can do to help get this ordinance reviewed for potential adjustment for the commercial district.

I have provided a rendering of what this concept would look like on Strawberry Street.



I am requesting the Commission’s input on this request.

Attachment: CCZO Section 4.1 (F)

ARTICLE IV

General Regulations Applicable to All Districts

Section 4.1 Sign Regulations

A. Prohibited Signs

The following devices and locations shall be specifically prohibited:

1. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.
2. All signs encroaching upon or overhanging public right-of-way. No sign shall be attached to any utility pole (with the exception of the utility pole located at the Post Office on Randolph Avenue), light standard, street tree or any other public facility located within the public right-of-way.
3. Signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.
4. Signs, any part of which moves by any means, including but not limited to rotating signs, propellers, discs, and such but excluding pennants and signs indicating time and temperature.
5. Portable signs except as allowed for temporary signs.
6. Any *sign* attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:
 - a. The primary purpose of such a vehicle or trailer is not the display of signs.
 - b. The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.
 - c. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which such signs relate.
7. Vehicles and trailers are not used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.
8. Balloons, streamers or pinwheels except those temporarily displayed as part of a special sale, promotion or community event. For the purposes of this subsection, "temporarily" means no more than 20 days in any calendar year.
9. Any signs that use the word "stop" or "danger" or otherwise present or imply the need or requirement to stop or take caution of the existence of danger or which is a copy of, imitation of, or which for any reason is likely to be confused with any sign displayed or authorized by a public authority.
10. Any non-shielded illumination of a sign within 200 feet of a residential district.
11. Billboard signs

12. Illuminated tubing or strings of lights solely for the purpose of illumination, except when displayed as decorations during the holiday seasons. This includes any lighting arrangement which outlines any portion of a building or structure by exposed tubing or strings of lights.
13. Signs advertising activities which are illegal under federal, state, or local laws and regulations.

standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

- a. Proposed sign locations.
- b. Materials.
- c. Type of illumination.
- d. Design of free-standing sign structures.
- e. Size.
- f. Quantity.
- g. Uniform standards for nonbusiness signage, including directional and informational signs.

14. Development complex sign

In addition to the free-standing business identification signs otherwise allowed by this ordinance, every multiple-occupancy development complex shall be entitled to one free-standing sign per street front, at the maximum size permitted for business identification free-standing signs, to identify the development complex. No business identification shall be permitted on a development complex sign. Any free-standing sign otherwise permitted under this ordinance may identify the name of the development complex.

15. Compliance with master sign plan

All applications for sign permits for signage within a multiple-occupancy development complex shall comply with the master sign plan.

16. Amendments

Any amendments to a master sign plan must be signed and approved by the owner(s) within the development complex before such amendment will become effective.

B. Other Permitted Signs

1. Commercial Districts

- a. Barber poles.
- b. Theater marquees, including chaser lights, neon, and backlit changeable letterings appropriate to its use.

C. Sign Illumination

1. External Illumination. External lighting shall be limited to light fixtures utilizing white, not colored, lighting and shall not be blinking, fluctuating, or moving. External lighting shall be provided by concealed and/or screened spots or floods and shall be arranged and installed so that direct or reflected illumination does not exceed (0.5) foot candles above background measured at the lot line of any adjoining residential or agricultural parcel or public right-of-way.
2. Internal Illumination. Internal lighting shall be limited to internal light contained within translucent letters and internal illuminated sign boxes provided the background or field on which the copy and/or logos are placed is opaque. The area illuminated is restricted to the sign face only. The direct or reflected illumination shall not exceed (0.5) foot candles above the background measured at the lot line of any adjoining residential or agricultural parcel or public right-of-way.

D. Violations of Signs

The Zoning Administrator shall have the authority to determine violations of this preceding section and notify the owner of such violation in writing. In addition to penalties described in Section 2.4.3, if it is determined that a sign is unlawfully installed, erected or maintained in violation of any of the provisions of this ordinance, the owner thereof or the person or firm using same shall, upon written notice by the zoning administrator forthwith in the case of immediate danger, and in any case within not more than 10 days, make such sign conform to the provisions of this ordinance, or shall remove it. If within 10 days the order is not complied with, zoning administrator shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign. The Town will store the sign for 30 days to give the owner an opportunity to reclaim the sign. The sign will be destroyed if unclaimed after 30 days. If ownership of the sign cannot be determined, the sign shall be removed and destroyed after 30 days if unclaimed. For repeat offenses, the Zoning Administrator is authorized to immediately remove any unlawfully placed sign.

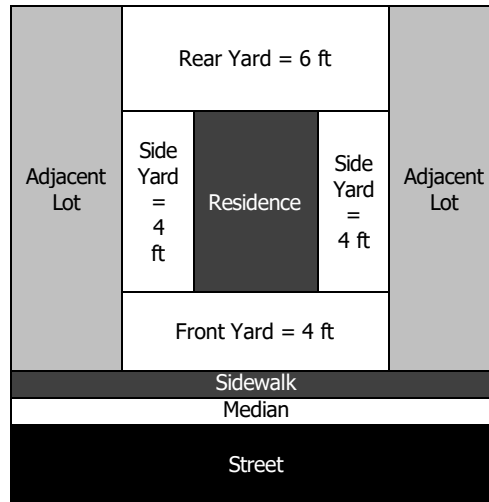
Section 4.2 Exceptions to the Regulations

- A. Gasoline Pumps. Gasoline pumps shall be setback a minimum of 15 feet from the property line.
- B. Trailer Parking
 - 1. Storage of travel or recreational trailers in an enclosed accessory building is permitted in any district provided that no living quarters are maintained within the trailer.
 - 2. Travel and recreational trailers shall be parked to the rear of the front line of the main building in a residential district.
 - 3. Construction trailers are permitted on the construction site for the duration of the construction project.
- C. Structures Permitted Above Height Limitations. Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, and similar equipment required to operate and maintain the building, fireproof, or parapet walls, towers, steeples, flagpoles, chimneys, smokestacks, wireless masts, water tanks, silos, cupolas, or similar structures may be erected above the height limit specified in the district in which the property is located, but no penthouses or roof shall be allowed for the purpose of providing additional floor space.
- D. Vision Clearance at Intersections. At any corner lot there shall be no planting, structure, fence, retaining wall, shrubbery, or obstruction to vision more than three feet higher than the curb level within the triangle formed by the street right-of-way lines and a line connecting such street lines 25 feet from their intersections.
- E. Accessory Buildings. The following restrictions shall apply to accessory buildings located in residential districts.
 - 1. The accessory building shall not be located in a front or side yard.
 - 2. The accessory building shall not be closer than five feet (5') to any alley line.
 - 3. The accessory building shall not be closer than two feet (2') to any side or rear lot line.

4. The accessory building shall not be closer than fifteen feet (15') from the main building.
 5. A two-story building shall not be located any closer than five feet (5') to any lot line.
 6. The sum of the footprint square footage (SF) of all buildings on the lot shall be less than 50% of the total lot SF.
 7. Where total lot frontage on one (1) or more lots owned by the same party is less than eighty feet (80'), the sum of the footprint of all accessory buildings shall be less than the footprint of the primary residence or 550 SF whichever is lesser.
 8. Where total lot frontage of one (1) or more lots owned by the same party is greater than or equal to eighty feet (80'), the sum of the footprint of all accessory buildings shall be less than the footprint of the primary residence or 660 SF, whichever is lesser.
 9. Where the main structure possesses no more than one story above grade, no accessory structure shall be higher than the main structure.
 10. Where the main structure possesses more than one story above grade, no accessory structure shall be higher than two-thirds the height of the main structure or twenty-four feet (24'), whichever is lesser.
 11. Temporary Family Health Care Structures are only allowed per § 15.2-2292.1 of the Code of Virginia.
 12. The total footprint area of all accessory building lot coverage shall not exceed seven (7) percent and no one accessory building shall have an area greater than twelve-hundred (1,200) square feet in the Residential Estate District.
 13. Non-conforming lots smaller than fifty-six hundred (5,600) square feet in the R-1 District the total footprint area of all accessory building lot coverage shall not exceed ten (10) percent.
- F. Projections Allowed in Required Setbacks. No building or structure, or addition thereto, shall extend into a required setback area or yard area, except chimneys, heating and cooling equipment, structures less than sixteen (16) inches in height as measured from finished ground elevations, and steps may extend into such setback or yard area other than front yard setback. The following unenclosed uses may extend no more than four feet, but not nearer than five feet to any property line: balconies, eaves, trims, fascia boards, and similar architectural features, platforms, and terraces. In Commercial District C-1, no building or structure, or addition thereto, shall extend into the required front setback area or yard area except for the following: above street floor level balconies, porches, and terraces may extend therein. Support members for these structures may extend to the ground as required by the building and maintenance code. No part of any foundation for these support members shall extend above the ground or grade level. The following unenclosed structures located above the first floor level may extend to the front lot line: porches, balconies, terraces.

- G. Fences and Walls. The setback and yard requirements of this ordinance shall not deem to prohibit any otherwise lawful fence or wall. A fence or wall must be two feet from any sidewalk, alley, or public right of way.

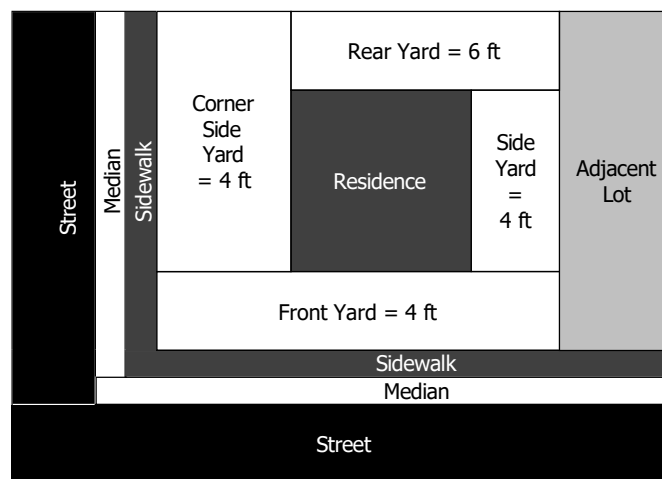
1. In residential areas, fences and walls may be no closer than one inch from adjacent property boundaries (unless adjacent property owners agree to jointly construct the fence on the property line) and may be erected to a height as follows:



Maximum fence heights for interior lots
 Rear Yard – Not to exceed 6 feet
 Side Yard – Not to exceed 4 feet
 Front yard – Not to exceed 4 feet

- a. Exception. No fence or wall in a corner side yard shall exceed four feet in height. On corner lots, fences and walls may be erected to a height as follows:

Corner Lot



Maximum fence heights for corner lots
 Rear Yard – Not to exceed 6 feet
 Side Yard – Not to exceed 4 feet
 Corner Side Yard – Not to exceed 4 feet
 Front yard – Not to exceed 4 feet

2. Materials. Fences and walls must be constructed of appropriate materials. Materials, both traditional and contemporary (e.g. wood, wrought and cast iron, vinyl, tubular metal), may be used in traditional styles. Certain materials such as razor, barbed, or similar wire are not permitted in residential areas.

Chain link fencing is acceptable in rear yards not facing a public street. Open mesh fencing that existed as of the effective date of this section of the Zoning Ordinance may be maintained; any new fencing must meet the requirements of this ordinance.

- a. All fencing must be constructed with finished side facing the exterior of the property or neighbor (facing out) unless otherwise agreed upon by the adjacent property owner.

3. Commercial and Industrial Fences. Fences in commercial and industrial zones are permitted if they comply with residential fencing requirements in Section 4.2 G 1 and 2. In commercial and industrial zones, the conditional use permit process shall be used for any non-conforming fences. Applicants shall demonstrate that the proposed fencing is consistent with the nature of and the security requirements of the business.

H. Wetlands and Water Areas Excluded From Lot Areas. In calculating the area of any lot for the purpose of compliance with the minimum lot area requirements of the district regulations, wetlands, and areas outboard of the shoreline shall be excluded.

I. Utility Lines Underground. All new utility lines such as electric, telephone, CATV, or other similar lines shall be installed underground. This requirement shall apply to lines serving individual sites as well as to utility lines necessary within a project. All junction and access boxes shall be screened with appropriate landscaping. All utility pad fixtures and meters shall be shown on the site plan. The necessity for utility connections, meter boxes, etc., should be recognized and integrated with the architectural elements of the site plan.

J. Accessory Dwellings. One accessory dwelling may be maintained on a property in the R-E, R-1, R-2 and CR zoning districts subject to the following: *[revised 10-20-2022]*

1. Physical characteristics.

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

2. Occupancy characteristics.

- a. Transient Occupancy (also referred to as Short Term Rentals [STRs]) means any person(s) who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, lodges or obtains lodging at any hotel, motel tourist home, or other facility. Accessory Dwelling Units may not be rented on a Transient Occupancy basis.
- b. Length of stay – An accessory dwelling unit may be occupied by any person or persons for a period no less than thirty (30) consecutive calendar days either

paying a fee for such occupancy at his own expense or at the expense of another (30-day rental or greater). Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested in writing.

- c. The property owner where the Accessory Dwelling Unit (ADU) is located may utilize the ADU as overflow residential space for members of their family and guests.

3. Other requirements.

- a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.
- b. Accessory dwellings will be required to have its own municipality issues trash receptacle, separate from the main residence/structure.
- c. Accessory dwellings meeting the requirements of all of the physical characteristics of 4.2 (J) (1) and (2) above must obtain a Certificate of Completion for Accessory Dwellings from the Code Official, which is equivalent to a Certificate of Occupancy. In order to issue said Certificate, the Code Official will conduct an inspection to determine compliance with the Building Code.
- d. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
- e. Parking shall be in compliance with Section 4.5 using both on and off-street parking areas.
- f. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.
- g. Annual Certifications to be submitted to the Town by March 15 of each year to the Building and Planning Departments.
 - 1. The property owner will submit an annual affidavit on Town Affidavit Form for Accessory Dwellings attesting to their acknowledgement and adherence to the Zoning Ordinance requirements for Accessory Dwelling Units.
 - 2. The property owner will submit an annual affidavit on Town Affidavit Form for Safety Compliance for Accessory Dwelling Units.
 - 3. If the property owner changes between March 16 and December 31 of the calendar year, the new property owner will be required to submit both a new Town Affidavit Form for Accessory Dwellings and a Town Affidavit Form for Safety Compliance for Accessory Dwelling Units no later than 30 days from the property transfer.

Section 4.3 Conditional Use Permits

- A. Statement of Intent. The purpose of this section is to recognize certain uses which, by nature, can have a potentially unfavorable impact on or be incompatible with other uses of land within a given zoning district. These uses, as described, may be permitted within given designated districts under controls, limitations, and regulations of a conditional use permit. It shall be the duty of the Town Council under the provisions of this ordinance to evaluate the impact and the compatibility of each use and to stipulate such conditions and restrictions including those specifically contained herein as will assure the use being compatible with the neighborhood in which it is located, both in terms of existing land uses and conditions and in terms of development proposed or permitted by right in the

area or, where that cannot be accomplished, to deny the use as not being in accordance with the adopted comprehensive plan or as being incompatible with the surrounding neighborhood.

- B. Conditions for Issuance. Conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:

1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. Be in conflict with the purpose of the comprehensive plan of the town.

In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

- C. Procedures. Written application for a conditional use permit may be made by any property owner, tenant, department, board, or bureau of any government agency. The application shall be filed with the Zoning Administrator on forms provided by the town. The application shall be accompanied by a fee established by separate ordinance by the Town Council to defray cost of advertising and processing the application. A site plan in accordance with the site plan ordinance shall be submitted with each application. A list of additional required permits shall be submitted with the application and shall be submitted to the Planning Commission with the application, and the Zoning Administrator may add any additional required permits. Changes to the additional permit list may be made by mutual consent of the applicant and the commission. No changes shall be made to the list after the Planning Commission recommendations to Town Council. Conditional use permits shall include a disclosure statement, signed by the applicant and notarized, of the equitable ownership of the real estate affected, which shall list the names and addresses of all the adjacent property owners and interested parties, including applicant, owners, contractors, purchasers, and lessees of the land described in the application, all partners, both general and limited, and partnerships, stockholders, officers, and directors. The applicant shall keep this information current at all times during the processing of the application. The procedures for approval of a conditional use permit shall be the same as those prescribed for zoning changes as set forth in this ordinance.

1. Action by the Zoning Administrator. The Zoning Administrator shall study the application and determine whether the proposed conditional use conforms to the general purpose and intent of the comprehensive plan, any applicable regulations that have been adopted, and the requirements of this ordinance. Upon completion of such review, if the administrator shall determine that any proposal in the application does not meet the requirements of this ordinance, he/she shall reject the application and return it to the applicant. If the applicant does meet the requirements of this ordinance, the administrator shall transmit all the findings and recommendations to the Planning Commission. However, nothing herein shall prohibit the administrator from accepting a conditional use permit application if failure to meet applicable requirements is due solely to area or dimension

insufficiency of the lot upon which it is proposed. Any appeal of the Zoning Administrator may be made directly to the town manager.

2. Action by the Planning Commission. After receiving the report of the administrator with all pertinent materials, the Planning Commission shall give notice of and hold a public hearing. Within 45 days after the hearing, the Commission shall submit its recommendations to the Town Council through the Zoning Administrator. Upon mutual agreement between the Commission and the applicant, such time may be extended.
 3. Action by the Town Council. After receiving the recommendations of the Zoning Administrator and the Planning Commission, the Town Council shall hold a public hearing and act upon the proposed conditional use permit, granting the applicant in whole or in part, with or without modifications, or denying the proposed application. In addition to the general or specific requirements set forth in the ordinance concerning the proposed use, which shall be considered minimum requirements with respect to the permit, additional requirements, conditions, and safeguards may be added by the Town Council as required for the protection of the public interest in the specific case.
- D. Approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications.
1. Staff shall notify Town Council of the date that all additional permits have been approved which date shall be the commencement date for the one (1) year Conditional Use Permit
 2. Staff shall notify Town Council of the status of the project at a regular meeting prior to the expiration of the one (1) year Conditional Use Permit.
- If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit. Town Council may make additional one-year extensions for good cause. To be considered acted upon one (1) or more of the following is required:
1. The procurement of a Cape Charles Building Permit
 2. Payment of Water and Wastewater Connection and Facility Fees
 3. Completed Plans stamped by a Virginia Licensed Professional
- E. No application for a use permit for the same conditional use on a lot, parcel, or tract shall be considered by the Town Council within a one-year period from its last consideration. The provisions, however, shall not impair the right of the Town Council to propose a use permit on its own motion if it finds that there is public benefit to be gained.

- F. Revocation of a Conditional Use. If the provisions of this ordinance or the requirements of the conditional use permit are not met, then the Town Council may revoke the conditional use permit provided that ten days' written notice is given to the applicant.

Section 4.4 Landscaping and Screening Regulations

- A. Statement of Intent. The intent of this section is to protect water quality by minimizing erosion and sedimentation, enhancing the infiltration of storm water runoff, and maximizing nutrient uptake. The intent of this section is also to preserve and enhance the aesthetics of the Town, to reduce the negative impact such as noise and glare of uses and structures which are in close proximity to each other and generally regarded as incompatible, to promote attractive landscaping in commercial and industrial districts of the Town.

A comprehensive plan for each individual lot or parcel is essential for the visual enhancement of the Town and to protect and promote the appearance, character, and economic values of neighborhoods. The purpose and intent of such landscaping requirements are to reduce the visibility of paved areas from adjacent properties and streets, moderate climatic effects, minimize noise and glare, and enhance public safety. Landscaping will provide transition and buffers between neighboring properties.

- B. General Requirements

1. Landscaping shall be required in all commercial and industrial districts.
 - a. The owner or his agent shall be responsible for the maintenance, repair, and replacement of all landscaping materials as may be required by the provisions of this Article.
 - b. All plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris at all times. All unhealthy, dying, or dead plant materials shall be replaced during the next planting season.
2. Commercial and industrial district uses that abut residential zones shall provide a landscape buffer or screened area between districts.
3. All parking lots shall be screened and landscaped from adjoining properties or every other use and zoning district.
4. Land disturbance shall be limited to the area necessary to provide for the desired use or development.
 - a. Ingress and egress during construction shall be limited to one access point unless otherwise approved by the Zoning Administrator.
5. Indigenous vegetation shall be preserved to the maximum extent possible with the use and the development permitted and in accordance with the Virginia Erosion and Sediment Control Handbook and the Chesapeake Bay Act.
 - a. Clearing shall be allowed only to provide necessary access, positive site drainage, water quality BMPs, and the installation of utilities as approved by the Zoning Administrator.
 - b. Prior to clearing or grading, suitable protective barriers such as safety fencing shall be erected five feet outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

- c. Trees may be pruned or removed as necessary to provide sight lines and vistas provided that, where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint pollution from runoff. Preservation of existing trees is encouraged to provide continuity, improved buffering ability, pleasing scale, and image.
 - d. Any path shall be constructed and surfaced so as to effectively control erosion.
- 6. Any land-disturbing activity exceeding 2,500 square feet, including construction of single-family homes, shall comply with the requirements of the Erosion and Sediment Control Regulations.
- 7. The comprehensive plan for each parcel shall include the requirement to retain the 100 foot Resource Protection Area (RPA) and associated buffer area.
- C. Commercial and Industrial Requirements
 - 1. Required open spaces shall be landscaped in accordance with a landscape plan to be submitted with the site plan and approved by the Zoning Administrator.
 - 2. Screening shall be provided along the common side and rear lot lines of every commercial and industrial district that abuts a residential use or zone. Such screening shall include either fencing or shrubs and trees that provide a six feet in height barrier to visual observation. Screening shall be shown on the landscape plan submitted.
 - 3. Parking lots. There shall be a landscaped open space within the perimeter of the parking areas in the minimum amount of two square feet per parking space. At least one tree shall be planted for each forty square feet of landscaped area.
- D. Multi-Family Developments and Mobile Home Parks
 - 1. Screening may be required for multi-family developments and mobile home parks that abut single-family districts or uses.
 - 2. Parking areas may require landscaping and screening in multi-family and mobile home parks. Where required, other provisions of this ordinance shall apply.
- E. Exterior Lighting
 - 1. All exterior lighting shall be arranged and installed so that the direct or reflected illumination does not exceed (0.5) foot candles above the background measured at the lot line of any adjoining parcel.
 - 2. Lighting standards shall be of a directional type capable of shielding the light source from direct view from any adjoining parcel.
 - 4. All lighting shall comply with Dark Sky standards.

Section 4.5 Off-Street Parking and Loading Standards. [updated 2/6/2020]

A. General requirements.

- 1. It is the intent of this zoning ordinance that all buildings, structures, and uses of land shall provide off-street vehicular and bicycle parking in an amount sufficient

- to meet the needs caused by the building or use of land and that such parking and loading spaces be so oriented that they are readily useable for such purposes.
2. Each use of land and each building or structure hereafter constructed or established shall provide off-street parking and loading according to the standards set forth herein. When a change is proposed to a building that is nonconforming as to parking or loading requirements, a conforming amount of parking or loading shall be supplied based upon the size of the addition.
 3. No addition, renovation, or change of use to an existing building shall be constructed or established which reduces the number of spaces, area, or usability of existing parking or loading space unless such building and its addition conform with the regulations for parking and loading contained herein.
 4. The parking lot shall not be modified, enlarged, relocated, or expanded in a manner that violates any portion of this zoning ordinance.
 5. No non-single-family detached residential parking area may be used for the sale, repair, dismantling, servicing, or long-term storage of any vehicles or equipment, unless such use is permitted by the zoning district in which the area is located. Any repairs deemed an emergency by the Zoning Administrator is exempt from this requirement.
 6. Inoperable vehicles may not be parked in required parking spaces or in any side or front yard and shall be completely screened from view of all surrounding public streets.

B. Minimum number of parking spaces required.

1. The following are the parking space requirements by permitted use:
 - a. For any use not listed, the Zoning Administrator shall determine the proper requirements by classifying the proposed use among the uses specified herein as to assure equal treatment. In making any such determination, the Zoning Administrator shall follow the principles set forth in the statement of purpose for the zoning ordinance in Article I.
 - b. New infill structures or change of use projects on the first floor of structures in Commercial District C-1 and shall be exempt from complying with the requirements of this Section. New uses or changes of use units above the first floor shall be required to conform to the parking requirements set forth herein.
2. Maximum number of parking spaces.
 - a. The total number of permitted parking spaces shall not exceed 110 percent of the minimum number of off-street parking spaces required by type of permitted use, except when the excess spaces are contained in a parking structure.
 - b. Any parking not included within a parking structure that is between 100 and 110 percent of the minimum number of off-street parking spaces required by type of permitted use shall be "grasscrete" or

“grasspave” or other pervious paving systems as approved by the Zoning Administrator.

3. The following table states the minimum number of off-street parking spaces required by use. Any uses not listed would be required to provide the minimum number of parking spaces required by the parent category. When a determination of the number of parking spaces required by this table results in a requirement of a fraction of a space, any fraction shall be counted as one parking space.

Minimum Parking Space Requirements Table

Land Use	Minimum Parking Space Requirements
a. Residential	
1. Single-family residences	2 spaces per dwelling unit in all districts other than R-1, otherwise none
2. Multifamily residences	1 space per one-bedroom dwelling unit, otherwise two spaces per dwelling unit
3. Mixed-use developments	1.5 spaces per dwelling unit; 1 space per dwelling unit for age-restricted; plus 1 additional space per 200 square feet of commercial gross floor area
4. Home occupations	No additional spaces required
5. Accessory dwelling units	1 space per bedroom
6. Child and personal care uses	1 space per 2 employees
7. Institutional residence or care or confinement facilities	1 space per 2 beds
8. Rooming houses, boarding houses	1 space per bedroom
9. Tourist homes, bed and breakfasts, other temporary residences renting by the day or week	1 space per rentable bedroom plus 2 spaces if owner/landlord lives on premises
10. Temporary mobile homes approved in the event of an emergency, construction, or repair	2 spaces per temporary mobile home
b. Sales and Rental of Living Space and Goods	
1. Sales and rental of goods, merchandise or equipment, non-motor vehicle related	1 space per 300 square feet of gross floor area
2. Wholesale sales, with or without outdoor display or storage of goods	1 space per 300 square feet of gross floor area devoted to sales or display, plus one space per 2,000 square feet of gross storage area
3. Hotels, motels and similar businesses or institutions providing overnight accommodations	1 space per unit plus 1 space per 5 units for visitors

4. Extended-stay motels/hotels	1 space per unit plus 1 space per 5 units for visitors
c. Restaurants	
1. Restaurants	1 space per 100 square feet of gross floor area
2. Event center	1 space per 3 seats
d. Motor vehicle-related sales and service operations and modifications	
1. Motor vehicle-related sales and service operations and modifications	Not including outdoor car display areas for dealerships, 1 space per 200 square feet of gross floor area
e. Office, Clerical, Repair, Research and Personal	
1. Services – Office, clerical, repair, research, and personal, not primarily related to the sale of goods and merchandise	1 space per 300 square feet of gross floor area
f. Offices	
1. Services – office, clerical, repair, research, and personal, not primarily related to the sale of goods and merchandise	1 space per 300 square feet of gross floor area
g. Recreation, amusement, and entertainment	
1. Baseball batting range	20 spaces
2. Bowling alleys	5 spaces per alley
3. Golf driving range and/or miniature golf	20 spaces
4. Health clubs and other physical fitness establishments	1 space per 300 square feet
5. Park, playground, community center, swimming pool and other recreational facilities as a principal use	1 space per 2000 square feet of surface area of parks, playgrounds, and/or swimming pools; plus 2 spaces per tennis court; plus 1 space per 500 square feet of recreational facility
6. Theaters (indoors)	1 space per 3 seats
7. Performing arts center	1 space per 3 seats
8. Subdivision recreation area	1 space per 200 square feet of surface area of swimming pools, plus 2 spaces per tennis court, plus 1 space per 500 square feet of clubhouse, offices, meeting rooms, or other similar enclosed buildings
h. Manufacturing, processing, creating, repairing, renovating, painting, cleaning, assembling of goods, merchandise, or equipment	
1. Manufacturing, processing, creating, repairing, renovating, painting, cleaning, assembling of goods, merchandise, or equipment	1 space per 2,000 square feet of gross office, plant, and/or storage

2. Innovator space	1 parking space per 500 square feet
i. Storage and parking	
1. Storage and parking	1 space per 2,000 square feet of gross storage area
j. Services and enterprises related to animals	
Services and enterprises related to animals	1 space per 250 square feet of gross floor area
k. Funeral related services (human and animal related)	
1. Funeral related services (human and animal related)	1 space per 3 seats
l. Educational, cultural, religious, philanthropic, social, or fraternal uses	
1. Public and private schools offering general education courses (including associated grounds and athletic and other facilities)	2 spaces per classroom for K - 8th grade, plus 1 space per teacher or staff member for grades above 8th
2. Trade or vocational schools	10 spaces per classroom
3. College, universities, community colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.)	10 spaces per classroom
4. Assembly halls, including union halls, conference halls, civic halls and activities of similar nature	1 space for every 3 people allowed to occupy the building, as set by the maximum occupancy limit
5. Libraries, museums, art galleries, art centers, and similar uses (including associated educational and instructional activities)	1 space per 300 square feet of gross floor area
6. Place of worship and places of assembly	1 space for every 3 people allowed to occupy the building, as set by the maximum occupancy limit
7. Social, fraternal clubs or lodges, union halls, and similar uses	4 spaces per 1,000 square feet of gross floor area
8. Clubs and lodges catering exclusively to members and their guests	4 spaces per 1,000 square feet of gross floor area
m. Miscellaneous public and semi-public facilities	
1. Miscellaneous public and semi-public facilities	None
n. Agricultural, forestry, mining, and quarrying operations	
1. Agricultural, forestry, mining, and quarrying operations	1 space per employee
o. Temporary structures and special events used in connection with the construction of a permanent building or for some non-recurring purpose	
1. Temporary structures and special events used in connection with the	Regulated on a case-by-case basis

construction of a permanent building or for some non-recurring purpose	
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C. Shared parking.

1. Reduction of parking requirements through a shared parking arrangement may be granted by the Zoning Administrator through written request from an applicant and provision of one of the options provided in subsection C.2.
2. Options for a reduction of parking through a shared parking arrangement:
 - a. Option one: For properties sharing parking spaces under this provision, cross-easements shall be filed establishing access to the shared parking spaces in perpetuity and documentation of filing provided to the Town.
 - b. Option two: The minimum number of parking spaces where shared parking strategies are proposed shall be determined by a study prepared by the applicant following the procedures of the Urban Land Institute Shared Parking Report, Institute of Transportation Engineers Shared Parking Guidelines, or other approved procedures with approval by the Zoning Administrator.
 1. The actual number of parking spaces required shall be based on well-recognized sources of parking data such as the Urban Land Institute or Institute of Transportation Engineers reports. If shared parking rates are not available or limited, the applicant may collect data at similar sites to establish local parking demand rates.
 2. If the shared parking plan assumes use of an existing parking facility, then field surveys shall be conducted to determine actual parking accumulation. If possible, these surveys should consider the seasonal peak period for the combination of land uses involved.
 3. Said study must receive Zoning Administrator review and approval. The study shall document that the arrangement shall avoid conflicting parking demands and provide for safe pedestrian circulation and access.
3. Shared parking agreements shall be fully executed and submitted to the Zoning Administrator for review prior to receiving a Certificate of Occupancy.
4. In no case shall the Zoning Administrator approve a reduction of parking through a shared parking arrangement of greater than 25 percent for any use.
5. Any subsequent change in land uses within the participating developments shall require proof that adequate parking will be available. Prior to any change in use, the owner must apply to the Zoning Administrator for an evaluation and confirmation of the change. If the Zoning Administrator finds that the parking reduction is no longer justified, the Zoning Administrator shall notify the owner to construct the number of parking spaces necessary to meet the difference in the required parking between the proposed and previous uses.
6. A formal parking study may be waived by the Zoning Administrator for small developments where there is established experience with the land use mix and its impact is expected to be minimal.

D. Bicycle parking.

1. Development of new primary buildings in all R-3, CR, C-1, C-2, C-3, H, GBI, M-1, M-2, and OSD districts, other than single-family residential, shall provide bicycle parking spaces at a ratio of at least one bicycle parking space for every 20 automobile parking spaces.
2. No primary building, other than single-family residential, shall have fewer than three bicycle parking spaces nor be required to exceed a maximum of 20 spaces. If three or more bicycle parking spaces are located within 100' of the primary entrance of the proposed development on the same street frontage, they are exempt from this requirement.
3. Bicycle parking spaces shall be located within 20 feet of the front entrance of the primary structure, or as approved by the Zoning Administrator. Bicycle parking spaces shall not interfere with pedestrian access along sidewalks or walkways.
4. Bicycle parking shall provide an inverted U steel frame or decorative rack approved by the Zoning Administrator. The rack shall be anchored to a concrete pad.

E. Golf cart parking.

1. Golf cart parking spaces are permitted in all off-street surface parking lots and parking structures.
2. Each golf cart parking space shall be six feet wide and at least 11 feet deep.
3. Golf cart parking spaces shall be identified by paving markings and by appropriate signage. Signage shall not count against the maximum aggregate sign area permitted on a lot.
4. Permeable pavers shall be used for golf cart parking spaces as approved by the Zoning Administrator.
5. Wheel bumpers shall be placed at the head of all golf cart parking spaces that do not abut a curb. Wheel bumpers shall be made of concrete, a minimum of four feet long, five inches high, and six inches wide and securely fastened to the pavement by steel re-bars or steel anchors.

F. Electric vehicle charging stations.

1. Electric vehicle charging stations are permitted in all off-street surface parking lots and parking structures.
2. Spaces for electric charging shall be identified by paving markings and by appropriate signage. Signage shall not count against the maximum aggregate sign area permitted on a lot.
3. Spaces reserved for electric vehicle charging stations may be counted as part of the minimum required parking spaces but shall not be counted toward the maximum.
4. Any new building with over 20,000 square feet of gross floor area space shall equip at least one required parking space on its property with an electric vehicle charging station prior to receiving a Certificate of Occupancy.
5. The owner of the property shall be responsible for the installation, maintenance, and operation of electric vehicle charging stations. The owner of the property may determine if a fee is associated with the electric vehicle charging station.

6. Electric vehicle charging stations shall be installed per U.S. Green Building Council (USGBC) standards.

G. Parking in non-single-family zoning districts.

1. *Parking spaces.*

- a. Off-street surface parking lots shall not be located between the principal building and the street except where otherwise permitted below.
 1. Lots within CR, C-1, C-2, C-3, H, GBI, M-1, and M-2 districts with a lot area of less than 13,000 square feet shall be permitted to have automobile parking located within the front yard only when the following regulations are met:
 - a. Front yard parking shall be limited in area to a maximum of 50 percent of the area of the front yard.
- b. When permitted, automobile parking is only permitted in front yards when located on the permitted access driveway on a paved surface.
- c. *Required dimensions for each parking space.* Each automobile parking space shall be not less than nine feet wide and 18 feet deep. Adequate interior driveways shall connect each parking space with a public right-of-way, and each space shall have an overhead clearance of at least 6.5 feet.
- d. Shall have access to a public street.
- e. Shall be graded and paved, including access drive(s), and be curbed when needed for effective drainage control, and meet the following requirements:
 1. A minimum depth of six inches of number 21A aggregate base and a minimum of 1.5 inches of asphalt; or
 2. Six inches of concrete on appropriate base; or
 3. Four inches of brick or porous paving block on four inches of number 21A aggregate base.
 4. Permeable pavers may be used for any parking area, alley, or other low traffic driveway as approved by the Zoning Administrator.
- f. Shall have spaces marked with painted lines, curbstones, or other similar devices, and areas shall be properly maintained in all respects. Landscaping shall be kept healthy and well maintained, surfaces shall be free of potholes, and lines marking spaces shall be distinct and clear.
- g. Shall be drained so as to prevent damage to abutting properties or public streets and where possible shall be drained towards infiltration swales located in the five-foot, head-to-head landscape strips required between vehicles in Section 4.5.J.1.d.
- h. Shall have adequate lighting if the facilities are to be used at night, provided such lighting shall be arranged and installed so as not to reflect or cause glare on abutting properties. Light poles used in parking lots with 100 parking spaces or less may not exceed 20 feet in height. Light poles used in parking lots with more than 100 parking spaces may

not exceed 35 feet in height. All lighting is to be compliant with Dark Sky lighting standards.

- i. Shall be designed to conform to the geometric design standards of the Institute of Traffic Engineers (ITE) when not expressly required in this section.
- j. Wheel bumpers shall be placed at the head of all parking spaces that do not abut a curb and any spaces that abut a sidewalk. Wheel bumpers shall be made of concrete, a minimum of six feet long, five inches high, and six inches wide and securely fastened to the pavement by steel re-bars or steel anchors. Individual wheel bumpers shall be placed a minimum of 24 inches from the end of each required parking space.
- k. Shall be required to provide handicapped spaces in accordance with the provisions of the Americans with Disabilities Act. All handicapped spaces shall be identified by appropriate restrictive signing and markings.
- l. *Pedestrian circulation.*
 - 1. Parking areas shall be designed to facilitate safe and convenient use by pedestrians.
 - 2. Parking areas with more than 50 cars shall provide safe pathways from aisles of parking to the nearest building entrance and to adjacent streets. Such pathways shall be at least five feet wide and consist of raised pathways constructed of pavers or other contrasting material.

H. Compact parking spaces.

- 1. Developments where 30 or more parking spaces are provided shall be required to provide compact parking spaces, as follows:
 - a. A minimum of five spaces, or ten percent of the total number of parking spaces, whichever is greater, shall be set aside for compact cars.
 - b. A maximum of 25 percent of the total required parking spaces may be set aside for compact cars, up to a maximum of 50 spaces, whichever is less.
 - c. Compact parking spaces shall be identified by pavement markings and/or by appropriate signage.
 - d. Parking spaces for compact cars shall not be less than eight feet wide and 16 feet deep.

I. Stacking spaces for drive-through service windows and drive-through facilities.

- 1. Stacking spaces shall be provided for any use having a drive-through service window or areas having drop-off and pick-up areas in accordance with the following:
 - a. Inbound stacking spaces shall be provided before the first service window as stipulated below and at least one outbound stacking space shall be provided after each service window of a drive-through facility.
 - b. Each stacking space shall be a minimum of 22 feet long.
 - c. Designated stacking spaces shall not interfere with circulation of the lot or free movement or access to parking spaces.

2. Banks with drive-through facilities shall provide a minimum of six spaces before each service position and one outbound space after the service window.
3. Restaurants with drive-through service windows shall provide a minimum of ten stacking spaces for inbound drive-through customers and one additional outbound space after each service window.
4. Other facilities with drive-through service windows shall provide three stacking spaces for each window or drive-through service facility.
5. Drive-through service window lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked, or otherwise distinctly delineated.
6. Stacking lanes shall be a minimum of 8.5 feet adjacent to the service window.
7. All drive-through service windows shall be provided with a bypass lane with a maximum width of 8.5 feet.
8. All stacking lanes shall be at least 75 feet from an intersection with the nearest street or internal driveway. The distance is measured from the back of the stacking space nearest the entrance to the curb line of the nearest intersection.
9. Pedestrian pathways crossing drive-through lanes shall be clearly signed and identified using alternative materials or raised crosswalks. Painted crosswalks alone are not permitted.

J. Landscaping in parking lots.

1. Interior landscaping for off-street parking areas shall be required for all surface parking lots designed for 20 or more spaces. The following requirements shall apply.
 - a. Landscape islands shall be located no farther apart than every ten parking spaces and at the terminus of all rows of parking. Each landscaped island shall be at least 200 square feet in area with a minimum width of ten feet.
 - b. There shall be at least one overstory tree, ten low shrubs and a minimum of 60 percent living ground cover, sod, and/or annual or perennial color in each landscaped island. Shrubs, sod and/or living ground cover shall not to exceed three feet in height.
 - c. Vehicles shall be separated from sidewalks, driveways, and streets in public rights-of-way by wheel bumpers and by a strip of land at least ten feet wide, reserved as open space, and planted in grass containing at least one understory or overstory tree, as appropriate, and ten shrubs per 50 linear feet, and a minimum of 80 percent living ground cover, sod, and/or annual or perennial color in the landscape strip surface area. Wheel bumpers shall be placed a minimum of 48 inches from the nearest tree trunk.
 - d. Head-to-head parking shall provide a five-foot grass strip with curb. The grass strip may be counted as part of the landscaped areas and shall have one tree every 50 feet containing at least one overstory tree, and ten shrubs, per 50 linear feet, and a minimum of 70 percent living ground

cover, sod, and/or annual or perennial color in the landscape strip surface area.

- e. *Perimeter landscape strips.* The perimeter of a surface parking lot shall provide a five-foot wide landscape strip where such parking lot abuts side or rear property lines. The perimeter landscape strip shall be planted with a single row of overstory trees of a species appropriate for buffers and spaced every 40 linear feet of landscape strip, and evergreen shrubs spaced every 5 linear feet of landscape strip. The perimeter landscape strip shall be continuous except for near perpendicular crossings of driveways and sidewalks.
 - f. Landscaped areas in parking lots shall provide drainage and irrigation that ensures full drainage to the storm drainage system.
 - g. See the Cape Charles Master Tree Plan for trees that shall and shall not be permitted within parking lot landscape areas.
- 2. The minimum number of spaces required may be reduced where the Zoning Administrator has determined that the reductions are necessary to preserve a healthy tree or trees with a three-inch or greater diameter from being damaged or removed and where the site plan provides for the retention for said tree or trees.
 - 3. *Screening.* Plantings which meet the standards for screening as approved by the Zoning Administrator will be required to screen vehicle accommodation areas other than those serving single-family and duplex dwellings from an adjacent residential district or use. Fencing may be substituted for plantings with the approval of the Zoning Administrator.

K. Access management.

- 1. *Driveways.*
 - a. *Interior driveway.* Where 90-degree parking is utilized, all interior driveways shall be a minimum of 22 feet in width. If 45- or 60-degree angle parking is used, then the interior driveway shall be at least 12 feet in width. Where parallel parking is utilized or there is no parking, interior driveways shall be a minimum of 10 feet in width for one-way traffic and 20 feet in width for two-way traffic.
 - b. Driveways and drive aisles are not permitted between the sidewalk and a building and shall be perpendicular to any adjacent street.
 - c. All developments other than single-family detached dwellings shall have pedestrian walkways a minimum width of five feet connecting ground level parking to the public sidewalks and to all building entrances.

L. Provisions for off-street loading.

- 1. This subsection shall apply to all activities related to loading and unloading.
 - a. Loading activities within 150 feet of residential uses shall only be permitted to undertake said activities Monday through Friday from 7:00am to 10:00pm and on Saturdays from 9:00am to 9:00pm.

- b. In no case shall loading activities hinder or obstruct free movement of vehicles, and pedestrians over a street, sidewalk, alley, or interrupt parking lot circulation.
- c. All off-street loading activities and access shall be provided with an asphalt or concrete surface, or shall be "grasscrete" or "grasspave" or other pervious paving systems as approved by the Zoning Administrator.
- d. Loading structures and bays.
 - 1. Buildings or structures shall be designed so that the loading areas are not visible from any adjoining residential district or any public right-of-way.
 - 2. When required, one or more off-street loading spaces shall be provided on the same or adjoining premises with the facility it serves, either inside or outside a building or structure.
 - 3. A loading space shall have a minimum dimension of 12 feet wide and 35 feet deep.
 - 4. All loading spaces shall maintain overhead clearance of at least 14 feet.
 - 5. All off-street loading spaces shall have access from an alley, or if there is no alley, from a street.
- e. Minimum loading space requirements for non-residential uses:

Gross floor area	Required loading spaces
0 – 49,000 square feet	1
49,000 – 100,000 square feet	2
100,000 – 160,000 square feet	3
160,000 – 240,000 square feet	4
240,000 – 320,000 square feet	5
320,000 – 400,000 square feet	6
Each 90,000 above 400,000 square feet	1

M. Dumpsters.

- 1. A solid fence on three sides shall enclose all dumpsters.
 - a. The height of the fence shall be equal to or higher than the height of the dumpster, in accordance with Section 4.2.G.
 - b. The visible material of the fence shall be made up of brick, stucco, or stone.
- 2. The operable side of the dumpster shall be concealed with a gate equal to or higher than the height of the dumpster. The gate shall be opaque and constructed of durable materials.
- 3. Dumpsters shall be placed in the rear yard and shall be located a minimum of five feet from property lines.

4. In no case shall loading activities hinder or obstruct the free movement of vehicles, and pedestrians over a street, sidewalk, alley, or to interrupt parking lot circulation.
5. Service activities within 150 feet of residential uses shall only be permitted Monday through Friday between 7:00am to 10:00pm and on Saturdays from 9:00am to 9:00pm.
6. Access to dumpsters shall be provided via a paved, dust-free surface.
7. Temporary construction trash and recycling dumpsters, which are not enclosed, shall be permitted up until such time as a Certificate of Occupancy is issued.

Section 4.6 Stormwater Management

- A. Purpose and Intent. The purpose and intent of the requirements contained in this section are to prevent a new increase in nonpoint source pollution from new development and achieve a 10 percent reduction in nonpoint source pollution from redevelopment to the greatest extent possible given the size and current development of lots within the Town.
- B. Except as provided in Section 4.7.C, for any development or redevelopment within the Town, stormwater runoff shall be controlled by the use of best management practices that achieve the following:
 1. For development, the post-development nonpoint source pollution runoff load shall not exceed .45 pounds per acre per year.
 2. For redevelopment, the nonpoint source pollution load shall be reduced by at least 10 percent. The Zoning Administrator may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control provided the following provisions are satisfied:
 - a. In no case may the post-development nonpoint source pollution runoff exceed the pre-development load;
 - b. Runoff pollution loads must have been calculated and the best management practices selected for the expressed purpose of controlling nonpoint source pollution; and
 - c. If best management practices are structural, evidence shall be provided that the facilities are currently in good working order and performing at the design levels of service. The Zoning Administrator may require a review of both the original structural design and maintenance plans to verify this provision.
 3. For redevelopment, both the pre- and the post-development loadings shall be calculated by the same procedures. However, where the design data is available, the original post-development nonpoint source pollution loadings can be substituted for the existing development loadings.
- C. For any development or redevelopment on any nonconforming lot within the Town, the Zoning Administrator may waive the requirements of this section upon receipt of a written request for such an administrative waiver provided, however, that in no case shall such development or redevelopment result in such nonconforming lot having total impervious coverage in excess of 40 percent for residential uses and 75 percent for commercial uses. The written request for an administrative waiver hereunder shall state the total estimated impervious coverage to result from such development or redevelopment.

Section 4.7 Swimming Pool Regulations

For the purpose of this ordinance, a swimming pool is defined as an artificial or man-made container of water capable of being filled to a depth exceeding 16 inches at the lowest point and is designed to be used for swimming or immersion purposes by individuals. Wading pools are exempt from the provisions of the Zoning Ordinance and are considered temporary pools if made of plastic, light metal, or other light duty materials which do not exceed a full volume depth of 16 inches at the lowest point, and which are completely emptied of water when not in use. Spas or health pools shall meet the same requirements as swimming pools, except when less than 10 feet in width.

Permanent swimming pools and associated decking and fencing are required to meet all zoning and building code requirements and are considered impervious structures. Building, electrical, and plumbing permits are required for the installation, alteration, repair or remodeling of all pools not exempt from the Zoning Ordinance. In-ground pools require an approved site plan. Above-ground pools may be installed without a survey and engineering grading plan if permitted by the Code Enforcement Official, and where steep slope areas are not present. Abandoned pools must be removed or appropriately filled in and covered. Swimming pools must be discharged according to all regulations established by the Commonwealth of Virginia.

Swimming pools are permitted to be located no closer than 5 feet to a side or rear property line and must be located no closer than 5 feet from any structures, either primary or accessory, located on the lot or premises. Above-ground pools are only allowed in rear yards. The 5-foot separation from structures shall not apply to spas or health pools adjoining the principal structure. Spas must be covered with approved spa cover when not in use. Swimming pools and spas are not permitted in the front yard or within approved swale or storm water management systems.

Water contained in swimming pools must be kept healthy and sanitary at all times and shall not emit an offensive odor that creates a nuisance or unhealthy condition. Approved circulators and filtration systems must be provided for all pools, spas, and health pools. Wading pools are exempt from filtration system requirement.

All zoning and building code requirements shall be met. Swimming pools must be completely enclosed with a minimum 4-foot high fence with locking gate access. Such fence must be constructed of a material that meets the approval of the building code official.

Section 4.8 Satellite Dish.

- A. Dish type satellite or other ground or building mounted television, radio, or other communications receiving or sending devices.
 - 1. Large satellite dishes are not permitted within the Town of Cape Charles.
 - 2. Mini dishes shall be allowed with building permit and zoning clearance.
 - a. Building-mounted dishes shall not be on the front of any façade or structure. The dish must be mounted in such a way that it cannot be seen from the sidewalk or street.
 - b. Ground-mounted dishes shall not be in the front yard of any structure. Every effort shall be made to mount the dish in an unobtrusive location. Visible dishes shall be screened with plantings.

Section 4.9 Demolition Policy Guidelines

- A. The owner of a building or structure within the Town shall be entitled to raze or demolish such building or structure provided that he has applied to the Building Official for such right.
1. The owner must first try to sell the property at the appraised price (the appraisal to be at the owner's expense).
 2. The owner must have the property for sale, actively marketing and advertising it for sale for that appraised price for a period of one year.
 3. If unsold, the Town may elect to purchase the property at the appraised price or permit the demolition.
- B. Demolition-By-Neglect. No officially designated contributing building, structure, or site within the Town shall be allowed to deteriorate due to neglect by the owner which would result in violation of the intent of this ordinance. Demolition-by-neglect shall include any one or more of the following courses of action or inaction:
1. Deterioration of the exterior of a building to the extent that it creates or permits a hazardous or unsafe condition.
 2. Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, windows, brick, plaster or mortar to the extent that it adversely affects the character of the district or could lead to irreversible damage to the structure.
 3. Defective or deteriorated flooring or floor supports, or flooring or floor supports of insufficient size to carry imposed loads with safety.
 4. Any fault in the building or structure which renders the same structurally unsafe or not properly watertight.
- If the Building Official determines that a structure is being demolished by neglect, he or she shall send notification to the owners stating the reasons therefore and shall give the owner thirty days to respond with a plan of action and ninety days from the date of the notice in which to commence work. If appropriate action is not taken at this time, the Zoning Administrator may initiate appropriate legal action as provided further in this chapter.
- C. Penalties for Noncompliance.
1. Failure to correct a defect after a notice that the Building Official has determined that a property is being demolished by neglect shall constitute a misdemeanor. Such misdemeanor shall be punished as set forth in §§18.2-9, 18.2-11 and §15.2-1429 of the Code of Virginia 1950 as amended. Each day that the violation continues is a separate offense.
 2. Any property owner in the District who does not obtain approval as required within this ordinance shall be guilty of a misdemeanor and may be punished as set forth in §§18.2-9, 18.2-11 and §15.2-1429 of the Code of Virginia 1950 as amended.
 3. Nothing in this chapter shall be deemed to restrict or prohibit the Town Council to acquire in any legal manner any historic area, site, building, or structure or the land pertaining thereto for the use, observation, education, pleasure, and welfare of the citizens of the Town.

Section 4.10 Cape Charles Planning, Zoning, and Building Fee Schedule

All charges for planning and zoning activities, including but not limited to permit applications, inspections, certificates, reviews, variances, and appeals, shall be established from time to time by the Cape Charles Town Council in its sole discretion.

Section 4.11 Wind Turbines

A. Statement of Intent.

The intent of this ordinance is to regulate the placement, construction and modification of wind energy systems while promoting the safe, effective and efficient use of the wind energy resource and wind energy systems while not interfering with the development of independent renewable energy sources. Wind Energy Systems meeting the requirements will be allowed by Conditional Use Permit. The Zoning Administrator shall maintain an inventory of wind energy systems to include their installation, operation and removal dates to be updates annually.

B. Applicability

The requirements set forth in this section shall govern all zones and wind energy systems used to generate electricity or perform work which may be connected to the utility grid pursuant to Virginia's net metering laws (Code of Virginia, 56-594), serve as an independent source of energy or serve in a hybrid system.

Wind Energy Systems Setback Matrix

	Minimum Lot Size	Minimum Setback Requirements ¹					Maximum Height From Grade
		Occupied Buildings (Subject Property) ²	Occupied Buildings (Adjacent Prop.) ^{2,3}	Property Lines	Public/Private Right-of-Way	Hwys 184 & 642	
Anemometers	20,000 Sq. Ft.	1.0	1.5	1.0	1.5	2.5	Nacelle Height
Micro System	5,600 Sq. Ft.	0.0	1.0	1.0	1.5	1.0	Note 4
Small System	20,000 Sq. Ft.	0.0	1.5	1.0	1.5	2.5	120 Ft.
Large System	5 Acres	1.0	2.0	1.0	1.5	2.5	250 Ft.
Utility System	25 Acres	1.5	2.5	1.5	1.5	2.5	500 Ft.

¹ Measured from the center of the wind turbine base to the property line, ROW, or nearest point on the fountain of an occupied building.

² Calculated by multiplying the required setback number by the wind turbine height.

³ This setback proposes to reduce noise and shadow flicker impacts to any previously existing occupied buildings on adjacent property or work site.

⁴ One system per lot with a maximum of 18 feet above the roof.

1. As part of the Conditional Use Permit Process the setback requirements may be waived if the following conditions are met:
 - a. Property owners may waive the occupied building setback requirements on both the subject property and/or the adjacent properties, and the property

- line setback requirements for wind turbines, by executing a signed waiver that sets forth the applicable setback provisions and proposed changes.
- b. The written waiver shall notify the applicable property owners of the setback required by this ordinance, describe how the proposed wind turbine and/or wind energy facility is not in compliance and state that the consent is granted for the wind turbine and/or wind energy facility to not be setback as required by this ordinance.
 - c. Any such waiver shall be signed by all affected property owners and be recorded in the Northampton County Clerk's office. The waiver shall describe the properties benefited and/or burdened and advise all subsequent purchasers of any burdened property that waiver of setback shall run with the land and may forever burden the subject property.

C. Definitions

Anemometer – Measures the wind speed and may transmit wind speed data to the controller.

Hybrid System – An energy system that uses more than one technology to produce energy to work (for example a wind/solar system).

kW – Kilowatt

mW – Megawatt

Nacelle – The cover housing surrounding the turbine, usually at the center of the blades.

Tower – The structure on which the wind system is mounted.

Tower Height – The height above grade of the fixed portion of the tower, including the nacelle and excluding the rotor blades.

Wind Energy Facility – An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Wind Energy Facility, Large System – A system which has a rated capacity of not more than 999kW.

Wind Energy Facility, Micro System – A building mounted wind system that has a manufacturer's rating of 10kW or less and projects no more than 18 feet above the highest point of the roof and shall not be considered a small wind energy system in terms of the area or setback requirements. Only one facility is allowed per dwelling unit.

Wind Energy Facility, Small System – A system which has a rated capacity of not more than 25kW and primarily used for onsite consumption.

Wind Energy Facility, Utility Scale – A wind energy conversion system consisting of one or more wind turbine(s), tower(s), and associated control or conversion electronics, which has a rated capacity of 1mW or greater.

Wind Farm – See "Wind Energy Facility – Utility Scale."

Wind Power – Electrical Power generated by wind driven turbine blades turning an electrical generator.

Wind Pump – A type of windmill used for pumping water from a well or pond.

Wind Turbine – A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, and pad transformer.

Wind Turbine Height – The distance measured from the grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Windmill – A machine designed to convert the energy of the wind into more useful forms using rotating blades to turn mechanical machinery to do physical work, such as crushing grain or pumping water.

D. Conditional Use Permit Requirements

1. The application shall demonstrate that the proposed wind energy facility will comply with this ordinance and shall contain at a minimum the following:
 - a. A narrative describing the proposed wind energy facility;
 - b. The approximate generating capacity of the wind energy facility;
 - c. The specific number, representative types and heights or range of heights of the wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers and description of ancillary facilities;
 - d. Identification and location of the properties on which the proposed wind energy facility will be located;
 - e. A plot plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings and structures, including permanent meteorological towers, associated transmission lines, and location of all structures and properties with the geographical boundaries of any applicable setback;
 - f. Evidence of compliance with Federal Aviation Administration regulations;
 - g. Signed and approved copies of any negotiated power purchase agreement and the utility company's approved schematics.
 - h. An Environmental Assessment is required for small, large and utility scale wind energy facilities, which shall include review and comments from the applicable state and federal agencies, including but not limited to, Virginia Department of Mines, Minerals and Energy, DNR, USACE, US Fish and Wildlife and a completed Virginia Renewables Siting Scoring System (VRS3). The Planning Commission may require an additional Environmental Impact Statement (EIS) for the installation of three (3) or more turbines or if significant impacts could result from the installation.
 - i. Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for the decommissioning and restoration and the anticipated manner in which the wind power project will be decommissioned and the site restored. This obligation shall be recorded and goes with the land.
 - j. Signature of the property owner(s) and the facility owner/operator of the energy facility;
 - k. Other relevant studies or reports that may be reasonably requested by the Town of Cape Charles to ensure compliance with this ordinance.
2. Throughout the permit process the applicant shall promptly notify the Town of any changes to the information contained in the permit application.

3. Changes to the pending application that do not materially alter the initial site plan may be adopted administratively.
4. Historic District Review Board or Harbor Area Review Board approval is required for systems within the Historic District Overlay District or Harbor District.

E. Installation and Design

1. The installation and design of the wind energy facility shall conform to applicable industry standards, including those of ANSI (American National Standards Institute).
2. All electrical and mechanical components of the wind energy facility shall conform to relevant and applicable town, state and national codes and ordinances. A Cape Charles Building Permit is required.
3. Small and Micro wind energy facilities shall not exceed 60 decibels as measured at the property line. The level, however, may be exceeded during short term events such as utility outages and/or severe windstorms.
4. Any on-site transmission or power lines shall, to the maximum extent possible, be placed underground.
5. The visual appearance of wind energy facilities shall at a minimum:
 - a. Maintain a galvanized finish and be a non-obtrusive color such as white, off-white or gray;
 - b. Not be artificially lighted, except to the extent required by the FAA or other applicable authority that regulates air safety;
 - c. Not display advertising, including flags, streamers or decorative items, except for the identification of the turbine manufacturer, facility owner and operator.

F. Decommissioning or Abandonment

1. The wind energy facility owner, and/or operator and/or property owner shall have 3 months to complete decommissioning of the facility if no electricity is generated for a continuous period of 12 months. Repair, maintenance or redesign plans shall be submitted to the zoning administrator if turbines will be off-line for 12 months or more.
2. Decommissioning shall include removal of the wind turbines, buildings, cabling, electrical components, roads and any other associated facilities. Foundations shall be removed to a depth of 48" below finished grade.
3. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored. The required Erosion and Sediment measures shall be put in place per the Virginia Erosion and Sediment Control Handbook.



Municipal Corp. of Cape Charles

**APRIL 2023
MONTHLY REPORT**

Katie H. Nunez, Planning/Zoning Administrator

A. Subdivision Agent:

- 1) No items to report.

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.]

1. May 9, 2023 @ 10:00 a.m.– Parking Variance Application for 413 Jefferson Avenue

C. HARBOR DEVELOPMENT CERTIFICATES

The Harbor Area Review Board received an application from the following and have recommended approval of all:

1. Meeting on Monday, March 28, 2023: Rosenwald School Property – **Town Council heard this at their meeting on Thursday, April 20, 2023 and approved it with the conditions recommended by the HARB.**
2. Meeting on Monday, April 10, 2023: Cape Marine Services, LLC to lease 40 ft x 16 ft (640 sq. ft.) in the northeast corner fronting Mason Avenue to Posh, Inc. dba Moke America Virginia Beach for a Bicycle, Moped, and Street Legal Golf Cart Sales and Rentals Retail Service Establishment, pursuant to Cape Charles Zoning Ordinance Section 3.9 (D) (7) (b) – **HARB recommended conditional upon further discussions and understanding and agreement regarding the operational plan of the tenant; Town Council heard this at their meeting on Thursday, April 20, 2023, and denied it based upon concerns regarding the operational aspects of the business at what would be an unmanned location.**