



PLANNING COMMISSION

Public Hearing & Regular Meeting

Cape Charles Civic Center
October 3, 2023

At 6:00 p.m., Chairman Bill Stramm, having established a quorum, called to order the Public Hearing and Regular Meeting of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Bill Ashworth, Paul Grossman, Jim Holloway and Michael Strub. Commissioners Dennis McCoy & Shannon Smith were not in attendance. Also, in attendance were Planning/Zoning Administrator Katie Nunez, Planning & Zoning Administrative Assistant Maureen Tamares-Meditz, Town Clerk Libby Hume, and the applicant. There were no members of the public in attendance and 3 viewers on Facebook Live.

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

CONSENT AGENDA:

Chairman Stramm suggested to add to New Business *A. Zoning Map Amendment (ZMA) 2023-03 application from Cherrystone Investments, LLC to rezone Tax Map #90-A-1A6 from General Business/ Light Industrial (GBI H-1) to Harbor District pursuant to CCZO Section 2.7.2 and Section 3.9. Followed by B: Review & Adopt the 2024 Application & Meeting Schedule.*

Chairman Stramm suggested to add August 21, 2023 Town Council & Planning Commission Joint Work Session minutes to be approved, in which copy was handed to the board.

Motion was made by Commissioner Strub seconded by Chairman Stramm to approve the agenda format as amended to add Zoning Map Amendment Application (ZMA)2023-03 to New Business. Also, to add August 21, 2021 Town Council & Planning Commission Joint Work Session minutes as presented. The motion was approved by unanimous vote.

PUBLIC HEARINGS:

- B. Zoning Map Amendment (ZMA) 2023-03 application from Cherrystone Investments, LLC to rezone Tax Map #90-A-1A6 from General Business/ Light Industrial (GBI H-1) to Harbor District pursuant to CCZO Section 2.7.2 and Section 3.9.*

Chairman Stramm read the public hearing notice.

Ms. Nunez summarized the staff report.

Chairman Stramm asked the applicant, Mr. Eyre Baldwin if he wanted to say something. Mr. Baldwin asked that the board support their application to combine 1.4 acres that is Harbor and 3/10 of an acre Industrial into one. He also mentioned that they intend to leave the golf cart path that Bay Creek people have enjoyed.

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

Motion made by Commissioner Grossman, seconded by Chairman Stramm, to close the public hearing at 6:08 p.m. The motion was unanimously approved.

CITIZEN COMMENTS:

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

UNFINISHED BUSINESS:

None

NEW BUSINESS:

A. *Zoning Map Amendment (ZMA) 2023-03 application from Cherrystone Investments, LLC to rezone Tax Map #90-A-1A6 from General Business/ Light Industrial (GBI H-1) to Harbor District pursuant to CCZO Section 2.7.2 and Section 3.9.*

Discussions were as follows: (i) Commissioner Grossman asked the width of the parcel. Mr. Baldwin replied 79.85 north end, 90ft on the south end. (ii) Commissioner Grossman stated that the Planning Commission received an application in April 2021 for Tax Map 90-8-1A1 that went to series of hearings and the Town Council approved it on 8/19/2021. That was when Harbor was changed into GBI-H1 for this parcel. He wanted to know timing wise how to figure that Parcel 90-8-1A1 is still considered Harbor. Ms. Nunez replied that when the town approved in June, she had an initial conversation with the applicant, and the concrete plant issue started that summer as well. There were conversations and she knew that a portion of the parcel was being carved off into its own new parcel. When the application from the concrete plant came in, it only described a certain area for rezoning. It was meant to run parallel but got out of step because there were a lot of public comments regarding the rezoning application. It got out of sync due reshuffling some of the zoning amendment concepts, and rewriting some. It was considered holding back on approving the map amendment, but it was decided to move forward and approve some of them. There were a lot of things happening that summer of 2021 in the Planning and Zoning Department trying to move forward on a lot of things. (iii) Commissioner Grossman asked what is appropriate for the board to consider given the survey is dated October 8, 2021. Ms. Nunez replied that in the final version, there were revisions that happened, and it may not have reflected what had already been actions occurring at the Town Council. There was a survey in process and been through a couple of draft versions as best she can recall. (iv) Commissioner Grossman stated that Ms. Nunez has lined through the survey and changed the designation to something other than what the Town Council had approved in August 2021. Ms. Nunez replied that the Town Council never approved the little sliver of land because they were already acting as if the subdivision plat was already moving forward to be approved and an error may have been made. She mentioned that the intention is to respect what the applicant was trying to do when the process started. (v) Chairman Stramm wanted to clarify that Tap Map#90-A-1A5 is GBI-H1, and shows Harbor on the existing Zoning Map, making one to be Harbor and one GBI-H1 that was approved before as Harbor. Ms. Nunez pointed at the map and explained that when the subdivision plat started to work its way through the system, that parcel was zoned harbor. Then the petition from the concrete plant under Southport Investors was considering being the ultimate user and purchaser of the property. There was a conversation on how the concrete plant would be using it at that time. The rezoning petition was to make it to GBI-H1. It may have been a mistake on the staff part at that time and it was not recognized that there was a zoning happening and plat coming through. Also, trying to change the surveyor to fix plats was time consuming. (vi) Mr. Baldwin said that the bigger part of the lot was Harbor District and when they were talking to Bay Creek before the present owners, the Harbor

District was kept because of the golf path and the next bump was added. Ms. Nunez agreed that is correct based on her recollection of what happened and she wanted to make it clear to be able to make it all into one zoning designation, which is Harbor. (vii). Commissioner Grossman said that he just wanted to get into the accuracy of the staff report relative to the application and timing of the survey. Ms. Nunez replied that she went into 3 versions of plat submissions into her office. She confirmed that the initial plat application started in mid-summer. It took several corrections to the plat before she accepted it, which did not happen until mid-October. (viii) Mr. Baldwin recalled that when they first bought the property, through the golf cart path, going from north to south to the east there was an old ditch back when it was farmed by the Gotkin family; that ditch was abandoned. That ditch continued all the way to the east of that and everything east of that ditch was part of the industrial that they carved off, out of the deal with Bayshore concrete and it has always been a harbor district. (ix) Commissioner Grossman said when the whole area went through rezoning, it was difficult to follow, but he has records to show what has been done and concurred with by that date. Commissioner Grossman wanted to understand what is happening now, given by what was approved back in 2021. Ms. Nunez clarified with Commissioner Grossman if he was thinking that the parcel does not really have split zoning and only has a GBI-H1 zoning designation. Commissioner Grossman affirmed that what he was thinking based on dates and coming of the two parcels, one GBI-H1 and one harbor, is really just GBI-H1 that was rezoned in August 2021. (x) Commissioner Grossman went on to say that the future land use map has no sliver of harbor that would differentiate between Harbor and GBI-H1. He pointed out that the future land use map does have a sliver of harbor in one place and said he has an issue with doing something that is contrary to the future land use map that is in the comprehensive plan. Ms. Nunez made a suggestion, because she feels that having harbor versus harbor district industrial service gives some buffer. Otherwise, it will continue to just have that industrial on the backside of residential and she knew there is a subdivision coming down the purple area on the map. So she thinks it is worth a consideration to put a little buffer on that area. Ms. Nunez continued to say that the department has been doing its best to try to improve and correct the zoning map. (xi) Commissioner Grossman continued the discussion with the buffer and the reason why he asked for the width of the parcel is because if the road is being considered, that will serve as the buffer itself. He wanted to know what else is expected to be built or why GBI-H1 cannot accommodate the road. Ms. Nunez answered it could and she mentioned that in her conversation with the applicant she asked with regards to preserved communities what would be the consideration of providing an alternate entrance into Bay Creek and the applicant indicated it would be somewhere in the area. So with Ms. Nunez' plat discussion with him she mentioned that if they were ever going to develop the area it would need to have road frontage. If they will have multiple tenants, having road frontage would be important. So making sure they create a lot large enough to meet road standards was considered. (xii) Commissioner Grossman wanted to know what this is going to be utilized for and if it is just a road GBI-H1 can accommodate it. Mr. Baldwin replied it is just not a road. Commissioner Grossman asked what it would be. Mr. Baldwin replied they do not know because they do not know what their designation is. He went on to say that they invested in the land in 2006 and they make sure to come to town every time they want to do something. At this point, he said that they just want this land to be homogenous so they can know what they can do. Ms. Nunez said that building a road is for sure, she just wanted the board to be aware of the conversations that she had in her office relative to a road being considered as a secondary entrance or ancillary entrance for the workers for the construction, crews and companies that are doing work in Bay Creek. Ms. Nunez had heard of it and knew she had a conversation at one point in time. She expressed grave reservations that it could ever be accommodated coming off the south end/eastern side of the property. Ms. Nunez continued to say that when the plat was being created there needed to be a minimum width size of the parcel

to meet the potential of the road development if that should be the potential part of any project. (xiii) Ms. Nunez addressed Mr. Baldwin regarding a correction stating that, both in the rezoning applications in the ordinance and in the documentation, there is a requirement that says describe the proposed use of the rezoned property, including a site plan with a proposed type of site improvements and building, and Mr. Baldwin specifically wrote, live-work businesses. Ms. Nunez clarified that it is what Commissioner Grossman is responding to earlier. A further development plan was not required because this is 1.79 acres by 9 acres which is relatively a small parcel of land and Ms. Nunez kept hearing from Mr. Baldwin regarding the golf cart path. Mr. Baldwin added there is also an outdoor place and the fact that there is a huge water retention pond that goes to that which handles any water run off or storm water issues. The next thing you will see is the plan by Neville (his engineer) once we get through this. Ms. Nunez asked for the 1.799 acres. Mr. Baldwin replied yes. (xiv) Mr. Baldwin addressed Commissioner Grossman and said that in the past Planning Commission had put some restrictions a year before they did the Yacht Center. He just wanted to make sure that they had permission to go forward. Commissioner Grossman asked how soon he can bring to the table what he has envisioned for this piece of land. Mr. Baldwin replied, he could probably bring it the day after the Town Council voted whether the property is zoned or not. He could share it with Ms. Nunez now and she could share it to all. (xv) Commissioner Grossman stated his intention to put a hook on this for Mr. Baldwin to state the intention for this land rather than being open-ended. Mr. Baldwin said that he is willing to show the plan to Ms. Nunez and accept if the hook is needed although he feels sorry why there is a need for that. (xvi) Commissioner Ashworth said he looked at the map and wanted to make sure that he understood correctly the parcel of land that is being talked about. Mr. Baldwin clarified that the widest point is 90.78 and 79.85 on the other end.

Motion made by Commissioner Grossman, seconded by Commissioner Holloway, to recommend to Town Council rezoning to Harbor with the conditions that plans for this parcel to be delivered within six (6) months to the Planning Commission. The motion was unanimously approved.

Discussion about the next Joint Work Session as follows:

Joint Work Session Meeting – (Zoning Ordinance) on Tuesday, October 24, 2023 @ 6:00 p.m.

Joint Work Session Meeting – (Short Term Rental) Thursday November 2, 2023 time to be determined based on Town Council.

B. Review & Adopt the 2024 Application & Meeting Schedule

Approved with corrections noted for Tuesday, November 5, 2024, meeting (which falls on a holiday, Election day) to be moved to Monday, November 18, 2024

Motion made by Commissioner Grossman, seconded by Commissioner Strub, to adopt the 2024 Application and Meeting Schedule as amended. The motion was approved by unanimous vote.

REPORT OF OFFICERS AND COMMITTEE

There were no reports from the officers and committees. The focus is on Zoning revision.

STANDING STAFF REPORTS:

Ms. Nunez provided some supplemental reading materials.

ANNOUNCEMENTS:

Regular Planning Commission Meeting on Monday, November 20, 2023 @ 6:00 p.m.

Motion made by Commissioner Holloway, seconded by Commissioner Grossman, to adjourn the Planning Commission Public Hearing and Regular Meeting at 6:51p.m. The motion was approved by unanimous vote.

Chairman Bill Stramm

Planning and Zoning Administrative Assistant