



**PLANNING COMMISSION**  
**Public Hearing & Regular Meeting**  
**Cape Charles Civic Center**  
**November 20, 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, Jim Holloway, and Michael Strub. Commissioners Paul Grossman, Dennis McCoy and Shannon Smith were not in attendance. Also, in attendance were Planning/Zoning Administrator Katie Nunez and Town Clerk Libby Hume. There were seven (7) members of the public in attendance and two viewers on Facebook Live.

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

Annual reorganization of the Board – Due to other Board Members not being present, this was deferred to December 2023 Meeting.

**CONSENT AGENDA:**

**Hearing no objections, Chairman Stramm approved the Consent Agenda as presented by unanimous consent.**

**PUBLIC HEARINGS:**

- A. *Zoning Map Amendment (ZMA) 2023-04 application from Municipal Corporation of Cape Charles to rezone Tax Map #83A3-1-644 & 83A3-1-641 (11,301.22 square feet) from Commercial -1 (C-1) to Residential-1 (R-1) pursuant to CCZO Section 2.7.2 and Section 3.2.*

Chairman Stramm read the public hearing notice.

Ms. Nunez summarized the staff report. There are two lots that are located behind the library property and all of this property was acquired by the Town when they purchased it from Bank of America. These two lots were never developed or utilized when the main building in front of the lots was used as a bank and the Town has not utilized them in the operation of the library building. These two lots are in compliance with the lot requirements in the Residential-1 Zoning District and the Town Council does not wish to have these two lots be developed in a commercial nature but should be developed in a residential nature since they front on Randolph Avenue and really are part of that residential neighborhood.

She reported that the proposed developer for the library building itself, City and Guild, has now indicated to the Town that they do not wish to purchase these two lots behind the library as part of the library project. The Town Council has indicated that they intend on putting these two lots out for sale in the near future for residential development, thus the request for the rezoning of these two, and would establish a minimum bid price for each lot as part of that process. In addition, there is an easement that runs along the side of one the lots (Tax Map 83A3-1-641). The town recognizes that there is activity occurring on the parking lot area behind the library which is adjacent to these two lots and said activity is serving several common good purposes for ancillary property owners, such as trash collection, dumpsters, parking, etc. and there is an interest from the Town to see if we can clean up this area and establish a more appropriate

easement/alley coming in from Pine Street and running behind the buildings located on Mason Avenue.

**PUBLIC HEARING COMMENTS:**

Mark A. Pugh, 211 Mason Avenue, Lives in 245 Mason Avenue  
He has no problem with the rezoning of the lot right on the corner of Pine and Randolph Avenue; however, he has an issue with doing anything with the other lot (Tax Map #83A3-1-641) since there is an easement/driveway that must be preserved and retained. He does think that this neighborhood has changed and was not adequately addressed in the Town's application for rezoning. Many of the businesses at this end of Mason Avenue use the alley/easement that comes off this Town lot from Randolph Avenue to come into the backside of their business. He believes there is a prescriptive easement under the law for this easement/alley and cautions the town with proceeding towards the rezoning.

John Barrett, owns a unit in The Loggias at 209 Mason Ave. He sold 207 Mason Avenue earlier in the year and there was a survey done at that time and there is evidence in that survey that the long easement that runs parallel to Mason Avenue belongs to 207 & 209 Mason Avenue. He indicated that he was not speaking about the cross easement that comes in from Randolph Avenue which Mr. Pugh just spoke about. He asked if these 2 lots would be used for apartments or single family homes. He inquired as to what would happen to the pecan tree on this lot. He indicated that The Loggias Condominiums have a trash unit back there and there is a great deal of stuff behind the library that would benefit from cleaning some of this up.

**Motion made by Commissioner Strub, seconded by Commissioner Holloway, to close the public hearing at 6:16 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) 2023-04 application from Municipal Corporation of Cape Charles to rezone Tax Map #83A3-1-644 & 83A3-1-641 (11,301.22 square feet) from Commercial -1 (C-1) to Residential-1 (R-1) pursuant to CCZO Section 2.7.2 and Section 3.2.*

The discussion and questions were as follows:

Commissioner Ashworth asked for clarification regarding the alley/easement/driveway and how that may be impacted by this rezoning application.

Ms. Nunez stated that there is no driveway from Randolph Avenue across the lot in questions leading to the backside of the Mason Avenue commercial buildings but it is an easement. She does not feel a rezoning of the properties impacts the easement and its existence. The easement/alley is not a public alley but is owned by the property owners that abut it. The Town's thought process at this point is asking staff to see if a solution can be crafted which may include the establishment of a proper alley/easement across the town lot which is currently the parking lot for the library with the alley/easement coming in from Pine Street and coming up to approximately the building at 213 Mason Avenue. In addition, the Town is hoping to address the

placement of and use of various dumpsters on the Town lot by several commercial establishments without a legal agreement with the Town memorializing and approving these uses on Town property.

Commissioner Ashworth asked about the claim of prescriptive rights advanced by Mr. Pugh and Ms. Nunez stated that that is a legal determination that would need to be resolved by the courts.

Mr. Pugh was recognized by the Chairman and he stated that he thinks the size and location of the driveway on Randolph is not being fairly represented by Ms. Nunez. Chairman Stramm stated that the Town has not indicated that the easement will be eliminated but rather the Town is trying to see if a new solution of access & trash management and parking can be devised for the commercial properties at this end of Mason Avenue.

Commissioner Ashworth verified that the Planning Commission is being asked to vote on a recommendation to rezone these two lots from Commercial to Residential-1.

**Motion made by Commissioner Holloway, seconded by Commissioner Ashworth, to recommend in favor of Zoning Map Amendment (ZMA) 2023-04 application from Municipal Corporation of Cape Charles to rezone Tax Map #83A3-1-644 & 83A3-1-641 (11,301.22 square feet) from Commercial -1 (C-1) to Residential-1 (R-1) pursuant to CCZO Section 2.7.2 and Section 3.2. The motion was approved by unanimous vote.**

Ms. Nunez stated for the public information that the Planning Commission action on this rezoning application is a recommendation to Town Council and the public hearing before Town Council on this matter will be held on December 21, 2023 where they will be provided a full report and all documents submitted and provided to the Planning Commission on this matter.

#### **REPORT OF OFFICERS AND COMMITTEES: NONE**

**STANDING STAFF REPORT:** There was no meeting of the Board of Zoning Appeals in November nor for the Wetlands nor Harbor Area Review Board. There has been a staff change in the department – Robert James, PT Code Compliance Officer, has resigned from his position, effective November 16, 2023. Ms. Nunez indicated that the zoning ordinance review work will recommence in January 2023 with the exception that the Sign Review Committee draft sign ordinance will be on your December agenda to commence review of this section of the ordinance.

#### **ANNOUNCEMENTS:**

- Regular Planning Commission Meeting on Tuesday, December 5, 2023 at the Civic Center

**Motion made by Commissioner Holloway, seconded by Commissioner Ashworth, to adjourn the Planning Commission Regular Meeting at 6:30 p.m. The motion was approved by unanimous vote.**

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Chairman Bill Stramm

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Planning/Zoning Administrator