



**PLANNING COMMISSION
Public Hearing & Regular Meeting
Cape Charles Civic Center
December 05, 2023**

At 6:00 p.m., Chairman Bill Stramm, having established a quorum, called to order the Regular Meeting of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Bill Ashworth, Paul Grossman, Jim Holloway, and Michael Strub. Commissioner Shannon Smith joined online via Microsoft Teams Meeting. Commissioner Dennis McCoy was not in attendance. Also, in attendance were Planning/Zoning Administrator Katie Nunez, Planning & Zoning Administrative Assistant Maureen Tamares-Meditz, Town Clerk Libby Hume. There was one member 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 - Commissioner Stramm asked for nominations of Chairman. Commissioner Holloway nominated Commissioner Stramm as Chairman and was seconded by Commissioner Grossman. There were no other nominations for Chairman. All were in favor.

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

CONSENT AGENDA:

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

CITIZEN COMMENTS:

WRITTEN COMMENTS RECEIVED: (please see attached)

1. Mark A. Pugh, Kookaburra LLC

REPORT OF OFFICERS AND COMMITTEES:

Ms. Nunez summarized the Staff Report for the Draft Sign Ordinance. She stated that, in 2015, there was a case called *Reed v Town of Gilbert* in which the US Supreme Court basically ruled sign ordinances that are structured from a content-based perspective are illegal. They view it as an infringement upon freedom of speech. Ms. Nunez said that we needed to revamp our ordinance to grant compliance with the federal law. What it means is that we cannot have categories of political side or specific types of temporary signs which are content-based signs. A more generic themed category is what needs to be created. Ms. Nunez continued to say that for the past 2 years that she has been the Planning/Zoning Administrator, when reviewing sign applications, she has not been looking at any of the content that is being proposed. Right now, she is just looking solely based on, does it meet Historic District standards; does it meet the sign size in relation to the building itself; how is it going to be affixed to the property, will it be hanging, standup or monument sign; does it comply with staying out of public pedestrian traffic ways. She mentioned that while the Town's ordinance has not been in compliance, the current ordinance has not been enforced as it relates to content-based signage. It has been kept within the constraints of federal law. Ms. Nunez said that each section will be discussed and the whole board can weigh in with any thoughts or comments about the draft ordinance.

Commissioner Ashworth, member of the Sign Subcommittee, addressed the board saying that their feedback is important to know whether the Draft Sign Ordinance is going in the right direction. He continued to say that they try to balance public safety and aesthetic concerns with the benefits of signage and advertising in the business community for businesses to have reasonable opportunity to promote their businesses. Commissioner Smith, also member of the Sign Subcommittee, said that when they were working on this, they wanted to make sure that this shows support to new businesses coming to town; existing business; residents and Historic nature of the town. She thought that they reached a pretty good balance and look forward to the board's review.

Discussion about the Draft Sign Ordinance was as follows: (i) Vice-Chairman Grossman asked if the Sign ordinance will be included in or separate after all the language, headers or whatever needs to be changed. Ms. Nunez replied that if the Draft Sign Ordinance is acceptable after some tweaks, it will be brought to the Town Council, it will be inserted into Article 4 and the current Sign Ordinance will go away. (ii) At some point, Commissioner Michael Strub asked if we are getting a legal review for the sign ordinance. Ms. Nunez replied that after all the Zoning Ordinance is done it will all go to the Town Legal Counsel.

Article __ - SIGNS

§1. – Findings, purpose and intent; interpretation

- After some discussion about the word *findings* having a negative impact, Commissioner Jim Holloway recommended removing the word from this section. All agreed.
- (sub-paragraph A) Delete the first sentence that states: *Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation.*
- (sub-paragraph B) Signs not expressly permitted as ~~being~~ allowed by right or by ~~special use~~ *change to: conditional sign* permit under this article, by specific requirements in another portion of this chapter, or otherwise expressly allowed by the ~~{governing body}~~ *change to: Town Council* or Board of Zoning Appeals are forbidden.
- (sub-paragraph E) Ms. Nunez stated that she will clarify this paragraph.
- (sub-paragraph F) Delete the words *City/County* from the first sentence.

§2. Definitions

- Ms. Nunez suggested to proceed to Section 3 and go back/refer to this Section as needed.

§3. Permit Required

§4. Permit not Required

- (2) Flags up to 16 Square feet change: *16sq ft to 24sq ft or (4x6)* as suggested by Chairman Bill Stramm. All agreed.
- (4) *Temporary signs*
 - (sub-paragraph A) On the first sentence delete: *One (1) sign*, and change to: *Allowance on a sign of each general contractor and subcontractors.*
 - (sub-paragraph A) On the first sentence delete: *One (1) no more*, and change to: *with each not being more than...*
 - (sub-paragraph B) Commissioner Grossman stated that he is opposed to having rental signs sitting on a residential property that seems permanent. After further discussion it was decided to delete: *or rent* on the first paragraph. All agreed.

- (sub-paragraph D) On residential ~~property~~, one ~~or more~~ temporary signs with a total area of no more than twelve (12) square feet, and which are ~~removed~~ within ~~90~~ days after being erected. After some discussions it was agreed that this paragraph should be changed to: *In residential zoning district, one temporary sign with a total area of no more than twelve (12) square feet, and which are allowed for 30 days after being erected and not to exceed more than 90 days out of any 365-day period. (examples: including but not limited to: yard sales, estate sales). Exceptions can be granted for non-residential property in Residential districts.*
- (sub-paragraph E) First sentence, on residential property, change to: *In the Residential Zoning District.*
- (sub-paragraph F) *Add: Town permitted events* after marketing campaigns on the first sentence.
- (6) Delete the 2nd sentence that read: *Additional minor signs are permitted in certain districts with a permit.* As recommended by Commissioner Paul Grossman, all agreed.
 - Add: Sign Example: Hanging Signs (name of homes)
- (7) A-frame signs ~~more than fifty (50) feet from the nearest public right of way.~~ After further discussion it was agreed that this sentence be changed to: *A-frame signs not to impede pedestrians or vehicular traffic.*
- (8) This will be cross-referenced on Section 12.

STANDING STAFF REPORT:

Ms. Nunez gave updates on the following: (i) Board of Zoning Appeals: No applications filed for December 2023 or January 2024. However, the BZA will be doing a meeting in January 2024 to handle administrative issues (minutes, election of offices, review of bylaws and procedures) (ii) An application has been received for the Historic District Review Board December meeting to move a house from 645 Mason Avenue to 602 Washington Avenue. Ms Nunez is informing the Planning Commission of this application because, if the house move is approved, then there will be a development site plan submission to locate a drive-thru bank at the 645 Mason Avenue as well as the adjacent lot to the west (see aerial below). These lots are zoned Commercial-Residential (CR). While a bank is not expressly listed by right in the CR District, Ms. Nunez finds this commercial use to be compatible in nature and complementary to the CR District and, specifically, to this location within the CR District adjacent to the Kellogg Building which is being converted into a restaurant and across the street from Rayfield's Pharmacy. The CCZO requires that concurrence be obtained from the Planning Commission with Ms. Nunez' determination of this use within this district. (Please see attached monthly report). Ms. Nunez asked the Board to concur with her determination and ask for their action since this will be going to the Historic Board December 19, 2023 meeting to see if they will approve moving the house from 645 Mason to 600 Washington. She also mentioned that if the house move gets approved, she does not want the board to say that it is not in favor of the bank being built at 645 Mason.

Motion made by Commissioner Holloway, seconded by Commissioner Ashworth, that at the property outlined both at 641 Mason and the adjacent lot next to it, a bank would be a compatible use in the commercial residential zoning district. The motion was approved by unanimous vote.

ANNOUNCEMENTS

- Regular Planning Commission Meeting on Thursday, January 11, 2024 at the Civic Center

Motion made by Commissioner Holloway, seconded by Commissioner Ashworth, to adjourn the Planning Commission Regular Meeting at 7:50 p.m. The motion was approved by unanimous vote.

Chairman Bill Stramm

Planning & Zoning Administrative Assistant

Kookaburra LLC

211 Mason Ave, Cape Charles, VA 23310

December 5, 2023

Dear Ms. Nunez and Cape Charles Planning Commission:

This is a letter in support of the possible use of 645 Mason Ave as a commercial bank within the CR District.

Taylor Bank is the only bank headquartered and focused on the three, and now hopefully four, Delmarva coastal counties. As a Taylor Bank customer for 45 years, we know Cape Charles will be well served by a local bank that invests and loans in our peninsula. Sadly, there is currently no financial institution that will accept commercial deposits within the Town of Cape Charles after the PenFed takeover of NFCU on Mason Ave. The proposed bank will greatly help foster business growth and additional employment opportunities in Cape Charles.

Thank you for your consideration in this matter.

Sincerely,



Mark A. Pugh

Kookaburra LLC



Municipal Corporation of Cape Charles

DECEMBER 2023 MONTHLY REPORT

Katie H. Nunez, Planning/Zoning Administrator

A. SUBDIVISION AGENT: 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.]

No applications filed for December 2023 or January 2024. However, the BZA will be doing a meeting in January 2024 to handle administrative issues (minutes, election of offices, review of bylaws and procedures).

C. HARBOR DEVELOPMENT CERTIFICATES: None.

D. WETLANDS and COASTAL SAND DUNE BOARD: No applications filed for December 2023.

E. OTHER

An application has been received for the Historic District Review Board December meeting to move a house from 645 Mason Avenue to 602 Washington Avenue. I am informing the Planning Commission of this application because, if the house move is approved, then there will be a development site plan submission to locate a drive-thru bank at the 645 Mason Avenue as well as the adjacent lot to the west (see aerial below).



These lots are zoned Commercial- Residential (CR). While a bank is not expressly listed by right in the CR District, I do find this commercial use to be compatible in nature and complementary to the CR District and, specifically, to this location within the CR District adjacent to the Kellogg Building which is being converted into a restaurant and across the street from Rayfield's Pharmacy.

The CCZO requires that concurrence be obtained from the Planning Commission with my determination of this use within this district. Below is the Statement of Intent and Permitted Uses for the CR Zoning District for your review.

Section 3.5 Commercial Residential CR

A. Statement of Intent. The purpose of this district is to recognize the unique juxtaposition of the existing residential structures within the central business district and the future needs of Cape Charles commercial districts. It is the intent of this zone to promote the continued residential character of these areas while allowing commercial uses to be introduced.

The specific intent of this district is (1) to encourage retention of the existing residential buildings and character of the area and (2) to encourage compatible uses for these buildings.

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

- 1. Accessory buildings*
- 2. Antique shops*
- 3. Art galleries*
- 4. Athletic clubs*
- 5. Beauty and barber shops*
- 6. Bed and breakfasts*
- 7. Camera shops*
- 8. Candy stores*
- 9. Clothing stores*
- 10. Day spas*
- 11. Dry goods stores*
- 12. Florists*
- 13. Gift shops*
- 14. Leather goods*
- 15. Newsstands*
- 16. Offices*
- 17. Real estate sales*
- 18. Single-family dwellings*
- 19. Tobacco stores*
- 20. Video stores*
- 21. Any other use which is compatible in nature with the foregoing uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission.*

I have received a conceptual drawing for the bank building and site plan and have enclosed for your information.