

Planning Commission Regular Meeting and Public Hearing
Cape Charles Civic Center – 500 Tazewell Avenue
April 10th, 2025, at 6:00 P.M.

- 1. Call to Order**
- 2. Roll Call**
- 3. Invocation and Pledge of Allegiance**
- 4. Consent Agenda -**
 - a. Approval of Agenda Format
 - b. Approval of Minutes: None
- 5. Public Hearing -**
 - a. Zoning Text Amendment (ZTA) 2025-01: application from the Town of Cape Charles to amend Article III, Section 3.3 (E) of the Cape Charles Zoning Ordinance by deleting the provision requiring a 3-acre lot minimum for a Multi-Family Project Development.
 - b. Zoning Map Amendment (ZMA) 2025-01: application from Seabreeze Associates, LP, to Conditionally Rezone with Proffers 201-209 Washington Avenue (Tax Map #83A1-3-B2 & 83A1-3-3) from Residential-1 (R-1) to Residential-3 (R-3) pursuant to CCZO Section 2.7.2 and Section 3.3.
- 6. Unfinished Business:** None
- 7. New Business –**
 - a. Zoning Text Amendment (ZTA) 2025-01: application from the Town of Cape Charles to amend Article III, Section 3.3 (E) of the Cape Charles Zoning Ordinance by deleting the provision requiring a 3-acre lot minimum for a Multi-Family Project Development.
 - b. Zoning Map Amendment (ZMA) 2025-01: application from Seabreeze Associates, LP, to Conditionally Rezone with Proffers 201-209 Washington Avenue (Tax Map #83A1-3-B2 & 83A1-3-3) from Residential-1 (R-1) to Residential-3 (R-3) pursuant to CCZO Section 2.7.2 and Section 3.3.
- 8. Standing Staff Reports –**
 - a. March 2025 Monthly Report
- 9. Announcements –**
 - a. Next Planning Commission Meeting – May 6th, 2025
- 10. Adjourn**

Zoning Text Amendment –
Legal Ad

Town of Cape Charles
Planning Commission – Public Hearing

The Cape Charles Planning Commission will hold a public hearing on Thursday, April 10th, 2025, at 6:00p.m., in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive comment on the following request:

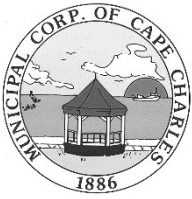
- A. Zoning Text Amendment (ZTA) 2025-01: application from the Town of Cape Charles to amend Article III, Section 3.3 (E) of the Cape Charles Zoning Ordinance by deleting the provision requiring a 3-acre lot minimum for a Multi-Family Project Development.

This application is available for public review on our website at www.capecharles.org, under Agendas & Minutes / Planning Commission. Please contact the Planning Department at 1-757-331-2036, or by email at planner@capecharles.org if you have any questions or require additional information.

Ad Placed: Eastern Shore Post – Tuesday March 18th, 2025

Ad to Run: Friday March 21st, and March 28th

Agenda Item 5 (a) –
Zoning Text Amendment:
Application from Cape
Charles



Zoning Text Amendment Application

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-3259 x30

planner@capecharles.org

Revised 03/2023

Taxes

Violations

Fee

Decision

Budge Code: MISPL 100-3100-1070

PART 1. APPLICATION NOTES

1. A pre-application conference with Planning staff is strongly recommended prior to submission of a zoning text amendment.
2. The Zoning Text Amendment application process typically takes about four (4) months.
3. A Zoning Text Application may be submitted by any Cape Charles property owner. It may only be advanced to either the Planning Commission or the Town Council for a public hearing following staff consultation with the Town Manager.
4. Either the Planning Commission or Town Council may submit an application for a zoning text amendment with the Town Manager, Zoning Administrator or Planning Director representing the application on behalf of the Town.
5. The application will need to receive an affirmative vote of the Cape Charles Town Council or Cape Charles Planning Commission to step in as the applicant and to set a calendar advancing the application to public hearing in compliance with the Code of Virginia Section 15.2-2285 and 15.2-2204
6. The applicant will be required to make a presentation to fully explain the request and demonstrate its need. The presentation should show how the proposed change supports and maintains compliance with the goals and objectives of the Comprehensive Plan.
7. The final decision will be made by Town Council, which approves zoning text amendments at their legislative discretion.

PART 2: APPLICANT INFORMATION

Applicant Name:

Cape Charles Address:

Mailing Address:

Email address:

Phone:

If the applicant has property owned by an LLC, LP, or other form of corporation, list all landowners and their contact information.

PART 3: Description of Request

Answer all questions in this section. Attach additional sheets as needed.

Submission Date:

Zoning Ordinance Sections Proposed to be Amended (Sec. # and Title):

Existing Text:

Proposed Text:

PART 4: Written Narrative – Provide on a separate sheet(s)

Provide a written narrative that, at a minimum, covers the following information:

- A) Relevant code section(s) to be amended and proposed changes to the Zoning Ordinance.
- B) Whether and the extent to which the proposed amendment is consistent with the comprehensive plan and any other applicable and adopted long range planning documents. Cite the document and page.
- C) Whether the proposed amendment conflicts with any provision of the Zoning Ordinance and any other regulations contained in the City Code or other applicable regulations.
- D) Whether and the extent to which the proposed amendment addresses a demonstrated community need.
- E) Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.
- F) Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, floodplains, wetlands, and the natural functioning of the environment.

Whether to amend the text of this Ordinance is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or disapprove the proposed amendment, the Town Council may consider any factor it deems applicable and consistent with the Code of Virginia, including but not limited to the Town's comprehensive plan, and the public health, safety, and general welfare.

PART 5: Applicant Certification

By signing this application below, I hereby attest to the truth and accuracy of all facts and information presented with this application and any attachments and supplemental information submitted with the application.

Applicant's signature: _____ Date: _____

Zoning Administrator's Signature: _____ Date: _____

PART 6: To Be Completed by P & Z Department Staff

Date Application Received in Office:	Application #: ZTA
Planning Commission	Town Council
Date referred:	Date received from Planning Commission:
Action deadline (100 days from receipt):	Action deadline (max. 365 days from referral to PC):
Public hearing date:	Public hearing date:
Decision:	Decision:

Article III - District Regulations

Section 3.1: Residential District R-1

- A. Statement of intent. The intent of this basic zoning district is to provide quiet, medium density, single-family residential development plus provide open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to restrict all activities of a commercial nature as described in Section 3.5 (A) of this ordinance, known as Commercial Districts C-1, C-2, and C-3 which are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments, and to promote a convenient, attractive, and harmonious community. This section is created in recognition of the existence of developed areas where single-family and duplex dwellings currently exist on lots of five thousand six hundred square feet (5,600 SF) and where the characteristics of the neighborhood include both permanent as well as seasonal residents.
- B. Permitted Uses. The following uses are permitted by right:
1. Single-family dwellings.
 2. Duplex dwellings provided off-street parking is provided.
 3. Condominium dwellings.
 4. Cooperative dwellings.
 5. Manufactured home dwellings.
 6. Churches and places of worship.
 7. Parks and playgrounds.
 8. Schools, community centers, and public facilities
 9. Group Homes per [§ 15.2-2291](#) of the Code of Virginia.
- C. Accessory Uses.
1. Accessory buildings.
 2. Accessory Dwelling Units by right in compliance with the requirements of Section 4.1 (J).
 3. Home occupations in accordance with Section 4.0.
 4. Short Term Rentals, in accordance with Section 4.14
 5. Up to two (2) single electric vehicle charging stations.
 6. Uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure.
- D. Conditional Uses: The following uses may also be permitted, subject to securing a use permit as provided for in this ordinance:
1. Outdoor recreation facilities
 2. Residential dwelling units in square footage area below the minimum or above the maximum stated in Section 3.1 (E)
 3. Bed and Breakfast Establishments, in accordance with Section 4.1(M)

E. Area and Height Regulations. The following regulations apply to lots and structures in the R-1 zoning district.

	<i>Legal Conforming Lots</i>	<i>Legal, Non-Conforming Lot</i>		
<i>Minimum Lot Size</i>	5,600 (SF)	Up to 5,600 (SF)	5,601 to 8,400 (SF)	8,401 or more (SF)
<i>Minimum Lot Width at Setback Line</i>	40'	-	40'	40'
<i>Front Setback (minimum) *see prevailing standard below</i>	30'	30'	30'	30'
<i>Side Setback (minimum)</i>	5'	5'	5'	5'
<i>Rear Setback (minimum)</i>	25'	25' Unless lot is less than 40' deep, then 5'	25'	25'
<i>Corner Lot Setback *see prevailing standard below</i>	5'	5'	5'	5'
<i>Maximum Height</i>	40' or 2.5 stories	40' or 2.5 stories	40' or 2.5 stories	40' or 2.5 stories
<i>Maximum Lot Coverage</i>	See Section 4.1 (E) for this requirement in conjunction with accessory structures on lots.			
<i>Minimum Dwelling Unit Size</i>	960 (SF)	960 (SF)	960 (SF)	960 (SF)
<i>Maximum Dwelling Unit Size</i>	4,500 (SF)	2,400 (SF)	3,000 (SF)	4,500 (SF)

NOTE: A lot can be a contiguous assemblage of lots under common ownership to meet the lot size requirements. There is no requirement that lot lines must be vacated between two (2) or more lots; however, the lots must remain under common ownership if the lot is developed according to the development standards in the chart above.

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

NEIGHBORHOOD OVERLAY is defined as parts of a six-square block area, including all parcels on the subject block and all parcels facing on three sides, with the property in question located in the center block.

FRONT YARD SETBACKS shall adhere to a prevailing setback standard for new housing.

CORNER LOTS shall adhere to a prevailing setback standard in built up neighborhoods for new housing.

F. Other Regulations

1. Subdivision of residential lots is not permitted.
2. Decks and patios may not be constructed in the front yard area. Decks and patios constructed in the backyard area may be enclosed. Front porches may be enclosed by insect screening, preferably placed on the inside (house side) of architectural elements such as railings and columns. No permanent enclosures of front porches are allowed except for insect screening.
3. Utilities. Upon installation of utility access lines, such lines shall be installed underground. The Town encourages replacement lines to be installed underground.
4. Developmental standards are found in Section 4.12.

Section 3.2: Residential Mixed District R-2

- A. Statement of Intent. The intent of this basic zoning district is to provide quiet, medium density residential development with a mixture of single-family and multi-family housing. This district is designed to promote and encourage a suitable environment for family life and to restrict activities of a commercial nature to those which serve the needs of the neighborhood itself.
- B. Permitted Uses. The following uses shall be permitted by right:
1. Single-family dwellings.
 2. Duplex dwellings provided off-street parking is provided.
 3. Condominium dwellings.
 4. Cooperative dwellings.
 5. Manufactured home dwellings.
 6. Churches and places of worship.
 7. Parks and playgrounds.
 8. Schools, community centers, and public facilities
 9. Group Homes per [§ 15.2-2291](#) of the Code of Virginia.
- C. Accessory Uses. Within the R-2 Land Use Classification, the following accessory uses shall be allowed:
1. Accessory buildings.
 2. Accessory Dwelling Units by right in compliance with the requirements of Section 4.1 (J).
 3. Home occupations in accordance with Section 4.0.
 4. Up to two single electric vehicle charging stations.
 5. Uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure.
 6. Short Term Rentals in accordance with Section 4.14
- D. Conditional Uses. The following uses are permitted, subject to securing the proper permits:
1. Outdoor recreation facilities
 2. Childcare/adult daycare facilities and nursing homes

- G. Area and Height Regulations. The following regulations apply to lots and structures in the R-2 zoning district.

	<i>SF</i>	<i>Duplex</i>	<i>Zero Lot Line</i>
Minimum Lot Size (sf)	6,000	10,000	6,000
Minimum Lot Width at Setback Line (ft)	50'	60'	50'
Lot Depth (ft)	85'	85'	85'
Front Yard (ft)	25'	25'	25'
Side Yard (ft)	15'	20'	15' and 0'
Side Yard Corner (ft)	25'	30'	25'
Rear Yard (ft)	20'	20'	20'
Rear Yard Corner Lot (ft)	20'	20'	20'
Max Height (ft)	40'	40'	40'
Max Lot Coverage	50% max may be covered by the principal building and accessory buildings		
Minimum Dwelling Unit Size (SF)	1,000'	850 per dwelling unit	-
Max Dwelling Unit Size	None Specified	-	-

Section 3.3: Residential Multi-Family District R-3

- A. Statement of Intent. The intent of this basic zoning district is to provide for relatively high density, multi-family residential development. This district is designed to promote and encourage a suitable environment for family life and to restrict activities of a commercial nature to those which serve the needs of the surrounding residential neighborhood.
- B. Permitted Uses. The following uses shall be permitted by right:
1. Single-family dwellings
 2. Duplex dwellings, provided off-street parking is provided
 3. Townhouse dwellings
 4. Multi-family dwellings
 5. Condominium dwellings
 6. Cooperative dwellings
 7. Group homes
 8. Manufactured home dwellings
 9. Parks and playgrounds
- C. Accessory Uses. Within the R-3 Land Use Classification, the following accessory uses shall be permitted.
1. Accessory buildings.
 2. Accessory Dwelling Units by right in compliance with the requirements of Section 4.1 (J).
 3. Home occupations in accordance with Section 4.0.

4. Short Term Rentals, in accordance with Section 4.14.
 5. Up to two (2) single electric vehicle charging stations.
 6. Uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure.
- D. Conditional Uses. Within the R-3 Land Use Classification, the following conditional uses may be allowed:
1. Churches and places of worship
 2. Childcare/ adult daycare facilities and nursing homes
- E. Lot, Yard, Height, Coverage and Density Requirements. Within the R-3 Residential Land Use Classification, the following minimum standards shall apply as follows:

Single Family Dwelling Development

Minimum Lot Size (SF)	1,500 (SF)
Minimum Lot width (ft)	20'
Front Setback (with no parking in front yard) (ft)	25'
Front Setback (parking in front yard) (ft)	30'
Side Setback (ft)	20'
Rear Setback (no parking in rear) (ft)	15'
Rear Setback (parking in rear) (ft)	30'
Maximum Height	40'
Maximum Lot Coverage	60%
Minimum Dwelling Unit Size	1,000 (SF)

For Multi-Family Project Development, in addition to the above regulations

For townhouses:	3 acres minimum
Minimum Lot Size (lot area per dwelling unit) (SF)	1,500 (sf)
Front Yard (no parking in front yard) (ft)	30'
Front Yard (parking in front yard) (ft)	35'
Side Yard between separate structures	25'
Side Yard between end structure and side property line	35'
Rear Yard (no parking in rear) (ft)	20'
Rear Yard (parking in rear) (ft)	35'
Maximum Building Height	40'
Maximum Lot Coverage	45%
Minimum Lot Width (ft)	100'

- F. Additional Development Requirements.
1. Placement of drives and parking areas. Excluding entrances and exits, no drive or parking area shall be located closer than ten feet (10') from any lot line.
 2. Off-street parking. Parking shall be provided on the premises. No such parking lot or garage shall be located more than two hundred feet (200') from the dwelling unit which it serves.
 3. Maximum development of eight townhouse dwelling units in a continuous row and no row shall exceed two hundred forty feet (240').

Section 3.4: 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. Single-family dwellings
 2. Duplex dwellings provided off-street parking is provided.
 3. Townhouse dwellings
 4. Condominium dwellings
 5. Cooperative dwellings
 6. Manufactured home dwellings
 7. Group homes
 8. Bed and Breakfasts, in accordance with Section 4.1 (M)
 9. Churches and places of worship
 10. Parks and playgrounds
 11. Retail and other stores
 12. Offices
 13. Galleries and museums
 14. Indoor recreational facilities
 15. Other food establishments
 16. Professional services
 17. 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.

C. Accessory Uses:

1. Accessory Buildings
2. Accessory Dwelling Units in accordance with Section 4.1 (J)
3. Home occupations in accordance with Section 4.0.
4. Short Term Rentals, in accordance with Section 4.14
5. Up to two (2) single electric vehicle charging stations.
6. Uses which are customary accessory and clearly incidental and subordinate to principal use and structure.

D. Conditional Uses:

1. Childcare/adult daycare facilities and nursing homes
2. Conference centers
3. Restaurants and bars

E. Lot, Yard, Height, Coverage and Density Requirements. Within the CR Land Use Classification, the following minimum standards shall apply, unless noted below:

Lot Size (SF)	5,600 (SF)
Lot width (ft)	40'
Lot depth (ft)	140'
Front Setback (ft)	30'; or prevailing front setback in existing built-up areas
Side Setback (ft)	5'
Rear Setback (ft)	25'
Maximum Height (ft)	40'
Dwelling Unit Size, excluding garages, porches & patios (SF)	960 (SF)

Section 3.5: Commercial District C-1

- A. Statement of Intent. The intent of this zoning district is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.

B. Mainstreet Mixed Use Area

1. The area along the south side of Mason Avenue, beginning at the western edge of Parcel 83A3 (A) (5), and projecting eastward to Nectarine Street, and southward a distance of one hundred twenty feet (120') from the south side of Mason Avenue, is defined as the "Mainstreet Mixed-Use Area." All buildings in the Mainstreet Mixed-use Area shall meet the following requirements:

- a. Each building shall be a minimum of two stories and shall have only residential uses above the first floor.
 - i. Residential portions of the building shall have at least two (2) entrances/exit ways to the ground floor that are separate from the entrances/exit ways used by occupants of nonresidential portions of the building.
 - ii. The primary entrance for the residential portion of the building shall be clearly visible from Mason Avenue and shall face Mason Avenue.
- b. Ground floor uses shall be limited to non-motor vehicle related uses, including restaurants, sales and rental of goods, merchandise or equipment establishments, banks and financial institutions, or offices.
- c. Drive-through facilities are prohibited.
- d. The primary façade shall face Mason Avenue. On a corner lot, each side adjacent to a street shall be considered a primary façade.
- e. All blocks shall align with and be equal in frontage length to the blocks on the north side of Mason Avenue so that existing viewsheds to the harbor are maintained.
- f. No building or structure shall exceed forty feet (40') in height.
- g. The front setback shall be the prevailing setback of adjacent properties along the south side of Mason Avenue.
- h. Development design standards in this area shall be subject to the Historic District Review Board.
- i. Whenever the provisions of this subsection (3.5 (B) (1)) impose standards that are more restrictive than are required in or under any other statute, ordinance or resolution, these standards shall prevail, unless otherwise specified in this Zoning Ordinance.

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

1. Hotels and motels
2. Schools, community centers, and public facilities
3. Auditoriums, theatres, and assembly halls
4. Retail and other stores
5. Offices
6. Galleries and museums
7. Restaurants and bars
8. Other food establishments
9. Funeral homes
10. Medical/dental practices (outpatient) and labs
11. Any other commercial or professional 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 concurrent with by the Planning Commission.

D. Accessory Uses: Within the C-1 District the following accessory uses shall be permitted:

1. Only those uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure;
2. Short Term Rentals, in accordance with Section 4.14 and;
3. Home occupation per Section 4.0 in the residential uses.

E. Conditional Uses:

1. 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 (1st) level).
2. Charging stations for Electric Vehicles

F. Lot, Yard, Height, Coverage and Density Requirements. Within the C-1 Land Use Classification, the following minimum standards shall apply:

Minimum Lot Size (40 x 140) (SF)	5,600 (SF)
Front Setback	Prevailing
Side Setback (ft)	0'
Rear Setback (ft)	10'
Maximum Height (ft)	40'

G. Developmental standards are found in Section 4.13.

H. Additional Requirements

1. Architectural Treatment. No building exterior (whether front, side, or rear) will consist of architectural materials inferior in quality, appearance, or detail to any other exterior of the same building. Nothing in this section shall preclude the use of different materials on different building exteriors (which would be acceptable if representative of good architectural design) but rather shall preclude the use of inferior materials on sides which face adjoining property and thus might adversely impact existing or future development causing a substantial depreciation of property values. No portion of a building constructed of unadorned concrete or concrete block or corrugated and/or sheet metal shall be visible from any adjoining residential district or public right-of-way. Mechanical equipment, whether ground level or roof top shall be shielded and screened from public view and designed to be perceived as an integral part of the building.
2. Driveways and Parking Areas. Driveways and parking areas shall be paved with concrete, bituminous concrete, or other similar material. Surface penetration treated parking areas and drives shall be prohibited. Concrete curbs and gutters shall be installed around the

perimeter of all driveways and parking areas. Other curbing material of similar quality like brick or cobblestone shall be permitted at the discretion of the Zoning Administrator. Drainage shall be designed to meet the requirements of the Virginia Department of Transportation.

3. New in-fill structures or change of use projects on the first (1st) floor of structures in C-1 shall be exempt from complying with the exact requirements of Section 4.5 (A), Section 4.6, and Table 4.8. Owners are encouraged to provide off-street parking for themselves, employees, and loading facilities where possible (i.e., alleys to backyard areas). Owners shall evaluate existing parking and access and submit proposed plan to Town for review. Projects will be evaluated on a case-by-case basis. New or change of use second (2nd)- or third (3rd)-floor projects shall be required to conform to the parking requirements as set forth herein.
4. Outside Storage Areas. All outdoor storage areas shall be visually screened from public streets, internal roadways, and adjacent property. Screening shall consist of either a ventilated solid board fence, masonry wall, dense evergreen plant materials, or such other materials as may be approved. All such screenings shall be of sufficient height to screen storage areas from view. Outdoor storage shall include parking of all company owned and operated vehicles with the exception of passenger vehicles.

Section 3.6: 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. Gas stations/service stations
 3. Vehicle rental/sales
 4. Vehicle repair/service
 5. 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. Accessory Uses. Within the C-2 District the following accessory uses shall be permitted:
 1. Only those uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure; and
 2. Short Term Rentals, in accordance with Section 4.14.

D. Conditional Uses:

1. 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).
2. Charging stations for Electric Vehicles

E. Lot, Yard, Height, Coverage and Density Requirements. Within the C-2 Land Use Classification, the following minimum standards shall apply:

Lot size (60' x 150') (SF)	9,000 (SF)
Lot width (ft)	60'
Front Setback	Shall be determined by the average setback of the existing built-up commercial area
Side Yard Setback (ft)	10'
Rear Yard Setback (ft)	10' or prevailing rear yard if less.
Height (ft)	35'

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 Section 4.13.

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

Section 3.7: Commercial District C-3

A. Statement of Intent. The intent of this zoning district is to recognize this existing linear commercial zone which flanks Route 184 entering Cape Charles. This area is divided into smaller lots. The zone shall require a uniform requirement for setbacks as this is recognized as the gateway road into Cape Charles.

The specific intent of this district is (1) to allow development of individual or grouped lots, (2) to encourage uses to service the community, and (3) to encourage quality construction and design recognizing the importance of the district's impact on drivers entering Cape Charles.

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

1. All uses as allowed in C-1 and C-2
2. Single-family dwellings
3. Duplex dwellings
4. Schools, community centers, and public facilities
5. Auditoriums, theatres, and assembly halls

6. 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. Accessory Uses. Within the C-3 District the following accessory uses shall be permitted:
1. Only those uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure;
 2. Short Term Rentals, in accordance with Section 4.14 and;
 3. Home occupation per Section 4.0 in the residential uses.
- D. Conditional Uses:
1. Multi-family dwellings
 2. Charging stations for Electric Vehicles
- E. Lot, Yard, Height, Coverage and Density Requirements. Within the C-3 Land Use Classification, the following standards shall apply:
- | | |
|--------------------|--|
| Lot Size (SF) | NA |
| Lot Width (ft) | 40' |
| Front Setback (ft) | 80' from center of Right-of-Way or 40% of the lot depth, whichever is less |
| Side Yard (ft) | 5' |
| Rear Yard (ft) | 10' |
| Height (ft) | 35' |
- F. Additional Requirements
1. Materials and design shall follow site plan ordinance requirements and be considered and approved by a review body named by Town Council.
 2. Sign design shall relate to the architectural character of the building and, if ground mounted, shall be appropriately landscaped. Additional sign details are found in Article V.
 3. Developmental standards are found in Section 4.13.

Section 3.8: Harbor – Commercial

- A. Statement of Intent. A working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions.

Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation

and connect to the other existing and future links to Cape Charles and environs.

The district's intent is to permit retail and commercial businesses generally found in a retail business area that would be complementary to the Commercial District within the Historic Overlay District. Mixed use development is encouraged with any housing located above commercial or retail space.

- B. Permitted Uses. The following uses are permitted by right:
1. Condominium dwellings
 2. Cooperative dwellings
 3. Parks and playgrounds
 4. Schools, community centers, and public facilities
 5. Retail and other stores (less than twenty-five hundred square feet (2,500 SF) of gross floor area)
 6. Offices
 7. Galleries and museums
 8. Indoor recreation facilities
 9. Performing Arts Center
 10. Conference centers
 11. Restaurants and bars
 12. Personal services (less than twenty-five hundred square feet (2,500 SF) of gross floor area)
 13. Medical/dental practices (outpatient) and labs
 14. Vehicle rental/sales (less than twenty-five hundred square feet (2,500 SF) of gross floor area)
 15. Marinas, docks, and wharves (if contiguous to harbor)
 16. Utility Facilities
- C. Accessory Uses. The following accessory uses shall be allowed.
1. Accessory buildings
 2. Other uses that are customarily associated and clearly incidental and subordinate to a principal use.
 3. Temporary licensed uses such as festivals, displays, educational exhibits, outdoor gatherings or performances, and outdoor food markets.
 4. Short Term Rental in accordance with Section 4.14
 5. Home occupation per Section 4.0 in the residential uses
- D. Conditional Uses. The following uses may also be permitted, subject to securing a Conditional Use Permit as provided for in this ordinance:
1. Recreational, cultural, and entertainment uses of the following types:
 - a. Assembly halls
 - b. Auditoriums
 - c. Theaters
 2. Retail goods establishments of the following types with more than two thousand five hundred square feet (2,500 SF) of gross floor area:

- a. Antique shops
 - b. Bookstores
 - c. Camera shops
 - d. Candy stores
 - e. Clothing stores
 - f. Dry goods stores
 - g. Florists, gift shops, card shops, and stationery shops
 - h. Grocery stores
 - i. Music stores
 - j. Newsstands
 - k. Upholstering shops and fabric stores
 - l. Watch and jewelry stores
3. Retail service establishments of the following types with more than two thousand five hundred square feet (2,500 SF) of gross floor area:
 - a. Beauty and barbershops
 - b. Bicycle moped, and golf cart sales and rentals
 - c. Blueprinting shops
 - d. Dressmaking, tailoring, millinery, dry cleaning
4. Multi-family dwellings
 - a. All dwelling units shall have direct access to the street level. Means of access may be shared with other dwelling units, but not commercial uses. Access through a commercial establishment on the first (1st) level is not permitted.
 - b. The first (1st) floor of all building facades adjacent to a public street shall have a commercial appearance and shall not have a residential appearance.
5. Childcare/adult daycare facilities and nursing homes
6. Hotels and motels
7. Laundromats
8. Any other use which is compatible in nature with the foregoing permitted and conditional uses and which the Zoning Administrator determines to be compatible with the intent of the District and is concurred with by the Planning Commission.

E. Lot, Yard, Height, Coverage & Density Requirements.

Minimum Lot Size (SF)	11,200 (SF)
Minimum Lot Width at Setback Line (ft)	80'
Lot Depth	140'
Front, Side, Rear and Corner Setback (ft) (minimum unless otherwise stated)	30' from Cape Charles Harbor, Resource Protection Areas, Marina Road, Bayshore Road, or Parcel 83-A3-A-10
Height (ft)	40'
Maximum Lot Coverage	75%
Open Space Requirement	25%

F. Developmental standards are found in Section 4.13.

Section 3.9: Harbor - Light Industrial

- A. Statement of Intent. A working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions.

Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs.

The district's intent is to permit certain industries, which do not in any way detract from the residential desirability and will not be permitted to locate in any area adjacent to a residential area. The limitation on (or provisions relating to) height of a building, flammable liquids or explosives, controlling of emission fumes, odors and noise, landscaping, are imposed to protect and foster adjacent desirability while permitting industry to locate near a labor supply and near existing available transportation, including harbor access.

- B. Permitted Uses. The following uses are permitted by right.
1. Communication and telecommunications centers
 2. Flex industrial use
 3. Fire, police, rescue stations
 4. Food production, packaging, packing, and canning
 5. Manufacture, processing, fabrication, assembly and/or storage of products such as but not limited to scientific and precision instruments, renewable energy technology components, photographic equipment, communications equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceuticals, household items, glass products, electric lighting and wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.
 6. Marinas, docks, wharves, and marina related businesses & industry.
 7. Medical care facility, outpatient only
 8. Offices – administrative, business, professional, and telecommunication
 9. Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Accawmacke PUD Appendix A, applicable category.
 10. Park, plaza, or natural area
 11. Parking structure
 12. Post office, drop off and pick up, mail courier and parcel services
 13. Public utility service center, without outdoor storage
 14. Recording studio
 15. Research, experimental testing or development activities

16. Restaurant, indoor and outdoor (excluding drive-through), restaurant/brewery
17. Training center (excluding rehabilitation and institutional facilities)
18. Utility installations
19. Utility substations provided storage or maintenance facilities shall not be permitted and provided further that utilities substations, other than transformers, shall be landscaped sufficient to screen area
20. Warehousing facility (excluding mini-storage facility)
21. Water storage tank
22. Wholesale trade establishment

C. Accessory Uses.

1. Only those that are customarily accessory and clearly incidental and subordinate to the principal uses and structures.

D. Conditional Uses. The following conditional uses may be allowed, subject to the issuance of a Conditional Use Permit.

1. Structures, other than buildings, exceeding fifty feet (50').
2. Buildings over forty feet (40') but equal or less than 50 feet (50') or building of structures other than building may be constructed to a maximum height of seventy-five feet (75') if the building is set back at least one hundred twenty-five additional feet (125') from the required setback for all yards abutting residential properties.
3. Hotels
4. Boatels
5. Utility generating plant and transmission facilities using renewal energy sources
6. Indoor Recreational, Business
7. Any other use which is compatible in nature with the foregoing permitted and conditional uses and which the Zoning Administrator determines to be compatible with the intent of the District and is concurred with by the Planning Commission.

E. Lot, Yard, Height, Coverage & Density Requirements.

Minimum Lot Size (SF)	15,000 (DF)
Minimum Lot Width at Setback Line (ft)	100'
Front Setback (ft)	10'
Side Setback (ft)	None or 5' between buildings, 10' adjacent to street
Rear Setback (ft)	20'
Height (ft)	45' for buildings; 50' for structures other than buildings
Maximum Lot Coverage	50%

- F. For developmental standards see reference Section 4.13.
- G. Additional development requirements.
1. Buffer yards. Where the Harbor- Light Industrial District adjoins the R (residential) zoning districts within the Accawmacke PUD or CO Land Use Classifications or C districts within the Accawmacke PUD, buffer yards are required as follows:
 - i. Where the lot is adjacent to Accawmacke Plantation PUD any R-Zoning Districts, then a two hundred foot (200') natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within two hundred feet (200') of any zoning district or zoning classification within the Accawmacke PUD that permits residential as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the Accawmacke PUD where residential use is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in the Accawmacke PUD Appendix A, except that the width of the landscaped area shall be at least one hundred feet (100') wide and run continuously for the length of the buffer.
 - a. When a zoning lot within the Harbor-Light Industrial District adjoins an Accawmacke Plantation PUD CO Land Use Classification, the following shall be required along all lot lines adjoining the Accawmacke Plantation PUD CO Land Use Classification:
 - i. A one hundred foot (100') natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within one hundred feet (100') of any zoning district or zoning classification within the Accawmacke Plantation PUD that permits CO Land Use Classification as an allowed use and no such facilities shall be located in the side of any portion of

- a building or structure that is adjacent to the portions of the Accawmacke Plantation PUD where CO Land Use Classification is allowed.
- iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in the Accawmacke Plantation PUD Appendix A, except that the width of the landscaped area shall be at least fifty feet (50') wide and run continuously for the length of the buffer.
- b. When a zoning lot within the Harbor -Light Industrial District adjoins an Accawmacke Plantation PUD C district, the following shall be required along all lot lines within the Harbor – Light Industrial District adjoining the C district:
 - i. A fifty foot (50') natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within seventy-five feet (75') of any zoning district or zoning classification within the Accawmacke Plantation PUD that permits commercial as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the Accawmacke Plantation PUD where commercial use is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Accawmacke Plantation PUD Appendix A, except that the width of the landscaped area shall be at least fifty feet (50') wide and run continuously for the length of the buffer.
- 2. Placement of drives and parking areas when adjacent to a public right-of-way. Excluding entrances and exits, no drive or parking area shall be located closer than twenty feet (20') from any public right-of-way line for a contiguous public street. Landscaping, hedges, or fast-growing shrubs on a gradual berm shall be installed within a portion of this buffer area unless to do so will jeopardize existing natural vegetation within the buffer area. See Accawmacke Plantation PUD Appendix A, Category I for requirements.

3. All parking must comply with Off Street Parking and Loading Requirements.
4. No parking or drive aisles shall be located within the required buffer yards.
5. No outside storage of parts, materials, fossil fuels, raw materials, or petroleum shall be permitted.
6. All Exterior Lighting shall comply with the requirements contained in Section 4.4 “Outdoor Lighting”.
7. No outside loudspeakers, intercoms, paging systems, whistles, horns, bells, or signals audible outside any buildings shall be allowed on the property. Any and all Occupational Safety and Health Administration (OSHA) requirements shall be adhered to; any OSHA-accepted alternative warning devices are encouraged.
8. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
9. No delivery or transmission of materials or products shall be permitted to or from the property by truck between 11 p.m. and 5 a.m. Monday through Sunday.
10. Utilities are to be underground. See section 4.1 (I).
11. Reference Article V for signs.

Section 3.10 Industrial District (M-2)

- A. Statement of Intent. The district’s intent is to permit mixed industrial and employment land uses in the community. The specific objectives of the M-2 District are to:
 1. Encourage the revitalization of the industrial economy and historic port of Cape Charles and Northampton County
 2. Create family-wage employment and training opportunities for residents.
- B. Permitted Uses. The following uses are permitted by right.
 1. Electric vehicle charging facilities
 2. Offices
 3. Marinas, wharves, and docks (if contiguous to harbor)
 4. Manufacturing and material processing
 5. Machine shops, blacksmith shops, and welding shops
 6. Wholesale business and warehousing
 7. Port facilities/intermodal terminals marine, rail, trucking, and/or intermodal terminals, including transfer, storage, handling, inspection, processing, and/or transport of containerized, bulk, and/or other cargo
 8. Concrete plant; manufacturing, sales and distribution of concrete and related products
 9. Adult and/or Child daycare center
 10. Educational Institute
- C. Accessory Uses. Within the M-2 District, the following accessory uses shall be allowed:
 1. Only those that are customarily accessory and clearly incidental and subordinate to the principal uses and structures.

D. Conditional Uses. Within the M-2 District, the following conditional uses shall be allowed, subject to the issuance of a Conditional Use Permit:

1. Recycling drop-off collection centers
2. Manufacture, processing, fabrication, and/or assembly of products such as scientific and precision instruments, renewable energy technology components, photographic equipment, communication equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceutical, household items, glass products, electrical lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, optical goods, and electrical equipment.
3. Food production, packaging, packing, and canning.
4. Outdoor storage provided it shall be sufficiently screened and/or landscaped as a fully buffer, except for the areas of the entrance(s) and exit(s).
5. Public utilities substations provided storage or maintenance facilities shall not be permitted and provided further those utilities substations, other than transformers, shall be sufficiently screened and/or landscaped as a fully buffer, except for the areas of the entrance(s) and exit(s).
6. Utility generating plant and transmission facility using renewable energy sources.
7. Public utility service center
8. Water storage tank
9. Utility installations
10. Structures, other than buildings, exceeding fifty feet (50')

E. Lot, Yard, Height, Coverage & Density Requirements.

Minimum Lot Size (SF)	15,000 (SF)
Minimum Lot Width at Setback Line (ft)	100'
Front Setback (ft)	10' minimum
Side Setback (minimum)	None or 5' between buildings, 10' adjacent to street
Rear Setback (ft)	20'
Corner Lot Setback (minimum)	
Maximum Height	45' for buildings, 50' for structures other than buildings
Maximum Lot Coverage	60%

F. Additional Development Requirements.

1. Buffer yards. When a zoning lot within the M-2 District adjoins R-1, R-2, or R- 3 Districts, the following shall be required along all lot lines within the M-2 District adjoining the R-1, R-2, or R-3 Districts, a fifty foot (50') separation of road right-of-way, golf course, lake, drainage easement, natural area, or landscaped buffer yard shall be required.

2. Placement of drives and parking areas when adjacent to public right-of-way. Excluding entrances and exits, no drive or parking area shall be located closer than twenty feet from any public right-of-way line for a contiguous public street. Landscaping, hedges, or fast-growing shrubs on four-foot centers on a gradual berm shall be installed within a portion of this buffer area unless to do so will jeopardize existing natural vegetation within the buffer area.
3. No parking or drive aisles shall be located within the required buffer yards.
4. No outside storage of parts, materials, fossil fuels, raw materials, or petroleum shall be permitted within the M-2 District.
5. Any exterior lighting on the property shall be directed down and away from any area zoned R (Residential) or PUD where residential development is a permitted use, to prevent the disbursement or bleeding of light beyond the limits of the developed portions of the property.
6. No outside loudspeakers, intercoms, sirens, paging systems, whistles, horns, bells, or signals audible outside any buildings shall be allowed on the property. Any and all Occupational Safety and Health Administration (OSHA) requirements shall be adhered to; any OSHA- accepted alternative warning devices are encouraged.
7. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
8. No delivery or transmission of materials or products shall be permitted to or from the property by truck before 8 a.m. and after 9 p.m. Monday through Saturday and no such deliveries to or from the property by truck, excluding half-ton trucks, shall occur on Sunday.

Section 3.11: Planned Unit Developments (PUD)

- A. Statement of Intent. The intent of this district is to promote creative and imaginative development designs for residential and commercial uses by allowing greater flexibility than is possible under the restrictions of conventional zoning regulations. It is further intended to promote more efficient use of land while encouraging variety and convenience for the overall development and the development of recreational areas and open spaces within the project. As in all zoning districts, the intent of the district is to ensure approved development will comply with the Zoning Ordinance, Town Code, and any adopted master plans. Whenever the provisions of this section impose standards that are more restrictive than are required in or under any other statute, ordinance or resolution, these standards shall prevail, unless otherwise specified in this Zoning Ordinance.
- B. Permitted Uses. The following uses may be permitted within PUD districts:
 1. Any use permitted in the R-1, R-2, R-3, CR, C-1, C-2, C-3, and Harbor – Commercial.
 2. Commercial recreation uses
 3. Outdoor recreational uses
 4. Transportation facilities

5. PUD districts shall provide a mix of a minimum of two of the following use categories:
 - a. Residential units;
 - b. Commercial offices;
 - c. Retail;
 - d. Hotel; or
 - e. Civic uses.
- C. Accessory uses
 1. Accessory uses as permitted in the R-1, R-2, and R-3 districts
- D. Conditional uses
 1. Any use listed as a conditional use in the R-1, R-2, R-3, CR, C-1, C-2, C-3, and Harbor – Commercial may be a conditional use in PUD districts and shall follow the procedures of this ordinance on issuance of Conditional Use Permits.
- E. Lot, Yard, Height, and Density Requirements. Within any PUD district, the following standards shall apply:
 1. Area Regulations. The minimum contiguous area for PUD districts shall be five acres (5 ac).
 2. Setbacks. Side and rear yard setbacks shall be per the underlying zoning district requirement. Front yard setbacks other than the R-1 underlying zone district shall be located directly adjacent to the supplemental zone, as described in subsection 3.12 (G) (b) (iii). The applicant may propose modifications to the setback regulations in accordance with the procedures of Section 3.12 (I) below.
 3. Coverage. The maximum impervious surface coverage in PUD districts shall not exceed eighty percent (80%) of the total gross area of development. Impervious surface includes building footprints, impervious private roads, and impervious parking lots. Not included as impervious surface any recreational facility such as tennis courts, bathhouses, swimming pools, required landscape, sidewalk clear, and supplemental zones, and public roads pervious roads, and pervious parking lots. No more than thirty-three percent (33%) of wetlands present in PUD districts may be used when calculating total gross area of development.
 4. Height. The maximum height of any building in PUD districts shall be per the underlying zoning district requirement.
 5. Density of Development. The sub-areas of PUD districts may contain the density requirements of one or more of the R-1, R-2, and R-3 for residential districts, and CR, C-1, C-2, C-3, and HARB-C for the commercial districts to accommodate flexibility and imaginative development designs. Density shall be consistent with conditions that are applicable to the property, such as topography, the character of the surrounding property, potential health or safety hazards, traffic safety considerations, and the effects upon existing public facilities that could be alleviated by a reduction in density.

F. Additional Development Requirements

1. Common Areas. All common areas including open spaces, parking areas, street, and landscape areas shall be maintained by the owner/developer of the project until transfer to a corporation of property owners, organizing and operating in accordance with the incorporation law of Virginia. All common areas shall provide a permanent easement arrangement to ensure public access to said areas.
2. Utilities. All utilities shall be installed underground. Central instrumentation and substations shall be screened from all rights-of-way with approved fencing and/or landscaping.

G. Design Guidelines.

1. External Relationships: PUD districts shall provide protection for areas within PUD districts and for existing surrounding areas from potentially adverse surrounding influences. In particular, the Overall Development Plan for PUD districts shall demonstrate the following features:
 - a. Access. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Left-hand storage and right-hand turn lanes and/or traffic dividers shall be required where existing or anticipated heavy flows indicate need. In general, streets shall not be connected with streets outside the district in such a way as to encourage the use of such minor streets by substantial amounts of through traffic. Existing public streets on adjacent properties shall be utilized as access into PUD districts.
 - b. Screening. Screening at the edges of PUD districts shall be provided when necessary to protect residents from undesirable view, lighting, noise, or other off-site influences, or to protect adjoining residential districts from similar adverse influences within PUD districts. In particular, off-street areas for parking, service areas for loading and unloading non-passenger vehicles, and areas of storage and collection of refuse and garbage shall be screened with approved fencing and/or landscaping.
2. Internal Relationships. PUD districts shall provide safe, efficient, convenient, and harmonious grouping of structures, uses, and facilities. Elements of the proposed development shall be organized in relation to topography, the size and shape of the plot, the character of adjoining property, existing desirable trees, and views within and beyond the site. In particular, the Overall Development Plan for PUD districts shall demonstrate the following features:
 - a. Multi-modal circulation and street cross-sections. Private streets may be permitted by Conditional Use Permit in the PUD district. However, unless specifically approved by the Town Council as a Conditional Use Permit, the arrangement, character, extent, width, grade, and location of all streets shall be designed and constructed in accordance with specifications acceptable to the Virginia Department of Transportation for inclusion in the state highway

system for maintenance. When private streets are proposed as a Conditional Use Permit, the standards, specifications and a proposed maintenance agreement shall be submitted with the Conditional Use Permit application and shall also be included on the concept plan for the proposed PUD rezoning request. There shall be no gated communities or gated roads allowed in PUD districts. Streets shall travel east-west and north-south to the greatest extent possible, and there shall be no cul-de-sacs or dead ends.

- b. Streetscape design. Properties with required landscape, sidewalk clear, or supplemental zones that are located on private property shall provide a permanent easement arrangement to ensure public access to said zones. The following standards apply to all streets within PUD districts:
 - i. Landscape zone. All required street trees, streetlights, and pedestrian lights shall be provided in the landscape zone, which shall be five foot minimum. Said zone shall be located immediately adjacent to the curb and shall be continuous. All street tree and other plantings in the landscape zone shall follow the VDOT standards for street trees and plantings. Trees shall be located forty foot (40') on center with pedestrian lights located between every other street (eighty foot (80') on center). Streetlights shall be located as required by the Zoning Administrator. Landscaping shall be kept to no more than thirty-six inches (36") tall for ground cover and limbed up to no lower than six-foot (6') above ground to provide clear, uninterrupted sight lines.
 - ii. Sidewalk clear zone. The sidewalk clear zone shall be located immediately contiguous to the landscape zone and shall be continuous. Sidewalks meeting VDOT standards shall be installed in the sidewalk clear zone, which shall be a minimum of five feet (5'). Sidewalk clear zones located adjacent to Marina Road and Bayshore Road shall be a minimum of ten feet (10'). Sidewalks shall be unobstructed for a minimum height of eight feet (8'). Where newly constructed sidewalks abutting narrower existing adjacent sidewalks, the newly constructed sidewalk shall provide an adequate transitional clear zone width for the purposes of providing a safe facilitation of pedestrian flow between the adjacent sidewalks, as approved by the Zoning Administrator. All existing sidewalks shall be replaced in accordance with these provisions within a PUD district. Sidewalks shall be broom- finished concrete with four feet (4') trowel edge along edge joints.
 - iii. Supplemental zone. All lots within an underlying zoning district sub-area of R-1 shall be exempt from the supplemental zone requirements. Non-residential, multifamily, and mixed-use developments shall be hardscaped. However, a maximum of twenty percent (20%)

may be occupied by landscaping, planters, or other areas not accessible by pedestrians. The zone shall be used for the following pedestrian amenities: benches, trash receptacles, pet stations, bicycle parking racks, outdoor dining, display of public art, other street furniture, or similar elements. The supplemental zone shall be located on private property.

3. Facades shall be located immediately adjacent to the supplemental zone(s).
 4. At a minimum, at least one (1) bench, one (1) trash receptacle shall be provided on each street frontage, unless a bench or receptacle is already provided within five hundred feet (500') on the same street frontage.
 5. At least one (1) additional pedestrian amenity shall be provided on each street's frontage.
 6. Adjacent ground floor uses must be visible, accessible, and oriented toward the supplemental zone.
 7. The supplemental zone shall be no more than twenty-four inches (24") higher than the adjacent sidewalk, unless existing topographical conditions render this requirement unreasonable, per approval by the Zoning Administrator.
 8. Any authorized walls surrounding landscaped and grassed areas shall not exceed twenty-four inches (24"), except retaining walls which shall not exceed a maximum of thirty-six inches (36"), unless existing topographical conditions render this requirement unreasonable, as approved by the Zoning Administrator.
 9. Pedestrian amenities shall be connected to the public sidewalk with a public access easement.
 10. Storage, utility rooms, private restrooms, or other accessory service uses shall not be located adjacent to the supplemental zone.
- H. Modifications to Standards. PUD districts may provide flexibility through modifications to the standards of Section 3.12. All such modifications shall be expressly shown in the Overall Development Plan and approved by the Town Council after lawfully advertised public hearings with the Planning Commission and Town Council and shall be in keeping with the purpose of PUD districts, the intent of the Zoning Ordinance, the Comprehensive Plan, and any adopted master plans.
- I. Procedures for Applications. The creation of PUD districts has the same effect as rezoning of property. The Planning Commission and Town Council shall consider applications for PUD districts in accordance with the Town's and the Code of Virginia's rezoning procedures, which includes advertised public hearings. In approving the application based on the Overall Development Plan, the Council may establish such conditions and require such modifications as deemed necessary to ensure fulfillment of the intent of PUD districts, the purposes of the Zoning Ordinance, the goals of the adopted Comprehensive Plan, and compliance with applicable subdivision and site plan ordinances and the Code of Virginia. For PUD districts proposed for property located in a Chesapeake Bay Preservation

Area, the development plan shall have been approved pursuant to the procedures of the Town of Cape Charles Chesapeake Bay Preservation Ordinance prior to submission for approval to the Planning Commission and Town Council.

1. Overall Development Plan (ODP). Development of PUD districts is governed by an Overall Development Plan that designates the standards of zoning and development for PUD districts. The ODP shall be submitted as part of a PUD application, shall be prepared by a licensed professional team, and a list of members of the team with their qualifications shall be submitted with the ODP.
2. At a minimum, the ODP must include:
 - a. Analysis of existing site conditions. An analysis of existing site conditions including a boundary survey and topographic map of the site at a minimum one inch equals forty feet (1"=40') scale and shall include the total area of the tract presented in square feet or acreage, and information on all existing manmade and natural features, utilities, all streams and easements, and features to be retained, moved, or altered. The existing shape and dimensions of the existing lot to be built upon including the size, measurement, and location of any existing buildings or structures on the lot shall be included.
 - b. Master plan. A master plan at a minimum of one inch equals forty feet (1"=40') scale outlining all proposed regulations and calculations which shall include, but not be limited to, the following:
 - i. Information on proposed improvements, including proposed building footprints, door locations, densities, parking ratios, open space, height, sidewalks, yards, under and overhead utilities, internal circulation and parking, grading, lighting, the general location of all proposed community and public facilities and the generalized proposed plan for water, sanitary waste facilities and drainage improvements, drainage, amenities, and similar details including their respective measurements;
 - ii. The type and location of all intended uses, together with their sub-area zoning district designations, and including all proposed modifications to the permitted uses, area regulations, density of development, coverage, common area, utilities, height, yard requirement, and design guidelines listed in this section of the ordinance, together with the rationale for such modifications;
 - iii. Expected gross land area for all intended uses, including open space;
 - iv. A statement of the anticipated residential density, residential unit sizes for all buildings, and the total number of dwelling units;
 - v. The total floor area of all commercial uses;
 - vi. The names and route numbers of all boundary roads or streets and the width of existing rights-of-way;
 - vii. The owners, zoning districts, and uses of each adjoining

tract;

- c. Landscape plan. A site plan at a minimum of one inch equals forty feet (1"=40') scale showing proposed regulations and calculations which shall include, but not be limited to, information on landscaping, tree species, and the number of all plantings and open space including the landscaping that is being preserved, removed, and that which is replacing the landscaping that is removed;
 - d. Architectural design. Preliminary architectural plans and all elevations with sufficient detail to demonstrate proposed design criteria that shall include, but not be limited to, scaled floor plans and elevation drawings of proposed buildings and structures and information on building materials, features, exterior finish legend, windows, doors, colors, and items affecting exterior appearance, including their respective measurements;
 - e. Phasing plan. Should a PUD be expected to require five (5) years or longer to complete, a phasing plan shall be proved by the applicant that indicates the timeframe for construction and development of different aspects of the PUD;
 - f. Parking analysis. A parking analysis must be prepared by a qualified third-party professional engineer;
 - g. Environment impact plan. A comprehensive plan that describes the natural features and characteristics of a proposed development site, the changes that will occur as a result of the proposed development activities on the site, the anticipated environmental impacts and consequences of the proposed development, and the mitigation measures to be taken to minimize undesirable impacts to the environment.
 - h. An attorney's certificate showing the owner or owners of the subject property, marketable title to the subject property in such owner or owners, naming the source of applicant's title or interest in the subject property, and the place of record of the latest instrument in the chain of title for each parcel constituting the tract; and
 - i. Any other information deemed necessary by the Zoning Administrator.
3. Proffers. If the applicant proffers reasonable conditions in connection with the application, a set of signed proffers must be submitted prior to the public hearing with the Town Council in accordance with Section 2.7 (5) of this ordinance.

J. Effect of approval of PUD districts.

- 1. All terms, conditions, safeguards and stipulations included in the Town Council's approval of PUD districts, including without limitation those contained in the Overall Development Plan to the extent approved and adopted by the Town Council, shall be part of the zoning applicable to the property, shall be included in the ordinance approving the rezoning to PUD district, and shall be binding upon the applicant and all successors in

interest. Unapproved modifications from the Overall Development Plan or failure to comply with any requirements, conditions, or safeguards shall constitute a violation of the Zoning Ordinance.

2. After approval of PUD districts, the owner may submit subdivision plats and site plans for approval consistent with the Overall Development Plan. No building permits will be issued until site plan approval and final subdivision plats have been approved and recorded in the County land records according to applicable law.

Section 3.12: Open Space District

- A. Statement of Intent. The intent of the Open Space District (OSD) zoning district is to provide opportunities for recreational activities, a network of recreational path to preserve natural resources and create buffer zones within the town.
- B. Permitted Uses
 1. Non- commercial recreational uses which are primarily open air.
 2. Swimming Pools.
 3. Court sports such as but not limited to tennis, volleyball, croquet and basketball.
 4. Structures such as picnic shelters, piers and docks, equipment storage buildings associated with permitted recreational uses.
 5. Parking areas associated with permitted recreational uses.
 6. Retention areas and streets
 7. Public Utility Facilities
 8. Public Amenities such as restrooms, bath houses, fountains, etc.
- C. Accessory Uses. Within the Open Space District, the following accessory uses shall be allowed.
 1. Uses customarily accessory and clearly incidental and subordinate to the permitted uses.
- D. Conditional Uses. Within the Open Space District, the following conditional uses may be allowed, subject to the issuance of a Conditional Use Permit.
 1. None
- E. Lot, Yard, Height, and Density Requirements. Within the Open Space District, the following standards shall apply.
 1. Minimum setbacks
 - a. Buildings
 - i. All sidestwenty feet (20')
 - b. Courts
 - i. From Buildingstwenty feet (20')
 - ii. Property Linestwenty feet (20')
 - iii. Streets.....None
 2. In built up neighborhoods, the prevailing setbacks of the neighborhood as defined in Section 3.1 of the Zoning Ordinance.
- F. Additional Development Requirements. To help preserve the architectural

cohesiveness of the Town, all buildings, structures, public amenities and storage units in the OSD shall be compatible, sympathetic and complimentary with buildings in the neighborhood as defined in Section 3.1 of the Zoning Ordinance.

Section 3.13: Bay Crossing Planning Unit Development (Bay Crossing PUD)

- A. Statement of Intent. The intent of this PUD district is to provide for low-to moderate density residential development designed to serve the workforce and other housing needs of the Town of Cape Charles and Northampton County. The targeted workforce housing segment income range is up to one hundred and fifty percent (150%) of the Area Median Income (AMI). Additionally, this district provides for residential and limited complimentary commercial development with substantial Town control by both the Town Council and Planning Commission through the existing Conditional Use Permit process to ensure any proposed use and application is appropriate for the development and harmonious with the associated multi-family residential development.
- B. Permitted Uses. The following uses shall be permitted by right, subject to the yard, height, coverage and density requirements contained herein: all uses permitted by- right and as accessory uses in the R-3 District except Short-Term Rentals and Electric Vehicle Charging Station(s). Notwithstanding the foregoing, the following items from the Zoning Ordinance shall not be applicable (i) Item #35 from the C-1 District (any use allowed in the S-C District) and (ii) Item C from the C-1 District.
- C. Conditional Uses. Subject to the Conditional Use Permit application process, the following conditional uses may be allowed: all uses in the C-1, C-2 and C-3 Districts, conditional uses within the R-3 District, short term rentals including subletting of units (said unit's square footage will be less than one thousand square feet (1,000 SF) and the short term rental is defined as thirty (30) days or less for rent), and 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.
- D. Lot, Yard, Height, Coverage and Density Requirements for Residential Development Within the Bay Crossing PUD District. The following standards shall apply: Minimum of five acres (5 ac) for the PUD District.
 - 1. In addition to the following, townhouse projects must have minimum of one acre:
 - a. Minimum lot requirements
 - i. lot area dwelling units (square feet): N/A
 - ii. lot width (feet): fifteen (15)
 - b. Minimum yard requirements
 - i. front yard (feet): ten (10)
 - ii. side yard between principal structures (feet): twenty (20)
 - iii. side yard between end structures and side property line(feet): ten (10)
 - iv. side yard between units: N/A

- v. rear yard (feet): ten (10)
 - vi. rear yard (parking in rear yard): ten (10)
 - c. Maximum building height (feet): forty (40)
 - d. Building coverage: No more than sixty percent (60%) of the lot may be covered by the structures.
 - e. Maximum development: No more than twenty-five (25) town-house dwelling units shall be constructed or attached together in a continuous row, and no such row shall exceed two hundred and forty feet (240') in length.
 - f. Off-street parking: Parking shall be provided on the premises. No such parking lot or garage shall be located more than two hundred feet (200') from the dwelling unit which it serves (excluding non-residential parking such as guest, golf cart or flex parking). Two (2) spaces per dwelling unit shall be required.
 - g. The definition of a townhouse is a multi-floor home that shares one or more walls with adjacent properties.
- 2. In addition to the following, multi-family projects must have minimum of one acre (1 ac):
 - a. Minimum lot requirements lot area per building (FAR): 0.35
 - b. Minimum yard requirements
 - i. front yard (no parking in front yard) (feet): thirty (30)
 - ii. front yard (parking in front yard) (feet): thirty (30)
 - iii. side yard between separate structures (feet): twenty (20)
 - iv. side yard between end structure and side property line (feet): twenty (20)
 - v. rear yard (no parking in rear yard) (ft): twenty (20)
 - vi. rear yard (parking in rear yard) (ft): thirty-five (35)
 - c. Furthermore, no multi-family unit may be erected on a lot which has a width at the building line of less than sixty feet (60').
 - d. Maximum building height (feet): forty (40)
 - e. Building coverage: No more than sixty percent (60%) of the lot may be covered by the structure.
 - f. Parking: Multi-family projects must have one space per one bedroom dwelling unit or studio, otherwise two spaces per dwelling unit.
 - g. Required open space. Open space shall be provided equivalent to ten percent (10%) of lot area. For the purpose of this section, the term open space shall be construed to consist of open space amenities and spacing between buildings. Open space amenities include plazas, esplanades, landscaped areas, walkways, public recreational facilities, and the like designed and maintained for use by residents, pedestrians and open to the public. Where feasible, open space shall be designed to serve as part of a coordinated pedestrian circulation system.
 - h. Development in this district may contain the density requirements of one or more of the R-1, R-2, and R-3 for residential districts, and CR, C-1, C-2 and C-3, for the commercial districts to accommodate

flexibility and imaginative development designs. Density shall be consistent with conditions that are applicable to the property, such as topography, the character of the surrounding property, potential health or safety hazards, traffic safety considerations, and the effects upon existing public facilities that could be alleviated by a reduction in density.

- i. Additional Development Terms. Placement of drives and parking areas. Entrances and exits, drives or parking areas may be located adjacent to any lot line.

E. Lot, Yard, Height Requirements for Commercial Development Within the Bay Crossing PUD District.

1. In addition to the following, commercial projects must have minimum of $\frac{1}{4}$ acre:
 - a. Lot width at setback line (feet): forty (40)
 - b. Side yard (feet): five (5)
 - c. Rear yard (feet): ten (10)
 - d. Front setback (feet): twenty-five feet (25') from center of right-of-way (defined as centerline of main street roadway) or fifteen percent (15%) $\pm$ of the lot depth, whichever is less.
 - e. Height Regulations. Buildings may be erected up to a height of thirty-five feet (35') from the adjacent ground elevation.
 - f. Notwithstanding the foregoing, any electric vehicle charging stations shall be implemented with no setback or minimum land area restrictions provided they meet the adequate landscaping and screening requirements.
 - g. Buffer yards. The following Buffer Yards shall apply, in lieu of any other setbacks, as follows. If the Bay Crossing PUD adjoins:
 - i. Open Space/Conservation Easement zoning from the Accawmacke Plantation PUD, there shall be no buffer yard requirement.
 - ii. Old Cape Charles Road, there shall be a one hundred feet (100') buffer yard requirement.
 - iii. Cassatt Parkway, there shall be a thirty-foot (30') setback.
 - iv. R3 Zoned property, there shall be a twenty-foot (20') setback.

F. Other applicable provisions and limitations as follows:

1. Primary Access: All development on the parcel shall maintain primary access (and signage, if applicable) to Cassatt Parkway via the Main Street access road.
2. All other provisions of the Cape Charles Zoning Ordinance shall apply to this Bay Crossing PUD District unless stated herein. In the event there is a conflict between this Bay Crossing PUD District and the applicable Zoning Ordinance, the Bay Crossing PUD District terms shall apply, to the extent they are not inconsistent with the provisions of this chapter.

Zoning Text Amendment –
Resolution of Intent

RESOLUTION OF INTENT 20250320A__

PROPOSED ZONING TEXT AMENDMENT 2025-01 APPLICATION FROM TOWN OF CAPE CHARLES TO AMEND ARTICLE III, SECTION 3.3(E)

WHEREAS, § 15.2-2286 (A) (7) of the Code of Virginia requires that amendments to a zoning ordinance shall be initiated by a resolution of the local governing body; a motion of the planning commission; or in the case of zoning district map amendments, by application of the landowner or the landowner's authorized agent; and

WHEREAS, Section 15.2-2285 (B) of the Code of Virginia provides that no zoning ordinance shall be amended or re-enacted unless the governing body has referred the amendment or reenactment to the local planning commission for its recommendation; and

WHEREAS, the Cape Charles Town Council finds that the public necessity, convenience, general welfare, and good zoning practice requires that a zoning text amendment be considered, as a result of staff input to amend Article III, Section 3.3 (E) to delete the 3 acre minimum for multi-family developments;

WHEREAS, said proposed revision to Section 3.3 would provide increased opportunity for additional property to offer and construct multifamily dwelling units which has been identified as a necessity in the Town's Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED that for purposes of public necessity, convenience, general welfare or good zoning practice, the Cape Charles Town Council hereby adopts a resolution of intent to consider amending the Cape Charles Zoning Ordinance to amend Section 3.3 (E) of the Zoning District Regulation Article, specifically, the Residential Multi-Family District R-3, by deleting the provision requiring a 3-acre lot minimum for a Multi-Family Project Development.

Said Zoning Text Amendment 2025-01 is referred to the Cape Charles Planning Commission to convene the requisite public hearings and public notifications, which may be done jointly between the Cape Charles Planning Commission and Cape Charles Town Council and for the Cape Charles Planning Commission to prepare its recommendation on said Zoning Text Amendment 2025-01 for Cape Charles Town Council's consideration.

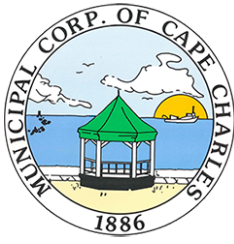
Adopted by the Town Council of the Town of Cape Charles on March 20, 2025

By: _____
Mayor Charney

Attest:

Town Clerk

Zoning Text Amendment –
Staff Report



Planning Commission

Meeting Date: April 10th, 2025

Item #: 5A & 7A

Date: March 25th, 2025

Prepared by: Jack Steinmayer,, Zoning Compliance Officer

Reviewed by: Katie Nunez, Director of Planning & Zoning Administrator

Type of Application:	Zoning Text Amendment (ZTA2025-01)
Applicant:	Town of Cape Charles
Proposal:	To amend Article III, Section 3.3 (E) of the Cape Charles Zoning Ordinance by deleting the provision requiring a 3-acre lot minimum for a Multi-Family Development.
Legal Deadline	
For Planning Commission (100 days):	July 20, 2025
For Town Council (Directory, not Mandatory)	<i>Can act upon receipt of recommendation from Planning Commission; if PC fails to provide recommendation within the prescribed deadlines, it is deemed a favorable recommendation by the PC. Town Council max time frame is 12 months from when referred to the Planning Commission: October 20, 2025</i>

Background

As a result of conversations with a prospective purchaser of the Seabreeze Apartments property, which is a parcel just under 1.5 acres and is currently zoned Residential-1 (R-1), the Planning and Zoning Administrator has been reviewing the Zoning Ordinance and what zoning district would be most appropriate for this parcel based upon the existing, legal, non-conforming uses on this property of multi-family dwellings.

This examination has led to a closer look at the Lot, Yard, Height, Coverage and Density Requirements for the Residential-3 (R-3) Multi-Family District. There is a minimum 3-acre requirement in the R-3 zoning district for multi-family project development. When we rezoned several parcels in December 2024 to R-3 as a result of eliminating the RE Zoning District, we did not catch the 3-acre minimum requirement, and the majority of those parcels do not meet that requirement.

When you utilize the setback requirements along with the other development provisions contained in the ordinance (parking, driveways, sidewalks, landscaping, stormwater), this will determine how much land is necessary to accommodate a multi-family project

development, which could be as small as 2 apartment buildings with 2 or 3 units in each building or could be larger, depending upon the piece of property that the development is being considered for. An acreage requirement is not a necessary component for this zoning district. The current 3-acre requirement is highly restrictive of property that could otherwise meet all of the other criteria for multi-family dwellings.

The Town Council agreed to advance a Zoning Text Amendment to amend Cape Charles Zoning Ordinance Article III, Section 3.3 (E) – Residential-3 Multi-Family District R-3 by removing the 3-acre minimum land requirement for a Multi-Family Project Development and passed the Resolution of Intent at their meeting on March 20, 2025.

Item Specifics

§ 15.2-2286(A)(7) of the Code of Virginia requires that amendments to a zoning ordinance shall be initiated by a resolution of the local governing body; a motion of the planning commission; or in the case of zoning district map amendments, by application of the landowner or the landowner’s authorized agent. § 15.2-2285(B) of the Code of Virginia provides that no zoning ordinance shall be amended or re-enacted unless the governing body has referred the amendment or reenactment to the local planning commission for its recommendation. The Town Council passed a Resolution of Intent on March 20, 2025 for ZTA2025-01 application.

The Town would propose that the Cape Charles Zoning Ordinance be amended in such a way that the 3-acre minimum land requirement found in Article III, Section 3.3 (E) – Residential-3 Multi-Family District be removed.

For Multi-Family Project Development

<i>For Townhouses</i>	<i>3-Acres Minimum</i>
Minimum Lot Size (lot area pre dwelling unit) (sf)	1,500 (sf)
Front Yard (no parking in front yard) (ft)	30'
Front Yard (parking in front yard) (ft)	35'
Side Yard between separate structures	25'
Side Yard between end structure and side property line	35'
Rear Yard (no parking in rear) (ft)	20'
Rear Yard (parking in rear) (ft)	35'
Maximum Building Height	40'
Maximum Lot Coverage	45%
Maximum Lot Width (ft)	100'

If ZTA2025-01 is passed by the Town Council, following their public hearing after receiving the recommendation from the Planning Commission, please note that this proposed Zoning

Text Amendment would be applicable to all property in the Town of Cape Charles that are currently zoned Residential-3 and any future parcels that may be rezoned to Residential-3 (R-3).

Currently, there are 8 parcels that are zoned R-3 within the Town:

- 1) Tax Map #90-19-B: Owner – Town of Cape Charles – 16.21 Acres
- 2) Tax Map #90-3-A2: Owner – Donald Lee – 1.55 Acres
- 3) Tax Map #90-12-Y: Owner – Brian Chandler Burke – 1.1 Acres
- 4) Tax Map #90-12-Z: Owner – Spath Squared, LLC – 1.1 Acres
- 5) Tax Map #90-29-1: Owner – Harbour Green – 1 Acre
- 6) Tax Map #90-29-2: Owner – CEM Investments, LLC – 1 Acre
- 7) Tax Map #90-29-3: Owner – BRRRR Funding VA, LLC c/o Richmond Rehab Funding, LLC – 1 Acre
- 8) Tax Map #90-29-4: Owner – BRRRR Funding VA, LLC c/o Richmond Rehab Funding, LLC – 1 Acre



Review with Respect to Comprehensive Plan

Housing – Overview – (pg. 39)

“Despite positive changes in the Town’s housing stock, some residents face major housing issues. Although rising property values have benefited many homeowners, increased rents and housing prices create difficulties for low- and moderate-income households.”

Furthermore, it states, “the town needs to be concerned with planning for quality affordable housing as its economy grows. It is necessary to reduce the percentage of cost burdened households, one way of which is providing more affordable housing stock, since this will encourage people to live in stable neighborhoods in the town instead of moving out into the unincorporated areas in the county. Making the Town economically viable throughout the year.

Finally, the Comprehensive Plan states, “the increased housing costs within the Town make it difficult to attract younger families, Cape Charles has a need for a greater diversity of housing types to improve affordability as well as support a stable and resilient community in the future.”

The Town has acknowledged many times within the Comprehensive Plan that both affordable housing and workforce housing (used interchangeably) are needed within the community. By moving forward with the proposed Zoning Text Amendment, the Town will begin to take the necessary steps to reduce the barriers to help diversify the Town’s housing stock and making the Town as a whole more affordable, which is a primary objective in the Comprehensive Plan.

Staff Recommendation

Staff is requesting the Planning Commission hold the required public hearing on ZTA2025-01 and consider all comments received and determine if there are additional issues raised that were not considered by staff which may need to be considered. Staff is recommending favorable consideration of Zoning Text Amendment Application (ZTA2025-01) to amend Article III, Section 3.3 (E) of the Cape Charles Zoning Ordinance by deleting the provision requiring a 3-acre minimum for a Multi-Family Development.

Proposed Planning Commission Motion

I would recommend the following motion for the Planning Commission’s consideration:

Motion to recommend to Town Council to approve Zoning Text Amendment (ZTA) 2025-01: Application from the Town of Cape Charles to amend Article III, Section 3.3 (E) of the Cape Charles Zoning Ordinance by deleting the provision requiring a 3-acre lot minimum for a Multi-Family Development.

Zoning Map Amendment –
Legal Ad

Town of Cape Charles
Planning Commission – Public Hearing

The Cape Charles Planning Commission will hold a public hearing on Thursday, April 10th, 2025, at 6:00p.m., in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive comment on the following request:

- A. Zoning Map Amendment (ZMA) 2025-01: application from Seabreeze Associates LP, to Conditionally Rezone with Proffers 201-209 Washington Avenue (Tax Map #83A1-3-B2 and 83A1-3-3) from Residential-1 (R-1) to Residential-3 (R-3) pursuant to CCZO Section 2.7.2. and Section 3.3.

The application is available for public review on our website at www.capecharles.org under Agendas and Minutes/Planning Commission. Please contact the Town Planner and Zoning Administrator Katie Nunez at (757)-331-2036, or by email at planner@capecharles.org if you have any questions or require additional information.

Ad Placed: Eastern Shore Post – Monday March 17th, 2025

Ad to Run: Friday March 21st, and March 28th

Agenda Item 5 (b) –
Zoning Map Amendment:
Application from Seabreeze
Associates LP.



Zoning Map Amendment Application

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-2036
planner@capecharles.org

Revised 08/2023	
Taxes	✓ paid 12.5
Violations	—
paid Fee	\$550
Decision	

Budget Code: MISPL 100-3100-1070

PART 1. APPLICATION NOTES

1. A pre-application conference is mandatory prior to submission of an application for a zoning map amendment.
2. A zoning map amendment application should be consistent with the Comprehensive Plan and therefore, may also require a Comprehensive Plan amendment, which should be approved prior to the zoning amp amendment application.
3. The Town Council may not add conditions of approval to a zoning map amendment application.
4. If proffers are being offered, the proffer statements may not be less restrictive than the requested base zoning district standards.
5. If proffers are being offered, proffer statements may not be amended after the public notification of a public hearing to consider the application has been sent. The applicant may voluntarily offer proffered conditions as part of their application, which must be listed in a separate voluntary proffer statement using the template found on our website.
6. **Fees: Regular Rezoning – (a) Non-PUD = \$500 + \$50/acre****
(b) PUD = \$1,000 + \$50/acre (i) Amendment to Comp. Plan; Concept Approvals: \$550/app**
Conditional Rezoning = \$1000 + \$50/acre**
****plus, any actual cost for advertising & adjacent property owner notification mailings**

PART 2: PROPERTY INFORMATION

Property Address: 201-209 Washington Avenue	Tax Map #: 83a1-3-B2
Project name: Seabreeze Apartments	Current Zoning District: R-1
Does this application include proffers? ☐ No ☒ Yes, if so, attach separate form	Proposed Zoning District: R-3

PART 3: PROPERTY OWNER INFORMATION

Applicant Name: Seabreeze Associates LP	
Mailing Address: 20 N. Eight Street, 2nd Floor, Richmond VA 23219	
Email address: ltavenner@tb-lawfirm.com	Phone: (804) 783-8300

If property is owned by an LLC, LP, or other form of corporation, list all landowners and their contact information.
Lynn Tavenner, Esq., Liquidator

Zoning Map Amendment Application (also referred to as a Rezoning or Conditional Rezoning) may be submitted by a Cape Charles property owner and may be advanced to public hearing, after this application is submitted to Town Council who authorizes said applications to public hearings, first to the Planning Commission in compliance with the Code of Virginia Section 15.2-2285 and 15.2-2204.

The applicant will be required to make a presentation to fully explain the request and demonstrate the need for said request and how the Comprehensive Plan supports and maintains compliance with the goals and objectives of the Comprehensive Plan

Additionally, the Planning Commission or Town Council may prepare and apply for a zoning map amendment with either the Town Manager or the Zoning Administrator or Planning Director representing the application on behalf of the Town.

PART 4: Written Description of Request – Answer all questions in this section. Attach additional sheets as needed.

- A) Describe the existing conditions on the property including existing land uses and buildings as well as the land uses and zoning districts on the abutting properties.

A 28 unit apartment complex with 4 brick buildings, on site parking and an office/utility building. Property along the west of the complex is zoned R-1, with vacant property to the North that is a thin sliver of shoreline also zoned R-1. Property along the East of the complex is currently a Bay Creek Subdivision zoned PUD called Bay Vista. Finally, On the southernmost point of the complex fronting on Washington Avenue is also zoned R-1.

- B) Describe how existing conditions have changed, thereby making the proposed amendment needed.

The apartment complex was approved and built in 1984, prior to the adoption of a zoning ordinance. It was subsequently zoned as R-1 when the ordinance was adopted on 07/14/1992 which eventually caused the property to become a non-conforming use.

- C) Describe how the proposed amendment furthers the objectives of the Comprehensive Plan.

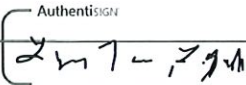
The R-3 zoning conforms to the current use and will allow for the property to be improved by new owners

- D) Describe why the proposed rezoning is necessary.

redevelopment of the site is not possible with a non-conforming zoning designation. Redevelopment requires changes to the property that are not allowed of non-conforming buildings.

- E) Describe the proposed use of the rezoned property including a site plan with the proposed types of site improvements and buildings.

Renovation to and Conversion of the apartment buildings to condominiums

Applicant's signature:  03/13/25 Date: _____
Zoning Administrator's Signature: _____ Date: _____

PART 5: To Be Completed by P & Z Department Staff

Date Application Received in Office:	Application #: ZMA
Planning Commission	Town Council
Date referred:	Date received from Planning Commission:
Action deadline (100 days from receipt):	Action deadline (max. 365 days from referral to PC):
Public hearing date:	Public hearing date:
Decision:	Decision:

Prepared by:
Seabreeze Associates L.P.
c/o Lynn Tavenner, Liquidator
20 North Eight Street, 2nd Floor
Richmond VA 23219

After recording return to:
Town of Cape Charles
Department of Planning & Zoning
2 Plum Street
Cape Charles, VA 23310

Tax Map #: 83A1-3-B2

PROFFER AGREEMENT

THIS PROFFER AGREEMENT ("Agreement") made this 12th day of March, 2025, by and between Seabreeze Associates L.P. (the "Grantor"); and THE TOWN OF CAPE CHARLES, a municipal corporation of the Commonwealth of Virginia (the "Grantee"), with an address of 2 Plum Street, Cape Charles, VA 23310.

RECITALS

- A. Seabreeze Associates LP is the owner(s) of a certain parcel of property located in the Town of Cape Charles (the "Town"), herein known as Tax Map # 83A1-3-B2 with a street address of 201,203,205,207 and 209 Washington Avenue, Cape Charles VA 23310 and more fully described on "Exhibit A" (the "Property")
- B. Grantor has initiated a conditional amendment to the zoning map of the Town of Cape Charles, Virginia, by petition addressed to the Grantee so as to change the zoning classification of the Property from the R-1 Zoning district to the R-3 Zoning District.
- C. Grantor has requested approval of this Agreement.
- D. Grantee's policy is to provide for the orderly development of land for various purposes, including commercial purposes, through zoning and other land development legislation.
- E. Grantor desires to offer the Town of Cape Charles certain conditions for the enhancement of the community and to provide for the highest quality and orderly development of the Property.
- F. The conditions outlined in this Agreement have been proffered by Grantor and allowed and accepted by Grantee as a part of the amendment of the Town Zoning Ordinance and the Zoning Map. These conditions shall continue in full force and effect until a subsequent amendment changes the zoning of the Property; provided, however, that such conditions shall continue if the subsequent amendment is part

of the comprehensive implementation of a new or substantially revised zoning ordinance of Grantee.

- G. This Agreement has been fully authorized by Grantor and the person(s) signing this Agreement on behalf of Grantor have full power and authority to bind Grantor to this Agreement.

NOW, THEREFORE, for and in consideration of the foregoing Recitals, which Grantor acknowledges to be true and correct, and pursuant to Section 2.7.5 of the Town Zoning Ordinance, Grantor proffers and agrees that it will perform and comply with all of the following conditions in developing the Property. In the event the requested change of zoning classification is not granted by the Grantee, these Proffers shall thereupon become null and void. Grantor, its heirs, successors, assigns, grantees and other successors in title or interest to the Property, voluntarily and without any requirement by or exaction from Grantee or its governing body and without any element or compulsion or quid pro quo for zoning, rezoning, site plan, building permit or subdivision approval, makes the foregoing declaration of conditions and restrictions governing the use and physical development and operation of the Property, and covenants and agrees that this declaration and the further terms of this Agreement shall constitute covenants running with the Property, which shall be binding upon the Property, and upon all persons and entities claiming under or through the Grantor, its heirs successors and assigns, grantees and other successors in interest or title to the Property; namely:

CONDITIONS

- A) The individual residential units on the property shall not be rented for periods of time of less than 30 days each.
- B) It is understood that all phases of the proposed project shall comply with all ordinances of the Town of Cape Charles.
- C) Further lawful conditions or restrictions against the Property may be required by Grantee during the detailed Site Plan review and administration of applicable codes and regulations of Grantee by all appropriate agencies and departments of Grantee, which shall be observed or performed by Grantor. Grantor acknowledges that additional further lawful conditions or restrictions may be imposed by Grantee as a condition of approvals, including but not limited to final site plan approval.
- D) All references hereinabove to zoning districts and to regulations applicable thereto, refer to the Town Zoning Ordinance of the Town of Cape Charles, in force as of the date the conditional rezoning amendment is approved by the Grantee.
- E) The Grantor covenants and agrees that:
- 1) The foregoing conditions are reasonable;

- 2) the Zoning Administrator of the Town of Cape Charles, Virginia, shall be vested with all necessary authority on behalf of the governing body of the Town of Cape Charles, Virginia, to administer and enforce the foregoing conditions and restrictions specified in this Agreement, including (i) the ordering in writing of the remedying of any noncompliance with such conditions, and (ii) the bringing of legal action or suit to ensure compliance with such conditions, including mandatory or prohibitory injunction, abatement, damages or other appropriate action, suit or proceedings;
- 3) the failure to meet all conditions shall constitute cause to deny the issuance of any of the required building or occupancy permits as may be appropriate; and
- 4) the Zoning Map shall show by an appropriate symbol on the Map the existence of conditions attaching to the zoning of the subject Property on the Map and that the ordinance and conditions may be made readily available and accessible for public inspection in the office of the Planning & Zoning Department and that this Agreement shall be recorded in the Clerk's Office of the Circuit Court of the County of Northampton, Virginia and indexed in the name of the Grantor and Grantee.

[REMAINDER OF PAGE INTENTIONALLY BLANK. SIGNATURE PAGE FOLLOWS.]

WITNESS the following signatures:

Grantor:

AuthentISIGN
2m7-794

03/13/25

Seabreeze Associates L.P. by Lynn Tavenner,
Liquidator, Seabreeze LP

SIGNATURE

DATE:

Mar 26, 25 (esign date)

STATE OF VIRGINIA

~~Town of Cape Charles and County of Northampton~~, to-wit:

City of Richmond, VA

I, Amy Haynes Morris, the undersigned, a Notary Public in and for the
Town and County and State aforesaid, do hereby certify that Lynn L. Tavenner,
whose name is signed to the foregoing instrument as (title) Liquidator of
Seabreeze Associates, LP, a Virginia (type of entity) limited partnership, has sworn
to, subscribed, and acknowledged the same before me in the Town and County and State
aforesaid, this 26 day of March, 2025 on behalf of said
limited partnership. He/she ☒ is personally known to me or ☐ has produced
as identification.

City

Notary Public

My commission expires: 3-31-25
Registration No. 7907534



Exhibit A
Legal Description

Attached:

Deed Book 209 page 136-138

Plat Book 12 Page 58

Physical Survey Plat dated March 15, 1984



STATE OF VIRGINIA,

COUNTY/CITY OF Northampton, to wit:

The foregoing instrument was duly acknowledged before me this 27th day of May, 1983, by ANNE H. PLOTT/Trustee in
RANSOM
Dissolution of Eastern Shore - Yorktown Ferries, Incorporated.

Shirley C. Massery
Notary Public

My commission expires: Sept. 11, 1983



VIRGINIA:

In the Clerk's Office of the Circuit Court of the County of Northampton, on the 31st day of May, A. D., 1983. This deed from Frank E. Schlegel, et als, Trs. in Dissolution of Eastern Shore-Yorktown Ferries, Inc., to Robert E. Schlegel, et ux, was, with the certificates of acknowledgment thereof thereto annexed, received by me in my said office this day and admitted to record at 4:00 o'clock, P. M.

Teste: Clyde S. Hebb, Clerk

Mailed to
Harry J. Schlegel
P.O. Box 76
Rupert, Idaho
Ida. 83667
6-9-83

OUR FILE NO. 05720-10-011(006)

\$35,000

No. 368

This Deed, made May 24, 1983 between

ROBERT E. SCHLEGEEL and JEANNE M. SCHLEGEL, husband and wife,

party of the first part, and

SEABREEZE ASSOCIATES, a Virginia Limited Partnership,

party of the second part

BEACON CONSTRUCTION COMPANY, a Virginia corporation, party of the third part,

Witnesseth: That for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, the said party of the first part does grant and convey, with GENERAL WARRANTY and with ENGLISH COVENANTS OF TITLE unto the said SEABREEZE ASSOCIATES, a Virginia Limited Partnership, the following described property, to wit:

FOR LEGAL DESCRIPTION, SEE EXHIBIT A ATTACHED

EXHIBIT A

All that certain tract or parcel of land situate, lying and being in the Town of Cape Charles, Northampton County, Virginia, containing 1.453168 Acres (63,300 Sq. Ft.), as shown on plat entitled, "SUBDIVISION OF PROPERTY OWNED BY ROBERT E. SCHLEGEL & JEANNE M. SCHLEGEL, TO BE CONVEYED TO SEABREEZE ASSOCIATES, A VIRGINIA LIMITED PARTNERSHIP, TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA," dated May 16, 1983, made by Hassull & Folkes, P.C., Surveyors & Engineers, Portsmouth, Virginia, duly recorded in the Clerk's office of the Circuit Court of Northampton County, Virginia, in Plat Book 12, page 57; to which plat reference is here made, and which property is more particularly described as follows:

Beginning at a point on Washington Avenue, which point of beginning lies S 84° 17' 00" E a distance of 255.16 feet from the top of a bank overlooking the Chesapeake Bay, as shown on said plat, and from the point of beginning thus established, running thence N 05° 43' 00" E a distance of 300.00 feet to a point; running thence S 84° 17' 00" E a distance of 211.00 feet to a point; running thence S 05° 43' 00" W a distance of 300.00 feet to a point; running thence N 84° 17' 00" W along Washington Avenue a distance of 211.00 feet to a point, the place or point of beginning.

Together with all and singular the buildings and improvements thereon, riparian rights, rights and privileges, tenements and hereditaments, and appurtenances thereunto belonging, or in anywise appertaining.

Subject, however, to any and all restrictions and easements of record affecting said property.

THE PARTY OF THE THIRD PART joins in the execution of this deed for the purpose of transferring, quit-claiming and releasing unto the party of the second part all of its right, title and interest in and to the property herein conveyed by reason of a certain option agreement dated January 21, 1983, which said option agreement was subsequently assigned to the said party of the second part, and by its execution of this deed, doth authorize and direct the parties of the first part to convey said property unto the said party of the second part.

TO HAVE AND TO HOLD the said property unto the said SEABREEZE ASSOCIATES, a Virginia Limited Partnership, its successors and assigns, in fee simple and forever.

JONES, BLECHMAN, WOLTZ & KELLY
ATTORNEYS AND COUNSELORS AT LAW
NEWPORT NEWS, VIRGINIA 23607

Whoever used herein, the singular shall include the plural, the plural the singular, and the use of any gender shall include all other genders.

WITNESS the following signatures and seals:

Robert E. Schlegel (Seal)
 ROBERT E. SCHLEGEL
Jeanne M. Schlegel (Seal)
 JEANNE M. SCHLEGEL
 BEACON CONSTRUCTION COMPANY (Seal)
 By: Marvin I. HAZUR (SEAL)
 MARVIN I. HAZUR, President

STATE OF VIRGINIA,

CITY OF Roanoke

to-wit:

I, Shirley C. Massey, a Notary Public in and for the City and State aforesaid, do certify that ROBERT E. SCHLEGEL and JEANNE M. SCHLEGEL

whose names are signed to the foregoing deed dated
 have acknowledged the same before me in my City and State aforesaid.

Given under my hand May 24, 1983

My commission expires Sept. 11, 1983

Shirley C. Massey
 Notary Public

STATE OF VIRGINIA,

CITY OF NEWPORT NEWS, to-wit:

I, Marquitta W. Bridges, a Notary Public in and for the City and State aforesaid, do certify that MARVIN I. HAZUR, President of BEACON CONSTRUCTION COMPANY, its officer in this behalf first duly authorized, whose name is signed to the foregoing deed dated May 24, 1983, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this 31st day of May, 1983.

My commission expires: Dec. 13, 1985

Marquitta W. Bridges
 Notary Public

VIRGINIA:

In the Clerk's Office of the Circuit Court of the County of Northampton, on the 31st day of May, A. D., 1983. This deed from Robert E. Schlegel, et ux, et al, to SEABREEZE ASSOCIATES, a Virginia Limited Partnership, was, with the certificates of acknowledgment thereof thereto annexed, received by me in my said office this day and admitted to record at 4:00 o'clock, P. M. Taxes imposed by Sec. 58-54.1 of the Code of Virginia have been paid in the amount of \$35.00.

Teste: Clyde S. Hibbs, Clerk

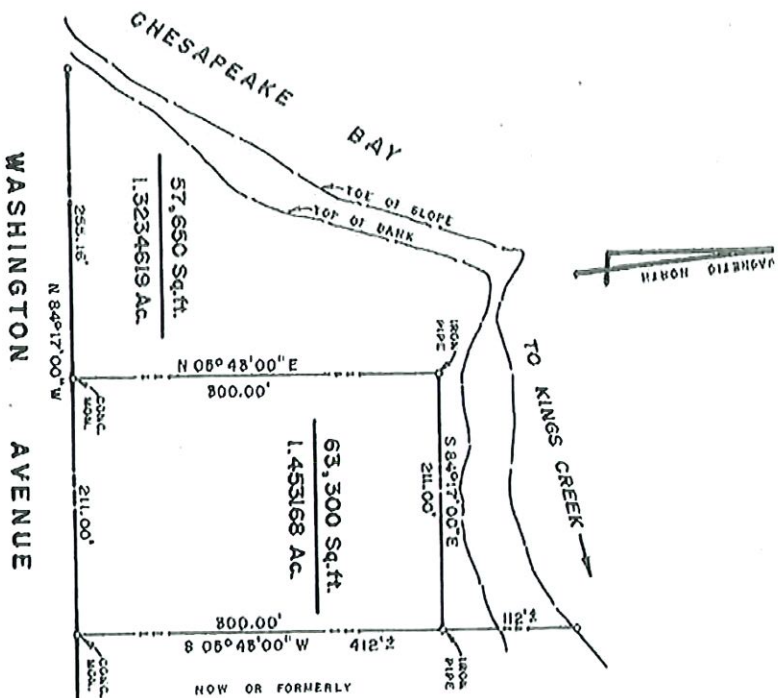
As to the City and State above-
signed to the above writing
has acknowledged the same

1983

1983

PR 12/1858

As to the City and State above-
signed to the above writing
has acknowledged the same



SUBDIVISION OF PROPERTY
OWNED BY
ROBERT E. SCHLEGEL & JEANNE M. SCHLEGEL

TO BE CONVEYED TO
SEABREEZE ASSOCIATES
A VIRGINIA LIMITED PARTNERSHIP
TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA

Scale: 1" = 100' Date: MAY 16, 1983

WASSILL & FOLKES, PC.
Surveyors and Engineers
PORTSMOUTH, VA

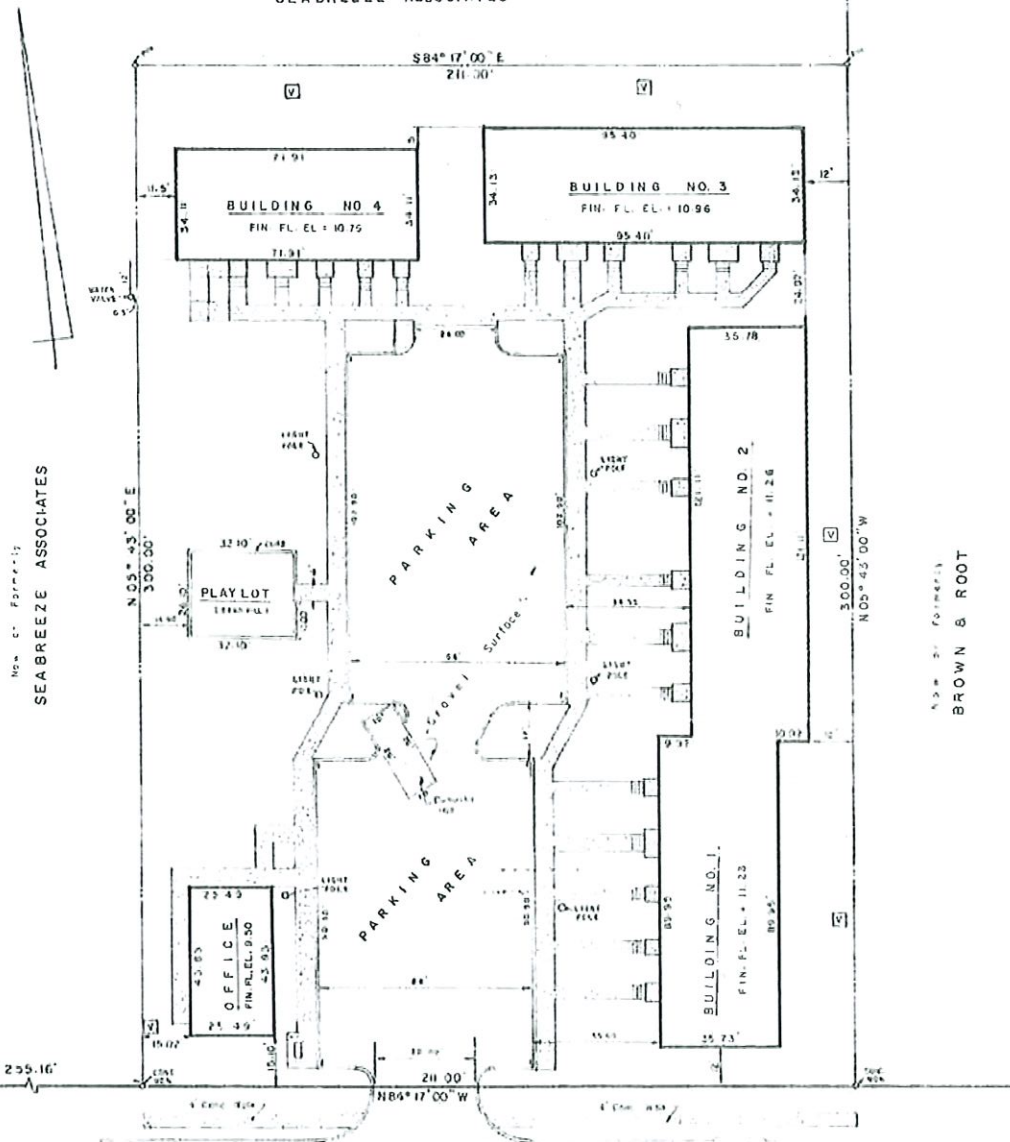
THIS IS TO CERTIFY THAT I, ON MARCH 15, 1984 SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDING ARE AS SHOWN ON THIS PLAT.

THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE NO ENCROACHMENTS OR VISIBLE EASEMENTS, EXCEPT AS SHOWN.

SIGNED:

[Signature]
L.S.

Now or Formerly
SEABREEZE ASSOCIATES



WASHINGTON AVENUE

BAY AVENUE

[V] DENOTES VECO TRANSFORMER

PHYSICAL SURVEY
OF
PARCEL OF PROPERTY
LOCATED ON WASHINGTON AVENUE
TOWN OF CAPE CHARLES
NORTHAMPTON COUNTY, VA.
FOR
SEABREEZE ASSOCIATES
A VIRGINIA LIMITED PARTNERSHIP



Scale: 1" = 25'

March 15, 1984

HASSELL B. FULKES, JR.
Surveyors and Engineers
PORTSMOUTH, VIRGINIA

REV - APRIL 2, 1984

Zoning Map Amendment –
Staff Report



Planning Commission

Meeting Date: April 10th, 2025

Item #: 5B & 7B

Date: March 25th, 2025

Prepared by: Jack Steinmayer,, Zoning Compliance Officer

Reviewed by: Katie Nunez, Director of Planning & Zoning Administrator

Applicant: Seabreeze Associates, LP.

Site Address: 201-209 Washington Avenue

Tax Map: 83A1-3-B2 & 83A1-3-3

Lot Size: 1.45 Acres (63,162 sq. ft.)

Type of Application: Conditional Rezoning Map Amendment (ZMA) 2025-01

Specific Request: Conditionally Rezone from R-1 to R-3 with Proffers

Zoning Ordinance: CCZO Section 2.7.2 & 2.7.4 thru 2.7.9

Current Zoning: Residential-1 (R-1)

Proposed Zoning: Residential-3 (R-3)

Date Received: March 13th, 2025

Date Deemed Complete: March 13th, 2025

Legal Deadline for PC: 100 days from 1st Receiving Application: June 21st, 2025

Legal Deadline for TC: 12 Months from when Referred to PC:

Narrative of Proposal:

An application for Conditional Rezoning (ZMA 2025-01) with proffers was submitted by Seabreeze Associates, LP, to rezone their property identified as 201-209 Washington Avenue (Tax Map #83A1-3-B2 & 83A1-3-3) from Residential-1 (R-1) to Residential-3 (R-3).

Aerial View



Background

This property was developed in 1984 with four buildings that housed a total of 28 apartments and one office building/laundry room (known as the Seabreeze Apartments) when the Town did not have Zoning. In 1992, the Town adopted a Zoning Ordinance and zoned this property as Residential-1 which does not allow for multi-family dwellings but was meant for single-family residential developments. However, due to the Seabreeze Apartments predating the Zoning Ordinance, both the buildings and the manner in which they were being used as rental housing units are allowed to continue operating as such and are classified from a zoning perspective as a legal, non-conforming use, pursuant to Cape Charles Zoning Ordinance Section 2.5 (attached).

PROPERTY DESCRIPTION

Building #203 (lower right side of the map) - six apartments #20301 thru 20306 – each of these units are three bedroom apartments.

Building #205 – (adjacent to #203) - eight apartments #20507 thru 20514 – each of these units are three bedroom apartments.

Building #207 – (upper right side of the map) eight apartments #20715 thru 20722: each of these units are two bedroom apartments.

Building #209 – (upper left of the map) - six apartments #20923 thru 20928: each of these units are two bedroom apartments.

This is a total of 28 apartments: 14 two-bedroom units and 14 three-bedroom units. The building at the lower left of the map had at least three to four shared uses: office space for the property management company, community room, laundry room for the tenants on this property and storage.

In February 2024, the Town issued a Notice of Violation regarding two of the buildings that were found to be unfit for human habitation. Because of the Towns' findings, the funding partners of HUD and USDA for the low-income housing at this property subsequently terminated their funding which then led to the full-scale relocation of all of the tenants from this property. There were underlying issues with the ownership of the entity of Seabreeze Associates, LP due to the deaths of the primary partners; that was only recently resolved when a liquidator trustee was named (Lynn Tavenner, Esq.) and given authority to seek a purchaser for this property which has occurred. The property is an under a purchase agreement and there is a period due diligence before the sale will occur; said due diligence has included a robust discussion with the Town regarding the zoning for this property, including the restrictions associated with the R-1 zoning and the uses & structures being designated as legal, non-conforming uses and structures.

As mentioned in the Cape Charles Zoning Ordinance Section 2.5, a legal, non-conforming use can continue to exist but there are strict restrictions on expanding the use or structure on the property. Additionally, there are imposed time frames when a legal non existing use can continue on a property when that use ceases to occur. In this case, there are currently

2 clocks running on this property: 1) the first clock is relative to the 2 buildings on the north end of the property that were deemed unfit for human habitation – a 12-month clock was placed on those two buildings from the date of February 27, 2024 when the Notice of Violation was received in order to address the Notice of Violation and return the 2 buildings to service; otherwise, the legal, non-conforming use as a multi-family dwelling building will cease and that use is not a use allowed in the R-1 zoning district; and 2) the second clock is relative to the 2 buildings to the east as well as the small office building/laundry room – there is a 24-month clock from when there were last tenants in the building, which was July 31, 2024, for the use of a multi-family dwelling to resume in these 2 buildings & the office building/laundry room.

While the liquidator trustee for the property owner applied for an extension of six months to address the Notice of Violation for the 2 buildings on the north end of the property which the Zoning Administrator granted, thus extending this clock to August 27, 2025, the proposed purchaser has indicated that they would like to make certain improvements and expansions on this property that could not occur through the R-1 Zoning, specifically due to the limitations and constraints of the legal, non-conforming use designation.

Conditional Rezoning Request

The applicant (Seabreeze Associates, LP.) is seeking to rezone their two parcels (Tax Map #83A1-3-B2 & 83A1-3-3) from Residential-1 (R-1) to Residential-3 (R-3) with the following proffer conditions:

- *The individual residential units on the property shall not be rented for periods of time of less than 30 days each;*
- *It is understood that all phases of the proposed project shall comply with all ordinances of the Town of Cape Charles;*
- *Further lawful conditions or restrictions against the Property may be required by Grantee during the detailed Site Plan review and administration of applicable codes and regulations of Grantee by all appropriate agencies and departments of Grantee, which shall be observed or performed by Grantor. Grantor acknowledges that additional further lawful conditions or restrictions may be imposed by Grantee as a condition of approvals, including but not limited to final site plan approval;*
- *All references hereinabove to zoning districts and to regulations applicable thereto refer to the Town Zoning Ordinance of the Town of Cape Charles, in force as of the date the conditional rezoning amendment is approved by the Grantee;*
- *The Grantor consents and agrees that:*
 - *The foregoing conditions are reasonable;*
 - *The Zoning Administrator of the Town of Cape Charles, VA, shall be vested with all the necessary authority on behalf of the governing body of the Town of Cape Charles, VA, to administer and enforce the foregoing conditions and restrictions specified in this agreement, including (i) the ordering in writing of the remedying*

- of any noncompliance with such conditions, (ii) the bringing of legal action or suit to ensure compliance with such conditions, including mandatory or prohibitory injunction, abatement, damages or other appropriate action, suit or proceeding;*
- *Failure to meet all conditions shall constitute cause to deny the issuance of any of the required building or occupancy permits as may be appropriate; and*
 - *The Zoning Map shall show by an appropriate symbol on the Map of the existence of conditions attaching to the zoning of the subject Property on the Map and that the ordinance and conditions may be readily available and accessible for public inspection in the office of the Planning & Zoning Department and that this Agreement shall be recorded in the Clerk's Office of the Circuit Court of the County of Northampton, Virginia and indexed in the name of the Grantor and Grantee.*

Review with Respect to Comprehensive Plan

Affordable Housing – (pg. 47)

With Cape Charles having the highest owner-occupied median housing value in the region, the Town has a greater need for a variety of housing types that are affordable. A diversity of housing types is one way to provide greater housing options.

Housing Objectives and Strategies – (pg. 47)

1. *Pursue character appropriate additional supply and diversity of housing, including smaller single-family homes, duplexes, town homes, and **condos** to increase the availability of affordable housing.*

Future Land Use – (pg. 131)

b. Preferred Uses

1. *Land uses in this designation should consist of single-family dwellings, **multifamily housing**, including row houses containing two to four dwelling units per structure, or single-family houses which have been converted into two-family or multi-family dwelling units.*





Residential: The Residential category is intended for a variety of housing types to meet the needs of Cape Charles residents. Development in this area should include housing of various types, sizes, and prices to meet the needs of seasonal workers, families, etc.

Review with Respect to Zoning Ordinance: Zoning Districts – Intent

In the work on the recently amended Zoning Ordinance (adopted 12/19/2024), the Planning Commission had formed a Housing Subcommittee which made numerous recommendations for changes in the zoning ordinance that supported the development of medium-to-high density housing in an effort to create more housing diversity within the Town of Cape Charles.

The Cape Charles Zoning Ordinance provides a statement of intent for the current zoning district of Residential-1 (R-1) as follows:

The intent of this basic zoning district is to provide quiet, medium density, single-family residential development plus provide open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to restrict all activities of a commercial nature as described in Section 3.5 (A) of this ordinance, known as Commercial Districts C-1, C-2, and C-3 which are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments, and to promote a convenient, attractive, and harmonious community. This section is created in recognition of the existence of developed areas where single-family and duplex dwellings currently exist on lots of five thousand six hundred square feet (5,600 sf) and where the characteristics of the neighborhood include both permanent as well as seasonal residents.

The proposed rezoning district of Residential-3 (R-3) provides the following statement of intent:

The intent of this basic zoning district is to provide for relatively high density, multi-family residential development. This district is designed to promote and encourage a suitable environment for family life and to restrict activities of a commercial nature to those which serve the needs of the surrounding residential neighborhood.

Staff Recommendation

Staff is requesting the Planning Commission convene and hold the public hearing and consider all comments received and determine if there are additional issues raised that were not considered by staff which may need to be considered. Staff is recommending favorable consideration of the conditional rezoning request of 201-209 Washington Avenue (Tax Map #83A1-3-B2 & 83A1-3-3) from Residential-1 (R-1) to Residential-3 (R-3) with the proffers provided by the applicant.

Possible Planning Commission Motion

I would recommend the following motion for the Planning Commission's consideration:

Motion to recommend to the Town Council to approve the Conditional Rezoning (ZMA2025-01) of 201-209 Washington Avenue (Tax Map #83A1-3-B2 & 83A1-3-3) from Residential-1 (R-1) to Residential-3 (R-3) with the proffers provided by the applicant.

As always, staff is prepared to assist in the development of any motion the Planning Commission may wish to advance concerning ZMA2025-01.

Attachments

Attachment 1 – Zoning Map Amendment Application and Proffers

Attachment 2 – CCZO Section 2.7.2 & 2.7.4 thru 2.7.9 – Conditional Rezoning

Attachment 3 – CCZO Section 2.5 – Legal, Non-Conforming Uses

Attachment 4 – CCZO Article 3 – Zoning District Regulations

Attachment B –
CCZO Section 2.7.2 & 2.7.4
thru 2.7.9 – Conditional
Rezoning

The board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and the material to show the grounds of the decision appealed from and verification.

If, upon hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or in part, or may modify the decision brought up for review.

Costs shall not be allowed against the board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from. In the event that a decision of the board is affirmed, and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ.

Section 2.6.6: Fee for Appeals and Applications for Variance

Every appeal to the Board of Zoning Appeals from a determination of the Zoning Administrator and every application for a variance shall be accompanied by a fee governed by ordinance set forth by the Town Council of the Town of Cape Charles.

Section 2.6.7: Expiration of Variances

If any variance granted by the Board of Zoning Appeals is not acted on in accordance with the conditions and stipulations required by the Board within a period of thirty (30) months, then the variance shall be null and void and of no force and effect.

Section 2.6.8: Tax Payments Required

Pursuant to [§ 15.2-2286.B](#) of the Code of Virginia, prior to the initiation of an application for a special use permit, variance, rezoning, zoning clearance, building permit, or other land use permit, the applicant for same must produce satisfactory evidence that any and all delinquent real estate taxes and any fees owed to the Town of Cape Charles which have been properly assessed against the subject property have been paid in full.

Section 2.7: Amendments of Chapter and Zoning Map; Conditional Zoning

Section 2.7.1: Amendments Permitted; How Initiated

In accordance with [§ 15.2-2286.A.7](#) of the Code of Virginia, whenever public necessity, convenience, general welfare or good zoning practice require, the Town Council may amend, supplement, or change the regulations, district boundaries or classifications of property contained in this Chapter. Any such amendment may be initiated by (a) resolution of the Town Council, (b) motion of the Town's Planning

Commission, or (c) the petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefore, of the property which is the subject of the proposed zoning map amendment, addressed to the Town Council or the Town's Planning Commission, which shall forward such petition to the Town Council.

Section 2.7.2: Procedures for Amending Chapter or Zoning Map

- A. All proposed amendments or reenactments of this Chapter, and all proposed amendments to the zoning map, shall be referred by the Town Council to the Town's Planning Commission for its recommendations. Failure of the Planning Commission to report within one hundred (100) days after the first meeting of the Planning Commission after the proposed amendment or reenactment has been referred to it shall be deemed approval of the proposal by the Planning Commission, unless the proposal has been withdrawn by the applicant prior to the expiration of said time period. In the event of such withdrawal, processing of the proposal shall cease without further action.
- B. Prior to issuing its recommendations, the Planning Commission shall hold at least one public hearing after notice of same has been published once a week for two successive weeks in some newspaper having general circulation in the Town, with the first notice appearing no more than twenty-eight (28) days before and the second notice appearing no less than seven (7) days before the day for the meeting reference in the notice. Such public hearing shall be held not less than seven (7) days after the second advertisement appears. Such additional and further notice shall be given as required by [§ 15.2-2204](#) of the Code of Virginia. The Planning Commission may make appropriate changes in the proposed amendments as a result of the public hearing. Upon the completion of its work, the Planning Commission shall present the proposed amendments, including revised district maps, to the Town Council together with its recommendations and appropriate explanatory materials.
- C. Prior to approving and adopting any amendment to this Chapter or the zoning map, the Town Council shall hold at least one (1) public hearing after giving such public notice as may be required by [§ 15.2-2204](#) of the Code of Virginia after which the Council may make appropriate changes or corrections in the proposed amendment. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the Town's then effective comprehensive plan. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after such notice as is required by [§ 15.2-2204](#) of the Code of Virginia. Following the required public hearing(s), the Town Council shall act on the proposed amendment in the

same manner as adopting any other ordinance.

Section 2.7.3: Appeals

Every action contesting a decision of the Town Council adopting or failing to adopt a proposed amendment to this Chapter or the zoning map shall be filed within thirty days of the Town Council's decision with the Circuit Court of Northampton County.

Section 2.7.4: Conditional Zoning - Statement of Intent

In accordance with [§ 15.2-2296](#) et seq. of the Code of Virginia, it is the general policy of the Town of Cape Charles to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time recognize effects of change. It is the purpose of Sections 2.7.4 through 2.7.10 to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning. Conditional zoning allows a zoning reclassification subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. The provisions of Sections 2.7.4 through 2.7.10 shall not be used for the purpose of discrimination in housing.

Section 2.7.5: Conditional Zoning - Conditions as Part of a Rezoning or Amendment to the Zoning Map

As part of a rezoning or amendment to the zoning map, the owner of the parcel for which the rezoning or amendment is sought may voluntarily proffer, in writing made prior to the Town Council's public hearing on same, reasonable conditions in connection with the proposed rezoning or amendment. Applications for conditional zoning shall be handled in the same manner and following the same procedures as provided in Section 2.7.2 with respect to amendments generally. Once proffered and accepted as part of an amendment to this Chapter or the zoning map, such conditions shall continue in effect until a subsequent amendment changes the zoning of the property covered by such conditions. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

Section 2.7.6: Conditional Zoning - Enforcement and Guarantees

The Zoning Administrator is hereby vested with all necessary authority on behalf of the Town Council to administer and enforce conditions attached to a rezoning or amendment to the zoning map, including (a) the ordering in writing of the remedy of any noncompliance with the proffered and accepted conditions; (b) the bringing of legal action to ensure compliance with the conditions, including injunction, abatement, or other appropriate action or proceeding; and (c) requiring a guarantee satisfactory to the Town Council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of the improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the

Town upon the submission of satisfactory evidence that construction of the improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

Section 2.7.7: Conditional Zoning - Records

The zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The Zoning Administrator shall keep in his or her office and shall make available for public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance, creating the conditions in addition to the regulations provided for in a particular zoning district or zone.

Section 2.7.8: Conditional Zoning - Petition for Review of Decision

Any zoning applicant or other person who is aggrieved by a decision of the Zoning Administrator made pursuant to the provisions of Section 2.7.6 may petition the Town Council for review of the decision of the Zoning Administrator. All petitions for such review shall be filed with the Zoning Administrator and the Town Clerk within thirty (30) days from the date of the decision for which review is sought and shall specify the ground upon which the petitioner is aggrieved.

Section 2.7.9: Conditional Zoning - Amendments and Variations of Conditions

There shall be no amendment or variation of conditions created pursuant to the provisions of Section 2.7.5 until after the Town Council holds a public hearing which hearing is advertised as required by [§ 15.2-2204](#) of the Code of Virginia.

Section 2.7.10: Limitation on Reconsideration of Request for Amendment

No application for an amendment to this Chapter or the zoning map, including an application for conditional zoning, shall be considered by the Town Council within one year (1 yr) from the Council's last consideration of same. This limitation shall not apply to amendments proposed by either the Planning Commission or the Town Council on its own motion where that body finds it to be in the public interest to reconsider same.

Section 2.8: Condominiums and Cooperatives

Condominiums and cooperative real estate developments must meet all requirements and regulations of the Virginia Condominium Act or Virginia Real Estate Cooperative Act, as appropriate ([§ 55.1-1900](#) et seq.; [§ 55.1-2100](#) et seq. of the Code of Virginia).

Attachment C –
CCZO Section 2.5 – Legal,
Non-Conforming Uses

6. If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the Town to establish the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purposes.
7. No provision herein shall be construed to allow the imposition of civil penalties:
 - a. For activities related to land development; or
 - b. For violation of any provision of this chapter relating to the posting of signs on public property or public right-of-way.
8. Any official or public employee authorized of this jurisdiction who is vested with the duty of authority to issue permits shall conform to the provisions of this ordinance. Any such permit, if issued in conflict with the provisions of this ordinance, shall be canceled in writing.

Section 2.5: Non-Conforming Uses

Section 2.5.1: Continuation of Existing Non-Conforming Uses and Permits

- A. Any legal use, building, or structure existing at the time of adoption of this ordinance, or any amendment thereto may be continued even though such use, building, or structure may not conform with the provisions of this ordinance for the district in which it is located. Such use, building, or structure shall be deemed a “Non- Conforming Use.” A non-conforming use, building, or structure may be continued provided by the following.
 1. No such non-conforming use, building, or structure shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of the adoption of this ordinance, unless said enlargement does not result in an increase in nonconformity or result in a change to a use permitted in the district.
 2. No such non-conforming use, building, or structure shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use, building, or structure at the effective date of adoption of this ordinance or amendment of this chapter, unless such move results in decreasing the degree of nonconformity with the requirements of this district.
 3. No additional structures which do not conform to the requirements of this ordinance shall be erected in connection with such non-conforming use of land. No additional uses of a nature which would be prohibited generally in the district involved shall be permitted.

4. Any non-conforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance.
 5. When any non-conforming use is superseded by a permitted use, the use shall thereafter conform to the regulations for the district, and no non-conforming use shall thereafter be resumed with the exception of existing duplexes specifically designed as such.
 6. If any such non-conforming use or structure ceases for any reason for a period of more than two years (2 yrs), except when government action impedes access to the premises, any subsequent use of such land or structure shall conform to the regulations specified by this chapter for the district in which such land or structure is located with the exception of existing duplexes specifically designed as such.
- B. The rights pertaining to a non-conforming use, building, or structure shall be deemed to pertain to the use or building itself, regardless of the ownership of the land or the building on or in which such non-conformity is conducted or of such non-conforming building or the nature of the tenure of the occupancy thereof.

Section 2.5.2: Restoration of Non-Conforming Use

No building or structure which has been damaged by any cause including neglect to the extent of more than fifty percent (50%) of the fair market value of the building immediately prior to damage shall be restored except in conforming with the regulations of this ordinance, and all rights as a non-conforming use are terminated. If a building or structure is damaged by less than fifty percent (50%) of the fair market value, it may be repaired or reconstructed and used as before the time of damage provided that such repairs or reconstruction be substantially completed within twelve (12) months of the date of such damage. If delay of reconstruction is caused by reasons beyond the owner's control, extension may be given to substantially complete reconstruction.

Section 2.5.3: Changes in District Boundaries

Whenever the boundaries of a district are changed, any uses of structures or buildings which become non-conforming as a result of change shall be subject to the provisions of this ordinance.

Section 2.6: Appeals and Variances

Section 2.6.1: Board of Zoning Appeals

- A. In accordance with [§ 15.2-2308](#) through [§ 15.2-2314](#) of the Code of Virginia, any municipality which has enacted or enacts a zoning ordinance shall therefore create a Board of Zoning Appeals. The Town of Cape Charles Board of Zoning Appeals will consist of five (5) members who shall be appointed by the circuit court of Northampton County. Members of the board shall hold no other public office in the

Attachment D –
CCZO Article III: Zoning
District Regulation

Article III - District Regulations

Section 3.1: Residential District R-1

- A. Statement of intent. The intent of this basic zoning district is to provide quiet, medium density, single-family residential development plus provide open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to restrict all activities of a commercial nature as described in Section 3.5 (A) of this ordinance, known as Commercial Districts C-1, C-2, and C-3 which are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments, and to promote a convenient, attractive, and harmonious community. This section is created in recognition of the existence of developed areas where single-family and duplex dwellings currently exist on lots of five thousand six hundred square feet (5,600 SF) and where the characteristics of the neighborhood include both permanent as well as seasonal residents.
- B. Permitted Uses. The following uses are permitted by right:
1. Single-family dwellings.
 2. Duplex dwellings provided off-street parking is provided.
 3. Condominium dwellings.
 4. Cooperative dwellings.
 5. Manufactured home dwellings.
 6. Churches and places of worship.
 7. Parks and playgrounds.
 8. Schools, community centers, and public facilities
 9. Group Homes per [§ 15.2-2291](#) of the Code of Virginia.
- C. Accessory Uses.
1. Accessory buildings.
 2. Accessory Dwelling Units by right in compliance with the requirements of Section 4.1 (J).
 3. Home occupations in accordance with Section 4.0.
 4. Short Term Rentals, in accordance with Section 4.14
 5. Up to two (2) single electric vehicle charging stations.
 6. Uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure.
- D. Conditional Uses: The following uses may also be permitted, subject to securing a use permit as provided for in this ordinance:
1. Outdoor recreation facilities
 2. Residential dwelling units in square footage area below the minimum or above the maximum stated in Section 3.1 (E)
 3. Bed and Breakfast Establishments, in accordance with Section 4.1(M)

E. Area and Height Regulations. The following regulations apply to lots and structures in the R-1 zoning district.

	<i>Legal Conforming Lots</i>	<i>Legal, Non-Conforming Lot</i>		
<i>Minimum Lot Size</i>	5,600 (SF)	Up to 5,600 (SF)	5,601 to 8,400 (SF)	8,401 or more (SF)
<i>Minimum Lot Width at Setback Line</i>	40'	-	40'	40'
<i>Front Setback (minimum) *see prevailing standard below</i>	30'	30'	30'	30'
<i>Side Setback (minimum)</i>	5'	5'	5'	5'
<i>Rear Setback (minimum)</i>	25'	25' Unless lot is less than 40' deep, then 5'	25'	25'
<i>Corner Lot Setback *see prevailing standard below</i>	5'	5'	5'	5'
<i>Maximum Height</i>	40' or 2.5 stories	40' or 2.5 stories	40' or 2.5 stories	40' or 2.5 stories
<i>Maximum Lot Coverage</i>	See Section 4.1 (E) for this requirement in conjunction with accessory structures on lots.			
<i>Minimum Dwelling Unit Size</i>	960 (SF)	960 (SF)	960 (SF)	960 (SF)
<i>Maximum Dwelling Unit Size</i>	4,500 (SF)	2,400 (SF)	3,000 (SF)	4,500 (SF)

NOTE: A lot can be a contiguous assemblage of lots under common ownership to meet the lot size requirements. There is no requirement that lot lines must be vacated between two (2) or more lots; however, the lots must remain under common ownership if the lot is developed according to the development standards in the chart above.

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

NEIGHBORHOOD OVERLAY is defined as parts of a six-square block area, including all parcels on the subject block and all parcels facing on three sides, with the property in question located in the center block.

FRONT YARD SETBACKS shall adhere to a prevailing setback standard for new housing.

CORNER LOTS shall adhere to a prevailing setback standard in built up neighborhoods for new housing.

F. Other Regulations

1. Subdivision of residential lots is not permitted.
2. Decks and patios may not be constructed in the front yard area. Decks and patios constructed in the backyard area may be enclosed. Front porches may be enclosed by insect screening, preferably placed on the inside (house side) of architectural elements such as railings and columns. No permanent enclosures of front porches are allowed except for insect screening.
3. Utilities. Upon installation of utility access lines, such lines shall be installed underground. The Town encourages replacement lines to be installed underground.
4. Developmental standards are found in Section 4.12.

Section 3.2: Residential Mixed District R-2

- A. Statement of Intent. The intent of this basic zoning district is to provide quiet, medium density residential development with a mixture of single-family and multi-family housing. This district is designed to promote and encourage a suitable environment for family life and to restrict activities of a commercial nature to those which serve the needs of the neighborhood itself.
- B. Permitted Uses. The following uses shall be permitted by right:
1. Single-family dwellings.
 2. Duplex dwellings provided off-street parking is provided.
 3. Condominium dwellings.
 4. Cooperative dwellings.
 5. Manufactured home dwellings.
 6. Churches and places of worship.
 7. Parks and playgrounds.
 8. Schools, community centers, and public facilities
 9. Group Homes per [§ 15.2-2291](#) of the Code of Virginia.
- C. Accessory Uses. Within the R-2 Land Use Classification, the following accessory uses shall be allowed:
1. Accessory buildings.
 2. Accessory Dwelling Units by right in compliance with the requirements of Section 4.1 (J).
 3. Home occupations in accordance with Section 4.0.
 4. Up to two single electric vehicle charging stations.
 5. Uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure.
 6. Short Term Rentals in accordance with Section 4.14
- D. Conditional Uses. The following uses are permitted, subject to securing the proper permits:
1. Outdoor recreation facilities
 2. Childcare/adult daycare facilities and nursing homes

- G. Area and Height Regulations. The following regulations apply to lots and structures in the R-2 zoning district.

	<i>SF</i>	<i>Duplex</i>	<i>Zero Lot Line</i>
Minimum Lot Size (sf)	6,000	10,000	6,000
Minimum Lot Width at Setback Line (ft)	50'	60'	50'
Lot Depth (ft)	85'	85'	85'
Front Yard (ft)	25'	25'	25'
Side Yard (ft)	15'	20'	15' and 0'
Side Yard Corner (ft)	25'	30'	25'
Rear Yard (ft)	20'	20'	20'
Rear Yard Corner Lot (ft)	20'	20'	20'
Max Height (ft)	40'	40'	40'
Max Lot Coverage	50% max may be covered by the principal building and accessory buildings		
Minimum Dwelling Unit Size (SF)	1,000'	850 per dwelling unit	-
Max Dwelling Unit Size	None Specified	-	-

Section 3.3: Residential Multi-Family District R-3

- A. Statement of Intent. The intent of this basic zoning district is to provide for relatively high density, multi-family residential development. This district is designed to promote and encourage a suitable environment for family life and to restrict activities of a commercial nature to those which serve the needs of the surrounding residential neighborhood.
- B. Permitted Uses. The following uses shall be permitted by right:
1. Single-family dwellings
 2. Duplex dwellings, provided off-street parking is provided
 3. Townhouse dwellings
 4. Multi-family dwellings
 5. Condominium dwellings
 6. Cooperative dwellings
 7. Group homes
 8. Manufactured home dwellings
 9. Parks and playgrounds
- C. Accessory Uses. Within the R-3 Land Use Classification, the following accessory uses shall be permitted.
1. Accessory buildings.
 2. Accessory Dwelling Units by right in compliance with the requirements of Section 4.1 (J).
 3. Home occupations in accordance with Section 4.0.

4. Short Term Rentals, in accordance with Section 4.14.
 5. Up to two (2) single electric vehicle charging stations.
 6. Uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure.
- D. Conditional Uses. Within the R-3 Land Use Classification, the following conditional uses may be allowed:
1. Churches and places of worship
 2. Childcare/ adult daycare facilities and nursing homes
- E. Lot, Yard, Height, Coverage and Density Requirements. Within the R-3 Residential Land Use Classification, the following minimum standards shall apply as follows:

Single Family Dwelling Development

Minimum Lot Size (SF)	1,500 (SF)
Minimum Lot width (ft)	20'
Front Setback (with no parking in front yard) (ft)	25'
Front Setback (parking in front yard) (ft)	30'
Side Setback (ft)	20'
Rear Setback (no parking in rear) (ft)	15'
Rear Setback (parking in rear) (ft)	30'
Maximum Height	40'
Maximum Lot Coverage	60%
Minimum Dwelling Unit Size	1,000 (SF)

For Multi-Family Project Development, in addition to the above regulations

For townhouses:	3 acres minimum
Minimum Lot Size (lot area per dwelling unit) (SF)	1,500 (sf)
Front Yard (no parking in front yard) (ft)	30'
Front Yard (parking in front yard) (ft)	35'
Side Yard between separate structures	25'
Side Yard between end structure and side property line	35'
Rear Yard (no parking in rear) (ft)	20'
Rear Yard (parking in rear) (ft)	35'
Maximum Building Height	40'
Maximum Lot Coverage	45%
Minimum Lot Width (ft)	100'

- F. Additional Development Requirements.
1. Placement of drives and parking areas. Excluding entrances and exits, no drive or parking area shall be located closer than ten feet (10') from any lot line.
 2. Off-street parking. Parking shall be provided on the premises. No such parking lot or garage shall be located more than two hundred feet (200') from the dwelling unit which it serves.
 3. Maximum development of eight townhouse dwelling units in a continuous row and no row shall exceed two hundred forty feet (240').

Section 3.4: 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. Single-family dwellings
 2. Duplex dwellings provided off-street parking is provided.
 3. Townhouse dwellings
 4. Condominium dwellings
 5. Cooperative dwellings
 6. Manufactured home dwellings
 7. Group homes
 8. Bed and Breakfasts, in accordance with Section 4.1 (M)
 9. Churches and places of worship
 10. Parks and playgrounds
 11. Retail and other stores
 12. Offices
 13. Galleries and museums
 14. Indoor recreational facilities
 15. Other food establishments
 16. Professional services
 17. 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.

C. Accessory Uses:

1. Accessory Buildings
2. Accessory Dwelling Units in accordance with Section 4.1 (J)
3. Home occupations in accordance with Section 4.0.
4. Short Term Rentals, in accordance with Section 4.14
5. Up to two (2) single electric vehicle charging stations.
6. Uses which are customary accessory and clearly incidental and subordinate to principal use and structure.

D. Conditional Uses:

1. Childcare/adult daycare facilities and nursing homes
2. Conference centers
3. Restaurants and bars

E. Lot, Yard, Height, Coverage and Density Requirements. Within the CR Land Use Classification, the following minimum standards shall apply, unless noted below:

Lot Size (SF)	5,600 (SF)
Lot width (ft)	40'
Lot depth (ft)	140'
Front Setback (ft)	30'; or prevailing front setback in existing built-up areas
Side Setback (ft)	5'
Rear Setback (ft)	25'
Maximum Height (ft)	40'
Dwelling Unit Size, excluding garages, porches & patios (SF)	960 (SF)

Section 3.5: Commercial District C-1

- A. Statement of Intent. The intent of this zoning district is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.

B. Mainstreet Mixed Use Area

1. The area along the south side of Mason Avenue, beginning at the western edge of Parcel 83A3 (A) (5), and projecting eastward to Nectarine Street, and southward a distance of one hundred twenty feet (120') from the south side of Mason Avenue, is defined as the "Mainstreet Mixed-Use Area." All buildings in the Mainstreet Mixed-use Area shall meet the following requirements:

- a. Each building shall be a minimum of two stories and shall have only residential uses above the first floor.
 - i. Residential portions of the building shall have at least two (2) entrances/exit ways to the ground floor that are separate from the entrances/exit ways used by occupants of nonresidential portions of the building.
 - ii. The primary entrance for the residential portion of the building shall be clearly visible from Mason Avenue and shall face Mason Avenue.
- b. Ground floor uses shall be limited to non-motor vehicle related uses, including restaurants, sales and rental of goods, merchandise or equipment establishments, banks and financial institutions, or offices.
- c. Drive-through facilities are prohibited.
- d. The primary façade shall face Mason Avenue. On a corner lot, each side adjacent to a street shall be considered a primary façade.
- e. All blocks shall align with and be equal in frontage length to the blocks on the north side of Mason Avenue so that existing viewsheds to the harbor are maintained.
- f. No building or structure shall exceed forty feet (40') in height.
- g. The front setback shall be the prevailing setback of adjacent properties along the south side of Mason Avenue.
- h. Development design standards in this area shall be subject to the Historic District Review Board.
- i. Whenever the provisions of this subsection (3.5 (B) (1)) impose standards that are more restrictive than are required in or under any other statute, ordinance or resolution, these standards shall prevail, unless otherwise specified in this Zoning Ordinance.

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

1. Hotels and motels
2. Schools, community centers, and public facilities
3. Auditoriums, theatres, and assembly halls
4. Retail and other stores
5. Offices
6. Galleries and museums
7. Restaurants and bars
8. Other food establishments
9. Funeral homes
10. Medical/dental practices (outpatient) and labs
11. Any other commercial or professional 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 concurrent with by the Planning Commission.

D. Accessory Uses: Within the C-1 District the following accessory uses shall be permitted:

1. Only those uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure;
2. Short Term Rentals, in accordance with Section 4.14 and;
3. Home occupation per Section 4.0 in the residential uses.

E. Conditional Uses:

1. 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 (1st) level).
2. Charging stations for Electric Vehicles

F. Lot, Yard, Height, Coverage and Density Requirements. Within the C-1 Land Use Classification, the following minimum standards shall apply:

Minimum Lot Size (40 x 140) (SF)	5,600 (SF)
Front Setback	Prevailing
Side Setback (ft)	0'
Rear Setback (ft)	10'
Maximum Height (ft)	40'

G. Developmental standards are found in Section 4.13.

H. Additional Requirements

1. Architectural Treatment. No building exterior (whether front, side, or rear) will consist of architectural materials inferior in quality, appearance, or detail to any other exterior of the same building. Nothing in this section shall preclude the use of different materials on different building exteriors (which would be acceptable if representative of good architectural design) but rather shall preclude the use of inferior materials on sides which face adjoining property and thus might adversely impact existing or future development causing a substantial depreciation of property values. No portion of a building constructed of unadorned concrete or concrete block or corrugated and/or sheet metal shall be visible from any adjoining residential district or public right-of-way. Mechanical equipment, whether ground level or roof top shall be shielded and screened from public view and designed to be perceived as an integral part of the building.
2. Driveways and Parking Areas. Driveways and parking areas shall be paved with concrete, bituminous concrete, or other similar material. Surface penetration treated parking areas and drives shall be prohibited. Concrete curbs and gutters shall be installed around the

perimeter of all driveways and parking areas. Other curbing material of similar quality like brick or cobblestone shall be permitted at the discretion of the Zoning Administrator. Drainage shall be designed to meet the requirements of the Virginia Department of Transportation.

3. New in-fill structures or change of use projects on the first (1st) floor of structures in C-1 shall be exempt from complying with the exact requirements of Section 4.5 (A), Section 4.6, and Table 4.8. Owners are encouraged to provide off-street parking for themselves, employees, and loading facilities where possible (i.e., alleys to backyard areas). Owners shall evaluate existing parking and access and submit proposed plan to Town for review. Projects will be evaluated on a case-by-case basis. New or change of use second (2nd)- or third (3rd)-floor projects shall be required to conform to the parking requirements as set forth herein.
4. Outside Storage Areas. All outdoor storage areas shall be visually screened from public streets, internal roadways, and adjacent property. Screening shall consist of either a ventilated solid board fence, masonry wall, dense evergreen plant materials, or such other materials as may be approved. All such screenings shall be of sufficient height to screen storage areas from view. Outdoor storage shall include parking of all company owned and operated vehicles with the exception of passenger vehicles.

Section 3.6: 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. Gas stations/service stations
 3. Vehicle rental/sales
 4. Vehicle repair/service
 5. 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. Accessory Uses. Within the C-2 District the following accessory uses shall be permitted:
 1. Only those uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure; and
 2. Short Term Rentals, in accordance with Section 4.14.

D. Conditional Uses:

1. 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).
2. Charging stations for Electric Vehicles

E. Lot, Yard, Height, Coverage and Density Requirements. Within the C-2 Land Use Classification, the following minimum standards shall apply:

Lot size (60' x 150') (SF)	9,000 (SF)
Lot width (ft)	60'
Front Setback	Shall be determined by the average setback of the existing built-up commercial area
Side Yard Setback (ft)	10'
Rear Yard Setback (ft)	10' or prevailing rear yard if less.
Height (ft)	35'

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 Section 4.13.

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

Section 3.7: Commercial District C-3

A. Statement of Intent. The intent of this zoning district is to recognize this existing linear commercial zone which flanks Route 184 entering Cape Charles. This area is divided into smaller lots. The zone shall require a uniform requirement for setbacks as this is recognized as the gateway road into Cape Charles.

The specific intent of this district is (1) to allow development of individual or grouped lots, (2) to encourage uses to service the community, and (3) to encourage quality construction and design recognizing the importance of the district's impact on drivers entering Cape Charles.

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

1. All uses as allowed in C-1 and C-2
2. Single-family dwellings
3. Duplex dwellings
4. Schools, community centers, and public facilities
5. Auditoriums, theatres, and assembly halls

6. 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. Accessory Uses. Within the C-3 District the following accessory uses shall be permitted:
1. Only those uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure;
 2. Short Term Rentals, in accordance with Section 4.14 and;
 3. Home occupation per Section 4.0 in the residential uses.
- D. Conditional Uses:
1. Multi-family dwellings
 2. Charging stations for Electric Vehicles
- E. Lot, Yard, Height, Coverage and Density Requirements. Within the C-3 Land Use Classification, the following standards shall apply:
- | | |
|--------------------|--|
| Lot Size (SF) | NA |
| Lot Width (ft) | 40' |
| Front Setback (ft) | 80' from center of Right-of-Way or 40% of the lot depth, whichever is less |
| Side Yard (ft) | 5' |
| Rear Yard (ft) | 10' |
| Height (ft) | 35' |
- F. Additional Requirements
1. Materials and design shall follow site plan ordinance requirements and be considered and approved by a review body named by Town Council.
 2. Sign design shall relate to the architectural character of the building and, if ground mounted, shall be appropriately landscaped. Additional sign details are found in Article V.
 3. Developmental standards are found in Section 4.13.

Section 3.8: Harbor – Commercial

- A. Statement of Intent. A working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions.

Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation

and connect to the other existing and future links to Cape Charles and environs.

The district's intent is to permit retail and commercial businesses generally found in a retail business area that would be complementary to the Commercial District within the Historic Overlay District. Mixed use development is encouraged with any housing located above commercial or retail space.

- B. Permitted Uses. The following uses are permitted by right:
1. Condominium dwellings
 2. Cooperative dwellings
 3. Parks and playgrounds
 4. Schools, community centers, and public facilities
 5. Retail and other stores (less than twenty-five hundred square feet (2,500 SF) of gross floor area)
 6. Offices
 7. Galleries and museums
 8. Indoor recreation facilities
 9. Performing Arts Center
 10. Conference centers
 11. Restaurants and bars
 12. Personal services (less than twenty-five hundred square feet (2,500 SF) of gross floor area)
 13. Medical/dental practices (outpatient) and labs
 14. Vehicle rental/sales (less than twenty-five hundred square feet (2,500 SF) of gross floor area)
 15. Marinas, docks, and wharves (if contiguous to harbor)
 16. Utility Facilities
- C. Accessory Uses. The following accessory uses shall be allowed.
1. Accessory buildings
 2. Other uses that are customarily associated and clearly incidental and subordinate to a principal use.
 3. Temporary licensed uses such as festivals, displays, educational exhibits, outdoor gatherings or performances, and outdoor food markets.
 4. Short Term Rental in accordance with Section 4.14
 5. Home occupation per Section 4.0 in the residential uses
- D. Conditional Uses. The following uses may also be permitted, subject to securing a Conditional Use Permit as provided for in this ordinance:
1. Recreational, cultural, and entertainment uses of the following types:
 - a. Assembly halls
 - b. Auditoriums
 - c. Theaters
 2. Retail goods establishments of the following types with more than two thousand five hundred square feet (2,500 SF) of gross floor area:

- a. Antique shops
 - b. Bookstores
 - c. Camera shops
 - d. Candy stores
 - e. Clothing stores
 - f. Dry goods stores
 - g. Florists, gift shops, card shops, and stationery shops
 - h. Grocery stores
 - i. Music stores
 - j. Newsstands
 - k. Upholstering shops and fabric stores
 - l. Watch and jewelry stores
3. Retail service establishments of the following types with more than two thousand five hundred square feet (2,500 SF) of gross floor area:
 - a. Beauty and barbershops
 - b. Bicycle moped, and golf cart sales and rentals
 - c. Blueprinting shops
 - d. Dressmaking, tailoring, millinery, dry cleaning
4. Multi-family dwellings
 - a. All dwelling units shall have direct access to the street level. Means of access may be shared with other dwelling units, but not commercial uses. Access through a commercial establishment on the first (1st) level is not permitted.
 - b. The first (1st) floor of all building facades adjacent to a public street shall have a commercial appearance and shall not have a residential appearance.
5. Childcare/adult daycare facilities and nursing homes
6. Hotels and motels
7. Laundromats
8. Any other use which is compatible in nature with the foregoing permitted and conditional uses and which the Zoning Administrator determines to be compatible with the intent of the District and is concurred with by the Planning Commission.

E. Lot, Yard, Height, Coverage & Density Requirements.

Minimum Lot Size (SF)	11,200 (SF)
Minimum Lot Width at Setback Line (ft)	80'
Lot Depth	140'
Front, Side, Rear and Corner Setback (ft) (minimum unless otherwise stated)	30' from Cape Charles Harbor, Resource Protection Areas, Marina Road, Bayshore Road, or Parcel 83-A3-A-10
Height (ft)	40'
Maximum Lot Coverage	75%
Open Space Requirement	25%

F. Developmental standards are found in Section 4.13.

Section 3.9: Harbor - Light Industrial

- A. Statement of Intent. A working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions.

Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs.

The district's intent is to permit certain industries, which do not in any way detract from the residential desirability and will not be permitted to locate in any area adjacent to a residential area. The limitation on (or provisions relating to) height of a building, flammable liquids or explosives, controlling of emission fumes, odors and noise, landscaping, are imposed to protect and foster adjacent desirability while permitting industry to locate near a labor supply and near existing available transportation, including harbor access.

- B. Permitted Uses. The following uses are permitted by right.
1. Communication and telecommunications centers
 2. Flex industrial use
 3. Fire, police, rescue stations
 4. Food production, packaging, packing, and canning
 5. Manufacture, processing, fabrication, assembly and/or storage of products such as but not limited to scientific and precision instruments, renewable energy technology components, photographic equipment, communications equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceuticals, household items, glass products, electric lighting and wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.
 6. Marinas, docks, wharves, and marina related businesses & industry.
 7. Medical care facility, outpatient only
 8. Offices – administrative, business, professional, and telecommunication
 9. Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Accawmacke PUD Appendix A, applicable category.
 10. Park, plaza, or natural area
 11. Parking structure
 12. Post office, drop off and pick up, mail courier and parcel services
 13. Public utility service center, without outdoor storage
 14. Recording studio
 15. Research, experimental testing or development activities

16. Restaurant, indoor and outdoor (excluding drive-through), restaurant/brewery
17. Training center (excluding rehabilitation and institutional facilities)
18. Utility installations
19. Utility substations provided storage or maintenance facilities shall not be permitted and provided further that utilities substations, other than transformers, shall be landscaped sufficient to screen area
20. Warehousing facility (excluding mini-storage facility)
21. Water storage tank
22. Wholesale trade establishment

C. Accessory Uses.

1. Only those that are customarily accessory and clearly incidental and subordinate to the principal uses and structures.

D. Conditional Uses. The following conditional uses may be allowed, subject to the issuance of a Conditional Use Permit.

1. Structures, other than buildings, exceeding fifty feet (50').
2. Buildings over forty feet (40') but equal or less than 50 feet (50') or building of structures other than building may be constructed to a maximum height of seventy-five feet (75') if the building is set back at least one hundred twenty-five additional feet (125') from the required setback for all yards abutting residential properties.
3. Hotels
4. Boatels
5. Utility generating plant and transmission facilities using renewal energy sources
6. Indoor Recreational, Business
7. Any other use which is compatible in nature with the foregoing permitted and conditional uses and which the Zoning Administrator determines to be compatible with the intent of the District and is concurred with by the Planning Commission.

E. Lot, Yard, Height, Coverage & Density Requirements.

Minimum Lot Size (SF)	15,000 (DF)
Minimum Lot Width at Setback Line (ft)	100'
Front Setback (ft)	10'
Side Setback (ft)	None or 5' between buildings, 10' adjacent to street
Rear Setback (ft)	20'
Height (ft)	45' for buildings; 50' for structures other than buildings
Maximum Lot Coverage	50%

- F. For developmental standards see reference Section 4.13.
- G. Additional development requirements.
1. Buffer yards. Where the Harbor- Light Industrial District adjoins the R (residential) zoning districts within the Accawmacke PUD or CO Land Use Classifications or C districts within the Accawmacke PUD, buffer yards are required as follows:
 - i. Where the lot is adjacent to Accawmacke Plantation PUD any R-Zoning Districts, then a two hundred foot (200') natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within two hundred feet (200') of any zoning district or zoning classification within the Accawmacke PUD that permits residential as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the Accawmacke PUD where residential use is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in the Accawmacke PUD Appendix A, except that the width of the landscaped area shall be at least one hundred feet (100') wide and run continuously for the length of the buffer.
 - a. When a zoning lot within the Harbor-Light Industrial District adjoins an Accawmacke Plantation PUD CO Land Use Classification, the following shall be required along all lot lines adjoining the Accawmacke Plantation PUD CO Land Use Classification:
 - i. A one hundred foot (100') natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within one hundred feet (100') of any zoning district or zoning classification within the Accawmacke Plantation PUD that permits CO Land Use Classification as an allowed use and no such facilities shall be located in the side of any portion of

- a building or structure that is adjacent to the portions of the Accawmacke Plantation PUD where CO Land Use Classification is allowed.
- iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in the Accawmacke Plantation PUD Appendix A, except that the width of the landscaped area shall be at least fifty feet (50') wide and run continuously for the length of the buffer.
- b. When a zoning lot within the Harbor -Light Industrial District adjoins an Accawmacke Plantation PUD C district, the following shall be required along all lot lines within the Harbor – Light Industrial District adjoining the C district:
 - i. A fifty foot (50') natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within seventy-five feet (75') of any zoning district or zoning classification within the Accawmacke Plantation PUD that permits commercial as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the Accawmacke Plantation PUD where commercial use is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Accawmacke Plantation PUD Appendix A, except that the width of the landscaped area shall be at least fifty feet (50') wide and run continuously for the length of the buffer.
- 2. Placement of drives and parking areas when adjacent to a public right-of-way. Excluding entrances and exits, no drive or parking area shall be located closer than twenty feet (20') from any public right-of-way line for a contiguous public street. Landscaping, hedges, or fast-growing shrubs on a gradual berm shall be installed within a portion of this buffer area unless to do so will jeopardize existing natural vegetation within the buffer area. See Accawmacke Plantation PUD Appendix A, Category I for requirements.

3. All parking must comply with Off Street Parking and Loading Requirements.
4. No parking or drive aisles shall be located within the required buffer yards.
5. No outside storage of parts, materials, fossil fuels, raw materials, or petroleum shall be permitted.
6. All Exterior Lighting shall comply with the requirements contained in Section 4.4 “Outdoor Lighting”.
7. No outside loudspeakers, intercoms, paging systems, whistles, horns, bells, or signals audible outside any buildings shall be allowed on the property. Any and all Occupational Safety and Health Administration (OSHA) requirements shall be adhered to; any OSHA-accepted alternative warning devices are encouraged.
8. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
9. No delivery or transmission of materials or products shall be permitted to or from the property by truck between 11 p.m. and 5 a.m. Monday through Sunday.
10. Utilities are to be underground. See section 4.1 (I).
11. Reference Article V for signs.

Section 3.10 Industrial District (M-2)

- A. Statement of Intent. The district’s intent is to permit mixed industrial and employment land uses in the community. The specific objectives of the M-2 District are to:
 1. Encourage the revitalization of the industrial economy and historic port of Cape Charles and Northampton County
 2. Create family-wage employment and training opportunities for residents.
- B. Permitted Uses. The following uses are permitted by right.
 1. Electric vehicle charging facilities
 2. Offices
 3. Marinas, wharves, and docks (if contiguous to harbor)
 4. Manufacturing and material processing
 5. Machine shops, blacksmith shops, and welding shops
 6. Wholesale business and warehousing
 7. Port facilities/intermodal terminals marine, rail, trucking, and/or intermodal terminals, including transfer, storage, handling, inspection, processing, and/or transport of containerized, bulk, and/or other cargo
 8. Concrete plant; manufacturing, sales and distribution of concrete and related products
 9. Adult and/or Child daycare center
 10. Educational Institute
- C. Accessory Uses. Within the M-2 District, the following accessory uses shall be allowed:
 1. Only those that are customarily accessory and clearly incidental and subordinate to the principal uses and structures.

D. Conditional Uses. Within the M-2 District, the following conditional uses shall be allowed, subject to the issuance of a Conditional Use Permit:

1. Recycling drop-off collection centers
2. Manufacture, processing, fabrication, and/or assembly of products such as scientific and precision instruments, renewable energy technology components, photographic equipment, communication equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceutical, household items, glass products, electrical lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, optical goods, and electrical equipment.
3. Food production, packaging, packing, and canning.
4. Outdoor storage provided it shall be sufficiently screened and/or landscaped as a fully buffer, except for the areas of the entrance(s) and exit(s).
5. Public utilities substations provided storage or maintenance facilities shall not be permitted and provided further those utilities substations, other than transformers, shall be sufficiently screened and/or landscaped as a fully buffer, except for the areas of the entrance(s) and exit(s).
6. Utility generating plant and transmission facility using renewable energy sources.
7. Public utility service center
8. Water storage tank
9. Utility installations
10. Structures, other than buildings, exceeding fifty feet (50')

E. Lot, Yard, Height, Coverage & Density Requirements.

Minimum Lot Size (SF)	15,000 (SF)
Minimum Lot Width at Setback Line (ft)	100'
Front Setback (ft)	10' minimum
Side Setback (minimum)	None or 5' between buildings, 10' adjacent to street
Rear Setback (ft)	20'
Corner Lot Setback (minimum)	
Maximum Height	45' for buildings, 50' for structures other than buildings
Maximum Lot Coverage	60%

F. Additional Development Requirements.

1. Buffer yards. When a zoning lot within the M-2 District adjoins R-1, R-2, or R- 3 Districts, the following shall be required along all lot lines within the M-2 District adjoining the R-1, R-2, or R-3 Districts, a fifty foot (50') separation of road right-of-way, golf course, lake, drainage easement, natural area, or landscaped buffer yard shall be required.

2. Placement of drives and parking areas when adjacent to public right-of-way. Excluding entrances and exits, no drive or parking area shall be located closer than twenty feet from any public right-of-way line for a contiguous public street. Landscaping, hedges, or fast-growing shrubs on four-foot centers on a gradual berm shall be installed within a portion of this buffer area unless to do so will jeopardize existing natural vegetation within the buffer area.
3. No parking or drive aisles shall be located within the required buffer yards.
4. No outside storage of parts, materials, fossil fuels, raw materials, or petroleum shall be permitted within the M-2 District.
5. Any exterior lighting on the property shall be directed down and away from any area zoned R (Residential) or PUD where residential development is a permitted use, to prevent the disbursement or bleeding of light beyond the limits of the developed portions of the property.
6. No outside loudspeakers, intercoms, sirens, paging systems, whistles, horns, bells, or signals audible outside any buildings shall be allowed on the property. Any and all Occupational Safety and Health Administration (OSHA) requirements shall be adhered to; any OSHA- accepted alternative warning devices are encouraged.
7. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
8. No delivery or transmission of materials or products shall be permitted to or from the property by truck before 8 a.m. and after 9 p.m. Monday through Saturday and no such deliveries to or from the property by truck, excluding half-ton trucks, shall occur on Sunday.

Section 3.11: Planned Unit Developments (PUD)

- A. Statement of Intent. The intent of this district is to promote creative and imaginative development designs for residential and commercial uses by allowing greater flexibility than is possible under the restrictions of conventional zoning regulations. It is further intended to promote more efficient use of land while encouraging variety and convenience for the overall development and the development of recreational areas and open spaces within the project. As in all zoning districts, the intent of the district is to ensure approved development will comply with the Zoning Ordinance, Town Code, and any adopted master plans. Whenever the provisions of this section impose standards that are more restrictive than are required in or under any other statute, ordinance or resolution, these standards shall prevail, unless otherwise specified in this Zoning Ordinance.
- B. Permitted Uses. The following uses may be permitted within PUD districts:
 1. Any use permitted in the R-1, R-2, R-3, CR, C-1, C-2, C-3, and Harbor – Commercial.
 2. Commercial recreation uses
 3. Outdoor recreational uses
 4. Transportation facilities

5. PUD districts shall provide a mix of a minimum of two of the following use categories:
 - a. Residential units;
 - b. Commercial offices;
 - c. Retail;
 - d. Hotel; or
 - e. Civic uses.
- C. Accessory uses
 1. Accessory uses as permitted in the R-1, R-2, and R-3 districts
- D. Conditional uses
 1. Any use listed as a conditional use in the R-1, R-2, R-3, CR, C-1, C-2, C-3, and Harbor – Commercial may be a conditional use in PUD districts and shall follow the procedures of this ordinance on issuance of Conditional Use Permits.
- E. Lot, Yard, Height, and Density Requirements. Within any PUD district, the following standards shall apply:
 1. Area Regulations. The minimum contiguous area for PUD districts shall be five acres (5 ac).
 2. Setbacks. Side and rear yard setbacks shall be per the underlying zoning district requirement. Front yard setbacks other than the R-1 underlying zone district shall be located directly adjacent to the supplemental zone, as described in subsection 3.12 (G) (b) (iii). The applicant may propose modifications to the setback regulations in accordance with the procedures of Section 3.12 (I) below.
 3. Coverage. The maximum impervious surface coverage in PUD districts shall not exceed eighty percent (80%) of the total gross area of development. Impervious surface includes building footprints, impervious private roads, and impervious parking lots. Not included as impervious surface any recreational facility such as tennis courts, bathhouses, swimming pools, required landscape, sidewalk clear, and supplemental zones, and public roads pervious roads, and pervious parking lots. No more than thirty-three percent (33%) of wetlands present in PUD districts may be used when calculating total gross area of development.
 4. Height. The maximum height of any building in PUD districts shall be per the underlying zoning district requirement.
 5. Density of Development. The sub-areas of PUD districts may contain the density requirements of one or more of the R-1, R-2, and R-3 for residential districts, and CR, C-1, C-2, C-3, and HARB-C for the commercial districts to accommodate flexibility and imaginative development designs. Density shall be consistent with conditions that are applicable to the property, such as topography, the character of the surrounding property, potential health or safety hazards, traffic safety considerations, and the effects upon existing public facilities that could be alleviated by a reduction in density.

F. Additional Development Requirements

1. Common Areas. All common areas including open spaces, parking areas, street, and landscape areas shall be maintained by the owner/developer of the project until transfer to a corporation of property owners, organizing and operating in accordance with the incorporation law of Virginia. All common areas shall provide a permanent easement arrangement to ensure public access to said areas.
2. Utilities. All utilities shall be installed underground. Central instrumentation and substations shall be screened from all rights-of-way with approved fencing and/or landscaping.

G. Design Guidelines.

1. External Relationships: PUD districts shall provide protection for areas within PUD districts and for existing surrounding areas from potentially adverse surrounding influences. In particular, the Overall Development Plan for PUD districts shall demonstrate the following features:
 - a. Access. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Left-hand storage and right-hand turn lanes and/or traffic dividers shall be required where existing or anticipated heavy flows indicate need. In general, streets shall not be connected with streets outside the district in such a way as to encourage the use of such minor streets by substantial amounts of through traffic. Existing public streets on adjacent properties shall be utilized as access into PUD districts.
 - b. Screening. Screening at the edges of PUD districts shall be provided when necessary to protect residents from undesirable view, lighting, noise, or other off-site influences, or to protect adjoining residential districts from similar adverse influences within PUD districts. In particular, off-street areas for parking, service areas for loading and unloading non-passenger vehicles, and areas of storage and collection of refuse and garbage shall be screened with approved fencing and/or landscaping.
2. Internal Relationships. PUD districts shall provide safe, efficient, convenient, and harmonious grouping of structures, uses, and facilities. Elements of the proposed development shall be organized in relation to topography, the size and shape of the plot, the character of adjoining property, existing desirable trees, and views within and beyond the site. In particular, the Overall Development Plan for PUD districts shall demonstrate the following features:
 - a. Multi-modal circulation and street cross-sections. Private streets may be permitted by Conditional Use Permit in the PUD district. However, unless specifically approved by the Town Council as a Conditional Use Permit, the arrangement, character, extent, width, grade, and location of all streets shall be designed and constructed in accordance with specifications acceptable to the Virginia Department of Transportation for inclusion in the state highway

system for maintenance. When private streets are proposed as a Conditional Use Permit, the standards, specifications and a proposed maintenance agreement shall be submitted with the Conditional Use Permit application and shall also be included on the concept plan for the proposed PUD rezoning request. There shall be no gated communities or gated roads allowed in PUD districts. Streets shall travel east-west and north-south to the greatest extent possible, and there shall be no cul-de-sacs or dead ends.

- b. Streetscape design. Properties with required landscape, sidewalk clear, or supplemental zones that are located on private property shall provide a permanent easement arrangement to ensure public access to said zones. The following standards apply to all streets within PUD districts:
 - i. Landscape zone. All required street trees, streetlights, and pedestrian lights shall be provided in the landscape zone, which shall be five foot minimum. Said zone shall be located immediately adjacent to the curb and shall be continuous. All street tree and other plantings in the landscape zone shall follow the VDOT standards for street trees and plantings. Trees shall be located forty foot (40') on center with pedestrian lights located between every other street (eighty foot (80') on center). Streetlights shall be located as required by the Zoning Administrator. Landscaping shall be kept to no more than thirty-six inches (36") tall for ground cover and limbed up to no lower than six-foot (6') above ground to provide clear, uninterrupted sight lines.
 - ii. Sidewalk clear zone. The sidewalk clear zone shall be located immediately contiguous to the landscape zone and shall be continuous. Sidewalks meeting VDOT standards shall be installed in the sidewalk clear zone, which shall be a minimum of five feet (5'). Sidewalk clear zones located adjacent to Marina Road and Bayshore Road shall be a minimum of ten feet (10'). Sidewalks shall be unobstructed for a minimum height of eight feet (8'). Where newly constructed sidewalks abutting narrower existing adjacent sidewalks, the newly constructed sidewalk shall provide an adequate transitional clear zone width for the purposes of providing a safe facilitation of pedestrian flow between the adjacent sidewalks, as approved by the Zoning Administrator. All existing sidewalks shall be replaced in accordance with these provisions within a PUD district. Sidewalks shall be broom- finished concrete with four feet (4') trowel edge along edge joints.
 - iii. Supplemental zone. All lots within an underlying zoning district sub-area of R-1 shall be exempt from the supplemental zone requirements. Non-residential, multifamily, and mixed-use developments shall be hardscaped. However, a maximum of twenty percent (20%)

may be occupied by landscaping, planters, or other areas not accessible by pedestrians. The zone shall be used for the following pedestrian amenities: benches, trash receptacles, pet stations, bicycle parking racks, outdoor dining, display of public art, other street furniture, or similar elements. The supplemental zone shall be located on private property.

3. Facades shall be located immediately adjacent to the supplemental zone(s).
 4. At a minimum, at least one (1) bench, one (1) trash receptacle shall be provided on each street frontage, unless a bench or receptacle is already provided within five hundred feet (500') on the same street frontage.
 5. At least one (1) additional pedestrian amenity shall be provided on each street's frontage.
 6. Adjacent ground floor uses must be visible, accessible, and oriented toward the supplemental zone.
 7. The supplemental zone shall be no more than twenty-four inches (24") higher than the adjacent sidewalk, unless existing topographical conditions render this requirement unreasonable, per approval by the Zoning Administrator.
 8. Any authorized walls surrounding landscaped and grassed areas shall not exceed twenty-four inches (24"), except retaining walls which shall not exceed a maximum of thirty-six inches (36"), unless existing topographical conditions render this requirement unreasonable, as approved by the Zoning Administrator.
 9. Pedestrian amenities shall be connected to the public sidewalk with a public access easement.
 10. Storage, utility rooms, private restrooms, or other accessory service uses shall not be located adjacent to the supplemental zone.
- H. Modifications to Standards. PUD districts may provide flexibility through modifications to the standards of Section 3.12. All such modifications shall be expressly shown in the Overall Development Plan and approved by the Town Council after lawfully advertised public hearings with the Planning Commission and Town Council and shall be in keeping with the purpose of PUD districts, the intent of the Zoning Ordinance, the Comprehensive Plan, and any adopted master plans.
- I. Procedures for Applications. The creation of PUD districts has the same effect as rezoning of property. The Planning Commission and Town Council shall consider applications for PUD districts in accordance with the Town's and the Code of Virginia's rezoning procedures, which includes advertised public hearings. In approving the application based on the Overall Development Plan, the Council may establish such conditions and require such modifications as deemed necessary to ensure fulfillment of the intent of PUD districts, the purposes of the Zoning Ordinance, the goals of the adopted Comprehensive Plan, and compliance with applicable subdivision and site plan ordinances and the Code of Virginia. For PUD districts proposed for property located in a Chesapeake Bay Preservation

Area, the development plan shall have been approved pursuant to the procedures of the Town of Cape Charles Chesapeake Bay Preservation Ordinance prior to submission for approval to the Planning Commission and Town Council.

1. Overall Development Plan (ODP). Development of PUD districts is governed by an Overall Development Plan that designates the standards of zoning and development for PUD districts. The ODP shall be submitted as part of a PUD application, shall be prepared by a licensed professional team, and a list of members of the team with their qualifications shall be submitted with the ODP.
2. At a minimum, the ODP must include:
 - a. Analysis of existing site conditions. An analysis of existing site conditions including a boundary survey and topographic map of the site at a minimum one inch equals forty feet (1"=40') scale and shall include the total area of the tract presented in square feet or acreage, and information on all existing manmade and natural features, utilities, all streams and easements, and features to be retained, moved, or altered. The existing shape and dimensions of the existing lot to be built upon including the size, measurement, and location of any existing buildings or structures on the lot shall be included.
 - b. Master plan. A master plan at a minimum of one inch equals forty feet (1"=40') scale outlining all proposed regulations and calculations which shall include, but not be limited to, the following:
 - i. Information on proposed improvements, including proposed building footprints, door locations, densities, parking ratios, open space, height, sidewalks, yards, under and overhead utilities, internal circulation and parking, grading, lighting, the general location of all proposed community and public facilities and the generalized proposed plan for water, sanitary waste facilities and drainage improvements, drainage, amenities, and similar details including their respective measurements;
 - ii. The type and location of all intended uses, together with their sub-area zoning district designations, and including all proposed modifications to the permitted uses, area regulations, density of development, coverage, common area, utilities, height, yard requirement, and design guidelines listed in this section of the ordinance, together with the rationale for such modifications;
 - iii. Expected gross land area for all intended uses, including open space;
 - iv. A statement of the anticipated residential density, residential unit sizes for all buildings, and the total number of dwelling units;
 - v. The total floor area of all commercial uses;
 - vi. The names and route numbers of all boundary roads or streets and the width of existing rights-of-way;
 - vii. The owners, zoning districts, and uses of each adjoining

tract;

- c. Landscape plan. A site plan at a minimum of one inch equals forty feet (1"=40') scale showing proposed regulations and calculations which shall include, but not be limited to, information on landscaping, tree species, and the number of all plantings and open space including the landscaping that is being preserved, removed, and that which is replacing the landscaping that is removed;
 - d. Architectural design. Preliminary architectural plans and all elevations with sufficient detail to demonstrate proposed design criteria that shall include, but not be limited to, scaled floor plans and elevation drawings of proposed buildings and structures and information on building materials, features, exterior finish legend, windows, doors, colors, and items affecting exterior appearance, including their respective measurements;
 - e. Phasing plan. Should a PUD be expected to require five (5) years or longer to complete, a phasing plan shall be proved by the applicant that indicates the timeframe for construction and development of different aspects of the PUD;
 - f. Parking analysis. A parking analysis must be prepared by a qualified third-party professional engineer;
 - g. Environment impact plan. A comprehensive plan that describes the natural features and characteristics of a proposed development site, the changes that will occur as a result of the proposed development activities on the site, the anticipated environmental impacts and consequences of the proposed development, and the mitigation measures to be taken to minimize undesirable impacts to the environment.
 - h. An attorney's certificate showing the owner or owners of the subject property, marketable title to the subject property in such owner or owners, naming the source of applicant's title or interest in the subject property, and the place of record of the latest instrument in the chain of title for each parcel constituting the tract; and
 - i. Any other information deemed necessary by the Zoning Administrator.
3. Proffers. If the applicant proffers reasonable conditions in connection with the application, a set of signed proffers must be submitted prior to the public hearing with the Town Council in accordance with Section 2.7 (5) of this ordinance.

J. Effect of approval of PUD districts.

- 1. All terms, conditions, safeguards and stipulations included in the Town Council's approval of PUD districts, including without limitation those contained in the Overall Development Plan to the extent approved and adopted by the Town Council, shall be part of the zoning applicable to the property, shall be included in the ordinance approving the rezoning to PUD district, and shall be binding upon the applicant and all successors in

interest. Unapproved modifications from the Overall Development Plan or failure to comply with any requirements, conditions, or safeguards shall constitute a violation of the Zoning Ordinance.

2. After approval of PUD districts, the owner may submit subdivision plats and site plans for approval consistent with the Overall Development Plan. No building permits will be issued until site plan approval and final subdivision plats have been approved and recorded in the County land records according to applicable law.

Section 3.12: Open Space District

- A. Statement of Intent. The intent of the Open Space District (OSD) zoning district is to provide opportunities for recreational activities, a network of recreational path to preserve natural resources and create buffer zones within the town.
- B. Permitted Uses
 1. Non- commercial recreational uses which are primarily open air.
 2. Swimming Pools.
 3. Court sports such as but not limited to tennis, volleyball, croquet and basketball.
 4. Structures such as picnic shelters, piers and docks, equipment storage buildings associated with permitted recreational uses.
 5. Parking areas associated with permitted recreational uses.
 6. Retention areas and streets
 7. Public Utility Facilities
 8. Public Amenities such as restrooms, bath houses, fountains, etc.
- C. Accessory Uses. Within the Open Space District, the following accessory uses shall be allowed.
 1. Uses customarily accessory and clearly incidental and subordinate to the permitted uses.
- D. Conditional Uses. Within the Open Space District, the following conditional uses may be allowed, subject to the issuance of a Conditional Use Permit.
 1. None
- E. Lot, Yard, Height, and Density Requirements. Within the Open Space District, the following standards shall apply.
 1. Minimum setbacks
 - a. Buildings
 - i. All sidestwenty feet (20')
 - b. Courts
 - i. From Buildingstwenty feet (20')
 - ii. Property Linestwenty feet (20')
 - iii. Streets.....None
 2. In built up neighborhoods, the prevailing setbacks of the neighborhood as defined in Section 3.1 of the Zoning Ordinance.
- F. Additional Development Requirements. To help preserve the architectural

cohesiveness of the Town, all buildings, structures, public amenities and storage units in the OSD shall be compatible, sympathetic and complimentary with buildings in the neighborhood as defined in Section 3.1 of the Zoning Ordinance.

Section 3.13: Bay Crossing Planning Unit Development (Bay Crossing PUD)

- A. Statement of Intent. The intent of this PUD district is to provide for low-to moderate density residential development designed to serve the workforce and other housing needs of the Town of Cape Charles and Northampton County. The targeted workforce housing segment income range is up to one hundred and fifty percent (150%) of the Area Median Income (AMI). Additionally, this district provides for residential and limited complimentary commercial development with substantial Town control by both the Town Council and Planning Commission through the existing Conditional Use Permit process to ensure any proposed use and application is appropriate for the development and harmonious with the associated multi-family residential development.
- B. Permitted Uses. The following uses shall be permitted by right, subject to the yard, height, coverage and density requirements contained herein: all uses permitted by- right and as accessory uses in the R-3 District except Short-Term Rentals and Electric Vehicle Charging Station(s). Notwithstanding the foregoing, the following items from the Zoning Ordinance shall not be applicable (i) Item #35 from the C-1 District (any use allowed in the S-C District) and (ii) Item C from the C-1 District.
- C. Conditional Uses. Subject to the Conditional Use Permit application process, the following conditional uses may be allowed: all uses in the C-1, C-2 and C-3 Districts, conditional uses within the R-3 District, short term rentals including subletting of units (said unit's square footage will be less than one thousand square feet (1,000 SF) and the short term rental is defined as thirty (30) days or less for rent), and 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.
- D. Lot, Yard, Height, Coverage and Density Requirements for Residential Development Within the Bay Crossing PUD District. The following standards shall apply: Minimum of five acres (5 ac) for the PUD District.
 - 1. In addition to the following, townhouse projects must have minimum of one acre:
 - a. Minimum lot requirements
 - i. lot area dwelling units (square feet): N/A
 - ii. lot width (feet): fifteen (15)
 - b. Minimum yard requirements
 - i. front yard (feet): ten (10)
 - ii. side yard between principal structures (feet): twenty (20)
 - iii. side yard between end structures and side property line(feet): ten (10)
 - iv. side yard between units: N/A

- v. rear yard (feet): ten (10)
 - vi. rear yard (parking in rear yard): ten (10)
 - c. Maximum building height (feet): forty (40)
 - d. Building coverage: No more than sixty percent (60%) of the lot may be covered by the structures.
 - e. Maximum development: No more than twenty-five (25) town-house dwelling units shall be constructed or attached together in a continuous row, and no such row shall exceed two hundred and forty feet (240') in length.
 - f. Off-street parking: Parking shall be provided on the premises. No such parking lot or garage shall be located more than two hundred feet (200') from the dwelling unit which it serves (excluding non-residential parking such as guest, golf cart or flex parking). Two (2) spaces per dwelling unit shall be required.
 - g. The definition of a townhouse is a multi-floor home that shares one or more walls with adjacent properties.
- 2. In addition to the following, multi-family projects must have minimum of one acre (1 ac):
 - a. Minimum lot requirements lot area per building (FAR): 0.35
 - b. Minimum yard requirements
 - i. front yard (no parking in front yard) (feet): thirty (30)
 - ii. front yard (parking in front yard) (feet): thirty (30)
 - iii. side yard between separate structures (feet): twenty (20)
 - iv. side yard between end structure and side property line (feet): twenty (20)
 - v. rear yard (no parking in rear yard) (ft): twenty (20)
 - vi. rear yard (parking in rear yard) (ft): thirty-five (35)
 - c. Furthermore, no multi-family unit may be erected on a lot which has a width at the building line of less than sixty feet (60').
 - d. Maximum building height (feet): forty (40)
 - e. Building coverage: No more than sixty percent (60%) of the lot may be covered by the structure.
 - f. Parking: Multi-family projects must have one space per one bedroom dwelling unit or studio, otherwise two spaces per dwelling unit.
 - g. Required open space. Open space shall be provided equivalent to ten percent (10%) of lot area. For the purpose of this section, the term open space shall be construed to consist of open space amenities and spacing between buildings. Open space amenities include plazas, esplanades, landscaped areas, walkways, public recreational facilities, and the like designed and maintained for use by residents, pedestrians and open to the public. Where feasible, open space shall be designed to serve as part of a coordinated pedestrian circulation system.
 - h. Development in this district may contain the density requirements of one or more of the R-1, R-2, and R-3 for residential districts, and CR, C-1, C-2 and C-3, for the commercial districts to accommodate

flexibility and imaginative development designs. Density shall be consistent with conditions that are applicable to the property, such as topography, the character of the surrounding property, potential health or safety hazards, traffic safety considerations, and the effects upon existing public facilities that could be alleviated by a reduction in density.

- i. Additional Development Terms. Placement of drives and parking areas. Entrances and exits, drives or parking areas may be located adjacent to any lot line.

E. Lot, Yard, Height Requirements for Commercial Development Within the Bay Crossing PUD District.

1. In addition to the following, commercial projects must have minimum of $\frac{1}{4}$ acre:
 - a. Lot width at setback line (feet): forty (40)
 - b. Side yard (feet): five (5)
 - c. Rear yard (feet): ten (10)
 - d. Front setback (feet): twenty-five feet (25') from center of right-of-way (defined as centerline of main street roadway) or fifteen percent (15%) $\pm$ of the lot depth, whichever is less.
 - e. Height Regulations. Buildings may be erected up to a height of thirty-five feet (35') from the adjacent ground elevation.
 - f. Notwithstanding the foregoing, any electric vehicle charging stations shall be implemented with no setback or minimum land area restrictions provided they meet the adequate landscaping and screening requirements.
 - g. Buffer yards. The following Buffer Yards shall apply, in lieu of any other setbacks, as follows. If the Bay Crossing PUD adjoins:
 - i. Open Space/Conservation Easement zoning from the Accawmacke Plantation PUD, there shall be no buffer yard requirement.
 - ii. Old Cape Charles Road, there shall be a one hundred feet (100') buffer yard requirement.
 - iii. Cassatt Parkway, there shall be a thirty-foot (30') setback.
 - iv. R3 Zoned property, there shall be a twenty-foot (20') setback.

F. Other applicable provisions and limitations as follows:

1. Primary Access: All development on the parcel shall maintain primary access (and signage, if applicable) to Cassatt Parkway via the Main Street access road.
2. All other provisions of the Cape Charles Zoning Ordinance shall apply to this Bay Crossing PUD District unless stated herein. In the event there is a conflict between this Bay Crossing PUD District and the applicable Zoning Ordinance, the Bay Crossing PUD District terms shall apply, to the extent they are not inconsistent with the provisions of this chapter.

Agenda Item 8 (a) –
Standing Staff Report



Municipal Corporation of Cape Charles

**MARCH 2025
MONTHLY REPORT**

Katie H. Nunez, Planning/Zoning Administrator

This monthly report encompasses the month of February 2025.

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.]

The Cape Charles Board of Zoning Appeals will hold a public hearing on Tuesday, April 8th, 2025, at 10:00a.m., in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive public comment on the following:

- A. Application from Greg and Emily Gentry appealing a decision from the Zoning Administrator dated February 4th, 2025, which provided a Zoning Determination concerning 542 Jefferson Avenue that stated:
 - i) The Accessory Building is a legal, non-conforming use as an Accessory Dwelling Unit (ADU) and Short – Term Rentals are not permissible in the ADU and;
 - ii) This lot does not have 2 principal houses but a main house and an accessory dwelling unit.

The applicant is seeking to have 2 primary residences on this property.

Said appeal application is authorized pursuant to Cape Charles Zoning Ordinance Section 2.6.2 (C) and 2.6.4. This property is located in the Residential – 1 (R-1) Zoning District.

- B. Application from Bay Creek Resort, LLC., for a variance from the Accawmacke Plantation Planned Unit Development (PUD) Section 9.9 for a fence over the allowable 6' height requirement at 111 Palmer Way.
- C. Application(s) from Chris Larmore, Developer of Dreams by the Water Subdivision on Washington Avenue for a variance from the Cape Charles Zoning Ordinance (CCZO) Section 3.1 (E) for a 10' reduction in the front and rear setbacks, for the following lots:
 - a) Lot 1 (TM #83A1-21-1) –Variance of 10 ft. to front setback and 10 ft. to rear setback.
 - b) Lot 2 (TM #83A1-21-2) – Variance of 10 ft. to front setback and 10 ft. to rear setback.
 - c) Lot 3 (TM #83A1-21-3) – Variance of 10 ft. to front setback and 10 ft. to rear setback.

- d) Lot 4 (TM #83A1-21-4) – Variance of 10 ft. to front setback and 10 ft. to rear setback.
- e) Lot 5 (TM #83A1-21-5) – Variance of 10 ft. to front setback and 10 ft. to rear setback.
- f) Lot 6 (TM #83A1-21-6) – Variance of 10 ft. to front setback and 10 ft. to rear setback.
- g) Lot 7 (TM #83A1-21-7) – Variance of 10 ft. to front setback and 10 ft. to rear setback.
- h) Lot 8 (TM #83A1-21-8) – Variance of 10 ft. to front setback and 10 ft. to rear setback.
- i) Lot 9 (TM #83A1-21-9) – Variance of 10 ft. to front setback and 10 ft. to rear setback.
- j) Lot 10 (TM #83A1-21-10) – Variance of 10 ft. to front setback and 10 ft. to rear setback.

C. HARBOR DEVELOPMENT CERTIFICATES: No applications were filed.

D. WETLANDS and COASTAL SAND DUNE BOARD: No applications were filed.