


Historic District Review Board

Cape Charles Civic Center – 500 Tazewell Avenue
Work Session Agenda
April 10, 2018 6:00 P.M.

1. Call to Order; Roll Call
2. Invocation and Pledge of Allegiance
3. Consent Agenda
 - A. Approval of Agenda Format.
4. New Business
 - A. None.
5. Unfinished Business
 - A. Review of town planning and zoning documents.
6. Adjourn

Historic District Review Board Staff Report

From: Larry DiRe 
Date: April 10, 2018
Item: 5A – Review of town planning and zoning documents
Attachments: Town zoning ordinance Article III, Section 3.6; Article IV, Section 4.2.G (fences)

Discussion

The Historic District Review Board is doing an on-going review of town planning and zoning documents. The purpose is to read for continuity and consistency across the many town regulations. The attached documents are for the downtown commercial district (Commercial – 1), and the regulation of fences across all zoning districts.

Recommendation

Following discussion determine if updates are needed and provide direction to staff.

- D. Height Regulations: Buildings may be erected up to 40 feet in height from the adjacent ground elevations.
- E. Area Regulations
 - 1. The minimum lot size shall be 5,600 square feet. Dwelling units existing on lots at the time of adoption of this ordinance which are generally on lots 40 feet by 140 feet are considered to be conforming lots. However, new construction taking place within this district shall meet all standards and requirements of this district.
 - 2. The minimum dwelling unit size shall be 960 square feet excluding garages, porches, patios, etc.
 - 3. The minimum lot width at the setback line shall be 40 feet.
- F. Setback Regulations: The following area regulations shall apply as minimums for new development in this district:
 - 1. Front setback shall be 30 feet or shall conform to the prevailing setback of the existing built up area.
 - 2. Side yard 5
 - 3. Rear yard 25
- G. Development Standards: To help preserve the architectural cohesiveness of the Town, new construction and additions in the CR district shall be compatible, sympathetic, and complementary to existing buildings and follow the same guidelines as the residential district.



Section 3.6 Commercial District C-1

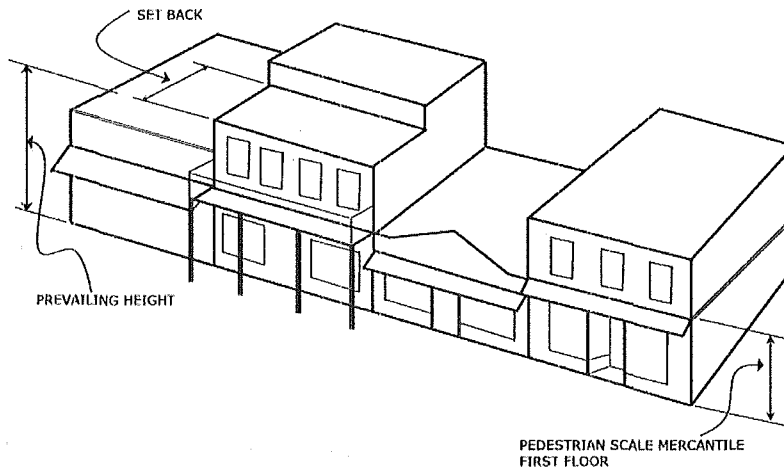
- A. Statement of Intent. The intent of this zoning district is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.
- B. Permitted Uses. The following uses are permitted by right:
 - 1. Art or antique shops
 - 2. Auditoriums, theaters, and assembly halls
 - 3. Automobile repair and small engine repair
 - 4. Automobile service stations
 - 5. Bakeries, confectionaries, delicatessens, and catering services
 - 6. Barber shops and beauty parlors
 - 7. Bicycle and moped sales and rentals
 - 8. Blueprinting shops
 - 9. Boat sales

10. Business and vocational schools
 11. Business studios, offices, and clinics
 12. Child care and child care education centers
 13. Commercial schools of instruction
 14. Drug stores
 15. Dressmaking, tailoring, and millinery shops, dry cleaning shops
 16. Eating and drinking establishments
 17. Financial institutions
 18. Florists, gift shops, card shops, and stationery shops
 19. Funeral homes
 20. Furniture repair, sales and household appliance sales and repair, carpet and flooring sales
 21. Greenhouses and plant nurseries
 22. Grocery stores
 23. Hotels and motels
 24. Liquor stores
 25. Libraries, museums, or galleries
 26. Music stores
 27. Medical or dental or other laboratories
 28. Offices, office supply stores
 29. Public facilities, public buildings
 30. Restaurants
 31. Pet shops and pet supply stores
 32. Radio and television sales
 33. Upholstering shops and fabric stores
 34. Watch and jewelry stores
 35. Any use allowable in the S-C District.
 36. 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.
- C. Conditional Uses: Single family and multi-family dwellings provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (not access through commercial establishment on the first level).
- D. Height Regulations: Buildings may be erected up to 40 feet in height from the adjacent ground elevations.
- E. Area Regulations: The following area regulations shall apply as minimums for new development in this district:
1. Lot width at setback line 40
 2. Area requirements (40 x 140) 5,600
 3. Side yard 0; 5 and 10 feet in Route 184 area
 4. Rear yard 10 or prevailing rear yard if less
 5. Front setback shall be determined by the average setback of the existing built up commercial area. Front setback along Route 184 (aka Randolph

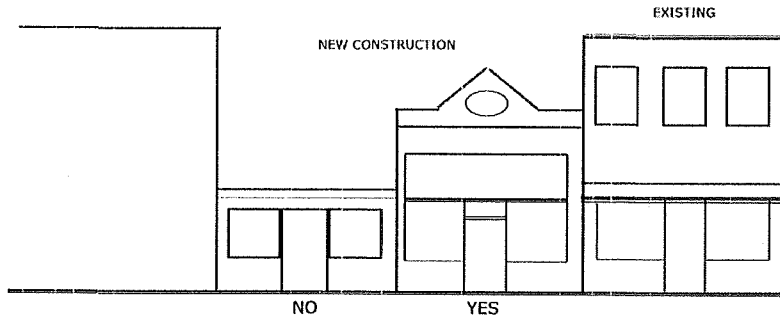
Avenue extended; Old Stone Road) where existing VDOT right of way is 70 feet shall be measured at 80 feet from the center of the right of way.

F. Development/Redevelopment Standards:

1. Statement of Intent. The development standards below are intended to help preserve the architectural character of the Town of Cape Charles' commercial districts by requiring that all façade reconstruction/rehabilitation must conform to the building style as described in the U.S. Department of Interior National Register without the addition to or removal of contributing elements. New construction, additions, and alterations must be compatible, sympathetic, and complementary to the original or existing buildings in built-up areas. Development concepts are illustrated below to clarify the intent of the development standards.
 - a. Scale. When the scale of neighborhood buildings is relatively consistent, new construction should be discouraged from drastically altering these relationships. In the Town of Cape Charles the two- and three-story structure is the norm, and structures which digress from this standard to any great degree seriously impact the character of the Town of Cape Charles. If construction is to be allowed, particular attention should be given to the location, siting, setbacks, and façade treatments of the proposed building. No matter what size of the new building, the base of the building should be scaled to pedestrians.



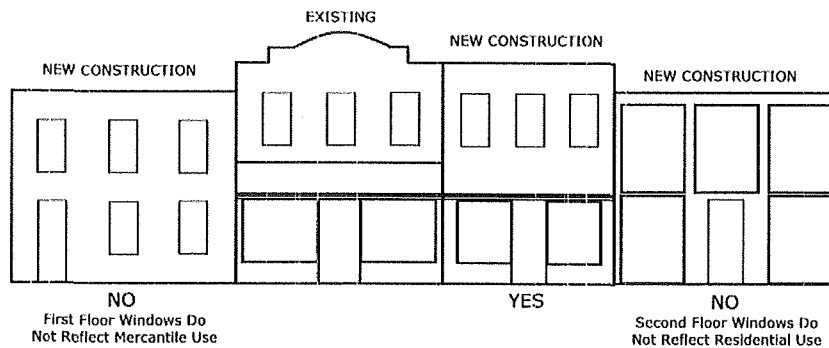
- b. Floor-to-Floor Heights. This important element of scale is often ignored in new construction, which tends toward lower ceiling heights. Floor-to-floor heights of new construction should be within 10 percent of neighborhood construction, where a relatively consistent floor-to-floor height is expressed in the facades of a given street.



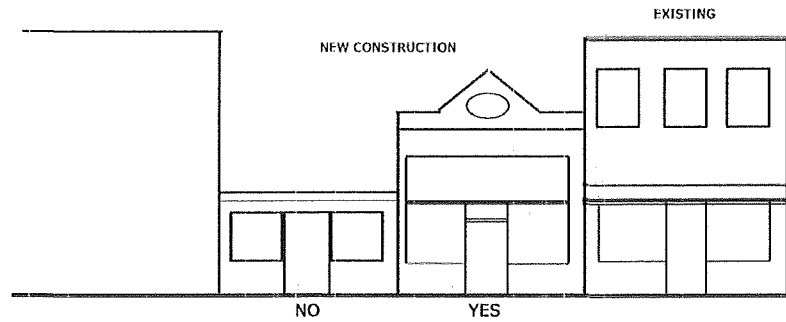
Single Story Buildings Should Reflect Scale of Neighborhood

- c. **Windows and Cornice Lines.** All first-floor facades shall have large glass areas which denote mercantile use. First-floor walls should be more than 50 percent glass. The first-floor shall be distinguished from the upper floors by a cornice line if appropriate or other delineations such as transom windows, fabric awnings, or porches.

Windows above the first floor are to be more residential in scale and should be double hung, single or multiple, and vertical in proportion. Walls above the first floor should be more than 50 percent solid.



New construction of one-story buildings, such as some convenience stores and fast-food restaurants in commercial districts, intrude upon the character of the Town of Cape Charles and will only be permitted in infill situations and must meet all other development standards. There are many examples of convenience stores and fast-food chain restaurants being successfully integrated into a historic context.



Single Story Buildings Should Reflect Scale of Neighborhood

- d. **Massing.** The facades of new construction should reflect the sense of lightness or weight of neighboring buildings by using similar proportions of solids (siding or walls) to void (window and door openings) and projecting bays and overhangs.
- e. **Materials.** New construction should use materials in a manner sympathetic to the historic buildings in the Town of Cape Charles. Materials should be of similar or complementary color, size, texture, scale, craftsmanship, and applicability to function performed.

It should be noted that the sympathetic use of materials does not imply that materials used in new construction will replicate the old in detail nor that new construction will attempt to imitate historic structures. Rather, it is a matter of determining the compatibility of the new with the old. Certain materials are potentially so visually intrusive that their use for new construction in the Town will not be permitted. These materials include:

- aluminum or vinyl siding
- asphalt siding
- carpeted porch floors and steps
- corrugated metal, except for roof applications
- exposed concrete block above foundation level
- exposed concrete masonry
- faux brick and stone (brick face)
- flush exterior doors
- inappropriate window treatments
- jalousie windows
- picture windows
- windows with horizontal glazing
- metal or wood awnings
- open mesh-type fencing
- ornamental pierced concrete masonry screens and walls
- painted concrete masonry
- unpainted wood

vertical plywood siding
vertical wood siding on primary structures
wrought iron and aluminum porch columns

- f. Siting. The siting of new construction in the commercial district shall conform to the building line of adjacent buildings. New commercial buildings should occupy the full width of their lot at the street line except in the Route 184 corridor. Freestanding "object" buildings that do not conform to the street and lot lines will not be permitted in the Mason Avenue from Harbor to Peach historic context. Where a commercial building is built adjacent to a vacant lot, it should be built with a party wall in anticipation of subsequent new construction being built adjacent and up to the property line. Probably the single most damaging siting of a commercial building is toward the rear of the lot with parking between the building and the street.
 - g. Utilities. Upon installation or replacement of utility access lines, such lines shall be installed underground.
2. Demolition. The owner of a building or structure within the Town shall be entitled to raze or demolish such building or structure provided that he has applied to the Building Official for such right. An owner is entitled to raze or demolish his property pursuant to the procedure outlined in Article IV of the Town Zoning Ordinance.
 3. Demolition-By-Neglect. No officially designated contributing building, structure, or site within the Town shall be allowed to deteriorate due to neglect by the owner which would result in violation of the intent of this ordinance. Demolition-by-neglect shall include any one or more of the following courses of action or inaction:
 - a. Deterioration of the exterior of a building to the extent that it creates or permits a hazardous or unsafe condition.
 - b. Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, windows, brick, plaster or mortar to the extent that it adversely affects the character of the district or could lead to irreversible damage to the structure.
 - c. Defective or deteriorated flooring or floor supports or flooring or floor supports of insufficient size to carry imposed loads with safety.
 - d. Any fault in the building or structure which renders the same structurally unsafe or not properly watertight.

If the Building Official determines that a structure is being demolished by neglect, it shall send notification to the owners stating the reasons therefore and shall give the owner thirty days to respond with a plan of

action and ninety days from the date of the notice in which to commence work. If appropriate action is not taken at this time, the Zoning Administrator may initiate appropriate legal action as provided further in this chapter.

4. Penalties for Noncompliance.
 - a. Failure to correct a defect after a notice that the Building Official has determined that a property is being demolished by neglect according to Section 4.11 of this ordinance shall constitute a misdemeanor. Such misdemeanor shall be punished as set forth in §§ 18.2-9, 18.2-11 and §15.2-1429 of the Code of Virginia 1950 as amended. Each day that the violation continues is a separate offense.
 - b. Any property owner in the District who does not obtain approval as required within this ordinance shall be guilty of a misdemeanor and may be punished as set forth in §§ 18.2-9, 18.2-11 and §15.2-1429 of the Code of Virginia 1950 as amended.
 - c. Nothing in this chapter shall be deemed to restrict or prohibit the Town Council to acquire in any legal manner any historic area, site, building, or structure or the land pertaining thereto for the use, observation, education, pleasure, and welfare of the citizens of the Town.

G. 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 agricultural or 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

director of planning. 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 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- or third-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 screening shall be of sufficient height to screen storage areas from view. Outdoor storage shall include the parking of all company owned and operated vehicles with the exception of passenger vehicles.
- H. 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. Temporary licensed uses such as festivals, outdoor displays, gatherings, performances, and open air food markets;
 3. Porches, terraces, balconies, sun porches, decks, patios, etc. may not be enclosed without obtaining proper permits and variances from the Board of Zoning Appeals if required by the regulations of this ordinance.

Section 3.7 Commercial District C-2

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

The specific intent of this district is to recognize the existing and possibly new freestanding commercial development.

- B. Permitted Uses. The following uses are permitted by right:
1. All uses as allowed in C-1
 2. Nursing/retirement homes
 3. Any other commercial or professional use which is compatible in nature with the allowed uses and which the Zoning Administrator determines to be compatible with the intent of the district.

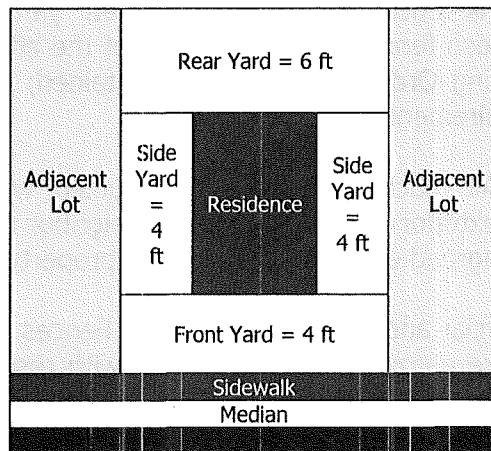
7. Where total lot frontage on one (1) or more lots owned by the same party is less than eighty feet (80'), the sum of the footprint of all accessory buildings shall be less than the footprint of the primary residence or 550 SF whichever is lesser.
8. Where total lot frontage of one (1) or more lots owned by the same party is greater than or equal to eighty feet (80'), the sum of the footprint of all accessory buildings shall be less than the footprint of the primary residence or 660 SF, whichever is lesser.
9. Where the main structure possesses no more than one story above grade, no accessory structure shall be higher than the main structure.
10. Where the main structure possesses more than one story above grade, no accessory structure shall be higher than two-thirds the height of the main structure or twenty-four feet (24'), whichever is lesser.
11. Temporary Family Health Care Structures are only allowed per § 15.2-2292.1 of the Code of Virginia. *[adopted 12/2010]*

F. Projections Allowed in Required Setbacks. No building or structure, or addition thereto, shall extend into a required setback area or yard area, except chimneys, heating and cooling equipment, structures less than sixteen (16) inches in height as measured from finished ground elevations, and steps may extend into such setback or yard area other than front yard setback. The following unenclosed uses may extend no more than four feet, but not nearer than five feet to any property line: balconies, eaves, trims, fascia boards, and similar architectural features, platforms, and terraces. In Commercial District C-1, no building or structure, or addition thereto, shall extend into the required front setback area or yard area except for the following: above street floor level balconies, porches, and terraces may extend therein. Support members for these structures may extend to the ground as required by the building and maintenance code. No part of any foundation for these support members shall extend above the ground or grade level. The following unenclosed structures located above the first floor level may extend to the front lot line: porches, balconies, terraces. *[adopted 7/2006]*



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

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

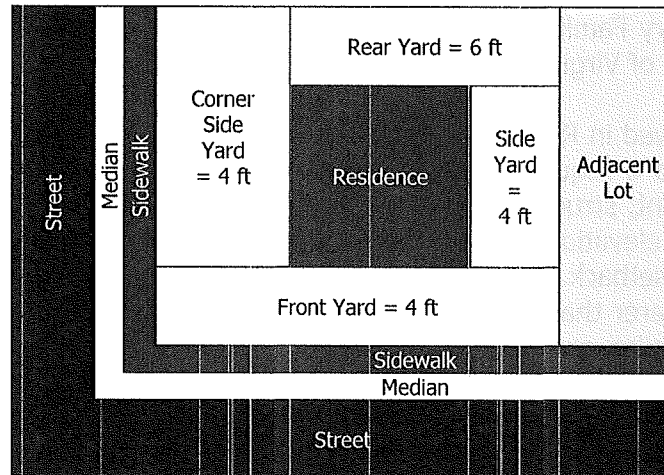




Maximum fence heights for interior lots
 Rear Yard – Not to exceed 6 feet
 Side Yard – Not to exceed 4 feet
 Front yard – Not to exceed 4 feet

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

Corner Lot



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

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

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

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

- 3. Commercial and Industrial Fences. Fences in commercial and industrial zones are permitted if they comply with residential fencing requirements in Section 4.2 G 1 and 2. In commercial and industrial zones, the conditional use permit process shall be used for any non-conforming

fences. Applicants shall demonstrate that the proposed fencing is consistent with the nature of and the security requirements of the business.

- H. Wetlands and Water Areas Excluded From Lot Areas. In calculating the area of any lot for the purpose of compliance with the minimum lot area requirements of the district regulations, wetlands, and areas outboard of the shoreline shall be excluded.
- I. Utility Lines Underground. All new utility lines such as electric, telephone, CATV, or other similar lines shall be installed underground. This requirement shall apply to lines serving individual sites as well as to utility lines necessary within a project. All junction and access boxes shall be screened with appropriate landscaping. All utility pad fixtures and meters shall be shown on the site plan. The necessity for utility connections, meter boxes, etc., should be recognized and integrated with the architectural elements of the site plan.

Section 4.3 Conditional Use Permits *[Revisions adopted by Council 6/10/2010 – C & D]*

- A. Statement of Intent. The purpose of this section is to recognize certain uses which, by nature, can have a potentially unfavorable impact on or be incompatible with other uses of land within a given zoning district. These uses, as described, may be permitted within given designated districts under controls, limitations, and regulations of a conditional use permit. It shall be the duty of the Town Council under the provisions of this ordinance to evaluate the impact and the compatibility of each use and to stipulate such conditions and restrictions including those specifically contained herein as will assure the use being compatible with the neighborhood in which it is located, both in terms of existing land uses and conditions and in terms of development proposed or permitted by right in the area or, where that cannot be accomplished, to deny the use as not being in accordance with the adopted comprehensive plan or as being incompatible with the surrounding neighborhood.
- B. Conditions for Issuance. Conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:
 - 1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
 - 2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
 - 3. Be in conflict with the purpose of the comprehensive plan of the town.

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

- C. Procedures. Written application for a conditional use permit may be made by any property owner, tenant, department, board, or bureau of any government agency. The application shall be filed with the Zoning Administrator on forms provided by the town.