

Planning Commission

Regular Session Agenda

Cape Charles Civic Center – 500 Tazewell Avenue

August 1, 2017

6:00 P.M.

1. Call to Order
 - a. Roll call and establish a quorum
2. Invocation and Pledge of Allegiance
3. Public Comments
4. Consent Agenda
 - a. Approval of Agenda Format
 - b. Approval of Minutes
 - c. Reports
5. Old Business
 - a. Harbor development certificate process *Article III, Section 3.9* – proposed draft text amendments for review and set public hearing date on October 3, 2017
6. New Business
 - a. Several proposed draft text amendments to Town Zoning Ordinance – review and set public hearing date on October 3, 2017
7. Announcements
8. Adjourn



DRAFT
PLANNING COMMISSION
Regular Meeting
Cape Charles Town Hall
July 17, 2017
6:00 p.m.

At 6:00 p.m., Chairman Dennis McCoy, having established a quorum, called to order the Regular Meeting of the Planning Commission. In addition to Chairman McCoy, present were Commissioners Andy Buchholz, Keith Kostek, Sandra Salopek and Bill Stramm. Commissioners Dan Burke and Michael Strub were not in attendance. Also in attendance were Town Planner Larry DiRe and Town Clerk Libby Hume. There was one member of the public in attendance.

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

PUBLIC COMMENTS:

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

CONSENT AGENDA

Motion made by Bill Stramm, seconded by Andy Buchholz, to approve the agenda format as presented. The motion was approved by unanimous vote.

The Commissioners reviewed the minutes from the June 6, 2017 Planning Commission/Town Council Joint Public Hearing and Planning Commission Regular Meeting.

Motion made by Bill Stramm, seconded by Andy Buchholz, to approve the minutes from the June 6, 2017 Planning Commission/Town Council Joint Public Hearing and Planning Commission Regular Meeting as presented. The motion was approved by unanimous vote.

REPORTS

Larry DiRe updated his written report as follows: i) Some master arborists were updating the tree survey and hoped to complete the project by the end of this year. This should help with the updating of the town's tree plan; ii) A preliminary survey plat of development on the southside of the harbor in the Industrial District was received and an application for variance for height for a ship repair/refit building was submitted for the Board of Zoning Appeals (BZA). A BZA public hearing and meeting was scheduled for July 20. It appears that two lots on the southside of the harbor, one adjacent to the old Gallagher lot and the other adjacent to the concrete plant, were moving forward. The railroad, former Tavi lot and a couple of northside lots were still in play; and iii) More inquiries were received regarding accessory dwelling units. The comprehensive plan favors them and the zoning ordinance prohibits them. The issue would be going back to the Town Council for further discussion at a future work session.

OLD BUSINESS

A. *Accessory Building Maximum Square Footage Proposed Draft Text Amendments:*

The Commissioners reviewed the proposed draft language for i) Article IV, Section 4.2.E.12/Article III, Section 3.1.F.5 which limited the total footprint area of all accessory building lot coverage in the Residential Estate District to seven percent and stated that no one accessory building would be greater than 1,200 square feet; and ii) Article IV, Section 4.2.E.13/Article III, Section 3.2.F.4 which limited the total footprint area of all accessory

building lot coverage for non-conforming lots smaller than 5,600 square feet in the Residential-1 District to 10 percent.

Motion made by Andy Buchholz, seconded by Bill Stramm, to accept the proposed amendments as written. The motion was approved by unanimous vote.

Larry DiRe added that these changes would be added to the next group of text amendments for a public hearing.

NEW BUSINESS

A. Skateboard Park Potential Locations and Initial Site Assessments:

Larry DiRe stated that the current skateboard park was in a residential area on the sole lot still owned by the town and houses would soon be constructed on the lots on either side of the park. About 10 feet of the skateboard park was found to be encroaching onto the adjacent lot and was removed. The Town Council asked for the Planning Commission's review and recommendation of a possible location for a new skateboard park and potential athletic/recreation facility. The Commissioners reviewed a matrix of potential skateboard park locations including i) replacing one of the tennis courts; ii) the Keck well lot; iii) behind the library; and iv) 700 block of Randolph Avenue. The only town-owned property large enough for an athletic/recreation facility was the Keck well lot.

The Commissioners reviewed a statement submitted by Michael Strub stating the following: i) Although he was not a tennis player, he thought the tennis courts should be protected as growth was anticipated; ii) Regarding the lot behind the library, he expressed his concern about the noise and effect it could have on the Library users; and iii) The Keck well lot looked like a possibility but he wanted to visit the site and consider it in terms of making it a general recreation facility.

There was some discussion as follows: i) It would be perfect for the town to have a small baseball field and soccer field; ii) The Cape Charles Baptist Church was the only location in town with a basketball court and they opened the area up for use by residents. It was on the church property and play was able to be monitored; iii) If it was decided to use the Keck well property for an athletic/recreation facility, it would open up opportunities to add a basketball court, skateboard park, frisbee golf, etc. The facility could be developed in stages. The town could also add walking/running/bicycle trails. The only drawback was accessibility from the Historic District but there was no feasible area in the Historic District for any type of facility. It could also open up opportunities for the town's parks and recreation program.

Motion made by Bill Stramm, seconded by Keith Kostek, to recommend Council consideration of athletic fields/facilities at the Keck property. The motion was approved by unanimous vote.

B. Staff Assessment of the Harbor Development Certificate Process – Modifications and Amendments:

Larry DiRe stated that the current Harbor Development Certificate process was clear and thorough but made for a lengthy review and approval process with no mechanism for modifications. Any small change to the original plan required a new application, even for conforming uses. One project had been reviewed five times by the Harbor Area Review Board (HARB). Each application review and approval was two-month process requiring review and recommendation by the HARB, then referral to the Town Council at a work session, then review again by the Town Council for approval at a regular meeting. There was much discussion regarding the current process and the Commissioners agreed that the process needed to be streamlined and staff needed the ability to approve minor changes

after review by the zoning administrator, code official and town manager. Larry DiRe would draft language for review by the Commission at their August meeting.

ANNOUNCEMENTS

- The August 1 meeting agenda would be light since the Community Enhancement Board would be meeting at the Civic Center beginning at 7:00 p.m.
- Michael Strub's request to review parking on Bay Avenue would be on the September meeting agenda. Larry DiRe was trying to obtain a definitive answer from VDOT regarding parking options – reverse angle or pull-in angle parking.
- Andy Buchholz would be leaving the Planning Commission and the Town Council would be appointing a new Council representative to the Commission at their July 20 meeting.

Motion made by Andy Buchholz, seconded by Bill Stramm, to adjourn the Planning Commission Regular Meeting. The motion was approved by unanimous vote.

The meeting adjourned at 7:09 p.m.

Chairman Dennis McCoy

Town Clerk

Planning Commission Staff Report

From: Larry DiRe 
Date: August 1, 2017
Item: 4c-Staff Report
Attachments: None

1. The Town Council met at their July 20 regular monthly meeting and had no business related to planning and/or zoning.
2. The Historic District Review Board received one new application for Certificate of Appropriateness to consider at their July 18 regular monthly meeting. The application included new roof, gable windows, siding and foundation repair, and window alignment to a contributing single-family dwelling. The application was tabled due to neither the property owner nor the contractor being in attendance and available to answer questions.
3. The Harbor Area Review Board (HARB) had no business and did not meet in July.
4. The Board of Zoning Appeals held a July 20, 2017 public hearing/meeting to consider an application for variance from the building height maximum regulation for a proposed boat refit/repair building in the M-2 Industrial District. The variance application was approved.
5. The Wetlands and Coastal Dune Board had no business and did not meet in July.
6. Staff attended the July 25 Transportation Technical Advisory Committee meeting held at the VDOT residency office in Accomac. This is a committee of the A-NPDC.

Planning Commission Staff Report

From: Larry DiRe 
Date: August 1, 2017
Item: 5a- Harbor Development Certificate process *Article III, Section 3.9* – proposed draft text amendments for review and set public hearing date on October 3, 2017
Attachments: None

Item Specifics

Development of any type is prohibited in the Harbor District until Town Council approves a Harbor Development Certificate. The procedural requirements, and review criteria, are enumerated throughout *Article III, Section 3.9.1* of the zoning ordinance. While thorough and making for a lengthy review and approval process, the above ordinance section is clear and unambiguous. Sufficient safeguards are in place to ensure the public good protected and appropriate development occurs in this valuable zoning district.

Article III, Section 3.9.1.3 reads as follows:

Criteria for review. In reviewing the Harbor Development Certificate Application, the Zoning Administrator, the Harbor Area Review Board, and the Town Council shall consider the following criteria:

- a. Use characteristics of the proposed development.*
- b. Preservation of historic structures; preservation of significant features of existing buildings when such buildings are to be renovated; relation to nearby historic structures or districts including a need for height limits.*
- c. Location and adequacy of off-street parking and loading provisions, including the desirability of bicycle parking.*
- d. Vehicular circulation within the development and its relation to other existing and proposed transportation facilities.*
- e. Inclusion of alleys to enhance vehicular transportation within the development.*
- f. Provision of concealed commercial loading and unloading areas adjacent to alleys to prevent loading, unloading, and trash collection along public rights of way.*
- g. Traffic generation characteristics of the proposed development in relation to street capacity.*
- h. Provision of open space to meet the requirements of the district; the location, design, landscaping and other significant characteristics of this public open space, and its relation to existing and planned public and private open space.*
- i. Multi-modal transportation facilities within the proposed development and their relation to public open space and pedestrian circulation patterns.*
- j. Architectural relationships, both formal and functional, of the proposed development to surrounding buildings, including building siting, massing, proportion, and scale.*
- k. Use of architectural details, storefront design, window openings, roof shapes, porches, and columns to balance the proportions of facades into pleasant and cohesive compositions.*
- l. Microclimate effects of proposed development, including effects on wind velocities, sun reflectance, and sun access to streets and/or existing buildings and/or public open space.*
- m. Protection of significant views and view corridors, particularly views of the Cape Charles Harbor from existing road intersections.*
- n. Relationship of on-site lighting and landscaping to other surrounding lighting and landscaping designs both public and private.*

- o. Relationship of on-site signage to architectural elements of the proposed development and relationships to nearby development.*
- p. Adherence to policies included in the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines, the Comprehensive Plan, and other officially adopted plans of the Town.*
- q. Adherence to the intent and requirements of the Harbor District.*

Discussion

Staff is proposing that *Article III, Sections 3.9.I.k, .l, and .n* be amended to allow for administrative modification after a Harbor Development Certificate has been approved by Town Council. There is not any language in the ordinance allowing for modification after approval. The remaining sections are not typically the types of development that change over time. Also, these sections are of sufficient significance that modifications after approval may impact the overall project and so should be treated as new applications requiring a new Harbor Development Certificate review and approval process.

Design elements approved under Section 3.9.I.k are the most visible aspect of the development project. The current language captures a wide variety of building features, and change after approval should be done with care since these design elements generally receive the most scrutiny during the initial review process. Staff suggests the following draft text amendment to this section: *Upon approval of a Harbor Development Certificate modifications may be allowed that do not change the wall to window area ratio, and do not add to or reduce the number and type of porches/balconies. Modification is solely at the discretion of the zoning administrator, the building official, and the town manager.*

Design elements approved under *Section 3.9.I.l* have an impact upon the environmental aspects of the development projects. In 2008 when the Cape Harbor development was being considered the question arose over the shade cast by the balconies on at least one of the proposed buildings. Few parcels remain that would allow for a large-scale, multi-building development of that type, and specific solar setbacks are not addressed in the ordinance. The issues of sun and shade are likely to remain. Staff suggests the following draft text amendment to this section: *Upon approval of a Harbor Development Certificate modification may be allowed to balconies and building architectural projections, and there is no change to street/sidewalk access or percentage of open space. Modification is solely at the discretion of the zoning administrator, the building official, and the town manager.*

Design elements approved under *Section 3.9.I.n* can be modified if the required percentage of open space/landscaping buffer is met and if the Dark Sky compliance obligation is met. Staff suggests the following draft text amendment to this section: *Upon approval of a Harbor Development Certificate modification may be allowed if the required percentage of open space, required landscape buffering, and Dark Sky compliance are met. Modification is solely at the discretion of the zoning administrator, the building official, and the town manager.*

Recommendation

Staff recommends that pending further discussion and revision, the Planning Commission approve the proposed draft text amendments to *Article III, Section 3.9.I* and forward them to Town Council. Such amendments allow for staff review and administrative approval of certain limited modifications and amendments to approved Harbor Development Certificates. Any modifications and amendments must be requested in writing to the zoning administrator by parties holding such Certificates. Upon approval staff recommends the Commissioners set Tuesday October 3, 2017 as the date for the required public hearing per *Article II, Section 2.7.2.B*.

Planning Commission Staff Report

From: Larry DiRe 
Date: August 1, 2017
Item: 6a-Several proposed text amendments to Town Zoning Ordinance – review and set public hearing date on October 3, 2017
Attachments: None

Item Specifics

The process of amending the Zoning Ordinance of the Town of Cape Charles is stated in Article II, Section 2.7.2 of that Ordinance. The process requires public advertisement, public hearing, Planning Commission review and recommendation to Town Council, and finally Town Council legislative action. The following zoning ordinance sections are presented for review and discussion prior to proposed text amendment. One of the requirements for the text amendment process is a public hearing before the planning Commission and the Town Council. The entire sections' current text is presented in italics, with proposed text amendments in bold italics. The following sections of the Zoning Ordinance of the Town of Cape Charles are proposed for text amendment and/or addition to the ordinance based on lack of clarity, to allow for a more proportional use of lot area, or to reconcile conflict with other sections of the Ordinance.

*Article IV, Section 4.2.E.12|Article III, Section 3.1.E.3 (new sections for addition to the ordinance) In the Residential Estate District the total footprint area of all accessory building lot coverage shall not exceed seven (7) percent and no one accessory building shall an area greater than twelve-hundred (1,200) square feet. **Staff recommends this amendment to allow for a more proportional accessory building footprint to lot area in this zoning district.***

*Article IV, Section 4.2.E.13|Article III, Section 3.2.F.4 (new sections for addition to the ordinance) On non-conforming lots smaller than fifty-six hundred square feet in the Residential – 1 District the total footprint area of all accessory building lot coverage shall not exceed ten (10) percent. **Staff recommends this amendment allow for a more proportional accessory building footprint to lot area in this zoning district.***

*Appendix E, Section 74.31.c Application Generally A nonrefundable processing fee to cover the cost of processing the application of \$25 shall accompany each application, and all other related costs to review the documents shall be paid by the applicant. **Staff recommends removing this language and replacing with “All fess shall be governed as set forth by the Town Council of the Town of Cape Charles.” Staff recommends this amendment for clarity, consistency and to remove conflict across legislation.***

Discussion

The zoning ordinance sections above are recommended for text amendment and/or addition to the ordinance. Staff recommendations are based on either lack of clarity, allow for a more proportional use of lot area, or to reconcile conflict with other sections. The Commission may recommend revisions as needed, and direct staff accordingly.

Recommendation

Following further Commission discussion and any revisions, staff recommends the Planning Commission set Tuesday October 3, 2017 as the date for the required public hearing on proposed text amendments to the Town zoning ordinance.