



## **PLANNING COMMISSION & TOWN COUNCIL**

**Joint Work Session**

**Civic Center**

**November 5, 2015**

**6:30 p.m.**

1. Call to Order: Roll Call
  
2. Order of Business
  - A. Accessory Dwelling Units
  
  - B. Tourism Zone
  
  - C. Zoning Text and Map Amendments
  
3. Motion to Adjourn

 <p><b>TOWN OF CAPE CHARLES</b></p>	<b>AGENDA TITLE:</b> Accessory Dwelling Unit Text Amendments to Zoning Ordinance		<b>AGENDA DATE:</b> November 5, 2015
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Zoning Ordinance text amendments to allow accessory dwelling units as a conditional use		<b>ITEM NUMBER:</b> 2A
	<b>ATTACHMENTS:</b> Proposed Text Amendments; Approved Planning Commission meeting minutes April 7 <sup>th</sup> through September 1 <sup>st</sup> . Also draft minutes of October 6 <sup>th</sup> meeting.		<b>FOR COUNCIL:</b> Action ( ) Information ( x )
	<b>STAFF CONTACT (s):</b> Larry DiRe	<b>REVIEWED BY:</b> Brent Manuel, Town Manager	

**BACKGROUND:**

There is a conflict between the Zoning Ordinance and Comprehensive Plan over the status of accessory dwelling units in Cape Charles. *Article II Section 2.2* of the Zoning Ordinance states:

*“It is the intention of the Town Council that the provisions of this ordinance will implement the purpose and intent of the Comprehensive Plan of the Town”*

During the past several regular monthly meetings the Planning Commission reviewed several drafts of proposed zoning ordinance text amendments to allow for accessory dwelling units as conditional use in several zoning districts. The attached draft represents the culmination of this review process to this point.

In brief the proposed text amendments state the following: 1)accessory dwelling units are a conditional use, not a by right use; 2)accessory dwelling units must be part of an accessory building; 3)accessory dwelling units must have a separate water and sewer connection from the main building; 4)accessory dwelling units have a separate entrance from the accessory building’s entrance; 5)accessory dwelling units have a minimum square footage based on number of occupants; 6)accessory dwelling units must meet all building, fire, and residential code requirements.

**ITEM SPECIFICS:**

The Town’s Comprehensive Plan states the following in the Policies and Descriptions Section (page 28):

*2. Promote compatible infill development and renovation within established neighborhoods.*

- *Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options.*

Article II Section 2.9 (page 18) of the Town’s Zoning Ordinance defines accessory buildings as follows: *“a subordinate and separate building located upon the same lot occupied by the main structure or where a main structure was previously located. Accessory buildings shall not be used as dwelling units.”*

**RECOMMENDATION:**

Staff recommends reviewing the proposed accessory dwelling unit text amendments to the Zoning Ordinance, and providing direction to staff.

# Proposed Zoning Ordinance Text Amendments

## Section 2.9 Definitions (insert accessory dwelling definition, modify accessory building definition)

**DWELLING, ACCESSORY** is a dwelling unit which is an accessory use to a single family dwelling.

**BUILDING, ACCESSORY** means a subordinate and separate building located upon the same lot occupied by the main structure or where a main structure was previously located. Accessory buildings shall not be used as dwelling units, unless a conditional use permit is issued for an accessory dwelling.

## Section 3.1.C, 3.2.C, 3.3.C, and 3.5.C (insert “Accessory dwellings” in Conditional Use sections)

## Section 4.2.K Accessory Dwellings (insert in Article IV)

One accessory dwelling may be maintained on a property in the R-E, R-1, and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3, and subject to the following:

### A. Physical characteristics.

1. Accessory dwellings shall be located in an accessory building.
2. Accessory dwellings *housing* one occupant shall have a floor area of at least 350 square feet.
3. Accessory dwellings *housing* two occupants shall have a floor area of at least 500 square feet.
4. Accessory dwellings *housing* three occupants shall have a floor area of at least 650 square feet.
5. Accessory dwellings shall not have a floor area exceeding 45 percent of the floor area of the main building.
6. Accessory dwellings shall have one kitchen and one bathroom.
7. Accessory buildings containing an accessory dwelling shall maintain the exterior appearance of an accessory building and shall not have the appearance of a single family dwelling.

### B. Occupancy characteristics.

1. *When used as a rental* occupancy of the accessory dwelling shall be a minimum of sixty (60) continuous days.

### C. Other requirements.

1. Accessory dwellings located in accessory buildings shall have a separate water meter from the principal dwelling.
2. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
3. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1 C. 6. (Table of Parking Standards) using both on and off street parking areas.
4. Floor plans of the proposed accessory dwelling shall be submitted as a part of the conditional use permit application. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic District Overlay.

## Section 4.5.1 Table of Parking Standards (insert)

### C. Residential

6. Accessory dwelling 1.0 space per accessory dwelling unit (minimum);  
otherwise 1.0 spaces per accessory dwelling unit bedroom.

## Approved Planning Commission Meeting Minutes

May 5, 2015

### *Accessory Dwelling Unit – Resident Request and Informational Report:*

Larry DiRe stated that the Comprehensive Plan stated “Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options.” Article II, Section 2.9, page 18, of the Zoning Ordinance defined accessory buildings as “a subordinate and separate building located upon the same lot occupied by the main structure or where a main structure was previously located. Accessory buildings shall not be used as dwelling units.” Several years ago, the Planning Commission studied this issue and made the recommendation to allow accessory dwelling units as a conditional use. Following discussion at several meetings and a public hearing, the Town Council voted to not allow such usage and retained the prohibition on dwellings in accessory buildings. Recently, a resident contacted staff inquiring about a non-market living unit for a family member above a garage. There was much discussion regarding the current conflict between the Comprehensive Plan and Zoning Ordinance regarding accessory dwelling units. Bill Stramm stated that if a property owner had space for a garage with a loft or other living area, he did not see why it would not be permissible for a grown son/daughter or other family member to live there. The Commissioners in attendance agreed. Joan Natali explained the issue from several years ago and added that during the Walkability and Livability Workshops, it was noted that Cape Charles would be ideal for accessory dwelling units as affordable housing. Joan Natali went on to state that the Town had a need for affordable housing. The Council had changed since the last decision and the issue should be revisited. It was also noted that the accessory dwelling unit would require a separate utility hookup but units with less than two bedrooms were charged 50% of the connection fees. Dennis McCoy asked that the previous work done by the Commission be included for review next month.

June 2, 2015

### *Accessory Dwelling Units in Residential District:*

Larry DiRe stated that the current Comprehensive Plan promoted accessory dwelling units to add diversity of housing types and affordable housing options; however, the Town’s Zoning Ordinance prohibited accessory buildings being used as dwelling units. Several years ago, the Planning Commission studied the issue and made a recommendation to allow accessory dwelling units as a conditional use but the Town Council voted not to allow accessory dwelling units. Copies of draft ordinance sections were included in the agenda packet for review. There was much discussion regarding this topic and possible setback issues, minimum square footage, etc. Joan Natali noted that the walkability study done by the Eastern Shore Healthy Communities partnership talked about accessory dwelling units, small houses, etc. Joan Natali added that Libby Hume had located the video from this study which could be shown to the Commissioners at a future meeting. The general consensus was to move forward with the review of the draft ordinance regarding accessory dwelling units.

July 7, 2015

### *Accessory Dwelling Units in Residential District:*

Larry DiRe stated that he was able to gather information from other localities on the Eastern Shore and reported the following: • Permitted: Town of Cheriton by conditional use, and Northampton County. • Prohibited: Towns of Exmore, Wachapreague, Parksley and Onancock. • The Town of Onley had definitions of both “Accessory Living Unit” and “Dwelling Unit” but did not clearly state that they were permitted or prohibited in the residential district. “Accessory structure” was a by-right permitted use in the residential district. There was much discussion regarding the following: i) The lack of affordable housing in the county. Many of the school teachers could not afford to live in the county unless several of them shared a house. An accessory unit over a garage with its own water and septic would be ideal especially since the connection fees for dwelling units with less than 2 bedrooms were reduced to 50% of the regular fees; ii) It had been rumored that there were a number of properties in town renting out accessory units illegally. In these cases, the town did not know whether the units were safe or had running water, etc.; iii) A minimum size needed to be determined. The minimum size for a single family dwelling was currently 960 square feet. Larry DiRe read from the draft language from 2008 which required 250 sq ft for 1 occupant, 500 sq ft for 2 occupants and 650 sq ft for 3 occupants; iv) The draft

language required the occupants of an accessory dwelling be a family member of the property owners living in the main dwelling. The Commissioners agreed to delete this requirement; v) The parking standards in the draft text required 1 space per accessory dwelling unit bedroom. Larry DiRe added that accessory dwelling units would require a conditional use permit so the specific parking requirements could be addressed at that time; vi) The draft language permitted an accessory dwelling unit within the main house, but the Commissioners agreed to strike that language. Larry DiRe would provide an updated draft ordinance for review during the August meeting.

August 4, 2015

*Draft Accessory Dwelling Units Ordinance Review:*

Larry DiRe stated that while specifically prohibited in the Zoning Ordinance, accessory dwelling units were promoted in the Comprehensive Plan. Both documents address the need to promote affordable housing. There was much discussion regarding Section 4.2.K.A regarding the physical characteristics, mainly the recommended occupancy of a unit based on the floor area. Andy Buchholz stated that this issue went back to the definition of bedroom and the discussion of the previous agenda topic and added that the language needed to be consistent in regards to the size and number of occupants permitted. After further discussion, Andy Buchholz suggested removal of the language regarding “appliances” from the definition of bedroom. Larry DiRe stated that this issue would be brought back for further discussion after the review of bedroom sizes was performed in order to make the language in these two sections more consistent.

September 1, 2015

*Draft Accessory Dwelling Units Ordinance Review:*

The Commissioners reviewed the proposed text provided by Larry DiRe and there was some discussion regarding “affordable housing” and “work force housing.” Joan Natali stated that Chris Bannon attended meetings for the Eastern Shore of Virginia Housing Authority and added that he could possibly assist staff in obtaining some information regarding affordable or work force housing.

October 6, 2015 – Draft until approved at November 3<sup>rd</sup> Planning Commission regular monthly meeting

*Draft Accessory Dwelling Units Ordinance Review*

Dan Burke suggested adding the word “continuous” after “60” under Section 4.2.K.B.1.

Dennis McCoy commented on the definition of accessory buildings, specifically the statement “Accessory buildings shall not be used as dwelling units.” It was Town Council’s decision whether or not accessory buildings could be used as dwelling units, therefore this statement would either remain or be removed dependent upon Town Council’s decision.

There was much discussion regarding the number of occupants versus floor area. The majority of the Commission was in agreement that they did not want to deny affordable housing to individuals.

 <b>TOWN OF CAPE CHARLES</b>	<b>AGENDA TITLE:</b> Draft Tourism Zone Ordinance		<b>AGENDA DATE:</b> November 5, 2015
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Draft Tourism Zone Ordinance sent from Planning Commission		<b>ITEM NUMBER:</b> 2B
	<b>ATTACHMENTS:</b> Draft Tourism Zone Ordinance; Approved Planning Commission meeting minutes April 7 <sup>th</sup> through September 1 <sup>st</sup> . Also draft minutes of October 6 <sup>th</sup> meeting.		<b>FOR COUNCIL:</b> Action ( ) Information (X)
	<b>STAFF CONTACT (s):</b> Larry DiRe	<b>REVIEWED BY:</b> Brent Manuel, Town Manager	

**ITEM SPECIFICS:**

The Code of Virginia states the following on the creation and implementation of Tourism Zones in the Commonwealth:

*§ 58.1-3851. Creation of local tourism zones.*

*A. Any city, county, or town may establish, by ordinance, one or more tourism zones. Each locality may grant tax incentives and provide certain regulatory flexibility in a tourism zone.*

*B. The tax incentives may be provided for up to 20 years and may include, but not be limited to (i) reduction of permit fees, (ii) reduction of user fees, and (iii) reduction of any type of gross receipts tax. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.*

*C. The governing body may also provide for regulatory flexibility in such zone that may include, but not be limited to (i) special zoning for the district, (ii) permit process reform, (iii) exemption from ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the Chesapeake Bay Preservation Act (§ [62.1-44.15:67](#) et seq.), the Erosion and Sediment Control Law (§ [62.1-44.15:51](#) et seq.), or the Virginia Stormwater Management Act (§ [62.1-44.15:24](#) et seq.), and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.*

*D. The establishment of a tourism zone shall not preclude the area from also being designated as an enterprise zone.*

**BACKGROUND:**

During the past several regular monthly meetings the Planning Commission reviewed several drafts of proposed Town Code text amendments to create a tourism zone. The attached draft represents the culmination of this review process to this point. The attached meeting minutes document the process of document review, discussion, and revision by staff and the Planning Commission since April of this year.

In brief, the draft Tourism Zone Ordinance does the following: 1)creates a Tourism Zone footprint as the entire Town of Cape Charles; 2)creates an administrative process to implement the Ordinance; 3)defines qualified businesses and establishes eligibility criteria for participation; 4)makes no distinction between seasonal and all year business operations; 5)and defines economic stimulus credits available to qualified businesses.

**RECOMMENDATION:**

Staff recommends reviewing the draft Tourism Zone Ordinance, and providing direction to staff.

## Draft Tourism Zone Ordinance

### Sec. XX-1. - Purpose.

The Town Council finds that the creation of a local tourism zone, with incentives for growth, as authorized by Code of Virginia, § 58.1-3851, as amended, will foster the town's development, maintenance and expansion of businesses engaged in the tourism industry, all of which would benefit the citizens of the town.

### Sec. XX-2. - Administration.

This chapter shall be administered by the town manager or his or her designee (the "administrator"). The administrator shall be responsible for determining if a business qualifies as a qualified tourism business, and shall determine and publish the procedures for obtaining the benefits created by this chapter.

To determine if a business qualifies as a qualified tourism business:

- 1) Business will submit a completed application with all required documentation. The application will list Applicant/Contact information and list the required Project information and a statement that the business is in compliance with all Town ordinances and has no outstanding debts to the Town. Application must be signed by all business stakeholders.
- 2) Project Information requires a business plan or narrative which includes the following:
  - a) Description of the business' history, including activities, products, services, etc.
  - b) Description of the operation and/or financial relationships with any parent or subsidiary, and describe any changes in ownership that may occur as a result of this project.
  - c) Detailed description of the actions the business will take that will qualify it for the credit.
  - d) Revenue projections for the 5 year term of the credit/incentives.
  - e) Estimate of the amount of building and other town fees required to complete the capital investment plan.
  - f) Estimate of the increased assessed value of real property.
  - g) Estimate of the increased assessed value of business personal property or machinery and tools.
  - h) If facility and connection fees will be assessed as a result of the project, list the cost of those fees.
- 3) Treasurer or designee will use a checklist of code requirements to determine if the applicant is eligible.
- 4) Treasurer or designee will quantify the potential amount of the credit based on the information supplied by the applicant.
- 5) Treasurer or designee will send a letter to the applicant business stating the following:
  - a) Their status as a qualified or non-qualified applicant.
  - b) The potential amount of the credit, if qualified, and over what tax years the credit will be awarded.
  - c) The required actions for the business to remain qualified.

### Sec. XX-3. - Boundary area.

The entire area of the Town of Cape Charles is designated a tourism zone pursuant to Code of Virginia § 58.1-3851, as amended.

### Sec. XX-4. - Definitions.

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

*Economic stimulus credits* means the incentive credits payable to a qualified tourism business as provided in section XX-6 of this chapter.

*Existing business* means a corporation, partnership, limited liability company, or sole proprietorship authorized to conduct business in the Commonwealth of Virginia, located in and actively engaged in the conduct of trade or business in the town prior to the adoption of this chapter.

*Full time job* means a full-time employee as defined according to the federal definition found in 26 US Code Subtitle D Chapter 43 Section 4980H, with reasonable allowances for holidays and vacations.

*New business* means a corporation, partnership, limited liability company or sole proprietorship authorized to conduct business in the Commonwealth of Virginia not previously located in the town that begins actively conducting business after the adoption of this chapter.

*Part time job* means an employee working a minimum of fourteen hours weekly and fewer than the number of hours required to meet the definition of full time job defined in this section.

*Qualified tourism business* means a new or existing business that has met the applicable qualifications set forth in section XX-5 of this chapter and that is engaged in provisioning services, concierge and accommodation services, conference center/services, galleries, recreational facilities/services, entertainment, food services, day spas, specialty food stores, food services, gift stores, special events/services, fishing, communications, transportation, or any other similar activity deemed appropriate for a tourism zone as defined in another jurisdiction of the commonwealth and approved by that jurisdiction, and found as such by the administrator.

#### **Sec. XX-5. - Qualifications.**

To be eligible for economic stimulus credits a qualified tourism business must:

- (i) Create and maintain a minimum of one (1) new full time or two (2) new part time jobs.
- (ii) Make a new verified capital investment of no less than \$2,000.00 in a building, building improvements, and/or in depreciable assets. A capital investment does not include the cost to purchase real property.
- (iii) Hold a current Town business license and be current in all tax and utility bill obligations to the Town, and all tax obligations to Northampton County.
- (iv) Be in compliance with all Town ordinances.

#### **Sec. XX-6. - Economic stimulus credits and enforcement.**

- (a) A qualified tourism business shall be eligible to receive the following economic stimulus credits:
  - (1) A credit equal to 25 percent of the new or increased capital improvement tax paid to the town with a verified capital investment of not less than \$2,000.00 that shall increase proportionately up to 100 percent with a capital investment of \$1,000,000.00 or more.
  - (2) A credit of up to 100 percent of the amount of the net increase in real estate tax paid to the town.
  - (3) A credit of up to 100 percent of the amount of BPOL tax paid to the town.
  - (4) For a qualified tourism business that maintains at least eighty-five (85) hours weekly of full time and part time staff employment, a credit of up to 50 percent of the facility and connection fees paid to the town.\*
  - (5) A credit of up to 100 percent of the building permit fees paid to the town.
- (b) The types and amounts of the economic stimulus credits shall be based on the factors that the town deems relevant, including without limitation the type of business conducted by the qualified business, the amount of verified capital investment, and the number of full time or part time jobs created by the qualified business. The types and amounts of economic stimulus credits awarded to a qualified business shall be initially determined by the administrator, subject to approval by the Town Council.
- (c) No taxes, fees, or other charges shall be deemed waived by this chapter. All such taxes, fees, and charges shall be paid by the qualified business in full as and when due. Economic stimulus credits described in subparts (1), (2), and (3) of subsections (a) and (b) above that are awarded to a qualified business shall be paid annually, in arrears, for each year that the qualified business meets all eligibility criteria up to a maximum of five years. If a qualified business fails to meet all eligibility criteria in any given year, the

economic stimulus credits for that year and all future years shall be forfeited. Economic stimulus credits described in subparts (4) and (5) of subsections (a) and (b) above that are awarded to a qualified business shall be paid upon verification by the administrator of the completion of construction of the improvements to which the applicable facility and connection fees and/or building permit fees relate.

- (d) As a condition to receiving an economic stimulus credit, a qualified business agrees to provide such information and allow such inspections as the town deems reasonably necessary to verify the eligibility criteria and to ensure the qualified business's ongoing compliance therewith.
- (e) Notwithstanding anything to the contrary in this chapter:
  - (1) An otherwise qualified business shall lose its eligibility for economic stimulus credits, and shall repay any previously awarded economic stimulus credits, upon any of the following:
    - a. A violation by such business or, to the extent related to the operation of the business, by any of its principals or officers, of any statute, regulation, or order of the United States or the Commonwealth of Virginia or any department or agency thereof; or
    - b. A violation of any town ordinance that continues beyond the applicable cure period or, if none, a period of ten days.
  - (2) All economic stimulus credits are subject to the appropriation requirements of the Commonwealth of Virginia and the town.
- (f) The town will issue a qualified approval letter which will specify the amount of the verified capital investment, the number of full time or part time jobs created, the amount of the economic stimulus credit(s), the eligibility criteria for receiving the economic stimulus credit(s), the procedures for verifying compliance therewith, and such other terms as may be appropriate.
- (g) If a Qualified Tourism Business leaves the Town to conduct business in another location within three (3) years of completing any incentive period, it will be required to repay the Town the total amount of Tourism Zone incentives received.

**Sec. XX-7. - Non-waiver.**

Unless expressly stated herein, this chapter shall not be construed to waive the requirement of any ordinances, regulations, and policies that require permits and approvals for land use, construction, and business operation. Additionally, unless stated otherwise herein, nothing in this chapter shall be construed as waiving the right of the town to enforce its ordinances, regulations, or policies or to collect taxes, fees, fines, penalties, or interest imposed by law or by ordinance.

\* Weekly staff employment hours are based on an average of one full time employee and two part time employees each working 25 hours. A credit of up to 50% reduction in facility and connection fees would be in the thousands of dollars.

## Approved Planning Commission Meeting Minutes

April 7<sup>th</sup>

OLD BUSINESS A. Tourism Zone The Commissioners reviewed the revised language in the draft Tourism Zone Ordinance along with input provided by Andrew Follmer, president of the Cape Charles Business Association (CCBA). There was discussion as follows: i) The definition of “full-time” job would refer to the IRS definition of 30 hours or more per week; ii) There was much discussion regarding “credits” vs. “grants.” Since the qualified businesses would be paying their taxes and receiving a refund or credit upon meeting the criteria, the Commissioners opted to use the term “credits” in the ordinance; iii) The language in § XX-1. – Purpose was approved. There was much discussion regarding the definition of “industry” included in § 2.9 of the Zoning Ordinance and the inclusion of “trapping.” This section would be added to the Zoning Ordinance Review List for further discussion at a future meeting; iv) There was much discussion regarding the definition of “Qualified seasonal tourism business,” especially the language “or any other similar activity deemed appropriate for a tourism zone as defined in another jurisdiction of the commonwealth, and found as such by the administrator...” The phrase “found as such” was changed to “approved,” but discussion continued regarding the types of businesses that could be considered as tourism-related in the various regions on the commonwealth.

May 5<sup>th</sup>

OLD BUSINESS A. Tourism Zone The Commissioners reviewed the revised language in the draft Tourism Zone Ordinance and there was discussion as follows: i) There was some concern regarding providing direct credits toward bills vs. reimbursements. The Town would not have any leverage for compliance if direct credits were given. The Commissioners suggested involving the treasurer to get her input; ii) Michael Strub’s emailed comments were reviewed regarding the number of full time jobs required. The draft ordinance shows “two or three” full time positions and the Commissioners agreed that it should be one or the other and there would be further discussion regarding this issue at the next meeting; iii) There was some discussion regarding the number of hours constituting a full time job. Staff explained that the IRS tax code stated that 30 hours constituted a full time position. It was believed that this was based on the recent changes made under the Affordable Care Act; and iv) There was discussion regarding the \$25K required capital investment. CCBA President Andrew Follmer provided feedback stating that he felt \$25K was too high and suggested that \$10K - \$15K would be better for businesses to meet. The Commissioners suggested a review of the permit applications from the past several years to get an idea of the average capital investment for new businesses in order to determine an appropriate value. This topic would be reviewed again at the next meeting. There was also some discussion regarding an effective date and the possibility of making the date retroactive to January 1, 2015 to allow the new businesses in 2015 the option to take advantage of the program.

June 2<sup>nd</sup>

OLD BUSINESS A. Draft Tourism Zone Ordinance Review The Commissioners reviewed the revised language in the draft Tourism Zone Ordinance and there was much discussion regarding possible incentives and the criteria regarding the minimum value of capital improvements. The Commissioners agreed that a set percentage of the portion of the paid tax (real estate, BPOL, etc.) would be reasonable regardless of the amount of the capital improvement. There was some discussion regarding a possible scale where the qualified business could receive a rebate of 50% of the appropriate tax paid for years one through five, 25% for the next several years, with the percentage being reduced up to a possible 20-year period. 1 After much discussion, the Commissioners felt that a minimum capital investment of \$2K would be reasonable. The current draft ordinance separated existing businesses from new businesses and seasonal businesses from full-time businesses. The Commissioners would discuss the need for separate categories further at the July meeting. Larry DiRe would also brief the treasurer of the discussion to obtain her input.

July 7<sup>th</sup>

OLD BUSINESS A. Draft Tourism Zone Ordinance Review The Commissioners reviewed the revised language in the draft Tourism Zone Ordinance and there was much discussion regarding the following: i) The requirements in Section XX-5 for seasonal and full-time businesses were the same and needed review. After a

number of alternatives were discussed, the Commissioners agreed that it did not matter whether a business was seasonal or year-round. The focus should be on economic growth – the growing of existing businesses and having new businesses come to town; ii) There was a huge difference between the numbers in Section XX-5 and XX-6. The numbers in XX-6 needed to be revised based on the numbers in XX-5. The Commissioners felt that a minimum of \$2K in capital investment was a fair number and would give small businesses an opportunity to participate in the program. Dennis McCoy added that the Commission needed to consider a sliding scale as suggested by Mr. Follmer; iii) Andy Buchholz suggested that the draft ordinance be reviewed by the treasurer and also that the criteria be compared with the numbers reported by the businesses. We needed realistic numbers based on what we had now; iv) A cap needed to be placed on the amount of the rebate; v) The required wage of 1.5 times the minimum wage would be very difficult for tourism-related businesses. The wait staff in a restaurant typically earned about \$2-\$3 per hour plus tips and most others paid close to minimum wage. It was agreed to delete this requirement; vi) In regards to the number of employees, possible criteria could be to use staff hours for businesses with less than 10 employees. For businesses with 10 or more employees, criteria could be 1 fulltime and 2 part-time employees. Most employees were part-time with the exception of the owners, especially for seasonal businesses. The Commissioners agreed that the criteria would be changed to require 1 full-time or 2 part-time employees; vii) The definition of part-time was also discussed and it was agreed that for qualification under this program, a part-time employee needed to work a minimum of 14 hours per week; viii) The criteria would be revisited in about 3 years and modified if necessary; ix) The references to “machinery and tools” in sections XX-5 (a)(1)(ii), (a)(2)(ii), (b)(1)(ii) and (b)(2)(ii) were changed to “depreciable assets.” This type of equipment was shown on the businesses’ tax returns and would take the burden off the administrator in determining whether the equipment would qualify or not. A requirement would be to have the business owner provide a copy of the appropriate tax schedule; x) A table could be added showing the incentives for each category with a sliding scale based on revenue. Andy Buchholz stated that some seasonal businesses took in more revenue in 6 months than other full-time businesses did in a year. Dennis McCoy added that the important information was the total sales/revenue, the number of employees (full-time and part-time) and the increase/decrease in revenue from year to year. Dennis McCoy asked Larry DiRe to make the changes as discussed. Feedback needed to be obtained from the business owners and the treasurer.

August 4<sup>th</sup>

Draft Tourism Zone Ordinance Review Larry DiRe stated that the changes made at the July 7th meeting were incorporated into the proposed language provided for further review this evening. There was much discussion as follows: Section XX-2 – Administration: The treasurer also needed to be involved in the review and verification process. Joan Natali suggested a team consisting of the town manager, planner and treasurer working together to review the criteria and to ensure compliance. Section XX-6 – Economic stimulus credits and enforcement: • Item (a)(4): i) Larry DiRe explained that he used the hours worked by one full-time (35 hours) and two part-time (25 hours each) employees to determine the minimum qualified staff hours; ii) the credit of the facility and connection fees would only apply to new buildings; and iii) receipts and tax returns would be submitted for verification purposes. Larry DiRe stated that he would review the information with the treasurer to obtain her input.

September 1<sup>st</sup>

Draft Tourism Zone Ordinance Review Larry DiRe stated that the treasurer’s comments were included on page 5 of the provided materials. There was some discussion regarding the treasurer’s comments and felt that they were thorough and well done. Larry DiRe would amend Section 2 of the proposed Tourism Zone Ordinance for review at the October meeting.

October 6<sup>th</sup> – Draft until approved at November 3<sup>rd</sup> Planning Commission regular monthly meeting

*A. Draft Tourism Zone Ordinance review*

Joan Natali suggested adding “all tax obligations to Northampton County” under Qualifications on page 3.

There was much discussion regarding the terms “acquire” versus “purchase” for real property under Qualifications.

 <p><b>TOWN OF CAPE CHARLES</b></p>	<b>AGENDA TITLE:</b> Zoning Ordinance Text Amendments and Peach Street Map Amendment		<b>AGENDA DATE:</b> November 5, 2015
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Various Zoning Ordinance text amendments and correction to Town Zoning Map		<b>ITEM NUMBER:</b> 2C
	<b>ATTACHMENTS:</b> None		<b>FOR COUNCIL:</b> Action ( ) Information ( x )
	<b>STAFF CONTACT (s):</b> Larry DiRe	<b>REVIEWED BY:</b> Brent Manuel, Town Manager	

**BACKGROUND:**

In May and June the Planning Commission reviewed several proposed zoning ordinance text amendments to those sections requiring factual or typographical correction. The map amendment was reviewed in August. At the October 6<sup>th</sup> Planning Commission voted to send these sections to the Town Council. All text and map amendments require the process described in Article II Section 2.7 be followed before the specific sections of the Town Zoning Ordinance and Town Zoning Map can be amended.

**ITEM SPECIFICS:**

The Town’s Zoning Ordinance text requires review and revision when necessary. The following sections have been reviewed by the Planning Commission in the past several months. Unlike more comprehensive sections, such as the sign ordinance, the variance process ordinance, and the satellite dish ordinance, that require more thorough review these sections require either typographical correction or factual updating. These sections are as follows:

*Article II Section 2.9 (page 26)* defines “Municipal Community Center” as “the former Cape Charles High School building.” That section shall read “See Neighborhood Community Center.”

*Article IV Section 4.5.B (page 29)* identifies *Section 4.8* as “Table of Parking Standards”. In fact, *Section 4.5.1* is the Table of Parking Standards. *Section 4.8* is Swimming Pool Regulations. That section (*Section 4.5.b*) shall read “*Section 4.5.1*.”

*Article III Section 3.2.I (pages 5-6)* enumeration reads as follows: “1. Proportions; 3. Scale and Orientation; 4. Roofs; 4. Windows and Doors.” Staff recognizes that this is a typographical error and needs to be amended to reflect an accurate sequential enumeration. This section shall read “2.Scale and Orientation” and “3.Roofs.”

*Article III Section 3.2.C.6.c (page 3)* identifies *Section 4.8.E.2* as “Table of Parking Standards”. In fact, *Section 4.5.1* is the Table of Parking Standards. *Section 4.8* is Swimming Pool Regulations. There is no *Section 4.8.E.2*. That section (*Section 3.2.C.6.c*) shall read “*Section 4.5.1*.”

*Article II Section 2.5.1.A.6 (page 6)* and *Article II Section 2.5.5 (page 7)* both cite a four-year period of non-occupancy of non-conforming structures. Virginia Code *Section 15.2-2307* states a two-year period. These sections shall read “two.”

*Article II Section 2.3.7* is proposed for the purpose of resolving textual inconsistencies across the zoning ordinance. This section shall read, “*Where there is conflict between the provisions or requirements of this ordinance, the more restrictive provisions or requirements shall apply.*”

*Article III Sections 3.5.B.21; 3.6.B.36; 3.7.B.3; and 3.8.B.2 state “compatible in nature with the foregoing uses and which the Zoning Administrator determines to be compatible with the intent of the district.” Section 3.9.E.8 states, “Any other use which is compatible in nature with the foregoing permitted and conditional uses and which is determined to be compatible with the intent of the District.” Determined by whom? Determined by what criteria? Staff recommended oversight language for these sections and the Planning Commission agreed such language was needed. These sections (3.5.B.21; 3.6.B.36; 3.7.B.3; and 3.8.B.2) shall read “and is concurred with by the Planning Commission.”*

Four Peach Street parcels (83A3-1-599c; 83A3-1-600c; 83A3-1-601b; and 83A3-1-601c) commonly known as 8 Peach Street, 10 Peach Street, and 12 Peach Street, are depicted on the February 2014 zoning map as zoned Residential – 1. Previous maps showed them as Commercial -1, and the historical use of those parcels is commercial.

**RECOMMENDATION:**

Staff recommends reviewing the proposed Zoning Ordinance text amendments, and providing direction to staff.