



PLANNING COMMISSION
Regular Meeting
Cape Charles Civic Center
November 7, 2017
6:00 p.m.

At approximately 6:00 p.m., Vice-Chairman Michael Strub, having established a quorum, called to order the Regular Meeting of the Planning Commission. In addition to Vice-Chairman Strub, present were Commissioners Dan Burke, Sandra Salopek and Bill Stramm. Chairman Dennis McCoy arrived at 6:04 p.m. Commissioners Keith Kostek and Joan Natali were not in attendance. Also in attendance were Town Planner Larry DiRe and Town Clerk Libby Hume. There were two members of the public in attendance.

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

PUBLIC COMMENTS:

Hank Mayer, 212 Bay Avenue

Mr. Mayer addressed the Planning Commission regarding adoption of regulations limiting the size of homes in Cape Charles. (Please see attached.)

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

CONSENT AGENDA

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

The Commissioners reviewed the minutes from the October 3, 2017 Joint Public Hearing with Town Council & Planning Commission Regular Meeting.

Motion made by Sandra Salopek, seconded by Dan Burke, to approve the minutes from the October 3, 2017 Joint Public Hearing with Town Council & Planning Commission Regular Meeting as presented. The motion was approved by unanimous vote. Bill Stramm abstained from the vote stating that he was not in attendance at that meeting.

REPORTS

Larry DiRe reported that a letter was mailed to the property owner of record for 1 Fig Street regarding the status of the approved conditional use for a residential apartment above commercial. The conditional use permit (CUP) would expire on February 23, 2018 if not acted upon. Ten-day notification was required to the property owners but he would continue to inform them on a regular 30-day basis. There was one other outstanding CUP which was approved in July 2017 for ground-floor residential in the 700 block of Fig Street.

There was much discussion regarding CUPs and the town's ability to make the property owners act expeditiously after approval of a CUP.

OLD BUSINESS

A. *Proposed Draft Text Amendment to Zoning Ordinance Article VIII, Section 8.34 Defining Appeal Process:*

Larry DiRe reported the following: i) There had been two appeals in 2017 – 1) Cladding material of the chimney on a home on Washington Avenue – The property owner filed an

appeal to the Town Council regarding the Historic District Review Board's (HDRB) decision regarding a vinyl clad chimney on a new home. The Council overruled the HDRB's decision; and 2) A third party appealed the HDRB's approval regarding an addition to an existing home at 8 Bay Avenue; and ii) The current zoning ordinance stated that an appeal could be filed by an "aggrieved party" but there was no definition included for aggrieved party. Staff worked with the Board of Zoning Appeals (BZA), which was the ultimate moderator of zoning ordinance standing prior to court action. The BZA reviewed the language and agreed there was a lack of clarity regarding "aggrieved party." Larry DiRe read the BZA's proposed language for § 8.34 as follows: *"An appeal from a decision of the Historic District Review Board may be taken to the Town Council by the owner of the property in question or by any party suffering cognizable harm by said decision, which shall be taken within thirty (30) days after the decision appealed from by filing with the Administrator a notice of appeal specifying the grounds thereof. The Administrator shall within five (5) business days transmit to the Town Council all the papers constituting the record upon which the action appealed from was taken. The Town Council shall fix a reasonable time for the hearing, give public notice thereof and decide the same within 60 (sixty) days. At the hearing the appealing party may appear in public or by agent. In exercising its powers, the Town Council may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify any order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination, and to that end shall have all the powers of the Historic District Review Board."*

After much discussion regarding this issue the Commissioners felt that more information and discussion was needed before a recommendation could be made to the Town Council.

B. *Proposed Draft Text Amendment to Zoning Ordinance Article III, Section 3.2.F.2 Establishing Maximum Total Area for Single-Family Dwelling:*

Larry DiRe reported that the current ordinance included a requirement of a minimum dwelling unit size of 960 square feet "excluding garages, porches, patios, etc." but was silent on a maximum dwelling unit size which was important to property owners and the broader community in knowing what limitations were placed on development. The current language included the ambiguous term "etc." regarding exclusions to the minimum size and could include attics, basements or other area of a structure. Larry DiRe went on to review two options for consideration: i) Static Maximum Dwelling Unit Size which would set a corresponding maximum to the existing minimum. One static dwelling unit size would not accommodate each lot in the town since lots included single, double and triple lots as well as smaller half and quarter-sized lots. A table of single-family dwelling units approved for construction since October 2014 was reviewed. Staff recommendation was to round the mean average of the recent construction and the buildable area of a conforming lot up to the nearest 100 square feet which resulted in 2,400 square feet as a recommended maximum dwelling unit size. On lots of record and assemblage of contiguous lots under common ownership, above the standard lot, the maximum dwelling unit size should be 4,500 square feet, or 175% of the conforming lot buildable area rounded up to the nearest 100 square feet. In all instances, all current setbacks, height limitations and maximum lot building coverage requirements should be met; and ii) Floor to Area Ratio (FAR) which was used in the Harbor Zoning District to regulate size, scale, mass and proportion of commercial and mixed-use development. The FAR proposed for all residential lots of record, and assemblage of contiguous lots of record under common ownership, was .45 for lots above 11,200 square feet, which was the square footage of a traditional double lot. This meant that on a triple lot of 16,800 square feet, a dwelling unit could be 7,560 square feet in total. Determining maximum and minimum dwelling unit size was important a) in reconciling future development with existing structures; b) for property owners to have an unambiguous and quantifiable understanding of regulations on their development rights; and iii) for reconciling development footprint with lot size.

There was much discussion regarding i) flooding and storm water issues; ii) accessory buildings would not be counted in the maximum dwelling unit size but would be included in the current 50% lot coverage; iii) use of FAR was uncommon in residential development; and iv) use of 175% of the lot's buildable area, rounded up to the nearest 100 square feet for dwelling unit size. Larry DiRe would bring back proposed language for further review at the December meeting.

C. *Proposed Draft Text Amendment to Certain Sections of Zoning Ordinance Article VIII and Article IX:*

Larry DiRe began by stating that the language in a variety of sections in the ordinance was copied from other jurisdictions and the mere repetition of language from one article to the next served to weaken, not strengthen, the overall intent of the zoning ordinance. Certain sections lacked in clarity of language, specifics relative to procedure, assignment of authority and responsibility, and required municipal funding support. The following sections were reviewed: i) Article VIII § 8.1, and Article IX § 9.2; ii) Article VIII § 8.17 and Article IX § 9.17; and iii) Article VIII § 8.23 and Article IX § 9.23. There was much discussion regarding the regulation of paint colors for structures in the Historic District.

Larry DiRe would bring back proposed language for review at the December meeting. If the Commissioners wanted the town to have the ability to mandate a color palette, the language could be moved from the zoning ordinance to the Town Code. The Commission's goal was to develop reasonable language that was enforceable and defensible.

NEW BUSINESS

A. *Election of Officers:*

Larry DiRe stated that Article 3 of the Planning Commission By-Laws required an annual election of a chairman and vice chairman at the first regular meeting after November 1.

Sandra Salopek nominated Bill Stramm for chairman. Dan Burke seconded the nomination. Bill Stramm nominated Dennis McCoy for chairman.

Bill Stramm was elected as chairman by majority vote.

Michael Strub nominated Dennis McCoy for vice chairman. Bill Stramm nominated Joan Natali for Vice chairman.

Joan Natali was elected as vice chairman by majority vote.

Dan Burke stated that if Joan Natali did not accept the position, the Commissioners could vote again at the December meeting.

B. *January 2018 Meeting Date:*

Larry DiRe stated that the town offices would be closed for the New Year's holiday on the first Tuesday of January. The town offices would also be closed on the third Monday, which was the alternate meeting date, for Martin Luther King Day.

After some discussion, the Commissioners rescheduled their January regular meeting for Wednesday, January 3, 2018.

ANNOUNCEMENTS

There were no announcements.

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

The meeting adjourned at 7:49 p.m.

Chairman Dennis McCoy

Town Clerk

**Comments and Information Submitted in Writing
November 7, 2017 Planning Commission Regular Meeting**

Hank Mayer, 212 Bay Avenue

Good evening. I'm Hank Mayer and have owned a home at 212 Bay Avenue since 2009. I was one of the public speakers at the recent Special Town Council Meeting to address the very large home proposed at 8 Bay Avenue.

This 9,000 square-foot home is located in the Historic District. Although it meets existing zoning and building ordinance requirements, it will not look and be like any other home in the District. I feel that we need to limit the combining of multiple lots and building of similar huge out of character mansions in the District.

Tonight, you are considering two proposals intended to address this issue. One would clarify the purpose and objectives of the Historic District. I believe that the language put forth by the Planning Commission Staff in conjunction with the Board of Zoning Appeals, improves and strengthens the District's purpose, and I hope that if approved it will be used by the Historic District Review Board when they consider future new construction and renovations to existing residential structures.

But the more controlling element is the need for a limit on the relative and absolute size of new residential home construction in the Historic District. The Planning Commission Staff have suggested two alternative methods for limiting the size of such buildings. I would like to recommend a third, which is a combination of an absolute maximum size and a scaling of building size and footprint to the lot size.

I am proposing that the Planning Commission adopt new regulations that limit the Floor Area Ratio (FAR) of any new Historic District residential construction on lots larger than the standard 40 x 140-foot size to no more than 40% of the square footage of the lot. Thus, a double lot of 11,200 square feet could have a home as large as 4,480 square feet including garage and accessory buildings. This 40% FAR is generally consistent with the size of homes built over the years in the District on lots of varying size. I also agree with Staff's proposal to use this approximate 4,500 square-foot double lot limit as the maximum size for any house constructed in the District.

I'm also proposing that we pay closer attention to the increasing levels of flooding that are occurring on many streets in our densely developed Historic District. I believe that there should be a limit that no more than 35% of larger lots be covered with impervious surfaces. The current limit under Article IV, Section 4.7 Storm Water Management is 40% but in other sections it appears to be as high as 50%.

I prepared a table, which I believe you have, that compares the maximum size residential buildings that could be built using FARs of 35, 40 and 45 percent and total footprint according to IS of 30, 35 and 40 percent for different lot sizes. I have discussed these with Larry DiRe and believe that we are in agreement on the need for these new controls.

Thank you.

Impact of FAR & IS Limits on Residential House Size

Lot Size (Sq Ft)	FAR (Total Sq Ft Under Roof)			Imp Surface (Total Footprint)		
	35%	40%	45%	30%	35%	40%
5,600 (Conform Lot)	1,960	2,240	2,520	1,680	1,960	2,240
9,000 (Oversize Lot)	3,150	3,600	4,050	2,700	3,150	3,600
11,200 (Double Lot)	3,920	4,480	5,040	3,360	3,920	4,480
13,600 (212 Bay Ave Lot)	4,760	5,440	6,120	4,080	4,760	5,440
16,800 (Triple Lot)	5,880	6,720	7,560	5,040	5,880	6,720