

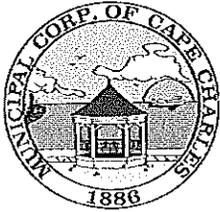
Planning Commission

Regular Session Agenda

August 7, 2012

6:00 P.M.

1. Call to Order
 - a. Roll Call – 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. Density – Harbor District – Mason Avenue Corridor
6. New Business
 - a. Proposed Text Change – Section 3.6.C - Conditional Uses
7. Announcements
8. Adjourn



DRAFT
PLANNING COMMISSION
Regular Meeting
Town Hall
July 10, 2012

At 6:00 p.m. in the Town Hall, Vice Chairman Dennis McCoy, having established a quorum, called to order the Regular Meeting of the Planning Commission. In attendance were Commissioners Malcolm Hayward, Mike Strub and Joan Natali. There were currently three (3) vacancies on the Commission. Also present were Town Manager Heather Arcos, Town Planner Tom Bonadeo and Town Clerk Libby Hume. There were approximately 15 members of the public in attendance.

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

REGULAR MEETING PUBLIC COMMENTS

Bob Panek, 408 Tazewell Avenue

Mr. Panek stated that he was here tonight to make his public comments as a private citizen and not in the role of Town staff. Mr. Panek stated that he supported the scheduling of a public hearing for the rezoning and conditional use permit and added that his reasoning was that the community center use was an impractical use for a building of that size. Mr. Panek distributed copies of some research that he had performed regarding community centers in areas in the State of Virginia and one in Maryland, all with much larger populations than Cape Charles. Mr. Panek reviewed the provided information. (Please see attached.)

Odessa Sullivan, 606 Strawberry Street

Ms. Sullivan stated that she was speaking on behalf of the community center adding that she believed that the Town needed a community center. Before the Town could go forward, there were procedures which had not been met. As individuals, everyone must go through these procedures in order to come to a solution to whatever the situation was that they were trying to come to. The Town Council must also follow the same procedures and could not omit any procedures. Forms had to be filled out and fees must be paid. Regardless of the outcome, the procedures must be followed.

Don Bender, 300 Fulcher Street

Mr. Bender deferred his allotted time to Ms. Deborah Bender.

Deborah Bender, 300 Fulcher Street

Ms. Bender stated that she wanted to address Mr. Panek who wanted to compare our little town to all those other towns. Let's compare it to Onancock. Onancock had more people than Cape Charles and less employees. They did not need two town managers to accomplish one job. Everyone in the town office did not have a secretary to answer their phone and they actually got by. Ms. Bender said that she lived there for 18 years and she knew a little about the Town of Onancock. Ms. Bender went on to state that she was here tonight to talk about the rezoning of the property where the historic 100-year old school was located and referred to the Comprehensive Plan that Tom Bonadeo had a part in writing. Ms. Bender stated that she was assuming that by now everyone had read it and went on to state that the Comprehensive Plan talked about the need for public space for public service needs. Ms. Bender continued to state that she had read it several times and had yet to see where it stated the need for urban apartments. How would urban apartments contribute to the Town and citizens' welfare? Plus, the Town would lose the parking lot currently used for the playground which she, as a

grandmother, used on a regular basis. Ms. Bender stated that it seemed to her that the public servants of this Town, such as the Town Manager, the Mayor, the Town Council, the Planning Commission and the Historic Review Board were not working for the citizens of this Town at all and added that the citizens paid their salaries but they, in fact, were working for the developers. Ms. Bender went on to talk about Edwin Gaskin and stated that she had read the letter that Mr. Gaskin sent to Heather Arcos and Bob Panek. Mr. Gaskin was in this to make money and was not doing anything to help this Town. Mr. Gaskin basically called the citizens idiots. Why had Edwin Gaskin only been at the closed meetings with Heather Arcos and Bob Panek? Ms. Bender referred to the Town Manager and Dave McCormack as the double threaded needle explaining that she was referring to the fact that Heather Arcos and Dave McCormack's wife were friends and asked whether this was how this all came about. Whenever anyone referred to Onancock's community center, they were told that we were not in Onancock and that was the first true statement that she had heard. Ms. Bender repeated that she lived in Onancock for 18 years and attended many, many meetings and never saw the Mayor, the Town Manager or the Town Council blatantly ignore the residents the way the Cape Charles officials were doing. Ms. Bender stated that a friend of hers was once in business with Edwin Gaskin and told her that Mr. Gaskin would make plenty of money on this project and the Town had basically crawled in bed with the devil. In closing, Ms. Bender asked the Commission to stop and think about the citizens, not the developers.

Veann Duvall, 110 Tazewell Avenue

Ms. Duvall deferred her allotted time to Mr. Wayne Creed.

Wayne Creed, 548 Monroe Avenue

Mr. Creed began by stating that everyone had worked hard on this project over the last few months but asked that the Commission not move forward with the public hearing adding that this project was not ready for prime time. The main reason was the obvious discrepancy in the Comprehensive Plan and what the developer was trying to do. Page 44, Section III-D.5 stated that the growth of the Town would require an increase in space for community services and the restoration of the old school as an adaptive reuse and to establish a community center. Mr. Creed said that it was stated in the Comprehensive Plan in plain English. Mr. Creed went on to state that there had not been a historic review of the project. The building was 100 years old and the Historic Review Board had not even looked at the plan. Mr. Creed stated that no one had seen any plans and asked what the developer was going to do architecturally. Would the developer do what was done at the Cape Charles Hotel – promising Savannah and giving us an Econo Lodge? The citizens did not want to see this with the old school. Mr. Creed continued to state that, more importantly, the Town had ignored the advice of its own attorney. The attorney would have a hard time explaining in court why the Town had ignored his own advice. There was no repurchase agreement, no pro forma and it's unbonded. Mr. Creed stated that it was insane to go on at least without a repurchase agreement. What if something happened, what would happen to the land and to the school? The Town would be left out in the cold. What were the requirements of the conditional use? Where would the garbage be put? Where were they going to park? What would happen with the water flow? What about fencing and lighting? The citizens had not seen any of that information. What about the reports – asbestos abatement reports, building code violations? No one had seen any of that. Mr. Creed stated that there were so many gaps in the project, it was not feasible to move forward right now. Mr. Creed added that the citizens were prepared to defend each and every one of these points and more. It was their duty to make sure the Council was putting the horse before the cart. Mr. Creed told the Commission to hold off on the public hearing until they could look at these gaps, review what the attorney said and decide whether to listen to what they said or just ignore it. Mr. Creed repeated that they were prepared to defend these points with passion.

Dorie Southern, 104 Monroe Avenue

Ms. Southern deferred her allotted time to Mr. George Southern.

George Southern, 104 Monroe Avenue

Mr. Southern stated that he had the honor of addressing the Commission a month ago at the public hearing for these same issues. At that time, he said that in trying to familiarize himself with the issue, he looked for the application for what was being considered and there wasn't one. The Commissioners did not receive one in their packet that month. After the fact, he received some hastily done applications that were very incomplete filed in the name of the Town - one for the rezoning and the other for a conditional use permit. The Commissioners very wisely decided, in the absence of all the facts, to table the decision for the next meeting which was tonight. Unfortunately, from what he had been able to see in the packet, the proper applications which were required were still not provided. Mr. Southern began with the conditional use permit since it was included in the packet adding that there still wasn't an application for the rezoning. Mr. Southern noted that the land owner's signature showed Edwin Gaskin on behalf of Echelon Resources. Mr. Southern stated that he did not believe Edwin Gaskin was present tonight but it did not matter. The conditional use permit checklist showed seven requirements and requirement number six was for a disclosure statement signed and notarized verifying ownership. Mr. Southern asked the Commissioners to look on their paper to see that item number six had been checked but there was not a disclosure statement signed and notarized verifying ownership and asked how could there be. Mr. Southern stated this was a false document adding that we all knew that Edwin Gaskin did not own this land. This was an application for a condition in the future that was not even true. Another problem was number five which required a plot plan of the property. There was an 8.5" x 11" sheet of paper with a magic marker and a broken line drawn on something that was almost illegible. There was no plot plan of the property and there could not be a plot plan of the property until the land had been subdivided and surveyed. There was no survey. There was no subdivision. Mr. Southern stated that we knew as a condition of the contract that the Town of Cape Charles had to bear the cost to obtain a subdivision of the property but it had not happened. Mr. Southern continued to state that what he had was a fraudulent application signed by a person who was not the owner attesting that there was attached a plot plan of the property. We knew there was not, but one might say that the general area was known as shown by the magic marker on Exhibit A. This was a very sensitive question because it was where the boundary would be with the Kiddie Playground. Without a survey, the exact boundary was not known. It was where the boundary would be with the tennis court and without a survey, we did not know that boundary. Mr. Southern stated that in his opinion, the honorable Commissioners were being hoodwinked by others asking the Commissioners to approve a fraudulent application. Mr. Southern went on to state that the Commissioners did the right thing a month ago and if they decided now to approve something that was clearly fraudulent the Commissioners were basically saying that their jobs as a Commissioner was meaningless and they were merely a rubber stamp which would be a very sad thing. Mr. Southern stated that two of his good friends had resigned from the Planning Commission. If the Commission was nothing but a rubber stamp, people would not want to serve because it was taking up their time and energy for nothing. Mr. Southern asked the Commissioners to make an independent decision and review the material given. It had nothing to do with whether or not they were in favor of a community center, but had everything to do with correct procedure for the Town of Cape Charles. If we did not uphold correct procedure then anything goes. Mr. Southern told the Commissioners to look at the application for conditional use and added that the Commissioners could not give a conditional use permit for open space property. It must first be rezoned and it had not been rezoned. A public hearing could not be approved for something that could not legally be done.

Michael Belote, 525 Madison Avenue

Mr. Belote deferred his allotted time to Councilman Frank Wendell.

Jim Stallings, 525 Madison Avenue

Mr. Stallings deferred his allotted time to Councilman Frank Wendell.

Brock Stiles, 525 Madison Avenue

Mr. Stiles deferred his allotted time to Councilman Frank Wendell.

Frank Wendell, 515 Monroe Avenue

Mr. Wendell stated that Thursday night would be his first Town Council meeting in twelve years, however he served six terms before that. Thursday night would begin his seventh term and thirteenth year on Town Council. Mr. Wendell stated that from time to time public officials used the terms fiduciary and due diligence in regards to conducting business on behalf of the citizens of Cape Charles and he thought that need was very evident here tonight. Mr. Wendell stated that the Commissioners probably knew what that meant but he wanted to review the definitions with everyone and distributed copies of the definitions to the Commissioners and proceeded to read those definitions adding that we were not meeting the definition of due diligence with this project. Mr. Wendell went on to comment on the contract, which he stated was suppressed for way too long. Mr. Wendell stated that he was not sure if the Commissioners had seen the contract and distributed copies. Mr. Wendell added that there were glaring omissions and there was no repurchase right which the Town's attorney asked for on behalf of the people of Cape Charles. There also wasn't a performance bond which the attorney asked for on behalf of the people of Cape Charles. Why was the Town ignoring its own lawyer? Mr. Wendell distributed copies of an email dated April 18, 2012 from Bob Panek to Edwin Gaskin writing about the attorney's recommendations regarding a repurchase right and performance bond and stated that this was part of the due diligence supposed to be done on behalf of the people of Cape Charles. Mr. Wendell distributed copies of an email dated April 19, 2012 from Edwin Gaskin to Bob Panek and interjected that Mr. Gaskin liked to write a lot and thought very highly of himself, before reading excerpts from the email regarding the following i) the repurchase right - Mr. Gaskin wrote that he could not agree to business terms that he knew would be rejected by their lender and which would incur legal costs to explore an issue already addressed; ii) the performance bond issue - Mr. Gaskin wrote that the Town's external legal counsel was the only one asking for a performance bond and to agree to this request would be to merely satisfy the heavy-handed approach of the Town's external legal counsel. If the Town wanted the performance bond, the Town should pay the cost. Mr. Wendell added that he found that insulting and reckless. Mr. Wendell distributed copies of an email dated January 30, 2012 from Edwin Gaskin to Bob Panek referring to Scenario B which would be for 17, not 16 units, and added that all along, they were planning for no public space regardless of what was said, and again asked who we were working for. Mr. Wendell distributed an email dated May 16, 2012 from Edwin Gaskin to Heather Arcos and Bob Panek and added that by this date, Mr. Gaskin was becoming annoyed by the idiots in Town who did not like his ideas and Mr. Wendell added that this was his thirteenth year on Council and he and his sister ran a 120-year old business with about \$4.3M of inventory and he had done a lot that he was proud of such as coaching girls' basketball, boys' football and working with civic organizations. Mr. Wendell stated that he resented on behalf of himself, his family and the good people here tonight having been characterized by the opposition as the "idiots of the world" and asked that this be put in the minutes. Mr. Wendell went on to read from Mr. Gaskin's email stating that much progress could be borne of controversy provided that the strength of leadership existed to ignore the idiots of the world. Mr. Wendell distributed copies of an email dated May 11, 2012 from Edwin Gaskin to Heather Arcos and Bob Panek, interjecting that this was better than

fiction, stating that he was looking forward to the vote on June 14th and moving forward to actually starting the project but he had concerns about allowing the project opposition to let loose with the insidious plans over the next 33 days but they could not be hog-tied or shipped off to Gitmo or anything. Their antics just had to be weathered. Mr. Wendell commented that he had had a few people try to hog-tie him but he had wriggled out of it. Mr. Wendell stated that he applauded Malcolm Hayward at the last meeting where he moved to table the decision on this issue so the Commission could review the information and become better educated on the issues and added that he was proud of the Commissioner for doing that. Mr. Wendell went on to state that as Mr. Wayne Creed, president of Old School Cape Charles, said earlier there were a lot of problems with the project. Mr. Wendell distributed copies of excerpts from the Comprehensive Plan and read the Vision Statement adding that this was part of the fiduciary duties for the people of Cape Charles and asked how this was accomplished by adding 17 luxury urban lofts in the school vs. the Town retaining ownership and performing the building maintenance to protect the 100-year old investment whether we moved forward with a multi-purpose community center or not. Town Council meetings could be held there instead of having to hunt for the locations where they were held. Mr. Wendell went on to state that the people had been told that the Open Space definition was troublesome and had to be changed but the third paragraph on page 7 stated that protecting open space was a priority. How much of a priority could it be if the Town was doing everything it could to do away with it just because a 100-year old public building sat on it? The sentence that embodies what to do with the school was on page 44 and read the language stating that "Growth of the Town will require an increase in space for community services, therefore, the Town plans include: The restoration of the Cape Charles School as an adaptive reuse to preserve this structure." To increase space for community services, the Comprehensive Plan stated that it should establish a community center. The Comprehensive Plan also stated the need to relocate the library to a larger space and relocation of the Town offices. Mr. Wendell added that sometimes the Town stated that it needed office space and sometimes it stated that it did not. Mr. Wendell also stated that sometimes it was stated that the building would be condos and other times it was stated that it would not. Mr. Wendell continued with the Comprehensive Plan and stated it referred to the development of educational programs and so on. On page 45, it stated that the Town should be supporting partnerships with organizations to increase and improve cultural and art programs and added that the Town did not reach out very well to Old School Cape Charles. Old School Cape Charles submitted a petition with 317 signatures asking for equal time and had never received a response. It took the Town 16 days to turn down their first proposal. The Town talked about a pro forma but kept Echelon's pro forma confidential from the public. Mr. Wendell added that he was a Town Councilman now so he would be looking at it shortly. How good was Echelon's pro forma when they were going to turn the project over to a site specific entity that we don't know anything about and how was their pro forma? Mr. Wendell stated that he was done with his handouts and asked the Commissioners how much business they had done where they had hired a high-priced lawyer and asked for their high-priced advice and then turned around and ignored it. How successful had the Commissioners been in pursuing the capitalistic American dream in that fashion? We had all paid for that advice and Town Council ignored it. The Town Council should give the reasons why the advice was ignored. Why the repurchase right was not important enough to fight for? Why the performance bond was not important enough to fight for? There certainly must be reasons because they were not included in the contract. Mr. Wendell concluded by stating that if the Commissioners had not done their due diligence, they had a fiduciary obligation to not set this public hearing because they were not serving the public and had not done their due diligence.

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

CONSENT AGENDA

Motion made by Joan Natali, seconded by Mike Strub, to accept the agenda as presented. The motion was approved by unanimous consent.

The Commissioners reviewed the minutes for the June 5, 2012 Joint Public Hearing with the Town Council, and the June 5, 2012 Regular Meeting.

Motion made by Joan Natali, seconded by Mike Strub, to approve the minutes from the June 5, 2012 Joint Public Hearing with the Town Council and the June 5, 2012 Regular Meeting as presented. The motion was approved by unanimous consent.

REPORTS

Tom Bonadeo reported the following: i) As Bob Panek mentioned earlier, the Northampton County Board of Supervisors voted to renovate the former middle school building into a multi-use community center; ii) The final parking layout was being completed for the Harbor. There would be about 35-40 spaces for the Shanty and 12-13 for the Harbor. The Harbor buildings went through the christening of the Memorial Day and July 4th weekends. During the construction of the new wastewater treatment plant, the flow through the Harbor area was reversed and was working properly. Malcolm Hayward commented on the smell when you drove by it. Tom Bonadeo stated that there were times when the wind blew the odor toward the Harbor and Town. Mike Strub asked whether, as part of the Harbor Development, whether a kiosk would be placed to notify the boaters of the shops in Town. Tom Bonadeo stated that there currently were not any plans for signage but a meeting was being scheduled to discuss possible signage for this purpose. There was some discussion regarding a possible shuttle from the Harbor into Town but Tom Bonadeo cautioned that the property between the Harbor and Town belonged to the railroad and what appeared to be a road between the two areas, was actually part of Tavi's private property and there was only an ingress/egress for the railroad. The Town had to work with the railroad and Mr. Tavi to get a passageway through there. The railroad would not allow vehicles to go across the railroad tracks and people were parking on the railroad property. The Town needed to work closely with the railroad to ensure that the process did not get cut off; iii) The Historic Review Board met in May and approved a remodeling project for a duplex at Tazewell Avenue and Nectarine Street; iv) There were numerous remodeling projects underway throughout Town. Jeb Brady performed 80-90 inspections last month. There were also a number of homes under contract currently. There had been an increase in the number of depressed properties being purchased; v) There were also some restaurant offerings. The Brown Dog Ice Cream was now open and had to close one day during the week because they ran out of product. Some other businesses also had an overwhelming 4th of July week. It was almost like having three weekends with having the holiday in the middle of the week; and vi) VDOT was working on crossing signs on Old Cape Charles Road to allow golf carts to cross the road. One sign had been placed and the Town was working with VDOT for the placement of at least two more signs. Malcolm Hayward asked whether bridges would have to be built across the culvert at the crossings to allow the golf carts to access the path. Tom Bonadeo stated that this was another issue because the planners of the path would have to work with VDOT to cross their right-of-way and added that he was not involved in this part of the plan.

Mike Strub asked about the Hotel Cape Charles' plan which showed wrought iron like a French-quarter style and now the building was completed with more of a Scandinavian style and very modern which would be fine in certain locations and asked whether this change was taken through the proper channels. Tom Bonadeo stated that the building was not completed as presented and the Town was working with the developer to get that completed.

OLD BUSINESS

A. Resolution 20120628 – Referral to Planning Commission the proposed amendment of the zoning map as to the property generally located at the corner of Madison Avenue and Plum Street

Tom Bonadeo informed the Commission that the Town Council, by Ordinance 20120614, approved the sale of certain property owned by the Town, collectively called the “Old School Area,” to Echelon Resources, Inc. Echelon intended, by adaptive reuse, to rehabilitate the Old School Area and convert it into 17 residential apartment units and surrounding grounds (the “Old School Rehabilitation”). The current zoning of Open Space did not allow for the Old School Rehabilitation. The R-1 zoning district allowed, by conditional use permit, for the Old School Rehabilitation as an adaptive reuse. The schools in Cape Charles were previously zoned in R-1 and this building needed to be rezoned to R-1 for any of the proposed uses. This was not a meeting to decided anything but a meeting to start discussion regarding the process. The agenda packet included two maps and a plot plan (Exhibit A). Tom Bonadeo stated that it was important to note the language in the Comprehensive Plan that dealt with the growth of the Town, when in actuality, the population of the Town had shrunk according to the 2010 census. Tom Bonadeo stated that he and Joan Natali were part of the group that authored the Comprehensive plan and the six bullets on page 44 that everyone referred to could not all be done in the same building nor intended to do so. Previous studies had been done which stated that the former school building was not good for the Library. The six bullets were independent items that the Town would like to have in the future.

Tom Bonadeo went on to explain that the Open Space designation also affected the flood ordinance. The Town staff spent time scoring for this and one of the requirements was adequate Open Space which did not include areas containing buildings. The Town scored 9 which resulted in residents receiving a 5% reduction in flood insurance rates. FEMA questioned why the Town had a building in Open Space and it truly had to be Open Space to be counted toward the FEMA insurance plan.

Tom Bonadeo read Resolution 20120628 which authorized the referral to the Planning Commission the proposed amendment of the zoning map and related conditional use permits as to the property generally located at the corner of Madison Avenue and Plum Street and added that the Mayor signed the Resolution as the representative of the Town who owned the school property.

Mike Strub asked for clarification that neither use fell under Open Space and the land had to be rezoned for either use and the only acceptable use under this designation would be to tear down the building. Tom Bonadeo responded in the affirmative. Frank Wendell interjected that the definition of Open Space could be changed. Tom Bonadeo responded that the Town could not make an exception for buildings in Open Space per FEMA regulations. Mike Strub stated that this was a correction that was long overdue.

Tom Bonadeo stated that this meeting was not for discussion about a neighborhood community center or a municipal community center. The zoning ordinance required the building to be in the R-1 zone and Open Space was to be preserved as truly Open Space.

Motion made by Joan Natali, seconded by Malcolm Hayward, to schedule a public hearing and special meeting for July 26, 2012 at 6:00 p.m. to hear public comments regarding the proposed zoning map amendment. The motion was approved by unanimous consent.

B. *Conditional Use Permit – Echelon Resources, Inc. for the adaptive reuse to rehabilitate the old school area*

Tom Bonadeo stated that the Old School Area was the real property bounded on the north by Madison Avenue, on the east by Plum Street, on the south by parcel 83A3-1-23 and on the west by lot 287. The area contained lots 281 through 286, a portion of the area that was originally North Park Row and the old Cape Charles High School building. The conditional use permit application and the zoning ordinance required the Planning Commission and Town Council to consider the following items and that the permitted use(s) would not: i) adversely affect the health, safety or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect the other land uses within the particular surrounding neighborhood. Tom Bonadeo stated that the residential adaptive reuse would restore the building in accordance with the guidelines of the Secretary of the Interior for Rehabilitation and the neighborhood surrounding the park is R-1 including the houses and apartments on North Park Row. 11 Park Row contained four two-bedroom apartments. These properties were the same distance from the park as the school building; ii) be detrimental to the public welfare or injurious to property or improvements in the neighborhood. Tom Bonadeo explained that the historic restoration and adaptive reuse would be an investment of over \$2M in the neighborhood and this restoration would improve the neighborhood values with a newly rehabilitated building in accordance with the Secretary of the Interior's guidelines. The density of the site would be no more than the western park row site or the underlying zoning of R-1. This property covered the equivalent of seven town lots or the equivalent space for seven single-family residences. The four two-bedroom apartments at 11 Park Row were on a single lot. The residential use would require about 17 spaces of off-street parking which would be provided in the area that was currently off-street parking and on the west side of the building. The historic rehabilitation in either use would be an asset to the improvements in the adjacent park; and iii) be in conflict with the purpose of the Comprehensive Plan. The current Comprehensive Plan stressed the preservation of contributing historic structures and the Virginia Department of Historic Resources in partnership with the U.S. Secretary of the Interior had promulgated rules and tax credits especially for the adaptive reuse of these contributing structures. Page 44 of the Comprehensive Plan specifically set multiple goals, which had been pointed out numerous times, one of which was to provide for the adaptive reuse of the school building. Other items referring to a community center and library were separated in the Comprehensive Plan as past studies showed that they could not be accomplished in the same building (Schriver & Holland Study). The requirements were also based on growth expected at about 3% and Cape Charles had not met this growth rate as shown in the last census. The Town had almost as many part-time residents as full-time ones.

This application met the requirements of the zoning ordinance for conditional use permits and the adaptive reuse in the R-1 zone. The use was compatible with the permitted uses in the R-1 zone and the plan would meet the table of parking standards. New utility services would be placed underground. The structure was a contributing structure to the National Historic District.

Tom Bonadeo added that the Historic District Review Board would also be reviewing this information and providing their input before the Planning Commission would make their decision.

At this point, Tom Bonadeo introduced Mr. Dave McCormack of Echelon Resources, Inc.

Dave McCormack gave a presentation on the adaptive reuse of the old Cape Charles School building regarding i) the current status of the building; ii) the principles of adaptive reuse; iii) an overview of Echelon Resources' experience; iv) the proposed project details; and v) comparisons to other projects done by Echelon Resources showing before and after photographs of several projects and providing details of the various projects.

Frank Wendell asked about Echelon's proffer to the Town of Hopewell where auditorium space was left and a clubhouse was built for the football team at an approximate cost of \$100K. Dave McCormack responded that Hopewell waived the entire tap fee and Cape Charles' tap fee was \$53K and added that each municipality was different. Purchase prices were irrelevant and it was very difficult to find \$2M to rehabilitate a building.

Malcolm Hayward asked whether Echelon's plans for this building were to rent or sell as condos. Dave McCormack stated that there were no plans for condos. He personally did not like condos which were very expensive to do and lenders were not very willing to lend money for condo projects. This building would be high-end apartments and their lender, VHDA, was on board for a 30-year deal.

Malcolm Hayward asked, in Echelon's experience, where the tenants had come from. Dave McCormack stated that he had been aware of the building for some time, but a friend of his recently brought it to his attention by stating that he would be interested in renting an apartment in Cape Charles because he came often to fish and asked Dave to consider this building. The tenants would be a variety of people, some who would live here full-time and others who came here regularly. The rent would be kept affordable, but not low-income. Malcolm Hayward asked about the target rental amount. Dave McCormack responded that the rent would be in the \$600-700 range and added that he planned to rent one of the units himself and explained that he came to the Shore often and had looked into renting a place but it was very difficult to find a place to rent.

Joan Natali asked about the timeline for construction, obtaining a certificate of occupancy, then finding tenants, etc. Dave McCormack stated that when buying from a municipality, the process was different but if the rezoning and conditional use permit was approved, they would immediately file with the Department of Historic Resources. The Department of Historic Resources took about eight weeks to review the plans and during that time, Echelon would be obtaining bids for the project. It would be about 90 days before construction could begin and it would take about one year for the construction. A certificate of occupancy could be obtained by September 2013 and they would then file for tax credits. Their lender had a lien on the tax credits which would be used to pay down the outstanding balance. Marketing of the property would begin within 90-days of receipt of the certificate of occupancy. The entire process was expected to take approximately 2.5 - 3 years.

Malcolm Hayward asked whether they had a preference in using local contractors. Dave McCormack stated that they preferred to use local contractors for economical and logistical reasons.

Dave McCormack concluded by stating that Echelon has lots of experience and a great track record. They have lots of references and welcomed people looking into their track record.

Motion made by Mike Strub, seconded by Malcolm Hayward, to schedule a public hearing and special meeting for July 26, 2012 at 6:00 p.m. to hear public comments regarding the

conditional use permit application from Echelon Resources, Inc. The motion was approved by unanimous consent.

NEW BUSINESS

There was no new business to review.

OTHER

Malcolm Hayward stated that there were several houses in town which were overly blighted and asked whether the Planning Commission could do anything about them. Tom Bonadeo stated that the house on the corner of Randolph Avenue and Plum Street which was under Code Enforcement had a contract for new siding and reconstruction. The Town was working with the applicant to get past due bills paid. Tom Bonadeo also informed the Commissioners of a new law in Virginia which took effect July 1, 2012 regarding receivership where a municipality could take over a blighted property to get it fixed up.

Malcolm Hayward asked whether this was under the Planning Commission's purview. Tom Bonadeo explained that the zoning ordinance set this up to be dealt with by the Code Enforcement Department. Heather Arcos stated that Code Enforcement regularly provided reports to the Town Council regarding the status of Code Enforcement cases.

Malcolm Hayward stated that people often approached him regarding certain properties in Town and asked how he should reply to their inquiries. Heather Arcos asked him to refer any inquiries to the Code Official.

ANNOUNCEMENTS

Tom Bonadeo stated that Bruce Brinkley worked for the City of Portsmouth for Doug Smith, the former Building Code Official, and had been working late hours. With his work load, Mr. Brinkley felt that he needed to step down from the Planning Commission. Several applications had been received from citizens interested in serving on the Commission. The Town Council would be scheduling a closed session to meet with the applicants in the near future. Joan Natali added that this was a great opportunity for anyone in the audience to apply to serve on the Commission. Dennis McCoy stated that the Commissioners were not employees of the Town. The Commission was an advisory board working at the request of the Town Council. Citizens provided valuable perspectives regarding what it was that the people wanted and the Commissioners needed to be responsible to the entire town.

Malcolm Hayward suggested that a meeting be held to allow all the citizens of Town the opportunity to hear the presentation by Echelon Resources. Heather Arcos stated that there would be more meetings scheduled as the project moved forward.

Motion made by Malcolm Hayward, seconded by Joan Natali, and unanimously approved to adjourn the Planning Commission meeting.

Vice Chairman Dennis McCoy

Town Clerk

Planning Commission Regular Meeting Public Comments
(Comments provided in writing by speakers)

Bob Panek, 408 Tazewell Avenue

Community Centers

1. Some Comparisons

<u>Locality</u>	<u>Population</u>	<u>Square Footage</u>
Falls Church, VA	12,750	11,000-12,000 (estimated)
Vienna, VA	15,750	13,100
City of Fairfax, VA	22,500	14,330
Severna Park, MD	28,500	36,000 (including 2 pools, former YMCA)

Average for buildings without a pool is about 0.75 square feet per resident. Severna Park, with 2 pools, is 1.25 square feet per resident.

The above suggests a Cape Charles community center of about 1,500 square feet, not 17,000.

2. A Case Study

An excellent community center feasibility study for the City of Fruita, Colorado was done in 2007, available at www.greenplayllc.com. The study was amended in 2008, available at www.fruita.org, parks and recreation. The study contains a comprehensive market analysis (community needs, available services, ability to pay, etc.), configuration alternatives, construction cost estimates, and operating cost and revenue estimates. Fruita has a population of about 9,000, and about 40,000 people live within a 10 mile radius. They built a facility of about 40,000 square feet, including a pool. The study indicates that revenues will cover only about two thirds of operating costs.

3. Northampton County, Virginia

At the Board of Supervisors meeting on June 25, 2012, the Board agreed to move forward with renovating the former Northampton Middle School into a mixed use community center, including: gymnasium, auditorium, meeting rooms, kitchen & cafeteria, and rental space. This facility is located about 12.6 miles from Cape Charles.



DRAFT
PLANNING COMMISSION
Public Hearing & Special Meeting
St. Charles Parish Hall
July 26, 2012

At 6:00 p.m. in the Town Hall, Vice Chairman Dennis McCoy, having established a quorum, called to order the Public Hearing and Special Meeting of the Planning Commission. In attendance were Commissioners Malcolm Hayward, Mike Strub and Joan Natali. There were currently three (3) vacancies on the Commission. Also present were Town Manager Heather Arcos, Assistant Town Manager Bob Panek and Town Clerk Libby Hume. There were approximately 15 members of the public in attendance.

Town Manager Heather Arcos read the public hearing advertisement which was published in the July 14th and July 21st issues of the Eastern Shore News.

The floor was opened for public comments.

PUBLIC COMMENTS

Lenora Mitchell, 309 Tazewell Avenue

Ms. Mitchell began by stating that she was opposed to amending the zoning map and conditional use permit to accommodate the development of the Cape Charles Combined School into 17 housing units, whether the application was submitted by the property owner, Mayor Sullivan, as reported at the last Planning Commission meeting, or Echelon Resources. The proposed adaptive reuse of the building would destroy the character of the neighborhood and compromise the use of the public park by the citizens. Ms. Mitchell continued for those who were concerned about low income people living there if the targeted market did not buy in, even with HUD vouchers, those units would not be affordable to the working class people. What amenities were needed to make this property private and exclusive to attract the targeted market? Would they want to be penned in like animals with fences and gates to keep the masses away or would they want a better view for which the public would have to make concessions to accommodate? Would the health, safety and welfare of the people who walk or run in the park for exercise, or just sit in the park to enjoy nature, be compromised? It was a lot safer to conduct these activities in the park rather than in the streets or on the sidewalks which were in very bad condition in some areas. People stayed in the park at all times of the night. Would the kids' play area have to be relocated because their squeals of laughter could be heard for quite a distance away when they were having fun? What about the older youth? The only sports activities that were offered were soccer, basketball and skateboarding of which the most popular seemed to be basketball. Contrary to what the Town believed, the sport crossed racial, cultural, ethnic and generational lines. Ms. Mitchell concluded by stating that because of these questions and other concerns which had been expressed before, she opposed the changes as proposed. The proposed project started out cloaked in secrecy and deceptive practices were used to get to this point. The Mayor was disheartened and Ms. Mitchell stated that she was sad. The Town took a detour, got lost and went down the wrong road.

John Peterman, 420 Plum Street

Mr. Peterman addressed the Commissioners stating that he lived directly across from the old school. Mr. Peterman went on to state that there had been a lot of division throughout the process and he stood opposed to both the rezoning and the conditional use permit. Mr. Peterman stated that he bought his property two years ago and would not have bought it if he had known this would happen. He enjoyed the property and the Town the way it was and was opposed to this project and hoped that the Planning Commission, to the extent of its authority, would deny these requests.

Lisa Harman, 104 Madison Avenue

Mr. Harman deferred her allotted time to Mr. Tom Krawczel.

Don Riley, 538 Monroe Avenue

Mr. Riley deferred his allotted time to Mr. Tom Krawczel.

Wayne Creed, 548 Monroe Avenue

Mr. Creed began by asking why we were here and why were we rezoning the school with regard for a conditional use permit. When the Mayor signed the contract, what exactly happened? The Town had a public asset, the school, which belonged to the people, the public and by signing the contract, that public asset was converted to a private asset which now belonged to Echelon Resources. Because the building was in the historic district on the National Historic Registry, Echelon was now eligible for tax credits, grants and possibly HUD. What did that mean? It meant that public assets, especially public funds and taxes, would now be privatized and given to a developer. What about the debt? The developer would take the tax credits to apply towards its debt to build this project. Mr. Creed reiterated that public assets were being privatized. Echelon had stated that they were going to spend about \$2M to renovate the school, that was why the rezoning and conditional permit were needed. What that really meant to the citizens was that Echelon technically was not going to spend any money of their own to renovate the school. The taxpayers would use their money to renovate the school. Essentially what would happen was that Echelon would get the school, which was a public asset and was now private, the tax credits and all the wealth that went with that. The Town gave Echelon a prime piece of resort property, in a resort Town overlooking the Chesapeake Bay for \$10. The Commissioners should be aware that by moving forward the Town was giving the developer something really valuable for \$10, for nothing and it was crazy. Mr. Creed went on to state that the Historic District Review Board rejected the proposal as bogus, fraudulent and just a joke. Why did they do that? The Historic District Review Board was smart, did their fiduciary duty and they were tough. They looked at the proposal and stated that it was not right and by rejecting the proposal, created a huge problem for the Town because they knew the history. This was a historical building in a historic district. In the history of that property, the park had always been there and had always been Open Space. When the Town decided to build the school, they extended the property of the park and put the school inside of that property. It had always been the school and the grounds and it was always called the school park. When the County took the property, they took the land and the building, and when they gave it back, they gave back the land and the building. It was all one parcel and was never separated. The Town could tell you that the building was not part of the park but the lawyers would figure that out anyway. This was a really big issue for the Commissioners who could listen to the staff, who were the same ones that told the Town to build a wastewater plant by the Harbor. Mr. Creed stated that he kept telling the Town not to do it because it would stink and be disgusting. Now when people were sitting at the Shanty in the middle of the night having a cocktail, they smell the wastewater plant. The citizens would be smelling it for a long time especially if the PSA went through. The logic for this project, as was for the wastewater project, was shortsighted and crazy. Mr. Creed stated that he knew the Commissioners were smart, and had done their homework, but in moving forward needed to think what was happening to Cape Charles and whether it was worth it. The Town was spending \$200K, which was being stolen from the wells, to buy the bank for a library – a library that cost \$100K per year to run and brought in barely \$6K per year. It was a huge loss. Mr. Creed stated that the library should be shut down and the \$200K should be put in to the school. The Town was giving a prime piece of property to the developer for \$10. This was money the Town should be using to renovate the school for the kids. Mr. Creed added that a good friend of his, an officer on the police force, mentioned something that Mr. Creed had written years ago was right. What he had written was “We were not going to be judged by what we were going to take with us, but would be judged by what we would leave behind for the next generation.” This was what the zoning issue was about. This was a business deal that should be rejected. Mr. Creed urged the Commissioners to look at the contract and what was going on in the Town and what was really happening. It was not in the best interest of the Town or its

citizens and certainly not in the best interest of the kids and the future. The building was a school and would always be a school and would be a school again.

Michele Macklin, 420 Plum Street

Ms. Macklin stated that she moved here two years ago and was attracted by the quiet Town where they could sit on their porch and relax. Life was good. Ms. Macklin continued to state that she did not see that life would be the same with an apartment building across the street and added that she would not have bought here if she knew this would be the case.

Dorie Southern, 104 Monroe Avenue

Ms. Southern deferred her allotted time to Mr. George Southern.

Brian Harman, 104 Madison Avenue

Mr. Harman stated that he was going to give his time to someone else but the Commissioners needed to hear what he had to say. Mr. Harman informed the Commissioners that he had been teaching here for almost 30 years and had State champions and the very best that could be. Mr. Harman stated that his opinion was that one had to do the best they could do which was what he had always taught the kids. Mr. Harman reiterated that he was going to give his time to someone else but felt the Commissioners needed to hear what he had to say and better listen to what he had to say. Mr. Harman continued to state that the kids came to play basketball, tennis and asked him to show them how to throw a foul shot, how to hit a tennis ball, how to drive a car and that was his main job. The Town should not want to destroy a school. Mr. Harman stated that his father-in-law was the chairman of the School Board for 40+ years. The kids needed somewhere to go in Cape Charles. If the school was taken away, there would be no basketball court, no tennis court, and no track for them to walk. When the citizens got old, where would they be able to walk? One could walk around Town but it was fun to walk around with a dog at the old school. Mr. Harman stated that it was also nice for him to be able to say that his children's granddad was responsible for that school and keeping that school. Mr. Harman stated that he had been doing this for 30 years and had spent many hours with the kids around here.

George Southern, 104 Monroe Avenue

Mr. Southern stated that the Commissioners had heard him before and there were lots of compelling arguments made tonight and people had one opinion or another. Mr. Southern stated that he would like to discuss procedure of which there should be no opinion and should be cut and dry and added that this was the third Planning Commission meeting where he had talked about procedure. In the first meeting at the fire hall, he got up and said that there was no application for what the Commission was being asked to consider which was going against the procedure. During the intermission between the public hearing and actual meeting, he was given an application which was obviously hurriedly filled out and it was more blank than filled. The Planning Commission wisely tabled the issue at that time. Procedurally, it was not time to approve it since the application did not exist. At the second meeting, which was in Council chambers, there was an application and he noted that the land owner's signature was Edwin Gaskin and the box was checked for a disclosure statement, signed and notarized, verifying ownership. Edwin Gaskin did not own this property. The box was checked indicating the \$300 fee was paid showing that the item should be attached, but there was nothing attached. At this meeting, the packet was sent out and was advertised, but no application was included for the rezoning or the conditional use and he thought that was because the Town had passed a resolution which apparently obviated the need for applications. When he arrived here tonight, there was an application that no one ever saw. Mr. Southern stated that he did not know when the Commissioners saw this but it was in the packet and was not shown to the public until they arrived here tonight. The application was a new application form which had been changed and Mr. Southern asked whether the members of the Planning Commission authorized a new application form and were aware that the form had been changed. The old form required the land owner's signature. The new form no longer had the land owner's signature, but now has owner/agent. The old form required a disclosure statement signed and

notarized verifying ownership. The new form also included that but there was no disclosure form signed and notarized verifying ownership. The new form required information about the contractor but all it stated was "TBD" - to be determined. The public was given the opportunity to comment at a public hearing on a matter that was to be determined which brought up another issue that a conditional use permit was only to be given for land that was zoned for that use. The current Open Space zoning did not allow the use of a 17 unit apartment building. Unless the Commissioners wanted the cart before the horse, there should be a public hearing for the rezoning and only if the land was rezoned should there be public hearing and decision on the conditional use. The Town Council asked the Planning Commission to consider a hypothetical. Hypothetically, if the Town Council rezoned the land then could they approve a conditional use permit that was not in the name of the owner, that did not have a complete application and that was only given to everyone moments ago? Mr. Southern stated that it was like a broken record, meeting after meeting, the Town was not following its own rules. No one could argue that the rules should be followed. Mr. Southern added that he hoped the Commissioners would do like they did the first time and table this decision tonight until the rules had been adhered to.

Deborah Bender, 300 Fulcher Street

Ms. Bender stated that she was here to talk about the rezoning of the property which was zoned Open Space and had always been tied together with the park and needed to stay that way. Giving this property away, the Town would lose the 100-year old historic school and the parking lot for grandmothers like herself to take their grandchildren to the park all to build urban apartments. The Town did not need any more apartments and in doing this, the Town was hurting its own citizens who invested their hard earned money, not tax credits the way Echelon was going to do, the very people that paid the Town staff's salaries. The Historic District Review Board unanimously voted against this building becoming apartments. Why do we have a Historic Review Board and not listen to them? Ms. Bender stated that first, she wanted to comment on how nice it was for the Town to create a new conditional use permit application to accommodate Echelon, and added what else was new. The application was a joke. Where was the plan of what Echelon was going to do? Ms. Bender stated that when she put a swimming pool in her back yard, she had to draw a picture and had to discuss it with Planner Tom Bonadeo who even threw in a fence around the top which legally she did not have to do. Ms. Bender continued to state that when she wanted to cut down a tree in her back yard, she had to draw a picture of where the tree was and where she was going to put new trees. Echelon did not have to show any pictures of anything. The Town was taking it for what Echelon said. Ms. Bender stated again that the Town did not need the apartments, did not need a conditional use permit because the Town did not need the apartments, did not need to rezone the property because the Town did not need apartments.

Veann Duvall, 110 Tazewell Avenue

Ms. Duvall deferred her allotted time to Mr. Tim Krawczel.

Tom Krawczel, 409 Nectarine Street

Mr. Krawczel stated that he was going to speak regarding the conditional use permit and began by talking about ethics and read an excerpt from the American Institute of Certified Planners Code of Ethics which stated that the primary obligation was to serve the public interest and owed their allegiance to a conscientiously attained concept of the public interest that was formulated through continuous and open debate. Mr. Krawczel asked whether the Town Council had allowed the Commission to have continuous and open debate regarding this issue and added that the Town Council had not and had made the decisions before the matter came to the Commission. The Town Council not only did this with the school, but now had done it with the bank building. The Town was required by law to get a permit from the Planning Commission before authorizing the purchase of the building. The Town failed to do that. Mr. Krawczel again read from the Planners' Code of Ethics which stated that the Commissioners would provide timely, adequate, clear and accurate information on planning issues to all affected persons and to governmental decision makers. Mr. Krawczel asked the Commissioners if they had gotten clear and accurate information about the

school and the special use permit. Mr. Krawczel went on to state that Mr. Panek had met nine or ten times in executive session with the developers and had given rebuttals to public comment and had even spoken as a private citizen and asked the Commissioners if Mr. Panek had given them clear, objective and accurate information. Mr. Krawczel distributed three copies of a handout to several of the Commissioners regarding some facts about the school. Mr. Krawczel stated that the purpose of a conditional use permit was to allow the Planning Commission to place reasonable conditions to fit a use into a neighborhood to mitigate the external impacts of the use. (Please see attached.) Mr. Krawczel asked the Commissioners again whether they were getting full, clear and accurate information and objective analysis and stated that the Commissioners had received very one-sided views to date. Mr. Krawczel stated that this was local government in Virginia and everyone's job as the government, Planning Commission and citizens was to look after the interest of the people.

Chad Davis, 4 Randolph Avenue

Mr. Davis stated that the most important thing that he wanted to say was that we were all friends here and were all going to live with the results and added that he wanted to encourage the Planning Commission to follow the Comprehensive Plan when considering the proposal for rezoning and the request for a conditional use permit which will facilitate the giving away of the Cape Charles Combined School building and the remainder of the school grounds. Mr. Davis suggested the Planning Commission follow its own written principles, specifically to not recommend approval of any proposal which would result in the loss to the neighborhood which, in a Town of this size, was the entire the Town. The proposal would negatively affect the Town and the neighborhood by giving up the basketball court, public parking, access to the playground from the public parking, the school building and the possibility of the uses specifically covered and encouraged under the Comprehensive Plan. The beautiful central Town park was the renovated school athletic field. The building was just as much of an asset. Giving it up would result in a loss. Mr. Davis stated that he knew the Planning Commission was very familiar with the Comprehensive Plan as well as the danger of contrary precedence specifically of decision precedence and procedural precedence. Mr. Davis encouraged the Commissioners not to set legal precedence which was contrary to the Planning Commission's written principles or contrary to the Comprehensive Plan approval of which would clearly result in a profound loss to the neighborhood and the entire Town.

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

Motion made by Joan Natali, seconded by Malcolm Hayward, and unanimously approved to close the Public Hearing portion of the meeting.

ORDER OF BUSINESS

Dennis McCoy stated that the order of business this evening was i) to discuss and make a recommendation to the Town Council regarding rezoning of the Old School Area from Open Space to R-1; and ii) to discuss and make a recommendation to the Town Council that, in the event the Town Council approved the rezoning, the Conditional Use Permit for Adaptive Reuse of the Old School Area be granted.

A. Proposed Zoning Map Amendment

Heather Arcos stated that the Planning Commission heard comments tonight regarding the rezoning and conditional use permit and went on to state that the Town Council adopted Resolution 20120628 to refer to the Planning Commission the proposed amendment of the zoning map and for consideration of the rezoning of the Old School Area from Open Space to R-1. The current zoning of the Old School Area as Open Space did not allow for the old School Rehabilitation (Section 3.15.B). The Open Space zone was intended for open air types of activities. The zoning district R-1 allowed, by conditional use permit, for the Old School Rehabilitation as an adaptive reuse.

Mike Strub stated that he was confused and thought that the rezoning had nothing to do with how the structure was to be used but was necessary to correct an error that had been with us for a long time. The property was zoned as Open Space but had a building sitting on it which was contrary to the definition of Open Space. If the Town wanted to use the building for anything, the property would have to be rezoned. Mike Strub stated that he did not understand why this issue was being debated and referred to an article that was provided by Mr. George Southern which was a University of Texas study from 2007 regarding the correlation of Open Space to increased property values. Mike Strub stated that he totally agreed that parks and open space would enhance the value of the property in the surrounding area and the Town would realize the increase in tax revenue, but as the building stood now, a 100-year old blighted building sitting in the Open Space zone, he did not think the structure would increase property values. Mike Strub asked if someone could tell him how the building in its current state could increase property values. If the building was demolished and the property was made into a beautiful expansion of the park, then property values would probably go up but the Town's ability to remain on the National Historic Registry would be jeopardized.

Malcolm Hayward agreed that the property needed to be rezoned to accommodate the fact that there was a structure on it. If the zoning was left alone, the building needed to be torn down. The rezoning was necessary for the property to be used as apartments, a community center, or other uses. Malcolm Hayward summarized this issue stating if the building remained, the property would have to be rezoned as R-1. If the building was destroyed, the property could remain as Open Space. Malcolm Hayward stated that he had not heard any public comments to tear the building down and concluded that he was very much in favor of rezoning the property.

Joan Natali stated that she read the article provided by Ms. Dorie Southern and it basically stated that anything around the park increased in value because it was around open space including the school building. If the Town did not rezone the property and left the building in Open Space, the only thing the building could be used for was a school because that was what it was. There was also a time limit of four years for a use and since the school building had not been used as a school in the last four years, it could not be used for anything by current Town law. If the property was left as Open Space, the building would just rot. To be used for anything, it would have to be rezoned. Joan Natali stated that, in her opinion, she saw a number of reasons to rezone the property to R-1.

Mike Strub stated that with all the public comments that he had heard, he could not understand the logic behind the comments to keep the property zoned as Open Space.

Dennis McCoy stated that the toughest thing with this decision was that if, after the rezoning was approved, this facility were to be designated as a community center, it would have to be funded and the Town had no funds to do so. Dennis McCoy went on to state that he questioned when he heard that the bank building was bought by the Town, the magnitude of the capital commitment between the bank building and the school was a factor of ten. The Town simply did not have the funds to renovate the school building and operate a community center and no other choices were available.

Motion made by Joan Natali, seconded by Malcolm Hayward, to recommend the Town Council to approve the rezoning of the Old School Area from Open Space to R-1. The motion was unanimously approved. Roll call vote: Hayward, yes; McCoy, yes; Natali, yes; Strub, yes.

B. Conditional Use Permit Application – Echelon Resources, Inc.

Malcolm Hayward stated that a number of people commented regarding the loss of the basketball court and asked whether the Town Council had discussed relocation of the basketball court. Heather Arcos responded that there had been some discussion regarding alternate locations for the basketball court, such as across the street by the skateboard park, but

no decision had been made at this time. Malcolm Hayward stated that people had spoken very passionately about the basketball court so the Town needed to give thought to relocation of the basketball court. Malcolm Hayward continued regarding Mr. Krawczel's comments and stated that he assumed that the Code Enforcement Department would ensure the proper setbacks, etc. were followed in accordance with the Town's requirements. Malcolm Hayward went on to state that the issue with the conditional use permit was i) whether the Town wanted apartments in the building or a community center and ii) should the Town give the building away or find someone else who would be willing to pay more money for it. Malcolm Hayward stated that personally, he was for a community center but not in that building because it was far too large. People talked about parking. If that was a community center people would be parking all over and on the grass. To satisfy the requirements for that building as a community center, it would require at least 100, 200 or even 300 people to use it regularly. The only way to satisfy the parking needs for that amount of people would be to take at least half of the park to use for parking for that building. A community center in that building would create a parking nightmare. In light of that, Malcolm Hayward stated that he would lean very much in favor of the developer. As to the comments regarding selling the building for more money, every tax payer would want more money for it but there were two aspects to this issue: i) how much could you get by selling the building; ii) how much could you save by giving it away. Malcolm Hayward stated that he believed the tax payers would save a significant amount of money in the long run by giving the building away. No alternatives had been heard, other than demolishing the building. Malcolm Hayward stated that his recommendation would be to approve the rezoning and the conditional use permit with a caveat to accommodate the basketball court because of the passion heard this evening and because it was something for the kids. Malcolm Hayward concluded by stating that he felt the neighborhood property values would plummet if the building were to become a community center. There would be lots of people milling around and a lot of teenagers playing around and he personally would not want to live by a community center.

Mike Strub stated that he hoped all the Planning Commissioners would keep an open mind and that the Commissioners were in a discussion phase at this time and added that he had several comments to make and that he actually had no idea of which way he would vote until the full and forthright discussion of his points were concluded. Mike Strub stated that the public was invited to be here at this time, but the meeting was for the Commissioners to fully discuss the issues at hand and added the following points for discussion: i) In the materials included in the meeting packet, it showed that the Historic District Review Board had rejected making a recommendation regarding the conditional use permit. He read the draft minutes of the Historic District Review Board meeting hoping to find a reason for the Board's decision but no reason was stated. The draft minutes stated that one of the Board members wanted to see the building restored but had issues with the building being made into apartments and that it would change the nature of the park but the reasons were not articulated. Mike Strub asked Heather Arcos and Bob Panek why the Historic District Review Board made the decision that they did.

Bob Panek stated that the charge to the Historic District Review Board, under the zoning ordinance, was not to approve the plan as they usually did for renovations, but a special requirement of the zoning ordinance required the Board to report, in cases of a conditional use permit, in the context of the purpose of the historic district. There was not a significant amount of discussion regarding this issue other than what was included in the draft minutes.

Mike Strub continued to state that the draft minutes noted a time in the past where the Town regretted disposing of another school building and wondered if this has something to do with the Board's decision. Mike Strub added that without more information, all he could do was guess at the Board's motivation in making this decision.

Heather Arcos stated that the Historic District Review Board wanted to see the restoration of the building but they did not agree with the use of the building as apartments.

Dennis McCoy stated that in reading the draft minutes, it appeared that one of the issues was that the Board did not have a plan to review yet.

Heather Arcos stated that this case was unique in that in the past, the Board had never had to file a report for conditional use of a property within the historic district and if the rezoning and conditional use permit were approved and the property conveyed, the Historic District Review Board's regular process would still happen. The Board was tasked with reviewing how the proposed use would fit into the historic guidelines. Heather Arcos referred to the Staff Report which outlined additional points that the Commissioners needed to consider such as i) the use was compatible with the permitted uses in the R-1 zone; ii) the plan would meet the table of parking standards; iii) the new utility services would be placed underground; iv) the structure was a contributing structure to the National Historic District; and v) the Historic District Review Board agreed with a historic restoration of the building but not with the use as apartments.

Bob Panek added that what he heard at the meeting was that the use as apartments might affect the nature of the park.

Mike Strub stated that at the last Planning Commission meeting, Mr. John David McCormack gave a presentation, which was followed up by another presentation by Mr. McCormack at the Palace Theatre and everyone in attendance had the opportunity to ask questions. Mike Strub stated that he was looking for Mr. McCormack's business card and was told that Mr. McCormack had forgotten to bring any with him so he asked Mr. McCormack to write down his contact information. The contact information contained Mr. McCormack's name, phone number and email address which was a generic Gmail address with no indication of a company. Mike Strub stated that he asked Mr. McCormack if he was an employee of Echelon Resources and was told no and that he was the owner of Waukeshaw Development. Mike Strub initially heard the company name as Walker Shaw Development and was not able to find any information regarding the company on the internet. Mike Strub went on to state that the only thing he could find on John David McCormack on the internet was a real estate closing on June 20th. Mike Strub noted that the conditional use permit was signed by John David McCormack, Echelon Resources, and asked who he was and how could he do this.

Bob Panek responded that John David McCormack had represented himself as a partner with Edwin Gaskin in Echelon Resources and typically they would form an LLC to do a specific project.

Mike Strub asked whether he could see a copy of the Dunn & Bradstreet report on Echelon Resources which was typically one of the first things that was done to see how good a company was. Bob Panek responded that the Town did not have a copy of the Dunn & Bradstreet report.

Mike Strub went on to state that in his experience with conditional use permits, the adjacent property owners had signed their support of a project before a decision was made and this application only had the list of adjacent property owners. With the comments heard regarding this issue, he wanted to hear from the adjacent property owners regarding their thoughts. Mike Strub continued with his last point and referred to page four of the contract regarding the subdivision of the property and added that he remembered a previous meeting where Tom Bonadeo stated that lots could only be combined to make fewer parcels vs. subdividing property. Bob Panek explained that the subdivision process did not mean that a property was being divided into numerous lots, but pertained to both the dividing and combining of properties and pointed out on the subdivision plot which showed the vacating of some property

lines and the establishment of new property lines and assured that no new lots were being created.

Mike Strub mentioned that at the July 10th meeting Tom Bonadeo had stated that nothing was going to change from that meeting so he was able to do his research and study the information regarding this issue, but he came to the meeting this evening and received a new application. Heather Arcos stated that the information contained in the application had not changed, but the application itself was updated due to comments received from the public at the last meeting. The prior application did not have a separate area for the applicant, just the owner. This new application had an area for both the applicant and the owner.

Joan Natali asked for clarification of what would happen next if the Planning Commission was to recommend approval and the Town Council approved the conditional use permit for adaptive reuse. Would the developer have to comply with the zoning ordinance and building code and would the plans be reviewed by the Code Official and Historic District Review Board? Heather Arcos responded that, yes, the plans would have to go through the normal approval process.

Joan Natali went on to state that this was actually the start of a series of processes to comply with the Town Ordinances and the staff, Board members and public would get to see plans especially of the exterior of the building and the Historic District Review Board would get to comment on the plans as they normally do. Heather Arcos responded in the affirmative.

Joan Natali continued by referring to comments heard earlier regarding imposing additional conditions on the approval of the conditional use permit regarding additional setbacks, parking requirements, boat parking and garbage, etc. and asked why should this property be treated any differently than every other property in the Town and asked if the Town could do that. Bob Panek responded that the Planning Commission could recommend to the Town Council specific conditions for the conditional use permit and added that there was adequate space on the property to meet the table of parking requirements. If the Commissioners felt it was inadequate, they could make a recommendation to the Council. Joan Natali stated that the Commissioners needed a rationale and justification to ask for anything additional.

Joan Natali questioned the requirement that the utilities be underground and asked whether there was a current code requirement for underground utilities. Bob Panek stated that was included in the Staff Report and the only utility not currently underground was electrical. The same site plan review requirements would pertain to Echelon Resources as to other developers, such as South Port Investors. Heather Arcos stated that the requirement could be in the building code and added that this would be checked.

Malcolm Hayward stated that he assumed that Echelon Resources was a company that was funded since no bond was required but asked what would happen if they started the project but went "belly up" before the project could be completed. Bob Panek stated that Echelon's lender had an interest in the property and if anything were to happen to the developer, the lender would seize the property and sell it so it could be completed. Heather Arcos added that if the lender were to take the property and sell it, it must be completed for the same use, which would transfer with the deed.

Bob Panek reiterated that under the Echelon banner, an LLC would be created for this specific project which was common practice. Dennis McCoy agreed that it was common practice in a number of industries/projects.

Dennis McCoy asked if there were any additional questions, issues or comments.

Malcolm Hayward stated that he would like to add a recommendation to relocate the basketball court.

Mike Strub stated that he did not want to delay the process but for his peace of mind, wanted more information regarding i) the Historic District Review Board's view on this issue; ii) the perception of John David McCormack to understand his status/relationship with Echelon Resources; iii) input from adjacent property owners regarding their support of the project; and iv) time to inspect the new conditional use permit application vs. the original application.

Motion made by Malcolm Hayward, seconded by Joan Natali, to recommend, if the Town Council approved the rezoning of the Old School Area, the approval of the Conditional Use Permit Application submitted by Echelon Resources, Inc. with the condition that the basketball court be relocated. The motion was approved by majority vote. Roll call vote: Hayward, yes; McCoy, yes; Natali, yes; Strub, no.

Motion made by Joan Natali, seconded by Mike Strub, and unanimously approved to adjourn the Planning Commission Special Meeting.

Vice Chairman Dennis McCoy

Town Clerk

DRAFT

Town of Cape Charles: Special Use Permit for Old Cape Charles School

Background: The Planning Commission is considering conversion of Old School into 17 apartments. The Code of Virginia and the Town Code require a special use permit to consider the impact of the proposed use on surrounding uses and establish reasonable conditions to mitigate any adverse impacts.

Site Characteristics:

- The School Building abuts Madison Avenue on the north for about 125 feet and Plum Street on the west for about 110 feet. The Town Park is on the south and east.
- A popular recreational facility, a children's playground built and maintained by the Town's Women's Club, is about 30 feet from the northwest corner of the Building.
- A second facility, a modest sized basketball court filled most days with children and young teens, is about 60 feet from the west side of the building.
- The building is about 50 feet from Madison Avenue for a distance of 125 feet.
- A sidewalk borders Plum Street to within 50 feet of the corner with Madison. There are no sidewalks on Madison.

Pertinent Facts:

- Zoning regulations establish standards for parking — one space per bedroom is a typical standard, resulting in a requirement of 17 parking spaces.
- The four homes on the east side of Plum Street (three bedrooms each) need at least two on-street parking spaces per house — there is no alley in the rear. The lots also are narrow...parking is tight.
- The Town typically requires the construction of sidewalks adjacent to streets with new development...this significant change in use can be considered "new residential development". Therefore, the extension of sidewalks is a reasonable standard.
- Most houses in Town, including multi-family, have limited side yards...typically 5-7 feet. A side yard standard of 10 feet is reasonable.

Recommended Special Use Permit Conditions:

1. **Restricted Parking:** The developer shall, in each rental agreement for each residential unit, limit the occupants to no more than one vehicle per bedroom parked on site or within 500 feet of the old school building. Further, no tenant shall park on the east side of Plum Street or the north side of Madison Avenue, that is, in front of homes and land owned by others.
2. **Parking:** The Town depends on the existing parking area to the north of the School Building to serve the Town Park, Children's Playground and basketball courts. These spaces will remain available for use by the general public. The owner will prohibit tenants, by rental contract, from parking in these areas.
3. **Parking:** The future tenants will rely upon on-street parking on the side of Madison and Plum Streets adjoining the property, approximately 12 parking spaces. The developer will also develop an interior parking lot on between the edge of the building and Madison Street to accommodate at least 8 on-site, front end parking spaces. Such spaces will be appropriately landscaped and will allow for a sidewalk between the rear of the spaces and Madison.
4. **Boat Parking:** The owner will prohibit, by rental parking, the parking of tenant boats or similar towed vehicles, on public streets adjacent to the school. Tenants will be required to make separate, off street parking arrangements for such towed trailers.
5. **Side yards:** The Town residents use and enjoy the land surrounding the building, including the existing children's playground and basketball courts. These uses shall remain, unless the Town decides on a different use. The extent of the residential use of the building shall be 10 feet from the south and west sides of the building.

6. Side and Rear Yard Fences: At the edge of the 10 foot side and rear yard along the interior lands abutting the Town Park, the developer shall establish and maintain a six foot high black aluminum fence similar to the one currently surrounding the Town Park. This fence shall be gated at the edge of the sidewalks on Plum and Madison to control ingress and egress. No other gates shall be permitted adjoining the Central Park.
7. Sidewalks: The developer will construct a sidewalk, built to Town standards, extending from the end of the sidewalk on Plum to the corner of Plum and Madison and along the entire length of Madison from the corner with Plum, past the existing school building, past the basketball courts and past the tennis courts the adjoining community trail entrance to the Town Park on Plum Street.
8. Lighting: The developer will put and maintain motion sensor lighting along the building to light the sidewalks, side and rear yards.
9. Garbage disposal: The developer will design and construct a fenced dumpster area accessible to tenants and approved by the Town's Public Works Director.
10. Expiration of Special Use Permit: The developer shall have one year from the date of approval of the special use permit to fulfill each of the eight (8) conditions listed above. If any of the conditions are not fulfilled, the special use permit shall lapse and the permitted use of the property shall revert to its former use, that is, Town Open Space and Community Use.

DRAFT

Planning Commission Staff Report

From: Tom Bonadeo
Date: August 7, 2012
Item: 4C – Reports
Attachments:

Item Specifics

1. The Northampton County website is www.co.northampton.va.us and contains the updated information from county meetings. The Northampton Planning Commission also meets on this night and a copy of their agenda is attached when available prior to printing.
2. The Harbor Redevelopment Plan – All buildings have been completed and the final parking layout is being completed.
3. The Shanty Restaurant Building for the Harbor is nearly complete. There is some fencing required around the dumpster area. The concrete pad was poured last week and fencing should be installed soon. I believe that air conditioning is being added currently.
4. The old WWTP is undergoing demolition. The steel has been removed. The next stage of demolition is the polishing pond and one bid was received on Tuesday.
5. The Historic Review Board met last month. The Board reviewed and approved two remodeling projects for houses in Town.
6. Numerous remodeling projects are underway throughout town. New homeowners are fixing up second homes as the prices continue to be low. We have some new opportunities for spec homes maybe later this summer.
7. Working with VDOT on a sidewalk repair project but paperwork is not yet complete. Nothings a done deal until all the contracts are signed.
8. VDOT is working on crossing signs for 642, Old Cape Charles Road. These signs will allow golf carts to cross at specific areas. This should aid in another cart path route connecting Bay Creek Golf Community and the Historic District. We are also working with VDOT on additional landscaping at the intersection of Rt. 13 and Rt. 184 on the north side. This would be done this fall. VDOT has reviewed the parking on Peach Street and has provided a draft layout. It involves parallel parking in the center rather than angle parking.
9. Planning Commission worked on the Technology Zone that was adopted by Town Council. Council will review a similar Tourism Zone with similar incentives.

Planning Commission Staff Report

From: Tom Bonadeo

Date: August 7, 2012

Item: 5A – Review of Density in Harbor District Zone – Mason Avenue Corridor

Attachments: Table of densities

Item Specifics

The Commission reviewed the Density issue at the December meeting in 2011. The current economic situation has created new building challenges for real estate developers. The Harbor District Zone is the least developed area of Town. Two large projects were submitted and approved under this zoning ordinance. Both projects had positive growth potential while showing some of the potential weaknesses of the ordinance. No specific number of residential units is specified in the Harbor Zone.

Discussion

A review of the "control" items that are in the ordinance and some that are missing is in order. Control items are those parts of the ordinance that can be measured such:

1. Setbacks measured in feet. These are defined in the zoning ordinance for setbacks from the waterfront.
2. Elevation is measured in feet and stories. Harbor District allows some higher buildings but offsets that height with an average height per block.
3. Density can be measured in units per acre or other measurements.
4. Open space is measured in a percent of gross square feet. The current open space requirement for Harbor District is 25%.

This list is only an example of some of the items that might benefit from review. Density is not defined in any zone except the basic residential zones. This should be reviewed and potentially added to Harbor District and other commercial zones where residential use is allowed by Conditional Use Permit (CUP).

The Harbor District Zone allows residential units over commercial space. It also allows partial use (50%) of the first floor as residential space. All residential space must have its own entrance at street level. There is no limitation of the number of units on a property.

The planning book "Planning the Built Environment" has numerous tables and guidelines that are generally used for this type of definition. We will review these tables and review the existing density of other areas of Cape Charles. There are other areas that play into the density of dwelling units such as the square footage of the unit. A dwelling unit is defined as one or more rooms, intended as separate living quarters with cooking, sleeping and sanitary facilities.

Here are sample Densities of existing areas in Cape Charles:

1. The "standard" lot in the Cape Charles Residential area is 5600 square feet which yields 7.7 units per acre.
 - a. This allows for onsite parking and 50% open space.
 - b. Maximum elevation of 40 feet but no more than 2 ½ stories.

2. The C-1 Commercial area allows dwelling units only above the first floor and with separate access to the street level, not through a commercial unit.
 - a. The densest location is the Wilson Building that has nine dwelling units on three floors.
 - b. This location is covers one 5600 square foot lot.
 - c. All parking is on-street parking.
 - d. This is about 69 units per acre.
 - e. The building is 4 stories.
3. The building at 115 Mason Avenue is on a 35 foot wide lot with 4 dwelling units.
 - a. This provides a density of 35 units per acre
 - b. This lot only allows 3 on-site parking spaces.
 - c. The building is 3 stories.

New development also must meet the table of parking standards. This means that the development will be required to have on-site parking that will take up square footage. The table requires one parking space per bedroom.

The definition of a dwelling unit says one or more rooms. The zoning ordinance does not regulate the number of bedrooms in the unit. There is a unit of density that takes into account the square footage of a unit in relation to the square footage of the lot. This unit of density is the Floor Area Ration (FAR). This would be useful if all the lots in the Harbor District were of a standard size but they are not and comparison would be difficult. FAR is often used in commercial development as it regulates the square footage relationship rather than the number of dwelling units. A dwelling unit can also vary in size and number of bedrooms. Figure 14.5 shows this relationship.

Reviewing Figure 14.5 shows that a density of 25 to 35 units per acre or a FAR of .5 to .9 allows enough open space to meet the parking requirements, keep the height relatively low and provide sufficient dwelling units.

Recommendation

Review and discuss the exercises and create a density recommendation for public review.

streets, and facilities serving the local population (such as local schools, local parks, and local shopping facilities). The area specifically excludes land uses serving populations outside of the area being analyzed (such as state universities, regional shopping centers, and regional airports). The land area may or may not include vacant land.

Jurisdiction-wide residential density—The number of dwelling units per unit area (such as square miles or square kilometers) of land within the political boundaries of a jurisdiction. (The area usually includes residential, commercial, industrial, recreational, and institutional land uses, as well as vacant land, military bases, airports, and bodies of water.)

Residential density is most often expressed in terms of dwelling units (DU) per acre (ac). Sometimes, however, the inverse of this term, lot area per dwelling unit, is used.

USING RESIDENTIAL DENSITY AS A DESIGN TOOL

Residential density, expressed in *dwelling units per acre* (DU/ac) is used as an overview planning tool.

Residential density, expressed in *lot area per dwelling unit*, is used as a regulatory tool (e.g., in specific zoning regulations).

- When calculating the yield for single building sites, density figures (expressed in terms of square feet of lot area per DU) are used.

- For a site that is to be subdivided (with streets to be subtracted from the gross area) the number of gross acres in each land use is multiplied by the gross residential density of that land use which results in an approximate yield in number of dwelling units.

- For a site that is to be subdivided (with streets, parks, shopping centers, and schools), the gross area of the tract in

acres is multiplied by the neighborhood density figure which is closest to the typical type of dwelling that will be built on the property; this will produce an approximation of the number of dwelling units that the area will produce.

It must be noted that the above calculations will give approximations only. For more precise figures, one must specify how many units of each building type will be built, the average lot area per dwelling unit for each building type, the percent of the area that will be used for streets, and the percent of the area that will be used for community facilities. This detailed analysis can usually be made only after a fairly detailed site plan has been developed.

Table 14.1 reports typical residential densities. Note that these are generalized approximations only, and that the values reported in the table are not standards that apply everywhere.

COVERAGE AND FLOOR AREA RATIO

Some additional terms are used when describing or calculating residential density:

Coverage—The area of a building lot that is covered by a structure, expressed in square feet; the proportion of a building lot that is covered by a structure, expressed in percent or in decimal parts.

Floor area ratio (FAR)—The ratio between the total gross floor area on all stories of a structure to the gross area of the building lot on which the structure is located.

Floor area ratios are often used in regulating the density of development of commercial and industrial properties; they are rarely used in regulating residential properties. This is because experience has shown that when a FAR is the primary regulation in apartment zoning, property owners tend to crowd their properties with many small apartment units

Table 14.1. Typical Residential Densities

Residential Use	Lot Area (sq. ft./DU)	Net Residential Density (DU/acre)	Gross Residential Density (DU/acre)	Neighborhood Residential Density (DU/acre)
Rural estates	20 acres	.05	.05	.05
Rural residential	5 acres	.20	.16	.15
Low-density, single family	20,000	2.2	1.7	1.5
Medium-density, single family	8,000	5.5	4.0	3.5
High-density, single family	5,000	8.7	6.5	5.2
Duplexes	4,000	11	8	6
Low-density row house	3,500	12	8	6
High-density row house	2,500	17	12	10
Low-density townhouse	5,400	8	6	5
High-density townhouse	2,700	16	12	10
1-story apartments	2,400	18	13	10
3-story apartments	1,200	36	25	20
6-story apartments	600	72	50	35
12-story apartments	300	144	100	60

* DU/acre = dwelling units per acre
 * sq. ft./DU = area in the building site in square feet per dwelling unit

rather than fewer moderate-sized units. (In some instances, this may be a desired effect; in others, it may be considered an adverse impact.)

Figure 14.1 illustrates a variety of building coverages. It may be noted that very low coverage figures are usually found only in low-density suburban and rural areas, and that very high coverage figures are usually found only in dense urban areas. A coverage of 100 percent is extreme and is almost never found.

Figure 14.2 illustrates three sites, each of which is developed to a FAR of 1.0 (that is, each site has a structure on it which is equal in floor area to the land area of the site). The figure on the left shows development when the building coverage is 100 percent; the figure in the middle shows development with a

RELATIONSHIPS AMONG BUILDING TYPE, RESIDENTIAL DENSITY, AND FLOOR AREA RATIO

Table 14.2 presents a number of examples of residential buildings that might be built under a variety of assumed conditions.

Table 14.2. Relationships Among Building Type, Residential Density, and Floor Area Ratio

Figure	Type of Structure	ASSUMED SPECIFICATIONS				RESULTING PATTERN			
		Lot Size (sq. ft.)	Floor Area Per DU (sq. ft.)	Parking Spaces per DU	Number of Stories	Residential Density (DU per Acre)	DUs per Acre	Floor Area Ratio (FAR)	Coverage (percent)
A	Detached single-family house	40,000	2,000	not shown	1	40,000	1.1	0.05	5
B	Detached single-family house	10,000	2,000	not shown	2	10,000	4.4	0.2	10
C	Detached single-family house	5,000	2,000	not shown	2	5,000	8.7	0.4	20
D	Row house	2,500	2,000	not shown	2	2,500	17.4	0.8	40
E	Fourplex	10,000	1,000	1.0	2	2,500	17.4	0.4	20
F	2-story garden apartment	20,000	1,000	1.0	2	1,550	26	0.6	30
G	3-story garden apartment	20,000	1,000	1.0	3	1,100	40	0.9	30
H	3-story apartment over parking	20,000	1,000	1.0	3 res 1 p/kg	690	63	1.4 1.9*	48
I	6-story apartment over 2-story parking	20,000	1,000	1.0	6 res 2 p/kg	350	125	2.9 3.8*	48
J	6-story apartment over 1-story parking	40,000	1,000	1.0	6 res 1 p/kg	400	109	2.5 3.5*	43 res 100 p/kg
K	12-story apartment over 1-story parking	40,000	1,000	1.0	12 res 1 p/kg	400	109	2.5 3.5*	21 res 100 p/kg
L	12-story apartment over 3-story parking	40,000	1,000	1.0	12 res 3 p/kg	214	200	4.7 6.8*	39 res 64 p/kg

* DU = dwelling unit
 * This FAR column floor area in the structures devoted to both residential and parking uses. Other FARs, not marked by an asterisk, are calculated on the basis of residential floor area only.

Figure 14.5 illustrates what the buildings in our calculations that each dwelling unit has a floor area of 2,000 square feet. The space for parking cars has not been shown in these illustrations because off-street parking presents no serious problems at these residential densities.

The left-hand row in Figure 14.5 contains only single-family homes, ranging in density from a low-density suburban home with a density of 1.1 DU/ac to urban row houses at a density of 17.4 DU/ac. It has been assumed The central row in Figure 14.5 contains low-rise apartment houses, ranging in den-

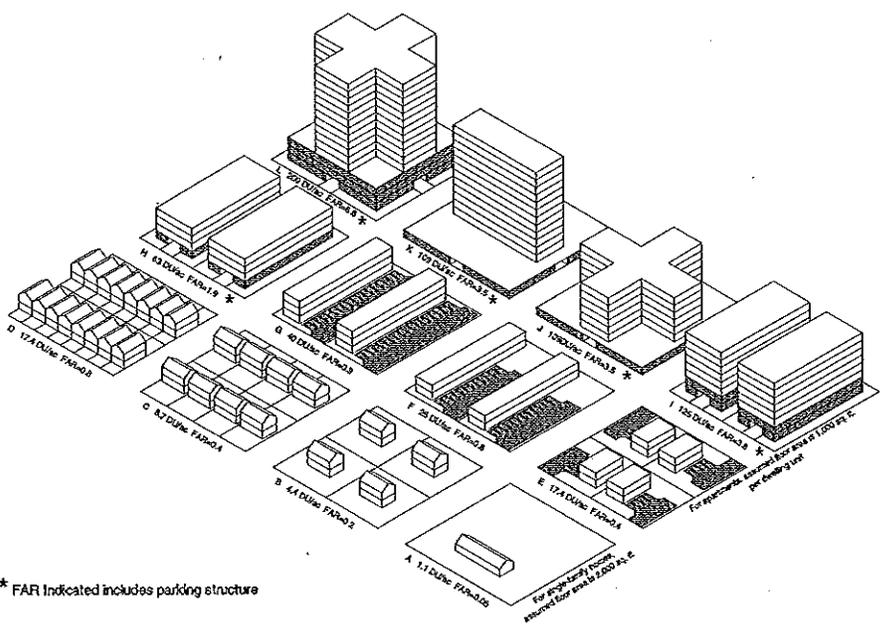


Figure 14.5. Relationships Among Building Type, Residential Density, and Floor Area Ratio

Planning Commission Staff Report

From: Tom Bonadeo

Date: August 7, 2012

Item: 5B -- Review of C-1 Conditional Use -- Residential over Commercial

Attachments: Letter

Item Specifics

The Town Planner received a letter requesting a change to the C-1 zoning as it pertains to residential use in the commercial zone. The ordinance allows residential use only on the second floor and above and with separate access to the street level. The Harbor Zone has a similar allowance with an additional clause that allows 50% of the first floor to be used for residential as long as the front of the building appears commercial.

Discussion

The C-1 zone consists primarily of existing buildings along Mason Avenue and the 700 block of Randolph Avenue. The allowance of residential use in this zone was to encourage the rehabilitation of these buildings. The Wilson Building was once a four story commercial building during the most active years of the Town of Cape Charles. The mix of commercial space and residential space was chosen to maximize the ground floor commercial space to revitalize downtown knowing that a four story retail space would not be viable. This ordinance still requires that these residential units have street access through an entry separate from the commercial one. There only open space requirement is for a 10 foot rear yard setback if possible. Many structures in the C-1 zone cover 100% of the property.

The Harbor Zone is made up of generally undeveloped land where lots are larger and deeper and can accommodate more residential use. The larger lots allow for more parking and open space. The open space requirement for Harbor Zone is 25% in addition to meeting the table of parking standards.

The C-1 zone, as noted earlier, has two separate areas. The first area is Mason Avenue which has an additional exception for meeting the table of parking standards due to the existing buildings and lot coverage. The second area is the 700 block of Randolph Avenue which does not have this allowance.

In lieu of changing the ordinance, the owner could apply for a variance to allow some use of the first floor. The rules for variances would apply such as defining a hardship.

Recommendation

Review the ordinance for future consideration and recommendation.

IES Holdings, LLC
35 Viburnum Court
Lawrenceville NJ 08648

June 22, 2012

Mr. Tom Bonedeo
Town Planner
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310

Re: 718 Randolph Avenue Zoning

Dear Tom,

We have heard that there is a growing need for apartment rental units in the town and would like to request a change in the C-1 zoning to allow us to create additional apartment rental units in the rear building at 718 Randolph Avenue to help meet that need. We currently have a 2nd floor apartment in the front building at this location that has a 30.75' X 31.5' footprint.

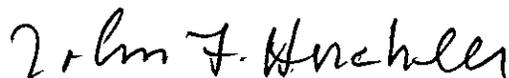
Our original plan for the rear building included one second floor apartment and first floor office space on a 38' x 39.25' footprint. The new plan would include one 1st floor apartment (handicapped-accessible) and one 2nd floor apartment with a 38' x 29.25' footprint that will allow for additional off-street parking.

We are suggesting two possible options:

1. Have the town change the C-1 zoning to be more similar to the requirements of the harbor zone. Specifically, the modification would allow an apartment that occupies 100% of the first floor of the proposed rear building in lieu of the 50% required in the harbor zone.
2. Or approve a conditional use for an apartment that occupies 100% of the first floor of the rear building as described above.

If neither of these two options is possible, please make a recommendation that would allow us to have a 1st floor apartment in the proposed rear building. Approval for this proposal would allow apartments on the 1st and 2nd floor of the proposed rear building and, with the existing front building apartment, provide a three unit apartment complex. We believe that this would provide the highest and safest use for the two-building proposal.

Your consideration of this matter is greatly appreciated.



Managing Partner
IES Holdings, LLC
609-896-4457
huchlerj@verizon.net