

# **Planning Commission**

## **Regular Session Agenda**

**July 10, 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. 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. - Set a Public Hearing
  - b. Conditional Use Permit – Echelon Resources, Inc. for the adaptive reuse to rehabilitate the old school area. – Set a Public Hearing
6. New Business
  - a. None
7. Announcements
8. Adjourn



**DRAFT**  
**TOWN COUNCIL & PLANNING COMMISSION**

**Joint Public Hearing**

**Cape Charles Fire Hall**

**June 5, 2012**

**6:00 p.m.**

At 6:10 p.m. Vice Mayor Chris Bannon, having established a quorum, called to order the Public Hearing of the Town Council. In addition to Vice Mayor Bannon, present were Councilmen Bennett, Evans, Sullivan and Veber and Councilwoman Natali. Mayor Sullivan was not in attendance. Also in attendance were Councilmen-elect Clarke and Wendell.

Vice-Chairman Dennis McCoy, having established a quorum, called to order the Public Hearing of the Planning Commission. In addition to Vice-Chairman McCoy, present were Commissioners Malcolm Hayward, Joan Natali and Mike Strub. Chairman Bruce Brinkley was not in attendance. Also in attendance were Assistant Town Manager Bob Panek, Town Planner Tom Bonadeo and Town Clerk Libby Hume. There were approximately 35 members of the public in attendance.

Vice Mayor Bannon announced that the evening's Joint Public Hearing was to hear public comment regarding the proposed Cape Charles Zoning Map Amendment for Parcels 83A3-10281 through 285 and part of 83A3-1-286 and 23 and Conditional Use Permit for Adaptive Reuse of the former school building. Currently the school property was zoned for Open Space which did not allow the building to be used for apartments or a community center. The rezoning was proposed to allow for such uses.

**PUBLIC COMMENTS:**

*Deborah Bender, 300 Fulcher Street*

Ms. Bender stated that the proposed zoning change and conditional use permit being voted on tonight was not in the best interest of the Town. Ms. Bender went on to state that for over four months, she had witnessed increasing citizen unrest in opposition to the planning that the Town was trying to get passed before the current Council term ended. What was the rush? Ms. Bender added that she was here this evening to ask Council not to pass the zoning change and conditional use permit because we all knew that the only reason for this change was to accommodate Echelon, just like the recent tap fee reduction was done to accommodate Echelon, just like the absurdity of selling seven lots in our new Central Park which represented the land occupied by our 100-year old historic high school building for the mind numbing sum of \$10 was to accommodate Echelon. Ms. Bender asked whether the six Town Council members and Mayor Sullivan, who was missing tonight, had lost their minds and went on to ask Council to please stop this nonsense and start cooperating with Old School Cape Charles who were friends, neighbors and fellow taxpayers. Shouldn't we all be working together for the betterment of Cape Charles and all of its citizens? A community center was clearly the best adaptive reuse option that accomplished many of the goals set within the Town's Comprehensive Plan. It was the highest and best use of our 100-year old historic high

school. This property was very valuable to our community and Ms. Bender stated that she was here to ask that Council to not approve the bogus zoning and conditional use permit and to suspend the effort to privatize the building and not to allow Echelon to turn the building into private housing. Instead, please start cooperating with our grass roots organization, Old School Cape Charles, LLC, who had the best interests of Cape Charles at heart. A multi-purpose community center for all the people. This community center could be something we could all be proud of and let's work together to make this community center a reality.

*Roger Munz, 315 Harbor Avenue*

Mr. Munz stated that he thought this whole process needed to be slowed down and added that he had noticed that Echelon had six months after the contract was signed to decide whether they wanted to buy the property based on their research and asked why they haven't already been working on this. People usually do their due diligence before signing the contract, not afterwards. If Echelon would be waiting six months, why can't the Town take six months to perform its due diligence and perhaps offer the school up for bids to see what it can get for it instead of \$10. What the building was ultimately used for was something that could be decided down the road. It did not have to be decided tonight or this month. Mr. Munz added that he did not think 17 one-bedroom apartments would be properly located at the corner of the park. The land next to the park should be preserved in a compatible manner and he did not think apartments were compatible. Using it for additional park land or community use was more compatible.

*George Southern, 104 Monroe Avenue*

Mr. Southern stated that the Council and Planning Commission were hearing comments on a zoning map amendment and conditional use permit. To be fully informed, he visited the Town Hall today to request a copy of the application. He received a two-page background paper and was told the actual application would not be available until tonight. He asked the Town Planner for a copy tonight but was told by the Town Planner that he did not bring a copy with him tonight but he could see it tomorrow morning. Upon further questioning, the Town Planner told him he would go upstairs and get a copy. Mr. Southern continued to state that he was standing here this evening without the benefit of having seen the applications for either the conditional use permit or the zoning map amendment and all he had to go on was the background paper which stated "The park property and the school property were zoned Open Space when Cape Charles adopted a zoning ordinance. In the zoning ordinance process, the definition of Open Space was left out until recently when the Planning Commission and Council adopted a definition for the zone. Schools and churches are not part of that definition but they are part of the R-1 Zone definition. This would change the school from a nonconforming structure to a legal structure in the R-1 Zone." Mr. Southern stated that he was very confused. The Comprehensive Plan zoned the following as institutional: "government, civic and community facilities." This included schools and churches. The land should rightly be zoned institutional not residential. Mr. Southern stated that he was also concerned that the background paper misrepresented the Comprehensive Plan in its reference to page 44 and two goals: "i) Provide for the adaptive reuse of the school; and ii) Establish a community center." The background paper concluded that the conditional use permit was not in conflict with the Comprehensive Plan when in fact it was. Mr. Southern added that the Comprehensive Plan actually stated, on page 44, "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, establishing a community center, relocating the Library to a larger space, relocating the Town offices" etc. Read in context, the Comprehensive Plan clearly saw a public adaptive reuse of the school not its conversion to an apartment house. Mr. Southern added the he would give his remaining remarks during the Planning Commission meeting comment period.

*Dorie Southern, 104 Monroe Avenue* – Please see attached.

*Karen Jolly Davis, 5 Randolph Avenue* – Please see attached.

*Lisa Harman, 104 Madison Avenue*

Ms. Harman stated that she was here this evening to ask the Planning Commission and Town Council to not approve the R-1 rezoning and conditional use permit application for the Cape Charles High School property and added that this rezoning and conditional use permit, in her opinion, was not in the best interest of the present neighborhood and the Town residents. It was a form of spot zoning and was in the best interest of Echelon Resources. The Old School Cape Charles petition requested the Town to work with their group and grant them six months' time to continue to organize now had 317 signatures from current residents of Cape Charles. There were also 119 signatures from surrounding community residents that were interested in and saw a need for a regional community center. To date, Town Council had not responded to their petition. Ms. Harman asked for a roll call vote tonight on their initial request – Give the citizens who signed the petition and Old School Cape Charles, LLC the same amount of time given to Echelon Resources, eight months and counting. Ms. Harman stated that she would also like to hear some discussion from the Town Council on the reason they had not asked for other bids on this property and why they felt that Echelon was the only developer interested in this project. Ms. Harman added that Old School Cape Charles had formed an LLC and was working on their 501(3)C status and was forming a board of directors. Many hours had been spent talking to other organizations that had developed community center similar to their ideas. They had talked to tax credit consultants, tax credit brokers and Chris Novelli of the Virginia Department of Historic Resources. Ms. Harman stated that she believed the Town Council had been misled into thinking that we could not receive both Federal and State tax credits. Paige Pollard with the Commonwealth Preservation Group was currently working with the Friends of Onancock School to sell and broker their State and Federal tax credits which was possible with the community center leasing the property from the Town of Onancock instead of becoming a public/private entity. Ms. Harman again asked the Town to work with Old School Cape Charles and added that to date, she had not seen any evidence of that.

*Joy Pelletier, 1 N. Park Row* – Please see attached.

*Victor Abrahamian, 213 Monroe Avenue*

Mr. Abrahamian stated that he was here to ask Council respectfully to postpone zoning. Council had a conflict for the last six or seven months with the citizens of Cape Charles. Mr. Abrahamian continued to state that when the group requested time for the

community center, Council should have given them that opportunity. Because Council did not give them the opportunity, Council and the citizens had been hearing this over and over at every meeting requesting an equal opportunity for time. Mr. Abrahamian added that this was an improper time to deal with zoning. Council needed to resolve the conflict, give the group time, think twice, involve the citizens in the decision making and maybe all of us working together could come up with a better idea than what we have now. We have a lot of empty apartments now and a lot of residents own property and rent one or two rooms or the entire house for under \$800 per month. The property owners in Town rent rooms and houses so they could pay the double taxes and the utility bills and having a 17-unit apartment complex would cut their income.

*Lenora Mitchell, 309 Tazewell Avenue*

Ms. Mitchell stated that she was opposed to amending the zoning map to accommodate the development of the Cape Charles Combined School into 16-17 units as well as the approval of a conditional use permit for the above mentioned property. 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 with the greatest impact on our children. Without having seen a conceptual drawing or anything showing how the property would appear, Ms. Mitchell stated that she could only imagine the parking needs for 16-17 units and other amenities that would be needed to make this property private and exclusive to attract the targeted residents. Suppose "they build it and they don't come" - who would end up living there? Ms. Mitchell stated that she believed with tax credits there was a limit regarding the time to get people to occupy the building in order to get the tax credits. The permitted use would adversely affect the health, safety and welfare of the people residing in the neighborhood. The basketball court would be removed and not replaced, and the park usage would be compromised to accommodate the new residents. The neighborhood would again be at risk of vandalism. Ms. Mitchell stated that she had a store at 400 Jefferson Avenue and kids were throwing rocks at each other and broke a \$350 window. Every day there would be trash thrown all over the street. The kids would put chairs, cinder blocks and trash cans along the sidewalks because after she closed, they needed someplace to hang out and every day, she would come in to see all that stuff in the sidewalk. The kids would sit on other people's porches when the house was unoccupied and vacant. There was a church down the street from her on Jefferson that was welded closed at night because the kids were shooting craps on the church steps. The kids walked up and down the street aimlessly at all times of the day and night because they had nothing to do. They fought in the street and got involved in a lot of negative activities. During spring break, there were at least 75 or more unsupervised kids of all ages in the park every day. The park was a place for children to go to expend their pent up energy, socialize with other ethnic and culture groups, and a place where they could just be children. A community center was the best adaptive reuse for the property and would incorporate and enhance the existing use of the property and would positively affect health, safety and wellbeing of all the Town's residents, not just the neighborhood. Ms. Mitchell stated that she sat and watched TV at night and prayed for this community as she listened to reports of tornadoes and other news. If a tornado had touched ground in this community, everyone would work together helping each other. We did not need a tragedy for us to start working together. Some very talented people have spoken over the last few months. We had a very diverse community and needed to utilize their talents.

*Veann Duvall, 110 Tazewell Avenue*

Ms. Duvall stated that she wanted to point out a few things that she found online and in brochures. One brochure stated that the Town of Cape Charles had one of the best collections of historic buildings of any community on the Eastern Shore and she was not sure if Council realized that or not. We were so fortunate to have a historical town and the brochure showed the old Cape Charles School as a landmark in the middle of our little town in Central Park. The brochure could be found in the Cape Charles Memorial Library. Ms. Duvall noted that the Town's website described the park as follows: "Central Park is located in the center of the Town. The land has traditionally been used in relation to the Cape Charles School. Though no longer used as a school, the Cape Charles School building still occupies the park." The school was in Central Park even though it was on another lot just like the basketball court and tennis court were in Central Park. They should stay together and nothing should be changed. Ms. Duvall continued regarding Echelon's website, the unprofessional way it was done, and that it did not show an address for the developer. Ms. Duvall stated again that the school and Central Park were one even though they were on separate lots along with the basketball court and tennis court.

*Tim Krawczel, 409 Nectarine Street*

Mr. Krawczel stated that he was opposed to the rezoning and conditional use permit and added that in his opinion, it was bad land use policy, bad fiscal policy, was unfair to the citizens of the Town, and for tonight, it had not been properly advertised. Virginia Code Section 15.2-2204(A) required advertisements to state where copies of the proposed plans, ordinances or amendments could be examined. The Town's advertisement did state this, but a citizen got up earlier and stated that he went to the Town to review the documents and they were not available. The Town did not meet the burden required by the law so no action could be taken tonight. Mr. Krawczel also referred to Virginia Code Section 15.2-2285(C) which stated that "in the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan." The Town's advertisement did not include this information and procedurally, the Town failed to meet that requirement. In terms of the Comprehensive Plan, other people have spoken eloquently and he wanted to echo some of the things that have been said. The school was a feature shown on the Comprehensive Plan. The Planning Commission had a duty to certify that any use or change in use was in conformance with the Comprehensive Plan. Mr. Krawczel stated that he did not think the Planning Commission had adequate information to make a decision tonight. Mr. Krawczel referred to Section III.2.1.3 of the Comprehensive Plan which stated that the "Traditional Residential designation consisted primarily of single-family dwellings with some row houses containing two to four dwelling units per structure and single-family houses which have been converted into two- or multi-family dwelling units." A 17-unit apartment complex did not fit this definition therefore the use was not consistent with the Comprehensive Plan. Mr. Krawczel then referred to Section III.A.5.1.6. which described policies for neighborhoods and listed "Protect the Town's scenic, recreational, and open space resources" as a goal and this action to convert the building for a multi-family dwelling militated that goal. Section III.A.5.1.5. established a goal strengthening green focal points such as Central Park. The proposal forces multi-family housing next to the children's playground and tennis courts without an adequate buffer. This proposal put valuable long-term resources adjacent to the Town's park, which were a natural

part of Central Park, into private ownership for high density housing. This Town would lose control of the future use and expansion of the park for the benefit of all citizens of the Town as intended by the Comprehensive Plan. The essence of the Comprehensive Plan and for any traditional town provided that multi-family housing should be on the second floor of main street apartments with shops on the first floor.

*Daniel Burke, 516 Madison Avenue*

Mr. Burke stated that he lived approximately 350' from the school building and urged the Town Council to vote "no" for the conditional use permit and zoning amendment and read Item 2A of the Planning Commission Staff Report and which showed "The historic restoration and adaptive reuse will be an investment of over \$2M in the neighborhood in an area that has been depressed for over 20 years. This restoration will improve the neighborhood values with a newly renovated building." Mr. Burke stated that there was no data to support the statement and added that the opposite was more likely correct. High density housing historically devalues the surrounding individual housing and a direct density correlation could not be made between 17 apartments and seven building lots for individual houses as was put forth previously by the Town Council. High density housing was usually kept apart from individual housing because the stakeholder value was not equal. Mr. Burke addressed Tom Bonadeo, Bob Panek and the Town Council and asked them to please remember, in their dealings with Echelon, for the sake of the people of this Town, if it sounded too good to be true, it probably was.

*Linda Burke, 516 Madison Avenue*

Ms. Burke deferred her allotted time to Mr. Frank Wendell.

*Frank Wendell, 515 Monroe Avenue* - Please see attached.

*Kevin E. Martingayle, Attorney representing Old School Cape Charles*

Mr. Martingayle stated that he had four points to make in his allotted time. The first point was the procedural issue that had already been touched upon and added that the Town would have a legal problem if Council moved forward. The citizens had a right to inspect the relevant documents before the meeting started. It would be an easy argument for someone to bring to court if the Town moved forward without doing what they were required to do. The law gave a lot of latitude on what decisions were made but the law was very strict on the procedures. In reviewing the documents, Mr. Martingayle stated that he was taken by some of the language such as "This would change the school from a nonconforming structure to a legal structure in the R-1 Zone." He advised everyone to think about this language very carefully. He added that the school was not illegal now. It was a lawfully existing but nonconforming structure because a zoning map was imposed over the property where the school was located. Mr. Martingayle's second point was that the school was probably there when the zoning map was drawn, however many years ago, and it deliberately included the school in Open Space and he did not know why the definition was changed and did not include the school. The solution was very easy. The definition of Open Space needed to be changed to include a community center or other non-residential building reserved for public use, which would be clearly consistent with the concept of Open Space. The third point was in regards to the April 12, 2012 staff report in comparison to the current staff report. The April 12<sup>th</sup> report stated that the "adaptive uses for the building would be mixed

residential and community use to completely community use." With the current staff report we know there was actually added a third option of completely private use because currently there was no plan by the developers to include any public use at all. The plan did change and he asked Council to slow down.

*Denis Pickron, 501 Monroe Avenue*

Mr. Pickron stated that he lived across the street from the high school and, in the 12 years that he and his wife had lived in the house, they had seen the evolution of the Town along Plum Street from a path to the liquor store to a parking lot to the beautiful landscaped park that existed there now. Mr. Pickron added that everyone had different visions of what Cape Charles was now and could become. The thing that united everyone was the common love of Cape Charles. The only party that did not share the common love of Cape Charles was Echelon.

Mr. Pickron pointed out that when he was doing modifications to his house, Tom Bonadeo enforced the ordinances of the Town very effectively and made him conform and be consistent with vision of the Town and he hoped that in the future, if this process did move forward to rezone the property and the deal with Echelon was honored, the Town would enforce the same controls. If the building were sold at a later date, we needed to ensure the property would continue to be used as something that was beneficial and could be considered part of Cape Charles and not a sore that we wished we did not implement.

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

Vice Mayor Bannon asked if there were any comments from Town Council.

**Motion made by Councilman Bennett, seconded by Councilman Evans, to adjourn the Town Council Public Hearing. The motion was approved by unanimous consent.**

**Motion made by Joan Natali, seconded by Mike Strub, to close the Planning Commission Public Hearing. The motion was approved by unanimous consent.**

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Vice Mayor Bannon

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Vice-Chairman McCoy

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Town Clerk

Town Council / Planning Commission Joint Public Hearing Comments  
(Comments provided in writing by speakers)

*Dorie Southern, 104 Monroe Avenue*

As members of Town Council and of the Planning Commission you are responsible for looking out for the interests of the people of Cape Charles. You have no responsibility for the welfare of Echelon Resources or any other private entity in making decisions regarding this town.

From e-mails that I have seen it appears that some town staff members have overstepped their bounds in communicating with the developer. They seem intent on facilitating the sale of the school without providing due diligence in looking after the interests of the residences of Cape Charles. That is why I am reminding you that our interests are the ones that you are required to pursue.

Council is telling us that a school building that has been standing in Cape Charles now in its hundredth year is not zoned to be where it is. Background provided for this hearing says, "Prior to the introduction of zoning ordinances, the lots on the northeast corner were used to construct a school to replace the aging school in the 600 block of Monroe Avenue." From this sentence one would never guess that the school had been standing on that property for a hundred years. That is disingenuous at best.

Both Northampton County and the town have been negligent about the upkeep of the school building for years despite requirements that it be maintained. Because of this negligence Council now calls it a "liability" and wishes to give it away for the price of \$10 as well as financial inducements to the developer.

Changing the use of the property to an apartment building is not in the interest of the town or in keeping with the Comprehensive Plan. Such a change would adversely impact the neighbors directly adjacent to the building and would harm all of us in the Historic District. The playground would no longer have a parking lot but instead would be right up against a private parking lot. The basketball court would be gone.

According to the paperwork provided, the Conditional Use Permit should be allowed because the school has a problem of "broken windows and [is] a location for vandalism." But the building is not being relocated. How do we know that this proposed apartment building use will not also be a location for vandalism? There is no market for high end one bedroom and efficiency apartments in that location.

Finally, the handout takes information from the Comprehensive Plan out of context and presents it incorrectly. The Comprehensive Plan reference is to "III-D.5 Public Services and Programs." It is under that area that the plan addresses restoration of the school and creation of a community center. A private apartment building beside the park is not a public service or program.

Instead of following the Comprehensive Plan, Council seems intent on giving away public property with sweetheart deals included. This harms us all. What if five or ten or twenty years from now, or even sooner, we need that property for some other use? This deal would end that possibility forever. We would not have it because its value was discounted by a lame duck Council. Citizens who bring its value to your attention should not be ignored. This rezoning and Conditional Use Permit should not be approved by the Planning Commission or by Town Council.

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*Karen Jolly Davis, 5 Randolph Avenue*

Good evening, members of the Planning Commission. My name is Karen Jolly Davis. I live at 5 Randolph Ave in Cape Charles. I am a certified planning commissioner and served on the town planning commission for years.

Conditional Use Permits should not be approved if they adversely affect the welfare of the neighborhood. The permit you are currently considering would greatly harm not only the immediate neighborhood, but the entire town.

The loss of the basketball court, which is intimately connected with the adjacent African American neighborhood, is a terrible blow to them, and to all the youth of whatever color who use the court. There is not provision in the Echelon contract for the developer to replace the court. If the town rebuilds it, the new court will cost tax dollars that we can ill afford. If the town doesn't replace it, Cape Charles will have lost its most-used youth sports facility.

Several town council members have told us that the basketball court attracts "undesirable elements," and that it should just go away. Their attitudes smack of racism, and are unacceptable. If there was a community center in the old school, we would supervise the basketball court.

Another loss is the huge reduction in the project's wastewater connection fees. Why are we subsidizing a housing project in a town glutted with excess housing? I know at least one businesswoman who was denied a reduction in water and wastewater fees, even though her business would have brought jobs and students into town. This unequal treatment of developers raises serious questions about the no-bid Echelon contract.

The loss of parking for the Kiddie Playground is also a big deal. The playground is used extensively, and parents will be forced to park on Madison or Park Row. The fence around Central Park separates the playground from Park Row, and people will have to walk around it, onto private property, to get to the playground. And forcing parking onto the street will negatively affect the homes there.

But the most serious adverse effect of this conditional use permit is the loss of the public building and land to private developers. The public has invested time, effort, love and money into this property for 100 years. It should remain public property.

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*Joy Pelletier, 1 North Park Row*

My name is Joy Pelletier. My address is 1 North Park Row, Cape Charles, VA 23310.

I'm afraid I will go over my 3 minutes, so, please stop me when appropriate.

Like many of the citizens of the Town, I have several concerns over selling the old school to Echelon - but tonight's business is not about approving the sale of the school, but is about the conditional use permit and zoning amendment.

I am not in favor of high density housing at the end of my block - call me selfish. I am not looking forward to an additional 16 - 32 people living at the end of my street.

With that being said, let's take a look at the Town's Comprehensive Plan which is directly related to this Conditional Use Permit.

Among the most important powers and duties granted to a local government are the authority and the responsibility to develop a comprehensive plan and to regulate land use. The purpose of these is to protect the public health, safety and general welfare of its citizens.

From my understanding, the Comprehensive Plan is a document prepared for a community which establishes an overall plan and recommended actions relevant to current and future needs of the locality. The input of the public is essential in developing the Plan.

Most of the current Council members were on Council when our Comprehensive Plan was adopted, so they should be familiar with the document.

I would have liked to have provided you with a copy of the Plan highlighting specific areas, but with the number of pages involved, it was prohibitive.

Let me just hit the high points as I see them:

- The Executive Summary clearly states protecting open space as a priority

- If we allow high density residential in that area, will we eventually impact our open space?
- Section II.7 addresses Community Facilities and Services
- Section III.4.1 addresses Parks & Open Space
- Section III-A.5.1 Overall Policies & Descriptions for Cape Charles Neighborhoods
  1. Preserve and enhance the integrity of the historic district
    - a. Develop Central Park as an urban/civic amenity that provides a multipurpose space for town events and individual recreation. (How would high density residential adjacent to Central Park impact this sentiment?)
  5. Strengthen and enhance the Town's green infrastructure.
  6. Protect the Town's scenic, recreational and open space resources.

I'm speaking from speculation and gossip now - extending old North Park Row, removing the basketball court and tennis courts to accommodate a parking lot - how does that strengthen the green infrastructure and protect the Town's scenic, recreational and open space resources?

- Section III-D.5 Public Services and Programs  
This section specifically addresses the restoration of the Cape Charles School as an adaptive reuse to preserve the structure, but goes on to address establishing a Community Center, relocating the Library, and relocating the Town offices. If we are planning to spend money on those purposes, why not use the funds to renovate the Old Cape Charles School as was proposed several years and thousands of dollars ago.

The same section also addresses supporting partnerships with organizations to increase and improve cultural and art programs. Can we not partnership with a civic organization to rehabilitate the Old School?

But I'm off topic now.

Let me go on record to say I am not in favor of the Conditional Use Permit because I am afraid of the fall-out of that action equated to potential loss of the tennis court, the basketball court, portions of the Central Park and our all-important green space. I'm also afraid we are following a historic pattern of selling/giving away Town property; property which continues to sit undeveloped.

Thank you for your time.

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*Frank Wendell, 515 Monroe Avenue*

To Mayor Dora Sullivan, Town Council and my fellow Council-elect members:

I am here tonight to go on the record stating my opposition to the issuance of the proposed conditional use permit, as well as my opposition to the proposed zoning map amendment.

The conditional use permit request does not meet the requirements of the zoning ordinance for conditional use permits. Should this permit request be passed here tonight, it would constitute an illegal action on the part of the Council.

Our Town's zoning ordinance requires that the conditional use permit NOT be in conflict with the Town's comprehensive plan, however, a 17 unit apartment building in our park clearly is.

The Town Planner, Tom Bonadeo's rationale for justifying this permit is simply flawed and put you the Town Council in legal jeopardy, as the Council has been given incorrect information upon which to base their decision. The packet for the Joint Public Hearing lists on page 3 the three conditions under which an application could be found in conflict. Mr. Bonadeo asserts in 3b that on page 44 of the Comprehensive Plan specifically sets multiple goals, which are as follows:

1. Provide for the adaptive reuse of the school, which is Echelon's plan with the 17 unit apartment/condo building.
2. Establish a community center, which is the plan that the Old Cape Charles School Citizens group is proposing.

What Mr. Bonadeo did NOT provide you with in his zest to have you approve this permit request is the preceding sentence from the Comprehensive Plan. This sentence serves as a prerequisite to those goals and the other four that are cited. That preceding sentence reads, "Growth of the Town will require an increase in space for community services, therefore, the Town Plan include..."

So, that now begs the question, what does the 17 unit apartment/condo project proposed by Echelon do to accomplish the goal of an "increase in space for community services?" The answer is, it does not, and it is therefore in conflict with the Comprehensive Plan.

Time does not allow me to cite all the other numerous conflicts with the plan here tonight; however, you can rest assured that they have not gone unnoticed. Should the Town Council pass the conditional use permit and zoning map amendment here tonight, you should be prepared to defend your actions in Court.

DRAFT



**DRAFT**  
**PLANNING COMMISSION**  
**Regular Meeting**  
**Cape Charles Fire Hall**  
**June 5, 2012**

At 7:10 p.m. in the Cape Charles Fire 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. Chairman Bruce Brinkley was not in attendance. There were currently two (2) vacancies on the Commission. Also present were Town Planner Tom Bonadeo and Town Clerk Libby Hume. There were approximately 25 members of the public in attendance.

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

**REGULAR MEETING PUBLIC COMMENTS**

*George Southern, 104 Monroe Avenue*

Mr. Southern stated that he still had some comments that he was not able to say at the public hearing but he also had some specific comments for the Planning Commission. This was the first Planning Commission meeting that he had attended in Cape Charles and he informed the Commissioners that this was probably the most important meeting of the Planning Commission that the Commissioners had tenure over and normally the Commissioners probably met in a room with no one from the public in attendance but this matter had the public's attention. Mr. Southern stated that normally there were seven members of the Planning Commission, but with two resignations, that left five Commissioners. The chairman worked across the bay and was not here tonight, leaving four Commissioners at the most important meeting probably so far in this century. The Commissioners had also heard opinions from people stating that the presentation this evening did not meet the legal requirements; therefore, the Commissioners could not act under the present circumstances. The staff recommendations for this meeting stated "Review public comment and discuss the Zoning Map Amendment and Conditional Use Permit." Reviewing all public comments heard this evening would take time and Mr. Southern respectfully asked the Commissioners to actually review all the comments as a judge would review testimony. The school building had stood for 100 years and there was no need to rush to judgment tonight. Mr. Southern requested the Commissioners to please respect the evidence that their fellow townspeople have made and at least wait until the next meeting to actually vote on this issue. Mr. Southern added that he was handed the Town of Cape Charles Rezoning Application earlier this evening and had not had time to read it yet.

*Dorie Southern, 104 Monroe Avenue*

Ms. Southern stated that she did not get to finish her comments at the public hearing and the bottom line was that she did not think it was appropriate to decide this tonight because there was a lot that needed to be figured out. Ms. Southern pointed out the background paper that was provided by staff stated that schools and churches were not part of the Open Space definition but they were part of the R-1 Zone. That was not correct. According to the Comprehensive Plan, residential property did not include apartment buildings or community centers. Apartment buildings could be included in this zone by conditional use permit. A school or community center would come under the rule of Comprehensive Plan Section III.4.2 - Institutional which included government, civic and community facilities such as libraries, recreation centers, community centers, places of worship, utilities, and cemeteries. Although we have been told that rezoning would be necessary for either an apartment building or

community center, which was not the case. Ms. Southern stated that she had been told by staff that the property had to be rezoned for either use because it was zoned incorrectly but that is not right. It was not R-1 and as the lawyer pointed out, the school was there before the zoning ever happened; therefore, it had been grandfathered in. The time now was to think about what needed to be done with the building so it was an asset to our community.

*Reverend James Davis, 533 Mason Avenue*

Reverend Davis stated that he was concerned about the rezoning and the impact on the seven lots including the playground, tennis courts, basketball court and Cape Kids that the Women's Club invested over \$35K in. Reverend Davis asked what guidelines were available for the lots and expressed his concern regarding the procedures being followed for the lots adding that he felt that the Town very easily carried out what they wanted to do to suit themselves regardless of the law, the Commonwealth or anything else. Cape Charles had been that way for the last few years.

*Don Bender, 300 Fulcher Street*

Mr. Bender stated that he had lived in Cape Charles all his life and directed his next comment to Tom Bonadeo stating that Tom Bonadeo was unprofessional in this matter and cost the Town and asked for his resignation right now.

*Byron Powell, 620 Jefferson Avenue*

Mr. Powell stated that he had lived here all his life and as everyone could see with his clothes that he played basketball. Mr. Powell stated that he had arrived late and did not get to speak at the public hearing. He had heard that the Town was planning to get rid of the school and the basketball court. The Town needed to think about who used the basketball court and what it represented and the benefits of the basketball court. If the Town demolished the basketball court, they would be taking away the kids' opportunity to be something great and taking away their opportunity to escape the harsh reality they might call life and taking away their ability to gain athletic opportunities. There were no facilities in Northampton County. Growing up in Cape Charles was great for him. Looking at the kids today, they don't have the opportunities that he had growing up. He had the Boys & Girls Club and did various things. Mr. Powell stated that he was in college and was doing well for himself. If the Town did not give kids a positive outlook, you could not expect them to do well in life. Kids needed facilities and a community center. It was unfair. He was a business major but did not understand the apartment / condo idea. Who was this Town for - the outsiders or the people who actually paid the taxes here?

*Deborah Bender, 300 Fulcher Street*

Ms. Bender stated that the Town needed a community center, a place where kids could go after school, and a place for continuing education. We did not need any more apartments. There were plenty of apartments in Cape Charles for rent. Ms. Bender asked Planning Commission not to rezone this property and added that it was fine right now as it was. Let the new Town Council work on what could be done.

*Angela Powell, 620 Jefferson Avenue*

Ms. Powell stated that she was born and raised in Cape Charles and attended Cape Charles School from 1977-1987 when the school consolidated with Northampton County. Ms. Powell stated that she had sentimental reasons for wanting the school to remain there as a community center. Ms. Powell went on to state that she was a single parent who raised three kids in Town and it was disheartening to see her youngest child with nowhere to go. The Boys & Girls Club was there but it closed and her son Byron could not go all the way to Exmore to attend. Now when she walked around Town, she saw kids playing at Sea Breeze with the handicap signs and prayed that they didn't drown at the beach. The kids did not have anywhere to go except the

Library. In the center of Town, this would be closer for them. If the Town got rid of the school, the kids would be doing things they should not be doing and getting into trouble. These were at-risk kids and without a community center in this location, she did not know what was going to become of the Town and the children in Town.

*Tim Krawczel, 409 Nectarine Street*

Mr. Krawczel stated that before he started his comments, he wanted to know the purpose of this public hearing.

Tom Bonadeo responded that this was not a public hearing but the public comment period for the Planning Commission meeting.

Mr. Krawczel stated that he wanted to comment regarding the conditional use permit application to make the Cape Charles School apartments adding that he first wanted to comment about what a conditional use permit was. In reviewing a conditional use permit application, as Planning Commissioners, they were supposed to look at the application, hear comments from the neighbors, look at the development plan, then the Commissioners had the ability to impose conditions to make sure that they mitigated all the potential public nuisances of the proposed development. Mr. Krawczel asked the Commissioners if they had received a development plan, whether they knew what the multi-family housing would look like, and whether the Commissioners could do their job for the citizens in making a recommendation on this conditional use permit. Mr. Krawczel added that he wanted to bring up something about the Historic District Review Board and Town Code (*Incorrectly stated as Town Code. The reference should be to the Zoning Ordinance.*) Section 8.5 stated that any use permitted by special use permit must be reviewed by the Historic District Review Board. This must be done before the Planning Commission public hearing. Mr. Krawczel asked the Commissioners whether they had the review from the Historic District Review Board and if they were prepared to take the information to review it as part of the deliberations. Mr. Krawczel continued to quote Town Code 8.18 (*Incorrectly stated as Town Code. The reference should be to the Zoning Ordinance.*) stated that no building should be substantially altered or restored until a certificate of appropriateness was issued by the Historic District Review Board. Substantial alterations included any action which had a substantial effect on the character of the Historic District. Mr. Krawczel continued to state that in his opinion the multi-family housing project had a substantial impact on the character of the Historic District and he felt that it passed the common sense test and most people would agree with him. The change in use of the school would have a substantial effect on the character of the District; therefore, it needed to be reviewed by the Historic District Review Board. In order for the Planning Commission to function effectively, the Commissioners needed to review that information. With everything that had been said, Mr. Krawczel stated that he thought it was abundantly clear that the application was not right for approval or action. There was too much confusion in the community, about what was happening with the public hearings and it was just not right and not ready. It required a lot more study.

*Karen Jolly Davis, 5 Randolph Avenue*

Ms. Davis stated that she opposed a conditional use permit for multi-family housing in the historic 100-year old public building and felt that the conditional use permit conflicted with the Comprehensive Plan which the Commissioners were charged to uphold. The Comprehensive Plan clearly stated that we needed more, not less, space for community services. The Planning Commission's job was to uphold the Comprehensive Plan.

*Kevin Martingayle, Attorney representing Old School Cape Charles*

Mr. Martingayle stated that he was here on behalf of Old School Cape Charles, LLC. There have been comments about some of the procedural problems that existed with regards to the conditional use permit, effective notice, documents that were not all available and some were made available in only a single copy during this meeting. The Historic District Review Board had not been involved and given the opportunity to do their job and the Commission did not have the benefit of their work. Mr. Martingayle stated that the Commission could not go forward as a matter of law and the Commission should not go forward as a matter of prudence and fairness. It was much more important that this be done right than fast. We knew who was coming in to talk about this development and they reserved for themselves six months to change their mind so obviously they were not in a giant hurry to move along and they clearly would not need six months to give themselves the opportunity to back out of the deal. Mr. Martingayle added that the safe thing to do was to slow down and make sure that everything was considered. He had heard case after case issued by the Supreme Court of Virginia where they had said that local government bodies and Town Councils had a lot of discretion in the substance of the decision but none when it came to following procedure. Hopefully, the Commission would not make the mistake because this could end up in court and that would be a shame. It would waste a lot of people's time and money. Mr. Martingayle concluded by asking the Commissioners to slow it down and do it right. Mr. Martingayle suggested the Commission look at the zoning map at the area under review and ask themselves what was there first, the map or the school. The school was intended to be Open Space and it was obviously a mistake not to include it in the definition. We all knew that whoever drew the map knew that the school was there, so it was always intended for the school to be part of the Open Space and part of the park. This was a major change in direction. Once the Town went in the direction of condominiums, it could never go back. Once that happened, the hands of time could not be turned back. The building which was over 100 years old would essentially be lost to the public. The public would only be able to look at the outside and never be able to make use of it.

*Frank Wendell, 515 Monroe Avenue*

Mr. Wendell stated that he had lived in this Town all his life except for the years when he went away to college. He grew up at 105 Randolph and was a resident of 515 Monroe Avenue for 32 years. Mr. Wendell stated that he found it sadly amusing regarding the background information that was provided for the meeting and the Planning Commission Staff Report, specifically #2 under Item Specifics which stated that the permitted use will not "Be detrimental to the public welfare or injurious to property or improvements in the neighborhood." Mr. Wendell went on to read #2a which stated that the historic restoration an adaptive reuse would be an investment of over \$2M in the neighborhood in an area which had been depressed for over 20 years. Mr. Wendell again stated that he had lived in the neighborhood for over 32 years and the most depressing thing that had happened in his 32 years was the Echelon proposal. It had been mentioned that the project cost was over \$2M but it was confusing at times regarding the tax credits. A \$2M investment was only a \$1M investment by the developer after the credits were received. Old School Cape Charles LLC would also be eligible for the tax credits. Given all the comments and information heard, Mr. Wendell did not see where the Commissioners could give a recommendation. At the time when the unsolicited proposal from Echelon was presented, it might have sounded like a good deal but it was not in the long term best interest of the community. Other communities had made community centers work and there were ways to fund it. His group was researching the issue and for the Town to take the first offer and run with it the way it had was proving to be unwise and not in the best interest of the community. Mr. Wendell asked the Commissioners to slow it down and get it right and asked the Commissioners' support for a community center in the park in Town.

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 May 1, 2012 Regular Meeting.

**Motion made by Malcolm Hayward, seconded by Mike Strub, to approve the minutes from the May 1, 2012 Regular Meeting as presented. The motion was approved by unanimous consent.**

#### REPORTS

Tom Bonadeo reported the following: i) Boytos & Boytos had completed the Harbor Bath House project and it was open for business; ii) The restaurant building at the Harbor was nearing its final inspection and was expected to be open soon; iii) VDOT was still working on coating the asphalt streets in Town. They should be finished before the Tall Ships weekend; iv) Numerous remodeling projects were underway throughout Town; v) The Hotel Cape Charles has opened under a temporary Certificate of Occupancy. An open house was held over the weekend and was well attended. There were still some items yet to be completed on the exterior of the building; vi) VDOT was working on golf cart crossing signs for Route 642, Old Cape Charles Road, which would allow another golf cart path route connecting Bay Creek Golf Community to the Historic District; vii) The parking lot at the Harbor had been covered with shells and spaces will be laid out shortly. During the Tall Ships event, no parking would be allowed in the area and alternate parking would be provided on the railroad property; viii) Work on the beach was completed for the spring. FEMA was expected to help with the expense of sand replenishment; and ix) The Northampton County Planning Commission was holding public hearings this evening and one of the topics was a zoning text amendment to accommodate and support wireless broadband service. Eastern Shore Communications, LLC also performed a wireless test in Cape Charles and the Town would be putting out a Request for Proposals for wireless service at a later date.

#### OLD BUSINESS

##### *CUP and Rezoning of Parcel*

Malcolm Hayward stated that he heard the people who spoke and added that the Planning Commission was not here to vote on the community center but the Commission's function was to ensure the zoning was correct. Several people expressed their concerns regarding whether the Commission was prepared enough and things were brought up this evening regarding conflicts with the Comprehensive Plan and the sequence of events regarding proper procedures. Malcolm Hayward went on to state that the items may or may not be in conflict with the Comprehensive Plan but he was not familiar enough with the Plan.

**Motion made by Malcolm Hayward, seconded by Mike Strub, to table the decision regarding the Conditional Use Permit and Rezoning of the subject parcel to give the Commissioners time to become better informed regarding the issues and to ensure the proper procedures had been followed. The motion was unanimously approved.**

*Sign Ordinance Review – Additional Review of Draft Ordinance*

Tom Bonadeo began with a review of the changes made at the last meeting on pages 15-17 of Zoning Ordinance Section 4.1, regarding Temporary Signs. It was clarified that real estate auction signs were also considered temporary real estate signs and could only be placed on the specific property being auctioned.

There was some discussion regarding subsection f. on page 17. Malcolm Hayward asked whether the “community center” signs displayed all over Town were legal and added that if the Town enforces real estate signs, business signs and political campaign signs, the Town also needed to enforce the other signs around Town re: sizes and the time permitted to be displayed. Tom Bonadeo stated that letters had been sent to the person responsible for the signs and since the signs had not been removed, the issue had been forwarded to legal counsel. Malcolm Hayward asked about the consequences for not following the rules and went on to ask why the Town had these rules if they could not be enforced. Tom Bonadeo explained that legal counsel was researching whether the ordinance could be enforced in relation to the first amendment right for freedom of speech.

The Commissioners went on to continue their work on the Zoning Ordinance Section 4.1 – Sign Regulations update. The following was discussed:

Section 4.1.D.1 – General Provisions: The reference to “International Building Code” was deleted.

Section 4.1.D.2 – Signs in Rights-of-Way: The reference to “zoning administrator” was changed to “Town Manager.”

Section 4.1.D.5 – The Commissioners reviewed the language in the International Building Code vs. the current Cape Charles ordinance. The Town’s current language was more restrictive and the Commissioners felt that language needed to be added to allow business owners with buildings with more than one side of road frontage the option to have up to 50 SQFT of signage, on each side of the building with road frontage. It was noted that it would not be practical to have signage on the backs of buildings.

Section 4.1.D.6 – This section was previously deleted since animated and changeable signs were not permitted in Town. Malcolm Hayward asked that this issue be revisited possibly to be permitted during the summer months. Joan Natali asked how these signs would affect the Historic District. Tom Bonadeo stated that he would contact the Town of Chincoteague to ask about their ordinance. Malcolm Hayward added that he thought the Town of Chincoteague had different signs regulations for the summer months.

Section 4.1.D.7 – There was some discussion regarding the 110 MPH wind load requirement for signs in Cape Charles. There was also some discussion regarding the Town’s right to remove damaged signs and it was suggested that the Town get legal review before finalizing the ordinance.

Section 4.3.D.8 – There was some discussion regarding various signs on former businesses. Joan Natali suggested language be added to protect signs like the one on the side of the old Wilson building which had historic significance.

Section 4.1.D.9 – Tom Bonadeo stated that the billboard coming into Town by Reliable was a non-conforming sign. It was grandfathered and was allowed to remain as long as it was

standing. There was some discussion regarding this issue and it was suggested that the Town get a legal opinion regarding handling of non-conforming signs.

Section 4.1.E - The Commissioners reviewed the list of exempt signs. Joan Natali suggested adding "historical sign" to Item 6 which would cover the sign on the side of the Wilson building. Joan Natali also suggested the possibility of a Town Kiosk or some type of structure to advertise the businesses in Town. Malcolm Hayward agreed that this would help the Town's businesses, especially those not located on Mason Avenue. Tom Bonadeo stated that something could be placed at the corner of Strawberry Street to show the businesses on the street.

Section 4.1.F - Tom Bonadeo stated that this was similar to the Town's current ordinance and asked the Commissioners to review the language for discussion at the next meeting.

*Harbor District Zone - Review Density - Mason Avenue Area*

Due to the time, the Commissioners agreed to postpone review of this issue to the next meeting.

**NEW BUSINESS**

There was no new business to review.

**ANNOUNCEMENTS**

The Tall Ships at Cape Charles event was this coming weekend. Joan Natali stated that volunteers were still needed to help with the event.

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

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Vice Chairman Dennis McCoy

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Town Clerk

# Planning Commission Staff Report

**From:** Tom Bonadeo

**Date:** July 10, 2012

**Item:** 4C – Reports

**Attachments:**

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## Item Specifics

1. The Northampton County website is [www.co.northampton.va.us](http://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. Attached is some information on some public hearings for the County.
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 complete.
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 one remodeling project for the duplex at Tazewell and Nectarine.
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. There some possible new restaurant offerings coming soon. Keep watching Mason Avenue for announcements. The Hotel Cape Charles has opened under a temporary Certificate of Occupancy. An open house was held over the weekend with great attendance. The owners are really excited about the prospects. Some items are yet to be completed in relation to the exterior of the building.
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.

# Planning Commission Staff Report

**From:** Tom Bonadeo

**Date:** July 10, 2012

**Item:** 5A – Resolution 20120628 – Referral of proposed Zoning Map Amendment

**Attachments:** Resolution by Council, Bauman's Map and Exhibit A

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## Background

The Town Council of Cape Charles, by Ordinance 2012614, approved the sale of certain property owned by the Town, collectively called the "Old School Area", to Echelon Resources, Inc. ("Echelon"). Echelon intends by adaptive reuse to rehabilitate the Old School Area and convert it to seventeen residential apartment units and surrounding grounds (the "Old School Rehabilitation").

The current zoning of the Old School Area as Open Space does not allow for the Old School Rehabilitation. The zoning district R-1 allows, by conditional use permit, for the Old School Rehabilitation as an Adaptive Reuse.

## Item Specifics

The Open Space zoning district does not allow for adaptive reuse. The open space zone is intended for open air types of activities.

The R-1 zone requires a CUP for Adaptive Reuse of existing structures within the R-1 zone.

These permitted uses, conditional uses and definitions, as well as public necessity, convenience, general welfare, and good zoning practice require consideration of rezoning of the Old School Area from Open Space to R-1.

The Old School Area is defined as the area 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 contains lots 281 through 286, a portion of the area that was originally North Park Row, and the Old Cape Charles High School Building (exhibit A).

## Recommendations

Review and discuss the items above and schedule a public hearing and special meeting for July 26, 2012 at 6:00pm.



*Municipal Corp. of  
Cape Charles*

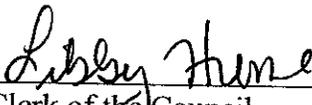
The undersigned Clerk of the Council of the Town of Cape Charles, Virginia (the "Town"), hereby certifies that:

1. A meeting of the Council of the Town (the "Council") was duly called and held on June 28, 2012 (the "Meeting").
2. Attached hereto is a true, correct and complete copy of Resolution 20120628 (the "Resolution") of the Town entitled as recorded in full in the minutes of the Meeting, duly adopted by a majority of the members of the Council present and voting during the Meeting.
3. A summary of the members of the Council present or absent at the Meeting and the recorded vote with respect to the foregoing Resolution as set forth below:

<u>Member Name</u>	<u>Present</u>	<u>Absent</u>	<u>Voting</u>		
			<u>Yes</u>	<u>No</u>	<u>Abstaining</u>
Dora Sullivan, Mayor	X				
Chris Bannon	X		X		
Steve Bennett		X			
Bruce Evans	X		X		
Joan Natali	X		X		
Mike Sullivan	X		X		
Larry Veber	X		X		

4. The Resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on the date hereof.

Witness my signature and the seal of the Town of Cape Charles, Virginia this 29<sup>th</sup> day of June 2012.

  
\_\_\_\_\_  
Clerk of the Council  
Town of Cape Charles, Virginia

(Seal)

**RESOLUTION 20120628**  
**RESOLUTION TO REFER TO 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**

**WHEREAS**, the Town Council of Cape Charles, by Ordinance No. 20120614, approved the sale of certain real property owned by the Town, described below, to Echelon Resources, Inc. (“Echelon”) substantially in accordance with the form of the contract attached to such Ordinance; and

**WHEREAS**, that the real property to be sold pursuant to the contract is the south west corner of Madison Avenue and Plum Street, the area being 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 contains lots 281 through 286, a portion of the area that was originally North Park Row, and the Old Cape Charles High School building (collectively, the “Old School Area”); and

**WHEREAS**, Echelon intends by adaptive reuse to rehabilitate the Old School Area and convert it to seventeen residential apartment units and surrounding grounds (the “Old School Rehabilitation”); and

**WHEREAS**, the current zoning of the Old School Area for Open Space does not allow for the Old School Rehabilitation; and

**WHEREAS**, zoning district R-1 allows, by conditional use permit, for the Old School Rehabilitation as an Adaptive Reuse; and

**WHEREAS**, zoning district R-1 also allows for a Municipal Community Center and, by conditional use permit, a Neighborhood Community Center; and

**WHEREAS**, public necessity, convenience, general welfare, and good zoning practice require consideration of rezoning of the Old School Area from Open Space to R-1; now

**THEREFORE BE IT RESOLVED** by the Town Council of Cape Charles this 28th day of June, 2012 that the issue of amending the zoning map to rezone the Old School Area from Open Space to R-1 be referred to the Planning Commission for an appropriate recommendation following a public hearing; and

**BE IT FURTHER RESOLVED** that, following application therefor, the Planning Commission consider whether, in the event the rezoning is approved by the Town Council, a

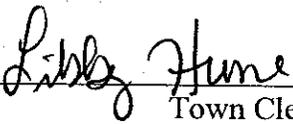
Conditional Use Permit should be granted for the Old School Rehabilitation as an Adaptive Reuse and make a recommendation in connection therewith.

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Adopted by the Town Council of Cape Charles on June 28, 2012.

By:   
Mayor

ATTEST:

  
Town Clerk

Washington  
 Jefferson  
 Madison  
 Monroe  
 Tazewell  
 Randolph  
 Mason

Fig

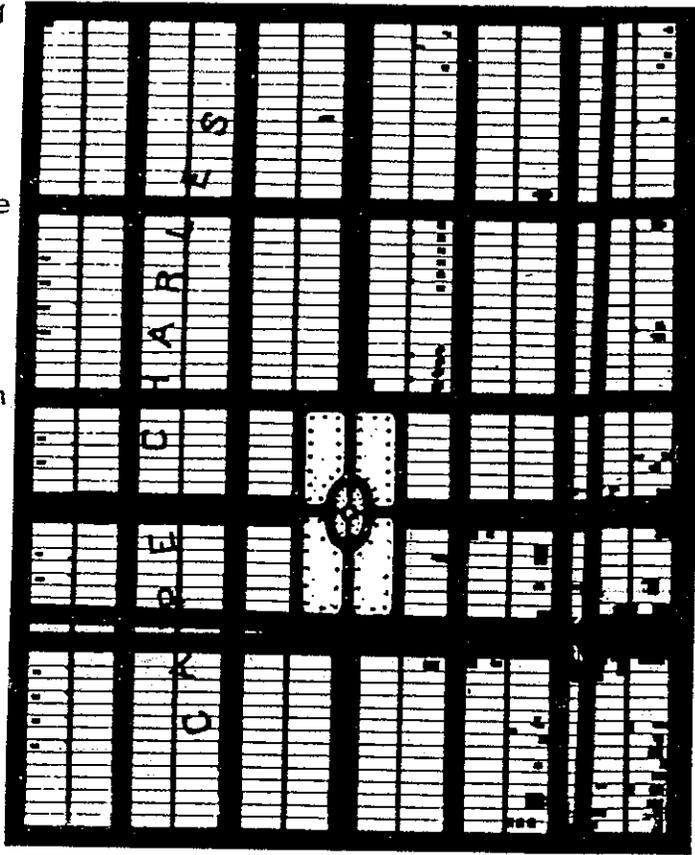
Nectarine

Plum

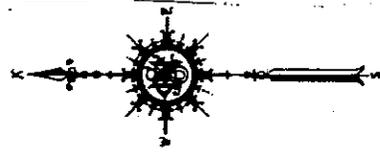
Peach

Strawberry

Pine



Map #5



BAUMAN'S MAP

N. 2:00 W. 2200 Feet

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Washington Ave

Jefferson Ave

Madison Ave

North Park Row

South Park Row

Monroe Ave

Mason Ave

S. 2:00 E. 2200 Feet



Map #6 (plat map)



# Planning Commission Staff Report

**From:** Tom Bonadeo

**Date:** July 10, 2012

**Item:** 5B – Conditional Use Permit (CUP) Application – Echelon Resources, Inc.

**Attachments:** Application and associated documentation, Resolution 20120628

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## Background

The Town Council adopted Resolution 20120628 to refer to the Planning Commission the proposed amendment of the zoning map for public necessity, convenience, general welfare, and good zoning practice and for consideration of the rezoning of the Old School Area from Open Space to R-1. The Resolution also requires the Planning Commission to consider whether, in the event the rezoning is approved by the Town Council, a Conditional Use Permit should be granted for the Old School Rehabilitation as an Adaptive Reuse and make a recommendation in connection therewith.

The Planning Commission has received a completed application for the Adaptive Reuse to rehabilitate the Old School Area and convert it to seventeen residential apartment units and surrounding grounds.

The Old School Area is that 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 contains lots 281 through 286, a portion of the area that was originally North Park Row, and the Old Cape Charles High School building.

## Item Specifics

The CUP application and the zoning ordinance require the Planning Commission and Town Council to consider the following items and that the permitted use(s) will not:

1. **Adversely affect the health, safety or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect the other land uses within the particular surrounding neighborhood.**
  - a. The residential adaptive reuse will restore the building in accordance with the Guidelines of the Secretary of the Interior for Rehabilitation.
  - b. The neighborhood surrounding the park is R-1 including the houses and apartments on North Park Row.
2. **Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.**
  - a. The historic restoration and adaptive reuse will be an investment of over \$2 million dollars in the neighborhood. This restoration will improve the neighborhood values with a newly rehabilitated building in accordance with the Secretary of the Interior's Guidelines.
  - b. The density of the site will be no more than the western park row site or the underlying zoning of R-1. This property covers the equivalent of 7 town lots or the equivalent space for 7 single family residences. The 4 two - bedroom apartments at 11 Park Row are on a single lot.
  - c. The residential use would require only about 17 spaces of off street parking. This parking will be provided in the area that is currently off-street parking and on the west side of the building.
  - d. The historic renovation in either use will be an asset to the improvements in the adjacent Park.

**3. Be in conflict with the purpose of the Comprehensive Plan.**

- a. The current Comprehensive Plan stresses the preservation of contributing historic structures and the Virginia Department of Historic Resources in partnership with the U.S. Secretary of the Interior have promulgated rules and tax credits especially for the adaptive reuse of these contributing structures.
- b. Page 44 of the Plan specifically sets multiple goals, one of which is to:
  - i. Provide for the adaptive reuse of the school building
  - ii. Other items referring to community center and library are separated in the Comprehensive Plan as past studies have shown that they could not be accomplished in the same building (Schriver & Holland Study).
  - iii. The requirements are also based on growth expected at about 3%. Cape Charles has not met this growth rate as shown in the last census.

This application meets the requirements of the zoning ordinance for conditional use permits and the adaptive reuse in the R-1 Zone.

1. The use is compatible with the permitted uses in the R-1.
2. The plan will meet the table of parking standards.
3. New utility services will be placed underground.
4. The structure is a contributing structure to the National Historic District.

**Recommendations**

Review and discuss the application and schedule a public hearing and special meeting for July 26, 2012 at 6:00pm.

**MUNICIPAL CORPORATION OF CAPE CHARLES, VIRGINIA**  
**Application for Conditional Use Permit**

Date: 6/22/2012 Permit No. \_\_\_\_\_  
 Fee \$307 PD  
 Proposed Use Multifamily Residential - 17 units  
 Present Zoning OS Location intersection of Plum Street and Madison Avenue  
 Acreage 0.9 AC Tax Map → Parcel/Lot No.(s) Tax Parcel 083 A3-(01)-00-

I (We) hereby petition the Cape Charles Town Council for a Conditional Use Permit to locate the above-mentioned use on the property listed above.

I (We) acknowledge the fact that all pertinent information required by the Planning and Zoning Office must be submitted in a timely manner so that required public hearings can be scheduled and advertised. Applicant or representative must be present in the public hearing.

Land Owner's Signature [Signature] Edwin Boskin on behalf of Echelon Resources, Inc  
 Address 16215 Wolf Creek Road, Montpelier VT 23192  
 Phone Number 804-767-5990

**Planning Commission Public Hearing:**  
 Date \_\_\_\_\_ Time \_\_\_\_\_ Place \_\_\_\_\_  
 Action \_\_\_\_\_  
 Conditions \_\_\_\_\_

**Town Council Public Hearing:**  
 Date \_\_\_\_\_ Time \_\_\_\_\_ Place \_\_\_\_\_  
 Action \_\_\_\_\_  
 Conditions \_\_\_\_\_

\*\*\*\*\*

**Conditional Use Permit Checklist**  
 (Applicant must attach items 1 - 7)

1.  completed application
2.  payment of fees (\$300.00 + \$25.00 per acre)
3.  letter of application stating in general terms: (a) the proposed use of the property, (b) the effect of the changes on the surrounding area, and (c) the reason for the request
4.  concept plan (see attached information for recommended contents)
5.  plot plan of property
6.  disclosure statement signed and notarized verifying ownership
7.  names and addresses of adjacent property owners
8.  Zoning Administrator's review of documentation

\*\*\*\*\*

**Application for Certificate of Occupancy**

Certificate of occupancy shall not be given by the Town of Cape Charles Building Official until the following conditions have been met:

- |                            |                         |
|----------------------------|-------------------------|
| Zoning Clearance Approval  | Fire Marshall Approval  |
| Building Official Approval | Type of Business (List) |
| Water and Sewer Approval   | Payment of Fees         |

The granting of this permit does not ensure the approval of a building permit, certificate of occupancy, or license to operate a business or profession. Inquiries should be made to: Zoning Administrator  
 Town of Cape Charles  
 2 Plum Street  
 Cape Charles, VA 23310  
 757-331-3259

Echelon Resources, Inc  
16215 Wolf Creek Road  
Montpelier, VA 23192

June 21, 2012

Town of Cape Charles  
Planning Department  
2 Plum St.  
Cape Charles, VA 23310

ATTN: Tom Bonadeo, Town Planner

RE: Letter of Application, Conditional Use Permit  
Old Cape Charles School

Mr. Bonadeo,

Attached please find the contents that comprise the completed application for a Conditional Use Permit for the adaptive reuse of the Old Cape Charles School.

**Proposed Use of the Property**

Our intent is to redevelop the property into 17 market rate apartments. Echelon Resources will totally rehab the structure interior and exterior, installing all new systems and complying with all code requirements. All work will be done in accordance with the Secretary of the Interior Standards for Rehabilitation.

**Effect of Changes on the Surrounding Area**

There will be no physical net change to surrounding properties, except for the subdivision described herein, and additional paving of the proposed parking areas. We believe that the finished project will add increased vibrancy to the neighborhood, and will bring new life to this deteriorated historic structure.

**Reason for the Request**

Section 3.2(C)(6) of the Cape Charles Zoning Ordinance requires this application per its adaptive use zoning guidelines.

I look forward to the meeting of the Planning Commission July 10.

Sincerely,



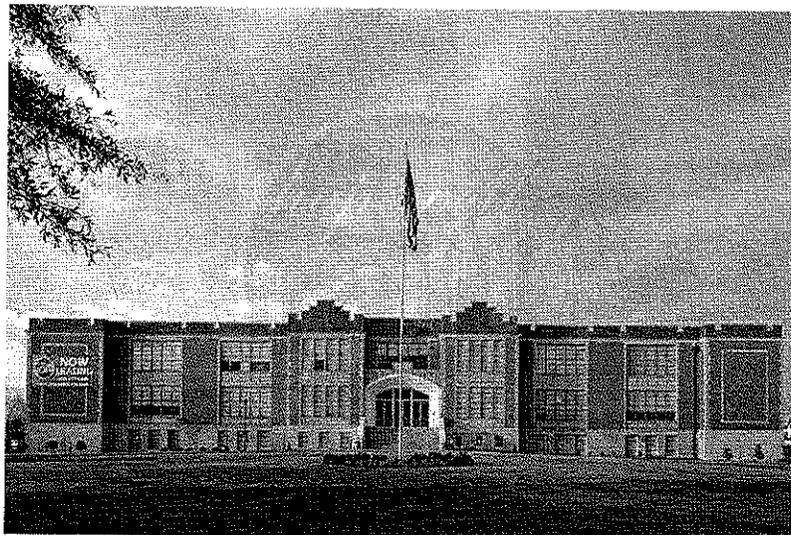
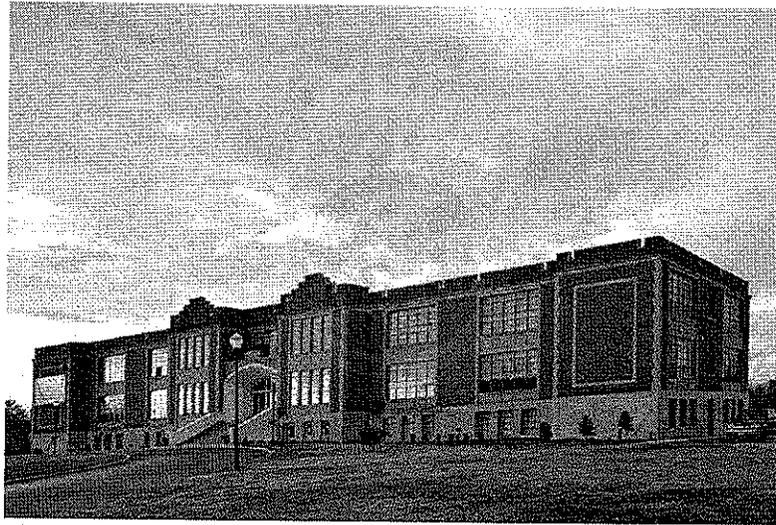
J. David McCormack  
Echelon Resources, Inc.

## CONCEPT PLAN

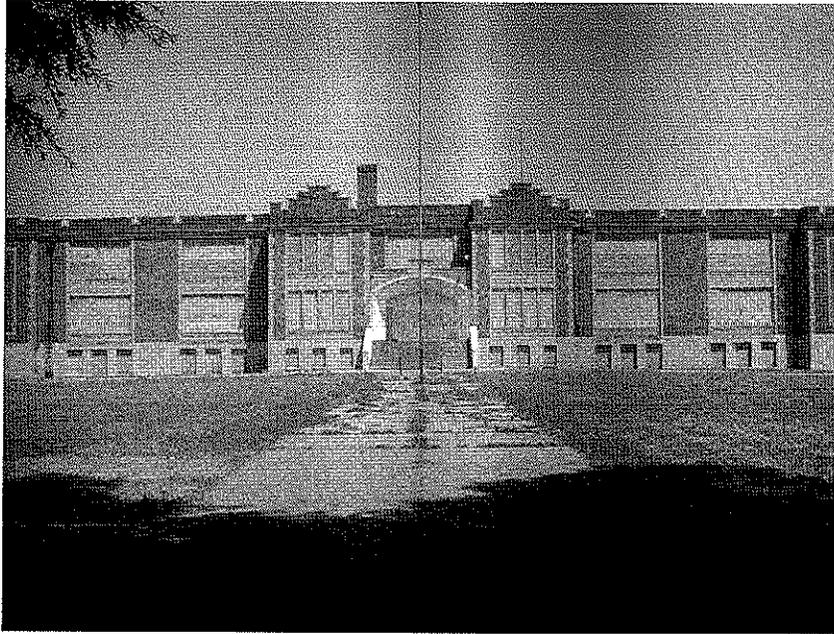
Echelon Resources will convert the Old Cape Charles School into 17 market rate apartments. There is ample space for parking compliant with the Town of Cape Charles zoning ordinance, and all work will be in accordance with the Secretary of the Interior Standards for Rehabilitation.

Below: The Developer's rehabilitation of the James E Mallonee High School in Hopewell Virginia. The concept exterior finish of the Old Cape Charles School is very similar to this project.

### AFTER



## BEFORE



## INTERIOR CONCEPT

In the finished interior, the Developer will seek to preserve as much as the historic fabric as possible, while at the same time creating beautiful interior spaces for market rate residences. All work on the interior of the building will be done in accordance with the Secretary of the Interior Rehabilitation Guidelines.





## Adjacent Property Owners to the School

Name	Address	Parcel No.
Peter Bauman	239 Monroe Ave Cape Charles, VA 23310	83A1-6-296
Tidewater Farm	4375 White Tail Ln Machipongo, VA 23405	
Janet Dudley	303 Madison Ave Cape Charles, VA 23310	83A1-1-194
Karen & John Silbert	3807 Winding Hollow Dr Fredericksburg, VA 22408	83A1-1-394
Ralph Giannini	428 Plum St Cape Charles, VA 23310	83A3-10-A
600 Group LLC	5802 Nicholson Ln, Apt 708 Rockville, MD 20852	83A3-10-B
John Peterman	121 Powhatan Hampton, VA 23661	83A3-10-C
Robert Carpenter	204 Chestnut Linwood, PA 19061	83A3-10-D
Dennis Pickron	5837 Wyndham Circle #302 Columbia, MD 21044	83A3-1-279
TOCC		83A3-1-174 83A3-1-175 83A3-1-178 83A3-1-179
Oscar Ewell	300 Strawberry St Cape Charles, VA 23310	83A1-1-182
Jenny Hattorf	7103 Senn Way Dr Mechanicsville, VA 23111	83A3-1-378
Cheryl Vichness	3208 Montebello Rd Baltimore, MD 21214	83A3-1-289

### Adjacent Property Owners to the School

Name	Address	Parcel No.
Lenore Mitchell	309 Tazewell Ave Cape Charles, VA 23310	83A3-1-390
Larry Veber	507 Tazewell Ave Cape Charles, VA 23310	83A3-1-391A 83A3-1-392A 83A3-1-377
CPD II Inc	CPD II Inc	83A3-1-288
Betty Ewell	300 Strawberry St Cape Charles, VA 23310	83A3-1-294 83A1-1-170 83A1-1-171
Judi Pelletier	1 North Park Row Cape Charles, VA 23310	83A3-1-293
Jeanna Bouzek	1209 W 48th St Richmond, VA 23225	83A3-1-292
John Caruso	14209 Holly Ave Flushing, NY 11355	83A3-1-291
Mike Hollister	1609 Centerville Pkwy Manakin Sabot, VA 23103	83A3-1-290
Leon G. Laughman	3308 Mt. Carmel Rd Upperco, MD 21155	83A3-1-379 83A3-1-380
Jim Mahaffy	415 Tazewell Ave Cape Charles, VA 23310	83A3-1-381
Mark & Ken Usry	535 West St Bloomsburg, PA 17815	83A3-1-382A 83A3-1-383A
Leon & David Parham	403 Tazewell Ave Cape Charles, VA 23310	83A3-1-384
Stephen Smith	8125 Sinclair Rd Mechanicsville, VA 23111	83A3-1-386A 83A3-1-387A 83A3-1-388A 83A3-1-389
Elwood Morton	27521 Phillips Dr Melfa, VA 23410	83A1-6-A
Cape Charles Christian School	237 Tazewell Ave Cape Charles, VA 23310	83A1-6-393 83A1-6-396

