

Planning Commission

Joint Public Hearing

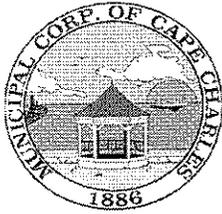
And

Regular Session Agenda

December 7, 2010

6:00 P.M.

1. Call to Order Public Hearing; Roll Call
2. Hear Public Comment on:
 - a. 207 Mason Avenue – CUP for Residential over Commercial
 - b. 546 Madison Avenue – CUP for Home Occupation
3. Close Public Hearing
4. Call to Order Regular Planning Commission Meeting: Roll Call
5. Invocation and Pledge of Allegiance
6. Public Comments
7. Consent Agenda
 - a. Approval of Agenda Format
 - b. Approval of Minutes
 - c. Reports
8. Old Business
 - a. 207 Mason – CUP for Residential over Commercial
 - b. 546 Madison – CUP Home Occupation
 - c. Wind Energy Ordinance
9. New Business
 - a. Rezoning Request – Randolph and Strawberry – a portion of the Mack Building
10. Announcements
11. Adjourn



DRAFT
PLANNING COMMISSION
Public Hearing & Regular Meeting
Town Hall
November 2, 2010

At 6:00 p.m. in the Town Hall, Chairwoman Natali, having established a quorum, called to order the Public Hearing and Regular Meeting of the Planning Commission. In attendance were Commissioners Bruce Brinkley, Ben Lewis, Dennis McCoy and Mike Strub. Commissioners Malcolm Hayward and Roger Munz were not in attendance. Also present were Town Planner Tom Bonadeo and Town Clerk Libby Hume as well as one member of the public.

PUBLIC HEARING COMMENTS

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

Motion made by Mike Strub, seconded by Dennis McCoy and unanimously approved to close the Planning Commission Public Hearing.

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

PUBLIC COMMENTS

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

CONSENT AGENDA

Hearing no comments, the agenda was approved as presented by unanimous consent.

The Commissioners reviewed the minutes for the October 5, 2010 Regular Meeting.

Dennis McCoy noted a typographical error at the top of page 2.

Motion made by Dennis McCoy, seconded by Bruce Brinkley, to approve the minutes from the October 5, 2010 Regular Meeting as amended. The motion was approved by unanimous consent.

REPORTS

Tom Bonadeo reported the following: i) The Harbor Redevelopment project was split into two separate projects and will be put out to bids separately. The restroom building was redesigned to reduce costs; ii) The Trail Project has reached substantial completion and a punch list of items was created and the contractor is working on a response. The final 60+ trees are to be planted November 8-10; iii) Beach grass will be planted on November 15th by students from Northampton High School. The public works staff was in the process of installing snow fence; iv) The Town Council met regarding the

boundary adjustment and it was decided to move forward with the process. A Boundary Adjustment Committee meeting was held on September 29th and Cheriton also plans to move forward. Since this meeting, letters of non-support have been received from property owners from Tower Hill and Kings Creek Landing subdivisions. A re-evaluation of this decision was in progress. The Historical Overlay language, which was developed by the Planning Commission several years ago, was recently reviewed by the Northampton County Planning Commission and returned with their modifications. Tom Bonadeo stated that this document will be reviewed at the December meeting; and v) The bids for the fishing pier and boardwalk repairs were expected soon. This project would be funded in part by FEMA because the pier and boardwalk were damaged in the November 2009 Nor'easter storms.

Mike Strub asked about the repairs to the fountain at the park. Tom Bonadeo stated that the repairs have been completed and the fountain had been turned off for the winter.

Dennis McCoy asked about the status of the wastewater treatment plant and the connection to Bay Creek. Tom Bonadeo stated that the connection to Bay Creek had been completed.

OLD BUSINESS

Group Home

Tom Bonadeo explained that during the last General Assembly session, many new bills were adopted. Since the Commonwealth of Virginia closed some of its hospitals for mental illnesses, this bill allowed the establishment of homes to care for these people in single family zones and was a requirement to be adopted into local zoning ordinances. The Commissioners reviewed the proposed language to Articles 2.9, 3.2.B.6 and 4.0.C.1 of the Cape Charles Zoning Ordinance.

Motion made by Mike Strub, seconded by Dennis McCoy, and unanimously approved to recommend Town Council adopt the proposed modifications to the Cape Charles Zoning Ordinance.

Temporary Family Healthcare Structure

Tom Bonadeo explained that another bill adopted by the General Assembly required local zoning ordinances to allow family health care structures in the single family zone. A family healthcare structure was an accessory structure of 300 SQFT or less for no more than one occupant who must be a family member who was mentally or physically impaired. The Commissioners reviewed the proposed changes to Articles 2.9 and 4.2.E of the Zoning Ordinance.

Motion made by Mike Strub, seconded by Dennis McCoy, and unanimously approved to recommend Town Council adopt the proposed modifications to the Cape Charles Zoning Ordinance.

Modifications to Zoning Ordinance – Chesapeake Bay Preservation

Tom Bonadeo explained that during the review of the Town's Zoning Ordinance by the Chesapeake Bay Local Assistance group, it was noted that some strengthening of the language would help reinforce our developers' observance of the Resource Protection

Area. These additions would be made to the Site Plan Ordinance. The Commissioners reviewed the proposed language for Section 4.B of the Site Plan Ordinance.

Motion made by Bruce Brinkley, seconded by Dennis McCoy, and unanimously approved to recommend Town Council adopt the proposed modifications to the Cape Charles Zoning Ordinance – Site Plan Ordinance.

NEW BUSINESS

207 Mason Avenue – Conditional Use Permit for Residential Over Commercial

Tom Bonadeo stated that a Conditional Use Permit (CUP) application had been received requesting residential use over commercial at 207 Mason Avenue which was the former Delisheries building. This building had a CUP approved in 2003 for residential use with a second floor and loft. This CUP was extended in 2004 and 2005 due to the applicant being deployed for military service, but the CUP was never acted upon. Eventually the building was sold. The current application is similar to the original except the applicant was asking to add a second and third floor for two apartments. The front of the building would be modified to meet the architectural design requirements of the Historic District guidelines.

Tom Bonadeo informed the Commissioners that this property was scheduled for a tax sale in January 2011 and may go into foreclosure so time is of the essence. The Historic District Review Board (HDRB) reviewed this application at their October meeting and required that the applicant go back to the HDRB to review the final details of the plan. Due to the time restraints, Tom Bonadeo recommended scheduling a joint public hearing with the Town Council preceding the next Planning Commission meeting. Town Council would then be able to vote on this application at their next regular meeting.

Motion made by Dennis McCoy, seconded by Mike Strub, and unanimously approved to schedule a joint public hearing with the Town Council on December 7, 2010 preceding the Planning Commission Regular Meeting.

546 Madison Avenue – Conditional Use Permit for Home Occupation

Tom Bonadeo stated that a CUP application had been received requesting permission to operate a business producing chocolate confections at 546 Madison Avenue. The R-1 Zone allowed home occupations by CUP. The business was small volume and the applicant did not expect any change in traffic. The Commissioners reviewed the application.

Motion made by Bruce Brinkley, seconded by Dennis McCoy, and unanimously approved to schedule a joint public hearing with the Town Council on December 7, 2010 preceding the Planning Commission Regular Meeting.

Election of Officers

Tom Bonadeo stated that Article 3 of the Cape Charles Planning Commission By-Laws required the election of a Chair and Vice-Chair at the first regular meeting following November 1 of each year. The term of office would be for one year and re-election was allowed. Joan Natali was the current Chair, but since her election to Town Council was now serving on the Commission as Town Council representative. Article 2 of the By-

Laws state that the Commission was to be made up of seven members – one member would be a representative of Town Council and six members would be appointed members. Article 4 of the By-Laws state that both the Chair and Vice-Chair shall be appointed members of the Commission; therefore, Joan Natali was not eligible to be re-elected as Chair. Currently, the Commission did not have a Vice-Chair. Eileen Cobb, who resigned in June, was Vice-Chair. The Commission decided to wait until the November election to name a replacement Vice-Chair.

Joan Natali asked whether any of the Commissioners would be interested in self-nominating themselves and added that she had spoken to Malcolm Hayward and he informed her that he was not interested in serving as Chair or Vice-Chair of the Commission.

Dennis McCoy self-nominated himself for Vice-Chair and Bruce Brinkley stated that he would be willing to serve as Chair. Mike Strub stated that he joined the Commission in July 2010. Even though he had attended most of the meetings to date, he would feel more confident of being Chair or Vice-Chair next year.

Tom Bonadeo explained that the Chair presides over meetings and appoints any sub-committees. The Vice-Chair acts in the absence of the Chair.

Bruce Brinkley was elected as Chair and Dennis McCoy was elected as Vice-Chair by unanimous vote.

Joan Natali asked Bruce Brinkley if the 6:00 p.m. start time was sufficient for him since he worked across the bay. Bruce Brinkley stated that 6:00 p.m. was good for him.

Mike Strub stated that Joan Natali had done a great job in moving the meetings along and thanked her for her service as Chair of the Commission.

Tom Bonadeo stated that the December 7, 2010 meeting would be preceded by the Joint Public Hearings with Town Council and asked that the Commissioners review the Historic Town Entrance Corridor Overlay which was distributed earlier in the meeting.

ANNOUNCEMENTS

There were no announcements.

Motion made by Dennis McCoy, seconded by Joan Natali and unanimously approved to adjourn the Regular Meeting of the Planning Commission.

Chairman Bruce Brinkley

Town Clerk

Planning Commission Staff Report

From: Tom Bonadeo
Date: December 7, 2010
Item: 8A – 207 Mason CUP – Residential use in C-1
Attachments: Drawings and Application

Item Specifics

A complete application has been received for a Conditional Use Permit for 207 Mason Avenue. This building has also been known as the "Deliseries" building. The CUP is required for residential use in the C-1 zone.

This building is currently a one story building with a one and one half story front. In the commercial zone residential use is only allowed on floors above the first floor and not at ground level. Several other requirements must also be met:

1. The Residential use is not allowed on the ground floor.
2. The Residential use must exit at the street level.
3. The Residential use shall not exit or enter through a commercial space.
4. If the residential use is a reuse of existing space parking regulations would be reviewed on a case by case basis.

Discussion

This building is a single floor building with a tall first floor storefront. This CUP would require an additional floor or floors to be added. This addition would require the approval of the Historical District Review Board as the building is both in the Historic District Overlay and a Contributing Structure to the National Historic District.

History – In March of 2003 a CUP was approved for second level residential use. This did require the addition of a full second floor which was to be stepped back 10' from the existing front. The height of the addition with a proposed loft was about 33'. This CUP was approved by the Planning Commission and Historic Review Board. The CUP only has a one year life if not acted on and this CUP was extended in 2004 and 2005 because the owner/applicant had been deployed by the military and was unable to start construction. Eventually the building was sold.

Current – The current application is similar to the original. The applicant is asking for a conditional use permit for residential use over commercial space in the C-1 zone. The current application is asking for 2 residential spaces rather than the original one apartment. This plan shows the addition of 2 floors rather than one floor with a loft.

There are several considerations for this CUP;

1. The architectural design requires approval by the Historic District Review Board. This approval has been granted pending the recommendation of the Planning Commission and approval by Town Council.
2. The plans were done by the same architect as the original approved design with only slight changes. The new plan show a third floor built to the legal height of 40' rather than the 33' of the old plan.

3. The new plan also steps back the second floor the same ten feet and also steps back the third floor an additional ten feet. This is to help reduce the perceived height of the additions.
4. The residential use requires new construction and therefore must conform to the table of parking standards. The applicant has proposed four parking spaces in the rear of the building to meet this requirement. No additional spaces are required for the commercial space.
5. This building is relatively unique on Mason Avenue in that there is a deeded easement to the rear of the building. Space will be allocated on site to meet the parking requirement.
6. The front of the building will be modified to meet the architectural design requirements of the Historic Guidelines. The applicant plans to restore as much of the storefront as is possible.
7. The first floor commercial space is not contracted for at this time. No use is specified in the application

There is a major change from the original application. There is a second bidder for the building. This new person has a contract on the building pending pricing and the approval of this application. This "use" belongs to the building not the applicant.

1. The original applicant did not have a valid contract but did have the authority from the owner of the property to submit an application.
2. The second bidder is negotiating with the bank as this has become a "short sale". At the time of the original application it was noted that time is of the essence due to financial reasons.

These facts, while interesting should not be factors in the approval or denial of the application. The following considerations are important:

1. The approval should be conditional with the current sale of the property. If the property is not sold within 30 or 60 days the CUP is null and void.
2. The residential use for two floors over the commercial space should be conditional upon the applicant providing 4 parking spaces on site in accordance with the zoning ordinance.
3. The CUP only provides for residential use on the property in accordance with the zoning ordinance. Any civil issues and/or building code issues are to be resolved by the owner.
4. The property will require additional floor(s) to be added and the CUP should be conditional upon final review and approval of the Historic District Review Board once a CUP is approved.

Recommendation

Review and discuss the application and consider public comment. Staff recommends approval of the approval of the CUP with the four conditions listed above.

Historic District Review Board Staff Report

From: Tom Bonadeo
Date: October 19, 2010
Item: 4B – 207 Mason Avenue – Add second and third floor
Attachments: Photos and drawings

Application Specifics

An application has been received for the addition of a second and third floor to the Delisheries Building. The building is currently an extra tall, one story structure between a two story and a three story building. The buyer is interested in adding the two residential units above the existing structure.

The current photo is included as well as the Architect's Drawings of the addition. In 2005 this board approved the architectural review of a second floor addition to this structure. That addition never was completed due to military service required by the applicant.

Discussion

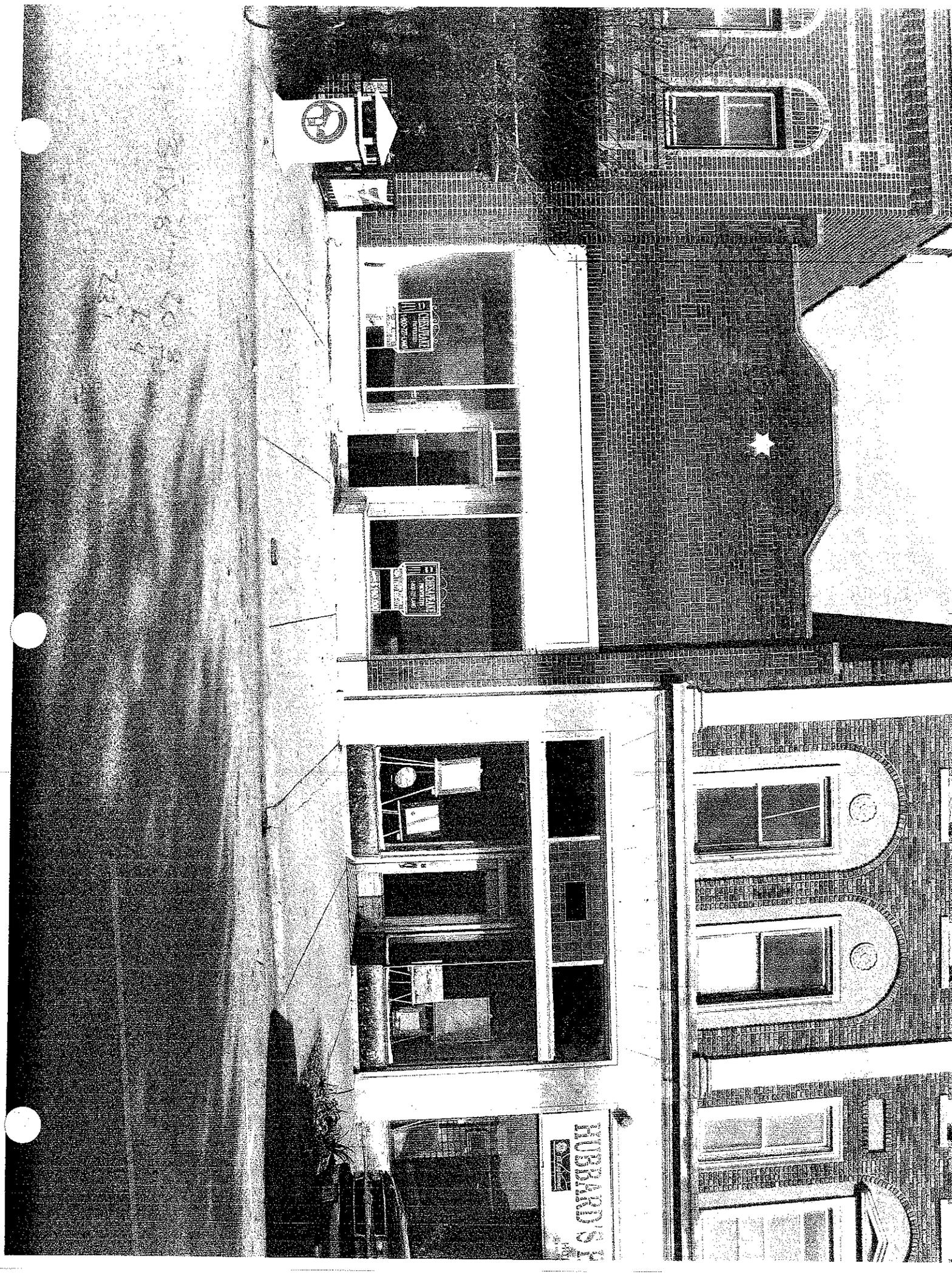
The Architect and Applicant expect to be in attendance to explain the application. The application was received very late in the monthly process.

The current application is very similar to the original second story approved request only slightly taller. The second and third stories are each set back from the front of the building. The second floor is set back 10' and the third floor and additional 10'.

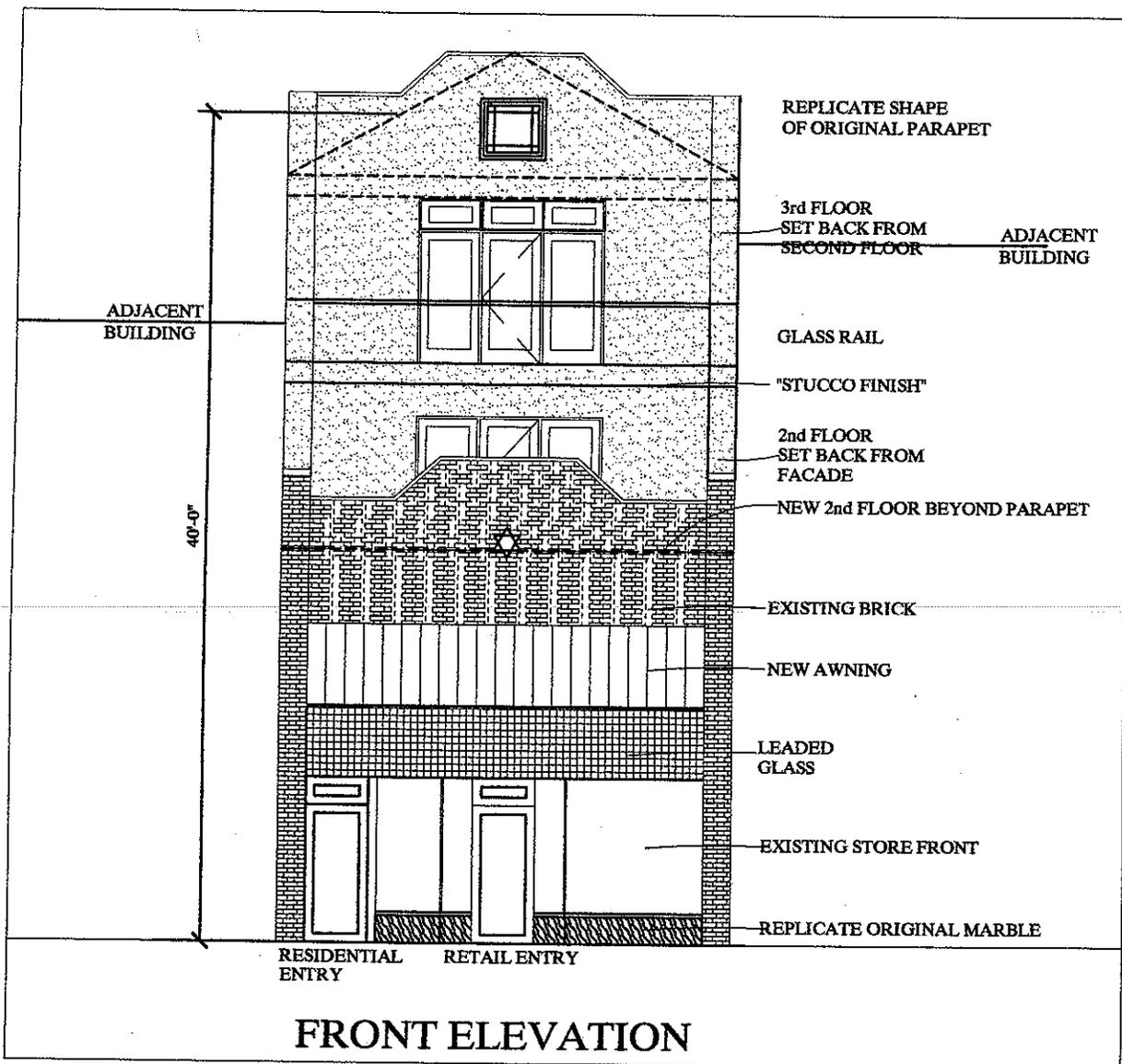
Recommendation

Staff recommends the following:

1. Review the plan and approve if so inclined or table the plan pending additional review and schedule another meeting to render a decision. Planning Commission will not meet until November 2 to review the Conditional Use Permit for Residential on second floor.



CODE & ZONING NOTES
 CAPE CHARLES ZONING DISTRICT C1
 EXISTING USE- M- COMMERCIAL 1 STORY
 PROPOSED USE MIXED- 1ST FLOOR- M COMMERCIAL
 2ND AND 3RD FLOORS- R3- 1&2 FAMILY RESIDENTIAL



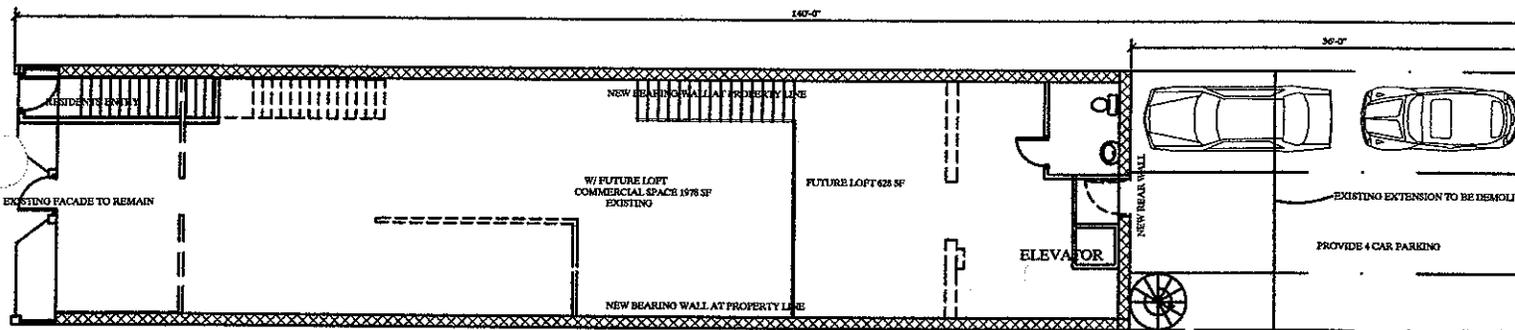
FRONT ELEVATION

1/4"=1'

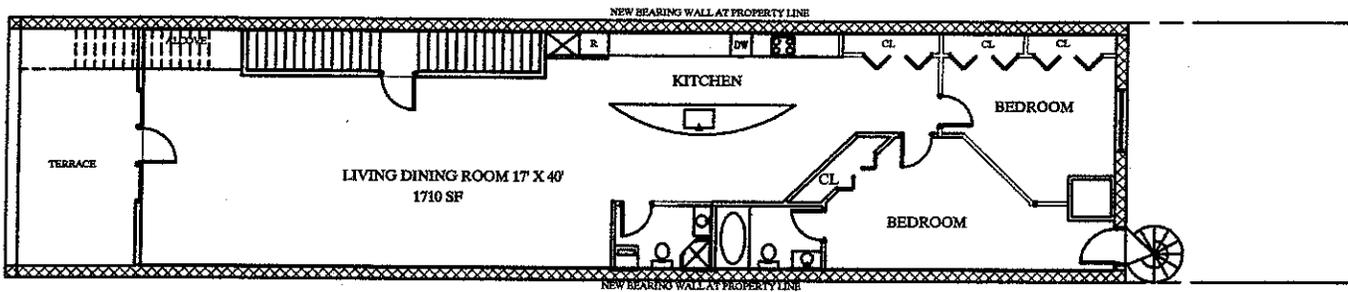
venue

AND SECTION

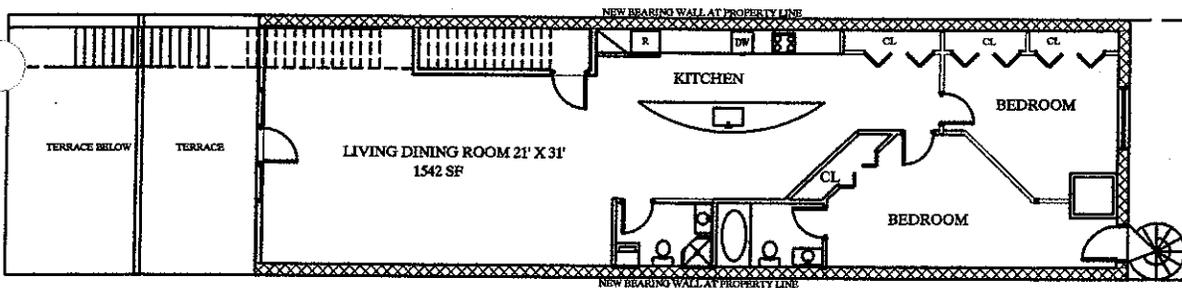
LP	10/19/10		SK-1
20105	1/8"=1'		



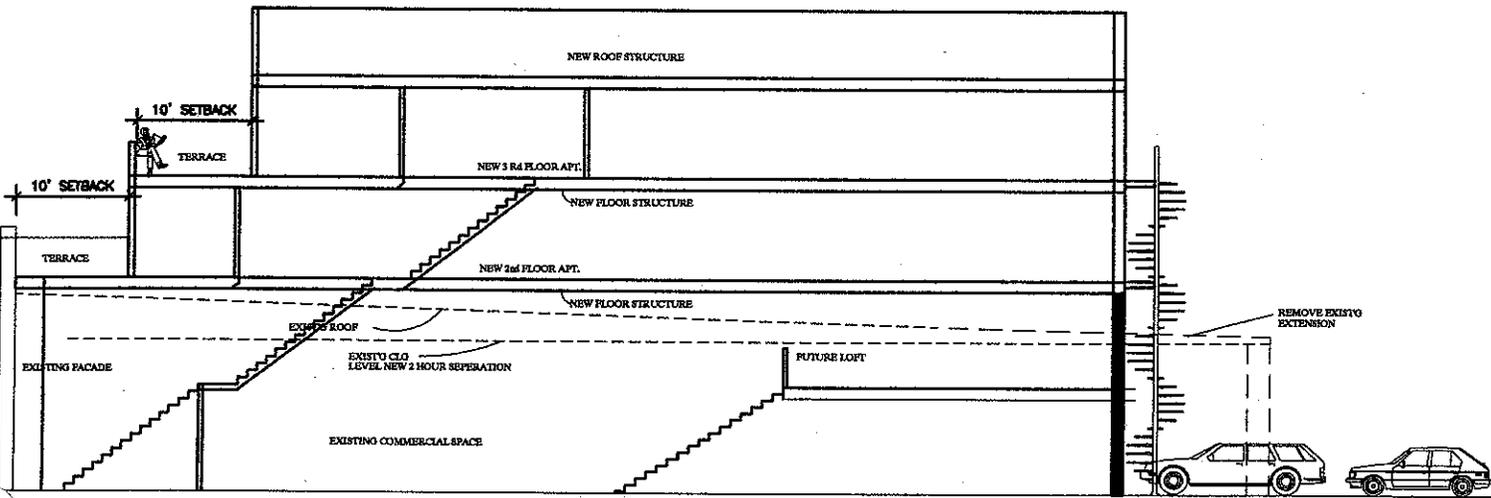
1ST FLOOR



2ND FLOOR



3RD FLOOR



LONGITUDINAL SECTION



PARHAM

403 TAZEWELL, CAPE CHARLES VIRGINIA 23310-3217
757.331.8133 ... rktek@verizon.net
LEON FULLER PARHAM . ARCHITECT, R A, NCARB

207 Maso

PLANS, ELEVATIO

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

Date: 10-29-10 Permit No. # 300
 Fee _____

Proposed Use COMMERCIAL / RESIDENTIAL
 Present Zoning C-1 Location 207 MASON ST.
 Acreage N/A Tax Map _____ Parcel/Lot No.(s) _____

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]
 Address FLA ST.
 Phone Number 331-8100

Planning Commission Public Hearing:
 Date 12-7-2010 Time 6 PM Place _____
 Action _____
 Conditions _____

Town Council Public Hearing:
 Date 12-7-2010 Time 6 PM 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

MUNICIPAL CORPORATION OF CAPE CHARLES, VIRGINIA

Application for Historic District Review

Date 10-29-10
*(Attach plans)

Permit No. _____
Fee: \$50.00

Applicant THOMAS I. ROSS, JR. Signature *Thomas I. Ross, Jr.*
Address 3109 TRUMPET DR. Cape Charles, VA 23310 Telephone 757-680-1982

Owner KIM STAR
Address FIG ST. City CAPE CHARLES State VA ZIP Code 23310

Contractor BRAHDON CONSTRUCTION
Address 3109 TRUMPET DR. City CHES. State VA ZIP Code 23321
Town License No. _____ State License No. 2705 0574 27 A

Location of Improvement 207 MASON ST.
Lot No. _____ Block No. _____ Lot Size _____ Lot Area _____
Type of Improvement RENOVATION / ADDITION
Proposed Use COMMERCIAL & RESIDENTIAL
Estimated Construction Costs \$ 550,000.00

Dimension of Structure or Improvement Width 22' Length 109' Height 40'
Total Square Footage N/A

Structure or Improvement will be set back
N/A from front property line
" from side property line
" from side property line on corner lot
" from rear property line
" from alley

Town Water Permit N/A Town Sewer Permit N/A

CERTIFICATION OF APPLICANT

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer, and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed. Furthermore, I certify that the changes to the improvement before or during construction will be provided to the Zoning Administrator and Building Official before such changes are constructed.

Signature of Owner/Agent BRAHDON CONSTRUCTION THOMAS I. ROSS, JR.

BUILDING PERMIT

Thomas I. Ross, Jr.

Issuance of a Certificate of Appropriateness in itself does not permit the applicant, owner, or contractor to proceed with the improvements noted above. Improvements can proceed only after issuance of a building permit from the Cape Charles Building Official, whose office is in the Municipal Building at 2 Plum Street in Cape Charles and who can be reached at 757-331-2176.

Date Approved _____ Date Denied _____

Zoning Administrator _____

Planning Commission Staff Report

From: Tom Bonadeo
Date: December 7, 2010
Item: 8B – 546 Madison CUP Home Occupations
Attachments: Application and letter

Item Specifics

A complete application for a home occupation has been received to operate a home business in the R-1 zone at 546 Madison Avenue. The R-1 zone allows home occupations by conditional use permit.

Mr. and Mrs. Proto have requested a CUP to operate a business producing chocolate confections. The required request letter and application is attached.

Discussion

Article 4 of the zoning ordinance has 9 criteria for operating home businesses. This application meets all nine criteria.

1. The use is clearly incidental to single family residence.
2. No change to the exterior is proposed.
3. No storage of goods is proposed outside the house.
4. Less than 50% of the space will be used for the business.
5. No accessory building will be used.
6. None of the hazards listed will be produced by the business.
7. The business will not increase traffic.
8. The applicant is meeting the CUP requirement.
9. The applicant has made application with other agencies as required.

Recommendation

Review the application and public comment. Staff recommends approval of the CUP.

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

Date: 10/13/10

Permit No. _____
 Fee 300

Proposed Use HOME BASED CHOCOLATE BUSINESS (WHOLESALE)
 Present Zoning R1 Location 546 MADISON AVE
 Acreage _____ Tax Map R3A3-1-260 Parcel/Lot No.(s) 260

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]
 Address 110 SPOOR AVE. Poughkeepsie, NY 12603
 Phone Number 845 702 2768

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. NA concept plan (see attached information for recommended contents)
5. NA plot plan of property
6. NA 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

NANCY N PROTO GEORGE R PROTO 16 SPOOR AVE POUGHKEEPSIE, NY 12603		187 50-7936/2219
DATE <u>10/14/10</u>		
PAY TO THE ORDER OF <u>TOWN OF CAPE CHARLES</u>	\$ <u>300.00</u>	
THREE HUNDRED AND _____ DOLLARS		
HUDSON VALLEY FEDERAL CREDIT UNION		
MEMO: <u>PBE - APPLICATION FOR CONDITIONAL USE PERMIT</u>		
[Signature]		

al until the following
 approval
 (List)
 of occupancy, or license to

1:221979363:0000032097601910187

16 Spoor Ave
Poughkeepsie, NY 12603

845 702 2768
gproto@hvc.rr.com

October 14, 2010

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

Subject: Conditional Use Permit Letter of Application

Dear Mr. Bonadeo,

This letter is written to request a Conditional Use Permit for our property located at

546 Madison Avenue
Cape Charles, VA 23310.

This request is being made because the zoning is residential (R1) in this area, so businesses are disallowed.

The intended use is for a home-based, wholesale chocolate business. The business involves the melting, tempering and mixing of chocolate and other ingredients using the existing kitchen facilities and one small (approximately 18"x18") tempering machine which fits on existing counter space.

All activities for this business will be conducted in the kitchen, which is approximately 155 sq ft. This constitutes less than 8% of the total area of the residence and is far below the maximum 50% allowed by the Zoning Ordinance for conditional uses.

There will be no physical changes to the interior or exterior of the house. There will be no changes to property itself. There will be no detectable noise outside the house. Smells from the chocolate will be minimal and in general far less than the smells from normal residential cooking.

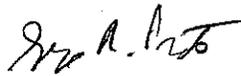
Since this is a wholesale business, there will be no customers on-site, nor traffic related to customer visits. Deliveries of raw materials will be occasional and done via UPS, Fed-Ex or equivalent as is commonly done for personal deliveries in residential areas, or by personal vehicle.

In summary this there will be no effect on the surrounding areas due to the establishment of this business.

Since there will be no physical changes to the property, per our discussion, a plot plan was not required. The application for a Conditional Use Permit, a list of adjacent property owners and a check for \$300 for the application fee are attached.

Thanks for your kind attention.

Regards,

A handwritten signature in black ink, appearing to read "George Proto". The signature is written in a cursive style with a prominent initial "G".

George Proto

ADJACENT PROPERTY OWNERS

Adjacent property owners are mailed a notice of the request. Please provide each owner's name and mailing address plus zip code for every property adjacent to the site and directly across from any public right-of-way adjoining the site. Names and addresses are available in the Town Clerk's office at 2 Plum Street.

NAME: ELTON, STEVE AND MIRIAM ADDRESS: 548 MADISON AVE
TAX MAP NUMBER: 83A3-1-257

NAME: GRIFF, JAMES E. & JEROME L. ADDRESS: 544 MADISON AVE
TAX MAP NUMBER: 83A3-1-261

NAME: FIRST BAPTIST CHURCH PARSONAGE ADDRESS: 545 MADISON AVE
TAX MAP NUMBER: 83A1-1-146

NAME: BUILDY, STEPHEN A. ADDRESS: 543 MADISON AVE
TAX MAP NUMBER: 83A1-1-147

NAME: GALLOWAY, SIMON ADDRESS: 541 MADISON AVE
TAX MAP NUMBER: 83A1-5-E

NAME: MURTON, TITUS A ADDRESS: 545 MONROE AVE
TAX MAP NUMBER: 83A3-1-258

NAME: MURTON, TITUS A. ADDRESS: 543 MONROE AVE
TAX MAP NUMBER: 83A3-1-259A

NAME: LEE, DAVE E & MARCIA K. ADDRESS: 541 MONROE AVE
TAX MAP NUMBER: 83A3-1-259B

NAME: LEE, DAVE E & MARCIA K. ADDRESS: 539 MONROE AVE
TAX MAP NUMBER: 83A3-1-262

NAME: _____ ADDRESS: _____
TAX MAP NUMBER: _____

CUP Considerations for Planners

Four Items for Consideration

- 1. The effect of the proposed use on adjacent property.**
- 2. The effect of the proposed use on the character of the existing zoning district (C-1)**
- 3. The agreement of the proposed use with the purpose and intent of the zoning ordinance and other uses permitted by right in the district**
- 4. The effect of the proposed use on public health, safety and welfare**

Planning Commission Staff Report

From: Tom Bonadeo
Date: December 7, 2010
Item: 8C - Wind Energy Future Requirements
Attachments: Draft Ordinance

Item Specifics

The Town Council, numerous citizens and potential businesses have expressed interest in alternative energy. Several have visited the site in Bloxom as an example of wind use to generate electricity. The Council heard a report at their retreat from Dr. Maria Papadakis of the Center for Energy and Environmental Sustainability (CEES.) The Town has been approached by a company interested in testing a 5 MGW turbine here (Bayshore Concrete) with power available to the Town.

Staff Review

Dr. Papadakis suggested the Currituck Ordinance as one (not necessarily the only one) model of an ordinance that deals with the potential requests for the installation of a wind turbine in someone's back yard. I have included a copy of their ordinance for your review.

The Planning Commission reviewed ordinances and the Commission and staff have drafted an ordinance copied here. At the time of this draft the Town and JMU were part of a grant application and the application was not funded by the NSF. During this process the draft was put on hold and was also reviewed by JMU. NO comments were received.

The Cape Charles Historic District Review Board also reviewed the document and voted not to allow micro systems in the Historic District.

Recommendation

Review the attached draft ordinance and plan to move to adoption.

Section 4.12 Wind Turbines

A. Statement of Intent.

The intent of this ordinance is to regulate the placement, construction and modification of wind energy systems while promoting the safe, effective and efficient use of the wind energy resource and wind energy systems while not interfering with the development of independent renewable energy sources. Wind Energy Systems meeting the requirements will be allowed by Conditional Use Permit. The Zoning Administrator shall maintain an inventory of wind energy systems to include their installation, operation and removal dates to be updated annually.

B. Applicability

The requirements set forth in this section shall govern all zones and wind energy systems used to generate electricity or perform work which may be connected to the utility grid pursuant to Virginia's net metering laws (Code of Virginia, 56-594), serve as an independent source of energy or serve in a hybrid system.

Wind Energy Systems Setback Matrix

	Minimum Lot Size	Minimum Setback Requirements ¹					Maximum Height from Grade
		Occupied Buildings (Subject Property) ²	Occupied Buildings (Adjacent Prop.) ^{2,3}	Property Lines ²	Public/Private Right-of-Way	Hwys 184 & 642	
Anemometers	20,000 Sq. Ft.	1.0	1.5	1.0	1.5	2.5	120 Ft.
Micro System	5,600 Sq. Ft.	0.0	1.0	1.0	1.5	1.0	Note 4
Small System	20,000 Sq. Ft.	0.0	1.5	1.0	1.5	2.5	120 Ft.
Large System	5 Acres	1.0	2.0	1.0	1.5	2.5	250 Ft.
Utility System	25 Acres	1.5	2.5	1.5	1.5	2.5	500 Ft.

¹ Measured from the center of the wind turbine base to the property line, ROW, or nearest point on the foundation of an occupied building.

² Calculated by multiplying the required setback number by the wind turbine height.

³ This setback proposes to reduce noise and shadow flicker impacts to any previously existing occupied buildings on adjacent property or work site.

⁴ One system per dwelling unit with a maximum of 18 feet above the roof.

1. As part of the Conditional Use Permit Process the setback requirements may be waived if the following conditions are met:
 - a. Property owners may waive the occupied building setback requirements on both the subject property and/or the adjacent properties, and the property line setback requirements for Small System wind turbines with a tower height of 60 feet or less, by executing a signed waiver that sets forth the applicable setback provisions and proposed changes.
 - b. The Written waiver shall notify the applicable property owners of the setback required by this ordinance, describe how the proposed wind turbine and/or wind energy facility is not in compliance and state that the consent is granted for the wind turbine and/or wind energy facility to not be setback as required by this ordinance.
 - c. Any such waiver shall be signed by all affected property owners and be recorded in the Northampton County Clerks office. The waiver shall describe the properties benefited and/or burdened, and advise all subsequent purchasers of any burdened property that waiver of setback shall run with the land and may forever burden the subject property.

C. Definitions

Anemometer – Measures the wind speed and may transmit wind speed data to the controller.

Hybrid System – An energy system that uses more than one technology to produce energy or work (for example a wind/solar system)

kW – Kilowatt

mW - Megawatt

Tower – The structure on which the wind system is mounted.

Tower Height – The height above grade of the fixed portion of the tower, including the nacelle and excluding the rotor blades.

Wind Energy Facility – An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and building, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Wind Energy Facility, Large System – A system which has a rated capacity of not more than 999kW.

Wind Energy Facility, Micro System – A building mounted wind system that has a manufacturer's rating of 10kW or less and projects no more than 18 feet above the highest point of the roof and shall not be considered a small wind energy system in terms of the area or setback requirements. Only one facility is allowed per dwelling unit.

Wind Energy Facility, Small System – A system which has a rated capacity of not more than 25kW and primarily used for onsite consumption.

Wind Energy Facility, Utility Scale – A wind energy conversion system consisting of one or more wind turbine(s), tower(s), and associated control or conversion electronics, which has a rated capacity of 1MW or greater.

Wind Farm – See “Wind Energy Facility – Utility Scale.”

Wind Power – Electrical Power generated by wind driven turbine blades turning an electrical generator.

Wind Pump – A type of windmill used for pumping water from a well or pond.

Wind Turbine – A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, and pad transformer.

Wind Turbine Height – The distance measured from the grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Windmill – A machine designed to convert the energy of the wind into more useful forms using rotating blades to turn mechanical machinery to do physical work, such as crushing grain or pumping water.

D. Conditional Use Permit Requirements

1. The application shall demonstrate that the proposed wind energy facility will comply with this ordinance and shall contain at a minimum the following:
 - a. A narrative describing the proposed wind energy facility;
 - b. The approximate generating capacity of the wind energy facility;
 - c. The specific number, representative types and height or range of heights of the wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers and description of ancillary facilities;

- d. Identification and location of the properties on which the proposed wind energy facility will be located;
 - e. A plot plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings and structures, including permanent meteorological towers, associated transmission lines, and location of all structures and properties with the geographical boundaries of any applicable setback;
 - f. Evidence of compliance with Federal Aviation Administration regulations;
 - g. Signed and approved copies of any negotiated power purchase agreement and the utility company's approved schematics.
 - h. An Environmental Impact Analysis (EIS) for small, large and utility scale wind energy facilities, which shall include review and comments from the applicable state and federal agencies, including but not limited to, Virginia Department of Mines, Minerals and Energy, DNR, USACE, US Fish and Wildlife and a completed Virginia Renewables Siting Scoring System (VRS3).
 - i. Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for the decommissioning and restoration and the anticipated manner in which the wind power project will be decommissioned and the site restored. This obligation shall be recorded and goes with the land.
 - j. Signature of the property owner(s) and the facility owner/operator of the energy facility;
 - k. Other relevant studies or reports that may be reasonably requested by the Town of Cape Charles to ensure compliance with this ordinance.
2. Throughout the permit process the applicant shall promptly notify The Town of any changes to the information contained in the permit application.
 3. Changes to the pending application that do not materially alter the initial site plan may be adopted administratively.
 4. Historic District Review Board and Harbor Area Review Board approval is required for systems within the Historic District Overlay District or Harbor District.

E. Installation and Design

1. The installation and design of the wind energy facility shall conform to applicable industry standards, including those of ANSI.
2. All electrical and mechanical components of the wind energy facility shall conform to relevant and applicable town, state and national codes and ordinances.
3. Small and Micro wind energy facilities shall not exceed 60 decibels as measured at the property line. The level, however, may be exceeded during short term events such as utility outages and/or severe windstorms.
4. Any on-site transmission or power lines shall, to the maximum extent possible, be placed underground.
5. The visual appearance of wind energy facilities shall at a minimum:
 - a. Maintain a galvanized finish and be a non-obtrusive color such as white, off-white or gray;
 - b. Not be artificially lighted, except to the extent required by the FAA or other applicable authority that regulates air safety;
 - c. Not display advertising, including flags, streamers or decorative items, except for the identification of the turbine manufacturer, facility owner and operator.

F. Decommissioning or Abandonment

1. The wind energy facility owner, and/or operator and/or property owner shall have 3 months to complete decommissioning of the facility if no electricity is generated for a continuous period of 12 months.
2. Decommissioning shall include removal of the wind turbines, buildings, cabling, electrical components, roads and any other associated facilities.
3. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored. The required Erosion and Sediment measures shall be put in place per the Virginia Erosion and Sediment Control Handbook..

Planning Commission Staff Report

From: Tom Bonadeo
Date: December 7, 2010
Item: 9A – Rezoning Request – Strawberry and Randolph
Attachments: Application and drawing

Item Specifics

A complete application for rezoning has been received for a portion of the Mack Building located at the corner of Strawberry and Randolph. This portion of the Mack Building contains four small, one floor office/apartments. This building has been zoned C-1 Commercial for some years.

During the past 10 years these spaces have been used as offices and apartments. Most recently the apartment use came to the attention of the zoning administrator and the residents were removed. The owner at that time requested a zoning variance to allow residential use on the first floor of a commercial building. The Board of Zoning Appeals considered the application and public comment and denied the request.

The Mack Building has been purchased and the new owner has requested a rezoning of the property to CR- Commercial Residential and made several proffers that make good sense for the property and Town.

Staff Review

The building faces Randolph Avenue, a residential avenue in Town. The CR zone recognized the juxtaposition of residential and commercial buildings in the boundary between the two zones. It specifically recognizes the residential buildings on a predominantly commercial Mason Avenue. It is designed to promote the continued character of the building while encouraging compatible uses.

The property was remodeled by the former owner to include all items necessary to create residential dwelling units. These often rented at a low rate and the resulting situation was uncomfortable for the neighbors. The neighbors spoke out at the public hearing against the zoning appeal.

The former owner was required to demolish the residential building just to the east on Randolph and subsequently blocked the rear of the building and alleyway with large pieces of utility poles. This access had been used in years past for the trash truck to travel from Mason Avenue to Randolph through the rear of this property. The actions of the landowner created two dead end drives.

This application for rezoning includes the following proffers:

1. The applicant proffers four parking space in the rear of the building for the potential tenants. This will keep cars from being parked on the street.
2. The applicant proffers to remove the utility poles blocking the alley access and install a 12' wide easement across the property connecting to the alley easement entering from Mason Avenue. This will restore the alley for emergency vehicle access at the least. It will no longer be a "dead end" alley. This easement will encumber portions of two lots owned by the Mack Building.

3. The applicant also proffers a 12' evergreen landscape easement on 609 Randolph, the vacant lot to the east of this property. This will block the view of the alley from Randolph Avenue.
4. The applicant will create a 12' rear yard area for the Randolph Avenue spaces. The building front is on the sidewalk property line and previously the renters used the sidewalk as their front yard. This will allow the renters space in the rear of the building as a yard.

These proffers along with the CR zoning create the best use of the property for the owner and the Town. Using the CR zone provides the following benefits for the neighbors and Town:

1. The building can be used for business or residential as the need permits.
2. The proffers will keep the look of the building while providing for the juxtaposition of the building between the residential neighbors and the commercial neighbors.
3. The proffers will reconnect the alleyway for the buildings along Mason Avenue, Strawberry Street and Randolph Avenue.
4. Removal of the utility poles will aid in emergency access the rear of the commercial buildings along the above listed streets.

Recommendation

Review and discuss the application and schedule a public hearing for the next meeting.

23 November,2010

Rezoning of Mack building 12 thru 24 Strawberry St and 316 thru 320 Randolph Ave Cape Charles, Va

The Purpose of the rezoning request is to better utilize the existing historic building. The four spaces adjacent to Randolph Ave are configured as apartments but in my opinion are poorly done. It is my intention to significantly improve the interior space of each potential one bedroom apartment to attract responsible, clean, long term tenants. I believe there is a need for clean, safe, affordable residential rentals in town. I believe there is merit in utilizing existing historic structures rather than letting them sit idle and building new apartments in areas that currently have a rural character. The exterior of the building will be unchanged on the Randolph Ave side except for improvements in landscaping and maintenance. The rear courtyard of the Mack building will have 10 parking spaces delineated and 12 feet immediately behind 318 and 320 Randolph delineated as outdoor space for those apartments. There will be provisions in lease agreements for 316, 318, and 320 Randolph that prohibit placing of furniture or other personal property outside on the Randolph Ave side of the building. There is currently a glut of empty office space in Cape Charles and I believe it will be a long time before it is absorbed. I am offering an easement across the western six feet of lot 609 and a lane thru lot 612 for town access to the rear of all those buildings on lots 610 thru 616. The existing unused utility poles will be removed. I am also offering a landscape easement on the northern 12 feet of lot 609 to act as a visual buffer between Randolph Ave and parking, storage buildings, and the backs of various buildings. In my proposal the existing storefronts at 12, 16, 18, and 22 will be restricted to uses under there current zoning and the 4 second floor apartments will be restricted to there current use.

Respectfully submitted,

Tax Identification # 0083A3-01-00-609.
For Identification Purposes Only

All those certain lots or parcels of land situate in the Town of Cape Charles, Northampton County, Virginia, being all of Lot 609 and Lot 612, and the northernmost portions of Lot 613 and Lot 616 as shown on a plat of said Town recorded in Deed Book 41 at pages 483, 484 and 485 and as shown on a certain plat entitled 'PHYSICAL SURVEY PART OF LOT 613 AND PART OF LOT 616 MAP OF THE TOWN OF CAPE CHARLES' PROPERTY OF RICHARD FITZPATRICK, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY VIRGINIA SHOWN HEREON AS PARCEL 'A' MADE FOR RICHARD FITZPATRICK" made by Eastern Shore Surveyors and dated January 18, 1999, and recorded in the Office of the Clerk of the Circuit Court for the County of Northampton in Plat Book 26 at Page 92 and specifically excluding Parcel A, on said plat (said Parcel A having been previously conveyed to Arts Enter-Cape Charles, Inc. by Deed recorded in the aforesaid Clerk's office in Deed Book 305 at Page 532). Said lots and parcels of land being bounded generally as follows: on the North, by Randolph Avenue; on the East, by Lot 608; on the South by Parcel A and a 12' outlier and on the West by Parcel A and Strawberry Street.

FORST, PAUL E

1231 CANON WAY
WESTMINSTER MD 21157

List: // Info By: E

Review: DT 7/31/2007

Appeal: // 2011 Run: 11/19/2010 11:05

AcctNum
14914

TCC 083A3-((01))-00-609A

316 STRAWBERRY ST

LOTS 609,612 & PT 613, 616
322 RANDOLPH AVE.

RD: Zoning:

CLSC: 1

Northampton County 2008 REASSESSMENT

1058 . 1

TracSz: LEVEL
LMAT: ALL PUB
TRAC: PAVED
MHS: PAVED
Deed: 317-732
Will: -
Plat: 144-40

Values

Assessed Value	142,500	Cost/Acre	0
Land:	142,500	Hsf:	14,495.00
Bldg:	739,600	UseVal	0
Othr:	5,800		
Total:	887,900		
Sale: Q 3/07/2000	180,000	Tracts:	0
NBHR: 2 1.00 / 1.15 / 1.15			

Land

Seg	Description	Mth	Cls	Grd	Size	Depth	BaseRt	AdjRate	Use Value	Mkt Value
1	COMM/INDSTRY	L	40	E	95.00	160.00	1500	1500	142500	142500

2010 Tax # 4350.71

Building

Attic/Basement	Area	Value	Built	Ins	Num	Value	Chm	Num	Value	Plmbg Num	Value
										3FXBT 4	14000
										2FXBT 7	19600

PC Section

Section	Description	Class	Grd	ExtFin	Heat/AC	Area	Sty/Hgt	WHT	RepCst	New	EffYr	F/E	Value
100 1	TYPICAL OFFICE	61 C	BR	VENEERAC	C/HT/	2305	1.00	1.00	180509	1945	117331		21840
100 2	RETAIL	34 C	BR	VENEERAC	HT/	6095	1.00	1.00	442058	1945	287338		
100 2	1 WALKUP APARTM	6 C-5	BR	VENEERAC	HT/	6095	1.00	1.00	425589	1915	212795		
100 3	FURN/BOILER RM	44 D	BR	VENEER		308	1.00	1.00	7581	1915	3790		

Openings:

Total	Area	Sty/Hgt	WHT	RepCst	New	EffYr	F/E	Value
33600								21840

Other Features

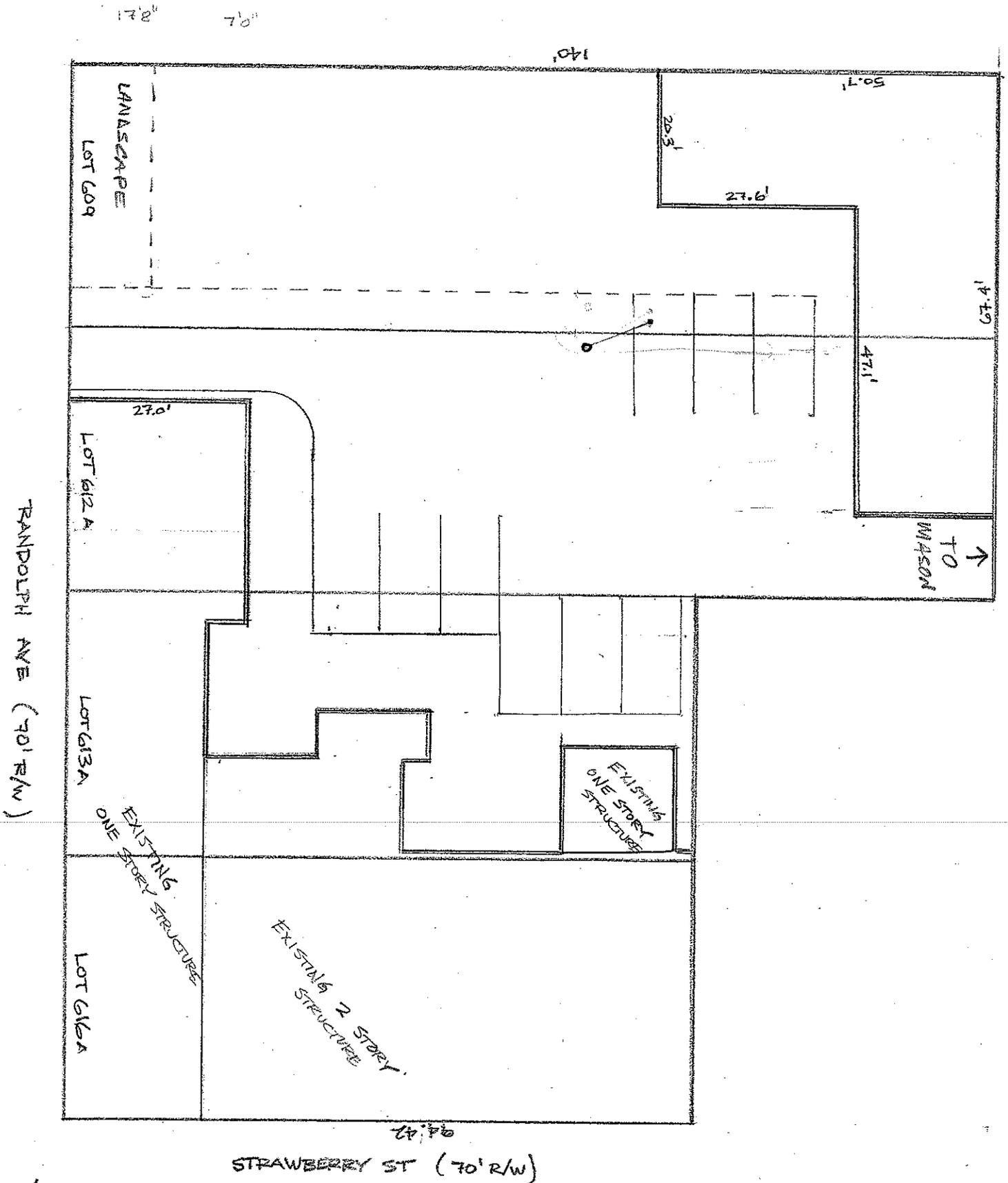
Section	Description	Class	Grd	Comments	StyHt	Area	BaseRt	Cond	YrBit	Value
1	GAR U BR/ST	3	S	1648 sq.ft. storage	1.00		1.00	A		5000

Building Info

YrBit	1920
YrRmd	2000
YrEff	1945
PhysC	A
FEDP	
DEPO	0
SndVal	
Rms	BR:

Building Info

Chst	COMMERCIAL
DBA	
Fuel	OIL
Fndt	SLAB
Roof	FLAT
Wall	
Flo	CARPET
Rfnt	TAR & GRVL



SITE PLAN MACK BUILDING

1" = 20' 0"

30 NOV. 2010
PATRICK HAND

NOTES:

THIS PROPERTY IS SUBJECT TO AN EASEMENT OF INGRESS AND EGRESS TO AND FROM THE ENTRANCES TO THE FURNACE ROOM AND AIR CONDITIONING ROOM AT THE NORTHEAST CORNER OF THE PALACE THEATRE BUILDING. (SEE D.B. 146, P. 521)

THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND DOES NOT THEREFORE NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.

THIS PROPERTY IS LOCATED ON TAX MAP 83A3 - PART OF PARCELS 613B & 616B.

SOURCE DEED: D.B. 293, P. 120

REFERENCE PLATS: P.B. 4, P. 171; D.B. 41, P. 434 (PLAT); D.B. 144, P. 43 (PLAT)

AREA: 2,546 SQ. FT. (0.058 ACRES)

THE PROPERTY SHOWN HEREON APPEARS TO FALL INSIDE ZONES C AND AS AS SHOWN ON F.E.M.A. PANEL NO. 570105 0001 B, DATED FEBRUARY 2, 1983.

RANDOLPH AVENUE (70' R/W)

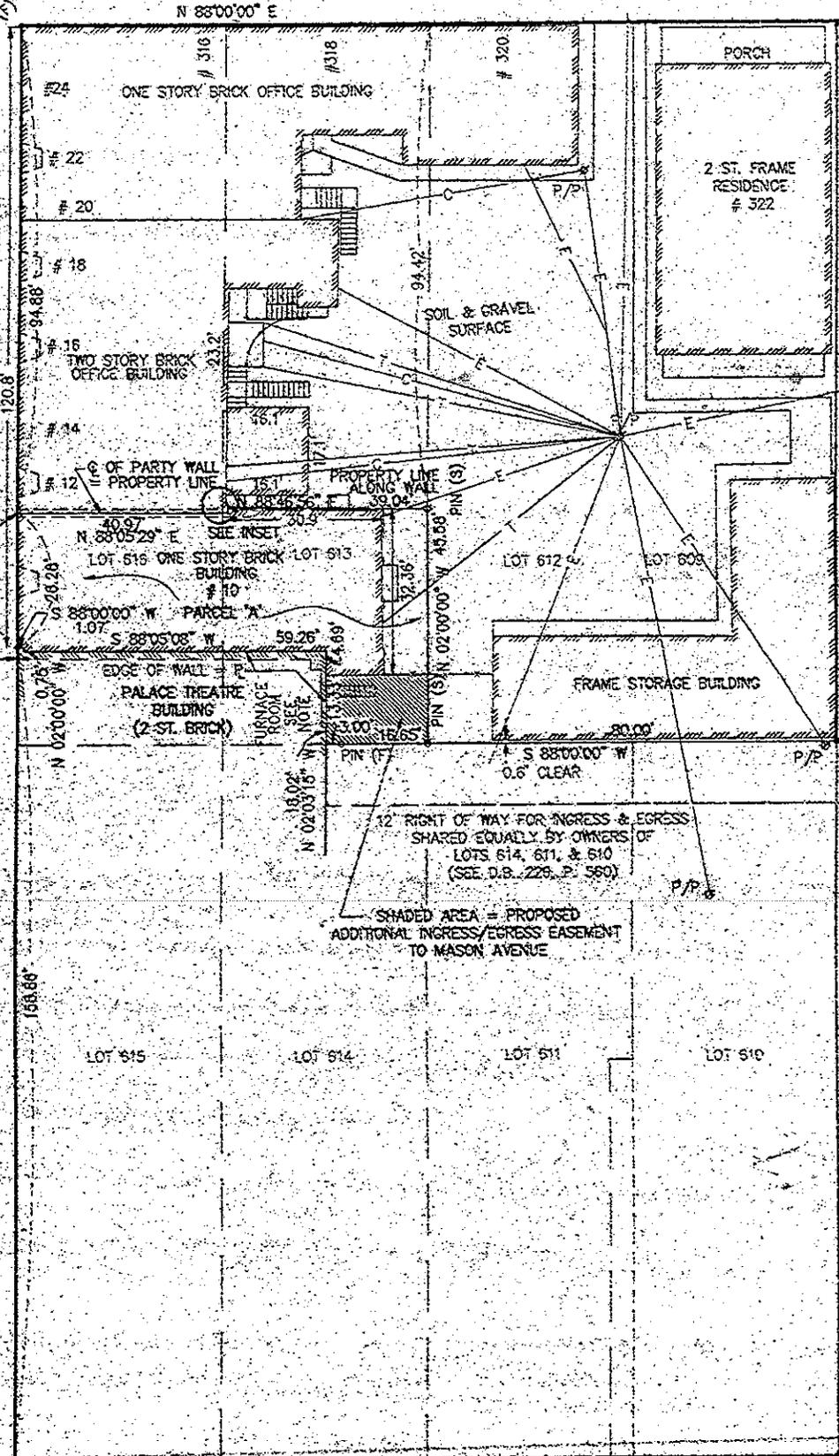
STRAWBERRY STREET (70' R/W)

DRILL HOLE (F)

DRILL HOLE (F)

DRILL HOLE (F)

S 88°00'00" W



8669-02

COMPLETED BY:	CPC
DRAWN BY:	CPC
CHECKED BY:	J.B.L.
BACK DRAWN BY:	CPC
INDEXED BY:	
APPROVED BY:	J.B.L.

REF. CAP. CHARLES

MASON AVENUE (70' R/W)

Tom Bonadeo

From: kjd <kdavis@infionline.net>
Sent: Thursday, December 02, 2010 3:49 PM
To: planner@capecharles.org
Subject: Patrick Hand's zoning request

To the members of the Planning Commission:

I support Patrick Hand's application to re-zone the Randolph Avenue portion of the Mack Building to allow apartments.

Years ago, the former owner of the Mack Building drove cut-off telephone poles into the alley behind it, preventing the well-established access to the back of my Mason Avenue property. My building has been a restaurant in the past, and may be a restaurant in the future. It is important to have access to the rear entrance for deliveries, for garbage removal, and most importantly, for fire trucks and other public safety vehicles.

I understand that Mr. Hand has proffered a town-owned easement through the alley; that it will remain permanently un-blocked, and that vehicles may access the rear of my building through this alley. This proffer is very important to me, and to all of the owners on the 300 block of Mason Ave.

I understand that Mr. Hand has also proffered a landscape easement and some off-street parking. These are good things, as well.

With these easements firmly in place, property values on this block will be upheld and the safety of people living and working on this block will be enhanced. It is, therefore, to our advantage to support the zoning change.

Thank you for your consideration.

Sincerely,
Karen Jolly Davis