

Planning Commission

Public Hearing

And

Regular Session Agenda

November 2, 2010

6:00 P.M.

1. Call to Order Public Hearing; Roll Call
2. Hear Public Comment on:
 - a. Group Homes
 - b. Temporary Family Healthcare Structures
 - c. Text Change – Chesapeake Bay Preservation Ordinance
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. Group Home
 - b. Temporary Family Healthcare Structure
 - c. Modifications to Zoning Ordinance – Chesapeake Bay Preservation
9. New Business
 - a. 207 Mason – CUP for Residential over Commercial
 - b. 546 Madison – CUP Home Occupation
 - c. Election of officers - Planning Commission
10. Announcements
11. Adjourn



DRAFT
PLANNING COMMISSION
Regular Meeting
Town Hall
October 5, 2010

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

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

Motion made by Roger Munz, seconded by Dennis McCoy and unanimously approved to accept the agenda as presented.

The Commissioners reviewed the minutes for the September 7, 2010 Regular Meeting.

Motion made by Mike Strub, seconded by Roger Munz, to approve the minutes from the September 7, 2010 Regular Meeting. The motion was unanimously approved.

The Commissioners reviewed the revised minutes from the August 3, 2010 Regular Meeting and Joint Meeting with Northampton County Planning Commission. Tom Bonadeo explained that County Planning Commissioner Robert Meyers had requested language be added to the minutes as detailed in the memo which was included in the agenda packet.

Motion made by Roger Munz, seconded by Dennis McCoy, to approved the August 3, 2010 Regular Meeting and Joint Meeting with Northampton County Planning Commission as revised. The motion was unanimously approved.

REPORTS

Tom Bonadeo reported the following: i) The County is working with Eastville regarding their boundary adjustment application. A closed session was held last month and the Town is trying to obtain a copy of the application to review; ii) The bid opening for the Harbor Improvement project was held on October 4th and one bid, which was over budget, was received. The Town will probably scale back and/or divide the project and

put it back out to bid. One contractor probably could not do the entire scope of work and several contractors that did not bid the project stated that they could not find electrical contractors. Also, the plans called for 24" pilings and there are not contractors on the Eastern Shore equipped to drive pilings of that size; iii) The Central Park Trail project has reached substantial completion and a punch list of items has been created. A meeting has been scheduled for October 7th with the engineers and contractor to review the list. Malcolm Hayward stated that a trail or path needed to be created for golf carts between Bay Creek South and the Town; iv) The construction on the wastewater treatment plant is moving along. The force main connector pipe to Bay Creek has been installed along Old Cape Charles Road; v) The bids for the pump station upgrades also came in high. The engineering is being reviewed to bring the prices within budget; vi) Beach grass will be planted this fall by local high school students as an ecological project. Approximately 15K plants will be planted. The Public Works crew will also be installing winter snow fence along the beach; vii) The Council met regarding the boundary adjustment and it was decided to move forward with the boundary adjustment process. A Boundary Adjustment Committee (BAC) meeting was held on September 29th and Cheriton is also planning to move forward. Since the BAC met, correspondence has been received from residents in the area subdivisions stating that they were not interested in becoming part of Cape Charles; and viii) Invitations for Bids have gone out for fuel services and repairs to the fishing pier and boardwalk.

OLD BUSINESS

Technology/Tourism Zone

Tom Bonadeo explained that a Technology Zone would require a change to the Town Code vs. a zoning ordinance change. The job of the Planning Commission was to review various materials in order to make a recommendation to the Council regarding the establishment of a Technology Zone. The Council would review the Commission's recommendations to determine what incentives could be offered.

Tom Bonadeo stated that the concept of Technology and Tourism Zones with incentives to attract business had proved effective for many large localities and it could be effective for Cape Charles given the right company. Several factors to consider were: i) Zone definition for qualifying company; ii) Criteria for incentives; iii) Actual incentives; iv) Cost and the benefit for Cape Charles and Northampton County. If revenue is given up, what would the Town and County gain in return; and v) Geography for new businesses. Several "technology" businesses were already in Town: i) The Betus Group is a computer technology company and located here because of the general overall environment; ii) Individual computer programmers working from their homes because of the general overall environment; and iii) The Town has had serious inquiries by outside "technology" companies attracted to the Bay Creek environment as a great "live/work/play" environment for establishing a new location for their company. Outside factors played an important role in these businesses not locating in Cape Charles.

Tom Bonadeo went on to state that the broader definition of "applied technology" could be more beneficial to attracting businesses to Cape Charles and a great feature of Town is the connection to the Chesapeake Bay and Atlantic Ocean. Tom Bonadeo suggested that the definition include the application of technology in the marine industry as well as the development of the actual technology itself. The "related service" aspect should be

emphasized to include the "installation" and "maintenance" of technology in the maritime industry and could extend to the training of marine technology personnel creating an ideal foundation for apprenticeship programs and an incentive based program to do so.

In looking at information from other localities, the incentives were generally divided into two categories - tax relief and fee relief - based on the amount of the investment and number of jobs created above the average wage scale. Potential scenarios for a business to qualify for incentives and various possible incentives were reviewed. Tom Bonadeo explained the BPOL process for a new business and added that some of the costs and fees were not included in an existing budget due to the fact that the Town's budget was made up of known revenues and several examples were given.

The Commissioners reviewed language in the Executive Summary from the Lynchburg Economic Development Authority and the ordinance from Stafford County regarding their technology zones.

Tom Bonadeo stated that all commercial zones in Town would be included in the recommended Technology Zone. There was discussion regarding limiting the areas to the commercial zones vs. allowing the Technology Zone to include the entire Town.

Tom Bonadeo summarized the recommendation to include: i) The Town's definition should include the standard technology development definition and an applied technology definition specifically related to the maritime industry which was one of the Town's greatest strengths; ii) The incentives could be pay and rebate based on the amount of investment and job creation for jobs at twice the county average; iii) Rebate and/or forgive some fees and Town taxes; and iv) Consider all property in commercial zones for inclusion in the Technology Zone.

Malcolm Hayward stated that he agreed but felt that it would be more beneficial for the Town to establish a Tourism Zone since more businesses could fall under the definition of a tourism-related business. Tom Bonadeo stated that he would include Tourism Zone as part of the Planning Commission recommendation to Council.

Motion made by Bruce Brinkley, seconded by Mike Strub, to recommend the establishment of a Technology Zone as presented and to ensure that all issues assigned to the Planning Commission by Council were addressed in the letter of recommendation.

Group Home

Tom Bonadeo explained that during the last General Assembly session, the Code of Virginia § 15.2-2291 was modified to include a group home of eight or less with one or more resident advisors was equal to residency by a single family and no conditions more restrictive could be placed on the group home than was placed on the single family. Currently, the Cape Charles Zoning Ordinance considered a group home as a Home Occupation and did not allow group homes in any residential district.

There was much discussion regarding this legislation and Malcolm Hayward expressed his concern regarding the number of group homes which could be permitted in Town.

Bruce Brinkley stated that the group homes would still have to abide by the building codes and the Town had no choice but to allow them per the new State legislation. Tom Bonadeo explained that the changes to the zoning ordinance had to be structured as per the Code of Virginia and that he would modify the definition of a Single Family Residence to include a group home.

Motion made by Bruce Brinkley, seconded by Roger Munz, to schedule a public hearing for November 2, 2010 prior to the Planning Commission Regular Meeting to add the new group home definition per § 15.2-2291 of the Code of Virginia. The motion was unanimously approved.

Temporary Family Healthcare Structure

Tom Bonadeo explained that during the last General Assembly session, House Bill 1307 was adopted requiring all zoning ordinances make allowances for Temporary Family Health Care Structures. To meet the requirement, language could be added to § 4.3.E of the Town's Zoning Ordinance to read as follows: "8. Temporary Family Health Care Structures are only allowed per the Code of Virginia Section 15.2-2292.1." Definitions for "Caregiver," "Temporary Family Health Care Structure," and "Mentally or physically impaired person" would be added to the definitions in § 2 of the Zoning Ordinance.

Bruce Brinkley stated that this legislation dealt with "mobile" units placed in backyards but existing setback limitations would have to be met and recommended the Commissioners search "granny pods" on the Internet for more information.

Motion made by Roger Munz, seconded by Mike Strub, to schedule a public hearing for November 2, 2010 prior to the Planning Commission Regular Meeting to hear comments regarding the proposed modifications as discussed. The motion was unanimously approved.

Modifications to Zoning Ordinance - Chesapeake Bay Preservation

Tom Bonadeo explained that Cape Charles was the first locality to become a Chesapeake Bay Preservation locality ten years ago and therefore was the first locality to be audited. During a review of Town Ordinances, the Department of Conservation and Recreation noted that the Town's Site Plan Ordinance did not directly specify the required elements according to the Plan and Plat Requirement Checklist. A text change adding that the buffer and RPA (Resource Protection Area) note must appear on the site plan was required to bring the ordinance into compliance.

Motion made by Roger Munz, seconded by Dennis McCoy, to schedule a public hearing for November 2, 2010 prior to the Planning Commission Regular Meeting to hear comments regarding the proposed modifications as discussed. The motion was unanimously approved.

NEW BUSINESS

Update on Historic District Guidelines

Tom Bonadeo stated that the Historic District Review Board began the process of updating the Historic Guidelines and some references appear in the Town's Zoning Ordinance. As changes are made, they will be presented to the Planning Commission for review.

Malcolm Hayward asked whether the Comprehensive Plan needed to be updated as changes were approved regarding the Technology Zone, Economic Development, Tourism, etc. Tom Bonadeo stated that he would look at the Comprehensive Plan and recommend addition of items as they are approved.

Dennis McCoy noted that elections for Chairperson and Co-chairperson would be held at the November meeting.

ANNOUNCEMENTS

There were no announcements.

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

Town Planner

Town Clerk

DRAFT

Planning Commission Staff Report

From: Tom Bonadeo
Date: November 2, 2010
Item: 7C – Reports
Attachments:

Item Specifics

1. The Northampton County website is www.co.northampton.va.us and contains the updated information from county meetings.
2. The Harbor Improvement project is out to bid separately this time. The original bid announce last month came in well over budget and after value engineering and much review the project was released a two separate project to better allow the proper contractors to participate in their specialty. The new docks and marina work are one project and the restroom building and related site work are another project.
3. The Trail Project has reached Substantial Completion. The punch list of items has been created and the contractor is working on a response. If you frequent the park you will see changes and the final trees (60+) are to be planted November 8, 9 and 10.
4. The WWTP is moving along well. The connection from the new plant to the Harbor outfall has been delayed due to underground problems. Pipes and things were not where they were expected to be. This digging along the road should start in the next week or so.
5. The bids came in for the pump station upgrades and negotiations are in progress with the low bidder.
6. Beach Grass will be planted this fall by local high school students as an ecological project. The public works staff will also be installing winter snow fence. The grass planting has been scheduled for November 15.
7. The Boundary Adjustment Committee met with Council and it was decided to move ahead with the Boundary Adjustment process. A meeting was held with Cheriton on 9-29-2010 and they plan to move ahead also. Since this time letters of non-support have arrived from both Tower Hill and Kings Creek Landing subdivisions. A re-evaluation is in progress.
8. The bid for repair of the Fun Pier and Boardwalk are on the street and expected shortly. This project will be funded in part by FEMA because the damage was part of the November Nor'easter.
9. We have new Geographic Information System (GIS) software. I expect to be able to create better maps after some training on the new system.

Planning Commission Staff Report

From: Tom Bonadeo

Date: November 2, 2010

Item: 8A – Code of Virginia Section 15.2 -2291 Group Home Changes

Attachments: Code Changes

Item Specifics

During the last General Assembly session many new bills were adopted. This is one of those bills even though it is the second year of the Biennium. Section 15.2 Group Homes is another section of the Virginia Code that was modified during the 2010 session. Prior to this session this code section only applied to the Counties of Arlington and York along with the Cities of Lynchburg and Suffolk.

The modification added paragraph A thereby expanding the rule to all Virginia Zoning Ordinances.

Discussion

This code section is saying that a group home of eight or less and with one or more resident advisors is equal to residency by a single family. No conditions more restrictive can be placed on the home than is placed on the single family.

The Cape Charles Zoning Ordinance considers the Group Home as a Home Occupation. In Section 4.0-C of our ordinance we also have a list of uses specifically excluded from the Home Occupation and Group Home is on the list. The result is that the Cape Charles Zoning Ordinance currently does not allow group homes in any residential district.

The ordinance should be changed to allow group homes in the R-1 zone.

Recommendation

Recommend adopting the attached changes to the zoning ordinance to meet the Virginia Code section 15.2-2291. .

Group Home Modification to the Cape Charles Zoning Ordinance

Add definition in Article 2.9:

Group Home – A residential facility in which no more than eight individuals with mental illness, mental retardation, or developmental disabilities reside, with one or more residential counselors or other staff persons and licensed by the Department of Behavioral Health and Developmental Services. For the purposes of this ordinance, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Va. Code 54.1-3401.

Add use in Article 3.2.B.6

B. Permitted Uses. The following uses are permitted by right:

1. Single-Family dwellings
2. Churches and places of worship
3. Parks and playgrounds
4. Accessory Buildings
5. Schools and Municipal Community Center
6. Group Home

Remove "group home" in Article 4.0.C.1

C. The following are specifically excluded:

1. Family care homes, ~~group homes,~~ nursing homes

Planning Commission Staff Report

From: Tom Bonadeo
Date: November 2, 2010
Item: 8B – HB 1307 – Temporary Family Health Care Structures
Attachments:

Item Specifics

During the last General Assembly session many new bills were adopted even though it is the second year of the Biennium. House Bill 1307 is a bill that doesn't require an appropriation of money. There has been some discussion on the Internet blogs that this appears to be one of those bills that "snuck by."

The bill requires that all zoning ordinances make allowances for Temporary Family Health Care Structures. When reading the bill watch for the words "shall" and "may."

Discussion

To meet the requirement it would be possible to add the requirement in Section 4 of our zoning ordinance. More specifically Article 4.2.E - 8 that would read as follows.

4.2.E

11. Temporary Family Health Care Structures are only allowed per the Code of Virginia Section 15.2-229211.

Add definitions to Article 2.9

Caregiver – means an adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.

Mentally or physically impaired person – means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Virginia Code 63.2-2200, as certified in writing provided by a physician licensed in the Commonwealth of Virginia.

Many of the issues will be administrative, such as fees, building code requirements and setbacks.

Recommendation

Review public comment and recommend approval of the changes.

Planning Commission Staff Report

From: Tom Bonadeo
Date: November 2, 2010
Item: 8C – Text Change – Zoning ordinance for Chesapeake Bay Preservation
Attachments:

Item Specifics

During the review of our zoning ordinance by Chesapeake Bay Local Assistance it was noted that some strengthening of our language would help re-enforce our developers observance of the Resource Protection Area (RPA). These additions will be made to the Site Plan Ordinance.

Discussion

Section 4.B of the Site Plan Ordinance has 18 points required for a proper site plan. Also Article 4 of the ordinance discusses landscaping. The following changes will require the additional notation of RPA and Buffer areas on these plans.

Changes and Additions:

1. Article 4.4.B add item 7.
 - a. 7. The comprehensive plan for each parcel shall include the requirement to retain the 100 foot RPA and associated buffer area.
2. Appendix B – Site Plan Ordinance Section 4.
 - a. Section 4.A.1 modify h. location of the Resource Protection Area (RPA) boundary, as specified in Subsection 7.4.A of the Chesapeake Bay Preservation Ordinance, including any additional buffer areas **and RPA maintenance and use restrictions.**

Recommendation

Review public comment and recommend approval of the changes.

Planning Commission Staff Report

From: Tom Bonadeo
Date: November 2, 2010
Item: 9A – 207 Mason CUP – Residential use in C-1
Attachments: None

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 and has no upper floors for residential use. This CUP would require 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;

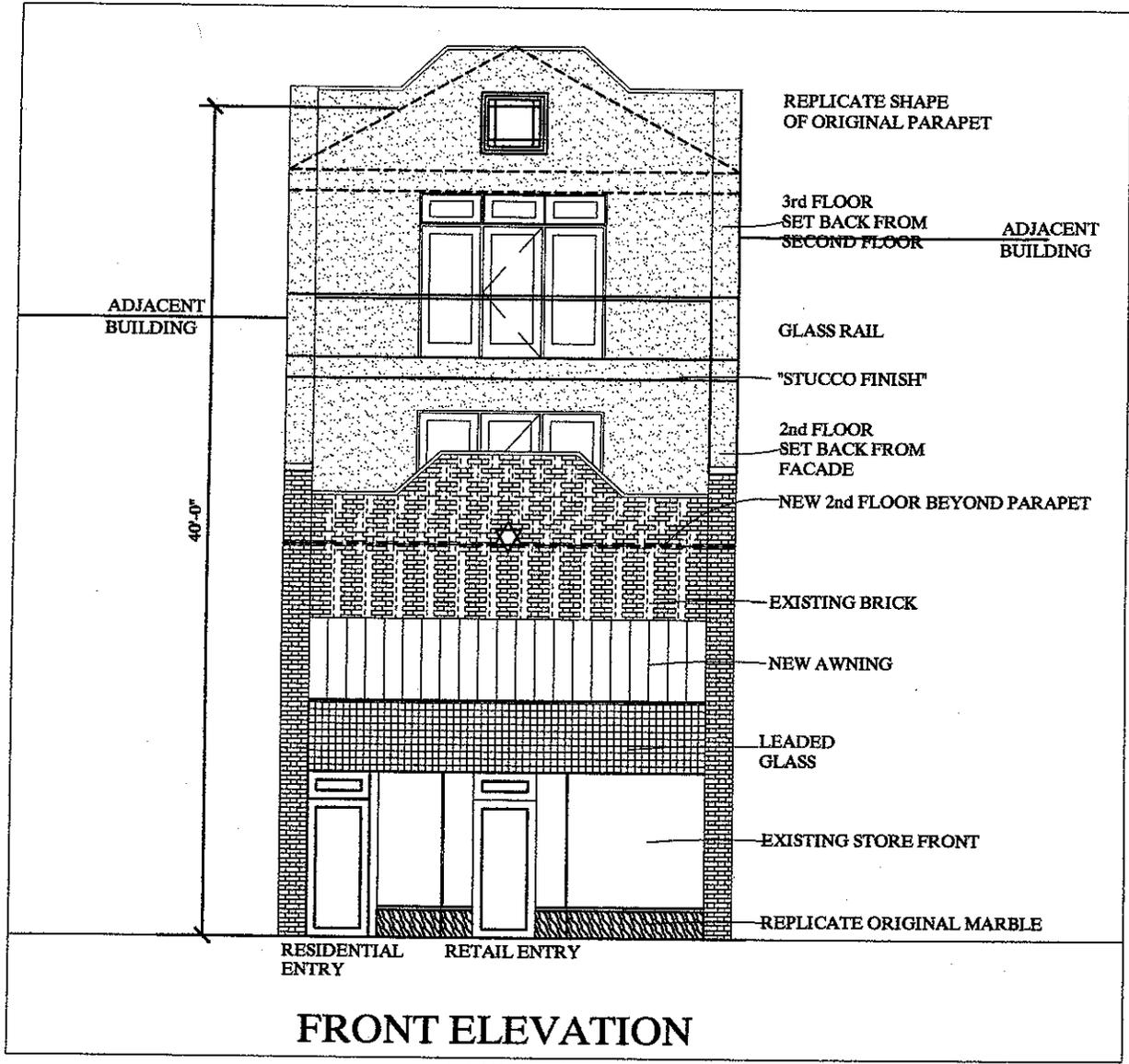
1. The architectural design requires approval by the Historic District Review Board. This approval has been granted pending the recommendation of the Planning Commission and approval by Town Council.
2. The plans were done by the same architect as the original approved design with only slight changes. 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 a deeded easement to the rear of the building. Space will be allocated 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 if specified in the application

Recommendation

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

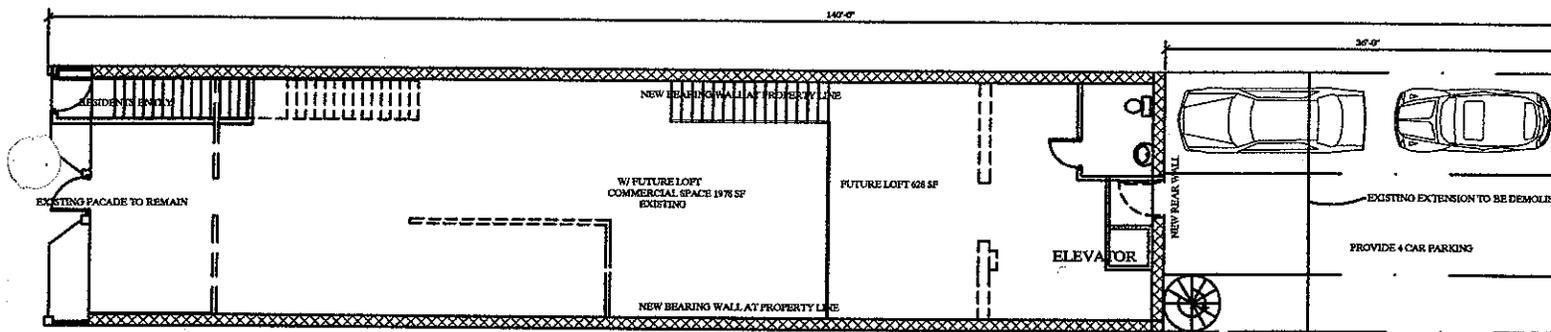
CODE & ZONING NOTES
 CAPE CHARLES ZONING DISTRICT C1
 EXISTING USE- M- COMMERCIAL 1 STORY
 PROPOSED USE MIXED- 1ST FLOOR -M COMMERCIAL
 2ND AND 3RD FLOORS- R3- 1&2 FAMILY RESIDENTIAL



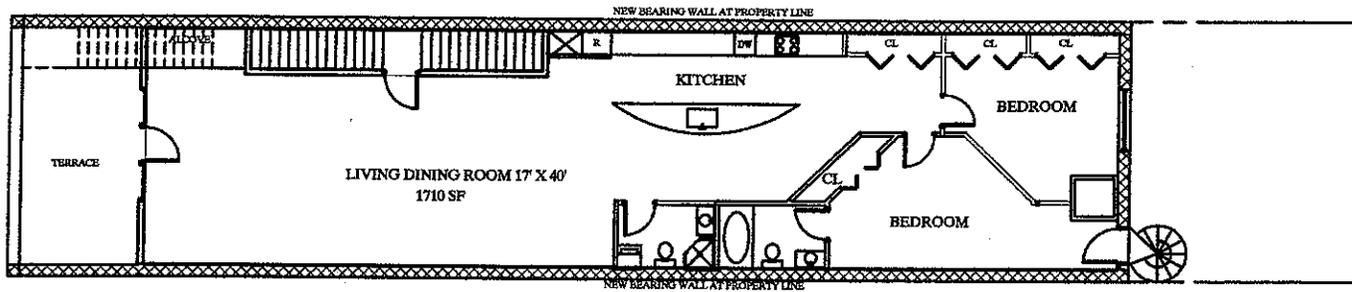
venue

AND SECTION

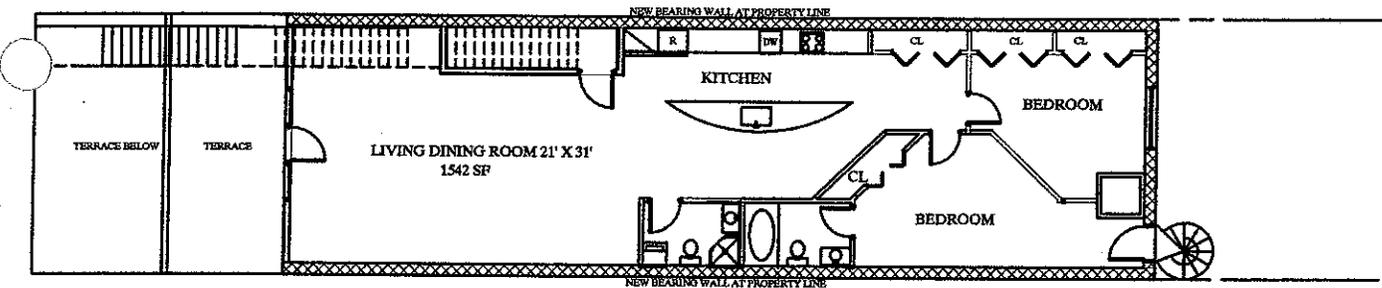
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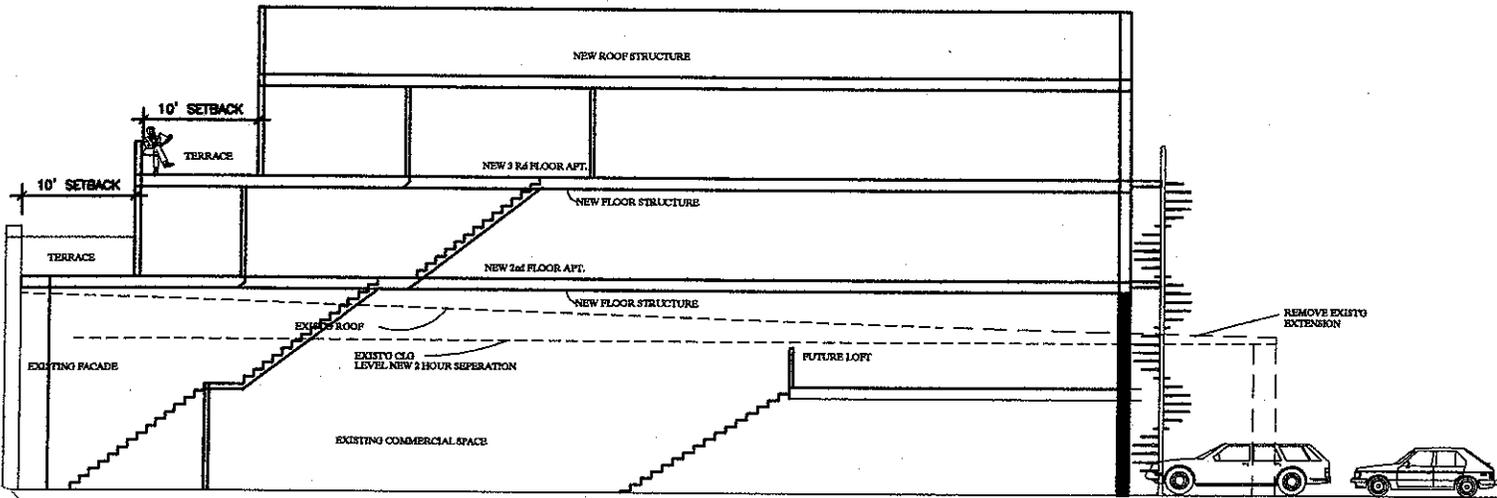
1ST FLOOR



2ND FLOOR



3RD FLOOR



LONGITUDINAL SECTION



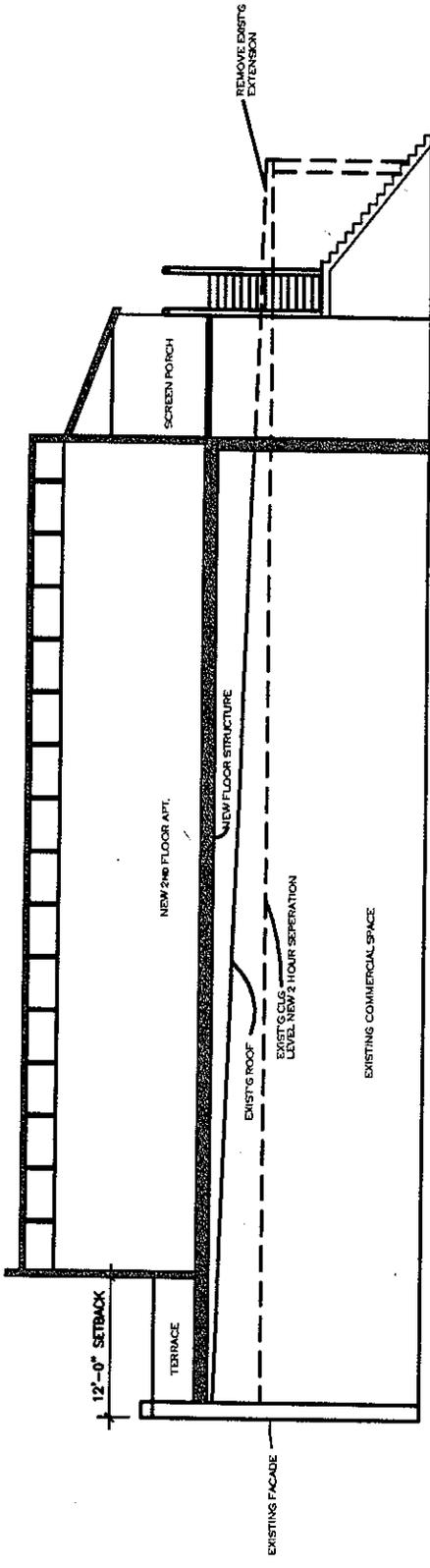
PARHAM

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

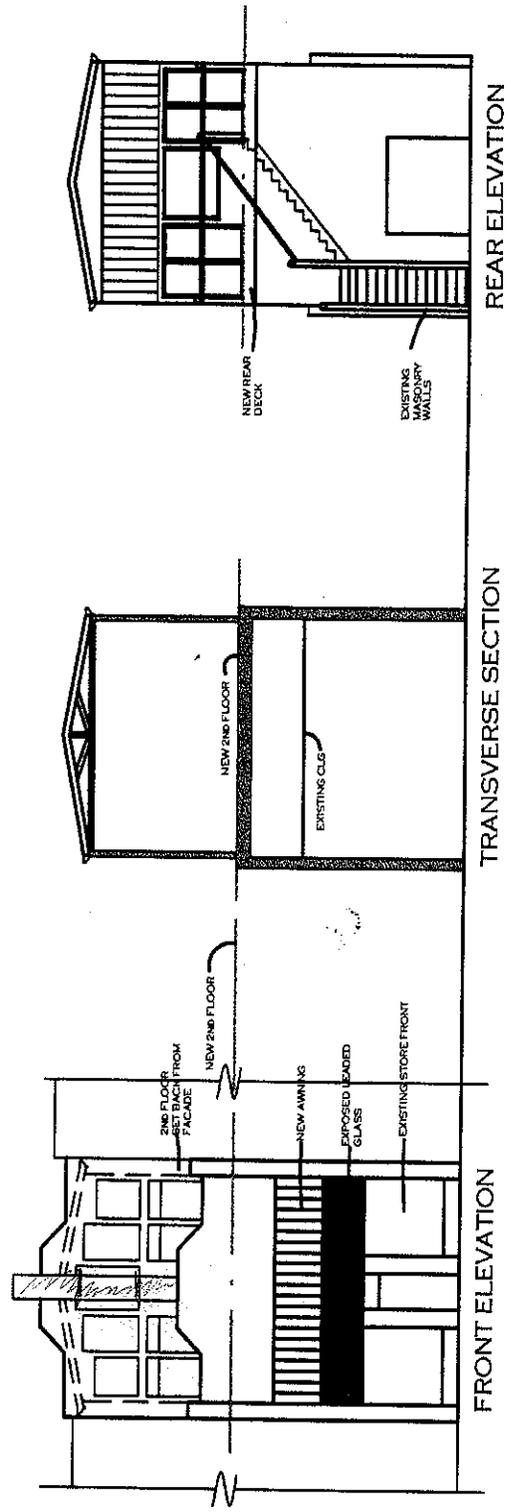
207 Maso

PLANS, ELEVATIO





LONGITUDINAL SECTION



2002 - DESIGN



PARHAM
 403 TAZEWELL, CAPE CHARLES VICTORIA ST. 03327
 757.337.8129 - ARCHT - 5034 NCLC01M
 LEON FULLER PARHAM, ARCHITECT, P.A. INC. 046

BERDAS RESIDENCE
 207 MASON AVE., CAPE CHARLES, VA
 ELEVATIONS AND SECTIONS

CK	3/10/02
0304	1/16"=1'0"

SK-2

DRAFT
Historic District Review Board
Regular Session
October 19, 2010

At approximately 4:39 p.m., in the Cape Charles Volunteer Fire Department Hall, Chairman Russ Dunton, having established a quorum, called to order the Regular Session of the Historic District Review Board. In addition to Chairman Dunton, present were Jan Neville, Bob Sellers, and Dianne Davis. Also present were Town Planner Tom Bonadeo, Asst. Town Clerk Linda Carola, Leon Parham Architect, Thomas Ross Applicant, and Mr. W. Brown Morton Applicant. Board Member Melvin Dudley was absent.

Dianne Davis led the Invocation and all recited the Pledge of Allegiance.

Chairman Dunton stated he had an application to be added which had been approved several years ago and the permit had expired. He requested to add 4B to New Business, 207 Mason Ave., the Delisheries Building-Add second and third floor. He further explained the urgency.

Motion made by Dianne Davis, seconded by Jan Neville, and unanimously approved to accept the agenda as amended adding under New Business 4B-207 Mason Ave.

Motion made by Dianne Davis, seconded by Bob Sellers, and unanimously approved to accept the minutes of September 21, 2010.

NEW BUSINESS

A. 541 Tazewell-Modification to doors and windows.

Town Planner Tom Bonadeo provided the board members with additional minor modifications being requested and gave a brief overview along with a review of pictures of the Cassatt Cottage. The modifications being requested are: i) exchange the location of the existing entry door with the existing window on the front of the house; ii) move the front porch steps and railings to follow the door; iii) exchange the rear door and window on the rear side of the house and a similar change is being requested for the back of the property; iv) add a 12'x12' screen porch to the back which would encompass part of the ADA accessibility requirements allowing the applicant to get his wheelchair up to the elevation of the floor. Mr. Morton the applicant, interjected asking the board's permission to add glass to the screen porch and refer to it as a sun porch which would allow the applicant to use it year round; v) restore shed in the rear; vi) the additional request is to change the roof line to 15 1/2' x 12' to be a hip roof which would be below the exterior window. Mr. Morton gave a further clarification to the board regarding the screen porch and changing to a sun porch to include glass sliding panels. Russ Dunton asked for further clarification and Tom Bonadeo explained the sun porch would probably have patio doors.

Further discussion continued regarding the sun porch, and Russ Dunton requested assurance that the windows and trim would blend in with the rest of the house. Mr. Morton volunteered to bring back more specific details. Russ Dunton also asked Mr. Morton if the metal awnings would be removed and Mr. Morton indicated the awnings would be removed. Russ Dunton also questioned if the area would be heated and Mr. Morton indicated it would not; vii) construct a wheel chair lift in the rear rather than an ADA ramp. Russ Dunton questioned what type of material was being used for the roof and Mr. Morton replied asphalt shingles would be used. More discussion continued on this topic and Russ Dunton suggested using metal and Mr. Morton agreed to the metal material for the roof.

Russ Dunton asked the board if they had any questions or concerns and whether the board members understood what Mr. Morton was asking for: i) approval in general and; ii) Mr. Morton would come back at a later date with specific details on the window and door alignment on the rear addition. Mr. Morton informed the board members that he was the co-author of The Secretary of the Interior's Standards for Historic Preservation Projects.

Motion made by Bob Sellers, seconded by Jan Neville and unanimously approved the addition on the rear and the modifications as recommended, with the exception of # three which was to construct a rear addition of a screen porch. The applicant will come back at a later date with the final details and reapply for architectural review of the three-season porch.

207 Mason Avenue-Add second and third floor

Tom Bonadeo reviewed the handouts with the board members and explained that in 2005 the board approved the architectural review of a second floor addition to this structure and the Planning Commission approved the Conditional Use Permit to put residential units above. That addition was never completed due to military service required by the applicant. The applicant today would like to add a 2nd and 3rd floor and a plan had been prepared based on the original approved plan but just slightly taller. Tom Bonadeo explained to the board the step backs on the drawing stating that the 2nd floor would be a 10 foot step back and the 3rd floor would be a 20ft step back. Tom Bonadeo explained the urgency of the application with the possibility of salvaging the building due to financial difficulties. Russ Dunton asked if the property was eligible for a tax credit and Mr. Parham responded no. Further discussion continued regarding the plan and step backs. Tom Bonadeo explained there were two parts to this process: i) requesting approval through the Planning Commission for a Conditional Use Permit for residential units on the 2nd floor, and ii) parking was usually an issue with the Planning Commission; however, the plan calls for 4 parking spaces for the upper floor, and the first floor would use street parking. Russ Dunton verified that the first floor would be retail and the second floor would be residential, and Tom Bonadeo further clarified the first floor would be commercial. Russ Dunton asked the board members if they understood what was being done and if they had any questions. Further discussion continued regarding height of building, step backs, and appearance from the street and sidewalk. Jan Neville questioned if the building would be brick façade, and Mr. Parham replied it would be stucco, being a different texture but the same color. Dianne Davis expressed some concern regarding the appearance from the sidewalk and

Tom Bonadeo reviewed a picture of the property further explaining the step backs and the facade and explained what you would see from the street and sidewalk. Russ Dunton asked the board members if they had concerns. Tom Bonadeo stated that it would be beneficial to get the property back in use. Considerable discussion continued regarding the urgency, and the approval process with the Planning Commission. Jan Neville recommended a color palette be considered to match the color of the stucco to the original. Mr. Parham suggested he would come back to the board for approval of a color. The color palette was discussed and Russ Dunton suggested the color be the same as the original façade. Further discussion continued regarding the design of the brick and the brick color.

Motion made by Jan Neville, seconded by Bob Sellers and approved by a two to one vote, to review the plan and provide tentative approval for the second and third floor additions pending Planning Commission's approval of the Conditional Use Permit; the applicant to later return to the Historic District Review Board for review of the façade materials and colors, stucco, brick, etc.

Motion made by Dianne Davis, seconded by Bob Sellers and unanimously approved to adjourn the Historic District Review Board Meeting.

Linda Carola, Asst. Town Clerk

Russ Dunton, Chairman

Planning Commission Staff Report

From: Tom Bonadeo
Date: November 2, 2010
Item: 9B – 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 schedule a public hearing for the next Planning Commission meeting

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

Date: 10/13/10 Permit No. 300
 Fee 300
 Proposed Use HOME BASED CHOCOLATE BUSINESS (WHOLESALE)
 Present Zoning R1 Location 516 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 16 SPOOR AVE. Poughkeepsie, NY 12603
 Phone Number 845 702 2728

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>
<u>THREE HUNDRED AND</u>		<u>00</u> DOLLARS
MEMO <u>PBB - APPLICATION FOR CONDITIONAL USE PERMIT</u>		<u>[Signature]</u>
⑆221979363⑆00000032097601910187		

al until the following

approval
 (List)

of occupancy, or license to

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.

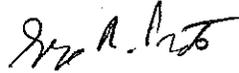
Since this is a wholesale business, there will be no customers on-site, nor traffic related to customer visits. Deliveries of raw materials will be occasional and done via UPS, Fed-Ex or equivalent as is commonly done for personal deliveries in residential areas, or by personal vehicle.

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: GRILLI, JAMES E. & JOANNE L. ADDRESS: 544 MADISON AVE
TAX MAP NUMBER: 83A3-1-261

NAME: FIRST BAPTIST CHURCH PARSONAGE ADDRESS: 525 MADISON AVE
TAX MAP NUMBER: 83A1-1-146

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

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

NAME: MURTON, TITUS A ADDRESS: 525 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: _____

Planning Commission Staff Report

From: Tom Bonadeo
Date: November 2, 2010
Item: 9C – Election of Officers
Attachments: None

Item Specifics

Elect a Chair and Vice-Chair for the planning Commission as required by the By-Laws.

Discussion

Article Three of the Cape Charles Planning Commission By-Laws requires the election of a Chair and Vice-Chair at the first regular meeting following November 1 of each year. The term of office is one year and reelection is allowed.

The election is by majority vote of a quorum at this meeting. Several factors shall be considered for this election.

1. Article 2 states that the Commission is made up of 7 members; one shall be a representative of Town Council. The remaining six members shall be called appointed members.
2. Article 4 states that both Chair and Vice-Chair shall be appointed members of the Commission.
3. The by-laws state that 3 or more members constitute a quorum.

Recommendation

Elect and Chair and Vice-Chair from the appointed members of the Commission.