

# **Planning Commission**

## **Public Hearing**

**&**

## **Regular Session Agenda**

**Cape Charles Civic Center – 500 Tazewell Avenue**

**January 3, 2017**

**6:00 P.M.**

1. Call Public Hearing to Order
  - a. Roll call and establish a quorum
  - b. Application for Conditional Use Permit to have a second floor residential dwelling unit above first floor commercial at 1 Fig Street\Lot 83A3-1-534 (Kellogg Building)
  - c. Hear public comment
  - d. Close public hearing and move to regular meeting
2. Invocation and Pledge of Allegiance
3. Public Comments
4. Consent Agenda
  - a. Approval of Agenda Format
  - b. Approval of Minutes
  - c. Reports
5. Old Business
  - a. Application for Conditional Use Permit to have second floor residential dwelling unit above first floor commercial at 1 Fig Street\Lot 83A3-1-534 (Kellogg Building)
  - b. Proposed draft Historic Town Entrance design criteria
  - c. Planning documents review – 2020 Transportation Plan (1999); Sidewalk and Curb Assessment (2006)
  - d. Current sign ordinance language on signage in the public right of way and proposed draft amendment language
  - e. 2016 Annual Report review
6. New Business
7. Announcements
8. Adjourn

## **Notice of Public Hearing**

The Cape Charles Town Council and Planning Commission will hold a joint public hearing at 6:00 p.m. on Tuesday, January 3, 2017 in the Civic Center located at 500 Tazewell Avenue in Cape Charles. The purpose is to hear public comment regarding an application for Conditional Use Permit for a residential dwelling unit above first floor commercial at 1 Fig Street (tax map #83A3-1-534). Immediately following the public hearing the Planning Commission will hold their regular monthly meeting.

Copies of the permit application are available for review in the Town Planner's Office at 2 Plum Street Cape Charles Town Hall, and online at [www.capecharles.org](http://www.capecharles.org). For handicap assistance, please call (757) 331-3259 ext. 15, or email [planner@capecharles.org](mailto:planner@capecharles.org) at least 48 hours in advance.

(Eastern Shore Post on 12/23 & 12/30; Eastern Shore News on 12/28)



**DRAFT**  
**PLANNING COMMISSION/TOWN COUNCIL**  
**Joint Public Hearing &**  
**PLANNING COMMISSION**  
**Regular Meeting**  
**Cape Charles Town Hall**  
**December 6, 2016**  
**6:00 p.m.**

At 6:00 p.m. Mayor George Proto, having established a quorum, called to order the Joint Public Hearing with the Planning Commission. In addition to Mayor Proto, present were Vice Mayor Bannon, Councilmen Bennett, Brown and Buchholz, and Councilwomen Natali and Sullivan. Also in attendance were Town Manager Brent Manuel, Town Planner Larry DiRe and Town Clerk Libby Hume. There were four members of the public in attendance.

Chairman Dennis McCoy, having established a quorum, called to order the Joint Public Hearing with the Town Council and Regular Meeting of the Planning Commission. In addition to Chairman McCoy, present were Vice Chairman Michael Strub, and Commissioners Andy Buchholz, Dan Burke, Sandra Salopek and Bill Stramm. Commissioner Keith Kostek was not in attendance.

**CAPE CHARLES COMPREHENSIVE PLAN UPDATE PUBLIC HEARING COMMENTS:**

*Jone Gittinger, 4 Tazewell Avenue*

Ms. Gittinger addressed the Planning Commission and Town Council regarding accessory dwelling units. (Please see attached.)

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

**Dennis McCoy closed the Planning Commission Public Hearing.**

**Motion made by Councilman Bennett, seconded by Councilman Brown, to adjourn the Town Council Public Hearing regarding the proposed Comprehensive Plan Update. The motion was approved by unanimous vote.**

The Joint Public Hearing adjourned at 6:05 p.m.

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

**REGULAR MEETING PUBLIC COMMENTS:**

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

**CONSENT AGENDA**

Dennis McCoy advised the Commissioners that he received a request to modify the agenda moving the New Business item before Old Business.

**Motion made by Michael Strub, seconded by Sandra Salopek, to approve the agenda format as amended. The motion was approved by unanimous vote.**

The Commissioners reviewed the minutes from the November 1, 2016 Planning Commission Regular Meeting.

**Motion made by Bill Stramm, seconded by Andy Buchholz, to approve the minutes from the November 1, 2016 Planning Commission Regular Meeting as presented. The motion was approved by unanimous vote.**

#### REPORTS

Larry DiRe stated that he did not have anything new to add to his submitted report. There were no questions from the Commissioners.

#### NEW BUSINESS

A. *Conditional Use Permit Application for second floor residential unit above first floor commercial at 3 Fig Street (Kellogg Building):*

Larry DiRe stated that a conditional use permit (CUP) application was received for a residential dwelling unit above the first floor commercial units at 3 Fig Street. The property is in the Commercial-2 zoning district which per Article III, Section 3.7.C. permitted residential dwelling units “provided that no such dwelling is located at street level and all dwelling units have direct access to the street level.” Prior to approval of a CUP, the Planning Commission and Town Council must hold a public hearing regarding the CUP application. The applicant must meet all procedural obligations before beginning work on the residential unit. Upon approval of the CUP, the applicant would have one year to demonstrate progress toward completion of the project. All construction must conform to the appropriate Town codes.

**Motion made by Andy Buchholz, seconded by Bill Stramm, to schedule a joint public hearing with the Town Council on January 3, 2017. The motion was approved by unanimous vote.**

#### OLD BUSINESS

A. *Amendments to Cape Charles Comprehensive Plan adopted June 11, 2009:*

Larry DiRe stated that the Town Council wanted to amend Section IV.1 - Town Council Priorities to remove the current text and replace with priorities to be determined at their December 10 Strategic Planning Work Session.

**Motion made by Michael Strub, seconded by Sandra Salopek, to adopt Resolution 20161206 recommending Town Council approval of the proposed Comprehensive Plan Update with an amendment, as requested by the Town Council, replacing the current language in Section IV.1 with language to be provided by the Town Council after their December 10 Strategic Planning Work Session. The motion was approved by unanimous vote. Buchholz, yes; Burke, yes; Salopek, yes; Stramm, yes; Strub, yes.**

B. *Planning Documents Review – 1996 Preservation Plan:*

Larry DiRe stated that, due to the age of some of the documents referenced in the Comprehensive Plan, Town Council requested that the Commission review the documents to evaluate their importance and either update the documents accordingly or archive them for historical reference. The 1996 Preservation Plan was being reviewed this evening. Larry DiRe stated that much of the plan had been completed and recommended that the entire document be archived. If the Planning Commissioners felt that a preservation plan was needed, a new plan could be drafted.

Dennis McCoy asked Larry DiRe to provide a high level series of objectives for a new preservation plan for review by the Commission. Larry DiRe agreed and asked that the Commission provide him with 90 days to review and compile the list of objectives.

There was some discussion regarding other town documents for review. Larry DiRe added that the Historic Overlay ordinance had not been reviewed in a number of years and stated that he would bring that document to the Commission for review in the 90 day timeframe as well.

Larry DiRe went on to report the following: i) The new Zoning Map, showing the recent changes, needed to be adopted; and ii) A new survey of the historic district was being completed with grant funding. He planned to apply for more grant funding next year for Phase 2 which would consider extending the current historic district to include the former Rosenwald School property.

**Motion made by Bill Stramm, seconded by Sandra Salopek, to archive the 1996 Preservation Plan and give Larry DiRe 90 days to bring back recommendations for a new preservation plan. The motion was approved by unanimous vote.**

Dennis McCoy explained to Ms. Gittinger that although the Comprehensive Plan recommended accessory dwelling units, the zoning ordinance prohibited them. Larry DiRe gave Ms. Gittinger and the Commissioners the background regarding previous attempts by the Planning Commission to obtain Council approval to permit accessory dwelling units. A zoning ordinance text amendment would require public hearings by the Planning Commission and the Town Council, followed by a Planning Commission recommendation to the Council and action by the Town Council to amend the zoning ordinance.

**ANNOUNCEMENTS**

Larry DiRe informed the Commissioners that the Historic District Review Board (HDRB) meeting would be held on Tuesday, December 13, beginning at 5:00 p.m. At about 6:00 p.m., Mr. Marcus Pollard, a private consultant working on the state grant, would be presenting information regarding the update to the historical district survey. The current survey was completed in 1989 and a lot had changed in the town since that time. Also on the agenda for the December 13 HDRB meeting, were an application for historic renovation to 401 Mason Avenue, the former gas station, and the property at 535 Plum Street.

**Motion made by Dan Burke, seconded by Bill Stramm, to adjourn the Planning Commission Public Hearing and Regular Meeting. The motion was approved by unanimous vote.**

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Chairman Dennis McCoy

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Mayor Proto

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Town Clerk

**Planning Commission/Town Council Joint Public Hearing  
Comments Submitted in Writing  
December 6, 2016**

*Jone Gittinger, 4 Tazewell Avenue*

12-6-16

Good evening,

My name is Jone Gittinger and I live here in CC at 4 Tazewell with my husband Bruce and our son Joe.

I am here tonight to discuss accessory dwelling units.

We would like to build a garage in the rear of our home. We live on a double lot so space is not a problem. The building will match the prevailing style and character of our home. We are hoping to have a small efficiency apartment on top of the garage where our son Joe can live. The apartment would be very modest, with a shower and toilet in the bathroom and a microwave and a small refrigerator.

Our son, whom we adopted from Russia 20 years ago, is intellectually disabled. His birth mother abused alcohol resulting in his disability. Have you met him? He worked at Kelly's Pub for one year and now works at both the Christian School and Vance's Furniture Company. He is a great guy and we are hoping to provide him a bit more independence by allowing him to live on our property, yet in his own space.

I am hoping the issue of accessory dwelling units would be approved on a case-by-case basis and that there would be a possibility for us to move forward with our plan to give our son a small space above our proposed garage.

Thank you for allowing me to speak at your meeting.

Sincerely,

  
Jone Gittinger

# Planning Commission Staff Report

**From:** Larry DiRe   
**Date:** January 3, 2017  
**Item:** 4c-Staff Report  
**Attachments:** None

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1. The building official is working with the property owner for the demolition of a substandard wall at 207 Mason Avenue.
2. At their December 15<sup>th</sup> regular monthly meeting the Town Council voted to approve the amendments to the 2009 Comprehensive Plan and adopt the amended Plan.
3. Staff will be attending the Accomack-Northampton Planning District Commission bicycle trail working group meeting on Thursday January 12<sup>th</sup>.
4. Staff was also contacted by a joint Rutgers University\National Oceanic and Atmospheric Administration (NOAA) study team working on a resilience planning for water-dependent uses pilot project using Cape Charles as one of the study areas. That group is planning a town site visit and meeting with working waterfront stakeholders on Friday January 20, 2017.
5. The Historic District Review Board received two applications for Certificate of Appropriateness to consider at their December 13<sup>th</sup> regular monthly meeting. One application for significant repairs to a vacant single-family home, the other for renovations to a commercial property on Mason Avenue. Mr. Marcus Pollard gave a presentation on the updated Historic District Register Survey project.
6. The Harbor Area Review Board had no business and did not meet.
7. The Wetlands and Coastal Dunes Board had no business and did not meet.
8. The Board of Zoning Appeals received an application for variance from the off-street parking requirements for 1 Fig Street\lot 83A3-1-534 (Kellogg Building). They scheduled a public hearing and meeting to consider the application on Thursday January 5<sup>th</sup>.

# Planning Commission Staff Report

**From:** Larry DiRe   
**Date:** January 3, 2017  
**Item:** 5a- Conditional use permit application for second floor residential dwelling unit above first floor commercial at 1 Fig Street\lot 83A3-1-534 (Kellogg Building)  
**Attachments:** December 2016 application form; architectural plans; vicinity map; photos

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## Item Specifics

Staff received an application for a conditional use permit for a residential unit above the first floor commercial space at 1 Fig Street. The building is zoned in the Commercial – 2 District (bright blue on the zoning map). *Article III Section 3.7.C* allows single-family and multi-family residential dwelling units above the first floor as a conditional use in the Commercial - 2 District. *Article IV Section 4.3.B* states the Conditions for Issuance as follows: 1) not adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood; 2) not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; 3) not be in conflict with the purpose of the comprehensive plan of the town.

## Discussion

This property is adjacent to the Residential -1 (pink on the zoning map), and Commercial – Residential Zoning (green on the zoning map) Districts. One additional residential dwelling unit is not out of character for the neighborhood. According to zoning ordinance *Article III, Section 3.2.B.6* group homes of up to eight individuals are a by right use in the Residential – 1 District. Such group home use could occur at any time on the neighboring 600-block of Randolph Avenue, and bring a high residential occupancy rate with it. There are several vacant lots in the Commercial – Residential District zoned 600-block of Mason Avenue that can be developed as detached single-family residential homes, including potential use as summer vacation rentals, or bed and breakfast accommodations by right. By allowing such development by right the Town has indicated a desire for residential development, and potentially high occupancy residential development, in the immediate vicinity of the applicant property. Again, one additional residential dwelling unit is not out of character for the neighborhood. By permitting nursing\retirement home as a by right use in the Commercial – 2 District the Town has legislated a high occupancy residential use for this lot as well as neighboring lots. If such a high occupancy residential use as nursing\retirement home, with the corresponding resident patients and live-in or shift work staff, has been legislatively determined as a desired land use for this lot, then staff cannot suggest that occupancy rates caused by a conditional use residential dwelling unit at this lot would adversely affect the surrounding neighborhood. In fact, by including such “homes” as a permitted use in this district, there appears to be a recognition that residential units of some type are desired.

As shown on the drawings, the proposed second floor residential dwelling unit has direct street access as required by *Article III, Section 3.7.C* of the zoning ordinance. There is nothing in the presence of a second floor residential dwelling unit that indicates by its presence it will be “detrimental to the public welfare or injurious to property or improvements in the neighborhood” more so than any permitted commercial use in the Commercial – 2 District, including occupancy rates of a nursing\retirement home, or the Commercial-Residential District uses.

While the Cape Charles Comprehensive Plan is silent on residential and commercial mixed use development on Fig Street and in the Commercial – 2 District, the document does speak to such use in a favorable, desired manner for the Mason Ave central business district. The Mason Avenue central business district is zoned Commercial – 1. The Commercial – 2 District

incorporates all the Commercial – 1 District uses and shares exact language for conditional use residential units above the first floor commercial. The Comprehensive Plan also addresses the need for available affordable housing.

Staff finds no reason to reject this application. The applicant must meet all procedural obligations before beginning work on the residential dwelling units. By right the applicant can have a commercial enterprise on the first floor.

**Recommendation**

Staff recommends that the Planning Commission recommend approval of this conditional use permit application, and forward this application to Town Council for approval.



**Application for Conditional Use Permit**  
Town of Cape Charles  
2 Plum Street  
Cape Charles, VA 23310  
757-331-2036 Fax: 757-331-4820  
[planner@capecharles.org](mailto:planner@capecharles.org)

Date 11/28/16 Fee: \_\_\_\_\_  
\*(Attach Plans)

Applicant: Chad Petrus Signature: Chad Petrus  
Address: 11391 Hotze St City: Acton State: TX Zip: 76009  
Telephone: 817-941-9181 Email: chadandbea@outlook.com

Owner(s): Greg and Laura Lobst  
Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Contractor: TBD  
Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Email: \_\_\_\_\_  
Town License: \_\_\_\_\_ State License: \_\_\_\_\_

Location of Improvement: 3 Fig St Cape Charles, VA 23314  
Lot No.: 83A3-1-534 Block No.: \_\_\_\_\_ Lot Size: 6183 Lot Area: 6183  
Type of Improvement: Electric, HVAC, Plumbing  
Proposed Use: Residential  
Estimated Construction Costs: TBD

**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

**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: Chad Petrus

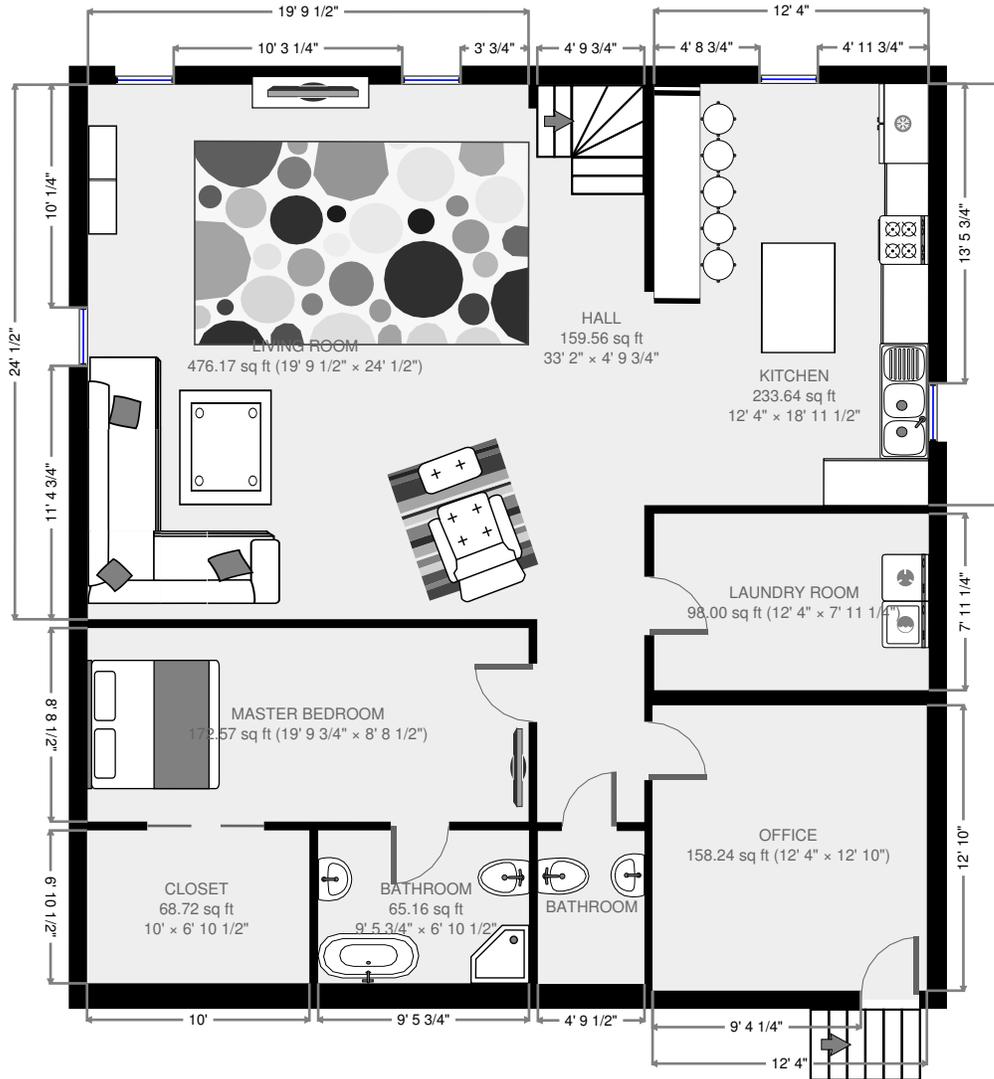
**Conditional Use Permit Plan Checklist**

Town of Cape Charles  
2 Plum Street  
Cape Charles, VA 23310  
757-331-2036 Fax: 757-331-4820  
[planner@capecharles.org](mailto:planner@capecharles.org)

Contact Person: Chad Petrus Submittal Date: 11/28/16  
Address: 11331 Hotze St. Acton, IN 46259 Phone #: 812-341-9181  
Email: chadandbev@outlook.com

Requirement	Yes	No	N/A	Comments
Are the project title, name of applicant, and project designer (if applicable) provided?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Are the date, north arrow, and graphic scale provided?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Is the concept plan the minimum size of 8 1/2" x 11" or maximum size 11" x 17"? If only plans larger than the maximum size are feasible, has the applicant provided 15 copies of the plan for distribution to the Planning Commission and Town Council?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Is the size of the entire parcel in acres and, if applicable, is size of portion of parcel showing? Are the meets and bounds provided?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Are the adjacent streets, alleys, railroads, water bodies, natural features, etc. shown?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Are the locations, dimensions, and heights of all structures provided?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Are the number, type, and size of dwelling, retail or commercial office units, the gross density, and the location, size and type of recreational amenities provided for the residential, commercial, and mixed use projects?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Are the location and dimensions of pedestrian access and plazas as well as vehicular driveways, parking spaces, and unloading facilities shown?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Are any outstanding natural features to be conserved, such as slope, ground cover, surface water, trees and vegetation, floodplain, etc. shown?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Are any signs, including type, area, height, and placement on site shown?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Is lighting information provided, if applicable?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Is the location and description of any screening and buffering along the lot perimeter or within the lot provided?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Are the building elevations or renderings and description of landscape improvements provided?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Is there other information pertinent to the specific request including areas outdoors which are designated for conditional uses, for example, accessory uses, storage areas, recreation area, loading/unloading areas, and dumpster areas on the concept plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

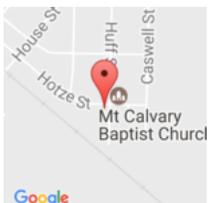
# 2nd Floor



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## Plan 2

7907-11314 Hotze Street, Indianapolis, Indiana, United States 46259



2016-11-29

**1465** sq ft

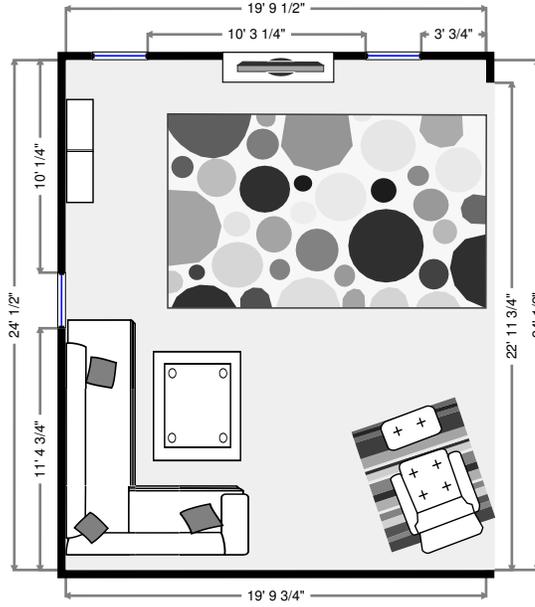
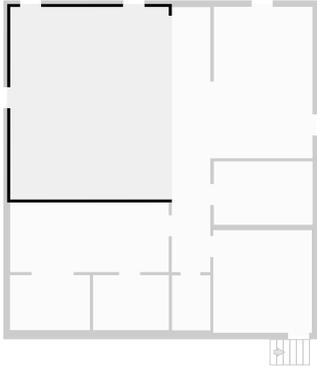
**1** Floor

**1** Bedroom

**2** Bathrooms

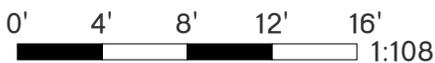
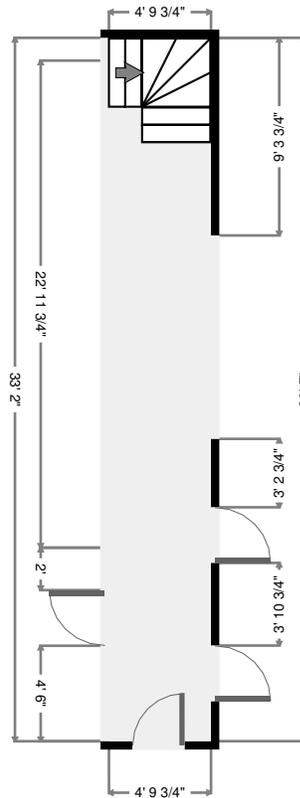
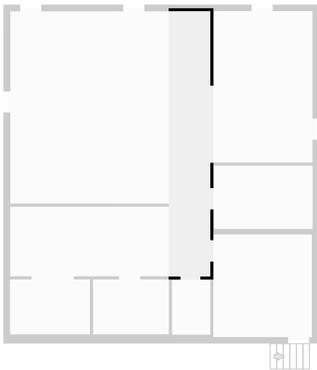
# Living Room

Width: 19' 9 1/2"  
 Length: 24' 1/2"  
 Area: 476.17 sq ft  
 Perimeter: 87' 8 1/4"



# Hall

Width: 4' 9 3/4"  
 Length: 33' 2"  
 Area: 159.56 sq ft  
 Perimeter: 75' 11 1/2"



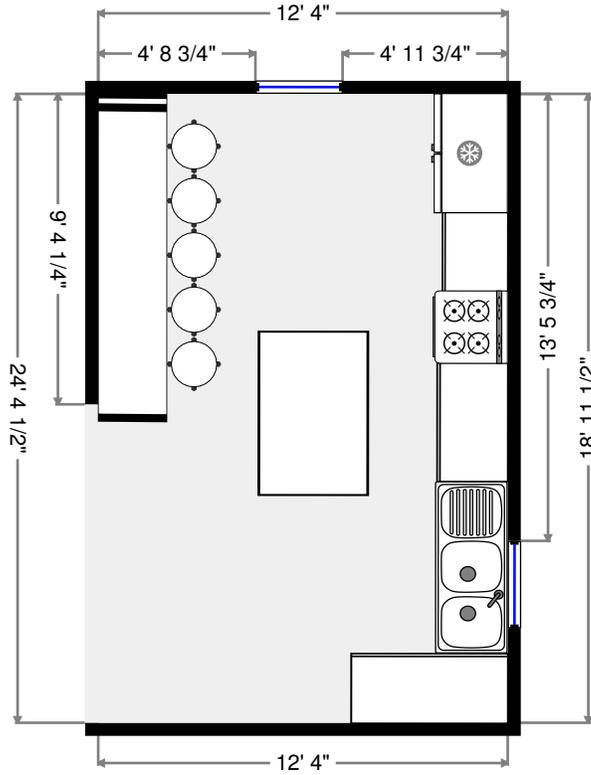
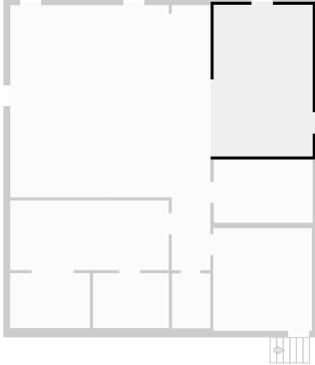
Plan 2

2016-11-29

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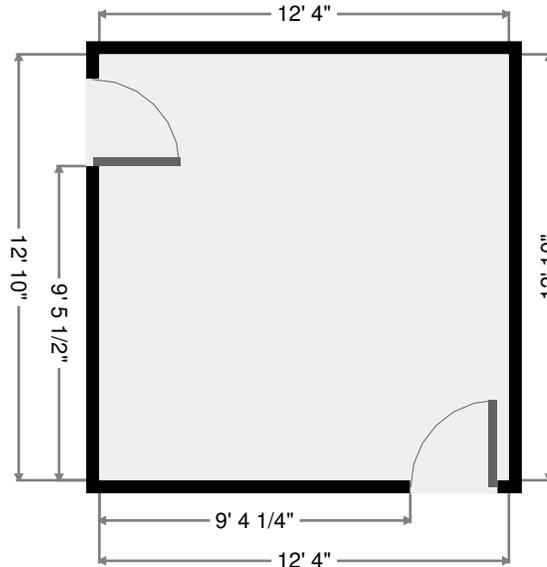
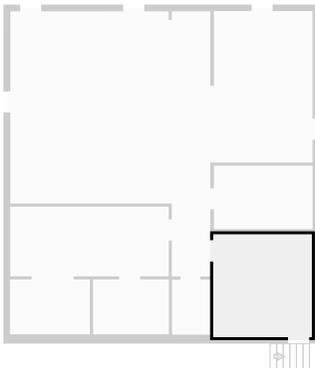
# Kitchen

Width: 12' 4"  
 Length: 18' 11 1/2"  
 Area: 233.64 sq ft  
 Perimeter: 62' 6 3/4"



# Office

Width: 12' 4"  
 Length: 12' 10"  
 Area: 158.24 sq ft  
 Perimeter: 50' 4"



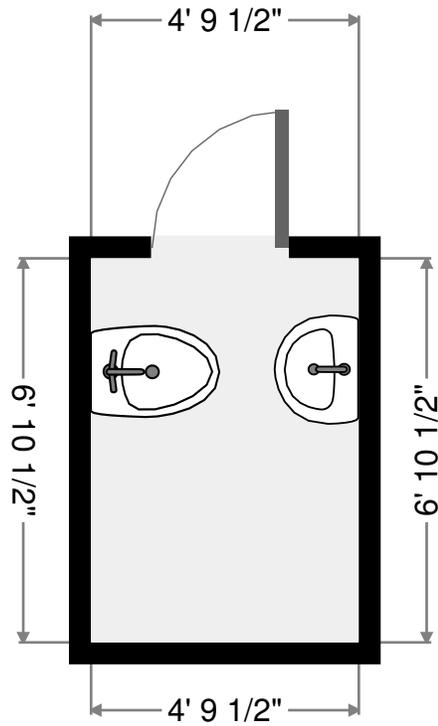
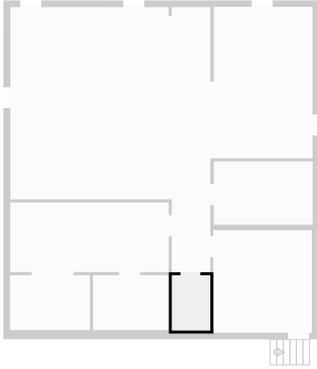
## Plan 2

2016-11-29

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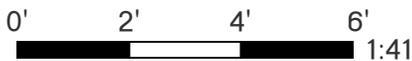
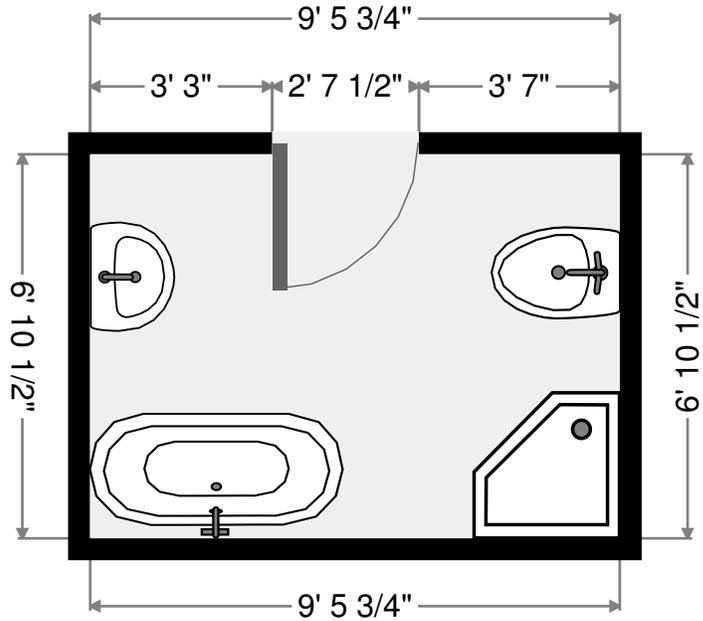
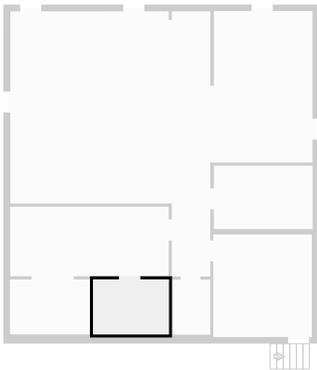
# Bathroom

Width: 4' 9 1/2"  
 Length: 6' 10 1/2"  
 Area: 32.94 sq ft  
 Perimeter: 23' 4"



# Bathroom

Width: 6' 10 1/2"  
 Length: 9' 5 3/4"  
 Area: 65.16 sq ft  
 Perimeter: 32' 8 1/2"



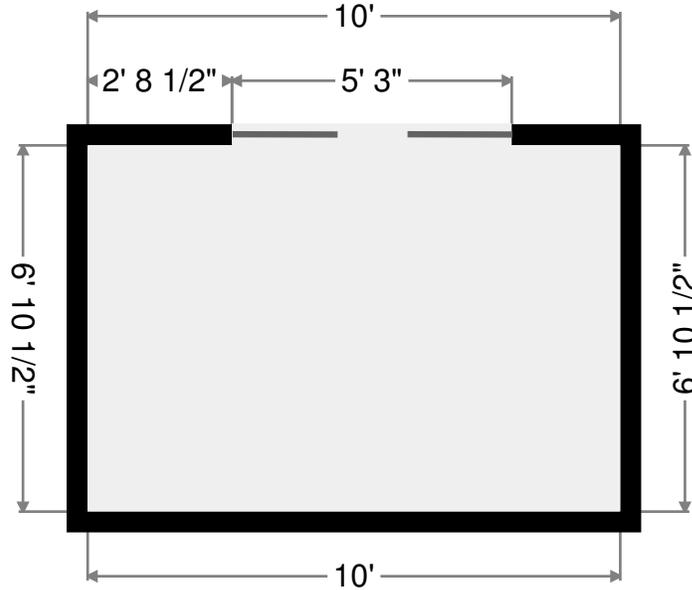
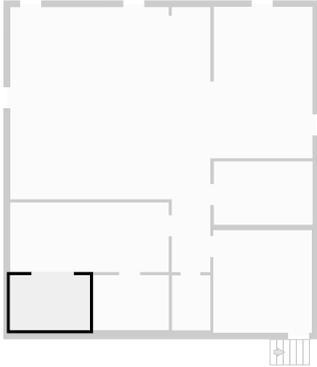
**Plan 2**

2016-11-29

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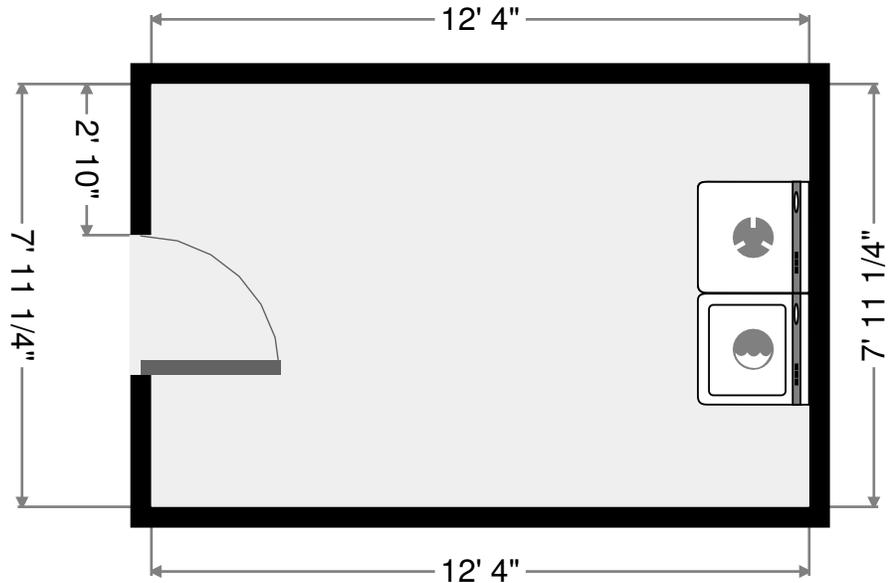
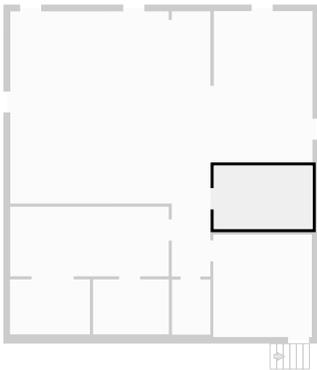
# Closet

Width: 6' 10 1/2"  
 Length: 10'  
 Area: 68.72 sq ft  
 Perimeter: 33' 9"



# Laundry Room

Width: 7' 11 1/4"  
 Length: 12' 4"  
 Area: 98.00 sq ft  
 Perimeter: 40' 6 3/4"



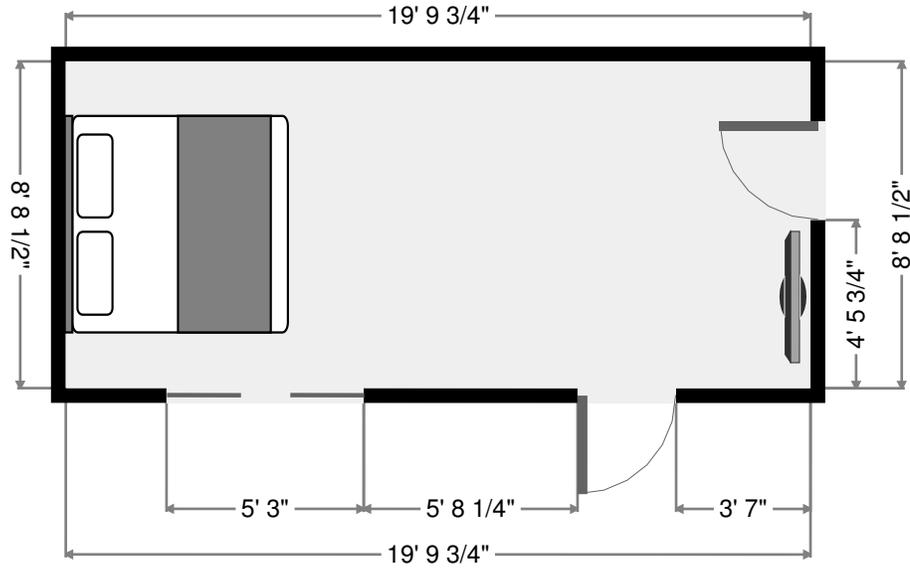
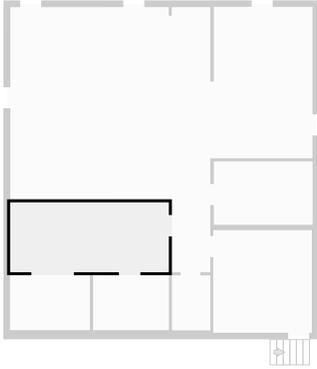
**Plan 2**

2016-11-29

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# Master Bedroom

Width: 8' 8 1/2"  
 Length: 19' 9 3/4"  
 Area: 172.57 sq ft  
 Perimeter: 57' 3/4"



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## Plan 2

2016-11-29





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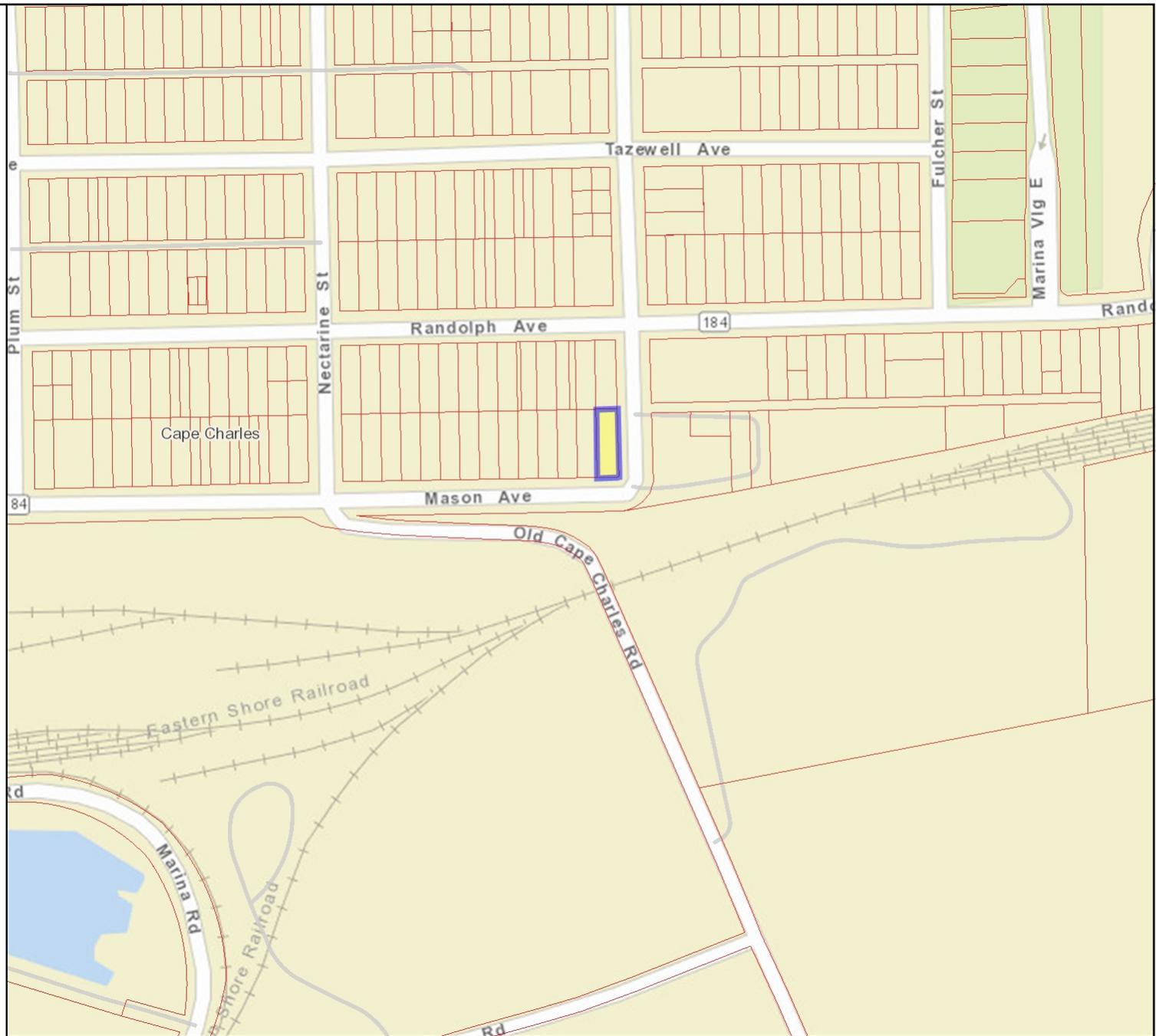
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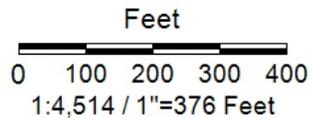
# Northampton County, Virginia

## Legend

- Town Names
- Route Numbers
- Road Labels
-  Parcels
-  Driveways



Map Printed from Northampton  
<http://northampton.mapsdirect.net/>



**Title: Parcels**

**Date: 11/30/2016**

*DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Northampton County is not responsible for its accuracy or how current it may be.*

# Planning Commission Staff Report

**From:** Larry DiRe   
**Date:** January 3, 2017  
**Item:** 5b- Proposed draft Historic Town Entrance design criteria  
**Attachments:** October 25, 2016 Town Council-Northampton County Board of Supervisors joint meeting approved minutes; Zoning Ordinance Article III, Sections 3.6.F.1.e and .g; 3.6.G.1 and .4

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## Item Specifics

For several years, the Town and Northampton County officials have discussed development along the State Road 184 and 642 corridors. The Town refers to these corridors as the Historic Town Entrance, while the parcels are under the planning and zoning of Northampton County. After a period of inactivity Town Council and the Board of Supervisors met on October 25, 2016 to discuss a number of matters. Out of that meeting the Supervisors articulated the following approach to development along the entrance corridors: *i) There was a strong opinion of the entrance coming into Cape Charles and it was vital that the BOS understand the town's concerns and be willing to work with the town regarding future development of the area along Routes 13, 184 (Stone Road) and 642 (Parsons Circle/Old Cape Charles Road) from Hardees to the Milestone Motel. Development along Route 13 would compete with the businesses in town; ii) Try to have the architecture of any development be more sympathetic to the historic nature and look of the town vs. metal buildings like Dollar General; iii) Make the entrance into town more appealing. The town did not want the entrance to look like the causeway into Chincoteague. This could be something that could come under the Main Street Initiative; iv) Cape Charles was the only town in Northampton County without a presence on Route 13 which put the town at a disadvantage. The town relied heavily on the county and BOS to help drive traffic into the town; v) Two years ago, the Town Council sent two letters expressing their concern regarding the town edge zoning – conditional use vs. by right use; and vi) Every town had interest in their town edge. Town Edge zoning needed to be developed for each town since many of the issues were different based on the town.*

## Discussion

The attached zoning ordinance sections apply to the Commercial – 3 District for the purpose of providing acceptable design of future new construction. That zoning district is considered part of the Town's entrance gateway. The Town has concerns about the type of commercial development that may occur on parcels from Route 13 to the Town boundary. These development corridors, under the Northampton County planning and zoning jurisdiction, are considered essential corridors and both Town and County governments have expressed interest in cooperative development.

Staff recommends the Town move forward with the construction materials, and architectural treatments already required for the Town's entrance gateway Commercial – 3 zoning district. In addition, staff recommends specific language requiring dark sky lighting standards, and the underground installation of all utilities. Staff is not recommending extending Town parking lot requirements or off-street parking requirements.

Staff recommends signage remain the under the County's legislation, with the provision that all signage be illuminated with downward-facing lights and no free-standing or ground-mounted sign exceed the Mason Avenue commercial sign maximum height of six-feet above grade. Animated and changeable signs should not be permitted along the Historic Town Entrance.

Metal buildings pose a potentially contentious issue in the joint, cooperative development process. Such commercial structures are common along Route 13. Modern steel buildings have architecturally evolved from the round-roofed Quonset huts of the past. Those structures should not be permitted along the gateway corridors, but steel buildings can be considered if they have a pitch roof (4:12 minimum), or shed roof with a front façade parapet wall. Steel building wall panels can be enhanced with wainscot, brick façade, or landscaping on the front and two sides.

**Recommendation**

Staff recommends that the Planning Commission review the attached zoning ordinance sections within the context of making a recommendation to Town Council to use these design standards as a basis for future discussions with Northampton County officials.

**CAPE CHARLES TOWN COUNCIL & NORTHAMPTON COUNTY BOARD OF SUPERVISORS Joint Meeting  
Cape Charles Civic Center October 25, 2016 6:00 p.m.**

At approximately 6:00 p.m., Mayor George Proto noted that a quorum could not be met but since there was no action to be taken and with the Northampton County Board of Supervisors in attendance, discussion could continue. In addition to Mayor Proto, present were Vice Mayor Bannon, Councilman Buchholz, and Councilwoman Natali. Councilmen Bennett and Brown and Councilwoman Sullivan were not in attendance. Also present were Town Manager Brent Manuel, Assistant Town Manager Bob Panek and Town Clerk Libby Hume. There were 12 members of the public in attendance. Chairman Spencer Murray called to order the recessed meeting of the Northampton County Board of Supervisors. In attendance were Supervisors Bennett, Duer, Hogg and LeMond, Acting County Administrator John Andrzejewski, and Assistant to the County Administrator Janice Williams. Mayor Proto expressed his appreciation to the Board of Supervisors for coming to Cape Charles this evening for this open dialogue between the town and county and hoped that this would be the beginning to ongoing cooperation to make the entire area a better place to live for all. Chairman Murray agreed that neither one could survive and prosper without the other and hoped to move forward in the spirit of cooperation and strengthen the bonds with all towns.

ORDER OF BUSINESS This was a somewhat informal meeting and each member of the Town Council and Board of Supervisors (BOS) were given an opportunity to express their opinions regarding the agenda topics.

**Town Edge Zoning / Historic Town Entrance Overlay Corridor (HTE)**

The Town Council comments were as follows: i) There was a strong opinion of the entrance coming into Cape Charles and it was vital that the BOS understand the town's concerns and be willing to work with the town regarding future development of the area along Routes 13, 184 (Stone Road) and 642 (Parsons Circle/Old Cape Charles Road) from Hardees to the Milestone Motel. Development along Route 13 would compete with the businesses in town; ii) Try to have the architecture of any development be more sympathetic to the historic nature and look of the town vs. metal buildings like Dollar General; iii) Make the entrance into town more appealing. The town did not want the entrance to look like the causeway into Chincoteague. This could be something that could come under the Main Street Initiative; iv) Cape Charles was the only town in Northampton County without a presence on Route 13 which put the town at a disadvantage. The town relied heavily on the county and BOS to help drive traffic into the town; v) Two years ago, the Town Council sent two letters expressing their concern regarding the town edge zoning – conditional use vs. by right use; and vi) Every town had interest in their town edge. Town Edge zoning needed to be developed for each town since many of the issues were different based on the town. Chairman Murray read excerpts from two letters dated June 2, 2014 from former County Administrator Katherine Nunez to the Town Council regarding Resolutions 20140522 Supporting the Inclusion of the Historic Town Entrance Overlay Corridor in the Proposed 2014 Zoning Amendments Under Consideration by the Northampton County Board of Supervisors and 20140522A Supporting the Continuation of Planning Commission Involvement in the Special Use Permit Process in the Proposed 2014 Zoning Amendments Under Consideration by the Northampton County Board of Supervisors and continued as follows: i) The HTE language detailed a lot of purpose and intent and the recommended uses made sense. It was recommended that the town include information regarding Route 642 with the progress of the new road; ii) In 2014, the BOS was heavily involved in rewriting the zoning ordinance and

the county administrator did not feel that this information could be reviewed as part of the proposed zoning ordinance which was passed in December 2015. In April 2016, the zoning ordinance was amended integrating the 2000, 2009 and 2015 zoning and the Board was still working diligently to improve the zoning ordinance for its citizens and it included town edge. It was difficult to include a separate town edge ordinance for each town but he realized that "one size did not fit all." The BOS was working with VACo regarding the new zoning ordinance; iii) Cape Charles did not have a presence on Route 13 but was the only town that had a beautiful beach and a lot going for it; and iv) The BOS could not control what was developed at the intersection of Routes 13 and 184. It was commercially zoned and the BOS could not stop an Olive Garden from building there if they so wanted. The BOS wanted the town's businesses to prosper. The BOS comments were as follows: i) The intersection of Routes 13 and 184 was viewed as the premier commercial area in the county. Although the BOS was sensitive to Cape Charles they didn't want to see too many restrictions placed on the land regarding development; ii) Several of the BOS had previous discussion regarding rotating signs to get people into Cape Charles but Cape Charles had been discovered and the majority of the tourism over the summer was in Cape Charles; iii) The county zoning ordinance could possibly be modified to state that the area between mileposts 79 and 80 to generally reflect the architectural nature of Cape Charles. It was suggested that the Cape Charles Planning Commission should revisit the HTE ordinance language to include design criteria. Any idea was reasonable and the county was open to working together to make it work. The Cape Charles Planning Commission should work with Northampton County Zoning Administrator Melissa Kellam, the county administrator and Planner Peter Stith throughout the process and to get the document to the County Planning Commission. The county was also working on their Comprehensive Plan and portions of this document could possibly be integrated into their Comp Plan as well; iv) The BOS was working with citizens regarding derelict structures along Route 13 vs. just sending code enforcement letters to get the area cleaned up; v) Three economic studies had been done and the county needed to begin fulfilling some of the recommendations and investing in the county such as signage directing traffic into the town. A joint effort was needed to extend the tourism season, improve infrastructure, possibly extending the water and wastewater services outside of the town across Route 13 into Cheriton to enhance opportunities in the area; and vi) The county was working on a number of large issues, such as a new high school, jobs and workforce development, and needed the help of the towns and all citizens to see them to fruition. There was some discussion regarding obtaining assistance from the Eastern Shore of Virginia Tourism Commission regarding ways to extend the shoulder season and getting more visitors to stay in town and in Northampton County.

**Article III, Section 3.6.F.1.e Materials.** New construction should use materials in a manner sympathetic to the historic buildings in the Town of Cape Charles. Materials should be of similar or complementary color, size, texture, scale, craftsmanship, and applicability to function performed. It should be noted that the sympathetic use of materials does not imply that materials used in new construction will replicate the old in detail nor that new construction will attempt to imitate historic structures. Rather, it is a matter of determining the compatibility of the new with the old. Certain materials are potentially so visually intrusive that their use for new construction in the Town will not be permitted. These materials include: aluminum or vinyl siding; asphalt siding; carpeted porch floors and steps; corrugated metal, except for roof applications; exposed concrete block above foundation level; exposed concrete masonry; faux brick and stone (brick face); flush exterior doors; inappropriate window treatments; jalousie

windows; picture windows; windows with horizontal glazing; metal or wood awnings; open mesh-type fencing; ornamental pierced concrete masonry screens and walls; painted concrete masonry; unpainted wood; vertical plywood siding; vertical wood siding on primary structures; wrought iron and aluminum porch columns.

**Article III, Section 3.6.F.1.g Utilities** Upon installation or replacement of utility access lines, such lines shall be installed underground.

**Article III, Section 3.6.G.1 Architectural Treatment** No building exterior (whether front, side, or rear) will consist of architectural materials inferior in quality, appearance, or detail to any other exterior of the same building. Nothing in this section shall preclude the use of different materials on different building exteriors (which would be acceptable if representative of good architectural design) but rather shall preclude the use of inferior materials on sides which face adjoining property and thus might adversely impact existing or future development causing a substantial depreciation of property values. No portion of a building constructed of unadorned concrete or concrete block or corrugated and/or sheet metal shall be visible from any adjoining agricultural or residential district or public right-of-way. Mechanical equipment whether ground level or roof top shall be shielded and screened from public view and designed to be perceived as an integral part of the building.

**Article III, Section 3.6.G.4 Outside Storage Areas** All outdoor storage areas shall be visually screened from public streets, internal roadways, and adjacent property. Screening shall consist of either a ventilated solid board fence, masonry wall, dense evergreen plant materials, or such other materials as may be approved. All such screening shall be of sufficient height to screen storage areas from view. Outdoor storage shall include the parking of all company owned and operated vehicles with the exception of passenger vehicles.

# Planning Commission Staff Report

**From:** Larry DiRe   
**Date:** January 3, 2017  
**Item:** 5c - Planning documents review: 2020 Transportation Plan (1999); Sidewalk and Curb Assessment (2006)  
**Attachments:** None

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## Item Specifics

As part of the current Comprehensive Plan review process, Town Council directed staff to develop a process to evaluate the importance of existing Town planning documents identified in the Comprehensive Plan. Specifically, the Council expressed concern over the age of the documents listed as Comprehensive Plan references. Staff proposed a monthly review of certain of these documents by the Planning Commission with the goal being the classification of these documents as having value for current and future planning, or holding historical reference value and retrospective in nature. These latter documents can be kept for archival purposes, but no longer consulted. The purpose of this review and classification process is not to perform a line by line analysis, but rather to assess the document in its context and value for future policy-making.

The 2020 Transportation Plan dates from 1999. In 2011 the Accomack-Northampton Planning District Commission updated the VTrans 2035 document, which is a broad-based, Virginia-wide transportation planning document. Currently, revisions are being made for the VTrans 2040 document. These documents surpass the 1999 document.

At the December 10, 2016 Town Council strategic planning work session, the Council stated that an updated sidewalk plan is a Town priority, and included that plan in the *IV Implementation* section of the 2016 Comprehensive Plan update.

## Discussion

Transportation planning services are provided by the Accomack-Northampton Planning District Commission (A-N PDC). A number of current transportation-related planning documents can be found at their website. <http://www.a-npdc.org/accomack-northampton-planning-district-commission/transportation-planning/plans-projects/> These documents also should be posted on the Town's website and be used for any transportation planning updates for the comprehensive plan, or general land use planning matters. Among these documents are: *2035 Regional Long Range Transportation Plan*; *Eastern Shore Bicycle Plan Update, 2014*; and *Eastern Shore of Virginia Regional Dredging Needs Assessment – 2016*.

An updated sidewalk plan, as requested by the Town Council, will be developed by staff as directed by the Town Manager. That updated plan, to be completed in the near future, should be used to inform the next comprehensive plan update.

## Recommendation

Staff recommends that the Planning Commission classify both the 1999 and 2006 documents as archival and no longer used to inform policy-making, or current or future community planning activities.

# Planning Commission Staff Report

**From:** Larry DiRe   
**Date:** January 3, 2017  
**Item:** 5d - Current sign ordinance language on signage in the public right-of-way and proposed draft amendment language  
**Attachments:** Town Resolution 20141009

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## Item Specifics

The Town Council is considering entering into a formal, written agreement with the Virginia Department of Transportation (VDOT) for the purpose of granting the Town authority to remove signs from the VDOT public right-of-way. According to some staff members, an informal verbal agreement to do so has been in place for years. The Council, at their November 17, 2016 regular monthly meeting, directed staff to bring this matter to the Planning Commission for review and recommendation.

The following zoning ordinance sections directly discuss the Town's signage regulations in relation to the Virginia Department of Transportation. They are followed by the "political sign" regulations, which expressly forbid such signage in the public right-of-way, for comparative purpose.

*Article IV, Section 4.1.D.2 Signs in rights-of-way No sign other than an official traffic sign or similar sign shall be erected within any public way, unless specifically authorized by other ordinances or regulations of this jurisdiction or by specific authorization of the Town Manager and the Virginia Department of Transportation (VDOT).*

*Article IV, Section 4.1.H.2.d Special event signs in public ways Signs advertising a special community event shall be allowed in or over public rights-of-way, subject to approval by the zoning administrator and the Virginia Department of Transportation as to the size, location and method of erection. The zoning administrator may not approve any special event signage that would impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.*

*Article IV, Section 4.1.H.2.e(3) Political signs Such signs shall not be in any public right-of-way or obstruct traffic visibility.*

## Discussion

A number of issues are involved here. First, the sign ordinance as written appears to be in violation of the content neutral requirement for regulating speech. By allowing the potential for only signs in the public right-of-way that "advertis(ing) a special community event" while specifically excluding signs posting commercial or political speech from those same public rights-of-way, the Town (and by extension the VDOT) is promoting certain language while sanctioning other. Any cooperative, joint agreement with another jurisdiction or public body requires content neutrality. Second, as currently written the zoning ordinance is inconsistent regarding which Town agent has authority for approving signs in the public right-of-way. Both the Town Manger and the zoning administrator are cited with that power. Original and appellate authority should be clarified and stated in any agreement with another jurisdiction or public body. Third, the Town's resolution adopted by Town Council at their October 9, 2014 meeting allowing for commercial signs in the Mason Avenue right-of-way is problematic. This resolution seems to endorse commercial speech over other language, since it extends sign placement "right" to businesses on Strawberry Street who might otherwise be obscured from pedestrian activity while not rescinding or suspending the general prohibition of right-of-way signage found in *Article IV, Section 4.1.D.2*

cited above. The intent of Resolution 20141009 is admirable. That resolution also includes language providing for a remedy. That remedy should be pursued without delay, thus terminating any necessity for signage in the Mason Avenue right-of-way.

### **Recommendation**

The Planning Commission will discuss, and direct staff accordingly. Staff recommends that the sign ordinance text and any corresponding agreement with the Virginia Department of Transportation include the following:

- Assign original authority over signage to a singular Town agent, and a singular appellate body. Staff recommends these being the Town Manager and Town Council, respectively (alternative is stated in *Article II, Section 2.6.2.C* under powers and duties of the Board of Zoning Appeals *"To hear and decide appeals from the decision of the Zoning Administrator. No such appeal shall be heard until after such notice and hearing as provided in Section 15.2-2204 of the Code of Virginia."*)
- Install a wayfinding map\sign at a town-owned facility or site in the central business district prior to April 1, 2017 and inform the Commercial – 1 District property and business owners that the provisions of Resolution 20141009 have been met.
- Amend *Article IV* of the zoning ordinance by removing *Section 4.1.H.2.d* in full because it is not content neutral, and in conflict with other ordinance sections.
- Amend *Section 4.1.D.2* to include the following language: *Signage shall not impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.*
- Banners installed on the Mason Avenue Town-owned street lamp posts (considered signs under the Town's zoning ordinance definition) may continue to be placed and removed as needed.

**ORDINANCE 20141009**  
**TEMPORARY SUSPENSION OF ENFORCEMENT FOR A PORTION OF THE SIGN**  
**REGULATION FOR BUSINESSES LOCATED ON SIDE STREETS**

**WHEREAS**, on December 19, 2013, the revisions to Cape Charles Zoning Ordinance § 4.1-Sign Regulations were adopted by the Town Council; and

**WHEREAS**, off-premise signs are defined as billboards which are prohibited in the Town; and

**WHEREAS**, a number of businesses are located on side streets, such as Strawberry, Peach and Nectarine Streets, and are not as visible as those on Mason Avenue, causing them to lose foot traffic and business without an off-premise sign; and

**WHEREAS**, the Planning Commission reviewed this issue and recommended temporary suspension of a portion of the sign regulations, Section 4.1(F)11 to allow businesses on side streets to place portable signs to attract foot traffic until a way-finding sign can be installed on Mason Avenue or the sign regulations are revisited; and

**WHEREAS**, in an effort to support the businesses on the Town's side streets, Council agrees with the Planning Commission recommendation, provided that:

- i. any-off premise signage be limited to ten square feet in area;
- ii. the signage be located at the intersection of Mason Avenue and the street which the advertised business occupies;
- iii. the sign be removed at the end of each business day; now

**THEREFORE BE IT ORDAINED** by the Town Council of Cape Charles, this 9<sup>th</sup> day of October, 2014, that enforcement of a portion of the sign regulations pertaining to off-premise signs for businesses located on the Town's side streets be temporarily suspended, subject to the above conditions, until such time that a way-finding sign is installed on Mason Avenue or the sign regulations are revisited.

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Adopted by the Town Council of Cape Charles on October 9, 2014.

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

# Planning Commission Staff Report

**From:** Larry DiRe   
**Date:** January 3, 2017  
**Item:** 5e-2016 Annual Report review  
**Attachments:** 2016 Annual Report draft document

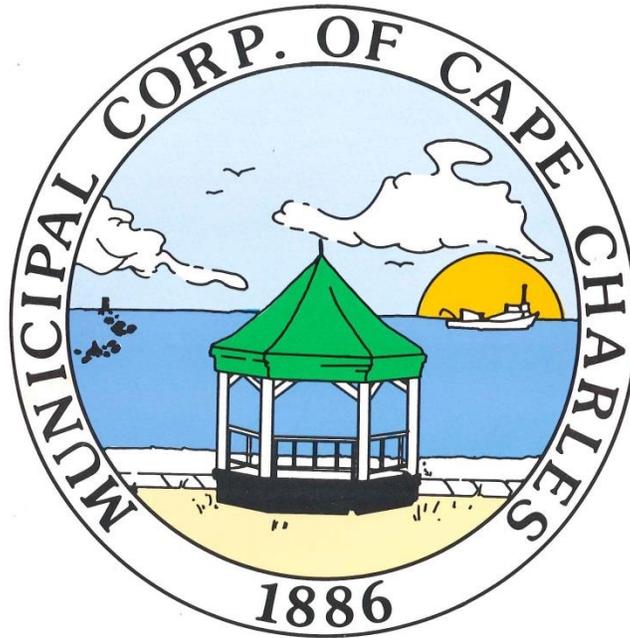
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## Item Specifics

Pursuant to § 15.2-2221.5, staff has prepared the attached annual report to Town Council. The report includes a brief recap of development that occurred within the town in 2016, and lists any planning commission and/or staff updates that occurred in 2016. The report also gives a breakdown of different applications received by the Planning and Zoning Department, and also lists other work items that were reviewed or worked on by the Planning Commission.

## Recommendation

Review the draft Annual Report. Direct staff to make revisions if needed, and bring those revisions back to the Planning Commission in February. If no revisions are needed, then approve report and direct staff to forward report to Town Council.



Town of Cape Charles  
Planning Commission

2016 Annual Report  
(January 1, 2016-December 31, 2016)

DRAFT

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Dennis McCoy  
Chairman

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Lawrence DiRe, MA MPA  
Town Planner

**2016 Planning Commission Members**

Dennis McCoy, Chairman

Michael Strub, Vice Chair

Andy Buchholz

Dan Burke

Joan Natali (resigned July)

Keith Kostek (appointed July)

Sandra Salopek

Bill Stramm

**2016 Planning and Zoning Staff**

Lawrence DiRe, Town Planner

DRAFT

## **Introduction**

Section 15.2-221, of the Code of Virginia, as amended, prescribes the duties of the local planning commission. The duties include a requirement to provide an annual report to the local governing body concerning the operation of the commission and the status of planning in its jurisdiction.

## **Development in Cape Charles**

2016 saw both new development and redevelopment in Cape Charles. Notable projects included the renovations to several commercial properties on Mason Avenue; progress continued on the Strawberry Street Station mixed –use development and the former Northampton Hotel building; and six new single family homes were permitted. Two structures were demolished in the old town historic district. A small commercial structure and public bath house were approved for Lot 19 in the Harbor District, and one Harbor District parcel was rezoned to Industrial M-2 to allow for working waterfront activities. The Town finalized the purchase of the Mason Avenue parcel to become the future site of Strawberry Street Plaza. Phase 2 of the trail project (Washington Avenue and Peach Street) began in late spring and continued throughout the year.

Two other projects being undertaken by state and federal agencies also impact development in Cape Charles. VDOT began work on the Route 642 industrial access project from Stone Road (Route 184) just east of the Town line to Bayshore Concrete. In August and September, the US Army Corps of Engineers completed the last phase of the Cherrystone Creek and Federal Harbor dredging project. Both the channel and the harbor were dredged to 18-feet in depth. Approximately 112,000 cubic yards of spoils were deposited at the upland site and approximately 29,000 cubic yards deposited on the town beach. Sand fence installation and vegetative sprigging of the dunes were completed by mid-December.

## **Planning Commission and Staff Updates**

Commissioner Joan Natali stepped down from the Commission in July, and was replaced by Keith Kostek when the Town Council appointed him in July. Commissioner Bucholz was voted by Town Council at their July 21<sup>st</sup> meeting to be the Council's representative to the Commission. Replacing former Commissioner Natali. Commissioners Natali and McCoy both resigned from the Harbor Area Review Board in August, and were replaced by Commissioners Burke and Kostek who were appointed by Town Council at their August 18<sup>th</sup> regular meeting.

At the November 1<sup>st</sup> meeting Commissioners McCoy and Strub were re-elected as Chair and Vice Chair, respectively, for terms expiring in November 2017.

**2016 Summary of Permits and Projects Reviewed by Planning:**

Home Occupations	0
Site Plan Reviews	11
Violations	4
Zoning Clearance	27
Historic District Review	25
Harbor Area Review	3
Wetlands Board Review	3
Board of Zoning Appeals Review	3
Rezoning	1
Conditional Use Permits	2

**Code Amendments**

**Approved**, at the March 17<sup>th</sup> Town Council meeting a number of text amendments and one zoning map correction were approved. At the November 17<sup>th</sup> Town Council meeting the Tourism Zone ordinance was adopted and codified as Chapter 24 of the Town Code. Please see the staff reports and minutes of these meetings for more detail.

**Denied**, none to date. At the request of the Planning Commission, the Town Council directed staff to suspend any potential text amendment to the Open Space District that would allow limited commercial activity in that district.

**Pending**, amending the accessory building text to include dog pens in residential districts.

**Comprehensive Plan**

The Planning Commission reviewed the Capital Improvement Plan section of the Comprehensive Plan revised draft document and forwarded comments to the Town Council as part of the Fiscal Year 2017 budget process. The Commission also held a public input session, the third one associated with this revision process. A joint public hearing with Town Council to receive public comment on the entire amended draft document was held on December 6, 2016, followed by Commission action to adopt amendments, and recommend Town Council approve and amend the 2009 Comprehensive Plan. A final amended document was sent to Town Council for legislative action and was adopted. Town Council requested updates on the progress of projects cited in the comprehensive plan. Staff suggested documenting such

progress in the annual report and will do so beginning with the 2017 report. On a quarterly basis, staff will include project progress reports as part of regular drafts of the annual report, and present them to the Commission as part of the public record.

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