

Planning Commission

Regular Session Agenda

Cape Charles Civic Center – 500 Tazewell Avenue

February 7, 2017

6:00 P.M.

1. Call to Order
 - a. Roll call and establish a quorum
2. Invocation and Pledge of Allegiance
3. Public Comments
4. Consent Agenda
 - a. Approval of Agenda Format
 - b. Approval of Minutes
 - c. Reports
5. Old Business
 - a. Fiscal Year 2017-2018 Capital Improvement Plan review
 - b. Sign ordinance proposed text amendments; subdivision ordinance section text amendment – set April public hearing date
 - c. Planning documents review – Accessory Unit Study (July 2006)
 - d. Animal tethering ordinance
6. New Business
7. Announcements
8. Adjourn



DRAFT
PLANNING COMMISSION/TOWN COUNCIL
Joint Public Hearing &
PLANNING COMMISSION
Regular Meeting
Cape Charles Town Hall
January 3, 2017
6:00 p.m.

At 6:00 p.m., 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 Commissioners Andy Buchholz, Dan Burke, Keith Kostek, Sandra Salopek and Bill Stramm. Vice Chairman Michael Strub was not in attendance. Also in attendance were Town Planner Larry DiRe and Town Clerk Libby Hume. There were four members of the public in attendance.

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.

1 FIG STREET CONDITIONAL USE PERMIT APPLICATION PUBLIC COMMENTS:

Kabler, David, 10352 Church Neck Rd

Mr. Kabler addressed the Planning Commission and Town Council recommending Council approval of the conditional use permit application for 1 Fig Street, also known as the Kellogg Building. (Please see attached.)

Town Clerk Libby Hume read comments submitted in writing by Greg and Laura Lohse, current owners of the Kellogg Building, 1 Fig Street. (Please see attached.)

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

There was some discussion regarding the discrepancy in the address of the subject property. Larry DiRe stated that he was using the 911 address which was 1 Fig Street.

Motion made by Dan Burke, seconded by Bill Stramm, to close the Planning Commission Public Hearing. The motion was approved by unanimous vote.

Motion made by Councilman Brown, seconded by Councilman Bennett, to adjourn the Town Council Public Hearing. 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

Motion made by Andy Buchholz, seconded by Bill Stramm, to approve the agenda format as presented. The motion was approved by unanimous vote.

Dan Burke requested that the anti-tethering ordinance be added to the February meeting agenda.

The Commissioners reviewed the minutes from the December 6, 2016 Planning Commission/Town Council Joint Public Hearing and Planning Commission Regular Meeting.

Motion made by Sandra Salopek, seconded by Dan Burke, to approve the minutes from the December 6, 2016 Planning Commission/Town Council Joint Public Hearing and 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.

OLD BUSINESS

A. *Conditional Use Permit Application for second floor residential unit above first floor commercial at 1 Fig Street (Kellogg Building):*

Dennis McCoy stated that two public comments were heard at the public hearing and asked whether there were any questions or further discussion warranted.

Motion made by Dan Burke, seconded by Andy Buchholz, to recommend Town Council approval of the conditional use permit application for 1 Fig Street as submitted. The motion was approved by unanimous vote.

B. *Proposed Draft Historic Town Entrance Design Criteria:*

Larry DiRe stated that this item was a follow-up from the October 25, 2016 joint meeting with the Town Council and the Northampton County Board of Supervisors (BOS). The BOS suggested that the Cape Charles Planning review the Historic Town Entrance (HTE) ordinance language to include design criteria. Larry DiRe recommended moving forward with the construction materials and architectural treatments already required for the Town's entrance gateway, Commercial-3 zoning district, as well as including specific language regarding dark sky lighting standards and the underground installation of all utilities, but not extending Town parking requirements. Signage should remain under the County's legislation, with the provision that all signage be illuminated with downward-facing lights and no free-standing or ground-mounted signage exceeding the Mason Avenue commercial sign maximum height of six-feet above grade. Animated and changeable signs should not be permitted along the HTE.

There was much discussion regarding the following: i) Possible change to the speed limit on Stone Road if development starts along the road. Speed could become an issue by the water tower once the renovation of the former Cape Charles Collision building was completed; ii) The entire corner at Routes 13 and 184 was currently zoned commercial; iii) A more general approach, vs. the specific details being proposed to the County, was needed regarding the architectural requirements. Continuity was needed. A transition area was needed coming into the town. The town didn't have any control over much of the property on the south side of Stone Road since it belonged to the railroad; iv) Cape Charles was the only incorporated

town in the county without a presence on Route 13. Cheriton got a lot of revenue from the traffic along Route 13 and much of the revenue received help pay for their new playground and parking lot; and v) The Commissioners were in agreement with the staff recommendation regarding underground utilities and dark sky compliance.

Larry Dire would report back to the Town Council.

C. *Planning Documents Review – 2020 Transportation Plan (1999); Sidewalk and Curb Assessment (2006):*

Larry DiRe stated that, as part of the Comprehensive Plan review process, Town Council directed staff to develop a process to evaluate the importance of existing planning documents identified in the Comprehensive Plan. Council expressed concern over the age of the documents listed as references. A monthly review of certain documents was being performed by the Commission.

The 2020 Transportation Plan dated from 1999. In 2011, the Accomack-Northampton Planning District Commission updated the VTrans 2035 document, which was a broad-based, state-wide transportation planning document. Revisions were currently being made for the VTrans 2040 document.

At the December 10, 2016 Town Council Strategic Planning Work Session, the Council decided that an updated sidewalk plan was a priority and included that plan in Section IV-Implementation of the 2016 Comprehensive Plan Update. An updated sidewalk plan would be developed by staff as directed by the Town Manager.

Motion made by Bill Stramm, seconded by Dan Burke, to approve staff's recommendation to classify the 2020 Transportation Plan and the 2006 Sidewalk and Curb Assessment as archival only. The motion was approved by unanimous vote.

D. *Current Sign Ordinance Language on Signage in the Public Right-of-Way and Proposed Draft Amendment Language:*

Larry DiRe stated that the Town Council was considering a formal, written agreement with the Virginia Department of Transportation (VDOT) for the purpose of granting the Town the authority to remove signs from the VDOT right-of-way and directed staff to bring this matter to the Planning Commission for review and recommendation.

There was much discussion regarding this issue as well as a number of inconsistencies in the town's current sign ordinance and Ordinance 20141009 which temporarily suspended enforcement for a portion of the sign ordinance for businesses located on side streets. The intent of Ordinance 20141009 was to allow the businesses on side streets to display their sandwich boards along Mason Avenue until an appropriate wayfinding sign could be installed. Unfortunately, it had been over two years and the wayfinding signs still were not in place.

The Commissioners reviewed staff's recommendation that the sign ordinance text and any corresponding agreement with VDOT include the following: i) Assign original authority over signage to a singular town agent, and a singular appellate body (Town Manager and Town Council, respectively). The Commissioners felt that the town agent authority should be the zoning administrator vs. the town manager; ii) 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 Ordinance 20141009 had been met; iii) Amend Article IV of the zoning ordinance by removing Section 4.1.H.2.d in full because it was not content neutral and in conflict with other ordinance

sections; iv) 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;" and v) Banners installed on the Mason Avenue Town-owned street lamp posts may continue to be placed and removed as needed.

Motion made by Dan Burke, seconded by Andy Buchholz, to approve the staff recommendations as discussed. The motion was approved by unanimous vote.

Motion made by Andy Buchholz, seconded by Bill Stramm, to recommend to Town Council the scheduling of a joint public hearing for a text amendment to identify the zoning administrator as the person responsible for signage-related decisions. The motion was approved by unanimous vote.

E. 2016 Annual Report Review:

Pursuant to Section 15.2-2221.5 of the Code of Virginia, staff prepared the 2016 Annual Planning Commission Report which included: i) a summary of development that occurred in the town in 2016; ii) a listing of all Planning Commission and staff updates that occurred in 2016; iii) a breakdown of different applications received by the Planning and Zoning Department; and v) a list of other work items that were reviewed or worked on by the Planning Commission. Larry DiRe stated that, after a review by the Commissioners, the annual report would be presented to the Town Council.

Motion made by Sandra Salopek, seconded by Andy Buchholz, to approve the 2016 Annual Planning Commission Report as presented. The motion was approved by unanimous vote.

NEW BUSINESS

There was no New Business to review.

There was much discussion regarding the town's water and the connection of the Keck Wells. Larry DiRe informed the Commissioners that the connection of the Keck Wells was on the Capital Improvement Plan (CIP) about three years out. Each year, the Town Council reviewed and updated the CIP as part of the budget process.

The Commissioners requested that Town Manager Brent Manuel attend the Planning Commission meetings semi-annually to provide updates to the Commission regarding matters of importance, such as the town's water.

ANNOUNCEMENTS

There were no Announcements.

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

Chairman Dennis McCoy

Mayor Proto

Town Clerk

**Planning Commission/Town Council Joint Public Hearing
Comments Submitted in Writing
January 3, 2017**

Kabler, David – 10352 Church Neck Rd, Machipongo, VA

*David L. Kabler
10352 Church Neck Road
Machipongo, VA 23405*

January 3, 2017

Cape Charles Planning Commission
Cape Charles Town Council
Via email

Ref: 1 Fig St. conditional use permit

Dear Sirs,

Thank you for the opportunity to comment in reference to an application for a conditional use permit for a second floor residential apartment in the Kellogg Building. I want to recommend to you that this use be allowed.

I am very familiar with the Kellogg Building, having handled its sale to the present owners back in 1996, and as the listing agent for the owners in its present obligation under contract of sale to the applicants, Chad and Bev Petras. The Petras' have plans to purchase the property to open it for business as soon as possible with a key part of their plans being able to reside on the second floor while the first floor is kept as commercial space. The financial feasibility, along with other considerations, of residing on the same property as their business is a key factor in the practicality of fulfilling their goals.

I think it is safe to say that such a residential use as proposed and requested by the applicants is key to the overall investment and development of the subject property. The ability to reside in the same property with their business will save hundreds of thousands of dollars that would be required for the applicants to purchase a separate residence for their relocation from Indiana to Cape Charles, Virginia. Further, it is a fact that other commercial properties here in the Town of Cape Charles have residential apartments on the second, third and fourth floors. It would be in keeping with the Town's economic development objectives to allow this conditional use permit.

I hope that you will grant this application for conditional use.

Sincerely yours,

David L. Kabler

Greg and Laura Lohse, Owners of Kellogg Building, 1 Fig Street

To: Cape Charles Planning Commission and Town Council

From: Greg and Laura Lohse

Date: January 2, 2017

Re: Kellogg Building Conditional Use Permit for Second Floor Residential above First Floor Commercial

We respectfully request that you grant a conditional use permit allowing the future owner of the Kellogg Building at 1 Fig Street to build an apartment on the second floor of the building.

We have been using the building as a workshop and were not in need of living quarters upstairs. The potential buyer of the building plans to live above the commercial first floor and use first floor to start a new business in Cape Charles.

Thank you for your consideration of this matter.

Respectfully,
Greg and Laura Lohse
Owners, Kellogg Building

Planning Commission Staff Report

From: Larry DiRe 
Date: February 7, 2017
Item: 4c-Staff Report
Attachments: None

1. Staff attended the Accomack-Northampton Planning District Commission Transportation Technical Advisory committee meeting at the VDOT residency in Accomac town on Tuesday January 24th.
2. Staff began reviewing materials provide by the Town Manager on the "Homestay" issue as it relates to online, short-term stay and accommodation activities. Staff expects further direction from the Town Council or Town Manager.
3. The stakeholders meeting with the joint Rutgers University\National Oceanic and Atmospheric Administration (NOAA) study team, working on a resilience planning for water-dependent uses, scheduled for Friday January 20, 2017 was delayed to later in February. Date uncertain.
4. The Historic District Review Board received one application for Certificate of Appropriateness to consider at their January 17th regular monthly meeting. The application was for new construction of a single-family home, and was approved. At that meeting the Board also reviewed the process to amend the historic district boundaries, and reviewed draft language for the Guidelines revision. The Board held a work session on Wednesday January 18th as a follow up to the October 31, 2016 CAMP program.
5. The Harbor Area Review Board had no business and did not meet.
6. The Wetlands and Coastal Dunes Board had no business and did not meet.
7. The Board of Zoning Appeals received an application for variance from the accessory building maximum square footage requirement for 2449 Old Cape Charles Road\tax map # 90-3-A2. A public hearing and meeting to consider the application was held on Thursday February 2nd.

Planning Commission Staff Report

From: Larry DiRe 
Date: February 7, 2017
Item: 5a-Fiscal Year 2017-18 Capital Improvement Plan review
Attachments: Town of Cape Charles proposed Capital Improvement Plan document; summary of changes document

Item Specifics

The Code of Virginia grants local Planning Commissions authority to prepare and review capital improvement plans, and submit any recommendations to the local governing board as part of the annual budget preparation process.

§ 15.2-2239. Local planning commissions to prepare and submit annually capital improvement programs to governing body or official charged with preparation of budget.

A local planning commission may, and at the direction of the governing body shall, prepare and revise annually a capital improvement program based on the comprehensive plan of the locality for a period not to exceed the ensuing five years. The commission shall submit the program annually to the governing body, or to the chief administrative officer or other official charged with preparation of the budget for the locality, at such time as it or he shall direct. The capital improvement program shall include the commission's recommendations, and estimates of cost of the facilities and life cycle costs, including any road improvement and any transportation improvement the locality chooses to include in its capital improvement plan and as provided for in the comprehensive plan, and the means of financing them, to be undertaken in the ensuing fiscal year and in a period not to exceed the next four years, as the basis of the capital budget for the locality. In the preparation of its capital budget recommendations, the commission shall consult with the chief administrative officer or other executive head of the government of the locality, the heads of departments and interested citizens and organizations and shall hold such public hearings as it deems necessary.

Discussion

The attached capital improvement plan shows the projects scheduled for next fiscal year and beyond. Changes to that plan are stated in the attached summary document. The Planning Commission may review the proposed capital improvement plan projects to ensure alignment with broader community development goals stated in the Town Comprehensive Plan. The Commission may make recommendations as needed.

Recommendation

Review the draft document and make recommendations as needed. Direct staff to forward any recommendations to the Town Council as part of the Fiscal Year 2017-18 budget preparation process.

Town of Cape Charles
 FY 2017 Capital Improvement Plan (CIP)
 Draft, Feb. 4, 2016

	<u>Fund</u>	<u>Potential Funding Sources</u>	<u>CURRENT FY 2016</u>	<u>BUDGET FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>Beyond</u>
Public Works								
Strawberry Pedestrian Plaza Purchase \$50K, improvements \$20K	General		70,000					
Pine Street Parking Lot Trash facility, alley access FY 16, 34 parking spaces FY 17	General	CBSF, CBRF	60,000	60,000				
Mason Ave. Leased Parking Lot, Improvements Design, grading, gravel, signs	General		20,000					50,000
Reverse Angle Parking on Bay Avenue Re-stripe parking spots, etc.	General				10,000			
Central Bus. Dist./Main St./Street Scope Improvements	General			50	50,000	25,000		
Multi Use Trail Phase 3, South Peach St., design FY 17 & FY 18 Changed based on latest grant application.	General	TAP 80%	1,974,000	60,000	54,000	683,400	100,000	6,737,000
Art Walk Wayfinding FY 16; Town Entrance & Strawberry Plaza FY 18 & 19	General		10,000	0	150,000	500,000		
Visitor Center Improvements at museum	General			5,000				
Remove & Replace Trees in VDOT ROW Sick, dying and unsightly trees in historic district	General			30,000	30,000	30,000		
Sidewalk Infill; contiguous to town owned properties Construct sidewalks where lacking in historic district	General	VDOT revenue sharing 50%	20,000	30,000	10,000			
Beach Shade Pavilions South end FY17, north end FY19	General			30,000		30,000		
Bay Ave. Elect/Street Light Improv. - Trail Phase 4 Bury electric service & replace highway style street lights	General				30,000	30,000		
Jetty Add rock to increase jetty height	General	VPA 75%		40,000	250,000			
4 WD Tractor	General	USDARD	35,000					
Vehicle Replacement	General	USDARD			30,000		30,000	
Backhoe Replacement (33%)	General	USDARD			33,000			

Town of Cape Charles
 FY 2017 Capital Improvement Plan (CIP)
 Draft, Feb. 4, 2016

	<u>Fund</u>	<u>Potential Funding Sources</u>	<u>CURRENT FY 2016</u>	<u>BUDGET FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>Beyond</u>
<u>Parks & Recreation</u>								
Beach Safety	General							
Swimming area buoys, float line, signs Equipment & stands for 2 lifeguards; 1 jet ski				26,000				
Playground Equipment Replacement	General	CCP, Epiphany	50,700					
Improve & Landscape Drainage Areas in Central Park	General	CBSF, CBRF		25,000				
Video Security Systems Central Park, Civic Center, Beach	General	USDARD	10,000					
<u>Police Department</u>								
Patrol Vehicle Replacement	General	USDARD	26,668	27,000	27,000	27,000	27,000	
Dashboard Cameras for Patrol Vehicles	General	USDARD	9,640	10,000	5,000	5,000	5,000	
<u>Administration & Finance</u>								
Enterprise Resources Planning System Replacement	General	USDARD	55,069					
Vehicle Replacement Code Enforcement/Damage Assessment 4WD	General	USDARD	26,125				26,000	
<i>Renovate Municipal Bldg space leased to FD for Finance Office</i>	General			50,000				
Develop Third Floor of Library Building for Town Offices Elevator, wall reconfiguration, HVAC, electrical, painting, etc.	General	Sell Town Hall						300,000
<u>Library</u>								
<i>New library building</i>								2,000,000
Total General Fund			2,367,202	393,050	679,000	1,330,400	188,000	9,087,000
<u>Harbor</u>								
Truck	Harbor		10,000					
Boat Replacement	Harbor			10,000				
Vehicle Replacement	Harbor	USDARD				26,000		
Offshore Breakwaters	Harbor General	VPA 75% BIG	848,000	860,000				860,000
Inshore Wave Attenuator, A Dock, With Additional Slips	Harbor	VAP 75% BIG			250,000			
Inner Basin Bath House	Harbor	VPA 75%			175,000			

Town of Cape Charles
 FY 2017 Capital Improvement Plan (CIP)
 Draft, Feb. 4, 2016

	<u>Fund</u>	<u>Potential Funding Sources</u>	<u>CURRENT FY 2016</u>	<u>BUDGET FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>Beyond</u>
Inner Basin Floating Slips	Harbor	VPA 75% BIG						1,000,000
New Fueling & Harbor Master's Dock	Harbor	VPA 75% BIG			620,000			
Harbor Master's Building	Harbor	VPA 75% BIG					650,000	
Total Harbor Fund			858,000	870,000	1,045,000	26,000	650,000	1,860,000
<u>Waterworks</u>								
<u>Auto Read Meters</u>	W&WW			50,000	100,000	100,000		
<u>Utility Truck Body (50%)</u>	W&WW			15,000				
Valve Exerciser (50%)	W&WW		3,400					
Keck Wells Pipeline	W&WW	Facility Fees		500,000				
Automatic Flush Systems Reduce TTHMs & flush WW collection system	W&WW		20,000	0				
Improve finished water aesthetics Improve softener, etc.	W&WW			0	100,000			
Drying Bed for Backwash Waste Disposal of iron & manganese sediment	W&WW			0	250,000			
Pretreatment for Lower Aquifer Withdrawal	W&WW	Facility Fees			0	0		
Vehicle Replacement	W&WW	USDARD			14,300			
<u>Backhoe Replacement (33%)</u>	W&WW	USDARD			33,000			
Plant Expansion Depending on growth, increase from 500K to 1M gpd	W&WW	Facility Fees						2,300,000
<u>Wastewater System</u>								
<u>Utility Truck Body (50%)</u>	W&WW			15,000				
Valve Exerciser (50%)			3,400					
Gravity Pump Stations Refurbishment Plum and Pine Streets	W&WW		100,000	200,000				

Town of Cape Charles
 FY 2017 Capital Improvement Plan (CIP)
 Draft, Feb. 4, 2016

	<u>Fund</u>	<u>Potential Funding Sources</u>	<u>CURRENT FY 2016</u>	<u>BUDGET FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>Beyond</u>
Emergency Generator, Mason Avenue Pump Station Replace aging unit	W&WW			50,000				
Odor control Install chlorine injection at 3 vacuum pump stations and Mason Avenue	W&WW			40,000				
New Pump Controls, Mason Avenue Pump Station Replace old technology and interface with plant SCADA	W&WW		65,000					
Septage Receiving Facility Ability to process septic tank pump outs	W&WW	Sales Revenue			50,000	200,000		
Residual Solids Composting Facility Compost & sell solids instead of landfill	W&WW	Tip Fees & Sales Revenue			50,000	450,000		
Membrane Replacement 7 year nominal, maybe 10. Plant recapitalization in Facility Fee calculation.	W&WW	Facility Fees				50,000		100,000
Plant Expansion Depending on growth, increase from 250K to 500K gpd	W&WW	Facility Fees						5,000,000
Reuse Pipeline & Reject Storage Depending on growth (250K gpd limit)	W&WW	Facility Fees						750,000
Vehicle Replacement	W&WW	USDARD			14,300			
<i>Backhoe Replacement (33%)</i>	W&WW	USDARD			33,000			
Total Water & Wastewater Fund			191,800	820,000	544,600	700,000	0	8,150,000
Total All Funds			3,417,002	2,083,050	2,268,600	2,056,400	838,000	19,097,000

Notes:

1. Baseline is CIP approved in FY 2016 budget process.
2. FY 2016 adjusted to current estimates.
3. Changes beyond FY 2016 indicated in ***bold italic***.
4. FY 2020 column added.

Planning Commission Staff Report

From: Larry DiRe 
Date: February 7, 2017
Item: 5b- Sign ordinance proposed text amendments; subdivision ordinance section proposed text amendment – set April public hearing date
Attachments: None

Item Specifics

The following sign and subdivision zoning ordinance sections are presented for review and discussion prior to proposed text amendment. One of the requirements for the text amendment process is a public hearing before the planning Commission and the Town Council. The entire sections' current text is presented in italics, with proposed text amendments in bold italics.

Article II, Section 2.9 (definitions) Sign area means the entire face of a sign, including the advertising surface and any framing, trim, or moulding but not including the support structures.

*Article IV, Section 4.1.B (definitions) Sign area. The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or "V" shaped sign shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as 50 percent of the sum of the area of all faces of the sign. **Staff recommends removing this definition and replacing with the definition in Article II, Section 2.9. Staff further recommends removing all sign area computations figures and notes in Article IV, Section 4.1.C.1. Alternatively, staff recommends removing the current language in both sections and replacing with "Sign area means the simple geometric measure of the sign material substrate."***

*Article IV, Section 4.1.B (definitions) Window sign. A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property. A business is permitted to have a sign in a window relating to something within their establishment. A business is not permitted to have a sign in their window advertising another business. **Staff recommends removing both sentences beginning with "A business is..." because they regulate content making the section as written content-based rather than content—neutral.***

*Article IV, Section 4.1.D.2 Signs in the 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). **Staff recommends removing "Town Manager" and replacing with "Zoning Administrator." Alternatively, staff recommends striking all current language beginning with "unless" and continuing to the end.***

*Article IV, Section 4.1.E.7 Street address signs and combination nameplate and street address signs that contain no advertising copy and which do not exceed 4 square feet (0.56 m²) in area. **Such language is content-based rather than content-neutral. Staff recommends text read "Street address signs and combination nameplate and street address signs which do not exceed 4 square feet in area."***

Article IV, Section 4.1.F.2 Except as provided for elsewhere in this code, signs encroaching upon or overhanging public right-of-way. No sign shall be attached to any utility pole (with the exception of the utility pole located at the Post Office on Randolph Avenue), light standard, street tree or any other public facility located within the public right-of-way. **For continuity within the ordinance staff recommends text read “All signs encroaching upon or overhanging public right-of-way. No sign shall be attached to any utility pole (with the exception of the utility pole located at the Post Office on Randolph Avenue), light standard, street tree or any other public facility located within the public right-of-way.”**

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. **Staff recommends removing this entire section because it is content-based rather than content-neutral. Staff does find merit with “The zoning administrator may not approve any signage that would impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility” as a general overview of the sign ordinance.**

Article IV, Section 4.1.H.3.c.3 Projecting signs Such signs shall not extend over a public sidewalk without approval of the Town Manager. **Staff recommends removing “Town Manager” and replacing with “Zoning Administrator” for continuity within the ordinance.**

(Subdivision ordinance) Appendix A, Section 4.6 Fees There shall be a charge for the examination and approval or disapproval of every plat reviewed by the agent. At the time of filing the preliminary plat, the sub-divider shall deposit with the agent checks payable to the Town Treasurer in the amount of twentyfive dollars (\$25 per plat) and one dollar (\$1) for each lot if the subdivision contains five or more lots; if the subdivision contains less than five lots, the charge shall be ten dollars (\$10) per plat and one dollar (\$1) for each lot. **Staff recommends removing this language and replacing with “All fess shall be governed as set forth by the Town Council of the Town of Cape Charles.” Staff recommends this amendment for clarity, consistency and to remove conflict across legislation.**

Discussion

The zoning ordinance sections above are recommended for text amendment and/or removal from the ordinance. Staff recommendations are based on either lack of clarity, failure to meet the content-neutral standard, or to reconcile conflict with other sections. The Commission may recommend revisions as needed, and direct staff accordingly.

Recommendation

Following review and discussion staff recommends setting Tuesday April 4, 2017 as the date for a public hearing on proposed text amendments to the Town zoning ordinance.

Planning Commission Staff Report

From: Larry DiRe 
Date: February 7, 2017
Item: 5c - Planning documents review: Accessory Unit Study (July 2006)
Attachments: 2006 *Accessory Unit Study* report, one page from 2012 *Healthy Communities* report

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.

This month's document, *Accessory Unit Study*, is a brief but very well documented reference resource. The study provides a clear methodology, a listing of all existing structures potentially useable as accessory dwelling units, photographs, maps, and a brief overview of the structures' physical condition at the time. In addition to the July 2006 document, the single page (numbered "73") from the 2012 *Healthy Communities* study addressing the value of accessory dwelling units in Cape Charles is also attached.

Discussion

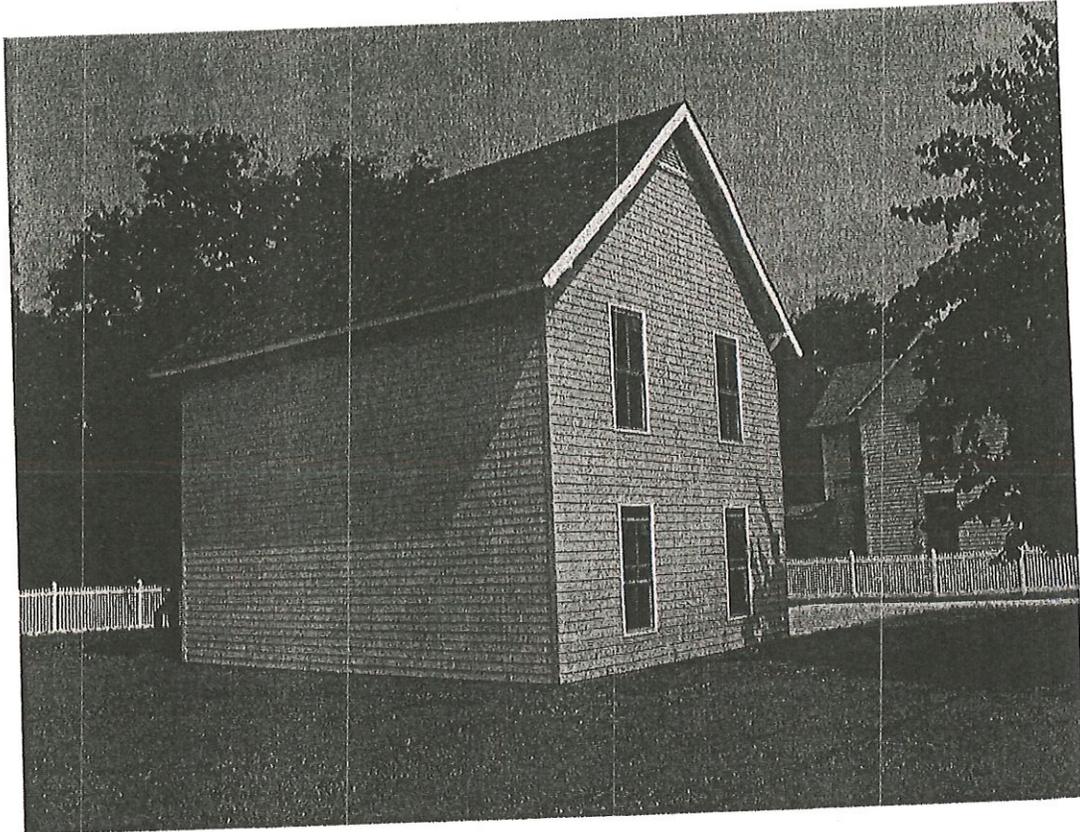
This document is descriptive\narrative in nature. The document draws a conclusion\nimplication from the data collected, that being "The large majority of units documented in town are in no condition to be used as an accessory apartment." Some structures may be useful for that purpose, however. The document also finds residents' support for such units if they are regulated and do not become injurious to neighboring properties.

Recommendation

Staff recommends that the Planning Commission classify this study as valuable for current and future planning, and direct staff to update the 2006 study using both the existing data and that document's methodology. The anticipated time and materials commitment are understood to be within the typical functions of the planning department and will not incur any additional costs on the Town. Staff further recommends that the updated study be narrowed to accessory structures of three-hundred and fifty (350) square feet and greater, considering the proposed accessory dwelling unit draft language completed by the Commission in 2015.

ACCESSORY UNIT STUDY

CAPE CHARLES, VA
JULY 2006



CONTENTS

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- CATEGORIES AND DATA
- AGGREGATE FINDINGS
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METHODOLOGY

This survey was completed by cataloging all accessory buildings in the historic district of the town of Cape Charles. Observations were made by walking along the sidewalks and through the alleyways of all blocks in town. All buildings less than 200 square feet in area were excluded from the study. Photos were taken to provide visual reference for every unit and are available upon request. Information on each unit can be found in the Index section of this report. Please note that the findings of this survey are not 100% accurate as much of the information is based on guessing and estimating. However, the maps and data do provide a reasonably accurate depiction of the current state of accessory units in town.

CATEGORIES AND DATA

Seven different statistics were noted for each accessory unit. Among them is the street address, building square footage, number of stories, number of lots the unit is situated on, elevation from the ground, livability rating, as well as a brief description. Statistics can be found for each building in the index section of this report. Detailed explanations follow.

Categories	Descriptions
Street Address	<i>Self-explanatory (note: several units have no address)</i>
Square Footage	<i>Footprint of the building (measured in square feet by estimation)</i>
# of Floors	<i>Self-explanatory (ranges from 1 to 2.5)</i>
# of Lots	<i>How many parcels on which the property is situated</i>
Elevation	<i>Measured from the ground up (for purposes of flood plain reg.)</i>
Livability Rating	<i>Potential for one to occupy the unit at the present time (Scale: 1-5)</i>
Description	<i>Primary usage and condition of the unit along with other comments</i>

AGGREGATE FINDINGS

There are a total of 141 accessory units in the town of Cape Charles that are greater than 200 square feet in area. Most of these are old garages and sheds or workshops. Very few of them are actually capable of serving as an accessory apartment at present. However with renovation, possibilities exist. The livability ranking is perhaps the most important of these statistics. Of these units, only about 20, or 14% of the total are ranked as potentially livable or extremely livable at the present time. These units are usually situated above a garage in the backyard of a property, although others are situated at ground level and are possibly in violation of building code and flood plain regulations. The tables below represent the findings of this study.

<i>Number of Floors</i>	<i>Number of Floors (avg: 1.38)</i>	
	<i>Number of Units</i>	<i>Percentage of Total Units</i>
1	118	84%
1.5	17	12%
2	5	4%
2.5	1	1%

Square Footage of Accessory Units (avg: 328.4)		
<i>Square Footage</i>	<i>Number of units</i>	<i>Percentage of Total Units</i>
200 sq ft +	62	44%
300 sq ft +	33	23%
400 sq ft +	27	19%
500 sq ft +	8	6%
600 sq ft +	9	6%
700 sq ft +	2	1%
Total	141	100%

Livability Ranking (avg: 2.092)		
<i>Livability Ranking</i>	<i>Number of Units</i>	<i>Percentage of Total Units</i>
1 – extremely unlivable	56	40%
2 – unlivable	50	35%
3 – unlikely	15	11%
4 – potentially livable	6	4%
5 – extremely livable	14	10%

DISTRIBUTION OF CHARACTERISTICS

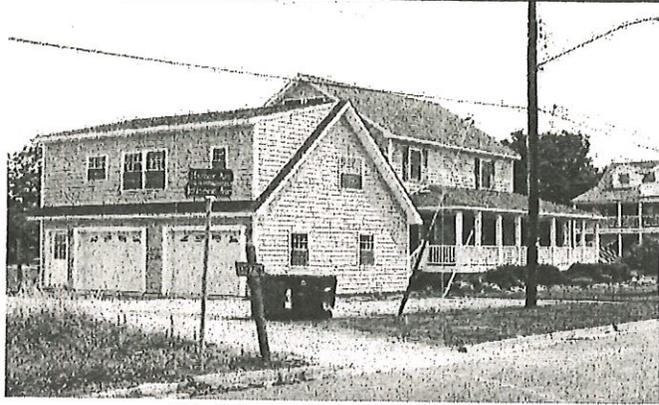
Accessory units are scattered all throughout the town. However, a high concentration of accessory units can be found on either block north of south of Monroe Avenue, as those blocks have alleyways. The northern-most row of blocks has the smallest concentration of units, especially those four blocks directly north of the old school grounds.

IMPLICATIONS FOR ACCESSORY APARTMENTS

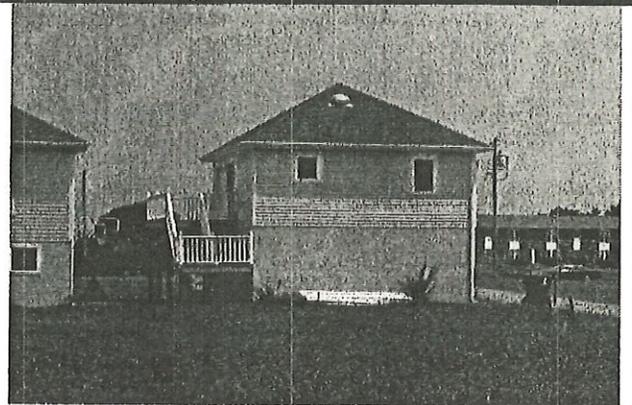
The large majority of units documented in town are in no condition to be used as an accessory apartment. They simply do not have the required water, gas, and sewage connections. However, there are a handful of units that show potential for renovation and future use. And there are a handful of units that are brand new and seemingly built for the purpose of renting. This being said, the total number of units rated as livable is small: 20 at the absolute most, with likely no more than 10 actually being lived in. An informal survey of town residents concluded that most are in favor of permitting accessory apartments, so long as they do not disturb the peace.

Many young people who work in town but live out of town voiced complaints of high rent. Accessory apartments can potentially serve as a source of affordable housing for these people. And they can also provide supplemental income for homeowners. Furthermore they can serve to increase the population of the town, which was previously five times greater than it is now, thereby increasing economic activity. In addition, living and working in the same location makes travel easier for many people who work in town and do not drive. Many people are reasonably concerned about accessory apartments, but if these units conform to proper standards, they can be a welcome addition to the town.

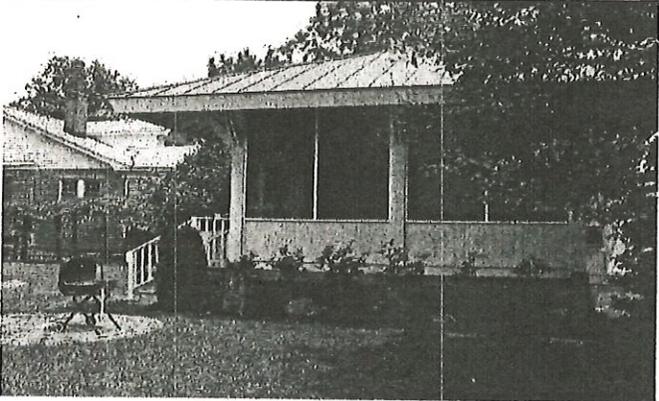
Potentially Livable Accessory Units



ID # 122 (601 Pine Street)



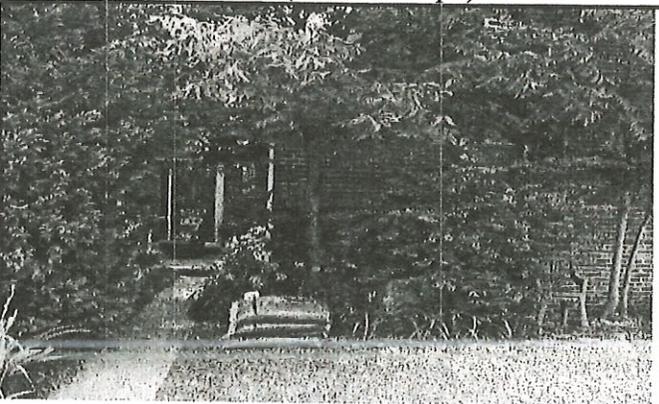
ID # 121 (504 Bay Avenue)



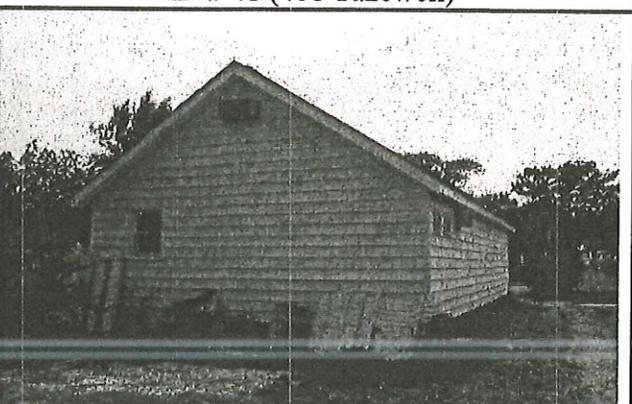
ID # 21 (106 Randolph)



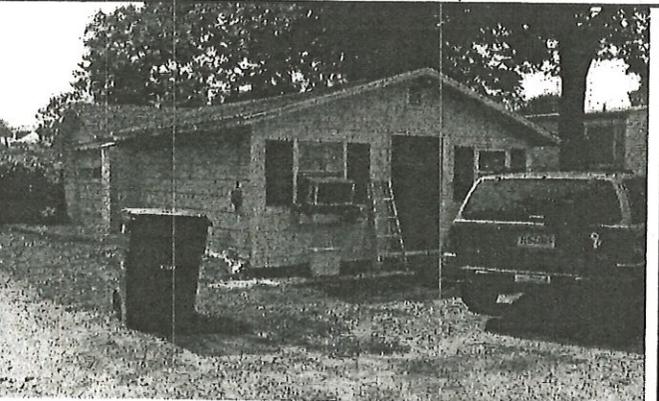
ID # 41 (408 Tazewell)



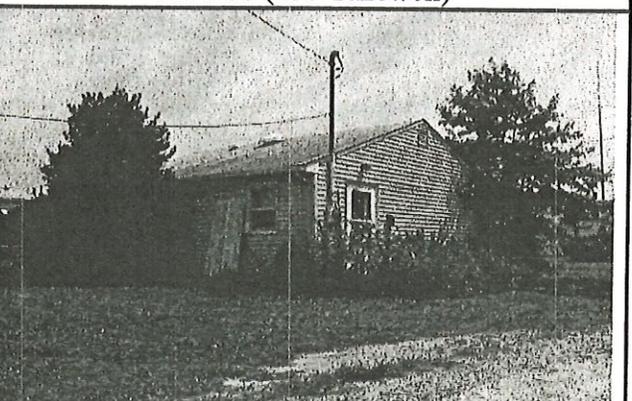
ID # 76 (409 Tazewell)



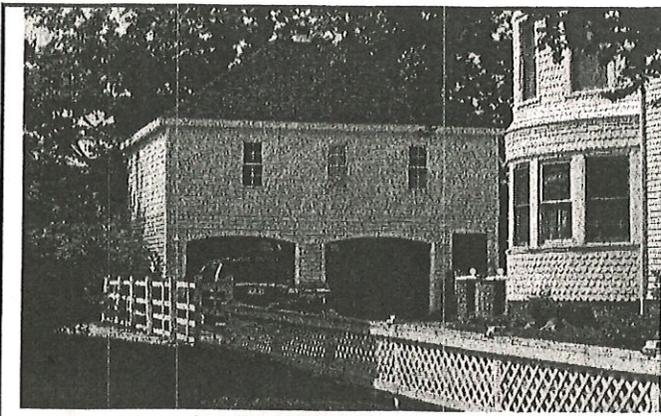
ID # 77 (430 Tazewell)



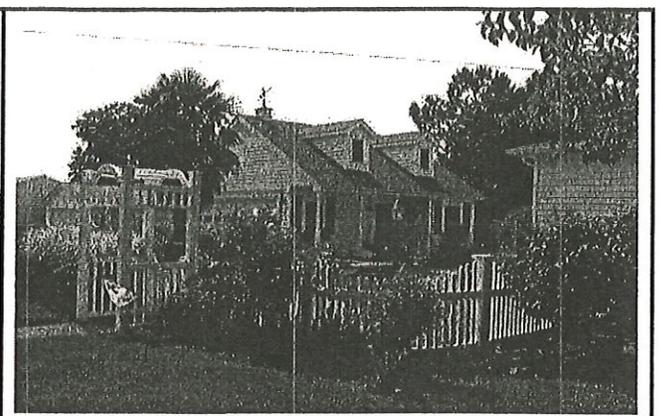
ID # 84 (212 Monroe)



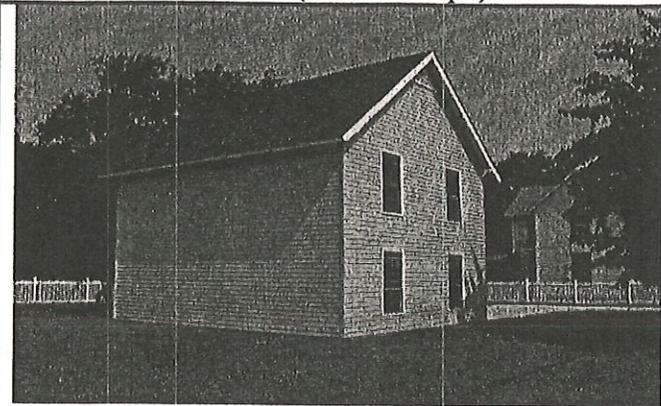
ID # 204 (206 Jefferson)



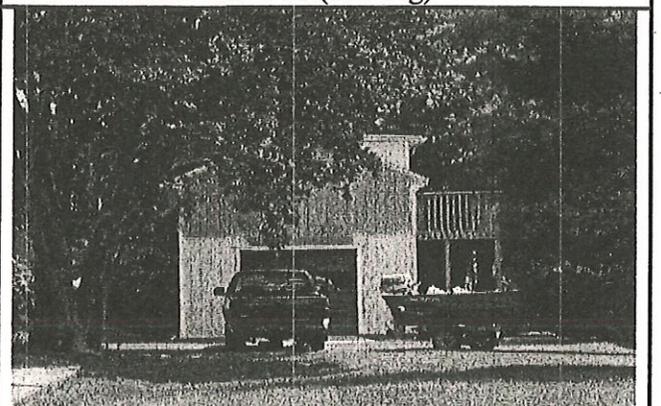
ID # 35 (630 Randolph)



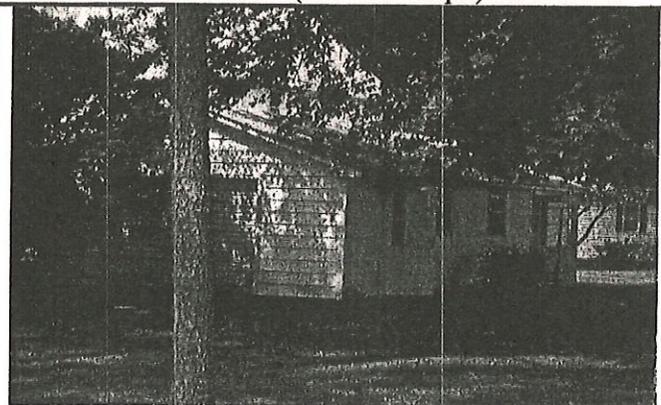
ID # 31 (118 Fig)



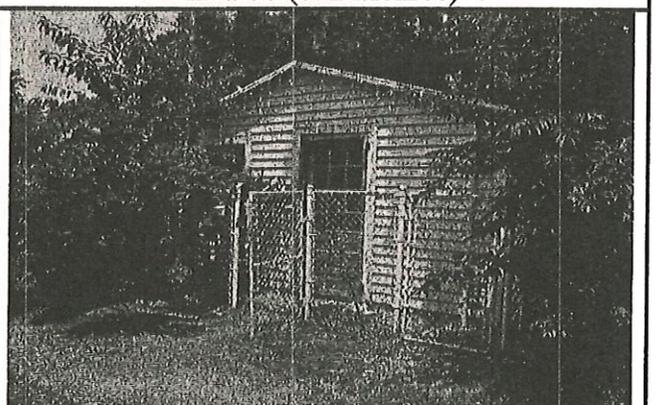
ID # 30 (639 Randolph)



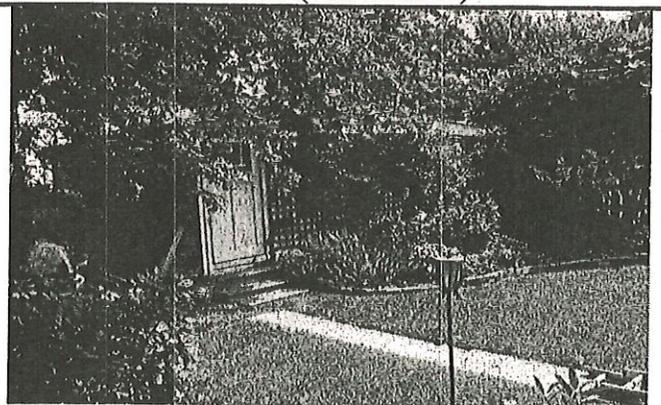
ID # 57 (632 Monroe)



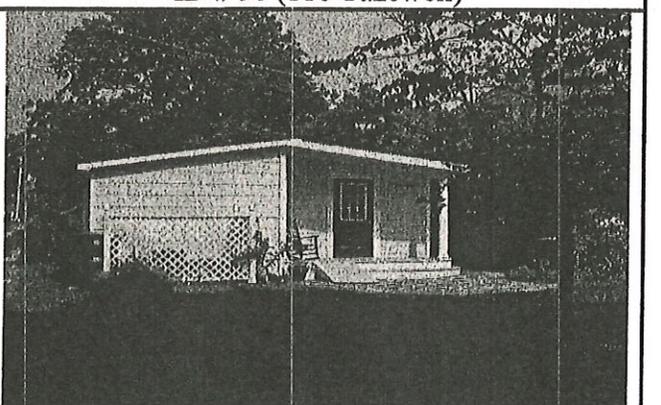
ID # 33 (704 Monroe)



ID # 50 (116 Tazewell)



ID # 100 (501 Monroe)



ID # 88 (101 Tazewell)

Cape Charles Accessory Units

0 0.05 0.1 0.2 Miles



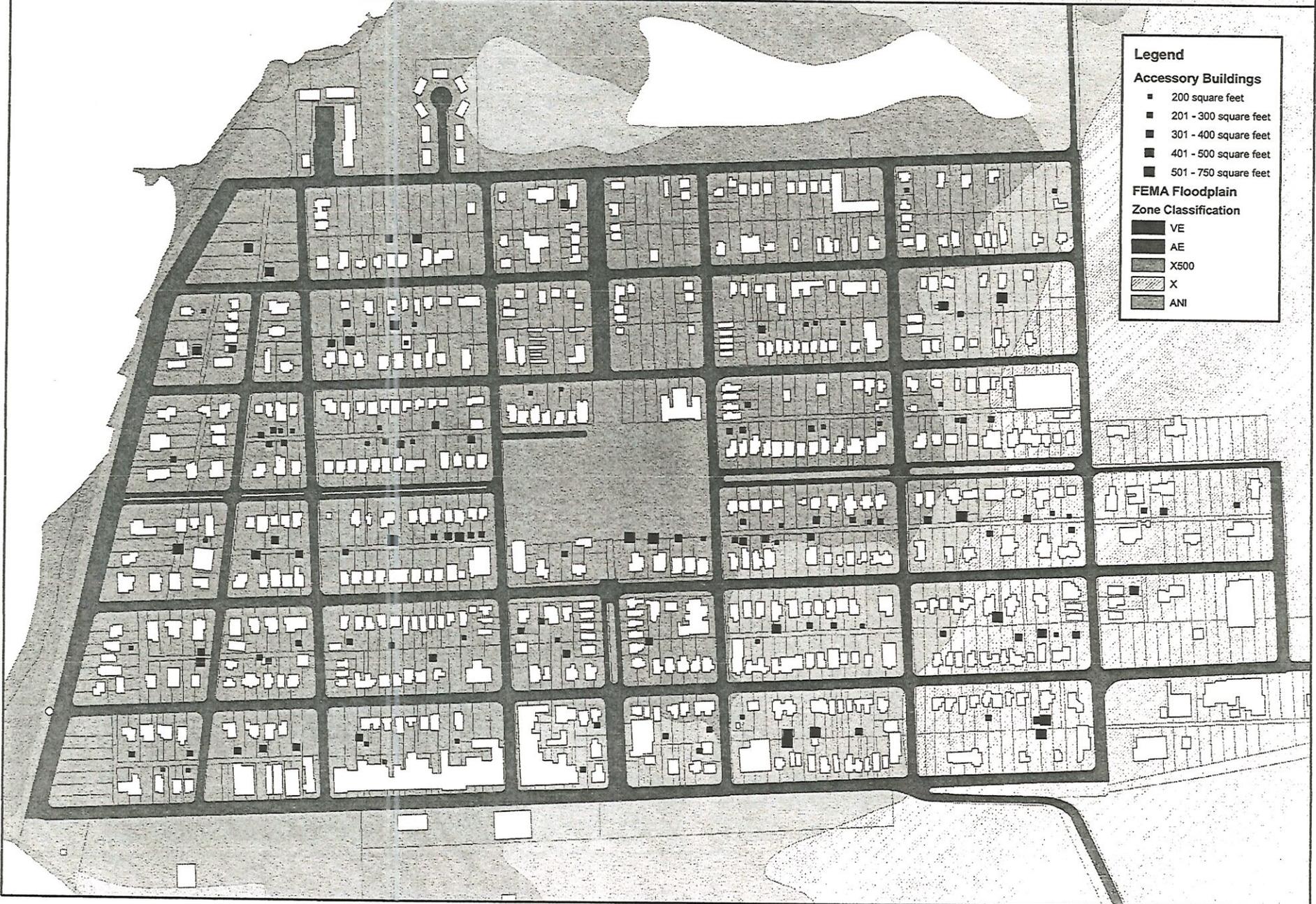
Legend

Accessory Buildings

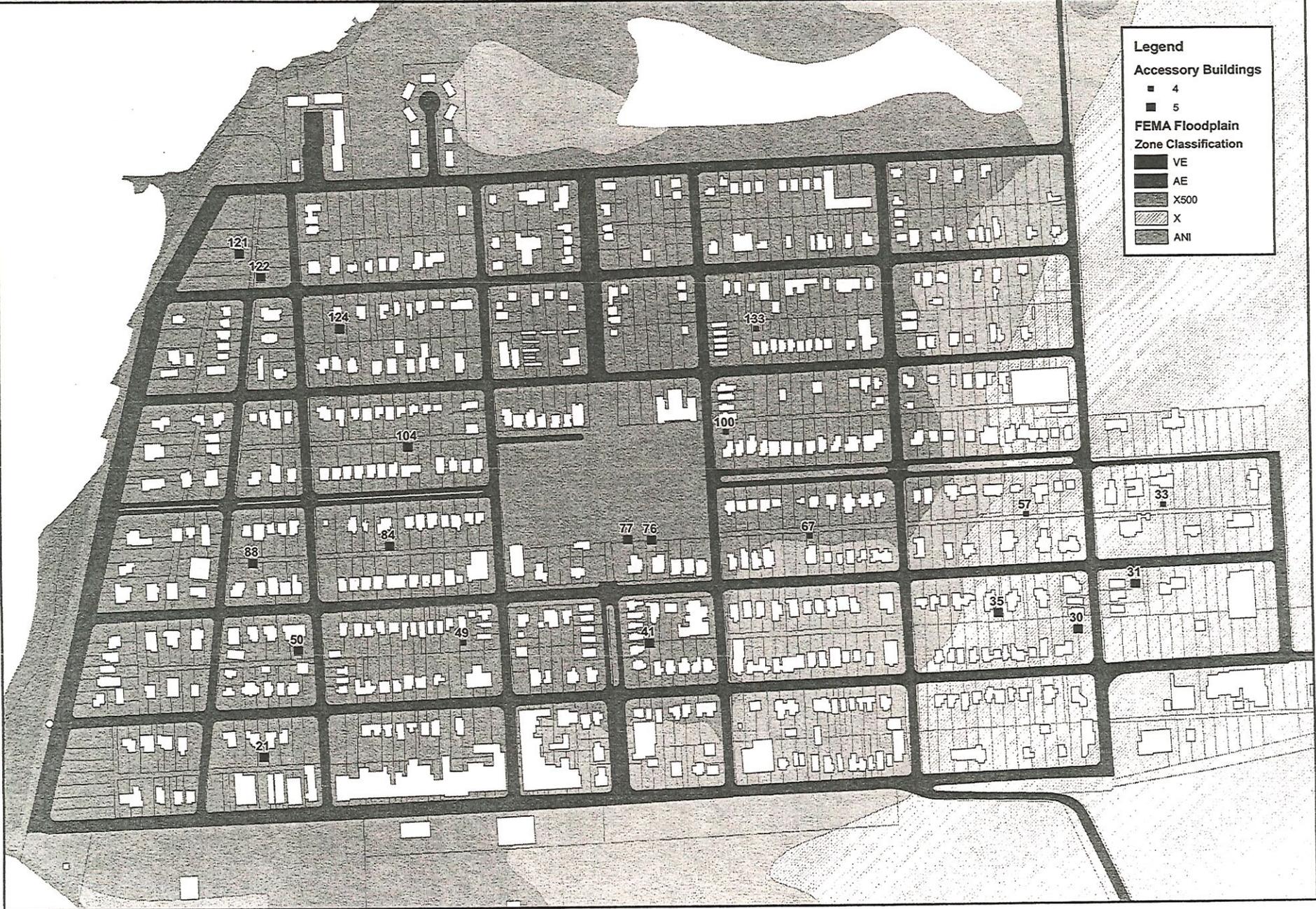
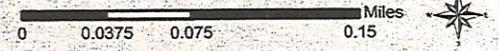
- 200 square feet
- 201 - 300 square feet
- 301 - 400 square feet
- 401 - 500 square feet
- 501 - 750 square feet

FEMA Floodplain Zone Classification

- VE
- AE
- X500
- X
- ANI



Cape Charles Accessory Units with a 4 or 5 Livability Rating



Legend

Accessory Buildings

- 4
- 5

FEMA Floodplain Zone Classification

- VE
- AE
- X500
- X
- ANI

Index of Accessory Units

ID #	ADDRESS	SQ.FT.	HEIGHT	LOTS	ELEV	RATING	COMMENTS
1	519 Mason	600	1.5	1	0	3	workshop - good condition
2	520 Randolph	450	1	1	0	2	tool shed - average condition
3	530 Randolph	750	1.5	1	1	3	large unit - unknown use - average condition
4	544 Randolph	400	1	1	0	2	large garage/shed - average condition
5	506 Randolph	200	1	1	0	1	poor condition - lot for sale
6	635 Mason	550	1	2	0	2	large boat garage - lot for sale - good condition
7	642 Randolph	700	1	2	0	3	shed - good condition - multi-use facility
8	642 Randolph	400	1	2	0	1	two car garage - average condition
9	622 Randolph	250	1.5	1	0	2	small shed - poor condition - very quaint
10	428 Randolph	250	1	1	0	1	two car garage - poor condition
11	433 Mason	250	1	2	0	2	new garage - very small
12	408 Randolph	300	1	1	0	1	old garage - poor condition
13	340 Randolph	250	1	1	0	2	old tool shed - average condition
14	329 Mason	250	1	1	1	1	lawn mower shed - good condition
15	240 Randolph	200	1	4	1	1	small tool shed - quaint - good condition
16	225 Mason (?)	200	1	1	1	2	small tool shed - quaint - good condition
17	212 Randolph	400	1	1	0	2	two car garage - good condition
18	212 Randolph	200	1	1	0	2	small tool shed - average condition
19	114 Randolph	350	1	1	0	2	brand new garage - good condition
20	102 Randolph	350	1	2	0	2	old garage and tool shed - average condition
21	106 Randolph	400	1	2	3	5	brand new large garage/loft - ready for living
22	10 Randolph	300	1	2	0	1	old two car garage - poor condition
23	3 Mason	200	1	2	0	2	old garage - poor condition
24	7 Mason	200	1	1	0	1	old two car garage - poor condition
25	2 Randolph	250	1.5	2	0	2	two car garage - average condition
26	661 Randolph	300	1	1	0	3	shed - good condition
27	633 Randolph	400	1	1	0	1	old two car garage - poor condition
28	641 Randolph (?)	500	1.5	1	2	1	old overgrown shed/garage - behind old blue house
29	645 Randolph	200	1	1	0	1	old garage - poor condition
30	639 Randolph	350	2.5	3	8	5	two car garage with loft - new - ready for living
31	118 Fig	450	1.5	2	1	5	garage and loft - home behind a home - ready for living
32	300 Fulcher	300	1	3	0	3	garage/shed - good condition
33	704 Monroe	400	1	2	0	4	garage/shed/workroom - good condition - homelike
34	702 Monroe	250	1	2	1	2	mower and tool shed - good condition - homelike
35	630 Tazewell	600	2	2	8	5	two car garage and loft - new - ready for living
36	542 Tazewell	200	1	1	0	2	old brick shed - good condition
37	534 Tazewell (?)	250	1	1	0	2	old concrete shed - average condition
38	526 Tazewell	250	1	1	0	2	small garage - average condition
39	518 Tazewell	450	1	1	0	1	old wooden shed - average condition
40	509 Randolph	200	1	1	0	1	new tool/ mower shed
41	408 Tazewell	400	1	1	0	5	backyard apartment - good condition - ready for living
42	327 Randolph	400	1.5	2	0	2	large shed - average condition - homelike
43	314 Tazewell	200	1	2	0	3	small quaint tool shed - average condition
44	304 Tazewell	250	1	1	0	2	two car garage - average condition
45	314 Tazewell	250	1	2	0	2	two car brick garage - good condition
46	235 Randolph	350	1	2	0	1	old run-down garage - poor condition
47	206 Tazewell	250	1	2	0	2	small mower shed - good condition
48	222 Tazewell	300	1.5	1	0	2	garage and shed - good condition
49	244 Tazewell	200	1.5	1	0	4	tiny new shed - homelike
50	116 Tazewell	250	1	1	0	5	small shed/apartment - ready for living

Index of Accessory Units

ID #	ADDRESS	SQ.FT.	HEIGHT	LOTS	ELEV	RATING	COMMENTS
51	119 Randolph	250	1	2	0	1	garage - good condition
52	105 Randolph	250	1	2	0	1	shed - average condition
53	11 Randolph	450	1	1	0	3	garage and workshop - good condition
54	10 Tazewell	350	1	1	0	1	two car garage - average condition
55	108 Bay	200	1	1	0	2	small garage - new
56	653 Tazewell	300	1	2	0	1	old garage - poor condition
57	632 Monroe	400	2	2	0	4	garage and loft - good condition - potentially ready for living
58	645 Tazewell	250	1	2	0	1	old wooden mower and tool shed - average condition
59	644 Monroe	200	1.5	2	0	1	brick garage - good condition
60	606 Monroe	350	1.5	1	0	1	two car garage - average condition
61	616 Monroe	600	1	2	0	2	old shed with homelike appendage - poor condition
62	654 Monroe	200	1	1	1	1	old shed - poor condition
63	552 Monroe	300	1	2	0	1	large brick garage - average condition
64	548 Monroe	200	1	2	2	3	new shed
65	542 Monroe	250	1	1	1	1	small garage - average condition
66	522 Monroe	350	1	1	0	2	large new garage
67	529 Tazewell	400	1.5	2	0	4	large new garage - potentially with loft above
68	515 Tazewell (?)	200	1	1	0	1	old run-down shed/garage
69	510 Monroe	200	1	3	0	1	old garage - poor condition
70	511 Tazewell	350	1	1	0	1	small old garage/shed - poor condition
71	504 Monroe	250	1	1	0	2	garage/shed - average condition
72	507 Tazewell	350	1	1	0	1	old garage - average condition - homelike
73	501 Tazewell	300	1	1	0	3	small shed - good condition
74	425 Tazewell	200	1	1	0	1	small shed - average condition
75	415 Tazewell	400	1	1	1	3	two units under construction - usage unknown
76	409 Tazewell	600	1	2	0	5	small brick home - good condition - ready for living
77	430 Tazewell	600	1.5	2	0	5	small home behind a home - good condition - ready for living
78	300 Tazewell (?)	300	1	1	0	1	old shed/garage - poor condition
79	240 Monroe	250	1.5	1	0	1	garage/shed - average condition
80	200 Monroe (?)	300	1	1	0	2	large garage - good condition
81	224 Monroe	450	1.5	1	0	2	garage/shed - average condition - homelike
82	222 Monroe	350	1	1	0	2	large garage - good condition
83	220 Monroe	250	1	1	0	2	small garage - good condition
84	212 Monroe	600	1	2	1	5	large garage - good condition - ready for living
85	207 Tazewell	300	1	2	1	2	old wooden shed - average condition
86	113 Tazewell	400	1	1	0	3	large garage - good condition - other unknown space
87	106 Monroe	350	1	1	0	2	small garage - good condition
88	101 Tazewell	450	1	2	2	5	small new workshop/potentially ready for living
89	200 Harbor (?)	600	1	2	0	1	multiple garages for apartment complex - good condition
90	8 Monroe	200	1	1	0	1	small garage - good condition
91	627 Monroe	300	1	1	0	2	small shed - poor condition
92	619 Monroe	300	1	2	0	1	small garage/shed - average condition
93	615 Monroe	200	1	2	0	2	small shed - good condition
94	606 Madison	200	1	1	0	2	small shed - average condition
95	555 Monroe	200	1	1	0	3	new garage/shed
96	535 Monroe	200	1	1	1	2	small shed - good condition
97	527 Monroe	300	1	1	0	1	overgrown shed - poor condition
98	420 Plum	300	1	1	0	1	old shed - poor condition
99	505 Monroe	300	1	1	0	1	old shed - average condition - lot for sale
100	501 Monroe	300	1	1	1	4	small home behind a home - good condition - ready for living

Index of Accessory Units

ID #	ADDRESS	SQ.FT.	HEIGHT	LOTS	ELEV	RATING	COMMENTS
101	7 Park	200	1	1	0	1	small shed - good condition
102	3 Park	200	1	1	0	1	old shed - poor condition
103	221 Monroe	350	1	1	0	1	large garage - poor condition
104	217 Monroe (?)	200	2	1	0	5	brand new apartment/shed - ready for living
105	218 Madison	350	1	1	0	1	old shed - poor condition
106	215 Monroe	400	1.5	2	0	2	old shed - average condition
107	208 Madison	200	1	1	0	1	old shed - average condition
108	213 Monroe	400	1	1	0	2	large garage - average condition
109	211 Monroe	300	1	1	0	1	small garage - average condition
110	207 Monroe	200	1	1	0	1	old garage/shed - poor condition
111	100 Madison	200	1	1	0	1	small garage - average condition
112	109 Madison	250	1	1	0	2	small shed - good condition
113	102 Madison	200	1	1	0	1	two car garage - average condition
114	109 Monroe	250	1	1	0	2	small shed - average condition
115	104 Madison	250	1	1	0	1	small shed - good condition
116	106 Madison	250	1	1	0	1	small garage - average condition
117	306 Bay	300	1	2	0	1	large garage - average condition
118	404 Bay	450	1	2	0	3	huge garage - good condition
119	408 Bay	200	1	2	0	2	small garage - good condition
120	3 Madison	400	1	2	0	2	small garage/workshop - good condition
121	504 Bay	500	2	1	8	5	brand new garage/loft - ready for living
122	601 Pine	500	2	1	8	5	brand new garage/loft - ready for living
123	201 Madison	400	1	2	0	2	large garage - average condition
124	206 Jefferson	400	1	2	0	5	apartment behind a home - ready for living
125	205 Madison	500	1	1	0	2	large garage/shed - average condition
126	214 Jefferson	200	1	1	0	2	small garage - good condition
127	218 Jefferson	500	1	1	0	2	old shed - poor condition
128	213 Madison	650	1.5	1	0	1	old shed - poor condition
129	222 Jefferson	200	1	1	0	2	small garage - average condition
130	225 Jefferson	400	1	2	0	3	large garage - good condition
131	217 Jefferson	500	1	0	0	2	large garage - good condition
132	310 Washington	450	1	2	0	3	large garage/loft - good condition
133	509 Madison	400	1	1	0	4	large apartment/shed - average condition
134	529 Madison	200	1	1	1	2	small shed - good condition
135	519 Madison (?)	200	1	1	0	1	small shed - average condition
136	533 Madison	200	1	1	0	1	old shed - poor condition
137	615 Jefferson (?)	500	1	1	0	1	large garage - poor condition
138	625 Madison	300	1	1	2	1	old shed - poor condition
139	624 Jefferson	600	1	1	1	1	old abandoned apartment - poor condition
140	616 Nectarine	200	1	1	1	1	small garage - poor condition
141	609 Fig	200	1	2	0	2	old shed - poor condition
	Summary Avg	328	1.11	1.38	0.42	2.09	

Accessory Dwelling Units

Maximize density while retaining historic character

3



Above: New construction in Conway, Arkansas, includes beautifully scaled Accessory Dwelling Units to allow a rental income or studio.

Inset: The alleys overlooking the park are an ideal location for Accessory Dwelling Units and would place “eyes on the park.” Parks and open spaces increase land values and, at present, Cape Charles is not leveraging this investment or placing eyes on the park. Accessory Dwelling Units would allow home owners to earn extra income by turning them in to summer rentals or provide a work-live studio space for artists. Communities often require the owner occupy either the main home structure of the accessory dwelling unit in order to establish community and prevent massive vacancies off-season.

Planning Commission Staff Report

From: Larry DiRe 
Date: February 7, 2017
Item: 5d – Animal tethering ordinance
Attachments: None

Item Specifics

At their November 3, 2016 work session, the Town Council reviewed the draft language and staff reports submitted to the Planning Commission as part of proposed change to the Town's animal tethering ordinance. The current animal tethering ordinance makes it illegal to tether an animal for more than twelve hours during any twenty-four hour period. The minutes of that Council work session are as follows:

Animal Pens and Tethering in the Residential Districts Larry DiRe stated that this issue was brought to the Planning Commission's attention by public comments received at a meeting, along with photographs depicting unsanitary and unhealthy conditions of a neighborhood dog pen. The town's zoning ordinance addressed accessory buildings which were typically sheds and garages, but a dog pen could also be considered an accessory building. The Planning Commission proposed the addition of language regarding dog pens to the accessory building section of the zoning ordinance which would enable regulation of dog pens as an accessory building. The tethering of animals was addressed in the Town Code which stated that an animal could not be tethered for more than twelve hours but there was no mention regarding attended or unattended tethering. Council was agreeable to the proposed text amendment to the zoning ordinance regarding dog pens but suggested additional language regarding the size of the dog pen proportioned to the size of the dog. There was some discussion regarding the tethering law as follows: i) Council agreed that twelve hours was too long of a timeframe. A number of alternate time limits were discussed but Council agreed that any time limit would be difficult to enforce unless an officer sat at a property to observe and record the time that a dog was tethered. If a citizen were to make a complaint to the county animal control, it would be the citizen's responsibility to follow through to obtain a warrant, etc.; ii) Larry DiRe informed Council that he received three complaints in the spring. The most recent complaint was received in August and the individual was going to address Council at a meeting, but never came; iii) Northampton County used the state regulations for animal control enforcement and the county animal control officer was the only officer with the authority to remove a dog from a residence; iv) Councilman Natali read language from Fairfax County regarding tethering which was drafted based on language from the city of Richmond; v) There were a lot of legitimate reasons to tether a dog for a short period of time that were not inhumane; vi) Mayor Proto stated that Council was in agreement with the issue but more work was needed before the issue could be finalized. It was suggested that the Planning Commission obtain input from the Northampton County Animal Control office as well as reviewing the language from Fairfax County and the city of Richmond.

The Council also directed staff to see the Fairfax County animal tethering ordinance which reads in part:

"It shall be unlawful for any person to tether a dog for more than one hour cumulatively within any 24 hour period, whether or not the tethered dog has been provided adequate space as defined in the Code of Virginia, § 3.2-6500, as amended, unless the dog is under the direct supervision and control of its owner or custodian."

Previously the Planning Commission looked at the City of Suffolk's ordinance which in part states: *"It shall be unlawful to tether any unattended dog whether or not the dog has been provided adequate space. A violation of this section shall be punishable as a class 4 misdemeanor."*

Discussion

There is broad consensus around amending the current tethering ordinance. It is true that there are legitimate reasons to tether an animal for short periods of time that do not constitute inhumane treatment. Unlike the larger and more complex public organizations like Fairfax County and the City of Suffolk, Cape Charles has limited resources and cannot have every residential unit under direct scrutiny to ensure that no animal is tethered at any time, whether that animal is attended or not. Such limitations make strict, time-based regulations difficult to enforce. Also, such short time-based legislation makes no distinction about the larger context of the tethering. For example, an animal tethered in the mid-morning hours of an otherwise beautiful April day is unlikely to experience the same level of distress of an animal tethered in an unshaded yard during the mid-afternoon hours on the hottest day in July. The Suffolk and Fairfax legislation, arguably improvements over the current Town ordinance, recognize time duration as the unit of analysis and not a broader context. For Cape Charles, an improved, more humane-based animal tethering ordinance may consider stricter regulations during those seasonal times of heat and cold. Less strict regulations may apply during temperate seasons. Additionally, Cape Charles sees a regular summer season population increase due to people using beach houses and summer rentals. Frequently these occasional residents and guests bring their pets with them and is it not surprising that these pets are left outdoors while their owners are at the beach, or otherwise out. Such occasional residents need to be recognized as a target population for education about any changes to the animal tethering ordinance.

Recommendation

Staff recommends that the Planning Commission consider text recognizing various outdoor weather conditions and a seasonal-based approach to ensuring that tethered animals do not lapse into a dangerous situation. The existing ordinance language may be appropriate for the March 1 through May 31 and September 1 through December 15 time periods. Shorter attended and unattended tethering time durations of up to four hours, for example, may be appropriate for times of excessive heat and cold.