



TOWN COUNCIL & PLANNING COMMISSION

Joint Public Hearing

Cape Charles Fire Hall

June 5, 2012

6:00 p.m.

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

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

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

PUBLIC COMMENTS:

Deborah Bender, 300 Fulcher Street

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

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

Roger Munz, 315 Harbor Avenue

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

George Southern, 104 Monroe Avenue

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

Town will require an increase in space for community services, therefore, the Town plans include the restoration of the Cape Charles School as an adaptive reuse to preserve this structure, establishing a community center, relocating the Library to a larger space, relocating the Town offices” etc. Read in context, the Comprehensive Plan clearly saw a public adaptive reuse of the school not its conversion to an apartment house. Mr. Southern added the he would give his remaining remarks during the Planning Commission meeting comment period.

Dorie Southern, 104 Monroe Avenue – Please see attached.

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

Lisa Harman, 104 Madison Avenue

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

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

Victor Abrahamian, 213 Monroe Avenue

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

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

Lenora Mitchell, 309 Tazewell Avenue

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

Veann Duvall, 110 Tazewell Avenue

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

Tim Krawczel, 409 Nectarine Street

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

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

Daniel Burke, 516 Madison Avenue

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

Linda Burke, 516 Madison Avenue

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

Frank Wendell, 515 Monroe Avenue – Please see attached.

Kevin E. Martingayle, Attorney representing Old School Cape Charles

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

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

Denis Pickron, 501 Monroe Avenue

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

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

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

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

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

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

Vice Mayor Bannon

Vice-Chairman McCoy

Town Clerk

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

Dorie Southern, 104 Monroe Avenue

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

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

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

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

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

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

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

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

Karen Jolly Davis, 5 Randolph Avenue

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

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

The loss of the basketball court, which is intimately connected with the adjacent African American neighborhood, is a terrible blow to them, and to all the youth of whatever color who use the court. There is no provision in the Echelon contract for the developer to replace the court. If the town rebuilds it, the new court will cost tax dollars that we can ill afford. If the town doesn't replace it, Cape Charles will have lost its most-used youth sports facility.

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

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

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

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

Joy Pelletier, 1 North Park Row

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

But I’m off topic now.

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

Thank you for your time.

Frank Wendell, 515 Monroe Avenue

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

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

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

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

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

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

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

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

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