



**TOWN COUNCIL
PUBLIC HEARING
St. Charles Parish Hall
August 14, 2008
5:30 p.m.**

At approximately 5:30 p.m. Mayor Dora Sullivan called to order the Public Hearing on the Cape Harbor Project. In addition to Mayor Sullivan, present were Councilmen Bannon, Bennett, Burdiss, Elliott, Evans and Veber. Also in attendance were Town Manager Joe Vaccaro, Assistant Town Manager Heather Arcos, several members of staff and approximately 45 members of the public.

Mayor Sullivan announced that Public Comments would follow a presentation by Town Planner Tom Bonadeo on the Cape Harbor Conditional Use Application.

Town Planner Tom Bonadeo gave a presentation on the Cape Harbor Project regarding Section 3.9 C.6 – Multi-family dwellings, Section 3.9 C.7c – Hotel and Section 3.9 D.2b – Maximum permitted height per the ordinance. He stated that the hotel had been proposed at 120 rooms and the multi-family dwellings had been proposed at 425 dwelling units. He went to state that the Planning Commission had thoroughly reviewed the application and were recommending approval with twelve (12) conditions which were reviewed at the last meeting. He then turned the meeting over to Ms. Judy Morgan of Landmark Holdings, LLC.

Ms. Judy Morgan gave a short presentation reviewing the twelve (12) recommended conditions from the Planning Commission for the Cape Harbor Project as follows: i) The first phase will include construction of at least two (2) of the proposed underground parking facilities scheduled and thereafter, each subsequent phase shall include the construction of at least the underground parking facilities for that phase of the development; ii) The first phase shall provide for a temporary public pedestrian access to and along portions of the water during construction which shall be restricted in time and manner for public safety purposes and to protect ongoing construction process and equipment. After completion of the first phase, the access easement shall be dedicated to the Town for pedestrian access from Mason Avenue to the portions of the waterfront in front of the first phase. As additional phases of the development are completed, the pedestrian access easement shall be expanded to include the areas in front of the completed phase(s); iii) The walkway and parking along Mason Avenue shall be constructed in phases as shown in the architectural site plan submitted with the application as each phase is submitted for construction; iv) The parking along Mason Avenue will be developed as angle parking if approved by VDOT. If the proposed angle parking along Mason Avenue is not approved by VDOT, the applicant shall install parallel parking subject to VDOT approval; v) The applicant shall use several types of green technologies for the buildings within the project; vi) The Site Plan and Building Plans for each phase shall provide a minimum of 16' of vertical clearance for fire and emergency vehicles within all vehicular drive aisles; vii) The applicant will post a Bond or Letter of Credit to insure completion of improvements within the public right-of-way; viii) The maintenance of the property will be the responsibility of the owners, the condominium association and/or property owners' association created for those who own or reside on the property; ix) Construction traffic for each phase will be routed to Mason Avenue and construction parking will be prohibited on Mason Avenue; x) No commercial loading or unloading spaces shall be located on Mason Avenue; xi) These conditions shall run with the land and compliance with these conditions shall not be the responsibility of the individual unit

owners but shall be the responsibility of the condo association and/or property owners' association; xii) all internal drive aisles and traffic circles depicted on the Site Plan which run in a north and south direction shall remain unobstructed except for outdoor seating, public amenities, sculptures, art, landscaping and approved banners or awnings. She thanked the Town Council on behalf of Landmark.

Town Planner Tom Bonadeo read comments from the following citizens:

Jan Neville, 112 Randolph Avenue, requested Town Council to focus on the long term effects of granting variances/permits which violate the intent of the comprehensive plan and historic district guidelines. He requested the following be considered by the Council before approving the conditional use permit: i) Please change the fact that the requested variances/permits will convey with the property if it changes hands and could easily have unintended and undesirable consequences; ii) Hire a third party to conduct an independent assessment of this project's effect on the Town; iii) Address the comments presented by Steven Fox at a previous hearing; iv) Make public the results of the Cape Charles Town Officials' visit to Crisfield, MD.

Sara Baldwin expressed concerns about how this project will function, look and feel because it is larger in scale than any other area in Cape Charles and she was concerned about the additional traffic on Randolph Avenue. Ms. Baldwin agreed that it would be great to develop the property in question but stated her concerns regarding approving this project with the density and at the proposed height.

Gene Kelly and Colleen Kelley, 133 Mason Avenue, expressed their concern regarding the proposed height and the affect on the north side of Mason Avenue. They stated that by bringing the height levels down it would encourage a project that would not overwhelm the existing buildings on Mason Avenue. They went on to state that they would like to see Cape Charles develop and prosper but not at the expense of losing the small town charm that drew them here.

Sheri Reynolds, 226 Randolph Avenue, stated that the height is incompatible with the other structures in town and requested that the Town Council reject or require height modifications to the proposal.

Barbara Brown, 226 Randolph Avenue, encouraged the Town Council to reduce the size of the Cape Harbor Project stating the importance of keeping the character of the Town and to avoid additional empty structures.

Mollie Brooke Pickron stated that she did not feel that the scale of this project was appropriate for the size of this Town. She asked if Cape Charles would have 400+ more families move here or whether the new units would just sit empty.

Mr. & Mrs. Randy Smith, 3 Mason Avenue, expressed their concern about the proposed density on six (6) acres of land, building heights and the impact on the Harbor District and neighboring properties.

C. Michael & Julia Hellberg, Randolph Avenue, expressed their concerns regarding the following: i) The density proposed is too high for the acreage and the surrounding historic district; ii) Traffic and parking issues; iii) The proposed height is overpowering to the historic area and the Town.

June & Herbert Rinehart, 102 Randolph Avenue, stated that the property should not be developed but would best serve the citizens of Cape Charles as a public park and site for a Chesapeake Bay meteor museum. They went on stating that if the property must be developed, it should not be of the size, scope and density as proposed.

PUBLIC COMMENTS:

Suzanne Hallberg, 2 Randolph Avenue, stated that she is in favor of good development and feels that the Harbor Master Plan which was approved as part of the Comprehensive Plan is a good plan that is thorough and shows an understanding of the desires of the residents of Cape Charles. She went on to request that an independent, third party consultant be hired for a comprehensive impact study to insure that the health and safety of the residents of Cape Charles is not adversely affected.

Malcolm Hayward, 121 Strawberry Street, stated that he moved here as full-time residents for the way of life, the beauty, the harbor and beach. Landmark's job is maximizing their investment and they are not going away. The residents of the Town rely on the Town Council to use their good judgment and wisdom in making decisions and understand that the decision they make is not going to please everyone.

Wayne Creed, 548 Monroe Avenue, talked about the Eastern Shore being rich in history and asked about the archeological impact. He stressed that a Section 106 Review [of the National Historic Preservation Act (NHPA)] be conducted to preserve archeological finds on the property. The goal of this legislation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.

Andie Morgan, 10 Tazewell Avenue, stated that she thinks development on this property would be good for the Town but that this proposal does not fit in with the intent of any of the guiding documents for Cape Charles (Historic District Guidelines, Harbor Area Conceptual Master Plan, and Comprehensive Plan). She went on to express her concerns regarding the size, scale and height of the proposed development in comparison to the existing structures along Mason Avenue and in the Historic District. She also expressed her concern with this development in regards to the FEMA Flood Map ordinance. She requested the Town Council require the applicant to hire an outside expert or independent engineer, selected by the Town, to consult with the Town on this development as well as requiring the applicant to perform additional traffic studies including, but not limited to Randolph Avenue. The Town only has one shot at this new development and we need to insure that it's the right decision.

Sophie Harvey, 123 Peach Street, urged the Town Council to reject the project as currently proposed stating her concerns regarding the excessive density, height and pointed out that this proposed development would dwarf the other side of Mason Avenue. She stressed that the Comprehensive Plan should be used as the basis for regulating land use and development, which calls for protecting the historical character of the Town.

Lothar & Cornelia Hasselberger, 208 Harbor Avenue, stated that they did not find the plans unattractive but their concern is the financing, workability and rentability of the project. They looked on Landmark's website and saw several projects in other parts of the world, i.e. Budapest. Mr. Hasselberger commended the Town Council and Planning Commission on their research and due diligence in regards to this first major development in Town. He suggested the following: i) Should not start a project with massive exemptions from what has been put in place with the

Zoning Ordinance and the Comprehensive Plan, especially in regards to the height. A four-story plus building is not practical especially with the mostly one and two story buildings on the opposite side of Mason Avenue. It would create a massive imbalance; ii) The underground parking garage would be like a concrete ship and a flood insurance risk which could be cost-prohibitive to condo owners; iii) Hire an independent, third-party consultant in order to get an outside, objective viewpoint; iv) Please do the due diligence to check the financial health of the developer. Cape Charles cannot afford to create another ruin or just a hole in the ground.

Erin Harvey, 123 Peach Street, stated that this project would be the only large development in the heart of town, in the core of the historic area and is huge by Cape Charles standards. This development will dominate the view anywhere along Mason Avenue, whether you're shopping, fishing, on the beach, arriving by boat and even just walking down some of the residential streets. The mostly four and five-story buildings bear no resemblance to the buildings on the other side of the street where currently there is one (1) one-story building, four (4) three-story buildings, thirteen (13) two-story buildings and eleven (11) one-story buildings. If this development were a fraction of the size proposed, it would still be hugely profitable and would still offer the smart growth that our planning documents dictate. The Town needs more occupied residences and businesses, not just empty storefronts. Please continue to protect the heart of our community.

Bob Titcomb, 217 Mason Avenue, applauded the Town Council for diligently looking into this project and stated that the citizens of Cape Charles are fortunate to have this time to express their concerns. He stated that he watched Annapolis change, but they left their harbor intact with only one hotel. He feels that we have an "If we build it they will come" kind of thinking, but if we build it, they may not come. He referred to the development in Crisfield, MD and the height and the oppression of that development. He stated that right now, everyone can see the sunsets but he feels that they won't be able to see it after this development and he compared the development with a solar eclipse. He concluded by stating that the Accomack Board of Supervisors had to make similar decisions and they did what was legal, but we ask the Town Council to do what's right and proper for the Town of Cape Charles.

Mary Miller, Community Housing Committee in Eastville, requested information on whether the Cape Harbor Project was an inclusionary housing project which would include housing available to the county workforce and households at or below the median household income of approximately \$31K per year. Mayor Sullivan deferred the question to Ms. Morgan who replied that Landmark did not have any approvals yet. Ms. Miller restated the question to the Town Council asking whether there was any reference to inclusionary housing in the application being reviewed. Several of the Council members stated that to their knowledge there was no reference to inclusionary housing in the application.

Marshall Romeo Jr, 511 Arnies Loop, was concerned mainly with the ratio of residential units vs. commercial space and whether a town the size of Cape Charles could support the additional commercial businesses as proposed. He went to state that the added number of residential units could negatively affect the values of some of the residential properties currently on the market.

Richard Heal does not live in Cape Charles but comes here several times each week. He stated that he was walking along Mason Avenue this morning with the sun up and shining on all the buildings along Mason Avenue. He was concerned if four-story buildings were allowed, all sunlight would be lost on the south side of Mason Avenue until late afternoon. He was also concerned about the underground parking garage and stated that with 425 units, there would be

approximately 800 vehicles parked in the garage which would cause pollution because of oil and antifreeze from the vehicles that would have to be cleaned up. He feels that a two-story hotel would be fine but any taller, it would block the view and Bay Creek is planning a hotel along their beach eventually. He noted the disaster in Crisfield, MD which he predicts will be ghetto-like in 20 years. He recommends that if this project moves forward, the Town Council should stipulate a maximum height of 30' with a two-year timeframe for completion. He is afraid that if the developer is allowed to build in phases, with the current economy, it would take approximately seven or eight years for the project to be completed. He went on to state that he has seen developments built half way, then stopped and left unfinished. He also expressed his concern that the current sewage treatment plant could not handle the additional connections.

Dan Dougherty, 615 Tazewell Avenue, suggested, because of the massive size and financial impact on Cape Charles, a referendum to determine whether the residents are behind this project as presented by the Planning Commission. At one time, he was president of a condo association in Virginia Beach and he explained that condo associations collect fees and levy special assessments to maintain and/or repair the property which is an added burden to the condo owners especially with the underground parking garage. If approved, would this project set a precedent for other developers if they acquired properties on the east side of Mason Avenue? What happens if this project is not successful? The small town image of Cape Charles is what brought many people her and he would like to see it maintained. Growth is good, but it needs to be less dense and more consistent with the other structures on Mason Avenue.

Dave Burden, 507 Tazewell Avenue, stated that this evening he was speaking as the Virginia Eastern ShoreKeeper and his job was to be aware of threats to water quality on the Eastern Shore of Virginia. He stated that his main concern was the underground parking garage that is basically a tub that goes underground. He described the Chesapeake Bay Bridge Tunnel and amount of water that seeps into the tunnels by the hour that has to be pumped out. The parking garage will have similar problems with water seeping in that will mix with the rubber from tires, gasoline, radiator fluid, oil, etc. that we don't want to drain into the Bay. He applauded the Town Council's efforts in looking at a storm water management plan he asks that the Council keep in mind the potential affects on water quality in the Chesapeake Bay. He concluded by stating that he trusts the Council to consider all arguments and make a wise decision.

Betty Brown, owner of several properties in Cape Charles, explained that she has previously sat on tourism boards for other towns and she has learned that if you want to draw tourists to your town, don't make it look like the place they just left. Townships all over the nation are being approached by developers who want to build large developments for the public benefit. She stated that she fails to see the public benefit of this project. Everyone wants to see this land developed but does the Town really need these excess units? The audience has expressed a need for an impact statement by a third party. She feels very strongly about public interest and doesn't see where this project affords the Town anything that we don't already have.

Motion made by Councilman Burdiss, seconded by Councilman Evans and unanimously approved to adjourn the Public Hearing.

Mayor Sullivan

Town Clerk