



Planning Commission Staff Report

Agenda Title: Staff Report on Accessory Dwellings
Agenda Date: September 22nd, 2025
Prepared by: Jack Steinmayer, Zoning Compliance Officer
Reviewed By: Katie Nunez, Director of Planning/Zoning Administrator
Date: September 12, 2025

Type of Application: Discussion on possible Zoning Text Amendment Request
Applicant: Cape Charles Historic District Civic League
Site Address NA
Tax Map: NA
Zoning:
Proposal: Discussion on Zoning Text Amendment Request

Legal Deadline Requirements -

Date Application Received: -

Date Application Deemed Complete: -

For Planning Commission: -

**For Town Council
(Directory, not Mandatory)** Can act upon receipt of recommendation from Planning Commission; if PC fails to provide recommendation within the prescribed deadlines, it is deemed a favorable recommendation by the PC. The Town Council's maximum time frame is 12 months from when referred to the Planning Commission:

Background:

In 2016, when the Town undertook revising the Comprehensive Plan, one of the goals of the revision was to promote compatible infill development and renovation within established neighborhoods. Specifically, it called for the promotion of Accessory Dwelling Units to add a diversity of housing types, while maintaining the neighborhood character and providing affordable housing. During this review, it was found that 2 Accessory Dwelling Units were constructed before an ordinance was implemented.

Due to these updates to the Comprehensive Plan and the clear desire for more housing options, in November 2018, the Town of Cape Charles adopted Zoning Ordinance Section 4.2 (J) – Accessory Dwelling Units. Which stated the following:

Accessory Dwellings. One accessory dwelling may be maintained on a property in the R-E, R-1, R-2, and CR Zoning Districts, subject to the following:

- 1. Physical Characteristics.*
 - a. Accessory Dwellings shall be located in an accessory building,*
 - b. Accessory Dwellings shall not have a floor area exceeding forty-five percent (45%) of the floor area of the main building,*
 - c. Accessory Dwellings shall have one kitchen and one bathroom.*
 - d. Accessory Dwellings shall not have the appearance of a single-family dwelling*
- 2. Occupancy Characteristics.*
 - a. Length of Stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period of less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles, the owner of the subject lot of record shall provide occupancy documentation and/or information as requested in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the Conditional Use status for the Accessory Dwelling Unit, according to Article IV, Section 4.3.*
 - b. All Accessory Dwelling Units shall be billed as a water/sewer/trash account separate from the account for the main structure, and shall pay the minimum monthly account fee as set by the Town Council.*
 - c. An Accessory Dwelling may have a separate water meter from that of the main structure upon request by the property owner. If requested, the property owner shall pay all water and sewer utility connection fees as set by the Town Council. Metered Accessory Dwelling Units will receive a water/sewer bill based on the metered use, but not less than the minimum monthly account fee.*
 - d. All Accessory Dwelling Units shall have a separate trash can provided by the contract waste disposal company.*
 - e. All Accessory Dwelling Units shall be inspected annually, not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by the Town Council.*

3. *Other Requirements*

- a. *Accessory Dwellings located in accessory buildings may have a separate water meter from the principal dwelling.*
- b. *The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.*
- c. *Parking shall be considered on a case-by-case basis as part of the Conditional Use Permit Application process.*
- d. *Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic District Overlay.*

As a result of adopting Ordinance Section 4.2 (J), 13 ADUs were built after acquiring a Conditional Use Permit. However, after 4 years, the Housing Subcommittee recognized that the required Conditional Use Permit (CUP) Application process was burdensome on Town Staff. Due to this finding, it was determined that ADUs should be allowed as a By-Right Use as long as the property owner complied with the square footage requirements, parking requirements, and other necessary elements of an ADU.

Since changing from a Conditional Use Permit to a By-Right Use, only 2 ADUs have been constructed, and are currently used as long-term rental and workforce housing, respectively. These 2 ADUs have been reflective of the updated 2022 Comprehensive Plan, specifically addressing the following aspects of the Comprehensive Plan:

Housing – Accessory Dwelling Units (pg. 41)

The Town of Cape Charles adopted ordinances in February 2019 that permitted accessory dwelling units under certain conditions with adequate safeguards to protect the character of the existing residential neighborhood. This strategy is intended to develop new, moderate-cost rental housing while preserving the large, older homes and allowing more flexibility for elderly homeowner to stay in their homes. Among the conditions of approval for accessory apartments is that the accessory dwelling unit be “clearly subordinate to” the main unit. This is achieved by requiring that the unit be less than a specified percentage of the original house's square footage. In addition, these units cannot be rented for less than 30 days.

Housing – Rentals (pg. 45)

Two of the main reasons for introducing accessory dwelling units into Cape Charles were to increase the number of smaller units available for longer-term rental and to offer a lower rental cost based on these units being smaller in size.

Land Use & Community Design – Land Use and Design Policies (pg. 115)

Accessory dwelling units add diversity to housing types while maintaining the character and providing affordable options.

Narrative of Proposal:

On July 17th, 2025, the Town Council heard a proposed Zoning Text Amendment (ZTA) Request from the Cape Charles Historic Civic League for the possibility of continuing discussion on whether limiting the use of ADUs by property owners to long-term rentals has had an impact on the diversity of housing options for long-term rental and workforce housing. Furthermore, if this review of the ADUs shows that the Town has not met the intended long-term housing diversification it was seeking, then consideration should be given to a discussion that the use of ADUs permitted by right for long-term rentals be evaluated to also include short-term rentals in ADUs by right as an option.

At this same meeting, Town Staff recommended that Town Council review and discuss the proposed Zoning Text Amendment, and if deemed appropriate, approve the Resolution of Intent #20250717, thereby referring this matter to the Planning Commission for their consideration and recommendation to the Town Council related to the use of possibly allowing ADUs to be used as short-term rentals (STRs).

Aerial Map (if applicable):



***Green** indicates properties that have an ADU and **are using** the principal house as an STR

***Red** indicates properties that have an ADU and **are not using** the principal house as an STR

Staff Review:

After review of all applicable data on hand, Town Staff does not believe that adequate administration has taken place to recommend the proposed Zoning Text Amendment one way or another. Before 2025, there has not been a database that has tracked the number of accessory dwellings within the Town. Therefore, Staff may have missed some of the accessory dwellings that are in the Town.

Furthermore, ADUs were originally approved in Cape Charles to increase the number of smaller units available for long-term rental at lower costs, based on their smaller size. By converting them into short-term rentals, the Town would be abandoning its original reason for approving ADUs. If this proposed Zoning Text Amendment is approved, staff believes the best course of action would be to phase out the construction of ADUs entirely. The ones currently built would be grandfathered in, and no additional ADUs would be permitted once this ZTA is adopted.

Questions for Planning Commission Discussion:

1. If the prohibition of using ADUs as STRs is rescinded, what guardrails, if any, are going to be implemented to prevent ADUs from being constructed everywhere?
2. How can the Town make it more beneficial for property owners to rent their ADUs for long-term or workforce housing?
3. If the intention is to try to attract long-term housing options, are there other incentives that the Town should be examining to make it more attractive to the property owner? i.e, tax breaks.
4. What would be the impact on parking on the streets?
5. Trash impacts, if both the main house and ADU are being rented as an STR?
6. What is the administrative process to oversee the Civic Leagues proposal, in relation to picking and choosing which dwelling is going to be used as an STR?

Any other questions that the board would want to add to the discussion that have not been laid out above are welcome.

Attachments:

1. Zoning Text Amendment Application from Cape Charles Civic League