

# Planning Commission

## Regular Session Agenda

July 7, 2015

Cape Charles Civic Center – 500 Tazewell Avenue

6:00 pm

1. Call to Order – Planning Commission Regular Session
  - a. Roll Call – 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. Staff Report
5. Old Business
  - a. Draft Tourism Zone Ordinance review
  - b. Accessory Dwelling Units in residential district
  - c. Satellite Dish Ordinance review
6. New Business
  - a. Draft text amendment for “bedroom” definition
  - b. Proposed Bay Avenue reverse-angle parking drawings review
7. Announcements
8. Adjourn



**DRAFT**  
**PLANNING COMMISSION**  
**Regular Meeting**  
**Cape Charles Civic Center**  
**June 2, 2015**  
**6:00 p.m.**

At 6:00 p.m. Chairman Dennis McCoy, having established a quorum, called to order the Regular Meeting of the Planning Commission. In addition to Chairman McCoy, present were Commissioners Andy Buchholz, Dan Burke, Joan Natali, Sandra Salopek and Michael Strub. Commissioner Bill Stramm was not in attendance. Also in attendance were Town Planner Larry DiRe and Town Clerk Libby Hume. There was one member of the public in attendance.

**PUBLIC COMMENTS:**

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

**CONSENT AGENDA**

**Motion made by Michael Strub, seconded by Joan Natali, to accept the agenda format as presented. The motion was unanimously approved.**

The Commissioners reviewed the minutes for the May 5, 2015 Regular Meeting.

**Motion made by Joan Natali, seconded by Andy Buchholz, to approve the minutes from the May 5, 2015 Regular Meeting as presented. The motion was unanimously approved.**

**REPORTS**

Larry DiRe reported the following: i) The Historic District Review Board (HDRB) met on May 19<sup>th</sup> and approved four Certificates of Appropriateness (COA) one of which was for the chimney removal at the Civic Center. A grant application was submitted to the Department of Historic Resources to provide training workshops. The grant required no local funding match; ii) Town Council approved the Harbor Development Certificate for renovations to the former Northampton Hotel building at 1 Mason Avenue; iii) The Board of Zoning Appeals held a public hearing and meeting on May 21<sup>st</sup> and approved side yard, rear yard, and distance to main building setback variances for an accessory building on 119 Fig Street which was a non-conforming residential lot; iv) Staff continued with the Zoning Ordinance review and several items were on the agenda for review by the Commissioners; and v) Two zoning clearances were issued.

**OLD BUSINESS**

**A. Draft Tourism Zone Ordinance Review**

The Commissioners reviewed the revised language in the draft Tourism Zone Ordinance and there was much discussion regarding possible incentives and the criteria regarding the minimum value of capital improvements.

The Commissioners agreed that a set percentage of the portion of the paid tax (real estate, BPOL, etc.) would be reasonable regardless of the amount of the capital improvement. There was some discussion regarding a possible scale where the qualified business could receive a rebate of 50% of the appropriate tax paid for years one through five, 25% for the next several years, with the percentage being reduced up to a possible 20-year period.

After much discussion, the Commissioners felt that a minimum capital investment of \$2K would be reasonable. The current draft ordinance separated existing businesses from new businesses and seasonal businesses from full-time businesses. The Commissioners would discuss the need for separate categories further at the July meeting. Larry DiRe would also brief the treasurer of the discussion to obtain her input.

B. *Comprehensive Plan Comments*

Joan Natali recommended scheduling a Comprehensive Plan Work Session with Elaine Meil to review Councilman Bennett's comments. Libby Hume stated that she had emailed Ms. Meil regarding her availability on June 22<sup>nd</sup> but had not yet received a response. The Commissioners agreed to schedule a work session for Monday, June 22, 2015, beginning at 6:00 p.m.

**NEW BUSINESS**

A. *Accessory Dwelling Units in Residential District*

Larry DiRe stated that the current Comprehensive Plan promoted accessory dwelling units to add diversity of housing types and affordable housing options, however; the Town's Zoning Ordinance prohibited accessory buildings being used as dwelling units. Several years ago, the Planning Commission studied the issue and made a recommendation to allow accessory dwelling units as a conditional use but the Town Council voted not to allow accessory dwelling units. Copies of draft ordinance sections were included in the agenda packet for review.

There was much discussion regarding this topic and possible setback issues, minimum square footage, etc. Joan Natali noted that the walkability study done by the Eastern Shore Healthy Communities partnership talked about accessory dwelling units, small houses, etc. Joan Natali added that Libby Hume had located the video from this study which could be shown to the Commissioners at a future meeting.

The general consensus was to move forward with the review or the draft ordinance regarding accessory dwelling units.

B. *Zoning Ordinance Review*

Larry DiRe stated that in an effort to saving advertising costs for public hearings, a number of text amendments would be grouped together into one public hearing and he would defer to the Commissioners regarding the number of text amendments to include in one hearing.

The Commissioners reviewed a number of sections of the Zoning Ordinance which were outdated or conflicted with other Town documents as follows:

- i) Article III, § 3.2.I, pages 5-6 – contained a typographical error where the numbers were inconsistent. The Commissioners agreed that the numbering error needed to be corrected to show the correct sequence of numbers.
- ii) Article IV, § 4.2.I, page 25; Article III, § 3.2.C.6.c, page 3; Article III, § 3.2.I.7, page 7; and Article III, § 3.6.F.1.g, page 18 – Larry DiRe pointed out inconsistencies in requiring underground utility lines. Several of the noted sections stated that the utility lines “shall” be installed underground, but Article III, § 3.2.I.7 “encouraged” the lines be installed underground.

Dan Burke requested that staff contact other localities to see how they handled utility lines. Joan Natali suggested that Code Official Jeb Brady be invited to the next meeting to provide his insight on the issue.

- iii) Definition of “Bedrooms” – Larry DiRe stated that currently there was no definition for a “bedroom” in the Zoning Ordinance and recommended obtaining Jeb Brady’s input on that as well. A draft definition would be presented for review at the next meeting.
- iv) Article III, § 3.2.C.6.c, page 3 identified § 4.8.E.2 as the Table of Parking Standards but there was no section numbered 4.8.E.2. The Table of Parking Standards was actually § 4.5.1. The Commissioners instructed staff to correct the error.
- v) Article IV, Section 4.1.B, and § 4.1.E.9 regarding campaign signs – Larry DiRe read his recommended draft language regarding non-election campaign signs. The Commissioners agreed with the recommendation.
- vi) Article IV § 4.1.B, page 4; Article II § 2.9, page 30; and Article IV Table H.1.b, page 16 – These sections addressed the size for free-standing signs. There was much discussion regarding signs and the method of measurement. The current ordinance was based upon the International Zoning Code. The Commissioners reached a general consensus that a geometric standard would be better and easier to understand and manage.

There was also much discussion regarding the free-standing sign for the Cape Charles Lofts and Larry DiRe explained that the sign conformed to the current ordinance.

- vii) Article II § 2.3.7 – Larry DiRe stated that the current Zoning Ordinance did not contain language regarding resolving potential conflicting provisions of the Zoning Ordinance with the exception of the floodplain ordinance which stated that the most restrictive provision would prevail. The Commissioners were in agreement that language needed to be added deferring to the most restrictive provision.

C. *Satellite Dish Ordinance Review*

Due to time restrictions, Dennis McCoy asked the Commissioners if they would be agreeable to postponing discussion regarding the satellite dish ordinance until the July meeting. The Commissioners were in agreement.

**ANNOUNCEMENTS**

There were no announcements.

**Motion made by Dan Burke, seconded by Andy Buchholz, to adjourn the Planning Commission meeting. The motion was unanimously approved.**

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Chairman Dennis McCoy

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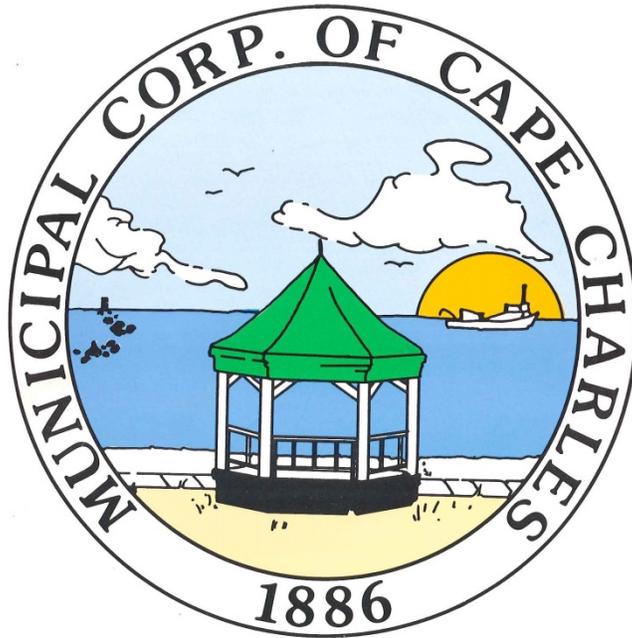
Town Clerk

# Planning Commission Staff Report

From: Larry DiRe   
Date: July 7, 2015  
Item: 4C-Staff Reports  
Attachments: 2015 Annual Report year to date update

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1. The Historic District Review Board received one application and met on June 16<sup>th</sup>. The Board approved Certificates of Appropriateness (COA) for the applicant to install a residential elevator at 600 Pine Street. The Board also reviewed the roof section of the Historic District Guidelines, and directed staff to draft language on roof-mounted solar panels. The Board approved draft language for foundation elevation in the foundation section of the Guidelines. The Board also approved the date of Saturday September 26, 2015 for the historic homes tour, and accepted the revised application form. Most of the meeting was a Skype conversation with Mr. David Lettkeman of Dish Network to discuss the location of satellite dish antennae and historic districts.
2. Reverse-angle parking is in full effect on the north side of Mason Avenue between Peach Street and Bay Avenue. There is general compliance, but implementation has revealed several practical difficulties. Consistent comments pertain to the visibility of the Mason Avenue reverse-angle signage, the line of sight difficulties at the corners of Strawberry and Pine Streets, concern over sidewalk intrusion of vehicles with lengths exceeding that of the parking stall, and accommodating wheelchair ramps and lifts.
3. Several issues related to helicopter lift-offs and landings in town were mentioned at the June 17<sup>th</sup> department head meeting. Specifically, questions were raised about helicopter activity around the harbor. According to Article III Section 3.11.C (page 33) of the Zoning Ordinance, heliports are only allowed as a conditional use in the M-1 Industrial District.
4. Please find the attached draft 2015 Planning Commission Annual Report year to date update. A third-quarter update report will be presented at the October meeting and the final report in January 2016.
5. The Town issued two zoning clearances. The Town issued three zoning violation notices for non-conforming signs and one violation notice for non-compliance with a Certificate of Appropriateness.



Town of Cape Charles  
Planning Commission

2015 Annual Report  
(Update January 2015-June 2015)

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Dennis McCoy  
Chairman

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Lawrence DiRe, MA MPA  
Town Planner

**2015 Planning Commission Members**

Dennis McCoy, Chairman

Michael Strub, Vice Chair

Andy Buchholz

Dan Burke

Joan Natali

Sandra Salopek

Bill Stramm

**2015 Planning and Zoning Staff**

Lawrence DiRe, Town Planner

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## **Introduction**

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

## **Development in Cape Charles**

2015 saw both new development and redevelopment in Cape Charles. Notable projects included the renovations to the former Northampton Hotel building, new shoreline revetment at the Oyster Farm Restaurant, and one new single family home constructed\permitted. The Cape Charles Lofts project also is nearly completed.

## **Planning Commission and Staff Updates**

The Planning Commission elected Dennis McCoy as Chairman and Michael Strub as Vice Chair for 2015.

## **2015 Summary of Permits and Projects Reviewed by Planning (to June 30):**

Home Occupations	0
Site Plan Reviews	5
Violations	7
Zoning Clearance	13
Historic District Review	12
Harbor Area Review	2
Wetlands Board Review	0
Board of Zoning Appeals Review	1
Rezoning	0
Conditional Use Permits	0

## **Code Amendments**

**Approved**, none to date.

**Denied**, none to date.

**Pending**, the Planning Commission continued working on the proposed Tourism Zone Ordinance, and to amend the Satellite Dish Ordinance text. The issue of residential accessory

dwelling units is also under review. Several other code sections requiring typographical errors corrected, and consistency\clarity questions were also reviewed.

### **Comprehensive Plan**

On April 7, 2015 the Planning Commission and Town Council held a joint work session reviewing the Town of Cape Charles Comprehensive Plan revised draft document. The Council members were requested to provide written comments for the Commissioners to review. Those comments were presented at the June 2<sup>nd</sup> regular meeting. The Commission scheduled a work session for Monday July 13<sup>th</sup> to discuss the comments and review the draft document.

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# Planning Commission Staff Report

From: Larry DiRe   
Date: July 7, 2015  
Item: 5a-Draft Tourism Zone Ordinance review  
Attachments: Cape Charles Draft Tourism Zone Ordinance

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## Item Specifics

The Code of Virginia states the following on the creation and implementation of Tourism Zones in the Commonwealth:

*§ 58.1-3851. Creation of local tourism zones.*

*A. Any city, county, or town may establish, by ordinance, one or more tourism zones. Each locality may grant tax incentives and provide certain regulatory flexibility in a tourism zone.*

*B. The tax incentives may be provided for up to 20 years and may include, but not be limited to (i) reduction of permit fees, (ii) reduction of user fees, and (iii) reduction of any type of gross receipts tax. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.*

*C. The governing body may also provide for regulatory flexibility in such zone that may include, but not be limited to (i) special zoning for the district, (ii) permit process reform, (iii) exemption from ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the Chesapeake Bay Preservation Act (§ [62.1-44.15:67](#) et seq.), the Erosion and Sediment Control Law (§ [62.1-44.15:51](#) et seq.), or the Virginia Stormwater Management Act (§ [62.1-44.15:24](#) et seq.), and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.*

*D. The establishment of a tourism zone shall not preclude the area from also being designated as an enterprise zone.*

*(2006, c. [642](#); 2008, c. [462](#); 2013, cc. [756](#), [793](#).)*

## Discussion

The attached draft Tourism Zone Ordinance reflects the changes proposed at the June 2<sup>nd</sup> meeting. That is, the minimum capitalization level for existing businesses is \$2,000.00, and for new businesses is \$10,000.00. The Planning Commission had lengthy discussion recognizing that new businesses will likely be suited to other incentives more closely tied to new construction costs. The attached draft also includes current language about “full-time” and “seasonal” businesses. It was stated at the June 2<sup>nd</sup> meeting that the distinction between the two needs further discussion. Please note that Section XX-6 shows numbers of employees that must be maintained, but there has been no discussion of those numbers.

## Recommendation

Staff recommends that the Planning Commission review the proposed draft text amendment and provide direction to staff.

- **Sec. XX-1. - Purpose.**

The town council finds that the creation of a local tourism zone, with incentives for growth, as authorized by Code of Virginia, § 58.1-3851, as amended, will foster the town's development, maintenance and expansion of commercial, tourist and industrial businesses engaged in the tourism industry , all of which would benefit the citizens of the town.

- **Sec. XX-2. - Administration.**

This chapter shall be administered by the town manager or his or her designee (the "administrator"). The administrator shall be responsible for determining if a business qualifies as a qualified seasonal tourism business or a qualified full time business, and shall determine and publish the procedures for obtaining the benefits created by this chapter.

- **Sec. XX-3. - Boundary area.**

The entire area of the Town of Cape Charles is designated a tourism zone pursuant to Code of Virginia § 58.1-3851, as amended.

- **Sec. XX-4. - Definitions.**

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

*Economic stimulus credits* means the incentive credits payable to a qualified seasonal tourism business or a qualified full time tourism business as provided in [section XX-6](#) of this chapter.

*Existing business* means a corporation, partnership, limited liability company, or sole proprietorship authorized to conduct business in the Commonwealth of Virginia, located in and actively engaged in the conduct of trade or business in the town prior to the adoption of this chapter.

*Full time job* means a full-time employee as defined according to the federal definition found in 26 US Code Subtitle D Chapter 43 Section 4980H, with reasonable allowances for holidays and vacations.

*New business* means a corporation, partnership, limited liability company or sole proprietorship authorized to conduct business in the Commonwealth of Virginia not previously located in the town that begins actively conducting business after the adoption of this chapter.

*Qualified business* means either a qualified seasonal tourism business or a qualified full time tourism business.

*Qualified full time tourism business* means a new or existing business that has met the applicable qualifications set forth in [section XX-5](#) of this chapter and that is engaged in provisioning services, concierge and accommodation services, conference center/services, galleries, recreational facilities/services, entertainment, food services, day spas, specialty food stores, food services, gift stores, special events/services, fishing, communications, transportation, or any other similar activity deemed appropriate for a tourism zone as defined in another jurisdiction of the commonwealth and approved by that jurisdiction, and found as such by the administrator, twelve months per year.

*Qualified seasonal tourism business* means a new or existing business that has met the applicable qualifications set forth in [section XX-5](#) of this chapter and that is engaged in provisioning services, concierge and accommodation services, conference center/services, galleries, recreational facilities/services, entertainment, food services, day spas, specialty food stores, food services, gift stores, special events/services, fishing, communications, transportation, or any other similar activity deemed appropriate for a tourism zone as defined in another jurisdiction of the commonwealth and approved by that jurisdiction, and found as such by the administrator, for less than twelve months per year.

- **Sec. XX-5. - Qualifications.**

- (a) Existing Qualified Tourism Businesses

- (1) Seasonal. To be eligible for economic stimulus credits, a qualified seasonal tourism business must:

- (i) Create and maintain a minimum of two (2) new full time jobs which are each compensated at 1½ times the wage rate of the currently-defined federal minimum wage.

- (ii) Make a new verified capital investment of no less than \$2,000.00 in a building, building improvements, and/or in machinery and tools. A capital investment does not include the cost to acquire real property.

- (2) Full time. To be eligible for economic stimulus credits, a qualified full time tourism business must:

- (i) Create and maintain a minimum of two (2) new full time jobs which are each compensated at 1½ times the wage rate of the currently-defined federal minimum wage.

- (ii) Make a new verified capital investment of no less than \$2,000.00 in a building, building improvements, and/or in machinery and tools. A capital investment does not include the cost to acquire real property.

(b) New Qualified Tourism Businesses

(1) Seasonal. To be eligible for economic stimulus credits, a qualified seasonal tourism business must:

(i) Create and maintain a minimum of two (2) new full time jobs which are each compensated at 1½ times the wage rate of the currently-defined federal minimum wage.

(ii) Make a new verified capital investment of no less than \$10,000.00 in a building, building improvements, and/or in machinery and tools. A capital investment does not include the cost to acquire real property.

(2) Full time. To be eligible for economic stimulus credits, a qualified full time tourism business must:

(i) Create and maintain a minimum of two (2) new full time jobs which are each compensated at 1½ times the wage rate of the currently-defined federal minimum wage.

(ii) Make a new verified capital investment of no less than \$10,000.00 in a building, building improvements, and/or in machinery and tools. A capital investment does not include the cost to acquire real property.

• **Sec. XX-6. - Economic stimulus credits and enforcement.**

(a) A qualified seasonal tourism business shall be eligible to receive the following economic stimulus credits:

(1) A credit equal to 25 percent of the new or increased capital improvement tax paid to the town with a verified capital investment of not less than \$2,000.00 that shall increase proportionately up to 100 percent with a capital investment of \$1,000,000.00 or more.

(2) A credit of up to 100 percent of the amount of the net increase in real estate tax paid to the town.

(3) A credit of up to 100 percent of the amount of BPOL tax paid to the town.

(4) For a qualified seasonal tourism business that maintains **at least 25 full time jobs**, a credit of up to 50 percent of the facility and connection fees paid to the town.

(5) A credit of up to 100 percent of the building permit fee paid to the town.

(b) A qualified full time tourism business shall be eligible to receive the following economic stimulus credits:

(1) A credit equal to 25 percent of the new or increased capital improvement tax paid to the town with a verified capital investment of not less than \$2,000.00 that shall increase proportionately up to 100 percent with a capital investment of \$1,000,000.00 or more.

(2) A credit of up to 100 percent of the amount of the net increase in real estate tax paid to the town.

(3) A credit of up to 100 percent of the amount of BPOL tax paid to the town.

(4) For a qualified full time tourism business that maintains at least 15 full time jobs, a credit of up to 50 percent of the facility and connection fees paid to the town.

(5) A credit of up to 100 percent of the building permit fee paid to the town.

(c) The types and amounts of the economic stimulus credits shall be based on the factors that the town deems relevant, including without limitation the type of business conducted by the qualified business and amount of verified capital investment and the number of full time jobs created by the qualified business. The types and amounts of economic stimulus credits awarded to a qualified business shall be initially determined by the administrator, subject to approval by the town council.

(d) No taxes, fees, or other charges shall be deemed waived by this chapter. All such taxes, fees, and charges shall be paid by the qualified business in full as and when due. economic stimulus credits described in subparts (1), (2), and (3) of subsections (a) and (b) above that are awarded to a qualified business shall be paid annually, in arrears, for each year that the qualified business meets all eligibility criteria up to a maximum of five years. If a qualified business fails to meet all eligibility criteria in any given year, the economic stimulus credits for that year and all future years shall be forfeited. Economic stimulus credits described in subparts (4) and (5) of subsections (a) and (b) above that are awarded to a qualified business shall be paid upon verification by the administrator of the completion of construction of the improvements to which the applicable facility and connection fees and/or building permit fees relate.

(e) As a condition to receiving an economic stimulus credit, a qualified business agrees to provide such information and allow such inspections as the town deems reasonably necessary to verify the eligibility criteria and to ensure the qualified business's ongoing compliance therewith.

(f) Notwithstanding anything to the contrary in this chapter:

(1) An otherwise qualified business shall lose its eligibility for economic stimulus credits, and shall repay any previously awarded economic stimulus credits, upon any of the following:

a. A violation by such business or, to the extent related to the operation of the business, by any of its principals or officers, of any statute, regulation, or order of the United States or the Commonwealth of Virginia or any department or agency thereof;  
or

b. A violation of any town ordinance that continues beyond the applicable cure period or, if none, a period of ten days.

(2) All economic stimulus credits are subject to the appropriation requirements of the Commonwealth of Virginia and the town.

(g) The town will issue a qualified approval letter which will specify the amount of the verified capital investment, the number of full time jobs created, the amount of the economic stimulus credit(s), the eligibility criteria for receiving the economic stimulus credit(s), the procedures for verifying compliance therewith, and such other terms as may be appropriate.

(h) If a Qualified Tourism Business leaves the Town to conduct business in another location within three (3) years of completing any incentive period, it will be required to repay the Town the total amount of Tourism Zone incentives received.

- **Sec. XX-7. - Non-waiver.**

Unless expressly stated herein, this chapter shall not be construed to waive the requirement of any ordinances, regulations, and policies that require permits and approvals for land use, construction, and business operation. Additionally, unless stated otherwise herein, nothing in this chapter shall be construed as waiving the right of the town to enforce its ordinances, regulations, or policies or to collect taxes, fees, fines, penalties, or interest imposed by law or by ordinance.

# Planning Commission Staff Report

From: Larry DiRe   
Date: July 7, 2015  
Item: 5b-Accessory Dwelling Units in residential districts

Attachments: Accessory Dwelling Unit ordinance sections from other Virginia jurisdictions

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## Item Specifics

The Town's Comprehensive Plan states the following in the Policies and Descriptions Section (page 28):

2. *Promote compatible infill development and renovation within established neighborhoods.*

- *Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options.*

Article II Section 2.9 (page 18) of the Town's Zoning Ordinance defines accessory buildings as follows: "a subordinate and separate building located upon the same lot occupied by the main structure or where a main structure was previously located. Accessory buildings shall not be used as dwelling units."

## Discussion

At the June 2<sup>nd</sup> meeting the Planning Commission received the various, past versions of several proposed Zoning Ordinance text amendments needed to allow accessory dwelling units as a conditional use. While specifically prohibited in the Zoning Ordinance, accessory dwelling units are promoted in the Comprehensive Plan. The Comprehensive Plan addresses affordable housing and the Zoning Ordinance Article I states that "reasonable consideration" should be given "to promote affordable housing." In the interest of clarity, staff has reviewed these past versions for the purpose of showing those proposed text amendments that were constant, and those that changed over time.

Constant: conditional use permit required; separate water meter required; occupied by fee simple owner or family member(s) related by blood, marriage, or adoption; "case by case" adherence to the Table of Parking Standards; Historic District Review Board approval of exterior elevations.

Changed over time: maximum occupancy; maximum number of bedrooms; number of occupants to square footage minimums; number of spaces required in the Table of Parking Standards.

Staff was also asked to gather information from other Virginia localities on the status and regulation of accessory dwelling units. That information is presented below:

Permitted: Town of Cheriton (as a conditional use); Northampton County;

Prohibited: Town of Exmore; Town of Wachapreague; Town of Parksley; Town of Onancock;

The Town of Onley has definitions of both "Accessory Living Unit" and "Dwelling Unit" but does not clearly state that they are permitted or prohibited in the Residential (R-1) district. 'Accessory structure' is a by-right permitted use in the Residential district.

## Recommendation

Provide direction to staff.

**Section 8-3 Special Uses and Structures:** The following principal uses and structures may be permitted as a special use in the R-20 District in accordance with the provisions of Section 4 hereof.

*↳ "SUBURBAN DENSITY RESIDENTIAL DEVELOPMENT"*

- A. Day Care Centers.
- B. Rehabilitation and Group Homes or Centers.
- C. Public services and facilities such as firehouses, rescue stations, government offices, schools, parks, and postal facilities.
- D. Mobile homes, individual, with petition signed by all owners of land, lots or parcels within 500 feet of a proposed mobile home site stating no opposition.
- E. Public Utilities: public water and sewer transmission mains, trunk lines and treatment facilities, including pumping stations, mass or community subsurface drainfields; electrical power transmission and distribution substations and transmission lines and towers, oil and gas transmission lines and substations, unmanned telephone exchange centers, microwave and radio wave transmission and relay towers and substations.
- F. Funeral homes.
- G. Rooming and Boarding Houses.
- H. Inns, General, and Bed and Breakfast.
- \* I. Accessory dwelling units, provided that all applicable Health Department regulations are met. \*

**Section 8-4 Minimum Area, Lot Size, Lot Width, Setbacks and Height Requirements:**

- A. Lot Coverage. Lot coverage for R-20 District shall not exceed 40% of the area of the lot.
- B. Lot, Minimum Lot Size. Minimum lot size for permitted residential subdivision and dwellings shall be 20,000 square feet.
- C. Lot Width. The minimum lot width shall be 80 feet at the building site.
- D. Yard Requirements, Minimum Setbacks:

	<u>Primary</u>	<u>Accessory</u>
1. From U.S. Rt. 13	100 ft.	100 ft.
2. From other accessways	60 ft.	60 ft.
3. Rear yard (standard & protected coves)	35 ft.	6 ft.
4. Side yard	15 ft.	6 ft.
5. Shoreline (exposed waterfront)	100 ft.	100 ft.

NOTE: 75 ft. shoreline setback applies to all subdivisions recorded prior to October 13, 1987.

NORTHAMPTON COUNTY ZONING ORDINANCE  
ACCESSORY DWELLING UNIT

§154.1-309 ACCESSORY DWELLINGS AND ADDITIONAL SINGLE FAMILY DWELLINGS ON ONE LOT.

(A) An accessory dwelling may be used as a permanent or seasonal residence or for invited or paying guests. An accessory dwelling shall not be counted as a unit when calculating density, but shall be counted as a part of the single family dwelling unit to which it is subordinate as 1 total unit, contingent upon it being designed, located, constructed and maintained in compliance with the following standards:

- (1) The accessory dwelling shall be located on the same lot as single family dwelling to which it is accessory and the setbacks that apply to principal structures and buildings shall apply;
- (2) The accessory dwelling shall be limited to a maximum of two bedrooms;
- (3) Only one accessory dwelling shall be permitted for each single family dwelling;
- (4) The accessory dwelling shall be owned by the same owner as the single family dwelling to which it is accessory;
- (5) The accessory dwelling shall be served by a water supply and septic system approved by the Virginia Department of Health; and
- (6) The accessory dwelling shall be constructed in compliance with the Virginia Uniform Statewide Building Codes requirements for dwellings and shall be issued a certificate of occupancy as a dwelling.

(B) If the dwelling cannot be designed, located, constructed and maintained in compliance with the above standards, it shall not be considered an accessory dwelling, but may be considered an additional single family dwelling on one lot if it is designed, located, constructed and maintained in compliance with the following standards:

- (1) Additional single family dwellings on one lot shall comply with the density regulations for the zoning district in which it is to be located. Each single family dwelling unit on one lot shall be one unit used in the density calculation;
- (2) Additional single family dwellings on one lot shall be served by separate and independent infrastructure including, but not limited to, a water supply and septic system approved by the Virginia Department of Health; and
- (3) An additional single family dwelling on one lot shall be located and separated from other single family dwellings with their accessory structures a distance equal to the minimum required setbacks as if property lines existed between the additional single family dwelling and other single family dwellings with their accessory structures.

**§154.1-310 VEHICLES, CONTAINERS AND MANUFACTURED UNITS CONVERTED TO PERMANENT ACCESSORY STRUCTURES AND BUILDINGS.**

(A) Vehicles, containers and manufactured units such as, but not limited to, recreational vehicles, tractor trailer bodies, bus bodies, campers, shipping/ transport / cargo containers, railroad cars, portable site storage containers, manufactured / modular/ mobile industrial and housing units shall be permitted for use as permanent accessory structures and buildings in accordance with the following provisions:

- (1) Features and infrastructure which would classify such vehicles, containers and manufactured units as a dwelling shall be removed;
- (2) Such vehicles, containers and manufactured units shall be located on the lot in compliance with the required setbacks and not visible from any public or privately maintained right-of-way or shall be located on the lot in compliance with the required setbacks and screened using perimeter screening type "C" to block the view of such vehicles, containers and manufactured units from any public or privately maintained right-of-way;
- (3) Such vehicles, containers and manufactured units shall not be stacked above the maximum height requirements of the underlying zoning district; and
- (4) Such vehicles, containers and manufactured units shall not be used for any advertising purpose and shall be kept clean of all alpha-numeric signage and writing.

(B) Notwithstanding the provisions of subsection (A), above, such vehicles, containers or manufactured units may be placed on properties the primary use of which is residential, for the limited purpose of loading and unloading household contents for a period of time not exceeding 30 days in any one calendar year.

(C) Any vehicles, containers and manufactured units not regulated under the provision set forth in subsection (A) and (B) above shall comply with NCC Chapter 92, Abandoned Vehicles.

(D) Vehicles, containers and manufactured units for use as an accessory structures and building for which the principal use is defined as a public use pursuant to NCC §154 .1-1201 shall be exempt from subsection (A) of this section.

**§154.1-311 WIRELESS COMMUNICATIONS FACILITIES AND METEOROLOGICAL TOWERS.**

(A) This section provides performance standards for Wireless Communication Facilities (WCF) which include, but are not limited to, monopoles, non-monopole towers, antenna arrays, masts, stayed masts and support structures, and shall provide performance standards for meteorological towers.

# Planning Commission Staff Report

From: Larry DiRe   
Date: July 7, 2015  
Item: 5c-Satellite dish ordinance review  
Attachments: Historic District Review Board draft minutes June 16 2015 meeting (This attachment is supplemental to the June 2, 2015 meeting report, which is re-presented below)

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## Item Specifics

Article IV of the Town's Zoning Ordinance states the following on the size, placement, and visibility of satellite dishes:

### **Section 4.9 Satellite Dish.**

A. Dish type satellite or other ground or building mounted television, radio, or other communications receiving or sending devices.

1. Large satellite dishes are not permitted within the Town of Cape Charles.
2. Mini dishes shall be allowed with building permit and zoning clearance.
  - a. Building-mounted dishes shall not be on the front of any façade or structure. The dish must be mounted in such a way that it cannot be seen from the sidewalk or street.
  - b. Ground-mounted dishes shall not be in the front yard of any structure. Every effort shall be made to mount the dish in an unobtrusive location. Visible dishes shall be screened with plantings.

## Discussion

This is an amended report to that submitted for the May 5<sup>th</sup> Regular Meeting. For informational purposes, the Historic District Review Board met on May 19<sup>th</sup> and reviewed Article IV Section 4.9, as well as guidelines and regulations from other Virginia municipal historic districts for comparison. That Board found the language addressing the Federal Communications Commission standards for size and location to be a reasonable basis for regulation. They particularly found the language from the Town of Leesburg's Zoning Ordinance acceptable as a model for satellite dish antennae regulation. Much of that ordinance language is included in the draft text amendment below. At the May 19<sup>th</sup> meeting the Board tasked staff to provide a satellite dish communications professional to present technical reasons why satellite dish antennae are mounted in the locations they are and inform the Board about limitations on mounting signs. That presentation will occur at the June 16<sup>th</sup> Historic District Review Board regular meeting.

Staff presents the following draft text amendment for Planning Commission review:

### *Article IV Section 4.9 Satellite Dish Antennae Draft Text Amendment*

- A. *Residential districts. Satellite dish antennae with a diameter of up to one meter (39.37 inches) shall be allowed within all residential zoning districts. There are no restrictions on where such antenna may be located on residential lots, provided that*
- (1) they shall not create a safety hazard, and*
  - (2) the Historic District Review Board shall be authorized to regulate the location and appearance of such antennae within the Historic District Overlay as described in Article VIII of this Ordinance.*
- Satellite dish antennae with a diameter of more than one meter in diameter shall be prohibited within all residential districts.*

- B. *Nonresidential districts. Satellite dish antennae with a diameter of up to two meters shall be allowed within all nonresidential zoning districts. Such satellite dish antennae shall be ground mounted and located within the rear yard unless it is determined that a useable signal cannot be obtained from a rear yard location. No portion of any ground mounted satellite dish antennae shall be located within the rear or side yard setbacks of any zoning district.*

Recommendation

Staff recommends that the Planning Commission review the proposed draft text amendment and provide direction to staff.

**DRAFT HISTORIC DISTRICT REVIEW BOARD MINUTES  
JUNE 16, 2015**

**OLD BUSINESS:**

*A. Satellite Dish Ordinance – Mr. David Lettkeman presentation*

Larry DiRe stated that Mr. David Lettkeman was available via Skype. The Civic Center was currently unable to accommodate the Skype feature, so the HDRB moved the meeting to the Town Hall.

At the May 19, 2015 HDRB meeting, the Board tasked staff with contacting a professional involved with satellite dish/antennae installation to speak to the Board regarding location and installation as it pertained to device placement on facades in the Historic District.

Mr. David Lettkeman was the Governmental Association Liaison for Dish Network. Mr. Lettkeman gave a brief overview of Over-the-Air Reception Devices (OTARD) rule of the U.S. Federal Communications Commission (FCC).

David Gay stated that he had heard from some installers that they couldn't put a satellite dish on the roof of a house because they didn't have tall enough ladders. David Gay went on to state that many homes had satellite dishes installed on the front porch roof which created a problem with the historic integrity and asked if this was something the Board could restrict. Mr. Lettkeman stated that the company had access to 40' ladders and competitors probably had something similar, but stated that roof penetration was discouraged due to possible damages but typically, dishes were installed on porch roofs because they were not over a direct living area.

Joe Fehrer stated that it was not the Board's intent to restrict satellite dishes, but to maintain the historic integrity and aesthetic value of properties. Mr. Lettkeman stated that the FCC precluded the charge of any fees such as permits due to the unreasonable delay clause but, it was the Board's right to restrict placement provided a line of sight could be obtained and to require a customer to notify the Town of their intent to install a dish.

David Gay questioned alternative options of placement. Mr. Lettkeman stated that a metal pole could be supplied and put in the ground as an alternative placement of the satellite dish, although this was discouraged due to possible damage to underground utilities. Poles were limited to 8' in height; 5' above ground and 3' below.

David Gay questioned non-working dishes which were left on structures. Mr. Lettkeman stated that once a dish was installed on a structure, it became part of the property, but the Board had the recourse to address the property owner regarding the removal of the satellite dish.

Mr. Lettkeman commented on the draft Zoning Ordinance Section 4.9 stating that the antenna safety hazard text needed more depth and needed to be clearly defined. He also noted that the location of the dish needed to be more clearly defined with the HDRB's preference of dish location, i.e. rear roofline of structure and backyard. Mr. Lettkeman expressed the importance of communication and education to residents. Terry Strub suggested including a notice in the utility bills.

There was much discussion regarding the satellite dish presentation.

# Planning Commission Staff Report

From: Larry DiRe   
Date: July 7, 2015  
Item: 6a- Proposed text amendment for "bedroom" definition  
Attachments: None

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## Item Specifics

Town Zoning Ordinance Article IV Section 4.5.1 Table of Parking Standards reads as follows:

### *C. Residential*

- 1. Single-family dwelling 2.0 spaces per dwelling unit*
- 2. Two-family dwelling 2.0 spaces per dwelling unit*
- 3. Townhouse 2.0 spaces per dwelling unit*
- 4. Multi-family dwelling 1.0 space per one bedroom dwelling unit; otherwise 2.0 spaces per dwelling unit*
- 5. Mobile home 2.0 spaces per dwelling unit*

### *E. Residential/Commercial*

- 1. Home occupation see Section 4.8.C Residential Standard\**
- 2. Bed and breakfast 1.0 space per bedroom plus 1.0 space per owner/resident (see Section 3.2.C 4 c)*
- 3. Rooming house 1.0 space per bedroom plus 1.0 space per employee*
- 4. Boarding house 1.0 space per bedroom plus 1.0 space per employee*
- 5. Hotel and motel 1.0 space per bedroom plus 1.0 space per employee*

\* This section does not exist in the Zoning Ordinance.

## Discussion

Last month one of the items brought before the Planning Commission was the absence of a definition of "bedroom." The term "bedroom" appears in Article IV Section 4.5.1 Table of Parking Standards and is used as the unit of measurement for determining the number of off-street parking spaces required by certain residential and residential/commercial uses. By contrast residential and commercial uses setting off-street parking requirements based on "dwelling unit" and "gross floor area" are both defined in Article II Section 2.9 Definitions.

While we all may have an intuitive or experiential definition of "bedroom," a standard definition is needed for the Zoning Ordinance. Staff presents the following text amendment draft language proposed to be included in the Article II Section 2.9:

*"Bedroom - a room designated for the purpose of sleeping. A bedroom shall not have any cooking or food preparation appliances. It shall have an egress window, a functioning smoke alarm, a closet, total fenestration area of not less than three (3) percent of the total wall area. A bedroom may have bathing and sanitary facilities within the room's footprint."*

Staff recognizes that many contributing homes in the historic district utilize pieces of furniture for closet space.

## Recommendation

Staff recommends that the Planning Commission review the proposed text amendment to define "bedroom" and provide direction to staff.

# Planning Commission Staff Report

From: Larry DiRe   
Date: July 7, 2015  
Item: 6b- Proposed Bay Avenue reverse-angle parking drawings review  
Attachments: Bay Avenue parking drawings

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## Item Specifics

The following reverse-angle parking-related passages were taken from the Town Comprehensive Plan.

*Section II.8. Transportation (page 12)* reads as follows: "Mason Avenue and Bay Avenue street improvements should be evaluated and include addition of bicycle lanes, reverse-angle parking and aesthetic improvements to promote safety and increase parking spaces."

*Policies and Descriptions 10. Extend the concept of the historic grid network to new development (page 25)* "The historic grid system works well in the core of the Town and should be extended into new development including street width, turning radii and diagonal parking"

*Section III- C.4 (page 42)* "Identified Mason Avenue Complete Street improvements include conversion of parallel parking to reverse-angle parking on one side of the street, addition of bicycle lane(s), reduction in lane width to calm traffic, provision of accessible parking, and aesthetic improvements that promote pedestrian safety. Bay Avenue is a priority for Complete Street improvements after Mason Avenue planning has been completed."

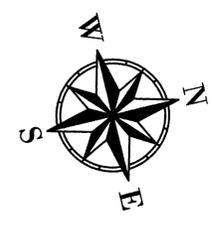
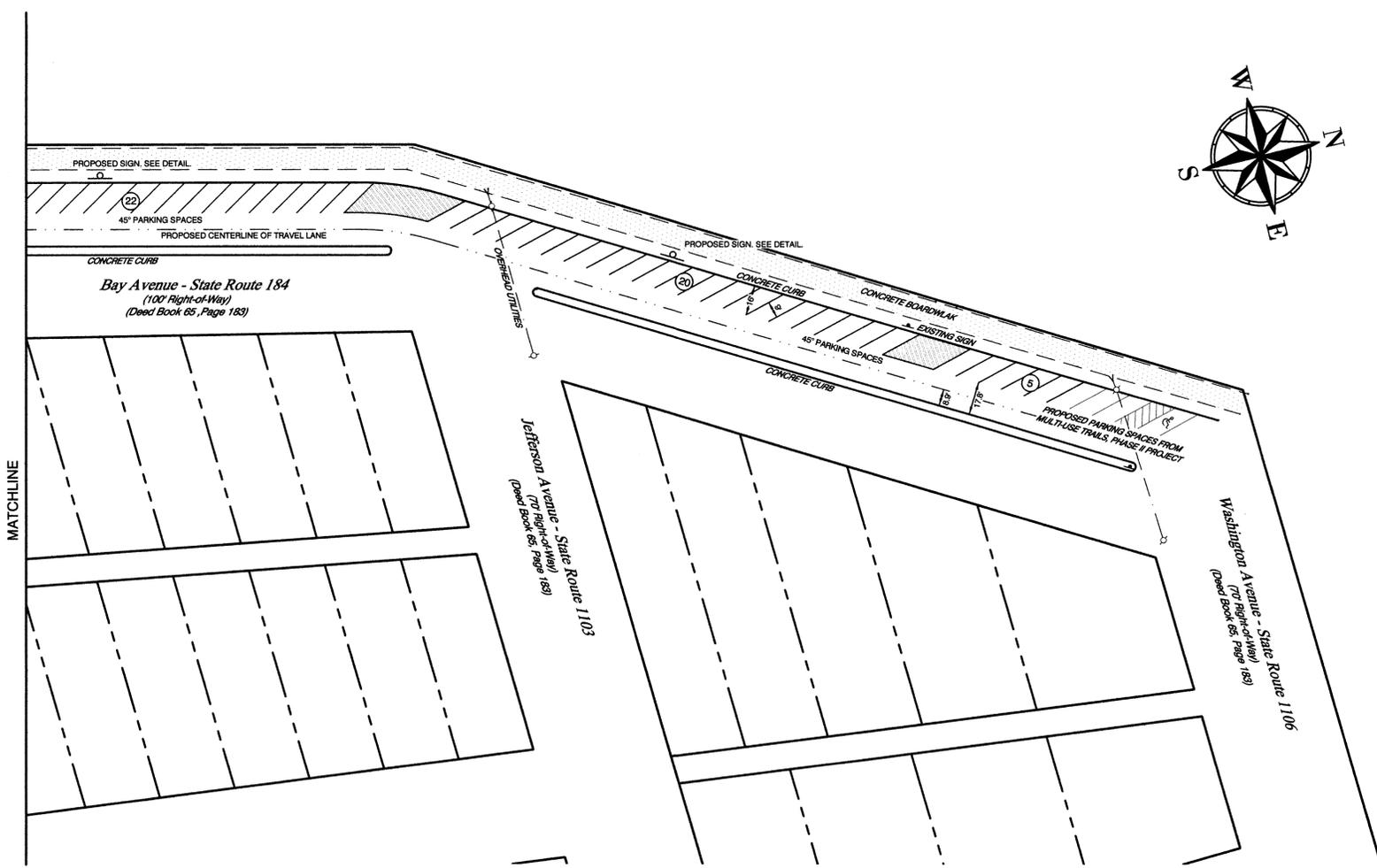
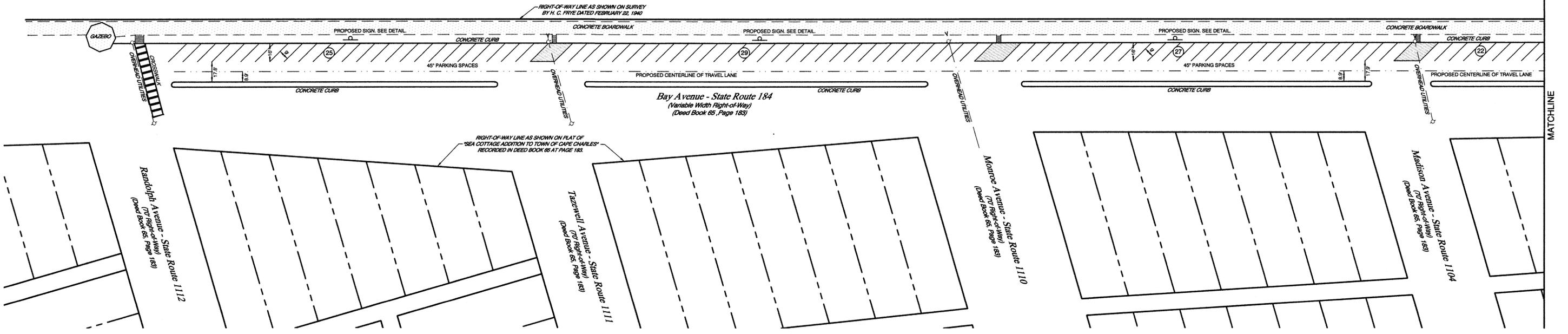
*Section IV Implementation IV.1 Town Council Priorities (page 58)* "Develop Town Parking Solutions"

## Discussion

There is sufficient language in the Comprehensive Plan as reason to propose reverse-angle parking on Bay Avenue as a policy in line with stated town goals. Since received comments will be discussed at the July 13<sup>th</sup> Planning Commission work session, please consider any revisions to the language cited above as well as the proposed drawings.

## Recommendation

Staff recommends that the Planning Commission review the proposed reverse-angle drawings and provide direction to staff.



**SIGN DETAIL**  
 REFLECTIVE SIGN TO BE INSTALLED  
 ON BREAKAWAY POSTS,  
 MINIMUM 3' BEHIND FACE OF CURB  
 SIGN SHALL COMPLY WITH MUTCD GUIDANCE

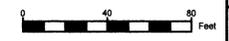
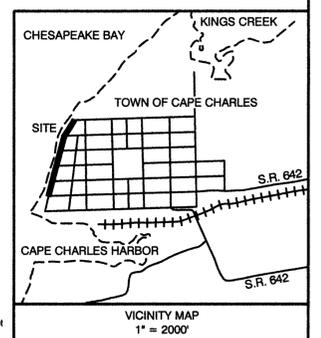
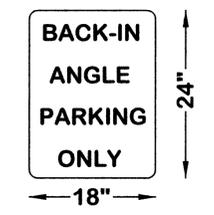


EXHIBIT SHOWING  
 PROPOSED REVERSE ANGLE PARKING  
 ON  
**Bay Avenue**  
 TOWN OF CAPE CHARLES  
 NORTHAMPTON COUNTY, VIRGINIA  
 FOR  
**The Town of Cape Charles**  
 JUNE 10, 2015

Shoreline Surveyors  
 23314 Courthouse Avenue - P. O. Box 735  
 Accomac, Virginia 23418  
 PHONE (757) 789-3980 FAX (757) 789-3982

SCALE: 1" = 40'  
 DRAWN: MAS  
 FIELD BOOK: 33, PAGE 2  
 JOB #15063  
 SHEET 1 OF 1