

# Planning Commission

## Regular Session Agenda

Cape Charles Civic Center – 500 Tazewell Avenue

December 1, 2015

6:00 P.M.

1. Call to Order; Roll Call
2. Invocation and Pledge of Allegiance
3. Public Comments
4. Consent Agenda
  - a. Approval of Agenda Format
  - b. Approval of Minutes
  - c. Reports
5. Old Business
  - a. Draft Tourism Zone Ordinance revisions
  - b. Wayfinding signage update and timeline report
6. New Business
7. Announcements
8. Adjourn



**DRAFT**  
**PLANNING COMMISSION**  
**Public Hearing & Regular Meeting**  
**Cape Charles Civic Center**  
**November 3, 2015**  
**6:00 p.m.**

At 6:00 p.m. Chairman Dennis McCoy, having established a quorum, called to order the Public Hearing and Regular Meeting of the Planning Commission. In addition to Chairman McCoy, present were Commissioners Andy Buchholz, Dan Burke, Sandra Salopek and Bill Stramm. Commissioner Joan Natali arrived at 6:01 p.m. Commissioner Michael Strub was not in attendance. Also in attendance were Town Planner Larry DiRe, Town Clerk Libby Hume and Accomack-Northampton Planning District Commission Executive Director Elaine Meil. There were three members of the public in attendance.

Larry DiRe read the public hearing advertisement.

**PUBLIC HEARING COMMENTS:**

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

**Motion made by Joan Natali, seconded by Dan Burke, to close the public hearing portion of the meeting. The motion was unanimously approved.**

A moment of silence was observed and was followed by the recitation of the Pledge of Allegiance.

**PUBLIC COMMENTS:**

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

**CONSENT AGENDA**

**Motion made by Bill Stramm, seconded by Andy Buchholz, to accept the agenda format as presented. The motion was unanimously approved.**

The Commissioners reviewed the minutes for the October 6, 2015 Regular Meeting.

**Motion made by Joan Natali, seconded by Bill Stramm, to approve the minutes from the October 6, 2015 Regular Meeting as presented. The motion was unanimously approved.**

**REPORTS**

Larry DiRe reported the following: i) No zoning clearances were issued in October; ii) The Board of Zoning Appeals did not meet; iii) The Historic District Review Board met on October 20<sup>th</sup> and approved three applications for Certificates of Appropriateness. The Board continued their review of the Historic District Guidelines; iv) On October 15<sup>th</sup>, the Town Council approved by resolution the acquisition of the 70' x 105' parcel on Mason Avenue designated as the future Strawberry Street Plaza public open space; v) Notification was provided to a property owner in the R-1 district who, without the proper permits, built a back deck and patio which extended about two feet onto the neighboring lot; and vi) He and Code Official Jeb Brady had a

conversation with a prospective buyer regarding a vacant lot in the R-1 district who was misinformed by the realtor and sales advertisement regarding connection to a septic tank vs. the town's wastewater system.

Joan Natali asked for confirmation that the letter requesting the addition of the former hotel on Mason Avenue to the Enterprise Zone had been sent to the county.

#### **OLD BUSINESS**

##### **A. 207 Mason Avenue Conditional Use Permit Application**

Larry DiRe stated that an application had been received for a conditional use permit (CUP) to build residential units above the commercial unit at 207 Mason Avenue. This property had received several CUPs in the past, most recently on December 9, 2010. Several building permits had been issued as well, but the CUP and all permits had since expired due to the work not being completed on the project within the established timeframe. The applicant was re-applying for another CUP. The plans were unchanged from 2010.

**Motion made by Bill Stramm, seconded by Joan Natali, to forward the application to the Town Council with recommendation for approval. The motion was unanimously approved.**

##### **B. Comprehensive Plan Review**

Elaine Meil reviewed the following modifications which were made as a result of the last meeting:

- i) Section III.1.3 – Environmentally Restricted Layer. The original and proposed language was reviewed and the Commissioners agreed to strike the original language and replace it with the language as proposed.
- ii) Section III-C.6 – Community Facilities. Civic center was added to the list of facilities.
- iii) Section III-D.4 – The Streetscape. After much discussion, the second sentence in the last paragraph was modified to read “For example, several of these facilities are housed in inadequate buildings, are not ADA compliant, etc.” The Commissioners reviewed proposed language regarding the establishment of a community center, but agreed to keep the current language.
- iv) Section III-E.2 – Water and Wastewater Partners. The Commissioners agreed that the proposed addition was factual and made additional changes as follows: 1) The reference to the water treatment plant and wastewater treatment plant were changed to water and wastewater; 2) The name of the public service authority was corrected to Eastern Shore of Virginia Public Service Authority; and 3) The last sentence was deleted.
- v) Section IV.5 – Capital Improvement Plan. Bill Stramm suggested adding language stating that the list was not prioritized. The section would be changed to a bulleted list vs. numbered. There was some discussion regarding the inclusion of basketball courts in the listing. Libby Hume would check the most recent Capital Improvement Plan to see if the project was included in the plan and email the Commissioners and Ms. Meil.

Bill Stramm stated that in 2013, the state mandated that comprehensive plans include information regarding coastal resource management guidance. There was much discussion regarding this item and whether the town would fall under the county in regards to this requirement. Elaine Meil stated that she would check her files and provide clarification regarding this issue.

**Motion made by Bill Stramm, seconded by Andy Buchholz, to submit the Comprehensive Plan to the Town Council after clarification of the information from the Capital Improvement Plan. The motion was unanimously approved.**

**NEW BUSINESS**

*A. Election of Chairman and Vice Chairman*

Section 3-2 of the Planning Commission By-Laws stated that the Chairman and Vice Chairman be elected at the first regular meeting after November 1 each year.

**Motion made by Dan Burke, seconded by Andy Buchholz, to nominate Dennis McCoy to continue serving as the Chairman and Michael Strub to continue serving as the Vice Chairman of the Planning Commission. The motion was unanimously approved.**

**ANNOUNCEMENTS**

There were no announcements.

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

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Chairman Dennis McCoy

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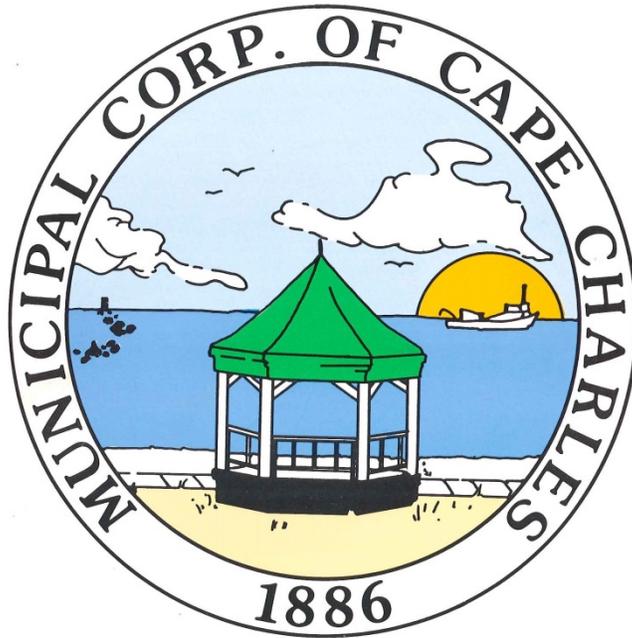
Town Clerk

# Planning Commission Staff Report

From: Larry DiRe   
Date: December 1, 2015  
Item: 4c-Staff Report  
Attachments: Draft 2015 Planning Commission Annual Report

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1. Staff attended the VDOT/VHB Consulting public information meeting on the new Route 13 Corridor Safety Study. That meeting was held at the Workforce Development Building on the Eastern Shore Community College campus on Tuesday evening November 17<sup>th</sup> between 6:00 and 7:30 pm. Information, including the public comment form, is posted on the Town of Cape Charles website home page and the VDOT project webpage. [http://www.virginiadot.org/projects/hamptonroads/u.s.\\_route\\_13\\_safety\\_corridor\\_study.asp](http://www.virginiadot.org/projects/hamptonroads/u.s._route_13_safety_corridor_study.asp)
2. Due to lack of a quorum for the November 19<sup>th</sup> Town Council regular monthly meeting no public hearing date was set for the conditional use permit application for residential units above ground floor commercial at 207 Mason Avenue.
3. The Historic District Review Board received two applications for consideration at their November 18<sup>th</sup> regular monthly meeting. These applications were for new construction of a single-family home, and façade improvements and room addition at a commercial property. Both applications were approved for Certificates of Appropriateness. The board continued their review of the Historic District Guidelines document.
4. Staff has been working with several land surveyors and Bay Creek staff to reconcile some PUD district regulations and other Town documents with the Bay Creek design guidelines. This is on-going for the foreseeable time.
5. The Board of Zoning Appeals had no business and did not meet.
6. The Town issued two zoning clearances this month.
7. The draft 2015 Planning Commission Annual Report is attached. Comment as needed. The final draft will come to the Planning Commission at the January 5, 2016 meeting and then will be sent to the Town Council as required by Section 15.2-221, of the Code of Virginia.



Town of Cape Charles  
Planning Commission

2015 Annual Report

DRAFT

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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

DRAFT

## **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 mixed-use development in the Harbor District approved for 300 Mason Avenue; three commercial storefront improvements in the C-1 district; new shoreline revetment at the Oyster Farm Restaurant, and **six**\* new single family homes constructed\permitted. A conditional use permit application was received for second and third floor residential units above ground floor commercial at 207 Mason Avenue. The Planning Commission held a public hearing on that application in November and recommended approval. The Cape Charles Lofts project is completed and certificates of occupancy issued.

## **Planning Commission and Staff Updates**

At the November 3<sup>rd</sup> regular monthly meeting the Planning Commission re-elected Dennis McCoy as Chairman and Michael Strub as Vice Chair for 2016.

## **2015 Summary of Permits and Projects Reviewed by Planning:**

Home Occupations	0
Site Plan Reviews	<b>9*</b>
Violations	9
Zoning Clearance	<b>19*</b>
Historic District Review	<b>26*</b>
Harbor Area Review	2
Wetlands Board Review	0
Board of Zoning Appeals Review	2
Rezoning	0
Conditional Use Permits	1
Lot subdivisions approved	4

\* Subject to change before December 31, 2015.

## **Code Amendments**

**Approved**, none to date.

**Denied**, none to date.

**Pending**, the Planning Commission continued working on the following: proposed Tourism Zone Ordinance text; amendments the Satellite Dish Ordinance text; residential accessory dwelling units Zoning Ordinance text amendments; and Sign Ordinance text amendments in light of the June 18, 2015 Supreme Court ruling in the *Reed v Town of Gilbert* case. Several other code sections requiring typographical errors corrected, and consistency\clarity questions were sent to Town Council, and Council was in agreement with the proposed corrections.

## **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. One councilmember submitted written comments. Those comments were presented at the June 2<sup>nd</sup> regular meeting. The Planning Commission held work sessions on Monday July 13<sup>th</sup> and Tuesday November 3<sup>rd</sup> to discuss the comments and review the draft document.

# Planning Commission Staff Report

From: Larry DiRe   
Date: December 1, 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 revisions to Sections XX-6 (a) and (b) as requested by the Town Council at the November 5<sup>th</sup> joint work session. Three options appear at the end of the draft document. During the past several regular monthly meetings the Planning Commission reviewed several drafts of proposed Town Code text amendments to create a tourism zone.

## Recommendation

Revise text as necessary, direct staff to bring draft to Town Council for review.

- **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 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 tourism business, and shall determine and publish the procedures for obtaining the benefits created by this chapter.

To determine if a business qualifies as a qualified tourism business:

- 1) Business will submit a completed application with all required documentation. The application will list Applicant/Contact information and list the required Project information and a statement that the business is in compliance with all Town ordinances and has no outstanding debts to the Town. Application must be signed by all business stakeholders.
- 2) Project Information requires a business plan or narrative which includes the following:
  - a) Description of the business' history, including activities, products, services, etc.
  - b) Description of the operation and/or financial relationships with any parent or subsidiary, and describe any changes in ownership that may occur as a result of this project.
  - c) Detailed description of the actions the business will take that will qualify it for the credit.
  - d) Revenue projections for the 5 year term of the credit/incentives.
  - e) Estimate of the amount of building and other town fees required to complete the capital investment plan.
  - f) Estimate of the increased assessed value of real property.
  - g) Estimate of the increased assessed value of business personal property or machinery and tools.
  - h) If facility and connection fees will be assessed as a result of the project, list the cost of those fees.
- 3) Treasurer or designee will use a checklist of code requirements to determine if the applicant is eligible.
- 4) Treasurer or designee will quantify the potential amount of the credit based on the information supplied by the applicant.
- 5) Treasurer or designee will send a letter to the applicant business stating the following:
  - a) Their status as a qualified or non-qualified applicant.

- b) The potential amount of the credit, if qualified, and over what tax years the credit will be awarded.
- c) The required actions for the business to remain qualified.

- **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 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.

*Part time job* means an employee working a minimum of fourteen hours weekly and fewer than the number of hours required to meet the definition of full time job defined in this section.

*Qualified 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.

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

To be eligible for economic stimulus credits a qualified tourism business must:

- (i) Create and maintain a minimum of one (1) new full time or two (2) new part time jobs.

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

(iii) Hold a current Town business license and be current in all tax and utility bill obligations to the Town.

(iv) Be in compliance with all Town ordinances.

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

(a) A qualified 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 tourism business that maintains at least eighty-five (85) hours weekly of full time and part time staff employment, 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 fees paid to the town.

(b) 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, the amount of verified capital investment, and the number of full time or part 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.

(c) 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.

(d) 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.

(e) 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.

(f) The town will issue a qualified approval letter which will specify the amount of the verified capital investment, the number of full time or part 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.

(g) 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.

\* Weekly staff employment hours are based on an average of one full time employee and two part time employees each working 25 hours. A credit of up to 50% reduction in facility and connection fees would be in the thousands of dollars.

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**Section XX-6 Revised Option A – this option retains XX-6 (a) language, but revises XX-6 (b) to set award tiers based on identified economic development criteria.**

(a) A qualified 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 tourism business that maintains at least eighty-five (85) hours weekly of full time and part time staff employment, 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 fees paid to the town for the approved project.

(b) The types and amounts of the economic stimulus credits shall be awarded according to a tiered structure, and based on a qualified business' application alignment with the key goals and strategies as stated in *Section III B - Economic Vitality* of the Cape Charles Comprehensive Plan. The award tiers are as follows: Top Tier awards 100% of the maximum limits described above in Section XX-6 (a); Middle Tier awards 70% of the maximum limits described above in Section XX-6 (a); Lower Tier awards 50% of the maximum limits described above in Section XX-6 (a). The types and amounts of economic stimulus credits awarded to a qualified business shall be initially determined by a staff committee made up of the Town Manager or designee, the Town Treasurer or designee, and the Town Planner or designee. This staff committee shall make an award recommendation to the Town Council for final approval.

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**Section XX-6 Revised Option B – this option revises the XX-6 (a) language to create flat economic stimulus credit award percentages based on Section XX-5 criteria.**

(a) A qualified 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 to a maximum of \$1,000,000.00 capital investment.

(2) A credit equal to 50 percent of the amount of the net increase in real estate tax paid to the town.

(3) A credit equal to 50 percent of the amount of BPOL tax paid to the town.

(4) For a qualified tourism business that maintains at least eighty-five (85) hours weekly of full time and part time staff employment, a credit equal to 50 percent of the facility and connection fees paid to the town.

(5) A credit of 25 percent of the building permit fees paid to the town for the approved project.

(b) The economic stimulus credits shall be awarded according to a flat credit structure, and based on a qualified business' application alignment with the criteria as described above in Section XX-5 (i) through (iv). The administrator shall make an award recommendation to the Town Council for final approval.

**Section XX-6 Revised Option C – this option revises the XX-6 (a) language to create a mix of flat tax and tiered fee economic stimulus credit award percentages based on Section XX-5 criteria, and identified economic development criteria.**

(a) A qualified 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 to a maximum of \$1,000,000.00 capital investment.
- (2) A credit equal to 50 percent of the amount of the net increase in real estate tax paid to the town.
- (3) A credit equal to 50 percent of the amount of BPOL tax paid to the town.
- (4) For a qualified tourism business that maintains at least eighty-five (85) hours weekly of full time and part time staff employment, a credit of up to 50 percent of the facility and connection fees paid to the town.
- (5) A credit of up to 50 percent of the building permit fees paid to the town for the approved project.

(b) The economic stimulus credits shall be awarded according to a flat credit structure for taxes and a tiered structure for fees. The amount of economic development stimulus credits awarded for fees shall be determined by the administrator based on a qualified business' application alignment with Section XX-5 (i) through (iv) and all or some of the following criteria: preserves or enhances retail sales tax base; fills a vacant storefront; eliminates blight; and prevents demolition by neglect . The administrator shall make an award recommendation to the Town Council for final approval.

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# Planning Commission Staff Report

From: Larry DiRe   
Date: December 1, 2015  
Item: 5b- Wayfinding signage update and timeline report  
Attachments: VDOT staff correspondence to Town staff, proposed locations map

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## Item Specifics

Town Ordinance 20141009 states the following about wayfinding signs:

*WHEREAS, the Planning Commission reviewed this issue and recommended temporary suspension of a portion of the sign regulations, Section 4.1(F)11 to allow businesses on side streets to place portable signs to attract foot traffic until a way-finding sign can be installed on Mason Avenue or the sign regulations are revisited*

Virginia Department of Transportation (VDOT) Land Use Permit Regulations state the following about objects in the right of way:

**24VAC30-151-50. Violations of rules and regulations.**

*A. Objects placed on, above, or under the right-of-way in violation of the general rules and regulations shall be removed within 10 calendar days of receipt of notice from VDOT. Objects not removed within 10 calendar days shall be moved at the owner's expense. Objects requiring immediate removal for public safety, use, or maintenance of any highway shall be moved immediately at the owner's expense. The provisions of § 2-1224 (formerly § 33.1-373) of the Code of Virginia shall govern the removal of advertisements from within the right-of-way. The provisions of § 33.2-1227 (formerly § 33.1-375) of the Code of Virginia shall govern the removal of other signs from within the right-of-way.*

Town Capital Projects budgeted for Fiscal Year 2015 – 2016 include:

*Way-finding FY16 \$10,000.00*

## Discussion

The Town's clearly stated goal is to have directional signage in place that is useful for both pedestrians and motorists. This is found in both the language of the current Ordinance governing business signage, and the commitment of a significant sum of public money to meet this goal. VDOT's goal is to maintain a right of way free from objects, including directional signage, for the purposes of public safety, use, and maintenance. While these goals are not on their face in conflict, the current Town policy of permitting businesses to place signs in public right of way is not a solution in the long term. Town Ordinance 20141009 does not set a terminal date for this policy, but does set administrative action as remedy without clear direction on how to achieve the remedy.

Since both VDOT regulations and interpretative opinions from VDOT staff are clear that directional (wayfinding) signage is prohibited in VDOT right of way, staff is recommending Town-owned property as location for these signs. The attached map shows five proposed locations for the wayfinding signs. Due to anticipated nearby building construction the sign located at Strawberry Street Plaza will likely not be mounted until late 2016 or early 2017. Posting such wayfinding signage on Town-owned property effectively ends the stated need for the provisions of

Ordinance 20141009 and allows for the permanent removal of pop-up folding signage along VDOT right of way.

Having the wayfinding signs in place for the beginning of the 2016 tourism season is important. Staff is proposing the following timeline: 1) December 2015 bring item to both the Planning Commission regular meeting and Town Council work session to finalize location of signs on Town-owned property; 2) December 2015-January 2016 work with Town Manager and other Town staff to finalize design of locational map and corresponding places of interest directory; 3) January 2016 research types and costs of signage frames used for mounting; 4) By February 1, 2016 make a staff recommendation to Town Manager for purchase of sign frames; 5) By February 15, 2016 place order for sign frames and printed maps and directory for mounting; 6) By April 1, 2016 all wayfinding signage is posted.

Recommendation  
Provide direction to staff.

## Larry DiRe

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**From:** Robert Testerman <robert.testerman@capecharles.org>  
**Sent:** Tuesday, September 02, 2014 11:39 AM  
**To:** 'bob.panek@capecharles.org'  
**Subject:** Wayfinding sign - Strawberry St

Bob, I got in touch with VDOT...looks like a directional sign within the right of way isn't happening

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**From:** Pusey, Dale (VDOT) [<mailto:Dale.Pusey@vdot.virginia.gov>]  
**Sent:** Wednesday, August 27, 2014 3:51 PM  
**To:** Robert Testerman  
**Subject:** RE: Sign in the right of way

Rob,

Under Virginia's Outdoor Advertising Regulations, placement of directional signs within the public right of way is prohibited. Section 33.1-355.9 of those regulations stipulates that signs denoting only the distance or direction to a place of business containing two square feet or less and securely attached to real property may be placed at a junction of two or more roads in the State Highway System (visible to vehicular traffic, however not within the highway right of way) provided such signs or notices do not exceed a reasonable number in the discretion of the Commonwealth Transportation Commissioner. Let me know if you have any questions.

Dale Pusey, P. E.  
Area Land Use Engineer  
Hampton Roads District  
Accomac Residency

Virginia Department of Transportation  
23096 Courthouse Avenue  
Accomac, VA 23301  
Office: (757) 787-5932  
Email: [dale.pusey@vdot.virginia.gov](mailto:dale.pusey@vdot.virginia.gov)

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**From:** Robert Testerman [<mailto:robert.testerman@capecharles.org>]  
**Sent:** Tuesday, August 26, 2014 4:54 PM  
**To:** Pusey, Dale (VDOT)  
**Subject:** Sign in the right of way

Hi Dale,

I was hoping you might be able to give me some guidance on this. Strawberry Street (intersects with Mason Avenue, the main commercial area) in Cape Charles houses a few businesses. Being located off of the main road, they are not as visible to tourists walking the street. There is interest among the Business Association to try to install a "way-finding" sign on the corner of Mason and Strawberry, the location of such a sign would likely be within the VDOT right of way. What would be the process and approximate timeframe of obtaining a permit from VDOT for the placement of such a sign?

Rob Testerman, AICP



## COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION  
1700 NORTH MAIN STREET  
SUFFOLK, VIRGINIA 23434

Charles A. Kilpatrick, P.E.  
Commissioner

November 4, 2015

Larry DiRe, Town Planner  
Town of Cape Charles  
2 Plum Street  
Cape Charles, VA 23310

Mr. DiRe,

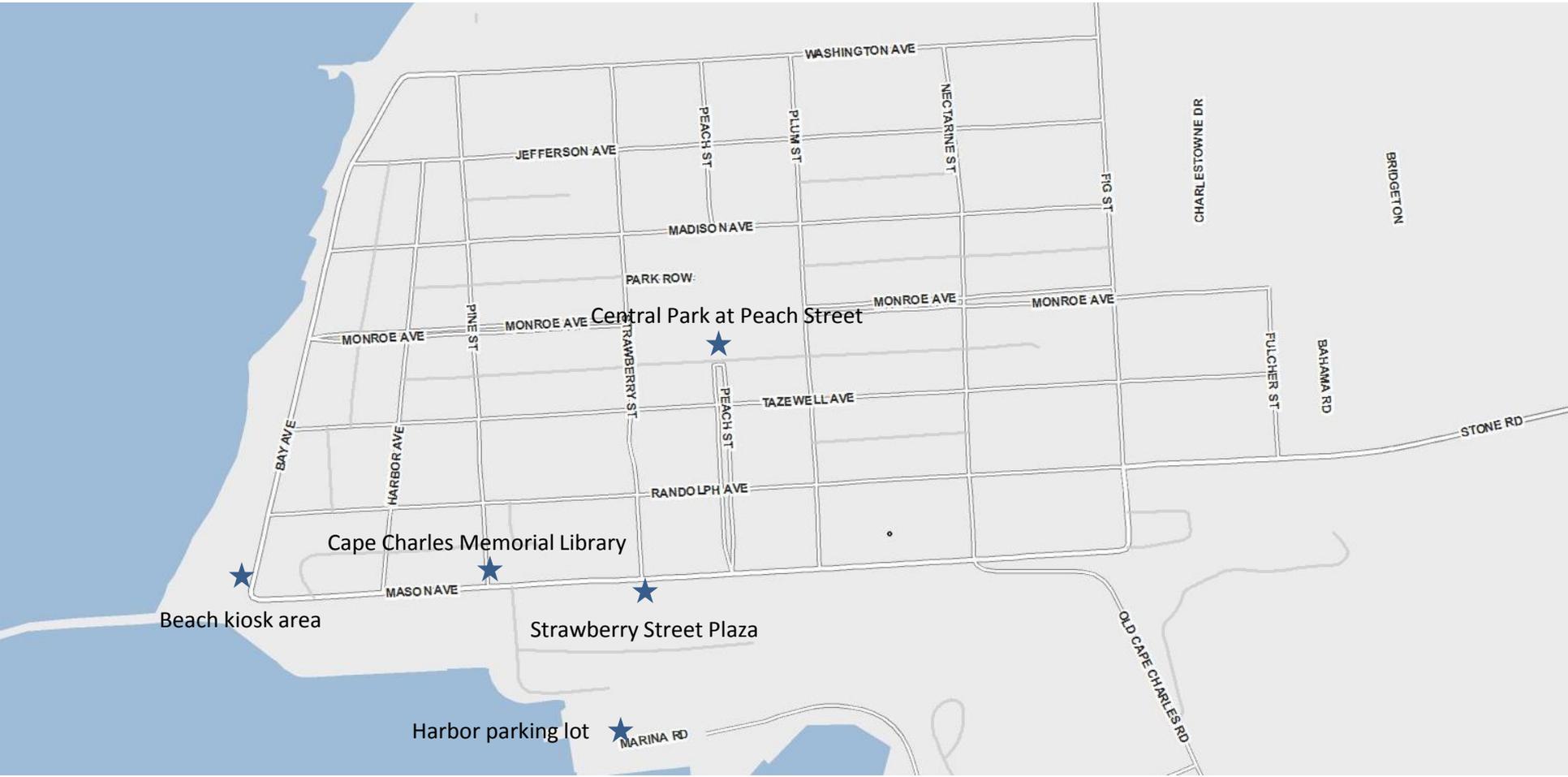
You recently asked about VDOT requirements related to placement of signs that advertise a business within the public right of way. Any directional sign located in the highway right-of-way that leads prospective customers to a specific business is prohibited. Please advise if you have any further questions.

Respectfully,

A handwritten signature in cursive script that reads "Dale Pusey".

Dale Pusey, P. E.  
Area Land Use Engineer  
Hampton Roads District  
Accomac Residency

Virginia Department of Transportation  
23096 Courthouse Avenue  
Accomac, VA 23301  
Office: (757) 787-5932  
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Central Park at Peach Street

Cape Charles Memorial Library

Beach kiosk area

Strawberry Street Plaza

Harbor parking lot

