

TOWN COUNCIL
Public Hearing & Regular Meeting
September 15, 2022
Cape Charles Civic Center
6:30 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Moment of Silence and Pledge of Allegiance
3. Public Hearing:
 - A. [FY 2023 Budget Amendment](#)
4. Recognition of Visitors / Presentations / Recognitions
 - A. None
5. Public Comments for items not subject to the advertised public hearing (3 minutes per speaker)
6. *Consent Agenda
 - A. Approval of Agenda Format
 - B. [Approval of Minutes](#)
 - C. [Approval of July 31, 2022 Financial Report](#)
7. Unfinished Business:
 - *A. None
8. New Business:
 - *A. [Accessory Dwelling Unit Ordinance – Set Public Hearing](#)
 - *B. [Removal of Proffers from Several Parcels on Cassatt Parkway – Set Public Hearing](#)
 - *C. [Deed of Dedication of Water/Sewer Utilities in Village L \(Bay Creek\)](#)
 - *D. [PPEA Consulting Services](#)
 - *E. [Planning Commissioner Reappointment](#)
 - *F. [Board of Zoning Appeals Member Reappointment](#)
 - *G. [Waste Collection Services Contract Extension](#)
 - *H. [FY 2023 Budget Amendment](#)
9. Town Manager Comments
10. Mayor & Council Comments (5 minutes per speaker)
11. Announcements
 - October 6, 2022 – Town Council Work Session or Special Meeting, 6:30 PM
 - October 10, 2022 – Town Offices closed state holiday - Columbus Day/Yorktown Victory Day
 - October 19, 2022 – Cape Charles Rotary Club's Candidates' Forum
 - October 20, 2022 – Town Council Regular Meeting, 6:30 PM
 - October 27, 2022 – Public Forum/Joint Meeting of Town Council, Planning Commission & Historic District Review Board
 - October 29, 2022 – Inaugural Halloween Hootenanny
12. Adjournment

NOTICE OF PUBLIC HEARING
MUNICIPAL CORPORATION OF CAPE CHARLES
FISCAL YEAR 2022/2023 PROPOSED BUDGET AMENDMENT

Pursuant to the Code of Virginia Section 15.2-2507, the Municipal Corporation of Cape Charles Town Council will hear public comments on the following proposed amendments to its Fiscal Year 2023 Town Budget on September 15, 2022, at 6:30 pm, at the Cape Charles Civic Center, 500 Tazewell Avenue, to receive verbal and written comments on all proposed disbursements. Written comments can be submitted prior to the hearing via email to clerk@capecharles.org, or placed in the external drop box at Town Hall. The proposed budget amendment will be discussed and brought to a vote during the regular meeting immediately following the public hearing. Budget amendment details may be viewed on the Town's website, www.capecharles.org, under Agendas and Minutes/Town Council.

Request for budget appropriation increase in the following amounts:

FUND	Expenditures	Revenue
General Fund	\$ 115,426.00	\$ 115,426.00
Special Activities Fund	\$ 24,242.48	\$ 24,242.48
Utilities Fund	\$ 108,311.00	\$ 108,311.00
Total appropriations requested	\$ 247,979.48	\$ 247,979.48

These increases include several projects, the majority of which were budgeted in Fiscal Year 2022 but were not able to be completed due to delays in contract delivery and manpower shortages.

FISCAL YEAR 2022/2023 PROPOSED BUDGET AMENDMENT DETAILS

General Fund

Project/Purchase	Expenditures	Revenue
Radio & antenna for new police vehicle	\$ 482.00	
Outfitting the ARPA funded police vehicle purchased in June	\$ 7,135.00	
SoftwareMunicode update, final payment	\$ 3,050.00	
Codification of zoning ordinance update	\$ 1,680.00	
Treetop Products - public area trash can replacement	\$ 25,000.00	
NOVO Solutions - PW task ticketing system, from repairs & maint	\$ 4,500.00	
Unexpended legal costs, use for PPEA consulting;Tmgr Consulting	\$ 50,000.00	
Reappropriate FY22 revenue for carryforward projects		\$ 91,847.00
*Cigna Claim refund credit - to be used for health insurance premiums		\$ 20,400.00
Update health ins expense - allocate cigna refund credit	\$ 20,400.00	
Notice of DCJS LOLE Grant (Police) received in August	\$ 3,179.00	
FY2021 performance period FY23 grant pool		\$ 3,179.00
Total General Fund	\$ 115,426.00	\$ 115,426.00

Special Activities Fund

Project/Purchase	Expenditures	Revenue
NewGen PPEA Consulting reappropriate revenue		\$ 16,425.00
NewGen PPEA Consulting reappropriate expense	\$ 16,425.00	
CCP grant for Rock climbing wall	\$ 7,817.48	
Rock climbing wall		\$ 7,817.48
Total Special Activities Fund	\$ 24,242.48	\$ 24,242.48

Utilities Fund

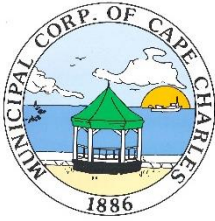
Project/Purchase	Expenditures	Revenue
Seasonal help, 4 mos at \$16.69 w/taxes per hour, 24 hours per week	\$ 7,000.00	
Engineering Svcs Water	\$ 26,736.00	
Engineering Svcs Sewer	\$ 34,564.00	
Move unexpended repairs & maint water & sewer to contingency	\$ 40,011.00	
Reappropriate F&22 revenue for carryforward project water & sewer		\$ 108,311.00
Total Utility Fund	\$ 108,311.00	\$ 108,311.00

Total appropriations requested \$ 247,979.48

2023 Budget total \$ 11,349,990.00

1% of budget \$ 113,499.90

Public Hearing required? Yes



DRAFT
TOWN COUNCIL
Public Hearing & Regular Meeting
Cape Charles Civic Center
August 18, 2022
6:30 PM

At approximately 6:30 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Public Hearing & Regular Meeting of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Also, in attendance were Town Manager John Hozey, Interim Planner/Zoning Administrator Katie Nunez, Treasurer Deborah Pocock, and Town Clerk Libby Hume. There was one member of the public physically in attendance, and 10 viewers on Facebook.

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

PUBLIC HEARING:

Mayor Dize announced that this evening's public hearing was to receive comments regarding the Conditional Use Permit Application for 11 Randolph Avenue for an accessory dwelling unit.

- A. *Conditional Use Permit Application for 11 Randolph Avenue for an Accessory Dwelling Unit*
Interim Planner/Zoning Administrator Katie Nunez stated that the applicant was seeking to convert 50% of an existing 720 square foot garage for an accessory dwelling unit with a kitchenette and small bathroom to be used for office space. This application was initially advertised for public hearings in July for both the Planning Commission and Town Council. However, due to lack of a quorum of the Planning Commission, the public hearing was postponed until August. The Planning Commission held their public hearing at their August 2, 2022 meeting and no comments were heard.

The floor was opened for public comments.

There were no comments to be heard nor any comments received in writing prior to the meeting.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to close the public hearing. The motion was approved by unanimous vote.

The public hearing was closed at 6:32 p.m.

RECOGNITION OF VISITORS / PRESENTATIONS:

There were no visitors to be recognized nor any presentations to be heard.

PUBLIC COMMENTS FOR ITEMS NOT SUBJECT TO THE ADVERTISED PUBLIC HEARING: (3 MINUTES PER SPEAKER)

Town Clerk Libby Hume read comments submitted in writing from Mr. Richard Burger. (Please see attached.)

There were no comments to be heard nor any other comments received in writing prior to the meeting.

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. July 21, 2022 Town Council Public Hearing & Regular Meeting

- C. Approval of May 31, 2022 Financial Report
- D. Approval of June 30, 2022 Financial Report

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, to approve the consent agenda items as presented. The motion was approved by unanimous vote.

UNFINISHED BUSINESS:

There was no unfinished business for review.

NEW BUSINESS:

A. Conditional Use Permit Application – 11 Randolph Avenue:

Katie Nunez stated that the Planning Commission reviewed the conditional use permit (CUP) application and voted unanimously to recommend Council approval of the CUP as submitted.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to approve CUP2022-004 for an accessory dwelling unit at 11 Randolph Avenue on the application filed by Barbara and Bill O'Hare as recommended by the Planning Commission. The motion was approved by unanimous vote.

B. Appointment of Zoning Administrator/Subdivision Agent:

Town Manager John Hozey stated that Section 2.4.1 of the Cape Charles Zoning Ordinance required the Town Council to appoint a zoning administrator and outlined their authority to enforce the Town's ordinance, adding that he was very pleased to bring this item to Council. The Town had been struggling to fill this position in the planning department. Katie Nunez had been assisting the Town for the past eighteen months and we were fortunate that she agreed to accept the full-time position.

Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, to appoint Katherine Nunez as the Zoning Administrator and Subdivision Agent. The motion was approved by unanimous vote.

C. Design and Engineering to Connect Keck Wells:

John Hozey stated that water demand had increased significantly in recent years bringing the water plant close to maximum production capacity. GHD, the Town's water and wastewater engineering firm, had been working on capacity studies and the early data showed that water was our immediate concern as it was approaching 91% to 92% of capacity during peak times. The limiting factor was the withdraw permit. This task order would cover the work to finish the design to connect the Keck wells for added quantity and quality. Engineering would also be completed for a treated water line to further develop the area, especially to assist with the development of the workforce housing. The cost for this design and engineering was about \$7,200 over the \$60K that was included in the FY 2023 budget, but there was a contingency for utilities included in the budget that would cover this additional expense.

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, to authorize the Town Manager to execute GHD contract Task Order No. 9 for design phase services in the amount of \$67,260 with \$7,260 to be funded from the budgeted contingency amount. The motion was unanimously approved.

D. Elderly and Disabled Persons Tax Exemption Update:

John Hozey stated that Northampton County recently amended the county's ordinance related to their real estate tax exemption for certain elderly or disabled persons. Typically, the Town followed suit for the ease of both town staff and applicants who must apply to both the town and county. The estimated financial impact would not be significant.

Treasurer Deborah Pocock explained that the proposed changes include increasing the maximum exemption from \$300 to \$600 and increasing the amount of income of a family member, other than a spouse, to be excluded from the total income calculation from \$3K to \$6K. If approved, the application process would be reopened through September 30, 2022 to allow those now eligible to apply. The estimated impact to revenue would be about \$11K annually.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to adopt Ordinance 20220818 to approve the amendments to Town Code Chapter 66, Article VII, Sections 66-118, 66-119, and 66-120, increasing the maximum allowable household income for eligibility, increasing the maximum tax credit to \$600, and reopening the application period through September 30, 2022. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

E. Budget Reappropriation Request – Schedule Public Hearing:

John Hozey stated that a number of projects were not able to be completed by the end of the last fiscal year. Whenever a budget amendment was over 1% of the aggregate budget, a public hearing was required. The action this evening would be to schedule a public hearing.

Councilman Grossman questioned the reappropriation at this time, stating that Council typically reviewed the budget in January. John Hozey explained that this reappropriate was different from the mid-year budget review. This item was to reappropriate unexpended funds from the last fiscal year for the carryover projects. Council would still have a mid-year review in January to make any needed adjustments.

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to schedule a public hearing for September 15, 2022 regarding the requested amendments to the FY 2023 budget. The motion was approved by unanimous vote.

TOWN MANAGER COMMENTS

John Hozey commented as follows: i) He spoke with Mr. Kemp and was notified that the contract with the current operator of the Cape Charles Yacht Center was terminating the end of the month and Oasis Marinas would be taking over effective September 1st. Oasis would also be running the area and dock on the south side of Mason Avenue so it appeared that the clamming operations would cease as well. This change did not affect the Town's contract with the current management company which was not due to expire until December 2023. We would have more discussion related to the Harbor at the end of the season. Councilwoman O'Brien asked about Oasis Marinas. Vice Mayor Bennett responded that Oasis was highly qualified and interviewed with the Town regarding managing the Town Harbor; ii) Notification of another pending violation for the wastewater treatment plant was received from the Department of Environmental Quality. Details would be provided upon receipt of the Notice of Violation; iii) He would be out of the office on Friday, August 19th, and Monday, August 22nd, and would be reachable on his cell phone.

MAYOR AND COUNCIL COMMENTS

Councilman Follmer commented as follows: i) The summer was coming to an end, and he thanked the Town staff that was stretched thin. He received a lot of positive feedback from the merchants relating to how well the public works crew handled the trash pickup, etc.; ii) He was glad to hear of the planned changes on Mr. Kemp's property on the south side of Mason Avenue. The last few weeks, semi-trucks had been running late at night, about 10:00 or 11:00 p.m., going too fast on Mason Avenue as people were still out. The semi-trucks also shook entire buildings along Mason Avenue and he had heard reports of minor damage in some of the stores due to excessive vibration.

Councilman Grossman commented as follows: i) He echoed Councilman Follmer's comments thanking the Town staff. He spent hours watching the public works and utilities crews working to repair the major leak at the corner of Plum Street and Mason Avenue in the extreme heat. The teamwork between John Lockwood and the public utilities crew was great and he wanted to

commend everyone involved as the repairs were pretty extensive; ii) He took a tour, along with John Hozey and several other officials, of the Kiptopeke Inn and the renovated apartments. About 30 fully furnished studio apartments would be available mid-September. The rent would be about \$1,100 per month but included all utilities, internet, washer and dryer, a pool, and a gym. Each unit was about 350 square feet and were very well done. There would be some one and two-bedroom units available as well. Coastal Precast and the schools had already been notified of the units becoming available.

Councilwoman O'Brien commented as follows: i) She echoed the positive feedback for the public works crew. She walked the beach every morning at 6:00 to 6:30 a.m. and saw the difficulty John Lockwood had with the sweeping as beachgoers staked out their areas by placing their equipment on the beach. Despite that, the beach was clean and in great condition all summer. We had a great group in the public works crew; ii) She recommended everyone going to the concert this Saturday as her soon to be nephew in law was the lead singer in the band and she would be announcing them.

Vice Mayor Bennett did not have any additional comments.

Councilwoman Holloway commented as follows: i) The third annual LoveFest was scheduled for September 3rd, from 6:00 to 9:00 p.m. Cape Charles Main Street was co-hosting the event with the Citizens for Central Park. Volunteers were needed to help with the decorating the morning of September 3rd, and there were still slots available for anyone willing to help with the beer truck; ii) The community pot luck dinner would be held on September 10th during the last concert of the season from 6:00 to 8:00 p.m. The last one had over 350 participants. She needed to get with Julie Pruitt regarding tables, tents, etc. Volunteers were needed for the grills; iii) In the past, a post-season report was provided to the Town Council each year by the former Cape Charles Business Association. She suggested a post-season wrap-up discussion to hear about what worked and any tough issues for the Town staff. From a Council perspective, she felt that it was an important part of our economy and would be a healthy discussion. It should not be a complaining session, but a productive discussion for the opportunity to learn from issues and to plan for future seasons. Councilwoman O'Brien added that she was curious as to what the police chief had to say; iii) She hoped to get another ice cream social on the calendar after the end of the season. It was a great opportunity for the residents to talk to the Council members. John Hozey stated that he planned to schedule another ice cream social. Mayor Dize added that we had three ice cream vendors in Town so should use another vendor each year. There was some comment regarding the location and area of Chase's Soft Serve which hosted the event last year and suggestion of possibly using Strawberry Plaza was made.

Councilman Buchholz commented as follows: i) He agreed with Councilman Holloway's recommendation for a roundtable discussion with staff and business owners to hash out things that worked and those that did not. If we looked back at the last several years, we would see that business and visitors to Town increased about 15% to 20% each year, but the Town's staff had not. We noted that the public works department was understaffed two years ago, but they continued to do a tremendous amount of work. Councilwoman Holloway added that citizens should also be included in the discussion. Mayor Dize suggested three sessions – one with staff, one with the businesses, and one with residents. We needed to listen to the feedback from each group; ii) He echoed the comments regarding the public utilities staff. He recently toured the water plant and was very pleased with what had been accomplished with such a small staff. It was phenomenal compared to the last six or seven years.

Mayor Dize also commended the public works and utilities crews. The beach, park, streets were all kept clean, trash was picked up, and the doggie poop bags were stocked. He was driving that Saturday night, close to midnight, and when he came around on Mason Avenue, Patrick Christman was already on site assessing the water leak. The next day, the crews were all working hard in the 95 plus degree heat. The crew did a great job doing the repairs and putting everything back together in such a timely fashion. The police department and all the staff did a great job this summer.

Mayor Dize read the announcements. John Hozey noted that at this time, there was nothing planned for the tentative September 1st work session.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to adjourn the Town Council Public Hearing & Regular Meeting. The motion was approved by unanimous vote.

The Public Hearing & Regular Meeting adjourned at 7:04 p.m.

Mayor Dize

Town Clerk

DRAFT

**August 18, 2022 Town Council Public Hearing & Regular Meeting
Comments and Information Provided in Writing**

Richard Burger, Library Board Chairman

Good evening Mr. Mayor and members of the Town Council,

I wanted to take a few moments of your time this evening to highlight some of the recent activities at our wonderful Cape Charles Memorial Library.

First, I want to thank the Town for the desperately needed repairs to the air conditioning system and the front entrance door last month.

Moving on to Library activities, the month of July set an all-time attendance record of over 2,000 patrons using the Library's facilities, this in a town of roughly 800 permanent residents. More than 1,500 items were placed in circulation and over 300 people took advantage of the Library's free Wi-Fi.

The summer reading program continues with our children having read for 8,500 minutes as of the end of July.

Sharon Silvey, our Library Manager, and Betsy Doherty, the Library Assistant, hosted 5 delightful special programs for children in July, including a partially grant-funded puppet theater production, reading and craft programs, and guests from the Virginia Living Museum and the Eastern Shore Soil and Water Conservation District. 150 of our local and visiting children (and a few parents and grandparents) were treated to these excellent, age-appropriate activities. And there were snacks!

At the end of July the Friends of the Cape Charles Memorial Library organization hosted a very successful book sale fund-raiser. Each year the Friends group donates time and money to assist the town in purchases for the Library's benefit. Several Library Board members helped out with the book sale and Cape Charles Main Street also provided volunteers.

Our Cape Charles Memorial Library is one of our community's treasured assets. I encourage every Cape Charles resident and visitor to drop in and see what the Library has to offer.

Respectfully Submitted,

Richard Burger, Chairperson

Cape Charles Memorial Library Board of Trustees.



DRAFT
TOWN COUNCIL
Executive Session
Cape Charles Civic Center
August 18, 2022
Immediately Following the Regular Meeting

At approximately 7:09 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Executive Session of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O’Brien. Also, in attendance was Town Manager John Hozey.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, and unanimously approved to go into Executive Session in accordance with Section 2.2-3711.A of the Code of Virginia for the purpose of: Paragraph 3: Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Negotiation Strategy for Potential Utility System Sale

There were no members of the public in attendance at this time.

Council went into executive session at 7:10 p.m.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to return to open session. The motion was approved by unanimous vote.

The open portion of the meeting resumed at 7:57 p.m. There were no members of the public waiting to return to the meeting.

Certification, to the best of each member’s knowledge, that (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the meeting by the public body. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O’Brien, yes.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to adjourn the Town Council Executive Session. The motion was approved by unanimous vote.

The Executive Session adjourned at 7:57 p.m.

Mayor Dize

Town Clerk

July 2022 Treasurer's Report

Page 1 – Cash Position

- The USDA loan covenant restricted amount has been updated for FY2023. Two loans were paid off in FY22, and one was added.

Page 2 – Revenue vs. Expenditures

- The general fund town manager department transferred \$104,498 to the debt service fund for harbor and general fund related debt payments. Several community grants, including \$25,000 to the fire department, and \$22,500 to Cape Charles Main Street for first quarter were also paid.
- The second payment of \$528,615 in ARPA funds from the federal government was received.

Page 3 – Capital Projects

- Grounds maintenance equipment was purchased by the public works department.

Page 4 – Tax Collection Rate

- N/A until November when tax bills are created and mailed.

Page 5 – Tax Revenue Trends

- No comments

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
July 31, 2022

<u>Cash on Hand</u>	<u>6/30/2022</u>	<u>7/31/2022</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$386,725	\$565,103	\$178,378
Atlantic Union Bank Money Market Account	\$3,947,245	\$3,747,732	-\$199,513
LGIP Account 1 - Unrestricted	\$104,496	\$104,644	\$148
LGIP Account 2 - Unrestricted	\$296,330	\$302,578	\$6,249
Total Cash On Hand	\$4,734,795	\$4,720,058	-\$14,737

<u>Restricted and Reserved Cash Balances</u>	<u>6/30/2022</u>	<u>7/31/2022</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$35,810	\$30,033	-\$5,777
Atlantic Union checking Acct Library CD converted to cash	\$11,131	\$11,131	\$0
Atlantic Union Bank Checking Acct - E-Summons Revenue Rsrvd	\$8,171	\$8,379	\$208
US Bank - Reserved per VRA Interest Free Loan Requirements	\$257,646	\$257,786	\$140
Wells Fargo 2010 Debt Service pass through account #300	\$2,900	\$26,425	\$23,524
Wells Fargo 2010 Debt Service pass through account #308	\$763	\$763	\$1
Atlantic Union Money Market # ARPA CRF #5847	\$528,759	\$1,057,463	\$528,704
Virginia Investment Pool Liquidity Acct#1 Facility Fees Rsrvd (Utilities)	\$1,740,293	\$1,742,719	\$2,426
Virginia Investment Pool Liquidity Acct#2, Surety Bond Escrow Rsrvd	\$338,862	\$339,335	\$472
Total Cash Held in Reserve	\$2,924,766	\$3,474,464	\$549,698
Total Cash - All Accounts	\$7,659,561	\$8,194,522	\$534,961

DEBT SERVICE

Net Debt as of Current Reporting Month End
(Excludes USDA vehicle and equipment loans)

\$5,702,735

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

July 31, 2022

REVENUE VS. EXPENDITURES

<u>FUND</u>	<u>CURRENT MONTH</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>INCREASE/ (DECREASE) YTD</u>	<u>ANNUAL BUDGET</u>	<u>% REALIZED/ EXPENDED FY22</u>
GENERAL Operations						
REVENUE	\$261,710	\$211,207	\$261,710	\$50,502	\$4,030,694	6.49%
EXPENDITURES	\$502,106	\$267,959	\$502,106	\$234,147	\$4,030,694	12.46%
NET	(\$240,396)	(\$56,751)	(\$240,396)	(\$183,645)	\$0	
GENERAL Capital						
REVENUE	\$9,038	\$0	\$9,038	\$9,038	\$1,950,314	0.46%
EXPENDITURES	\$24,228	\$0	\$24,228	\$24,228	\$1,950,314	1.24%
NET	(\$15,190)	\$0	(\$15,190)	(\$15,190)	\$0	
GENERAL Debt Service						
REVENUE	\$104,498	\$0	\$104,498	\$104,498	\$249,571	41.87%
EXPENDITURES	\$104,498	\$71,072	\$104,498	\$33,426	\$249,571	41.87%
NET	\$0	(\$71,072)	\$0	\$71,072	\$0	
GENERAL Special Activities						
REVENUE	\$528,615	\$19,766	\$528,615	\$508,849	\$919,350	57.50%
EXPENDITURES	\$0	\$24,730	\$0	-\$24,730	\$919,350	0.00%
NET	\$528,615	(\$4,964)	\$528,615	\$533,579	\$0	

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

July 31, 2022

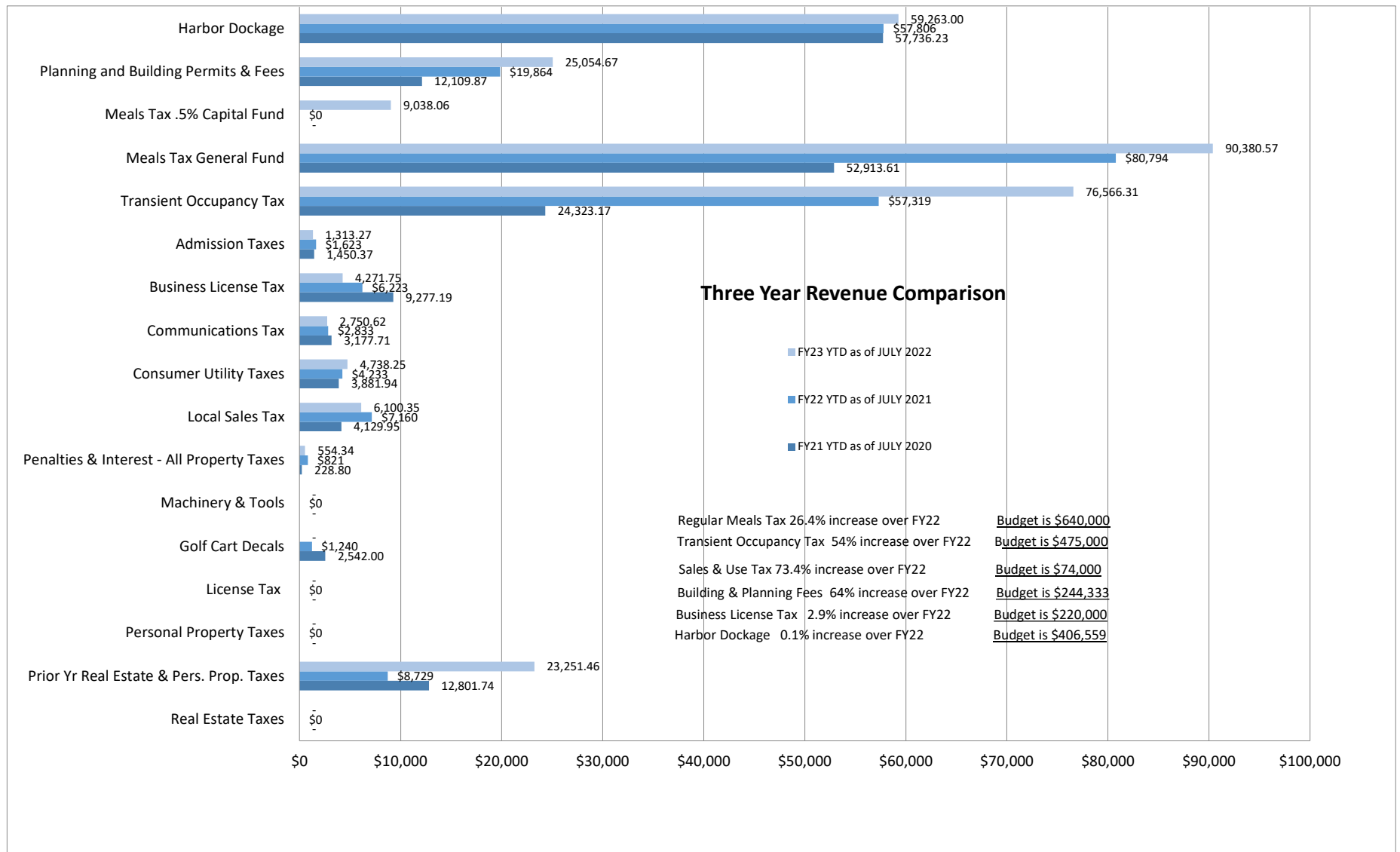
REVENUE VS. EXPENDITURES

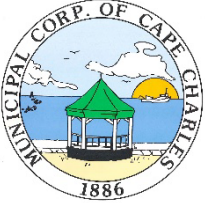
<u>FUND</u>	<u>CURRENT MONTH</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>INCREASE/ (DECREASE) YTD</u>	<u>ANNUAL BUDGET</u>	<u>% REALIZED/ EXPENDED FY22</u>
PUBLIC UTILITIES						
REVENUE - Operating	\$177,232	\$186,417	\$177,232	-\$9,185	\$2,137,020	8.29%
EXPENDITURES - Operating	\$54,877	\$52,682	\$54,877	\$2,195	\$1,120,101	4.90%
NET	\$122,356	\$133,735	\$122,356	(\$11,379)	\$1,016,919	
REVENUE - CAPITAL GRANTS, LOANS	\$0	\$53,000	\$0	-\$53,000	\$0	#DIV/0!
REVENUE - FACILITY FEES	\$63,600	\$0	\$63,600	\$63,600	\$466,400	13.64%
EXPENDED - FACIL FEES, CAPITAL PROJECTS,DEBT SVC	\$104,538	\$95,514	\$104,538	\$9,024	\$1,016,919	10.28%
TOWN CONTRIB. & PENDING GRANTS	(\$40,938)	(\$42,514)	(\$40,938)	\$1,576	(\$1,016,919)	
HARBOR						
REVENUE - Operating	\$173,315	\$93,391	\$173,315	\$79,925	\$1,007,545	17.20%
EXPENDITURES - Operating	\$131,131	\$107,243	\$131,131	\$23,888	\$957,438	13.70%
NET	\$42,184	(\$13,853)	\$42,184	\$56,037	\$50,107	
REVENUE - GRANTS & LOANS	\$0	\$0	\$0	\$0	\$41,893	0.00%
TRANSFERRED FM GEN FUND FOR DEBT SERVICE	\$32,825	\$33,094	\$32,825	-\$268	\$104,950	31.28%
EXPENDED - Capital Projects, Debt Svc	\$32,825	\$33,094	\$32,825	-\$268	\$196,950	16.67%
TOWN CONTRIB. & PENDING GRANTS	\$0	\$0	\$0	\$0	(\$50,107)	
SANITATION						
REVENUE	\$23,078	\$20,483	\$23,078	\$2,595	\$442,253	5.22%
EXPENDITURES	\$0	\$14,405	\$0	-\$14,405	\$442,253	0.00%
NET	\$23,078	\$6,079	\$23,078	\$16,999	\$0	

FY 2023 Capital Improvement Project Tracking Report

As of:
7/31/2022

7/31/2022	FY23 Status or Start Date	Percent of Completion	FY23 Budgeted	QTR 1 Expended	QTR 2 Expended	QTR 3 Expended	QTR 4 Expended	FY23 YTD Expended	(Over)/Under Budget
General Capital Fund									
Multi-Use Trails, Phase 3 Construction	Pending	0%	\$ 929,922	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 929,922
Municipal Space Replacement Planning (ARPA)	In process	0%	\$ 550,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 550,000
Library Upgrade & Condo-ization	Pending	0%	\$ 34,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 34,000
Mason Avenue Parking Lot Improvement	Pending	0%	\$ 20,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,000
Mason Avenue Restroom	Pending	0%	\$ 110,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 110,000
South Beach Restroom Renovation	Pending	0%	\$ 40,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 40,000
Gator for Public Works Staff	Pending	0%	\$ 26,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 26,500
Grounds Maintenance Equipment for PW	In process	78%	\$ 33,270	\$ 26,016	\$ -	\$ -	\$ -	\$ 26,016	\$ 7,254
Central Park Game Area for Adults (CCP)	Pending	0%	\$ 29,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 29,000
Storage Facility (3 x conexes + roofing)	Pending	0%	\$ 20,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,000
Capital Project Contingency		0%	\$ 75,040	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 75,040
subtotal	\$ -		\$ 1,867,732	\$ 26,016	\$ -	\$ -	\$ -	\$ 26,016	\$ 1,841,716
Utility Fund -Water									
Keck Well Connection (Engineering)	Pending	0%	\$ 60,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 60,000
Utility Fund - Wastewater									
Sewer Pod Controller Upgrades Phase 2 of 5	Pending	0%	\$ 14,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 14,500
subtotal	\$ -		\$ 74,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 74,500
Harbor Fund									
Fuel System-Relocate Emergency Stop Switches	Pending	0%	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,000
Fuel Management System Replacement	Pending	0%	\$ 42,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 42,000
Inner Harbor King Pile & Waler Replacement Design	Pending	0%	\$ 40,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 40,000
subtotal	\$ -		\$ 92,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 92,000
TOTAL	\$ -		\$ 2,034,232	\$ 26,016	\$ -	\$ -	\$ -	\$ 26,016	\$ 2,008,216
*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT									



 TOWN OF CAPE CHARLES	AGENDA TITLE: Accessory Dwelling Unit Ordinance – Set Public Hearing		AGENDA DATE September 15, 2022
	SUBJECT/PROPOSAL/REQUEST: Proposed Zoning Text Amendment regarding Accessory Dwelling Units		ITEM NUMBER: 8A
	ATTACHMENTS: Draft ADU Annual Safety Inspection Checklist & Affidavit		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Planning & Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

At the May 19, 2022 meeting, the Town Council rejected Zoning Text Amendment (ZTA)2022-01 to amend the zoning ordinance section concerning Accessory Dwelling Units. At the June 16, 2022 meeting, Town Council provided additional input as to the issues and concerns they would like addressed in a revised zoning text amendment proposal concerning Accessory Dwelling Units, with the primary issues identified as flexibility of use of the ADU as overflow residential space by family members and guests of the property owner but also to ensure that the ADU is not allowed to be utilized as a Short Term Rental (a rental period for less than 30 days

ITEM SPECIFICS:

The Planning Commission received this feedback information at their August 2, 2022 meeting and discussed possible revisions to the ordinance to address the issues raised by Town Council. A proposed draft zoning text amendment was provided to the Planning Commission at their September 6, 2022 meeting and further edits were made to the draft document. The Planning Commission voted to forward the draft Zoning Text Amendment to the Town Council and the draft Accessory Dwelling Unit Annual Safety Inspection Checklist & Affidavit for review and discussion. Please note the proposed Annual Affidavit Town Form for Accessory Dwellings attesting to acknowledge and adhering to the Zoning Ordinance requirements for Accessory Dwellings can not/will not be created until all zoning amendments relative to Accessory Dwelling Units have been adopted by the Town.

PROPOSED ZONING TEXT AMENDMENTS RE: ACCESSORY DWELLING UNITS

Legend of Changes in the document:

Current Zoning Text: Regular Text

Proposed Deletions: Shown as **~~bold, strike-through text~~**

Proposed Additions, first version: Shown in *Red Italic Font*

A. PROPOSED ZONING TEXT AMENDMENTS TO CCZO SECTION 4.2 (J)

1. ADD A NEW SECTION AS THE FIRST PARAGRAPH in SECTION 4.2 (J)

STATEMENT OF INTENT: *To establish criteria and standards for Accessory Dwelling Units to implement one component of the goal from the Town's Comprehensive Plan to add diversity of housing type while maintaining the neighborhood character. The intent is to allow an increased density on a lot in specific zoning districts to provide opportunity in the creation of long-term rental units to assist in meeting the housing needs of the Town and County and to provide flexibility to property owners to be able to utilize the ADUs as overflow space for their own family use and guests.*

ORIGINAL ORDINANCE of SECTION 4.2 (J):

Accessory Dwellings. One accessory dwelling may be maintained on a property in the R-E, R-1, R-2 and CR zoning districts, ~~contingent upon approval as a conditional use in accordance with Section 4.3, and~~ 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 (45) percent of the floor area of the main building.
 - c. Accessory dwellings shall have one kitchen, one bathroom, and a *sleeping area*.
 - d. Accessory buildings ~~and~~ shall not have the appearance of a single-family dwelling.
2. Occupancy characteristics.
 - a. *Transient Occupancy (also referred to Short Term Rentals [STRs]) means any person(s) who, for any period of not more than 30 consecutive days, either at his own expense or at the expense of another, lodges or obtains lodging at any hotel, motel tourist home, or other facility. Accessory Dwelling Units may not be rented on a Transient Occupancy basis.*
 - b. Length of stay – ~~No~~ *An* accessory dwelling unit ~~shall~~ *may* be occupied by any person or persons, ~~whether paying a fee for such occupancy or not~~, for a period ~~no~~ less than thirty (30) consecutive calendar days *either paying a fee for such occupancy at his own expense or at the expense of another (30-day rental or greater)*. 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 upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, ~~either verbally or 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 Section 4.3.F.~~
 - ~~b. Inspections — 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 Town Council.~~
 - c. *The property owner where the Accessory Dwelling Unit (ADU) is located may utilize the ADU as overflow residential space for members of their family and guests.*
3. Other requirements.
 - a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.
 - b. *Accessory dwellings will be required to have its own municipally issued trash receptacle, separate from the main residence/structure.*
 - c. *Accessory dwellings meeting the requirements of all of the physical characteristics of 4.2 (J) (1)& (2) above must obtain a Certificate of Completion for Accessory Dwellings from the Code Official, which is equivalent to a Certificate of Occupancy. In order to issue said Certificate, the Code Official will conduct an inspection to determine compliance with the Building Code.*
 - ~~b.~~ d. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
 - ~~e.~~ e. Parking ~~shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to~~ *be in compliance with* Section 4.5.1.C.6. ~~(Table of Parking Standards)~~ using both on and off-street parking areas.
 - d. f. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.
 - ~~e.~~ g. *Annual Certifications to be submitted to the Town by March 15 of each year to the Building and Planning Department.*
 1. *The property owner will submit an annual affidavit on Town Affidavit Form for Accessory Dwellings attesting to their acknowledgement and adherence to the Zoning Ordinance requirements for Accessory Dwelling Units.*

2. *The property owner will submit an annual affidavit on Town Affidavit Form for Safety Compliance for Accessory Dwellings Units.*
3. *If the property owner changes between March 16 and December 31 of the calendar year, the new property owner will be required to submit both a new Town Affidavit Form for Accessory Dwellings and a Town Affidavit Form for Safety Compliance for Accessory Dwelling Units no later than 30 days from the property transfer.*

B. PROPOSED ZONING TEXT AMENDMENTS TO SECTION 2.9 – Definitions

1. Add the following Definitions to Section 2.9

KITCHEN means a space within a structure designated for the preparation of food.

BATHROOM means a room or area that includes a sink and toilet. It may also include a bathtub, shower, or bidet.

BEDROOM is a room, or space within a structure intended for sleeping. Requirements include:

- *A minimum size of 70 sq. ft; if more than one person occupies the room, there must be 50 sq. ft per occupant.*
- *Access to a bathroom without crossing another bedroom.*
- *Every bedroom must have access to natural ventilation and have a permanent heat source.*
- *Two means of egress: one that leads to the rest of the home without going through another bedroom and one that leads directly to the outside. If the outside egress is a window, it must be at least 5.7 sq. ft and can be no more than 44 inches from the room floor, unless there is a permanent step installed. It shall be illegal to have locking bars or grates covering an egress window.*
- *Ceiling height must be no less than 7 feet.*

SLEEPING AREA is an area in a room or house where a person can sleep and may utilize a bed, bunk beds, daybed, or other furniture identified for sleeping purposes, including ad without limitation, a pull-out couch or futon.

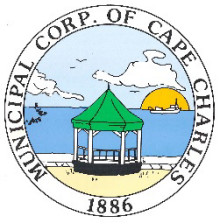
2. Correct the following definition in Section 2.9

BUILDING, ACCESSORY means 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, unless a **conditional permit is issued for an accessory dwelling zoning permit is issued in compliance with Section 4.2 (J).**

RECOMMENDATION:

I would request the Town Council to review the proposed changes to Cape Charles Zoning Ordinance Section 4.2 (J) and associated definitions for Section 2.9 to affirm if these changes effectively address the issues and concerns expressed at their June 16, 2022 meeting.

If these changes appear to address your concerns, I am requesting the Town Council to vote to authorize staff to send this proposed Zoning Text Amendment to public hearing in October.



CAPE CHARLES

ACCESSORY DWELLING UNIT ANNUAL SAFETY INSPECTION CHECKLIST & AFFIDAVIT

INSTRUCTIONS:

Each Accessory Dwelling Unit established pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) is required to conduct and complete this Annual Safety Inspection Checklist by May 1 annually and return to the Building Office at (INSERT ADDRESS). You must sign and get this affidavit notarized, confirming that you have conducted the inspection, either yourself as the property owner, or your agent on your behalf, and you are attesting to the accuracy of all information provided.

The Building/Code Official retains the right to conduct an in-person inspection of the property to determine compliance with the Safety and Health Requirements for Accessory Dwelling Units and will schedule said inspection within 5 days of providing written notice to the property owner.

If "N" or "NO" is checked in any category, the property owner must provide a date in the NOTES COLUMN when the item will be corrected and complete and submit a second form confirming that all items are now in working and functional order.

PROPERTY ADDRESS		Person Completing Inspection:	
PROPERTY OWNER NAME:		Date of Inspection:	
MAILING ADDRESS			
PHONE #:		EMAIL:	

SAFETY INSEPCTION ITEMS		Answer		NOTES
ITEM # and CATEGORY		N	NA	
1	SMOKE DETECTORS Please list the location of each smoke detector and # of smoke detectors total for the structure. Are they located and installed, as previously approved by the Building Official during the initial inspection, with one on each level and in each bedroom, if separated by walls?			
2	CARBON MONOXIDE (CO) ALARM Please list the location of each carbon monoxide alarm and # of carbon monoxide alarms total for the structure.			
3	STAIRS & STAIRWAY Are all steps and handrails securely fastened and anchored, free from trip hazards and no loose or broken boards or stair treads? Is the stairway in sound condition and free from any obtstacles? Is the stairway illumination still functional and working?			
4	DOORS Are all exits out of the building free ofobstructions and able to be used?			

SAFETY INSEPCTION ITEMS		Answer		NOTES
	Does the egress door for the Accessory Dwelling Unit open from the inside without a key?			
5	WINDOWS Is the egress window easily openable? Is the egress window free from obstructions or obstacles?			
6	GARAGE SEPARATION to LIVING SPACE Is the separation from garage to living space in the same condition as approved by the Building Official during his initial inspection?			
7	ELECTRICAL Are all electrical components in safe working conditions, including: • No missing cover plates • No exposed open wiring • All outlets are working			
8	WATER HEATER • Is the water heater in sound, working condition?			
9	HEATING Does the living space have heating ability to a minimum of 68 degrees? Please Note: space heaters are not permitted to meet this requirement.			
10	FIRE EXTINGUISHER Is there a fire extinguisher in the kitchen? Please provide location where it is. Is it expired or current?			
11	GENERAL Interior areas, including the garage, shall be kept free from excessive accumulation of rubbish or garbage. No grills are permitted on balconies			

AFFIDAVIT STATEMENT & NOTARY

I, _____, hereby certify that I have the authority to conduct the safety inspection for _____ (Property Address) and that the answers provided to the checklist items are correct and true..

Self Inspection conducted by: _____
PRINT NAME

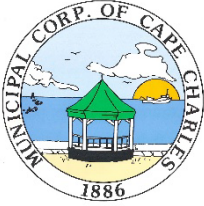
SIGN NAME & DATE

Has appeared before me in the City of County of _____, Virginia on the ____ day of _____, 20____ in the presence of the undersigned notary.

Notary Public

My Commission expires on the ____ day of _____, 20____.

Registration #:

 TOWN OF CAPE CHARLES	AGENDA TITLE: Removal of Proffers from Several Parcels on Cassatt Parkway – Set Public Hearing	AGENDA DATE September 15, 2022
	SUBJECT/PROPOSAL/REQUEST: Request to Schedule Public Hearing to Remove Proffer Statement as part of the Keck Property Rezoning	ITEM NUMBER: 8B
	ATTACHMENTS: (1) Letter from Winmar Advisory dated 2022-09-12 (2) Exhibit 1-Proffer Statement 2008-12-31; (3) Exhibit 2–Plat from Kecks to Town recorded 2009-12-18 – Tracts A and B; (4) Exhibit 3-Deed from Kecks to Town recorded 2009-12-18 Tract B; (5) Exhibit 4-Deed from Kecks to General Builders LLC recorded 2016-06-17; (6) Exhibit 5–Subdivision Plat for Tract A recorded 2017-01-30	FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Planning & Zoning Administrator	REVIEWED BY: John Hozey, Town Manager

The Town has been in conversations with a representative of Lot 4 Holdings, LLC, who is conducting due diligence relative to the purchase of the Remainder or Residual lot of 11.5 acres (now identified as Tax Map #90-19-A). Lance Marine has indicated an interest in a workforce housing development and as we have identified the issues or elements that must be addressed in order for such a project to proceed successfully, the proffers that cover this property (identified and referred to as the Keck Property Proffer Statement) are proving to be an impediment to move forward and he has provided a letter outlining his project intentions (see letter from Winmar Advisory dated September 12, 2022 and signed by Lance Marine, Managing Principal).

BACKGROUND:

On November 13, 2008, the Town of Cape Charles agreed to conditionally rezone a portion of then Tax Map #90-3-A, comprising of 33.195 acres off of Old Cape Charles Road and more commonly identified as the Keck Property with proffers; said rezoning change on the left side of the property (marked in Yellow Hatching) went from R-E to R-3 and the right side of the property (marked in Blue Angled Lines) remained R-E. Said proffers were accepted and recorded on December 31, 2008.



The proffers were the following:

- (1) The Grantors proffer by dedication 17.751 +/- acres of unimproved land currently identified as tax map #90-30-A zoned Residential Estate, RE, adjoining the property to be rezoned, to be deeded to the Town of Cape Charles as unimproved land. The purse of the dedication is for the dedicated property to become Town property and be developed by the Town in the future in a manner that will best serve the interests of the Town.

The following restrictions shall apply:

- A. The Town shall use the property for public purposes, excluding residential and commercial development.
 - B. The Town shall retain ownership of the property for a minimum of 15 years.
 - C. Any future Town buildings, other structures constructed on the property and the storage of heavy equipment shall have a minimum 100 ft. setback from the common boundary with the rezoned R-3 property. The common boundary shall be planted with a Class III vegetated buffer, as identified in the Town's Zoning Ordinance, by the developer of the adjoining R-3 property. All future structures on the town property shall be designed and constructed in terms of both visual appearance and potential sound pollution in a manner that is compatible, complementary and otherwise consistent with being adjacent to a residential community.
 - D. The proffered property shall have the same 100 ft. setback and Class III vegetated buffer from Old Cape Charles Road as the rezoned R-3 property, continuing east around the existing residential properties to the eastern boundary. This buffer is to be planted by the Town as a Class III Buffer at such time as any construction, other than water wells, is undertaken, insuring the entire frontage of the two properties retains a rural appearance from the road and neighboring properties.
 - E. The Town may rezone the property to a zoning category that allows Town uses as per A. above but all deed restrictions shall remain in force.
- (2) The Grantors proffer the following regarding 15.611 +/- acre portion of the property being retained and rezoned R-3:
- A. A maximum density of 100 dwelling units.
 - B. A 100 ft. setback and Class III vegetated buffer on the western boundary of the property and on Old Cape Charles Road. Upon commencement of construction of buildings on the property, the buffers must be landscaped with trees a minimum of 6 ft. in height at the time of planting. Trees are to be selected from the varieties listed in the Town Zoning Ordinance regarding Class III buffers. In addition the developer of the property, at the tie of construction of buildings on the property, shall also plant a Class III vegetated buffer along the common border with the eastern neighbor, the Town of Cape Charles, incorporating appropriate species within the existing tree line.
 - C. Any future site plan for development of the property must provide for access to a possible public road in the future, which road may be constructed on the adjoining land on the norther boundary of the property.
- (3) This proffer agreement may be recorded by Grantee against the Property and the appropriate officials of Grantee are hereby authorized by Grantor to do so.
- (4) The conditions set forth in this agreement shall continue in full force and effect until they are amended as provided herein but otherwise until a subsequent amendment changes the zoning on the Property covered by such conditions; provided, however, that such conditions shall continue despite a subsequent amendment if the subsequent amendment is part of the comprehensive implementation of a new or substantially revised zoning ordinance.

Subsequent to the proffer statement, a deed was recorded on November 30, 2009 from Allan and Gail Keck to the Town of Cape Charles for the property on the right side at 17.705 acres. Said deed references a plat which was also recorded (Instrument #090002548) that shows this subdivision of the main parcel into 2 parcels with the Town parcel being referred to as Tract B and this plat includes as Notes the Proffer Conditions relative to setbacks and vegetated buffer requirements.

Additionally, **the remaining parcel on the left side, referred to as Tract A was sold on June 13, 2016 from Allan and Gail Keck to General Builders, LLC.** Said deed references the same plat that was utilized for the Town parcel. Lastly, **a subdivision of Tract A was approved by the Town on January 30, 2017 which created 4 one acre lots and a remainder or residual parcel of 11.5 acres;** this subdivision plat also includes as Notes the Proffer Conditions relative to setbacks and vegetated buffer requirements

ITEM SPECIFICS:

As stated at outset of this staff report, the Town has been in conversations with a representative of Lot 4 Holdings, LLC, who is conducting due diligence relative to the purchase of the Remainder or Residual lot of 11.5 acres (now identified as Tax Map #90-19-A). Lance Marine has indicated an interest in a workforce housing development and as we have identified the issues or elements that must be addressed in order for such a project to proceed successfully, the proffers that cover this property are proving to be an impediment to move forward and he has provided a letter outlining his project intentions (see letter from Winmar Advisory dated September 12, 2022 and signed by Lance Marine, Managing Principal).

The Town has spoken with our attorney to ascertain the process to remove or amend the proffers and have been advised that following an advertised public hearing and with concurrence from the current legal owners of the land affected by the proffers, the Town can amend and/or repeal the proffers.

The current owners of the land are: Town of Cape Charles, General Builders, LLC acting through its principal representative Angelo Manuel, and CEM Investments, LLC who recently purchased the developed one acre lot from General Builders, LLC that fronts on Old Cape Charles Road. Based upon conversations, it is our understanding that all current owners would be supportive of removing the proffers.

In addition, there has been conversation with the original property owner, the Kecks, who no longer reside in Cape Charles and are no longer a party to the Proffer Conditions except by being the originator of said proffer and rezoning request, and they would pose no objection to the removal of the proffers from all of the land originally covered by the proffers.

Therefore, staff is requesting authorization from Town Council to schedule a public hearing at the October 20, 2022 Town Council meeting to remove the proffers.

Please note that, if approved following the public hearing, then a legal document will be drafted to repeal the Proffer Statement and all associated mentions to said conditions of the Proffer Statement included in any subdivision plat subsequently approved and recorded.

RECOMMENDATION:

I would recommend that the Town Council vote to schedule a public hearing at the October 20, 2022 Town Council meeting to remove the proffers originally accepted and approved on November 13, 2008 and further identified as part of the Keck Property Rezoning by the Town and recorded in the Northampton County Clerk of Courts office as Instrument #090002549.



September 12, 2022

Town of Cape Charles
c/o John Hozey
Town Manager
2 Plum Street
Cape Charles, VA 23310

**RE: Proffer Agreement of 2008 | Request to Vacate
Workforce Housing | BAY CROSSING Development**

Dear John –

Pursuant to our discussions, on behalf of Lot 4 Holdings, LLC, I am requesting your assistance to vacate the Proffer restricting development of the proposed Workforce Housing Project at Tax Parcel 90-19-A.

With respect to the proffer, we believe the proffer's limitations for development are no longer applicable given the proposed intent to activate this property by developing Workforce Housing to satisfy an immeasurable demand in the Town and greater Northampton County. In addition to the density restriction, the Proffer requires a 100' setback and vegetative buffer. Not only does this requirement present a financial hinderance, but the adjacent parcel whose intent it was to provide a visual shelter, has since been dedicated as a conservation easement which runs with the land in perpetuity. As such, there is no longer a need to *shield* this parcel's development from the adjacent conservation easement.

It is with great pleasure to share the vision for the **BAY CROSSING** development as we transition from concept-to-design. Our vision is to develop a transformative residential project with the primary target of Workforce Housing - rooted with the history of Cape Charles and refreshed with the love for nature and community. Often referred to as a passion project, this development is a long-term investment in the Town and community intended as a legacy holding with a decades long vision for the future potential.

The first phase of the project will be residential centric delivering a high-quality multi-family project leveraging state-of-the-art design standards ensuring maximum quality with industry-leading efficiency. Ranging from studios to two-bedroom units, there will be an emphasis on activating outdoor spaces to promote and sustain a unique sense of community and *desire to gather*. Such features contemplated include:

- + Outdoor firepits
- + Community barbeques
- + Fishing pier at storm water pond
- + Trail to the Main Street
- + EV Charging Stations
- + Purposeful landscaping
- + Built-in desks, docking stations and furniture
- + Smart-home lighting and controls



The statement *It Takes A Village* not only applies to this collective effort but underscores the overwhelming support and commitments by a growing number of **BAY CROSSING** proud partners and project Team, including but not limited to:

- + Town of Cape Charles
- + Northampton County
- + Virginia Housing
- + Cape Charles Rosenwald School Restoration Initiative
- + WINMAR Construction
- + ThompsonMcMullan, P.C.
- + Jeff Klingel Landscape Design
- + AES Consulting Engineers
- + Gentry Locke
- + Consortium of local business owners
- + Preserve Communities
- + Area's leading employers

With the support of the Town and County, we are making great strides toward securing public utilities to enable the development of this property currently restricted by well and septic limitations.

Vacating the Proffer – which currently precludes viable development of the **BAY CROSSING** project – is a critical step to enable our vision to become your reality.

Warm Regards –

A handwritten signature in black ink, appearing to read 'Lance LJ Marine', with a long, sweeping horizontal stroke extending to the right.

Lance LJ Marine
Managing Principal

THIS PROFFER AGREEMENT made this 31 day of December, 2008 by and between Allan Randle Keck and Gail Minoff-Keck (hereinafter referred to as the "Grantor"), and the Town of Cape Charles, a municipal corporation of the Commonwealth of Virginia (hereinafter referred to as the "Grantee").

WITNESSETH:

WHEREAS, the Grantor has initiated an amendment to the Zoning Map of the Town of Cape Charles, Virginia, which requests the rezoning of the parcel located as tax map parcel # 90-3-A, commonly known as 2461 Old Cape Charles Road (hereinafter referred to as the "Property") from Residential Estate District RE to Multi-Family District R-3; and

WHEREAS, the Grantee's policy is to provide for the orderly development of land, for various purposes, including residential, commercial and business purposes, through zoning and other land development legislation; and

WHEREAS, THE GRANTOR HAS VOLUNTARILY PROFFERED IN WRITING IN ADVANCE OF AND PRIOR TO THE Town Council public hearings before the Grantee, the following conditions; and

WHEREAS, Grantor understands and agrees that if Grantee accepts these proffers as part of the rezoning requested by Grantor, Grantee may record these proffers against the Property.

NOW, THEREFORE, the Grantor, for itself and its successors, assigns, grantees and other successors in title or interest, voluntarily submits and grants the following proffers, which shall be binding upon the Property and upon all parties and persons claiming under or through the Grantor, its heirs, personal representatives, assigns, grantees and other successors in interest or title, namely:

(1) The Grantors proffer by dedication 17.751 +/- acres of unimproved land currently identified as tax map parcel # 90-3-A zoned Residential Estate, RE, adjoining the property to be rezoned, to be deeded to the Town of Cape Charles as unimproved land. The purpose of the dedication is for the dedicated property to become Town property and be developed by the Town in the future in a manner that will best serve the interests of the Town.

The following deed restrictions shall apply:

- A. The Town shall use the property for public purposes, excluding residential and commercial development.
- B. The Town shall retain ownership of the property for a minimum of 15 years.
- C. Any future Town buildings, other structures constructed on the property and the storage of heavy equipment shall have a minimum 100 ft. setback from the common boundary with the rezoned R-3 property. The common boundary shall

be planted with a Class III vegetated buffer, as identified in the Town's Zoning Ordinance, by the developer of the adjoining R-3 property at the time of any construction on the R-3 property. All future structures on the town property shall be designed and constructed in terms of both visual appearance and potential sound pollution in a manner that is compatible, complementary and otherwise consistent with being adjacent to a residential community.

D. The proffered property shall have the same 100 ft. setback and Class III vegetated buffer from Old Cape Charles Road as the rezoned R-3 property, continuing east around the existing residential properties to the eastern boundary. This buffer is to be planted by the Town as a Class III Buffer at such time as any construction, (other than water wells) is undertaken, insuring the entire frontage of the two properties retains a rural appearance from the road and neighboring properties.

E. The Town may rezone the property to a zoning category that allows Town uses as per A. above but all deed restrictions shall remain in force.

(2) The Grantors proffer the following regarding the 15.611 +/- acre portion of the property being retained and rezoned R-3:

A. A maximum density of 100 dwelling units.

B. A 100 ft. setback and Class III vegetated buffer on the western boundary of the property and on Old Cape Charles Road. Upon commencement of construction of buildings on the property, the buffers must be landscaped with trees a minimum of 6ft. in height at the time of planting. Trees are to be selected from the varieties listed in the Town Zoning Ordinance regarding Class III Buffers. In addition the developer of the property, at the time of construction of buildings on the property, shall also plant a Class III vegetated buffer along the common border with the eastern neighbor, the Town of Cape Charles, incorporating appropriate species within the existing tree line.

C. Any future site plan for development of the property must provide for access to a possible public road in the future, which road may be constructed on the adjoining land on the northern boundary of the property.

(3) This proffer agreement may be recorded by Grantee against the Property and the appropriate officials of Grantee are hereby authorized by Grantor to do so.

(4) The conditions set forth in this agreement shall continue in full force and effect until they are amended as provided herein but otherwise until a subsequent amendment changes the zoning on the Property covered by such conditions; provided, however, that such conditions shall continue despite a subsequent amendment if the subsequent amendment is part of the comprehensive implementation of a new or substantially revised zoning ordinance.

All references hereinabove to zoning districts and to regulations applicable thereto refer to the Zoning Ordinance for the Town of Cape Charles, Virginia, adopted June 16, 1997, in force as of the date of approval of Grantor's rezoning petition by the Grantee,

WITNESS the following signatures and seal:

Allan Randle Keck
Allan Randle Keck

Gail Minoff-Keck
Gail Minoff-Keck

STATE OF Rhode Island
COUNTY/CITY OF Newport, to-wit:

Subscribed and sworn to before me this 19 day of Dec, 2008
by Allan Randle Keck and Gail Minoff-Keck.

Cheri B. Sheekey
Notary Public

CHERI B. SHEEKEY
NOTARY PUBLIC, STATE OF RHODE ISLAND
NO. 43077
QUALIFIED IN NEWPORT COUNTY
COMMISSION EXPIRES APRIL 15, 2010

My Commission Expires: _____

MUNICIPAL CORP. OF CAPE CHARLES

BY: Dora Sullivan
Mayor

Attested: Linda Hume
Town Clerk

STATE OF VIRGINIA
COUNTY OF NORTHAMPTON, to-wit:

Subscribed and sworn to before me this 31ST day of December, 2008 by
DORA SULLIVAN, Mayor of the Municipal Corporation of Cape Charles, Virginia.

Linda Frances Carola
Notary Public

My Commission Expires: 7/31/2012

LINDA FRANCES CAROLA
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
NOTARY REGISTRATION NUMBER: 7199648
MY COMMISSION EXPIRES JULY 31, 2012

INSTRUMENT #000002748
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
DECEMBER 12 - 2007 AT 03:29PM

TRACI L. JOHNSON, CLERK
RECORDED BY: 828

GENERAL NOTES:

- OWNER: ALLAN RANDLE KECK & GAIL MINOFF-KECK
- TAX PARCEL: 90-3-A
- SOURCE OF TITLE: INSTRUMENT #2002001045
- THE BOUNDARY FOR PARCEL A WAS TAKEN FROM PLAT BOOK 28, PAGE 86 AS AMENDED BY PLAT BOOK 30, PAGE 55, MSA, P.C. PERFORMED LIMITED BOUNDARY SURVEY WORK OF THE SUBJECT PROPERTY.
- THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN OR WETLANDS, ENVIRONMENTAL HAZARDS, CEMETERIES AND UNDERGROUND STRUCTURE NOT OBSERVED DURING THE COURSE OF THE SURVEY.
- ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 51131C02956, DATED AUGUST 28, 2008, THE PROPERTY SHOWN HEREON LIES IN FLOOD ZONE X. FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAP AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE. FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAPS. MSA, P.C. IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON. FOR FURTHER INFORMATION AND TO CONFIRM THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.
- TOTAL AREA ENCOMPASSED BY THIS SUBDIVISION: 1,453,231 SF OR 33.36 AC INCLUDING 7,107 SF OR 0.163 AC DEDICATED TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION FOR ROAD WIDENING PURPOSES.
- CURRENT ZONING: RE (RESIDENTIAL ESTATE)
PROPOSED: R-3 (TRACT A); R-E (TRACT B)
- FOR INFORMATION REGARD CURRENT SETBACK REQUIREMENTS REFER TO ARTICLE III, THE TOWN OF CAPE CHARLES ZONING ORDINANCE, LATEST EDITION.
- ZONING AND SETBACK INFORMATION IS ACCURATE AS OF THE DATE OF PLAT APPROVAL AND IS SHOWN FOR INFORMATIONAL PURPOSES ONLY.
- IN ACCORDANCE WITH PROFFER AGREEMENTS BETWEEN THE OWNER OF PARCEL A (TAX PARCEL 90-A-3) AND THE TOWN OF CAPE CHARLES, THE FOLLOWING SETBACK AND BUFFER AREAS SHALL APPLY:
 - TRACT A**
 - A 100' BUILDING SETBACK AND CLASS III VEGETATED BUFFER SHALL BE PLANTED ALONG THE WESTERN AND SOUTHERN BOUNDARY OF TRACT A (ALONG OLD CAPE CHARLES ROAD), TOGETHER WITH A CLASS III VEGETATED BUFFER ALONG THE EASTERN BOUNDARY OF TRACT A (COMMON LINE OF TRACT B). SAID BUFFERS SHALL BE PLANTED AT THE COMMENCEMENT OF CONSTRUCTION OF BUILDINGS ON THE PROPERTY IN ACCORDANCE WITH THE TOWN OF CAPE CHARLES, ACCAWMACKE PLANTATION (BAY CREEK) - PUD, APPENDIX A.
 - TRACT B**
 - A 100' BUILDING SETBACK ALONG WESTERN BOUNDARY OF TRACT B (COMMON LINE OF TRACT A) AND ALONG THE SOUTHERN BOUNDARY OF TRACT 9 ALONG OLD CAPE CHARLES ROAD AND TAX PARCELS 90-3-A1 & 42), TOGETHER WITH A CLASS III VEGETATED BUFFER ALONG THE AFOREMENTIONED SOUTHERN BOUNDARY OF TRACT B (ALONG OLD CAPE CHARLES ROAD & TAX PARCELS 90-3-A1 & 42) TO BE PLANTED BY THE TOWN OF CAPE CHARLES AT SUCH TIME AS ANY CONSTRUCTION, (OTHER THAN WATER WELLS) IS UNDERTAKEN.
- FOR ADDITIONAL INFORMATION REGARDING THE PROFFER AGREEMENTS NOT SHOWN HEREON SEE INSTRUMENT # _____ RECORDED IN THE LAND RECORDS OF NORTHAMPTON COUNTY, VIRGINIA.

OWNER'S CERTIFICATION

THE SUBDIVISION OF LAND SHOWN ON THIS PLAT AND KNOWN AS "SUBDIVISION OF PARCEL A, AS SHOWN IN PLAT BOOK 30, PAGE 55, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA, JUNE 16, 2009" IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS AND/OR TRUSTEES.

Allan Randle Keck
Allan Randle Keck
P.O. Box 190
Cape Charles, VA, 23310

STATE OF *Rhode Island*
COUNTY OF *Providence*

THE FOREGOING STATEMENT OF CONSENT WAS ACKNOWLEDGED BEFORE ME BY
Allan Randle Keck This *31st* DAY OF *July*, *2009*

NOTARY PUBLIC

MY COMMISSION EXPIRES: *3 30 2010 10:59 AM*

JOYCE L. HACKETT
NOTARY PUBLIC
STATE OF RHODE ISLAND
MY COMMISSION EXPIRES MAR 20, 2010

OWNER'S CERTIFICATION

THE SUBDIVISION OF LAND SHOWN ON THIS PLAT AND KNOWN AS "SUBDIVISION OF PARCEL A, AS SHOWN IN PLAT BOOK 30, PAGE 55, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA, JUNE 16, 2009" IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS AND/OR TRUSTEES.

Gail Minoff-Keck
Gail Minoff-Keck
P.O. Box 190
Cape Charles, VA, 23310

STATE OF *Rhode Island*
COUNTY OF *Providence*

THE FOREGOING STATEMENT OF CONSENT WAS ACKNOWLEDGED BEFORE ME BY
Gail Minoff-Keck This *31st* DAY OF *July*, *2009*

NOTARY PUBLIC

MY COMMISSION EXPIRES: *3 30 2010 10:59 AM*

JOYCE L. HACKETT
NOTARY PUBLIC
STATE OF RHODE ISLAND
MY COMMISSION EXPIRES MAR 20, 2010

TOWN OF CAPE CHARLES

THIS PLAT, CONSISTING OF TWO (2) PAGES, HAS BEEN APPROVED BY THE SUBDIVISION AGENT OF TOWN OF CAPE CHARLES, AND MAY BE ADMITTED TO THE LAND RECORDS OF THE AFORESAID COUNTY

Heath Davis
SUBDIVISION AGENT, TOWN OF CAPE CHARLES

9-15-09
DATE

VIRGINIA DEPARTMENT OF TRANSPORTATION

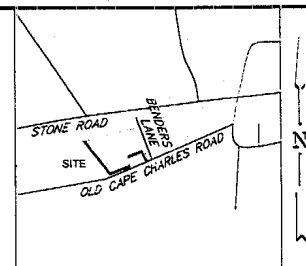
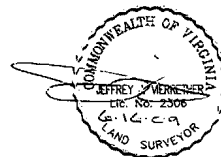
THIS SUBDIVISION SHOWN HEREON DEDICATING 7,128 S.F. ± (0.164 ACRES±) FOR ROAD WIDENING PURPOSES HAS BEEN REVIEWED AND FOUND TO MEET SPECIFICATIONS OF THE VIRGINIA DEPARTMENT OF TRANSPORTATION

SSP
VIRGINIA DEPARTMENT OF TRANSPORTATION

SEP 12, 2009
DATE

SURVEYOR CERTIFICATION

I, JEFFREY J. VIEGUTHER, A LICENSED LAND SURVEYOR, DO HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS PLAT COMPLIES WITH ALL OF THE REQUIREMENTS REGARDING THE PLATTING OF SUBDIVISIONS WITHIN THE TOWN OF CAPE CHARLES.



LOCATION MAP - SCALE: 1" = 200'

SUBDIVISION OF PARCEL A

AS SHOWN IN PLAT BOOK 28, PAGE 86 AND
AMENDED BY PLAT BOOK 30, PAGE 55

TOWN OF CAPE CHARLES
CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA
JUNE 16, 2009



MSA, P.C.
Environmental Sciences • Geosciences • Planning
Surveying • Engineering • Landscape Architecture

36086 Lankford Highway, Belle Haven, VA 22306
757-414-0234 (Cell) 757-414-0464 (Fax)
www.msaonline.com
Offices in Virginia Beach & Virginia's Eastern Shore

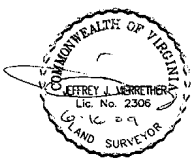
JOB # 06778
SHEET 1 OF 2

FB:
DRWN. BY *RLJ*
CHKD. BY *JBL* DATE *6/16/09*

ROAD PARCEL 1
TAX PARCEL 90-A-1
170' PRIVATE INGRESS/EGRESS & UTILITY
EASEMENT (PB 27, PG. 28)

Red Book 28, Page 68

- LEGEND**
- FOUND CONCRETE MONUMENT
 - FOUND IRON PIPE
 - FOUND IRON PIN
 - ⊙ SET IRON PIN
 - ⊙ SET IRON PIN
 - ⊙ UTILITY POLE
 - (P) PLATTED
 - (F) FIELD



FB:
DRWN. BY RLI
CHKD. BY JBL DATE 6/16/09

TOWN OF CAPE CHARLES
THIS PLAT, CONSISTING OF TWO (2) PAGES, HAS BEEN APPROVED BY THE SUBDIVISION AGENT OF THE TOWN OF CAPE CHARLES, AND MAY BE ADMITTED TO THE LAND RECORDS OF NORTHAMPTON COUNTY.

SUBDIVISION AGENT, TOWN OF CAPE CHARLES DATE

NF
ROBERT DONALD & LOLA B. BRADY
TAX PARCELS 90-1-A, 90-1-B & 90-1-C
(DB 282, PG. 770)
(DB 248, PG. 254)
(DB 144, PG. 290)

TRACT A
674,907 SF
OR 15.494 AC

PARCEL A
TAX PARCEL 90-3-A
(PB 28, PG. 58)
(PB 30, PG. 55)

NF
BAY CREEK LLC
PARCEL B
TAX PARCEL 90-3-B
(DB 317, PG. 378)
(PB 28, PG. 2)

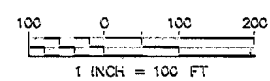
TRACT B
771,217 SF
OR 17.705 AC

PARCEL A
TAX PARCEL 90-3-A
(PB 28, PG. 58)
(PB 30, PG. 55)

JEFFREY A. & LAUREN BROWN KLINGEL
PARCEL 42
TAX PARCEL 90-3-42
(PB 30, PG. 55)
N 35° 12' 20" E 275.25'
S 56° 28' 30" W 529.05'
S 86° 28' 30" W 529.05'
N 22° 13' 10" E 101.78'
S 22° 13' 10" E 101.78'
N 22° 13' 10" E 101.78'
S 22° 13' 10" E 101.78'

LINE TABLE

LINE	LENGTH	BEARING
L1	55.01'	S 66° 28' 30" W
L2	55.01'	S 66° 28' 30" W



SUBDIVISION OF PARCEL A
AS SHOWN IN PLAT BOOK 28, PAGE 86 AND
AMENDED BY PLAT BOOK 30, PAGE 55
TOWN OF CAPE CHARLES
CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA
JUNE 16, 2009



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36086 Lankford Highway, Belle Haven, VA 23306
757-414-0234 (Off) 757-414-0464 (Fax)
www.msaonline.com
Offices in Virginia Beach & Virginia's Eastern Shore
JOB # 06779
SHEET 2 OF 2

Prepared by: Paul G. Watson IV
Paul G. Watson IV, P.C.
Post Office Box 600
Eastville, Virginia 23347

THIS DEED IS EXEMPT FROM RECORDATION TAXES
PURSUANT TO VA. CODE § 58.1-113.
THERE IS NO TITLE INSURANCE FOR THIS PROPERTY.

THIS DEED, made this 30th day of November, 2009, by and between Allan Randle KECK and Gail MINOFF-KECK, Grantors and the TOWN OF CAPE CHARLES, Grantee whose address is 2 Plum Street, Cape Charles, Virginia 23310.

WITNESSETH:

THAT for and in consideration of the sum of TEN DOLLARS (\$10.00), cash in hand, paid and other good and valuable consideration as set forth below, the receipt of which is hereby acknowledged, the said Grantors do hereby grant and convey with SPECIAL WARRANTY, unto the Grantee, the following described property, to wit:

The certain lot or parcel of land identified as "Tract B", containing 771,217 SF or 17.705 AC, as set forth on the "SUBDIVISION OF PARCEL A AS SHOWN IN PLAT BOOK 28, PAGE 86 AND AMENDED BY PLAT BOOK 30, PAGE 55, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA, JUNE 16, 2009, "by MSA, P.C. recorded in the Clerk's Office of Northampton County, Virginia on 12/18/2009, as Instrument Number 0910002548.

The Grantors and Grantee as part of the consideration for this conveyance agree to the covenants and restrictions binding upon and running with the title of both Tract A, retained by Grantors, and Tract B as set forth in the Proffer Agreement dated December 31, 2008 and attached as Exhibit A.

This conveyance is made expressly subject to the easements, conditions, restrictions and reservations of record, if any, affecting the aforesaid property and constituting constructive

notice. All taxes, rents and assessments for the current year are to be prorated as of the date of delivery of this deed and possession shall be immediately vested in the Grantee.

In compliance with the provisions of Virginia Code § 15.2-1803 (1950), this deed is in the form approved by Paul G. Watson IV, attorney for the Town of Cape Charles, Virginia, and it is accepted by him on behalf of the Town of Cape Charles, he having been authorized to so act on behalf of the Town by a resolution adopted by the Town Council at the meeting held on December 10, 2009, which approval and acceptance is evidenced by the execution of this conveyance by Paul G. Watson IV.

WITNESS the following signatures:

Allan Randle Keck (SEAL)

Allan Randle Keck

Gail Minoff-Keck (SEAL)

Gail Minoff-Keck

STATE of Rhode Island
COUNTY/CITY of Pawtucket to wit:

The foregoing instrument was acknowledged before me this 20th day of November 2009 by Allan Randle Keck.

My Comm. Expires:

Reg. number:

WILLIAM WILLIAMS
NOTARY PUBLIC
STATE OF RHODE ISLAND
MY COMMISSION EXPIRES JUNE 25, 2011

[Signature]
Notary Public

STATE of Rhode Island
COUNTY/CITY of Pawtucket to wit:

The foregoing instrument was acknowledged before me this 30th day of November 2009 by Gail Minoff-Keck.

My Comm. Expires:

Reg. number:

WILLIAM WILLIAMS
NOTARY PUBLIC
STATE OF RHODE ISLAND
MY COMMISSION EXPIRES JUNE 25, 2011

[Signature]
Notary Public

Tax Map #: 90-3-A

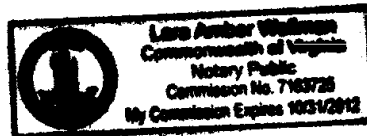
TOWN OF CAPE CHARLES,
A Virginia Municipal Corporation

By:  (SEAL)
Paul G. Watson IV, Attorney for the
Town of Cape Charles

COMMONWEALTH of Virginia
COUNTY of Northampton to wit:

The foregoing instrument was acknowledged before me this 16th December day of ~~November~~ 2009
by Paul G. Watson IV, attorney for the Town of Cape Charles, on behalf of the Town of Cape
Charles.


Notary Public
My Comm. Expires: 10/31/2012
Reg. number: 7183725



Tax Map #: 90-3-A

THIS PROFFER AGREEMENT made this 31 day of December, 2008 by and between Allan Randle Keck and Gail Minoff-Keck (hereinafter referred to as the "Grantor"), and the Town of Cape Charles, a municipal corporation of the Commonwealth of Virginia (hereinafter referred to as the "Grantee").

WITNESSETH:

WHEREAS, the Grantor has initiated an amendment to the Zoning Map of the Town of Cape Charles, Virginia, which requests the rezoning of the parcel located as tax map parcel # 90-3-A, commonly known as 2461 Old Cape Charles Road (hereinafter referred to as the "Property") from Residential Estate District RE to Multi-Family District R-3; and

WHEREAS, the Grantee's policy is to provide for the orderly development of land, for various purposes, including residential, commercial and business purposes, through zoning and other land development legislation; and

WHEREAS, THE GRANTOR HAS VOLUNTARILY PROFFERED IN WRITING IN ADVANCE OF AND PRIOR TO THE Town Council public hearings before the Grantee, the following conditions; and

WHEREAS, Grantor understands and agrees that if Grantee accepts these proffers as part of the rezoning requested by Grantor, Grantee may record these proffers against the Property.

NOW, THEREFORE, the Grantor, for itself and its successors, assigns, grantees and other successors in title or interest, voluntarily submits and grants the following proffers, which shall be binding upon the Property and upon all parties and persons claiming under or through the Grantor, its heirs, personal representatives, assigns, grantees and other successors in interest or title, namely:

(1) The Grantors proffer by dedication 17.751 +/- acres of unimproved land currently identified as tax map parcel # 90-3-A zoned Residential Estate, RE, adjoining the property to be rezoned, to be deeded to the Town of Cape Charles as unimproved land. The purpose of the dedication is for the dedicated property to become Town property and be developed by the Town in the future in a manner that will best serve the interests of the Town.

The following deed restrictions shall apply:

- A. The Town shall use the property for public purposes, excluding residential and commercial development.
- B. The Town shall retain ownership of the property for a minimum of 15 years.
- C. Any future Town buildings, other structures constructed on the property and the storage of heavy equipment shall have a minimum 100 ft. setback from the common boundary with the rezoned R-3 property. The common boundary shall

be planted with a Class III vegetated buffer, as identified in the Town's Zoning Ordinance, by the developer of the adjoining R-3 property at the time of any construction on the R-3 property. All future structures on the town property shall be designed and constructed in terms of both visual appearance and potential sound pollution in a manner that is compatible, complementary and otherwise consistent with being adjacent to a residential community.

D. The proffered property shall have the same 100 ft. setback and Class III vegetated buffer from Old Cape Charles Road as the rezoned R-3 property, continuing east around the existing residential properties to the eastern boundary. This buffer is to be planted by the Town as a Class III Buffer at such time as any construction, (other than water wells) is undertaken, insuring the entire frontage of the two properties retains a rural appearance from the road and neighboring properties.

E. The Town may rezone the property to a zoning category that allows Town uses as per A. above but all deed restrictions shall remain in force.

(2) The Grantors proffer the following regarding the 15.611 +/- acre portion of the property being retained and rezoned R-3:

A. A maximum density of 100 dwelling units.

B. A 100 ft. setback and Class III vegetated buffer on the western boundary of the property and on Old Cape Charles Road. Upon commencement of construction of buildings on the property, the buffers must be landscaped with trees a minimum of 6ft. in height at the time of planting. Trees are to be selected from the varieties listed in the Town Zoning Ordinance regarding Class III Buffers. In addition the developer of the property, at the time of construction of buildings on the property, shall also plant a Class III vegetated buffer along the common border with the eastern neighbor, the Town of Cape Charles, incorporating appropriate species within the existing tree line.

C. Any future site plan for development of the property must provide for access to a possible public road in the future, which road may be constructed on the adjoining land on the northern boundary of the property.

(3) This proffer agreement may be recorded by Grantee against the Property and the appropriate officials of Grantee are hereby authorized by Grantor to do so.

(4) The conditions set forth in this agreement shall continue in full force and effect until they are amended as provided herein but otherwise until a subsequent amendment changes the zoning on the Property covered by such conditions; provided, however, that such conditions shall continue despite a subsequent amendment if the subsequent amendment is part of the comprehensive implementation of a new or substantially revised zoning ordinance.

All references hereinabove to zoning districts and to regulations applicable thereto refer to the Zoning Ordinance for the Town of Cape Charles, Virginia, adopted June 16, 1997, in force as of the date of approval of Grantor's rezoning petition by the Grantee,

WITNESS the following signatures and seal:

Allan Randle Keck
Allan Randle Keck

Gail Minoff-Keck
Gail Minoff-Keck

STATE OF Rhode Island
COUNTY/CITY OF Newport, to-wit:

Subscribed and sworn to before me this 19 day of Dec, 2008
by Allan Randle Keck and Gail Minoff-Keck.

Cheri B. Sheekey
Notary Public

CHERI B. SHEEKEY
NOTARY PUBLIC, STOF RHODE ISLAND
NO. 43077
QUALIFIED IN NEWPORT COUNTY
COMMISSION EXPIRES APRIL 152 010

My Commission Expires: _____

MUNICIPAL CORP. OF CAPE CHARLES

BY: Dora Sullivan
Mayor

Attested: Libby Hume
Town Clerk

STATE OF VIRGINIA
COUNTY OF NORTHAMPTON, to-wit:

Subscribed and sworn to before me this 31ST day of December, 2008 by
DORA SULLIVAN, Mayor of the Municipal Corporation of Cape Charles, Virginia .

Linda Frances Carola
Notary Public

My Commission Expires: 7/31/2012

LINDA FRANCES CAROLA
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
NOTARY REGISTRATION NUMBER: 7199648
MY COMMISSION EXPIRES JULY 31, 2012

INSTRUMENT #090002549
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
DECEMBER 18, 2009 AT 03:29PM

TRACI L. JOHNSON, CLERK
RECORDED BY: SBS

Circuit Court Deed Calculation for Northampton Circuit

Court uses its own cover sheet. Please contact the court for instructions.

Deed Type:	DBS --> DEED (BARGAIN AND SALE)
Grantor Exempt:	N
Grantee Exempt:	N
Consideration Amount:	\$225,000.00
Assume/Value Amount:	\$0.00
Locality Percent:	100.000000%
Pages:	84
Names:	0
O/P:	0
Date:	6/18/2016

<u>Fee</u>	<u>Amount</u>
Clerk Recording and Indexing Fee (301)	\$ 14.50
VSLA (145)	1.50
Technology Trust Fund (106)**	5.00
State Grantee Tax (039)	562.50 ✓
Local Grantee Tax (213)	187.50 ✓
State Grantor Tax (038)	112.50
Local Grantor Tax (220/223)	112.50
Transfer Fee (212)	1.00
Regional Congestion Relief Fee (014)	0.00
Virginia Outdoors Foundation (035)	1.00
Processing Fee (036)*	20.00
Copy Fee (236)	0.00
Total:	\$ 1,018.00
*Clerk and Deed Processing Fees do not apply to any agency of the Commonwealth of Virginia. **The Technology Trust Fund fee does not apply to any federal, state, or local government.	

JUN 17 4:51 PM

Return to when recorded:
A&N Title & Settlement
P.O. Box 668
Exmore, VA 23350

GPIN or Tax Id No. 0090-19-00-000000A

CONSIDERATION: \$225,000.00
ACTUAL VALUE: \$225,000.00

Pursuant to §17.1-223 (B), of the Code of Virginia, the title insurer is unknown.

THIS DEED, made this 13th day of June, 2016, by and between, **GAIL MINOFF-KECK** and **ALLAN R. KECK**, Grantors, and **GENERAL BUILDERS, LLC**, a Virginia limited liability company, Grantee, whose tax mailing address is 7707 Leafwood Drive, Virginia Beach, VA 23451.

WITNESSETH:

The Grantors and Grantee as part of the consideration for this conveyance agree to the covenants and restrictions binding upon and running with the title of both Tract A, and Tract B as set forth in the Proffer Agreement dated December 31, 2008.

That for and in consideration of Two Hundred Twenty-Five Thousand Dollars 00/100 (\$225,000.00), and other good and valuable consideration, the receipt and or acceptance of which is hereby acknowledged, the said Grantors does hereby grant, bargain, sell and convey, with GENERAL WARRANTY AND ENGLISH COVENANTS OF TITLE, unto the said Grantee, in fee simple, the following described property, to-wit:

FOR PROPERTY DESCRIPTION, SEE ATTACHED SCHEDULE "A"

Prepared by: ALPERIN LAW PLLC, VSB #39500 500 Viking Drive, Ste. 202, Virginia Beach, VA 23452, 757-490-3500. The attorney who prepared this instrument has not performed a title examination of the subject property and therefore makes no opinion or warranty as to the quality of title.

This conveyance is made expressly subject to the easements, conditions, restrictions, and rights of way of record contained in the deeds forming the chain of title to said property.

WITNESS the following signatures and seal:

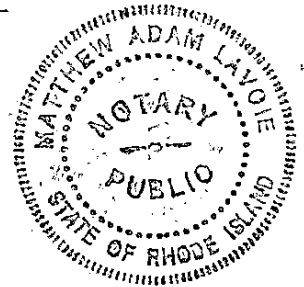
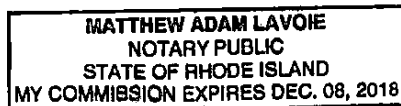

GAIL MINOFF-KECK

STATE/Commonwealth of Rhode Island
CITY/COUNTY OF Newport to-wit:

I, the undersigned Notary Public, in and for the City/County and State/Commonwealth aforesaid, do hereby certify that GAIL MINOFF-KECK has acknowledged the same before me in the City/County and State/Commonwealth aforesaid, on this 13th day of June, 2016.


Notary Public

Print Name: Matthew Adam Lavoie
Registration Number: 757364
My Commission Expires: 12/8/2018



WITNESS the following signatures and seal:

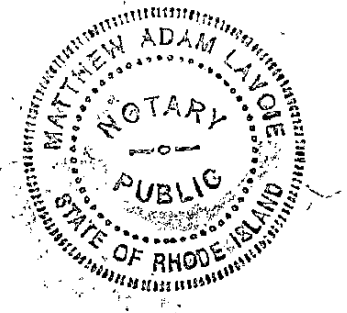
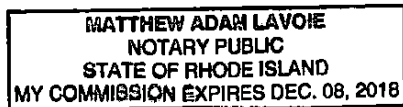
Allan R. Keck
ALLAN R. KECK

STATE/Commonwealth of Rhode Island
CITY/COUNTY OF Newport to-wit:

I, the undersigned Notary Public, in and for the City/County and State/Commonwealth aforesaid, do hereby certify that ALLAN R. KECK has acknowledged the same before me in the City/County and State/Commonwealth aforesaid, on this 13th day of June, 2016.

Matthew Adam Lavoie
Notary Public

Print Name: Matthew Adam Lavoie
Registration Number: 757364
My Commission Expires: 12/8/2018



SCHEDULE A

The certain lot or parcel of land identified as "Tract A", containing 15.49 AC, as set forth on the "SUBDIVISION OF PARCEL A AS SHOWN IN PLAT BOOK 28, PAGE 86 AND AMENDED BY PLAT BOOK 30, PAGE 55, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA, JUNE 16, 2009, "by MSA, P.C. recorded in the Clerk's Office of Northampton County, Virginia on December 18, 2009, as Instrument Number 090002548.

It being a part of the property conveyed to Gail Minoff-Keck and Allan R. Keck from Paul E. FORST and Kathleen M. FORST, by Deed dated April 23, 2002, filed for record on April 29, 2002 in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Instrument 020001045.

INSTRUMENT #160000888
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
JUNE 17, 2016 AT 04:51PM
\$225.00 GRANTOR TAX WAS PAID AS
REQUIRED BY SEC 58.1-802 OF THE VA. CODE
STATE: \$112.50 LOCAL: \$112.50

TRACI L. JOHNSON, CLERK
RECORDED BY: TLJ



CODE
2.50

CODE
2.50

CODE
2.50

GENERAL NOTES:

1. OWNER: GENERAL BUILDERS, LLC
2. TAX PARCEL: 90-19-A
3. SOURCE OF TITLE: INSTRUMENT #16000888
4. THE BOUNDARY FOR TAX PARCEL 90-19-A WAS TAKEN FROM INSTRUMENT #090002548. MSA, P.C. PERFORMED LIMITED BOUNDARY SURVEY WORK OF THE SUBJECT PROPERTY.
5. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY/all EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN ON WETLANDS, ENVIRONMENTAL HAZARDS, CEMETERIES AND UNDERGROUND STRUCTURE NOT OBSERVED DURING THE COURSE OF THE SURVEY.
6. ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 51131C0315F, DATED MARCH 2, 2015, THE PROPERTY SHOWN HEREON LIES IN FLOOD ZONE X. FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAP AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE. FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAPS. MSA, P.C. IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON. FOR FURTHER INFORMATION AND TO CONFIRM THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.
7. TOTAL AREA ENCOMPASSED BY THIS SUBDIVISION: 574,906 SF OR 15.49 AC.
8. CURRENT ZONING: R-3 (RESIDENTIAL MULTI-FAMILY DISTRICT)
9. FOR INFORMATION REGARD CURRENT SETBACK REQUIREMENTS REFER TO ARTICLE III, THE TOWN OF CAPE CHARLES ZONING ORDINANCE, LATEST EDITION.
10. ZONING AND SETBACK INFORMATION IS ACCURATE AS OF THE DATE OF PLAT APPROVAL AND IS SHOWN FOR INFORMATIONAL PURPOSES ONLY.
11. IN ACCORDANCE WITH PROFFER AGREEMENTS BETWEEN THE OWNER OF TRACT A (TAX PARCEL 90-19-A) AND THE TOWN OF CAPE CHARLES, THE FOLLOWING SETBACK AND BUFFER AREAS SHALL APPLY:
 - TRACT A
 - A 10' BUILDING SETBACK AND CLASS III VEGETATED BUFFER SHALL BE PLANTED ALONG THE WESTERN AND SOUTHERN BOUNDARY OF TRACT A (ALONG OLD CAPE CHARLES ROAD), TOGETHER WITH A CLASS III VEGETATED BUFFER ALONG THE EASTERN BOUNDARY OF TRACT A (COMMON LINE OF TRACT B). SAID BUFFERS SHALL BE PLANTED AT THE COMMENCEMENT OF CONSTRUCTION OF BUILDINGS ON THE PROPERTY IN ACCORDANCE WITH THE TOWN OF CAPE CHARLES, ACCAWMACKE PLANTATION (BAY CREEK) - PUD, APPENDIX A.
 - A DEDICATED RIGHT-OF-WAY PROFFER MUST PROVIDE FOR ACCESS TO A POSSIBLE FUTURE PUBLIC ROAD WHICH MAY BE CONSTRUCTED ON THE ADJOINING LAND TO THE NORTH OF THE OWNER'S PROPERTY.
12. THE LOTS TO BE SUBDIVIDED ARE FROM A LARGER CONCEPTUAL DEVELOPMENT AREA FOR MULTI-FAMILY UNITS.

OWNER'S CERTIFICATION

THE ABOVE AND FOREGOING SUBDIVISION OF LAND SHOWN ON THIS PLAT AND KNOWN AS "SUBDIVISION OF TRACT A, (INSTRUMENT #090002548) TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA, SEPTEMBER 14, 2016" AS APPEARS IN THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS AND TRUSTEES IF ANY.

Angelo Manuel
ANGELO MANUEL
GENERAL BUILDERS, LLC
7707 LEAFWOOD DRIVE
NORFOLK, VA 23518

STATE OF Virginia
COUNTY OF Northampton

THE FOREGOING STATEMENT OF CONSENT WAS ACKNOWLEDGED BEFORE ME BY ANGELO MANUEL THIS 20th DAY OF December, 2016.

Wanda H. Fitchett
NOTARY PUBLIC

MY COMMISSION EXPIRES: 6/30/2017

REGISTRATION NUMBER: 256796

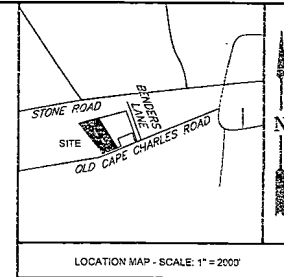


INSTRUMENT #170000133
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
JANUARY 30, 2017 AT 02:34PM

TRACI L. JOHNSON, CLERK
RECORDED BY: SBS

SURVEYOR CERTIFICATION

I, JEFFREY J. VIERRETH, A LICENSED LAND SURVEYOR, DO HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS PLAT COMPLES WITH ALL OF THE REQUIREMENTS REGARDING THE PLATTING OF SUBDIVISIONS WITHIN THE TOWN OF CAPE CHARLES.

**TOWN OF CAPE CHARLES**

THIS PLAT, CONSISTING OF TWO (2) PAGES, HAS BEEN APPROVED BY THE SUBDIVISION AGENT OF TOWN OF CAPE CHARLES, AND MAY BE ADMITTED TO THE LAND RECORDS OF THE AFORESAID COUNTY.

Paul J. Mann
SUBDIVISION AGENT, TOWN OF CAPE CHARLES

1/30/17
DATE

NORTHAMPTON COUNTY PUBLIC HEALTH OFFICER

THE PROPOSED SUBDIVISION HEREIN IS FOUND TO BE GENERALLY SATISFACTORY FOR THE INSTALLATION OF SEWAGE DISPOSAL SYSTEMS, AND THE INSTALLATION OF SEWAGE DISPOSAL SYSTEMS, SO FAR AS CAN BE DETERMINED, WILL NOT CREATE HAZARDS TO PUBLIC HEALTH. THIS APPROVAL IS ONLY WITH THE UNDERSTANDING THAT WHERE SEWAGE DISPOSAL SYSTEMS ARE TO BE INSTALLED, EACH APPLICATION MUST BE APPROVED ON AN INDIVIDUAL LOT BASIS BY THE HEALTH DEPARTMENT AT THE TIME THAT APPLICATION IS MADE.

Jeffrey J. Viereh
HEALTH OFFICER, NORTHAMPTON COUNTY, VIRGINIA

1/25/17
DATE

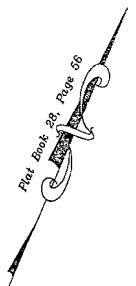
FB:
DRWN. BY RLJ/CJS
CHKD. BY JBL/JV DATE 12-15-16

SUBDIVISION OF
TRACT A
(INSTRUMENT #090002548)
TOWN OF CAPE CHARLES
CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA
DECEMBER 16, 2016



MSA, P.C.
Environmental Sciences • Planning • Surveying
Civil & Environmental Engineering • Landscape Architecture
5033 Rouse Drive, Virginia Beach, VA 23462
757-490-9264 (Ote) 757-490-0634 (Fax)
www.msonline.com

JOB # 16117
SHEET 1 OF 2



- LEGEND**
- FOUND CONCRETE MONUMENT
 - FOUND IRON PIPE
 - FOUND IRON PIN
 - SET IRON PIN
 - UTILITY POLE
 - (P) PLATTED
 - (F) FIELD



FB: _____
DRWN BY: RLJ/CJS
CHK'D BY: JBL/JV DATE: 12-16-16

TOWN OF CAPE CHARLES
THIS PLAT, CONSISTING OF TWO (2) PAGES, HAS BEEN APPROVED BY THE SUBDIVISION AGENT OF THE TOWN OF CAPE CHARLES, AND MAY BE ADMITTED TO THE LAND RECORDS OF NORTHAMPTON COUNTY.

SUBDIVISION AGENT, TOWN OF CAPE CHARLES _____ DATE _____

INSTRUMENT #170000133
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
JANUARY 30, 2017 AT 02:34PM

TRACI L. JOHNSON, CLERK
RECORDED BY: SBS

1 100 200
1 INCH = 100 FT

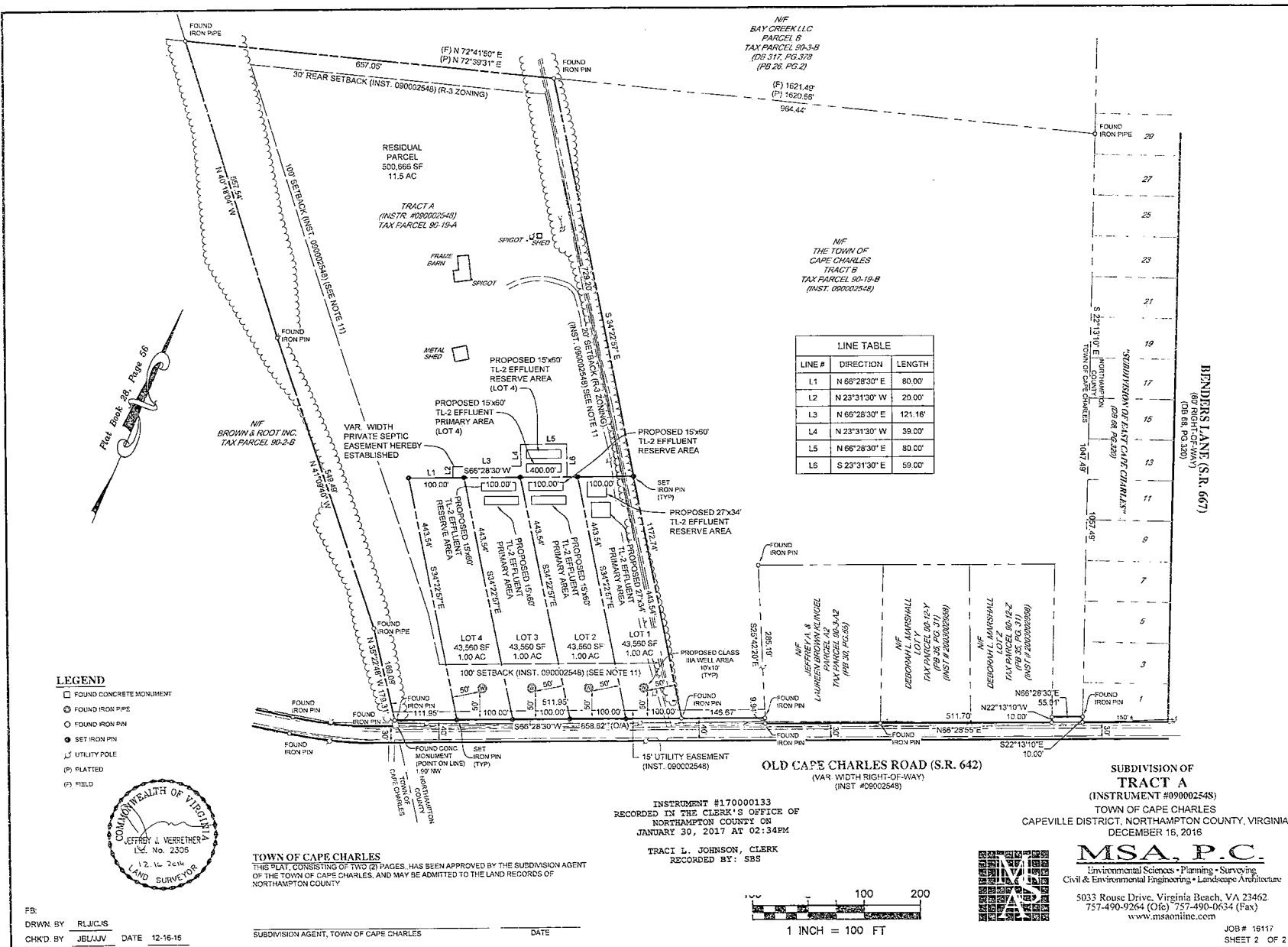
LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N 66°28'30" E	80.00'
L2	N 23°31'30" W	20.00'
L3	N 66°28'30" E	121.16'
L4	N 23°31'30" W	39.00'
L5	N 66°28'30" E	80.00'
L6	S 23°31'30" E	59.00'

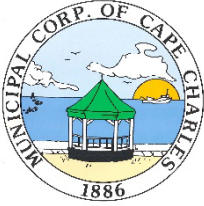
OLD CAPE CHARLES ROAD (S.R. 642)
(VAR. WIDTH RIGHT-OF-WAY)
(INST. #090002548)

SUBDIVISION OF
TRACT A
(INSTRUMENT #090002548)
TOWN OF CAPE CHARLES
CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA
DECEMBER 16, 2016

MSA, P.C.
Environmental Sciences • Planning • Surveying
Civil & Environmental Engineering • Landscape Architecture
5033 Rouse Drive, Virginia Beach, VA 23462
757-490-9264 (Ofc) 757-490-0634 (Fax)
www.msanonline.com

JOB# 16117
SHEET 2 OF 2



 TOWN OF CAPE CHARLES	AGENDA TITLE: Deed of Dedication of Water/Sewer Utilities in Village L (Bay Creek)		AGENDA DATE September 15, 2022
	SUBJECT/PROPOSAL/REQUEST: Deed of Dedication of Water/Sewer Utilities in Village L (Bay Creek)		ITEM NUMBER: 8C
	ATTACHMENTS: (1) Deed of Dedication and Easement; (2) Affidavit; and (3) Agreement		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Planning & Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

My office has been approving brand new subdivisions within the Bay Creek community (and not just expansions or in-fill lots of already approved subdivisions) over the last year. One of those subdivisions – Village L or Muirfield - has reached the stage of completion on the primary infrastructure work (water and sewer lines & roads) and has requested the Town to accept the water and sewer components into the Town system. There did not appear to be an established protocol and review process for this so I have worked with the developer and the water and sewer departments, with extensive assistance from the Town’s attorney, to develop 3 documents to address this immediate request as well as to serve as our template for any future new subdivisions, whether within the Bay Creek community or elsewhere in the Town.

ITEM SPECIFICS:

The first document called Deed of Dedication and Easement will need to be accepted by the Town, signed and then recorded in the Clerk of Courts records when the Town has accepted that the water and sewer lines have been constructed according to the engineered plans and are functional into the water and sewer systems. This will also establish the date of the Town’s acceptance of this infrastructure and the one year warranty period and also places this acceptance within the land records of the County. While the tests are still on-going for Village L, I am hopeful that the Town Council will authorize the Town Manager to execute the Deed of Dedication and Easement once the Town accepts the testing acceptable pursuant to our engineer’s review and confirmation of the test results. Please note that the Deed of Dedication is mostly in final format as proposed by the Town’s attorney but is going through final review by the developer for their acceptance to the final format. I am meeting with the developer on Wednesday afternoon and will update the Council at the meeting if there are any substantive changes to the documents.

The second document is an affidavit by the developer attesting to the work and location of said work and that there are no outstanding mechanic’s liens to said infrastructure work.

The third and final document is to “bridge the gap” between when the developer finishes the infrastructure work and the time it takes for the Town to accept said work but to allow for any individual lots that have been sold in the subdivision to be able to commence submitting building permit applications and for the Town to be able to approve them conditionally, meaning that no Certificate of Occupancy will be able to be issued until the Deed of Dedication has been executed and recorded in the Clerk of Courts’ office. This document would need to be executed by the Town, the developer and the lot owner seeking the building permit.

RECOMMENDATION:

I am requesting the Town Council to authorize the Town Manager and the Planning & Zoning Department to finalize said documents and execute as warranted, specific for Village L (Muirfield) Subdivision in Bay Creek, as well as to utilize said documents as a template for all future subdivisions for acceptance of water and sewer utilities into the Town Water and Sewer Systems.

Deed of Dedication and Conveyance and Easement

(The Town of Cape Charles is exempt from recordation taxes pursuant to Section 58.1-811.A.3 of the 1950 Code of Virginia, as amended.)

Description for Index: Water/Sewer Lines in Bay Creek
 Muirfield Lots L1-L43, L80-L82, L92-L99, L105-L106, & L111-L123 (Formerly Village L)

VIRGINIA - NORTHAMPTON COUNTY

THIS DEED OF DEDICATION AND CONVEYANCE AND EASEMENT (hereinafter “Agreement”) is made on the ____ day of September, 2022, by and between **BAY CREEK DEVELOPMENT CO., LLC**, a Virginia limited liability company (“Grantor”), and the **TOWN OF CAPE CHARLES**, Virginia, a body politic and corporate, duly organized under the Constitution and laws of the Commonwealth of Virginia with a mailing address of 2 Plum Street, Cape Charles, Virginia 23310 (“Grantee” and sometimes referred to herein as the “Town”).

WITNESSETH:

WHEREAS, Grantor is the developer of certain land located in Bay Creek in the Town of Cape Charles, Virginia, and Grantor has caused to be installed water distribution lines, sewer collection lines, and service connections under and within the following described public utility easements (hereinafter collectively the “Public Utility Easements”):

The roads and private street rights of way of Muirfield Drive, Edinburgh Lane, Columbus Drive, Gullane Way, Aberdeen Way and Golden Bear Circle (each a “Right of Way” and collectively the “Rights of Way”) as shown on that plat titled “Subdivision Plat of Village L – Phase 1A, Bay Creek, Bay Creek at Cape Charles” and recorded in the Clerk’s Office of the Circuit Court of Northampton County (the “Clerk’s Office”) as Instrument 210002384 (the “Village L - Phase 1A Plat”), and the 5’ Public Utility Easement extending five feet (5’) beyond the edges of the Aberdeen Way Right of Way and Golden Bear Circle Right of Way into lots into the adjoining Lots L23 – L41 as shown on the Village L – Phase 1A Plat.

Prepared by Bay Creek, 1 Clubhouse Way, Cape Charles, VA 23310
Please Return to Bay Creek, 1 Clubhouse Way, Cape Charles, VA 23310
Attention: Bobby Masters

The 10' Public Utility Easement extending ten feet (10') beyond the edges of the Muirfield Drive Right of Way into lots L1-L9, L80-L82 and L92-L99 as shown on that plat titled "Subdivision Plat of Village L – Phase 1B, Bay Creek" and recorded in the Clerk's Office as Instrument 220000361 (the "Village L – Phase 1B Plat").

The 10' Public Utility Easement extending ten feet (10') beyond the edges of the Muirfield Drive Right of Way into lots L10-L22, L105-L106 and L111-L117 as shown on that plat titled "Subdivision Plat of Village L – Phase 1C, Bay Creek" and recorded in the Clerk's Office as Instrument 220000362 (the "Village L – Phase 1C Plat").

The 10' Public Utility Easement extending ten feet (10') beyond the edges of the Aberdeen Way Right of Way and Golden Bear Circle Right of Way into lots L23-L43, and L118-L123 as shown on that plat titled "Subdivision Plat of Village L – Phase 1D, Bay Creek" and recorded in the Clerk's Office as Instrument 220000363, (the "Village L – Phase 1D Plat").

Hereinafter Lots L1-L43, L80-L82, L92-L99, L105-L106 and L111-L123 referenced above are hereinafter referred to as the "Lots".

WHEREAS, Grantor wishes to obtain water and sewer service for the Lots from Grantee, and to make water and sewer service from Grantee's system available to the owners of lots in the [describe adjacent subdivision] subdivision (the "Adjacent Subdivision"); and

WHEREAS, Grantee has adopted through appropriate resolution stated policy regarding subdivision water distribution systems and sewer collection lines under the terms of which, among other things, in order to obtain water and sewer service for said subdivision Grantor must convey title to the water distribution system and the sewer collection system to Grantee through an instrument of dedication acceptable to Grantee.

NOW THEREFORE, Grantor, in consideration of Grantee accepting the water and sewer systems and making water and sewer service available to the Lots [and the Adjacent Subdivision], does hereby convey, grant and dedicate to Grantee, its lawful successors and assigns, the following described property, interests and easements:

1. Water and Sewer Lines. All of the water distribution and sewer collection pipes, lines, service connections, connectors and any other water and sewer equipment, facilities, accessories and appurtenances thereto, located under, along, on and within the Public Utility Easements including the Rights of Way (collectively the "Water Distribution System and Sewer Collection System").

2. Easements.

(a) A nonexclusive easement over, upon, and under the Public Utility Easements including the Rights of Way for purposes of the operation of and the maintenance, repair, upkeep and replacement of all and any part of the Water Distribution System and Sewer Collection System and for connecting the same to the Lots and Adjacent Subdivision;

- (b) A non-exclusive easement and right of use for vehicular and pedestrian access, ingress, egress and passage on, over and across the Public Utility Easements including the Rights of Way for the operation of and the maintenance, repair, upkeep and replacement of all and any part of the Water Distribution System and Sewer Collection System and for connecting the same to the Lots and Adjacent Subdivision; and
- (c) A temporary, non-exclusive utility easement and easement and right of use for vehicular and pedestrian access, ingress, egress and passage on over and across Parcel 90-30-P14A for the purpose of the operation of the sewer line from Muirfield Drive to Bayside Avenue (the "Temporary Easements"). The Grantor will be responsible for the ongoing maintenance of Parcel 90-30-P14A to ensure its unobstructed access and utility until said time that Grantor establishes and grants to the Grantee a permanent easement or easements acceptable to the Grantee, at which time the Temporary Easements granted in this Section 2(c) shall automatically terminate.

TO HAVE AND TO HOLD the Water Distribution System and Sewer Collection System, and non-exclusive easements, together with the privileges and appurtenances thereto belonging, to Grantee forever.

And Grantor does hereby covenant that it is seized of all water distribution and sewer collection pipes, lines, service connections, connectors and any other water and sewer equipment, facilities, accessories and appurtenances thereto being a part of the Water Distribution System and Sewer Collection System and non-exclusive easements granted herein, and has the right to convey and grant the same, that the same are free and clear of all encumbrances, and that it warrants and will defend the title to the same against all persons whomsoever.

Grantor warrants to Grantee that the Water Distribution System and Sewer Collection System herein conveyed are of good quality and are free from faults and defects, and confirm to as-built drawings. Grantor warrants the Water Distribution System and Sewer Collection System and each and every part and component thereof for a period of one year from the date this instrument is recorded in the Clerk's Office (such one-year period being hereinafter referred to as the "Warranty Period"). During the Warranty Period, Grantor shall be responsible for the maintenance, repair, upkeep and replacement of all or any part of the Water Distribution System and Sewer Collection System. Following the Warranty Period, the Town shall be responsible for the operation of and the maintenance, repair, upkeep and replacement of all and any part of the Water Distribution System and Sewer Collection System, including making all necessary and prudent repairs to the impervious surface of the Rights of Way should said surface be disrupted by maintenance, repair, upkeep and replacement of all and any part of the Water Distribution System and Sewer Collection System by the Town. All repairs by the Town to the impervious surface shall conform with the usual and customary practice of the Town in making such road surface repairs following utility work within right-of-way of a similar character and such repairs may not conform with the surrounding material or standard.

Upon the Water Distribution System and Sewer Collection System being operational, the Town will supply water and wastewater service to the Lots [and the Adjacent Subdivision], subject

to the same terms, conditions, fees and charges for such services provided by the Town to other properties and customers in the Town.

The above described Rights of Way have been or will be conveyed to Bay Creek Preserve Communities Association, Inc., a Virginia nonprofit corporation, and Grantor has or will reserve unto itself, its successors and assigns, a non-exclusive easement for ingress, egress and regress, and for the installation and maintenance of drainage facilities and utilities (including irrigation), over, upon and under the Public Utility Easements, including the Rights of Way, which non-exclusive easement may be assigned in whole or in part by Grantor. Grantor, for itself, its successors and assigns, reserves the right to grant additional non-exclusive easements and to otherwise use the subject property for such purposes as it deems appropriate.

This Agreement is not intended to create, and it shall not be construed as creating, any rights in or for the benefit of the general public or affecting any real property other than the property described herein.

This Agreement shall be construed in accordance with, and governed by, the laws of the Commonwealth of Virginia, without regard to principles of conflicts of laws.

This Agreement may not be amended except by an instrument in writing duly executed and recorded by the parties to be bound thereby.

The parties agree to do and take further and additional acts and actions and execute, acknowledge, and deliver such further and additional documents, instruments and writings which are not specifically referred to herein as may be necessary, required or appropriate for the purpose of fully effectuating the provisions of this Agreement.

Every provision of this Agreement is hereby declared to be independent of and separate from every other provision. If any such provision shall be held to be invalid or unenforceable, that holding shall be without effect upon the validity or enforceability of any other provisions of this Agreement. Every provision hereby shall be interpreted, to the extent possible, in such a way to make it valid, binding and enforceable.

The doctrine of merger shall not be applicable to this Agreement or any of the easements, rights, privileges, responsibilities and obligations contained herein and there shall be no merger of estates or interests created herein as a result of any unity of title or interest thereto or therein.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Grantor has caused this instrument to be duly executed the day and year first above written.

Bay Creek Development Co., LLC,
a Virginia limited liability company

By: _____
Robert F. Masters, Authorized Agent

COMMONWEALTH OF VIRGINIA

TOWN OF CAPE CHARLES

I, the undersigned, a Notary Public of the above jurisdiction, do hereby certify that Robert F. Masters, in his capacity as the Authorized Agent of BAY CREEK DEVELOPMENT CO., LLC, a Virginia limited liability company, appeared before me and acknowledged the due execution of the aforesaid instrument, this ___ day of August 2022, on its behalf.

Date: _____, 2022

(Official Seal)

Official Signature of Notary

_____, Notary Public
Printed or typed name

My commission expires: _____

Notary Registration No.: _____

ACCEPTANCE OF DEED

This Deed of Dedication and Conveyance and Easement of BAY CREEK DEVELOPMENT CO., LLC was accepted by the Cape Charles Town Council on the __ day of _____, 2022.

Cape Charles Town Council

_____, Mayor

Clerk to the Town Council

4879-2192-5936, v. 4

AFFIDAVIT

Description for Index: Water/Sewer Lines in Bay Creek
Muirfield Lots L1-L43, L80-L82, L92-L99, L105-L106, & L111-L123 (Formerly Village L)

COMMONWEALTH OF VIRGINIA
NORTHAMPTON COUNTY

On _____, 2022, **Bay Creek Development Co., LLC**, a Virginia limited liability company (“Affiant”), hereby deposes and says as follows:

1. That Affiant is the developer of certain property located in Bay Creek in the Town of Cape Charles, Virginia, as more particularly described in the Deed of Dedication and Conveyance and Easement, dated of even date herewith, given by Affiant conveying, granting and dedicating to the Town of Cape Charles the property, interests and easements described therein (hereinafter the “Deed”).

2. That Affiant has caused to be installed water distribution lines, sewer collection lines, and service connections under and within the following described property:

The roads and private street rights of way of Muirfield Drive, Edinburgh Lane, Columbus Drive, Gullane Way, Aberdeen Way and Golden Bear Circle (each a “Right of Way” and collectively the “Rights of Way”) as shown on that plat titled “Subdivision Plat of Village L – Phase 1A, Bay Creek, Bay Creek at Cape Charles” and recorded in the Clerk’s Office of the Circuit Court of Northampton County (the “Clerk’s Office”) as Instrument 210002384 (the “Village L - Phase 1A Plat”), and the 5’ Public Utility Easement extending five feet (5’) beyond the edges of the Aberdeen Way Right of Way and Golden Bear Circle Right of Way into lots into the adjoining Lots L23 – L41 as shown on the Village L – Phase 1A Plat.

The 10' Public Utility Easement extending ten feet (10') beyond the edges of the Muirfield Drive Right of Way into lots L1-L9, L80-L82 and L92-L99 as shown on that plat titled "Subdivision Plat of Village L – Phase 1B, Bay Creek" and recorded in the Clerk's Office as Instrument 220000361 (the "Village L – Phase 1B Plat").

The 10' Public Utility Easement extending ten feet (10') beyond the edges of the Muirfield Drive Right of Way into lots L10-L22, L105-L106 and L111-L117 as shown on that plat titled "Subdivision Plat of Village L – Phase 1C, Bay Creek" and recorded in the Clerk's Office as Instrument 220000362 (the "Village L – Phase 1C Plat").

The 10' Public Utility Easement extending ten feet (10') beyond the edges of the Aberdeen Way Right of Way and Golden Bear Circle Right of Way into lots L23-L43, and L118-L123 as shown on that plat titled "Subdivision Plat of Village L – Phase 1D, Bay Creek" and recorded in the Clerk's Office as Instrument 220000363, (the "Village L – Phase 1D Plat").

3. That all of the work performed in the construction and installation of said water distribution lines, sewer collection lines and service connections has been fully paid for and there are now no liens of any kind including any lien for labor or materials which would in any way affect or attach to the property, interests or easements conveyed by the Deed, nor are there any legal actions pending against Affiant or any contractor arising out of any work performed at the request of or for the benefit of Affiant, and Affiant has received no written notice of any claim or indebtedness to anyone for any such labor, fixtures, apparatus, material services, or work done to, upon, or in connection with the property, interests or easements conveyed by the Deed and to Affiant's knowledge, there is no mechanics lien claim against the property, interests or easements conveyed by the Deed, whether of record or otherwise.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Affiant has caused this instrument to be duly executed, the day and year first above written.

Bay Creek Development Co., LLC,
a Virginia limited liability company

By: _____
Robert F. Masters, Authorized Agent

I, the undersigned, a Notary Public of the above jurisdiction, do hereby certify that Robert F. Masters, in his capacity as the Authorized Agent of BAY CREEK DEVELOPMENT CO., LLC, a Virginia limited liability company, appeared before me and acknowledged the due execution of the aforesaid instrument, this ____ day of August 2022, on its behalf.

Date: _____, 2022

(Official Seal)

Official Signature of Notary

_____, Notary Public
Printed or typed name

My commission expires: _____

Notary Registration No.: _____

AGREEMENT

This AGREEMENT (the “Agreement”) is made this the ____ day of September 2022 (the “Effective Date”), by and between **Bay Creek Development Co., LLC** (hereinafter the “Developer”), _____ [insert name of lot owner] (hereinafter the “Lot Owner”), and the **Town of Cape Charles, Virginia**, a body politic and corporate, duly organized under the Constitution and laws of Virginia (hereinafter the “Town”).

WHEREAS, the Developer has declared an intention to construct or has constructed a new wastewater and water system (the “System”) to serve property generally known as Muirfield Lots L1-L43, L80-L82, L92-L99, L105-L106, & L111-L123 (Formerly Village L) at Bay Creek (hereinafter the “Lots”), and has made provision for the use of this System to supply the current and water and wastewater needs of the Lots, and it is the intention of the Developer and the Town that the System be dedicated and conveyed to the Town to be accepted into the Town’s waste water and water system to serve the Lots; and

WHEREAS, through appropriate resolution the Town has adopted a policy to provide water and wastewater services to the lots within a subdivision upon the developer of the subdivision constructing the necessary water distribution systems and sewer collection systems and the developer conveying title to the water distribution system and the sewer collection system to the Town; and

WHEREAS, Owner is the current owner of Lot ____ (the “Owner’s Lot”) and has submitted to the Town an application for a building permit to construct a single family home on the Owner’s Lot; and

WHEREAS, so as not to unduly impede the progress of the Developer in the business of its scheduled construction and development of the Lots or unduly delay the Owner’s construction of a single family home on the Owner’s Lot, the Town has agreed to issue the building permit applied for by the Owner prior to the completion of the System by the Developer and acceptance by the City of the System, upon the additional terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. The Town will issue the building permit requested by the Owner for constructing a single family home on the Owner Lot, subject to the additional requirement that the Town shall not be obligated to issue any Certificate of Occupancy (temporary or permanent) for the single family house to be constructed on the Owner Lot, until the Town has accepted the transfer of the System from the Developer to the Town and into the Town’s water distribution system and sewer collection system.

2. Developer and Lot Owner agree that neither shall have a claim against the Town relating to or arising from or out of the Town not issuing a Certificate of Occupancy (temporary or permanent) for the single family home constructed on the Owner’s Lot, solely because the Town has not accepted the transfer of the System from the Developer to the Town and into the Town’s water distribution system and sewer collection system, and by signing this Agreement each waives and releases forever any and all claims it could have against the Town relating to or arising from or out of the Town not issuing a Certificate of Occupancy (temporary or permanent) for the single family home constructed on the Owner’s Lot, solely because the Town has not accepted the transfer of the System from the Developer to the Town and into the Town’s water distribution system and sewer collection system.

3. This Agreement shall be construed in accordance with, and governed by, the laws of the Commonwealth of Virginia, without regard to principles of conflicts of laws.

4. This Agreement may not be amended except by an instrument in writing duly executed by the parties to be bound thereby.

5. Every provision of this Agreement is hereby declared to be independent of and separate from every other provision. If any such provision shall be held to be invalid or unenforceable, that holding shall be without effect upon the validity or enforceability of any other provisions of this Agreement. Every provision hereby shall be interpreted, to the extent possible, in such a way to make it valid, binding and enforceable.

In witness thereof, the parties hereto have affixed their signatures on the Effective Date.

DEVELOPER:

Bay Creek Development Co., LLC,
a Virginia limited liability company

By: _____
Robert F. Masters, Authorized Agent

TOWN OF CAPE CHARLES:

John Hozey, Town Manager
Town of Cape Charles

Katie H. Nunez, Planning & Zoning
Administrator
Town of Cape Charles

LOT OWNER:

[if an individual]

[if an entity]

_____ [insert name of entity]

Name:

By: _____
Name:
Title

 TOWN OF CAPE CHARLES	AGENDA TITLE: PPEA Utility Consulting Services		AGENDA DATE September 15, 2022
	SUBJECT/PROPOSAL/REQUEST: Authorize amendment of New Gen contract for additional services.		ITEM NUMBER: 8D
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Bob Panek, Project Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

As authorized by Council, on June 10, 2021 the Town contracted with NewGen Strategies & Solutions for consulting services in the amount of \$92,120 to assist in evaluating proposals from Aqua Virginia and Virginia American Water (VAW) to acquire the Town's water and wastewater systems. The initial contract cost was invoiced back to the two proposers. This contract included the following scope of work:

- A. Conduct background research on these private utility companies.
- B. Advise on acceptable processes and procedures associated with the PPEA, the VA Fair Market Value legislation, and the VA State Corporation Commission.
- C. Conduct on-site inspection of Town water and wastewater facilities and review data provided by the Town to develop detailed asset lists and determine current appraised value for the assets/property to be acquired. Evaluate proposed conceptual and detailed fiscal terms against current value and the fair market value.
- D. Develop a nominal municipal utility rate forecast/capital investment strategy for the next ten years as a baseline. Compare the proposed rate forecasts/capital investment strategies to this baseline.
- E. Provide the criteria/performance metrics used during evaluations, as well as recommended metrics the Town could employ in monitoring provisions under any eventual contract.

The contract included a provision for separately authorizing additional work as follows:

- F. Meet in-person with Town staff, and with the Town Council in public and executive sessions to present analysis and assist in the evaluation of data and options. Participate in open town hall style meetings.
- G. Assist with the development of a PPEA Comprehensive Agreement, should the process progress to that stage and be desired by the Town.

This additional work was authorized on December 9, 2021 and March 4, 2022 in the amount of \$20,000, bringing the total contract value to \$112,120.

DISCUSSION:

Council made the decision to advance VAW to the next phase of the PPEA process on January 13, 2022. NewGen has supported public forums, performed analysis of the fair market value of our systems, and provided advice for negotiations with VAW. We are now at a point to conclude negotiations and prepare a comprehensive agreement for Council's consideration. This will include the required filings with the State Corporation Commission to approve the sale and establish initial

service rates, should Council choose to do so. NewGen has proposed a \$75,000 increase to the contract for additional services to accomplish this under tasks F. and G.

This increase is beyond the initial commitment of either proposer, and would therefore be funded by the Town. The FY 2023 budget includes sufficient funding to cover this increase for now, but replenishment of these line items may be necessary during this year's mid-year budget adjustment.

Council approval is required to award a contract for professional services greater than \$30,000.

RECOMMENDATION:

Staff recommends that Council authorize the Town Manager to amend the contract with NewGen Strategies & Solutions for PPEA Utility Consulting Services, as outlined above.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Planning Commissioner Reappointment		AGENDA DATE: September 15, 2022
	SUBJECT/PROPOSAL/REQUEST: Reappointment of Planning Commissioner		ITEM NUMBER: 8E
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume, Town Clerk	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Planning Commission serves as an advisory body to the Town Council for planning-related matters and consists of seven members – six citizen members each serving four-year terms and one member representing the Town Council.

DISCUSSION:

William Stramm currently serves on the Planning Commission and his term will be expiring on October 31, 2022. Mr. Stramm has expressed his interest in continuing his service on the Planning Commission for another term.

RECOMMENDATION:

Staff recommends Council reappoint Mr. William Stramm to the Planning Commission for another four-year term.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Reappointment of Board of Zoning Appeals Member		AGENDA DATE: September 15, 2022
	SUBJECT/PROPOSAL/REQUEST: Reappointment of Member to the Board of Zoning Appeals		ITEM NUMBER: 8F
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume, Town Clerk	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Board of Zoning Appeals (BZA) hears zoning appeals and reviews variance and special exception applications. All appointments are approved by the Circuit Court of Northampton County. The Board consists of five members each serving five-year terms.

DISCUSSION:

James Holloway currently serves on the BZA, and his term will be expiring on October 31, 2022. He also serves as the BZA representative to the Planning Commission. Mr. Holloway has expressed his interest in continuing his service on the BZA and Planning Commission for another term.

RECOMMENDATION:

Staff recommends Council reappoint Mr. James Holloway to the Board of Zoning Appeals and as the Board of Zoning Appeals representative to the Planning Commission for another term.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Waste Collection and Disposal Services Contract Extension		AGENDA DATE: September 15, 2022
	SUBJECT/PROPOSAL/REQUEST: Approve Contract Extension for Waste Collection and Disposal Services		ITEM NUMBER: 8G
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

On October 21, 2021, the Town of Cape Charles awarded a contract effective November 1, 2021 to P.W. Davis Disposal for all waste collection and disposal services for the Town. The contract was for one year with the option to renew for two additional years, for a total of three years. The contract was written so future pricing would be based on the Consumer Price Index, which is 8.5% as of July 2022.

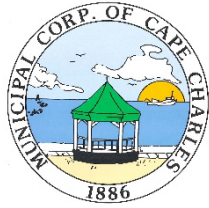
DISCUSSION:

This is the first of the two extensions covering the timeframe from November 1, 2022 through October 31, 2023.

The cost for year two of the contract will be \$18.93 per month per receptacle. This represents an increase of about \$15,000 over the amount budgeted for FY 2023. There is currently about \$80,000 available in the Sanitation Fund Balance which would cover this increase.

RECOMMENDATION:

Staff requests Council approval for the first extension of the Waste Collection and Disposal Services contract with P.W. Davis Disposal from November 1, 2022 through October 31, 2023, and transferring the necessary amount from the Sanitation Fund Balance so as not to increase the rates to the users.



**TOWN OF
CAPE CHARLES**

AGENDA TITLE: Budget Amendment Request

AGENDA DATE
September 15, 2022

SUBJECT/PROPOSAL/REQUEST: Request to amend the
FY2023 budget.

ITEM NUMBER:
8H

ATTACHMENTS: Budget Amendment Detail List

FOR COUNCIL:
Action (x)
Information ()

STAFF CONTACT (s):
Deborah Pocock, Treasurer

REVIEWED BY:
John Hozey, Town Manager

BACKGROUND:

Due to supply chain issues during fiscal year 2022, parts, supplies and equipment were difficult to find in stock. There were also workforce, contractor, and consultant complications or delays. As a result, several items were delivered, or project work items delayed until after June 30, 2022. A budget amendment is needed to complete or pay for these projects.

ITEM SPECIFICS:

Town Council set a public hearing for September 15, 2022, to hear public input on the proposed FY2023 budget amendment.

The attached project list itemizes the expenditure accounts that would be affected by the requested appropriation.

The requested amendment by fund is as follows:

Total new budget appropriations requested (by fund):		
	Revenue	Expenditures
General Fund	\$115,426.00	\$115,426.00
Special Activities Fund	\$24,242.48	\$24,242.48
Utilities Fund	\$108,311.00	\$108,311.00
Total appropriations requested	\$247,979.48	\$247,979.48

RECOMMENDATION:

Staff requests that council vote to amend the Fiscal year 2023 budget as listed above and in the attached detail worksheet and make additional budget appropriation of \$247,979.48.

Listing of FY2022 budgeted expenditures to bring forward to FY2023 budget as an amendment.

General Fund

Project/Purchase	Expenditures	Revenue	Budget Account
Radio & antenna for new police vehicle	\$ 482.00		100-4310-7070
Outfitting the ARPA funded police vehicle purchased in June	\$ 7,135.00		130-4121-4150
SoftwareMunicode update, final payment	\$ 3,050.00		100-4112-5240
Codification of zoning ordinance update	\$ 1,680.00		100-4112-5240
Treetop Products - public area trash can replacement	\$ 25,000.00		100-4430-7020
NOVO Solutions - PW task ticketing system, from repairs & maint	\$ 4,500.00		100-4430-6150
Unexpended legal costs, use for PPEA consulting;Tmgr Consulting	\$ 50,000.00		100-4121-3410
Reappropriate FY22 revenue for carryforward projects		\$ 91,847.00	100-3800-6001
Notice of DCJS LOLE Grant (Police) received in August	\$ 3,179.00		100-4310-4080
Backlogged, for FY2021 grant pool		\$ 3,179.00	100-3800-2000
*Cigna Claim refund credit - to be used for health insurance premiums		\$ 20,400.00	100-3600-4000
Update health ins expense - allocate cigna refund credit	\$ 20,400.00		to each dept prorata
*The Cigna Credit was not included in the original budget, in error.			for dependent premium
			subsidies and town credit
			toward spring increases
	\$ 115,426.00	\$ 115,426.00	

Special Activities Fund

Project/Purchase	Expenditures	Revenue	Budget Account
NewGen PPEA Consulting reappropriate revenue		\$ 16,425.00	130-3650-6000
NewGen PPEA Consulting reappropriate expense	\$ 16,425.00		130-4121-4125
CCP grant for Rock climbing wall	\$ 7,817.48		130-4430-4110
Rock climbing wall		\$ 7,817.48	130-3800-9000
The reappropriated funds are incompletd projects	\$ 24,242.48	\$ 24,242.48	

Utilities Fund

Project/Purchase	Expenditures	Revenue	Budget Account
Seasonal help, 4 mos at \$16.69 w/taxes per hour, 24 hours per week	\$ 7,000.00		501-4501-1300
Engineering Svcs Water	\$ 26,736.00		501-4501-3420
Engineering Svcs Sewer	\$ 34,564.00		501-4502-6225
Move unexpended repairs & maint. water & sewer to contingency	\$ 40,011.00		501-4500-6900
Reappropriate FY22 revenue for carryforward projects water & sewer		\$ 108,311.00	501-3900-6000
The utilities fund reappropriated funds are unexpended part time	\$ 108,311.00	\$ 108,311.00	
water wages, repairs \$ maintenance, and engineering			

Total appropriations requested \$ 247,979.48

2023 Budget total \$ 11,349,990.00

1% of budget \$ 113,499.90

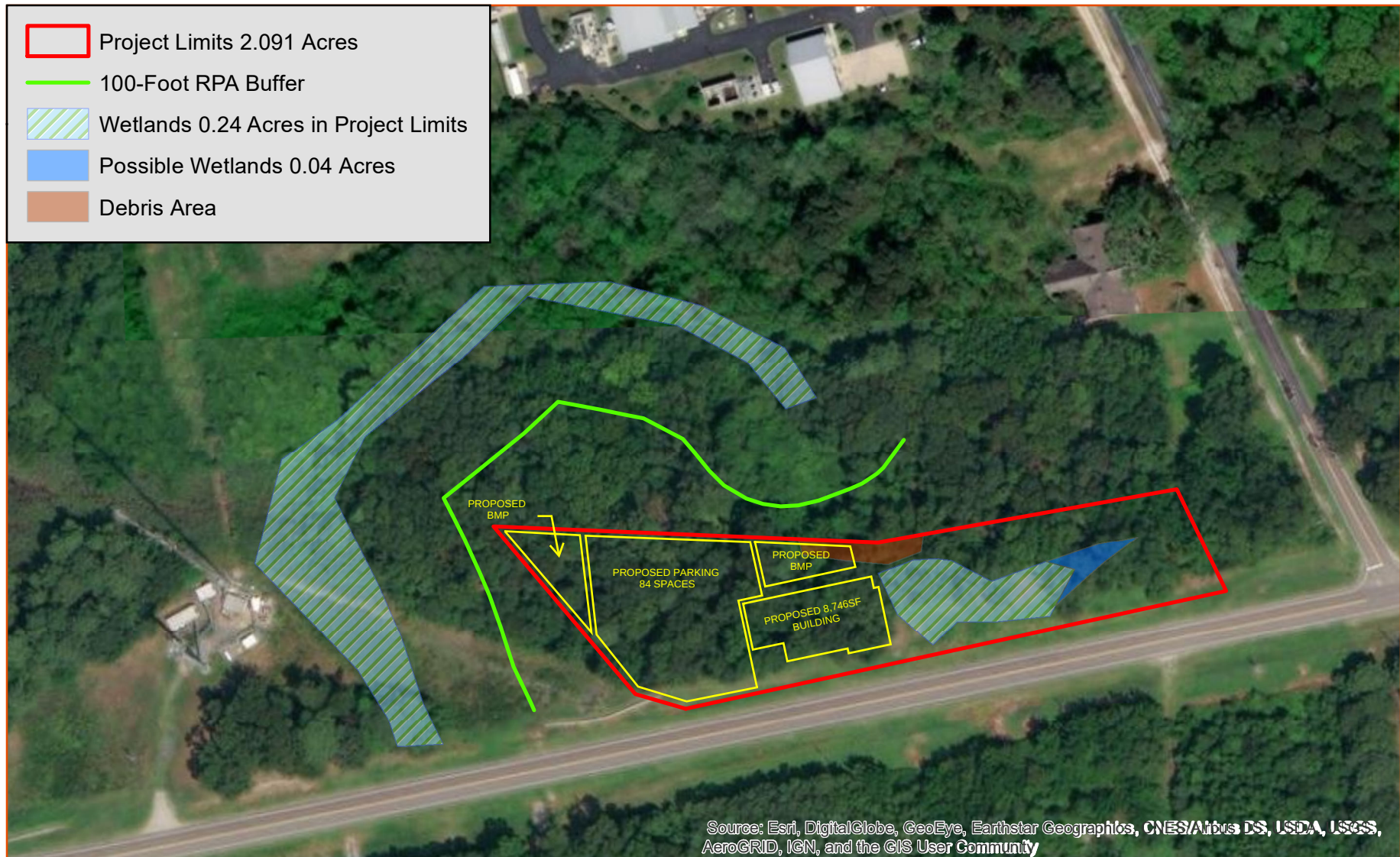
Public Hearing required? Yes

Scheduled for September 15th, 2022



TOWN COUNCIL
Work Session
September 15, 2022
Cape Charles Civic Center
Immediately Following the Regular Meeting

1. Call to Order:
 - A. Roll Call
 - B. Establish quorum
2. Discussion Item:
 - Review Initial Plans and Concepts for FY 23 Capital Projects
3. Adjournment



Cape Charles, VA USGS Quadrangle Topographic Map

0 100 200 400 600 Feet

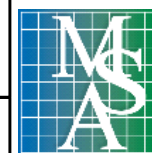


CONCEPTUAL WETLAND AND CBPA EXHIBIT

WETLAND AND CBPA ASSESSMENT

PARCEL 83A3-A-14

BAYSHORE ROAD, CAPE CHARLES, VIRGINIA



MSA, P.C.

Environmental Sciences, Surveying,
Civil & Environmental Engineering

5032 Rouse Drive, Suite 200
Virginia Beach, VA. 23462
757-490-9264 www.msaonline.com

MSA JOB #
22057

DATE:
FEB 21, 2022

MAPPED BY:
BRO



DEPARTMENT LEGEND

- CLERK
- POLICE
- SUPPORT SPACE

NEW MUNICIPAL BUILDING FOR
TOWN OF CAPE CHARLES
CAPE CHARLES, VIRGINIA

FIRST FLOOR SPACE PLAN

1/16" = 1'-0" ON 11"X17"
1/8" = 1'-0" ON 22"X34"

SF PER FLOOR: 8,745
TOTAL SF: 15,494

9/12/2022



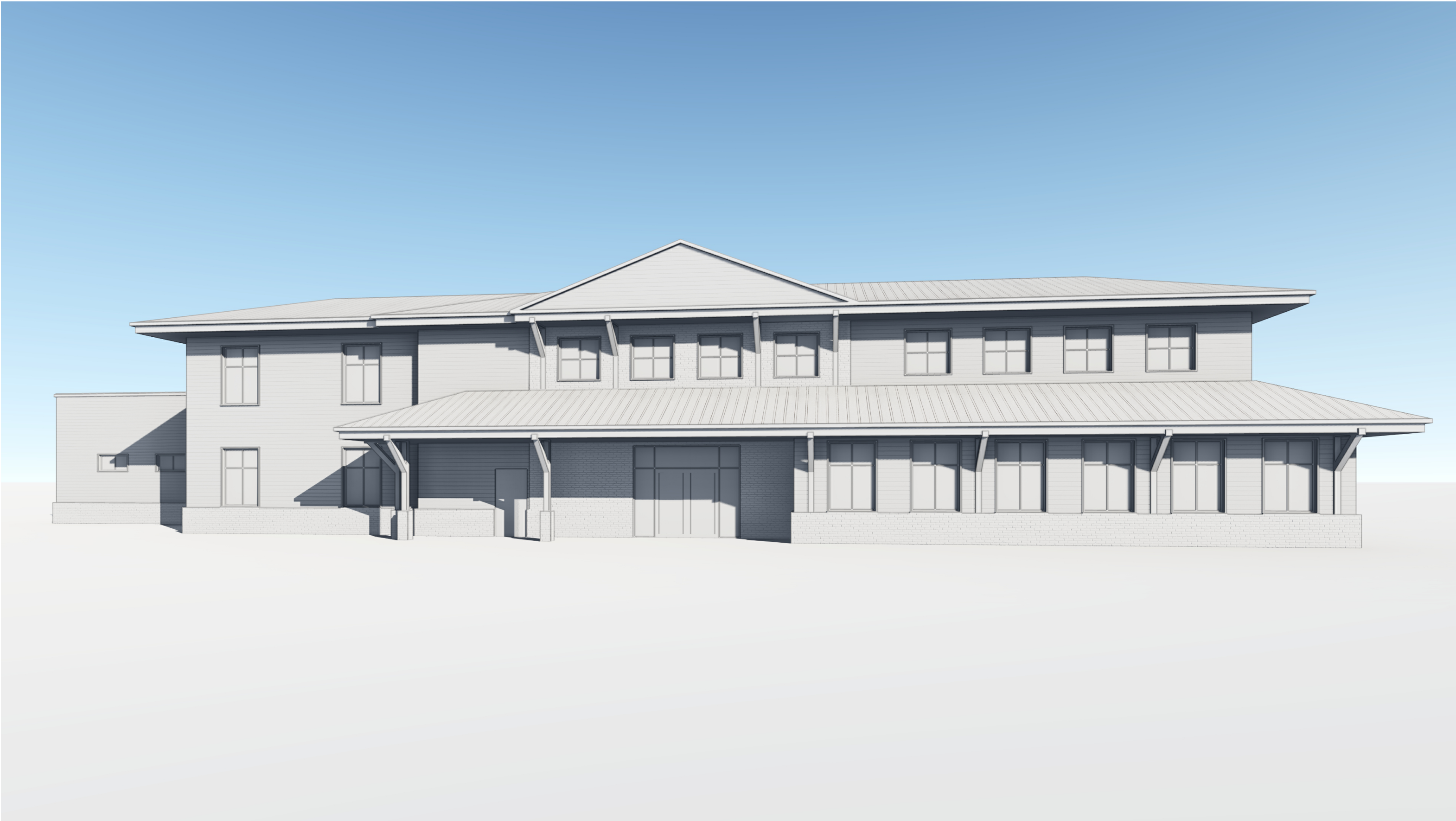
SECOND FLOOR SPACE PLAN

1/16" = 1'-0" ON 11"X17"
1/8" = 1'-0" ON 22"X34"

SF PER FLOOR: 6,749
TOTAL SF: 15,494

9/12/2022



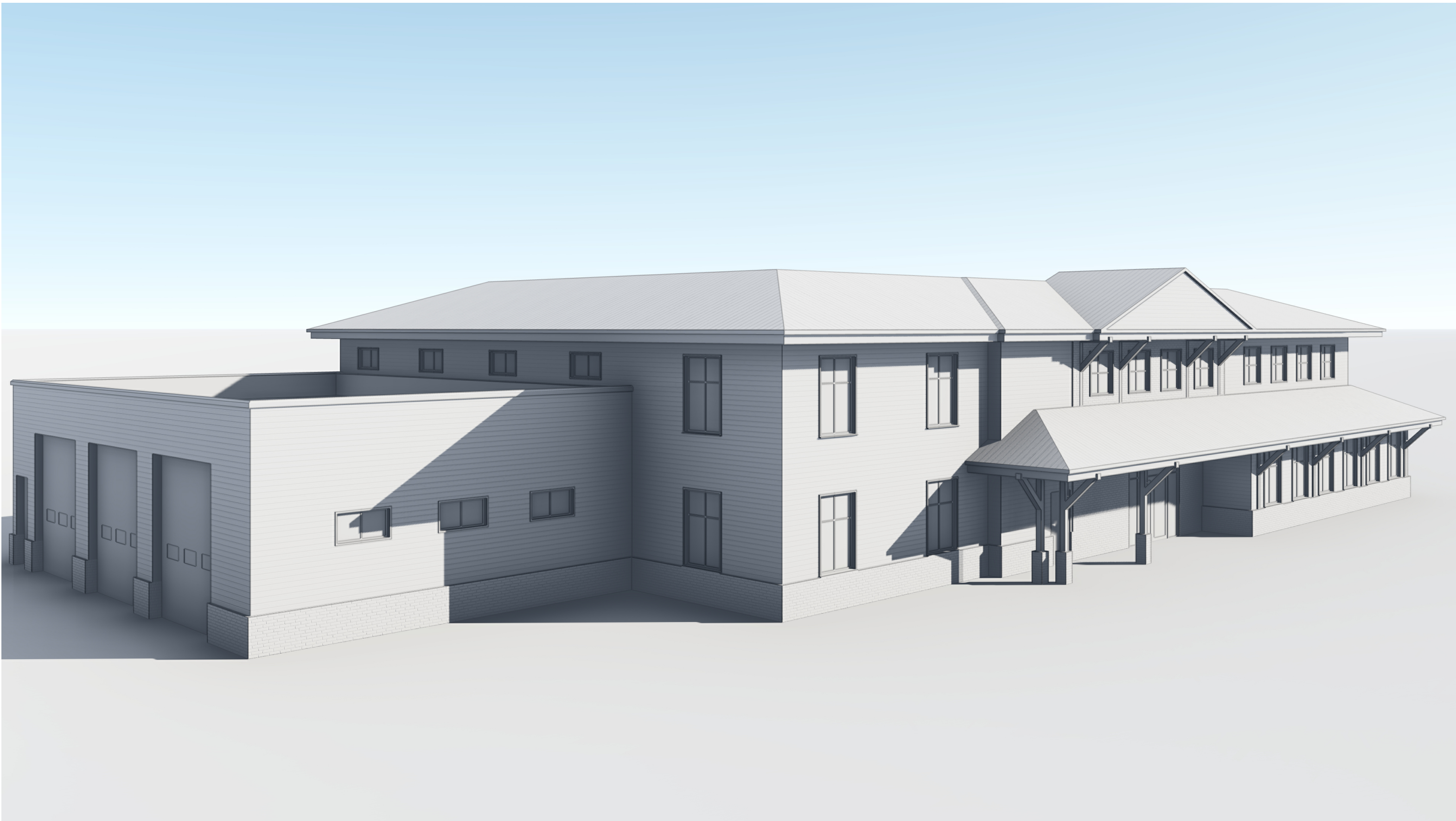


NEW MUNICIPAL BUILDING FOR
TOWN OF CAPE CHARLES
CAPE CHARLES, VIRGINIA

EXTERIOR VIEW 1

1/16" = 1'-0" ON 11"X17"
1/8" = 1'-0" ON 22"X34"

9/12/2022

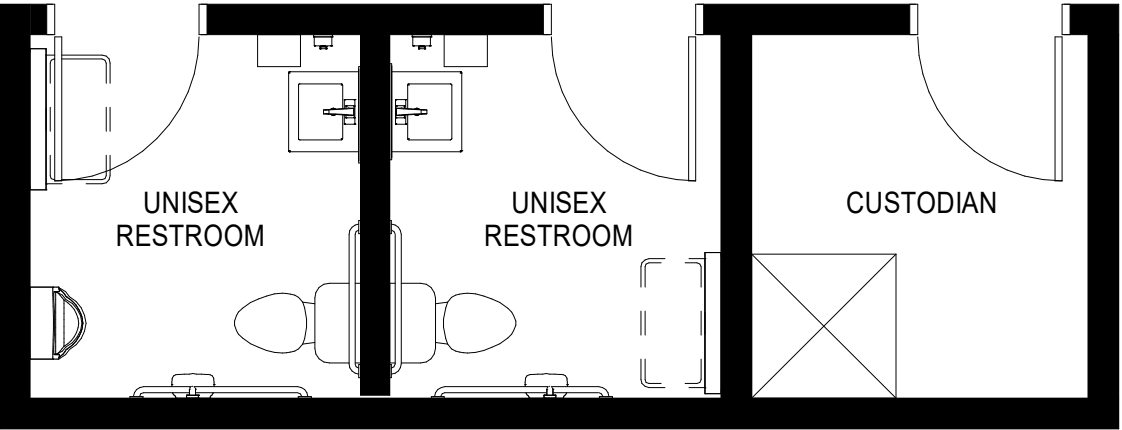
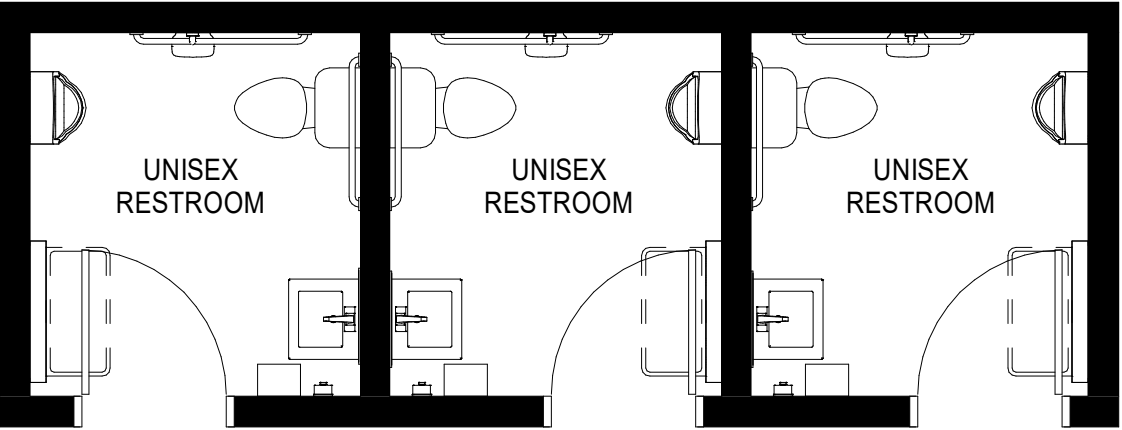


NEW MUNICIPAL BUILDING FOR
TOWN OF CAPE CHARLES
CAPE CHARLES, VIRGINIA

EXTERIOR VIEW 2

1/16" = 1'-0" ON 11"X17"
1/8" = 1'-0" ON 22"X34"

9/12/2022



DOWNTOWN RESTROOM BUILDING FOR
TOWN OF CAPE CHARLES
CAPE CHARLES, VIRGINIA

DOWNTOWN RESTROOM

TOTAL SF: **582**

1/4" = 1'-0"

9/12/2022



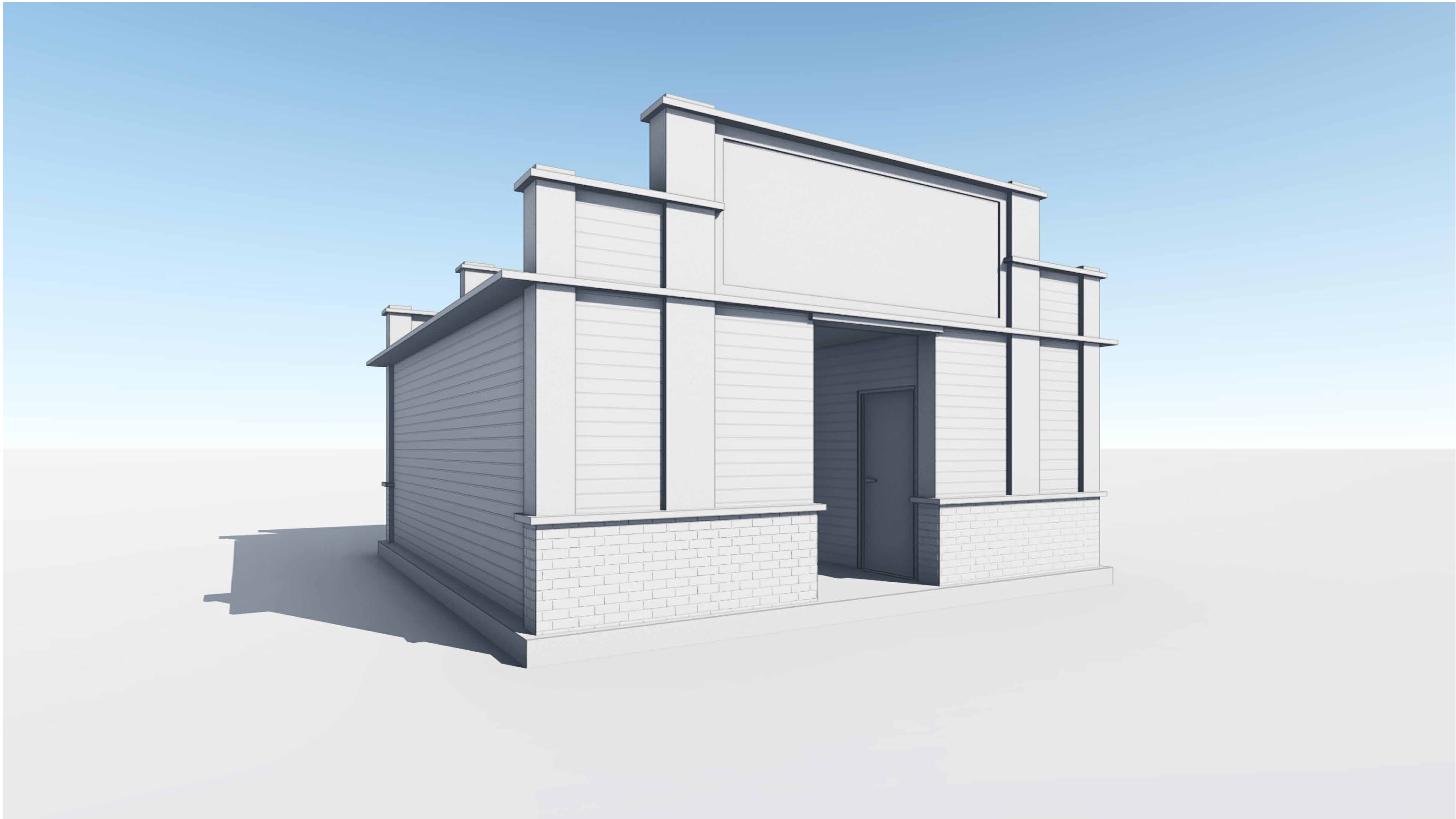


DOWNTOWN RESTROOM BUILDING FOR
TOWN OF CAPE CHARLES
CAPE CHARLES, VIRGINIA

EXTERIOR VIEW - OPTION 1 "MASON AVENUE"

09/12/22

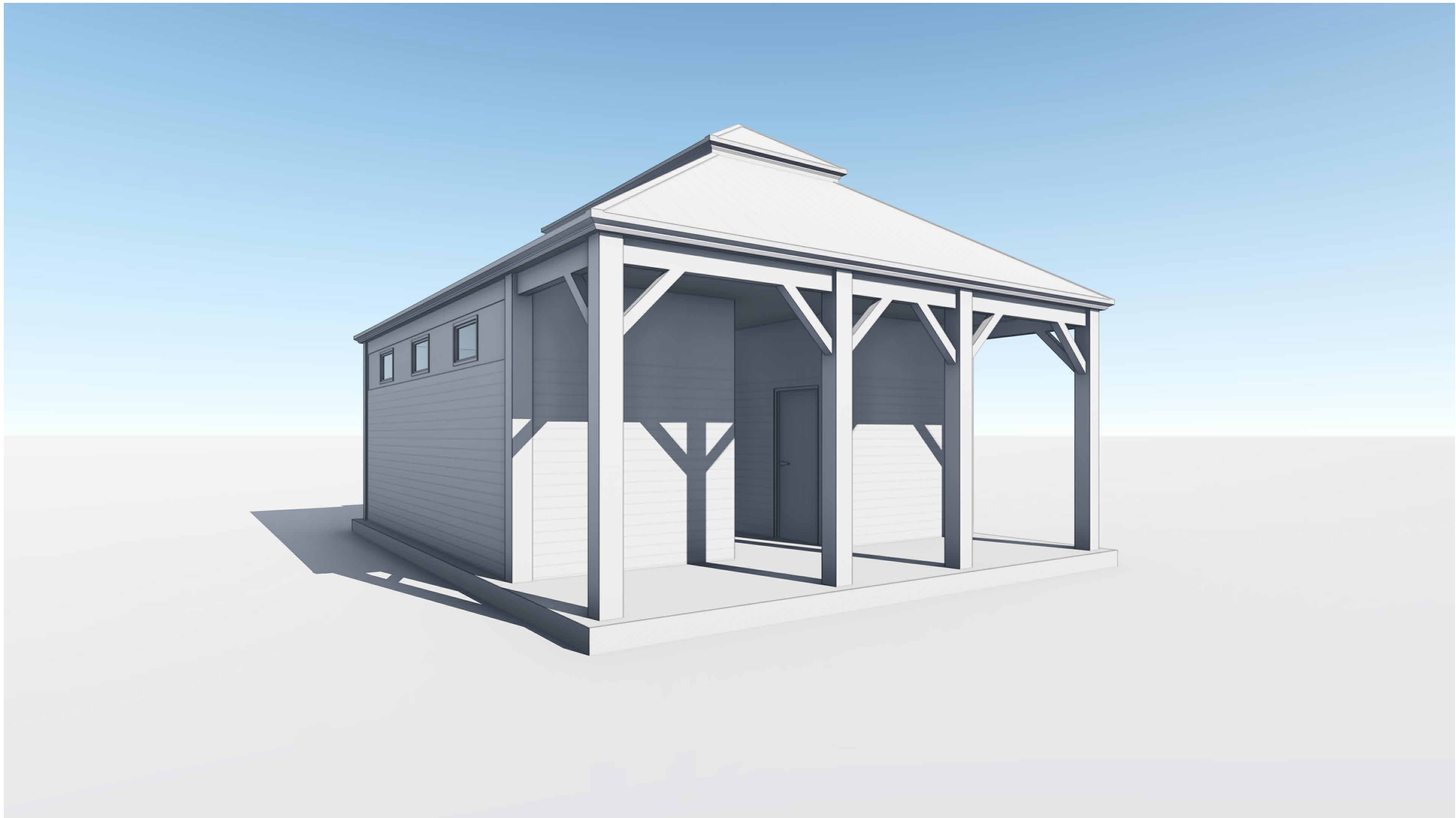




DOWNTOWN RESTROOM BUILDING FOR
TOWN OF CAPE CHARLES
CAPE CHARLES, VIRGINIA

EXTERIOR VIEW - OPTION 2 "TRAIN STATION"

09/12/22

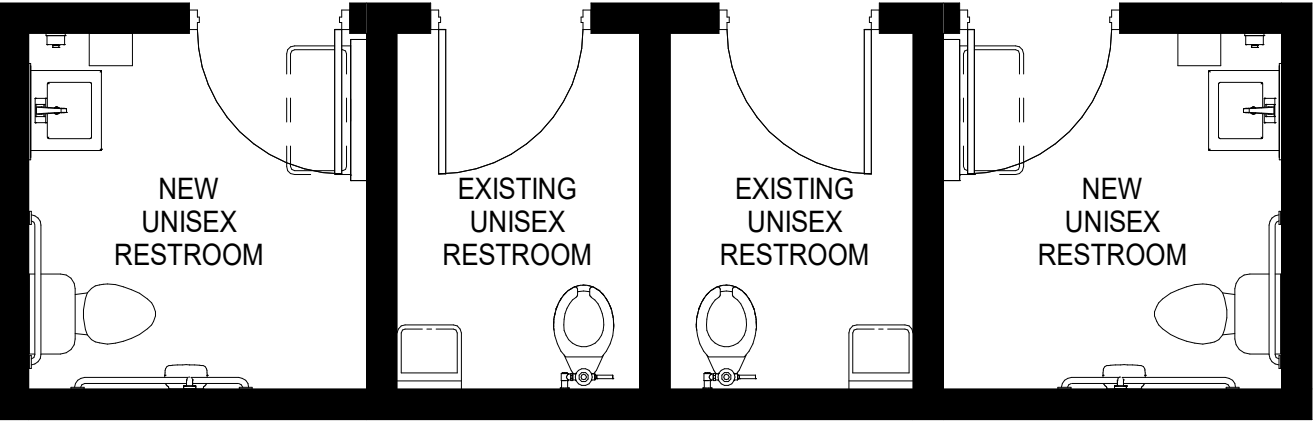


DOWNTOWN RESTROOM BUILDING FOR
TOWN OF CAPE CHARLES
CAPE CHARLES, VIRGINIA

EXTERIOR VIEW - OPTION 3 "HARBOR"

09/12/22





BEACH RESTROOM RENOVATION FOR
TOWN OF CAPE CHARLES
CAPE CHARLES, VIRGINIA

BEACH RESTROOM

TOTAL SF: 237

1/4" = 1'-0"

9/12/2022





BEACH RESTROOM RENOVATION FOR
TOWN OF CAPE CHARLES
CAPE CHARLES, VIRGINIA

EXTERIOR VIEW

09/12/22

