



TOWN COUNCIL
Regular Meeting & Executive Session
July 16, 2020
Cape Charles Civic Center
6:30 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Public Comments (3 minutes per speaker)
3. *Consent Agenda
 - A. Approval of Agenda Format
 - B. Approval of Minutes
 - C. Approval of May 31, 2020 Financial Report
4. Unfinished Business:
 - *A. Rail to Trail Bicycle and Pedestrian Project Resolution
5. New Business:
 - *A. Appointment of Zoning Administrator
6. Town Manager Comments
7. Mayor & Council Comments (5 minutes per speaker)
8. Announcements
 - August 6, 2020 – Town Council Special Meeting
 - August 20, 2020 – Town Council Regular Meeting
9. Recess to Closed Session

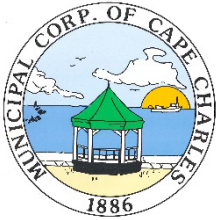
Code of Virginia § 2.2-3711-A. Paragraph 3: Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Discussion of unsolicited proposal from AQUA Virginia, Inc. to acquire the water and wastewater utility system assets of the town, to include negotiations regarding operational, financial, and capital implications, as well as impacts on current and future utility rates.

10. Return to Open Session

Certification to the best of each member's knowledge (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.

11. Adjournment



DRAFT
TOWN COUNCIL
Special Meeting
Cape Charles Civic Center
June 18, 2020
6:30 PM

At approximately 6:30 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Special Meeting of the Town Council. Physically present at the Civic Center were Mayor Dize, Vice Mayor Bennett, Councilmen Bannon, Buchholz, Follmer and Grossman, Councilwoman Holloway, Town Manager John Hozey, Town Clerk Libby Hume, Deputy Clerk Tracy Outten, and Chief Jim Pruitt. There were three members of the public physically in attendance and 35 viewers on Facebook Live.

RECOGNITION OF VISITORS / PRESENTATIONS

A. Oaths of Office for Newly Elected Council Members – Ms. Traci Johnson, Clerk of the Court

Ms. Traci Johnson virtually administered the oaths of office to Councilmen-elect Steve Bennett, Andy Buchholz, and Andrew Follmer. Their terms would begin July 1, 2020 and expire June 30, 2024.

PUBLIC COMMENTS (on agenda items only):

Town Clerk Libby Hume read four comments submitted in writing. (Please see attached.)

CONSENT AGENDA:

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. April 9, 2020 Special Meeting
 - ii. April 16, 2020 Special Meeting
 - iii. April 30, 2020 Special Meeting
 - iv. May 14, 2020 Special Meeting
 - v. May 21, 2020 Public Hearing & Special Meeting
 - vi. May 21, 2020 Executive Session
 - vii. May 28, 2020 Special Meeting
 - viii. June 4, 2020 Special Meeting
- C. Approval of April 30, 2020 Financial Report

Mayor Dize asked that Item 6B-Vacation of Plat of Survey for Lots 336, 337 and 338B-Public Hearing Scheduled be changed to an action item.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to approve the Consent Agenda as amended, changing Item 6B to an action item as requested by Mayor Dize. The motion was approved by unanimous vote.

SPECIAL MEETING ORDER OF BUSINESS:

A. Code 42-3 – Adoption of State Law:

Town Manager John Hozey stated that from time to time, the Code of Virginia was amended regarding safety tactics to protect those traveling the highways, streets and roads in the Commonwealth. Adoption of an ordinance was an annual requirement to accept all amendments to the provisions and requirements set by the Code of Virginia in matters of regulation of motor vehicles and traffic in the Town of Cape Charles and any penalties for traffic violations. The ordinance would be effective July 1, 2020.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to adopt Ordinance 20200618 to Adopt Amendments to the Code of Virginia § 46.2 and Title 16.1, Chapter 11, Article 9 (§ 16.1-278 Et Seq.) and Title 18.2, Chapter 7, Article 2 (§ 18.2-266 Et Seq.), if any, for Incorporation into the Cape Charles Town Code Chapter 42-Motor Vehicles and Traffic. Mayor Dize moved for adoption of Ordinance 20200618 as noticed and forewent reading of the ordinance. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

Councilman Grossman stated that he didn't believe the ordinance needed to be adopted every year since the Cape Charles Town Code language already incorporated the references to the Code of Virginia made in this ordinance regarding motor vehicles.

Chief Jim Pruitt stated that an ordinance had to be adopted each year.

John Hozey stated that he and the clerk would look into the issue for next year.

B. *Vacation of Plat of Survey for Lots 336, 337, and 338B – Public Hearing Scheduled:*

John Hozey stated that this item was necessary to correct an error made by former Town Planner/Zoning Administrator Zach Ponds when he mistakenly approved the property line vacation and relocation between lots 336, 337 and 338B along Tazewell Avenue. This approval resulted in lots 337 and 338B becoming non-conforming lots in the R-1 district for purposes of zoning. Lot 337 became an undersized lot and lot 338B now blocked access to the alleyway. The issue was referred to the town's legal counsel for their review. An ordinance must be adopted by the Town Council to vacate the plat of survey showing the property line vacation and relocation between lots 336, 337 and 338B made by John H. Severs and Sarah T. Severs, dated November 15, 2019, which is recorded in the Northampton County Clerk's office as instrument 200000012. Prior to adoption of the ordinance, the Town Council must hold a public hearing. In order to expedite the process, the public hearing had been scheduled for Thursday, July 2, 2020 during the Town Council Special Meeting. The issue would be on the July 16, 2020 Town Council Special Meeting agenda for action unless Council deemed it appropriate to take action at the July 2, 2020 Special Meeting immediately following the public hearing.

Motion made by Councilman Grossman, seconded by Councilman Bannon, to set the public hearing for July 2, 2020 with Council action during the meeting following the public hearing. The motion was approved by unanimous vote.

C. *Town Manager Updates:*

i. *2020 July 4 Options:*

John Hozey reported the following: i) The Governor didn't move to Phase 3 but provided guidance for Phase 3 which would increase the size of permitted gatherings from 50 to 250 with some entertainment options up to 1K; ii) Staff drafted four options for July 4th for Council review. (Please see attached.); iii) There were a lot of requirements for Phase 3, similar to those for the reopening of the beach. He expressed his concern about meeting all the requirements for the July 4th activities such as signage requirements, hand sanitizers, the need for more porta-potties, and continuous cleaning, as well as the expectation of exceeding 1K people. The Town could not guarantee that the requirements could be met, and he reluctantly offered his recommendation for option 4 as the safest option.

There was discussion as follows: i) Councilman Buchholz stated that the cap was for gatherings of groups, not the number of people on the beach. Cherrystone was still planning on their fireworks so people would come to Cape Charles to view them. The porta potty problem would be a nightmare; ii) Councilman Bannon recommended canceling all July 4th activities since most of the Town's residents were elderly. Why risk bringing people into Town for fireworks; iii) Councilwoman Holloway expressed her appreciation for the work done by staff and understood that option 4 was not easy. She heard the Governor's broadcast and didn't expect the maximum number of people to be 250 in Phase 3. She

thought creatively about doing the July 4th differently and safely. All vendors could be along the beach with the majority being food vendors. There was a need for additional food options for the 4th. We already had hand sanitizer around the Town and could add porta potties. There were never masses of people on the bayfront and typically no crowds until the evening. She asked Chief Pruitt for his opinion; iv) Chief Pruitt stated that the majority of the crowd was in the morning for the parade, then the fireworks at night. There were still a lot of people in town during the day but they were usually spread out; v) Councilwoman Holloway continued by recommending a golf cart parade throughout the town with spectators staying on their porches, similar to the Cape Charles Main Street (CCMS) Porch Party Happy Hour. This was a creative way to celebrate the 4th of July with the residents and visitors; vi) Vice Mayor Bennett stated that closing the town was out of the question. The Governor's notice stated that "events that cannot restrict the general public should not take place," but people would be coming into the Town regardless of the Governor's orders. Cape Charles was going to be packed and trying to put people into groups of up to 250 would not work. There was nobody out there who wanted a parade and fireworks more than he did, but he didn't see a realistic way to have the events. Even with the parade, people would come into Town and be in the streets, not just on porches; vii) Councilman Buchholz stated that he was leaning in favor of a golf cart parade until Vice Mayor Bennett spoke. Cherrystone was private property and would be holding their fireworks. Under the current guidelines, did Cherrystone have to keep the groups under 250?; viii) Councilman Follmer didn't think the idea of breaking people up into groups of 250 on the beach was the intent of the orders. The language, like stated by Vice Mayor Bennett, was very clear that we couldn't hold the fireworks. He agreed about the need for food trucks/vendors. If the Town could meet the requirements, then he was in favor of having the events. If the Town could not meet the requirements, he was opposed. Regarding the parade – If we could just have a golf cart parade, as discussed earlier, he didn't think it would draw as many people from outside the Town, and could be safely done; ix) There was much discussion regarding food trucks/vendors. Chief Pruitt noted that the only way to have food trucks on the bayfront was to shut down part of the street. The beach would be packed and there wouldn't be room for food trucks with the number of cars on the street; and x) John Hozey commented regarding the Town's limited police force and per the Governor's orders, activities of this nature would draw people and were strictly prohibited.

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, for new option 5, for a porch golf cart parade beginning at 10:00 a.m. running up and down the streets with a route to be determined.

Councilwoman Holloway stated that the key for success is for Jen Lewis to put out a nice flyer with guidelines. CCMS would assist. The number of golf carts could be limited. The event would be for the residents who could invite their friends to their porches to enjoy the parade.

John Hozey clarified that the parade would be for the benefit of the residents, not necessarily to attract huge crowds. Only golf carts would be permitted to participate, no bicycles, pedestrians, etc. There would be no emcee and no announcements would be made during the parade.

Councilwoman Holloway stated that no candy would be permitted to be thrown from the golf carts. This would be an opportunity for residents to celebrate the day. A safe and different event for our community. Councilwoman Holloway added that she had checked with the businesses and they were concerned with the potential crowds but didn't want to lose the July 4 tradition completely.

Mayor Dize added that the graduation parade was done successfully last month and felt a golf cart parade could be managed. Mayor Dize proceeded to call for a vote.

The motion was approved by majority vote with Councilman Bannon opposed.

ii. *Debt Refinance Options:*

John Hozey updated Council regarding debt refinance options. (Please see attached.) The Town would have another opportunity to submit an application in February 2021. Council could start discussion regarding this possibility in October. He wanted to bring forward a long-term capital improvement plan. If the market was still favorable, Council could think about refinancing debt and possibly borrowing some new money. Currently, the timing wasn't right and the numbers weren't right. The Town needed to get some things in order first to make it worthwhile to try again in 2021.

Vice Mayor Bennett thanked John Hozey for the effort.

iii. *Other Items:*

John Hozey updated the Council regarding the following: i) He announced the hiring of the new Town Planner/Zoning Administrator. Allyson Finchum was highly qualified with over 20 years' experience in Virginia. She had family on the east coast and staff was excited to have her on board. She would begin on or before July 1. She was currently the town manager/zoning administrator for Port Royal, Virginia; ii) He wanted to publicly thank Councilman Grossman for helping out in the planning department. He was a real lifesaver and Allyson would probably be contacting him with questions regarding ongoing projects; and iii) On a personal note, he would be off next Friday and Monday for his wife's birthday weekend in Virginia Beach. They had never been to Virginia Beach and were looking forward to their visit.

Mayor Dize asked Council for their parting comments.

Councilwoman Holloway commented as follows: i) She asked John Hozey for an update on the farmers' market. She read a notice in the Cape Charles Happenings that the farmers' market would start on Wednesday. The notice mentioned a band. CCMS saw the notice and needed to let the merchants know. John Hozey responded that the notice might have been premature, and that Jen Lewis was working on the market but was having difficulty getting five vendors to sign up. New procedures were needed, and staff was still trying to work things out. He would check with Jen Lewis and get back to Council; ii) The Virginia Department of Housing and Community Development decided to open up a COVID-19 recovery grant for tourism-related businesses. It would be a grant for municipalities up to \$500K. CCMS was working on the grant for the Town. Each business could receive up to \$10K for rent, reimbursement of overhead costs, etc. There was up to \$5K in technology changes for updates to websites, new point-of-sale systems, etc. CCMS had a team writing the grant and a Memorandum of Understanding (MOU) was needed from the Town to designate CCMS to apply for the grant. There was a quick turnaround for the grant. This was exciting news for businesses with 20 or less employees. There was another \$300K available if the Town had enough women and minority owned businesses. Councilman Grossman stated that the MOU might need to come to Council for approval. Councilwoman Holloway didn't know all the details but added that CCMS would draft the letter of agreement and send it to John Hozey. This was an exciting opportunity; and iii) CCMS was also working on a new Virginia Tourism Corporation grant for \$10K with no match.

Vice Mayor Bennett and Councilmen Bannon, Buchholz and Grossman did not have any additional comments.

Councilman Follmer stated that even though Council was all physically present at the meeting, he hoped the meetings would continue to be streamed live on Facebook. He received an overwhelming response from residents who loved the live-streaming and asked that the Town keep it going. John Hozey stated that it was the Town's intent to continue the live streaming to Facebook, although there were some technical issues that needed to be worked out.

Mayor Dize thanked everybody for attending adding that it was good seeing everyone.

Mayor Dize proceeded to read the announcements, adding that the Town offices would be closed tomorrow, June 19, for the new Juneteenth holiday. John Hozey added that Governor Northam made the decision to make Juneteenth a state holiday with two days' notice. Mayor Dize also added that the July 16 Council meeting would be a regular meeting.

Motion made by Councilman Bannon, seconded by Councilman Grossman, to adjourn the Town Council Special Meeting. The motion was approved by unanimous vote.

The meeting adjourned at 7:24 p.m.

Mayor Dize

Town Clerk

**Comments & Information Provided in Writing
June 18, 2020 Town Council Special Meeting**

Peter Simpson, 628 Jefferson Avenue

Subject: 4th of July parade

Please do not cancel the parade. Our town needs this unifying event now more than ever.

Thank you for your continued hard work on behalf of our town!

Kay Phillips

Subject: Parade

Please give us a parade, concert and fireworks. This has been a very tough year and we all need something to cheer us up. I promise we'll be good!

Jo Ann Bawiec

Subject: 4th of July

Virginia is still under Phase II, per the governor. Even if Virginia moves to Phase III, the criteria of no more than 250 people would be exceeded by any planned 4th of July activities, such as fireworks, vendors and a traditional Cape Charles parade. Our town beach, Bay Ave and restaurants will be maxed out regardless of any scheduled, additional activities. Businesses are already struggling with visitors and residents being compliant with basic safety precautions. This challenge would be amplified by additional activities and increased crowds.

I do support the idea of residents / guests staying on their porches for a golf cart parade throughout the entire town. If a parade route included all streets and people complied with staying at their designated home (resident and guests), a celebration parade could be safely done.

Thank you.

Lori Smith

Subject: July 4th

Good afternoon, after listening to the Governor's update today regarding our current Phase as well as what to expect in Phase 3, I don't believe that we should have the traditional Cape Charles celebration. Although it is something that I have enjoyed and looked forward to for several years, I don't think it's the safest thing to do this year.

In line with the Porch Happy Hour that we did a couple months ago, having a parade in this fashion would still provide a safe celebration for everyone to maintain social distancing instead of having everyone crammed together on Mason Ave. Another option could be to have a band in the park with all families spread out celebrating from a safe distance.

I believe we all want to keep our town as safe as possible and I appreciate the steps that have been taken so far. Now doesn't seem like the time to push the limits.

Thank you for allowing me to share my thoughts.

**Potential 4th of July options to reduce public interactions
from our traditional celebration**

Option 1

Fireworks only. This option would be strongly recommended if Governor Northam does not significantly increase the size of authorized groups above 50. We could encourage folks to stay in or around their vehicle and 6 feet from others. While many people are unlikely to follow this guidance, many would, and it should at least be encouraged. Fireworks normally begin at 9:30 pm. We would pay to bring in two off duty county officers for extra security from 8:30 to 11:00 pm and have the State Police at the light to direct traffic after the fireworks.

Option 2

Parade and Fireworks. Adding in the parade does increase public interactions but does so for a fairly limited time which is spread out over a large area. This would provide the two most traditional components of any 4th of July celebration. If we have just these two events, we'd recommend holding the parade as late as 7 pm to further limit exposure concerns over the course of the day. We could advertise the parade route well in advance and encourage folks to spread out for the event. We would also prohibit the throwing of candy this year. The parade would end around 8:30 pm and then people could get in place for fireworks. This would keep people in Town, maybe spend some money, and wouldn't create traffic congestion with them going back and forth. These are two big draws so it would seem best to do them close together. We would pay to bring in two off duty county officers for extra security from 6:00 to 11:00 pm and have the State Police at the light to direct traffic after the fireworks.

Option 3

Parade, Vendors and Fireworks. If we went with this option, we suggest limiting exposure by having vendors set up later in the day and pushing off the parade until the afternoon or evening as described above. Vendors wouldn't set up until 1 pm to be ready to be open when the parade is over. The parade would go through at 2 pm (or 7 pm). Vendors would be open from 3 – 9 pm with the fireworks beginning at 9 pm. Some of the art vendors may drop out, but this is when food vendors make most of their money. Vendors would be spread out all along Bay Avenue. We would most likely have just one band in the evening between the parade and fireworks. We would pay to bring in two off duty county officers as extra security from 3 – 11 pm and have State Police direct traffic at the light once fireworks are over. A main benefit to having vendors is to assist with feeding all our visitors. Even with vendors, restaurants can have 2 hour wait times and sometimes run out of food.

Option 4

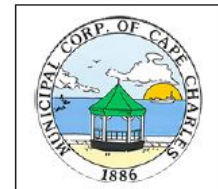
Cancel all activities this year. This is the safest option, and the one being chosen by most other communities. We have confirmed that should we cancel this year; we would not lose our fireworks deposit. That vendor has graciously offered to carry that deposit forward for next year's display. If we did decide to do any of the other options, we should brace ourselves for crowds much larger than our typical 4th of July celebration, since so many other communities have canceled. There is no way we can reasonably enforce any social distancing requirements or to make other public health accommodations for crowds of that size. Therefore, choosing to pursue any of the other options must be done with the full understanding that we would be incurring that associated increased public health risk.

Note: if either of the first three options are chosen, we will not have the volleyball, cornhole, horseshoes, guppie challenge or beautiful baby contests. We will also not do awards for the parade this year.

Town Manager Memorandum

June 18, 2020

RE: Debt Refinancing



Due to the FY2021 budget shortfall associated with the COVID-19 effect, and in light of current favorable market conditions, the Treasurer and I have been exploring options to refinance the Town's debt to help relieve some short-term cash flow requirements, without increasing maturities or overall debt liabilities.

Working with Davenport & Company as our financial advisor, we took a two-pronged approach that involved the simultaneous solicitation of banks and an application to the Virginia Resource Authority (VRA) for participation in the next round of their pooled financing program.

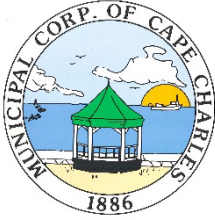
The results of these efforts proved disappointing. There was no interest from any of the banks, and when the refunding structures for VRA were analyzed, there was not sufficient benefit to justify participation.

The 2010A Bond issues for the General Fund and Utility Fund were analyzed. The following represented the potential net change to our debt service payments over the next ten years:

<u>General Fund</u>	<u>Utility Fund</u>
\$25,590	\$10,613
\$22,018	\$5,258
\$12,283	\$6,752
\$11,846	\$7,156
\$12,335	\$7,672
\$12,791	\$7,062
\$14,039	\$7,672
(\$49,044)	\$7,446
(\$50,370)	\$3,056
(\$31,988)	<u>\$3,891</u>
(\$20,500)	\$66,578

When the time-value of money is considered, the General Fund basically breaks even (using today's dollars) essentially trading some short-term cash for payments in later years; but that was not what we really set out to do. Additionally, the cost of this refunding (net in the numbers above), was approximately \$40,000, which is just not an efficient proposal. Had we seen potential real savings in the \$30,000 to \$40,000 per year range, that might have been meaningful enough to pursue.

With regard to the Utility Fund; while there remains some real dollar savings, it would require a debt service reserve of nearly \$200,000 in current cash. Considering the minimal annual savings associated with this refunding, it would not be prudent to tie up that much in reserve, especially since our unassigned reserves are already depleted.



DRAFT
TOWN COUNCIL
Public Hearing, Special Meeting & Executive Session
Cape Charles Civic Center
July 2, 2020
6:30 PM

At approximately 6:30 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Public Hearing, Special Meeting and Executive Session of the Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Bannon, Buchholz and Follmer, and Councilwoman Holloway. Councilman Grossman was not in attendance. Also, in attendance were Town Manager John Hozey, Capital Projects Manager Bob Panek, Code Official Jeb Brady, Community Relations Manager Jennifer Lewis, and Town Clerk Libby Hume. There were three members of the public physically in attendance, and 19 viewers on Facebook Live.

PUBLIC HEARING COMMENTS:

- A. *Proposed Ordinance to Vacate that Plat Entitled, "Plat of Survey Showing property Line Vacation & Relocation Between Lots 336, 336, & 338B, Map of the Town of Cape Charles Capeville District Northampton County, Virginia November 15, 2019" made by John H. Severs and Sarah T. Severs, dated November 15, 2019, which Plat is recorded in the Northampton County Clerk's Office as Instrument 200000012*

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

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

PUBLIC COMMENTS (REGARDING AGENDA ITEMS ONLY):

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

CONSENT AGENDA

Motion made by Councilman Bannon, seconded by Councilwoman Holloway, to approve the agenda as presented. The motion was approved by unanimous vote.

SPECIAL MEETING ORDER OF BUSINESS:

- A. *Election of Vice Mayor:*

Mayor Dize stated that during the first meeting following an election, Council elected a vice mayor to serve a two-year term. Councilman Bennett currently served as the vice mayor and it was his recommendation to have Councilman Bennett continue in this role.

Motion made by Councilwoman Holloway, seconded by Councilman Follmer, to elect Councilman Bennett as vice mayor. The motion was approved by unanimous vote.

- B. *Vacation of Plat of Survey for Lots 336, 337 and 338B:*

Town Manager John Hozey stated that, as explained at the last meeting, this item was to correct a mistake made by the previous planner. The correction needed to be made by adoption of an ordinance.

There were no questions from Council.

Motion made by Councilman Bannon, seconded by Vice Mayor Bennett, to adopt Ordinance 20200702 to Vacate the Plat of Survey Showing Property Line Vacation and Relocation Between Lots 336, 336, and 338B, Map of the Town of Cape Charles Capeville District Northampton County, Virginia November 15, 2019 which is recorded in the Northampton

County Clerk's Office as Instrument 200000012. Mayor Dize moved for adoption of Ordinance 20200702 as noticed and forewent reading of the Ordinance. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Holloway, yes.

C. *Rail to Trail Bicycle and Pedestrian Project Resolution:*

John Hozey stated that this project was approved prior to his employment with the Town but his understanding was that the Town Council was in support of the project. The Accomack-Northampton Planning District Commission (A-NPDC) would handle the construction of the project and once completed, the Town would take on the responsibility and costs of maintenance. Capital Projects Manager Bob Panek was in attendance to answer any questions.

There was much discussion as follows: i) Councilman Follmer stated that an estimate of costs was not included and asked whether the Town's portion of expenses was known. He asked to see the estimated costs especially with the current financial situation; ii) Bob Panek responded that reimbursement to the A-NPDC came from a grant and there was no way to estimate the maintenance cost since it would depend on the materials used. Phases 1 and 2 of the trail were asphalt and he didn't think VDOT would approve using any materials of lower quality than asphalt; ii) There was some question to the portion of the trail to be maintained by the Town. Bob Panek stated that it would be the Town's responsibility to maintain the entire Phase 4 of the trail, even the portion located outside the Town's limits. There was some discussion regarding Northampton County's participation in the trail. Bob Panek was unaware of any other information other than what was included in the memorandum of understanding from October 2018; iii) Councilwoman Holloway stated that she didn't think the Town should be responsible for maintaining the portion of the trail outside the Town's limits. Cheriton and Northampton County could assist in the areas outside of Town; iv) Mayor Dize added that recalled the trail going to Route 13 but didn't remember it continuing to the other side of Route 13. Bob Panek stated that the last proposal did have the trail terminating at Route 13, but it had been realigned to the other side of Route 13 as a result of the plans for the new stoplight on Route 13; and v) John Hozey stated that the resolution needed to be adopted by early August. The decision could be deferred until the July 16 meeting. He didn't research the item since he thought it had already been approved. He could ask about the maintenance outside of Town and bring this item back for further discussion and a decision during the July 16 meeting.

Motion made by Councilwoman Holloway, seconded by Vice Mayor Bennett, to postpone further discussion and decision regarding this item to July 16, 2020 Town Council Regular Meeting. The motion was approved by unanimous vote.

D. *Town Manager Updates:*

- i. Phase 3 Operations: The Governor issued Executive Order 67 but provided localities advance notice and guidance regarding the move to Phase 3. The Governor's Phase 3 orders did not affect the Town's Phase 3 operations. The only change from last week's guidance was a change to entertainment venues, such as Central Park, which mandates a new, very stringent requirement to clean and disinfect all areas every hour. The bathroom was an issue and staff was trying to figure things out. The Citizens for Central Park (CCP) had installed memorial picnic tables, but if they were used, they would have to be sanitized every hour. He thought the CCP would be making the decision to remove them for this year. He agreed that the cleaning requirement could not be maintained for the picnic tables and felt it was best to store them for the season unless the restrictions changed. The bid for cleaning services included core services for the beach and alternates for other areas. The first alternate was for the beach restroom which was approved. There wasn't enough funding available for the second alternate so the Town would have to rely on CCP volunteers for Central Park. CCP would be moving forward with the July 11 concert.
- ii. Cape Charles' Emergency Procedures: The Town's Incident Operations Plan (IOP) called for Phase 1 as preparing for the event, Phase 2 was the event, and Phase 3 was recovery from the event and returning to normal operations. The Town had been in Phase 2 for

several months and he would like to start moving into Phase 3. The IOP was not meant to handle long term event such as this pandemic. Phase 3 had incremental parts. The first part was the Town Council agreeing for meetings to be held in person again and it was time to start moving in that direction. He initially planned to move the Town into Phase 3 on Monday, July 6, but we ran into some difficulties in obtaining materials such as plexiglass for the public areas. Phase 3 would be implemented as soon as the materials have been put in place in the three main areas of public contact – Town Hall, the library and harbor. The public would be permitted in the buildings by appointment. The library would begin with allowing two patrons in the building at a time. The library restroom would be reopened to the public. One person at a time per department would be permitted in Town Hall, either by appointment or by use of an intercom system. Staff was still waiting on the intercom system to arrive and be installed. The intercom system was a necessity regardless of the situation since Town Hall had ADA limitations. An intercom system would help address ADA requirements by allowing people to call for assistance. The harbor would permit one person at a time in the harbor master's office.

- iii. Beach: Councilman Follmer asked for an update regarding the beach and attendants, adding that he had heard a range of comments.

John Hozey stated that it was nice having the attendants since they could assist with other things such as dogs on the beach.

Jen Lewis stated that she submitted a weekly report to the health department and there had been no social distancing issues. Everyone was very mindful of the rules and parents had been watchful of their children. She also provided John Hozey a weekly report with other issues normally encountered during the summer such as dogs on the beach, people on the rocks, alcohol, etc. It had been a good summer so far and everybody seemed happy. She and the attendants have provided direction and recommendations to beach goers. Two individuals were sent to the medical center with cuts on their feet, but overall it was a positive experience for all. The majority of people were here from out of the area such as Richmond and Charlottesville. The attendants were on the beach from 9:00 a.m. to 6:00 p.m. daily. She currently had two attendants on the weekends but was thinking of reducing it to one after this coming weekend.

- iv. Mason Avenue Restroom: John Hozey thanked Cape Charles Main Street (CCMS) and Northampton County for helping the Town to obtain the new restroom facility on Mason Avenue. CCMS held a ribbon cutting ceremony on Wednesday. He was happy to have it in place.
- v. Rail to Trail: John Hozey stated that he was notified today of an issue with Canowie Railroad's decision regarding converting to a trail. The decision was due this week, but a notice was received that the Canowie Board had delayed the decision for another year making the deadline for their decision July 6, 2021.
- vi. July 4th: John Hozey stated that things were on track for Saturday's golf cart parade. Everyone was encouraged to decorate their golf carts and line up for the parade which would wind through most east-west streets in Town. He apologized for those residents and business owners who were unhappy with his decision not to have the parade go down Mason Avenue. He made this decision so the parade wouldn't draw a crowd of people standing along Mason Avenue. This was a neighborhood parade with spectators to be on their porches. At 10:00 a.m. on Mason Avenue, across from Brown Dog Ice Cream, there would be a fundraiser for the fire department.

Vice Mayor Bennett added that his neighbor was sponsoring the fundraiser to place flags in the field on the east end of the former Tavi property. People would be given the opportunity to make a donation to the Cape Charles Volunteer Fire Company. After making a donation, they would be given a flag to plant in the field. There were 7K flags available to be planted.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, calling for a short recess before going into executive session. The motion was approved by unanimous vote.

The meeting recessed at 6:57 p.m. Staff, with the exception of John Hozey, and the members of the public left the meeting. Also, in attendance for a portion of the meeting were Nicole Jacques and J.B. Turner representing the Cape Charles Yacht Center.

At 7:09 p.m. Mayor Dize called the meeting back to order.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, and unanimously approved to go into Closed Session in accordance with Section 2.2-3711-A of the Code of Virginia of 1950, as amended 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.

Paragraph 29: Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Discussion and negotiation of a Harbor Management Agreement with the Cape Charles Yacht Center, to include scope items such as operations, minor maintenance, and marketing; the potential leasing of Town harbor infrastructure; and compensation scenarios involving the use of public funds.

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

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: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Holloway, yes.

Motion made by Councilman Buchholz, seconded by Councilwoman Holloway, to adjourn the Town Council Public Hearing, Special Meeting and Executive Session. The motion was approved by unanimous vote.

The meeting was adjourned at 7:38 p.m. and the representatives from Cape Charles Yacht Center left the meeting.

At 7:47 p.m., Mayor Dize asked for the closed session to be called back to order.

Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, and unanimously approved to go back into Closed Session in accordance with Section 2.2-3711-A of the Code of Virginia of 1950, as amended 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.

Paragraph 29: Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Discussion and negotiation of a Harbor Management Agreement with the Cape Charles Yacht Center, to include scope items such as operations, minor maintenance, and marketing; the potential leasing of Town harbor infrastructure; and compensation scenarios involving the use of public funds.

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

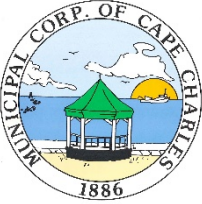
Certification, to the best of each member's knowledge, that (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or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

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

The meeting adjourned at 8:09 p.m.

Mayor Dize

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Southern Tip Bike & Hike Trail, Phase IV (Postponed from the July 2, 2020 special meeting)		AGENDA DATE July 16, 2020
	SUBJECT/PROPOSAL/REQUEST: Consider Resolution supporting ANPDC funding application.		ITEM NUMBER: 4A
	ATTACHMENTS: 1. Memorandum of Agreement (MoA) 2. Proposed trail alignment. 3. Proposed Resolution. 4. Staff Report – July 2, 2020 5. Staff Report and Minutes from October 18, 2018 Regular Meeting		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

At the July 2, 2020 special meeting, the Town Council was reticent to pass this resolution due to concerns over the requirement to accept responsibility for maintenance of the trail outside the Town's corporate limits. This item was therefore postponed to allow additional information being brought forward.

DISCUSSION:

Attached is the staff report and associated minutes from the regular meeting of October 18, 2018. This is when the Council unanimously approved the attached MOU in support of the southern tip of the bike & hike trail, phase 4. This prior approval explicitly accepted responsibility for ongoing maintenance of this trail, to include the portion outside the town limits, to the point where phase 3 ended at the northeast corner of the intersection of the Langford Highway and Stone Road.

The only change to the current plan that was not included at the time of the 2018 approval, is an extension of the trail approximately 900 feet south along the west side of Route 13 to where the new traffic light will be installed to enter the Food Lion shopping center. The trail then turns north on the east side of the highway for another approximate 900 feet to get back to the original ending point. This change was considered a safety upgrade to avoid the high volume of traffic already occurring at Routes 13 and 184.

There is no way to reasonably estimate the cost to maintain this entire trail. There are too many variables. Suffice to say that there would be very marginal costs for several years. But depending on the construction methods and materials used, and the amount of use (or misuse) over time, the Town could see repair and maintenance costs in the thousands of dollars eventually become a routine part of the capital budget.

RECOMMENDATION:

Staff continues to recommend approval of the Resolution.

MEMORANDUM OF AGREEMENT
FOR APPLICATION FOR FUNDING, OWNERSHIP, AND MAINTENANCE OF PHASE IV OF
THE SOUTHERN TIP HIKE & BIKE TRAIL

This Memorandum of Agreement (this "MOA" or this "Agreement") is made and entered into on this 24 day of OCTOBER, 2018 by and between the Town of Cape Charles, Canonie Atlantic Co., and the Northampton County Board of Supervisors.

The parties hereby bind themselves to undertake a Memorandum of Agreement under the following terms and conditions:

1. PURPOSE & SCOPE.

The purpose of this Memorandum of Agreement is to set forth the terms and conditions, scope of work, and responsibilities of the parties associated with their collaboration on the application for Virginia Department of Transportation ("VDOT") Highway Safety Improvement Program ("HSIP") funding and subsequent implementation of preliminary engineering, final engineering, environmental review, and construction of Phase IV of the Southern Tip Bike & Hike Trail, a linear pedestrian and bicycle path in the vicinity of the Town of Cape Charles, hereafter referred to as "the trail."

Specifically, all parties agree to cooperate to support development of the trail.

2. BACKGROUND.

The trail is a stand-alone route providing a safer alternative to current options connecting the Town of Cape Charles, also referred to as "the Town," with nearby amenities. Specifically, the trail is a 10-foot-wide, paved path of approximately 3.6-miles in length that is separated from vehicular traffic and connects the residential, recreational and business district of the Town of Cape Charles with the Town's primary shopping center, which includes its nearest grocery store. Currently, bicyclists and pedestrians must travel on Stone Road's narrow shoulders and cross an intersection that presents a safety hazard due to a lack of pedestrian signal to access the shopping center on the proposed trail route.

Two pedestrian fatalities have occurred on this route since 2014. To maximize the safety benefits offered by the trail, the proposed route extends approximately 0.6 miles from the path studied and recommended during Preliminary Engineering analysis of Phase IV of the Southern Tip Bike & Hike Trail. This allows the trail to cross Route 13, connecting the Town of Cape Charles to its primary shopping center and enhancing connectivity to the Town of Cheriton. VDOT traffic engineers identified the Stone Road-Route intersection as a focal point for initial safety improvement projects in a 2016 Route 13 corridor study.

The need for such a trail from the Town of Cape Charles to the Town of Cheriton is cited in the Eastern Shore Bike Plan Update (2014). The Town of Cape Charles noted the need for a shared-use trail from its historic district along Stone Road and across Route 13 to the Town of Cheriton in its 2007 Community Trail Master Plan.

The Town of Cape Charles has unique expertise and experience in the following areas:

The Town of Cape Charles, in its 2007 Community Trail Master Plan, prioritized creation of multi-modal transportation facilities connecting areas of the Town including the Historic District, harbor area and Bay Creek development. Phase 1 (Central Park) and Phase 2 (north Peach Street and Washington Avenue) of the Community Trail have been completed, providing the Town with demonstrated experience overseeing trail planning and construction projects and maintaining a multi-modal trail. As Phase IV of the Southern Tip Bike & Hike Trail falls primarily within the Town Limits of the Town of Cape Charles, and as it will benefit citizens of the Town through enhancing connectivity to surrounding amenities and improving safety for bicyclists and pedestrians, it is in the Town's best interest to maintain the trail to a high standard.

Canonie Atlantic Co. has unique expertise and experience in the following areas:

Canonie Atlantic Co. is uniquely qualified to advise on issues pertaining to the railroad, including, but not limited to, trail crossings of the railroad, easements within the rail corridor, and changes in activity along the currently inactive rail line. In addition, Canonie Atlantic Co. has provided legal advice regarding safe distance from the railroad tracks and buffer recommendations for a multi-use trail within the rail corridor.

The Northampton County Board of Supervisors has unique expertise and experience in the following areas:

As the trail extends beyond the Town of Cape Charles Town Limits, the Northampton County Board of Supervisors is positioned to offer input during the transportation planning process for the unincorporated segment of the trail, which falls within Northampton County. This includes addressing safety issues along Route 13, such as pedestrian and bicycle crossing of the Stone Road-Route 13 intersection.

3. TOWN OF CAPE CHARLES RESPONSIBILITIES.

The Town of Cape Charles shall undertake the following activities under this MOA:

- a. The Town of Cape Charles, through the Accomack-Northampton Planning District Commission ("A-NPDC"), agrees to submit an application for VDOT HSIP funding through the Bicycle and Pedestrian Safety Program.

- b. The Town of Cape Charles agrees to reimburse the A-NPDC for employee time, plus fringe benefits, required for completion of the application for VDOT HSIP funding, in an amount agreed upon in advance of submission of the application by the A-NPDC and the Town of Cape Charles.
- c. The Town of Cape Charles agrees to own and maintain the trail for the duration of its lifespan, including provisions for employee time and requisite funding to maintain the integrity of the trail's paved route, shoulders, road crossings, and railroad crossings and buffers, so long as the Town remains owner of the trail.
- d. The Town of Cape Charles agrees to, through use of VDOT HSIP funding awarded, reimburse Canonie Atlantic Co. the assessed value of easements granted on Canonie Atlantic Co. property, which are necessary for construction of the trail.
- e. The Town of Cape Charles agrees to appoint at least one representative to sit on a Bike Trail working group throughout the application and implementation phases of the trail, which include preliminary engineering, final engineering, environmental review, and construction.
- f. The Town of Cape Charles agrees to assume responsibility for its unique legal costs accrued in the course of planning and constructing the trail.

4. CANONIE ATLANTIC CO. RESPONSIBILITIES.

Canonie Atlantic Co. shall undertake the following activities under this MOA:

- a. Canonie Atlantic Co. agrees to support the Town of Cape Charles in its application for VDOT HSIP funding for preliminary engineering, final engineering, environmental review, and construction of the trail
- b. Canonie Atlantic Co. agrees to support the Town of Cape Charles in owning and maintaining the trail.
- c. Canonie Atlantic Co. agrees to cooperate with the Town of Cape Charles in identifying and granting easements on Canonie Atlantic Co. property, which are necessary for construction of the trail.
- d. Canonie Atlantic Co. agrees to appoint one representative to sit on a Bike Trail working group throughout the application and implementation phases of the trail, which include preliminary engineering, final engineering, environmental review, and construction.

- g. Canonie Atlantic Co. agrees to assume responsibility for its unique legal costs accrued in the course of planning and constructing the trail.
- h. Canonie Atlantic Co. agrees to notify the Town of Cape Charles and the Northampton County Board of Supervisors in a prompt and timely manner of any changes in status regarding activity on the railroad.

5. NORTHAMPTON COUNTY BOARD OF SUPERVISORS RESPONSIBILITIES.

The Northampton County Board of Supervisors shall undertake the following activities under this MOA:

- a. The Northampton County Board of Supervisors agrees to support the Town of Cape Charles in its application for VDOT HSIP funding for preliminary engineering, final engineering, environmental review, and construction of the trail.
- b. The Northampton County Board of Supervisors agrees to appoint one representative to sit on a Bike Trail working group throughout the application and implementation phases of the trail, including preliminary engineering, final engineering, environmental review, and construction.
- c. The Northampton County Board of Supervisors agrees to assume responsibility for its unique legal costs accrued in the course of planning and constructing the trail.

6. TERMS AND CONDITIONS.

It is mutually understood and agreed by and between the parties that:

- 1. This MOA may be amended by mutual agreement of the parties in a written modification signed by all parties.
- 2. This MOA may be terminated by mutual agreement of the parties, and shall automatically terminate upon completion of all responsibilities as stated herein, unless otherwise amended.
- 3. Any of the parties may terminate its performance of related obligations under this Agreement with thirty (30) days prior notice to every other party.

7. FUNDING; COSTS.

The parties shall each be solely responsible for any and all costs associated with their responsibilities under this MOA.

8. GOVERNING LAW.

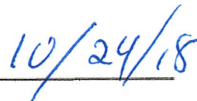
This Memorandum of Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

9. EFFECTIVE DATE AND SIGNATURE.

This Memorandum of Agreement shall be effective upon the date of the last party to sign this MOA below. The parties indicate agreement with this Memorandum of Agreement by their signatures below.

TOWN OF CAPE CHARLES

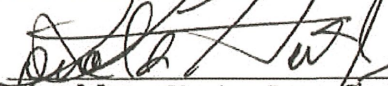


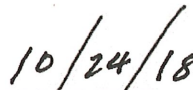


[NAME], [TITLE]

DATE

CANONIE ATLANTIC CO.





Donald L. Hart, Jr., Chairman

[NAME], [TITLE]

DATE

NORTHAMPTON COUNTY BOARD OF SUPERVISORS





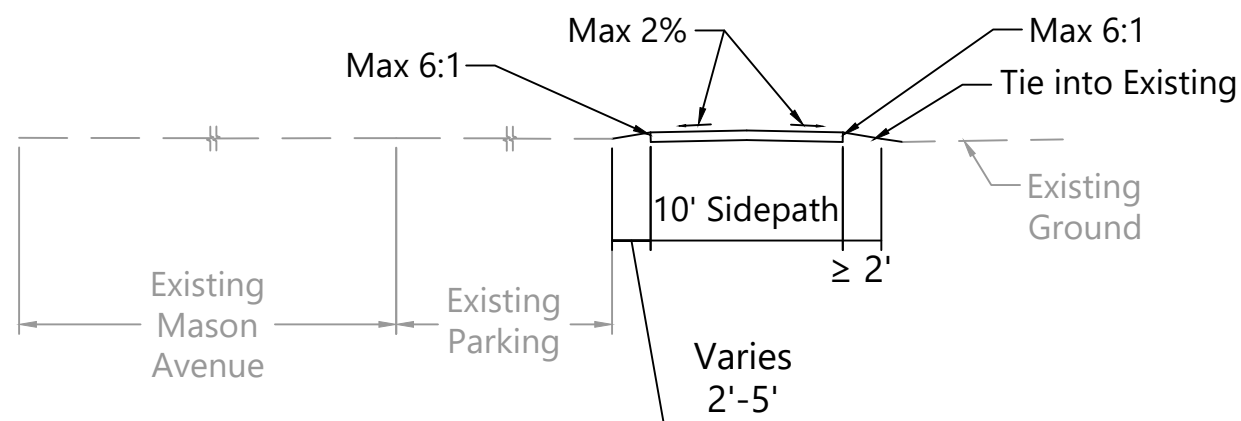
John R. Coker, Vice Chairman

[NAME], [TITLE]

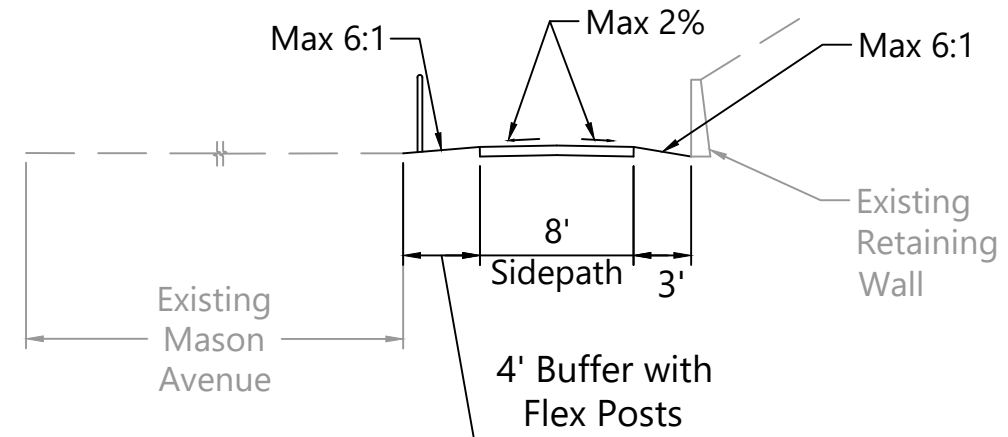
DATE



Typical Section A-A (Scale 1"=10')



Typical Section B-B (Scale 1"=10')



Eastern Shore Rail to Trail Study Cape Charles Segment

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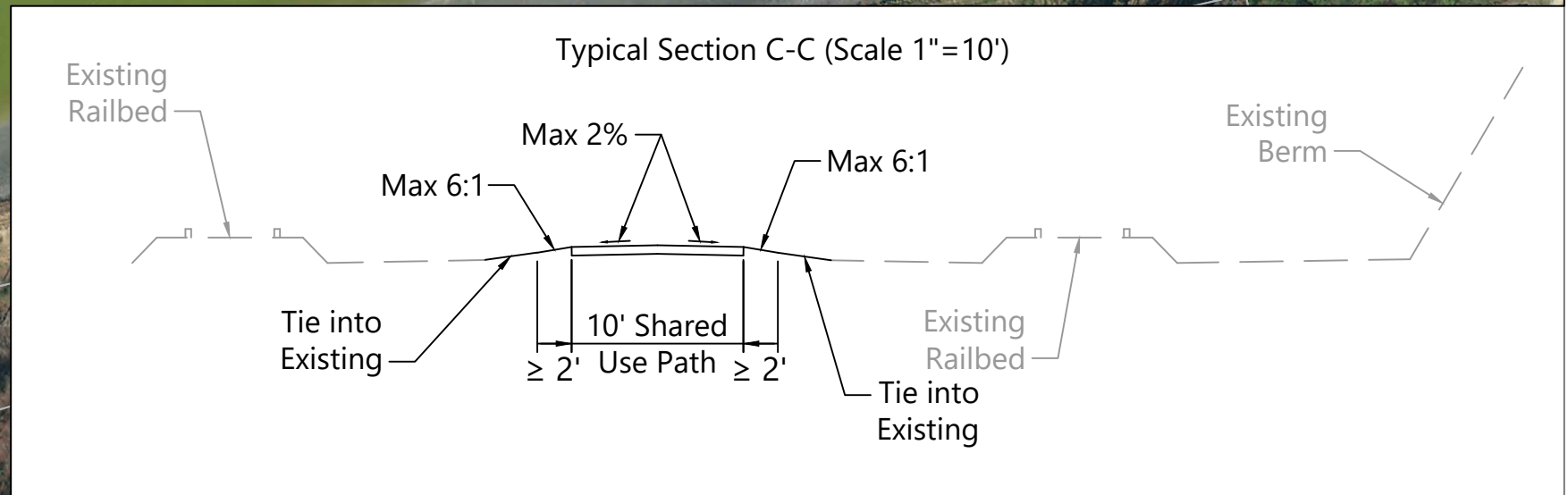
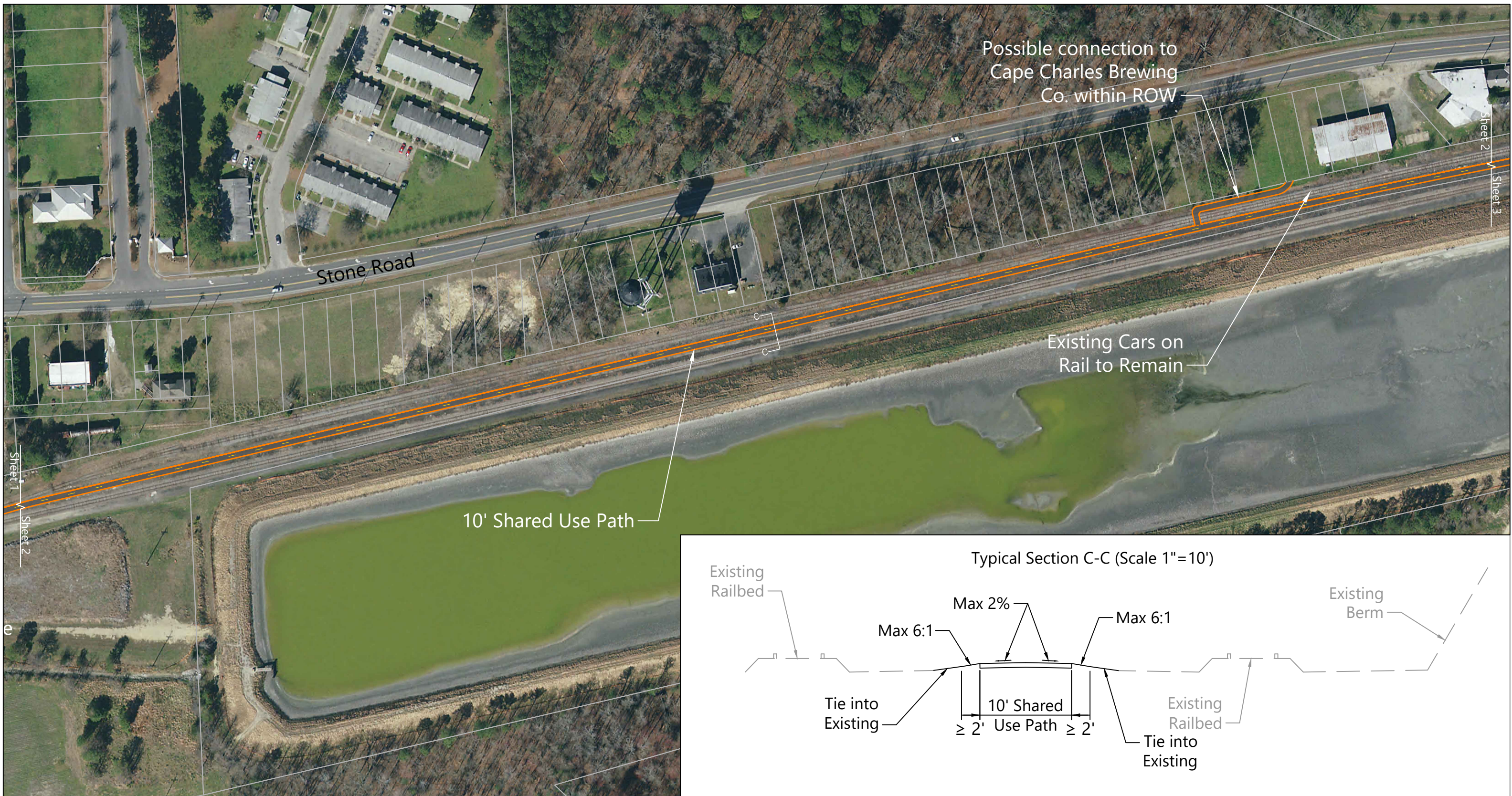
LEGEND

- Shared Use Path
- Parcel Boundary



NOTES

- Trailhead design to be determined during Preliminary Engineering Phase.
- Signs are for demonstration only. Actual signing and markings will be determined during the Preliminary Engineering Phase.
- ROW based on Northampton County GIS parcel information.
- Parking to be removed adjacent to the retaining wall.
- Parking at the west end of the sidepath to be removed to tie into existing sidewalk network.



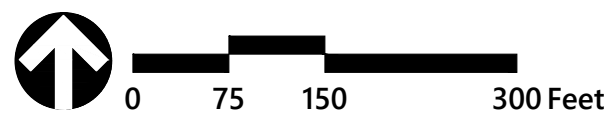
Eastern Shore Rail to Trail Study Cape Charles Segment

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LEGEND

- Shared Use Path
- Parcel Boundary



NOTES

- ROW based on Northampton County GIS parcel information.

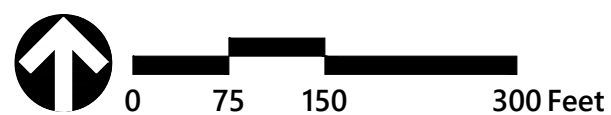


Eastern Shore Rail to Trail Study Cape Charles Segment Page 3 of 6 | June 2020



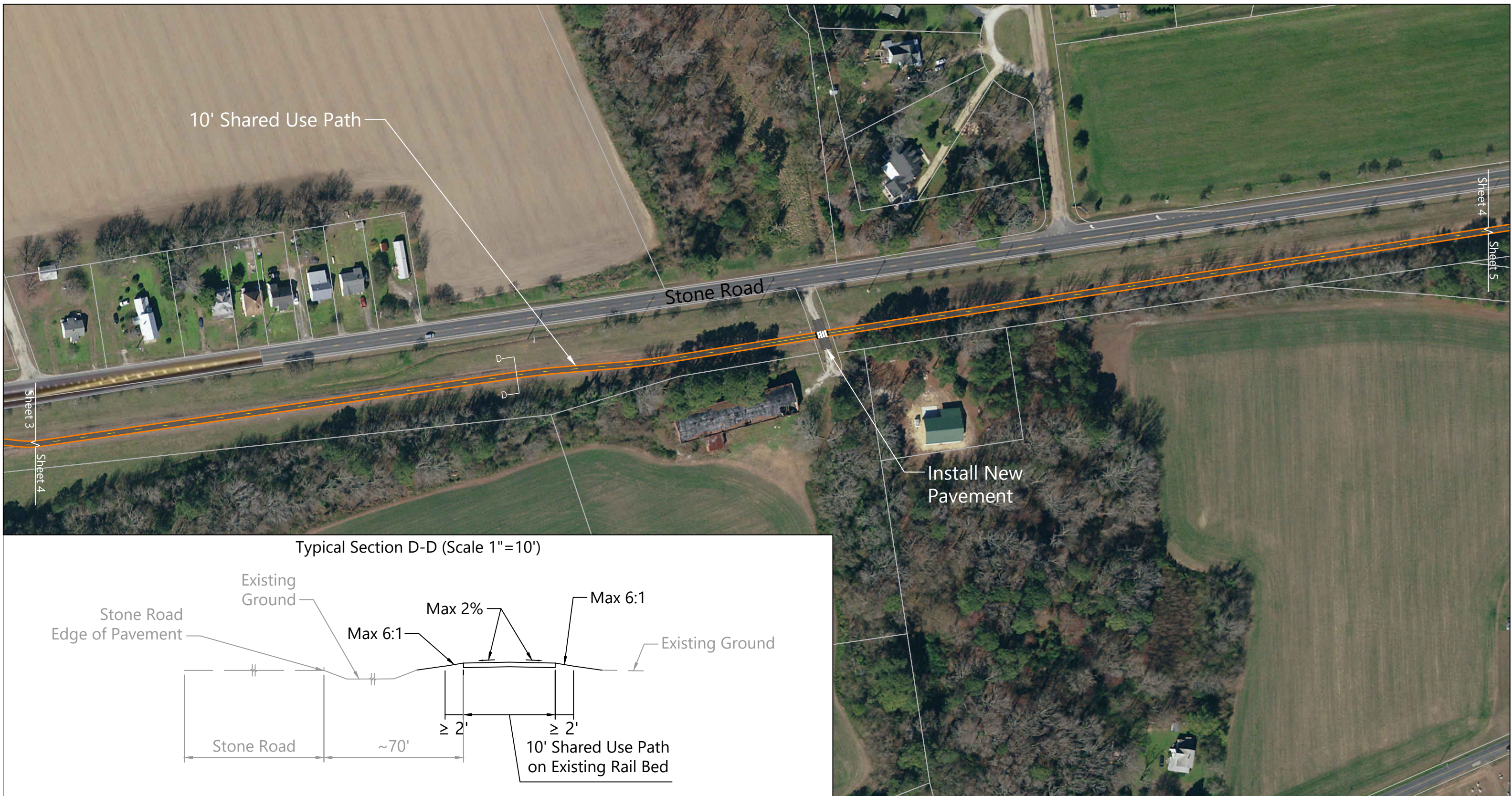
LEGEND

- Shared Use Path
- Parcel Boundary



NOTES

- Signs are for demonstration only. Actual signing and markings will be determined during the Preliminary Engineering Phase.
- ROW based on Northampton County GIS parcel information.
- Existing markings associated with the rail crossing to be eradicated.
- Retention or Removal of existing railroad crossing equipment to be determined.



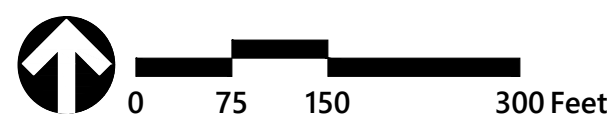
Eastern Shore Rail to Trail Study Cape Charles Segment

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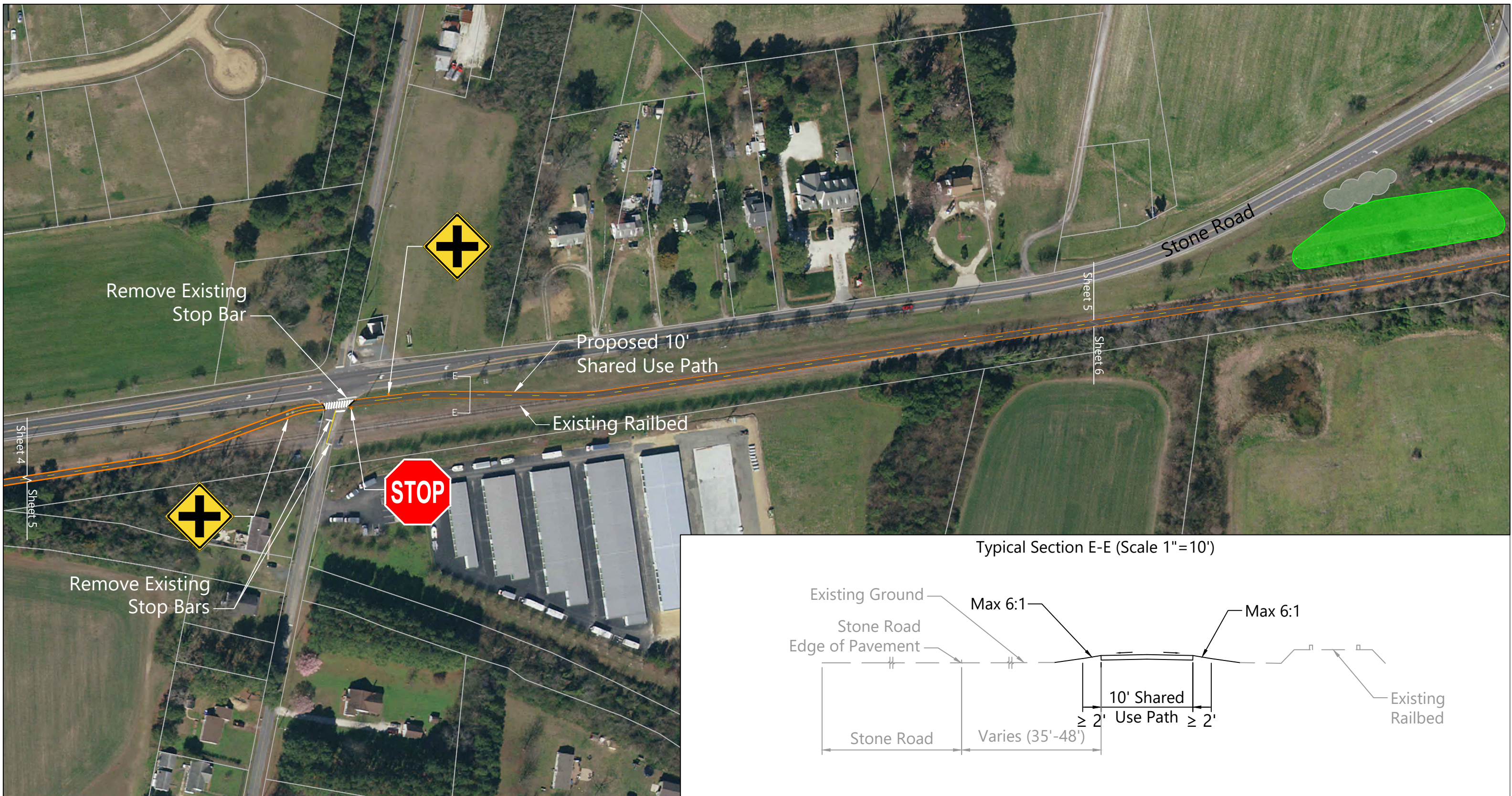
LEGEND

- Shared Use Path
- Parcel Boundary



NOTES

- ROW based on Northampton County GIS parcel information.



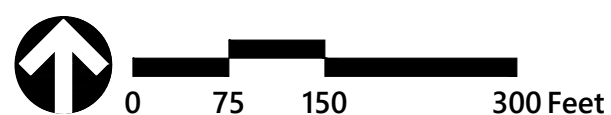
Eastern Shore Rail to Trail Study Cape Charles Segment

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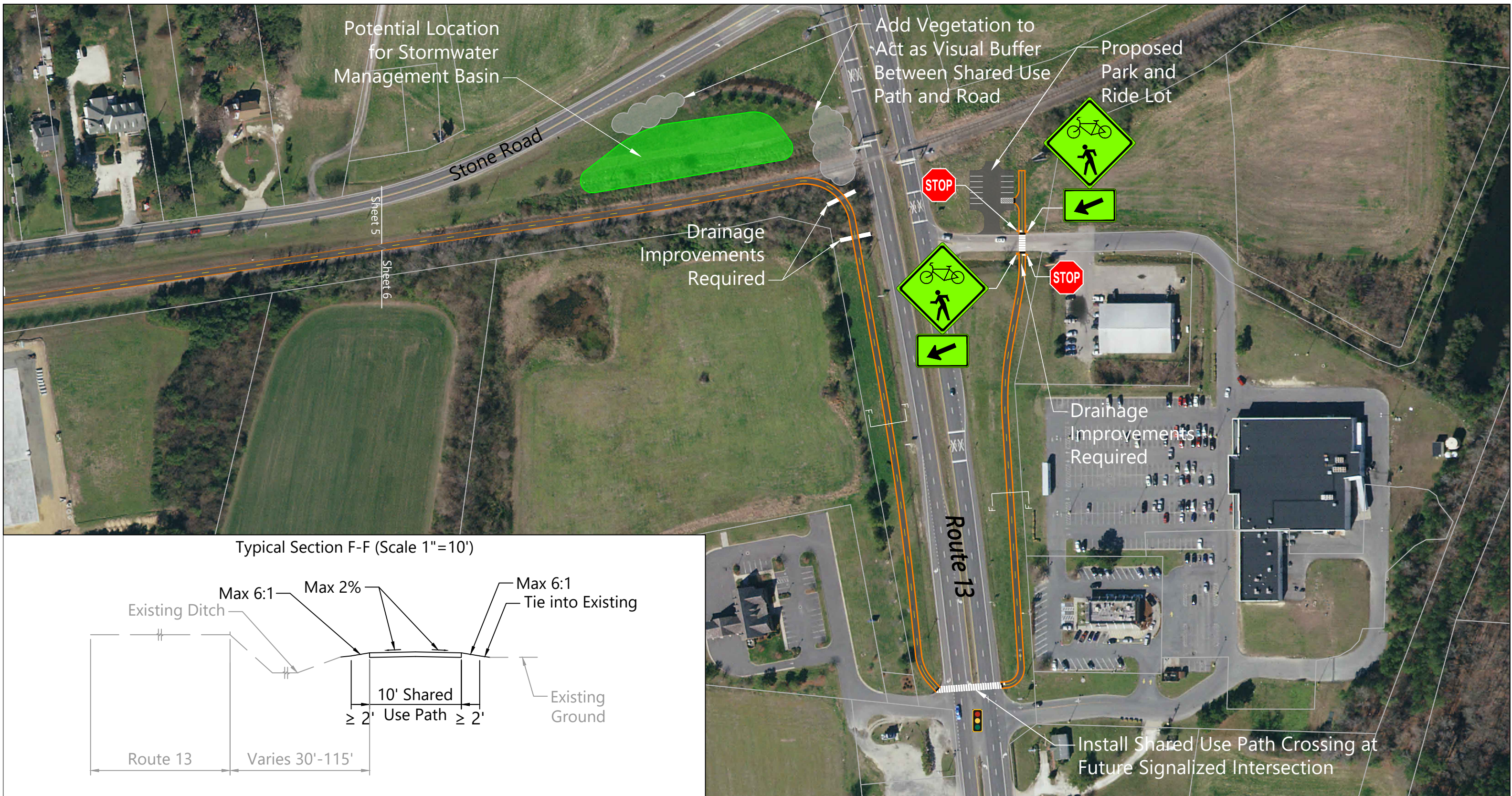
LEGEND

- Shared Use Path
- Parcel Boundary



NOTES

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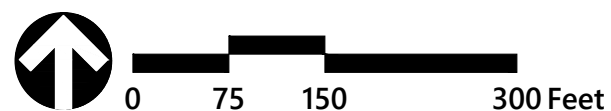
Eastern Shore Rail to Trail Study Cape Charles Segment

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LEGEND

- Shared Use Path
- Parcel Boundary



NOTES

- Signs are for demonstration only. Actual signing and markings will be determined during the Preliminary Engineering Phase.
- ROW based on Northampton County GIS parcel information.

RESOLUTION 20200716

Cape Charles Town Council Rail-to-Trail Multi-Use Path

WHEREAS, the Town of Cape Charles considers bicycle and pedestrian infrastructure to be important to the region by providing recreation and transportation opportunities, as well as the possibility of economic and community development; and

WHEREAS, implementation of the rail-to-trail bicycle and pedestrian project in and around the Town of Cape Charles will contribute to safer transportation and positive economic impact in the Town and surrounding areas; and

WHEREAS, businesses in and surrounding the Town of Cape Charles may benefit from the construction of a bicycle and pedestrian path.

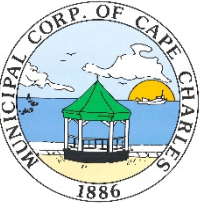
NOW, THEREFORE, BE IT RESOLVED that the Cape Charles Town Council hereby requests assistance from the Accomack-Northampton Planning District Commission in preparation and submission of a project application to the Virginia Department of Transportation through its SMART SCALE 2020 Application Process for construction of a multi-use trail between Mason Avenue and U.S. Route 13, largely falling within the railroad Right of Way, within and surrounding the incorporated Town of Cape Charles.

ADOPTED this the 16th day of July 2020.

By: _____
Mayor

ATTEST:

Town Clerk

b  TOWN OF CAPE CHARLES	AGENDA TITLE: Southern Tip Bike & Hike Trail, Phase IV		AGENDA DATE July 2, 2020
	SUBJECT/PROPOSAL/REQUEST: Consider Resolution supporting ANPDC funding application.		ITEM NUMBER: 7C
	ATTACHMENTS: 1. Memorandum of Agreement (MoA) 2. Proposed trail alignment. 3. Proposed Resolution.		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Bob Panek, Project Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

In October 2018, Council approved participation with the Accomack-Northampton Planning District Commission (ANPDC) and Northampton County in applying for funding to construct Phase IV of the Southern Tip Bike & Hike Trail. Phases I & II are completed and run about five miles from the Eastern Shore of Virginia National Wildlife Refuge Visitors Center to Capeville Drive. Phase III is under design and will terminate near the US 13/SR 184 intersection. Phase IV would bring the trail into Town along the railroad right-of-way on the south side of SR 184, for a total of about 12.5 miles. It would connect to a planned future phase of the Cape Charles Community Trail. A MoA was executed (attachment 1), and ANPDC applied for funding under the VDOT Highway Safety Improvement Program (HSIP).

DISCUSSION:

The planned HSIP funding was not obtained as the program was put on hold by VDOT. There is now an opportunity to apply for VDOT funding under the Smart Scale program. If approved, there would be no local funding match required. The application deadline is August 3, 2020. ANPDC requires a Resolution by the Town Council expressing support for the funding application. The planned alignment of the trail is at attachment 2 for information. The proposed Resolution is at attachment 3 for consideration.

RECOMMENDATION:

Staff recommends approval of the Resolution.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Phase IV of Southern Tip Bike & Hike Trail – VDOT Highway Safety Improvement Program Grant		AGENDA DATE: October 18, 2018
	SUBJECT/PROPOSAL/REQUEST: Review information provided by the Accomack-Northampton Planning District Commission re: grant opportunities for the Phase IV of the Southern Tip Hike & Bike Trail		ITEM NUMBER: 7D
	ATTACHMENTS: ANPDC Information to Town Council, Phase 4 Map, Phase 4A Extension Map, Draft Memorandum of Agreement with town of Cape Charles, Canonie Atlantic Co., and Northampton County Board of Supervisors		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: Larry DiRe, Town Manager	

BACKGROUND:

At the September 20, 2018 Town Council Regular Meeting, Curtis Smith, Director of Planning for the Accomack-Northampton Planning District Commission (A-NPDC), addressed Council regarding a grant opportunity for a multi-use pedestrian trail along the Stone Road corridor. VDOT's Highway Safety Improvement Program (HSIP) Bike and Pedestrian Safety Program awards up to \$5M for projects involving locations with high crash risk, with no local match required. If awarded, the grant may cover phases including preliminary engineering, final engineering, environmental review, and construction of Phase IV of the Southern Tip Bike & Hike Trail. Trails had been funded in rural areas, such as the Shenandoah Valley, using this grant. At the request of Northampton County, the A-NPDC recently completed a feasibility study for preliminary design of the northern portion of the southern tip of the trail. Phase 4 would run from Parsons Circle, along Stone Road, to Route 642, to the Cape Charles Harbor with the goal to make it safe for pedestrians and also complimenting other existing plans such as the regional bike trail. The A-NPDC has the capacity to assist the Town in submitting the grant application by the November 1, 2018 deadline, and administer the grant and construction project.

The Town Council, by unanimous vote, authorized the town manager to send a letter to the A-NPDC to begin the grant process for a pedestrian/bike trail into town.

DISCUSSION:

Information was received from the A-NPDC regarding the grant opportunity – Maps of the Phase 4 Trail and extension options, information regarding the grant and project background, and a draft Memorandum of Agreement for Application for Funding, Ownership and Maintenance of Phase IV of the Southern Tip Hike & Bike Trail (MOA). The MOA would be between the town of Cape Charles, Canonie Atlantic Co., and the Northampton County Board of Supervisors. The purpose of the MOA is to set forth the terms and conditions, scope of work, and responsibilities of the parties associated with the collaboration on the application for the VDOT HSIP funding and subsequent implementation of preliminary engineering, final engineering, environmental review, and construction of Phase IV of the Southern Tip Hike & Bike Trail.

The responsibilities of the town of Cape Charles under the MOA are: i) agreement to submit an application for the VDOT HSIP funding through the A-NPDC; ii) agreement to reimburse the A-NPDC for employee time, plus fringe benefits, required to completion of the application for VDOT HSIP funding, in an amount agreed upon in advance of submission of the application; iii) agreement to own and maintain the trail for the duration of its lifespan, including provisions for employee time and requisite funding to maintain the integrity of the trail's paved route, shoulders, road crossings, and railroad crossings and buffers, as long as the town remains owner of the trail; iv) agreement to, through the use of VSOT HSIP funding, reimburse Canonie

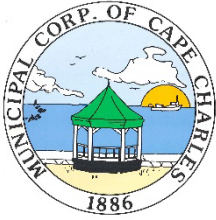
Atlantic Co. the assessed value of easements granted on Canonic Atlantic Co. property, which are necessary for construction of the trail; v) agreement to appoint at least one representative from the town to sit on a Bike Trail working group throughout the application and implementation phases of the trail, which include preliminary engineering, final engineering, environmental review, and construction; and vi) agreement to assume responsibility for its unique legal costs accrued in the course of planning and constructing the trail.

A number of action items are necessary to move forward:

1. Motion to authorize Cape Charles Town Manager to formally request the A-NPDC to prepare and submit an application for VDOT HSIP funding through the Bike and Pedestrian Safety Program.
2. Motion to authorize Cape Charles Town Manager to sign and enter into a MOA between the town of Cape Charles, Canonic Atlantic Co., and the Northampton County Board of Supervisors.
3. Motion to appoint at least one member to a Bike Trail working group during the application and implementation phases of the trail.
4. Motion to authorize Cape Charles Manager to sign a Letter of Support for the application and subsequent implementation of Phase IV of the Southern Tip Bike & Hike Trail.

RECOMMENDATION:

Staff requests Council review and discussion regarding the grant opportunity and provided information. If deemed appropriate, Town Council approval of the four requested action items to move forward with the grant application submittal for the Virginia Department of Transportation Highway Safety Improvement Program Bike and Pedestrian Safety Program.



Excerpt From
TOWN COUNCIL
Public Hearings, Regular Meeting & Executive Session
Civic Center
October 18, 2018
6:30 p.m.

At approximately 6:30 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Public Hearing, Regular Meeting and Executive Session of the Town Council. In addition to Mayor Dize, present were Vice Mayor Bennett, Councilmen Bannon, Buchholz and Grossman, and Councilwomen Burge and Holloway. Also, in attendance were Town Manager Larry DiRe, Treasurer Deborah Pocock, Police Chief Jim Pruitt, and Town Clerk Libby Hume. There were 19 members of the public in attendance.

- D. *Phase IV of Southern Tip Bike & Hike Trail – VDOT Highway Safety Improvement Program Grant:* Larry DiRe introduced Ms. Clara Vaughn from the Accomack-Northampton Planning District Commission (A-NPDC).

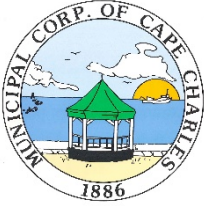
Ms. Vaughn stated that A-NPDC Director of Planning Curtis Smith addressed Council at the last meeting regarding a grant opportunity for a multi-use pedestrian trail along the Stone Road corridor which would connect to the southern tip of the trail down Route 13. Some additional information was provided by the A-NPDC regarding the plans as well as a draft Memorandum of Agreement for Application for Funding, Ownership and Maintenance of Phase IV of the Southern Tip Bike & Hike Trail (MOA). The grant submission deadline was November 1, 2018.

Council reviewed the supplied documentation and there was some discussion as follows: i) Cape Charles would assume ownership of this phase of the trail, including the portion within the county, upon completion; ii) The Town would be responsible for maintenance. Ms. Vaughn stated that the Fish & Wildlife Refuge owned and maintained the existing portion of the trail and utilized volunteers to clear branches, etc.; iii) The trail was something that the Town had wanted and would be an asset, especially for tourism. Revenue from the transient occupancy tax could potentially fund the maintenance costs; iv) The grant would cover the cost of the easement from Canonie Atlantic Co.; and v) The MOA contained a termination clause allowing any of the parties to cancel the agreement with 30 days’ notice.

Motion made by Councilman Bannon, seconded by Councilwoman Holloway, to authorize the town manager to sign and enter in to a MOA between the town of Cape Charles, Canonie Atlantic Co., and the Northampton County Board of Supervisors. The motion was approved by unanimous vote.

Motion made by Councilwoman Burge, seconded by Councilman Buchholz, to i) authorize the town manager to formally request the A-NPDC to prepare and submit an application for VDOT HSIP funding through the Bike and Pedestrian Safety Program; ii) appoint a representative to the Bike Trail working group during the application and implementation phases of the trail; and iii) authorize the town manager to sign a letter of support for the application and subsequent implementation of Phase IV of the Southern Tip Bike & Hike Trail. The motion was approved by unanimous vote.

Councilman Grossman recommended that a representative from the Planning Commission be appointed to the Bike Trail working group. Ms. Vaughn added that the Town, as the owner, could have more than one member on the group.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Appointment of Zoning Administrator		AGENDA DATE July 16, 2020
	SUBJECT/PROPOSAL/REQUEST: Appoint Zoning Administrator		ITEM NUMBER: 5A
	ATTACHMENTS: Zoning Ordinance Section 2.4.1		FOR COUNCIL: Action () Information ()
	STAFF CONTACT (s): John Hozey	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Section 2.4.1 of the Cape Charles Zoning Ordinance states that the Town Council shall appoint a Zoning Administrator to serve under the direction of the Town Manager. Section 2.4.1 of the Zoning Ordinance outlines the Zoning Administrator's authority to enforce the Town's Ordinance and is attached for reference purposes.

ITEM SPECIFICS:

The Town Planner's duties include guiding long-range land use planning and natural resource management for the Town and to implement related programs and regulations, including zoning, subdivision, erosion and sediment control, and flood plain management. The Planner serves as the staff liaison for the Planning Commission, Historic District Review Board, the Harbor Area Review Board, Wetlands & Coastal Dune Board and the Board of Zoning Appeals. The Planner monitors changes in the state and federal law and is responsible for initiating modifications to the Comprehensive Plan, Zoning Ordinance and Subdivision Ordinance. The Planner's duties also include conferring with the Town Manager on zoning and subdivision topics and enforcing compliance with the Town's zoning, subdivision and wetland ordinances.

When advertising for the Planner position, we included a requirement for zoning administrator experience. Allyson Finchum was hired on June 29, 2020 as the Town Planner with extensive zoning administrator experience.

RECOMMENDATION:

Recommend Council appoint Allyson Finchum as Zoning Administrator.

Section 2.4.1 Enforcement of Ordinance, Guarantees

- A. In accordance with Section 15.2-2286 of the Code of Virginia, there is hereby created the office of Zoning Administrator. The Zoning Administrator, who may also hold another office in Town, shall be appointed by the Town Council and shall serve under the direction of the Town Manager, who will coordinate department actions and such assistance as may be required to carry out the responsibilities of this ordinance. In the event that the Town Manager is appointed to serve as Zoning Administrator, same shall serve under the direction of the Mayor.
- B. The Zoning Administrator shall be vested with all necessary authority on behalf of the Town Council to administer and enforce the provisions of this ordinance, including:
1. the ordering in writing of the remedying of any condition found in violation of this ordinance;
 2. the bringing of legal action, after approval by the Town Council, to ensure compliance with the provisions of this ordinance, such action to include injunction, abatement, or other appropriate action or proceedings;
 3. in specific cases, making findings of fact and, with the concurrence of the Town Attorney, conclusions of law regarding determinations of rights accruing under Section 2.5 of this ordinance and Section 15.2-2307 of the Code of Virginia.
- C. Pursuant to Section 15.2-2299 of the Code of Virginia, the Zoning Administrator shall have all necessary authority on behalf of the Town Council to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:
1. the ordering in writing of the remedy of any noncompliance with the conditions;
 2. the bringing of legal action, after approval by the Town Council, to ensure compliance with the conditions, including injunction, abatement, or other appropriate action or proceeding; and
 3. requiring a guarantee, satisfactory to the Town Council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of the improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the Town Council, or agent thereof, upon the submission of satisfactory evidence that construction of the improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits as may be appropriate.
- D. The Zoning Administrator shall respond within 20 days of a request for a decision or determination on zoning matters within the scope of his or her authority unless the requester has agreed to a longer period.