Wetlands and Coastal Dune Board

June 21, 2023

Cape Charles Civic Center– 500 Tazewell Avenue

Work Session Agenda @ 5:00 p.m.

Public Hearing & Regular Meeting Agenda @ 5:30 p.m.

WORK SESSION AGENDA – 5:00 p.m. – Discussion of Board bylaws, procedures, organization of officers, future meeting dates

PUBLIC HEARING & REGULAR MEETING AGENDA – 5:30 p.m.

1. Call to Order; Roll Call

2. Invocation and Pledge of Allegiance

3. **Reorganization of Board and Election of Officers: Chairman and Vice Chairman**

4. Consent Agenda
    a. Approval of Agenda Format
    b. Approval of Minutes: May 26, 2022

5. Public Hearing:

    A) 101 Sunset Blvd to 187 Sunset Blvd. - Application from Bay Creek at Cape Charles Community Association Inc. for sand nourishment on the beach and in the inter-tidal area behind the existing breakwaters located at the Marina Bay Subdivision and for a 50-feet sill extension to an existing back-bay sill landward of lots 83A1-11-1, 2, & 3 – VMRC #2023-0904. The portion of the project that is within the Wetlands and Coastal Dune Board's jurisdiction, pursuant to Cape Charles Zoning Ordinance Appendix C, Section 3.5, is the proposed placement of approximately 12, 336 cubic yards of sand nourishment material from Tax Map #83A1-11-73 to #83A3-11-30 (101 Sunset Blvd to 187 Sunset Blvd, approximately 2,100 feet) on the beach and in the inter-tidal area behind the existing breakwaters. The applicants are proposing a 50-feet sill extension for an existing back-bay sill landward of Tax Map #83A1-11-1, 83A1-11-2, and 83A1-11-3. All impacted areas will be restored to original contours and planted with vegetation and/or sand fence installation.

6. Other Matters – Discussion and Adoption of Wetlands & Coastal Sand Dune Board Bylaws

7. Next Meeting: 3rd Wednesday of the month at 5:30 p.m. (July 19, 2023)

8. Adjourn

Reviewed: June 21, 2023
Adopted:
Amended:

TOWN OF CAPE CHARLES

WETLANDS AND COASTAL SAND DUNE BOARD

BY-LAWS

ARTICLE ONE
AUTHORIZATION

1-1 This Board, established in conformance with the Wetlands Zoning Ordinance passed by the Cape Charles Town Council on April 13, 1993 and the Coastal Primary Sand Dunes Zoning Ordinance passed by the Cape Charles Town Council on July 12, 1994, has adopted the following articles in order to facilitate its powers and duties in accordance with the provisions of the Code of Virginia, Title 28.2, Chapter 13 – Wetlands (§28.2-1300 thru 28.2-1320) and Chapter 14 - Coastal Primary Sand Dunes (§28.2-1500 thru 28.2-1420), as amended.

1-2 The official title of this Board shall be the "Town of Cape Charles Wetlands and Coastal Sand Dune Board" or "Wetlands Board or WCSD Board".

ARTICLE TWO
PURPOSE

2-1 The purpose of the Wetlands Board is to conduct public hearings on applications filed for uses, developments and/or activities in the wetlands and/or the coastal primary sand dunes that is not directly authorized by statute and issue permits in accordance with the Code of Virginia Title 28.2, Chapter 13 – Wetlands (§28.2-1300 thru 28.2-1320) and Chapter 14 - Coastal Primary Sand Dunes (§28.2-1500 thru 28.2-1420), as amended, and the Town of Cape Charles Zoning Ordinance Appendix E – Wetlands and Appendix C – Coastal Primary Sand Dune.

ARTICLE THREE
MEMBERSHIP

3-1 The Wetlands Board shall consist of five (5) members appointed by the Town Council.

3-2 The members of the Wetlands Board shall hold no public office in the Town other than membership on the local planning or zoning commission, the local erosion commission, the local board of zoning appeals, a board established by a local government to hear cases regarding ordinances adopted pursuant to the Chesapeake Bay Preservation Act and regulations promulgated thereunder, or as director of a soil and water conservation board.

3-3 The terms of office for each member of the Wetlands Board shall be appointed for a term of five years, which shall be staggered so that only one member's term is up for consideration on an annual basis. The term of office shall commence on November 13 and expire 5 years hence on November 12.

If a member is appointed from one of the duly allowed other memberships as stated in 3-2 above, then the term of office shall run concurrently with their term of office from that duly appointed board or commission.

3-4 Any vacancy in membership shall be filled by appointment of Town Council and shall be for the unexpired term only.

3-5 Members may serve successive terms. A member whose term expires shall continue to serve until his successor is appointed and qualified.

3-6 Upon a hearing with at least 15 days' notice thereof, any board member may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by Town Council. Notwithstanding the foregoing provisions, a member of a local wetlands board may be removed from office by the Town Council without limitation in the event that the board member is absent from any three consecutive meetings of the board, or is absent from any four meetings of the board within any 12-month period. In either such event, a successor shall be appointed by the Town Council for the unexpired portion of the term of the member who has been removed.

3-7 The Town Council shall also appoint at least one but not more than three alternate members to the board.

3-8 The Town Council may provide for the payment of expenses incurred by Commission members in the performance of their official duties and for compensation of service.

ARTICLE FOUR
OFFICERS AND THEIR SELECTION

4-1 The officers of the Board shall consist of a Chair, a Vice-Chair and a Secretary. The Chair and Vice-Chair shall be elected by the membership of the Board. The Secretary shall be the Planning & Zoning Administrator or their designee.

4-2 The elected officers of the Wetlands Board shall be elected for a one (1) year term by the Board from the members at the first regular meeting after November 12 each year.

4-3 A candidate receiving a majority vote of a quorum of the Board shall be duly elected. He shall take office immediately and serve for one (1) year until his successor shall take office.

4-4 Should the Chair and Vice-Chair be absent at any meeting, the member with the most senority on the Board, alphabetically, shall preside as temporary Chair until the Chair or Vice-Chair is present.

4-5 Vacancies in offices shall be filled immediately by regular election procedures at the next meeting after such vacancy has occurred.

ARTICLE FIVE
DUTIES OF OFFICERS

5-1 The **Chairman** shall be an appointed member of the Board and shall:

5.1.1 Preside at all meetings.
5.1.2 Appoint committee chairmen and members.
5.1.3 Be informed immediately of any official communication and report the same at the next regular Board meeting.
5.1.4 Rule on all procedural questions.
5.1.5 Carry out other duties as are assigned by the Board.

5-2 The **Vice Chairman** shall be an appointed member of the Board and shall:

5-2.1 Act in the absence or inability of the Chairman.

5-2.2 Have the power to function in the same capacity as the Chairman in cases of the Chairman's inability to act.

5-3 The **Secretary** shall:

5-3.1 Keep a written record of all business transacted by the Board.

5-3.2 Notify all members of all meetings.

5-3.3 Keep a file of all official records and reports of the Board.

5-3.4 Attend to the correspondence of the Board.

5-3.5 Prepare and be responsible for the publishing of advertisements and public notices relating to all public hearings and public meetings.

5-3.6 Keep a set of minutes of the Board meetings, which, after approval by the Board, shall be retained in the Department of Planning & Zoning and posted on the Town website.

5-3.7 Forward Board votes and actions to the Virginia Marine Resource Commission (VMRC)

5-3.8 The Board shall submit a report of its activities to the Town Council at least once each year. The board shall forward a copy of each report to the Virginia Marine Resources Commission.

ARTICLE SIX
MEETINGS

6-1 Regular meetings of the Board shall be held the third Wednesday of each month in the Cape Charles Civic Center at 5:30 p.m. When a meeting date falls on a legal holiday, an alternative date shall be designated by the Board. Meetings may be cancelled in advance by a majority vote of those present at a previous meeting or if no applications have been received and there is no business for the Board to address, then the Secretary after consultant with the Chairman will cancel the meeting and notify all members in writing.

If the Chairman finds and declares that weather or other conditions are such that it is hazardous for Board members to attend a regularly schedules meeting, the meeting shall be continued to the following Wednesday at 5:30 p.m. in the Cape Charles Civic Center. Such findings shall be communicated to the Board members and the press and posted on the Town's website as promptly as possible. All hearing and other matters previously advertised shall be conducted at the continued meeting, and no further advertisement is required.

6-2 Except as provided for in Section 2.2-3711, Code of Virginia, 1950, as amended (Virginia Freedom of Information Act), all meetings, hearings, records, and accounts of the Board shall be open to the public. There shall be a Citizen Comment Period at each of the regular Board meetings. The Citizen Comment Period will allow each member of the public three (3) minutes to speak about any wetlands or coastal sand dune matter, except items already scheduled for a public hearing. All public participation must comply with the Guidelines for Citizen Participation, as adopted by the Town Council on July 22, 2021, and which are affixed as Appendix A to these bylaws.

6-3 Three or more members of the Board shall constitute a quorum. No action the Board shall be valid unless authorized by a majority vote of those present and voting.

6-4 No member present shall abstain from voting unless such member has a conflict of interest in the matter being voted upon. A "conflict of interest" shall exist when there is an actual conflict: 1) pursuant to the Virginia State and Local Government Conflict of Interests Act (§2.2-3100 et. Seq. of the

Code of Virginia, or 2) pursuant to Town of Cape Charles Code of Ethics & Meeting Rules of Order, adopted by Town Council on July 22, 2021, and which is affixed as Appendix B to these Bylaws; or 3) as stated by the Board member unless objected to by a majority vote of the members of the Board with such member asserting such conflict of interest not permitted to vote on such matter.

6-5 Board members are permitted to meet with the applicants outside of a Board meeting and Board members shall publicly disclose any meetings at the next available Board meeting by providing names of those persons in attendance and a summary of the reason(s) for such meeting, topics of discussion and any conclusions or findings as a result of the meeting.

6-6 The Secretary, in reporting votes of the Board, shall indicate the recorded vote including any abstentions and absences.

ARTICLE SEVEN
ORDER OF BUSINESS

7-1 The order of business for a regular meeting shall be:

- 7-1.1 Call to order by the Chairman
- 7-1.2 Roll call; determination of a quorum
- 7-1.3 Invocation and Pledge of Allegiance.
- 7-1.4 Consent Agenda: A) Acceptance of the Agenda; B) Presentation of the Minutes
- 7-1.5 Public Hearings
- 7-1.6 Unfinished business
- 7-1.7 New business
- 7-1.8 Report of officers and committees
- 7-1.9 Citizen Comment Period
- 7-1.10: Adjournment

7-2 The first item of business for the first regular meeting after November 12 of each year shall be the election of new officers.

7-3 Parliamentary procedures in the Board meetings shall be governed by Robert's Rules of Orders, specifically by the provisions which pertain to the Procedures in Small Boards. The Chair may speak, make motions and vote on all matters.

- 7-3.1 Motions shall be restated before a vote is taken.
- 7-3.2 A tie vote on any motion means the defeat of the motion for a lack of a majority vote.

7-4 The Board shall keep a set of minutes of all meetings and these minutes shall become a public record.

7-5 The Board shall retain the option to invite public comment by those present at a regular meeting at such times as the Board deems necessary.

ARTICLE EIGHT
HEARINGS

8-1 The Board shall hold public hearings. Said hearings shall be held no later than 60 days receipt of a complete application.

8-2 Notice of the hearing shall be published in a newspaper having general circulation in the area once a week for two (2) successive weeks prior to such hearing. The published notice shall specifc the place or

places within the Town where copies of the application may be examined. The costs of publication shall be paid by the applicant.

8-3 Notice of the hearing shall be provided to the following: the applicant, the Town Council, the Virginia Marine Resources Commission, the owner of record of any land adjacent to the wetlands in question, the Virginia Institute of Marine Science (VIMS), the Department of Wildlife Resources, the State Water Control Board, the Virginia Department of Transportation and any governmental agency expressing an interest in the application. Said notice shall be mailed no less than 20 days prior to the hearing date.

8-4 The procedures followed for a public hearing on any matter shall be:

8-4.1 The legal advertisement is read and the public hearing is opened.

8-4.2 The matter/case before the Board shall be summarized by the Planning Director/Zoning Administrator. Presentations by staff shall be limited to fifteen (15) minutes unless additional time is authorized by the Board.

8-4.3 The applicant, or their designated agent and/or legal representative, may make a presentation, combined total of fifteen (15) minutes, unless additional time is authorized by the Board.

8-4.4 The Board may recall a staff member or applicant to obtain specific information or ask additional questions regarding the matter or case.

8-4.5 PUBLIC COMMENTS: Members of the public shall have three (3) minutes to speak or submit written comments in accordance with the Guidelines for Citizen Participation (Appendix A).

8-4.6 The applicant and staff are each provided an opportunity to provide a rebuttal or to clarify information in response to public comments, limited to five (5) minutes.

8-4.7 Staff recommendation is presented.

8-4.8 If the Board does not require additional information, then the Public Hearing is closed.

8-4.9 The Board opens discussion on the matter and entertains votes for the recommendation and disposition of the matter.

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ARTICLE NINE
CORRESPONDENCE AND APPLICATION INFORMATION

9.1 The Secretary shall draft and sign all correspondence necessary for the execution of the duties and functions of the Board.

9-2 The Secretary shall communicate by telephone or other means when necessary to make communications that cannot be carried out rapidly as required through direct correspondence.

9-3 All official papers and plans involving the authority of the Board shall bear the signature of the Secretary.

ARTICLE TEN
AMENDMENTS

10-1 These rules may be changed by a recorded two-thirds (2/3) vote of the entire Board membership after thirty (30) days ' prior notice.

Town of Cape Charles
Guidelines for Citizen Participation

Town Council meetings are open to the public, except when the Council invokes the provisions of the Virginia Freedom of Information Act to discuss an authorized topic under a closed (Executive) session. A period of Public Comment shall be provided as part of the Agenda for the Council's regular monthly meetings. The Public Comment period is an obligation of the Council to provide members of the public an opportunity to address the Council on legitimate matters of town business. This period shall be governed by the following provisions:

Eligibility

Only those citizens with standing in the Town of Cape Charles will be provided the opportunity to provide input during the Public Comment period. Citizens with standing include full-time residents, property owners, and business owners within the corporate boundaries of the Town of Cape Charles. State, federal, and county officials representing/serving the Town of Cape Charles are also eligible. When eligibility is called into question, input may be provided upon affirmative vote of the Council.

Registering

Persons having an interest in making in-person comments to the Town Council during the Public Comment period must register on a sign-up sheet, including their name and basis for standing, indicating the item or topic on which they wish to speak. The sign-in sheet is available at the main entrance to the Council meeting and must be completed prior to the start of the meeting. The Mayor will recognize speakers at the appropriate time.

Persons having an interest in providing written comments to the Town Council during the Public Comment period must provide such comments to the Town Clerk no later than 60 minutes prior to the start of the meeting. Written comments must include a full name, basis for standing, and the agenda item or topic on which they wish to comment. The Clerk will read authorized comments into the record following all in-person speakers during the Public Comment period.

Members of Council are not permitted to sign-up and make comment during the Public Comment period unless an agenda item being considered has a direct impact upon the Council member or his/her interests, they have declared a potential conflict of interest, and the remaining Council members have voted to excuse that Council member from official action on the related item.

Regulations:

Cell Phone and Recordings

- Ringers on cell phones or pagers shall be turned off during the time that persons are at a Town Council meeting.
- The taking of photographs and video or audio recordings of a speaker or the activities during a meeting of Town Council shall be no closer than the front row of seating or other location designated by the Mayor or presiding officer to avoid disruption to the meeting and to promote public safety. The photographer or recorder shall take steps to avoid obstructing the aisles or other areas for any length of time in such a manner as to prevent other citizens from taking photographs, or to block the view of other citizens attending the meeting. No flashes or lighting devices may be used by photographers or operators of video recording equipment.

Speaking

When a speaker is called by the Mayor or presiding officer, the following is required:

- Speakers shall speak into the microphone to ensure that their name and remarks are heard and recorded as a part of the record of the meeting.
- Speakers shall state their full name and basis for standing and topic to which they are speaking.
- If a speaker represents a group or organization, the speaker shall indicate the name of the organization and the speaker's relationship to the group or organization. Speakers may ask others from their group or organization to stand at their seats to be recognized while the group's or organization's name is announced, but non-speakers or individual members are not permitted to stand with the speaker at the podium and for safety reasons, no members of the group or organization are permitted to stand in the aisles or doorways at Town Council meetings. Those members of a group or organization who do stand when the name of the group or organization is announced shall then be seated.
- Speakers shall address remarks to the Mayor and members of Council and not to the audience.
- Speakers shall state their position, give the facts to substantiate their position, and relate the concerns they believe the Town Council should consider.
- Speaker's comments will be made part of the record and a written copy should be delivered to the Town Clerk for inclusion. If other supportive material is available, it should also be delivered to the Town Clerk for the record.
- Speakers shall refrain from campaigning for public office, personal attacks upon members of the Town Council, Town employees or officials, or any other person.
- Speakers shall refrain from words or statements which, from their usual construction and common acceptance, are construed as insults or which have a tendency to cause an act of violence or a breach of the peace.
- Speakers shall refrain from abusive language, obscenity, vulgarity, and profanely cursing or swearing.
- Speakers shall refrain from actions that would interrupt the public meeting.
- All comments must come directly from the speaker.

Time limitations for remarks

- In-person speakers shall confine their remarks to no more than three (3) minutes. Speakers will be advised when their three (3) minutes have concluded.
- Persons providing written input must limit their comments to no more than can be read by the Town Clerk within three (3) minutes. Written comments provided beyond what can be read during the allotted time will not be entered into the record.
- Speakers cannot "yield," "transfer" or "designate" their time to another speaker in an effort to provide another speaker more than the allotted three (3) minutes.
- The Mayor or other presiding officer shall have the right to limit redundant remarks, as well as the overall time provided for remarks based on consideration of the time available and the need to complete the meeting efficiently.
- After a speaker has concluded his or her remarks, the speaker shall be seated.

Decorum and order

- For safety reasons, petitioning, picketing, displaying signs or posters, solicitation, demonstrating, pamphlet distribution, conducting polls, and blocking of the entryway shall not be permitted at a Town Council meeting or within one hundred (100) feet of any doorway to the meeting location.
- These guidelines do not preclude speakers, when addressing the Town Council, from delivering to the Council members by way of the Town Clerk written materials including reports, statements, exhibits, letters, or signed petitions. Nor do these guidelines preclude those addressing the Town Council from using a chart or graph during their remarks.
- Speakers and members of the audience shall be respectful of others, even if they do not agree with others' comments.
- The Mayor or other presiding officer shall preserve decorum and shall decide all questions of public order.
- At the request of the Mayor or Town Manager, one or more persons, including Town police officers shall act as sergeant-at-arms or sergeants-at-arms at all Town Council meetings. The sergeant-at-arms or sergeants-at-arms shall, under the direction of the Mayor or other presiding officer, have charge of the Council meeting location, and shall prevent disorder or interruption of the business of Town Council.
- Applause shall be permitted only during awards and presentations. Flash photography will be permitted at this time.
- Violation of these rules by speakers or members of the audience shall enable the Mayor or other presiding officer to rule the speaker or member of the audience out of order and by directive to have the speaker or member of the audience removed from the meeting, if necessary, and to take such other steps the Mayor or other presiding officer deems appropriate. The Mayor's or other presiding officer's decision to remove or rule a speaker or member of the audience out of order shall be final. One (1) warning will be given and if not heeded, the speaker or member(s) of the audience shall be escorted from the meeting.
- Any citizen is welcome to address their concerns informally with the Mayor, Town Council or Town Manager at any time outside of a Town Council meeting.

Town Council Response

Council members or Town employees shall not respond to questions posed nor address or rebut speaker's statements made during the Public Comment period. The Council, at its discretion, may direct matters raised during the Public Comment period be placed on the Agenda of a future meeting.

The Town Council hopes these Guidelines will encourage the greatest possible participation by citizens in the Town Government.

Applicability

While these guidelines reference the Town Council specifically, they shall also apply to all Town boards, commissions, and committees as appropriate.

Thank you for your interest and participation in your Town Council meeting. The Mayor and Town Council invite and encourage you to attend whenever possible because good, responsive government depends on the interest and involvement of all citizens.

Town of Cape Charles
Code of Ethics & Meeting Rules of Order

Adopted July 22, 2021

Preamble

The citizens and businesses of the Town of Cape Charles, Virginia, are entitled to have fair, ethical and accountable local government, which has earned the public's full confidence for integrity. The effective functioning of representative government requires that public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government; that public officials be independent, impartial, and fair in their judgment and actions; that public office be used for the public good, not for personal gain; and that public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Town of Cape Charles Town Council has adopted this Code of Ethics and Rules of Order for members of the Town Council and of the Town's boards, commissions, and committees to assure public confidence in the integrity of local government and its effective and fair operations.

Code of Ethics

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of the Town of Cape Charles and not for any private or personal interest, and they will assure fair and equitable treatment of all persons, claims, and transactions coming before the Town of Cape Charles Town Council, boards, commissions, and committees.

2. Comply with the Law

Members shall comply with the laws of the nation, the Commonwealth of Virginia, and the Town of Cape Charles in the performance of their public duties. These laws include but are not limited to the United States and Virginia Constitutions; the Charter of the Town of Cape Charles; laws pertaining to conflicts of interest, election campaigns, employer responsibilities, open processes of government; and Town ordinances and policies.

3. Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct or language, personal charges or verbal attacks upon the character or motives of other members of the Town Council, boards, commissions, committees, the staff, or the public.

4. Respect for Process

Members shall perform their duties in accordance with the processes and Rules of Order established by the Town Council; they shall respect the deliberation of public policy issues of other bodies, the meaningful involvement of the public, and the Town staff's implementation of policy decisions of the Town Council.

5. Conduct of Public Meetings

Members shall prepare themselves for public business; listen courteously and attentively to all public discussions before the body; and focus on the issues at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the Town Council or boards, committees, and commissions, which they may have received from sources outside of the public decision-making process.

8. Gifts and Favors

A member should never accept for himself or herself or for family members, gifts, favors, or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

9. Confidential Information

Members shall respect the confidentiality of information concerning the property, personnel, or affairs of the Town. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or other private interests.

10. Use of Public Resources

Members shall not use public resources that are not available to the public in general, such as Town staff time, equipment, supplies, or facilities, for private gain or personal purposes.

11. Advocacy

Members shall represent the official polices or positions of the Town Council, boards, commissions, or committees to the best of their ability when designated as delegates for this purpose. When representing their individual opinions and positions in any venue, members shall explicitly state they do not represent their body of Town of Cape Charles, nor will they allow the inference that they do.

12. Policy Role of Members

The Town Council determines the policies of the Town with the advice, information, and analysis provided by the public boards, commissions, committees, and Town staff. The Town Council delegates authority for the administration of the Town to the Town Manager.

Members, therefore, shall not interfere with the administrative functions of the Town or the professional duties of Town staff, nor shall they impair the ability of staff to implement Town Council policy decisions. Inquiries to staff shall be made through the Town Manager or the appropriate department manager or director as authorized by the Town Manager.

13. Independence of Town Council and Commissions

Because of the value of the independent advice of boards, committees, and commissions to the public decision-making process, members of the Town Council shall refrain from using their positions to unduly influence the deliberations or outcomes of board, committee, or commission proceedings.

14. Positive Workplace Environment

Members shall support the maintenance of a positive and constructive workplace environment for Town employees, citizens, and businesses dealing with the Town. Members shall recognize their special role in dealings with Town employees and in no way create the perception of inappropriate direction to staff. All requests for staff resources must be approved by the Town Manager.

15. Implementation

Ethical standards shall be included in the regular orientations for candidates for the Town Council, applicants to boards, committees, commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they have read and understood the Town of Cape Charles Code of Ethics and Rules of Order. In addition, the Town Council, boards, committees, and commissions, shall annually review the Code of Ethics and Rules of Order, and the Town Council shall consider recommendations from boards, committees, and commissions to update it as necessary.

16. Compliance and Enforcement

The Town of Cape Charles Code of Ethics expresses standards of ethical conduct expected of Members of the Town of Cape Charles Town Council, boards, committees, and commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

The chairs of boards, committees, and commissions and the Mayor of the Town of Cape Charles have the additional responsibility to intervene when actions of Members that appear to be in violation of the Code of Ethics are brought to their attention.

A violation of this Code of Ethics shall not be considered a basis for challenging the validity of a Town Council, board, committee, or commission decision. However, it may be considered when the Town Council is determining the suitability of any person to serve in any appointed position.

Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest and shall disclose any substantial organizational responsibility or personal business relationship to the parties in any matter coming before them. In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts are determined to exist. This paragraph is not intended to unduly restrict members who have minor business or professional dealings with clients whose matter comes before them.

1. Abstention

As elected or appointed officials, members have a duty/obligation to represent their constituents in all public matters coming before their body. It is not appropriate for individual members to decide in which matters they should abstain. If a member believes they have a conflict of interest on any matter before their body, they are REQUIRED to disclose it before deliberations on that business begins. However, it shall be up to the remaining members of that body to determine if an actual conflict exists and if the member disclosing the potential conflict can be excused from participating in the business. If the body votes to allow the member to recuse him/herself, that member will not participate in any of the discussions or vote related to that business. Failing a vote to allow recusal, the member shall participate as normal.

2. Representation of Third-Party Interests

In keeping with their role as stewards of the public interest, members of the Town Council shall not appear on behalf of the private interests of third parties before the Town Council or any board, committee, commission, or proceeding of the Town; nor shall members of boards, committees, or commissions appear before their own bodies or before the Town Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies. This provision should not unduly restrict a member's participation who is associated with, but not representing, community or non-profit organizations serving the Town, whose matter comes before them.

Meeting Rules of Order

The following rules of order are to serve as a non-binding guide to the conduct of business. It is the duty of the Mayor or other presiding officer to conduct meetings in accordance with the Code of Virginia, the Town Charter, applicable Bylaws, and in a manner intended to promote open, civil, and fair discussion of all issues.

1. Meeting Types

All meetings of the Town of Cape Charles fall under the provisions of the Virginia Freedom of Information Act (FOIA). All members will receive training on VA FOIA requirements upon initial appointment, as well as periodic refreshers. The Town Clerk will ensure FOIA training is completed, and that all records of the training are maintained. This document is not to be considered a substitute for FOIA training and offered only as a summary overview.

The public must be provided notice and access to all Town meetings.

- Regular Meeting: Meetings required by Charter or Bylaws to occur on a regular interval to conduct the primary business of the body. These meetings are conducted more formally, with established procedure. The Mayor or presiding officer will enforce these procedures to ensure proper decorum and efficient flow of business. Agendas will include a public comment period on any topic in accordance with public comment procedures established by the Town Council.

- Special Meeting: Meetings to conduct official business of the body that are deemed necessary in addition to Regular Meetings. Special Meetings are also conducted formally but may not include all Regular Meeting agenda items. Public comments will be permitted but limited to only business items on the agenda. Special meetings may be called by the Mayor, Chairperson, Town Manager, or any three members of a body.

- Work Session: Informal meetings of the body that allow for relaxed procedure enabling freer flowing discussion. No official action may be taken during a work session, however determining consensus on items to be brought forward to a Regular or Special meeting is appropriate. Work Sessions are generally used for (but not limited to) brainstorming, information gathering, planning efforts, budget review, or when more time is needed on a particular item than is typically afforded during formal meetings. The public must be permitted the opportunity to observe work sessions but are not typically permitted an opportunity to provide comments. The Mayor or presiding officer may on special circumstance, allow public comment. Work sessions may be called by the Mayor, Chairperson, Town Manager, or any three members of a body.

- Closed Session: Closed Sessions (Executive Sessions) are authorized by FOIA to discuss certain confidential matters limited to specific purposes, while using very specific procedures. Though a portion of this meeting is closed to the public, other portions are open. The public must be permitted to be observe the motion to go into Closed Session as well as the certification upon leaving the Closed Session.

- Public Hearing: Public Hearings are intended to solicit public feedback on specific topics. These topics will be advertised in advance. Input may be made in person or in writing. All comments will adhere to the Town Council approved guidelines. Comments will be directed to the body and not to any individual. Members shall not respond to questions posed nor address or rebut speaker's statements made during the Public Hearing.

- Town Hall Meeting: An informal meeting where no official action is taken. A Town Hall Meeting is essentially a Work Session that involves the public. These meetings are typically focused on one or two topics and encourages dialog between members and the public. A primary goal of a Town Hall meeting is to provide decision makers with in-depth public perspectives prior to taking an official action.

- Social or Community Events: These are gatherings where no official business is conducted, but where Town issues may be informally discussed. If more than two members will be present in their capacity as a Town official, the gathering should be posted. There are no agendas or minutes associated with these functions.

2. Motions

- Unanimous Consent: Routine business is typically conducted by unanimous consent. This is an informal process that allows business to be conducted expeditiously. The procedure is for the presiding officer to ask whether anyone objects to a particular action and then to state, "Hearing no objection the action will be taken by unanimous consent." Note that even when a member is not in favor of a particular action the member may chose not to object in the interest of moving the agenda forward. In other words, unanimous consent does not mean that everyone was actually in favor of the action. If anyone objects, then the action must be addressed with a formal motion and vote.

- Main Motion: This is the motion that brings business before the council or other body. Such motions should be stated in a concise form and should generally be in writing to avoid misunderstandings. It must be seconded and when voted upon will ordinarily require a simple majority vote. There are circumstances where a super majority may be required. such as in the disposition of real estate. Before voting on the motion the presiding officer should call for discussion. The presiding officer should allow for discussion until it terminates by *unanimous consent* or is formally terminated by a subsidiary motion (discussed below).

  When the motion is ripe for a vote the presiding officer should call for "all in favor" and then "all opposed." The presiding officer should then clearly state either the "motion passes" or the "motion fails." Generally, in the event of a tie the presiding officer may cast the deciding vote. The Town Charter expressly allows the Mayor to vote in the event of a tie. Any member may request a roll call vote.

- Subsidiary Motions:

  - Motion to Postpone Indefinitely (sometimes incorrectly called a motion to table): Normally used to putaside business that is not ripe for consideration. such as when further study is required. It requires a second. is debatable and is not amendable.

  - Motion to Amend: This is a motion to amend the wording and sometimes the meaning of the main motion. It requires a second and is debatable. It is also amendable *one time.* Note that a vole to adopt theamendment is not a vote on the main motion. Once the motion to amend is adopted the amended main motion must then be voted on as well. Often. simple motions to amend are adopted by unanimous consent. Also. note that whether the member that offered the original motion is willing to accept the proposed amendment or not is irrelevant. It must still be seconded and voted upon or adopted by unanimous consent.

- Motion to Refer: This is a motion to refer a matter to a committee or other body for action. In effect. when the motion is to refer the matter to a "workshop. it is a motion to refer the matter to a committee comprised of the entire council or other body (a committee of the whole). It requires a second and is debatable.

- Postpone to a Certain Time: Used when a matter is best considered at a different time to allow for the orderly conduct of business. It requires a second and is debatable.

- Motion to Limit Debate: Used to put a limit on the time permitted for debate of a motion. It requires a second. is not debatable and traditionally requires a two-thirds vote. Since the Town Charter allows forbusiness to be conducted based on a majority vote. if a motion to limit debate does not pass by a two- thirds vote. then after further debate for a reasonable time the motion shall require only a majority vote.

- Motion of the Previous Question (often referred to as “a motion to call the question" or “motion to bring the matter to a vote"): Used to end debate and bring the pending motion to a vote. It requires a second. is not debatable. and traditionally requires a two-thirds vote. Since the Town Charter allows for business to be conducted based on a majority vote. if a motion of the previous question does not pass by a two-thirds vote. then after further debate for a reasonable time the motion shall require only a majority vote.

- Motion to Lay on the Table (often confused with a motion to postpone indefinitely): Used to temporary interrupt pending business so that another matter can be considered first. It requires a second and is notdebatable. This is often done by unanimous consent to move business forward.

- Motion to Recess: This is a motion to take a short break in the proceeding. It requires a second and is notdebatable.

- Motion to Adjourn: This motion closes the meeting. It requires a second and is not debatable.

3. <u>Agenda</u>

The presiding officer should make a reasonable effort to conduct business in accordance with a consent agenda. The agenda should be organized to promote the orderly conduct of business. If the members cannot agree on the agenda, it should be presented by motion and subject to a vote. Keep in mind that even after an agenda is approved it can be amended. Often that is done by unanimous consent at the suggestion of the presiding officer to expedite the meeting. The procedure is for the presiding officer to state. '"Is there any objection to amending the agenda [explain]. Hearing no objection, the agenda is so amended by unanimous consent."

4. Other Issues

- Mayor's Veto: The Town Charter provides the Mayor with "the power of veto over the ordinances and resolutions of the council, but such ordinances and resolutions may be passed over such veto by a two-thirds vote of the members of the town council present and meeting." With a six-member council the override requires a vote of four members if all are present and voting.

- Quorum: The Town Charter provides that "four members of the town council shall constitute a quorum for the transaction of business at any meeting." The bylaws of other bodies establish the number of members required for a quorum. The Code of Virginia provides that if a member is disqualified due to a conflict of interest "the remaining member or members shall constitute a quorum for the conduct of business and have authority to act for the agency by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members.'' 2.2-3112.C.

Acknowledgement

I _____ (printed name), a sitting member of _____ (body), hereby certify that I have been given a copy, read, understand, and will abide by the above Town of Cape Charles Code of Ethics & Meeting Rules of Order, adopted on July 22, 2021.

_____ (signature)

_____ (date)

Wetlands and Coastal Dune Board
Public Hearing and Regular Meeting Agenda
Cape Charles Civic Center – 500 Tazewell Avenue
May 26, 2022
10:00 a.m.

At approximately 10:00 a.m., Chairwoman Ann Hayward Walker, having established a quorum, called to order the Public Hearing and Regular Meeting of the Wetlands/Coastal Dune Board (WCDB). In addition to Ann Hayward Walker, board members present were Russ Dunton and Bill Prickett. Joe Fehrer and Bob Roche were not in attendance. Also, in attendance were, Interim Zoning Administrator/Town Planner Katie Nunez, Planning Technician Tracy Outten, and the applicants. There was one member of the public in attendance.

Chairwoman Ann Hayward Walker welcomed the Board and all others in attendance which was followed by the Pledge of Allegiance.

REORGANIZATION OF BOARD AND ELECTION OF OFFICERS: CHAIRMAN AND VICE CHAIRMAN
Motion made by Russ Dunton, seconded by Bill Prickett, to defer the elections until all board members were in attendance. The motion was approved by unanimous vote.

CONSENT AGENDA
Motion made by Bill Prickett, seconded by Russ Dunton, to approve the agenda as presented. The motion was approved by unanimous vote.

Motion made by Bill Prickett, seconded by Russ Dunton, to approve the minutes from the February 25, 2020 Public Hearing and Regular Meeting, the October 7, 2020 Public Hearing and Regular Meeting, and the September 8, 2021 Public Hearing and Regular Meeting as written. The motion was approved by unanimous vote.

HEARINGS ON THE MATTERS OF:

A. 608 Carousel Place: Beach Access Walkway.

Ann Hayward Walker informed all in attendance that the board members did visit the site to get a better understanding of the location for the proposed 4' x 180' beach access walkway that would go over and across the existing dunes. The proposed walkway would be constructed of Timber Tech decking boards.

Katie Nunez summarized the staff report.

Discussion was as follows: (i) Russ Dutton suggested the level point for the square footage be measured at the highest point of the dune as none was stated. Katie Nunez confirmed the applicant understood what Mr. Dutton was talking about. Ann Hayward Walker thought this suggestion would follow the new tidal guidelines. (ii) Russ Dutton would like any vegetation destroyed during construction to be replaced. and (iii) Katie Nunez would send a tree trimming brochure to the applicant.

Motion made by Bill Prickett, seconded by Russ Dunton, to approve the Wetlands and Coastal Dune Permit at 608 Carousel Place (Tax Map #90-16-132) on an application filed Kathy M. Hughes, to construct a 4' x 180' beach access walkway over and across dunes as stated in the Joint Permit Application #2022-0642 with the added conditions as follows: (1) the elevations need to be measured from the highest level point and (2) the permit expires in one year. The motion was approved by unanimous vote.

DRAFT

B. 107 Creekside Lane: Observation Deck and Kayak Launch Pier.

Ann Hayward Walker informed all in attendance that this site was also visited. She added that there are two pine trees for proposed removal and another type of dead tree that the applicant would like to cut down for the proposed 50' x 5' floating kayak pier that would have a 10' x 20' observation deck.

Katie Nunez summarized the staff report.

There was no discussion.

Motion made by Russ Dunton, seconded by Bill Prickett, to approve the Wetlands and Coastal Dune Permit at 107 Creekside Lane (Tax Map #90-9-29) on an application filed Brent W. Geissinger, to construct a 5' x 50' pier with a 10' x 20' observation deck this will include an 8' x 5' aluminum gangway that will connect a floating kayak launch platform to the pier as stated in the Joint Permit Application #2022-0717 with the added conditions that the permit expires in one year. The motion was approved by unanimous vote.

OTHER MATTERS:

A. Annual Report for 2020 and 2021.

The board reviewed the annual report.

B. Distribution of new Tidal Wetlands Guidelines from Virginia Marine Resources Commission (VMRC)

Ann Hayward Walker thought the new Tidal Wetlands Guidelines gave more restrictive and were less open-ended.

Motion made by Bill Prickett, seconded by Russ Dunton, to adjourn the May 26, 2022 Wetlands and Coastal Dune Board Public Hearing and Regular Meeting at 10:50 a.m. The motion was approved by unanimous vote.

_____

Chairwoman Ann Hayward Walker

_____

Planning Technician

DRAFT

CAPE CHARLES
WETLANDS AND COASTAL DUNE BOARD
NOTICE OF PUBLIC HEARINGS

The Cape Charles Wetlands and Coastal Dune Board will hold public hearings on Wednesday, June 21, 2023 at 5:30 p.m. in the Cape Charles Civic Center at 500 Tazewell Avenue, on the following:

A) **Wetlands Application from Bay Creek at Cape Charles Community Association Inc. for sand nourishment on the beach and in the inter-tidal area behind the existing breakwaters located at the Marina Bay Subdivision and for a 50-feet sill extension to an existing back-bay sill landward of lots 83A1-11-1, 2, &3 – VMRC #2023-0904**
The portion of the project that is within the Wetlands and Coastal Dune Board's jurisdiction, pursuant to Cape Charles Zoning Ordinance Appendix C, Section 3.5, is the proposed placement of approximately 12, 336 cubic yards of sand nourishment material from Tax Map #83A1-11-73 to #83A3-11-30 (101 Sunset Blvd to 187 Sunset Blvd, approximately 2,100 feet) on the beach and in the inter-tidal area behind the existing breakwaters. The applicants are proposing a 50-feet sill extension for an existing back-bay sill landward of Tax Map #83A1-11-1, 83A1-11-2, and 83A1-11-3. All impacted areas will be restored to original contours and planted with vegetation and/or sand fence installation.

The application is available for public review on www.capecharles.org, under Agendas and Minutes/Wetlands/Coastal Dune Board. Please contact the Zoning Administrator, at 757-331-2036, or by email at planner@capecharles.org if you have any questions or require additional information. Anyone interested in attending and needing special assistance please contact the Town at least forty-eight hours before the hearing.

AD PLACED: Eastern Shore Post – Tuesday, May 30, 2023
AD TO RUN: Friday, June 2, 2023 & June 9, 2023

WETLANDS & COASTAL DUNE BOARD STAFF REPORT

Meeting Date: Wednesday, June 21, 2023
Item #: 5A – 101 Sunset Blvd to 187 Sunset Blvd. – Sand replenishment

Prepared By:	Katie Nunez, Planner/Zoning Administrator
Site Address:	101 Sunset Blvd to 187 Sunset Blvd. (Tax Map #83A1-11-73 to #83A3-11-30)
Applicant:	Bay Creek at Cape Charles Community Association, Inc.
Owner:	Bay Creek at Cape Charles Community Association
JPA Number	2023-0904
Proposed Project:	Placement of 12,336 cubic yards of sand nourishment material along the beach area of the north end of Bay Creek

BACKGROUND

The applicant has filed Joint Permit Application #23-0904 which has been forwarded to the Cape Charles Wetlands and Coastal Sand Dune Board for review and public hearing on elements of the application that may be governed by the Town's ordinances on this matter. They are seeking to place approximately 12,336 cubic yards of sand nourishment material on the beach and in the inter-tidal area behind existing breakwaters where nourishment had been placed at the time of construction in 2005. In addition, they are proposing a 50-foot sill extension for the existing back-bay sill landward of lots 83A1-11-1, 2 & 3 to redirect erosive wave action from the embankment and retain the nourishment placed behind.

Beach access will be through select available vacant lots at the time of the project which is envisioned to occur in spring 2024. Equipment mats will be used if access through stable dunes, vegetated tidal or dunes, is necessary. All impacted areas will be restored to original contours and planted with vegetation and/or sand fence installation. Beach grasses will be planted on the upper reaches of the nourishment, once stabilized. Marsh grasses will be planted in the nourishment in the inter-tidal zone, post nourishment stabilization. Plants will be on 1 foot centers, staggered rows with an 80% survival goal after 2 years – specific plant numbers are not projected at this time.

The original JPA for this project was 2004-2844 under Bay Creek Marina & Resort, LLC which was for a nourishment project of 20,000 cubic yards and 1,150 linear feet of stone breakwaters.

AERIAL MAP

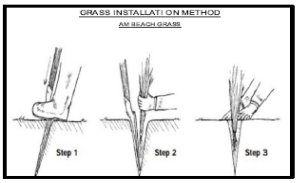
Item Specifics:
A Joint Permit Application for a

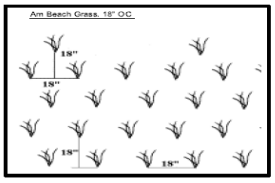
SITE PLAN of PROJECT

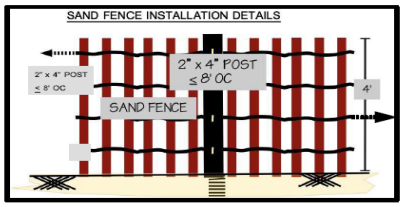
See application for Layout Plan prepared by Langley & McDonald.

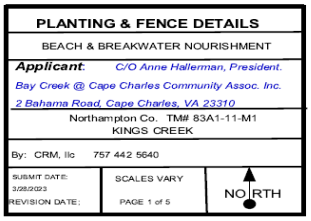
DESCRIPTION OF SAND & PLANTINGS

PROJECT NOTES:
- SAND NOURISHMENT WILL BE OF THE GRAIN SIZE REQUIRED BY AGENCY REGULATION.
- NOURISHMENT WILL BE TRUCKED TO THE SITE AND SPREAD USING HEAVY EQUIPMENT.
- ACCESS POINTS WILL BE DETERMINED BY THE CONTRACTOR (AS OF YET NOT SECURED). ACCESS WILL DEPEND LARGELY ON THE PRESENCE/ABSENCE OF LOT IMPROVEMENTS.
- CONSTRUCTION MATS WILL BE USED WHEN NECESSARY. ALL DAMAGE WILL BE RESTORED TO PRE-CONSTRCUTION CONTOURS & REPAIRED BY PLANTING VEGETATING AND/OR FENCE INSTALLATION.
- POST APPLICATION, THE NOURISHMENT WILL BE ALLOWED TO SETTING FOR SEVERAL MONTHS, DEPENDING UPON TH TIME OF PLACEMENT, SO THAT PLANTING AND FENCE INSTALLATION LOCATIONS AND PATTERNS CAN BE DETERMINED.
- VEGETATION SUITABLE TO BOTH THE DUNES AND TH TIDAL WETLANDS WILL BE PLANTED IN THE APPROPRIATE LOCATIONS ALONG THE BEACH AND DUNE REACH. AT THIS TIME IT IS NOT POSSIBLE TO KNOW EXACTLY WHERE THOSE PLANTING LOCATIONS WILL BE. PLATS WILL BE NURSERY GROWN OR FIELD HARVESTED.
- SAND FENCE WILL BE INSTALLED IN THE LANDWARD LOCATIONS ALONG THE BEACH, TO ASSIST IN BUILDING BLOWING SAND. FENCING WILL BE REPAIRED OR REMOVED IF & WHEN NECESSARY.









total 12,336CY of sand nourishment material over 2,300+/- LF of shoreline reach.
Approximately 94,847 sq ft of beach / fore dune / inter-tidal area will be nourished.
As per engineer (Langley & McDonald (L&M) topo calcs; clacs in #3 as per L&M).

The existing back bay bumper sill will be extended by 50 ft to redirect erosive wave action from the embankment and retain the nourishment placed behind.

ZONING REQUIREMENTS

Town of Cape Charles Appendix C (Coastal Primary Sand Dune Zoning Ordinance) Section 3 stated that the following uses are authorized, if otherwise permitted by law:

1. *the construction and maintenance of noncommercial walkways which do not alter the contour of the coastal primary sand dune;*
2. *the construction and maintenance of observation platforms which are not an integral part of any dwelling and which do not alter the contour of the coastal primary sand dune;*
3. *the planting of beach grasses or other vegetation for the purpose of stabilizing coastal primary sand dunes;*
4. *the placement of sand fences or other material on or adjacent to coastal primary sand dunes for the purpose of stabilizing such features, except that this provision shall not be interpreted to authorize the placement of any material which represents a public health or safety hazard;*
5. *sand replenishment activities of any private or public concern, provided no sand shall be removed from any coastal primary sand dune unless authorized by lawful permit;*
6. *the normal maintenance of any groin, jetty, riprap, bulkhead, or other structure designed to control beach erosion which may abut a coastal primary sand dune;*
7. *the normal maintenance or repair of existing roads, highways, railroad beds, and facilities of the United States, this Commonwealth or any of its counties, cities, or towns, or of any person provided no coastal primary sand dunes are altered;*
8. *outdoor recreational activities provided the activities do not alter the natural contour of the coastal primary sand dune or destroy the vegetation growing thereon;*
9. *the conservation and research activities of the Commission, Virginia Institute of Marine Science, Department of Game and Inland Fisheries, and other conservation-related agencies;*
10. *the construction and maintenance of aids to navigation which are authorized by governmental authority;*
11. *activities pursuant to any emergency declaration by the governing body of any local government or the Governor of the Commonwealth or any public health officer for the purposes of protecting the public health and safety; and*
12. *governmental activity in coastal primary sand dunes owned or leased by the Commonwealth or a political subdivision thereof.*

Appendix C - Section 10 CRITERIA

A. In deciding whether to grant, grant in modified form, or deny a permit, the board shall consider the following:

1. the testimony of any person in support of or in opposition to the permit application;
2. the impact of the proposed development on the public health, safety, and welfare; and

3. the proposed development's conformance with standards prescribed in 28.2-1408 of the Code of Virginia and guidelines promulgated pursuant to 28.2-1401 of the Code of Virginia.

B. The board shall grant the permit if all of the following criteria are met:

1. The anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment.
2. The proposed development conforms with the standards prescribed in 28.2-1408 of the Code of Virginia and guidelines promulgated pursuant to 28.2-1401 of the Code of Virginia.
3. The proposed activity does not violate the purposes and intent of this ordinance or Chapter 14 (28.2-1400 et seq.) of Title 28.2 of the Code of Virginia.

CODE OF VIRGINIA Section 28.2-1408 STANDARDS FOR USE OF COASTAL PRIMARY SAND DUNES

No permanent alteration of or construction upon any coastal primary sand dune shall take place which would (i) impair the natural functions of the dune, (ii) physically alter the contour of the dune, or (iii) destroy vegetation growing thereon unless the wetlands board or the Commission, whichever is applicable, determines that there will be no significant adverse ecological impact, or that the granting of a permit is clearly necessary and consistent with the public interest, considering all material factors.

Appendix C - Section 12 Expiration Date

No permit shall be granted without an expiration date established by the board. Upon proper application, the board may extend the permit expiration date.

STAFF RECOMMENDATION:

The Board will hold the public hearing and consider all testimony provided by the applicants and any public comments received or offered. The Board is asked to consider the application within the context of the criteria outlined in the Town Zoning Ordinance and the State Code.

After discussion, determine whether issuance of a permit would be appropriate. It should be noted that approval by this Board is valid only for the local Wetlands Board, and authorization from all other jurisdictions and agencies is required prior to any work being done.

Attachments:

Attachment 1 – Application and Documents

From:	CRM, llc
To:	Howell, Beth (MRC)
Cc:	CRM, llc
Subject:	New JPA
Date:	Monday, April 17, 2023 8:49:24 AM
Attachments:	marina bay CC FINAL for submittal.pdf

Beth
Please find attached a new JPA for beach nourishment behind existing stone breakwaters, in the town od Cape Charles.

Applicant: HOA of Marina Bay @ Cape Charles
County: Northampton
Town: Cape Charles
Waterway: Kings Creek / Chesapeake Bay
Project: Beach nourishment behind existing stone breakwaters
Attached: one (1) JPA with project drawings

Thank you Beth
ellen

Ellen R Grimes MS MFS D-ABMDI
Principle; CRM, llc
Investigator; TOCME
757 442 5640
See something, Do something.

Received by VMRC April 17, 2023 /blh

- DEQ: Permit application fees required for Virginia Water Protection permits – while detailed in 9VAC25-20 – are conveyed to the applicant by the applicable DEQ office (http://www.deq.virginia.gov/Locations.aspx). Complete the Permit Application Fee Form and submit it per the instructions to the address listed on the form. Instructions for submitting any other fees will be provided to the applicant by DEQ staff.
- VMRC: An application fee of $300 may be required for projects impacting tidal wetlands, beaches and/or dunes when VMRC acts as the LWB. VMRC will notify the applicant in writing if the fee is required. Permit fees involving subaqueous lands are $25.00 for projects costing $10,000 or less and $100 for projects costing more than $10,000. Royalties may also be required for some projects. The proper permit fee and any required royalty is paid at the time of permit issuance by VMRC. VMRC staff will send the permittee a letter notifying him/her of the proper permit fees and submittal requirements.
- LWB: Permit fees vary by locality. Contact the LWB for your project area or their website for fee information and submittal requirements. Contact information for LWBs may be found at http://ccrm.vims.edu/permits_web/guidance/local_wetlands_boards.html.

FOR AGENCY USE ONLY	
	Notes:
	JPA # **23-0904**

APPLICANTS
Part 1 – General Information

PLEASE PRINT OR TYPE ALL ANSWERS: If a question does not apply to your project, please print N/A (not applicable) in the space provided. If additional space is needed, attach 8-1/2 x 11 inch sheets of paper.

Check all that apply		
Pre-Construction Notification (PCN) ☐ NWP # _____ (*For Nationwide Permits ONLY - No DEQ-VWP permit writer will be assigned*)	Regional Permit 17 (RP-17) ☐	

County or City in which the project is located: NORTHAMPTON / CAPE CHARLES

Waterway at project site: CHESAPEAKE BAY / mouth of KINGS CREEK

PREVIOUS ACTIONS RELATED TO THE PROPOSED WORK (Include all federal, state, and local pre application coordination, site visits, previous permits, or applications whether issued, withdrawn, or denied)

Historical information for past permit submittals can be found online with VMRC - https://webapps.mrc.virginia.gov/public/habitat/ - or VIMS - http://ccrm.vims.edu/perms/newpermits.html

Agency	Action / Activity	Permit/Project number, including any non-reporting Nationwide permits previously used (e.g., NWP 13)	Date of Action	If denied, give reason for denial
ALL	Breakwaters & Nourishment	2004-2844	unk	NA

Received by VMRC April 17, 2023 /blh

Part 1 - General Information (continued)

1. Applicant's legal name* and complete mailing address: Contact Information:

Bay Creek at Cape Charles Community Association Inc.
2 Bahama Road,
Cape Charles, VA 23310
Northampton TM# 83A1-11-M1

Home (757 210 8191
Work (____)_____
Fax (____)_____
Cell (____)_____
e-mail hoa.ahallerman@gmail.com,

State Corporation Commission Name and ID Number (if applicable) _____

2. Property owner(s) legal name* and complete address, if different from applicant: Contact Information:

Same as above

Home (____)_____
Work (____)_____
Fax (____)_____
Cell (____)_____
e-mail _____

State Corporation Commission Name and ID Number (if applicable) _____

3. Authorized agent name* and complete mailing address (if applicable): Contact Information:

CRM,llc
Ellen R Grimes
30334 Kusian Cove Rd
Painter, VA 23420

Home (____)_____
Work (757) 442 5640
Fax (____)_____
Cell (____)_____
e-mail marshdr@verizon.net

State Corporation Commission Name and ID Number (if applicable) _____

*** If multiple applicants, property owners, and/or agents, each must be listed and each must sign the applicant signature page.**

4. Provide a detailed description of the project in the space below, including the type of project, its dimensions, materials, and method of construction. Be sure to include how the construction site will be accessed and whether tree clearing and/or grading will be required, including the total acreage. If the project requires pilings, please be sure to include the total number, type (e.g. wood, steel, etc), diameter, and method of installation (e.g. hammer, vibratory, jetted, etc). If additional space is needed, provide a separate sheet of paper with the project description.

The applicant, Bay Creek at Cape Charles Community Association Inc., wishes to place approximately 12,336CY of sand nourishment material on the beach and in the inter-tidal area behind existing breakwaters where nourishment had been placed at the time of construction in 2005. As well, a 50-foot sill extension is proposed for the existing back-bay sill landward of lot #'s 83A1-11-1, 2 & 3. Beach access will be through select available vacant lots at the time of the project. Equipment mats will be used if access through stable dunes, vegetated tidal or dunes, is necessary. All impacted areas will be restored to original contours and planted with vegetation and/or sand fence installation. Beach grasses will be planted on the upper reaches of the nourishment once stabilized. Marsh grasses will be planted in the nourishment in the inter-tidal zone, post nourishment stabilization. Estimated numbers are not available at this time. Plants will be on 1 foot centers, staggered rows with an 80% survival goal after 2 years.

Original construction JPA 2004-2844 Bay Creek Marina & Resort, LLC; for nourishment - 20000 Cubic Yards; 1150 - Linear Feet stone breakwaters

Received by VMRC April 17, 2023 /blh

Part 1 - General Information (continued)

5. Have you obtained a contractor for the project? ___ Yes* _x_ No. *If your answer is "Yes" complete the remainder of this question and submit the Applicant's and Contractor's Acknowledgment Form (enclosed)

   Contractor's name* and complete mailing address:

   UNCERTAIN AT THIS TIME

   Contact Information:
   Home (____)_____
   Work (____)_____
   Fax (____)_____
   Cell (____)_____
   email _____

   State Corporation Commission Name and ID Number (if applicable) _____

*** If multiple contractors, each must be listed and each must sign the applicant signature page.**

6. List the name, address and telephone number of the newspaper having general circulation in the area of the project. Failure to complete this question may delay local and State processing.

   Name and complete mailing address:

   Eastern Shore Post
   Onley, VA 23418

   Telephone number
   (757) 789 7678

7. Give the following project location information:

   Street Address (911 address if available) (east) #181+/- Sunset Blvd to (west) #113+/- Sunset Blvd
   Lot/Block/Parcel# shoreline reach (N.east) 83A1-11-73 to (S.west) 83A1-11-30; On Association property TM# 83A1-11-M1
   Subdivision Marina Bay at Cape Charles
   City / County Cape Charles / Northampton ZIP Code 23310
   Latitude and Longitude at Center Point of Project Site (Decimal Degrees):
   from (E) 37.27913 to (W) 37.27508 / - from (E) 76.01349 to (W) 76.01806 (Example: 36.41600/-76.30733)

   If the project is located in a rural area, please provide driving directions giving distances from the best and nearest visible landmarks or major intersections. *Note: if the project is in an undeveloped subdivision or property, clearly stake and identify property lines and location of the proposed project. A supplemental map showing how the property is to be subdivided should also be provided.*

   At the Rt 13 traffic light into Cape Charles, proceed west on Rt 184, Stone Rd, to a right onto Fig Street. Go .4 miles to a left into the gated subdivision (on Colony Rd). Continue straight to Sunset Blvd. The project is located along that beach reach to the left and to the right. Follow 911 numbers.

8. What are the *primary and secondary purposes of and the need for* the project? For example, the primary purpose may be "to protect property from erosion due to boat wakes" and the secondary purpose may be "to provide safer access to a pier."

   The primary project purpose is to replenish the sand nourishment behind the existing breakwater system. The additional sand will act as an erosion control feature and also be a sand supply to build the dunes and the embankment behind the breakwaters during wind events. The addition of the stone sill extension will abate further bank and beach erosion in that one section of the eastern shoreline.

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Part 1 - General Information (continued)

9. Proposed use (check one):
   ___ Single user (private, non-commercial, residential)
   X Multi-user (community, commercial, industrial, government)

10. Describe alternatives considered and the measures that will be taken to avoid and minimize impacts, to the maximum extent practicable, to wetlands, surface waters, submerged lands, and buffer areas associated with any disturbance (clearing, grading, excavating) during and after project construction. *Please be advised that unavoidable losses of tidal wetlands and/or aquatic resources may require compensatory mitigation.*

    Nourishment of the required grain size, if necessary, will be trucked in to the site(s) to be accessed through access point interval(s) (as needed) through the embankment. Traversing and cutting into stable 'dunes' will be avoided. If ABSOLUTLEY necessary to traverse a dune, mats will be used and the dune will be restored to original contours by planting dune grass and installing sand fencing. No SAV was noted in the placement location on VIMS SAV mapping site. If found to be present do to mapping anomalies, no SAV will be impacted.

11. Is this application being submitted for after-the-fact authorization for work which has already begun or been completed? ___Yes X___No. If yes, be sure to clearly depict the portions of the project which are already complete in the project drawings.

12. Approximate cost of the entire project (materials, labor, etc.): $ 450,000.00
    Approximate cost of that portion of the project that is channelward of mean low water:
    $ 100,000.00

13. Completion date of the proposed work: 30 Dec - 2024

14. Adjacent Property Owner Information: List the name and complete **mailing address**, including zip code, of each adjacent property owner to the project. (NOTE: If you own the adjacent lot, provide the requested information for the first adjacent parcel beyond your property line.) Failure to provide this information may result in a delay in the processing of your application by VMRC.

    northeast
    83A1-14-MV1
    PEACOCK HOLDINGS VA LLC
    15 WHITEHALL RD
    ANDOVER, NJ 07821

    southwest
    83A1-18-BV3
    BAKSH, FABIEN & SHASHI
    1045 STEEPLECHASE DR
    LANCASTER, PA 17601

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Part 3 – Appendices (continued)

Appendix B: Projects for Shoreline Stabilization in tidal wetlands, tidal waters and dunes/beaches including riprap revetments and associated backfill, marsh toe stabilization, bulkheads and associated backfill, breakwaters, beach nourishment, groins, jetties, and living shoreline projects. Answer all questions that apply. Please provide any reports provided from the Shoreline Erosion Advisory Service or VIMS**.**

NOTE: It is the policy of the Commonwealth that living shorelines are the preferred alternative for stabilizing tidal shorelines (Va. Code § 28.2-104.1). **Information on non-structural, vegetative alternatives (i.e., Living Shoreline) for shoreline stabilization is available at http://ccrm.vims.edu/coastal_zone/living_shorelines/index.html.**

1. Describe each **revetment, bulkhead, marsh toe, breakwater, groin, jetty, other structure, or living shoreline project** separately in the space below. Include the overall length in linear feet, the amount of impacts in acres, and volume of associated backfill below mean high water and/or ordinary high water in cubic yards, as applicable:

   total 12,336CY of sand nourishment material over 2,300+/- LF of shoreline reach.
   Approximately 94,847 sq ft of beach / fore dune / inter-tidal area will be nourished.
   As per engineer (Langley & McDonald (L&M) topo calcs; clacs in #3 as per L&M).

   The existing back bay bumper sill will be extended by 50 ft to redirect erosive wave action from the embankment and retain the nourishment placed behind.

2. What is the maximum encroachment channelward of mean high water? 117+/- feet.
   Channelward of mean low water? 20+/- feet.
   Channelward of the back edge of the dune or beach? 145+/- feet.

3. Please calculate the square footage of encroachment over:
   - Vegetated wetlands 0+/- square feet
   - Non-vegetated wetlands 45,238+/- mlw-mhw square feet
   - Subaqueous bottom 493+/- square feet
   - Dune and/or beach 94,354+/- square feet

4. For bulkheads, is any part of the project maintenance or replacement of a previously authorized, currently serviceable, existing structure? NA Yes NA No.

   If yes, will the construction of the new bulkhead be no further than two (2) feet channelward of the existing bulkhead? NA Yes NA No.

   If no, please provide an explanation for the purpose and need for the additional encroachment.

   NA

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Part 3 – Appendices (continued)

5. Describe the type of construction and **all** materials to be used, including source of backfill material, if applicable (e.g., vinyl sheet-pile bulkhead, timber stringers and butt piles, 100% sand backfill from upland source; broken concrete core material with Class II quarry stone armor over filter cloth).
   NOTE: **Drawings must include construction details, including dimensions, design and all materials, including fittings if used**.

   sand of the appropriate and prescribed grain size (if required), stone sill of rip rap size Class II & III. Filter cloth under the sill structure. 4' wooden slatted sand fencing, nursery grown plants.

6. If using stone, broken concrete, etc. for your structure(s), what is the average weight of the:
   Core (inner layer) material SILL 50-450 pounds per stone Class size I & II
   Armor (outer layer) material 450-1200 pounds per stone Class size III

7. For **beach nourishment**, including that associated with breakwaters, groins or other structures, provide the following:

   - Volume of material
     18+/- cubic yards channelward of mean low water
     3,351 +/- cubic yards landward of mean low water
     3,351 +/-mlw-mhw cubic yards channelward of mean high water
     8,952+/-mlw-mhw cubic yards landward of mean high water

   - Area to be covered
     493+/- square feet channelward of mean low water
     45,238+/-mlw-mhw square feet landward of mean low water
     45,238+/-mlw-mhw cubic yards channelward of mean high water
     94,354+/-dune/bch cubic yards landward of mean high water

   - Source of material, composition (e.g. 90% sand, 10% clay): beach sand quality
   - Method of transportation and placement:
     trucked to site; spread by bulldozer, and other spreading equipment
   - Describe any proposed vegetative stabilization measures to be used, including planting schedule, spacing, monitoring, etc. Additional guidance is available at http://www.vims.edu/about/search/index.php?q=planting+guidelines:

     The newly placed nourishment material will be allowed to stabilize for several months, depending upon placement time of year. Sand fencing will be installed in the areas of the upper beach/dune to catch blowing sand once stabilized. Beach grass will be planted in regions of the beach/dune that warrant and marsh grasses will be planted in the regions of the inter & supra tidal that have stabilized to a point where growing conditions warrant and support individual Spartina species. No sq. ft. numbers are available at this time as nourishment will shift from its placed location. Plantings and fencing will be monitored for 2 years after installation and replaced or repaired as necessary. A planting plan will be submitted post nourishment placement and settlement, as conditions may vary greatly from placement time.

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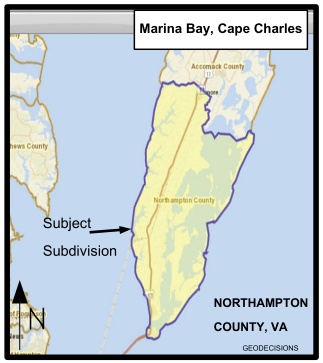

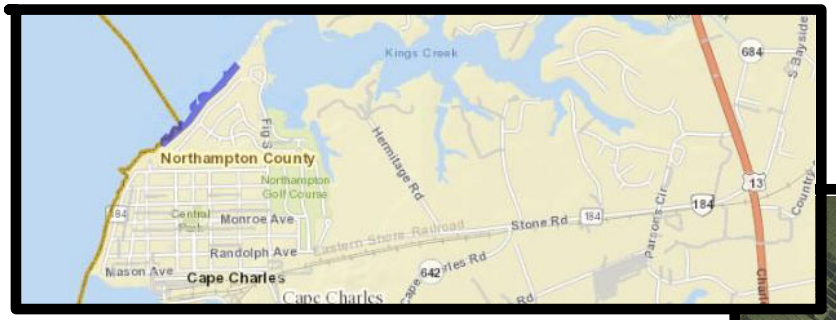

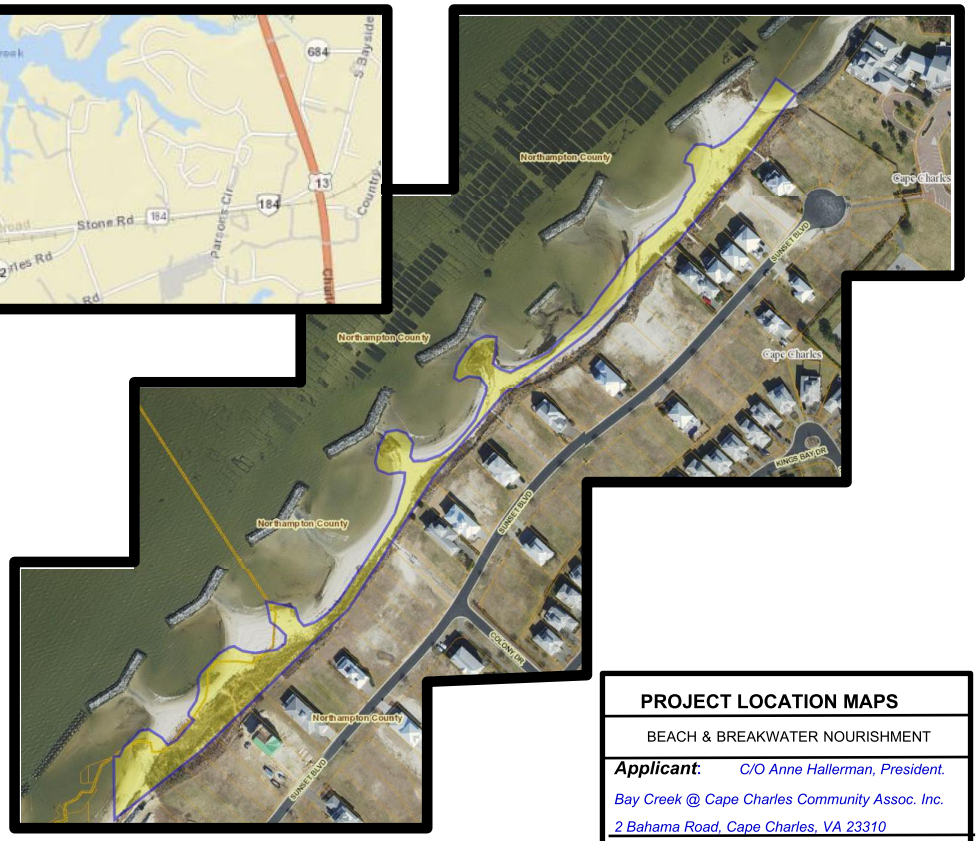

PROJECT LOCATION MAPS

BEACH & BREAKWATER NOURISHMENT

Applicant: *C/O Anne Hallerman, President.*
Bay Creek @ Cape Charles Community Assoc. Inc.
2 Bahama Road, Cape Charles, VA 23310

Northampton Co. TM# 83A1-11-M1
KINGS CREEK

By: CRM, llc 757 442 5640

SUBMIT DATE: 3/28/2023
REVISION DATE;

SCALES VARY

PAGE 1 of 5

NORTH

THESE PROJECT DRAWINGS ARE ON 8.5X14, IN COLOR AND BEST VIEWED ELECTRONICALLY TO VIEW DETAIL THROUGH ENLARGEMENT.

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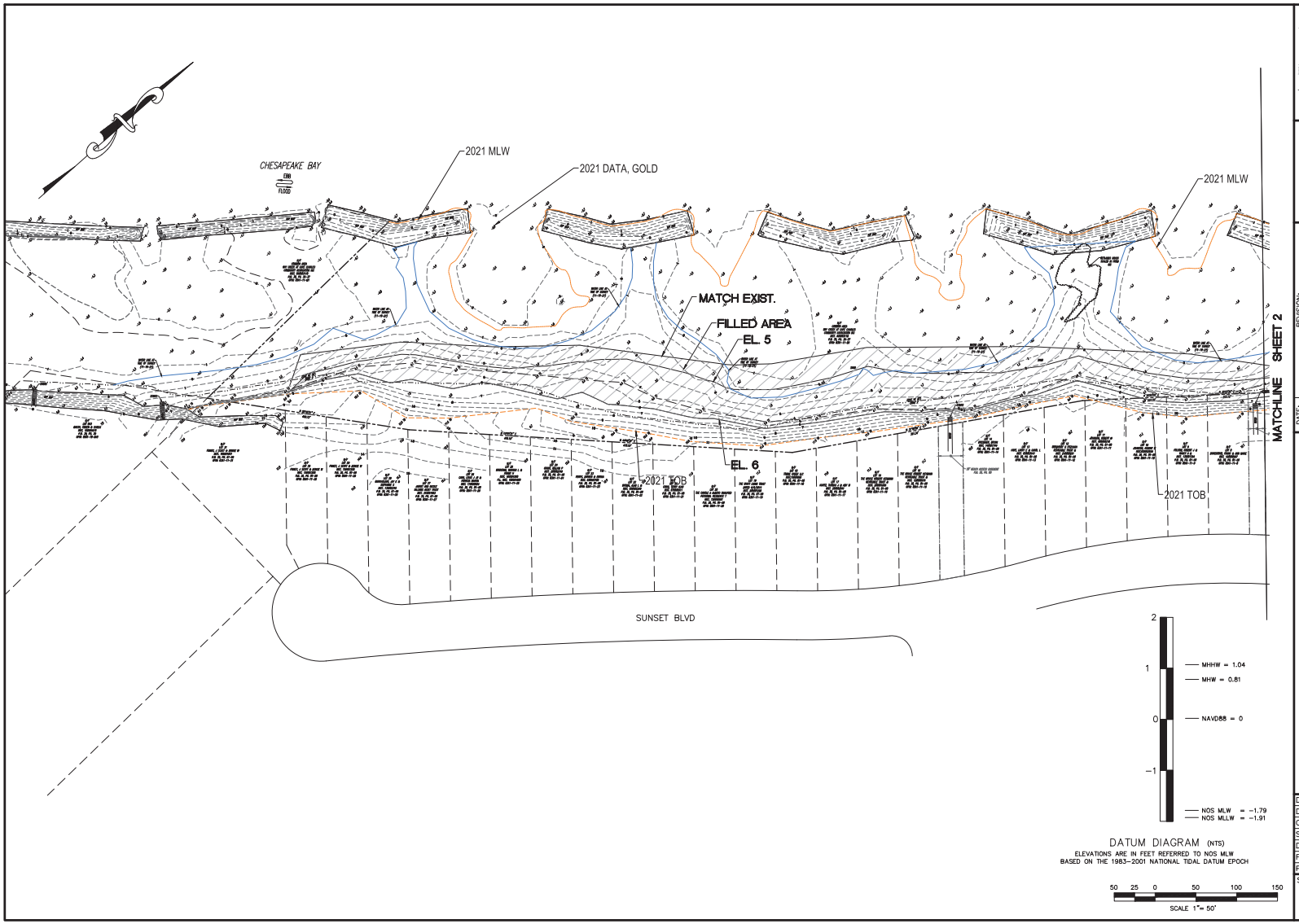


L&M
309 Lynnhaven Parkway
Virginia Beach, VA 23452
PH: (757) 463-4306 FAX: (757) 463-3563

REVISION:

DATE:

BAY CREEK NORTH BEACH FILL

BEACH IMPROVEMENT

LAYOUT PLAN

CAPE CHARLES VIRGINIA

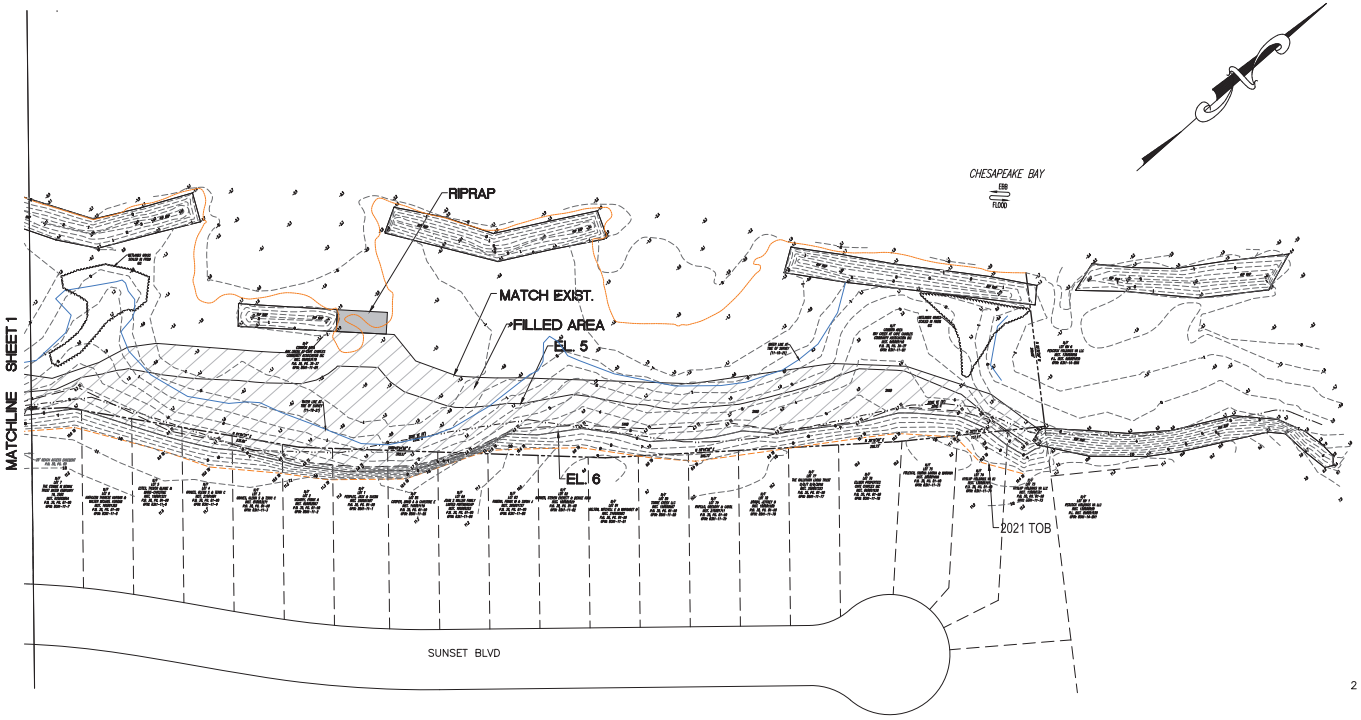
DESIGNED:	TBL
DRAWN:	CAD
CHECKED:	TBL
SCALE:	1"=50'
DATE:	5/23/22
FILE:	PLAN
PROJ. #:	2021-007

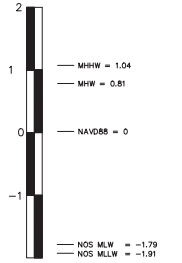
SHEET NO.

1

1 OF 2 SHEETS

Received by VMRC April 17, 2023 /blh





DATUM DIAGRAM (NTS)

ELEVATIONS ARE IN FEET REFERRED TO NOS MLW
BASED ON THE 1983–2001 NATIONAL TIDAL DATUM EPOCH

50 25 0 50 100 150

SCALE 1" = 50'

L&M
309 Lynnhaven Parkway
Virginia Beach, VA 23452
PH: (757) 463-4396 FAX: (757) 463-3563

REVISION:

DATE:

BAY CREEK NORTH BEACH

BEACH FILL

LAYOUT PLAN

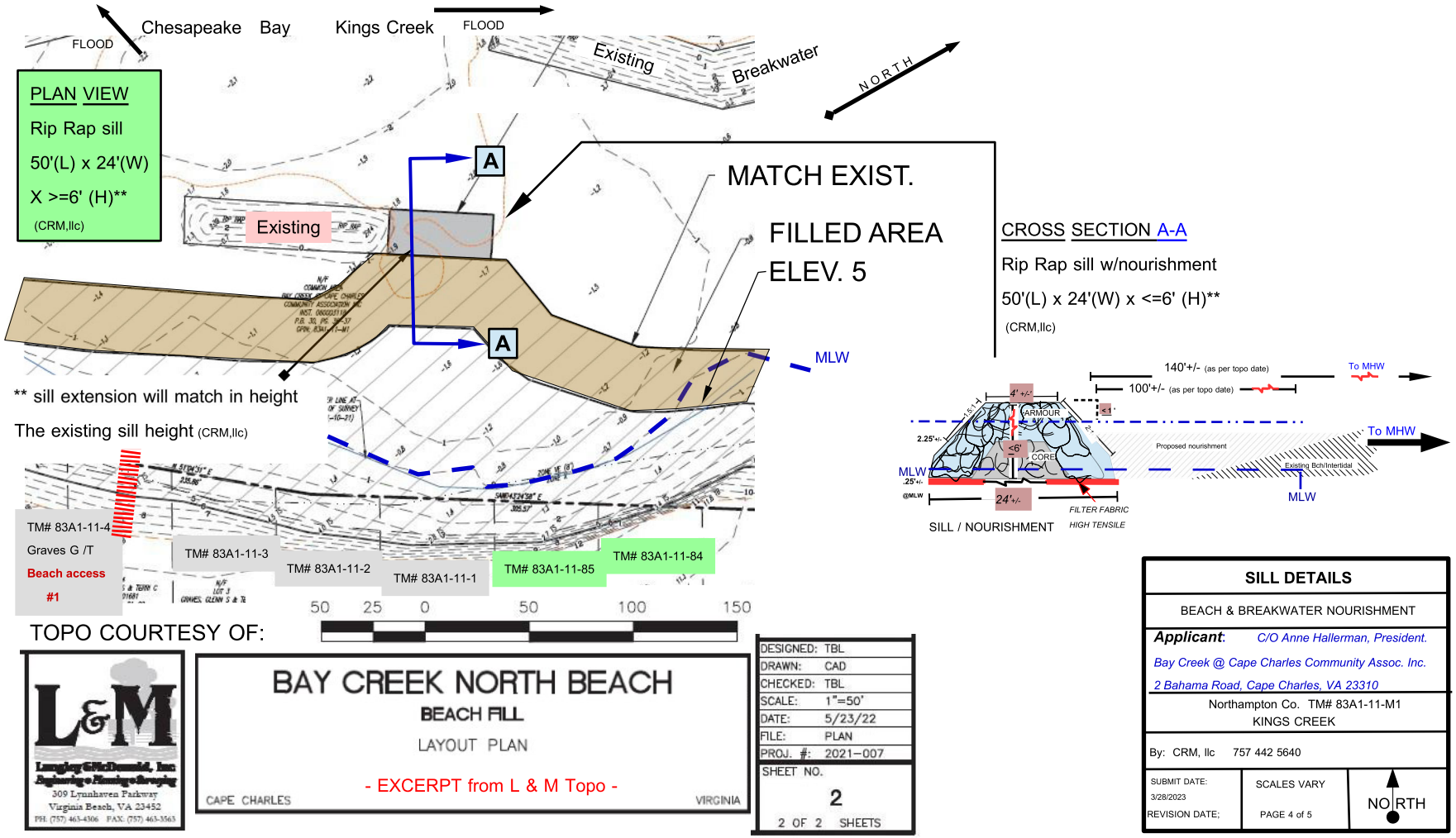
VIRGINIA

CAPE CHARLES

DESIGNED:	TBL
DRAWN:	CAD
CHECKED:	TBL
SCALE:	1"=50'
DATE:	5/23/22
FILE:	PLAN
PROJ. #:	2021-007
SHEET NO.	2

2 OF 2 SHEETS

Received by VMRC April 17, 2023 /blh



SILL DETAILS

BEACH & BREAKWATER NOURISHMENT

Applicant: *C/O Anne Hallerman, President.*

Bay Creek @ Cape Charles Community Assoc. Inc.

2 Bahama Road, Cape Charles, VA 23310

Northampton Co. TM# 83A1-11-M1
KINGS CREEK

By: CRM, llc 757 442 5640

SUBMIT DATE: 3/28/2023
REVISION DATE;

SCALES VARY

PAGE 4 of 5

NORTH

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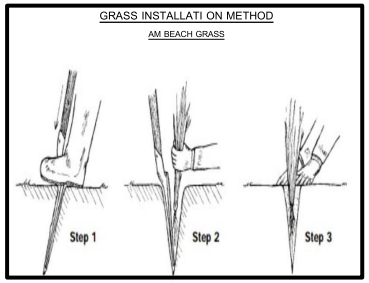
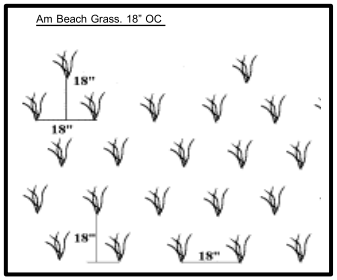
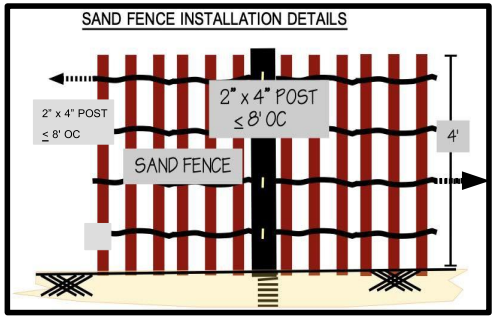
PROJECT NOTES:

- SAND NOURISHMENT WILL BE OF THE GRAIN SIZE REQUIRED BY AGENCY REGULATION.
- NOURISHMENT WILL BE TRUCKED TO THE SITE AND SPREAD USING HEAVY EQUIPMENT.
- ACCESS POINTS WILL BE DETERMINED BY THE CONTRACTOR (AS OF YET NOT SECURED). ACCESS WILL DEPEND LARGELY ON THE PRESENCE/ABSENCE OF LOT IMPROVEMENTS.
- CONSTRUCTION MATS WILL BE USED WHEN NECESSARY. ALL DAMAGE WILL BE RESTORED TO PRE-CONSTRCUTION CONTOURS & REPAIRED BY PLANTING VEGETATING AND/OR FENCE INSTALLATION.
- POST APPLICATION, THE NOURISHMENT WILL BE ALLOWED TO SETTING FOR SEVERAL MONTHS, DEPENDING UPON TH TIME OF PLACEMENT, SO THAT PLANTING AND FENCE INSTALLATION LOCATIONS AND PATTERNS CAN BE DETERMINED.
- VEGETATION SUITABLE TO BOTH THE DUNES AND TH TIDAL WETLANDS WILL BE PLANTED IN THE APPROPRIATE LOCATIONS ALONG THE BEACH AND DUNE REACH. AT THIS TIME IT IS NOT POSSIBLE TO KNOW EXACTLY WHERE THOSE PLANTING LOCATIONS WILL BE. PLATS WILL BE NURSERY GROWN OR FIELD HARVESTED.
- SAND FENCE WILL BE INSTALLED IN THE LANDWARD LOCATIONS ALONG THE BEACH, TO ASSIST IN BUILDING BLOWING SAND. FENCING WILL BE REPAIRED OR REMOVED IF & WHEN NECESSARY.







PLANTING & FENCE DETAILS

BEACH & BREAKWATER NOURISHMENT

Applicant: *C/O Anne Hallerman, President.*

Bay Creek @ Cape Charles Community Assoc. Inc.

2 Bahama Road, Cape Charles, VA 23310

Northampton Co. TM# 83A1-11-M1
KINGS CREEK

By: CRM, llc 757 442 5640

SUBMIT DATE: 3/28/2023
REVISION DATE;

SCALES VARY

PAGE 1 of 5

NORTH

Received by VMRC April 17, 2023 /blh

Part 2 - Signatures

1. Applicants and property owners (if different from applicant).
NOTE: REQUIRED FOR ALL PROJECTS

PRIVACY ACT STATEMENT: The Department of the Army permit program is authorized by Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and Section 103 of the Marine Protection Research and Sanctuaries Act of 1972. These laws require that individuals obtain permits that authorize structures and work in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters prior to undertaking the activity. Information provided in the Joint Permit Application will be used in the permit review process and is a matter of public record once the application is filed. Disclosure of the requested information is voluntary, but it may not be possible to evaluate the permit application or to issue a permit if the information requested is not provided.
CERTIFICATION: I am hereby applying for all permits typically issued by the DEQ, VMRC, USACE, and/or Local Wetlands Boards for the activities I have described herein. I agree to allow the duly authorized representatives of any regulatory or advisory agency to enter upon the premises of the project site at reasonable times to inspect and photograph site conditions, both in reviewing a proposal to issue a permit and after permit issuance to determine compliance with the permit. **In addition, I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.**

X Bay Creek at Cape Charles Community Association
Applicant's Legal Name (printed/typed) (Use if more than one applicant)

X Anne Hallerman, President
Applicant's Signature (Use if more than one applicant)

X April 14, 2023 Date

Property Owner's Legal Name (printed/typed) (If different from Applicant) (Use if more than one owner)

Property Owner's Signature (Use if more than one owner)

Date

X = Applicant

Received by VMRC April 17, 2023 /blh

Part 2 – Signatures (continued)

2. Applicants having agents (if applicable)

CERTIFICATION OF AUTHORIZATION

X I (we), Bay Creek at Cape Charles Community Association, hereby certify that I (we) have authorized Ellen R Grimes MS, MFS
(Applicant's legal name(s)) (Agent's name(s))
to act on my behalf and take all actions necessary to the processing, issuance and acceptance of this permit and any and all standard and special conditions attached.

We hereby certify that the information submitted in this application is true and accurate to the best of our knowledge.

Ellen R Grimes
(Agent's Signature) (Use if more than one agent)

2/13/2023
(Date)

X Anne Hallerman, President
(Applicant's Signature) (Use if more than one applicant)

X April 14, 2023
(Date)

3. Applicant's having contractors (if applicable)

CONTRACTOR ACKNOWLEDGEMENT

I (we), X N/A, have contracted X (Uncertain at this time)
(Applicant's legal name(s)) (Contractor's name(s))
to perform the work described in this Joint Permit Application, signed and dated _____.

We will read and abide by all conditions set forth in all Federal, State and Local permits as required for this project. We understand that failure to follow the conditions of the permits may constitute a violation of applicable Federal, state and local statutes and that we will be liable for any civil and/or criminal penalties imposed by these statutes. In addition, we agree to make available a copy of any permit to any regulatory representative visiting the project to ensure permit compliance. If we fail to provide the applicable permit upon request, we understand that the representative will have the option of stopping our operation until it has been determined that we have a properly signed and executed permit and are in full compliance with all terms and conditions.

X
Contractor's name or name of firm

X
Contractor's or firms address

X
Contractor's signature and title

X
Contractor's License Number

X
Applicant's signature

(use if more than one applicant)

X
Date

X = Contractor

Received by VMRC April 17, 2023 /blh

Virginia Marine Resources Commission
Permit Application 20230904
Printed: Thursday May 18, 2023 1:12 PM

Applicant: Bay Creek at Cape Charles Community Assoc. Inc.
2 Bahama Road
Cape Charles, VA 23310

Application Number:	20230904	**Engineer:**	Claire Gorman
Application Date:	April 17, 2023	**Locality:**	Cape Charles
Permit Type:		**Waterway:**	
Permit Status:	Pending	**Expiration Date:**	
Wetlands Board Action:		**Public Hearing Date:**	

Project Description: Beach Nourishment/Sill