

Chesapeake Bay Preservation Area Board Agenda



January 22, 2018


VB City of Virginia Beach

CHESAPEAKE BAY PRESERVATION AREA BOARD

NOTICE OF PUBLIC HEARING

The Virginia Beach Chesapeake Bay Preservation Area Board will hold a Public Hearing on **Monday, January 22, 2018, at 10:00 a.m. in the City Council Chamber**, Virginia Beach Municipal Center, Virginia Beach, Virginia.

An informal session is held at 9:00 a.m. in the City Council Chamber at which time staff briefs the Board on agenda items. All interested persons are invited to attend. There is no opportunity for citizenry to speak at the briefing session; however, the public is invited to speak at the formal Public Hearing held at 10:00 a.m. in the City Council Chamber.

The staff reviews all of the items on this agenda and offer recommendation for consideration by the Chesapeake Bay Preservation Area Board, in the event they should approve the application. However, it should not be assumed that those conditions constitute all of the conditions that will ultimately be attached to the project. Staff agencies may impose further conditions and requirements applicable to city ordinances.

Those members of the public interested in attending the public hearing should be advised that, for reasons the Board deems appropriate, certain items on the agenda may be heard out of order and that it should not be assumed that the order listed below will be exactly followed during the public hearing.

THE FOLLOWING DESCRIBES THE ORDER OF BUSINESS FOR THE PUBLIC HEARING

(IF YOU DO NOT UNDERSTAND, ASK A STAFF MEMBER SITTING AT THE DESK AT THE FRONT OF THE CHAMBER OR THE STAFF MEMBER AT THE DESK OUTSIDE THE CHAMBER).

- 1. DEFERRALS:** The first order of business is the consideration of requests to defer an item. The Board will ask those in attendance at the hearing if there are any requests to defer an item that is on the agenda. PLEASE NOTE THE REQUESTS THAT ARE MADE, AS ONE OF THE ITEMS BEING DEFERRED MAY BE THE ITEM THAT YOU HAVE AN INTEREST IN.

If an item is deferred, a deferral date will be determined at the public hearing. Typically deferrals range from thirty (30) to sixty (60) days or may be deferred indefinitely. The Board will vote on all of the items deferred individually. It is important, therefore, if you have an objection to an item being deferred to note your objection as the Board goes through the items being considered for deferral.

- 2. CONSENT AGENDA:** The second order of business is consideration of the "consent agenda." The consent agenda contains those items:
 - a. that the Board believes are unopposed and
 - b. which have a favorable Staff recommendation.

If an item is placed on the Consent Agenda, that item will be heard with other items on the agenda that appear to be unopposed and have a favorable staff recommendation. The Board will vote on all of the items at one time. Once the Board has approved the item as part of the Consent Agenda, the variance request is granted and will not be discussed any further. It is important, therefore, if you have an objection to an item being placed on the Consent Agenda to note your objection as the Board goes through the items being considered for the Consent Agenda.

Process for the Consent Agenda:

- The Board will announce the item number and item title being considered for inclusion on the Consent Agenda.
 - The Board will ask if there is anyone in the audience representing the item, and if so, ask them to go up to the podium and state their name for the record.
 - The Board will ask the representative of the item if they are aware of the conditions and if they agree to the conditions.
 - The Board will then ask if there is anyone in the audience in opposition to the item. If you are opposed to the item, stand or raise your hand to let the Board know.
 - If the item is opposed, it will be removed from the consent agenda and heard in its normal place on the agenda.
 - After the Board has gone through all of the items that it believes should be on the Consent Agenda, it will vote at one time for all of the items, announcing the number of each item being voted on. Pay attention to the list of items being voted on.
3. **REGULAR AGENDA:** The Board will then proceed with the remaining items on the agenda, according to the following process:
- a. The applicant or applicant's representative will have 10 minutes to present its case.
 - b. Next, those who wish to speak in support to the application will have 3 minutes to present their case.
 - c. If there is a spokesperson for the opposition, he or she will have 10 minutes to present their case.
 - d. All other speakers not represented by the spokesperson in opposition will have 3 minutes.
 - e. The applicant or applicant's representative will then have 3 minutes for rebuttal of any comments from the opposition.
 - f. There is then discussion among the Board members. No further public comment will be heard at that point. The Board may, however, allow additional comments from the opposition if a member of the Board sponsors the opposition. Normally, you will be sponsored only if it appears that new information is available and the time will be limited to 3 minutes.
 - g. The Board does not allow slide or computer generated projections other than those prepared by the Planning Department Staff.

The Board asks that speakers not be repetitive or redundant in their comments. Do not repeat something that someone else has already stated. Petitions may be presented and are encouraged. If you are part of a group, the Board requests, in the interest of time, that you use a spokesperson, and the spokesperson is encouraged to have his or her supporters stand to indicate their support.

Those members of the public interested in speaking in support or in opposition to an agenda item shall be limited to 3 minutes in which to address the Board. At the discretion of the CBPA Board Chairman, this time may be increased to 5 minutes. Speakers will be electronically timed.

If you are **physically disabled** or **visually impaired** and need assistance at this meeting, please call the **Planning and Community Development** at **(757) 385-4621**.

JANUARY 22, 2018 CHESAPEAKE BAY PRESERVATION AREA BOARD AGENDA

9:00 AM

- **INFORMAL STAFF BRIEFINGS OF PUBLIC HEARING AGENDA ITEMS**
- **PUBLIC WORKS PRESENTATION – Sea Level Rise / Recurrent Flooding Projects**

10:00 AM

- **FORMAL REVIEW OF PUBLIC HEARING AGENDA ITEMS**

OLD BUSINESS AGENDA ITEMS

1.

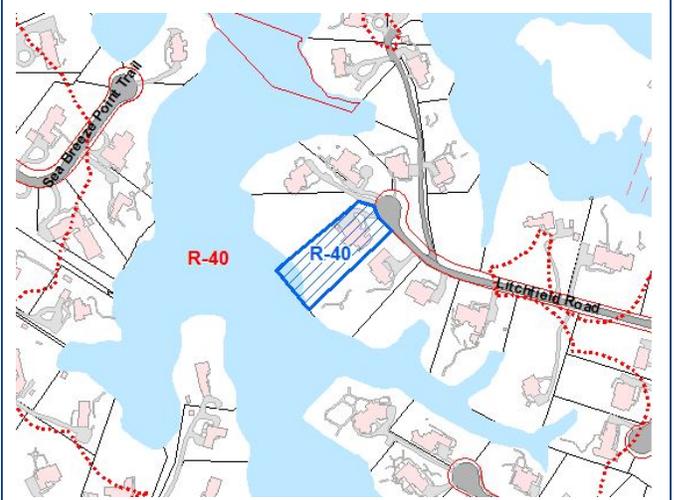
Louis T. and Stacie F. Caplan
[Property Owners and Applicants]

3305 Hidden Pointe Cove
GPIN: 1488-79-7393
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Rick Scarper

Staff Planner – PJ Scully

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NEW BUSINESS AGENDA ITEMS

2.

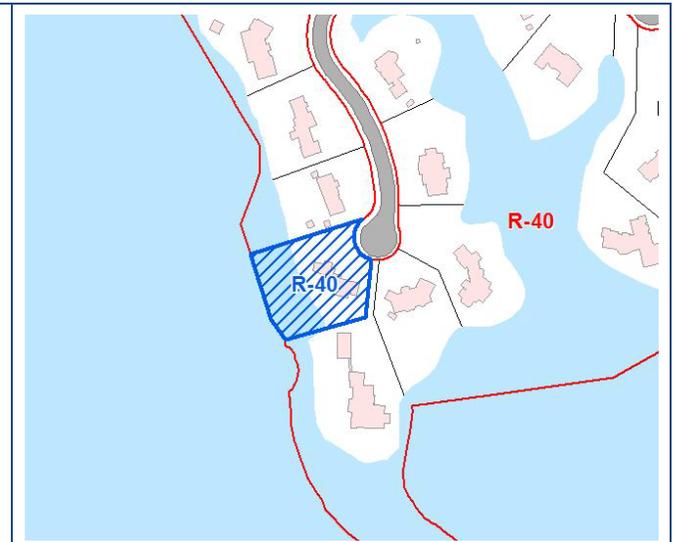
Joseph L. Koen
[Property Owner and Applicant]

1425 Blue Heron Road
GPIN: 1498-58-5133
COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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3.

Kristin N. Leone and Samuel C. Cocke
[Property Owners and Applicants]

601 26th Street
GPIN: 2418-90-0019
COUNCIL DISTRICT - Beach

Applicant's Agent – Nathan Lahy

Staff Planner – PJ Scully
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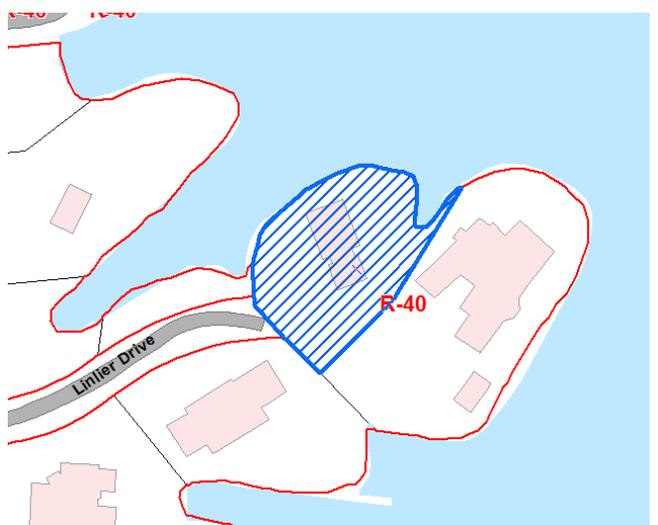
4.

Lance S. Goldner Revocable Trust
[Property Owner and Applicant]

1400 Linlier Drive
GPIN: 2418-11-3117
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully
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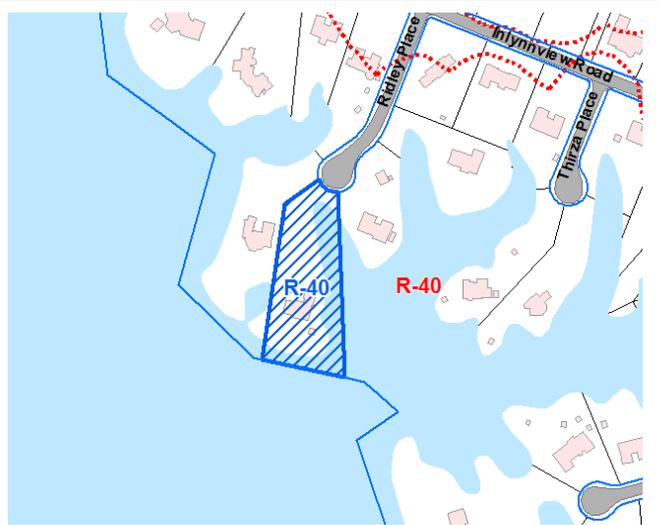
5.

Mark A. Zeigler Revocable Trust
[Property Owner and Applicant]

2612 Ridley Place
GPIN: 1498-35-9114
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Self represented

Staff Planner – PJ Scully
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NEW BUSINESS AGENDA ITEMS (CONTINUED)

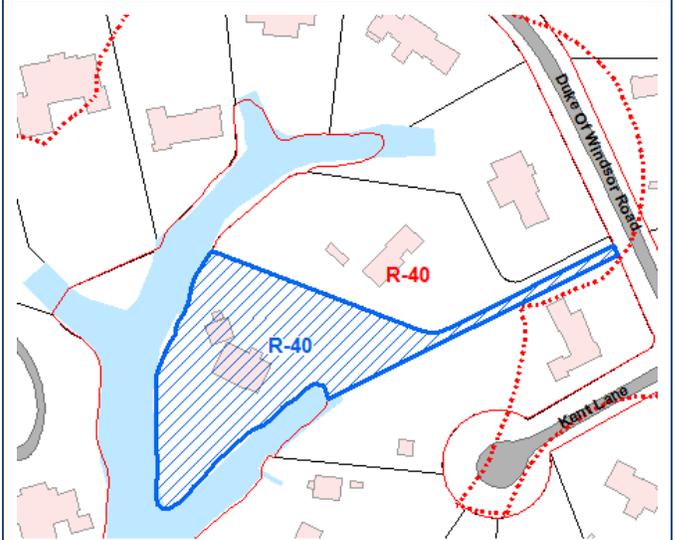
6.

Jeffrey Reinhofer and Vivian Kirkendoll
[Property Owners and Applicants]

1519 Duke of Windsor Road
GPIN: 2408-97-2804
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully
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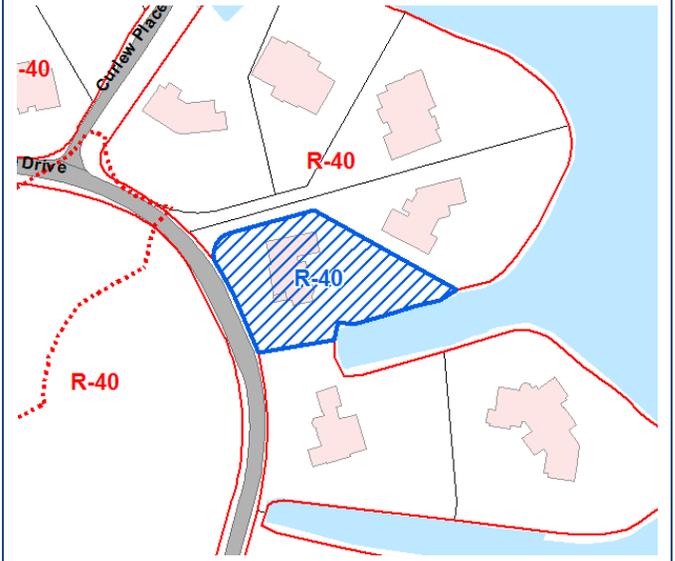
7.

Sean D. and Robin S. Brickell
[Property Owners and Applicants]

952 Oriole Drive
GPIN: 2418-33-9797
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Jon Rizzo

Staff Planner – PJ Scully
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Property Owner **Louis T. and Stacie F. Caplan**
 Applicant **Louis T. and Stacie F. Caplan**
 Address **3305 Hidden Pointe Cove**
 Public Hearing **January 22, 2018**
 City Council District **Lynnhaven**

Agenda Item

1

This application is being withdrawn. Staff supports the request.

Variance Request

Encroachment into the Resource Protection Area (RPA) with the expansion of an accessory structure – retaining wall with associated fill material, swimming pool surround expansion, and cabana.

CBPA Variance Request History

September 25, 2017 – deferred
 November 22, 2017 – deferred

Applicant’s Agent

Rick Scarper

Staff Planner

PJ Scully

Lot Recordation

9/29/1994
 Map Book 283, Page 13 - 17

GPIN

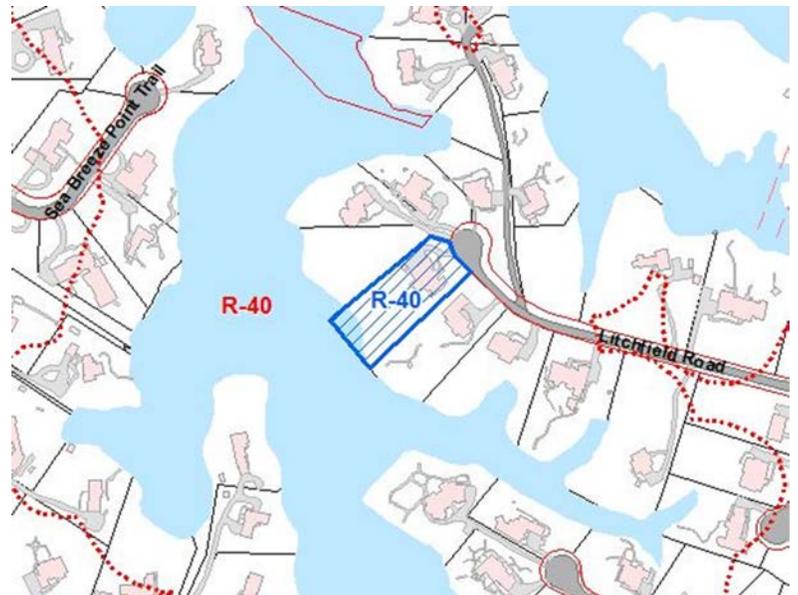
1488-79-7393

SITE AREA

47,438 square feet or 1.0890 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

36,619 square feet or 0.8407 acres



AS NEEDED, PAGE LEFT BLANK



Variance Request

Encroachment into the Resource Protection Area (RPA) buffer - expansion of the primary and accessory structures.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

5/6/1977

Map Book 120, Page 11

GPIN

1498-58-5133

SITE AREA

44,330 square feet or 1.018 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

31,814 square feet or 0.730 acres

EXISTING IMPERVIOUS COVER OF SITE

8,578 square feet or 27.0 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

12,537 square feet or 39.4 percent of site

Area of Redevelopment in RPA

3,380 square feet

Area of New Development in RPA

5,545 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

50 foot Landward Buffer

100 foot Variable Width Buffer

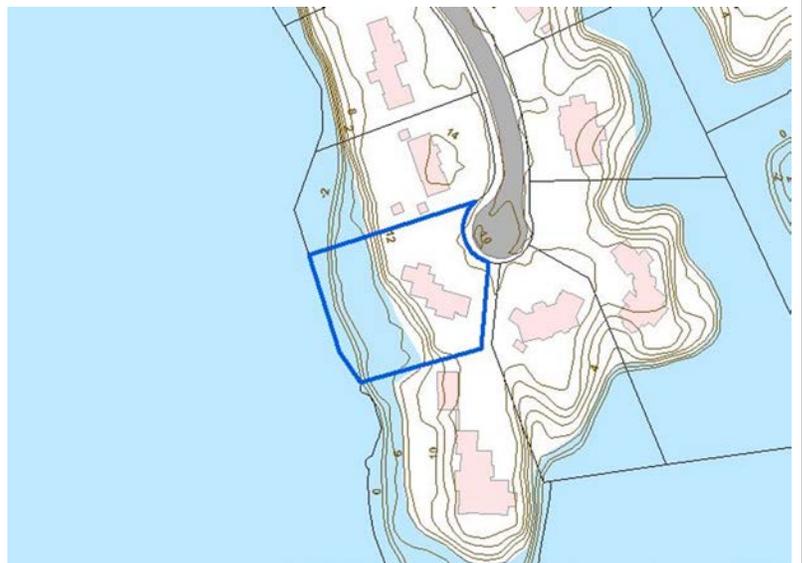
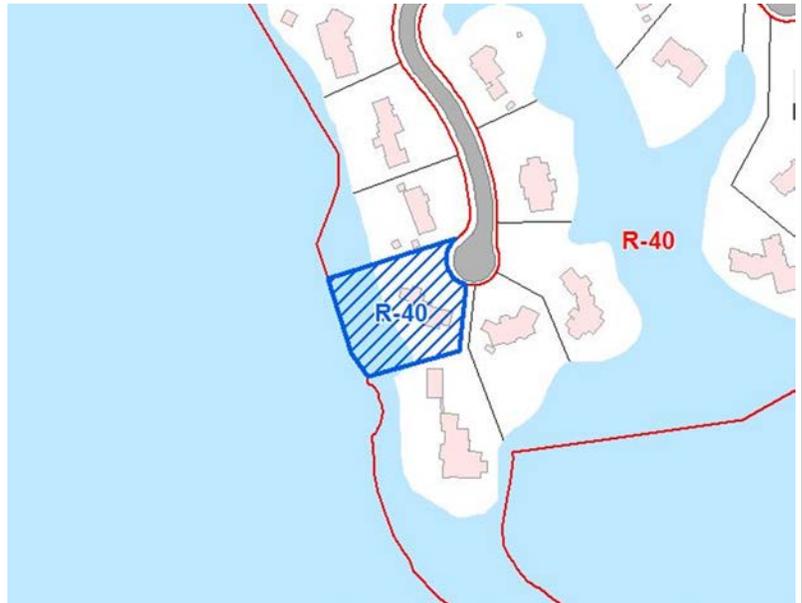
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Deny as submitted



Summary of Proposal

Demolition Details

- Remove in-ground pool, wood deck and retaining walls
- Remove portions of existing residence for proposed improvements

Construction Details

- Single-family home additions
- Concrete driveway expansion
- Swimming pool with concrete pool patio

CBPA Ordinance Variance History

No Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone

VE – Base Flood Elevation (BFE): 8

The VE or V Zones are those areas that are known as coastal high hazard areas, extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storm or seismic sources.

Soil Type(s)

Rappahannock Series (deep and poorly drained soils) located along the shoreline

Rumford Series (highly erodible soils) located below the top of bank

Tetotum Series (deep moderately drained soil) located above the top of bank

Shoreline

Shoreline is in a natural state. The Applicant's Engineer of Record makes reference to "*Possible Location of Future Revetment Stabilization (Elevation 2.0)*" on the CBPA Variance Exhibits. This proposed location would severely impact the existing tidal and non-tidal wetland features. City Code, Appendix A, Section 1408.1 – Standards for use and development of wetlands, Subsection (a)(1) states "*wetlands of primary ecological significance shall not be altered so that the wetlands are unreasonably disturbed.*" Staff is of the opinion that the proposed location of the future revetment stabilization is unreasonable and does not support this application, should the applicant pursue a Wetlands Board permit application for said improvement.

The Center for Coastal Resources Management Preferred Shoreline BMP shown on the City of Virginia Beach Comprehensive Map Viewer suggests two best management practices for this parcel.

1. Provide stabilization through maintaining, enhancing, or restoring the vegetation in the riparian buffer. The target area for riparian buffer should extend 100 feet back from the top of bank. Preferred approaches for riparian buffer management may include one or a combination of the following: Preserve existing riparian vegetation in the buffer area; manage vegetative cover by selectively removing and/or pruning dead, dying, and severely leaning trees as necessary; enhance the riparian area by planting appropriate vegetation or allowing for natural regeneration of small native trees and shrubs; replace waterfront lawns with a variety of native deep-

rooted grasses, shrubs, and small trees and; remove invasive species, if present, and replace with native vegetation.

2. Plant tidal marsh (or maintain/widen existing marsh) and construct a rock sill placed offshore from the marsh. The site-specific suitability for a sill must be determined, including bottom hardness, navigation conflicts, construction access limitations, orientation and available sunlight for marsh plants. If existing marsh is greater than 15 feet wide, consider placing sill just offshore from marsh edge. If existing marsh is less than 15 feet wide or absent, consider widening marsh by grading bank landward to accommodate sea level rise and/or providing sand fill channelward to increase marsh width and/or elevation and placing sill just offshore new marsh edge.

Riparian Buffer

Sparsely to moderately wooded.

- **Number of existing canopy trees requested for removal within the RPA:** Approximately 10 trees shown as being removed on CBPA exhibit. However, the Water Quality Impact Assessment (WQIA) states 10-20 canopy trees to be removed. During the site visit, Staff noticed the majority of mature canopy trees within the RPA having a spray painted orange "X" on them.
- **Number of existing understory trees requested for removal within the RPA:** 10-20 stated in the WQIA.
- **Number of dead, diseased or dying existing canopy trees requested for removal within the RPA:** 6-10 stated in the WQIA.
- **Evaluation of existing tree removal request:** At a minimum, based off of the information provided in the WQIA 20 trees could be removed from the parcel. Staff has counted approximately 24 trees within the parcel as shown on Sheet 2 of 3, of the CBPA Exhibit. Staff only supports the removal of those trees as shown on the CBPA Exhibit. If additional trees are desired to be removed during the site plan review phase or during the construction of the proposed improvements, should the variance request be approved, a condition is recommended for the Board's deliberation that will require any additional requests for tree removal to be brought back to the Board for approval.

In addition, The CBPA exhibit "Analysis of Development" table, Sheet 3 of 3 indicates 11,090 square feet of buffer restoration is required but proposes to *"take advantage of 26 mature trees to remain beyond construction (to be counted toward canopy tree requirements)."* Staff has reviewed this request and has provided a condition below to address the applicant's aforementioned proposal.

Evaluation and Recommendation

Staff met with the applicant, the applicant's agent, the builder, and the Engineer of Record in the field to discuss the potential redevelopment of this parcel. At that time, the design team had a conceptual development direction for proposed improvements. The following items were discussed with the applicant and his design team.

- Location of the CBPA RPA feature and delineated buffers, specifically the 100 foot RPA. Staff disagreed with the applicant's agent delineating the RPA buffers for this parcel from the Mean High Water (MHW) mark.
- The amount of proposed impervious cover, redevelopment of existing swimming pool and encroachment into the 50 foot seaward buffer. Staff is of the opinion that the amount of proposed impervious cover is excessive. However, given the geometry of the parcel, Staff believes that the full redevelopment of the existing residential structure (not proposed to be demolished) may reduce the amount of disturbance within the RPA only if the proposed improvements are situated so that the 50 foot seaward buffer remains preserved during construction activities and restored into a functional riparian ecosystem.
- Encroachment of proposed improvements into the side yard setback. As submitted the proposed improvements would require Board of Zoning Appeals (BZA) approval. Staff expressed to the design team that the existence of

the RPA feature does not necessitate a hardship towards encroaching into a residential lot setback and vice versa.

- Encroachment of proposed impervious cover into the floodplain and specific requirements for new construction within the VE Zone. The design team proposed a walkout basement area underneath the proposed residential addition. Although the proposed improvement (residential addition) is outboard of the mapped VE Zone, the elevation of the addition with a walkout basement or useable space underneath the residential addition at the elevation of the proposed swimming pool and concrete patio area would be below the mapped base flood elevation therefore placing the entire structure, both existing and proposed within the flood district VE Zone.

Staff met for a second time in the field with the applicant and his design team. The basis of this meeting was to evaluate existing field conditions relative to the location of tidal wetlands, nontidal wetlands and tidal shoreline, and to further discuss the encroachment of proposed improvements into the RPA feature. The CBPA Exhibit for this variance request reflects the following changes as a result of this meeting.

- The CBPA RPA feature and delineated buffers have been revised landward anywhere from 20 to 40 feet inclusive of tidal, non-tidal, and tidal shores.
- The post-development impervious cover has been reduced by 210 square feet from 12,747 square feet to 12,537 square feet.
- The applicant's Engineer of Record stated to Staff that the proposed improvements and redevelopment of this parcel no longer propose a walkout basement or usable space underneath the residential addition.

Although the variance request has utilized existing impervious cover of the parcel to an amount of 6,992 square feet, Staff is of the opinion that this request is not in harmony with the purpose and intent of the CBPA Ordinance based on the following findings.

- 1) Given the disparity between the new impervious cover – 5,545 square feet compared to the amount of existing impervious cover being converted to pervious cover of 1,585 square feet coupled with the encroachment into the 50 foot seaward buffer with new impervious cover, Staff is of the opinion that the variance request is not the minimum necessary to afford relief.
- 2) The variance request is not in harmony with the purpose and intent of the CBPA Ordinance given the further encroachment into the 50 foot seaward RPA buffer with the proposed swimming pool and concrete pool patio, nor has a true “hardship” been presented given the location of the RPA feature on a parcel that predates the adoption of the CBPA Ordinance.
- 3) Staff is of the opinion that the variance request's, “*possible location of future revetment stabilization*” is not in harmony with the purpose and intent of the CBPA Ordinance given the potential disturbance to the ecological and biological processes of the existing riparian ecosystem. Certain lands that are proximate to shorelines have an intrinsic water quality value due to ecological and biological processes they perform. With proper management, they offer significant ecological benefit by providing water quality maintenance and pollution control, as well as flood and shoreline erosion control [City Code, Appendix F, Sec. 101].

However, should the Board consider approval of this variance request, Staff offers the following recommended conditions relative to the findings of the CBPA Ordinance specific to this variance request.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.

2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan.
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. **Said silt fence shall be installed as delineated per the CBPA Variance Exhibit and shall be staked in the field by the Engineer of Record and reviewed with the Civil Inspector at the pre-construction meeting.**
5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier. **Said protective barriers shall be staked in the field by the Engineer of Record and reviewed with the Civil Inspector at the pre-construction meeting.**
7. No trees outboard of the silt fence / limits of disturbance as shown on the CBPA Exhibit shall be removed. Any additional requests for tree removal shall be reviewed and approved by the CBPA Board.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **5,545 square feet x 200 percent = 11,090 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **8 canopy trees, 23 understory trees, 56 large shrubs, and 84 small shrubs.**

The 50 foot seaward buffer shall be restored in its entirety to a functioning riparian buffer with the remaining required buffer restoration progressing landward. Buffer restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed

to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

13. The maximum impervious cover of the parcel shall not exceed 11,135 square feet or 35 percent post-development impervious cover. All post development impervious cover shall be landward of the CBPA Exhibit's delineated Top of Bank (TOB) feature.
14. The proposed driveway shall be constructed of a permeable pavement system.
15. The proposed walkways, exclusive of the walkway to the front door shall be constructed of organic material (mulch), and maximum of 4 feet in width, with stepping stones not to exceed 50 percent of the path area.
16. If a swimming pool is constructed, said improvement shall be constructed prior to or concurrent with the single family residence additions.
17. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements. There shall be no grading or fill material placed below or seaward of the CBPA Exhibit's delineated Top of Bank (TOB) feature.
18. **As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,270.50 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 1,386 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.
19. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
20. The conditions and approval associated with this variance are based on the exhibit plan dated December 14, 2017, prepared by American Engineering Associates, signed December 14, 2017 by Brad Martin. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

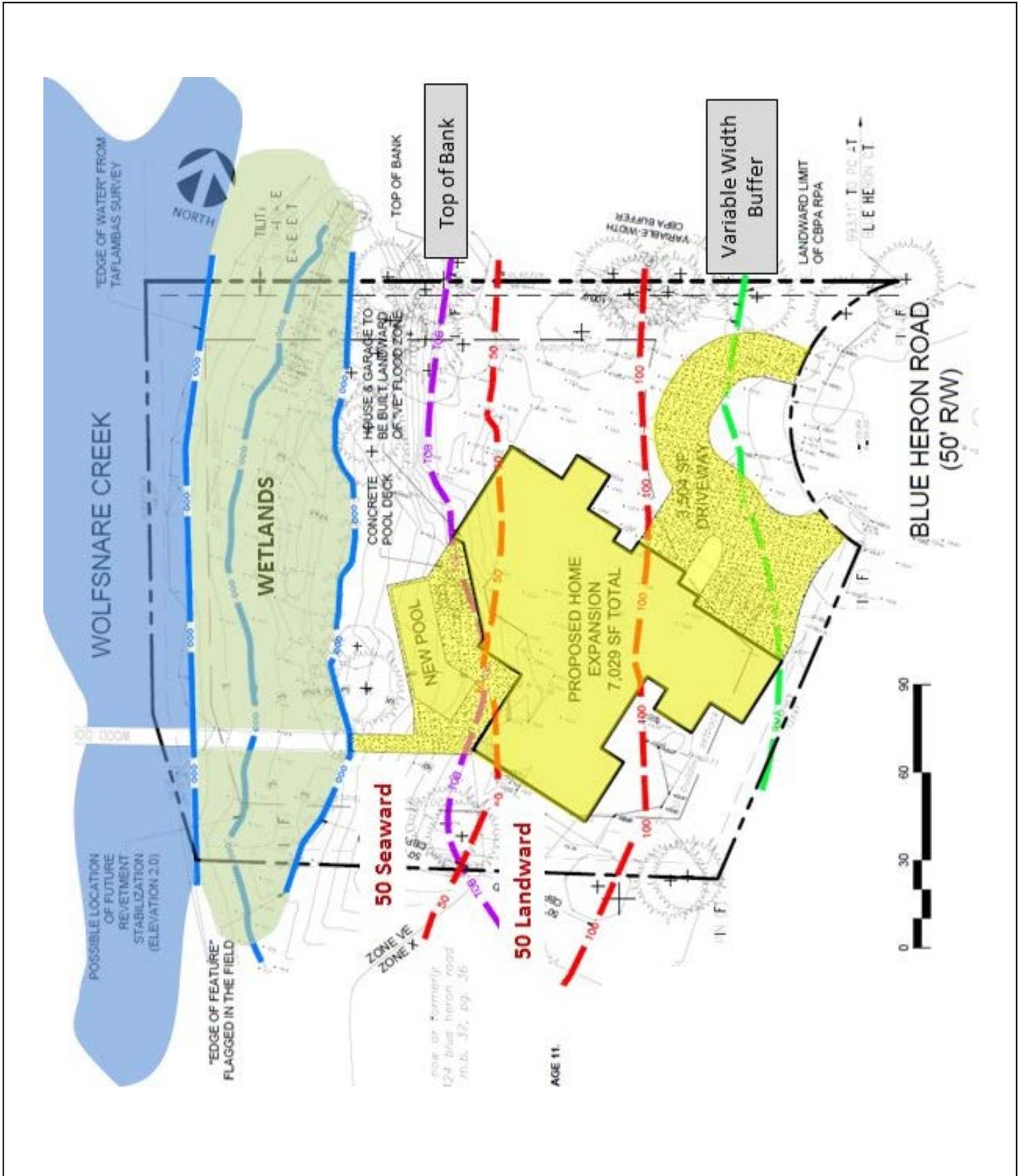
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

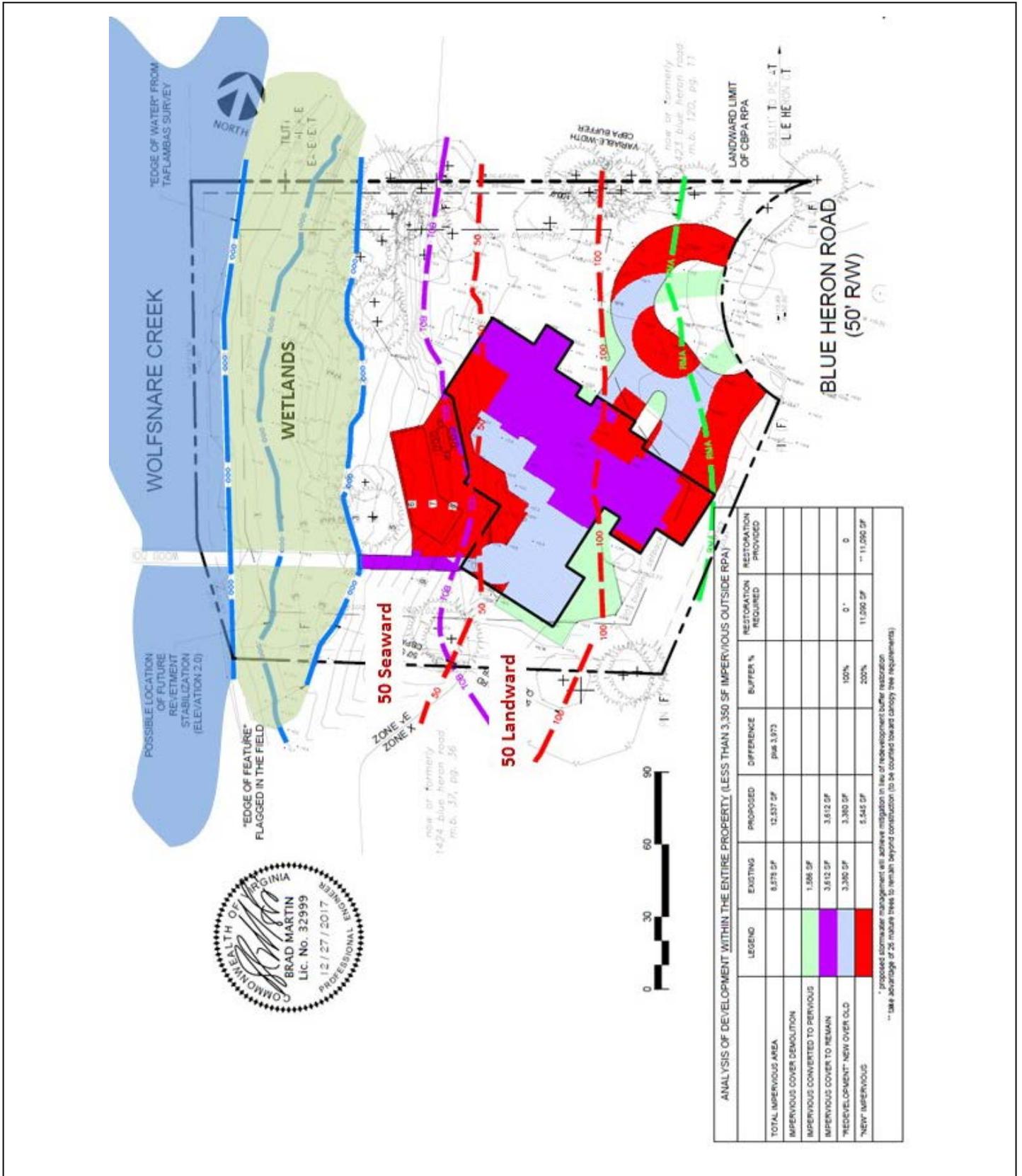
Site Aerial



CBPA Exhibit – Proposed Improvements



CBPA Exhibit – (any supplemental information/drawings)





APPLICANT'S NAME Joseph Koen

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

| | | |
|--|--|---|
| Acquisition of Property by City | Disposition of City Property | Modification of Conditions or Proffers |
| Alternative Compliance, Special Exception for | Economic Development Investment Program (EDIP) | Nonconforming Use Changes |
| Board of Zoning Appeals | Encroachment Request | Rezoning |
| Certificate of Appropriateness (Historic Review Board) | Floodplain Variance | Street Closure |
| Chesapeake Bay Preservation Area Board | Franchise Agreement | Subdivision Variance |
| Conditional Use Permit | Lease of City Property | Wetlands Board |
| | License Agreement | |

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

| | | |
|--|-------------------------------|-------------|
| FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s). | | |
| <input type="checkbox"/> | APPLICANT NOTIFIED OF HEARING | DATE: _____ |
| <input type="checkbox"/> | NO CHANGES AS OF | DATE: _____ |
| <input type="checkbox"/> | REVISIONS SUBMITTED | DATE: _____ |



Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Joseph Koen
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: _____
If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

| YES | NO | SERVICE | PROVIDER (use additional sheets if needed) |
|-------------------------------------|-------------------------------------|--|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Accounting and/or preparer of your tax return | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Architect / Landscape Architect / Land Planner | To Be Determined |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers | CLARK OLSEN |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers) | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Construction Contractors | To Be Determined |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Engineers / Surveyors/ Agents | To Be Determined |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | AMERICAN ENGINEERING Southern Bank |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Legal Services | GPC GARRINGTON |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property | |

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

| | | |
|--------------------------|-------------------------------------|--|
| YES | NO | Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | |

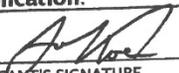
If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

| | | |
|---|-------------|--------|
|  | Joseph Koen | 7/4/17 |
| APPLICANT'S SIGNATURE | PRINT NAME | DATE |

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

AS NEEDED, PAGE LEFT BLANK



Variance Request

Encroachment into the Resource Protection Area (RPA) 50 foot seaward buffer with the construction of an accessory structure – art studio.

Applicant’s Agent

Nathan Lahy

Staff Planner

PJ Scully

Lot Recordation

10/6/1925
Map Book 7, Page 104

GPIN

2418-90-0019

SITE AREA

7,500 square feet or 0.172 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

7,500 square feet or 0.172 acres

EXISTING IMPERVIOUS COVER OF SITE

2,129 square feet or 28.4 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

2,770 square feet or 36.9 percent of site

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

665 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer
50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Shed

Construction Details

- Open-pile art studio with porch and associated ramp and stairs

CBPA Ordinance Variance History

No Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone

AE – Base Flood Elevation (BFE): 7

Soil Type(s)

Yeopim Series (deep and moderately well-drained soils)

Shoreline

Shoreline is located on the adjacent paper street and is in a natural state.

Riparian Buffer

Sparsely wooded with mature canopy trees present within the area of the proposed improvements.

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

The parcel is located within the Old Beach Overlay District. Per City Code, Appendix A, Article 19 – Old Beach Overlay District, the dimensional requirements for a parcel includes a minimum lot area of 5,000 square feet, all which must be outside of water, marsh or wetlands; a minimum lot width of 40 feet; a maximum lot coverage of 40 percent; and a maximum area of impervious cover of 60 percent, as defined in Section 103 of the Chesapeake Bay Preservation Area Ordinance. In addition, a minimum lot area of 600 square feet of landscape plantings and ground cover, provided that such area shall be a single, contiguous portion of the rear yard is required.

While the proposed improvements associated with this variance request does reflect an increase in the overall impervious cover of the parcel from 28.4 percent to 36.9 percent, Staff is of the opinion that the applicants' approach to the design and location of the improvements coupled with the retention of the mature canopy cover is in harmony with the purpose and intent of the CBPA Ordinance. Moreover, the resulting impervious cover is below the maximum permitted under the Old Beach Overlay District. As such, Staff offers the following comments for the Board's deliberation relative to the findings of the CBPA Ordinance specific to this variance request.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Area who are subject to the provisions of this Ordinance and are similarly situated where development encroachments have occurred within this neighborhood, and within the 100 foot Resource Protection Area.
- 2) The encroachment into the RPA on this parcel is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that these parcels were platted in 1925, prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing portions of this parcel within the RPA.
- 3) Given the minimal scope of the project, the minimal limits of land disturbance, and the open-pile construction of the proposed improvements, Staff is of the opinion that the variance is the minimum necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood, as the request is reasonable in scope, and will not be of substantial detriment to water quality due to the use of underdeck treatment as a means of permanent erosion and sediment control measures, nor will it be otherwise detrimental to the public welfare.
- 5) The use of both a stone underdeck treatment and the installation of buffer restoration are proposed as a means to manage towards a no net increase in nonpoint source pollution load.
- 6) Finally, Staff recommends the following 13 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.

7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
9. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
10. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **665 square feet x 200 percent = 1,330 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **4 canopy trees, 4 understory, 8 large shrubs, and 12 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

11. Under deck treatment of sand and gravel shall be installed under the open-pile art studio and associated porch area.
12. ****As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$152.16 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 166 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**
13. The conditions and approval associated with this variance are based on the exhibit plan dated January 2, 2018, prepared by MSA, P.C., signed January 2, 2018 by Nathan Lahy. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

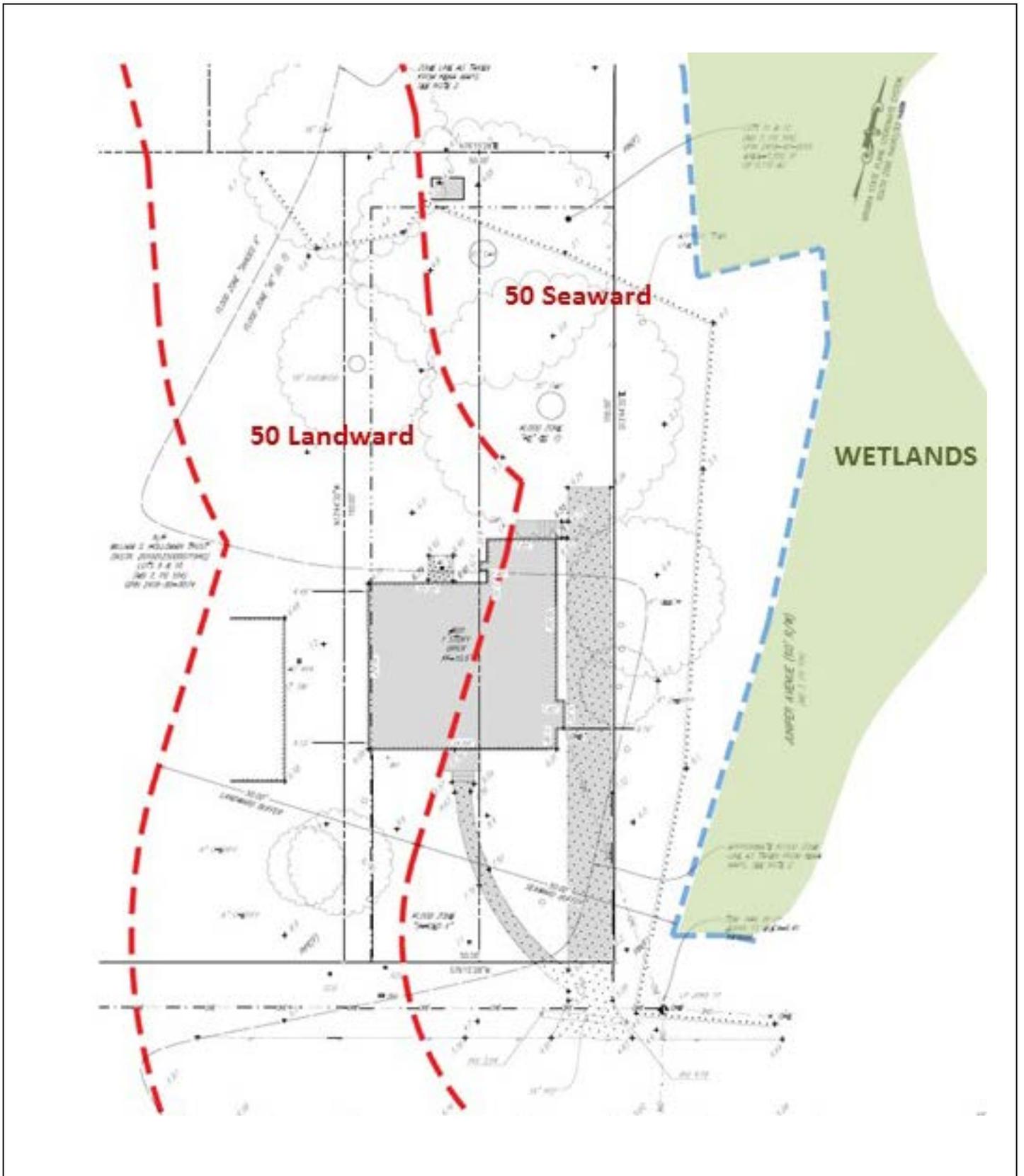
**** NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

*****NOTE:** The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

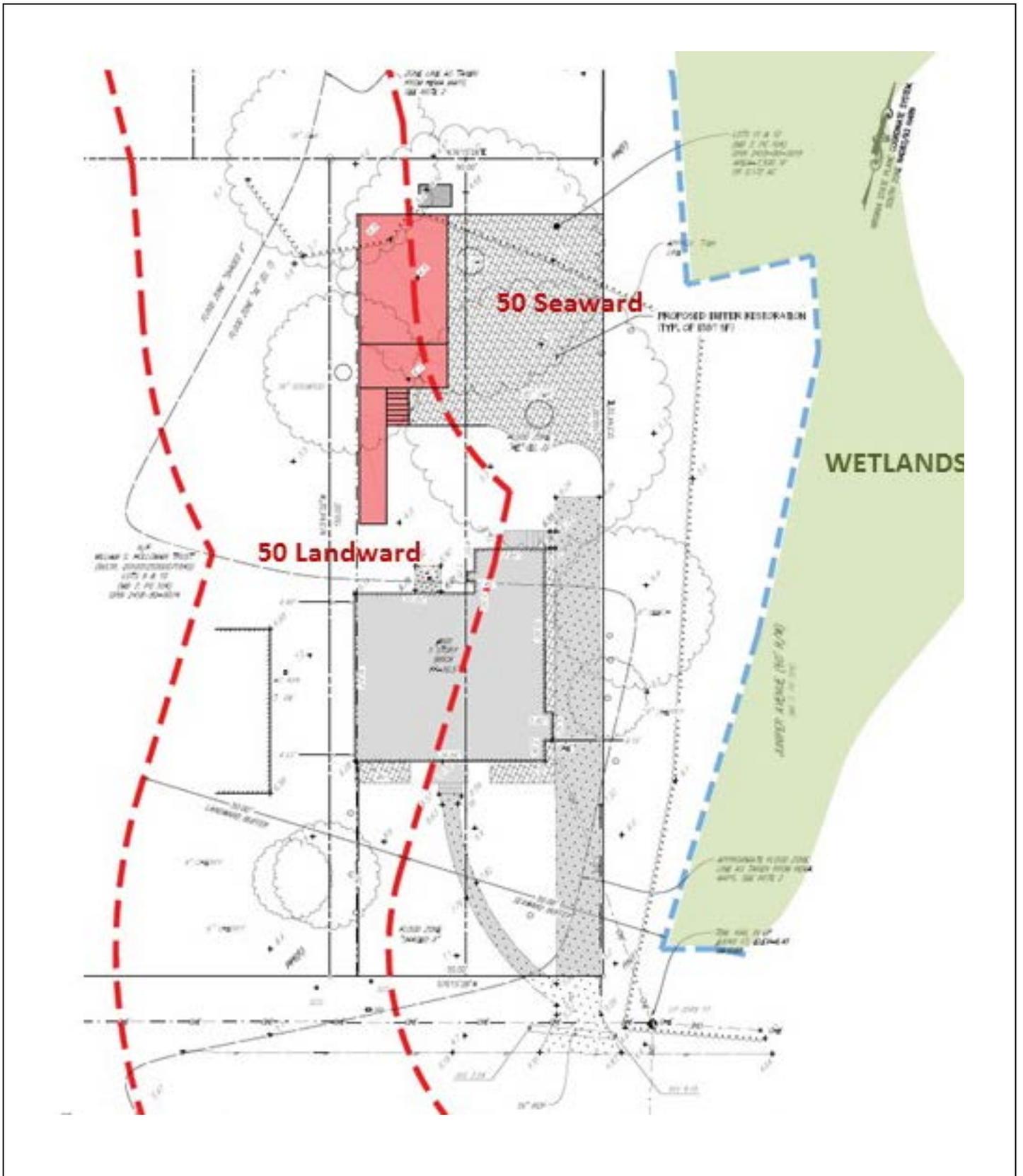
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Kristen N. Leone

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

| | | |
|--|--|--|
| Acquisition of Property by City | Disposition of City Property | Modification of Conditions or Proffers |
| Alternative Compliance, Special Exception for | Economic Development Investment Program (EDIP) | Nonconforming Use Changes |
| Board of Zoning Appeals | Encroachment Request | Rezoning |
| Certificate of Appropriateness (Historic Review Board) | Floodplain Variance | Street Closure |
| Chesapeake Bay Preservation Area Board | Franchise Agreement | Subdivision Variance |
| Conditional Use Permit | Lease of City Property | Wetlands Board |
| | License Agreement | |

◆—————◆
The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.
 ◆—————◆

SECTION 1 / APPLICANT DISCLOSURE

| | | |
|--|-------------------------------|-------------|
| FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s). | | |
| <input type="checkbox"/> | APPLICANT NOTIFIED OF HEARING | DATE: _____ |
| <input type="checkbox"/> | NO CHANGES AS OF | DATE: _____ |
| <input type="checkbox"/> | REVISIONS SUBMITTED | DATE: _____ |



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: _____
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: _____
If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

| YES | NO | SERVICE | PROVIDER (use additional sheets if needed) |
|-------------------------------------|-------------------------------------|--|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Accounting and/or preparer of your tax return | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Architect / Landscape Architect / Land Planner | MSA, P.C. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) – identify purchaser and purchaser’s service providers | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser’s service providers) | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Construction Contractors | not yet determined |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Engineers / Surveyors/ Agents | MSA, P.C. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Legal Services | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property | |

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

| | | |
|--------------------------|-------------------------------------|--|
| YES | NO | Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | |

If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

| | | |
|---|------------------|---------|
|  | Kristen N. Leone | 12/4/17 |
| APPLICANT'S SIGNATURE | PRINT NAME | DATE |

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

Variance Request

Encroachment into the Resource Protection Area (RPA) 100 foot buffer with the construction of an accessory structure – swimming pool and pool house.

Applicant's Agent

Eddie Bourdon

Staff Planner

PJ Scully

Lot Recordation

5/15/1949

Map Book 26, Page 1

GPIN

2418-11-3117

SITE AREA

22,564 square feet or 0.5179 acres (tie-line)

SITE AREA OUTSIDE OF WATER/WETLANDS

22,600 square feet or 0.5188 acres

EXISTING IMPERVIOUS COVER OF SITE

7,279 square feet or 32.2 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

8,439 square feet or 37.3 percent of site

Area of Redevelopment in RPA

753 square feet

Area of New Development in RPA

1,363 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

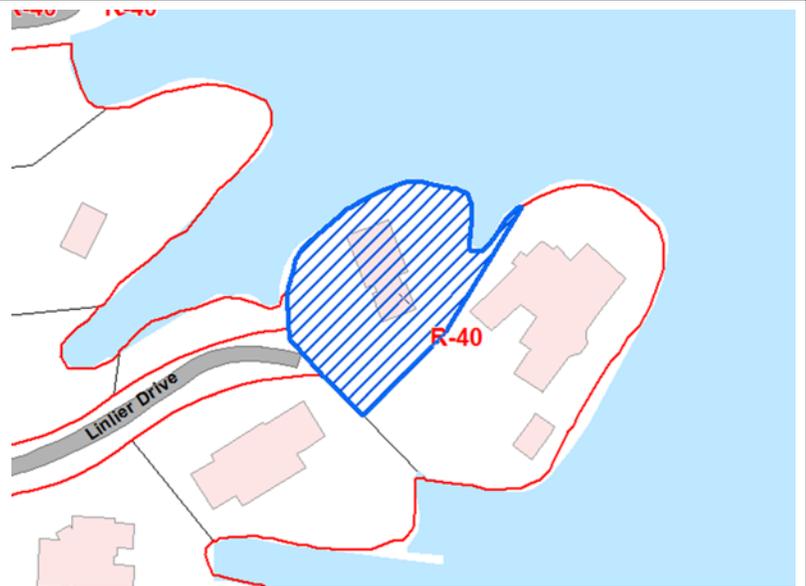
50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Brick patio
- Portions of gravel path and concrete walk
- Retaining wall
- Portion of asphalt pavement

Construction Details

- In-ground pool and pool deck with associated retaining wall
- Pool house

CBPA Ordinance Variance History

No Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone

AE – Base Flood Elevation (BFE): 8

Soil Type(s)

Yeopim Series (deep and moderately well-drained soils)

Shoreline

Shoreline is hardened by a bulkhead with no signs of erosion or settling present along the landward side of the bulkhead.

Riparian Buffer

Sparsely wood with minimal understory vegetation and mature forest floor.

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

The variance request proposes encroachment of an accessory structure within portions of both the 50 foot landward and the 50 foot seaward buffers of the RPA. This parcel was platted in 1949, prior to the adoption of the CBPA Ordinance. In addition, a portion of the overall impervious cover accounts for Linlier Drive, which partially encroaches into the front portion of the parcel.

During the schematic development process for this variance request, Staff consulted with the applicant's Landscape Architect with regards to the proposed encroachment into the 50 foot seaward buffer. Given the constraints associated with the configuration of the parcel located on a peninsula and that the existing house being constructed in 1973, well

before the Chesapeake Bay Preservation Act, Staff's determination is that the request is the minimal necessary to afford relief with regard to the proposed in-ground pool and pool patio. In addition, the applicant has introduced a retaining wall to help minimize impervious cover and to limit fill material within the RPA, and has provided a reduction in existing impervious cover with the removal of a portion of the asphalt drive.

Staff supports the application as submitted with the recommended conditions below, and is of the opinion that said improvements will not contribute to the degradation of water quality or prove detrimental to the Resource Protection Area. Therefore, the following comments are offered for the Board's deliberation relative to the findings of the CBPA Ordinance specific to this variance request.

- 1) Given the geometry of the site, the introduction of a retaining wall seaward of the proposed improvements, and utilizing the full redevelopment of the existing brick paver patio, Staff is of the opinion that granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Area who are subject to the provisions of this Ordinance and are similarly situated.
- 2) The encroachment into the RPA on this parcel is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing portions of this property within the RPA.
- 3) Staff is of the opinion that the proposed location of the in-ground pool, the limited dimensional size of the associated pool patio area, and proposed pool house situated directly adjacent to the existing residence, that the variance is the minimum necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of the CBPA Ordinance and will not be injurious to the neighborhood, nor be of substantial detriment to water quality due to the introduction of buffer plantings within a sparsely wooded property, the minimal encroachment into the 100 foot RPA buffer, and the minimal site impact associated with the proposed improvements.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, the redevelopment of this parcel will be conditioned to comply with the performance standards of the CBPA Ordinance and criteria of the Stormwater Ordinance for a property that currently has no treatment towards nonpoint source pollution reductions.
- 6) Finally, Staff recommends the following 14 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**

4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
9. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
10. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
11. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,363 square feet x 200 percent = 2,726 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **7 canopy trees, 7 understory, 14 large shrubs, and 21 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

12. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
13. **As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$311.66 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 340 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.
14. The conditions and approval associated with this variance are based on the exhibit plan dated November 11, 2017, prepared by WP Large, signed December 5, 2017 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

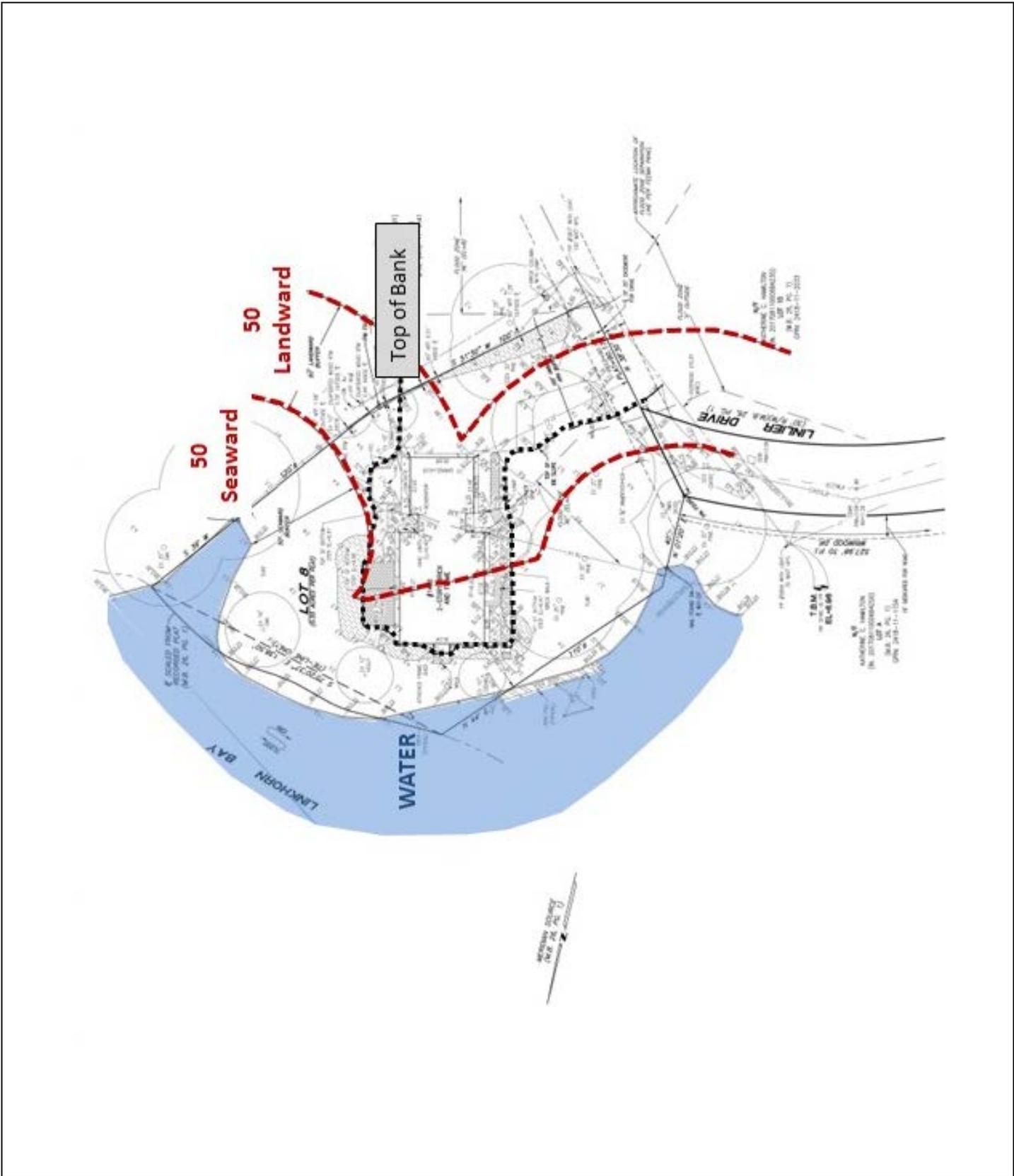
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

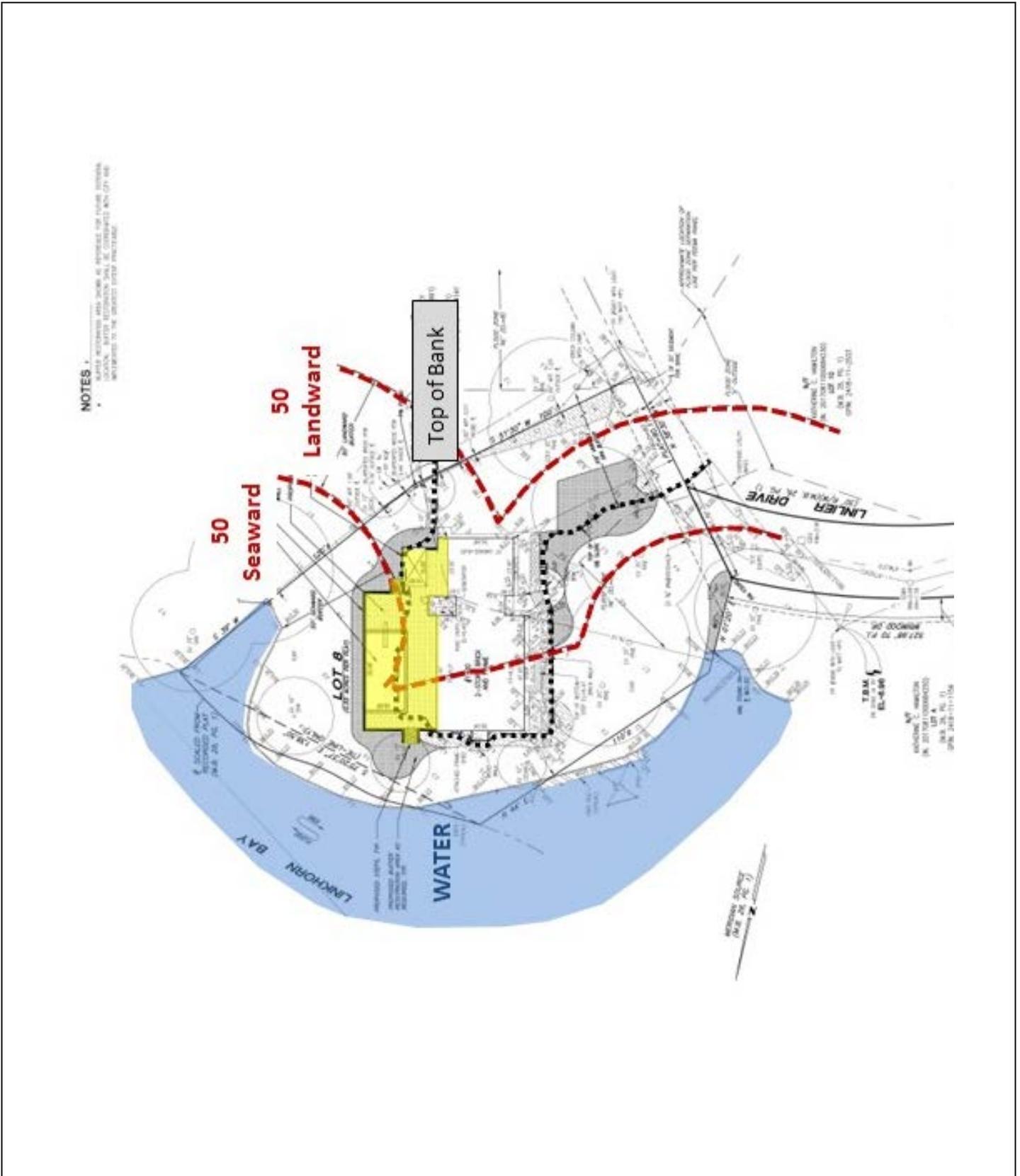
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Lance S Goldner Revocable Trust

DISCLOSURE STATEMENT FORM

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| | | |
|--|--|---|
| Acquisition of Property by City | Disposition of City Property | Modification of Conditions or Proffers |
| Alternative Compliance, Special Exception for | Economic Development Investment Program (EDIP) | Nonconforming Use Changes |
| Board of Zoning Appeals | Encroachment Request | Rezoning |
| Certificate of Appropriateness (Historic Review Board) | Floodplain Variance | Street Closure |
| Chesapeake Bay Preservation Area Board | Franchise Agreement | Subdivision Variance |
| Conditional Use Permit | Lease of City Property | Wetlands Board |
| | License Agreement | |

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

| | | |
|--|-------------------------------|-------------|
| FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s). | | |
| <input type="checkbox"/> | APPLICANT NOTIFIED OF HEARING | DATE: _____ |
| <input type="checkbox"/> | NO CHANGES AS OF | DATE: _____ |
| <input type="checkbox"/> | REVISIONS SUBMITTED | DATE: _____ |

Page 1 of 7



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Lance S Goldner Rev. Trust
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

(B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Lance S Goldner Rev. Trust
If an LLC, list the member's names:

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

(B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Property Owner: *(Attach list if necessary)*

N/A

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

| YES | NO | SERVICE | PROVIDER (use additional sheets if needed) |
|-------------------------------------|-------------------------------------|--|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Accounting and/or preparer of your tax return | RSBR Accountant |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Architect / Landscape Architect / Land Planner | WPL |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers) | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Construction Contractors | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Engineers / Surveyors/ Agents | WPL |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legal Services | Edward Bourdon |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property | |

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

| | | |
|--------------------------|-------------------------------------|--|
| YES | NO | Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | |

If yes, what is the name of the official or employee and what is the nature of the interest?

N/A



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

| | | |
|---|------------------|----------|
|  | Lance S. Goldner | 12/01/17 |
| APPLICANT'S SIGNATURE | PRINT NAME | DATE |

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

AS NEEDED, PAGE LEFT BLANK



Variance Request

Encroachment into the Resource Protection Area (RPA), 50 foot seaward buffer with the construction of a concrete retaining wall and pervious paver walk.

Applicant’s Agent

Anthony Echea

Staff Planner

PJ Scully

Lot Recordation

4/5/1978

Map Book 126, Page 12

GPIN

1498-35-9114

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

80 square feet

Area of New Development in RPA

40 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Concrete sidewalk

Construction Details

- Concrete retaining wall
- Pervious paver walk

CBPA Ordinance Variance History

May 23, 2011 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for a building addition, concrete walk, 2nd story addition at the rear of the residence, and to repave the driveway subject to the following conditions.

1. *A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.*
2. *Land disturbance shall be limited to the area necessary to provide for the proposed use or development.*
3. *Prior to the issuance of any certificate of occupancy, or the final release of any permit authorizing a land disturbing activity, all disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations by such methods as, but not limited to, temporary seeding, permanent seeding, sodding or soil stabilization blankets and matting. The Building Code Official may authorize a temporary certificate of occupancy without the required soil stabilization if the failure to stabilize is due to circumstances **beyond the control** of the permit holder.*
4. *The construction access way shall be noted on the site plan, as well as the stockpile / staging area.*
5. *If and when the shoreline is hardened / rehardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead). The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands, unless the Wetlands Board determines that site specific conditions warrant a more seaward alignment.*
6. *Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.*
7. *A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed. The landscape plan shall clearly delineate existing naturalized (trees, landscaping and mulched organic surfaces) areas, planting beds, and turf zones.*
8. *A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.*
9. *The conditions and approval associated with this variance are based on the site plan sealed April 18, 2011 by William S. Grant, prepared by Alphatec Surveyors Ltd.*
10. *The revised site plan shall correctly identify the existing and post development impervious cover using the area of the site above water, marsh and wetlands. Calculations for CBPA are based on the high and dry portion of the*

property only. The area (square footage) of new impervious cover and redevelopment impervious cover shall be identified on the revised plan.

11. Wire re-enforced 36" erosion and sedimentation control measures (silt fences), shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be **installed 5 feet from proposed improvements on the east side of the property and 10 ft. from proposed improvements along the remainder of the project.** Best management practices for erosion and sediment control shall be employed during restoration activities to protect adjacent wetlands and shorelines of water bodies.
12. Construction limits shall lie a maximum of 5' outboard of improvements on the east side and 10' outboard of improvements on the remainder of the project.
13. The fish pond to be removed in the driveway area is to be eliminated and not reconstructed elsewhere on the property without approval.
14. Stormwater runoff from proposed impervious cover shall be conveyed to stormwater management facilities. Low maintenance best management practices shall be employed to the maximum extent practicable. Stormwater facilities shall be installed prior to the certificate of occupancy or release of the building permit.
15. ****As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be based on 25% of the proposed impervious cover within the RPA, inclusive of the variable width portion of the buffer. Said payment shall provide for a 12-inch deep oyster shell plant within the Lynnhaven River Basin equal to approximately 25% of the new impervious cover.**
16. Buffer restoration as proffered by the applicant, shall be installed within the RPA (4,250 sq. ft.) and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance. The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.
17. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
18. The proposed 3' walkway shall be constructed of materials that provide a minimum of 50% permeability.

The May 23, 2011 Board granted variance has been acted upon and the associated improvements constructed.

March 25, 2005 a CBPA Board variance was granted for a pool house and wood decking to connect the pool decking to existing wood deck with the following conditions.

1. A pre-construction meeting shall be convened with Civil Inspections prior to any land disturbance, inclusive of demolition.
2. A wire re-enforced silt fence, acceptable to Civil Inspections, shall be installed along the aforementioned E & S controls and shall be maintained during all phases of construction.
3. Permanent or temporary soil stabilization shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy.

4. *Construction limits shall lie a maximum of 10' seaward of improvements.*
5. *The construction access way shall be noted on the site plan, as well as the stockpile staging area.*
6. *All stormwater from existing and proposed impervious cover shall be conveyed to structural stormwater management facilities.*
7. *If and when the shoreline is hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (timber or steel bulkhead). Said condition shall be so noted on the site plan.*
8. *The proposed pool house shall be relocated adjacent to the authorized pool decking.*
9. *Pool decking shall be in substantial compliance with the revised site plan prepared by Bonifant Land Surveys, dated December 9, 2004 and signed December 27, 2004.*
10. ***As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program prior to or concurrent with site plan approval. Payment shall be in the amount of \$28.00 and is based on 25% of the proposed impervious cover. Said payment shall provide for the equivalent of an approximate 30 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
11. *Additional buffer restoration totaling 360 sq. ft. shall be installed which is equal to 300% of the proposed new impervious cover for the pool house and shall utilize bayscape landscaping principles. The required restoration shall be in areas currently devoted to turf. Said restoration shall be installed prior to the final building inspection. Said condition shall be so noted on the site plan. This 360 sq. ft. is in addition to the previous variance of September 2004, which required 560 sq. ft. of restoration. This brings the total restoration amount required to 920 sq. ft. Additionally, all disturbed areas outside of the authorized 10 foot limits of construction shall be restored to the original condition to the greatest extent practicable.*
12. *The required buffer restoration plan shall be submitted with the revised site plan detailing location, number, and species of vegetation to be installed.*
13. *Two (2) trees shall be installed and shall be comprised of 50% evergreen and 50% deciduous species. This requirement is in addition to the four trees that were required with the September 2004 variance. This brings the total trees required to six (6) trees comprised of 50% evergreen and 50% deciduous species.*
14. *The conditions and approval associated with this variance are based on the site plan dated April 12, 2004 with revision dates of September 14, 2004 and December 9, 2004, prepared by Bonifant Land Surveys.*
15. *A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.*

The March 25, 2005 Board granted variance has been acted upon and the associated improvements constructed.

September 27, 2004 a CBPA Board variance was granted to enclose the existing porch, construct a new porch, and modify the existing pool subject to the following conditions.

1. *A pre-construction meeting shall be convened with Civil Inspections prior to any land disturbance, inclusive of demolition.*
2. *A 36" erosion and sedimentation control measure (re-enforced silt fence) shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Additional erosion and sedimentation control measures may be needed along the construction access way.*

3. *A heavy duty construction fence, acceptable to Civil Inspections, shall be installed along the construction access way and staging area and shall be maintained during all phases of construction.*
4. *Construction limits shall lie a maximum of 10' seaward of improvements.*
5. *The construction access way shall be noted on the site plan, as well as the stockpile staging area. It may be necessary to modify the construction access way during development depending upon site conditions, i.e., re-grade or add minimal fill.*
6. *All stormwater from existing and proposed impervious cover shall be conveyed to structural stormwater management facilities.*
7. *If and when the shoreline is hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (timber or steel bulkhead). Said condition shall be so noted on the site plan.*
8. *Pool decking shall be a maximum of 4'X4'X4'X8' (diving board end).*
9. *The pool shall be constructed prior to or concurrent with the room addition.*
10. ***As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program prior to or concurrent with site plan approval. Payment shall be in the amount of \$32.00 and is based on 25% of the proposed impervious cover. Said payment shall provide for the equivalent of an approximate 35 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
11. *Buffer restoration shall be installed equal to 400% (560 sq. ft.) of new impervious cover and shall utilize bayscape landscaping principles. The required restoration shall be in areas currently devoted to turf. Said restoration shall be installed prior to the final building inspection. Said condition shall be so noted on the site plan.*
12. *A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed.*
13. *Install no less than four (4) trees. Said trees shall be comprised of 50% evergreen and 50% deciduous species.*
14. *The conditions and approval associated with this variance are based on the sealed site plan dated September 14, 2004, prepared by Phil Bonifant.*
15. *A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.*

The September 27, 2004 Board granted variance has been acted upon and the associated improvements constructed.

Environmental Conditions

Flood Zone

X

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

Rumford Series (highly erodible soils) located below the top of bank

Shoreline

Shoreline is partially hardened by a wood bulkhead along the point with both cove areas along the eastern and western portions of the parcel in a natural state. Moderate maintenance should be performed to limb up low hanging branches shading existing tidal marsh.

Riparian Buffer

Moderately to heavily wooded parcel

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

Staff initially reviewed a Preliminary Project Request (PPR) for this parcel that proposed a 3 foot tall by 110 foot long retaining wall. With this variance request, the applicant's agent has provided an at-grade retaining wall – varying in elevation from 8.80 feet to 6.80 feet along the seaward edge of the proposed pervious paver walk for a distance of 80 feet.

During the site visit, moderate signs of sloughing were observed along the existing concrete walk that is adjacent to the top of bank feature. Staff is of the opinion with the transition in existing grade and the walkway's location adjacent to the top of bank, that the redevelopment of the existing concrete walk may produce minimal amounts of erosion if not properly installed and additional sloughing of the bank if not stabilized along the seaward edge. The applicant's agent has also expressed concern over these potential failures occurring along the top of bank feature and affecting the structural stability of the proposed pervious paver walk.

Given the moderate signs of sloughing occurring along the top of bank feature, coupled with the underlying soil conditions, Staff supports this applicant's use of a retaining wall. Staff recommends conditions that will limit the amount of backfill material to the minimum necessary to facilitate drainage and that vegetation be installed as buffer restoration to maximize erosion and sedimentation control benefits and stormwater infiltration.

Staff offers the following comments relative to the findings of the CBPA Ordinance specific to this variance request for the Board's deliberation.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the area encroached upon for the redevelopment of the property is consistent with other properties within this neighborhood who are subject to the provisions of this Ordinance and are similarly situated with relatively small rear yards where development has occurred within the Resource Protection Area (RPA).
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing this property within the RPA.
- 3) The variance is the minimum necessary to afford relief, given the extent of riparian buffer vegetation preservation and the minimal expansion of accessory structures within the RPA feature.

- 4) Due to the preservation of riparian buffer vegetation along the seaward portion of the proposed improvements, and the minimal increase in overall impervious cover for the site, Staff is of the opinion that the variance is in harmony with the purpose and intent of the CBPA Ordinance and will not be injurious to the neighborhood, and will not be of substantial detriment to water quality.
- 5) The preservation of the existing riparian buffer vegetation and the mature forest floor seaward of the proposed improvements, coupled with the combined use of nonstructural (bioretention) stormwater BMPs and structural (pervious pavers) BMPs, demonstrate a means to manage erosion and sedimentation towards a no net increase in nonpoint source pollution load.
- 6) Finally, Staff recommends the following 9 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

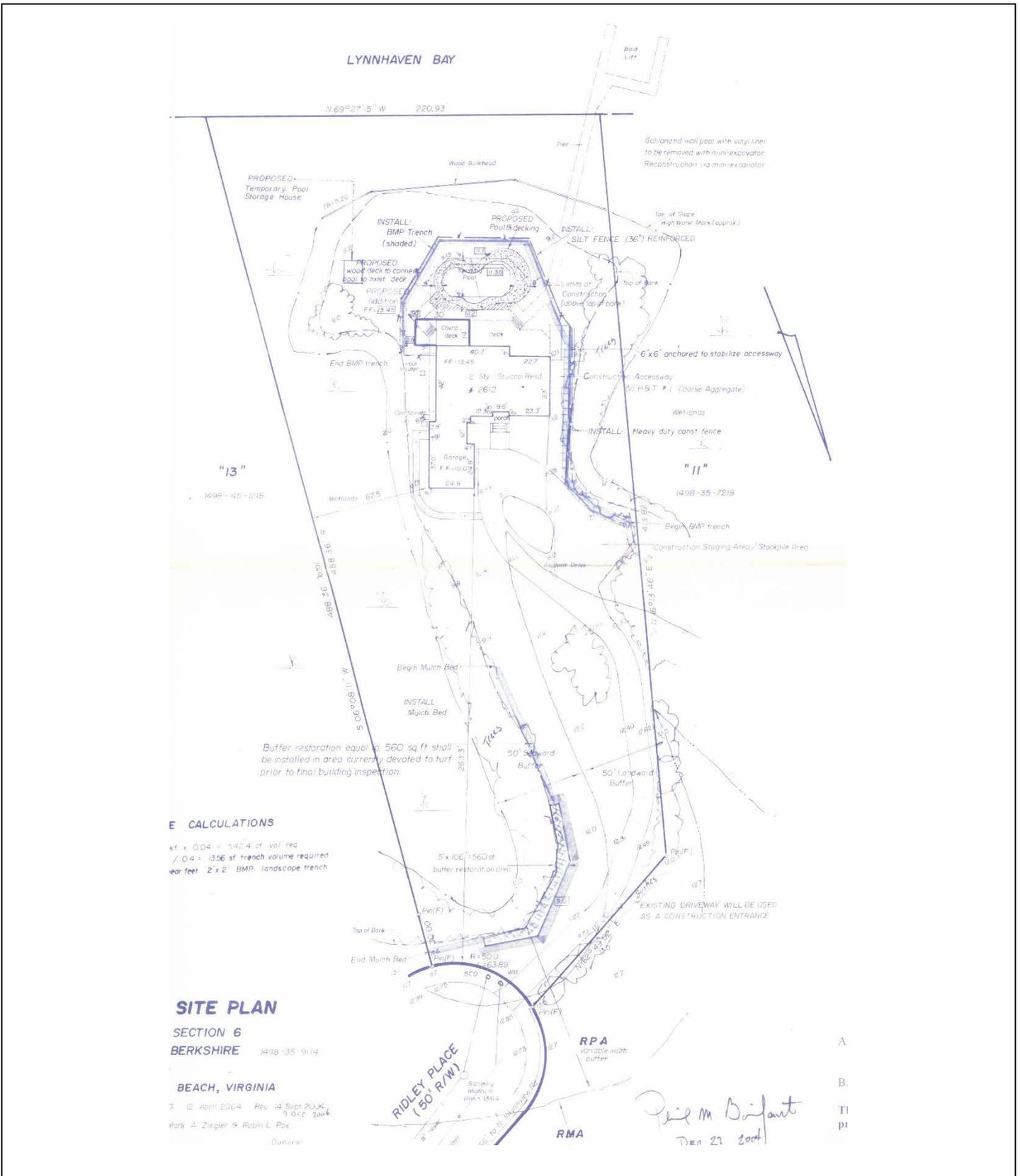
1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be maintained and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
4. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan.**
5. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
6. The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variances, specifically the required buffer restoration and stormwater management facilities shall be installed prior to release of the building permit. Buffer restoration and stormwater management facilities shall be in compliance with the September 30, 2011 approved site plan on record with the Development Services Center (DSC), DSC File H05-747.
7. No perimeter fill is authorized outboard or seaward of the proposed improvements.
8. This variance and associated conditions **are in addition to** the conditions of the Board variance granted September 22, 2004, March 25, 2005 and May 23, 2011.
9. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

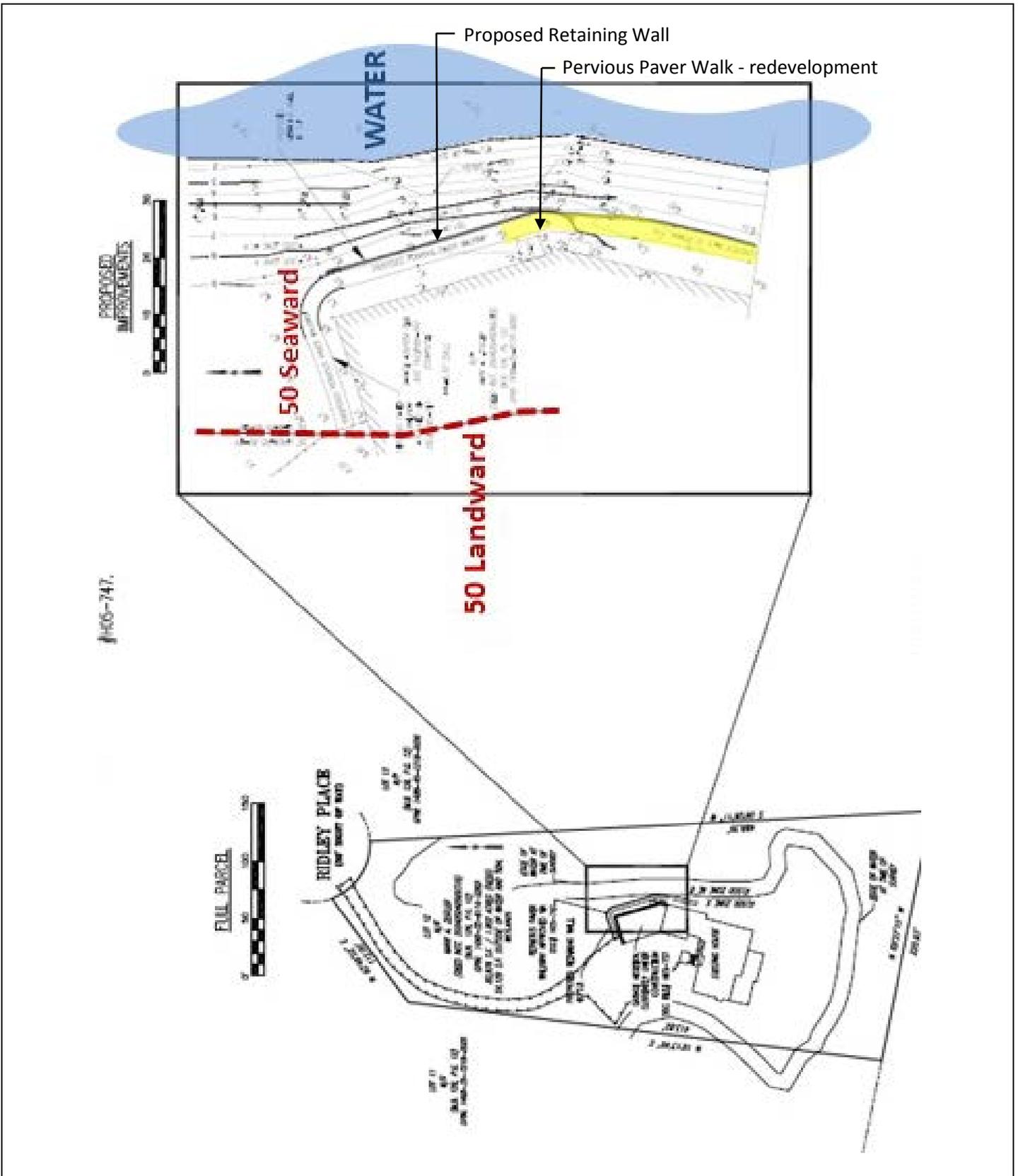
Site Aerial



March 25, 2005 Board Variance Exhibit



CBPA Exhibit – Proposed Improvements



Disclosure Statement



APPLICANT'S NAME *Mark Anthony Zeigler*

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

| | | |
|--|--|--|
| Acquisition of Property by City | Disposition of City Property | Modification of Conditions or Proffers |
| Alternative Compliance, Special Exception for | Economic Development Investment Program (EDIP) | Nonconforming Use Changes |
| Board of Zoning Appeals | Encroachment Request | Rezoning |
| Certificate of Appropriateness (Historic Review Board) | Floodplain Variance | Street Closure |
| Chesapeake Bay Preservation Area Board | Franchise Agreement | Subdivision Variance |
| Conditional Use Permit | Lease of City Property | Wetlands Board |
| | License Agreement | |

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FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

Page 1 of 7

| | | | |
|--------------------------|-------------------------------|-------|--|
| <input type="checkbox"/> | APPLICANT NOTIFIED OF HEARING | DATE: | |
| <input type="checkbox"/> | NO CHANGES AS OF | DATE: | |
| <input type="checkbox"/> | REVISIONS SUBMITTED | DATE: | |



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.
- (A) List the Applicant's name: Mark Anthony Zeigler
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

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- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.
- (A) List the Property Owner's name: _____
If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

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SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

| YES | NO | SERVICE | PROVIDER (use additional sheets if needed) |
|-------------------------------------|-------------------------------------|--|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Accounting and/or preparer of your tax return | Nicole Wood - SABO |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Architect / Landscape Architect / Land Planner | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers) | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Construction Contractors | ANTHONY ECHEA |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Engineers / Surveyors/ Agents | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | Bank of America "David Williams" |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Legal Services | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property | |

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

| | | |
|--------------------------|-------------------------------------|--|
| YES | NO | Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | |

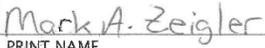
If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

| | | |
|---|--|---|
|  |  |  |
| APPLICANT'S SIGNATURE | PRINT NAME | DATE |

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

AS NEEDED, PAGE LEFT BLANK

Variance Request

Encroachment into the 100 foot Resource Protection Area (RPA) with the construction of a single family residence, swimming pool, and associated accessory structures.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

11/17/1965
 Map Book 67, Page 15

GPIN

2408-97-2804

SITE AREA

59,319 square feet or 1.362 acres (tie-line)

SITE AREA OUTSIDE OF WATER/WETLANDS

61,743 square feet or 1.417 acres

EXISTING IMPERVIOUS COVER OF SITE

19,153 square feet or 31.0 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

17,637 square feet or 28.6 percent of site

Area of Redevelopment in RPA

10,858 square feet

Area of New Development in RPA

4,110 square feet

Location of Proposed Impervious Cover

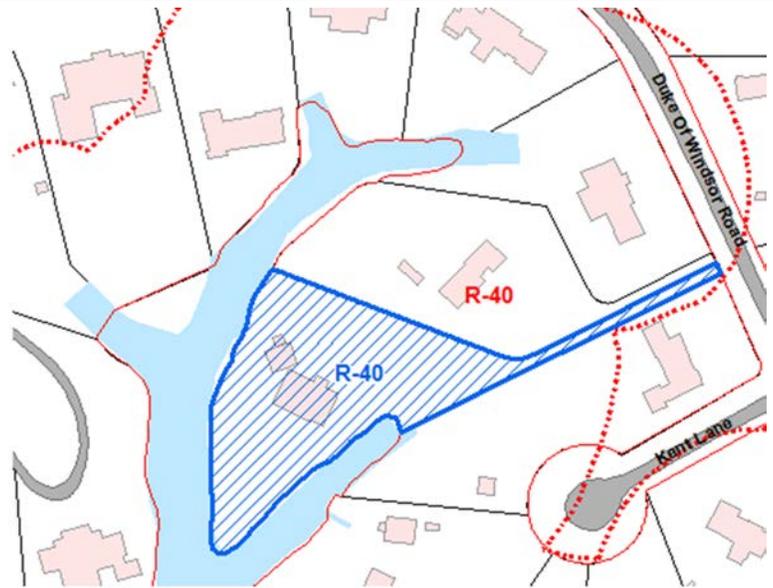
- 50 foot Seaward Buffer
- 50 foot Landward Buffer
- 100 foot Variable Width Buffer
- Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Complete demolition – all primary and accessory structures

Construction Details

- Single family residence with associated walkways
- Concrete driveway with concrete entry court adjacent to residence
- Swimming pool with concrete pool patio

CBPA Ordinance Variance History

No Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone

X

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

Rumford Series (highly erodible soils) located below the top of bank

Shoreline

Shoreline is hardened by a wood bulkhead.

Riparian Buffer

Moderately to sparsely wooded.

- Number of existing canopy trees requested for removal within the RPA: 10
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 3
- Evaluation of existing tree removal request: Trees being requested for removal are within the delineated limits of construction associated with the proposed improvements. The majority of trees within the limits of construction being removed are either in decline or have signs of past storm damage.

Evaluation and Recommendation

The variance request is a reduction in overall impervious cover on the parcel and offers a modest retreat of existing impervious cover from the 50 foot seaward buffer. Moreover, Staff is of the opinion that the submitted application limits land disturbance to a minimum area necessary to provide for the proposed redevelopment and preserves existing vegetation to the greatest extent practicable.

Staff supports the application as conditioned below, with a modification to the submittal to remove all impervious cover from the 50 foot seaward buffer. Staff offers the following comments for the Board's deliberation relative to the findings of the CBPA Ordinance specific to this variance request.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the proposal conforms to other properties within this neighborhood, which are subject to the provisions of the CBPA Ordinance and are similarly situated where redevelopment has occurred landward of the 50 foot seaward buffer.
- 2) The encroachment into the RPA on this parcel is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing the majority of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief given the amount of redevelopment proposed and the retreat of impervious cover from the 50 foot seaward buffer of the RPA.
- 4) Staff is of the opinion that the variance is in harmony with the purpose and intent of the Ordinance and not injurious to the neighborhood, as the encroachment into the RPA is consistent with the location of improvements on other properties in the vicinity, and not of substantial detriment to water quality due to the access to and limits of expansion within the RPA, nor will the project be detrimental to the public welfare.
- 5) Staff is of the opinion that the applicant's investment in redeveloping the majority of the property within the existing footprint of impervious cover with a retreat from the 50 foot seaward buffer, and the integration of non-structural stormwater best management practices with the proposed buffer restoration will all provide a means to manage towards a no net increase in nonpoint source pollution load.
- 6) Finally, Staff recommends the following 16 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**

6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
7. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **4,110 square feet x 200 percent = 8,220 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **10 canopy trees, 21 understory, 42 large shrubs, and 63 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

13. **The pool shall be constructed prior to or concurrent with the residence.**
14. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.

15. **As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$941.41 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 1,027 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.

16. The conditions and approval associated with this variance are based on the exhibit plan dated December 11, 2017, prepared by WP Large, signed December 11, 2017 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

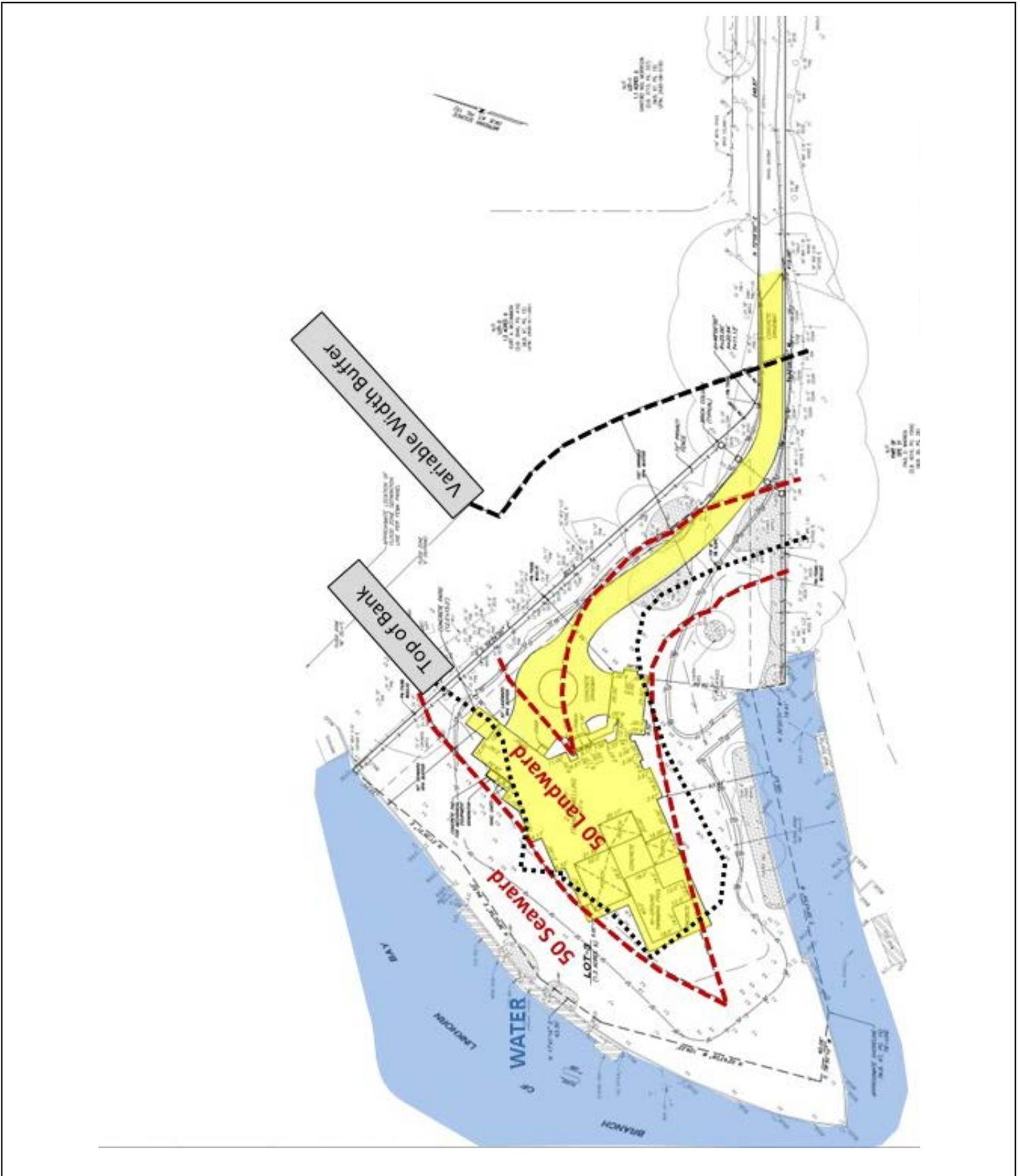
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

Site Aerial



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Jeffrey Reinhofer & Vivian Kirkendoll

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

| | | |
|--|--|--|
| Acquisition of Property by City | Disposition of City Property | Modification of Conditions or Proffers |
| Alternative Compliance, Special Exception for | Economic Development Investment Program (EDIP) | Nonconforming Use Changes |
| Board of Zoning Appeals | Encroachment Request | Rezoning |
| Certificate of Appropriateness (Historic Review Board) | Floodplain Variance | Street Closure |
| Chesapeake Bay Preservation Area Board | Franchise Agreement | Subdivision Variance |
| Conditional Use Permit | Lease of City Property | Wetlands Board |
| | License Agreement | |

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

Page 1 of 7

| | | | |
|--------------------------|-------------------------------|-------|--|
| <input type="checkbox"/> | APPLICANT NOTIFIED OF HEARING | DATE: | |
| <input type="checkbox"/> | NO CHANGES AS OF | DATE: | |
| <input type="checkbox"/> | REVISIONS SUBMITTED | DATE: | |



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.
- (A) List the Applicant's name: Jeffrey Reinhofer & Vivian Kirker
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

- (B) List the businesses that have a parent-subsiadiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.
- (A) List the Property Owner's name: Jeffrey Reinhofer & Vivian Kirker
If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

(B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Property Owner: *(Attach list if necessary)*

N/A

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

| YES | NO | SERVICE | PROVIDER (use additional sheets if needed) |
|-------------------------------------|-------------------------------------|--|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Accounting and/or preparer of your tax return | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Architect / Landscape Architect / Land Planner | WPL / Retnauer Baynes Architects |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers) | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Construction Contractors | Home Associates of Virginia, Inc. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Engineers / Surveyors/ Agents | WPL |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | Navy Federal Credit Union |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legal Services | Billy Garrington / GPC, Inc |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property | |

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

| | | |
|--------------------------|-------------------------------------|--|
| YES | NO | Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | |

If yes, what is the name of the official or employee and what is the nature of the interest?

N/A



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, **I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.**

| | | |
|---|-------------------|-----------|
|  | Vivian Kirkendoll | 11/3/2017 |
| APPLICANT'S SIGNATURE | PRINT NAME | DATE |

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

Jeffrey Reinhofer and Vivian Kirkendoll

Agenda Item 6

Page 81

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Variance Request

Encroachment into the 100 foot Resource Protection Area (RPA) with the expansion of an existing accessory structure – wood deck.

Applicant's Agent

John Rizzo

Staff Planner

PJ Scully

Lot Recordation

10/13/1926

Map Book 7, Page 193

GPIN

2418-33-9797

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

485 square feet

Area of New Development in RPA

300 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

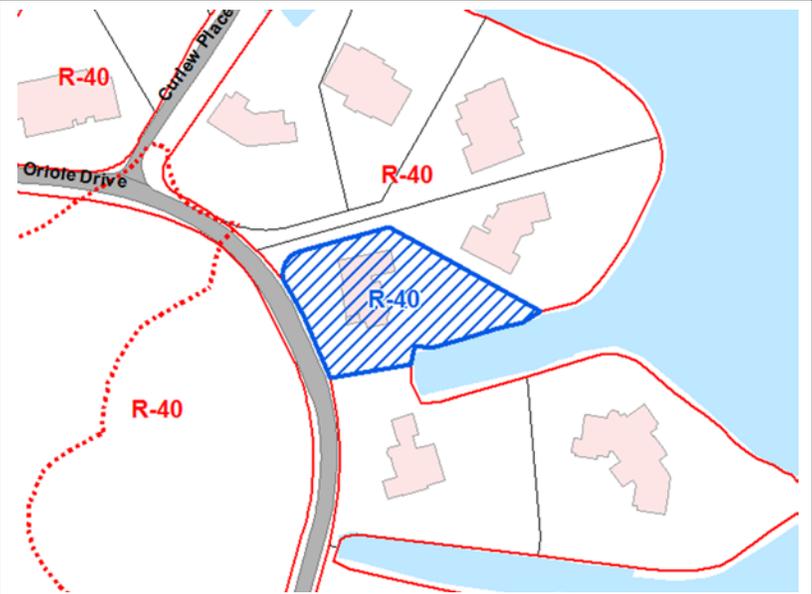
50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Remove existing brick patio

Construction Details

- Convert deck to living area
- Build deck with covered porch
- Construct masonry retaining wall
- Install modular flood barrier system

CBPA Ordinance Variance History

May 24, 1993 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for an addition and driveway expansion with the following conditions:

1. *Tree mitigation for the trees shall be on a 3 to 1 basis as outlined in the Chesapeake Bay Preservation Area Ordinance.*
2. *Additions proposed below the “top of bank” must be built into or over the slope as opposed to regarding the existing slope.*

The May 24, 1993 Board granted variance has been acted upon and the associated improvements constructed.

Environmental Conditions

Flood Zone

AE – Base Flood Elevation (BFE): 7

Soil Type(s)

Yeopim Series (deep and moderately well-drained soils)

Rumford Series (highly erodible soils) located below the top of bank

Shoreline

Shoreline is hardened with a wooden bulkhead.

Riparian Buffer

Moderately to sparsely wooded with the majority of the 50 foot buffer vegetated with turf.

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

Staff supports the application as submitted with the recommended conditions below, and is of the opinion that the proposed improvements, given the location within the RPA and the minimal impact associated with the proposed improvements, will not contribute to the degradation of water quality or prove detrimental to the Resource Protection Area features. In addition, Staff commends the applicant for their effort towards making the existing residential structure more resilient to storm surge with the installation of a modular flood barrier system.

Staff offers the following comments for the Board's consideration relative to the findings of the CBPA Ordinance specific to this variance request.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of the Ordinance and are similarly situated where minor development encroachments have occurred along the tidal feature of the Lynnhaven River within the 100 foot Resource Protection Area.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted in 1926, prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing portions of this property within the RPA.
- 3) Given the minimal scope of the project, Staff is of the opinion that the variance is the minimum necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of the Ordinance and will not be injurious to the neighborhood, as the request is reasonable in scope, and not of substantial detriment to water quality due to the use of erosion and sediment control measures through buffer restoration, nor will it be otherwise detrimental to the public welfare.
- 5) The use of both a flood barrier system and buffer restoration are proposed as a means to manage towards a no net increase in nonpoint source pollution load.
- 6) Finally, Staff recommends the following 9 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as

vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.

5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
6. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **300 square feet x 200 percent = 600 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **2 canopy tree, 2 understory trees, 4 large shrubs, and 6 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

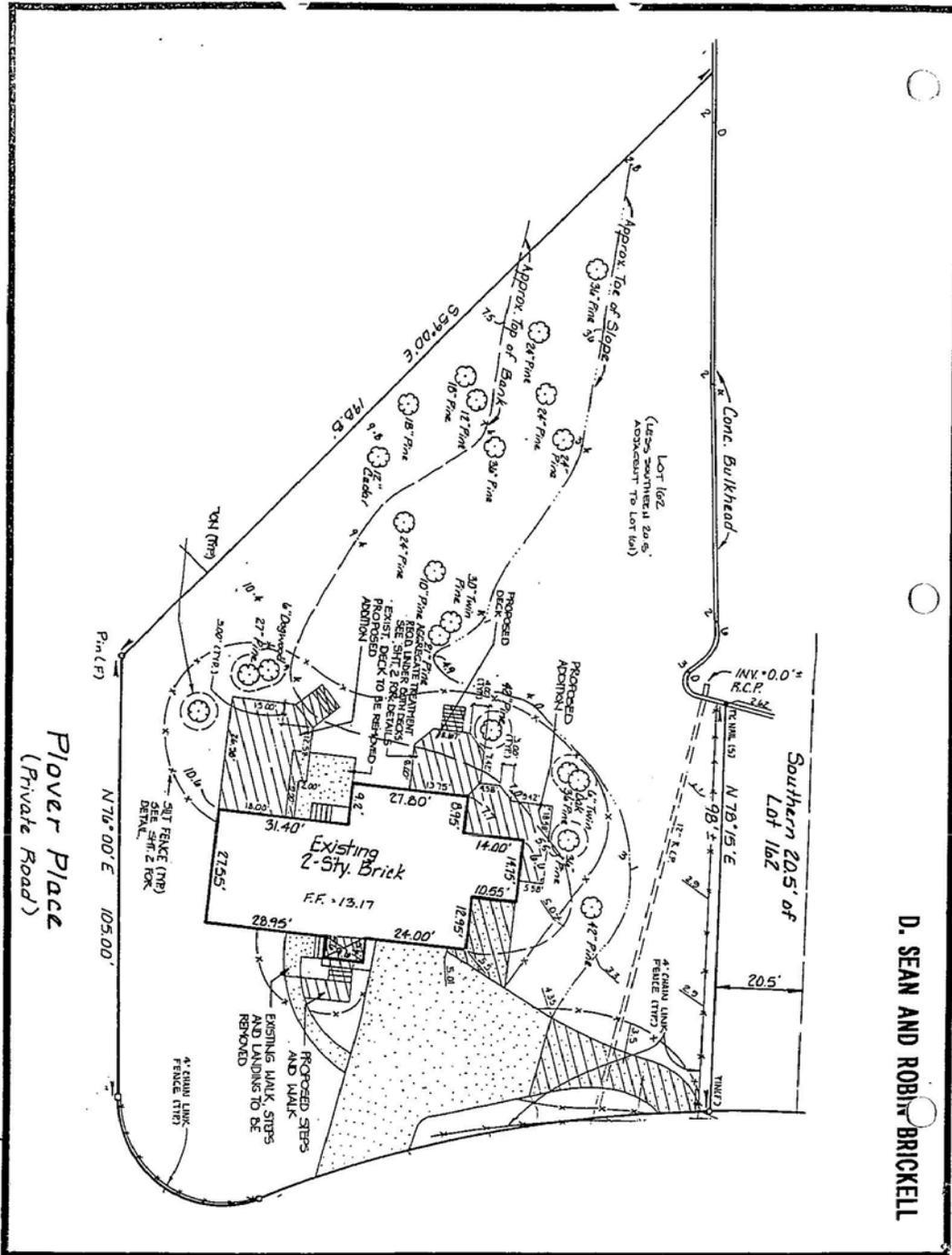
7. No perimeter fill is authorized outboard or seaward of the proposed improvements.
8. This variance and associated conditions **are in addition to** the conditions of the Board variance granted May 24, 1993.
9. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.

** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

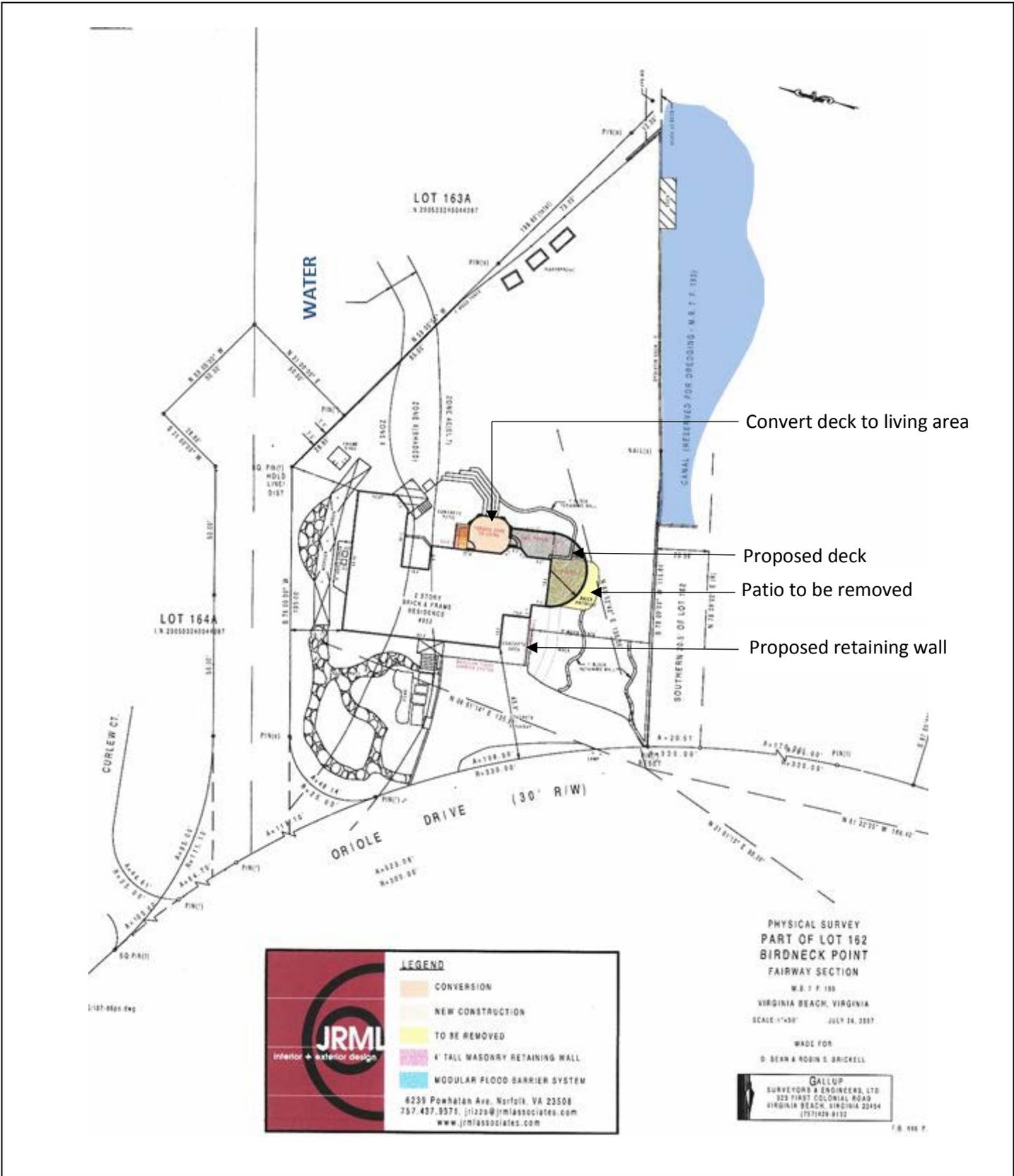
Site Aerial





D. SEAN AND ROBIN BRICKELL

CBPA Exhibit – Proposed Improvements



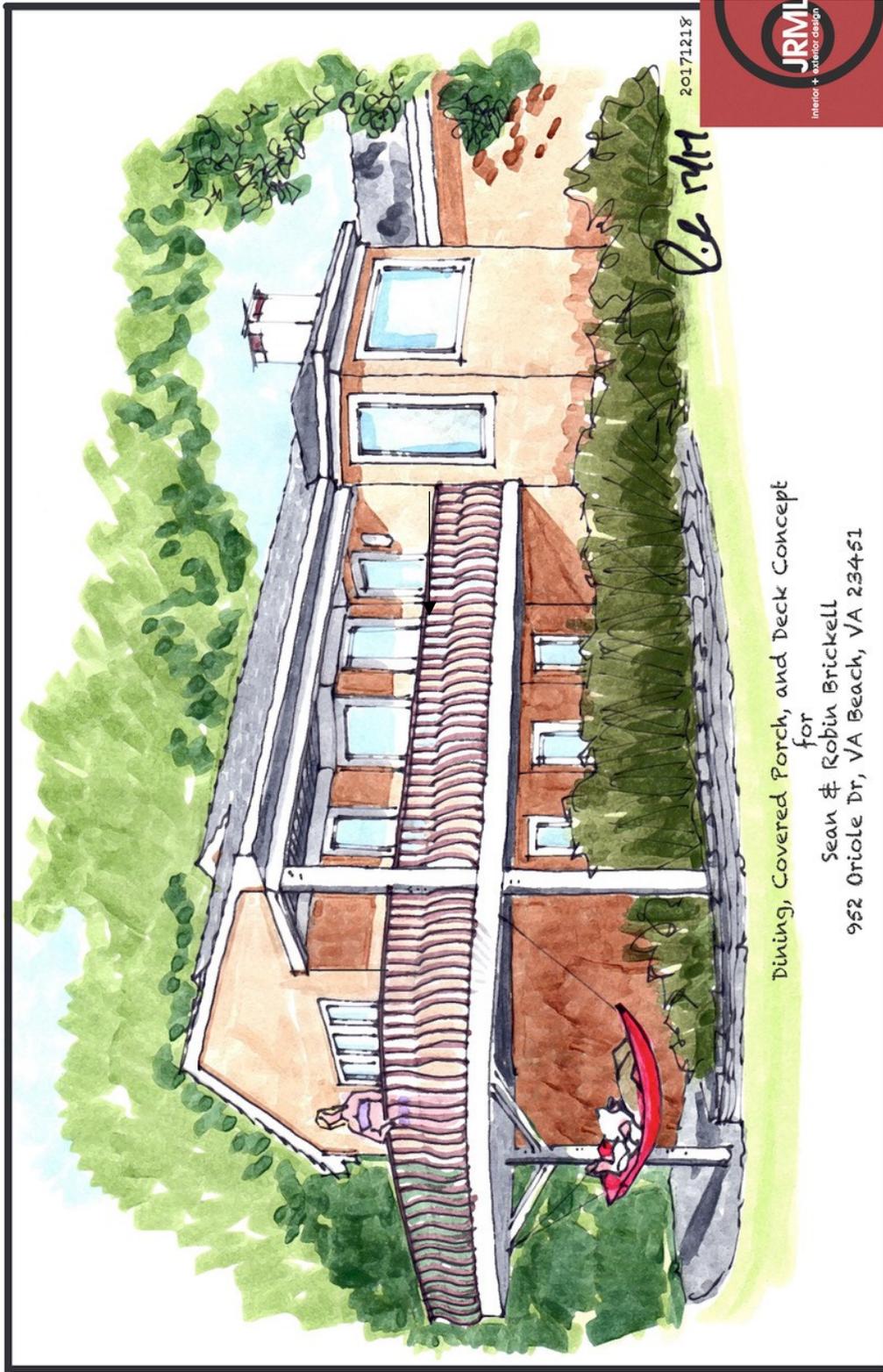
Convert deck to living area

Proposed deck

Patio to be removed

Proposed retaining wall

CBPA Exhibit – Rendering of Proposed Improvements





APPLICANT'S NAME Sean D. and Robin S. Brickell

DISCLOSURE STATEMENT FORM

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| | | |
|--|--|--|
| Acquisition of Property by City | Disposition of City Property | Modification of Conditions or Proffers |
| Alternative Compliance, Special Exception for | Economic Development Investment Program (EDIP) | Nonconforming Use Changes |
| Board of Zoning Appeals | Encroachment Request | Rezoning |
| Certificate of Appropriateness (Historic Review Board) | Floodplain Variance | Street Closure |
| Chesapeake Bay Preservation Area Board | Franchise Agreement | Subdivision Variance |
| Conditional Use Permit | Lease of City Property | Wetlands Board |
| | License Agreement | |

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

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| | | | |
|--------------------------|-------------------------------|-------|--|
| <input type="checkbox"/> | APPLICANT NOTIFIED OF HEARING | DATE: | |
| <input type="checkbox"/> | NO CHANGES AS OF | DATE: | |
| <input type="checkbox"/> | REVISIONS SUBMITTED | DATE: | |



Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: _____
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: _____
If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

| YES | NO | SERVICE | PROVIDER (use additional sheets if needed) |
|-------------------------------------|-------------------------------------|--|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Accounting and/or preparer of your tax return | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Architect / Landscape Architect / Land Planner | Jon Rizzo, JRML Associates, Inc. 6239 Powhatan Ave, Norfolk, VA |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers) | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Construction Contractors | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Engineers / Surveyors/ Agents | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Legal Services | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property | |

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

| YES | NO | Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | |

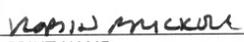
If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

| | | |
|---|--|---|
|  |  |  |
| APPLICANT'S SIGNATURE | PRINT NAME | DATE |

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

AS NEEDED, PAGE LEFT BLANK