

# Chesapeake Bay Preservation Area Board Agenda

February 26, 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, February 26, 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**.

**FEBRUARY 26, 2018  
CHESAPEAKE BAY PRESERVATION AREA  
BOARD AGENDA**

9:00 AM

- **INFORMAL STAFF BRIEFINGS OF PUBLIC HEARING AGENDA ITEMS**

10:00 AM

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

**OLD BUSINESS AGENDA ITEMS**

**1.**

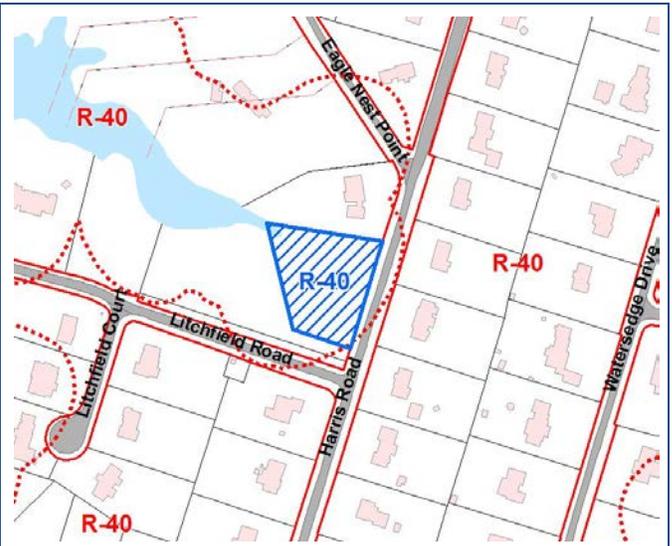
**Wei Ting Zeng and Wang Ying**  
[Property Owners and Applicants]

**1303 Harris Road**  
GPIN: 1488-99-3113  
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Rick Scarper

Staff Planner – PJ Scully

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**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.

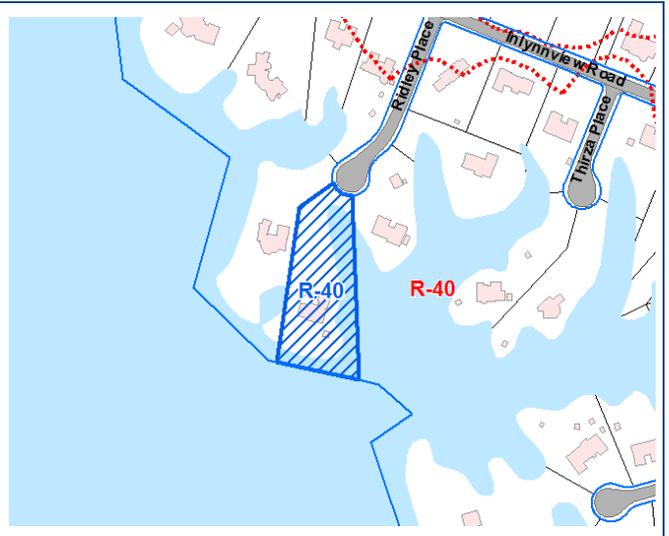
**Mark A. Zeigler Revocable Trust**  
[Property Owner and Applicant]

**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

4.

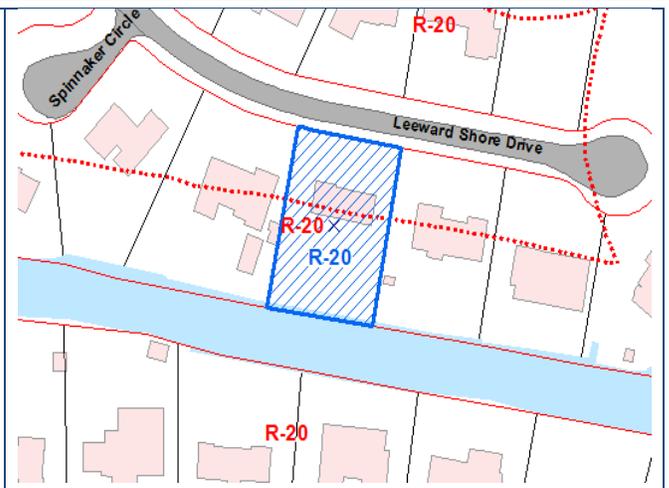
**Brian and Cheryl Twiddy**  
[Property Owners and Applicants]

**2213 Leeward Shore Drive**  
GPIN: 2409-29-0308  
COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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5.

**932 Laskin Rd, LLC**  
[Property Owner]

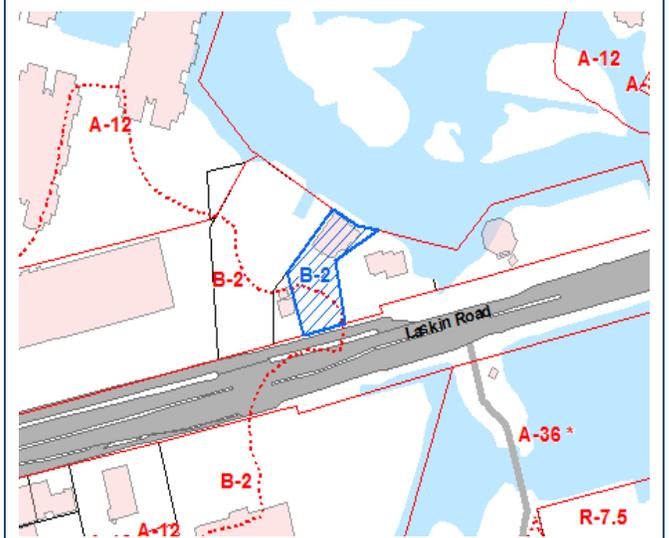
**Cellco Partnership d/b/a Verizon**  
[Applicant]

**932 Laskin Road**  
GPIN: 2418-71-7611  
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent –

Staff Planner – PJ Scully

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6.

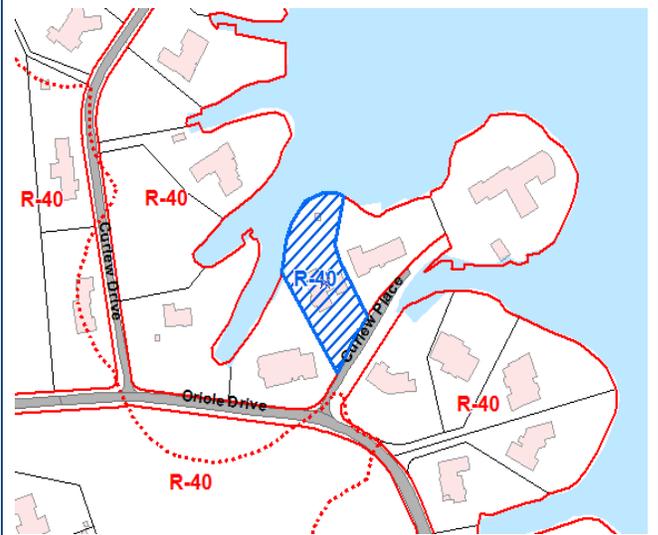
**Ronald and Deborah Holt**  
[Property Owners and Applicants]

**1212 Curlew Place**  
GPIN: 2418-34-6186  
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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7.

**Todd Lee and Blair Hollowell**  
[Property Owners and Applicants]

**2329 Leeward Shore Drive**  
GPIN: 2409-29-0308  
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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## SHOW CAUSE ITEM

8.

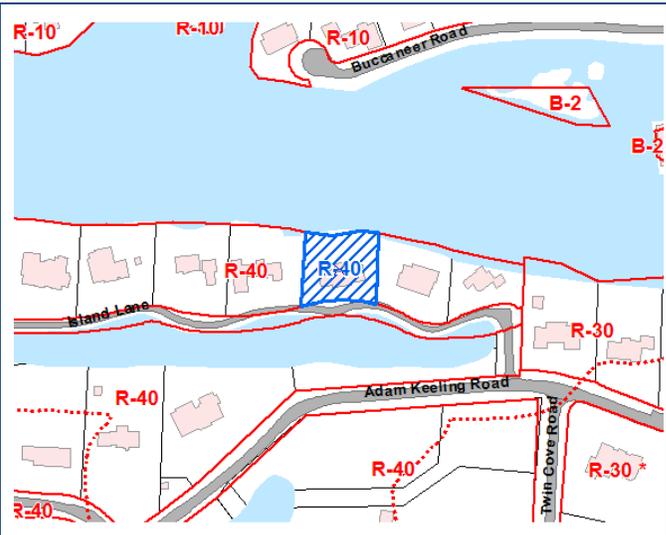
**Mitchell Lee and Linda S. Dunbar**  
[Property Owners]

**3004 Island Lane**  
GPIN: 1499-17-4498  
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Self represented

Staff Planner – PJ Scully

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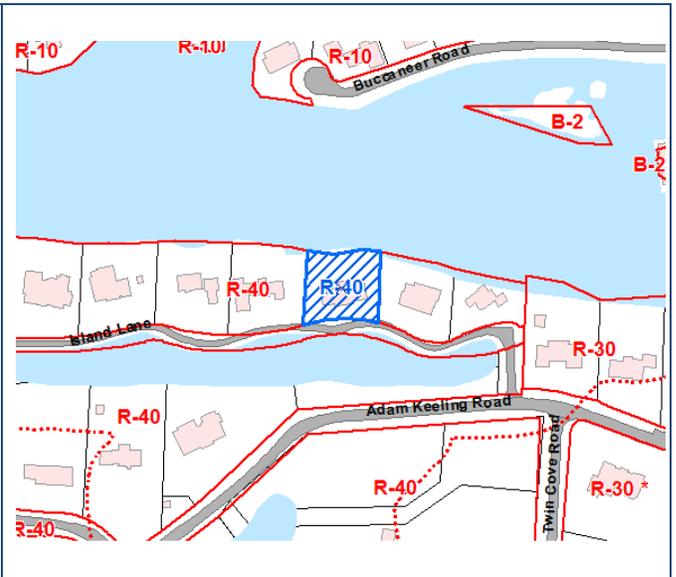
9.

**Louis Mosier**  
**J.L.Mosier Construction Co., Inc.**  
[Contractor]

**3004 Island Lane**  
GPIN: 1499-17-4498  
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Self represented

Staff Planner – PJ Scully  
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Applicants **Wei Ting Zeng and Wang Ying**  
 Property Owners **Wei Ting Zeng and Wang Ying**  
 Address **1303 Harris Road**  
 Public Hearing **February 26, 2018**  
 City Council District **Lynnhaven**

Agenda Item

**1**

**Variance Request**

Encroachment outboard of the CBPA Board approved building envelope with the construction of an accessory structure – swimming pool.

**CBPA Variance Request History**

Deferred – January 22, 2018

**Applicant’s Agent**

Scott Prunty

**Staff Planner**

PJ Scully

**Lot Recordation**

9/7/2006

Instr. No. 20060907001350390 Pages 1 & 2

**GPIN**

1488-99-3113

**SITE AREA**

49,336 square feet or 1.13 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

44,398 square feet or 1.02 acres

**EXISTING IMPERVIOUS COVER OF SITE**

9,143 square feet or 20.59 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

10,778 square feet or 24.27 percent of site

**Area of Redevelopment in RPA**

0 square feet

**Area of New Development in RPA**

1,635 square feet

**Location of Proposed Impervious Cover**

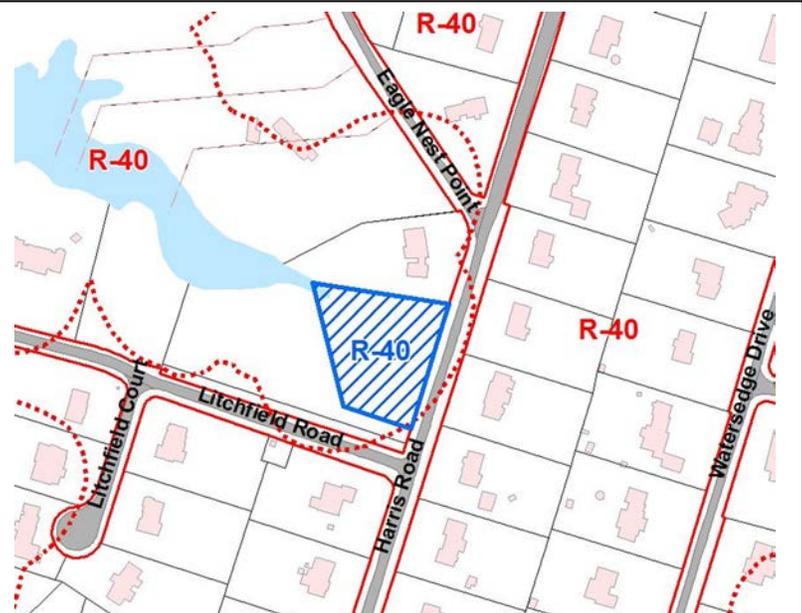
50 foot Landward Buffer

**AMOUNT OF LAND DISTURBANCE**

Less than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Construction Details

- Swimming pool with concrete paver pool surround

## CBPA Ordinance Variance History

**December 22, 2003 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for a two lot subdivision with building envelopes with the following conditions:**

1. *A pre-construction meeting shall be convened with Civil Inspections prior to any land disturbance.*
2. *Dual 36" erosion and sedimentation control measures (silt fences) shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Additionally, a heavy duty construction fence, acceptable to Civil Inspections, shall be installed along the aforementioned E&S controls and shall be maintained during all phases of construction.*
3. *Construction limits shall lie a maximum of 15' seaward of improvements. The building areas shall be inclusive of the limits of construction.*
4. *The Construction access way shall be noted on the site plans, as well as the stockpile staging area.*
5. *All stormwater from the proposed impervious cover shall be conveyed to structural stormwater management facilities.*
6. *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 plans.*
7. *\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program prior to or concurrent with site plan approvals. Payment shall be based on 25% of impervious cover on a per lots basis. The formula for payment shall be 25% of impervious cover divided by 27 (cubic yards) times 15 (estimated bushels per cubic yard) times \$1.65 (cost per bushel of oyster shell installed).*
8. *All area outside the building areas 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 plans.*
9. *Tree compensation shall be at a 2:1 ratio.*
10. *\*\*\*No structural improvements shall lie within 100' of any tidal wetland feature. The limits of tidal influence/jurisdiction shall be clearly noted on the site plans.*
11. *Site plans shall be submitted for each lot to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.*

The December 22, 2003, Board granted variance has been acted upon and the associated improvements constructed.

**July 27, 1998 a Chesapeake Bay Preservation Area (CBPA) Board variance request was denied for the filling of the parcel with clean soil.**

## Environmental Conditions

### Flood Zone

X

### Soil Type(s)

Augusta Series (deep, moderately well-drained soils)

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

### Shoreline

Shoreline is in a natural state.

### Riparian Buffer

Sparsely wooded transitioning into heavily wooded

- Number of existing canopy trees requested for removal within the RPA: 0

## Evaluation and Recommendation

After the December 20, 2017 deferral, Staff spoke with the applicant's Landscape Architect regarding the Board's comments about the completeness of the variance request, Staff's concerns regarding the encroachment of the proposed improvements within the 50 foot seaward buffer, and the potential for minimizing the amount of land disturbance by locating the proposed improvements adjacent to the 50 foot building setback. As a result, the following revisions have been made to this request.

- The proposed swimming pool has been shifted to the 50 foot building setback, therefore, no longer encroaching into the 50 foot seaward buffer.
- The portions of the pool surround within the 100 foot buffer are shown at a maximum of 4 feet in width.
- The amount of land disturbance has been calculated to be less than 2,500 square feet.

Staff is of the opinion that the scope of the improvements, established riparian buffer and minimal land disturbance anticipated with the construction of the proposed improvements are the minimum necessary to afford relief, would not be detrimental to water quality, nor will be an increase in nonpoint source pollution load into the adjacent tidal waters. As submitted, Staff supports this variance request and offers the following comments relative to the findings of the CBPA Ordinance 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 in the Chesapeake Bay Preservation Area who are subject to the provisions of this ordinance and are similarly situated, as the proposed improvements are consistent with other properties situated in the neighborhood that have proposed improvements within the RPA post adoption of the CBPA Ordinance.
- 2) The encroachment into the RPA on this lot is based upon circumstances that have been created and imposed by the applicant's predecessor in title, given the fact that the parcel was platted after the adoption of the Chesapeake Bay Preservation Act and the City's adoption of the CBPA Ordinance however, when the lots were created the building envelopes did not account for any specific improvements but rather was arbitrarily drawn from the RPA features of the lot.

- 3) The variance is the minimum necessary to afford relief as the proposed improvements are situated within the least sensitive portions of the property, landward of the 50 foot seaward buffer, and situated adjacent to the primary structure as a means to minimize land disturbance and preserve the existing topography to the greatest extent practicable within the 100 foot RPA.
- 4) Staff is of the opinion that maintaining the overall impervious cover of the site under 25 percent, coupled with the preservation of the riparian buffer ecosystem, ensures that this variance request is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare.
- 5) Staff is of the opinion, when properly coordinated, the applicant's investment in redeveloping the uplands portion of the property, currently devoted to turf, with required buffer restoration and maintaining previously conditioned stormwater management facilities will provided a means to manage towards a no net increase in nonpoint source pollution load.
- 6) Finally, Staff recommends the following 17 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. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
11. The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required stormwater management facilities shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior restoration requirements shall be installed if not present.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,635 square feet x 200 percent = 3,270 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, 16 large shrubs and 24 small shrubs.**

The required restoration shall be located in areas currently devoted to turf or where impervious cover is removed. The 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. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

13. 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.
14. **\*\*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 \$374.68 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for an oyster shell plant within the Lynnhaven River Basin.**
15. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
16. This variance and associated conditions **are in addition to** the conditions of the Board variance granted December 22, 2003.
17. The conditions and approval associated with this variance are based on the exhibit plan prepared by MSA P.C., signed February 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.

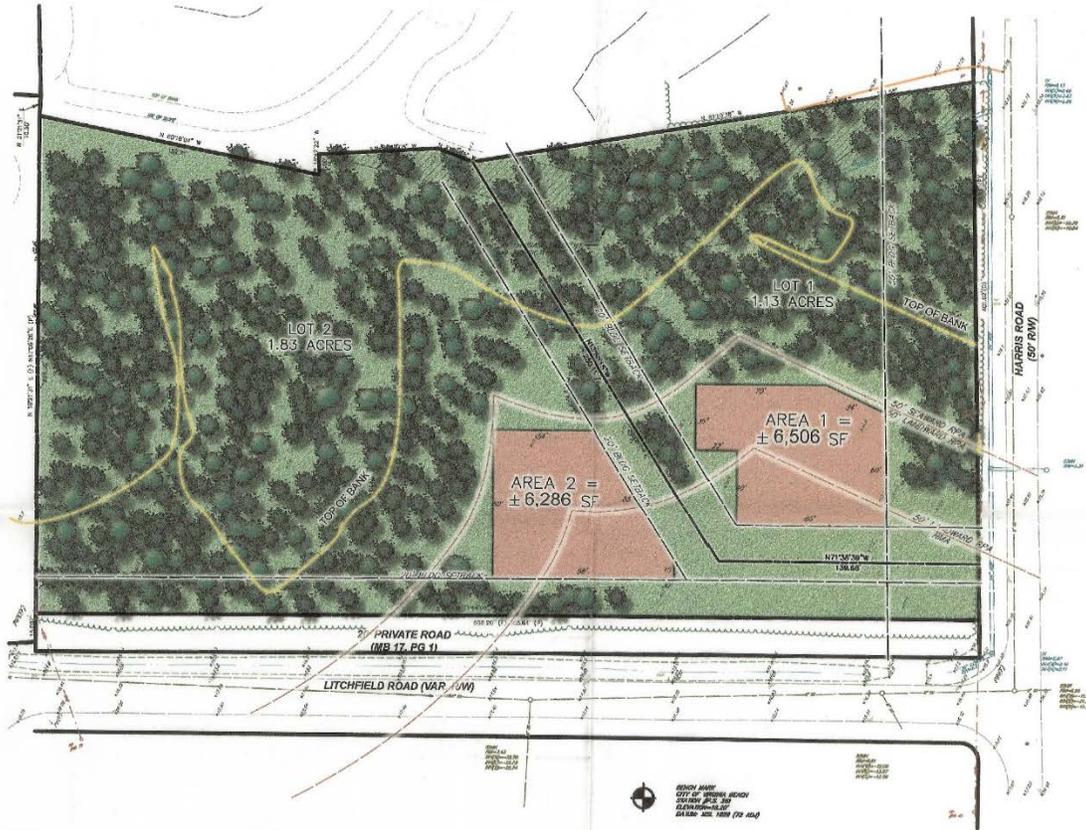
**\*\* NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

**\*\*\*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







## PROPOSED CONDITIONS

### Proposed Lot Areas:

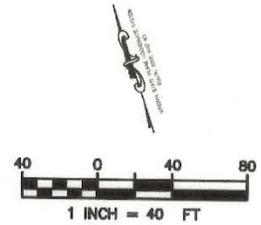
Lot 1:	±1.14 Acres
Lot 2:	±1.83 Acres
<b>Total:</b>	<b>±2.97 Acres</b>

### Proposed Impervious Area

Building Area 1:	±6,506 SF
Building Area 2:	±6,286 SF
<b>Total:</b>	<b>±12,792 SF</b>

### Proposed Lot Coverage:

Lot 1:	13%
Lot 2:	8%



11/20/03  
Prepared for CBPA



5033 Rouse Drive  
Virginia Beach, VA 23462

**MSA, P.C.**

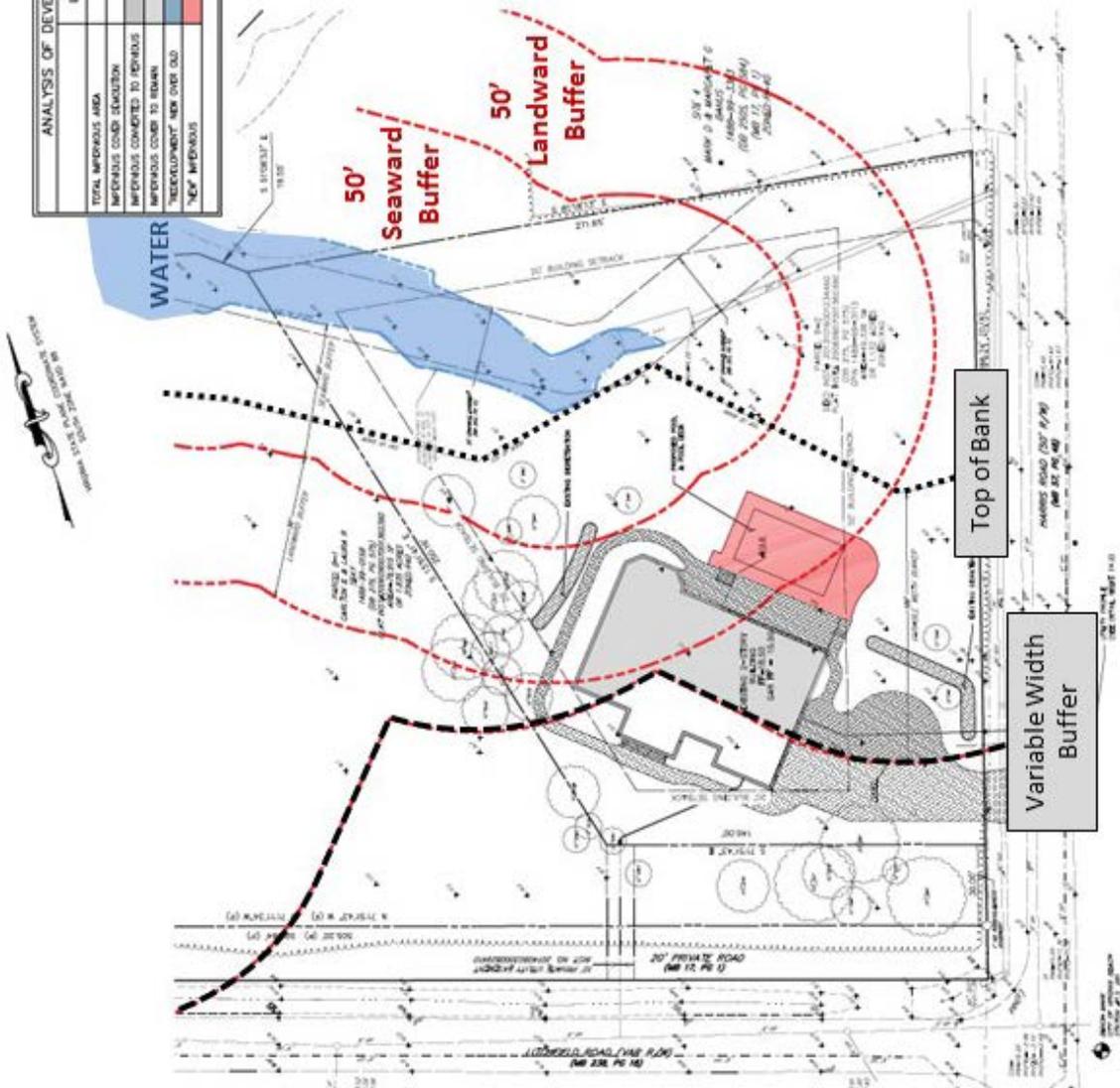
Landscape Architecture  
Planning  
Surveying  
Engineering  
Environmental Sciences  
MSA PROJ. # 03084A



# CBPA Exhibit – Proposed Improvements

ANALYSIS OF DEVELOPMENT WITHIN THE CBPA RESOURCE PROTECTION AREA

LELAND	DATE	PROPOSED	DIFFERENCE	LELAND %	RESTORATION REQUIRED	RESTORATION PROVIDED
TOTAL IMPERVIOUS AREA	5,632	7,237	1,605			
IMPERVIOUS ROAD EXCLUSION						
IMPERVIOUS COMPLETED TO PERMITS						
IMPERVIOUS COVER TO REMAIN		5,632		0%	0	0
"REDEVELOPMENT" NEW OVER OLD						
NEW IMPERVIOUS		1,605		100%	3,170	





**APPLICANT'S NAME** Wei Ting Zeng

**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:

<b>Acquisition of Property by City</b>	<b>Disposition of City Property</b>	<b>Modification of Conditions or Proffers</b>
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: Wei Ting Zeng  
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 <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

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## 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-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

<sup>1</sup> "Parent-subsidary 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.

<sup>2</sup> "Affiliated business entity relationship" means "a relationship, other than parent-subsidary 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.

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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	<i>Pam Co</i> <i>May-s Accounting</i>
<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	Solid Structures
<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)	<i>Fulton Bank</i>
<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.

	Wei Ting Zeng	9-25-17
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



**Variance Request**

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

**CBPA Variance Request History**

Deferred – January 22, 2018

**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**

11,730 square feet or 36.9 percent of site

**Area of Redevelopment in RPA**

3,447 square feet

**Area of New Development in RPA**

4,745 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 known 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 has removed the reference to "Possible Location of Future Revetment Stabilization (Elevation 2.0)" from the CBPA Variance Exhibits. Staff had a concern with the prior submittal that the 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 remains of the opinion that any future revetment stabilization landward of the surveyed "edge of water" is unreasonable and would not support this application. Should the applicant pursue a Wetlands Board permit application for shoreline hardening outboard of a living shoreline it is recommended that the request reflect the Center for Coastal Resources Management Preferred Shoreline BMP recommendations.

### Riparian Buffer

Sparsely to moderately wooded.

- **Number of existing canopy trees requested for removal:** 24. 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:** Included in the number above as stated in the Water Quality Impact Assessment (WQIA).
- **Number of dead, diseased or dying existing canopy trees requested for removal within the RPA:** Included in the number above (24) as stated in the WQIA.
- **Evaluation of existing tree removal request:** The applicant's Engineer of Record has confirmed Staff's accounting from the prior submittal that 24 trees on the parcel are shown for removal. Staff's position remains that only the removal of those trees as shown on the CBPA Exhibit should be approved. 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 consideration.

## Evaluation and Recommendation

After the January 22, 2018 deferral, Staff met with the applicant's agent and Engineer of Record regarding Staff's concerns and the concerns brought forth at the January 22, 2018 public hearing by the Board. The following items were discussed.

- Discrepancies between the CBPA exhibit and Water Quality Impact Assessment (WQIA) regarding the specific number of trees proposed for removal with the submitted variance request. Staff expressed a concern over the unknown extent of trees being requested for removal given the ranges of tree removal provided in the WQIA, concern over the number of trees tagged in the field with an "X" – typically tagged trees are removed during demolition.
- The "potential location of future revetment stabilization" being removed from the variance request. Staff's position is firm that as shown on the CBPA exhibit, provided with the initial application, the bisecting of the existing tidal feature with a revetment in one of the most sensitive portions of the parcel is excessive for the redevelopment of this parcel, given the purpose and intent of the CBPA Ordinance [City Code, Appendix F, Section 102].
- The amount of encroachment into the 50 foot seaward buffer with the proposed swimming pool and patio area. Staff inquired about the programming of the proposed residential addition, the possibility of reducing or shifting the addition so that the proposed swimming pool could be located further landward, and the reduction of the wood deck off of the rear of the house. As stated by the Engineer of Record, the space underneath the deck is not usable, therefore Staff is of the opinion that the proposed layout does not utilize the space efficiently.
- The necessity to expand the existing circular driveway to the extent shown on the submitted variance request. For deliberation specific to this variance request, the applicant's Engineer of Record has provided calculations crediting 2,909 square feet of the paver driveway at only 70 percent impervious instead of 100 percent impervious as is typical. If acknowledgement is given to the beneficial use of permeable pavers at 70 percent impervious, then the post-development impervious cover would be at 34.1 percent.
- The necessity to expand the existing residence to the extent shown on the submitted variance request. As mentioned, Staff inquired about reducing or shifting the layout of the proposed addition as a means to alleviate the encroachment into the 50 foot seaward buffer with an accessory structure – the swimming pool and associated patio area.
- The ability for the required buffer restoration in its entirety to be installed within the parcel's boundaries. With the first submittal, Staff had sketched out areas – specifically the entire 50 foot seaward buffer, the area along the southern portion of the proposed improvements, and the area within the redeveloped circular driveway to verify that all required buffer restoration could be installed within the limits of the parcel. In addition, Staff conceptually sketched out the potential for canopy tree and understory tree locations so that the restoration, when installed, would grow in a sustainable manner with the intent of truly restoring the riparian ecosystem.

The CBPA Exhibit for this variance request reflects the following changes as a result of this meeting.

- 24 trees are requested for removal with this variance request. Staff has recommended a condition that 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 by the CBPA Board at a later date.
- The “potential location of future revetment stabilization” has been removed from the variance request. Staff has recommended a condition that if and when stabilization of the shoreline is addressed that the preferred stabilization method be in harmony with the Center for Coastal Resources Management Preferred Shoreline BMP recommendations for this parcel. With the intricacy of this shoreline to the environmental benefits of this parcel and adjacent waterway, any encroachments into the existing tidal shoreline permitted through the Joint Permit Application (JPA) process may also require CBPA Board review, given the specific deliberation regarding this variance request.
- The encroachment into the 50 foot seaward buffer with the proposed swimming pool and patio area have been reduced by approximately 165 square feet as calculated by Staff. The applicant’s Engineer of Record has stated an elevation of the swimming pool and patio but this specific information is not depicted on the revised CBPA exhibit. Staff has conditioned a further retreat from the 50 foot seaward buffer in the recommended conditions below.
- The expansion of the existing circular driveway has been reduced by approximately 477 square feet as calculated by Staff. In conversation with Staff, the applicant’s agent agrees with the previous Staff recommended condition that the proposed driveway be constructed of a permeable pavement system and has depicted this recommendation on the revised CBPA exhibit.
- The proposed expansion to the existing residence has been reduced by approximately 184 square feet as calculated by Staff. Said reduction occurred along the north side, or front of the 3 car garage.
- The Engineer of Record has provided a Buffer Restoration Plan with the revised exhibit that delineates buffer restoration areas that meet the square footage requirements of the CBPA Ordinance [City Code, Appendix F, Section 106 (C)(1)]. In addition, the Engineer of Record is no longer proposing to take advantage of 26 mature trees towards canopy tree requirements. Staff has conditioned the amount of canopy trees, understory trees and shrubs specific to this parcel based on an analysis of the existing canopy tree coverage and preservation of the existing riparian buffer for the Board’s deliberation.

An additional area of concern of Staff is the removal of the existing wood retaining wall, shown on the Existing Features/Demolition Plan. Said retaining wall is exhibiting signs of failure and is retaining soil of approximately 8 feet of elevation change. Replacing the retaining wall occurs in an area of several mature canopy trees and adjacent to the existing tidal shoreline. Staff is of the opinion that access to, and working within this area, is within the more sensitive areas of the parcel, and if not performed properly, the redevelopment of the retaining wall as proposed could be detrimental to the existing riparian buffer system. Prior to the public hearing, Staff asks that the Engineer of Record or builder address the sequence of construction and provide a desired replacement type for the existing retaining wall to be deliberated with this variance request.

The applicant’s Engineer of Record provided the following comments relative to the findings of the CBPA Ordinance specific to this variance request. Staff has provided additional comment for the Board’s deliberation.

- 1) *“This variance request does 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 because neighboring properties on this cul-de-sac are similarly situated and have constructed existing improvements – homes and pools – up to within 20 feet and 35 feet of the bulkheads. This project is requesting a similar encroachment with the mitigating benefit of stormwater management.”* Staff is of the opinion that each variance request should be viewed for the merits of the individual project and not based off of prior variances of adjacent properties.
- 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 or predecessor in title because the lot was recorded in 1976,*

*prior to the CBPA Ordinance, and almost the entire lot is in the RPA. The unique waterfront characteristics of the property, and the difficult geometry of a cul-de-sac, force the project behind the front setback line and subsequently into the CBPA buffer.”* While this statement from the Engineer of Record is relative, Staff remains of the opinion that the characteristics of the lot does not warrant the encroachment into the 50 foot seaward buffer to the extent being requested.

- 3) *“The variance request is the minimum necessary to afford relief as the applicant has a family of 6 children. The expansion of the house is necessary to accommodate the people that will live here, and the outdoor living space is reasonably sized, though in the 50 foot seaward buffer, to allow for reasonable accessory uses.”* Given the applicant’s large family, Staff respects their desire to accommodate for the needs of their family through the redevelopment of this parcel. However, as stated above, even if the the outdoor living space is reasonable in size, Staff remains of the opinion that the proposed layout may not be appropriate given the extent of encroachment into the 50 seaward buffer and within an area of the parcel that has the most grade elevation change.
- 4) *“The variance request is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, and not of substantial detriment to water quality or otherwise detrimental to the public welfare as the existing development (existing impervious cover) includes over 8,500 square feet of impervious cover which flows into the Bay without any stormwater management. The proposed redevelopment will improve on the existing situation with 100 percent stormwater management and 9,490 square feet of buffer restoration”.* Staff has provided a recommended condition below that would require the Engineer of Record to submit calculations regarding the 100 percent stormwater management for this variance request for approval during site plan review.
- 5) *“The means proposed by the applicant’s agent to manage towards a no net increase in nonpoint source pollution load from this variance request is to route the entirety of the project’s impervious cover to stormwater management systems. In addition, the installation of substantial buffer restoration will address groundwater and erosion effects which would otherwise result in a detriment to the Bay. The applicant’s agent has provided that the result will be a reduction of pollutant load”.* Should this variance request be granted by the Board, Staff has conditioned that the Engineer of Record provide calculations during site plan review for approval regarding the treatment of stormwater from the project’s impervious cover.

Given these comments provided by the applicant’s Engineer of Record and only minimal reductions proposed to the accessory structures, which encroach into the RPA feature, Staff does not support this variance request as submitted and remains of the opinion that this request is not the minimum necessary to afford relief. However, should the Board desire to deliberate this variance request, Staff offers the following recommended conditions, exclusive of a recommended condition that addresses the redevelopment of the existing retaining wall in support of, and relative to the performance standards 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, and turf zones. Said buffer restoration shall be in substantial compliance with the Buffer Restoration Plan provided as a component of the CBPA Exhibit.
11. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **4,745 square feet x 200 percent = 9,490 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of **10 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 and within substantial compliance with the Buffer Restoration Plan provided as a component of the CBPA Exhibit. 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.

12. The Engineer of Record shall provide stormwater management calculations to the Development Services Center for review and approval. All impervious cover shall be routed to stormwater management systems and provide the necessary treatment for 1 inch of run-off from all impervious area.
13. The maximum impervious cover of the parcel shall not exceed 10,816 square feet or 34 percent post-development impervious cover.
14. All post development impervious cover associated with the additions to the primary structure shall be landward of the CBPA Exhibit's delineated Top of Bank (TOB) feature.
15. Exclusive of a single, open pile wood walkway to the existing pier walkway, all post development impervious cover associated with the proposed accessory structures located at the rear of the primary structure – wood decks, swimming pool and associated pool patio shall be a minimum 30 feet landward of the CBPA Exhibit's delineated "Edge of Feature" flagged in the field.
16. The proposed driveway shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided site plan submitted to the Development Services Center for review and approval.
17. If a swimming pool is constructed, said improvement shall be constructed prior to or concurrent with the single family residence additions.
18. 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.
19. If and when a stabilization of the shoreline is addressed, the preferred stabilization method shall be in harmony with the Center for Coastal Resources Management Preferred Shoreline BMP recommendations for this parcel. If an alternative is desired that encroaches into the existing tidal shoreline or alters the existing shoreline habitat, CBPA Board review will be required.
20. \*\*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.
21. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
22. 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.

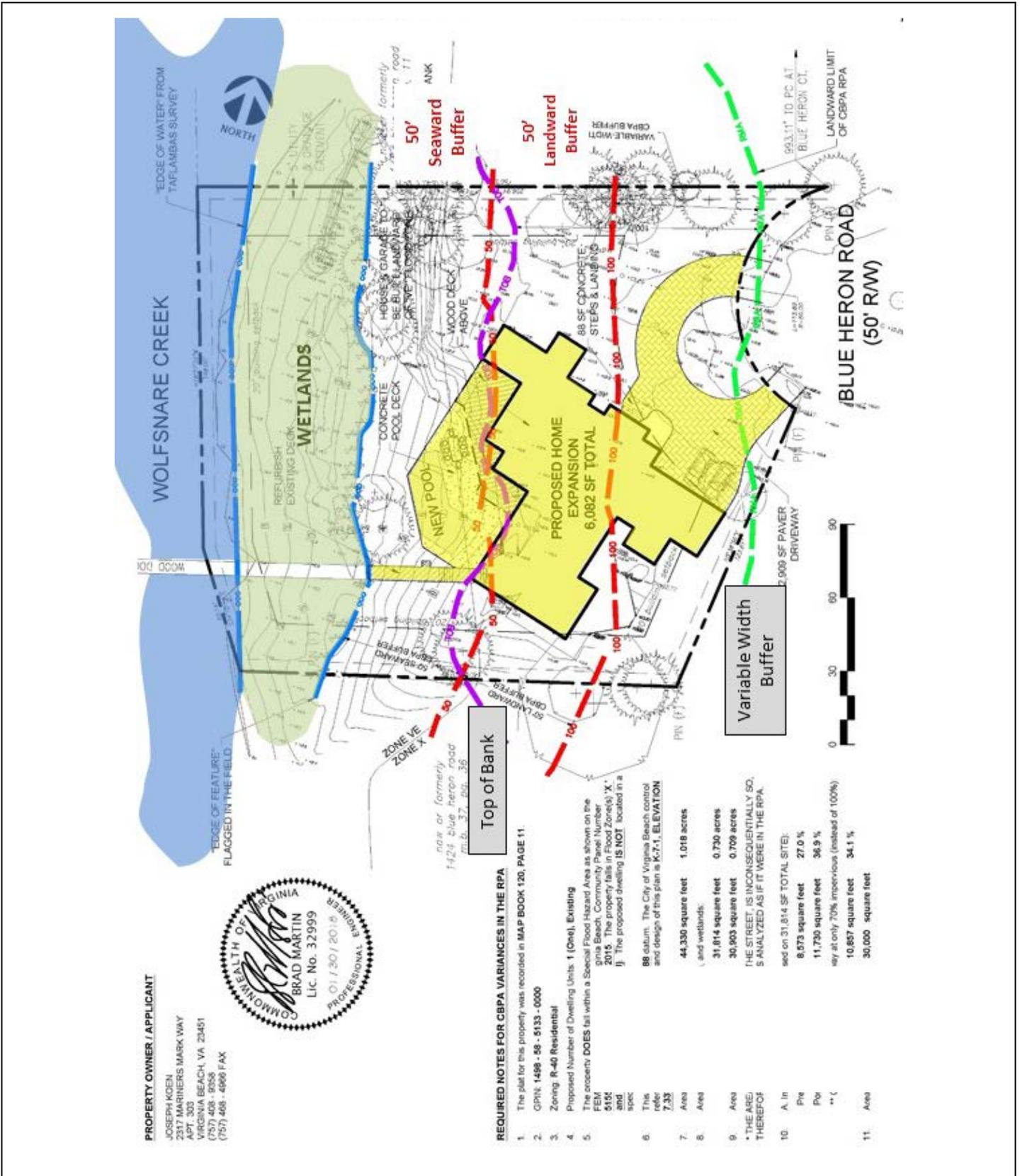
\*\* NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

\*\*\*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



**PROPERTY OWNER / APPLICANT**  
 JOSEPH KOEN  
 2317 MARINERS MARK WAY  
 APT. 303  
 VIRGINIA BEACH, VA 23451  
 (757) 408-9556  
 (757) 468-4866 FAX



**Top of Bank**

**Variable Width Buffer**

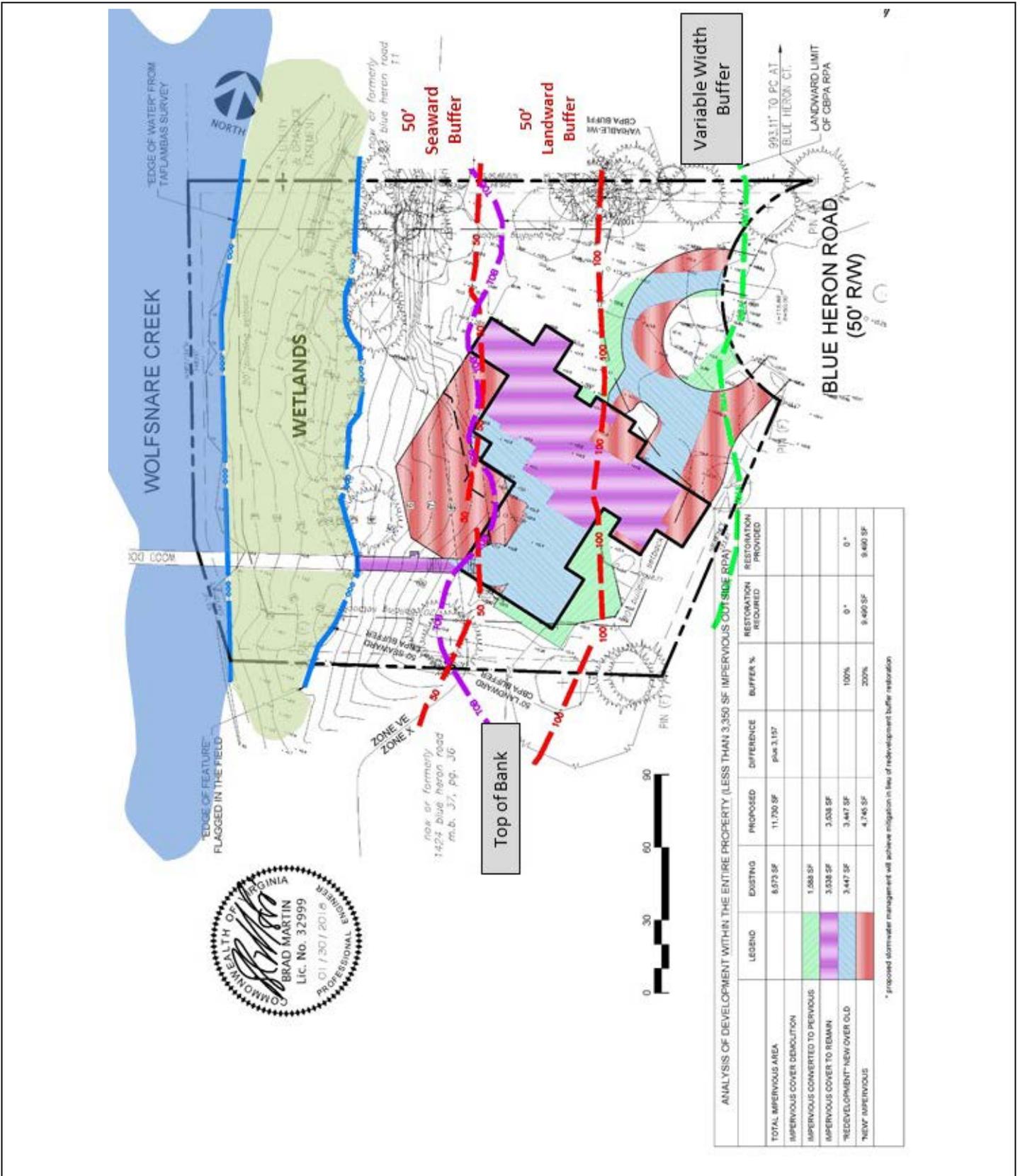
**REQUIRED NOTES FOR CBPA VARIANCES IN THE RPA**

- The plat for this property was recorded in MAP BOOK 120, PAGE 11.
- GRN 1498 - 88 - 5133 - 0000
- Zoning: R-40 Residential
- Proposed Number of Dwelling Units: 1 (One), Existing: 0
- The property DOES fall within a Social Flood Hazard Area as shown on the Virginia Beach, Community Panel Number 2015. The property falls in Flood Zone(s): "X".  
 i) The proposed dwelling IS NOT located in a Special Flood Hazard Area.  
 ii) The proposed dwelling IS NOT located in a Flood Hazard Area with a Flood Hazard Rating of "A" or "B".
- This is a new construction project.
- Area: 7.33 acres
- Area: 44,330 square feet
- Area: 31,814 square feet
- Area: 30,903 square feet
- Area: 11,730 square feet
- Area: 10,857 square feet
- Area: 30,000 square feet

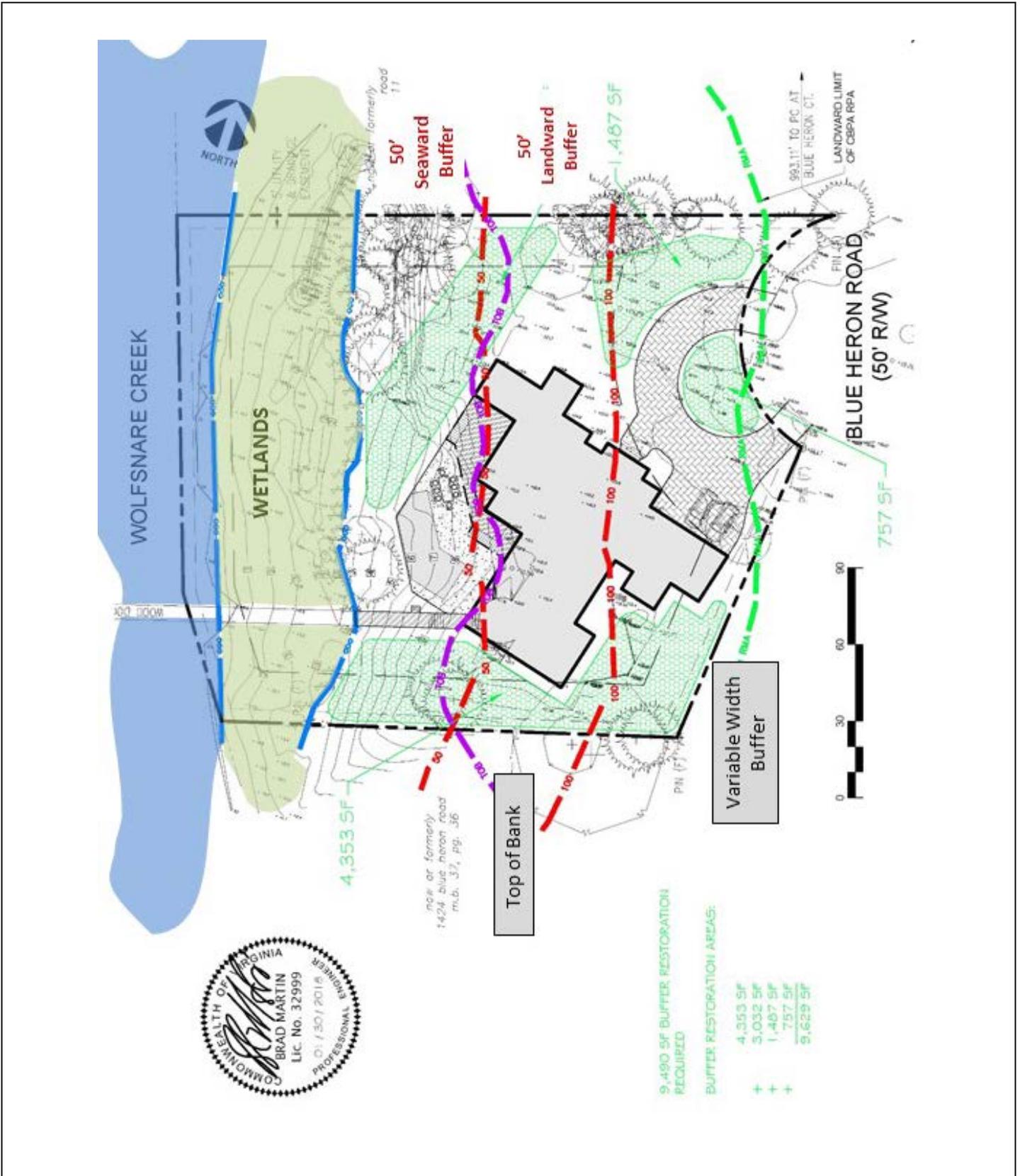
1.018 acres  
 0.730 acres  
 0.709 acres  
 27.0 %  
 36.9 %  
 34.1 %



# CBPA Exhibit – Color Analysis



**CBPA Exhibit – Buffer Restoration**





**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:

<b>Acquisition of Property by City</b>	<b>Disposition of City Property</b>	<b>Modification of Conditions or Proffers</b>
Alternative Compliance, Special Exception for Board of Zoning Appeals	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Certificate of Appropriateness (Historic Review Board)	Encroachment Request	Rezoning
Chesapeake Bay Preservation Area Board	Floodplain Variance	Street Closure
Conditional Use Permit	Franchise Agreement	Subdivision Variance
	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-subsidiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes<sup>1</sup> and <sup>2</sup>

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## 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<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

<sup>1</sup> "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.

<sup>2</sup> "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.

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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 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	<del>To Be Determined</del>
<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	<del>To Be Determined</del>
<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?

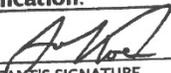
If yes, what is the name of the official or employee and what is the nature of the interest?



**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



Property Owner **Mark A. Zeigler Revocable Trust**  
 Applicant **Mark A. Zeigler Revocable Trust**  
 Address **2612 Ridley Place**  
 Public Hearing **February 26, 2018**  
 City Council District **Lynnhaven**

Agenda Item  
**3**

**The application is being withdrawn. Staff supports the request.**

**Variance Request**

The January 22, 2018 CBPA variance request was for an encroachment into the Resource Protection Area (RPA), 50 foot seaward buffer with the construction of a concrete retaining wall and pervious paver walk.

The applicant’s agent has modified the variance request so that all proposed improvements are within the footprint of the existing walkway.

**CBPA Variance Request History**

Deferred – January 22, 2018

**Applicant’s Agent**

Tony Echea

**Staff Planner**

PJ Scully

**Lot Recordation**

4/5/1978

Map Book 126, Page 12

**GPIN**

1498-35-9114

**SITE AREA**

82,876 square feet or 1.902 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

54,129 square feet or 1.242 acres



AS NEEDED, PAGE LEFT BLANK



Property Owner **Brian and Cheryl Twiddy**  
 Applicant **Brian and Cheryl Twiddy**  
 Address **2213 Leeward Shore Drive**  
 Public Hearing **February 26, 2018**  
 City Council District **Lynnhaven**

Agenda Item

**4**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer for an addition to the primary structure and expansion of an accessory structure.

**Applicant's Agent**

Billy Garrington

**Staff Planner**

PJ Scully

**Lot Recordation**

4/25/1962

Map Book 55, Page 53

**GPIN**

2409-29-0308

**SITE AREA**

22,664 square feet or 0.520 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

21,900 square feet or 0.503 acres

**EXISTING IMPERVIOUS COVER OF SITE**

4,231 square feet or 19.3 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

6,115 square feet or 27.3 percent of site

**Area of Redevelopment in RPA**

462 square feet

**Area of New Development in RPA**

1,815 square feet

**Location of Proposed Impervious Cover**

50 foot Landward Buffer

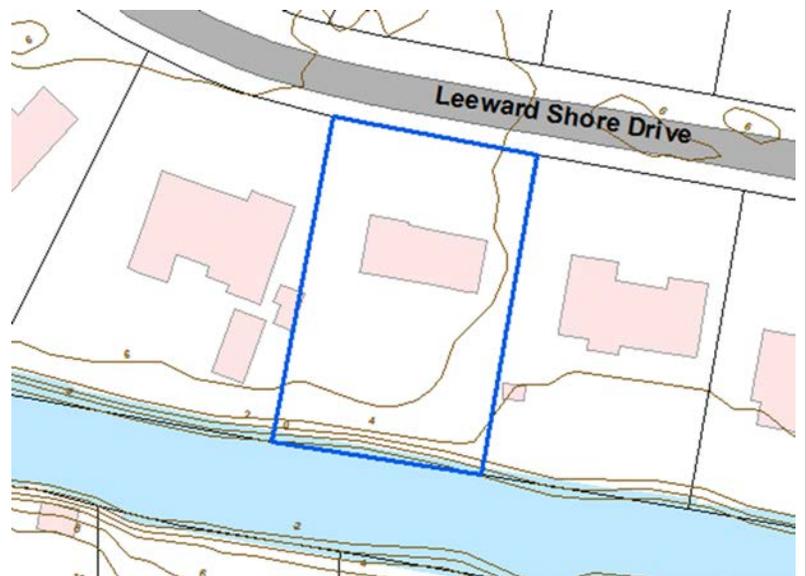
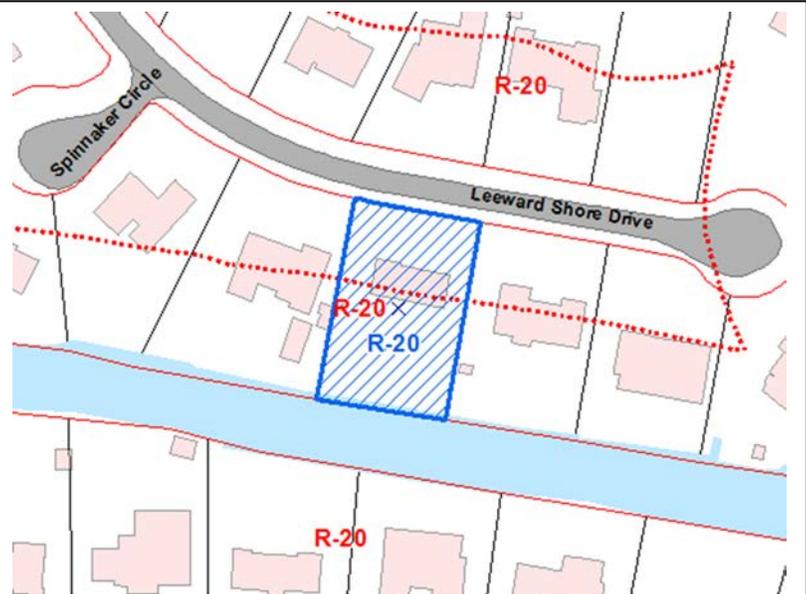
Resource Management Area (RMA)

**AMOUNT OF LAND DISTURBANCE**

Less than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Concrete walkway

### Construction Details

- Addition to the existing single family residence
- Composite deck
- Cover porch over existing concrete steps at front of residence

## 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)

Lakehurst Series (deep, moderately drained sandy marine and eolian sediment soils)

### Shoreline

Shoreline is hardened by a wood bulkhead and riprap revetment.

### Riparian Buffer

Sparsely wooded.

- 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
- Number of understory trees requested for removal 0

## Evaluation and Recommendation

The proposed expansion to the primary structure and the proposed accessory structure - wood deck, occurs in the least sensitive portion of the buffer area. The topography in this area of the buffer is relatively flat and access to the construction area is off of a paved surface therefore limiting land disturbance. 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, partial redevelopment of existing impervious cover, 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.

Staff offers the following comments for the Board's deliberation relative the findings of the CBPA Ordinance for 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 development 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 portions of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief, given the expansions of both the primary and accessory structures within the 50 foot landward buffer in an area currently devoted to turf.
- 4) Staff is of the opinion that the variance is in harmony with the purpose and intent of this ordinance, not injurious to the neighborhood nor otherwise detrimental to the public welfare, 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 in areas currently devoted to turf, nor otherwise detrimental to the public welfare.
- 5) Staff is of the opinion with the proposed improvements situated within an area of flat topography, the underlying soil type, and the installation of buffer restoration all contribute as a means to manage erosion and sedimentation and ensure that the proposed improvements provide towards a no net increase in nonpoint source pollution load.

Finally, Staff recommends the following 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. 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.
7. 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.
8. 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.
9. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
10. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,815 square feet x 200 percent = 3,630 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of **10 canopy trees, 10 understory, 20 large shrubs, and 30 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.
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 \$831.87 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for an oyster shell plant within the Lynnhaven River Basin.**
13. The conditions and approval associated with this variance are based on the exhibit plan dated February 6, 2018, prepared by WP Large. 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



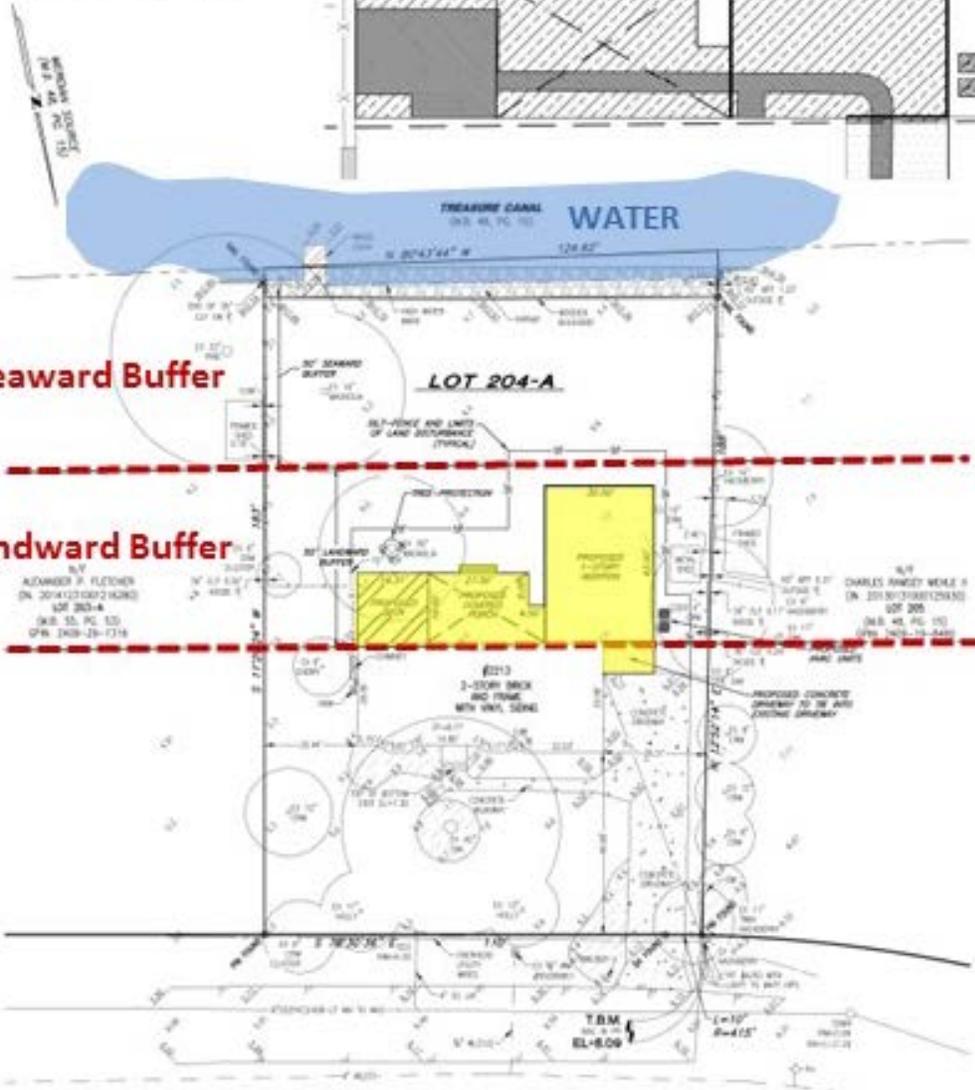
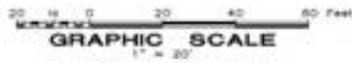


**CBPA Exhibit – Proposed Improvements**

**LEGEND**

- REDEVELOPMENT IMPERVIOUS IN RPA  
462 SQ. FT. OR 0.011 ACRES.
- NEW IMPERVIOUS IN RPA  
1,815 SQ. FT. OR 0.042 ACRES

**DEVELOPMENT OVERLAY PLAN**







- 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: Brian & Cheryl Twiddy  
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 <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

---

## 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: Brian & Cheryl Twiddy  
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-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

N/A

<sup>1</sup> "Parent-subsidary 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.

<sup>2</sup> "Affiliated business entity relationship" means "a relationship, other than parent-subsidary 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.

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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 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
<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 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)	Towne Bank
<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.**

	Cheryl Twiddy	1/3/2018
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

Brian and Cheryl Twiddy

Agenda Item 4

Page 54



**Variance Request**

Encroachment into the Resource Protection Area (RPA) 50 foot seaward buffer with the construction of wireless roof antenna equipment pads within a fenced compound

**Applicant’s Agent**

Stephen R. Romine

**Staff Planner**

PJ Scully

**Lot Recordation**

12/9/1971  
Map Book 89, Page 12  
Deed Book 3060 page 2041

**GPIN**

2418-71-7611

**SITE AREA**

20,167.52 square feet or 0.4629 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

20,674.45 square feet or 0.4746 acres

**EXISTING IMPERVIOUS COVER OF SITE**

16,656.74 square feet or 82.59 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

17,029.01 square feet or 84.43 percent of site

**Area of Redevelopment in RPA**

131 square feet

**Area of New Development in RPA**

372 square feet

**Location of Proposed Impervious Cover**

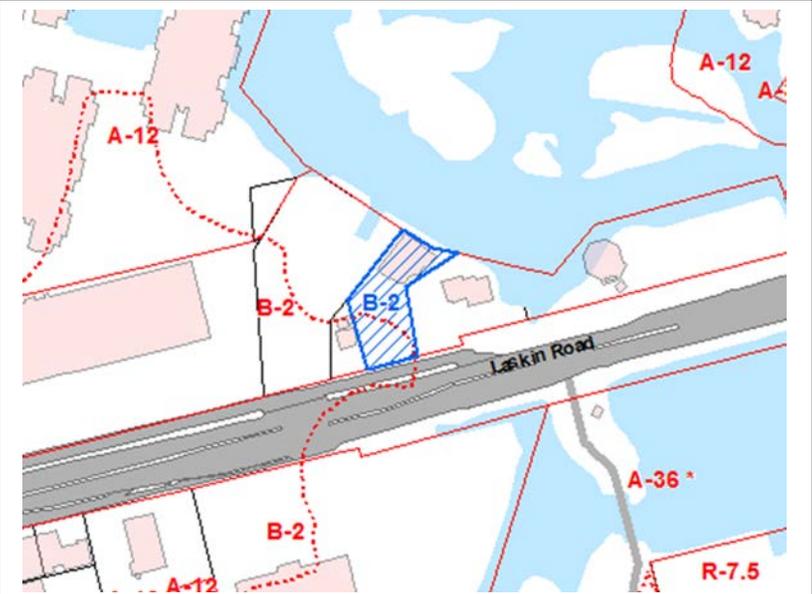
50 foot Seaward Buffer

**AMOUNT OF LAND DISTURBANCE**

Less than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Portions of concrete sidewalk

### Construction Details

- Segmented block retaining wall with gravel backfill
- Replace and expand portions of concrete sidewalk
- Roof-top antennas

## 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)

Udorthents Series (well-drained and moderately well-drained soils)

### Shoreline

Shoreline is hardened with a wooden bulkhead with associated wooden wharf and docks.

### Riparian Buffer

A vegetated grass buffer is located between the brick retaining wall and the building. A stand of canopy trees, understory trees, shrubs and groundcover is located at the proposed equipment compound.

- Number of existing canopy trees requested for removal within the RPA: 0. The applicant stated in the WQIA that 3 to 5 trees are to be pruned in the area of the proposed improvements.
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

## Evaluation and Recommendation

Staff met with the applicant, applicant's agent and Engineer of Record with an intent to develop a project compatible with the existing site improvements, topography, vegetation, and drainage patterns. Even though the proposed improvements are within the 50 foot seaward buffer, the applicant's use of a retaining wall and crushed stone should prevent the proposed improvements from causing or contributing to a degradation of water quality while providing a means towards managing rainwater run-off.

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 in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated within the B2 Zoning District.
- 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 portions of this property is within the RPA.
- 3) The variance is the minimum necessary to afford relief given the minimal amounts of impervious cover associated with the proposed improvements.
- 4) The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare as the proposed improvements minimize impervious cover and use materials conducive to the promotion of rainwater infiltration.
- 5) Staff is of the opinion that the use of crushed stone within the compound, contained by a low retaining wall, provides a means towards managing a no net increase in nonpoint source pollution load, and the installation of conditioned buffer restoration towards general water quality protection.
- 6) Finally, Staff recommends the following 11 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 5 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 5 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. 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.

7. 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.
8. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **372 square feet x 200 percent = 744 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 trees, 4 understory trees, and 6 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.

9. 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.
10. **\*\*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 \$85.24 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for an oyster shell plant within the Lynnhaven River Basin.**
11. The conditions and approval associated with this variance are based on the exhibit plan dated February 7, 2018, prepared by Dewberry Engineers Inc., signed February 7, 2018 by Derek R. Marshall. 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.

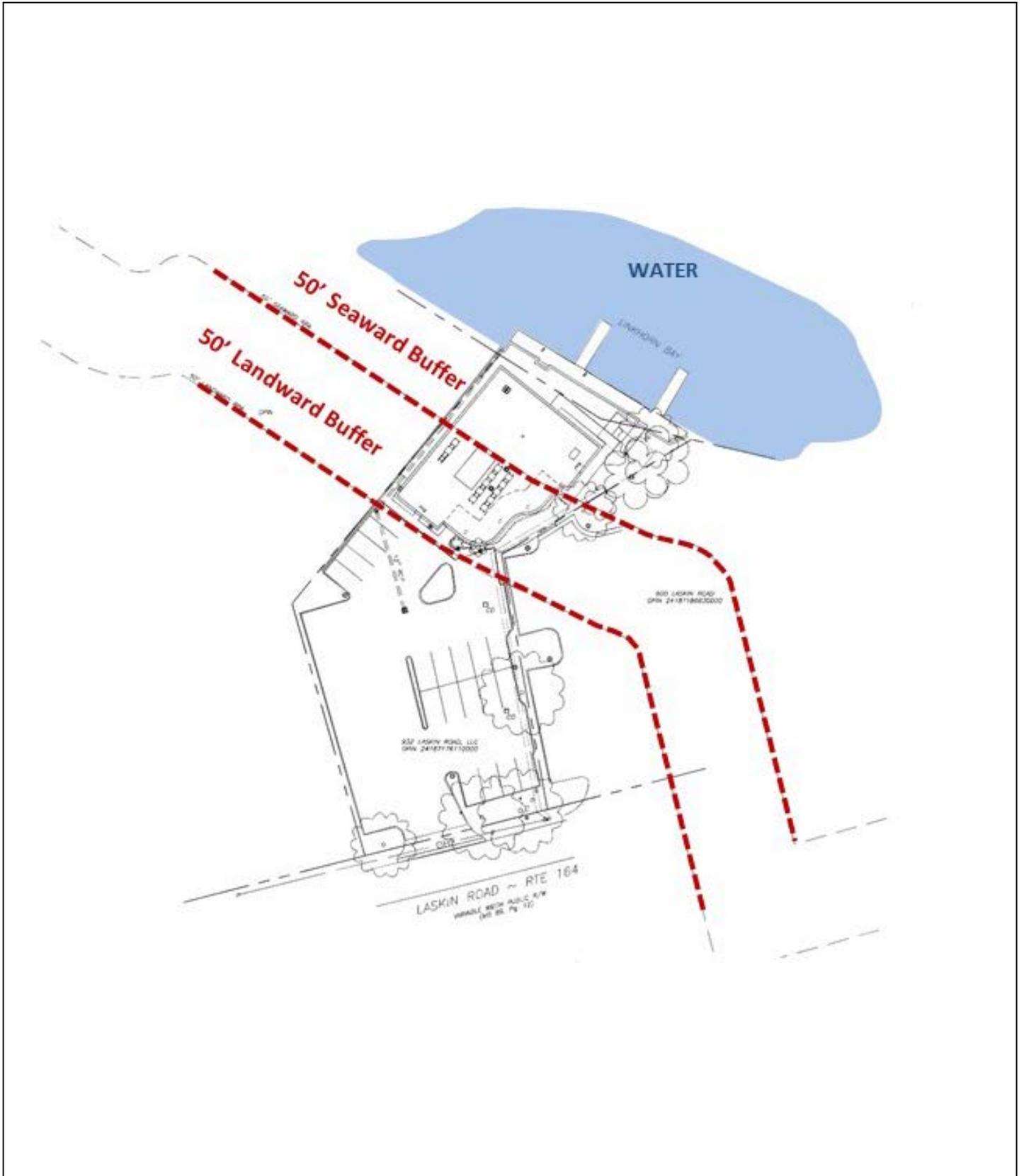
**\*\* NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

**\*\*\*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.

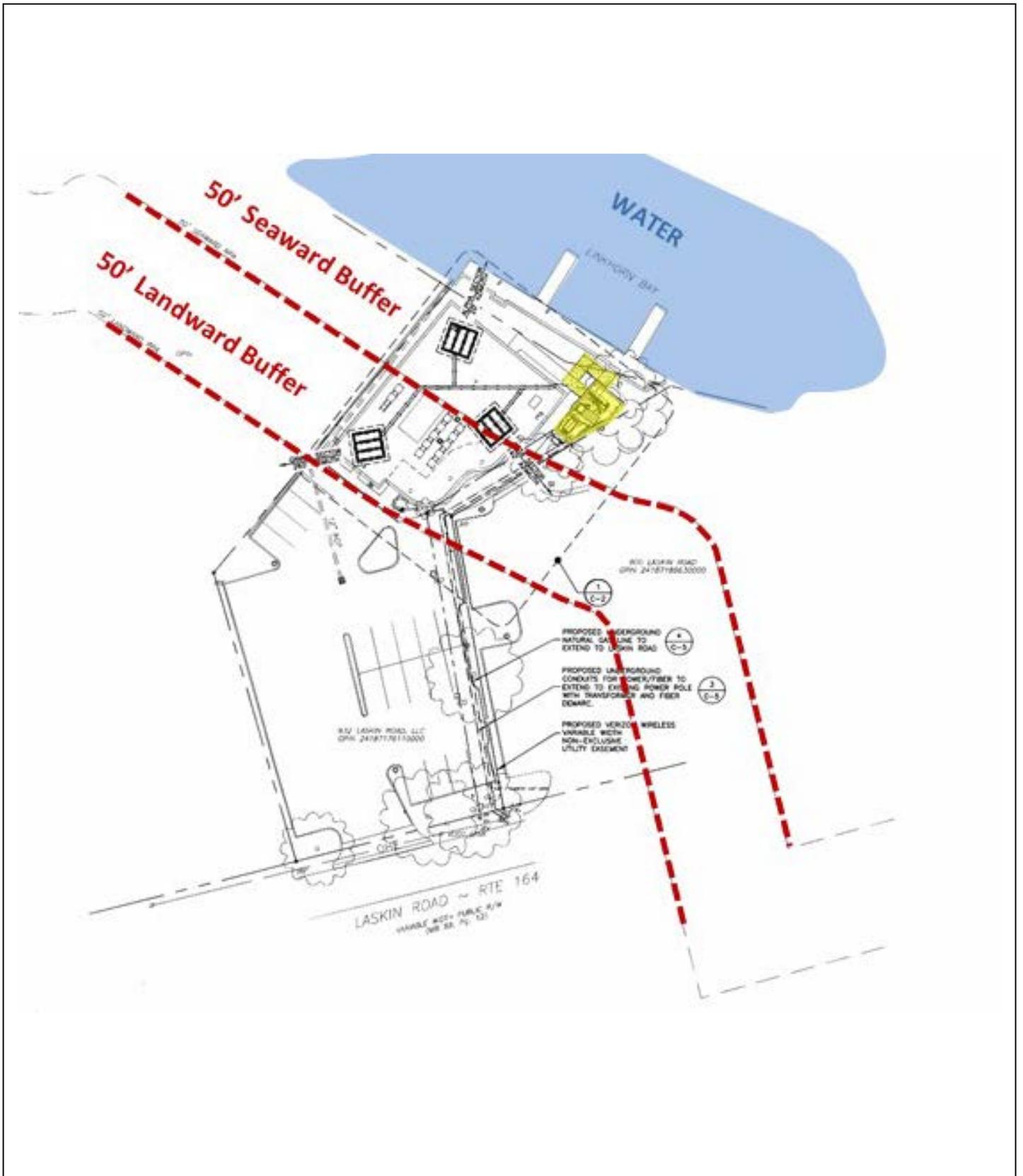
Site Aerial



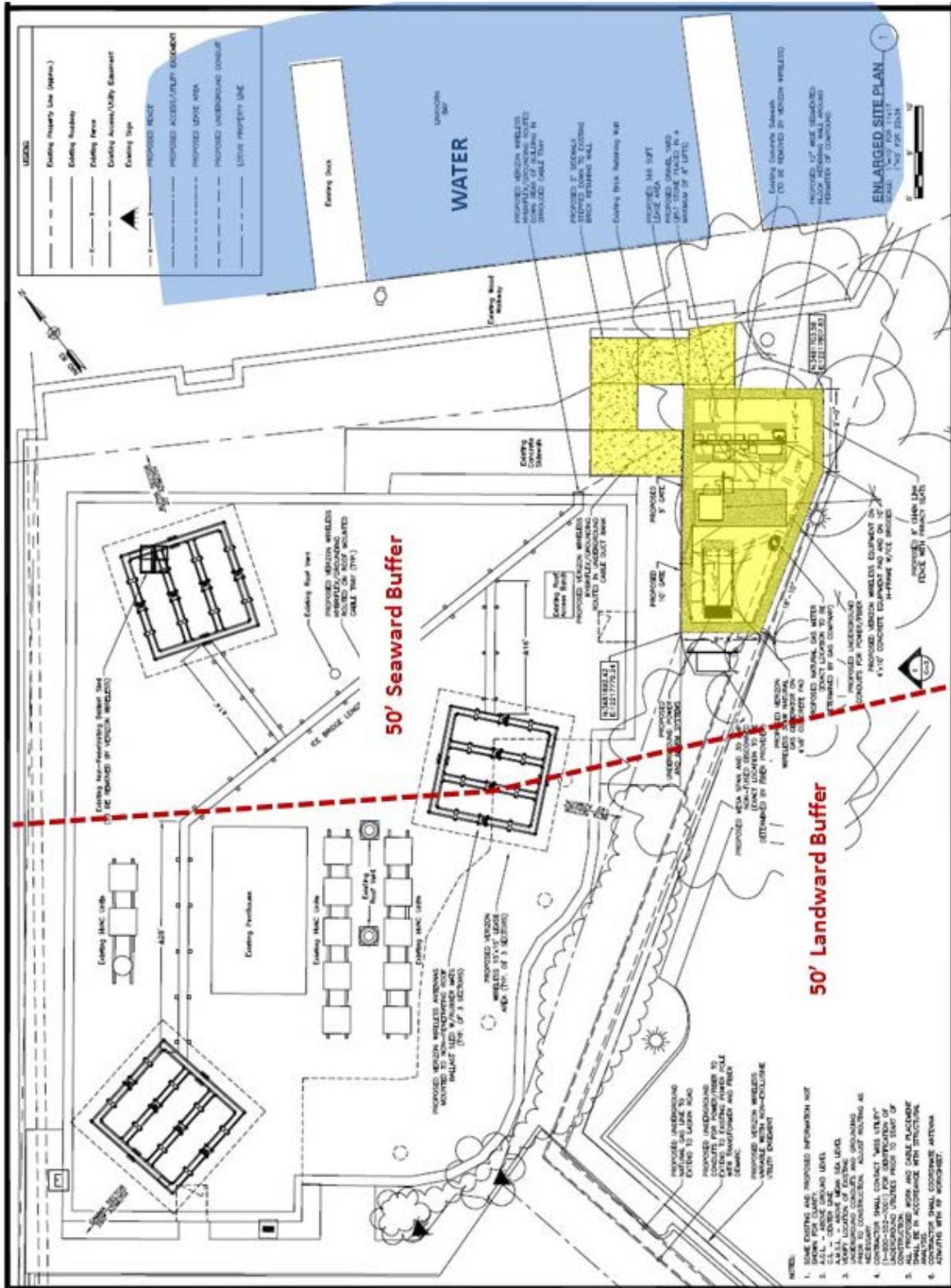
**CBPA Exhibit – Existing Conditions**



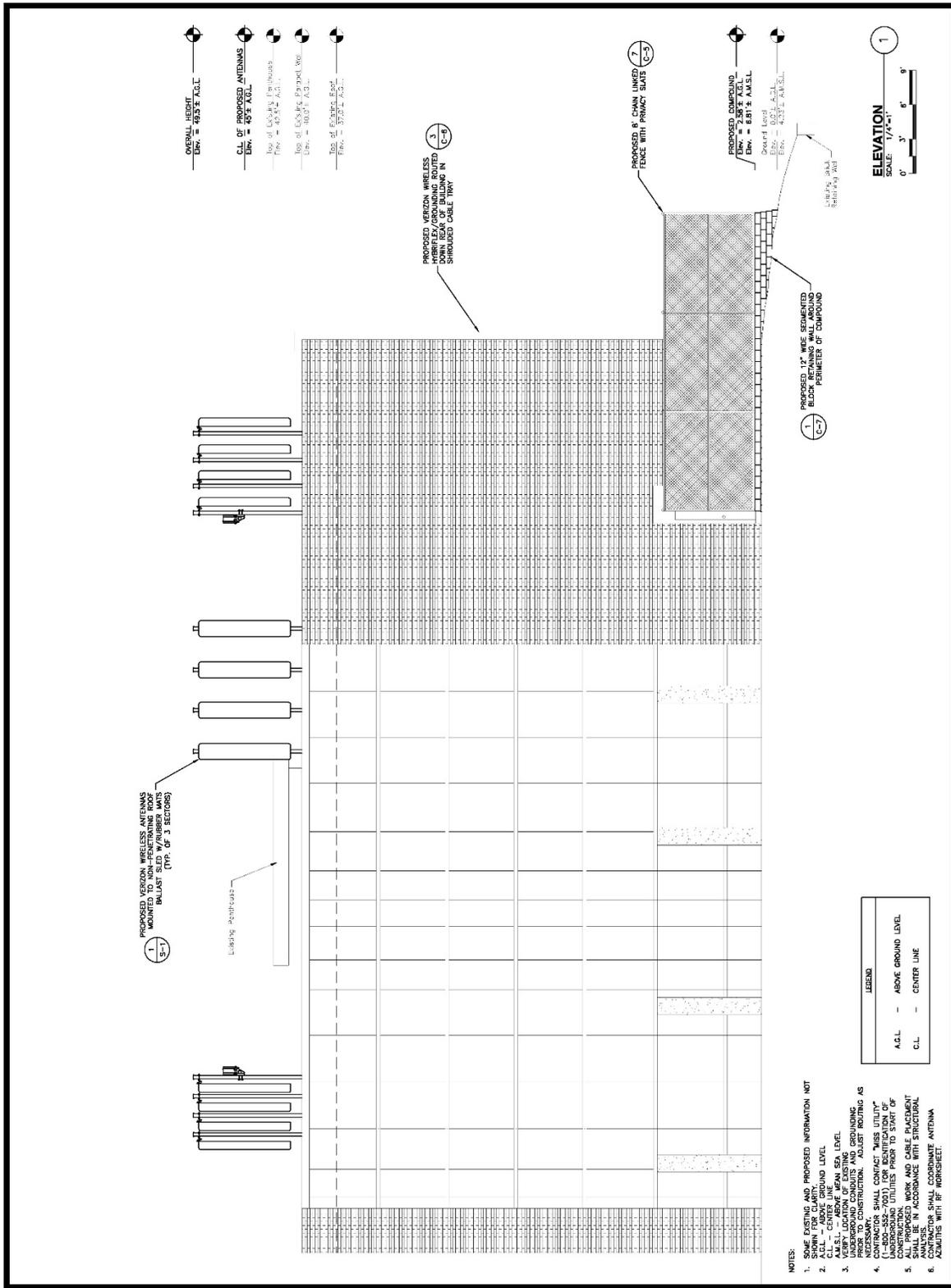
CBPA Exhibit – Proposed Improvements



**CBPA Exhibit – Enlarged Plan**



# CBPA Exhibit – Elevation





**APPLICANT'S NAME** Cellco Partnership d/b/a Verizon Wireless

**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:

<b>Acquisition of Property by City</b>	<b>Disposition of City Property</b>	<b>Modification of Conditions or Proffers</b>
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 dates are in the format of MM/DD/YYYY

<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 <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

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## 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: 932 Laskin Road, LLC  
If an LLC, list the member's names: Elizabeth W. Atkinson, sole member



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<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

n/a

<sup>1</sup> "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.

<sup>2</sup> "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.

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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	TBD
<input type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input 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	TBD by Bid
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Dewberry
<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)	N/A
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	LeClairRyan
<input type="checkbox"/>	<input 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.

<i>Celco Partnership dba Verizon Wireless</i> <i>By: Stephen R. Romine, Agent</i>	<i>Stephen R. Romine, Agent</i>	<i>12/22/17</i>
APPLICANT'S SIGNATURE	PRINT NAME	DATE



**OWNER**

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Jim Duty/The Roseline Group
<input type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Dewberry
<input 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)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Scott Alperin/Alperin Law PLLC
<input type="checkbox"/>	<input 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.

932 Laskin Road, LLC By: <i>Elizabeth W. Atkinson</i>	Elizabeth W. Atkinson	1/18/18
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

**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**

10/13/1926

Map Book 7, Page 193

**GPIN**

2418-34-6186

**SITE AREA**

30,583 square feet or 0.702 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

30,127 square feet or 0.692 acres

**EXISTING IMPERVIOUS COVER OF SITE**

6,333 square feet or 22.3 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

10,524 square feet or 34.9 percent of site

**Area of Redevelopment in RPA**

4,911 square feet

**Area of New Development in RPA**

5,174 square feet

**Location of Proposed Impervious Cover**

50 foot Seaward Buffer

50 foot Landward Buffer

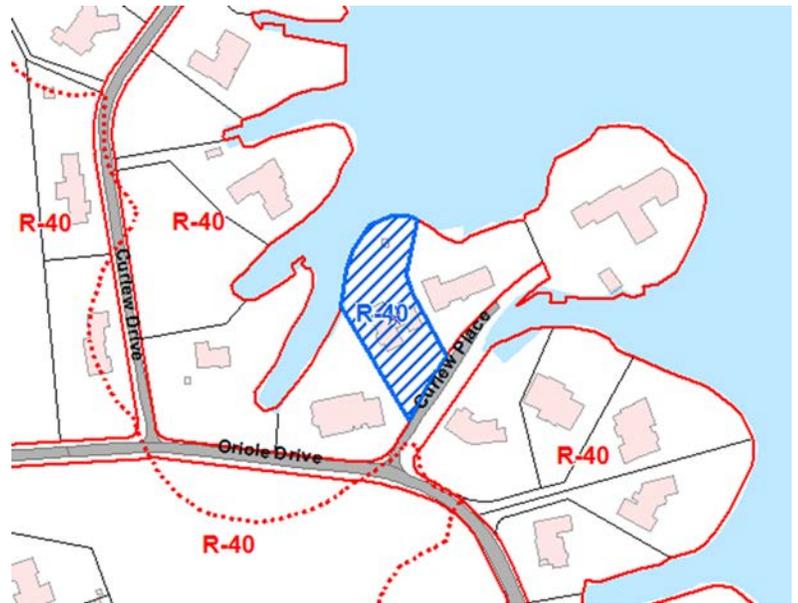
100 foot Variable Width Buffer

**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
- Circular driveway
- Swimming pool with 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)

Yeopim Series (deep and moderately well-drained soils)

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

### Shoreline

The shoreline is in a natural state with severe erosion of the bank occurring along the northern portion of the parcel. The applicant's agent stated to Staff that a Joint Permit Application (JPA) will be pursued to address the shoreline erosion with a potential for creating additional marsh area along the western reach of the shoreline.

### Riparian Buffer

Sparsely to moderately wooded.

- Number of existing canopy trees requested for removal within the RPA: 26
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing tree removal request: Staff is of the opinion that the number of trees requested for removal with the variance request is excessive. There are 11 Pine trees within the 50 foot seaward buffer and 3 Pine trees within the existing circular driveway naturalized area that are outboard of the limits of disturbance. Upon visiting the site there appears to be sufficient accessibility within the parcel to construct the proposed improvements without necessitating the removal of these trees. Therefore, the removal of these trees is unnecessary and this resource should be preserved.

## Evaluation and Recommendation

The rear portion of the property is a north facing shoreline that is heavily shaded by mature canopy cover. Major signs of erosion are present along this portion of the parcel which is contributing to the detriment of water quality.

Ronald and Deborah Holt

Agenda Item 6

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Given the existing topography of the rear yard, presence of erosion occurring along the shoreline, and the underlying soil conditions (highly erodible Rumford soils along the existing bank), the applicant's agent has stated to Staff that the on-going shoreline erosion will be addressed through the Joint Permit Application (JPA) process. This recommendation for approval is contingent upon abating the on-going shoreline erosion, in addition to a reduction in overall proposed impervious cover of the site with no portion of the proposed swimming pool or pool deck within the 50 foot seaward buffer.

The applicant's agent provided the following comments 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 this ordinance and are similarly situated as the proposed improvements conform to numerous other parcels within this neighbor that have been redeveloped and the unique hardship specific to this parcel which draws the 100 foot RPA buffer from both the rear and the front of the parcel."* Staff concurs.
- 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 and the existing improvements constructed during the 1960's therefore placing this parcel within the RPA".* Staff concurs.
- 3) *"The variance is the minimum necessary to afford relief in that the proposed improvements utilize the existing footprint of the residence as redevelopment to the greatest extent practicable."* With respect to the comments provided, Staff is of the opinion that a reduction in the overall proposed impervious cover, recommended condition 14 below, coupled with no encroachment into the 50 foot seaward buffer with the proposed swimming pool and pool deck, recommended condition 15 below, is more appropriate towards the variance request being the minimum necessary to afford relief.
- 4) *"The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, or otherwise detrimental to the public welfare as the redevelopment of the parcel will comply with other single family redevelopments in the neighborhood, minimal encroachments will occur within the most sensitive portions of the property, and a Joint Permit Application (JPA) will be pursued to abate the ongoing shoreline erosion and further prevent the redevelopment of this parcel from contributing to the detriment of water quality within the Lynnhaven River."* Staff concurs.
- 5) *"As a means to manage towards a no net increase in nonpoint source pollution load, the existing forest floor will be preserved to the greatest extent practicable, areas of turf will be removed and buffer restoration installed within the RPA – both rear and front yards, the eroding shoreline will be abated, and best management practices (BMPs) will be installed for stormwater treatment of impervious cover on site."* Staff supports this approach.

Given these comments provided by the applicant's agent, Staff offers the following 20 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality for the Board's deliberation.

## 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 as the "Limits of Construction".
5. Construction limits shall be contained within the limits delineated per the CBPA Variance Exhibit.
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. 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: **5,174 square feet x 200 percent = 10,348 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, 8 understory, 32 large shrubs, and 48 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. A means or method to abate the ongoing shoreline erosion shall be addressed on the submitted site plan. A Joint Permit Application (JPA) may be required.
14. The maximum impervious cover of the parcel shall not exceed 10,020 square feet or 33.25 percent of the site outside of water and wetlands.
15. No portion of the swimming pool or associated pool deck shall be within the 50 foot seaward buffer.
16. The proposed driveway shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided site plan submitted to the Development Services Center for review and approval.
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.
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 \$1,185.70 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for an 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 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.

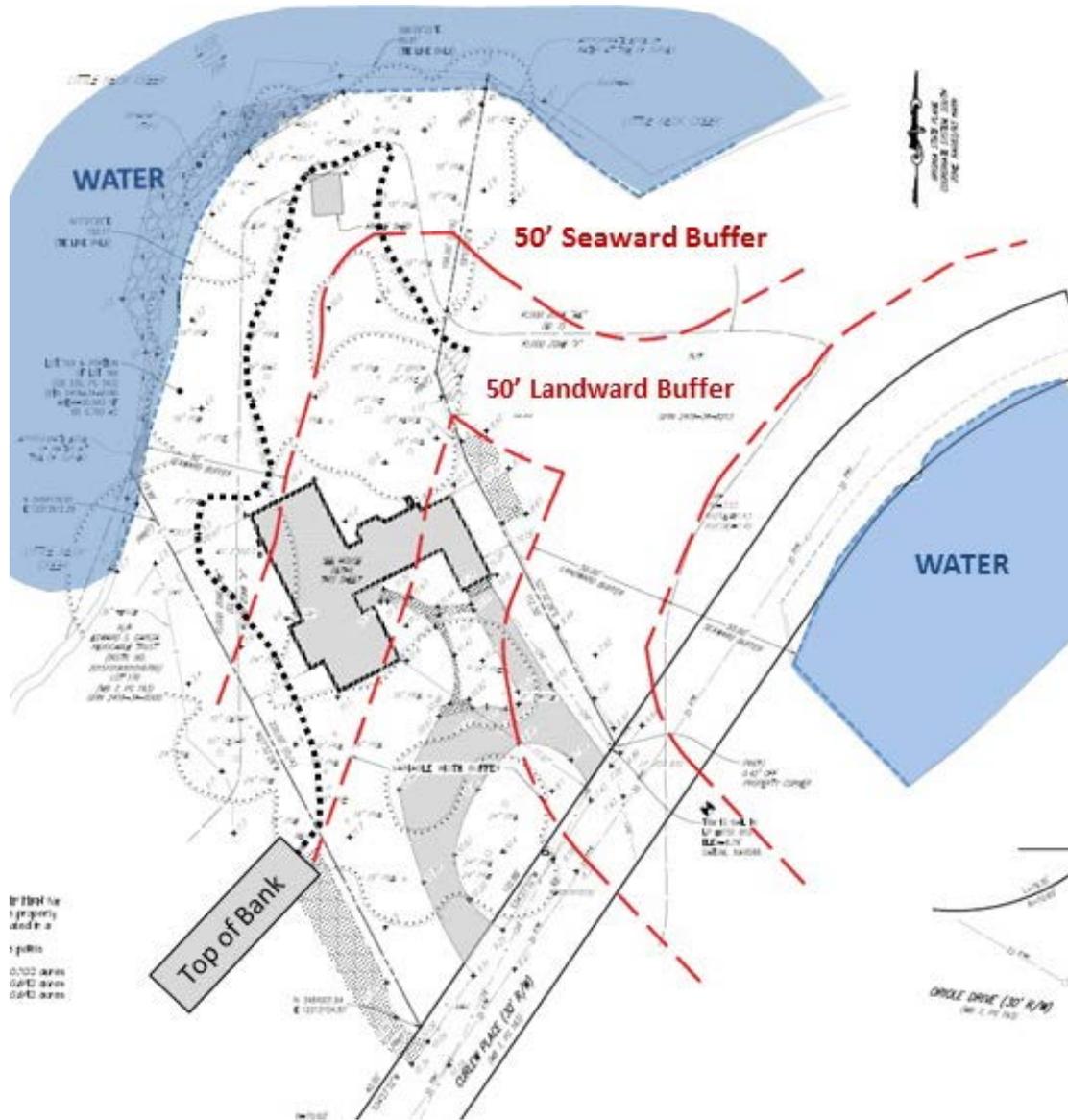
\*\* NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

\*\*\*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.

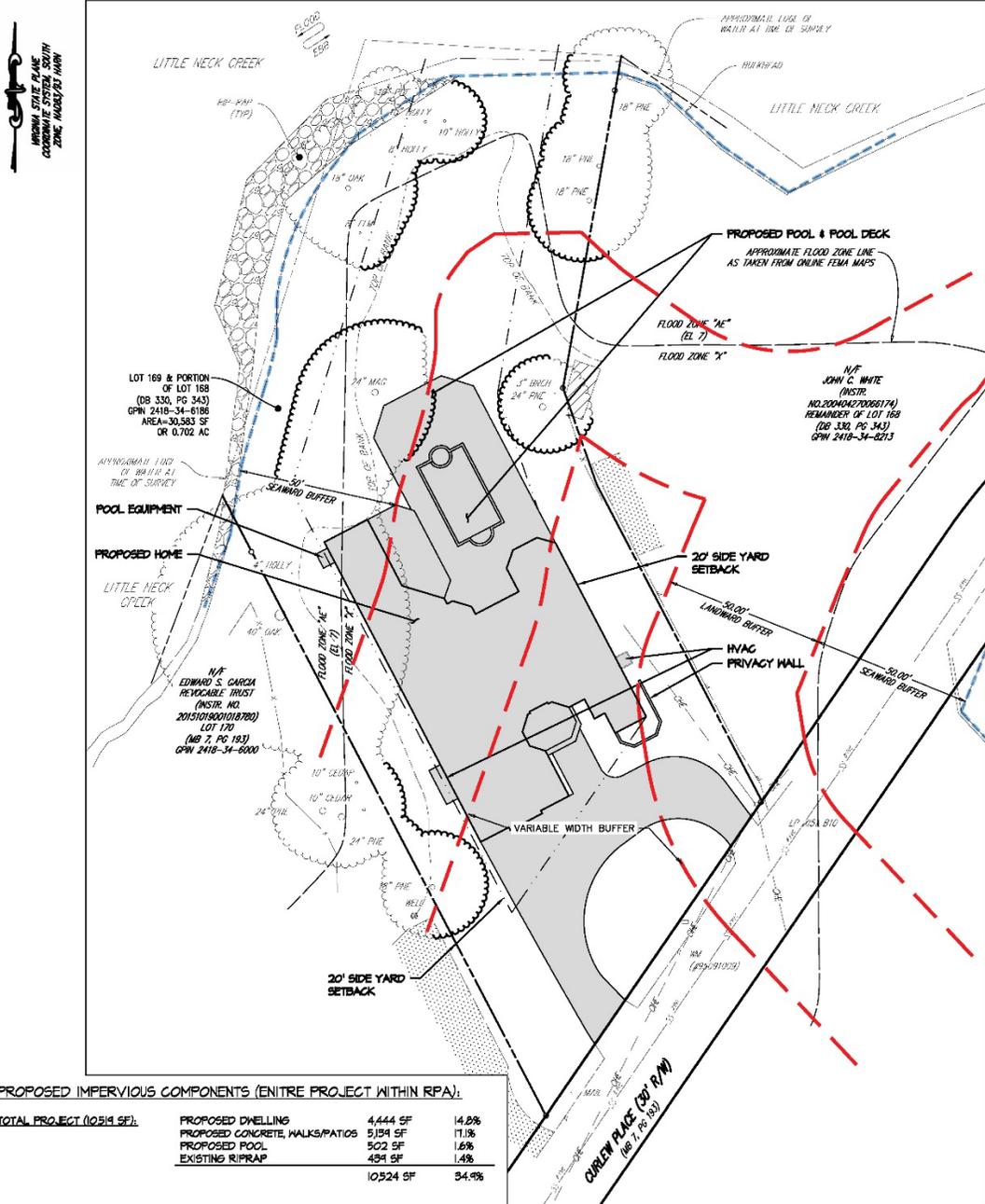
Site Aerial



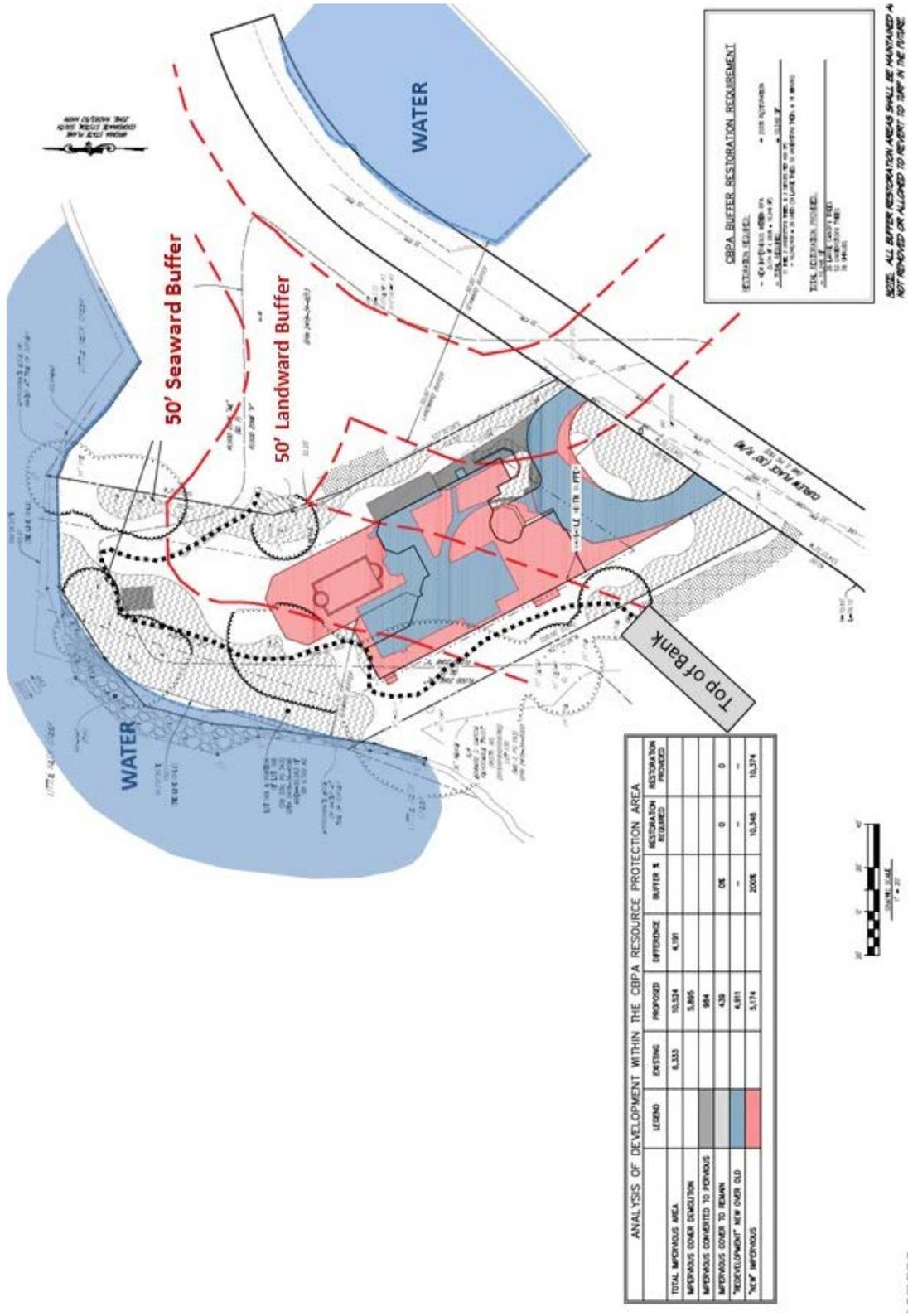
# CBPA Exhibit – Existing Conditions



# CBPA Exhibit – Proposed Improvements



# CBPA Exhibit – Color Analysis





**APPLICANT'S NAME** Ronald T. Holt

**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: Ronald T. Holt  
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 <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

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## 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 <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

<sup>1</sup> "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.

<sup>2</sup> "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.

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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 type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<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 type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	MSA/PC
<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)	UNION BANK
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Billy Garrison GR
<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.

<input checked="" type="checkbox"/> 	<input checked="" type="checkbox"/> Ronald T. Holt	<input checked="" type="checkbox"/> 1/2/18
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

Ronald and Deborah Holt

Agenda Item 6

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**Variance Request**

Encroachment into the Resource Protection Area (RPA) 50 foot landward buffer – swimming pool.

**Applicant's Agent**

Billy Garrington

**Staff Planner**

PJ Scully

**Lot Recordation**

10/6/1959

Map Book 48, Page 15 and 15A

**GPIN**

2409-09-3968

**SITE AREA**

20,654 square feet or 0.474 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

20,615 square feet or 0.473 acres

**EXISTING IMPERVIOUS COVER OF SITE**

5,897 square feet or 28.6 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

6,787 square feet or 32.9 percent of site

**Area of Redevelopment in RPA**

115 square feet, as stated in the WQIA

**Area of New Development in RPA**

890 square feet

**Location of Proposed Impervious Cover**

50 foot Landward Buffer

Resource Management Area (RMA)

**AMOUNT OF LAND DISTURBANCE**

Less than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Construction Details

- Swimming pool with concrete pool surround and patio area

## CBPA Ordinance Variance History

**March 26, 2012 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a single family residence with 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. 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 10 ft. from proposed improvements. Best management practices for erosion and sediment control shall be employed during restoration activities to protect adjacent wetlands and shorelines of water bodies.
4. 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.
5. 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.
6. Construction limits shall lie a maximum of 10' outboard of improvements along the seaward portion of the project and 15' elsewhere.
7. The construction access way shall be noted on the site plan, as well as the stockpile / staging area.
8. Under deck treatment of sand and gravel shall be installed.
9. All improvements shall be built into the existing slope with no perimeter fill authorized.
10. 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.

11. 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.
12. 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.
13. The conditions and approval associated with this variance are based on the site plan prepared by John E. Sirine and Associates, dated December 20, 2011 sealed December 20, 2011 by Jeffery D. Williams.
14. Stormwater runoff from existing and 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. Subject to other zoning regulations the existing frame shed may remain as located for the remaining life expectancy of said structure.
16. Eliminate existing paver walk adjacent to the bulkhead and shed.
17. One walkway will be permitted from the proposed residence to the existing bulkhead and existing shed. Said walkway shall be constructed of organic material (mulch), a maximum of 4 feet in width, with stepping stones not to exceed 50% of the path.
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 \$399.00 and is 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 the equivalent of an approximate 435 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.
19. Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA (1,740 sq. ft. x 200% = 3,480 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.
20. Buffer restoration shall be installed equal to 100% of the proposed area of redevelopment within the RPA (2,636 sq. ft. x 100% = 2,636 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 within 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. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit. In lieu of 100% restoration for redevelopment areas, a 10% reduction in pollutant removal load is acceptable via a structural BMP.

21. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.

The March 26, 2012 Board granted variance has been acted upon and the associated improvements constructed.

## Environmental Conditions

### Flood Zone

0.2% Annual Chance of Flooding

AE – Base Flood Elevation (BFE): 7

### Soil Type(s)

Lakehurst Series (deep, moderately drained sandy marine and eolian sediment soils).

### Shoreline

Shoreline is hardened by a bulkhead.

### Riparian Buffer

Sparsely 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

The March 2012 CBPA variance authorized the demolition of the existing single family residence for the construction of a new single family residence. Existing impervious cover of the parcel prior to demolition was 4,931 square feet or 23.9 percent. The Board granted a post-construction impervious cover of 6,023 square feet or 29.1 percent of the parcel. At that time the applicant, who is the same applicant with this variance request, did not propose a swimming pool. Of the 6,023 square feet of impervious cover granted by the March 2012 variance 5,897 square feet was constructed.

Preliminary discussions regarding the location of the proposed swimming pool situated the improvements in the rear yard and completely within the 50 foot seaward buffer. The applicant has since modified the request and provided an exhibit that does not depict any encroachment into the 50 foot seaward buffer with proposed impervious cover. The amount of impervious cover within the RPA is minimized by proposing a 4 foot wide walkway around the majority of the swimming pool. Staff is of the opinion that the proposed improvements are minimal in scope, limit the amount of land disturbance to the parcel as situated, and would not pose a substantial detriment to water quality should the Board grant a variance for this request.

The applicant's agent provided the following comments 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 this ordinance and are similarly situated as many single family residences within the immediate vicinity of this parcel have swimming pool in similar locations.
- 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 parcel within the RPA.
- 3) The variance is the minimum necessary to afford relief given that the proposed improvements have been located landward of the 50 foot seaward buffer and the overall impervious cover maintained under 33 percent of the overall parcel outside of water and wetlands.
- 4) The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare given the overall size of the proposed improvements being the minimum necessary to afford relief and situating the proposed improvements as such so that the most sensitive portion of the 100 foot riparian buffer is avoided.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load buffer, restoration will be installed at 200 percent of the proposed impervious cover within the RPA as shown on the CBPA exhibit and all previous best management practices (BMPs) installed with the construction of the existing residence verified to be functioning as intended and replaced if not.

Staff acknowledges the above comments provided by the applicant's agent in support of this variance request and offers the following 20 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality for the Board's deliberation.

## 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. The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required buffer restoration and stormwater management facilities shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior restoration requirements shall be installed if not present.
11. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **890 square feet x 200 percent = 1,780 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: **5 canopy trees, 5 understory, 10 large shrubs, and 15 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 \$203.95 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for a shell plant within the Lynnhaven River Basin.**

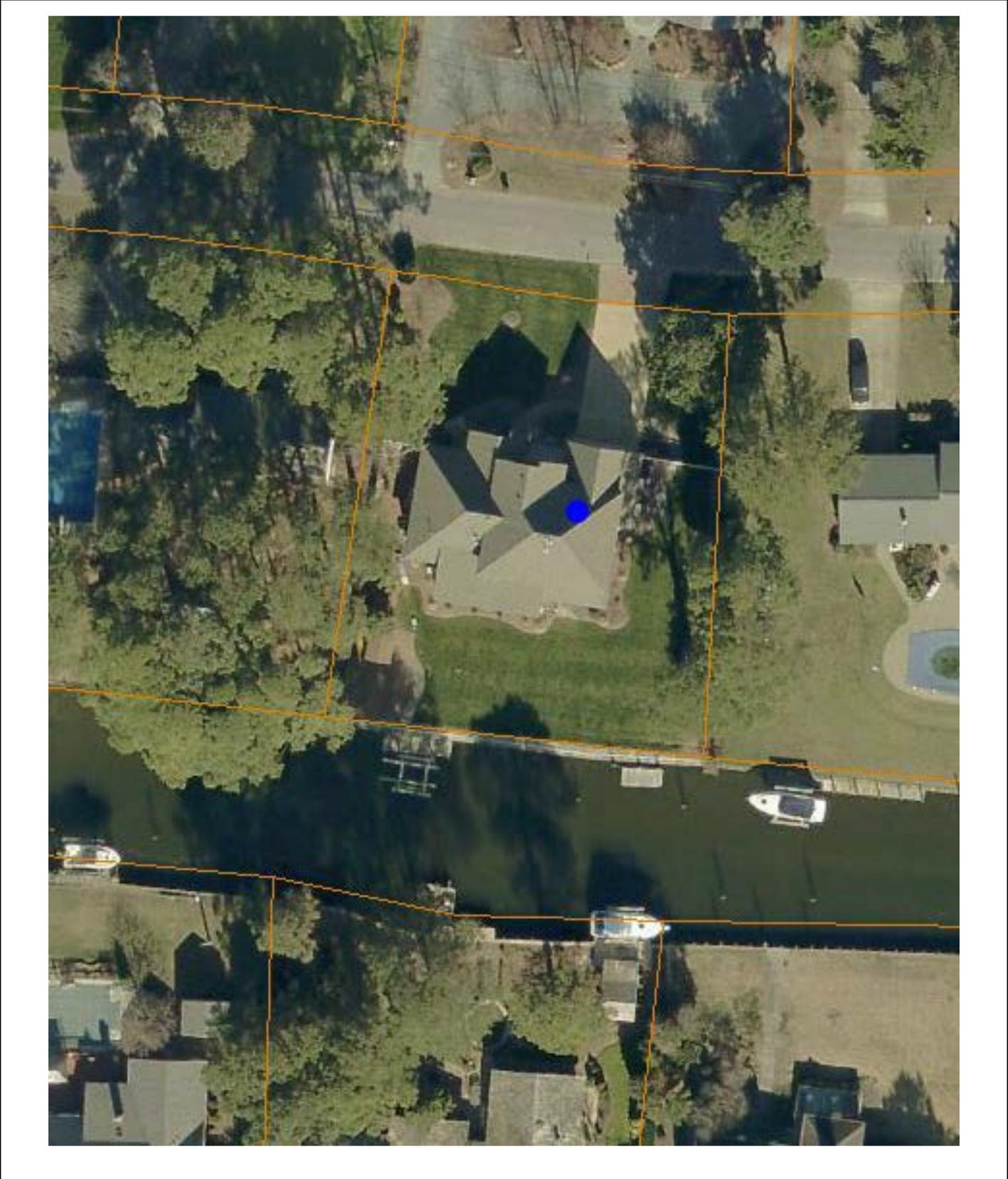
14. This variance and associated conditions **are in addition to** the conditions of the Board variance granted March 26, 2012.

15. The conditions and approval associated with this variance are based on the exhibit plan prepared by Gaddy Engineering Services, LLC. 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



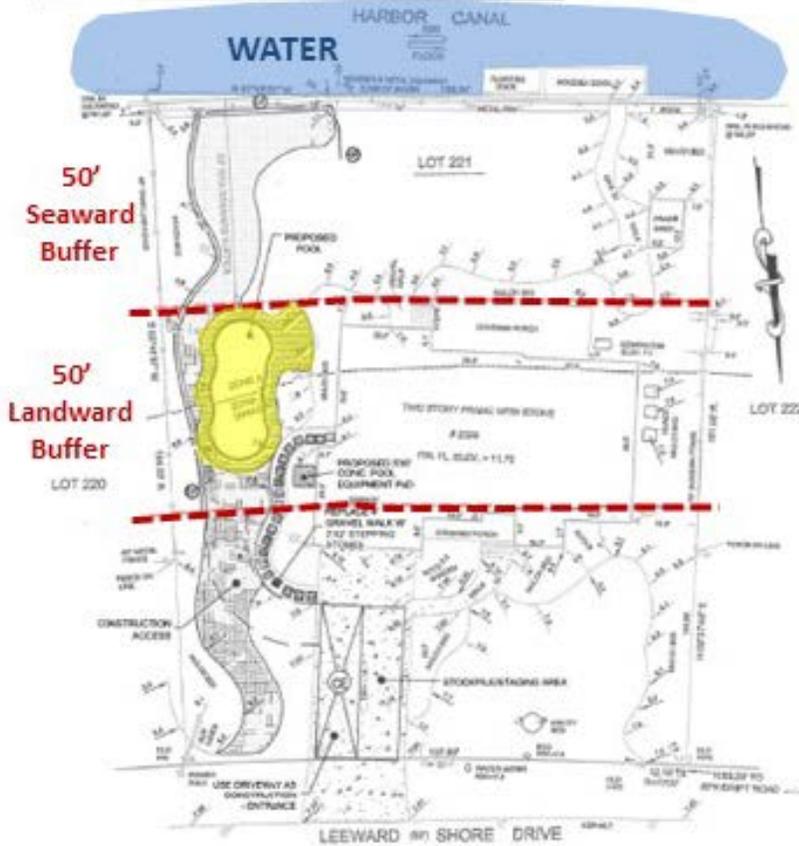


# CBPA Exhibit – Proposed Improvements

**GENERAL NOTES**

1. THE SUBDIVISION PLAN FOR THIS PROPERTY WAS RECORDED IN INSTRUMENT M.B.L.#10.15 & 15A
2. GPN 2409-09-3988
3. ZONING R20
4. PROPOSED NUMBER OF DWELLING UNITS: 1 EXISTING
5. THE PROPERTY FALLS IN THE CHESAPEAKE BAY WATERSHED.
6. THE PROPERTY DOES FALL IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON THE FEMA NFIP FIRM FOR THE CITY OF VIRGINIA BEACH, COMMUNITY PANEL NUMBER 318831-02410, DATED JANUARY 16, 2015. THE PROPERTY FALLS IN FLOOD ZONE AE BASE FLOOD ELEVATION 2.0 (NAVD 1988) & ZONE X (SHADED); THE EXISTING DWELLING IS LOCATED IN A SPECIAL FLOOD HAZARD AREA.
7. THIS PLAN IS BASED ON THE NAVD 1988 DATUM. THE CITY OF VIRGINIA BEACH CONTROL REFERENCE POINT FOR THE SURVEY AND DESIGN OF THIS PLAN IS VERTICAL CONTROL STATION VS 277 ELEVATION = 13.84
8. AREA OF SITE: 20,654 S.F. OR 0.471 AC.
9. AREA OF SITE OUTSIDE OF WATER, MARSH AND WETLANDS: 20,615 S.F. OR 0.472 AC.
10. AREA OF SITE WITHIN THE RPA: 13,048 S.F. OR 0.300 AC.
11. IMPERVIOUS AREAS:  
 PRE-DEVELOPMENT - 5,897 S.F. OR 0.134% OF TOTAL SITE, OR 38.0% OF SITE OUTSIDE OF WATER, MARSH, OR WETLANDS  
 POST-DEVELOPMENT (INCLUDING POOL) - 6,787 S.F. OR 0.132% OF TOTAL SITE, OR 32.0% OF SITE OUTSIDE OF WATER, MARSH, OR WETLANDS  
 POST-DEVELOPMENT (NOT INCLUDING POOL) - 6,392 S.F. OR 0.125% OF TOTAL SITE, OR 31.0% OF SITE OUTSIDE OF WATER, MARSH, OR WETLANDS
12. AREA OF LAND DISTURBANCE: 2,480 S.F. OR 0.057 AC. (IN RPA)

	EXISTING	PROPOSED	DIFFERENCE	SUPPLY	RESTORATION REQUIRED	RESTORATION PROVIDED
TOTAL IMPERVIOUS AREA	5,795 SF	4,340 SF	1,779 SF			
IMPERVIOUS CONCRETE TO REMAIN	3,650 SF			1%	0	0
NEW IMPERVIOUS	66 SF		28%	1,780 SF	1,380 SF	





**APPLICANT'S NAME** B.J. Hollowell

**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:

<b>Acquisition of Property by City</b>	<b>Disposition of City Property</b>	<b>Modification of Conditions or Proffers</b>
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: Todd and Blair Hollowell  
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<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes<sup>1</sup> and<sup>2</sup>

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## 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<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

<sup>1</sup> "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.

<sup>2</sup> "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.

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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 type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	—
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	—
<input checked="" 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	<i>East Coast Leisure</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	Gaddy Engineering Services, LLC
<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)	<i>DOMINIQUE MORTGAGE</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	<i>Bill, Construction GPC</i>
<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.

	Todd Hollowell	1/3/10
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

**Property Owner's Agent**

Eddie Bourdon

**Staff Planner**

PJ Scully

**Lot Recordation**

9/30/1949

Map Book 24, Page 46

**Lot Description**

Syer Tract, Long Creek Lot 7 & Parcel  
3004 Island Lane

**GPIN**

1499-17-4498

**Contractor Information**

Louis Mosier

J.L. Mosier Construction Co., Inc.

**DESCRIPTION OF NONCOMPLIANCE**

**Unauthorized Improvements**

- Concrete paver driveway expansion.
- Concrete paver split level terrace with associated segmented block retaining wall.
- Concrete paver patio area.

**Location of Proposed Impervious Cover**

50 foot Seaward Buffer

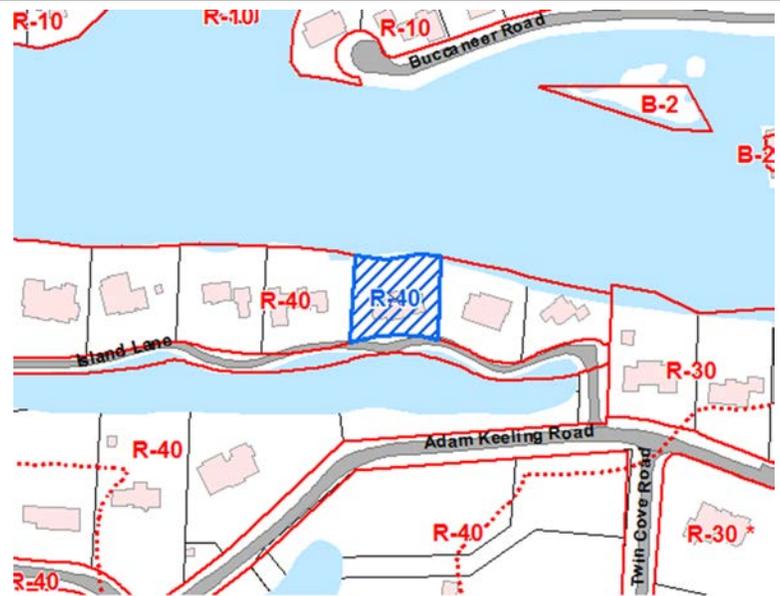
50 foot Landward Buffer

**CBPA Ordinance**

- The unauthorized improvements constitutes a noncompliance to Section 106 of the Chesapeake Bay Preservation Area Ordinance.

**AMOUNT OF LAND DISTURBANCE**

Less than 2,500 square feet



## CBPA Ordinance Variance History

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

## History of Noncompliance

To Staff's knowledge, Mitchell Lee and Linda S. Dunbar have no history of noncompliance with the Chesapeake Bay Preservation Area Ordinance beyond the unauthorized improvements described on page 1 of this report.

## Chronology of Events

- February 9, 2017 Staff received a Preliminary Project Request (PPR) for tree removal in the RPA. A response letter was sent to Louis Mosier from Staff approving the request.
- October 6, 2017 Staff received a second PPR for tree removal in the RPA. A response letter was sent to Mitchell Dunbar from Staff approving the request.
- October 23, 2017 Staff received a third PPR for tree removal in the RPA. The trees in question are adjacent to the City right-of-way and have damage to the trunks due to being struck by vehicles traveling Island Lane. A response letter was sent to Louis Mosier and Mitchell Dunbar from Staff approving the request.
- November 27, 2017 Staff received a PPR from Louis Mosier requesting to construct 210 square foot addition to the existing sun porch. A response letter, dated December 13, 2017 was sent to Louis Mitchell informing him that the request would require Chesapeake Bay Preservation Area (CBPA) Board approval.
- January, 2018 In early 2018, Staff spoke with the property owner, Mitchell Dunbar, and the contractor, Louis Mosier, at the Department of Planning and Community Development customer service counter regarding the December 13, 2017 PPR response letter. The discussion pertained to modifying the proposed improvements to be an addition to the primary structure with the intent of conditioning the proposed improvements. Staff informed Mr. Dunbar and Mr. Mosier to resubmit a PPR with the necessary revision so that a record could be created and an Administrative Variance considered.
- January 11, 2018 Staff received a PPR from Louis Mosier requesting to extend the existing sunroom approximately 160 square feet along the rear of the residence.
- January 24, 2018 Staff visited the property during the monthly field visits for the CBPA Board agenda. During the site visit, Staff determined that the PPR exhibit (submitted physical survey of the parcel) did not represent the conditions in the field. Specifically, the concrete paver driveway and concrete paver patio were not depicted on the physical survey submitted.
- January 24, 2018 Staff sent an email to the contractor informing him that the January 11, 2018 PPR request would not be approved at this time due to the current site conditions not be accurately represented on the submitted physical survey performed by John E. Sirine and Associates. In addition, City records did not indicate a CBPA variance being granted for the concrete paver patio and

concrete paver circular driveway. Staff asked the contractor if he was in possession of any recordation of these improvements being authorized through the CBPA variance process.

- January 26, 2018 On or about this date, Staff received a call from Mitchell Dunbar stating that he was aware of the email sent to his contractor, Louis Mosier, and that he would be looking into the matter. Mr. Dunbar informed Staff that he would be back in contact shortly.
- February 2, 2018 On or about this day, Mr. Dunbar contacted Staff regarding the improvements at 3004 Island Lane. Staff informed Mr. Dunbar that he would be in receipt of a Notice to Comply letter. Mr. Dunbar requested an email copy of the letter so that he would have the information for a meeting the following week with his attorney.
- February 2, 2018 Staff sent a Notice to Comply letter to Mitchell Lee and Linda S. Dunbar for the unauthorized improvements – construction of a concrete paver patio and concrete paver driveway without CBPA approval at 3004 Island Lane.
- February 5, 2018 Staff sent a Notice to Comply letter to Louis Mosier, J.L. Mosier Construction Co., Inc. for the unauthorized improvements – construction of a concrete paver patio and concrete paver driveway without CBPA approval at 3004 Island Lane.

## Evaluation and Recommendation

### Relative Degree of Deviation

As documented by the above Chronology of Events, both the property owner and contractor were involved with submitting requests to Staff for review and approval through the PPR process dating back to February, 2017. The submitted PPR exhibits for the sun room improvement requests were submitted on a physical survey performed by John E. Sirine and Associated, dated August 25, 2016. Said physical survey does not show the unauthorized improvements.

The subject activity of noncompliance, construction of a concrete paver patio and concrete paver driveway, was performed without the following reviews or approvals.

- A variance from the CBPA Ordinance. Said unauthorized improvements are accessory structures located in the 50 seaward and 50 foot landward buffer of the RPA which requires that a variance to the CBPA Ordinance be granted by the CBPA Board. [City Code, Appendix F].
- Encroachment review and approval by Public Works Real Estate. Portions of the unauthorized improvements, specifically the concrete paver driveway, may encroach within the Island Lane right-of-way. [Public Works Specifications and Standards (PWSS), Chapter 10].
- Development review for compliance with the Public Works Specification and Standards for residential entrance width requirements. The existing concrete driveway entrance and the unauthorized concrete paver driveway entrance are required to be a specific width collectively – no more than 20 feet in width within residential districts. [PWSS, Chapter 3].
- A Right-of-Way Permit for the new driveway apron. The portion of a driveway within the right-of-way is required to meet Public Works specifications and standards. [PWSS, Chapter 3].
- A Building Permit for the segmented block retaining wall and associated elevated patio area. The unauthorized improvements appear to be retaining 24 inches of unbalanced backfill, therefore, requiring the design and foundation specifications to be performed by a registered design professional. [2012 Virginia Residential Code, Chapter 4].

### **Environmental Impact**

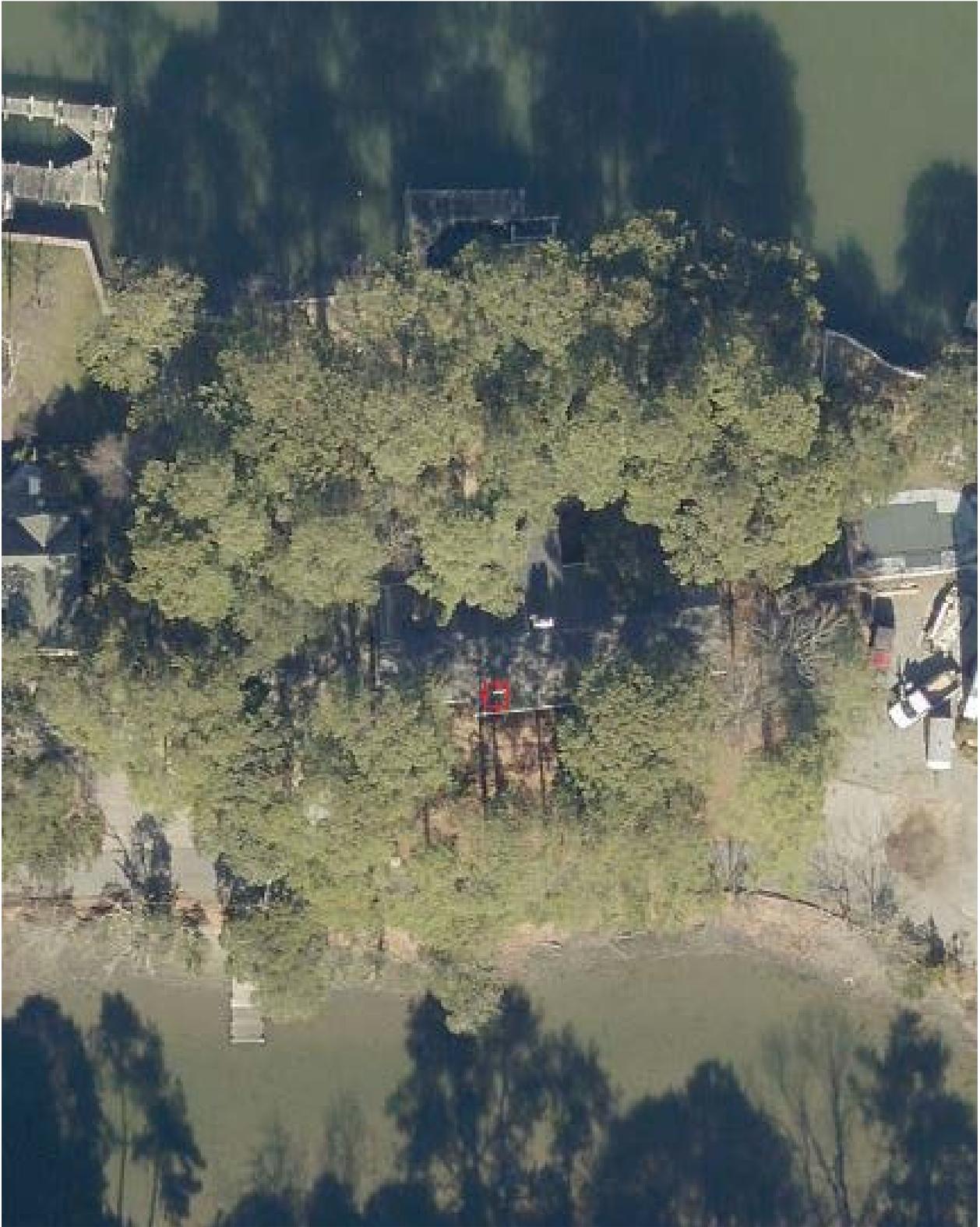
The subject area of noncompliance lies within the 50 seaward and 50 foot landward buffer portions of the Chesapeake Bay Preservation Area (CBPA) Resource Protection Area (RPA).

The limits of construction do not appear to have disturbed a substantial area of existing forest floor, and no signs of erosion or sediment migration into the adjacent tidal marsh or waterways were present when Staff visited the property. Staff is of the opinion that the unauthorized improvements, specifically the circular driveway, have the potential to introduce additional untreated stormwater runoff into Wolfsnare Creek during intense rain events.

### **Recommendation**

It is the opinion of the Department of Planning and Community Development Staff that the degree of deviation or noncompliance has been high and the environmental impact has been low.

Site Aerial





**Contractor's Agent**

Self-representing

**Staff Planner**

PJ Scully

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9/30/1949

Map Book 24, Page 46

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**Current Property Owner**

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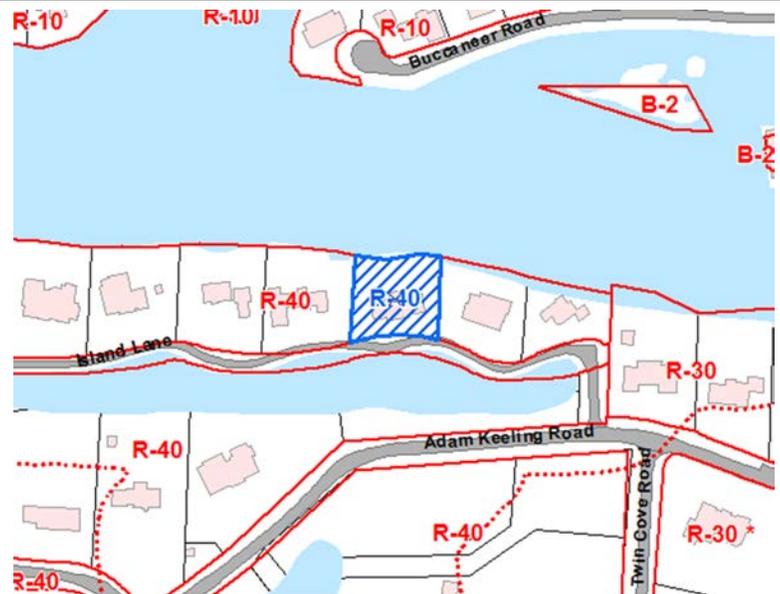
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## Evaluation and Recommendation

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