

Chesapeake Bay Preservation Area Board Agenda

April 23, 2018



CHESAPEAKE BAY PRESERVATION AREA BOARD

NOTICE OF PUBLIC HEARING

The Virginia Beach Chesapeake Bay Preservation Area Board will hold a Public Hearing on **Monday, April 23, 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.**

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.

Hans E. & Holli Wachtmeister
[Property Owner and Applicant]

1421 Crystal Parkway
GPIN: 2419-40-0911
COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Robert Simon

Staff Planner – PJ Scully

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NEW BUSINESS AGENDA ITEMS

2.

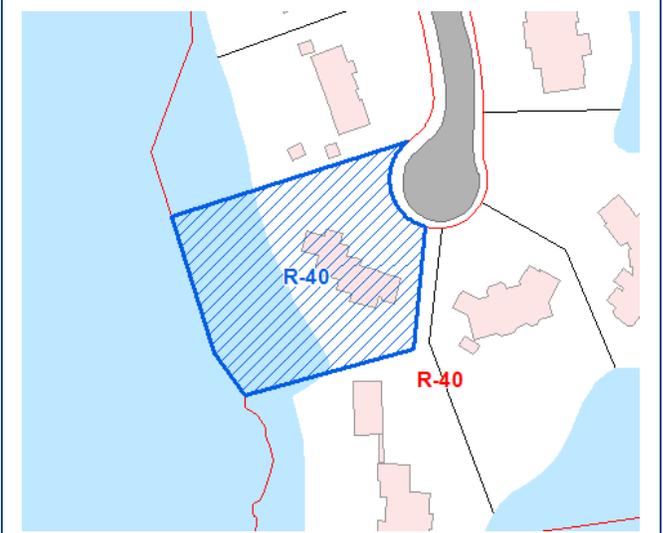
Joseph Koen
[Property Owners and Applicants]

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

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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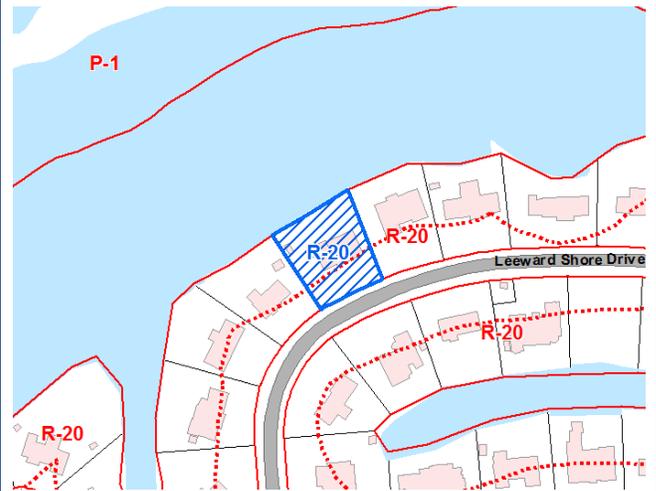
3.

Steven & Terri McSweeney
[Property Owners and Applicants]

2352 Leeward Shore Drive
GPIN: 1590-90-6152
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Scott Crumley

Staff Planner – PJ Scully
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4.

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

952 Oriole Drive
GPIN: 2418-339797
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Rick Ruiz

Staff Planner – PJ Scully
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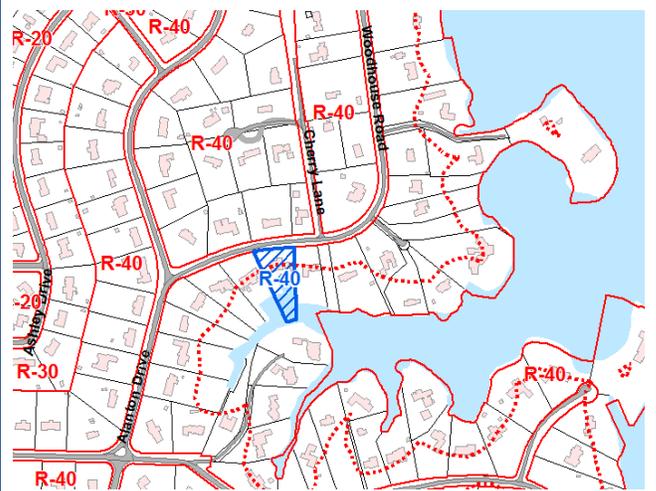
5.

Victor S. Bakkar
[Property Owners and Applicants]

1408 N. Woodhouse Road
GPIN: 2408-89-1482
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully
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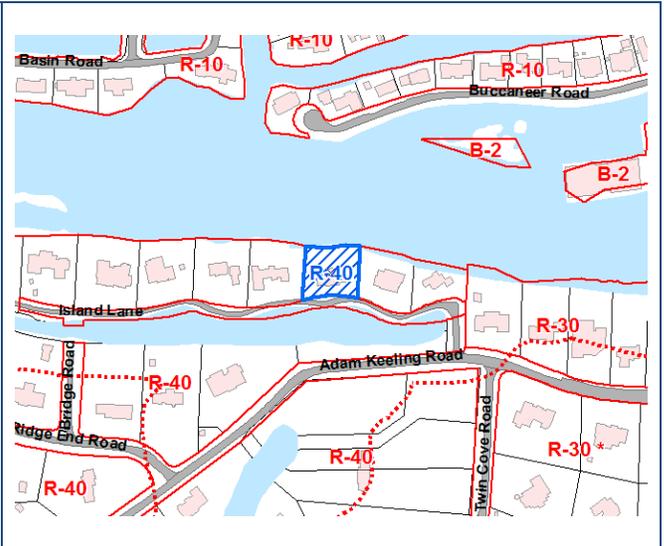
6.

Mitchell Lee & Linda S. Dunbar
[Property Owner and Applicant]

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

Applicant's Agent – Eddie Bourdon

Staff Planner – PJ Scully
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RESTORATION HEARING AGENDA ITEMS

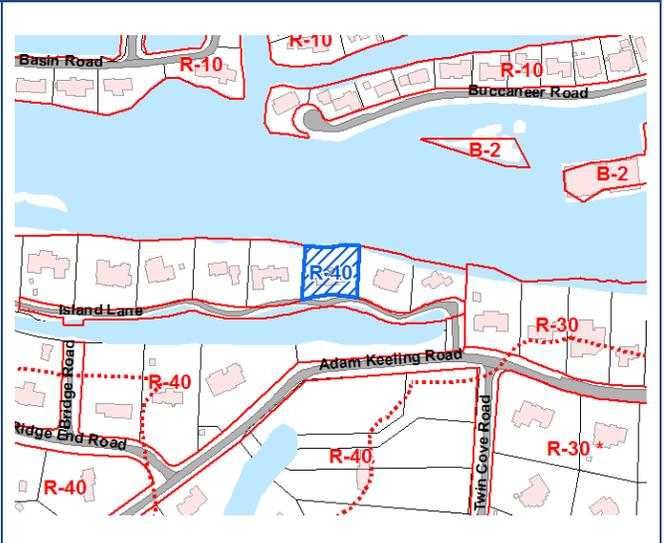
7.

Mitchell Lee & Linda S. Dunbar
[Property Owners and Applicants]

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

Applicant's Agent – Eddie Bourdon

Staff Planner – PJ Scully
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Please note that due to the Memorial Day holiday the CBPA Board Public Hearing for the month of May will be held on **THURSDAY, May 24, 2018.**

The time and location of the public hearing will remain as scheduled. Thank you.



Property Owner **Hans E. and Holli H. Wachtmeister**
 Applicant **Hans E. and Holli H. Wachtmeister**
 Address **1421 Crystal Parkway**
 Public Hearing **April 23, 2018**
 City Council District **Lynnhaven**

Agenda Item

1

Variance Request

Modification of the April 25, 2011 Chesapeake Bay Preservation Area (CBPA) Board variance to delete condition 8.

This item was deferred at the March 26, 2018 CBPA Board Public Hearing

Applicant's Agent

Robert Simon

Staff Planner

PJ Scully

Lot Recordation

8/13/1952

Map Book 32, Page 36

GPIN

2419-40-0911

SITE AREA

48,915 square feet or 1.12 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

40,230 square feet or 0.92 acres

EXISTING IMPERVIOUS COVER OF SITE

9,656 square feet or 24 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

9,656 square feet or 24 percent of site

Location of Proposed Impervious Cover

50 foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Wood bulkhead

Construction Details

- Wood bulkhead – 2 feet outboard of the existing bulkhead

CBPA Ordinance Variance History

April 25, 2011 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the subdivision of a single parcel into two residential lots 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 waterbodies.*
4. *Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline (if possible) 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 an 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.*
7. *The construction access way shall be noted on the site plan, as well as the stockpile / staging area.*
8. *If and when the shoreline is re-hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead), exclusive of the boat basin. The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands, unless the Wetlands Board determines that site specific conditions warrant a more seaward alignment.*
9. *The pool shall be constructed prior to or concurrent with the residence.*

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 sealed March 31, 2011 by William R. Pritchard, prepared by WPL.*
14. *The nearest intersection label is incorrect and shall be corrected on the revised plan. The nearest street is Bayshore Drive.*
15. *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.*
16. *The proposed walkways, exclusive of the eastern walkway/retaining wall leading to the front door, shall be mulched, a maximum of 4 feet in width, with stepping stones or pavers not to exceed 50% of the path area.*
17. ***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 \$621.00 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 678 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
18. *Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA (2,710 x 200% = 5,420 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.*
19. *It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.*

The April 25, 2011 CBPA Board granted variance has been acted upon and the associated upland improvements constructed.

Environmental Conditions

Flood Zone

Zone x

Soil Type(s)

State Series (deep, well-drained soils) located above the top of bank

Shoreline

Shoreline is hardened by a wood bulkhead. The applicant's agent has stated in the Water Quality Impact Assessment (WQIA) that the existing timber bulkhead has exceeded its design life.

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

Evaluation and Recommendation

Staff met with the applicant and the applicant's agent following the March CBPA Board Public Hearing to discuss reharding options for the subject shoreline. Staff is of the opinion that the April 25, 2011 CBPA Board variance condition that *"if and when the shoreline is re-hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead), exclusive of the boat basin"* is possible; however, there may be other methods to reharden the subject shoreline, subject to the following.

- Grading of the existing shoreline to reduce the steepness of the bank slope to accommodate a riprap revetment would not be entirely feasible, due to existing upland structures and adjacent property conditions.
- This upper reach of Rainey's Gut and Crystal Lake do pose some concerns with the limitations of the river bottom. In speaking with the Virginia Marine Resource Commission (VMRC), in some instances, riprap revetments have not worked well due to soil conditions that will not support the weight of a riprap revetment.
- The navigable channel to the west of this parcel services 7 parcels. Water access to these parcels draws recreational boaters relatively close to the existing bulkhead and boat basin of 1421 Crystal Parkway. This path of access is partial to the existing dredged channel and shallow submerged island across the cove.

Given the multiple environmental variables to consider regarding the rehardening of the shoreline, Staff supports the applicant's request that Condition 8 of the April 25, 2011 CBPA Board variance be deleted. Staff is of the opinion that the request will not confer upon the applicant any special privileges, and will allow them to work with other agencies who have jurisdiction over the river bottom to develop an acceptable shoreline hardening strategy.

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.

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 waterbodies.
4. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline (if possible) 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 an 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.
7. The construction access way shall be noted on the site plan, as well as the stockpile / staging area.
8. The pool shall be constructed prior to or concurrent with the residence.
9. 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.
10. 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.
11. 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.
12. The conditions and approval associated with this variance are based on the site plan sealed March 31, 2011 by William R. Pritchard, prepared by WPL.
13. 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.
14. The proposed walkways, exclusive of the eastern walkway/retaining wall leading to the front door, shall be mulched, a maximum of 4 feet in width, with stepping stones or pavers not to exceed 50% of the path area.
15. ****As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$621.00 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 678 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.**

16. Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA (2,710 x 200% = 5,420 sq. ft.) and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance. The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

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

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

Site Aerial



CBPA Exhibit – Proposed Improvements

CBPA APPROVAL CONDITION NO. 8

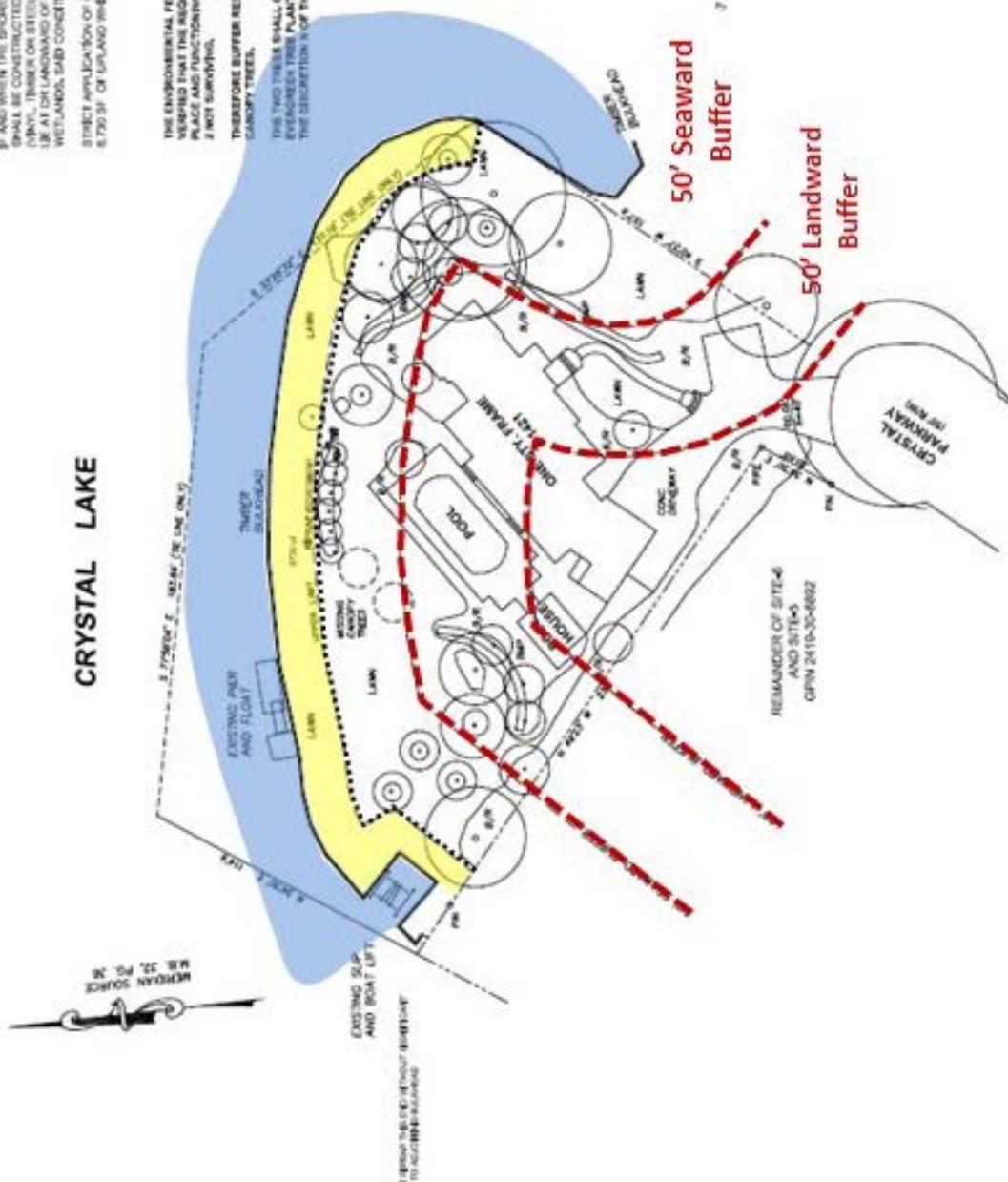
IF AND WHEN THE SHOULDER IS RE-HARDENED, A RIPRAP MOVEMENT SHALL BE CONSTRUCTED IN LIEU OF A VERTICAL RETAINING STRUCTURE (RYW), TRIMMER OR STEEL BULKHEAD, THE TOE OF SAID MOVEMENT SHALL BE AT OR LANDWARD OF ADEQUATE HIGH WATER OR TIDAL VEGETATED WETLANDS, SAID CONDITION SHALL BE NOTED ON THE SITE PLAN.

STRICT APPLICATION OF CONDITION 8 WOULD RESULT IN THE LOSS OF 8,750 SF OF GRASS WHICH WOULD BE CONVERTED TO ASPHALT.

THE ENVIRONMENTAL FEATURES SURVEY CONDUCTED ON 2/1/2018 VERIFIED THAT THE REQUIRED LANDSCAPE BEDS AND BMP'S ARE IN PLACE AND FUNCTIONING, THE REQUIRED TREES WERE PLANTED WITH 2 NOT SURVIVING.

THEREFORE BUFFER RESTORATION SHALL CONSIST OF PLANTING 2 CANOPY TREES.

THE TWO TREES SHALL CONSIST OF ONE DECIDUOUS AND ONE EVERGREEN TREE PLANTED WITHIN THE 50' LANDWARD BUFFER AT THE DISCRETION OF THE APPLICANT.





APPLICANT'S NAME Hans E. and Holli Wachtmeister

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: Hans E. and Holli Wachtmeister
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

(A) List the Property Owner's name: Hans E. Wachtmeister
If an LLC, list the member's names:



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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Marshall Consulting Group, LLC
<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	Project out for bid
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	WCI, Chesapeake Bay Site Solutions
<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)	Sun Trust Mortgage
<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.

	Hans E. and Holli Wachtmeister	2/5/18
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 **Joseph L. Koen**
Applicant **Joseph L. Koen**
Address **1425 Blue Heron Road**
Public Hearing **April 23, 2018**
City Council District **Lynnhaven**

Agenda Item

2

Variance Request

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

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

5/6/1977

Map Book 120, Page 11

GPIN

1498-58-5133

SITE AREA

44,330 square feet or 1.018 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

31,814 square feet or 0.730 acres

EXISTING IMPERVIOUS COVER OF SITE

8,581 square feet or 27.0 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

11,427 square feet or 35.9 percent of site

Area of Redevelopment in RPA

3,934 square feet

Area of New Development in RPA

4,213 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

50 foot Landward Buffer

100 foot Variable Width Buffer

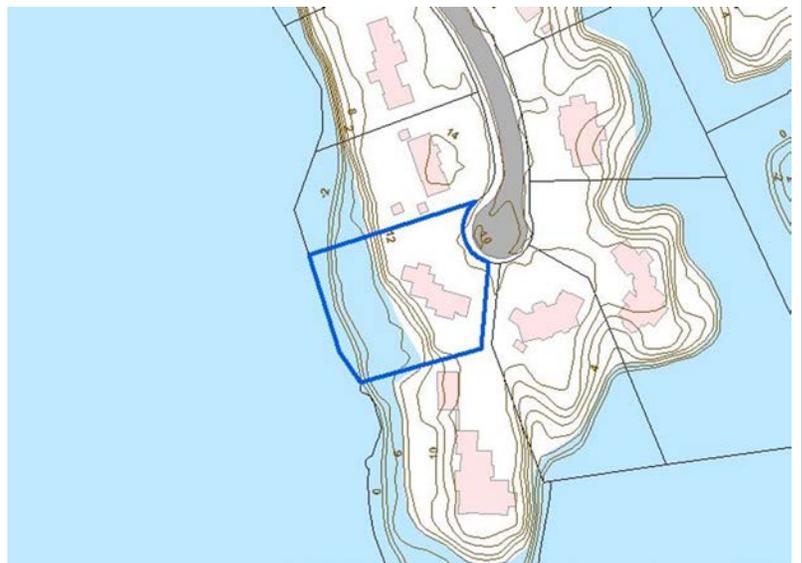
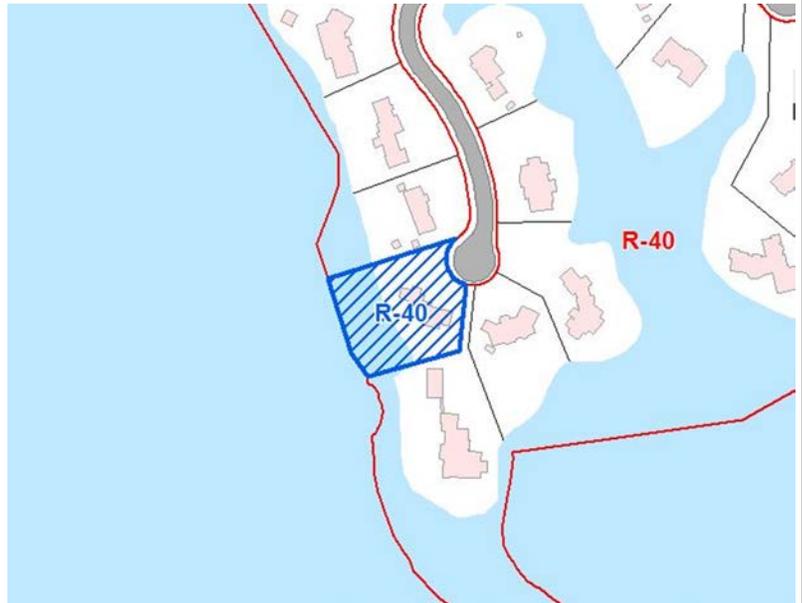
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

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

Construction Details

- Multiple additions to the single family residence
- Permeable paver driveway with expansion
- Swimming pool with concrete pool patio
- Wood deck, 2 total

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

1. Provide stabilization through maintaining, enhancing, or restoring the vegetation in the riparian buffer. The target area for riparian buffer should extend 100 feet back from the top of bank. Preferred approaches for riparian buffer management may include one or a combination of the following: Preserve existing riparian vegetation in the buffer area; manage vegetative cover by selectively removing and/or pruning dead, dying, and severely leaning trees as necessary; enhance the riparian area by planting appropriate vegetation or allowing for natural regeneration of small native trees and shrubs; replace waterfront lawns with a variety of native deep-rooted grasses, shrubs, and small trees and; remove invasive species, if present, and replace with native vegetation.
2. Plant tidal marsh (or maintain/widen existing marsh) and construct a rock sill placed offshore from the marsh. The site-specific suitability for a sill must be determined, including bottom hardness, navigation conflicts, construction access limitations, orientation and available sunlight for marsh plants. If existing marsh is greater

than 15 feet wide, consider placing sill just offshore from marsh edge. If existing marsh is less than 15 feet wide or absent, consider widening marsh by grading bank landward to accommodate sea level rise and/or providing sand fill channelward to increase marsh width and/or elevation and placing sill just offshore new marsh edge.

Riparian Buffer

Sparsely to moderately wooded.

- Number of existing canopy trees requested for removal within the RPA: 27, as stated in the Water Quality Impact Assessment (WQIA).
- Number of existing understory trees requested for removal within the RPA: n/a.
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: n/a.
- Evaluation of existing tree removal request: Approximately 19 trees requested for removal are within the RPA, as calculated by Staff based off of the CBPA Variance Exhibit, sheet 2 – Existing Features / Demolition Plan. Staff only supports the removal of those trees as shown on the CBPA Exhibit. If additional trees are desired to be removed during the site plan review phase or during the construction of the proposed improvements, should the variance request be approved, a condition is recommended for the Board’s deliberation that will require any additional requests for tree removal to be brought back to the Board for approval.

Evaluation and Recommendation

A CBPA variance request was denied for this parcel at the February 26, 2018 CBPA Public Hearing. The same applicant has submitted a new variance request to redevelop the existing single family residence with the following improvements.

- A reduction in post-development impervious cover by 1,110 square feet. This revised post-development impervious cover accompanies a 487 square foot increase in the redevelopment of existing impervious cover and a 532 square foot decrease in the amount of proposed new impervious cover over the parcel.
- Relocation of the proposed swimming pool landward of the 50 foot seaward buffer with the majority of the proposed improvements above the top of bank feature.

In addition, the redesign of the primary structure has removed proposed improvements from within the side yard setback; therefore, no Board of Zoning Appeals (BZA) variance is being sought at this time.

The applicant’s Engineer of Record has provided comments relative to the findings of the CBPA Ordinance specific to this variance request, and believes that the redesign of the proposed improvements will be in harmony with the purpose and intent of the CBPA Ordinance based on the following.

- 1) *“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 because neighboring properties on this cul-de-sac are similarly situated and have constructed existing improvements – homes and pools – up to within 20’ and 35’ of the bulkheads. This project is requesting a lesser encroachment with the mitigating benefit of stormwater management.”* Although the applicant’s Engineer of Record makes a valid point regarding other owners of property in the CBPA who are subject to the provisions of the Ordinance, Staff evaluates each variance request on a case by case basis based off of environmental conditions of the subject parcel. Staff commends the applicant for the reduction of encroachment into the RPA by more than 1,000 square feet, given the needs of their large family.
- 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*

recorded in 1976, prior to the CBPA Ordinance, with almost the entire lot within the RPA. The unique waterfront characteristics of the property, and the difficult geometry of a cul-de-sac lot forces the project behind the front yard setback line and subsequently into to CBPA buffer.” Staff concurs.

- 3) *“The variance is the minimum necessary to afford relief based off of family need of which the applicant has 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 into the 50’ seaward buffer, to allow for reasonable accessory uses.”* With respect to the comments provided, Staff appreciates this point of view however, it is the opinion of Staff that a purely social response to the findings of the CBPA Ordinance with regards to a variance request being the minimum necessary to afford relief needs to be expanded upon by the applicant’s agent during the public hearing based on the merits and impervious coverage reductions provided with this subsequent variance request.
- 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 existing development 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% stormwater management and 8,200 square feet of buffer restoration.”* To hold true to the Engineer of Record’s management of stormwater from the post-development impervious cover, Staff recommends condition 11 below for the Board’s deliberation regarding the treatment, review of, and documentation for the purported “100% stormwater management”.
- 5) *“As a means to provide towards a no net increase in nonpoint source pollution load from this variance request, the entirety of the project’s impervious cover will be routed to stormwater management systems, and the installation buffer restoration will address groundwater and erosion effects which would otherwise result in a detriment to the Bay. The result will be a reduction of pollutant load.”* Staff is of the opinion that the redevelopment of this parcel, as proposed with this variance request, is less intrusive to the existing shoreline’s ecological and biological function and provides merit, due to the use of structural best management practices towards a no net increase in nonpoint source pollution load.

Staff supports this variance request with the recommended conditions below, and is of the opinion that the treatment of stormwater as described by the applicant’s Engineer of Record, if managed properly in perpetuity with the proposed improvements, may not contribute to the degradation of water quality or prove detrimental to the Resource Protection Area. Therefore, the following 19 recommended conditions are offered for the Board’s deliberation relative to the findings of the CBPA Ordinance specific to this variance request.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan.
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. **Said silt fence shall**

be installed as delineated per the CBPA Variance Exhibit and shall be staked in the field by the Engineer of Record and reviewed with the Civil Inspector at the pre-construction meeting.

5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier. **Said protective barriers shall be staked in the field by the Engineer of Record and reviewed with the Civil Inspector at the pre-construction meeting.**
7. No trees outboard of the silt fence / limits of disturbance as shown on the CBPA Exhibit shall be removed. Any additional requests for tree removal shall be reviewed and approved by the CBPA Board.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. 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.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **4,213 square feet x 200 percent = 8,426 square feet.**

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

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

13. The 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.
14. If a swimming pool is constructed, said improvement shall be constructed prior to or concurrent with the single family residence additions.
15. 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.
16. 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.
17. **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 \$965.25 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.
18. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
19. The conditions and approval associated with this variance are based on the exhibit plan dated March 29, 2018, prepared by American Engineering Associates, signed March 29, 2018 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.

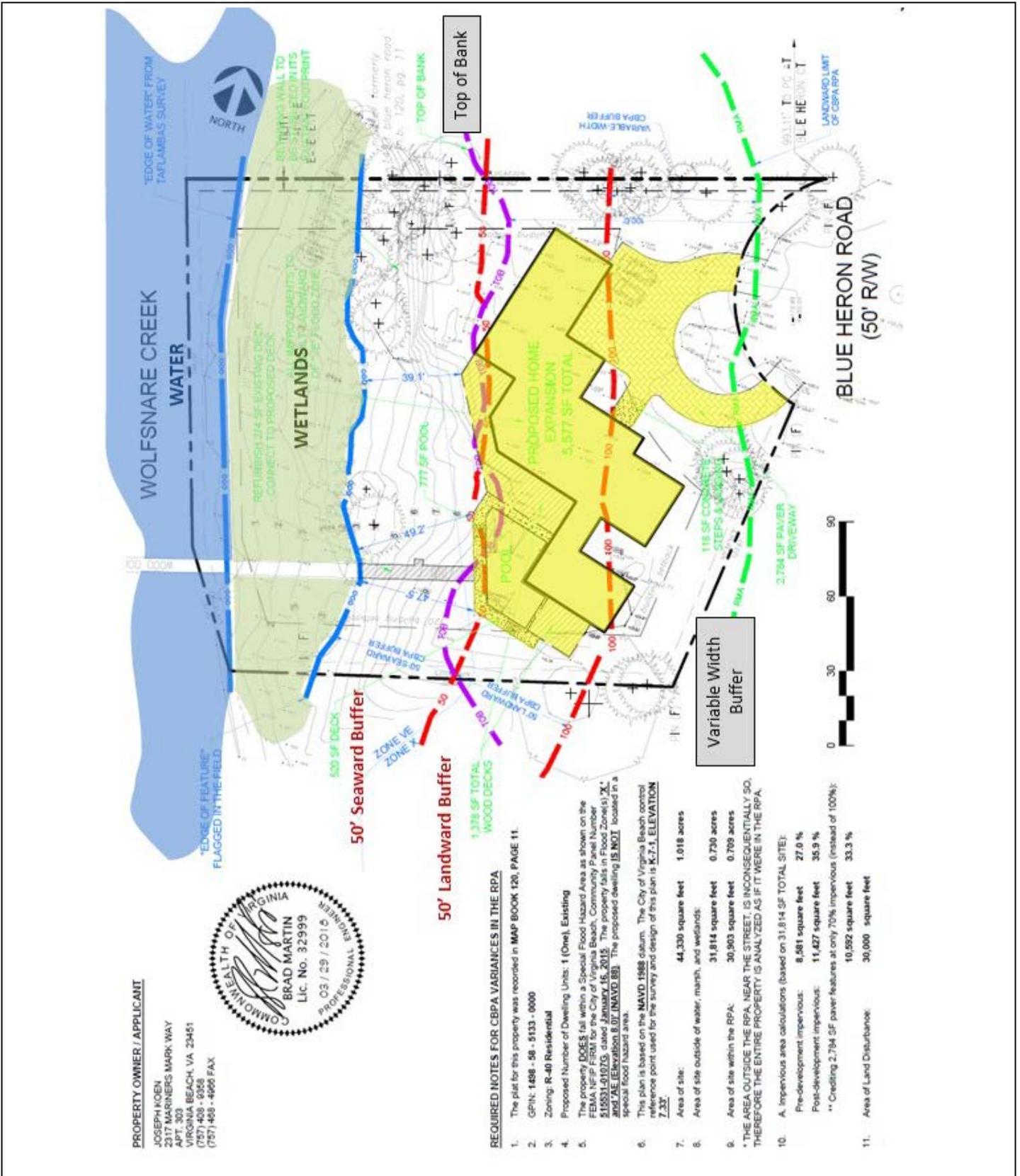
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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

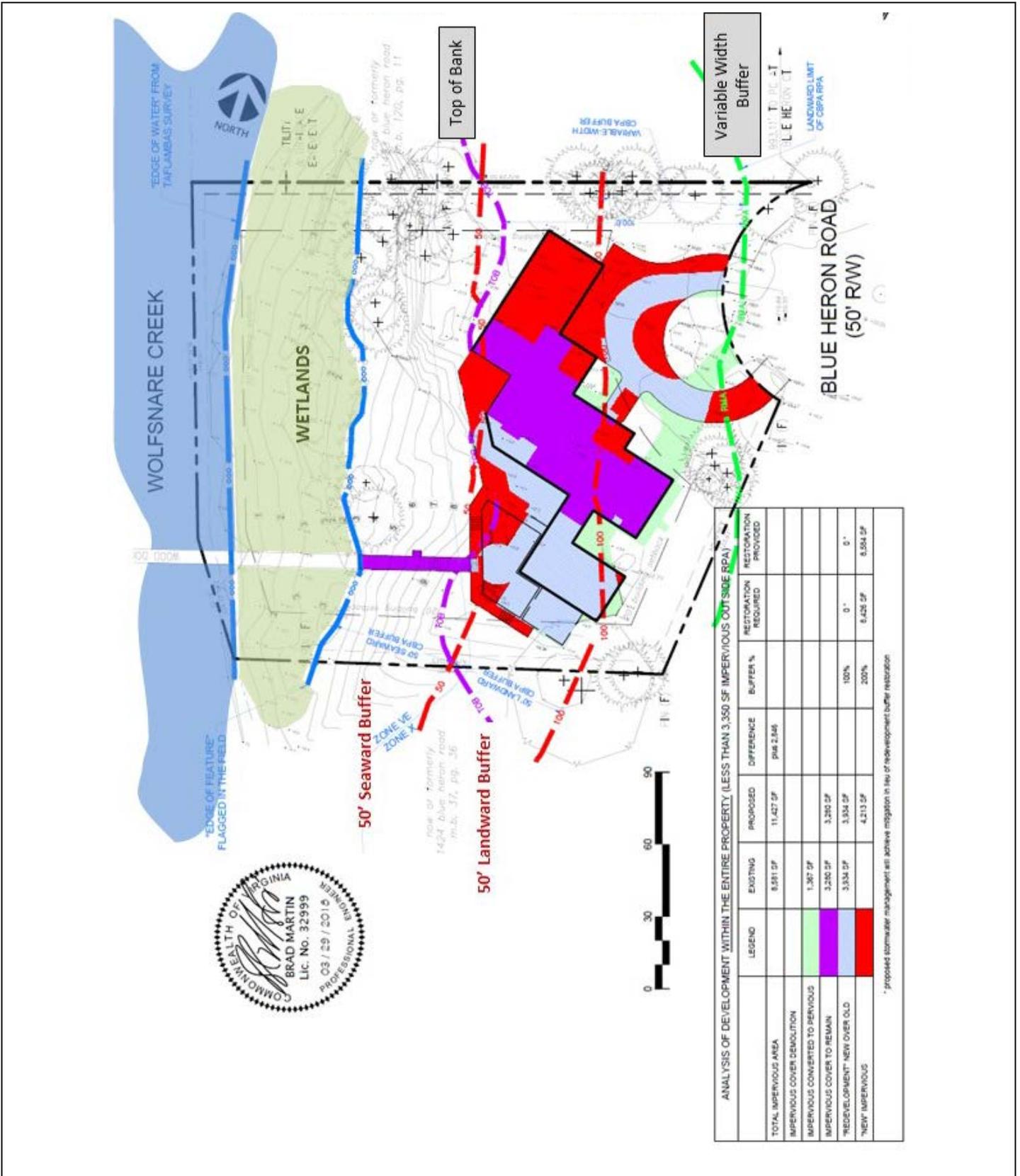
JOSEPH KOEN
2317 MARINERS MARK WAY
APT. 303
VIRGINIA BEACH, VA. 23461
(757) 408 - 6058
(757) 463 - 4600 FAX



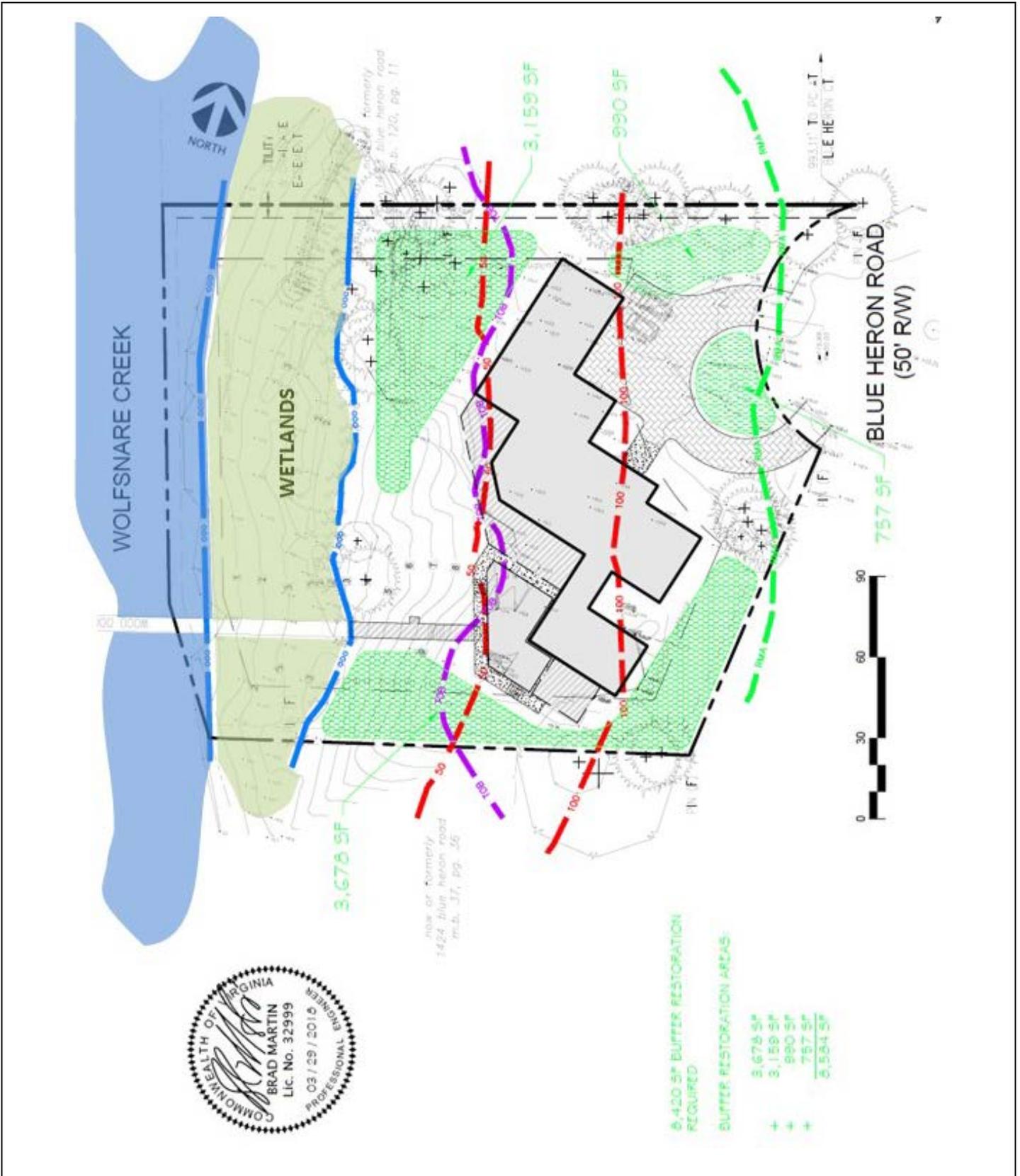
REQUIRED NOTES FOR CBPA VARIANCES IN THE RPA

- The plat for this property was recorded in MAP BOOK 126, PAGE 11.
- GN: 1488 - 58 - 5133 - 0000
- Zoning: R-40 Residential
- Proposed Number of Dwelling Units: 1 (One), Existing
- The property DOES fall within a Special Flood Hazard Area as shown on the FEMA NFIP FIRM for the City of Virginia Beach, Community Panel Number 515531-0107G, dated January 15, 2015. The property falls in Flood Zone(s) 'X' and 'AE' (ELEVATION 8.0' (NAVD 88)). The proposed dwelling IS NOT located in a special flood hazard area.
- This plan is based on the NAVD 1988 datum. The City of Virginia Beach control reference point used for the survey and design of this plan is K-7-1, ELEVATION 7.33'
- Area of site: 44,300 square feet 1.018 acres
- Area of site outside of water, marsh, and wetlands: 31,814 square feet 0.730 acres
- Area of site within the RPA: 30,903 square feet 0.709 acres
- * THE AREA OUTSIDE THE RPA, NEAR THE STREET, IS INCONSEQUENTIALLY SO, THEREFORE THE ENTIRE PROPERTY IS ANALYZED AS IF IT WERE IN THE RPA.
- | | |
|--|---------------------------|
| A. Impervious area calculations (based on 31,814 SF TOTAL SITE): | |
| Pre-development impervious: | 8,581 square feet 27.0 % |
| Post-development impervious: | 11,427 square feet 35.9 % |
| ** Crediting 2,794 SF paver features at only 70% impervious (instead of 100%): | |
| 10,552 square feet | 33.3 % |
| Area of Land Disturbance: | 30,000 square feet |

CBPA Exhibit – Color Analysis



CBPA Exhibit – Conceptual Buffer Restoration Plan





APPLICANT'S NAME JOSEPH KOEN

DISCLOSURE STATEMENT FORM

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

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

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

SECTION 1 / APPLICANT DISCLOSURE

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

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



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

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

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

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

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

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

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

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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	CLARK OLSEN
<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	T.B.D.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	AMERICAN ENGINEERING
<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)	SOUTHERN BANK
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	GPC - GARRINGTON
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

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



CERTIFICATION:

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

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

	JOSEPH KOEN	3/5/18
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

Variance Request

Encroachment into the Resource Protection Area (RPA) with the construction of a new primary structure with associated accessory structures.

Applicant's Agent

Scott Crumley

Staff Planner

PJ Scully

Lot Recordation

10/6/1959

Map Book 48, Page 15 & 15A

GPIN

1590-90-6152

SITE AREA

21,254 square feet or 0.4879 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

21,885 square feet or 0.5024 acres

EXISTING IMPERVIOUS COVER OF SITE

7,187 square feet or 33.81 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

7,890 square feet or 37.12 percent of site

Area of Redevelopment in RPA

5,524 square feet

Area of New Development in RPA

2,307 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

50 foot Landward Buffer

100 foot Variable Width Buffer

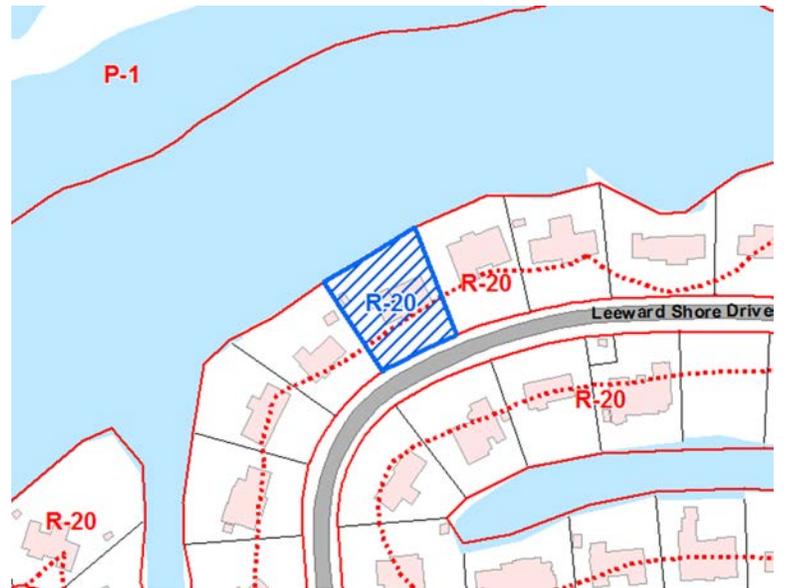
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- 2 story residence – complete demolition
- Concrete driveway and associated walkways
- Concrete swimming pool surround and associated wood deck

Construction Details

- Single family residence
- Concrete driveway with associated walkways
- Concrete swimming pool surround

CBPA Ordinance Variance History

No known 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 recently been rehardened with a vinyl bulkhead.

Riparian Buffer

Sparsely wooded.

- Number of existing canopy trees requested for removal within the RPA: 1
- Evaluation of existing tree removal request: Staff supports the request for the tree removal.

Evaluation and Recommendation

The focus of this variance request is for the redevelopment of the existing primary structure. The majority of new impervious cover in the RPA proposed is within the variable width buffer. Given the location of the proposed improvements, Staff is of the opinion that the submitted application limits land disturbance to a minimum area necessary to provide for the proposed redevelopment and is in harmony with the purpose and intent of the CBPA Ordinance.

The applicant reviewed the findings of the CBPA Ordinance with Staff and the following comments relative to this variance request are offered for the Board's deliberation.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the 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 been approved within the RPA.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing the majority of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief given the amount of redevelopment proposed with the majority of new impervious cover being proposed within the variable width buffer of the RPA.
- 4) Staff is of the opinion that the variance is in harmony with the purpose and intent of the ordinance and not injurious to the neighborhood, as the encroachment into the RPA is consistent with the location of improvements on other properties in the vicinity, and not of substantial detriment to water quality due to the access to and limits of expansion within the RPA, nor otherwise detrimental to the public welfare.
- 5) Staff is off the opinion that the applicant's investment in redeveloping those portions of RPA already developed to the greatest extent practicable coupled with the integration of non-structural stormwater best management practices and buffer restoration will provide a means to manage towards a no net increase in nonpoint source pollution load.

Finally, Staff recommends the following 15 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved.

These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
9. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
10. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
11. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **2,307 square feet x 200 percent = 4,614 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 to the greatest extent practicable.

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. Under deck treatment of sand and gravel shall be installed.
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 \$527.99 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. The conditions and approval associated with this variance are based on the exhibit plan dated March 30, 2018 and revised April 4, 2018, prepared by Wermers Design & Architecture. 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.

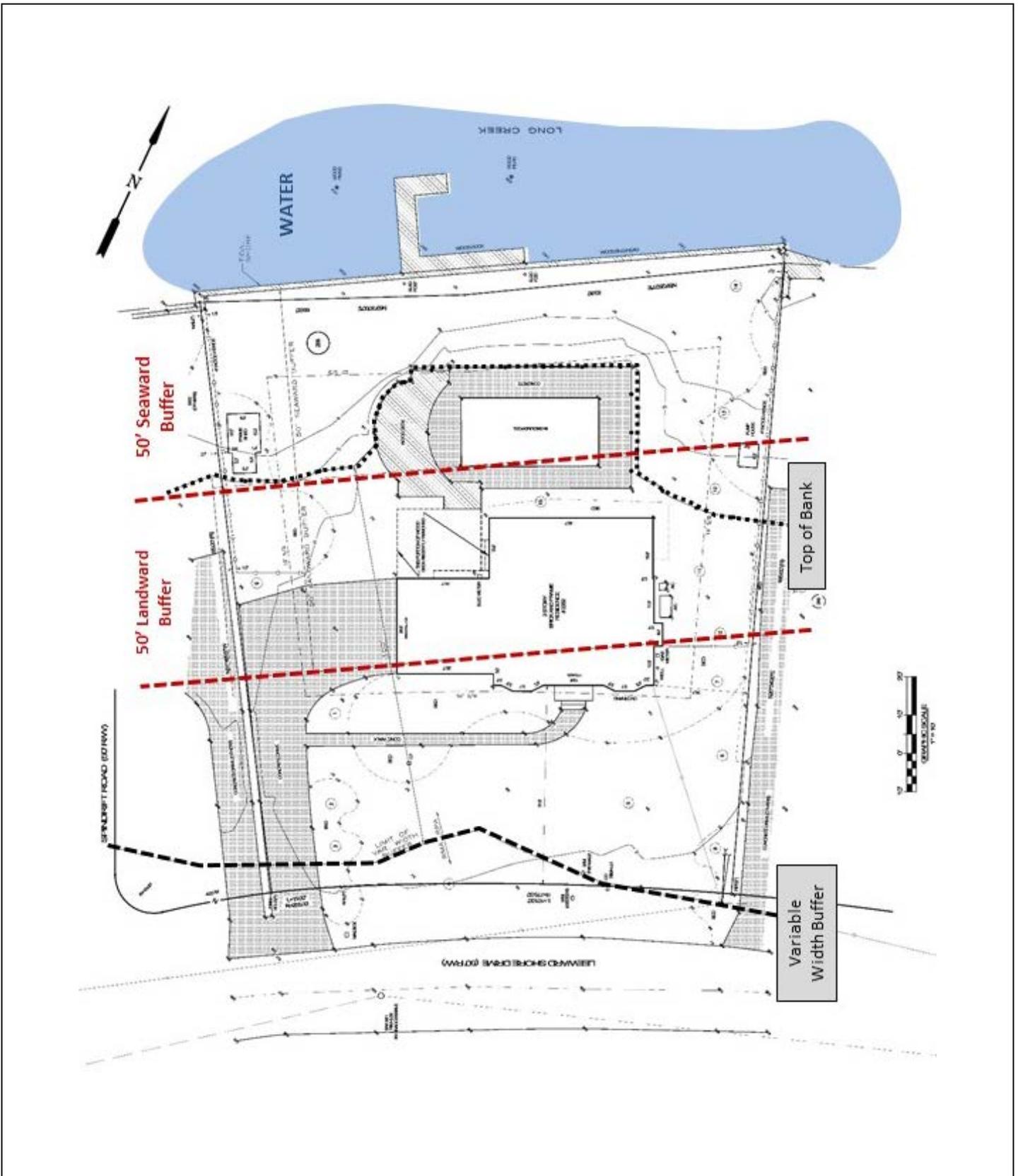
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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

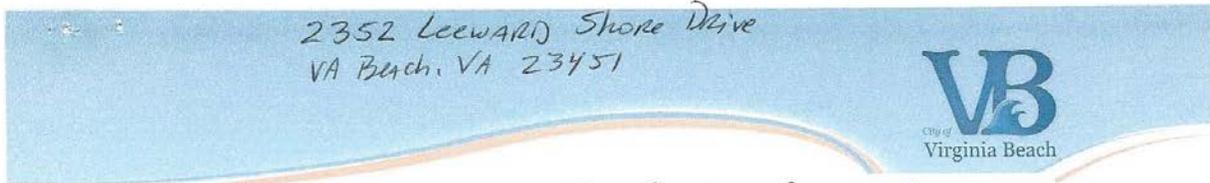


CBPA Exhibit – Development Analysis



Previous Area - Existing			
	Area	Type Area	Location
Landward Deck Removal	565 SF	Existing	Landward
Landward House	2145 SF	Existing	Landward
Landward Drive & Sidewalk	888 SF	Paving	Landward
Pump	28 SF	Existing	Landward
Landward Pool & Deck	448 SF	Existing	Landward
AC Hall	4 SF	Existing	Landward
AC Hall	57 SF	Existing	Landward
Landward	3000 SF		
Seaward Pool & Deck	2246 SF	Existing	Seaward
Shed	178 SF	Existing	Seaward
P, B&P	8 SF	Existing	Seaward
Shed	Not Calculated	Existing	Seaward
Seaward	1704 SF		
Variable House	707 SF	Existing	Variable SDPA
Variable Drive & Sidewalk	1002 SF	Paving	Variable SDPA
Variable SDPA	1500 SF		
Existing	1767 SF		

Disclosure Statement



APPLICANT'S NAME Scott Crowley, Crowley Group, Inc.

DISCLOSURE STATEMENT FORM

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

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

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

SECTION 1 / APPLICANT DISCLOSURE

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

Page 1 of 7

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



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

(A) List the Applicant's name: Crumley Group, Inc.
 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)*

Scott Crumley, President & 100% owner

(B) List the businesses that have a parent-subsidiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

(A) List the Property Owner's name: Terri McSweeney
 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-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

N/A

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

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

SECTION 3. SERVICES DISCLOSURE

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



OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	SEAN MOSS - VA Beach
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	WALL, Einhorn & Chernitzer - NCCF WEKIMERS DESIGN & ARCHITECTURE
<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 checked="" type="checkbox"/>	Construction Contractors	CRUMLEY GROUP
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	GALLUP SURVEYORS & ENGINEERS.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES NO Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

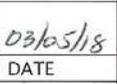
If yes, what is the name of the official or employee and what is the nature of the interest?



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.

		
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

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

Steven & Terri McSweeney

Agenda Item 3

Page 50

Variance Request

Encroachment into the 50 foot seaward portion of the Resource Protection Area (RPA) with the expansion of an existing accessory structure – shed with paver patio area.

Applicant’s Agent

Rick Ruiz

Staff Planner

PJ Scully

Lot Recordation

10/13/1926

Map Book 7, Page 193

GPIN

2418-33-9797

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

420 square feet

Location of Proposed Impervious Cover

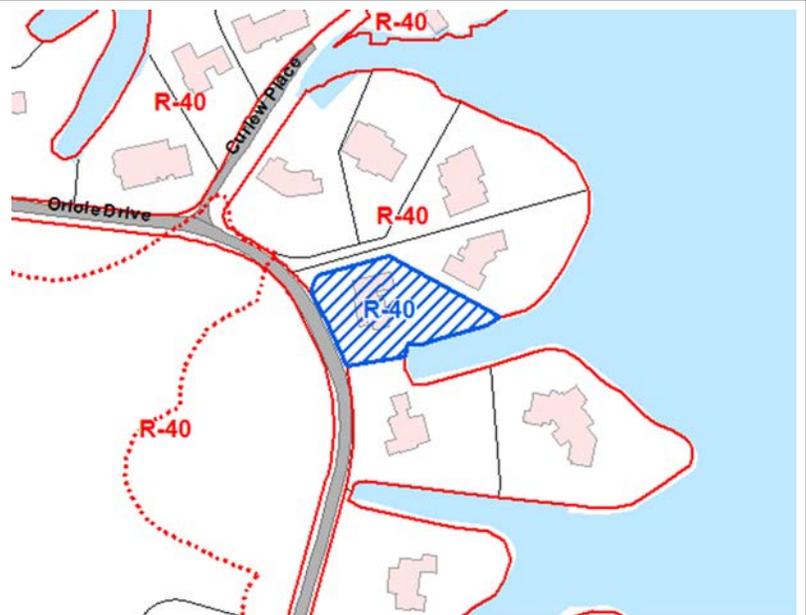
50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- Shed – 10 foot by 12 foot
- Paver patio area with in-line retaining wall – 15 foot by 20 foot

CBPA Ordinance Variance History

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

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

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

January 22, 2018 a CBPA Board variance was granted for an addition and driveway expansion 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. Said areas of land disturbance shall be quantified on revised site plan submittals.*
3. *The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.***
4. *Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.*
5. *Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.*
6. *Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **300 square feet x 200 percent = 600 square feet.***

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

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

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

The January 22, 2018 Board granted variance has not been acted upon.

Environmental Conditions

Flood Zone

X and AE Base Flood Elevation: 7

Soil Type(s)

Yeopim Series (deep and moderately well-drained soils)

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

Shoreline

Shoreline is hardened with a wooden bulkhead.

Riparian Buffer

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

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

Evaluation and Recommendation

The January 22, 2018 CBPA variance primarily dealt with the redevelopment of the primary structure with the conversion of the existing wood deck into living space. The area of redevelopment was over top of an existing brick patio being removed. The area of the brick patio proposed as being removed with the January 22, 2018 variance is approximately 324 square feet with an additional 50 linear feet of retaining wall being removed for a total of 374 square feet. At this time, the applicant desires to recycle the existing brick patio area and retaining wall on site. The proposed improvements associated with this variance request would relocate the existing brick patio from the 50 feet seaward

D. Sean and Robin Brickell

Agenda Item 4

Page 53

buffer and low lying area of the parcel to an upland area of the parcel, under existing mature canopy trees within the 50 foot landward buffer. Although the proposed improvements offer a retreat from the 50 foot seaward buffer, the introduction of the shed and patio area would net approximately 46 square feet of new impervious cover associated with this variance request in the RPA.

After performing an evaluation of the parcel, Staff is of the opinion that the proposed improvements are minimal in scope and that the implementation of buffer restoration along the 50 foot seaward buffer and edge of the established canopy cover of the parcel would maximize water quality protection and mitigate the effects of encroachment into the RPA.

The applicant's contractor has provided 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 the Ordinance and are similarly situated because neighboring homes have constructed similar structures within the RPA."* Staff concurs. The majority of redevelopment within this peninsula has occurred within the 50 foot landward buffer.
- 2) *"The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted in 1926, prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance."* Staff concurs.
- 3) Given the minimal scope of the project, Staff is of the opinion that the variance is the minimum necessary to afford relief.
- 4) *"The variance is in harmony with the purpose and intent of the Ordinance and will not be injurious to the neighborhood, nor will it be otherwise detrimental to the public welfare because the implementation of the proposed improvements will limit land disturbance with the use of wood construction matting for transporting construction materials through the buffer and relocate impervious cover out of the 50 foot seaward buffer."* Staff concurs.
- 5) *"The retention of existing vegetation and implementation of buffer restoration are proposed as a means to manage towards a no net increase in nonpoint source pollution load."* Staff concurs.
- 6) Finally, Staff recommends the following 7 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. 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.

4. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **420 square feet x 200 percent = 840 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, 2 understory, 4 large shrubs and 6 small shrubs.**

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

5. No perimeter fill is authorized outboard or seaward of the proposed improvements.
6. This variance and associated conditions **are in addition to** the conditions of the Board variance granted May 24, 1993 and January 22, 2018.
7. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.

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

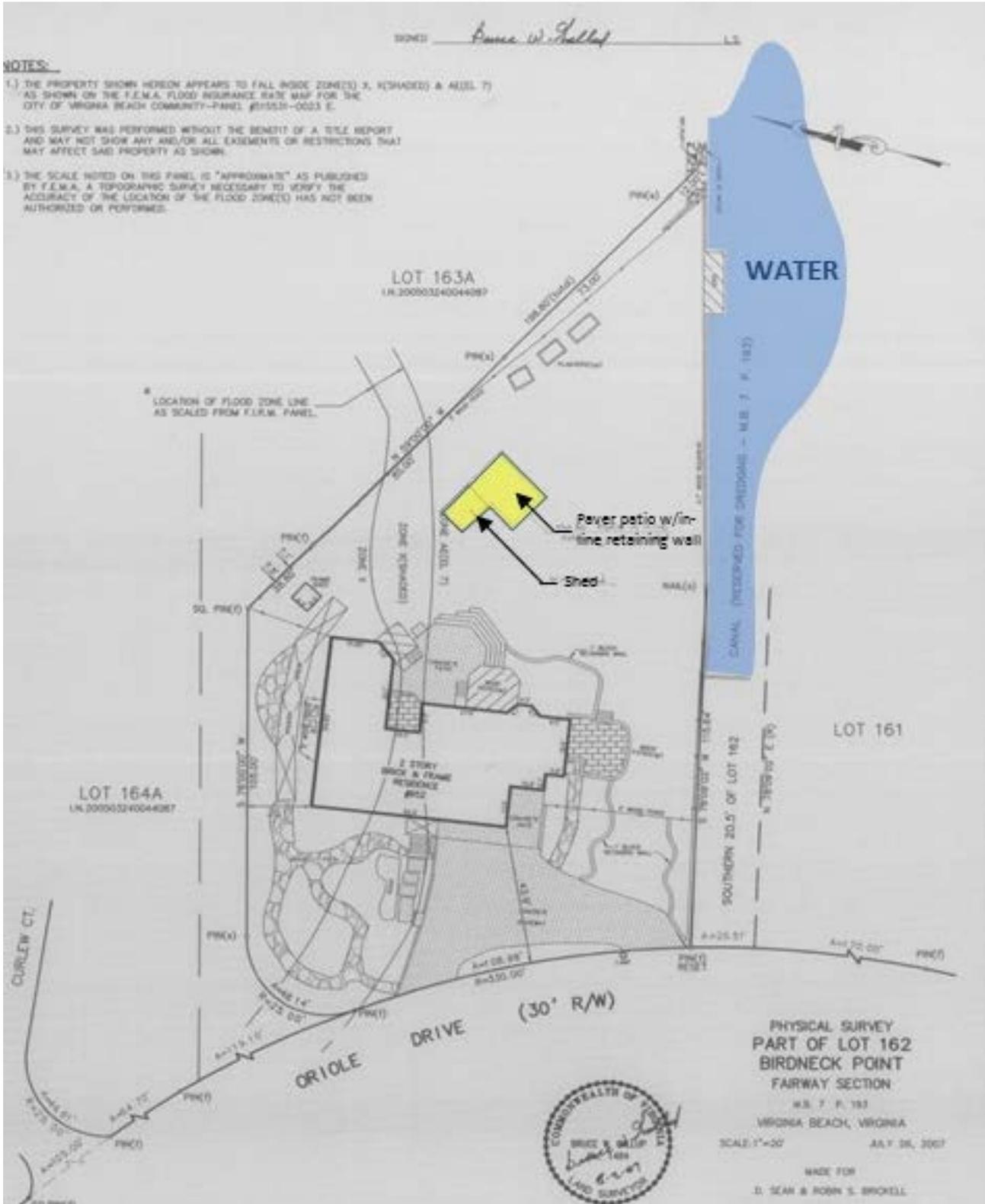
***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section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

Site Aerial





CBPA Exhibit – Proposed Improvements



Disclosure Statement



APPLICANT'S NAME D. Sean & Robin Brickell

DISCLOSURE STATEMENT FORM

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

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SECTION 1 / APPLICANT DISCLOSURE

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

Page 1 of 7



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

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

(A) List the Applicant's name: _____
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-subsidiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

(A) List the Property Owner's name: D. Sean & Robin S. Brickell
If an LLC, list the member's names:



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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input 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 checked="" type="checkbox"/>	Construction Contractors	OUTBACK SOLUTIONS
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	GALLIHO
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

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



CERTIFICATION:

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

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

	Robin S Brickell	3/4/18
APPLICANT'S SIGNATURE	PRINT NAME	DATE
	D. Sean Brickell	3/4/18

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

D. Sean and Robin Brickell

Agenda Item 4

Page 64



Property Owner **Victor S. Bakkar**
Applicant **Victor S. Bakkar**
Address **1408 N. Woodhouse Road**
Public Hearing **April 23, 2018**
City Council District **Lynnhaven**

Agenda Item

5

The applicant will be heard at the May 24, 2018 CBPA Board Public Hearing to allow for proper public notice of this variance request per City Code, Appendix F, Sec. 110 (D).

Variance Request

Encroachment into the Resource Protection Area (RPA) 100 foot buffer with the expansion of several accessory structures.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

12/1/1960

Map Book 51, Page 26

GPIN

2408-89-1482

SITE AREA

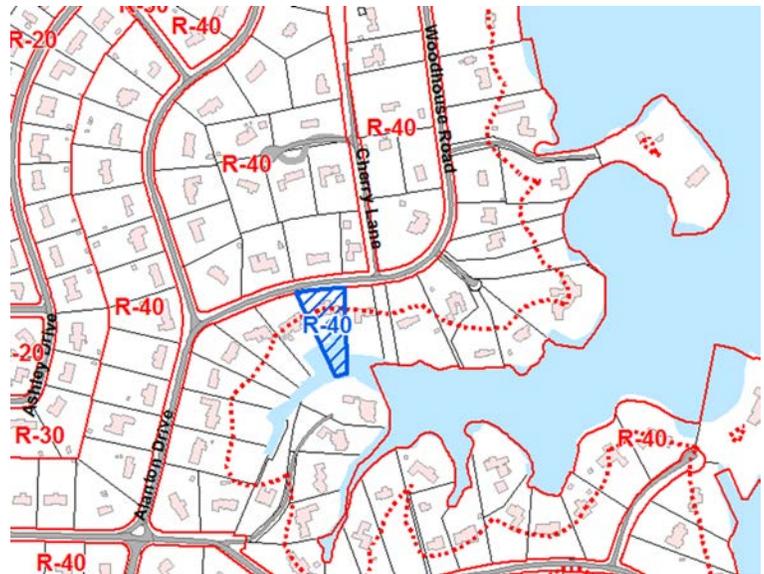
44,098 square feet or 1.012 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

30,619 square feet or 0.703 acres

EXISTING IMPERVIOUS COVER OF SITE

7,764 square feet or 25.35 percent of site



AS NEEDED, PAGE LEFT BLANK



Property Owner **Mitchell Lee and Linda S. Dunbar**
 Applicant **Mitchell Lee and Linda S. Dunbar**
 Address **3004 Island Lane**
 Public Hearing **April 23, 2018**
 City Council District **Lynnhaven**

Agenda Item

6

Variance Request, after-the-fact

Encroachment into the Resource Protection Area (RPA) 100 foot buffer with the construction of an accessory structure – paver patios, circular driveway, and room addition.

Applicant’s Agent

Eddie Bourdon

Staff Planner

PJ Scully

Lot Recordation

8/12/1949

Map Book 24, Page 46

GPIN

1499-17-4498

SITE AREA

22,488 square feet or 0.516 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

22,488 square feet or 0.516 acres

EXISTING IMPERVIOUS COVER OF SITE

8,429 square feet or 37.5 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

7,082 square feet or 531.5 percent of site

Area of Redevelopment in RPA

2,078.5 square feet

Area of New Development in RPA

386.1 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

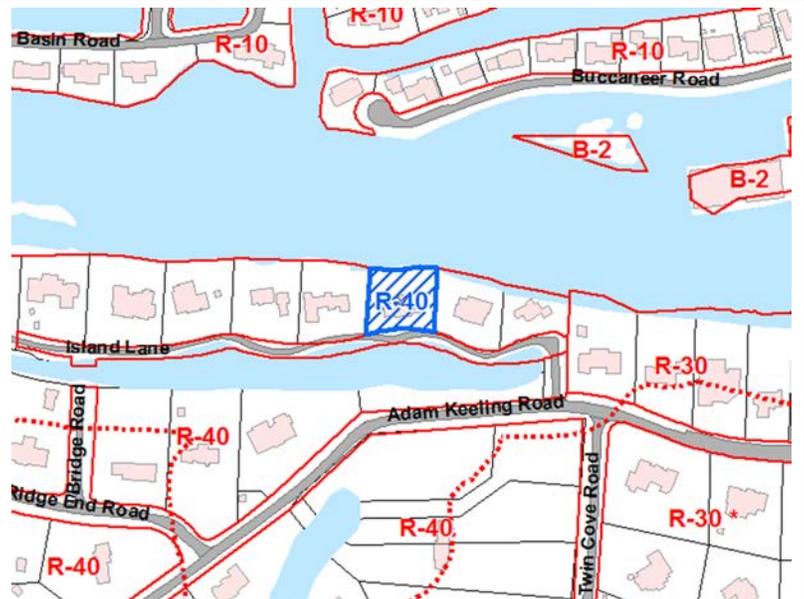
50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Wood deck
- Paver walkway to wood pier
- Paver patio with portion of concrete drive

Construction Details

- Building addition
- Tiered paver patios, 3 total at rear of residence – After-the-fact
- Paver walkway – After-the-fact
- Circular paver driveway – After-the-fact

CBPA Ordinance Variance History

February 26, 2018 a Chesapeake Bay Preservation Area (CBPA) Board show cause hearing was heard.

Board action: The parcel was found to be in non-compliance with the provisions of the CBPA Ordinance. A civil charge of \$500.00 was issued and a Restoration Hearing ordered for April 23, 2018.

Environmental Conditions

Flood Zone

X

Soil Type(s)

Fripp Series (deep, excessively drained sandy marine and eolian sediment soils)

Shoreline

The rear yard portion of the shoreline, adjacent to Long Creek is hardened by a bulkhead. The front yard portion of this property, adjacent to Wolfsnare creek is in a natural state.

Riparian Buffer

Sparsely wooded.

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

Evaluation and Recommendation

A Show Cause hearing was heard February 26, 2018 and a noncompliance with the provisions of the Chesapeake Bay Preservation Area (CBPA) Ordinance was found and a restoration hearing was ordered. As a component of the restoration hearing, an after-the-fact variance request was submitted.

As a means to reduce the amount of impervious cover on the site in order to retain the unauthorized improvements – circular paver driveway and tiered paver patios, the applicant is proposing to remove 1,509 square feet of existing impervious cover. The following chronicles the variation in impervious cover associated with the unauthorized improvements and proposed concessions of the after-the-fact variance request.

- Impervious cover of site prior to the non-compliance: 6,443.0 square feet or 28.65 percent of site.
- Impervious cover of site with the unauthorized improvements: 8,429.2 square feet or 37.48 percent of site.
- Impervious cover of the site, after-the-fact variance request: 7,082.0 square feet or 31.49 percent of site.

After the Show Cause hearing, Staff visited the site to further evaluate the unauthorized improvements to determine if said improvements have substantially contributed to the degradation of water quality. At that time, no signs of erosion were present on the site from the unauthorized improvement nor any signs of sediment migrating from the site evident in the adjacent waterway or within the right-of-way.

The applicant's agent provided 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 *"because this lot was recorded in 1949, prior to the adoption of the Bay Act and as a result every waterfront home is significantly impacted by the Ordinance. Since the enactment in 1991, numerous homes have made similar variance requests and been granted so the approval of this request will in no way confer any special privilege to the current owners."* Staff concurs.
- 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 *"the buffer zones were made a part of the Bay Act and this house was already in place when it was enacted and the hardship that is now on these properties will never go away."* Staff concurs.
- 3) *"The minimum necessary is a very arbitrary concept but the Board has routinely granted variances with the understanding that the total impervious cover not exceed 30 percent of the land which leaves a significant amount of land to be used for buffer restoration and bioretention beds. The total impervious cover is 31.5 percent and 6,140 square feet of buffer restoration is proposed."* Staff concurs.
- 4) *"The purpose and intent of the Ordinance is simply water quality, to prevent pollution of the Bay as a result of non-point source pollution. Most of these homes currently have no stormwater treatment on site. As a result of this variance request the owner will install bioretention beds, buffer restoration in areas currently devoted to turf and even off-site treatment via the Lynnhaven Oyster Heritage Program all to benefit water quality."* Staff concurs.
- 5) *"Strict erosion and sedimentation measures do more to halt-non-point source pollution, stock piling materials on existing hard surfaces, single point access way and revegetating any denuded areas all help to limit pollution from entering the adjacent waters."* Staff is of the opinion that this statement needs to be addressed by the applicant's agent at the public hearing. As a matter of non-compliance, no pre-construction meeting or permits were obtained for the work so it is unknown if strict erosion and sedimentation measures were implemented during construction and erosion and sedimentation measures were only installed after the non-compliance was determined by Staff.

Staff spoke with the applicant's agent regarding the offered removal of impervious cover associated with this variance request, the restoration of the riparian buffer, and the encroachment application required for portions of the circular driveway, gravel and landscaping encroaching in the right-of-way. Staff is of the opinion that the after-

the-fact variance request is not atypical of the existing improvements on the adjacent parcels that share access to Island Lane. These parcels are relatively narrow, are encumbered by the RPA from both the rear and the front of the parcel, and utilize circular driveways or parking courts to compensate for the substandard street width. As such, should the Board consider granting this variance request, Staff offers the following recommended conditions 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. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
5. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
6. 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 buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. Said buffer restoration plan shall be in substantial compliance with the CBPA variance exhibit, Sheet L1, Buffer Restoration Plan prepared by Jessica Nelson, dated March 27, 2018 and signed March 27, 2018 by Jessica Nelson.
9. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
10. 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.
11. ****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 \$475.75 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.**
12. Upon granting of a variance, an encroachment request shall be submitted to Public Works Real Estate for review and processing. Should City Council grant the encroachment, a revised site plan shall be submitted to the

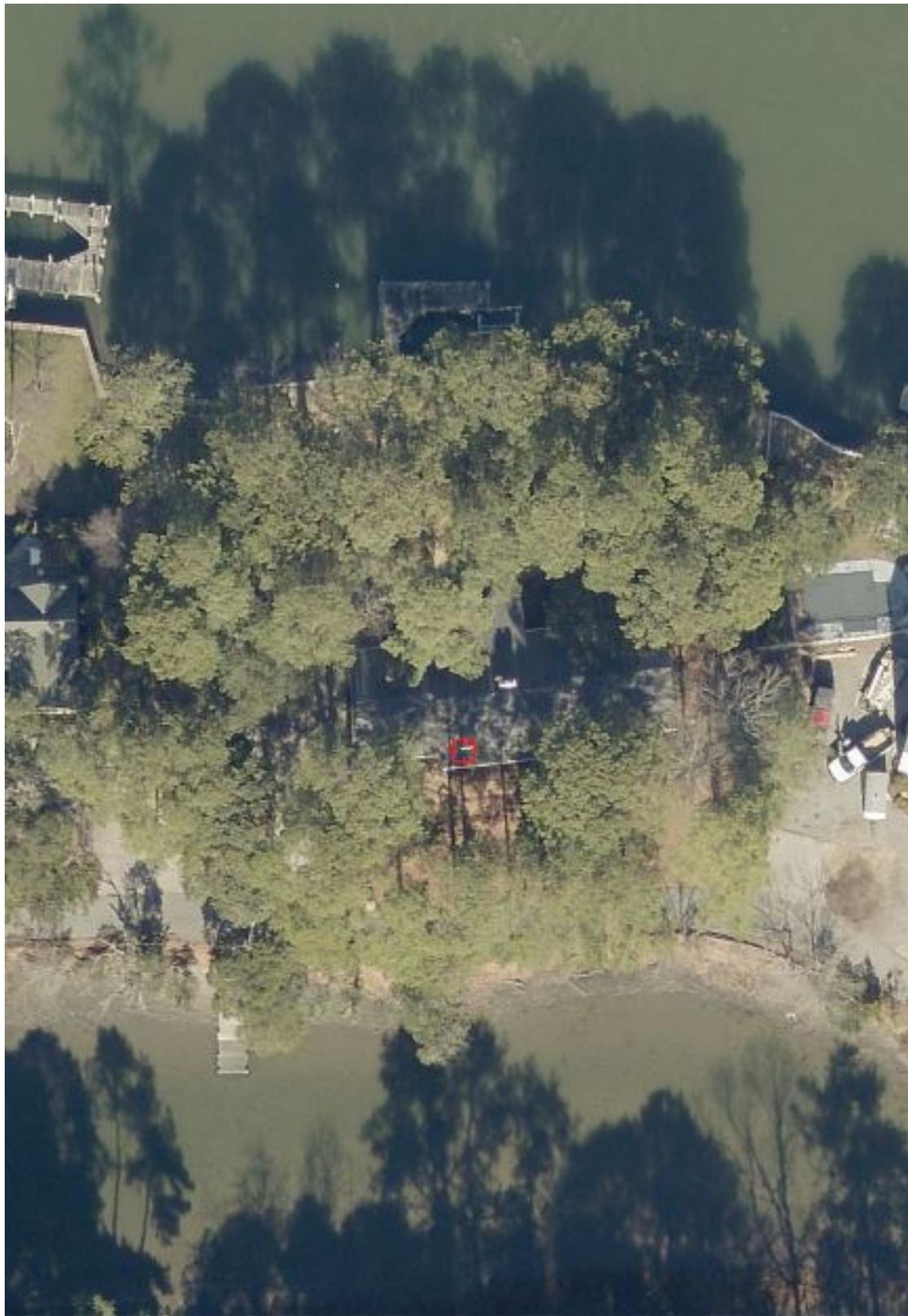
Department of Planning, Development Services Center for review and approval within 30 days from the date of the Encroachment Agreement. Once the plans have been approved, a **CBPA / CIVIL permit** must be obtained within 30 days. All required restoration must be installed or in the process of installation within 45 days after issuance of the building permit. Failure to comply with this condition may result in a show cause hearing.

13. The conditions and approval associated with this variance are based on the exhibit plan dated February 20, 2018, prepared by Gallup Surveyors and Engineers, signed April 3, 2018 by David Butler. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

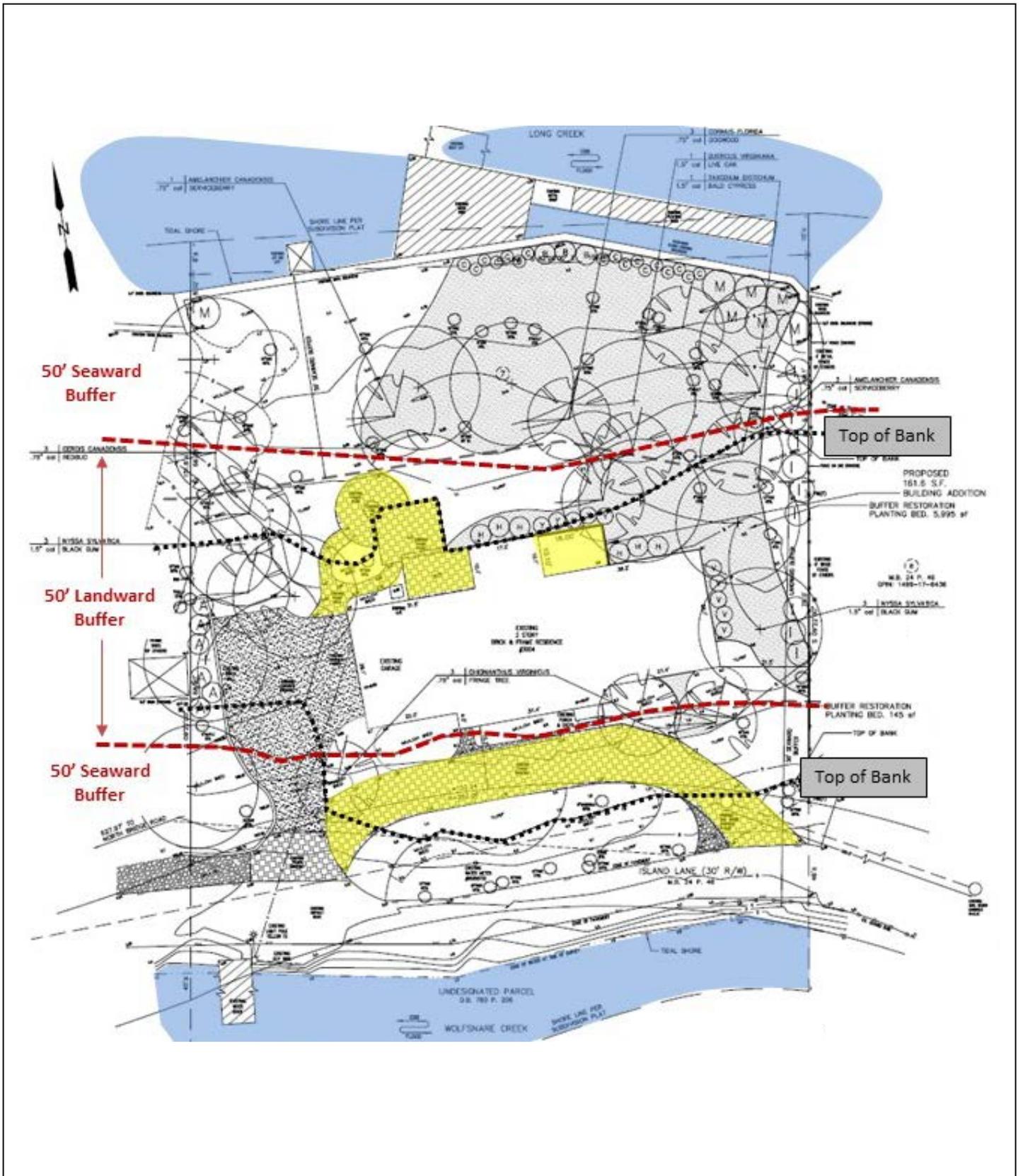
**** NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

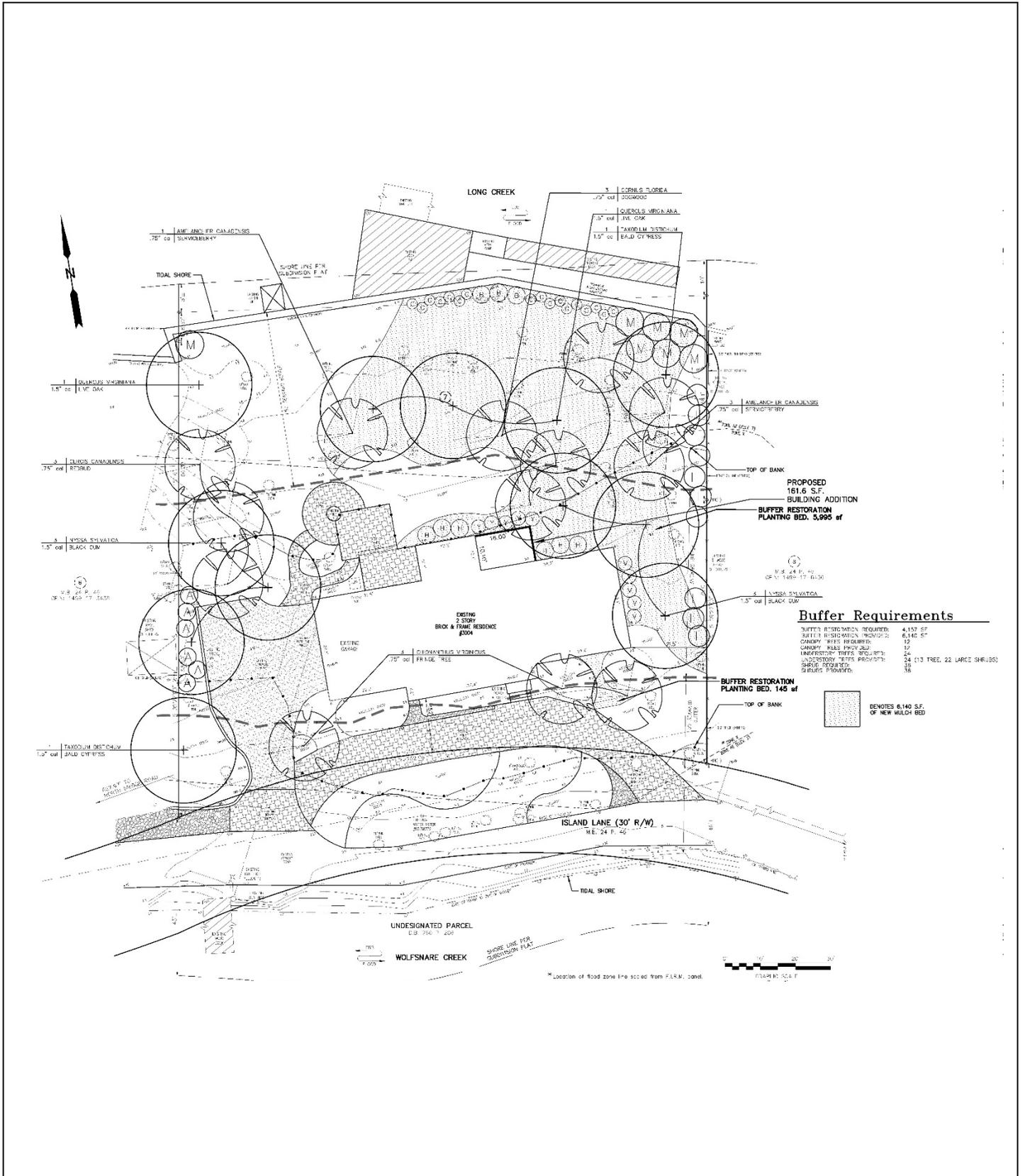
Site Aerial



CBPA Exhibit – Proposed Improvements



CBPA Exhibit – Buffer Restoration Plan



Disclosure Statement



APPLICANT'S NAME Mitchell & Linda Dunbar

DISCLOSURE STATEMENT FORM

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

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

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

SECTION 1/ APPLICANT DISCLOSURE

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

Page 1 of 7

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



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

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

(A) List the Applicant's name: Mitchell & Linda Dunbar
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

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



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

n/a

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

n/a

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	<i>TERRI STEWART</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	<i>Jessica Nelson, Land Architect</i>
<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	<i>Gallup Surveyors</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	<i>R. Edward Bourdon, Jr.</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.

	<i>Mitchell Dunbar</i>	4-3-2018
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

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Property Owner **Mitchell Lee and Linda S. Dunbar**
 Applicant **Mitchell Lee and Linda S. Dunbar**
 Address **3004 Island Lane**
 Public Hearing **April 23, 2018**
 City Council District **Lynnhaven**

Agenda Item
7

Property Owner’s Agent

Eddie Bourdon

Staff Planner

PJ Scully

Lot Recordation

8/12/1949

Map Book 24, Page 46

Lot Description

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

GPIN

1499-17-4498

Current Property Owner

Mitchell Lee and Linda S. Dunbar

RESTORATION HEARING

Noncompliance occurred at Syer Tract, Long
Creek Lot 7 & Parcel, 3004 Island Lane.

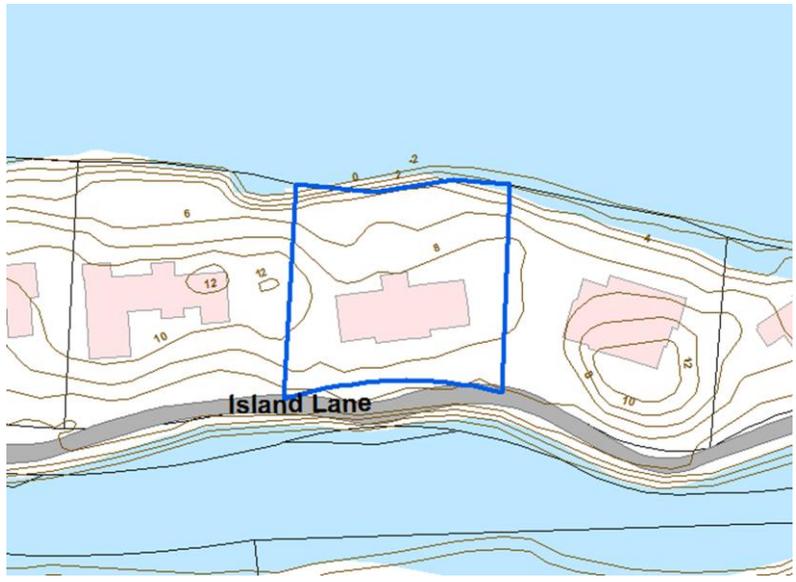
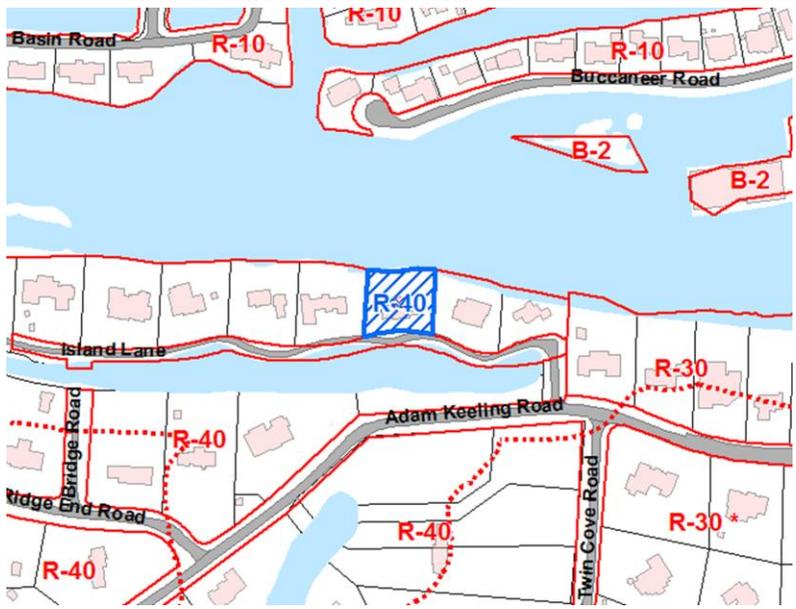
Unauthorized Improvements

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

A motion was made at the February 26, 2018
Chesapeake Bay Preservation Area (CBPA) Board
public hearing to find the unauthorized
improvements in noncompliance to the
provisions of the Chesapeake Bay Preservation
Area Ordinance.

Environmental impacts - low
Degree of deviation or noncompliance - high

A Restoration Hearing was ordered for the
property owner – Mitchell Lee and Linda S.
Dunbar



CBPA Ordinance Variance History

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

Chronology of Events

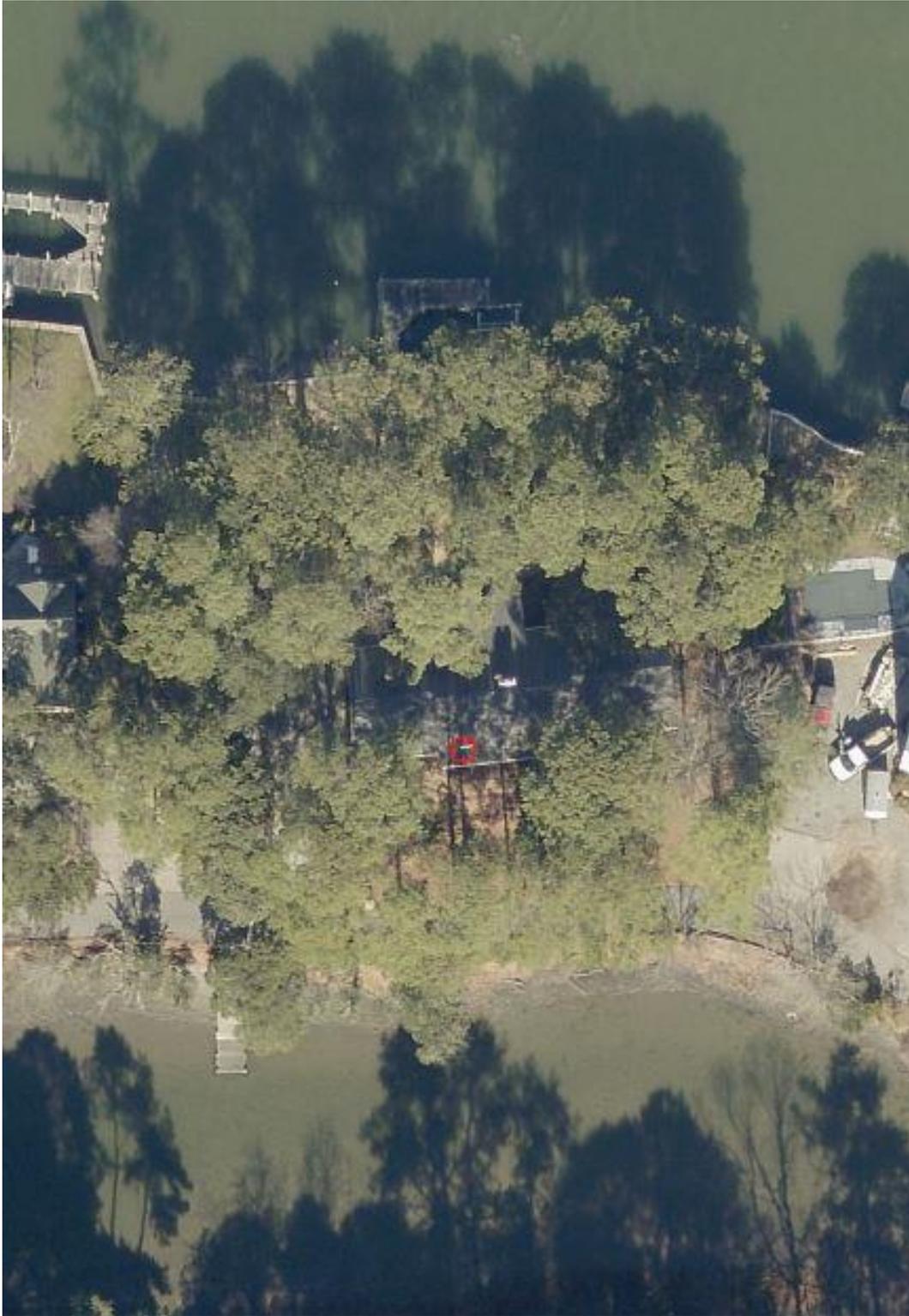
- February 9, 2017 Staff received a Preliminary Project Request (PPR) for tree removal in the RPA. A response letter was sent to Louis Mosier from Staff approving the request.
- October 6, 2017 Staff received a second PPR for tree removal in the RPA. A response letter was sent to Mitchell Dunbar from 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

A Chesapeake Bay Preservation Area (CBPA) variance application was received addressing the after-the-fact improvements – concrete paver driveway expansion, concrete paver split level terrace with associated segmented block retaining wall, concrete paver patio area, and concrete paver walkway. Should the Board approve the aforementioned agenda item 6 after-the-fact CBPA variance, Staff recommends that the conditions associated with the Staff report qualify as restoration initiatives. However, should the after-the-fact application be denied Staff recommends that the unauthorized improvements be removed and the site stabilized with vegetative cover within 45 days.

Site Aerial



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