

# Chesapeake Bay Preservation Area Board Agenda

May 24, 2018





# CHESAPEAKE BAY PRESERVATION AREA BOARD

## NOTICE OF PUBLIC HEARING

The Virginia Beach Chesapeake Bay Preservation Area Board will hold a Public Hearing on **Thursday, May 24, 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.**

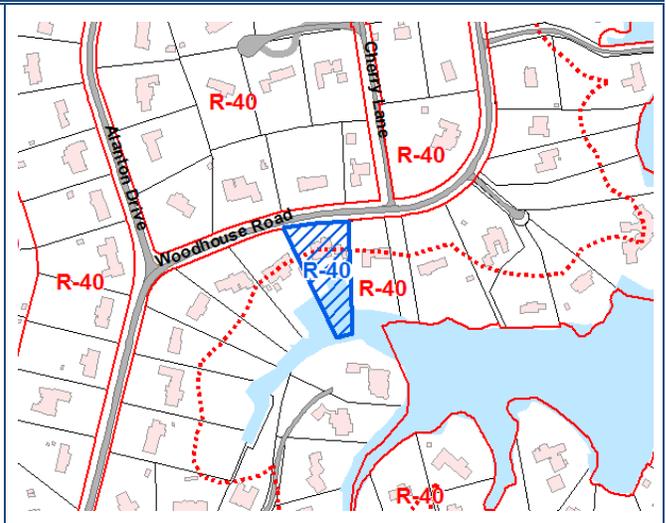
**Victor S. and Michelle M. Bakkar**  
[Property Owners and Applicants]

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

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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## NEW BUSINESS AGENDA ITEMS

**2.**

**Martha Martin**  
[Property Owner]

**Honorable Judge Everett A. Martin Jr.**  
[Applicant/Contract Purchaser]

**1328 Starling Court**  
GPIN: 2418-14-9002  
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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**3.**

**Elaine and John Lewis Ames Jr.**  
[Property Owners]

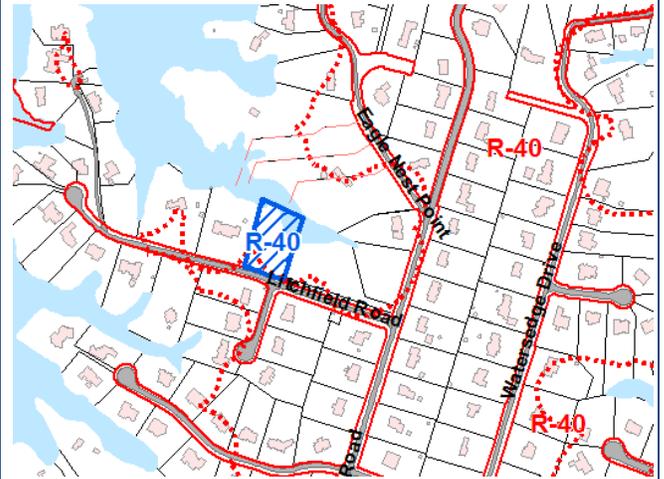
**Matthew Tillotson**  
[Applicant/Contract Purchaser]

**3336 Litchfield Road**  
GPIN: 1488-89-8248  
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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**4.**

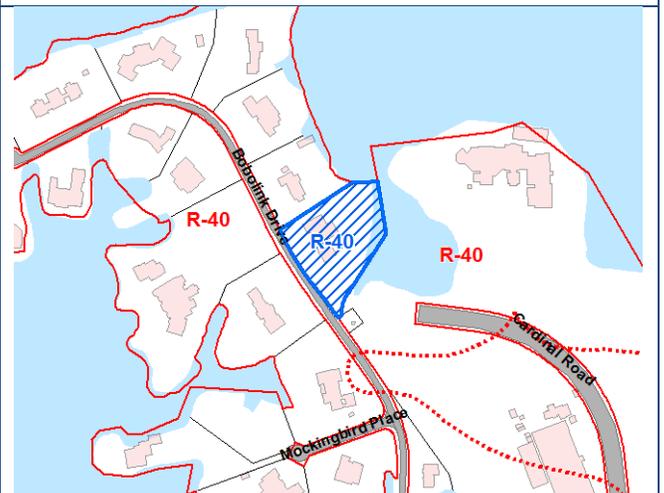
**Francis and Christine Verfurth**  
[Property Owners and Applicants]

**1040 Bobolink Drive**  
GPIN: 2418-25-0079  
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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**5.**

**Page Bishop**  
[Property Owner]

**Christopher Jackson**  
[Applicant/Contract Purchaser]

**1409-B Blue Heron Road**  
GPIN: 1498-59-4118  
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Eddie Bourdon

Staff Planner – PJ Scully

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6.

**John Schlabach**

[Property Owner and Applicant]

**101 Pinewood Road**

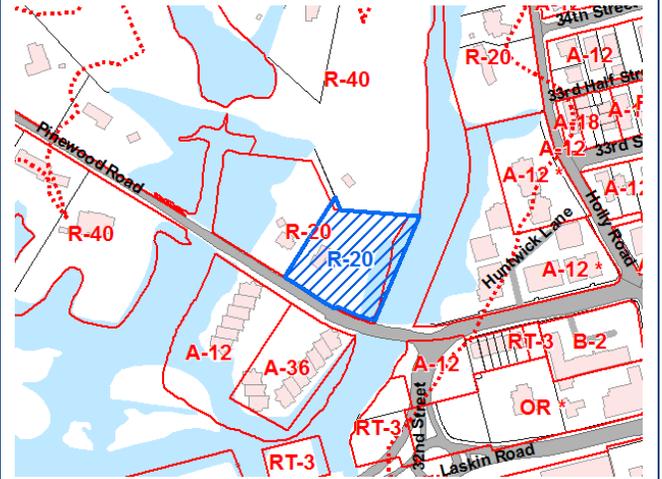
GPIN: 2418-82-6393

COUNCIL DISTRICT - Beach

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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7.

**Caren K. Augustine Revocable Trust**

[Property Owner and Applicant]

**1044 Curlew Drive**

GPIN: 2418-35-5430

COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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8.

**Brad and Kotrina O'Neal**

[Property Owners and Applicants]

**501 Gills Place**

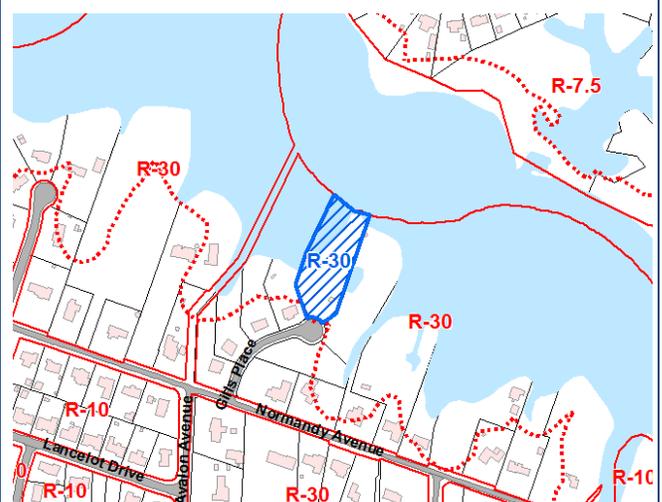
GPIN: 1466-08-0114

COUNCIL DISTRICT - Kempsville

Applicant's Agent – Tommy Bryant

Staff Planner – PJ Scully

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**9.**

**John Clarke**

[Property Owner]

**Joseph and Christine Rhodes**

[Applicants/Contract Purchasers]

**1297 Holly Point Road**

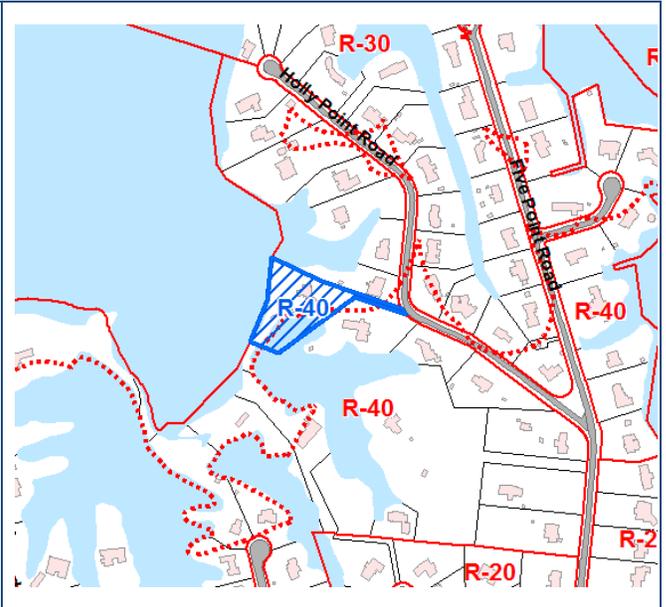
GPIN: 1498-65-3976

COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Eddie Bourdon

Staff Planner – PJ Scully

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**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

**PROPOSED IMPERVIOUS COVER OF SITE**

10,438 square feet or 34.08 percent of site

**Area of Redevelopment in RPA**

499 square feet

**Area of New Development in RPA**

614 square feet

**Location of Proposed Impervious Cover**

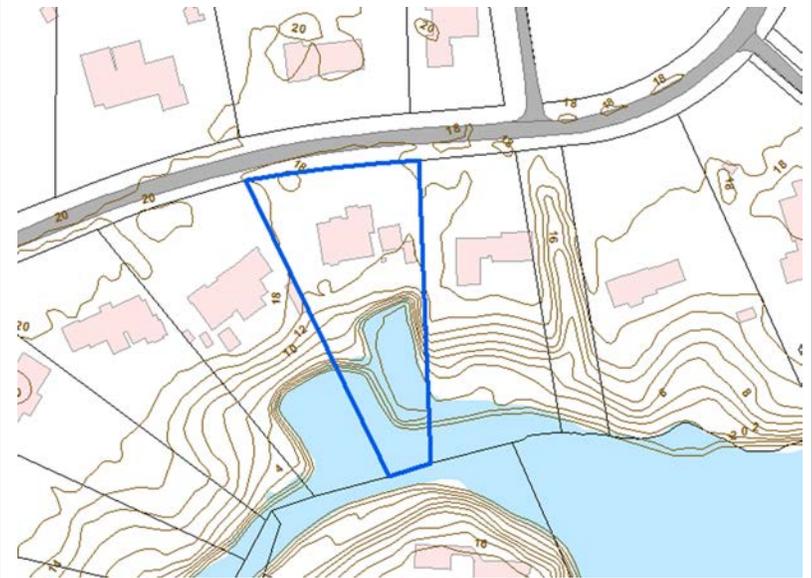
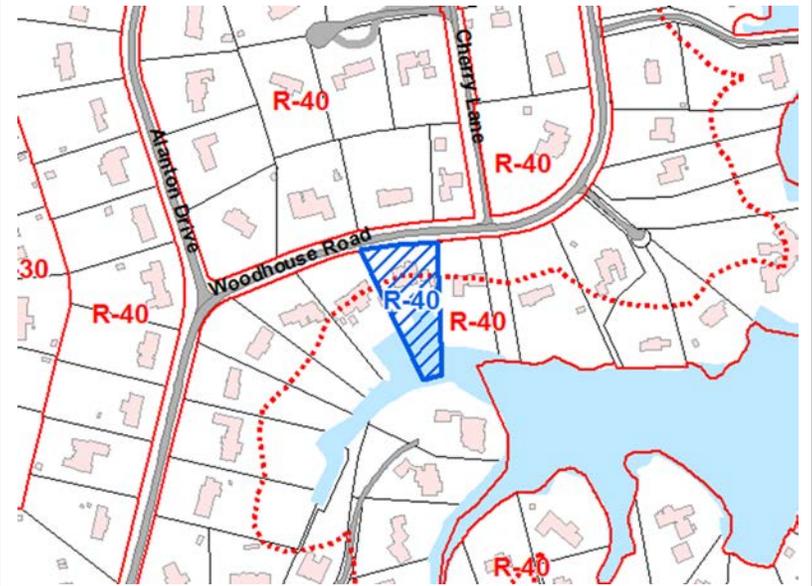
- 50 foot Seaward Buffer
- 50 foot Landward Buffer
- 100 foot Variable Width Buffer
- Resource Management Area (RMA)

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Construction Details

- Covered patio
- Swimming pool deck expansion with trellis
- Driveway addition
- Walkway to boat pier

## CBPA Ordinance Variance History

**June 28, 2004 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the subdivision of a single parcel into one residential lot with the following conditions:**

1. *A pre-construction meeting shall be convened with Civil Inspections prior to any land disturbance, inclusive of demolition.*
2. *Dual 36" erosion and sedimentation control measures (silt fences) shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Additionally, a heavy duty construction fence, acceptable to Civil Inspections, shall be installed along the aforementioned E & S controls and shall be maintained during all phases of construction.*
3. *Construction limits shall lie a maximum of 15' seaward of improvements.*
4. *No portion of the development, exclusive of BMP's, shall lie within the 50 foot seaward portion of the buffer.*
5. *The construction access way shall be noted on the site plan, as well as the stockpile staging area.*
6. *The gravel on the site shall be removed and disposed of in a lawful manner.*
7. *All stormwater from proposed impervious cover shall be conveyed to structural stormwater management facilities.*
8. *Pool decking shall be a maximum of 4' x 4' x 4' x 8' (diving board end).*
9. *The pool shall be constructed prior to or concurrent with the residence.*
10. *Under deck treatment of sand and gravel shall be installed.*
11. *\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program prior to or concurrent with site plan approval. Payment shall be in the amount of \$1,347.00 and is based on 25% of the proposed impervious cover. Said payment shall provide for the equivalent of an approximate 1,469 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
12. *Buffer restoration shall be installed equal to 200% of impervious cover (11,752 sq. ft.) and shall utilize bayscape landscaping principles. Said restoration shall be installed prior to the issuance of the certificate of occupancy. Said condition shall be so noted on the site plan.*

13. *A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed.*
14. *A minimum of 24 additional trees shall be installed and shall be comprised of 50% evergreen and 50% deciduous species.*
15. *The conditions and approval associated with this variance are based on the site plan dated May 18, 2004, prepared by Hassell & Folkes, P.C.*
16. *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.*

June 28, 2004 Board granted variance has been acted upon and the associated improvements constructed.

**August 25, 1997 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a single family residence and swimming pool with the following conditions:**

1. *The structure shall lie a maximum of 70 feet channelward of Woodhouse Road or whatever is shown on the submitted plan, whichever is less.*
2. *A single access construction entrance shall be maintained during the construction process. The trees in the front of the site are to be protected in addition to those in the rear.*
3. *Tree compensation will be at a 2:1 ratio as specified by the CBPA Ordinance. A landscaping plan showing the location and number of new trees shall be submitted to the Development Services Center during final site plan review.*
4. *The decking around the pool shall be a maximum of 4' x 4' x 4' x 8' (diving board end).*
5. *The proposed deck shall incorporate under deck treatment.*
6. *A revised site plan shall be submitted to the Planning Department, Development Services Center for review and approval prior to the issuance of a building permit.*
7. *Landscape buffer restoration, equal to new impervious cover, shall be installed downslope of the project. Bayscape landscape principles are required.*

August 25, 1997 Board granted variance was not acted upon.

## Environmental Conditions

### Flood Zone

X

### Soil Type(s)

State Series (deep, well-drained soils)

## Shoreline

The shoreline is hardened by a bulkhead. A Joint Permit Application (JPA) was reviewed in 2002 and approximately 6,300 square feet of uplands were excavated for wetlands mitigation. The mitigation area is a culmination of wetland impacts from the adjacent properties, 1404 N. Woodhouse Road and 1422 N. Woodhouse Road.

## Riparian Buffer

Sparsely wooded.

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

## Evaluation and Recommendation

Approximately 6,300 square feet of uplands have been excavated from this parcel associated with a 2002 JPA. The purpose of the JPA was to provide mitigation – the creation of a vegetative marsh, for wetlands impacts associated with past construction activities at 1422 North Woodhouse Drive. The marsh creation on this parcel by the previous property owner caused the Resource Protection Area (RPA) buffer to be delineated further landward by approximately 60 to 90 feet. The 2004 Chesapeake Bay Preservation Area (CBPA) variance exhibit delineated the buffers as shown with this variance request, which is a byproduct of the 2002 JPA's landward edge of the created vegetated marsh.

Staff met with the applicant and the applicant's builder prior to the submitted variance request to discuss the applicant's desire of redeveloping portions of this parcel. At that meeting, Staff expressed the following concerns.

- Expansion of the existing swimming pool concrete surround into the 50 foot seaward buffer.
- The wood shed within the 50 foot seaward buffer. Staff does not have a CBPA variance record for this improvement, and has stated to the applicant that the current location of the structure does not meet the side yard setback due to the square footage of the structure.
- Access to the existing pier given the existing slope of the rear yard.
- The understanding that the proposed covered patio is a walkout balcony for the second floor and the existing wood deck underneath is not to be expanded to the extent of the proposed overhang.

Since said meeting, the following revisions have been made to this variance request.

- The expansion of the existing swimming pool concrete surround has been reduced within the 50 foot seaward buffer.
- A hard surface walkway to the existing pier is being proposed.

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

- 1) *"Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated; as the CBPA Board has granted numerous variances similar to this request since the Bay Act was adopted and this property is impacted by the RPA feature and thus any new development is impacted."* Staff offers that the applicant's effort to limit the redevelopment of this parcel to the 50 foot landward buffer, variable width buffer, and Resource Management Area (RMA) also contribute to this finding inasmuch as the location of the proposed improvements do not encroach into the most sensitive portion of the parcel – below the top of bank and into the area of the existing bulkhead tiebacks.

- 2) Staff disagrees with the applicant's reasoning that *"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 or predecessor in title because the Bay Board routinely approves variances as long as the encroachment is not in the seaward buffer and lot coverage is 30 percent or less, which leaves the remainder for natural areas and buffer restoration."* Staff is of the opinion, that the encroachment is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance. Therefore placing portions of this property is within the RPA and further impacted by the parcels predecessor in title who chose to utilize this parcel and portions of the upland riparian buffer as an area for wetland mitigation.
- 3) *"The variance is the minimum necessary to afford relief based off of the purpose and intent of the Bay Act which is to protect water quality by limiting impervious cover, by reducing run-off and by installing a riparian buffer along the shoreline – all of which will happen as a result of this request."* Staff respects the position provided by the applicant with this response and has provided further comment below.
- 4) *"The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare as most run-off happens while construction is underway and the site is unstable. With this variance request, the strict enforcement of E&S measures will be very helpful in this area."* Staff's statement to this finding, specific to the variance request, is that run-off happens during each rain event and that migration of sediment across a parcel is most likely to occur while construction is underway given the vegetative cover of the parcel. Staff is of the opinion that limiting construction activity in close proximity to the proposed improvements, requiring that all areas outboard remain in their natural state, and having all disturbed areas stabilized before removing erosion and sediment control measures is more in harmony with the purpose and intent of this Ordinance, and may prove beneficial to water quality with the restoration of the riparian buffer within the 50 foot seaward buffer.
- 5) *"As a means to manage towards a no net increase in nonpoint source pollution load silt fence will be the first installed and the last removed. Stockpile areas will be limited to flat areas and if possible areas that are currently impervious. All denuded areas will be vegetated, bio retention beds are already installed to treat run-off (associated with 2004 CBPA variance) and buffer restoration installed."* Staff respects this position provided by the applicant with this response and provides the following comments.

The recommended conditions below are provided by Staff to further support the applicant's responses regarding the findings of the CBPA Ordinance stated above. The performance standards set forth by the CBPA Ordinance are intended to prevent a net increase in nonpoint source pollution with an intent to promote infiltration of stormwater into the ground. While Staff recommends approval of this variance request, that recommendation comes only with adherence to the recommended conditions, specifically conditions 10 through 14 listed below. The documentation of existing stormwater treatment facilities and buffer restoration associated with the 2004 CBPA variance, installation of permeable paver system with the proposed driveway expansion, and additional buffer restoration associated with this variance request are essential towards this variance providing a no net increase in nonpoint source pollution load. 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. **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 10 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
7. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
8. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
9. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
10. The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required buffer restoration and stormwater management facilities, shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior restoration requirements shall be installed if not present.
11. The unauthorized wood shed shall be removed and the area restored to a natural condition.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **614 square feet x 200 percent = 1,228 square feet.**

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

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future.

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

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. The proposed walkway to the existing boat pier shall be constructed of organic material (mulch), and a maximum of 4 feet in width, with stepping stones not to exceed 50 percent of the path area.
15. Under deck treatment of sand and gravel shall be installed.
16. 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.
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 \$140.25 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. This variance and associated conditions **are in addition to** the conditions of the Board variance granted June 28, 2004.
19. The conditions and approval associated with this variance are based on the exhibit plan dated January 15, 2018 and revised February 19, 2018, prepared by Hassell & Folkes, P.C., signed April 4, 2018 by Timothy M. Fallon. 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.

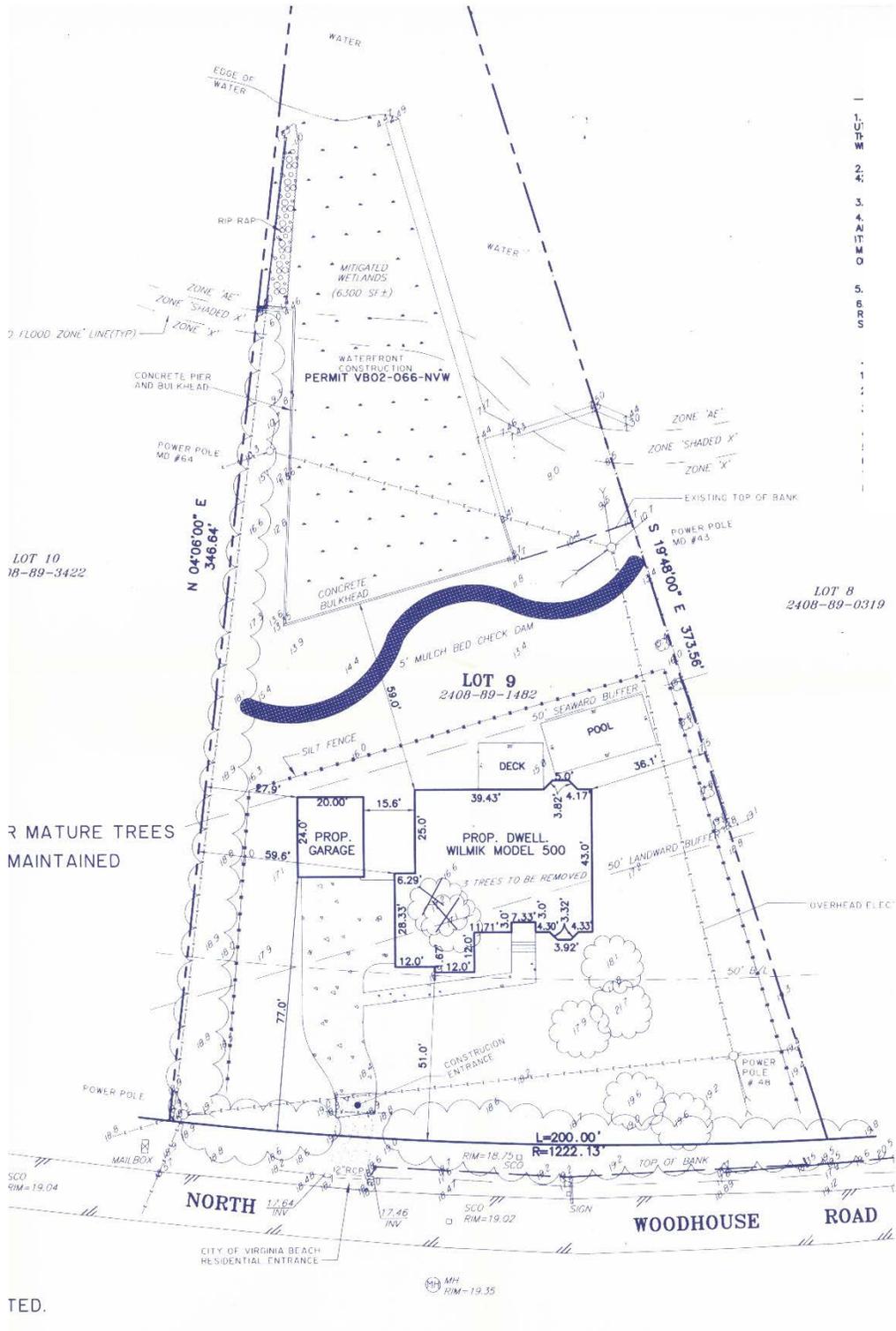
**\*\*\*NOTE:** The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation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

Site Aerial

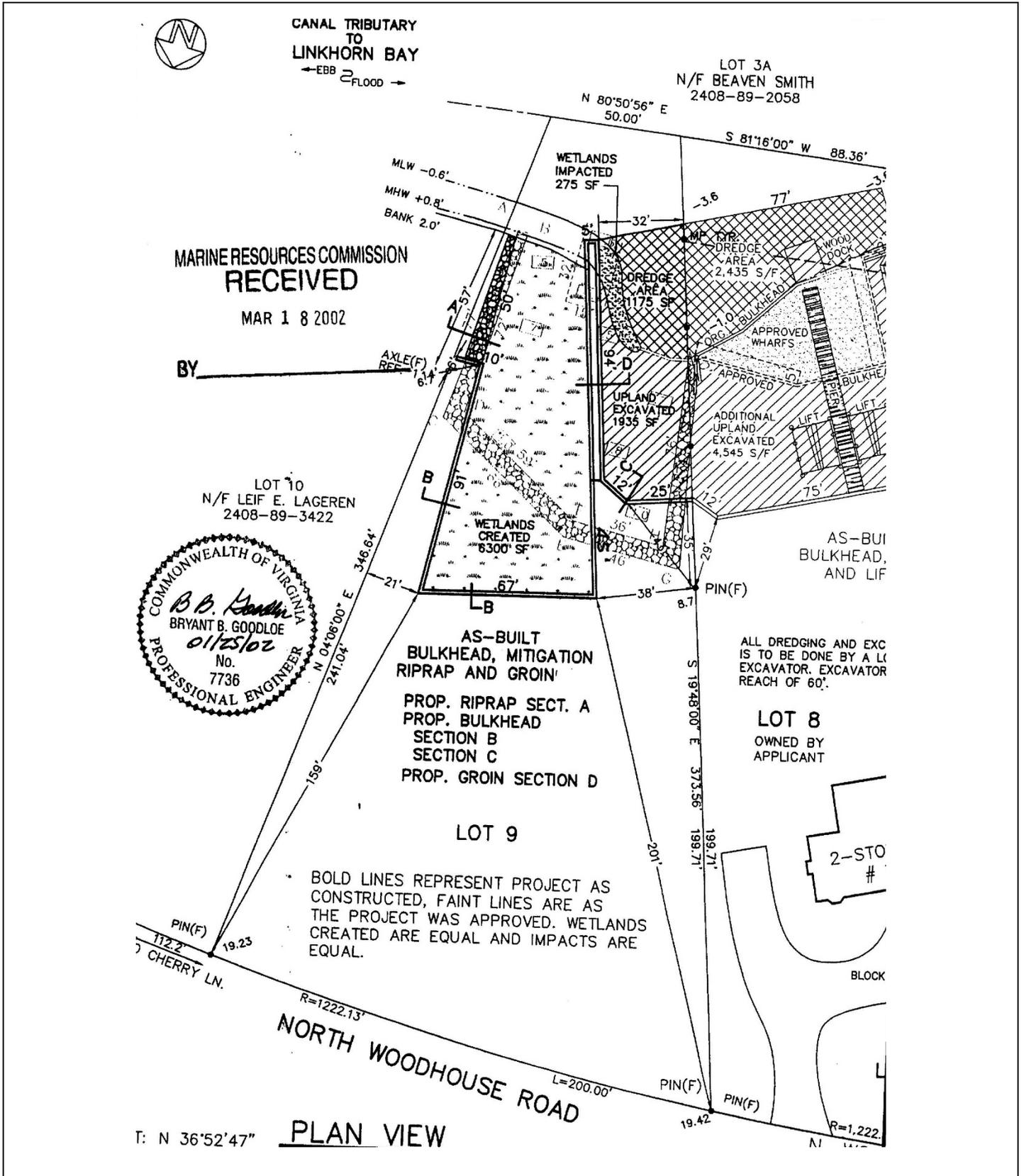




June 28, 2004 CBPA Board Variance Exhibit



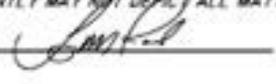
**Supplemental Information – Joint Permit Application Exhibit**

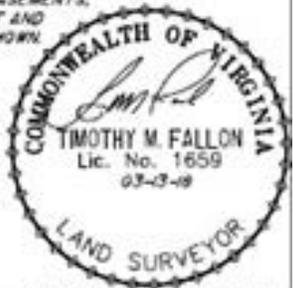




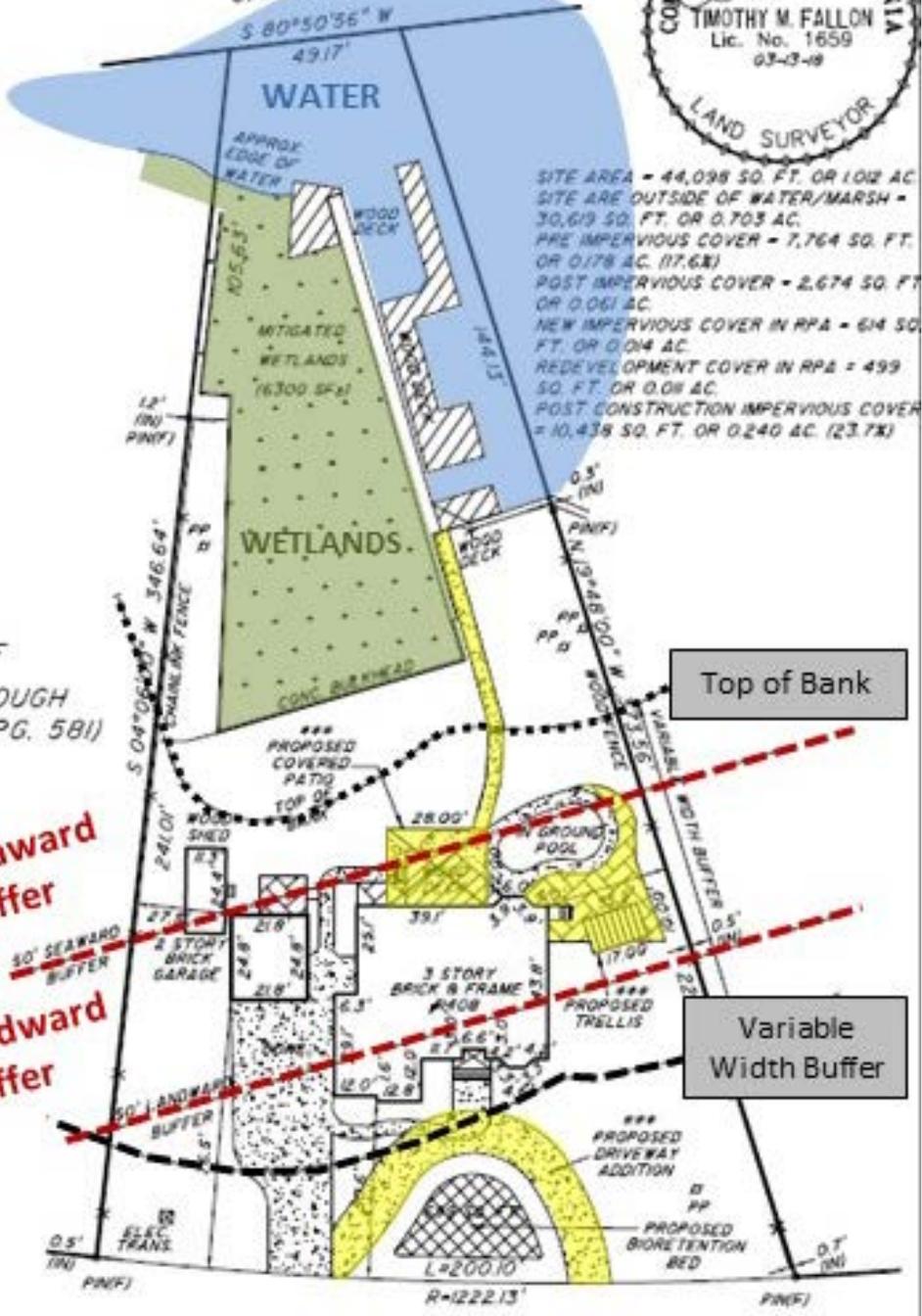
**CBPA Exhibit – Proposed Improvements**

THIS IS TO CERTIFY THAT ON JANUARY 12, 2018, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT, AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDING ARE AS SHOWN ON THIS PLAT. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS, EXCEPT AS SHOWN. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND CONSEQUENTLY MAY NOT COVER ALL MATTERS AFFECTING THE TITLE OF THE PROPERTY SHOWN.

SIGNED 



LOT 3A  
GPIN 2408-89-2058



SITE AREA = 44,098 SQ. FT. OR 1.012 AC  
 SITE ARE OUTSIDE OF WATER/MARSH = 30,619 SQ. FT. OR 0.703 AC.  
 PRE IMPERVIOUS COVER = 7,764 SQ. FT. OR 0.178 AC. (17.6%)  
 POST IMPERVIOUS COVER = 2,674 SQ. FT. OR 0.061 AC.  
 NEW IMPERVIOUS COVER IN RPA = 614 SQ. FT. OR 0.014 AC.  
 REDEVELOPMENT COVER IN RPA = 499 SQ. FT. OR 0.011 AC.  
 POST CONSTRUCTION IMPERVIOUS COVER = 10,438 SQ. FT. OR 0.240 AC. (23.7%)

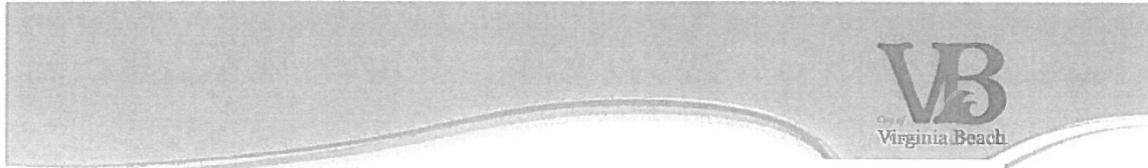
N/F  
MCCALLOUGH  
(D.B. 304, PG. 581)

**50' Seaward Buffer**  
**50' Landward Buffer**

Top of Bank  
Variable Width Buffer

\*\*\*DENOTES PROPOSED IMPROVEMENTS

NORTH WOODHOUSE ROAD  
(50' R/W)



**APPLICANT'S NAME** Victor Bakkar

**DISCLOSURE STATEMENT FORM**

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

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

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

**SECTION 1 / APPLICANT DISCLOSURE**

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



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

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

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

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

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

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

---

## 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: Victor Bakkar  
If an LLC, list the member's names:



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

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

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

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

---

### 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 <small>(Use additional sheets if needed)</small>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - Identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Hassell & Folkes, P.C.
<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)	Wells Fargo
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Governmental Permitting Consultant
<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

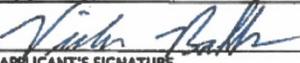
YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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.

	Victor Bakkar	3/5/18
APPLICANT'S SIGNATURE	PRINT NAME	DATE

\*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.  
Victor S. & Michelle M. Bakkar  
Agenda Item 5  
Page 24



Property Owner **Martha C. Martin**  
 Applicant **Honorable Judge Everett A. Martin, Jr.**  
 Address **1328 Starling Court**  
 Public Hearing **May 24, 2018**  
 City Council District **Lynnhaven**

Agenda Item

**2**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) 50 foot seaward and 50 foot landward buffer with expansions of the primary structure and accessory structures.

**Applicant's Agent**

Billy Garrington

**Staff Planner**

PJ Scully

**Lot Recordation**

12/7/1946  
 Deed Book 240, Page 378, Map Book 18, Page 84

**GPIN**

2418-14-9002

**SITE AREA**

53,543 square feet or 1.229 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

37,612 square feet or 0.8634 acres

**EXISTING IMPERVIOUS COVER OF SITE**

5,691.8 square feet or 15.1 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

7,203.6 square feet or 19.1 percent of site

**Area of Redevelopment in RPA**

695.9 square feet

**Area of New Development in RPA**

1,533 square feet

**Location of Proposed Impervious Cover**

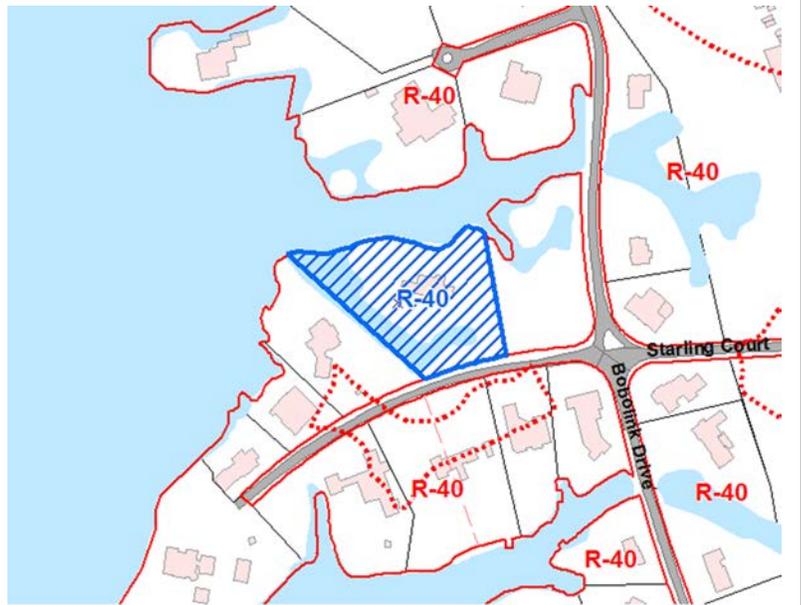
50 foot Seaward Buffer  
 50 foot Landward Buffer

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Front porch and associated steps
- Brick steps at rear of residence
- Paver patio and associated steps

### Construction Details

- Minor additions to existing residence – 4 total
- Brick paver patio with associated steps and retaining wall
- Covered porch
- Masonry walk with associated low retaining wall

## CBPA Ordinance Variance History

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

## Environmental Conditions

### Flood Zone

Majority of the parcel is within Zone AE – Base Flood Elevation (BFE): 7, with the upper reach of the property delineated as having a 0.02 percent annual chance of flooding.

### Soil Type(s)

Yeopim Series (deep and moderately well-drained soils)

### Shoreline

The shoreline is partially hardened by a bulkhead that transitions into a riprap revetment. There appears to be wetland plant species along the northern portion of the property adjacent to the riprap revetment that is currently being mowed.

### Riparian Buffer

Sparsely to moderately wooded.

- [Number of existing canopy trees requested for removal within the RPA: 4](#)
- [Evaluation of existing tree removal request](#): Trees being requested for removal are within the delineated limits of construction, shown as approximately 15 feet outboard the proposed improvements. Given the close proximity to the proposed improvements and minimal amount requested with the redevelopment of this parcel, Staff supports this request.

## Evaluation and Recommendation

The applicant's agent has provided comments relative to the findings of the CBPA Ordinance specific to this variance request, and is of the opinion that the redevelopment of this parcel will be in harmony with the purpose and intent of the CBPA Ordinance based on the following.

Honorable Judge Everett A. Martin Jr.

Agenda Item 2

Page 26

- 1) *“The Birdneck Point Subdivision was recorded many years 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 have been granted, so the granting this variance request will in no way 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.”* Staff concurs.
- 2) Staff concludes that encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance therefore, placing portions of this property within the RPA.
- 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 area which leaves a significant amount of land to be used for buffer restoration and bioretention beds.”* Given the challenges of this parcel due to the shape and size of the shoreline, Staff commends the applicant for redeveloping this parcel in a manner that keeps the overall impervious cover under 20 percent and utilizes a series of retaining walls to limit fill material outboard of the proposed improvements.
- 4) *“The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare as 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 and would add that the use of retaining walls to further protect the proposed improvements and limit fill prevents this request from being detrimental to water quality.
- 5) *“During the redevelopment of this parcel, strict erosion and sedimentation control measures will be utilized towards non-point source pollution management, stockpiling materials on existing hard surfaces, single point access way, and revegetation all denuded areas will be implemented as a means to manage towards a no net increase in nonpoint source pollution load.”* Staff concurs that the construction sequencing for installing the proposed improvements and diligent management of erosion and sediment control measures during all construction activities contributes significantly towards limiting additional non-point source pollution load.

Staff is of the opinion that the redevelopment of this parcel, which was platted prior to the adoption of the CBPA Ordinance, is challenging given the existing shoreline and geometry of the uplands. While the variance request is an increase in overall impervious cover on the parcel, the applicant’s proposed improvements offer a modest encroachment into the 50 foot seaward buffer. The submitted variance request limits land disturbance to a minimum area necessary to provide for the proposed redevelopment, and is the minimum necessary to afford relief while preserving existing vegetation to the greatest extent practicable.

Staff offers the following 16 recommended conditions 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. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
7. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,533 square feet x 200 percent = 3,066 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.

13. The area of existing high marsh along the northern portion of the parcel, adjacent to the riprap revetment as delineated on the CBPA Exhibit shall be reestablished.
14. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
15. \*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$351.08 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.
16. The conditions and approval associated with this variance are based on the exhibit plan dated March 19, 2018, prepared by Gallup Surveyors and Engineers, signed March 31, 2018 by Bruce Gallup. 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.

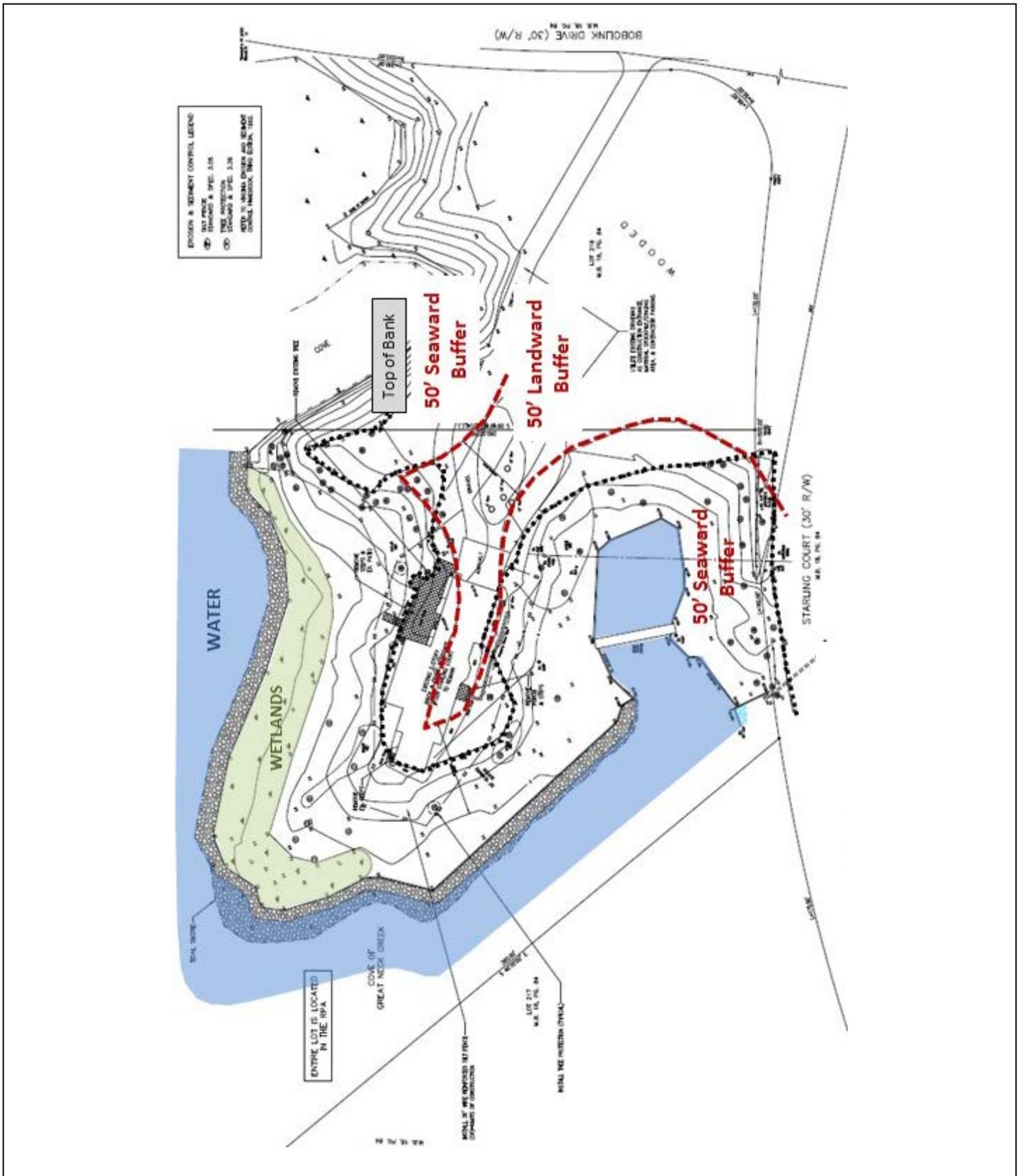
\*\* NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

\*\*\*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**







**APPLICANT'S NAME** Everett A. Martin, Jr.

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	License Agreement	

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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: Everett A. Martin, Jr.  
If an LLC, list all member's names:

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

- (B) List the businesses that have a parent-subsidiary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*  
None

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

---

## SECTION 2 / PROPERTY OWNER DISCLOSURE

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

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.
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None

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

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### SECTION 3. SERVICES DISCLOSURE

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



## APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Madison Spencer Architect
<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	Styron Building Co.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Gallup Surveyors & Eng. Billy Garlington
<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.

	Everett A. Martin, Jr	4/3/18
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

**Variance Request**

Modification of the December 23, 2002 Chesapeake Bay Preservation Area (CBPA) Board variance with a request for the CBPA Board to reconsider condition 8.

**Applicant's Agent**

Billy Garrington

**Staff Planner**

PJ Scully

**Lot Recordation**

10/3/2003

Instrument No. 200310030160681

**GPIN**

1488-89-8248

**SITE AREA**

56,705 square feet or 1.302 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

42,098 square feet or 0.9664 acres

**EXISTING IMPERVIOUS COVER OF SITE**

0 square feet or 0 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

8,948 square feet or 21.3 percent of site

**Area of Redevelopment in RPA**

0 square feet

**Area of New Development in RPA**

8,948.2 square feet

**Location of Proposed Impervious Cover**

50 foot Landward Buffer

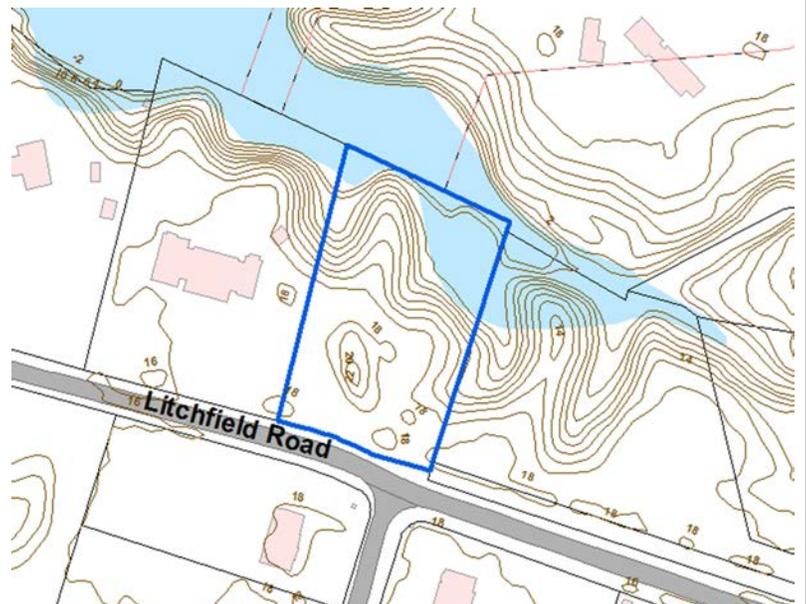
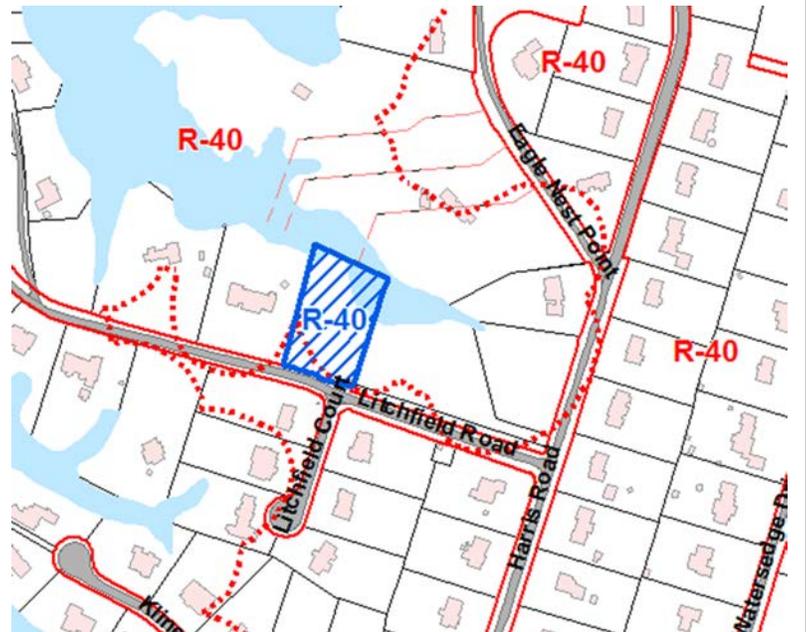
100 foot Variable Width Buffer

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Undeveloped parcel

### Construction Details

- Single family residence with attached garage
- Swimming pool and concrete pool surround
- Detached pool house
- Wood decks – total of 2
- Concrete driveway

## CBPA Ordinance Variance History

**December 23, 2002 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the subdivision of one parcel into two and the construction of a two story residence with a pool and pool house on the new parcel with the following conditions:**

1. *No less than 2,500 square feet of buffer restoration / landscaping shall be installed along the rear of proposed Lot A. Said restoration shall be installed along and adjacent to the top-of-bank and on the east and west portions of the site. A separate buffer restoration plan shall accompany the site plan for proposed Lot B.*
2. *If and when the shoreline is hardened for either Lot A or B, a riprap revetment shall be installed in lieu of vertical retaining structure such as a timber bulkhead.*
3. *Tree compensation shall be at a 3:1 ratio (21 trees). Compensation is permissible on both lots and shall be identified on the aforementioned restoration plan.*
4. *Double erosion and sedimentation control measures (double 36" silt fence) and one row of heavy-duty construction fencing shall be installed prior to any land disturbance. Said controls shall lie a maximum of 15 feet outboard of improvements. Additionally, a pre-construction meeting shall be convened with the applicant and Civil Inspections prior to any land disturbance.*
5. *All area outboard the limits of construction for Lot B shall be left in a natural state, inclusive of the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan and final subdivision plat.*
6. *All stormwater runoff from proposed impervious cover associated with Lot B shall be conveyed to structural stormwater management facilities.*
7. *As offered by the applicant, payment into the Lynnhaven River Oyster Heritage Program in the amount of \$2,057.00 for 25% of proposed impervious cover (2,245 square feet) shall be made prior to or concurrent with approval of the site plans. Aid payment shall provide for the equivalent of an approximate 2,245 square foot oyster shell plant within the Lynnhaven River basin.*
8. *\*\*\* No structural improvements shall be permitted within 100' of any wetland feature associated with proposed Lot B.*

9. A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.

The December 23, 2002, 1995 Board granted variance has not been acted upon and condition 8 requires a substantial redesign of the CBPA variance exhibit.

## Environmental Conditions

### Flood Zone

X

### Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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

### Shoreline

The shoreline is in a natural state. Moderate maintenance should be performed to limb up low hanging branches shading existing tidal marsh and to remove invasive plant species, specifically *Smilax rotundifolia* (Roundleaf Greenbrier).

### Riparian Buffer

Heavily wooded, undeveloped parcel

- Number of existing canopy trees requested for removal within the RPA: 28
- Number of existing understory trees requested for removal within the RPA: 12
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 2
- Evaluation of existing tree removal request: The majority of trees being requested for removal are within the delineated limits of construction, and do not exceed that which was requested with the December 23, 2002 CBPA variance.

## Evaluation and Recommendation

Staff is of the opinion that the proposed improvements are in substantial compliance with the December 23, 2002 CBPA Exhibit, as shown to the Board at that time. Staff strongly believes that the introduction of condition 8 into the 2002 CBPA variance should have warranted a deferral of the variance request at that time. Given the impacts that condition 8 has on the development of this parcel, a revised exhibit should have been presented for deliberation that documented the necessary revisions to the proposed improvements based off of *"no structural improvements being permitted within 100 feet of any wetland feature associated with proposed Lot B."*

To further support this variance request to reconsider condition 8 of the 2002 CBPA, the applicant's agent offers the following comments relative to the findings of the CBPA Ordinance specific to this variance request.

- 1) *"Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated because this variance request would supersede/replace a previous variance granted by the Board on this property and is very similar in scope to the previous variance. Since the property is completely impacted by the Bay Act, which will never go away, there can be no special privilege here not afforded to other property owners."* Staff is of the opinion that the applicant has provided

Elaine and John Lewis Ames, Jr.

Agenda Item 3

Page 41

a CBPA exhibit that depicts the dwelling at the minimum front yard setback along Litchfield Road without pursuing a Board of Zoning Appeals variance. Placing the proposed residence closer to the street and within this setback would be out of character with the neighborhood.

- 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 and the applicant has incorporated everything the Board has routinely approved in recent years to avoid the most area of the property.”* As stated above, Staff strongly believes that the introduction of condition 8 into the 2002 CBPA variance should have warranted a deferral of the variance request at that time.
- 3) *“The variance is the minimum necessary to afford relief with the applicant’s attempt to keep the lot coverage numbers as low as possible, avoid the most sensitive areas of land, leaving as much area in a natural state while building a house in keeping with the size and location of houses in the surrounding area.”* Staff concurs.
- 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 due to the treatment requirements for stormwater for the proposed impervious cover, large portions of the parcel being left in a natural state by the homeowner, the installation of buffer restoration to mitigate for the new impervious cover, and the participation into the Lynnhaven Oyster Heritage program with off-site water quality mitigation.”* Based on a site visit to the property, Staff is of the opinion that the topography of the site in relation to the location of the tidal feature, that the applicant’s desire to develop the property in a manner that will preserve the existing riparian ecosystem will not pose a substantial detriment to water quality.
- 5) *“As a means to manage towards a no net increase in nonpoint source pollution load all of the items mentioned above are included with this finding along with strict erosion and sediment control measures during the entire construction phase. Stockpile areas on high ground, tree protection, and single point construction access ways all are intended to protect water quality and reduce the potential for non-point source pollution.”* Staff is of the opinion that if properly coordinated, the applicant’s investment in developing the uplands portion of the property with associated buffer restoration and stormwater management, coupled with maintenance to the existing shaded shoreline, will provided a means to manage towards a no net increase in nonpoint source pollution load.

Given that the proposed improvements associated with this variance request will remain landward of both the 50 foot seaward buffer and the top of bank feature, and that the overall impervious cover will be less than 22 percent, Staff supports the variance request as submitted. As such, Staff offers the following 16 recommended conditions for the Board’s deliberation 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. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan.**
6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
7. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. A maximum of 2,000 square feet of turf is permitted for this property. Said turf shall not be permitted within the 50 foot seaward buffer or below the top of bank feature. All remaining impervious area shall be areas of buffer restoration. Buffer restoration areas 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 installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

13. **The pool shall be constructed prior to or concurrent with the residence.**
14. Under deck treatment of sand and gravel shall be installed.
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.
16. **\*\*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 \$2,050.58 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.**
17. Mature trees exist adjacent to tidal waters, and the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.
18. This variance and associated conditions **will supersede** the conditions of the Board variance granted December 23, 2002.
19. The conditions and approval associated with this variance are based on the exhibit plan dated April 4, 2018, prepared by Gallup Surveyors and Engineers, signed April 4, 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.

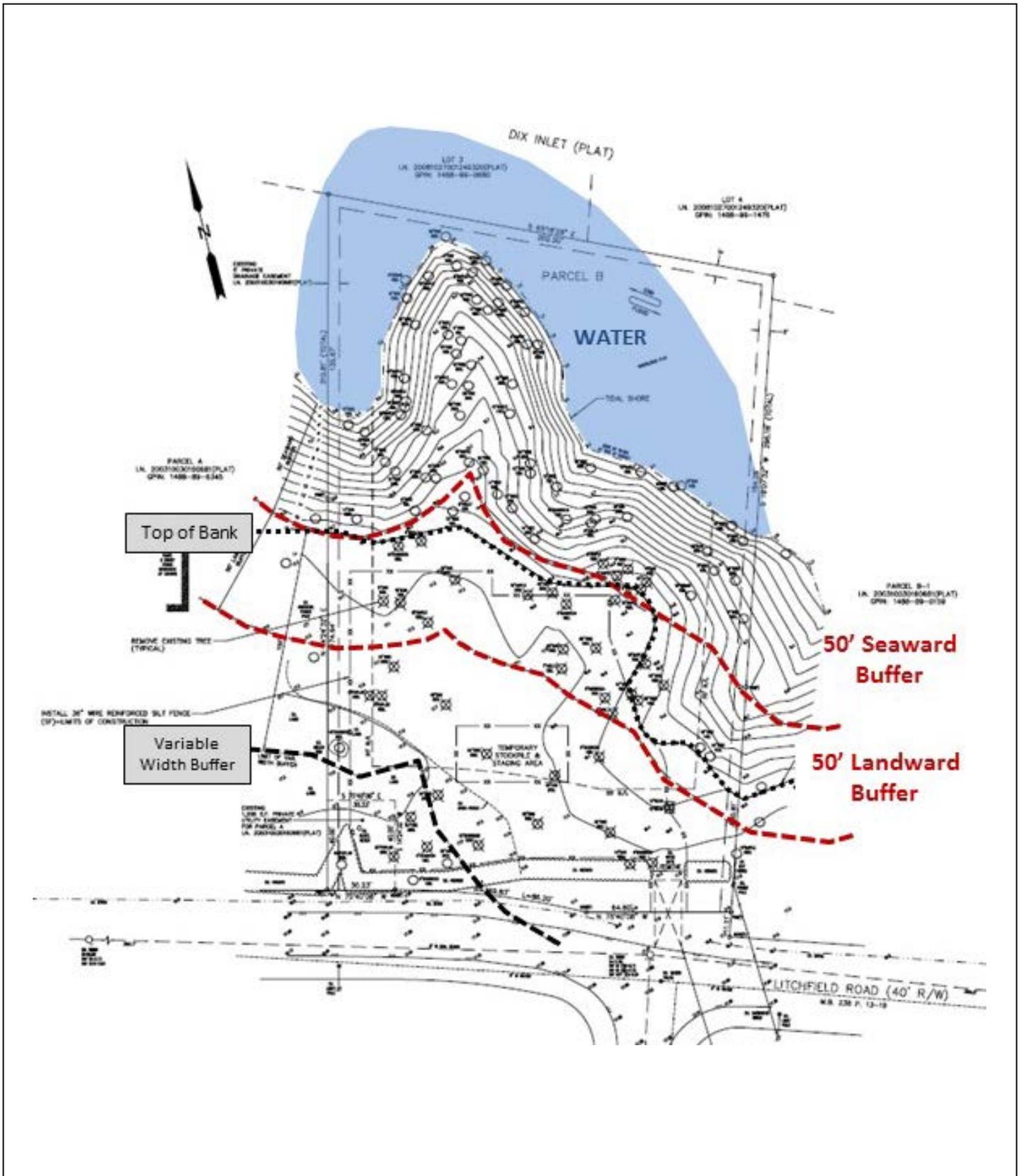
**\*\*\*NOTE:** The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation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

Site Aerial

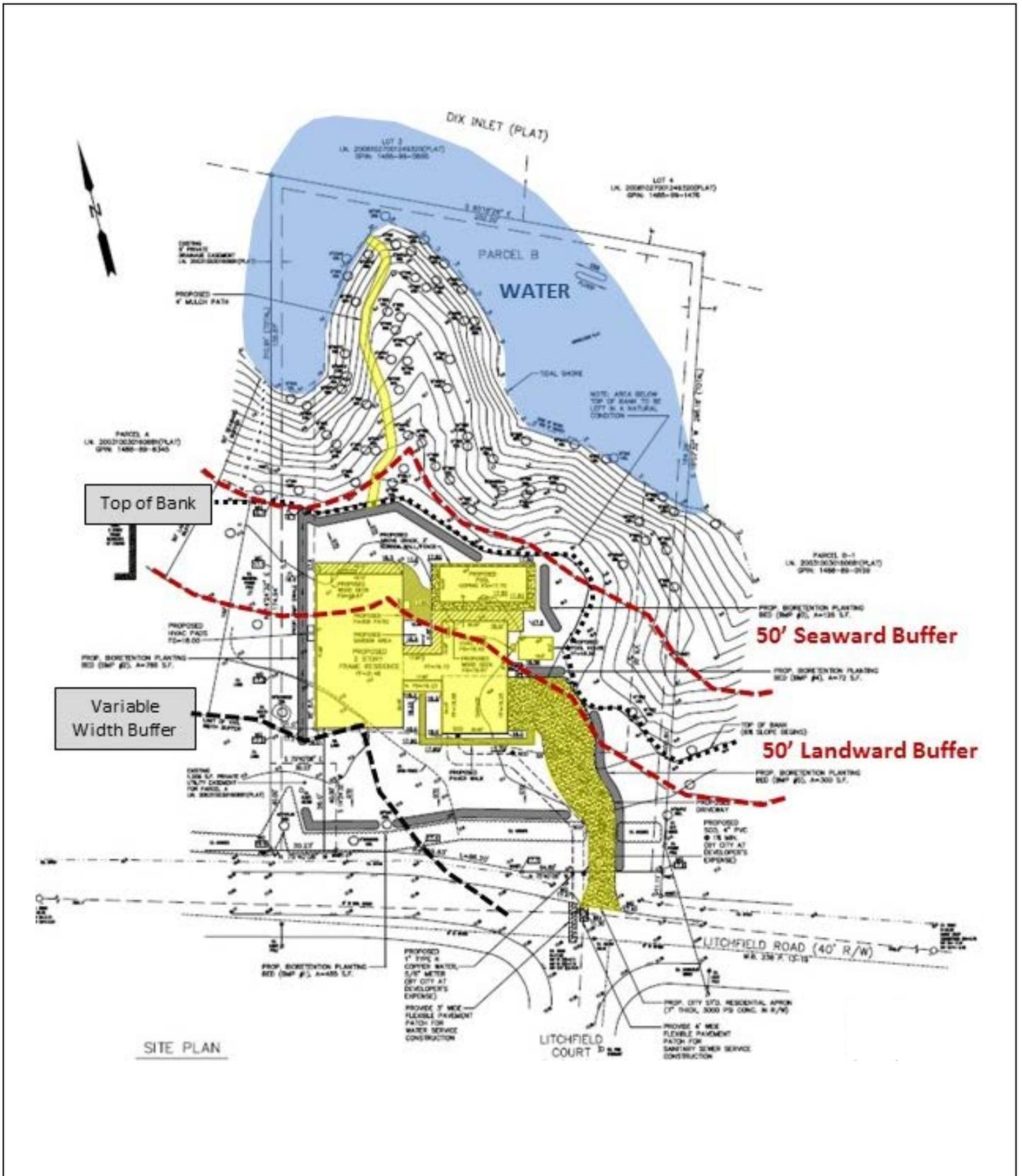




**CBPA Exhibit – Existing Conditions**



# CBPA Exhibit – Proposed Improvements



# Disclosure Statement



**APPLICANT'S NAME** MATTHEW TILLOTSON

## 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: MATTHEW TILLOTSON  
If an LLC, list all member's names:

n/a

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

n/a

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

n/a

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

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## SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

(A) List the Property Owner's name: JOHN LEWIS AMES JR. & ELAINE A. AMES  
If an LLC, list the member's names:

n/a



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

N/A

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

N/A

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

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

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### SECTION 3. SERVICES DISCLOSURE

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



## APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input 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 type="checkbox"/>	Construction Contractors	BILLIE T. CONTRACTING, LLC
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	GALLUP / Billy Garrington
<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 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.

	MATTHEW TILLOTSON	3-28-2018
APPLICANT'S SIGNATURE	PRINT NAME	DATE



## OWNER

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

### SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

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



**CERTIFICATION:**

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

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

	JOHN LEWIS AMES, JR.	3/28/18
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE
	ELAINE A. AMES	3/28/18

AS NEEDED, PAGE LEFT BLANK



**Variance Request**

Encroachment into the Resource Protection Area (RPA) 100 foot buffer with the expansion of multiple accessory structures – expansion of pool patio and proposed bocce court.

**Applicant’s Agent**

Billy Garrington

**Staff Planner**

PJ Scully

**Lot Recordation**

12/7/1946  
Map Book 18, Page 84

**GPIN**

2418-25-0079

**SITE AREA**

53,669 square feet or 1.232 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

48,936 square feet or 1.123 acres

**EXISTING IMPERVIOUS COVER OF SITE**

11,862 square feet or 24.2 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

12,922.4 square feet or 26.4 percent of site

**Area of Redevelopment in RPA**

3,613.5 square feet

**Area of New Development in RPA**

1,635.5 square feet

**Location of Proposed Impervious Cover**

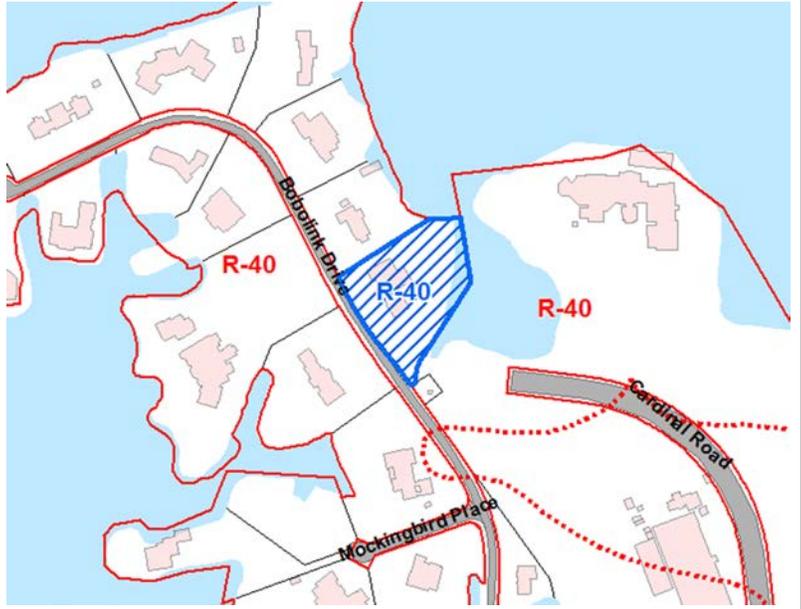
- 50 foot Seaward Buffer
- 50 foot Landward Buffer
- 100 foot Variable Width Buffer

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Concrete patio, pool surround and associated walkways
- Wood decks – portion on wood deck at southeast portion of residence to remain
- In-ground swimming pool to be renovated

### Construction Details

- In-ground swimming pool to be renovated
- Stone pool deck and patios with associated retaining walls
- Shed
- Bocce court with associated retaining wall
- Stepping stone walkway

## CBPA Ordinance Variance History

**April 28, 2008 a Chesapeake Bay Preservation Area (CBPA) Board variance request was submitted for the construction of a single family residence and redevelopment of the existing swimming pool.**

The application was withdrawn on April 28, 2008 at the CBPA Board hearing.

## Environmental Conditions

### Flood Zone

X and AE Base Flood Elevation (BFE): 7

### Soil Type(s)

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

### Shoreline

The shoreline is hardened with a wooden bulkhead.

### Riparian Buffer

Sparsely wooded, developed parcel

- **Number of existing canopy trees requested for removal within the RPA:** 3
- **Evaluation of existing tree removal request:** The CBPA Variance Exhibit depicts the removal of three (3) Pine trees that are located in or adjacent to the footprint of the proposed shed and bocce court. Given the proximity of the existing trees to the proposed improvements and overall health of one of the trees observed in the field as slightly stressed or declining in health, Staff supports this request.

## Evaluation and Recommendation

Staff met with the applicant's agent on the initial submittal of this variance request regarding the location of the proposed bocce court and shed – of which both improvements were located within the 50 foot seaward buffer. The applicant has since relocated both the bocce court and the shed to be within the 50 foot landward buffer. The relocation of the proposed bocce court went from the southeast portion of the existing swimming pool to the northeast portion of the existing swimming pool. Staff is of the opinion that this adjustment removes the proposed bocce court from a more sensitive portion of the parcel while reducing the impacts to the existing topography of the parcel. In addition, more than half of the proposed improvements associated with this variance request are devoted to the redevelopment of existing impervious cover – approximately 3,613 square feet.

The applicant has provided comments relative to the findings of the CBPA Ordinance specific to this variance request. Those comments are as follows.

- 1) *“Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated as the Birdneck Point subdivision was recorded many years prior to the adoption of the Bay Act and as a result every waterfront home is significantly impacted by the ordinance. Since the enactment of the Ordinance 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 is of the opinion that with the relocation of the majority of the proposed improvements out of the 50 foot seaward buffer, that the proposed improvements conform to the pattern of redevelopment that has occurred within this neighborhood and within this reach of the Lynnhaven River.
- 2) Staff provides that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing portions of this property within the RPA.
- 3) *“The variance is the minimum necessary to afford relief because the total impervious cover will not exceed 30 percent of the land area, which leaves a significant amount of land to be used for buffer restoration and bioretention beds.”* Staff applauds the applicant's effort to relocate the proposed improvements outside of the 50 foot seaward buffer, in addition to devoting more than half of the proposed improvements associated with this variance request to the redevelopment of existing impervious cover.
- 4) *“The purpose and intent of the ordinance is water quality, to prevent polluting the Bay as a result of non-point source pollution. Most of these homes currently have no storm water treatment on site. As a result of this variance request, the owner will install bioretention bed, buffer restoration in areas currently devoted to turf and even off-site treatment via the Lynnhaven Oyster Heritage Program – all to benefit water quality. Therefore, the variance will be 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.”* Staff provides that the redevelopment of the parcel will comply with other single family redevelopments in the neighborhood, with minimal encroachments occurring within the more sensitive portions of the property, therefore preventing the redevelopment of this parcel from contributing to the detriment of water quality within the Lynnhaven River.
- 5) *“Strict erosion and sedimentation control measures, stockpiling materials on existing hard surfaces, single point access way and revegetating any denuded areas all help to limit pollution from entering the adjacent waters as a means to manage towards a no net increase in nonpoint source pollution load.”* Staff concurs

that the construction sequence for installing the proposed improvements and diligent management of erosion and sediment control measures during all construction activities contributes significantly towards limiting additional non-point source pollution load and further offers that that the maintenance and restoration of the 50 foot seaward buffer into a riparian buffer system will assist with the infiltration of stormwater.

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

## Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
7. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.

11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.

12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,635 square feet x 200 percent = 3,270 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **9 canopy trees, 8 understory trees, 18 large shrubs, and 27 small shrubs.**

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

13. Under deck treatment of sand and gravel shall be installed.

14. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.

15. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$ 373.99 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.**

16. The conditions and approval associated with this variance are based on the exhibit plan dated March 19, 2018 and revised May 3, 2018, prepared by Gallup Surveyors & Engineers, signed May 3, 2018 by Bruce Gallup. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

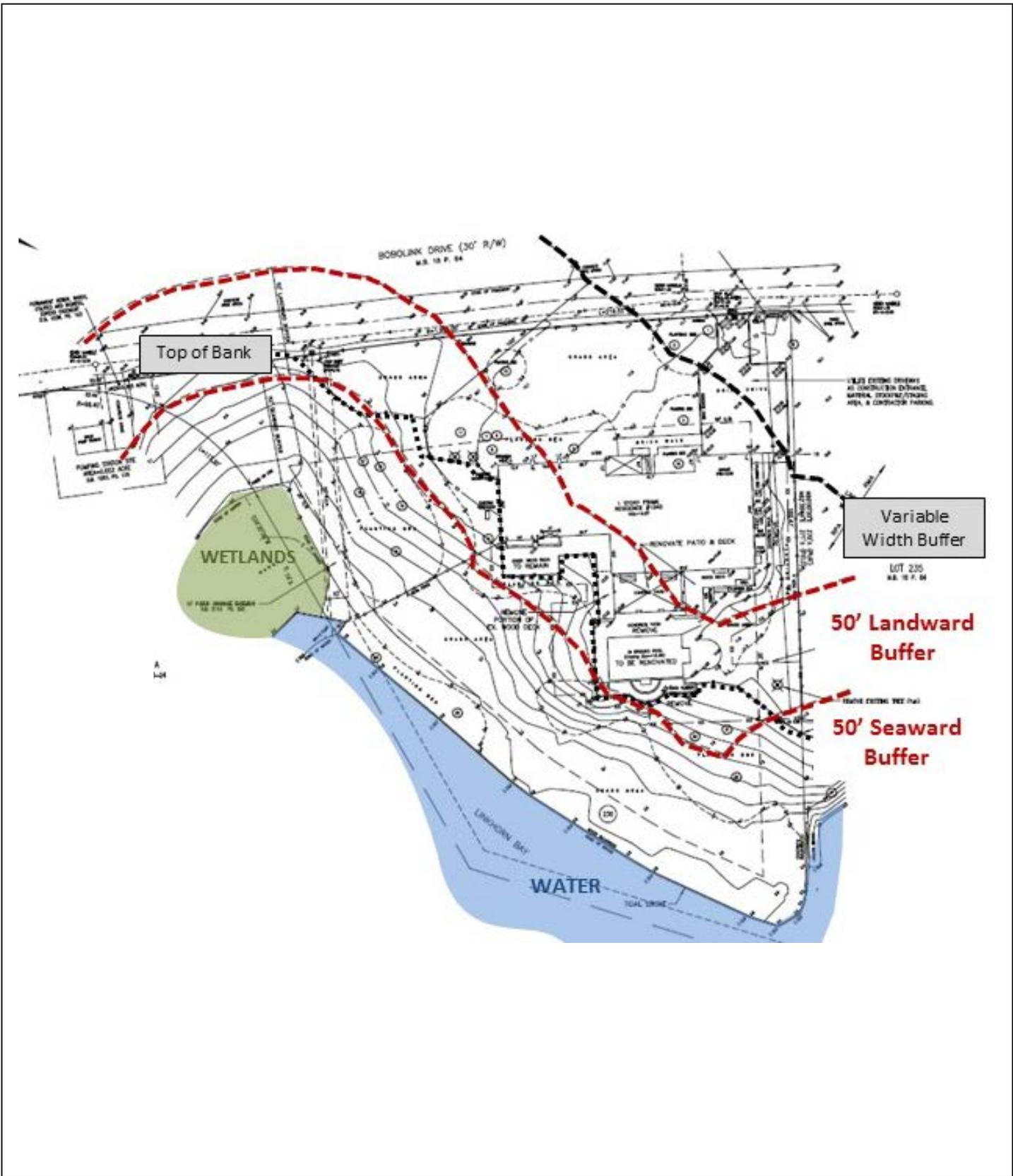
**\*\* NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

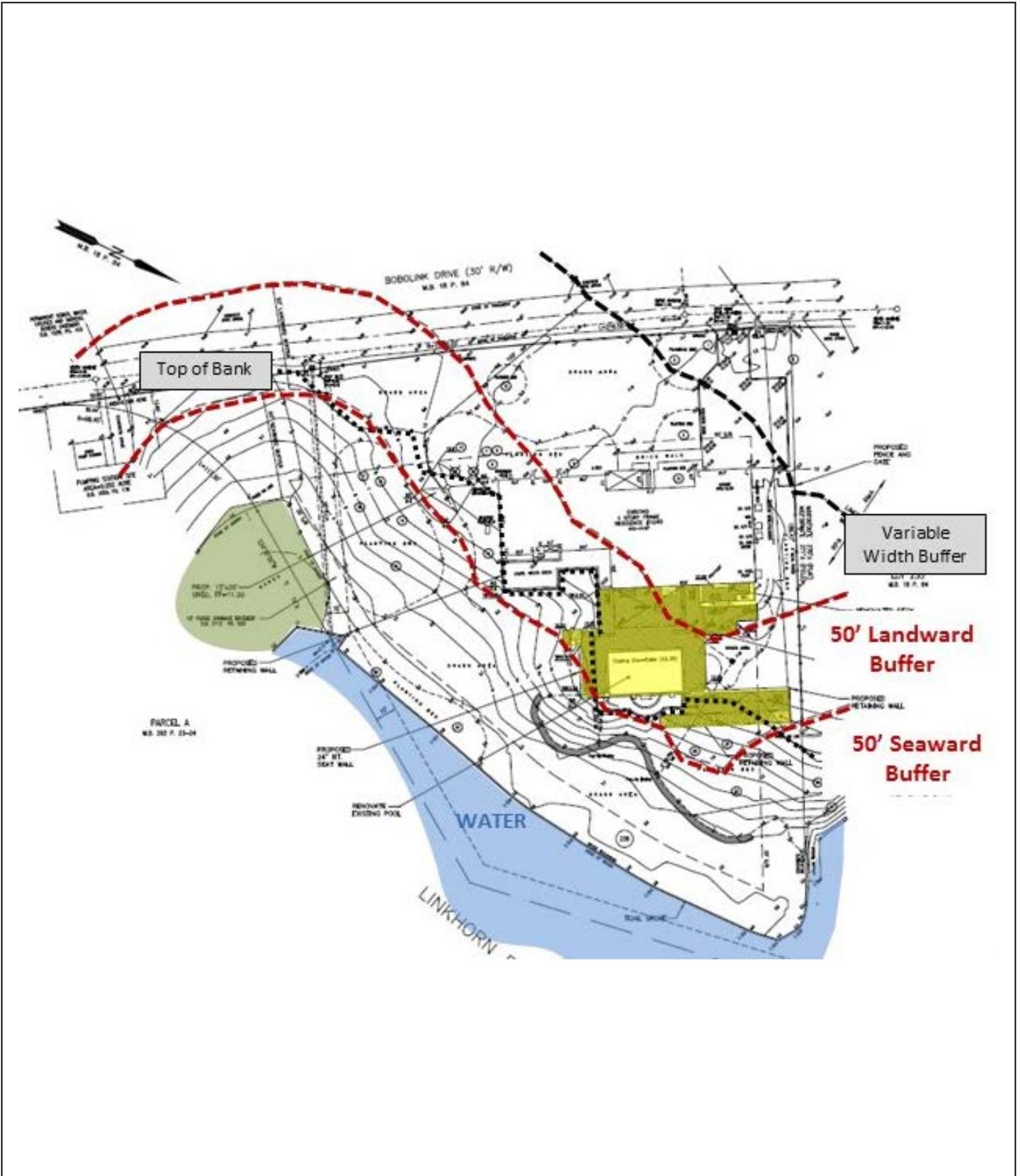
Site Aerial



**CBPA Exhibit – Existing Conditions**



**CBPA Exhibit – Proposed Improvements**







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: CHRISTINE and FRANCIS VERFURTH  
If an LLC, list all member's names:

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

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

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

---

## SECTION 2 / PROPERTY OWNER DISCLOSURE N/A

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

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

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

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

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

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

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

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

---

### 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	Siska Aurand Landscape Arch., Inc.
<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	Stephen I. Boone & Assoc.; Gallup
<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	Billy 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"/>	

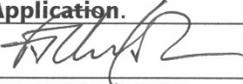
If yes, what is the name of the official or employee and what is the nature of the interest?



**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.

	F. T. VERFURTH	3/24/18
APPLICANT'S SIGNATURE	PRINT NAME	DATE
	Christine Verfurth	3/24/18

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



**Variance Request**

Modification of the January 22, 2001 Chesapeake Bay Preservation Area (CBPA) Board variance with a request for the CBPA Board to reconsider condition 2.

**Applicant's Agent**

Eddie Bourdon

**Staff Planner**

PJ Scully

**Lot Recordation**

12/6/2013  
Instrument No. 20131206001407280

**GPIN**

1498-59-4118

**SITE AREA**

86,310 square feet or 1.981 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

73,326 square feet or 1.683 acres

**EXISTING IMPERVIOUS COVER OF SITE**

828 square feet or 1.1 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

19,356.8 square feet or 26.4 percent of site

**Area of Redevelopment in RPA**

225.8 square feet

**Area of New Development in RPA**

7,877.1 square feet

**Location of Proposed Impervious Cover**

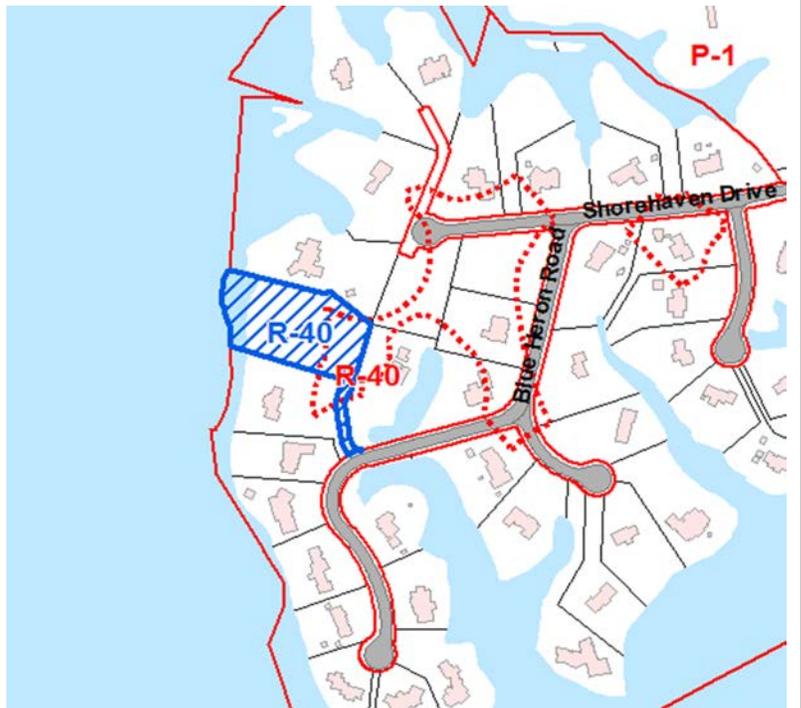
- 50 foot Seaward Buffer
- 50 foot Landward Buffer
- 100 foot Variable Width Buffer
- Resource Management Area (RMA)

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Undeveloped parcel

### Construction Details

- Single family residence with associated walkways
- Paved driveway with associated parking area
- Swimming pool with concrete pool patio
- Detached garage

## CBPA Ordinance Variance History

**January 22, 2001 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. *Encroachments within the buffer for proposed Parcel A-2, shall be limited to ingress-egress. A maximum 15 wide foot gravel or shell surface shall be installed for that portion of the access way within the 100 foot buffer and shall lie above the top-of-bank. Said condition shall be noted in BOLD on the subdivision plat and site plan.*
2. *No principal or accessory structure shall be permitted on proposed Parcel A-2 within the Resource Protection Area (RPA) and shall be so noted in BOLD on the subdivision plat and site plan.*
3. *If and when the shoreline is hardened for either Parcels A-1 or A-2, a riprap revetment shall be installed in lieu of a vertical retaining structure such as a timber bulkhead. Said condition shall be noted in BOLD on the subdivision plat and site plan.*

The January 22, 2001 Board granted variance has been acted upon and the associated subdivision was approved, but no improvements have been constructed.

## Environmental Conditions

### Flood Zone

X and AE – Base Flood Elevation (BFE): 9

### Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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

### Shoreline

The shoreline is in a natural state with moderate erosion occurring along the toe of the slope. Moderate maintenance should be performed to limb up low hanging branches shading existing tidal marsh and to remove rack material debris that has accumulated along the shoreline. The accumulation of rack material has limited the regeneration of the existing marsh shoreline during the growing season.

## Riparian Buffer

Sparsely wooded, undeveloped parcel

- Number of existing canopy trees requested for removal within the RPA: 11
- Evaluation of existing tree removal request: The trees requested for removal are within the delineated limits of construction, shown as shown the CBPA exhibit. Staff supports the request as shown.

## Evaluation and Recommendation

The CBPA exhibit associated with the approved December 22, 2001 CBPA variance request did not depict the specific location of any proposed improvements, nor did it delineate a building envelop for the then proposed Parcel A-2. The Board granted the variance to subdivide the parcel with a condition that *“no principal or accessory structure shall be permitted on proposed Parcel A-2 within the Resource Protection Area (RPA).”* Staff has walked the parcel several times with potential buyers and is familiar with the access, topography, and vicinity of the adjacent single family homes. As such, Staff supports the variance request to encroach into the variable width buffer with portions of the principal and accessory structure and offers the following comments with regard to those provided by the applicant’s agent relative to the findings of the CBPA Ordinance specific to this variance request.

- 1) “Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated because ALL non-water dependent proposed improvements for the development of this home/lot are located OUTSIDE of the state mandated 100 foot RPA Buffer. Of all the developed waterfront parcels in Virginia Beach impacted by the RPA Buffer, (the applicant’s agent does) not believe that there are more than five percent (5%) that do not have any encroachment into the State mandated 100-foot buffer. On this site, that buffer encompasses 26,348.4 square feet of land along over 200 linear feet of shoreline.” Staff is of the opinion that the encroachments into the variable width buffer provide for a more than reasonable buildable area without granting 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 by preserving the 100 foot RPA buffer adjacent to the Lynnhaven Bay.
- 2) *“This variance request is necessitated by the City of Virginia Beach having created a ‘variable width’ buffer in addition to the State mandated 100 foot buffer as a means of imposing a greater amount of water quality enhancing requirements on waterfront properties when they are redeveloped and/or existing improvements are modified/expanded. In spite of the fact that well over ninety percent (90%) of the City’s waterfront areas impacted by the Bay Act were already subdivided and developed prior to the promulgation of the Bay Act, the City chose not to designate all of its developed waterfront as an I.D.A., which the City clearly could have done. Virginia Beach chose not to do so in order to achieve greater water quality improvements than a simple ten percent (10%) reduction in non-point source pollutant load (all that is required in areas designated as I.D.A.’s). As a consequence, this applicant will be doing far more to protect and enhance water quality than the overwhelming majority of waterfront homesites within the Chesapeake Bay Watershed in Virginia Beach that are impacted by RPA buffer requirements.”* Staff respects this point of view however, when the original parcel was subdivided and the CBPA variance granted, there was no plan of development specific for this parcel.
- 3) *“The variance is the minimum necessary to afford relief because given the substantial canopy cover being preserved on this very large lot, adding areas of buffer restoration, preserving the entire 100 foot RPA Buffer, coupled with the fact that eighty percent (80%) of the impervious developed area will be in the RMA and an overall impervious percentage of twenty-six and one-half percent (26.5) of the site (with a large*

*portion of the proposed impervious surface within the variable width Buffer required in order to simply access the property), the variance is truly minimal.” Staff is of the opinion that preserving the entire 100 foot RPA Buffer, coupled with the fact that 80 percent of the proposed impervious improvements will be in the RMA, is the minimum necessary to afford relief for those portions of the principal and accessory structures encroaching into the variable width portions of the RPA buffer.*

- 4) *“The variance preserving the entire 100 foot deep, 26,348.5 square foot RPA buffer and ninety-one and one-half percent (91.5) of the total of both the 100 foot and variable width buffers (i.e. 41,257.6 SF out of 45,130.9 SF) excluding the driveway within the variable width buffer, while capturing and treating all stormwater and installing additional buffer restoration is clearly in harmony with the purpose and intent of the ordinance. The total avoidance of development within the 100’ RPA along over 200 linear feet of shoreline along the Lynnhaven River in this neighborhood is absolutely unique and clearly NOT injurious to the neighborhood, nor will this development as conditioned be in any way detrimental to water quality or to the public welfare.” Staff concurs.*
- 5) *“As a means to manage towards a no net increase in nonpoint source pollution load all stormwater will be captured and treated; substantial amounts of existing canopy cover shall be preserved and additional canopy cover/buffer restoration will be created.” Staff offers that in addition to this statement, that the preservation of the 100 foot RPA buffer in its entirety will capture and filter sediment within sheetflow into the adjacent tidal waters and reduce nutrients entering the Lynnhaven Bay[City Code, Appendix F, Sec. 106 (B)(3)(a)].*

Given that the proposed improvements associated with the primary and accessory structures for this variance request remaining landward of both the 100 foot RPA buffer and the top of bank feature, Staff offers the following 20 recommended conditions for the Board’s deliberation 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. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan.**
6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

7. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **7,877 square feet x 200 percent = 15,754 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: **16 canopy trees, 16 understory trees, 80 large shrubs and 120 small shrubs.**

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

13. The proposed driveway stem and paved parking area 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. **The pool shall be constructed prior to or concurrent with the residence.**
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.
16. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,804.91 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.

17. Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.
18. 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.
19. This variance and associated conditions **will supersede** the conditions of the Board variance granted January 22, 2001.
20. The conditions and approval associated with this variance are based on the exhibit plan dated March 15, 2018, prepared by Gallup Surveyors & Engineers, signed March 30, 2018 by Bruce Gallup. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

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

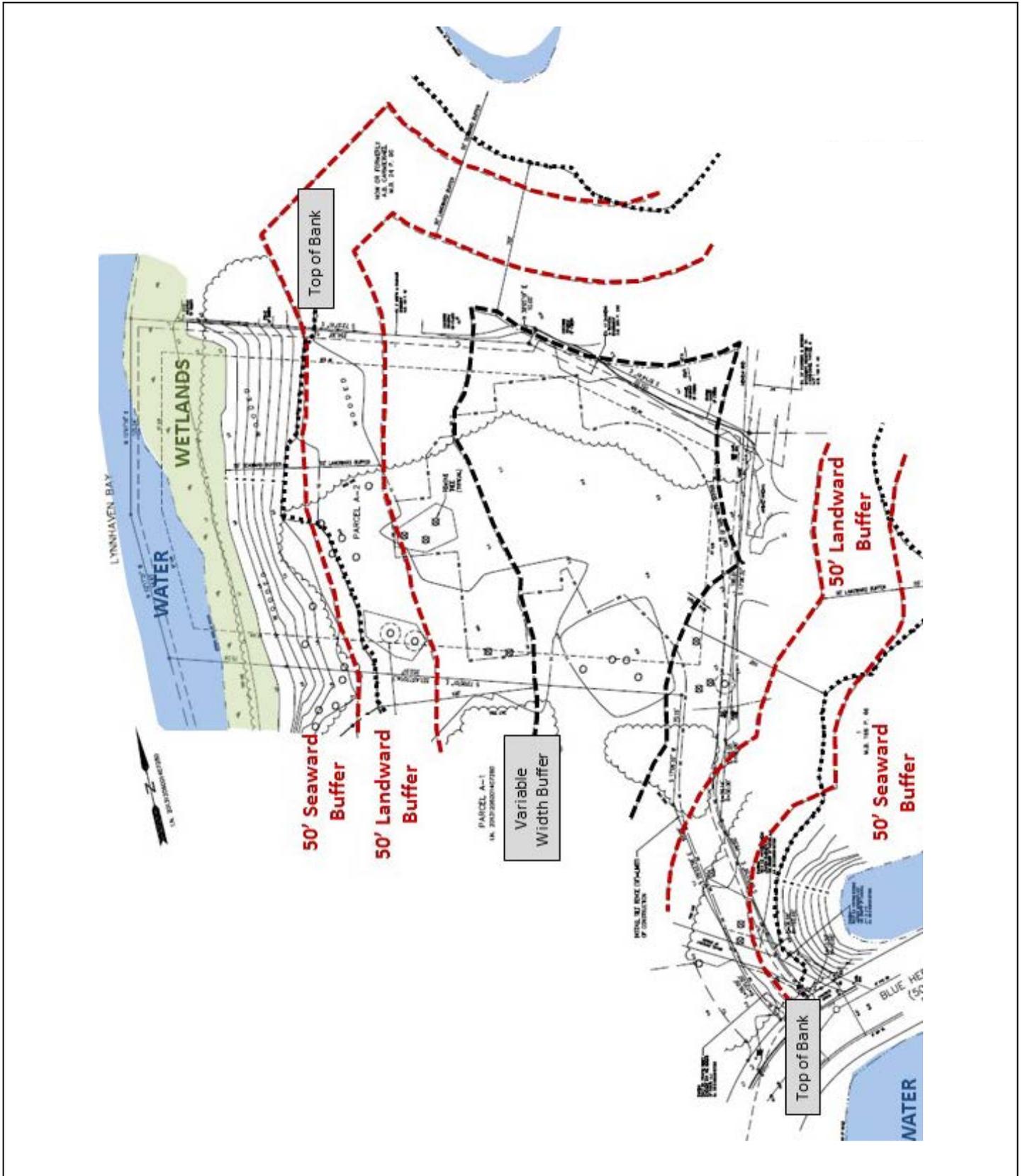
\*\*\*NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section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

Site Aerial

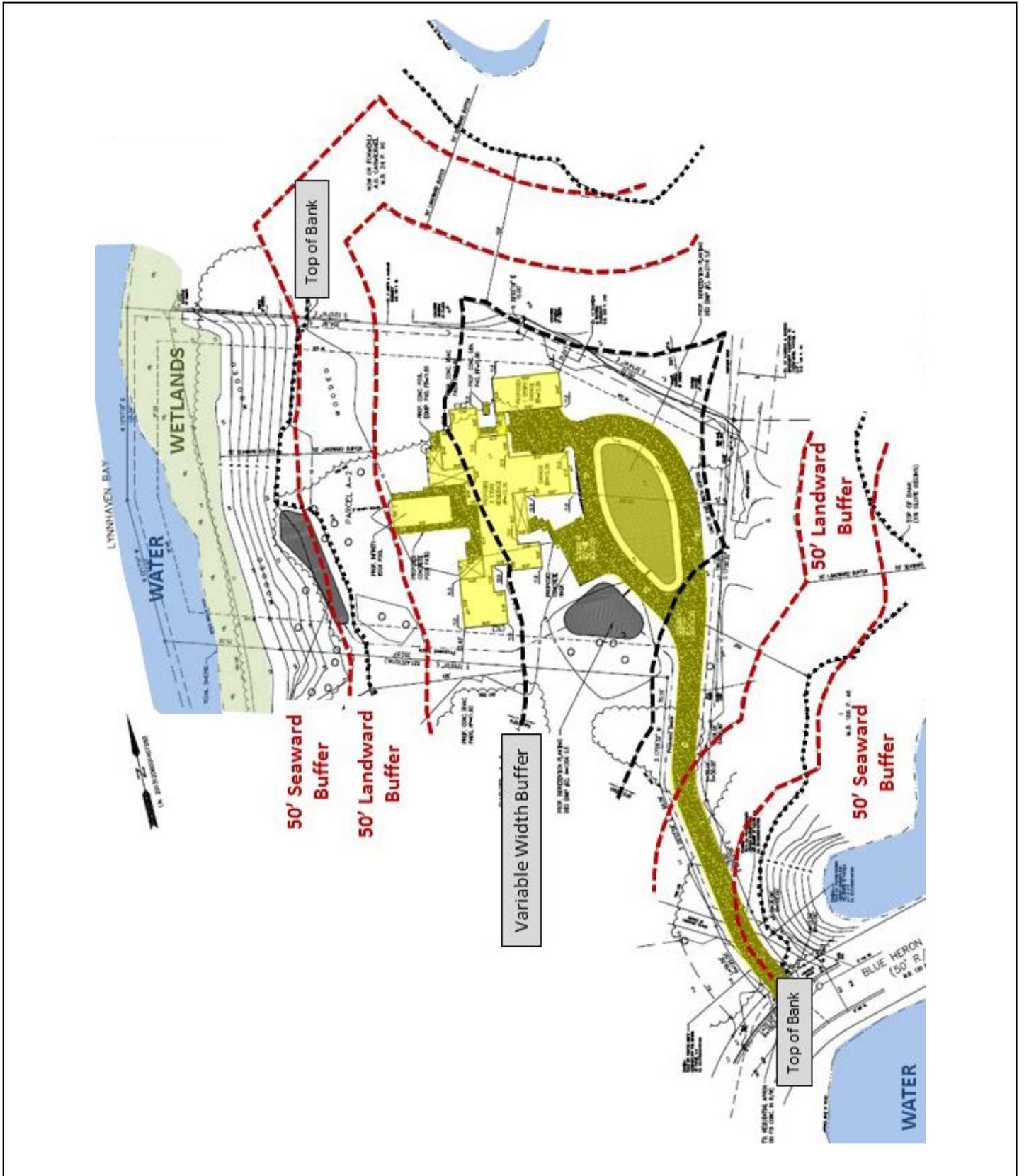




CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





**APPLICANT'S NAME** Christopher Jackson \_\_\_\_\_

**DISCLOSURE STATEMENT FORM**

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

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

◆
  
◆

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

◆
  
◆

**SECTION 1 / APPLICANT DISCLOSURE**

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).				Page 1 of 7
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:		
<input type="checkbox"/>	NO CHANGES AS OF	DATE:		
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:		



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

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

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

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

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

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## SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

(A) List the Property Owner's name: Page L. Bishop  
If an LLC, list the member's names:



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

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

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

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

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### SECTION 3. SERVICES DISCLOSURE

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



## APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Cherry Bekaert LLP
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Gregory Martin Frech, AIA
<input type="checkbox"/>	<input type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	N/A
<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 type="checkbox"/>	Construction Contractors	Undetermined
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Gallup Surveyors & Engineers, Ltd.
<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 - Land Bank of America - Finished Project
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Sykes, Bourdon, Ahern, & Levy, PC
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Karen O'Brien, Realtor

### SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	<b>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?</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

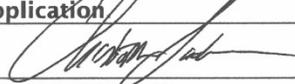
If yes, what is the name of the official or employee and what is the nature of the interest?



**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.**

	Christopher Jackson	03/28/18
APPLICANT'S SIGNATURE	PRINT NAME	DATE



## OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Leah Melton
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Gregory Martin Frech, AIA
<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	Gallup Surveyors & Engineers, Ltd.
<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	Sykes, Bourdon, Ahern, & Levy, PC
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Karen O'Brien, Realtor

### 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>Page L. Bishop</i>	PAGE L. BISHOP	3/30/18
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

AS NEEDED, PAGE LEFT BLANK



**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer with the construction of a residential structure and associated swimming pool.

**Applicant's Agent**

Billy Garrington

**Staff Planner**

PJ Scully

**Lot Recordation**

1/6/1958  
Map Book 46, Page 20

**GPIN**

2418-82-6393

**SITE AREA**

63,697 square feet or 1.462 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

41,015 square feet or 0.942 acres

**EXISTING IMPERVIOUS COVER OF SITE**

3,557 square feet or 8.7 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

6,884 square feet or 16.8 percent of site

**Area of Redevelopment in RPA**

3,144 square feet

**Area of New Development in RPA**

3,709 square feet

**Location of Proposed Impervious Cover**

50 foot Seaward Buffer

50 foot Landward Buffer

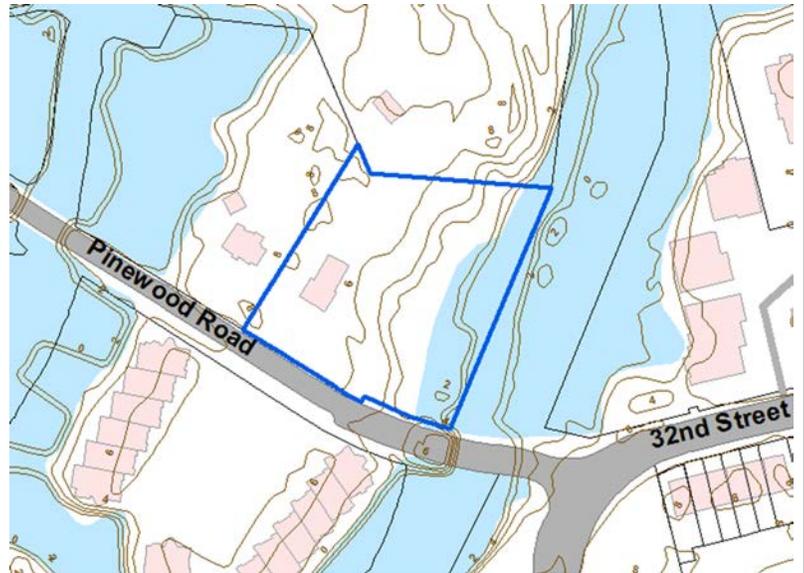
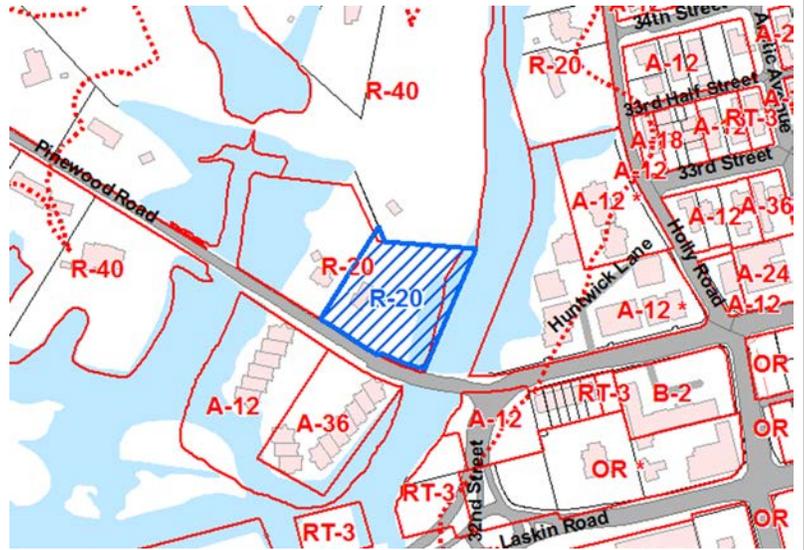
100 foot Variable Width Buffer

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Complete demolition – all existing structure to be removed

### Construction Details

- Single family residence with associated deck and covered porch
- Concrete driveway
- Swimming pool with associated pool surround and pool house

## CBPA Ordinance Variance History

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

## Environmental Conditions

### Flood Zone

AE (Base Flood Elevation 7) and 0.2% annual chance of flooding

### Soil Type(s)

Yeopim Series (deep and moderately well-drained soils)

### Shoreline

The shoreline is in a natural state. Moderate maintenance should be performed to limb up low hanging branches shading existing tidal marsh and to remove invasive plant species.

### Riparian Buffer

Moderately wooded, undeveloped parcel

- Number of existing canopy trees requested for removal within the RPA: 4
- Number of existing understory trees requested for removal within the RPA: 2
- Evaluation of existing tree removal request: Trees being requested for removal are within the delineated limits of construction as delineated on the CBPA exhibit. Staff is of the opinion, given the extent of redevelopment that the proposed request is minimal.

## Evaluation and Recommendation

While the proposed improvements associated with this variance request do reflect an increase in the overall impervious cover of the parcel from 8.7 percent to 16.8 percent, Staff is of the opinion that the applicant's approach to the design and location of the improvements – locating the dwelling at the minimum front yard and side yard setbacks, as far away as possible without a BZA variance from the tidal feature, coupled with the retention of the mature canopy cover - is in harmony with the purpose and intent of the CBPA Ordinance.

The applicant has provided comments relative to the findings of the CBPA Ordinance specific to this variance request, and believes that the redevelopment of this parcel will be in harmony with the purpose and intent of the CBPA Ordinance based on the following.

- 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 the property was recorded and developed many years prior to the adoption of the Bay Act, the house burned and we are rebuilding in the same footprint as much as possible and staying out of the seaward buffer as much as possible and keeping the lot coverage as low as possible.”* 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 or predecessor in title, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance, therefore placing portions of this property is within the RPA.”* Staff concurs.
- 3) *“The variance is the minimum necessary to afford relief because the applicant has minimized lot coverage maintains portions of the property in a natural state and preserves areas for buffer restoration to be installed as mitigation.”* Staff concurs.
- 4) *“The variance request is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because the applicant is redeveloping the existing impervious cover as much as possible and keeping the overall project lot coverage low to limit runoff and promote water quality. Buffer restoration will also help enhance post construction water quality.”* Staff concurs.
- 5) *“Implementation of strict erosion and sediment control measures, stockpiling construction as a means to manage towards a no net increase in nonpoint source pollution load.”* Staff concurs that the implementation and diligent management of erosion and sediment control measures during the redevelopment activities for this parcel contribute significantly towards limiting additional non-point source pollution load, and further offers that that the maintenance and restoration of the 50 foot seaward and majority of the 50 foot landward buffer into a riparian buffer system will assist with the infiltration of stormwater.

Staff offers the following 18 reasonable and appropriate conditions for the Board’s deliberation towards preventing the development 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. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **3,709 square feet x 200 percent = 7,446 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: **19 canopy trees, 38 understory trees, 38 large shrubs, and 57 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 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 swimming pool and associated pool shall be constructed prior to or concurrent with the residence.**
14. Under deck treatment of sand and gravel shall be installed.
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.
16. **\*\*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 \$849.74 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.**
17. Where mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.
18. The conditions and approval associated with this variance are based on the CBPA Variance Exhibit ~~plan dated~~, prepared by Gaddy Engineering Services, signed April 5, 2018 by Michael S. Gaddy. 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.

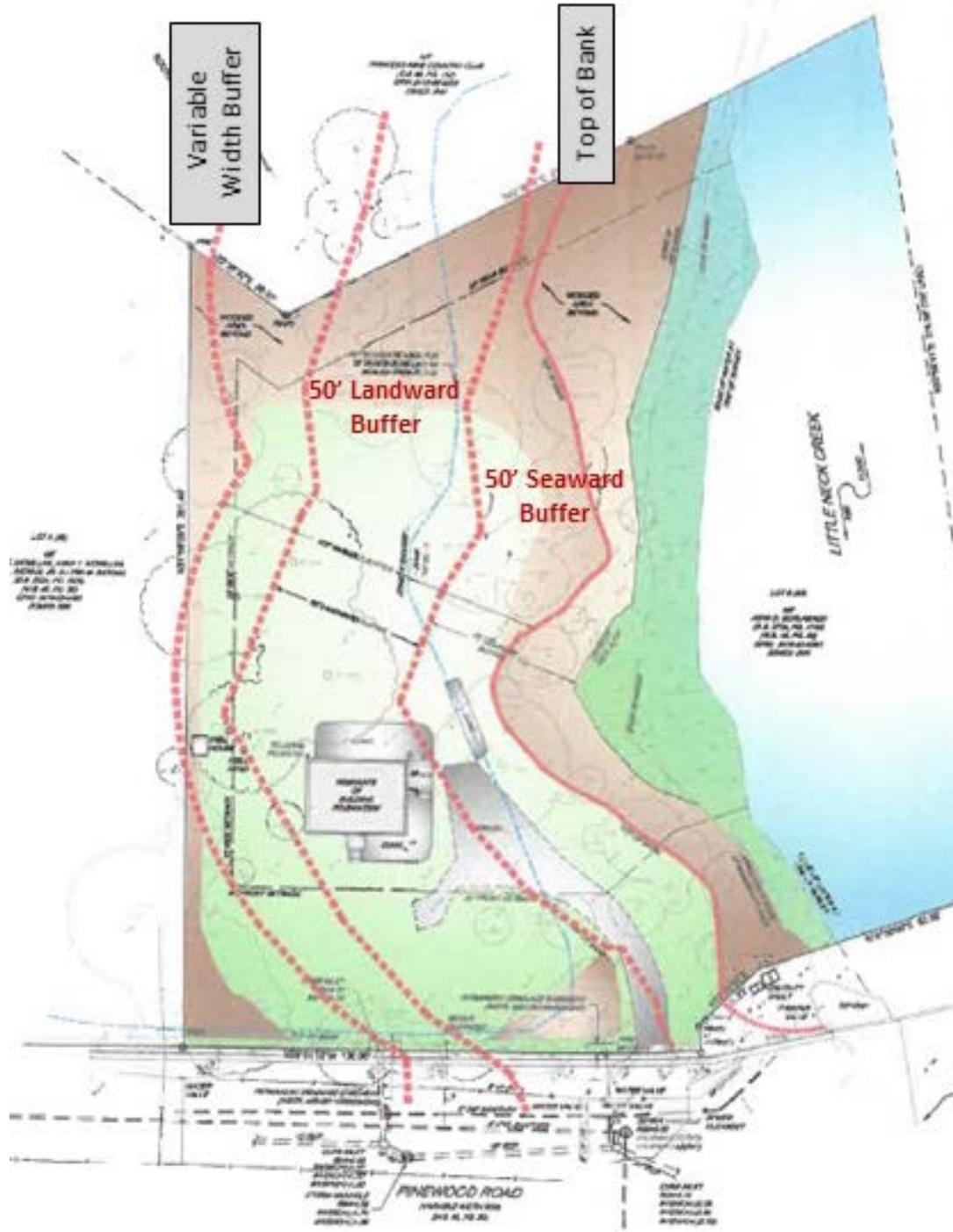
**\*\* NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

**\*\*\*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.

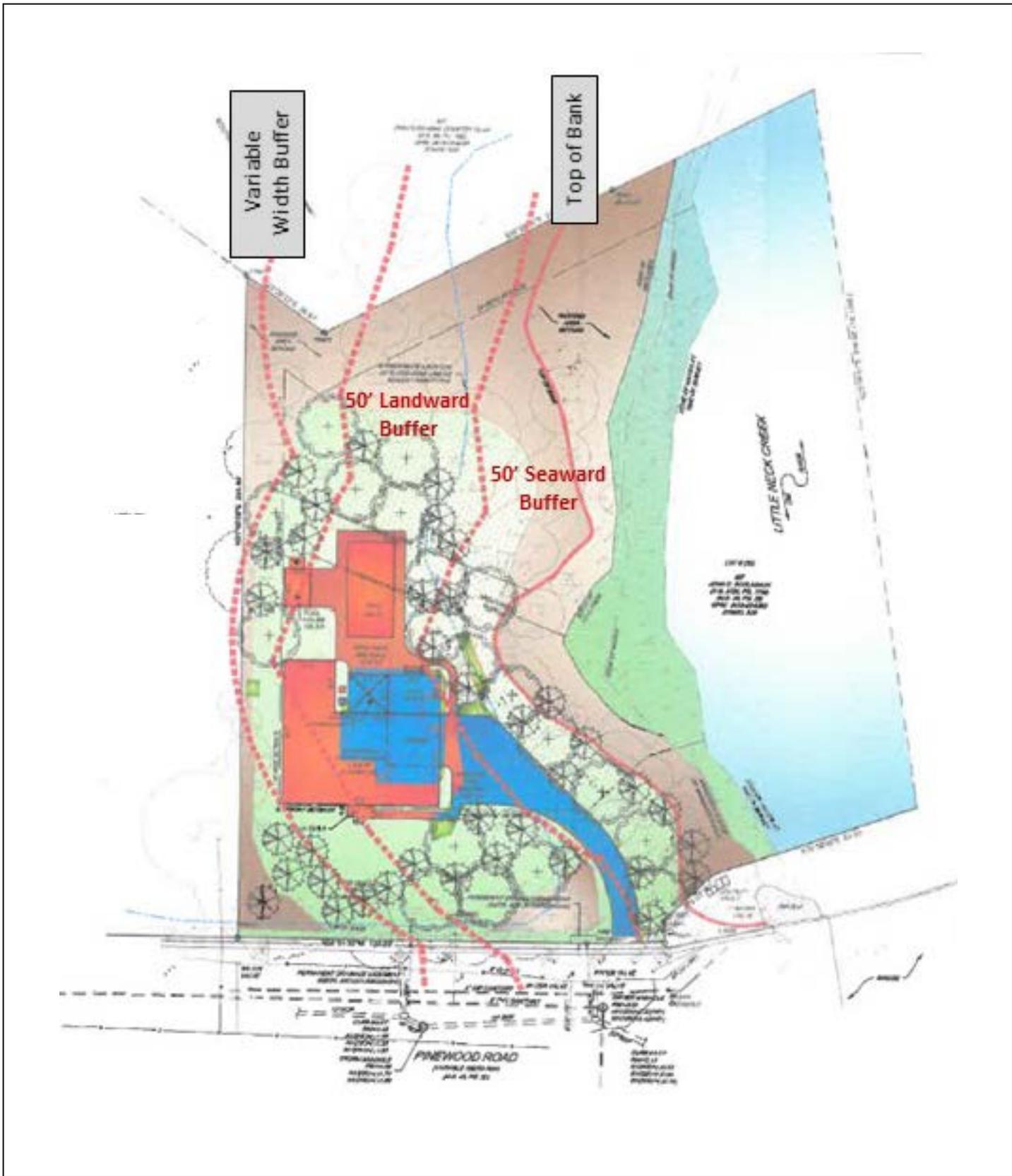
Site Aerial



**BPA Exhibit – Existing Conditions**



# CBPA Exhibit – Proposed Improvements



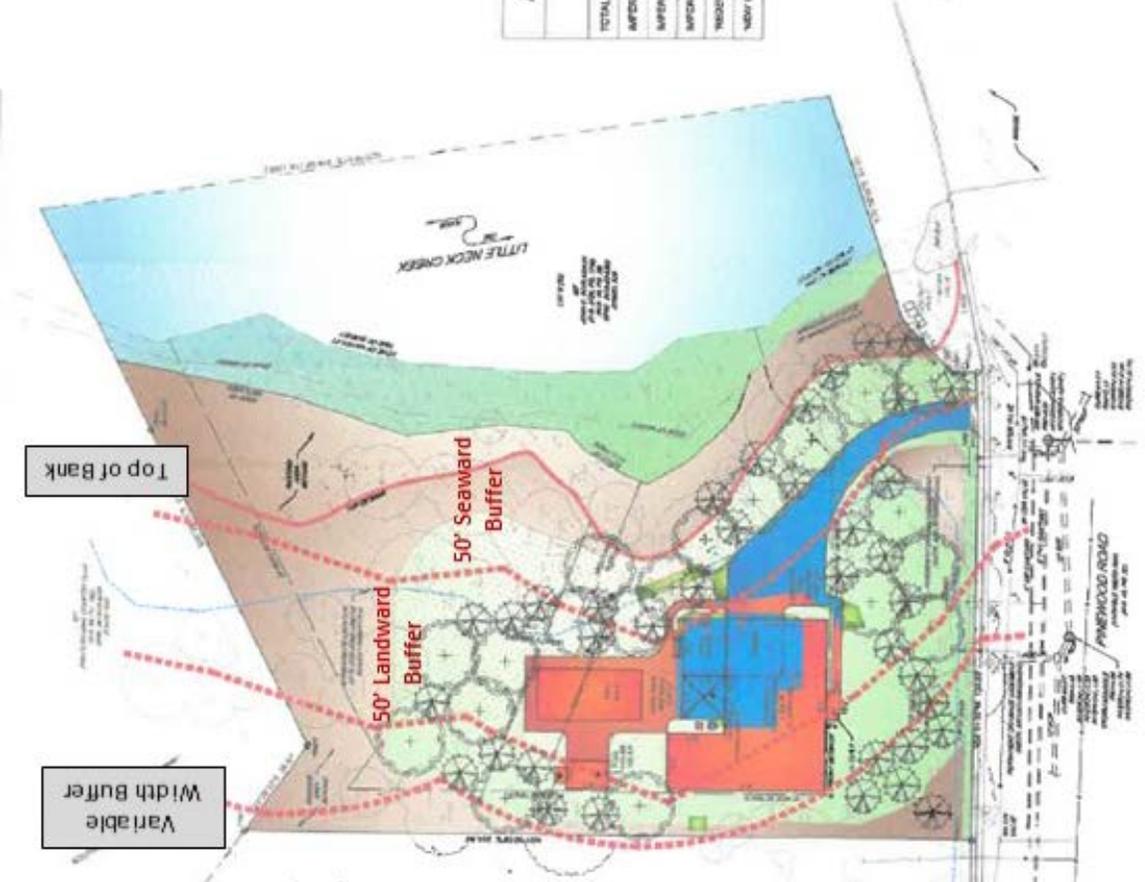
# CBPA Exhibit – Color Analysis

**ANALYSIS OF DEVELOPMENT WITHIN THE CBPA RESOURCE PROTECTION AREA**

USE/NO	EXISTING	PROPOSED	DIFFERENCE	REPAIRS	RESTORATION/REMOVAL REQUIRED	PROVIDED
TOTAL IMPERVIOUS AREA	3,282 SF	8,041 SF	4,759 SF			
IMPERVIOUS COVER DEMOLITION		381 SF				
IMPERVIOUS COVER TO REMAIN	31 SF	31 SF		0%	0	0
REDEMOLITION NEW OVER OLD	3,144 SF	2,144 SF	1,000 SF	0%	0 SF	0 SF
NEW IMPERVIOUS		3,739 SF		100%	7,478 SF	7,448 SF

HATCH DENOTES AREA OF  
 LAND TO BE DEMOLISHED  
 HATCH DENOTES AREA OF  
 SUPER RESTORATION  
 TOTAL AREA = 7,448 SF

**LANDSCAPING (SCHEDULE)**  
 SUPER RESTORATION AREA = 1,100 SF, 48% S.F.  
 TOTAL BUFFER RESTORATION NEEDS = 7,418 SF  
 NUMBER OF UNITS NEEDED = 7.8 S.F. / 490 S.F. = 16.8 (17)  
**LANDSCAPING PROVIDED:**  
 12 CANOPY TREES  
 24 MEDIUM TREES  
 33 LARGE TREES  
 57 8" CAL. SHRUBS  
 DENOTES UNDERSTORY TREE  
 DENOTES CANOPY TREE





**APPLICANT'S NAME** JOHN SCHLABACH

**DISCLOSURE STATEMENT FORM**

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

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

**SECTION 1 / APPLICANT DISCLOSURE**

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



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: John Schlabach  
If an LLC, list all member's names:

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

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

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

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## SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

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



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

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

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

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

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### SECTION 3. SERVICES DISCLOSURE

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



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	MIKE GADDOY
<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	MIKE GADDOY, GADDOY ENG.
<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)	NONE
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	BILLY GARRETTON GPC
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	R. Muscabe, K.W. Realty

**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.

X		X	John Schlabach	3/19/18
	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) buffer with the construction of a residential structure and associated accessory structures.

**Applicant's Agent**

Billy Garrington

**Staff Planner**

PJ Scully

**Lot Recordation**

12/7/46

Map Book 18, Page 84

**GPIN**

2418-35-5430

**SITE AREA**

57,756 square feet or 1.33 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

54,473 square feet or 1.25 acres

**EXISTING IMPERVIOUS COVER OF SITE**

14,587 square feet or 26.8 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

17,204.8 square feet or 31.6 percent of the site

**Area of Redevelopment in RPA**

7,887.8 square feet

**Area of New Development in RPA**

7,278.2 square feet

**Location of Proposed Impervious Cover**

50 foot Landward Buffer

100 foot Variable Width Buffer

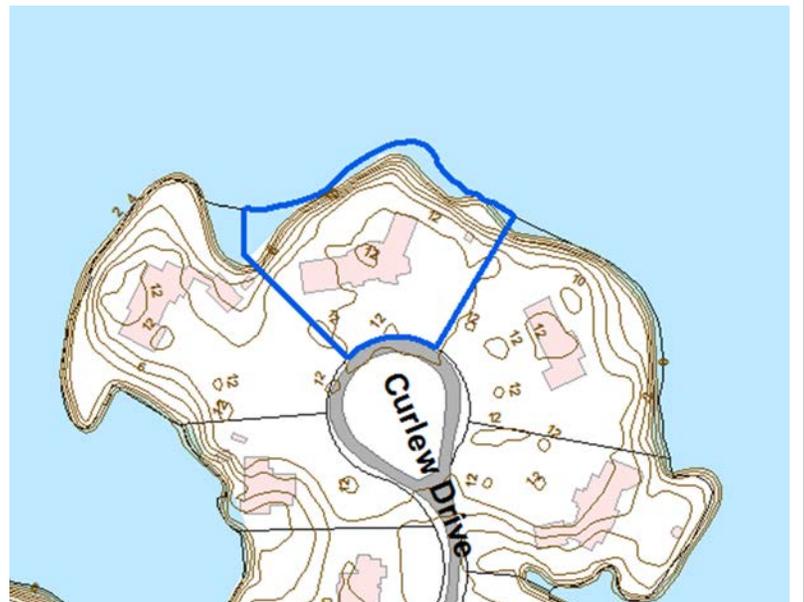
Resource Management Area (RMA)

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Complete demolition – all existing structure to be removed

### Construction Details

- Single family residence with covered porch and port cochere
- Swimming pool with paver patios
- Detached garage
- Circular driveway

## CBPA Ordinance Variance History

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

## Environmental Conditions

### Flood Zone

X and AE Base Flood Elevation (BFE) 8

### Soil Type(s)

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

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

### Shoreline

Shoreline is hardened with a wood bulkhead.

### Riparian Buffer

Sparsely wooded

- Number of existing canopy trees requested for removal within the RPA: 13
- Evaluation of existing tree removal request: The applicant has reduced the amount of trees proposed for removal from 27 trees to 13 trees after discussion with Staff. Of the 13 trees being requested for removal, all are within the delineated limits of construction and no more than 20 feet from the proposed improvements.

## Evaluation and Recommendation

Staff met with the applicant's agent on the initial submittal of this variance request regarding the following.

- Extent of proposed impervious cover – 18,302 square feet or 33.6 percent of site.
- Number of trees being requested for removal – 29 total.
- Extent of the proposed driveway and multiple parking courts.

As a result, the applicant has submitted this variance request to redevelop the existing single family residence with the following improvements.

Caren K. Augustine Revocable Trust

Agenda Item 7

Page 104

- A reduction in post-development impervious cover by approximately 1,098 square feet. The applicant has reduced the post-development impervious cover from the proposed impervious cover within the RPA and has maintained the same amount of square footage associated with the redevelopment of existing impervious cover for this parcel.
- A retreat of existing impervious cover from the 50 foot seaward buffer.
- As previously mentioned, 13 trees are delineated for removal associated with this variance request. The applicant has reduced the overall number by more than half.

The applicant's agent has provided comments relative to the findings of the CBPA Ordinance specific to this variance request and is of the opinion that the redevelopment of this parcel will be in harmony with the purpose and intent of the CBPA Ordinance based on the following.

- 1) *"Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated as the Birdneck Point subdivision was recorded many years prior to the adoption of the Bay Act. The previous owners built a house many years prior to the Bay Act. Every waterfront lot in the subdivision is impacted by the Bay Act and the majority of them have been redeveloped in a similar fashion through the variance process. There is simply no special privilege or convenience that will be conferred upon the current owner."* Staff is of the opinion that absent the increase in impervious cover, the retreat of existing impervious cover and the redevelopment of this parcel occurring landward of the 50 foot seaward buffer conforms with the location of improvements on adjacent parcels.
- 2) *"Since the day the Bay Act was adopted this entire parcel is in the RPA feature and avoidance of the buffer is not possible. None of this was created by the owner and the variance he now needs cannot be considered as self-imposed."* Staff offers that 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 1946 and prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing portions of this property within the RPA.
- 3) *"The new single family residence is being placed in the majority of the footprint of the previous home. The impervious cover total will slightly increase with the new development however, close to what the Board routinely approves. The previous home had encroachment into the 50 foot seaward buffer and the new residence does not thus there is a retreat and most importantly the shoreline was in a state of significant erosion and had been used as a dump site for debris trying to halt the erosion. The current owner remedied the erosion at a considerable expense to save his valuable land but also to improve water quality by halting the erosion and protecting the fringe marsh along the shoreline."* Staff concurs.
- 4) *"The intent of the Bay Act is water quality. The new residence will have stormwater treatment of 100 percent of the new impervious cover, to which the existing home had none. There will be extensive buffer restoration planted in the buffer and off site treatment via the oyster program. Water quality will be enhanced significantly as a result of the new home to be built."* With the encroachment into the RPA being consistent with the location of improvements on other properties in the vicinity, Staff is of the opinion that the variance request is in harmony with the purpose and intent of the ordinance and not injurious to the neighborhood, and not of substantial detriment to water quality due to the applicant's collective attempt to redevelop this parcel. The applicant has corrected the erosion at the shoreline through the Joint Permit Application (JPA) process, balanced redevelopment of existing impervious cover, and proposes a retreat from the 50 foot seaward buffer; as such Staff has provided recommended conditions, specifically

conditions 12 and 13 below, as a means to enhance rainwater infiltration through stormwater run-off reduction.

- 5) *“As a means to manage towards a no net increase in nonpoint source pollution load the applicant’s agent provides that “the existing home did not include any water treatment facilities at all!!! The new home will treat all impervious cover, trees, shrubs, elimination of turf zones that require fertilization, halting the erosion of the shoreline, creating oyster reef in the river all of this will be a direct result of this new home and all will help improve water quality on this property.”* Staff is of the opinion that the applicant’s investment in redeveloping those portions of the RPA already developed (7,887 square feet in total), coupled with the integration of non-structural stormwater management practices and buffer restoration, will provide a means to manage towards a no net increase in nonpoint source pollution load.

Staff offers the recommended conditions below, and is of the opinion that the treatment of stormwater as described by the applicant’s agent, 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 18 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. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan.**
6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
7. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.

9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. 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 be installed equal to 200 percent of the proposed new impervious cover within the RPA: **7,278 square feet x 200 percent = 14,556 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: **12 canopy trees, 18 understory trees, 74 large shrubs, and 111 small shrubs.**

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. **The pool shall be constructed prior to or concurrent with the residence.**
15. Under deck treatment of sand and gravel shall be installed.
16. 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.
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 \$1,667.41 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. The conditions and approval associated with this variance are based on the exhibit plan dated October 16, 2017 and revised May 7, 2018, prepared by Gallup Surveyors and Engineers, signed May 7, 2018 by Bruce Gallup. 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.

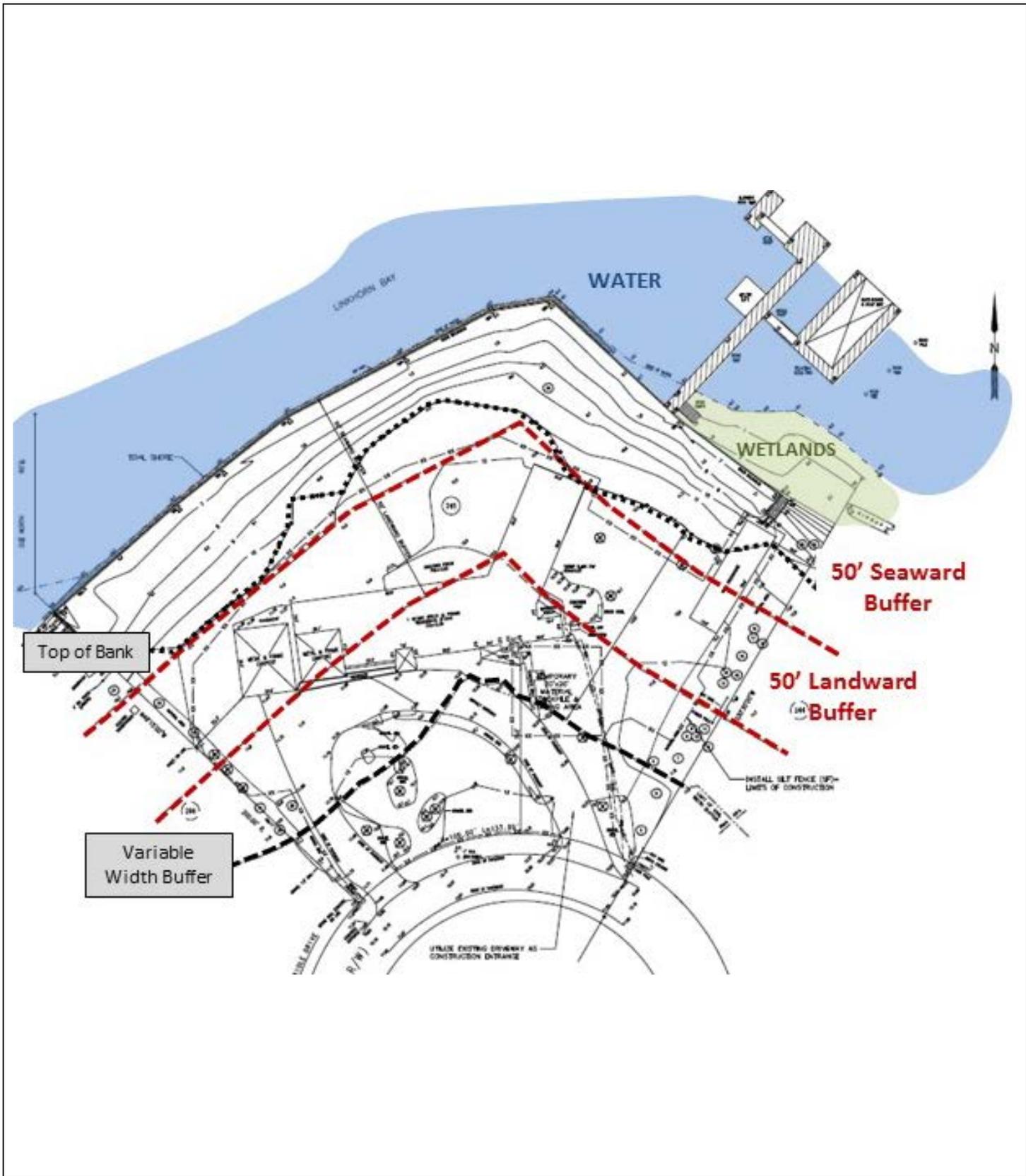
**\*\* NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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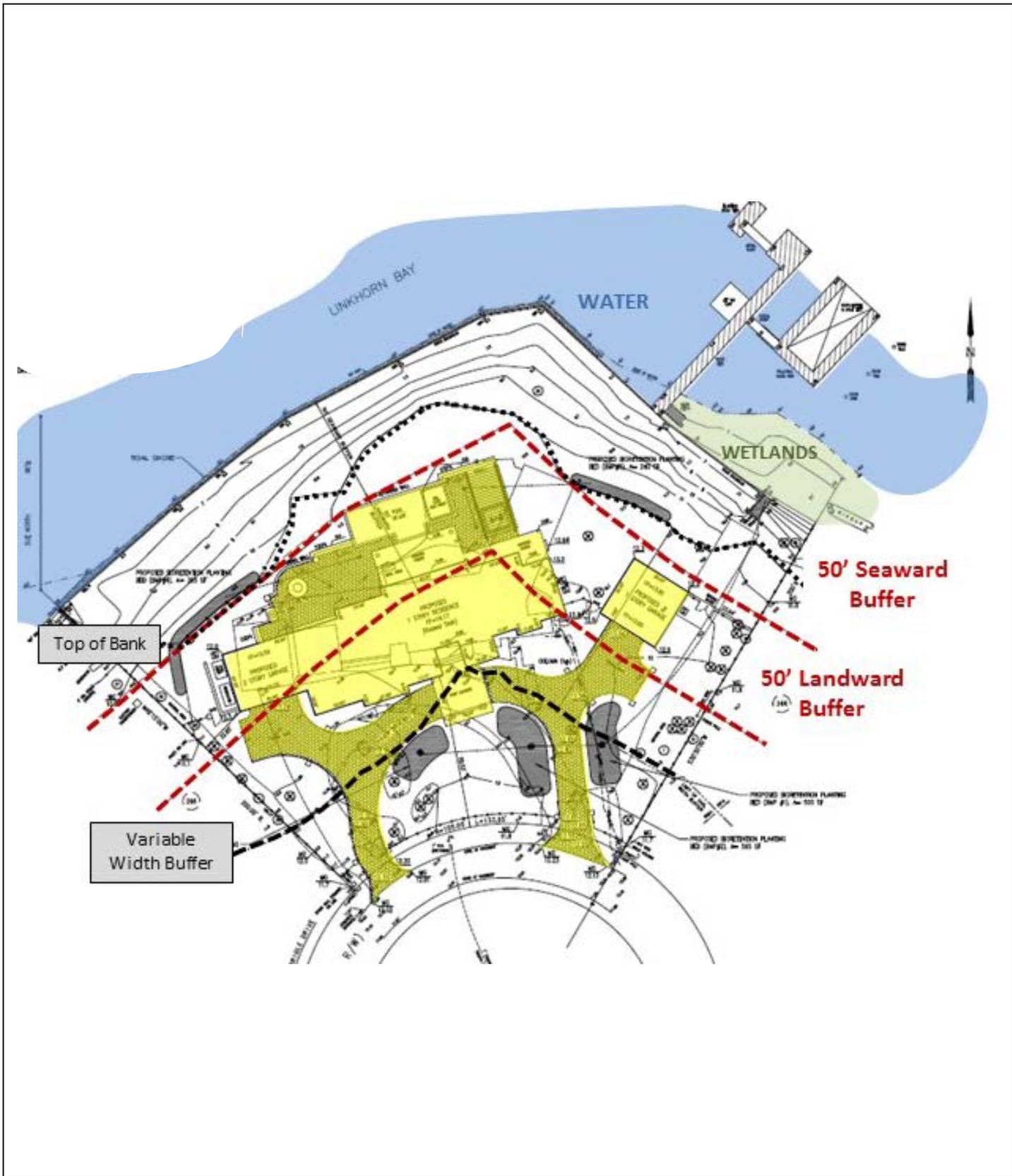
Site Aerial



# CBPA Exhibit – Existing Conditions



# CBPA Exhibit – Proposed Improvements





**APPLICANT'S NAME** Edward G. Augustine

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



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

(A) List the Applicant's name: Edward G. Augustine  
If an LLC, list all member's names:

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

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

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

---

## SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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



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

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

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

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

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### SECTION 3. SERVICES DISCLOSURE

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



### APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Robert Lewis
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Lewis and Company GERIE WEST, AIA SISKA AURAND LANDSCAPE ARCH.
<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	STEPHEN J. BOONE + ASSOC. GALUMP SURVEYORS + ENGINEERS, LTD
<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	GPC - BILLY GARRINGTON
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

#### SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

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



**CERTIFICATION:**

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

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

sign →

	EDWARD G Augustine	10/11/2017
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

Caren K. Augustine Revocable Trust

Agenda Item 7

Page 116



Property Owner **Brad and Kotrina O'Neal**  
Applicant **Brad and Kotrina O'Neal**  
Address **501 Gills Place**  
Public Hearing **May 24, 2018**  
City Council District **Kempsville**

Agenda Item

**8**

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

**Variance Request**

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

**Applicant's Agent**

Self-represented

**Staff Planner**

PJ Scully

**Lot Recordation**

8/16/2013

Instrument No: 20130816000977450

**GPIN**

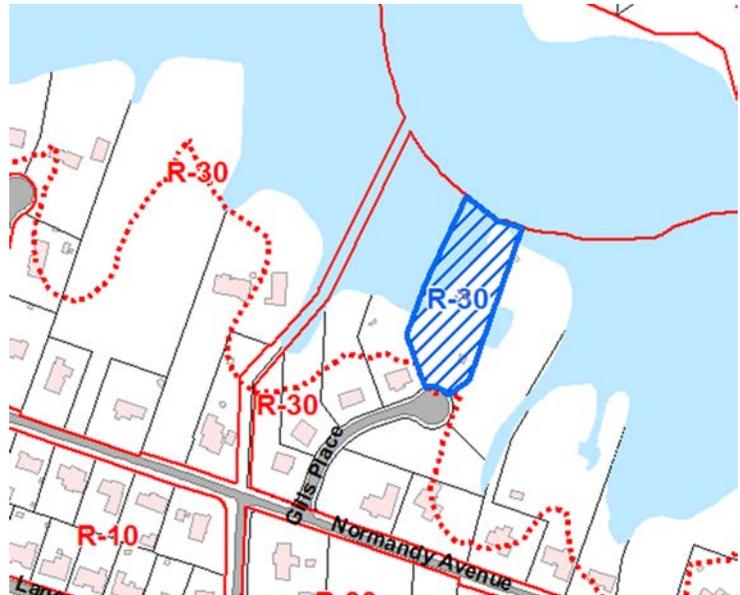
1466-08-0114

**SITE AREA**

69,897 square feet or 1.60 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

43,872 square feet or 1.007 acres



AS NEEDED, PAGE LEFT BLANK

**Variance Request**

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

**Applicant's Agent**

Eddie Bourdon

**Staff Planner**

PJ Scully

**Lot Recordation**

8/14/1969

Map Book 80, Page 57

**GPIN**

1498-65-3976

**SITE AREA**

76,658 square feet or 1.760 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

41,723 square feet or 0.958 acres

**EXISTING IMPERVIOUS COVER OF SITE**

14,083 square feet or 33.7 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

15,808 square feet or 37.8 percent of site

**Area of Redevelopment in RPA**

915 square feet

**Area of New Development in RPA**

1,725 square feet

**Location of Proposed Impervious Cover**

50 foot Landward Buffer

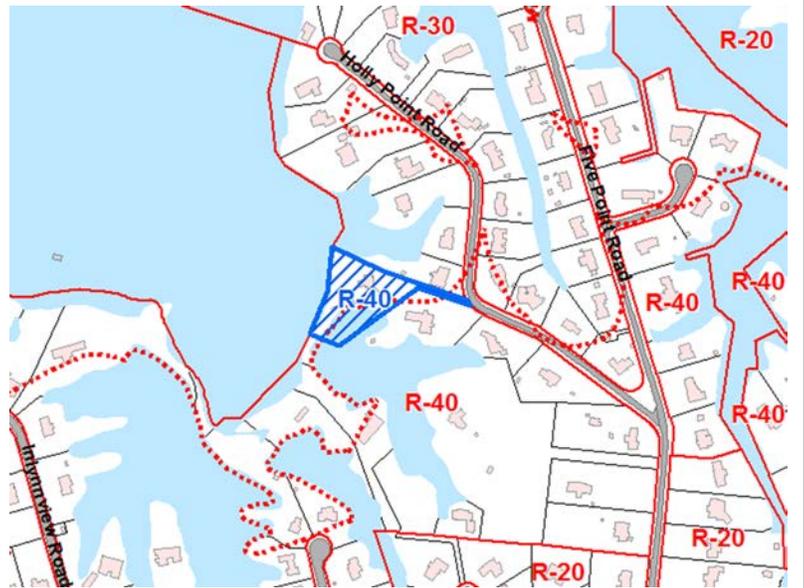
100 foot Variable Width Buffer

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Front porch
- Portions of concrete curb associated with driveway

### Construction Details

- Covered front porch with second floor deck
- Expansion of existing driveway
- Screened porch with second story building addition over existing patio
- Rear deck, second floor
- Cantilevered addition off rear
- Relay existing patio and walkway with brick pavers and pergola cover

## CBPA Ordinance Variance History

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

## Environmental Conditions

### Flood Zone

Zone X, AE – Base Flood Elevation (BFE) 8 and VE – Base Flood Elevation (BFE): 10  
The primary structure for this parcel is located in Zone X.

### Soil Type(s)

Tetotum Series (deep, moderately well-drained soils) located above the top of bank  
Rumford Series (highly-erodible soils) located below the top of bank  
Udorthents Series (well-drained and moderately well-drained soils) located along shoreline

### Shoreline

The tidal shoreline is hardened with a wooden bulkhead and lined with mature canopy trees. The adjacent lake is non – tidal.

### Riparian Buffer

Moderately wooded.

- Number of existing canopy trees requested for removal within the RPA: 4
- Evaluation of existing tree removal request: Staff is of the opinion that the request to remove 4 trees is minimal and that the removal is more related to the maintenance of the existing riparian buffer.

## Evaluation and Recommendation

Staff is of the opinion that the proposed improvements to the existing primary structure are minimal and, therefore, should have limited land disturbance impacts on the sensitive portions of the existing topography. Staff supports the

application as submitted, with recommended conditions below, and is of the opinion that the proposed improvements, given the location within the RPA, partial redevelopment of existing impervious cover, and the minimal impact associated with the proposed improvements, will not contribute to the degradation of water quality or prove detrimental to the Resource Protection Area features.

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

- 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 the building additions and porch conversions are in keeping with the neighborhood.”* Staff concurs and adds that the majority of improvements within the 100 foot RPA buffer is deemed as “redevelopment,” with no proposed encroachment within the 50 foot seaward buffer.
- 2) Staff provides that 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 1969, prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance, therefore placing portions of this property within the RPA.
- 3) *“The variance is the minimum necessary to afford relief because the owners have designed the proposed improvements to be minimal and stay outside of the 50 foot seaward buffer (except for redevelopment).”* Staff concurs and adds that the majority of the proposed impervious cover is situated within the variable width buffer associated with the circular driveway expansion.
- 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 because the building and porch additions are in keeping with the neighborhood and the site currently does not have any stormwater treatment.”* Staff offers that the variance will not be injurious to the neighborhood, nor be of substantial detriment to water quality due to the retention of mature canopy cover within the riparian buffer, the minimal encroachment into the 100 foot RPA buffer, and the minimal site impact associated with the proposed improvements.
- 5) *“Bio-retention beds will be placed seaward of the improvements to store and treat the proposed impervious cover prior to being released into the adjacent waterway as a means to manage towards a no net increase in nonpoint source pollution load.”* Staff concurs.

Staff acknowledges the above comments provided by the applicant in support of this variance request, and offers the following 15 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality for the Board’s deliberation.

## Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.

3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
9. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
10. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
11. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,725 square feet x 200 percent = 3,450 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: **9 canopy trees, 9 understory trees 18 large shrubs and 27 small shrubs.**

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

the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

12. 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 \$395.08 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 21, 2018, prepared by WP Large, signed May 4, 2018 by Eric Gardner. 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

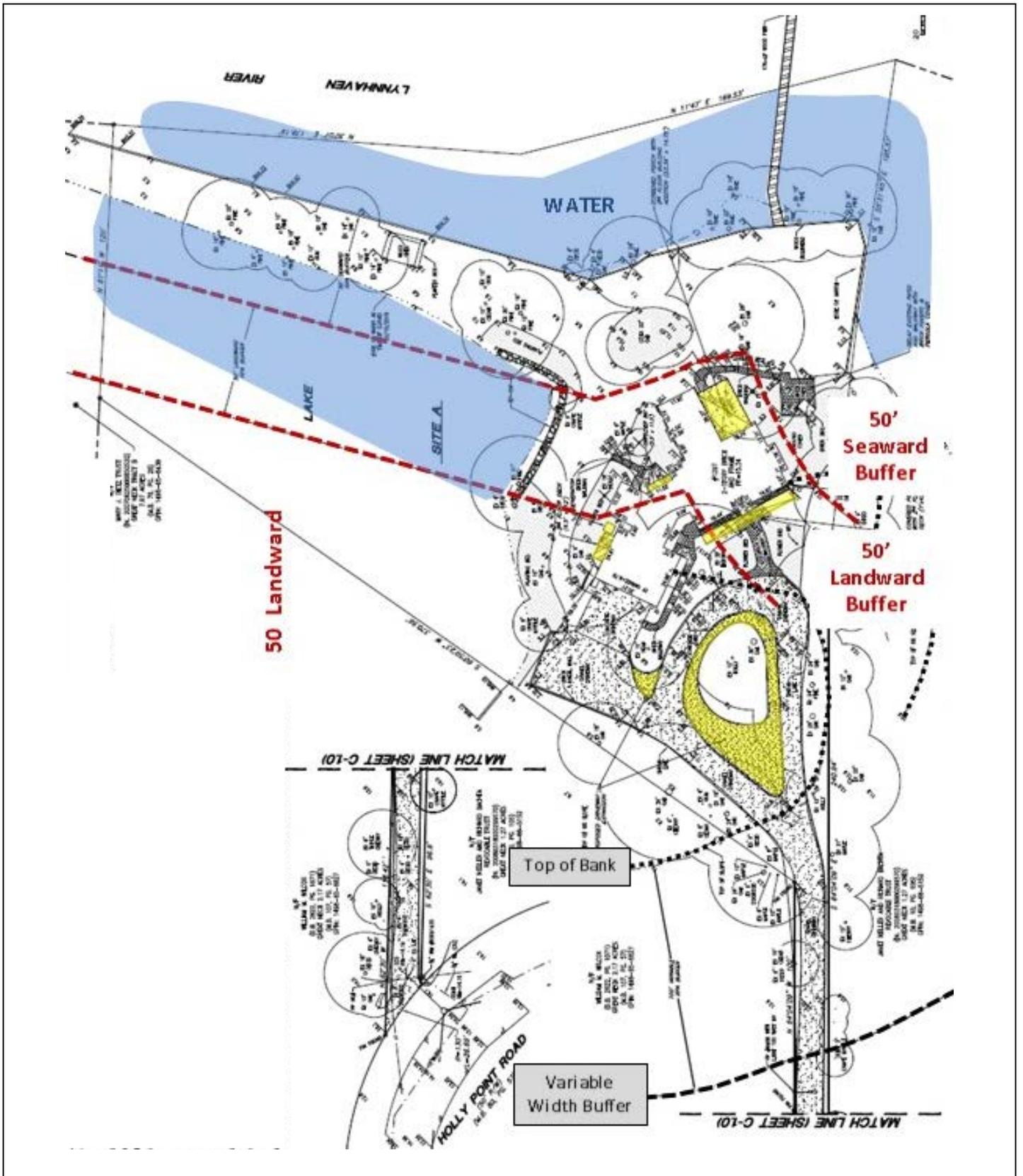
\*\* NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

\*\*\*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





**APPLICANT'S NAME** Joseph & Christine Rhodes

**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 & Christine Rhodes  
If an LLC, list all member's names:

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

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

N/A

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

---

## 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: John P. Clarke  
If an LLC, list the member's names:



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

N/A

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

N/A

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

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

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### SECTION 3. SERVICES DISCLOSURE

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



## APPLICANT

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

### SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

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

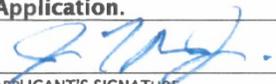
N/A



**CERTIFICATION:**

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

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

	JOSEPH T. RHODES, JR.	3/20/18
APPLICANT'S SIGNATURE	PRINT NAME	DATE



## OWNER

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

### SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

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

N/A



**CERTIFICATION:**

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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.**

 <small>dotloop verified 04/05/18 12:02PM EDT XQKL-WOHD-V3UV-LEIH</small>	John P. Clarke	4/5/18
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

AS NEEDED, PAGE LEFT BLANK