

Chesapeake Bay Preservation Area Board Agenda

January 28, 2019



VB City of
Virginia Beach

CHESAPEAKE BAY PRESERVATION AREA BOARD

NOTICE OF PUBLIC HEARING

The City of Virginia Beach Chesapeake Bay Preservation Area (CBPA) Board will hold a Public Hearing on **Monday, January 28, 2019, at 10:00 a.m.** in the City Council Chamber, Virginia Beach Municipal Center, Virginia Beach, Virginia.

An informal session will be held at 9:00 a.m. in the City Manager's Conference Room, Room 234 of Building 1 at the Municipal Center. During the informal session, 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 CBPA Board 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 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 Department of Planning and Community Development 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 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.**



CHESAPEAKE BAY PRESERVATION AREA BOARD AGENDA

Public Hearing Date **January 28, 2019**

9:00 AM

- **INFORMAL STAFF BRIEFINGS OF PUBLIC HEARING AGENDA ITEMS. STAFF BRIEFINGS HELD IN THE CITY MANAGER’S CONFERENCE ROOM.**

10:00 AM

- **FORMAL REVIEW OF PUBLIC HEARING AGENDA ITEMS. FORMAL REVIEW HELD IN THE CITY COUNCIL CHAMBER.**

NEW BUSINESS AGENDA ITEMS

1.

Sam & Kara Eubanks
[Applicant & Property Owner]

3917 Meeting House Road
GPIN: 1489-23-6933
COUNCIL DISTRICT – Bayside

Applicant’s Agent – Billy Garrington

Staff Planner – PJ Scully

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2.

Robert & Michelle Bandy
[Applicant & Property Owner]

4004 Sherwood Lane
GPIN: 1488-18-3211
COUNCIL DISTRICT – Bayside

Applicant’s Agent – Self-represented

Staff Planner – PJ Scully

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3.

Kenneth & Kathleen Tottle Rev. Trust
[Applicant & Property Owner]

4046 N. Witchduck Road
GPIN: 1488-08-5789
COUNCIL DISTRICT – Bayside

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully
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4.

Michael Wheatley Rev. Living Trust
[Applicant & Property Owner]

4133 Cheswick Lane
GPIN: 1478-92-5547
COUNCIL DISTRICT – Bayside

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully
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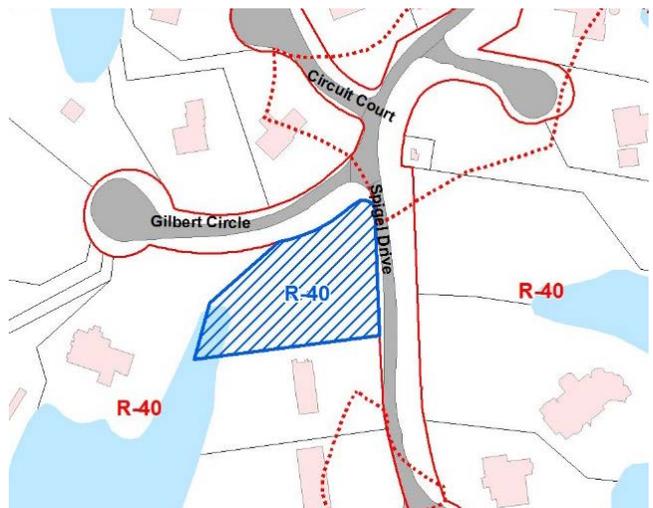
5.

Jeffrey Keeter
[Applicant & Property Owner]

824 Gilbert Circle
GPIN: 1498-51-5265
COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Robert Simon

Staff Planner – PJ Scully
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6.

David Byler

[Applicant & Property Owner]

4012 N. Witchduck Road

GPIN: 1488-19-0071

COUNCIL DISTRICT – Bayside

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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7.

John Hilderbrandt

[Applicant & Property Owner]

122 Pinewood Road, STE B

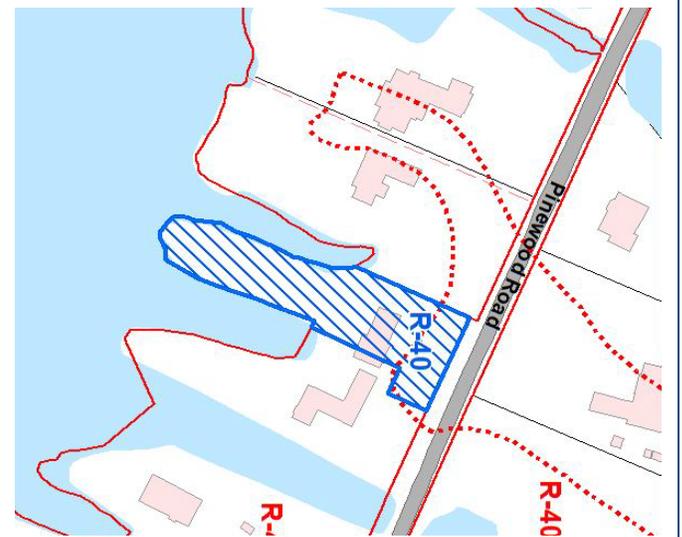
GPIN: 2418-63-5213

COUNCIL DISTRICT – Beach

Applicant's Agent – Eddie Bourdon

Staff Planner – PJ Scully

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8.

Cynthia Earhart Rev. Trust

[Applicant & Property Owner]

1400 Back Cove Road

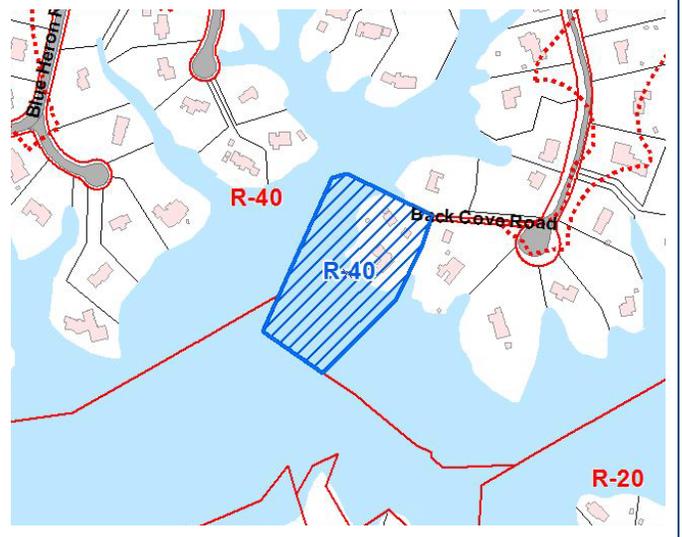
GPIN: 1487-80-4930

COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – James Baker

Staff Planner – PJ Scully

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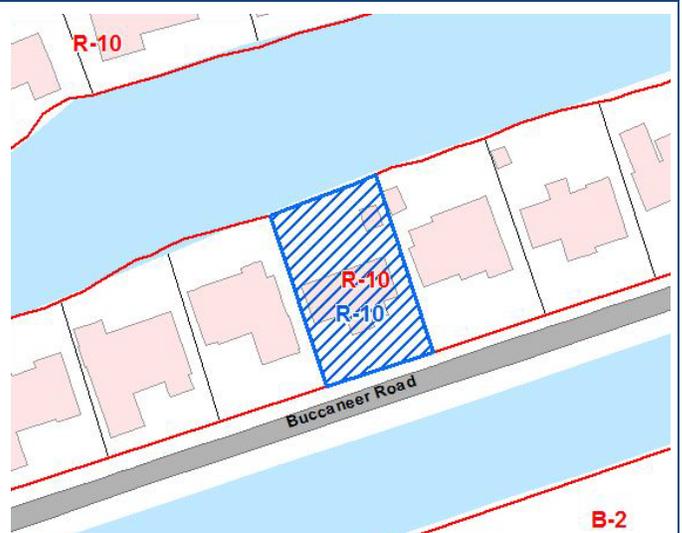
9.

Charles & Ruth Stang
[Applicant & Property Owner]

2920 Buccaneer Road
GPIN: 1499-28-8265
COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully
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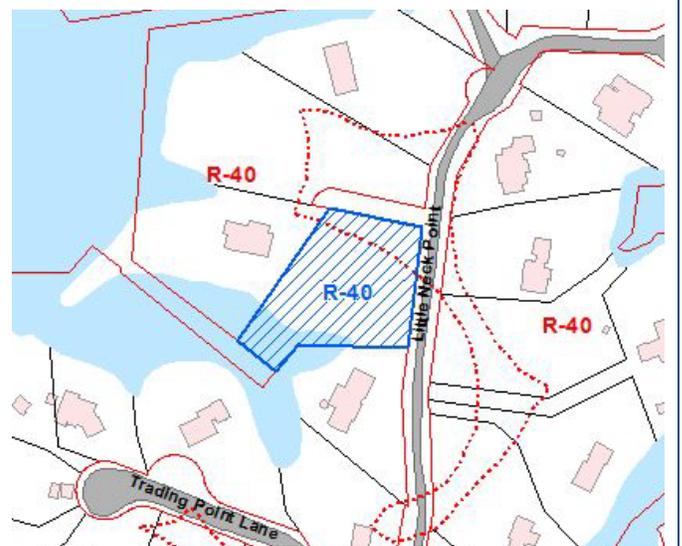
10.

Douglas Burr & Eileen Ju
[Applicant & Property Owner]

**Lot 2, Subdivision of Property of
LT Keeling Est.**
GPIN: 1489-52-2513
COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Eddie Bourdon

Staff Planner – PJ Scully
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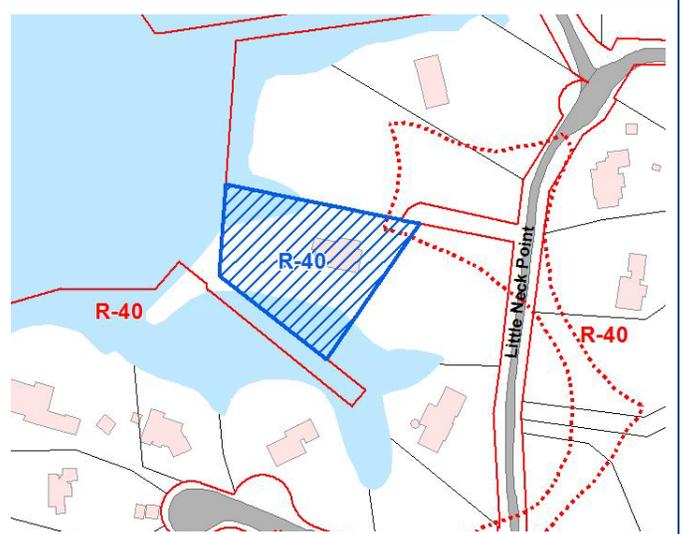
11.

Douglas Burr & Eileen Ju
[Applicant & Property Owner]

3825 Little Neck Point
GPIN: 1489-52-0509
COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Eddie Bourdon

Staff Planner – PJ Scully
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12.

Celebi Ozic

[Applicant & Property Owner]

2725 Canal Road

GPIN: 1499-57-3345

COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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13.

Donald Flanders Jr & Valerie De Lame

[Applicant & Property Owner]

1004 Witch Point Trail

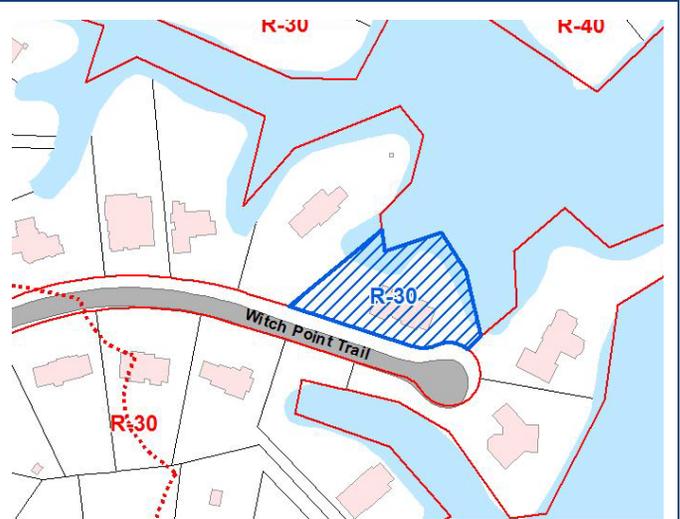
GPIN: 1488-04-6496

COUNCIL DISTRICT – Bayside

Applicant's Agent – Self-represented

Staff Planner – PJ Scully

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14.

Lynnhaven Area Properties LLC

[Applicant & Property Owner]

Prop. of Allen E Perrel, Lot 4 & closed portion of Wolfsnare Rd. & Wolfsnare Parcel B, Wolfsnare Rd.

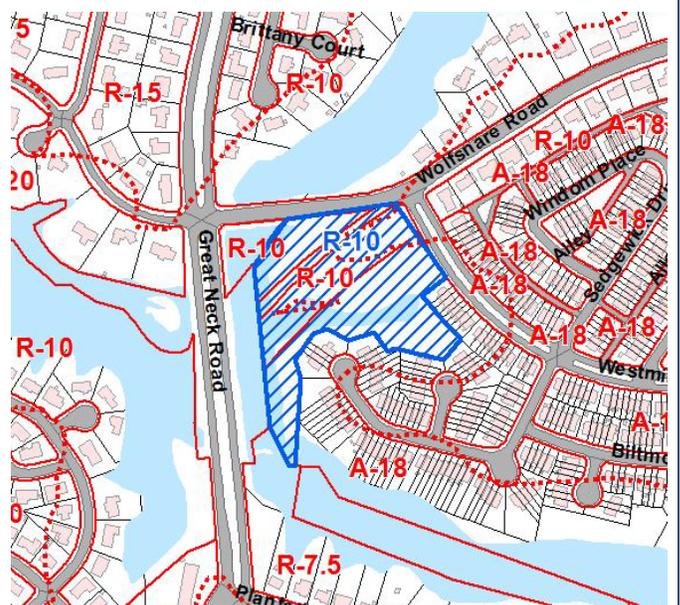
GPIN: 2407-09-4435, 2407-09-5412, & 2407-09-6257

COUNCIL DISTRICT – Beach

Applicant's Agent – Lisa M. Murphy

Staff Planner – PJ Scully

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15.

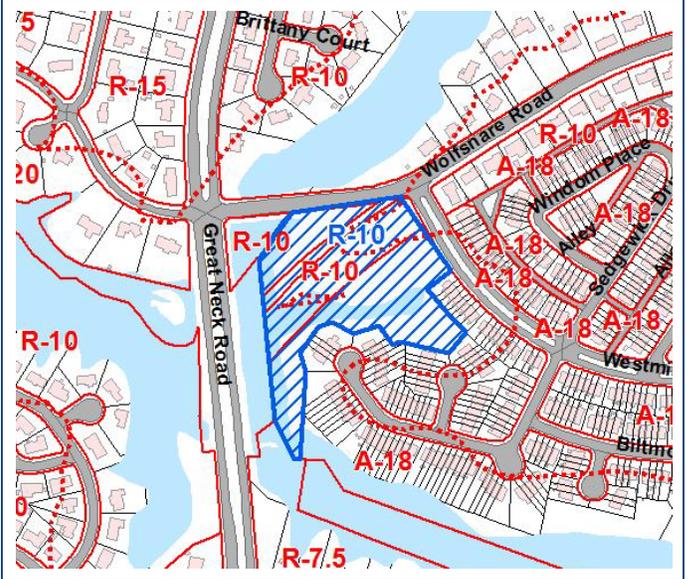
Lynnhaven Area Properties LLC
[Applicant & Property Owner]

**Wolfsnare Parcel 2, Lot 7, Wolfsnare
Road & Westminster Lane**
GPIN: 2407-09-6257
COUNCIL DISTRICT – Beach

Applicant's Agent – Lisa M. Murphy

Staff Planner – PJ Scully

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Applicant & Property Owner **Sam & Kara Eubanks**
Address **3917 Meeting House Road**
Public Hearing **January 28, 2019**
City Council District **Bayside**

Agenda Item

1

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a new swimming pool with patio areas, generator pad, and wood deck

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

7/27/1990

Map Book 205, Page 65

GPIN

1489-23-6933

SITE AREA

47,771 square feet or 1.097 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

23,799 square feet or 0.546 acres

EXISTING IMPERVIOUS COVER OF SITE

7,313 square feet or 30.7 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

8,657 square feet or 36.4 percent of site

Area of Redevelopment in RPA

457 square feet

Area of New Development in RPA

1,344 square feet

Location of Proposed Impervious Cover

50 foot Landward Buffer

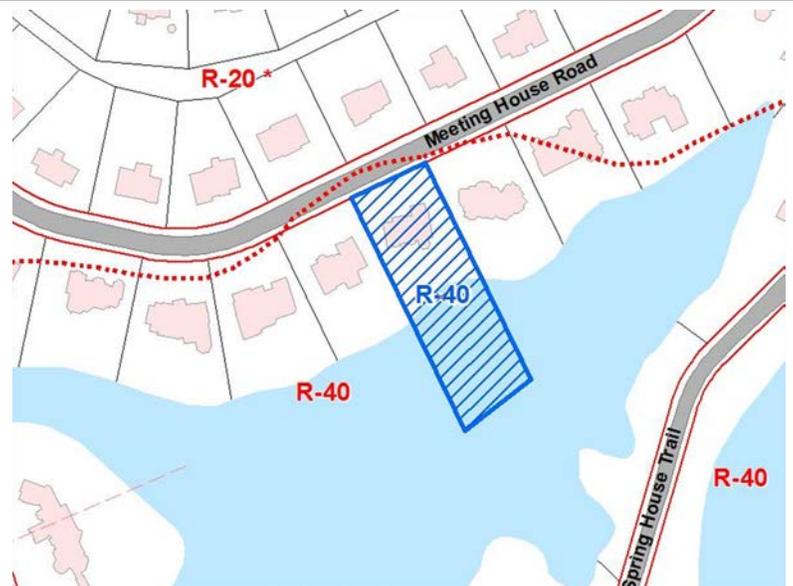
50 foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Wood deck

Construction Details

- Swimming pool and concrete patio area with associated retaining wall
- Concrete patio with retaining wall
- Wood deck
- Stepping stone walkway to wood dock

CBPA Ordinance Variance History

December 16, 1991 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for Lots 1, 3-6, 12-14, 16-30, 33-35 and 37-45 in Section Two of the Church Point Farm subdivision with the following conditions:

1. *The encroachment granted under this variance shall be the minimum necessary for relief. Encroachment upon, or reduction in the width of the buffer area shall be the minimum necessary, as determined by the Chairman of the Chesapeake Bay Preservation Area Review Committee, to accommodate a reasonable construction footprint solely for a principal structure. Once construction is complete, the vacant area within the construction footprint shall be restored with vegetation according to a landscape plan to be submitted with the final site plan.*

This encroachment will not include changes in grade elevations of the lot by filling or cutting or retaining structures.

2. *Each individual lot shall submit a final site plan to the Development Services Center for full plan of development review and approval prior to issuance of a building permit. The proposed development will meet all the other performance standards beyond those specifically waived above. The encroachment granted shall be the minimum necessary to provide for reasonable residential use of the lot. This plan will delineate all areas to be cleared and appropriate measures for revegetation of disturbed areas, inclusive of tree mitigation.*
3. *Appropriate stormwater, erosion and sediment control and landscape bonds must be posted with the Development Services Center prior to issuance of a building permit*
4. *The applicant shall file and record such notice for Section Two, Lots 1, 3-6, 12-14, 16-30, 33-35, and 37-45, of Church Point Farm, which reflects the variance granted in such language as shall be approved by the City Attorney's office. Such notice shall be recorded prior to the issuance of any permits under this variance.*

The December 16, 1991 Board granted variance has been acted upon and the associated improvements constructed.

Environmental Conditions

Flood Zone

Multiple Zones – 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

Shoreline is in a natural state

Riparian Buffer

Sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 2
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing canopy tree removal request: Trees being requested for removal are within the delineated limits of construction, shown as approximately 10 feet outboard of the proposed improvements. Staff is of the opinion that the health of the trees are declining and supports the request to remove the 2 trees with the construction of the swimming pool.

Evaluation and Recommendation

The performance standards of the Chesapeake Bay Preservation Area Ordinance are intended to prevent a net increase in nonpoint source pollution that can be generated by both new development and redevelopment proposals. Moreover, Section 106 (A)(3) of the CBPA Ordinance states that land development shall minimize impervious cover to promote infiltration of stormwater through the incorporation of structural or nonstructural urban best management practices. As submitted, Staff is of the opinion that the overall impervious cover of the site is excessive at 36.4 percent. However, given that there are approved conditions associated with a 1991 CBPA variance for this lot and that the existing topography poses challenges with development of the property, Staff is of the opinion that the use of a retaining wall will limit encroachments to within the 50 landward buffer only and that the proposed best management practices for stormwater treatment – bioretention planting beds and buffer restoration - provide merit towards complying with the findings of Section 110 (H) of the CBPA Ordinance.

The following comments are provided in part by the applicant's agent for the Board's consideration relative to the findings of the CBPA Ordinance specific to this variance.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated "*as the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels.*" Staff concurs and offers that condition 1 of the previously approved 1991 CBPA variance only addressed the construction of primary structures, as the request was a proposal for a new subdivision and details regarding accessory structures were not considered or known at that time. Based on this, any improvements other than a primary structure are required to be further evaluated subject to the provisions of the CBPA Ordinance and its performance standards.

- 2) The encroachment into the RPA on this lot is based upon conditions or circumstances that have been imposed by the applicant's predecessor in title that limits a reasonable construction footprint solely for a principal structure; therefore, this request to further encroach has been designed in a manner that minimizes encroachment into the 50 foot landward buffer. Staff concurs.
- 3) The applicant's agent has provided that *"the house was originally built in the 1990's and based on their research a pool was not part of the original development plan."* As such, *"the proposed improvements have been limited to the landward buffer, except the pathway to the waterfront"* as a means to be the minimum necessary to afford relief for this variance request. Given the existing topography of the parcel and use of retaining walls towards transitioning the proposed improvements to the existing grade elevations, Staff's determination is that the location of the proposed improvements will be the minimum necessary to afford relief for a modest in-ground pool and pool patio. However, Staff remains of the opinion that the overall impervious cover of the site is excessive and has addressed this concern with the recommended condition 12 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 because *"the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels, the site currently does not offer any stormwater mitigation for the river, however if approved, the proposed redevelopment will be required to have treatment provided between the improvements and the river."* Staff is of the opinion that the proposed improvements will not drastically impact the RPA or be injurious to the neighborhood, or a substantial detriment to water quality. As the current condition of the riparian buffer is primarily turf, the recommended buffer restoration and stormwater management provided in the conditions below, should the variance request be granted, will enhance the ecological and biological function of the RPA.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load *"buffer restoration and bioretention stormwater management will be placed between the improvements and the river to capture and treat runoff prior to discharging into the river."* If properly implemented and maintained, Staff concurs with the applicant's agent that the restoration of the riparian buffer offers a management practice towards a no net increase in nonpoint source pollution from this variance request.

Given the above comments, Staff recommends the following 18 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

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

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

5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
7. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
8. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
9. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
10. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,344 square feet x 200 percent = 2,688 square feet.**

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

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

11. The maximum impervious cover of the parcel shall not exceed 8,330 square feet or 35 percent of the site outside of water or wetlands. Said limits of impervious cover shall not encroach any further seaward than shown on the submitted CBPA variance exhibit.
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. Gravel downspout intercepts and/or gravel dripline intercepts shall be provided as a means of erosion and sediment control for stormwater run-off from 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 \$308.00 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. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
17. This variance and associated conditions **are in addition to** the conditions of the Board variance granted December 16, 1991.
18. The conditions and approval associated with this variance are based on the exhibit plan dated September 26, 2018, prepared by WPL, signed November 30, 2018 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

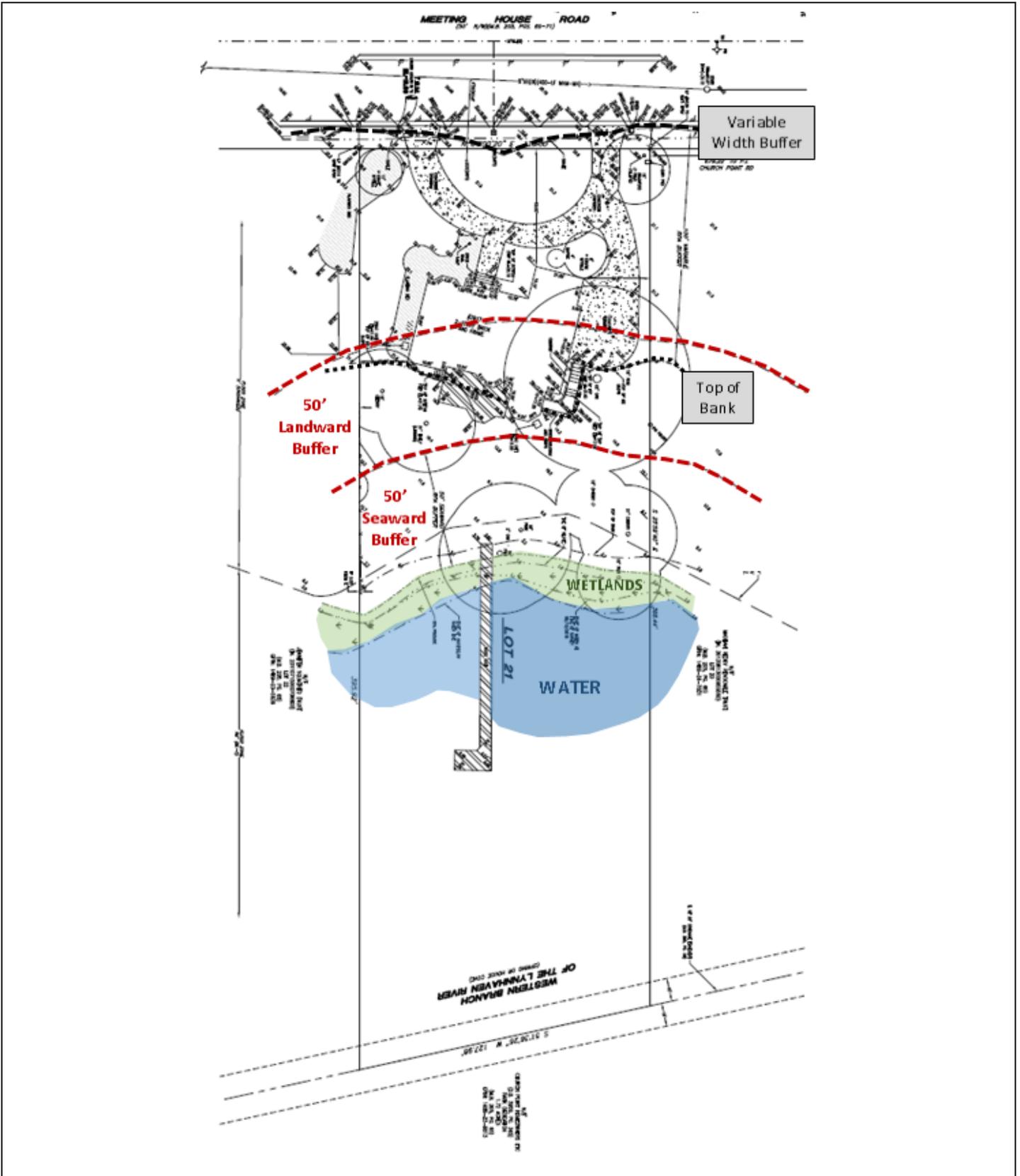
**** NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

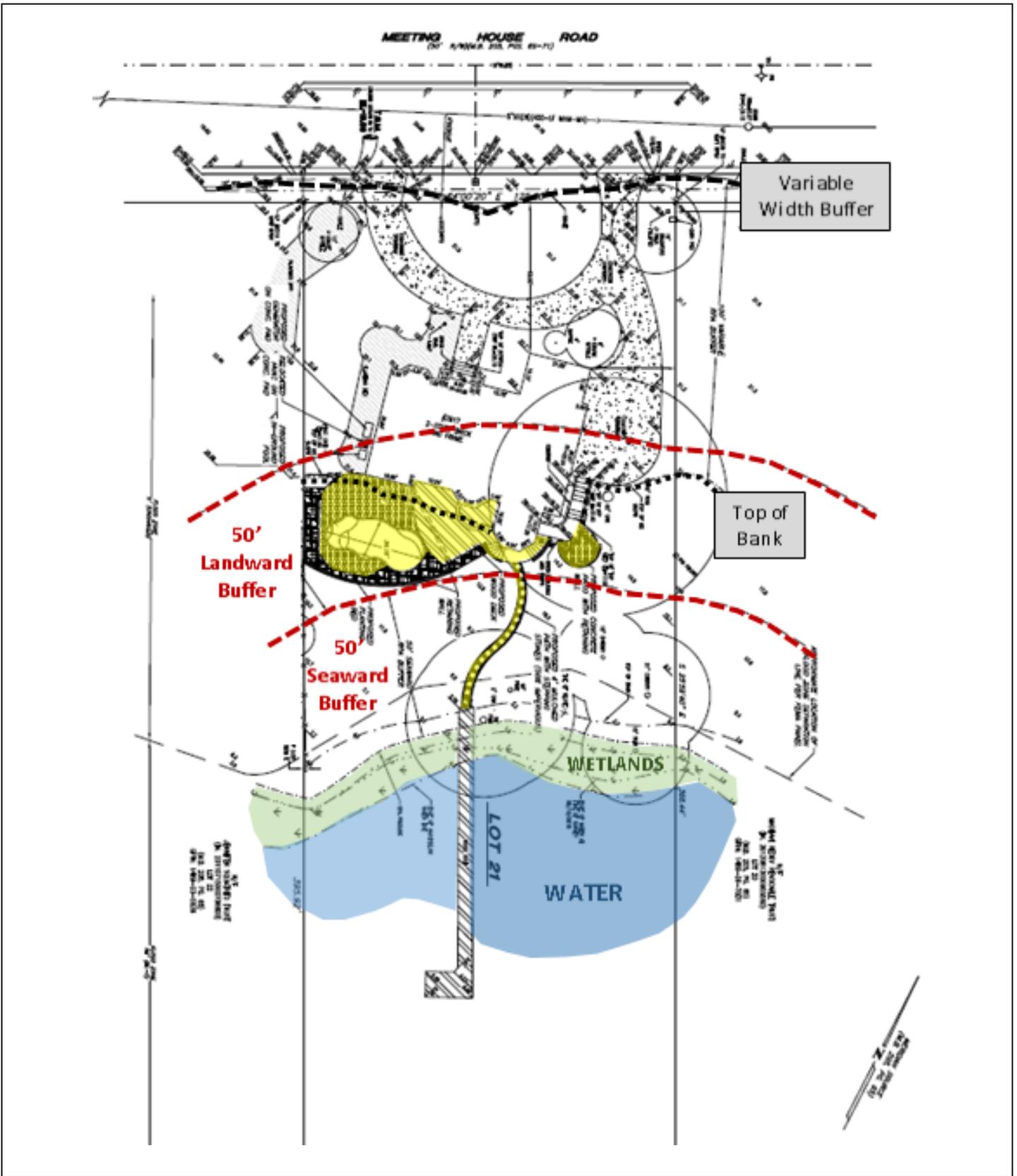
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Sam and Kara Eubanks

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: Sam and Kara Eubanks
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-subsiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

(A) List the Property Owner's name: Sam and Kara Eubanks
If an LLC, list the member's names:

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

N/A

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

N/A

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	WPL
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	TWD 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)	Freedom Mortgage
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	GPC, Inc. 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?

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.

	SAM EUBANKS	11/30/2016
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

Sam & Kara Eubanks

Agenda Item 1

Page 22

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a swimming pool with pool surround and patio area, pool house, driveway expansion, and shed

Applicant's Agent

Self-represented

Staff Planner

PJ Scully

Lot Recordation

2/25/1965
 Map Book 65, Page 3

GPIN

1488-18-3211

SITE AREA

49,387 square feet or 1.134 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

32,661 square feet or 0.75 acres

EXISTING IMPERVIOUS COVER OF SITE

7,222 square feet or 22.1 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

10,400 square feet or 31.8 percent of site

Area of Redevelopment in RPA

2,892 square feet

Area of New Development in RPA

3,337 square feet

Location of Proposed Impervious Cover

50 foot Landward Buffer

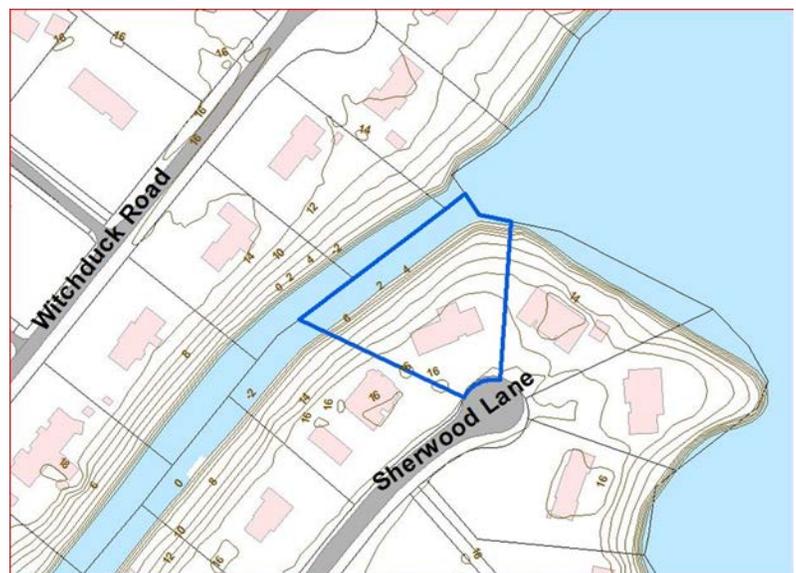
100 foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Front porch
- Concrete driveway with associated walkway
- Framed shed

Construction Details

- Concrete driveway – redeveloped and expanded
- Front walkway – realigned
- Shed
- Swimming pool with pool surround and patio area
- Pool house

CBPA Ordinance Variance History

No Chesapeake Bay Preservation Area (CBPA) Board variance history to report. An Administrative Variance was granted for the renovation of the existing residence.

Environmental Conditions

Flood Zone

Multiple Zones – 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

Shoreline is hardened with a rip rap revetment

Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 16
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing canopy tree removal request: The majority of the trees requested for removal are within the variable width buffer of the RPA and will be impacted with the redevelopment of the existing concrete driveway. Given the proximity of the existing trees, consisting primarily of 16 to 24-inch Pine trees, all within 3 to 5 feet of the existing driveway, Staff is of the opinion that the impact to the critical root zone due to construction activity associated with the replacement of the driveway will be substantial. As such, the health of the trees may decline substantially over a 5 to 7 year span.

Evaluation and Recommendation

The encroachment in the RPA associated with this variance request is for an accessory structure partially located below the top of bank feature and within the upper reach of the 100 foot buffer of the RPA. Within the 100 foot buffer, the applicant has situated the proposed improvements so that the encroachment does not impact the most sensitive portion of the buffer – the 50 foot seaward buffer. Given the development criteria associated with this lot – the front yard setback and RPA features, coupled with the location of the lot on a cul-de-sac further impacting the front yard setback, Staff is of the opinion that the applicant’s placement of the proposed improvements are in harmony with the neighborhood.

For the Board’s deliberation, the applicant’s Engineer of Record has provided comments relative to the findings of the CBPA Ordinance specific to this variance request, and believes that the design of the proposed 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 proposed improvements are in keeping with the development of the neighborhood and adjacent parcels.”* Staff concurs and offers that the rear yards of the adjacent lots, which back up to a manmade canal, are all are within the 100 foot RPA buffer.
- 2) 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 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 house was originally built in 1971 and near the current zoning standards, therefore the only area for expansion or development is in the rear of the property. In addition, the proposed improvements have been limited to the landward buffer.”* 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 *“with the proposed improvement keeping with the development of the neighborhood and adjacent parcels. Also, the site currently does not offer stormwater mitigation for the canal, however, if approved the proposed redevelopment will be required to have treatment provided between the improvements and the canal.”* Staff is of the opinion that the proposed improvements will not drastically impact the RPA, be injurious to the neighborhood, or be a substantial detriment to water quality. As the current condition of the riparian buffer is primarily turf, the recommended buffer restoration and stormwater management provided in the conditions below, should the variance request be granted, will enhance the ecological and biological function of the RPA.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load *“buffer restoration and bioretention stormwater management will be placed between the improvements and the river to capture and treat runoff prior to discharging into the river.”* If properly implemented and maintained, Staff concurs with the applicant’s agent that the restoration of the riparian buffer offers a management practice towards a no net increase in nonpoint source pollution from this variance request.

Given the above comments, Staff recommends the following 16 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed 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: **2,892 square feet x 200 percent = 5,784 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **7 canopy trees, 7 understory trees, 28 large shrubs, and 42 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. The proposed driveway shall be constructed of a permeable pavement system.
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 \$662.75 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for an oyster shell plant within the Lynnhaven River Basin.
15. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
16. The conditions and approval associated with this variance are based on the exhibit plan dated September 20, 2018, prepared by WPL, signed December 3, 2018 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

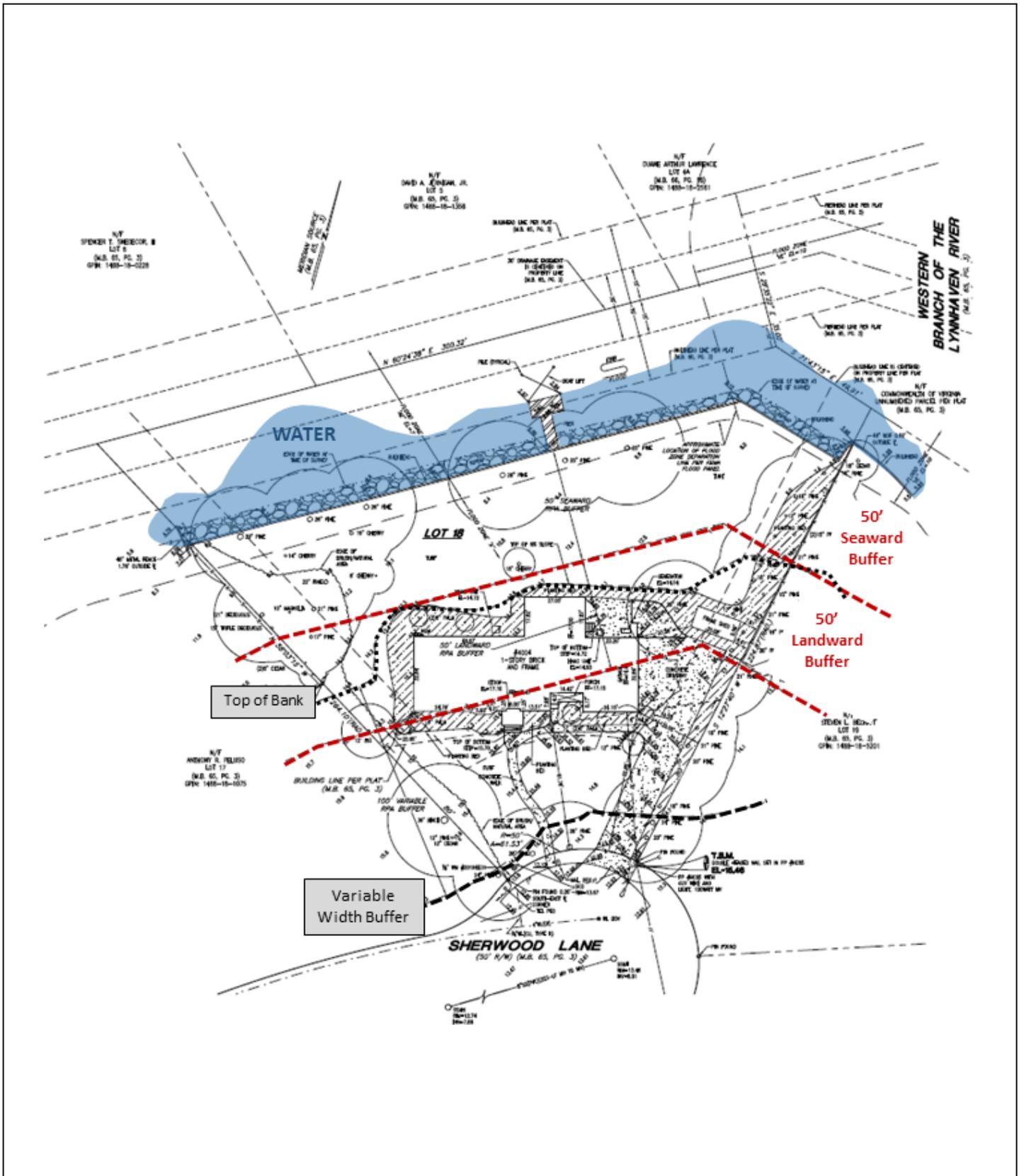
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

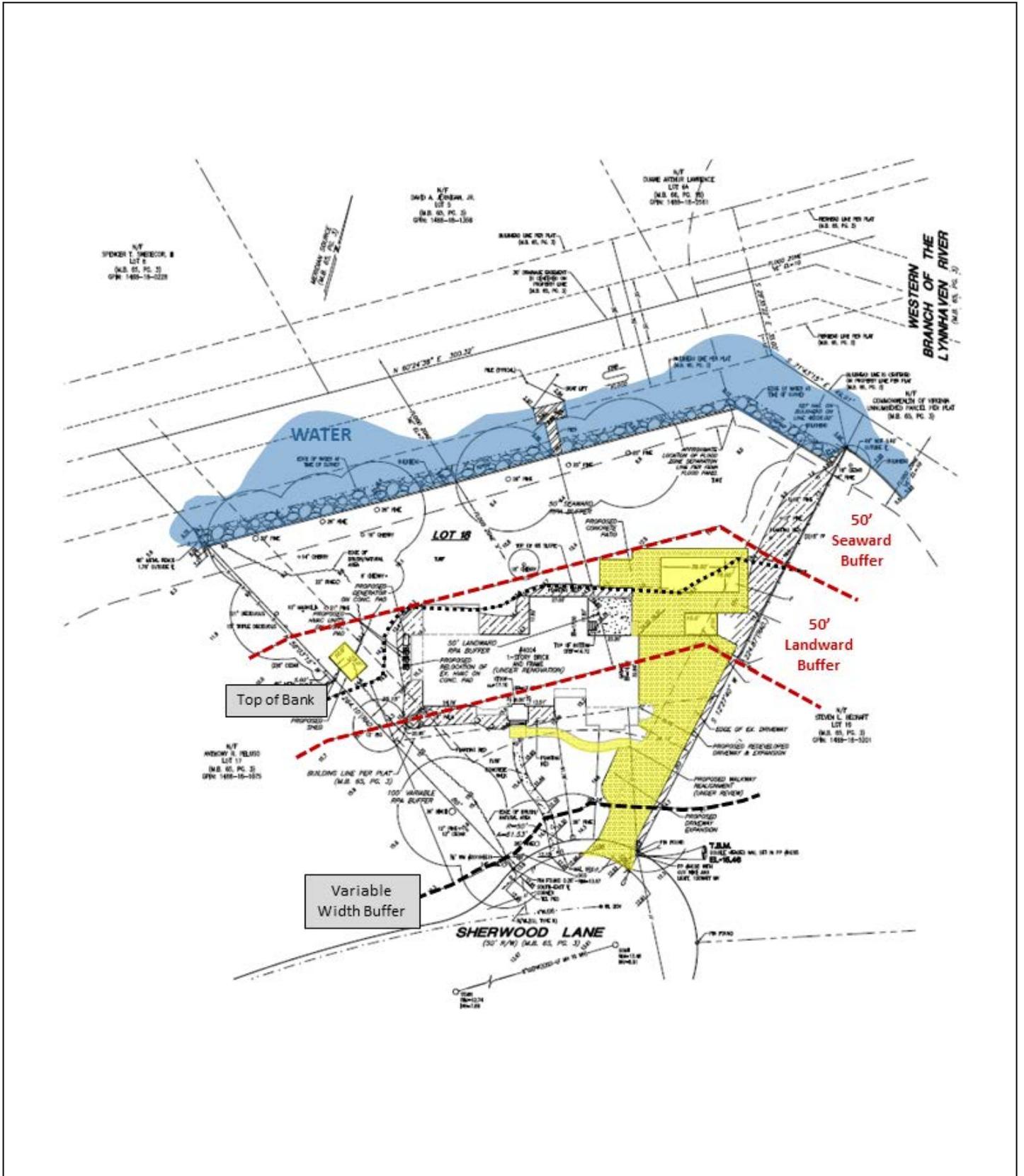
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Michelle E & Robert C Bandy

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: Michelle E & Robert C Bandy
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-subsiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*
N/A

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

(A) List the Property Owner's name: Michelle E & Robert C Bandy
If an LLC, list the member's names:

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

N/A

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

N/A

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input 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	Aaron J Cooper, 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	WPL
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input 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?

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.**

	Robert C Bandy	12/3/18
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

Encroachment into the Resource Protection Area (RPA) buffer to construct a walkway, retaining wall with backfill, and to redevelop the existing driveway, swimming pool and patio areas

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

6/10/1965

Map Book 110, Page 35

GPIN

1488-08-5789

SITE AREA

63,842 square feet or 1.443 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

53,101 square feet or 1.219 acres

EXISTING IMPERVIOUS COVER OF SITE

17,483 square feet or 32.9 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

13,590 square feet or 25.5 percent of site

Area of Redevelopment in RPA

4,738 square feet

Area of New Development in RPA

1,397 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

- Driveway and front walk
- Paver patios with associated walkways
- Paver patio pool surround

Construction Details

- Retaining wall with associated backfill
- Brick paver walkways
- Swimming pool with brick paver pool surround – redevelopment
- Driveway with front walkways

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 9

Soil Type(s)

State Series (deep, well-drained soils)

Rumford Series (highly erodible soils)

Shoreline

Shoreline is in a natural state

Riparian Buffer

Sparsely wooded lot

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

Evaluation and Recommendation

The general performance standards for development and redevelopment of properties within the RPA are set forth to minimize impervious cover in order to promote the infiltration of stormwater into the ground. This requirement is met as the variance request results in a 3,893 square foot reduction in impervious cover on the lot. In addition, the request to further encroach in the RPA with impervious cover only occurs within the variable width buffer. Land disturbance is proposed within the 50 foot seaward buffer for a retaining wall with backfill. Elevations along the proposed retaining wall appear to range from 18 inches to 36 inches. Although land disturbance within the RPA is defined as development, Staff is of the opinion that the proposed retaining wall will address the moderate signs of bank sloughing occurring along

the top of bank feature due to the underlying soil conditions. The eastern return wall will be located within the most sensitive portion of the lot. A review of the Center for Coastal Resources Management, Sea Level Rise Mapper indicates that high and accelerated sea level rise scenarios will surpass historic sea level rise rates within this portion of the lot. As such, Staff recommends condition 11 that requires that the proposed retaining wall be reduced within this area of the lot, thereby reducing the overall amount of fill, in order to preserve ample land area for marsh migration due to sea level rise.

Should the Board desire to consider granting this variance request, the following comments relative to the findings of the CBPA Ordinance specific to this variance request are offered by the applicant's agent for the Board's deliberation.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated *"as the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels."* 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 *"as the lot has topographic and RPA features and neighboring wetlands that have an impact on the CBPA buffer for this lot."* Staff offers that the circumstance 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 *"with the majority of the redevelopment offering a retreat in impervious area and encroachments into the buffer thus providing more pervious area on the site."* 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 because *"the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels, the site currently does not offer any stormwater mitigation for the river, however if approved, the proposed redevelopment will be required to have treatment provided between the improvements and the river."* Staff is of the opinion that the reduction in the overall impervious cover of the site offers merit towards infiltrating rainwater and reducing stormwater runoff. Coupled with buffer restoration planting, this reduction should enhance the ecological and biological function of the RPA given that the riparian buffer is now primarily devoted to turf.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load as a means to manage towards a no net increase in nonpoint source pollution load *"buffer restoration and bioretention stormwater management will be placed between the improvements and the river to capture and treat runoff prior to discharging into the river."* If properly implemented and maintained, Staff concurs with the applicant's agent that the restoration of the riparian buffer offers a management practice that enhances the probability of no net increase in nonpoint source pollution.

Given the above comments, Staff recommends the following 12 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

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

2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
7. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
8. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
9. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
10. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,397 square feet x 200 percent = 2,794 square feet.**

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

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

11. The overall length of the proposed retaining wall shall be reduced so that the eastern return wall of the proposed retaining wall is a minimum of 15 feet off of the property line.
12. The conditions and approval associated with this variance are based on the exhibit plan dated November 14, 2018, prepared by WPL, signed December 4, 2018 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

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

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

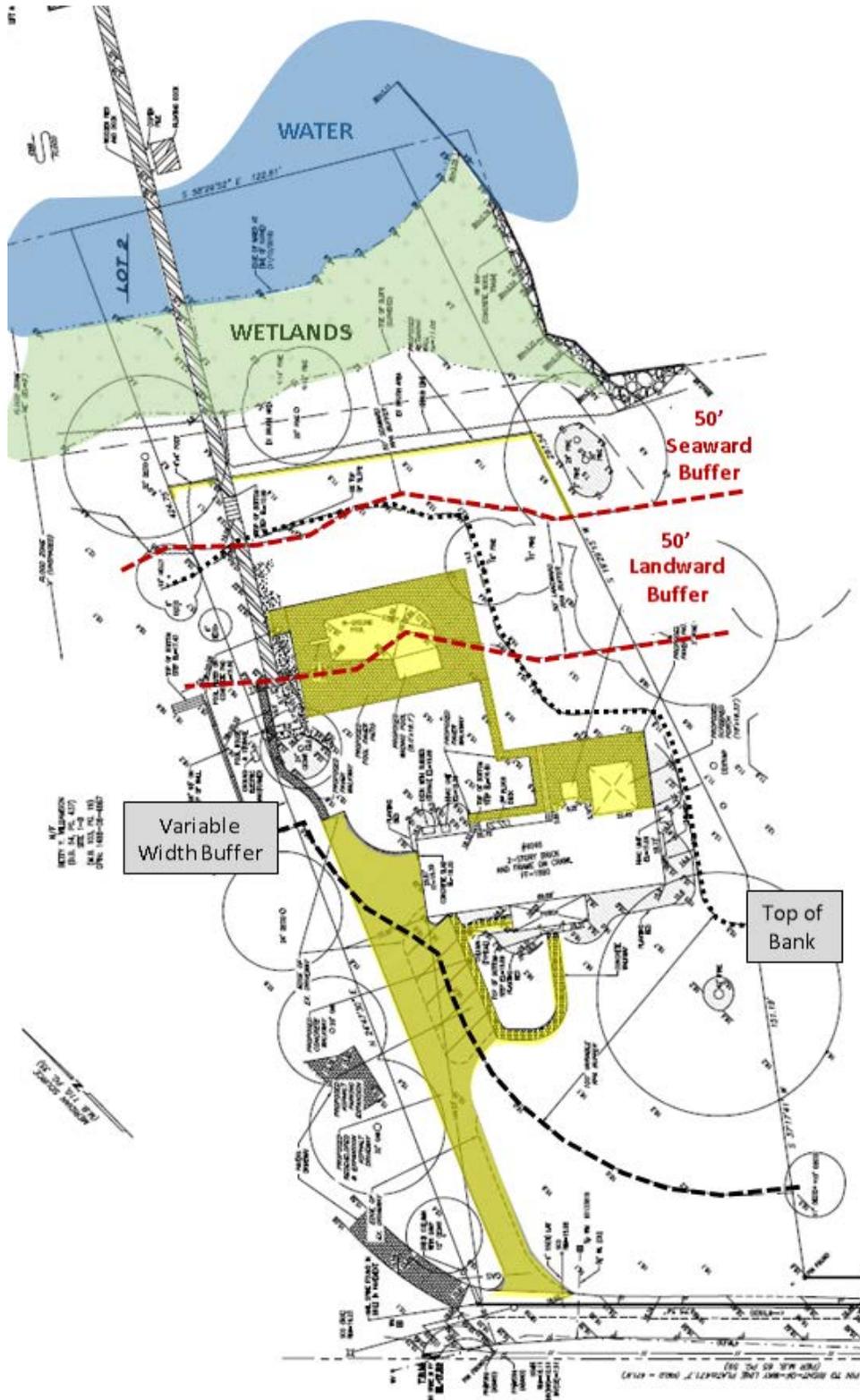
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Kenneth & Kathleen A Tottle Revocable Living Trust

DISCLOSURE STATEMENT FORM

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

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: Kenneth & Kathleen A Tottle
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 ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

(A) List the Property Owner's name: Kenneth & Kathleen A Tottle
If an LLC, list the member's names:

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

N/A

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

N/A

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

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

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.**

	Ken Tottle	12/04/18
PROPERTY OWNER'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



Applicant & Property Owner **Michael Wheatley Rev. Living Trust**
 Address **4133 Cheswick Lane**
 Public Hearing **January 28, 2019**
 City Council District **Bayside**

Agenda Item

4

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a swimming pool with patio, pool house, and stepping stone path to existing pier.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

1/13/1989

Map Book 2798, Pages 1375 & 1376

GPIN

1478-92-5547

SITE AREA

84,165 square feet or 1.93 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

57,394 square feet or 1.32 acres

EXISTING IMPERVIOUS COVER OF SITE

7,874 square feet or 13.7 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

11,038 square feet or 19.2 percent of site

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

3,164 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

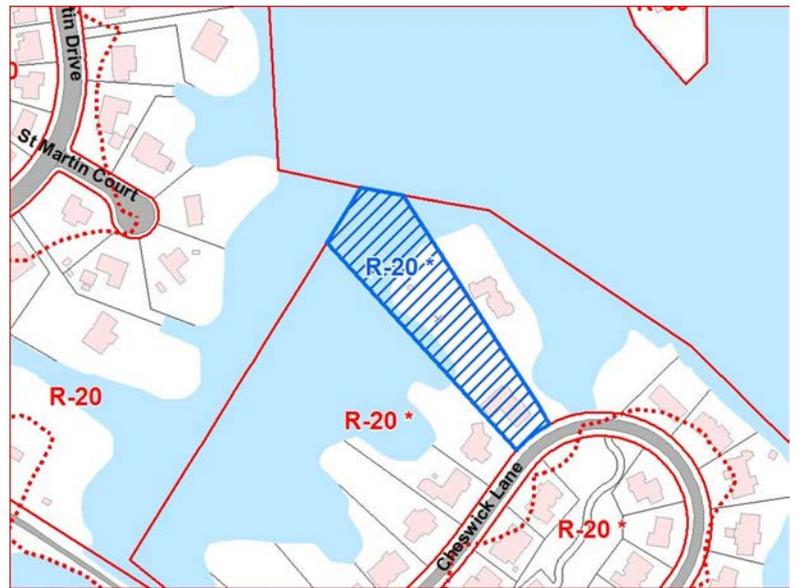
50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- None

Construction Details

- Swimming pool with paver patio area
- Pool house
- Paver walkway off of existing paver patio
- Stepping stone path to existing pier

CBPA Ordinance Variance History

March 26, 2001 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of an upland retaining wall and associated backfill with the following conditions:

1. *Buffer restoration shall be provided as shown on the stamped received landscape plan dated March 11, 2001.*
2. *Dual erosion and sedimentation control devices shall be installed a maximum of 10 feet seaward of the retaining wall prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said condition shall be so noted on the site plan.*
3. *A revised site plan, inclusive of the landscaping plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.*

The March 26, 2001 CBPA Board granted variance has been acted upon and the associated improvements constructed.

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 8

Soil Type(s)

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

Shoreline

Shoreline is in a natural state

Riparian Buffer

Moderately to sparsely wooded lot

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

Evaluation and Recommendation

The RPA buffer for this lot is measured from water and wetlands located from both east and west sides of the lot, as this lot is a peninsula. From the edge of water and wetlands there is approximately 160 linear feet of uplands of which approximately 20 feet are located on the adjacent lot. With this variance request, the entirety of the proposed improvements constitute new development and other than a stepping stone path to the existing pier, the improvements will be within the 50 landward buffer. Staff has determined that these improvements will not pose a detriment to water quality as they are situated in the least sensitive portion of the property, within the 50 foot seaward buffer to the greatest extent practicable, along with the preservation of the existing riparian buffer ecosystem.

For the Board's consideration, the following comments relative to the findings of the CBPA Ordinance specific to this variance request are offered by the applicant's agent for the Board's deliberation.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated *"as the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels."* Staff concurs.
- 2) 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 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 proposed improvements have been limited to the landward buffer except for the pathway to the pier and with the entire site of 1.32 acres being within the RPA feature the location as shown provides the least impact to the site."* 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 *"the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels, and if approved, the existing improvements and the proposed redevelopment will be designed to have treatment provided between the improvements and the river."* Staff is of the opinion that the proposed improvements will not negatively impact the RPA, be injurious to the neighborhood, or a substantial detriment to water quality given the access to and location of the proposed improvements.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load *"planting buffer restoration and bioretention stormwater management will be placed between the improvements and the river to capture and treat runoff prior to discharging into the river."* If properly implemented and maintained, Staff concurs with the applicant's agent that the restoration of the riparian buffer offers a management practice towards a no net increase in nonpoint source pollution from this variance request.

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

Recommended Conditions

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

2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. 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. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **3,164 square feet x 200 percent = 6,328 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **8 canopy trees, 8 understory trees, 16 large shrubs, and 24 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species

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

12. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
13. **As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$725.08 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.
14. This variance and associated conditions **are in addition to** the conditions of the Board variance granted March 26, 2001.
15. The conditions and approval associated with this variance are based on the exhibit plan dated November 1, 2018, prepared by WPL, signed December 3, 2018 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

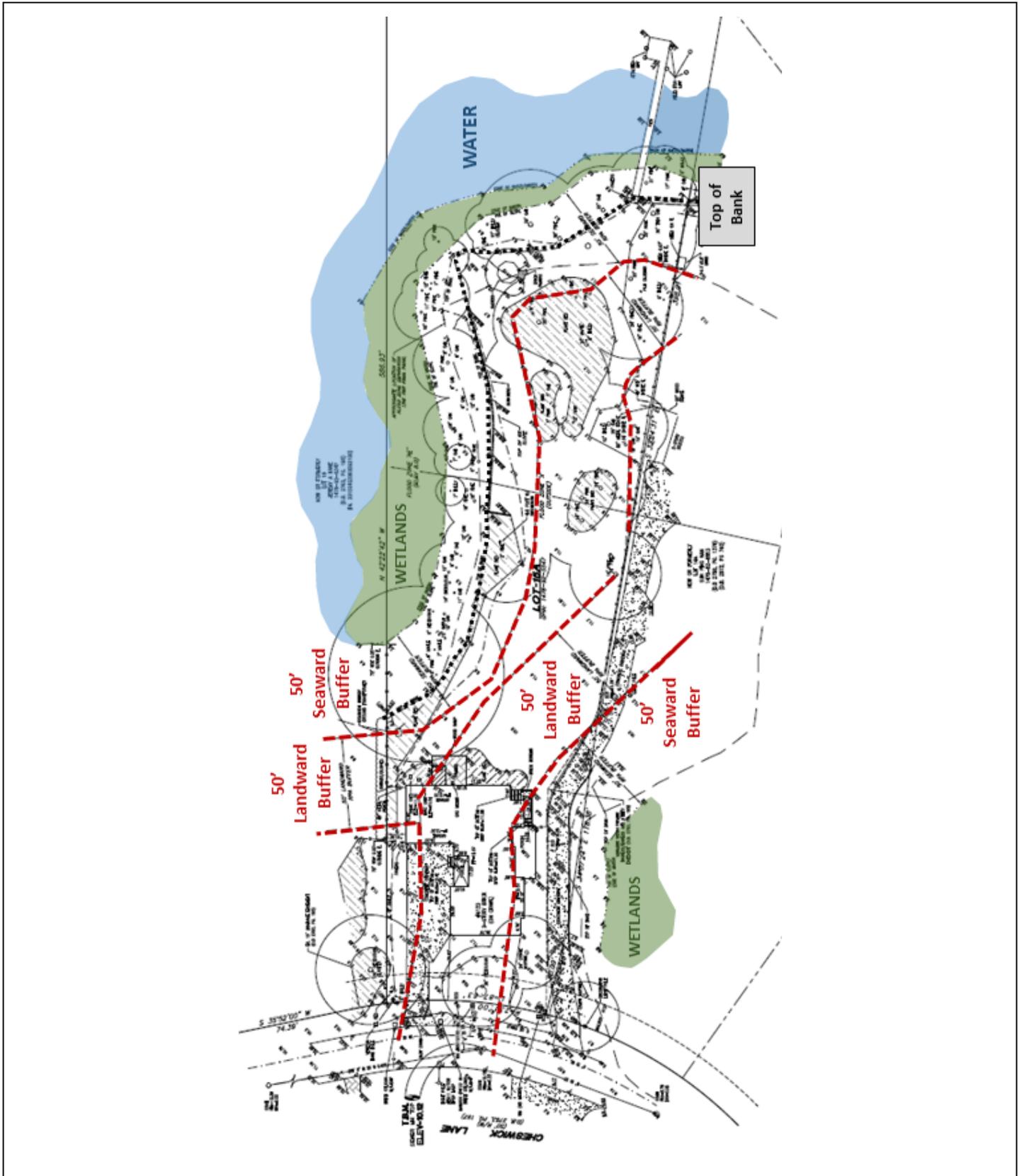
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

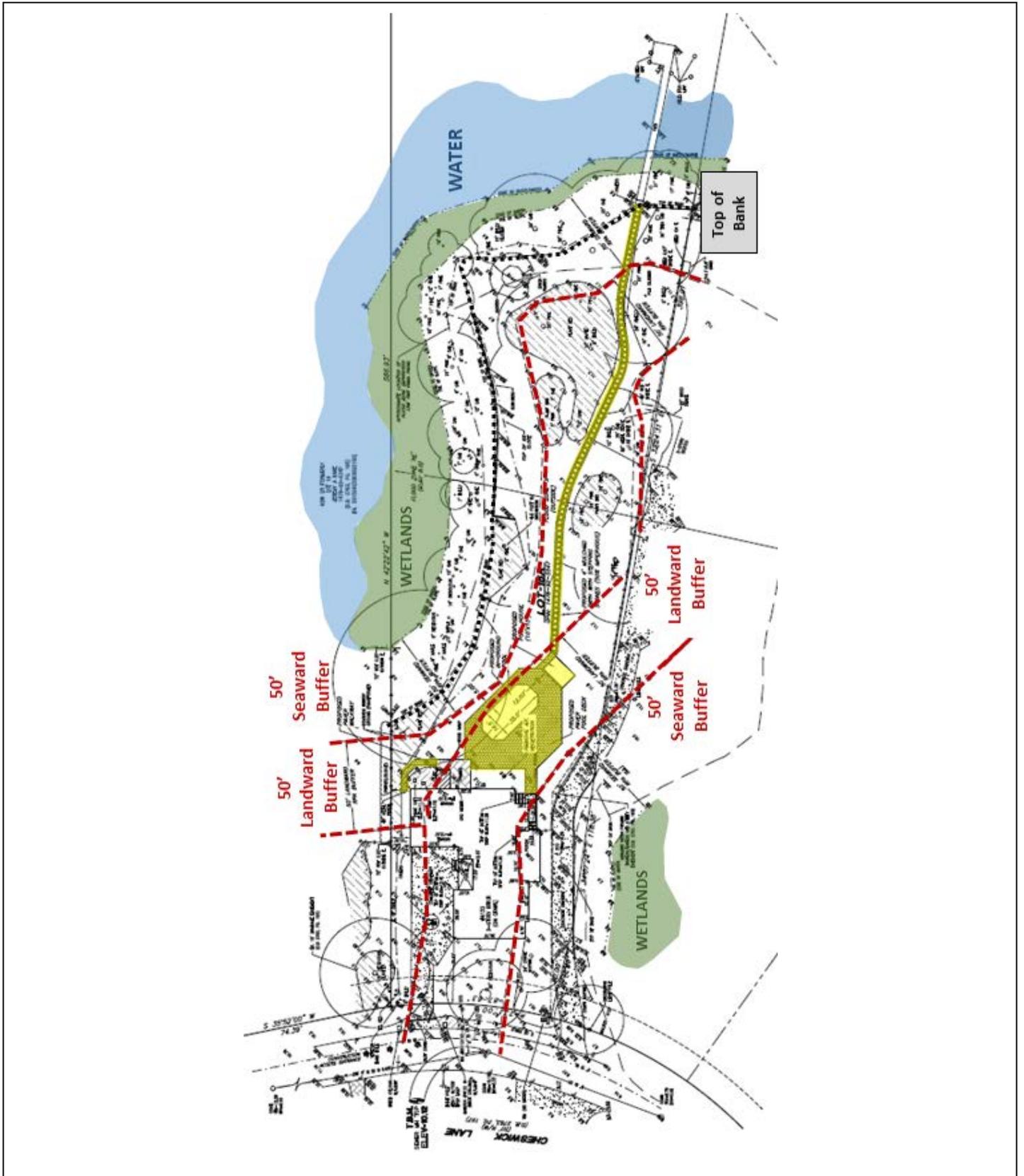
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Michael E Wheatley Revocable Living Trust

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: Michael E Wheatley
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-subsidiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

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

N/A

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

N/A

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Check Snader
<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	Cascade Pools Inc
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	WPL
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Dollar Bank
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	GPC, Inc. 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?

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.

	Michael E Wheatley	12/5/2018
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

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

Michael Wheatley Rev. Living Trust

Agenda Item 4

Page 64

Variance Request

Encroachment into the 100 foot Resource Protection Area (RPA) with the construction of a single family residence and wood deck.

Applicant's Agent

Robert Simon

Staff Planner

PJ Scully

Lot Recordation

11/12/1957

Deed Book 550, Page 241

GPIN

1498-51-5265

SITE AREA

27,984 square feet or 0.64 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

25,559 square feet or 0.59 acres

EXISTING IMPERVIOUS COVER OF SITE

0 square feet or 0 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

6,163 square feet or 24.1 percent of site

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

5,565 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

50 foot Landward Buffer

100 foot Variable Width Buffer

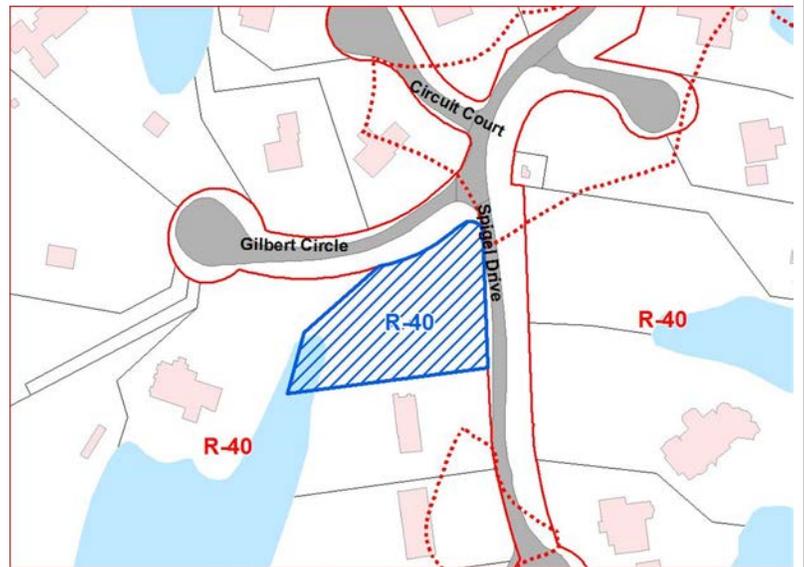
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Undeveloped lot

Construction Details

- Single family residence with associated driveway and walks
- Wood deck off of the rear of the residence

CBPA Ordinance Variance History

November 22, 2017 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. *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. **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. 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 Dept. 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. *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 \$1,067.91 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 1,165 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.*
16. *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.*
17. *The conditions and approval associated with this variance are based on the exhibit plan prepared by Chesapeake Bay Site Solutions, Inc signed November 8, 2017 by Gregory O. Milstead. 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.*

The November 22, 2017 CBPA Board granted variance has not been acted upon.

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 7

Soil Type(s)

Yeopim Series (deep and moderately well-drained soils)

Shoreline

Shoreline is in a natural state. A significant amount of erosion is occurring along the shoreline, of which Staff is of the opinion has been a direct result of an adjacent stormwater outfall pipe located at the headwater of the existing cove.

Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 14
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing canopy tree removal request: The majority of trees being requested for removal are within the footprint of the proposed improvements and represents a reduction in trees removed by 6 over the previously approved 2017 CBPA variance.

Evaluation and Recommendation

The applicant for this variance request is a new property owner, and not associated with the November 2017 CBPA Board granted variance. The proposed improvements for this variance request represent an increase in the overall impervious cover from the 2017 CBPA variance. A comparison of the requests is provided below.

	2017 CBPA variance exhibit	2019 CBPA variance exhibit
Overall impervious cover	4,660 square feet or 18.2 percent	6,163 square feet or 24.1 percent
Location of Impervious Cover	2017 CBPA variance exhibit	2019 CBPA variance exhibit
50 foot seaward buffer	0 square feet	82 square feet
50 foot landward buffer	2,843 square feet	3,437 square feet
Variable width buffer	1,817 square feet	2,007 square feet

Staff is of the opinion that portions of the proposed improvements and increases in impervious cover occur in the more sensitive portion of the lot – specifically within the 50 foot seaward buffer and below the top of bank feature. As such, Staff recommends conditions 13, 14 and 15 below as a means towards preventing the degradation of water quality. As for the relocation of the proposed driveway with access along Spigel Drive in-lieu of Gilbert Circle, Staff is of the opinion that the relocation will be less detrimental to the RPA. The existing grade elevations from Spigel Drive are gentler than those along Gilbert Circle which should offer less velocity for stormwater run-off and promote more infiltration.

For the Board’s deliberation, the applicant’s agent has provided the following comments relative to the findings of the CBPA Ordinance specific to this variance request.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *“the lot is being developed in similar manner to the rest of the sites on Spigel Drive.”* Staff is of the opinion that given geometry of the parcel, zoning setbacks, and overall impervious cover proposed under 25 percent, that the improvements will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Area.
- 2) 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 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 with *“the proposed residence in keeping with the neighborhood development and the proposed improvements being the highest and best use of the*

property.” Staff is of the opinion that working within the unique restraints of the property – geometry of the platted parcel, existing shoreline, and topography of the parcel – the variance is the minimum necessary to afford relief.

- 4) The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *“the proposed development is under 30 percent in the RPA and all stormwater runoff from the development will be treated with BMPs.”* Staff offers that the relocation of the proposed driveway off of Spigel Drive in-lieu of the driveway off of Gilbert Circle, as conditioned by the 2017 CBPA variance, provides a better alternative that is more in harmony with the neighborhood, and is more conducive towards velocity reduction of stormwater run-off, thereby promoting infiltration.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, *“bioretention beds, buffer restoration areas and shoreline management will reduce nonpoint source pollution.”* Staff is of the opinion that if properly coordinated, installed and maintained, the applicant’s investment in developing the uplands portion of the property with associated buffer restoration and stormwater management, coupled with the Joint Permit Application to correct the on-going shoreline erosion, will provide a means to manage towards a no net increase in nonpoint source pollution load.

Given the above comments, Staff recommends the following 19 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **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. **Inclusive of those trees within the Resource Management Area (RMA) and RPA**, 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 1,500 square feet of turf is permitted for this property. Said turf shall not be permitted within the 50 foot seaward or 50 foot landward buffers. All remaining pervious 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 Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable: **7 understory trees, 30 large shrubs, and 45 small shrubs.**

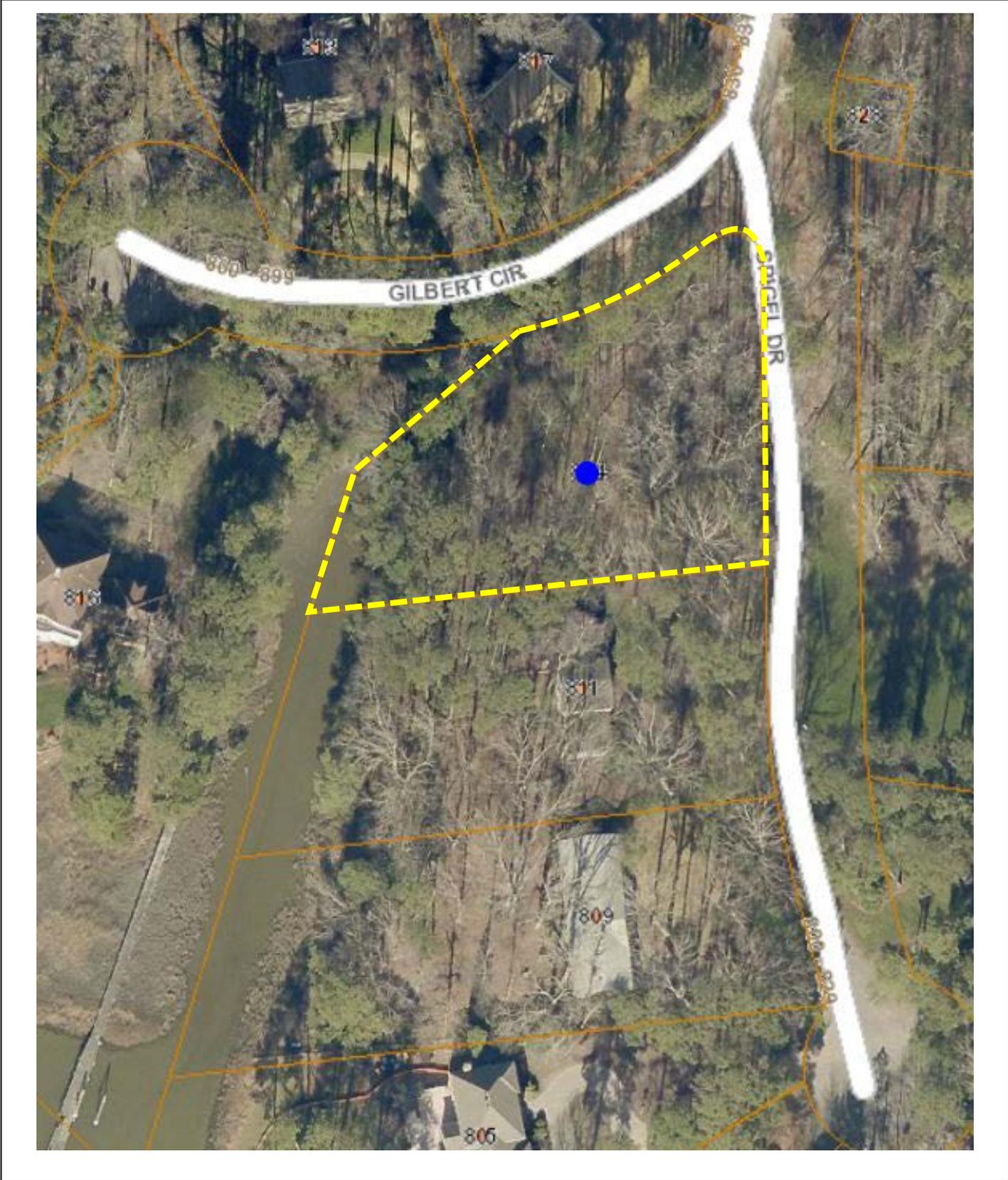
The required restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. 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. No portions of the proposed improvements shall encroach into the 50 foot seaward buffer of the Resource Protection Area (RPA).
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 \$1,275.31 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. This variance and associated conditions **will supersede** the conditions of the CBPA Board variance granted November 22, 2017.
19. The conditions and approval associated with this variance are based on the exhibit plan prepared by Chesapeake Bay Site Solutions, Inc., signed January 11, 2019 by Gregory O. Milstead. 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.

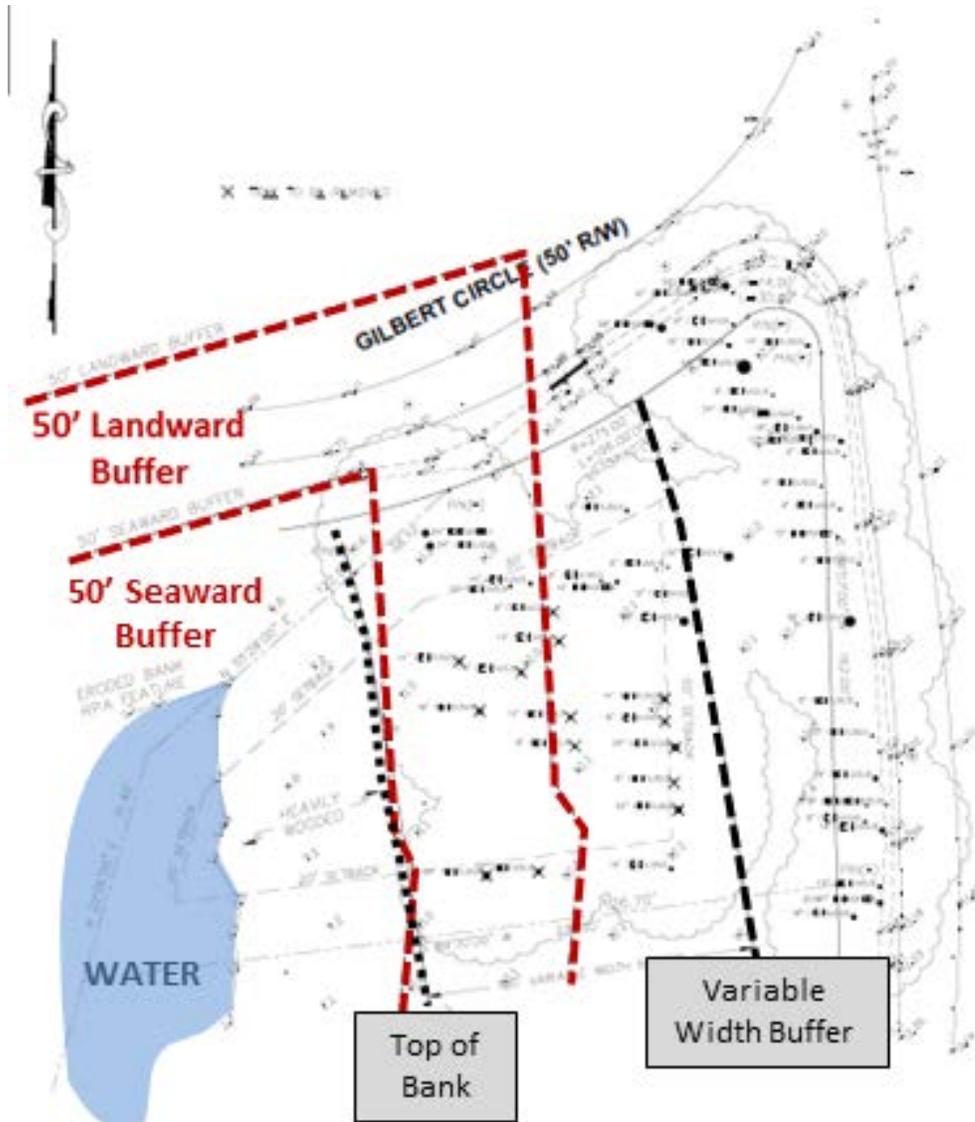
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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.

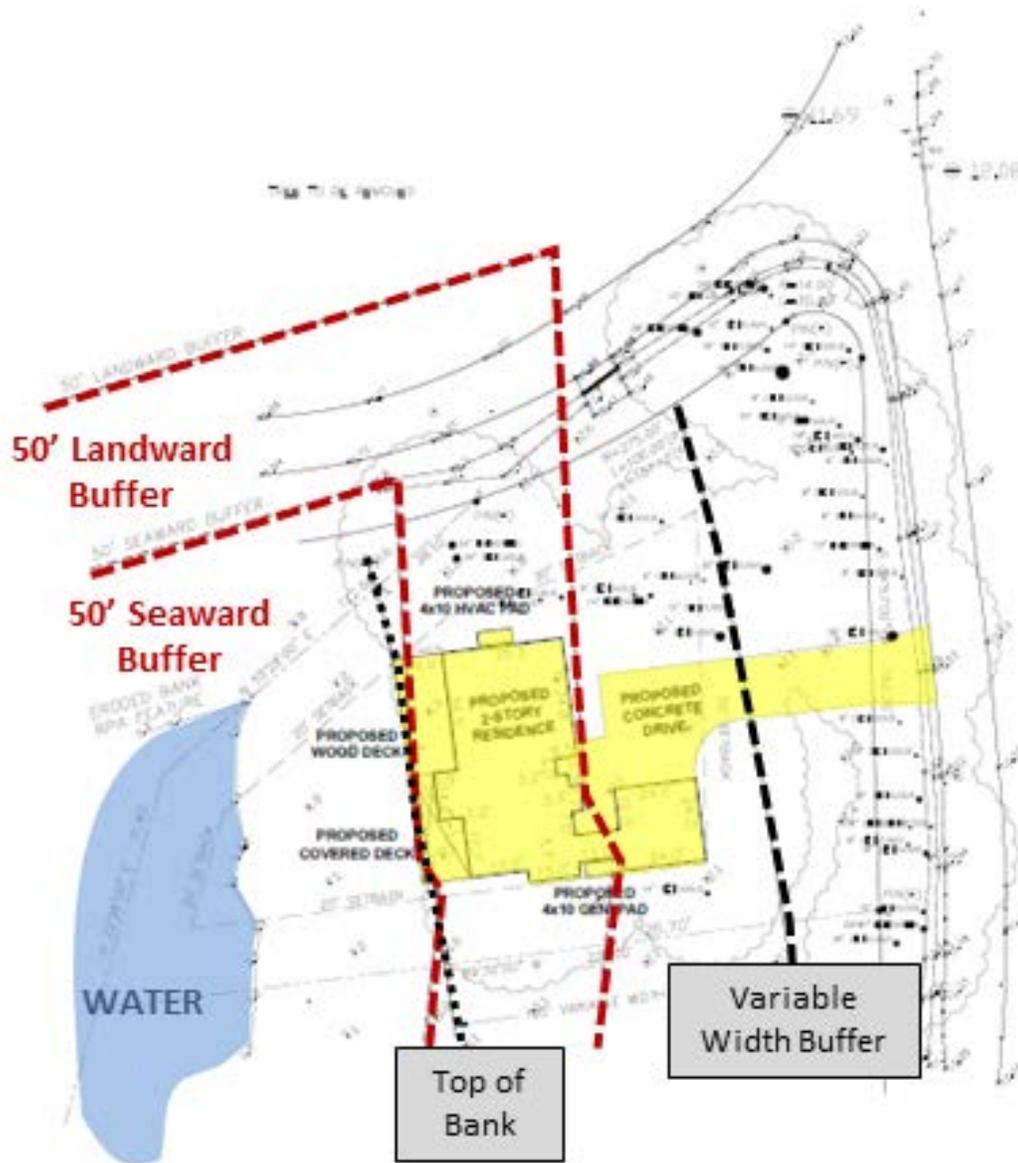
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Jeffrey C. Keeter

DISCLOSURE STATEMENT FORM

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

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

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

SECTION 1 / APPLICANT DISCLOSURE

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

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



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

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

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

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

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

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

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



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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	White, Anderson & Associates
<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	Chesapeake Builders
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	WCI, Chesapeake Bay Site Solutions
<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.

	Jeffrey C. Keeter	12/4/2010
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

Jeffrey Keeter
Agenda Item 5
Page 80

Variance Request

Encroachment into the Resource Protection Area (RPA) with the construction of a single family residence with circular driveway, detached garage, swimming pool with patio areas, and pool house

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

6/14/1965

Map Book 65, Page 59

GPIN

1488-18-0998

SITE AREA

63,146 square feet or 1.45 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

63,146 square feet or 1.45 acres

EXISTING IMPERVIOUS COVER OF SITE

11,945 square feet or 18.9 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

18,560 square feet or 29.3 percent of site

Area of Redevelopment in RPA

7,278 square feet

Area of New Development in RPA

5,419 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

- Single family residence and associated accessory structures – complete demolition of improvements

Construction Details

- Single family residence with circular driveway
- Detached garage
- Swimming pool with concrete pool decking and retaining wall
- Detached pool house
- Brick fire pit area
- Arbor with associated concrete pad

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Multiple Zones – Zone X, Zone AE – Base Flood Elevation (BFE): 8, and Zone VE – BFE: 10
Zone AE is located along the western portion of the lot and Zone VE along the eastern portion of the lot.

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 by a wood bulkhead. The existing condition of the wood bulkhead appears to be stable with no signs of settling or failures noticed along the backside of the structure.

Riparian Buffer

Sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 1
- Number of existing understory trees requested for removal within the RPA: 6
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing canopy tree removal request: The majority of trees requested for removal are understory trees primarily hollies and dogwoods. Staff is of the opinion that the trees function as ornamental landscaping.

Evaluation and Recommendation

The current means of vehicular access to the lot is via a shared driveway on the adjoining lot. As part of the proposed improvements associated with this variance request, a new and separate concrete driveway is proposed to provide

vehicular ingress/egress to this parcel. The proposed driveway stem will be primarily located in the Resource Management Area (RMA) and makes up approximately 3,425 square feet or 18 percent of the proposed 18,560 square feet of post-development impervious cover. Within the 100 foot RPA, the proposed improvements do not encroach any further seaward than the existing edge of the driveway. The design appears to redevelop the areas with existing impervious cover to the greatest extent possible. Approximately 1,012 square feet of new impervious cover associated with the new dwelling, pool deck and pool house is proposed along the eastern portion of the lot. Although the proposed improvements result in an overall increase in impervious cover, Staff is of the opinion that the applicant has made a conscious effort with the redevelopment of this lot to focus improvements landward of the existing encroachments in the RPA while locating improvements outside of the most sensitive portions of the lot – the VE flood zone (area of wave velocity), and the 50 foot seaward buffer. In addition, the proposed buffer restoration will be installed landward of these critical areas, in an area that provides the most benefit. Given the exposure of this lot to storm surge and associated erosion potential of the uplands, Staff supports the location of the buffer restoration depicted on the concept plan as a means towards preventing the proposed improvements from being a detriment to water quality.

The following comments are provided in part by the applicant's agent for the Board's consideration relative to the findings of the CBPA Ordinance specific to this variance.

- 1) Staff offers that granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Area who are subject to the provisions of the CBPA Ordinance and are similarly situated given the extensive amount of redevelopment provided with the proposed improvements coupled with no further encroachment seaward with new impervious cover.
- 2) 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 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 with *"all new improvements being located landward of the existing improvements."* 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 *"as the purpose and intent of this Ordinance is to improve water quality, and this request will do that. We will be required to install additional stormwater treatment facilities and additional buffer restoration in areas currently devoted to turf, both of which promote and improve water quality. In addition, the owner will participate in the Lynnhaven Oyster Program for off-site water quality as a result of this request."* In the absence of an established riparian buffer on the lot, Staff concurs.
- 5) The applicant's agent states that *"past construction sites have shown the most pollution/sedimentation occurs during the work process. We will install adequate E&S measures first, and remove last. We will also utilize existing flat impervious areas for staging and storage"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff offers that the amount of redevelopment of existing impervious cover and the proposed improvements located in a manner to avoid encroachment into the special flood hazard area and the 50 foot seaward buffer on an exposed peninsula lot offers substantial merit towards long-term management of a no net increase in nonpoint source pollution potential.

Given the above comments, Staff recommends the following 14 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed 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. 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: **5,419 square feet x 200 percent = 10,838 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: **14 canopy trees, 14 understory trees, 28 large shrubs, and 42 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the

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

12. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
13. **As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,241.85 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.
14. The conditions and approval associated with this variance are based on the exhibit plan dated September 27, 2018, prepared by John E. Sirine & Associates, signed September 27, 2018 by Jeffrey D. Williams. 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.

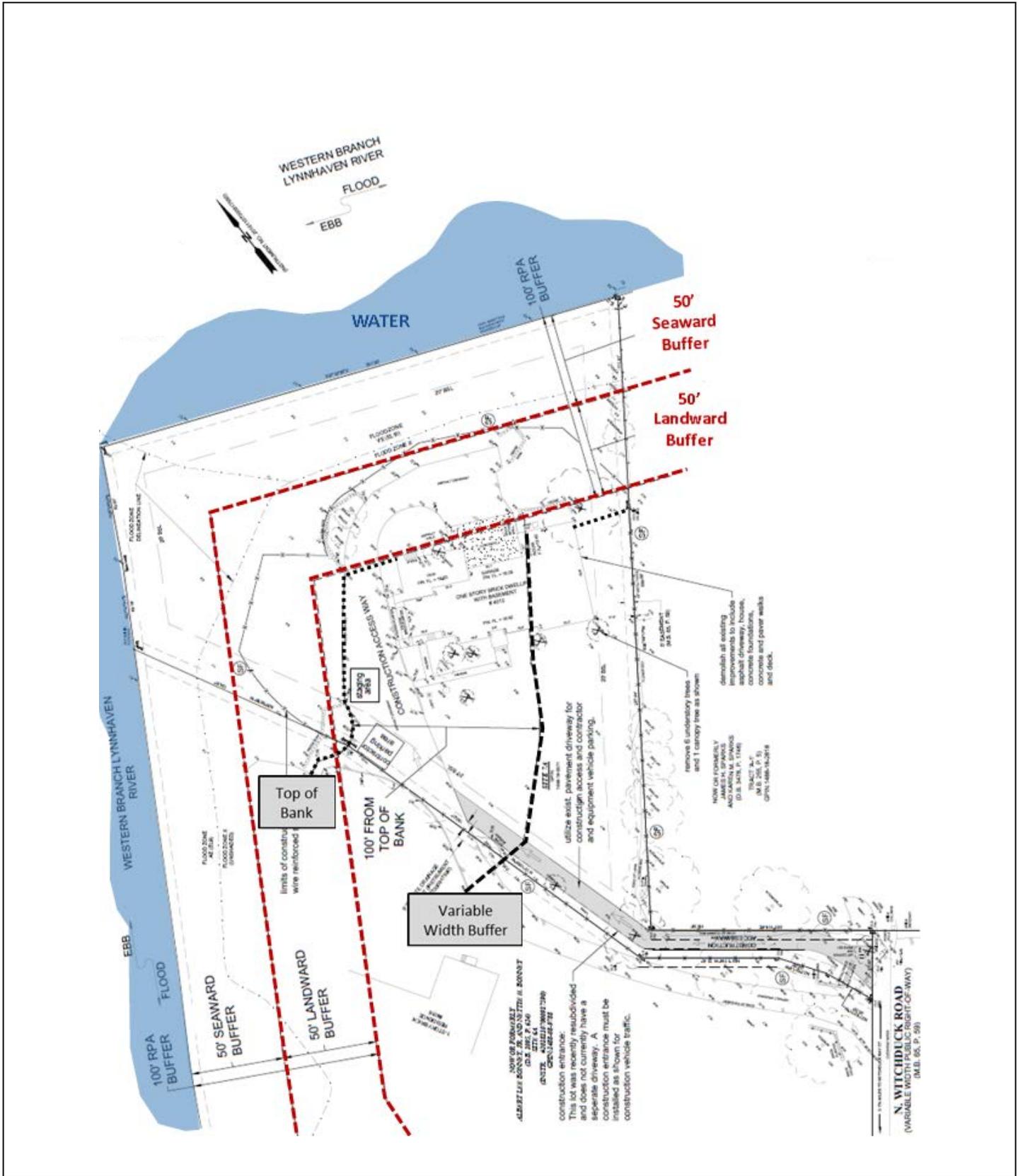
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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 David Byler

DISCLOSURE STATEMENT FORM

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Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

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SECTION 1 / APPLICANT DISCLOSURE

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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: David Byler
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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



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

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

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

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SECTION 3. SERVICES DISCLOSURE

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



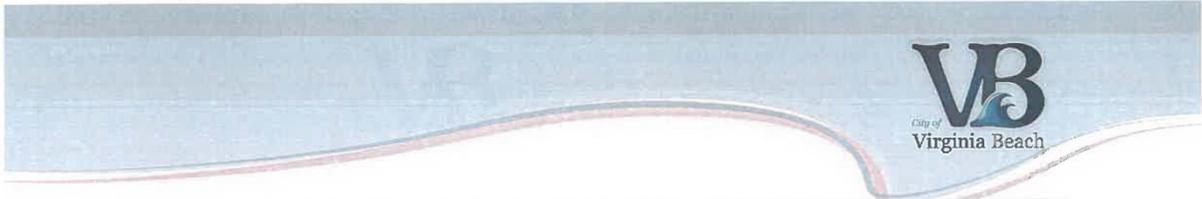
APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input 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	Dale Murray, RDM Designs
<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	John E. Sirine and Associates Billy Garrington - Agent
<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.

	David Byler	12/05/2018
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

AS NEEDED, PAGE LEFT BLANK

Variance Request

Encroachment into the Resource Protection Area (RPA) 100 foot buffer to construct two building additions and expand the existing driveway.

Applicant's Agent

Eddie Bourdon

Staff Planner

PJ Scully

Lot Recordation

6/27/1985

Map Book 210, Page 71

GPIN

2418-63-5213

SITE AREA

32,132 square feet or 0.738 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

28,318 square feet or 0.65 acres

EXISTING IMPERVIOUS COVER OF SITE

5,162 square feet or 18.2 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

6,184 square feet or 21.8 percent of site

Area of Redevelopment in RPA

725 square feet

Area of New Development in RPA

1,636 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

50 foot Landward Buffer

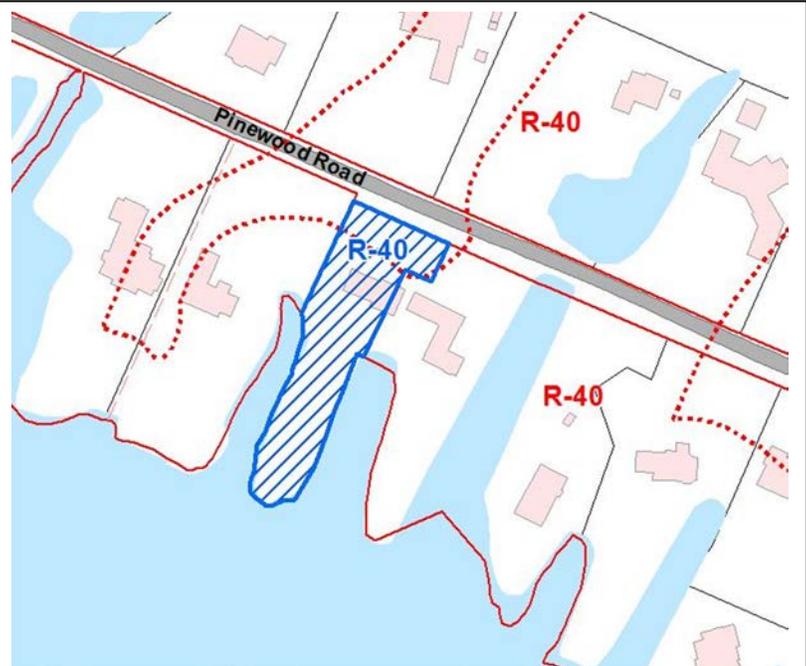
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Portions of gravel driveway
- Concrete walks and porches

Construction Details

- Building additions – 2 in total
- Concrete driveway – redevelopment and expansion

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 7

Soil Type(s)

State Series (deep, well-drained soils)

Shoreline

Shoreline is hardened by a rip rap revetment

Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 1
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing canopy tree removal request: The tree being requested for removal is within the delineated limits of construction, as shown on the CBPA exhibit.

Evaluation and Recommendation

After visiting the site, Staff is of the opinion that the peninsula shaped lot with narrow uplands within the 100 foot RPA buffer creates significant challenges for the redevelopment of this lot. These physical conditions create a unique situation for this lot in comparison to other lots in the area subject to the provisions of the CBPA Ordinance. Given that the improvements are proposed to encroach into the front yard setback, as far away from the water and wetlands as possible, Staff is of the opinion that the variance request is conscious of the unique physical conditions of the property. The layout depicts the majority of land disturbance outside of the most sensitive portions of the lot to the greatest extent practicable. Second, the existing topographic elevations of the parcel range from approximately 2.9 feet at the existing rip rap kick plate to a high point of 9.2 feet adjacent to the existing front door. As the base flood elevation for this lot is 7.0 feet, the requirements of the City's Floodplain Ordinance mandate that a new dwelling or any significant

improvements have a finished floor elevation of at least 2 feet above the base flood level of 7.0, or in this instance a finished floor elevation of 9.0 feet. The plan indicates that the existing dwelling exceeds with standard, as the finished floor is noted as 11.13 feet. With the proposed improvements minimally impacting the more sensitive portions of the property, and that the existing finish floor elevation of the residence at elevation 11.13, which the proposed additions will match, Staff is of the opinion that the variance request is the minimal necessary to afford relief.

The following comments relative to the findings of the CBPA Ordinance specific to this variance request are offered by the applicant's agent, in part, for the Board's deliberation.

- 1) The applicant's agent provides that *"granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated."* Staff is of the opinion that the applicant has provided a CBPA exhibit that respects the unique shape of the platted parcel, as well as the existing shorelines and environmental features of the property to the greatest extent practicable.
- 2) The applicant's agent 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 *"the lot being created many years prior to the adoption of the Bay Act. This lot is greatly hindered by the provisions of the Bay Act since 78 percent of the lot is in the RPA and 99 percent of the buildable portion of the lot is in the RPA."* Staff concurs.
- 3) The variance is the minimum necessary to afford relief *"given that 99 percent of the buildable portion of the lot is in the RPA."* Staff is of the opinion that the existing shoreline conditions combined with construction requirements for improvements within the floodplain offers a viable means towards the variance being the minimal necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare *"as the purpose and intent of this Ordinance is to improve water quality, and this request will do that. We will be required to install additional stormwater treatment facilities and additional buffer restoration in areas currently devoted to turf, both of which promote and improve water quality. In addition, the owner will participate in the Lynnhaven Oyster Program for off-site water quality as a result of this request."* In the absence of an established riparian buffer on the lot, Staff concurs.
- 5) The applicant's agent states that *"past construction sites have shown the most pollution/sedimentation occurs during the work process. We will install adequate E&S measures first, and remove last. We will also utilize existing flat impervious areas for staging and storage."* as a means to manage towards a no net increase in nonpoint source pollution load. Staff offers that the stormwater management concept and the recommended conditions below offer substantial merit towards long-term management of a no net increase in nonpoint source pollution potential.

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

Recommended Conditions

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

2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed 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: **725 square feet x 200 percent = 1,450 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: **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. 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 \$166.14 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 November 27, 2018 and revised December 27, 2018, prepared by John E. Sirine & Associates, signed November 27, 2018 by Jeffrey Williams. 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.

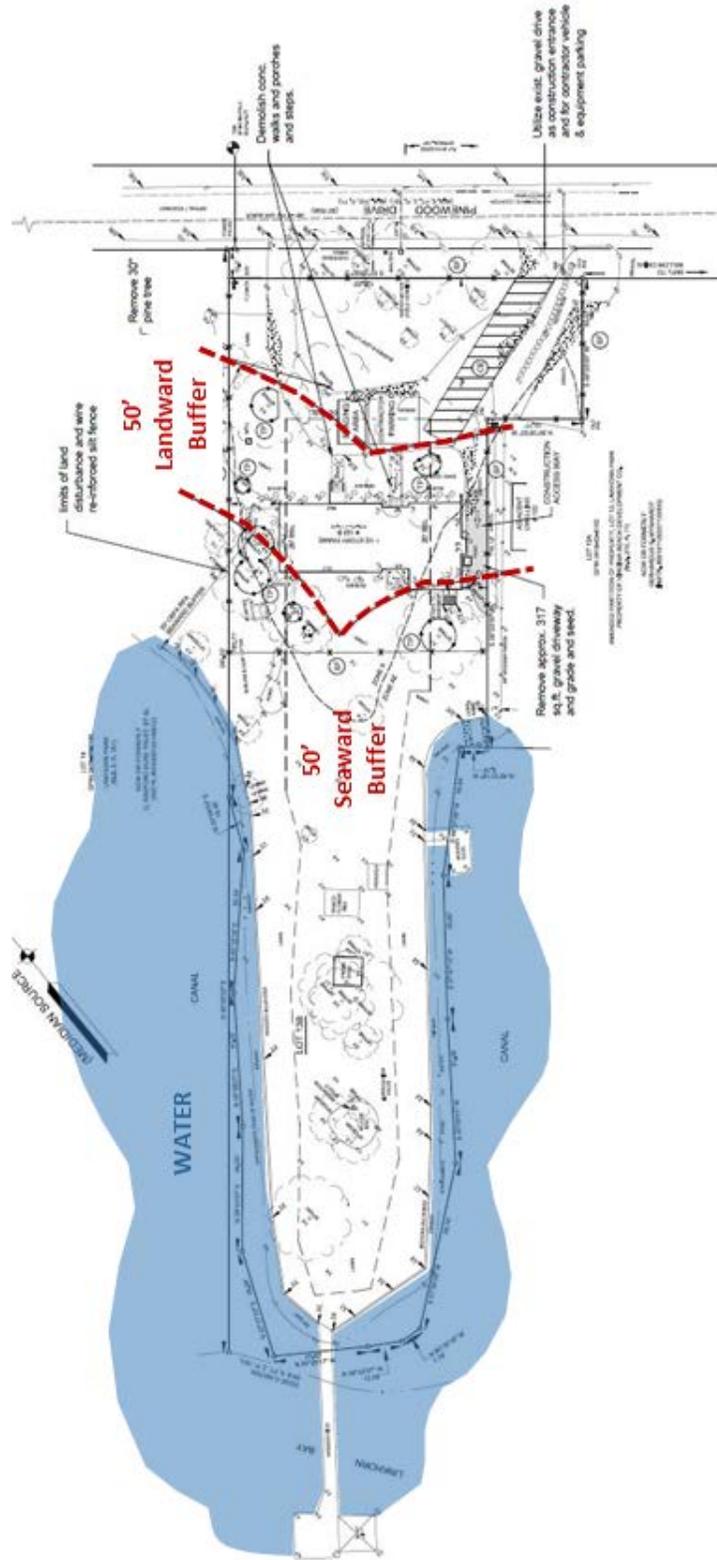
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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.

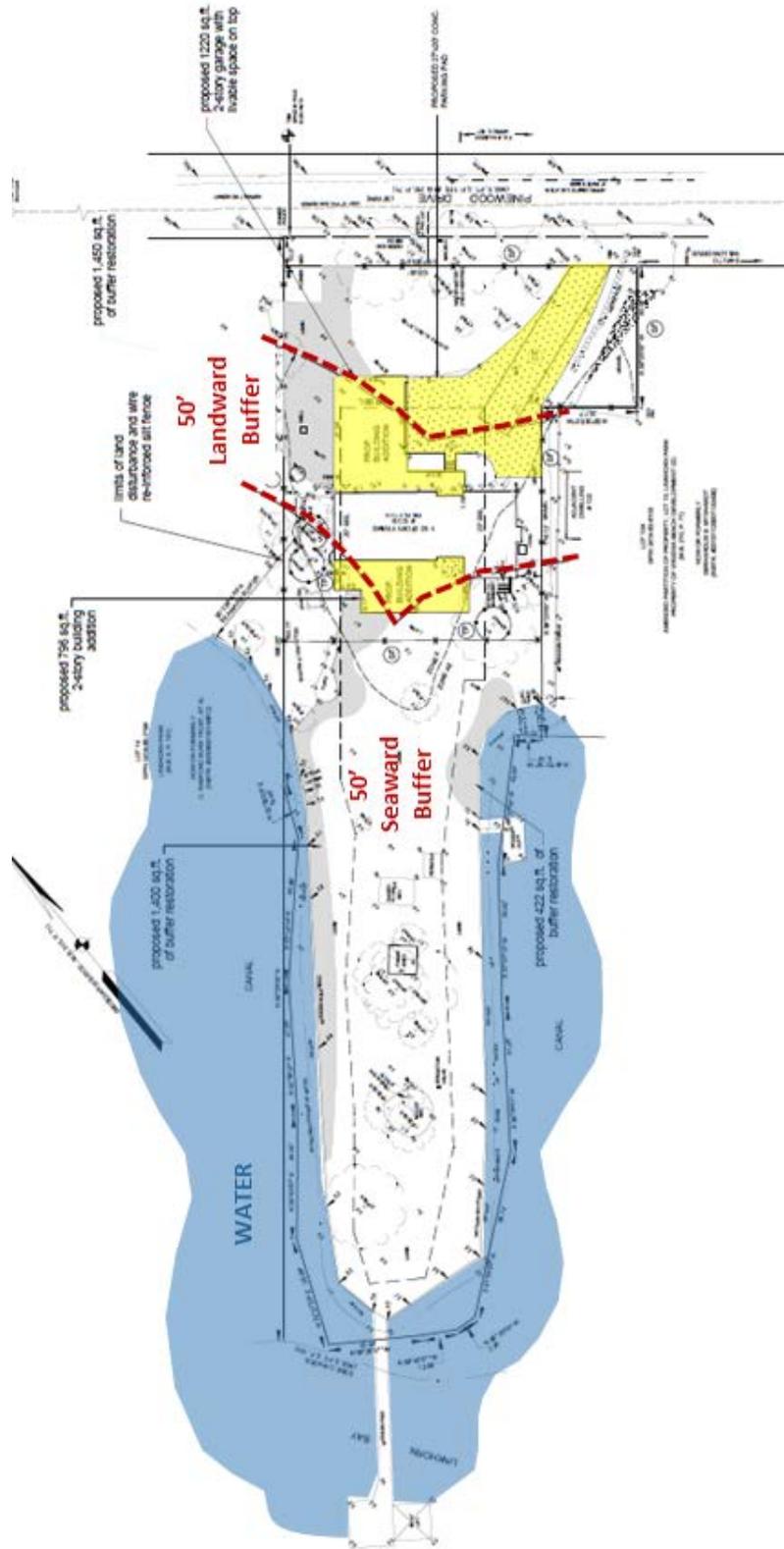
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME John L. Hildebrandt, IV

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: John L. Hildebrandt, IV
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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



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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Sturdevant Construction
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	John E. Sirine & Associates, 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)	Navy Federal Credit Union
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Sykes, Bourdon, Ahern & Levy, P.C.
<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 L. Hildebrandt, IV	09 JAN 19
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



Applicant & Property Owner **Cynthia C. Earhart Revocable Trust**
 Address **1400 Back Cove Road**
 Public Hearing **January 28, 2019**
 City Council District **Lynnhaven**

Agenda Item

8

Variance Request

Encroachment into the 100 foot Resource Protection Area (RPA) to construct an outdoor kitchen, fire pit and paver patio

Applicant's Agent

James A. Baker

Staff Planner

PJ Scully

Lot Recordation

10/18/1950

Map Book 26, Page 40

GPIN

1489-78-0493

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

725 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

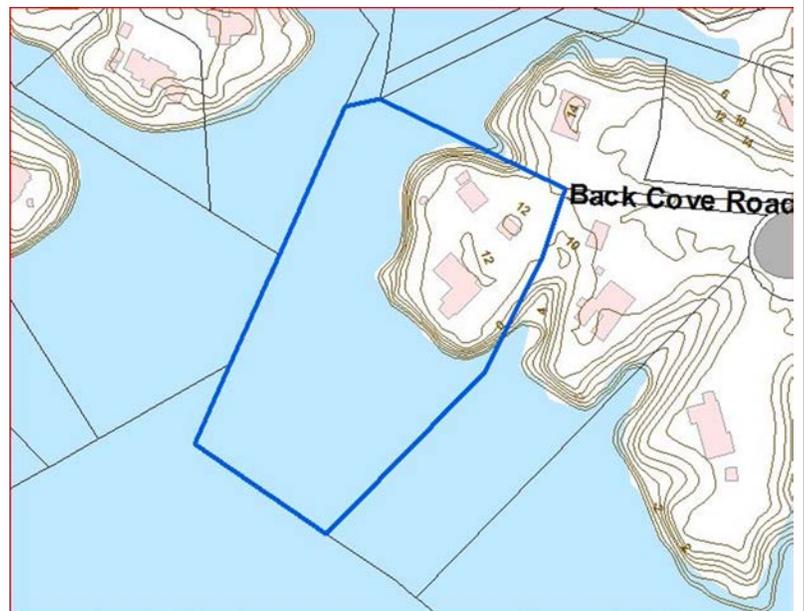
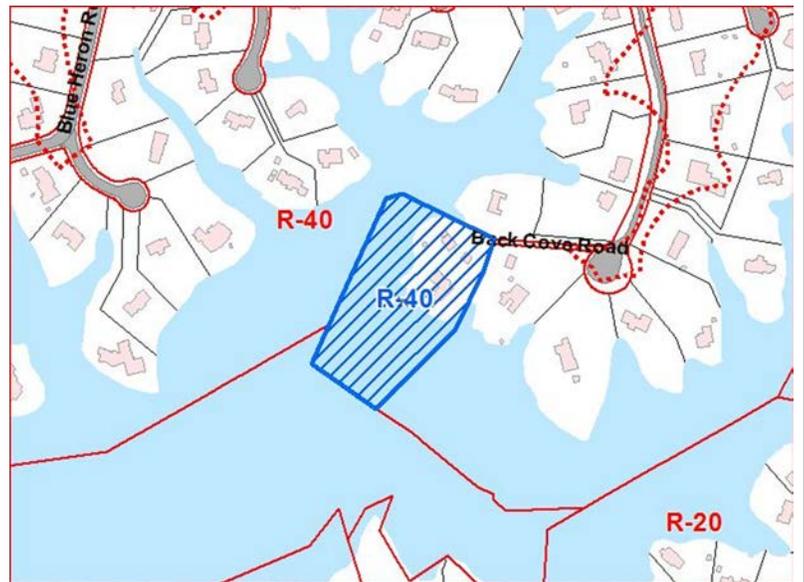
50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as submitted



Summary of Proposal

Demolition Details

- None

Construction Details

- Outdoor kitchen
- Fire pit
- Paver patio

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 8

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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

Shoreline

Shoreline is hardened with a rip rap revetment at the toe of the slope and heavily vegetated with *Juniperus conferta*, Shore Juniper or a cultivated species thereof. The vegetation along the entire reach of the shoreline is well established and there are no signs of erosion present.

Riparian Buffer

Heavily Wooded Lot

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

Evaluation and Recommendation

The applicant's request is to construct an outdoor patio space that would expand the existing walkway from the swimming pool area to the wood deck and residence, as depicted on the submitted Chesapeake Bay Preservation Area (CBPA) exhibit. During the site visit, Staff evaluated the condition of the shoreline and existing upland improvements for signs of erosion and nonpoint source stormwater discharge. With the performance standards set forth within the CBPA Ordinance intended to prevent a net increase in nonpoint source pollution from new development and redevelopment, as well as to promote infiltration of stormwater into the ground, Staff is of the opinion, given the stability of the existing vegetative cover along the shoreline and well-kept conditions of the existing upland improvements, that the proposed improvements and redevelopment of this lot are in harmony with the purpose and intent of the CBPA Ordinance.

Should the Board desire to consider granting this variance request, the following comments relative to the findings of the CBPA Ordinance specific to this variance request are offered for deliberation.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Area who are subject to the provisions of this Ordinance and are similarly situated as the redevelopment of this lot is similar to other lots within this neighborhood that have expanded accessory structures within the RPA due to the location of existing improvements – most of which were constructed prior to the adoption of the CBPA Ordinance and delineation of the 100 foot RPA buffer.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance, therefore placing portions of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief given the location of the proposed improvements will be within an area currently devoted to turf and within close proximity to existing upland improvements.
- 4) The variance is in harmony with the purpose and intent of the CBPA Ordinance, will not be injurious to the neighborhood or of substantial detriment to water quality, or otherwise detrimental to the public welfare as the proposed improvements being located in an area of relatively flat topography, and the construction access being off of an adjacent hard surface. These are similar to several redevelopment projects on adjacent parcels that have encroached into the 100 foot RPA buffer with improvements on lots that were developed prior to the adoption of the CBPA Ordinance.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, the applicant proposes to expand the existing planting beds along the perimeter of the lot, further vegetating the established shoreline to provide additional infiltration of stormwater runoff.

Staff recommends the following 9 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.

5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
6. 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. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **725 square feet x 200 percent = 1,450 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: **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.

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

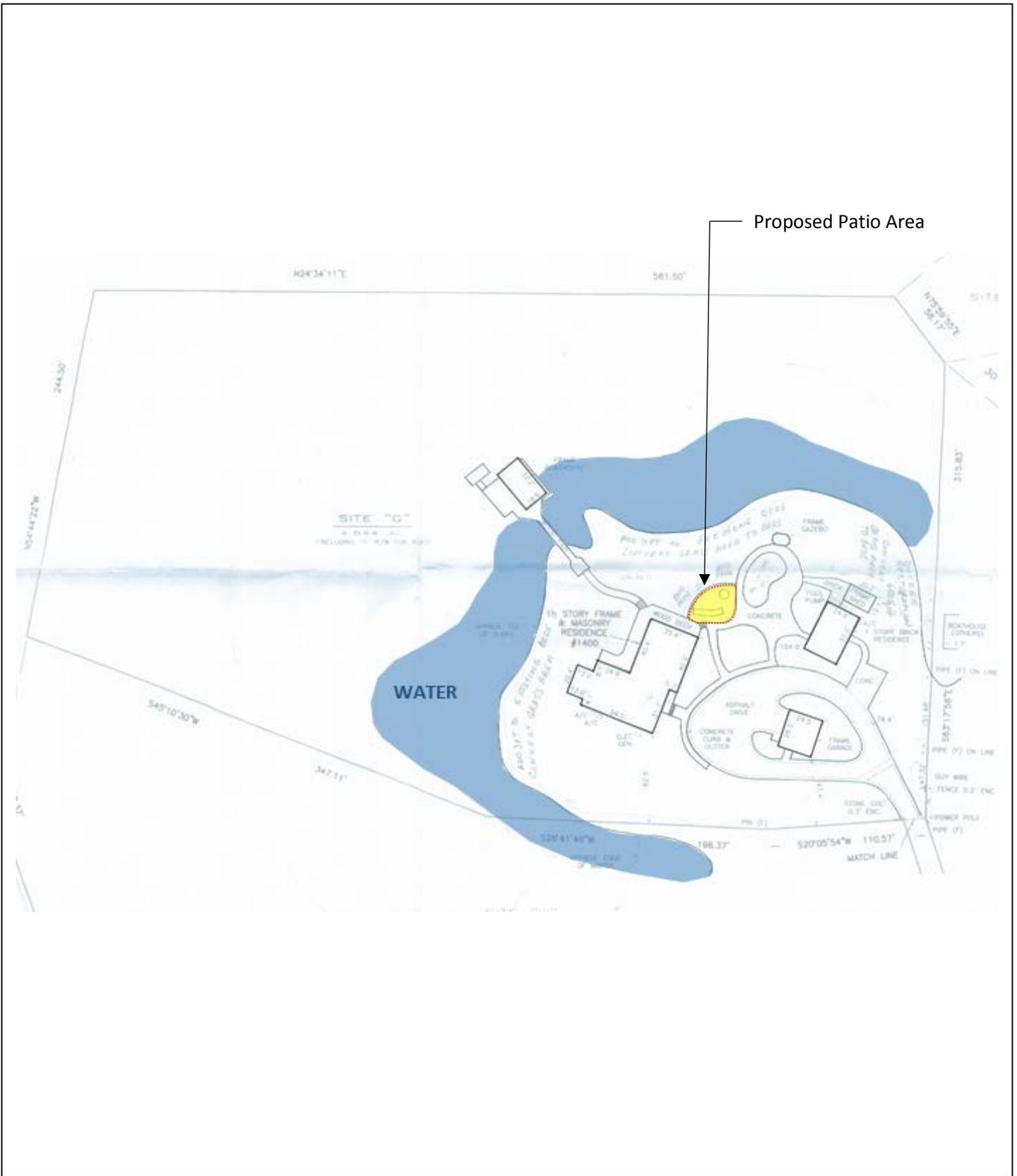
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

Site Aerial



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Cynthia C. Earhart Revocable Trust

DISCLOSURE STATEMENT FORM

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

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

SECTION 1 / APPLICANT DISCLOSURE

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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: JP Baker & Co. INC.
If an LLC, list all member's names:

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

James A. Baker, President
Pamela L. Hite-Baker, Corporate Secretary

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

(A) List the Property Owner's name: Cynthia C. Earhart
If an LLC, list the member's names:



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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input 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	
<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"/>	

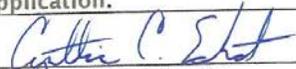
If yes, what is the name of the official or employee and what is the nature of the interest?



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.

	Cynthia C. Earhart	11/12/18
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

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

AS NEEDED, PAGE LEFT

Variance Request

Encroachment into the Resource Protection Area (RPA) 50 foot seaward and 50 foot landward buffers to construct a new single family residence and swimming pool.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

4/23/1958

Map Book 44, Page 53

GPIN

1499-28-8265

SITE AREA

10,878 square feet or 0.250 acre

SITE AREA OUTSIDE OF WATER/WETLANDS

10,878 square feet or 0.250 acre

EXISTING IMPERVIOUS COVER OF SITE

3,078 square feet or 28.3 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

4,877 square feet or 44.8 percent of site

Area of Redevelopment in RPA

2,524.6 square feet

Area of New Development in RPA

2,352.1 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Demolish existing house and associated accessory structures

Construction Details

- Single family residence
- Pervious paver driveway and associated walkways
- Swimming pool with concrete pool deck
- Retaining wall

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Zone AE, Base Flood Elevation (BFE): 7

Soil Type(s)

Psamments Series (moderately well-drained soils, disturbed from excavation)

Shoreline

Shoreline is hardened with a metal bulkhead covered with a 1.5-foot wide wood deck

Riparian Buffer

Sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 5
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing canopy tree removal request: Trees being requested for removal are within the delineated limits of construction, shown as approximately 15 feet outboard of the proposed improvements.

Evaluation and Recommendation

As means to evaluate this redevelopment request, Staff used the following deductive analysis regarding the expansion of proposed improvements within the Resource Protection Area (RPA) against existing site conditions and environmental events such as tidal flooding and storm surge.

- *Conservation priorities to help facilitate landward movement of coastal wetlands dislocated by sea level rise.* The existing waterway is a manmade canal with bulkheads along both shorelines.
- *Given value of all existing wetland classes (vegetated and non-vegetated tidal wetlands, transitional marsh, and non-tidal marsh), transitional uplands, and riparian uplands if present.* No wetland resources are present within the man-made canal.

Charles and Ruth Stang

Agenda Item 9

Page 122

- *Identify existing nonpoint and point source pollution points if present against application request and methodology to prevent the variance from causing or contributing to a degradation of water quality.* No nonpoint [all properties have nonpoint source pollution running off of them] or point source pollution discharges are obviously present. Staff is of the opinion that the lot is a suitable candidate for the use of structural best management practices given the underlying soil conditions.
- *Evaluation of species biodiversity and existing habitat restraints.* Staff is of the opinion that species diversity and habitat would be enhanced with the installation of buffer restoration.
- *Soil conditions – very poorly drained, poorly drained, somewhat poorly drained, somewhat well drained, well drained, very well drained.* As mentioned above, Staff is of the opinion that the lot is a suitable candidate for the use of structural best management practices given the underlying soil conditions.

With the intent to prevent a net increase in nonpoint source pollution by both new development and redevelopment of previously developed land, Section 106 (A)(3) of the CBPA Ordinance states that land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the use or development proposed through the incorporation of structural or nonstructural urban best management practices. Given the permeability of the underlying soils and the site’s flat topography that offer low runoff velocities of stormwater, Staff is off the opinion that the use of structural (permeable paver system) best management practices coupled with nonstructural (bioretention or infiltration) best management practices for stormwater treatment provides merit towards this variance request being in harmony with the findings of Section 110 (H) of the CBPA Ordinance.

Should the Board desire to consider granting this variance request, the following comments relative to the findings of the CBPA Ordinance specific to this variance request are offered by the applicant’s agent for the Board’s deliberation.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *“this 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 been granted so the approval of this request will in no way confer any special privilege to the current owners.”* Staff concurs.
- 2) 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 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 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.”* While an argument can be made that *“the minimum necessary is a very arbitrary concept”*, Staff is of the opinion that the redeveloped and developed areas within the 50 foot seaward buffer with a swimming pool and patios is the minimum necessary to afford relief when compared to similarly situated parcels in the vicinity. Staff based this opinion off of post-development impervious cover pertaining to previous CBPA Board variances on Breezy Road (averaging 42 to 44 percent) against the proposed post-development impervious cover percent associated with this request (44.8 percent).
- 4) The applicant’s agent offers that *“the purpose and intent of the ordinance is simply water quality, to prevent pollution of the Bay as a result of non-point source pollution. Most of these homes currently have no storm water treatment on site. As a result of this variance request the owner will install grass swales and permeable pavers, buffer restoration in areas currently devoted to turf and even off-site treatment via the Lynnhaven Oyster Heritage Program all to benefit water quality”* in an effort to ensure that this

variance request will be in harmony with the purpose and intent of the CBPA Ordinance, not injurious to the neighborhood, nor be of substantial detriment to water quality, or otherwise detrimental to the public welfare. Staff offers that the redevelopment of portions of the impervious cover will promote infiltration of stormwater, thereby furthering the intent.

- 5) The applicant's agent offers "*strict erosion and sedimentation control measures do more to halt non-point source pollution, stock piling materials on existing hard surfaces, single point access way and revegetating any denuded areas all help to limit pollution from entering the adjacent waters*" as a means to manage towards a no net increase in nonpoint source pollution load. Staff offers, in addition to the above statement, that there is mutual agreement that the site's flat topography and high infiltration rates of the existing soil profile help reduce the potential for nonpoint source pollution from reaching adjacent waterways. Staff is of the opinion that this lot and several in this area are impacted more by abnormal tidal events that breach the existing bulkhead and infiltrate the existing stormwater drainage system than any impacts from the resulting percentage of impervious cover.

Given the above comments, Staff recommends the following 17 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed 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:
2,352 square feet x 200 percent = 4,704 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: **6 canopy trees, 6 understory trees, 12 large shrubs, and 24 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 existing 18 inch Oak, delineated as tree number 1 on sheet C02 shall be preserved and the proposed swimming pool and associated retaining wall shifted to the east by approximately 3 feet to lessen the impact on the existing root system.
14. The proposed driveway and walkways shall be constructed of a permeable pavement system.
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 \$539.00 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. The conditions and approval associated with this variance are based on the exhibit plan dated November 27, 2018, prepared by Gallup Surveyors & Engineers, signed November 27, 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.

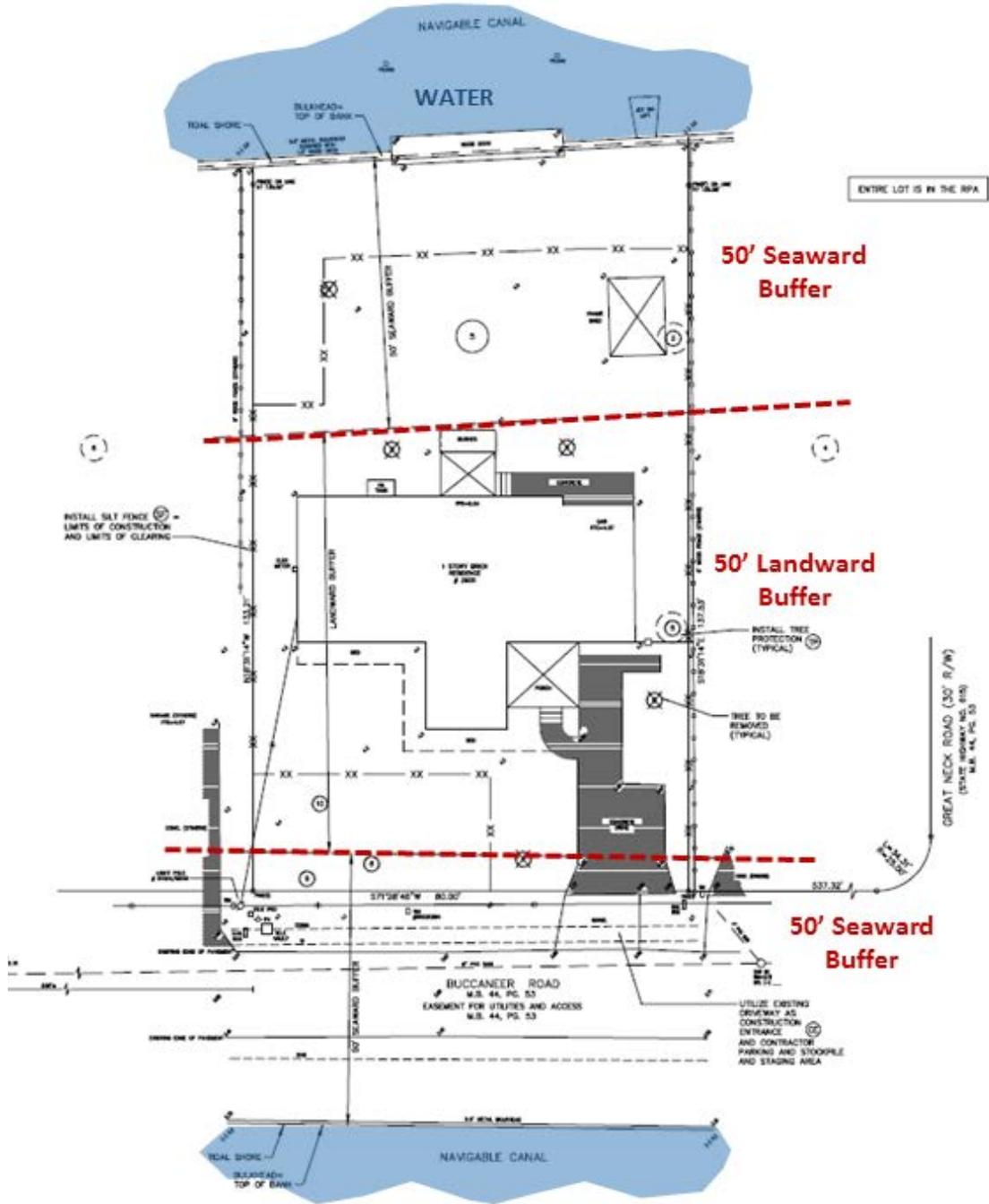
**** NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

*****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.

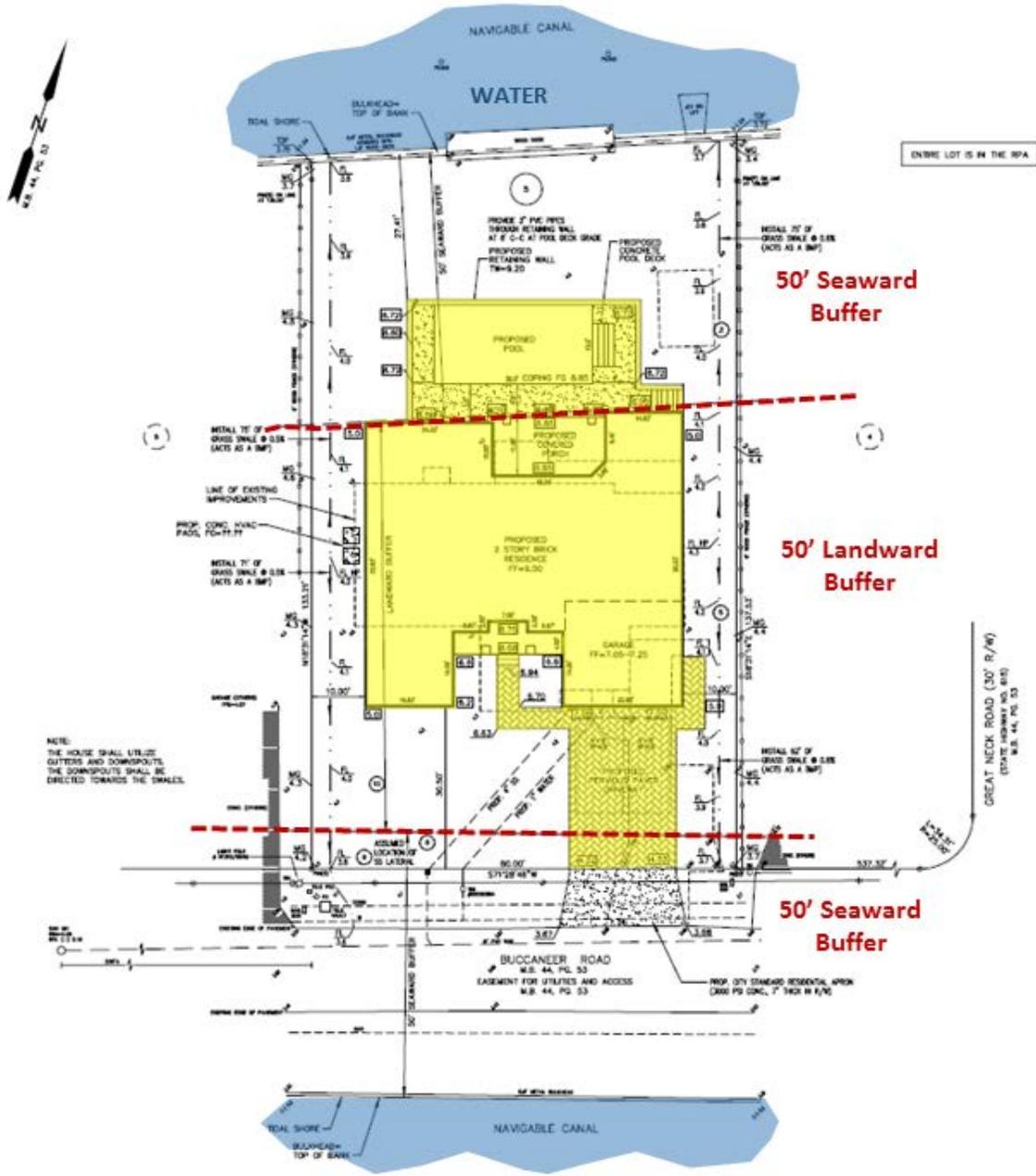
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME

Charles & Ruth Stange

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: Charles & Ruth Stange
If an LLC, list all member's names:

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

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

NA

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

(A) List the Property Owner's name: Charles & Ruth Stange
If an LLC, list the member's names:

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

N/A

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

N/A

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Cherry, Bechard, & Hollensted
<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	Custom Structures Building Co
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Gallup Surveyors & Engineers / Billy Barrington
<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.

	Charles Stenge	12/4/18
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 to construct a new single family residence and associated driveway

Applicant's Agent

Eddie Bourdon

Staff Planner

PJ Scully

Lot Recordation

12/20/1952

Map Book 34, Page 7

GPIN

1489-52-2513

SITE AREA

49,841 square feet or 1.144 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

41,428 square feet or 0.951 acre

EXISTING IMPERVIOUS COVER OF SITE

142.1 square feet or 0.34 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

7,737 square feet or 18.7 percent of site

Area of Redevelopment in RPA

142.1 square feet

Area of New Development in RPA

6,716.4 square feet

Location of Proposed Impervious Cover

50 foot Landward Buffer

100 foot Variable Width Buffer

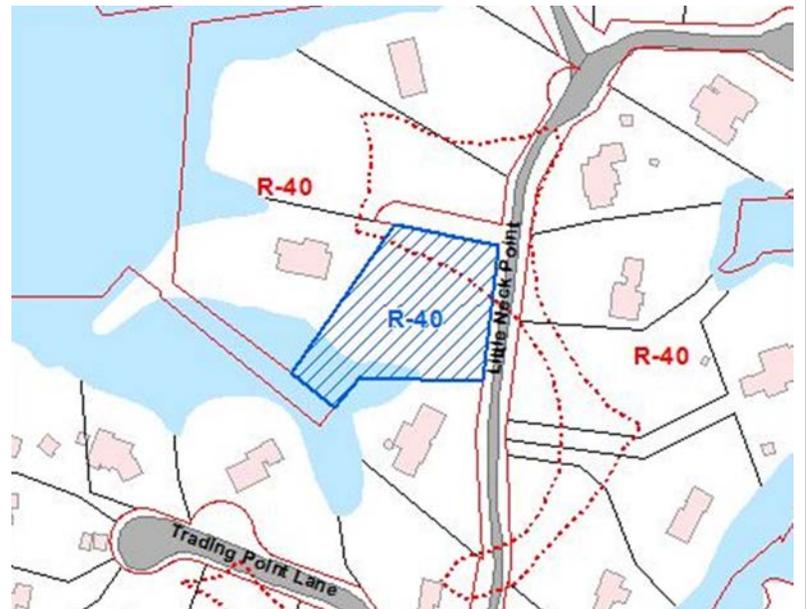
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Deny as submitted



Summary of Proposal

Demolition Details

- Undeveloped lot

Construction Details

- Single family residence with associated walkways
- Concrete driveway

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Multiple Zones – 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 in a natural state with a stable marsh established at the toe of the slope within the adjacent cove. Moderate maintenance should be performed to limb up low hanging branches shading existing tidal marsh.

Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 4
- Number of existing understory trees requested for removal within the RPA: 9
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: n/a
- Evaluation of existing canopy tree removal request: Trees being requested for removal are within the delineated limits of construction, shown as approximately 15 feet outboard of the proposed improvements. Given the natural state of the parcel, Staff is concerned with the compaction that may occur to the soil profile during construction. Compaction outboard of the limits of the proposed improvements may have long-term impacts to the root structure of the existing canopy trees being preserved if not properly managed during construction. Should the Board desire to grant the variance request, Staff recommends condition 12 to address this concern, which will require the submission of an arborist report during the detailed site plan review process. This report, to be prepared by a certified arborist, shall address the management of the existing canopy trees during construction and the methodology to minimize impacts to the preserved root structures.

Evaluation and Recommendation

Staff is of the opinion that the proposed development of this lot is reasonable based on the following.

- The existing topographic slope of the lot in the area of the proposed improvements is less than 1 percent. The minimal slope allows for slower run-off rates of stormwater from the proposed improvements and results in increased opportunities for the infiltration of stormwater.
- The impact to the existing canopy trees within the riparian buffer ecosystem is minimal with 4 canopy trees and 9 understory trees being requested for removal, or 13 trees in total.
- Of the 7,737 square feet of impervious cover (18.7 percent), 5,232 square feet is located within both the variable width buffer and the Resource Management Area (RMA).

As for the proposed driveway, this improvement accounts for approximately 2,505 square feet of the overall impervious cover for the site. This square footage is approximately 37 percent of the proposed 6,716 square feet of impervious cover within the RPA. As submitted, Staff is of the opinion that the proposed driveway should not encroach into the 100 foot RPA buffer and that access to the lot should occur off of the adjacent 30-foot road to the north. Despite Staff's viewpoint, the applicant's agent has provided comments, relative to the findings of the CBPA Ordinance specific to this variance request, as a means of justification for approval of the project as submitted.

- 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 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 been granted so the approval of this request will in no way confer any special privilege to the current owners."*
- 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 minimum necessary is a very arbitrary concept."* While the amount of impervious cover within the 100 foot RPA may be minimal – approximately 37 percent of the overall impervious cover of the site, Staff is concerned that the proposed layout does not minimize encroachment into the 100 foot RPA buffer when an alternative means of ingress/egress is possible. There are long-term effects that this development may have on the existing riparian buffer ecosystem if approved as submitted.
- 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 purpose and intent of the ordinance is simply water quality, to prevent pollution of the Bay as a result of non-point source pollution. Most of these homes currently have no storm water treatment on site. As a result of this variance request the owner will install bioretention beds, buffer restoration in areas currently devoted to turf and even off-site treatment via the Lynnhaven Oyster Heritage Program all to benefit water quality."* Staff concurs.
- 5) *"Strict erosion and sedimentation control measures do more to halt non-point source pollution, stock piling materials on existing hard surfaces, single point access way an 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.

Given Staff’s position that access to the lot should occur off of the adjacent 30-foot road to the north, should the Board desire to consider granting this variance request as submitted, the following 19 comments relative to the findings of the CBPA Ordinance specific to this variance request are offered for 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. **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. **Inclusive of those trees within the Resource Management Area (RMA) and RPA**, 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 certified arborist report shall be provided at detailed site plan review that documents the scope of work, site analysis, methodology for protecting those trees to be preserved within the RPA, with recommendations regarding root pruning and abating soil compaction to those trees adjacent to the proposed improvements.
13. A maximum of 1,000 square feet of turf is permitted for this property. Said turf shall not be permitted within the 50 foot seaward or 50 foot landward buffers. All remaining pervious 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 Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable: **6 understory trees, 32 large shrubs, and 48 small shrubs.**

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

14. The proposed drive aisle or stem of the driveway shall be constructed of gravel or a permeable pavement system.
15. The proposed infiltration bed/storage tanks shall be located 15 feet landward of the top of bank feature.
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 \$1,539.08 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.**
18. 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.
19. The conditions and approval associated with this variance are based on the exhibit plan dated November 8, 2018, prepared by Gallup Surveyors & Engineers, signed November 17, 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. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

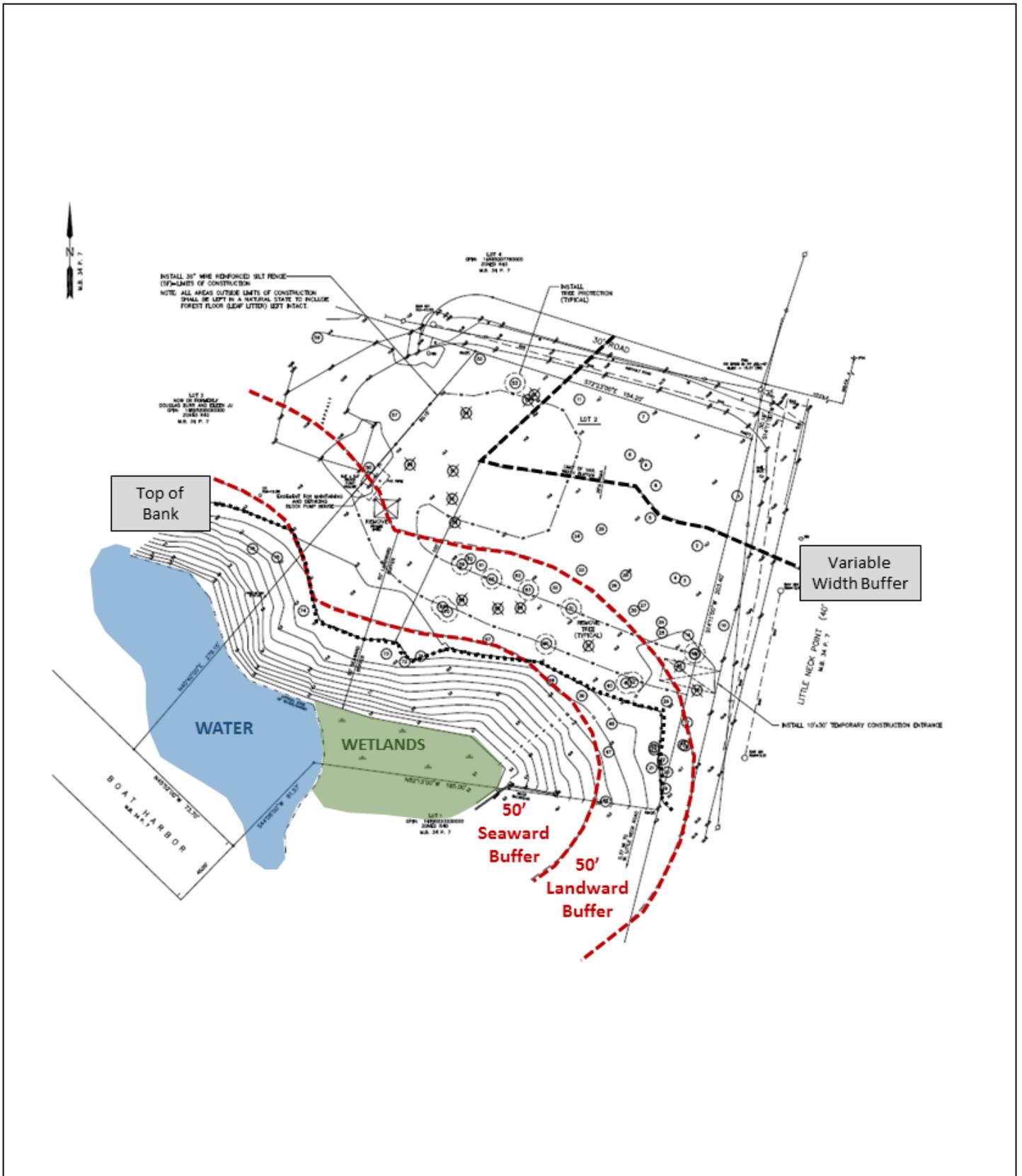
**** NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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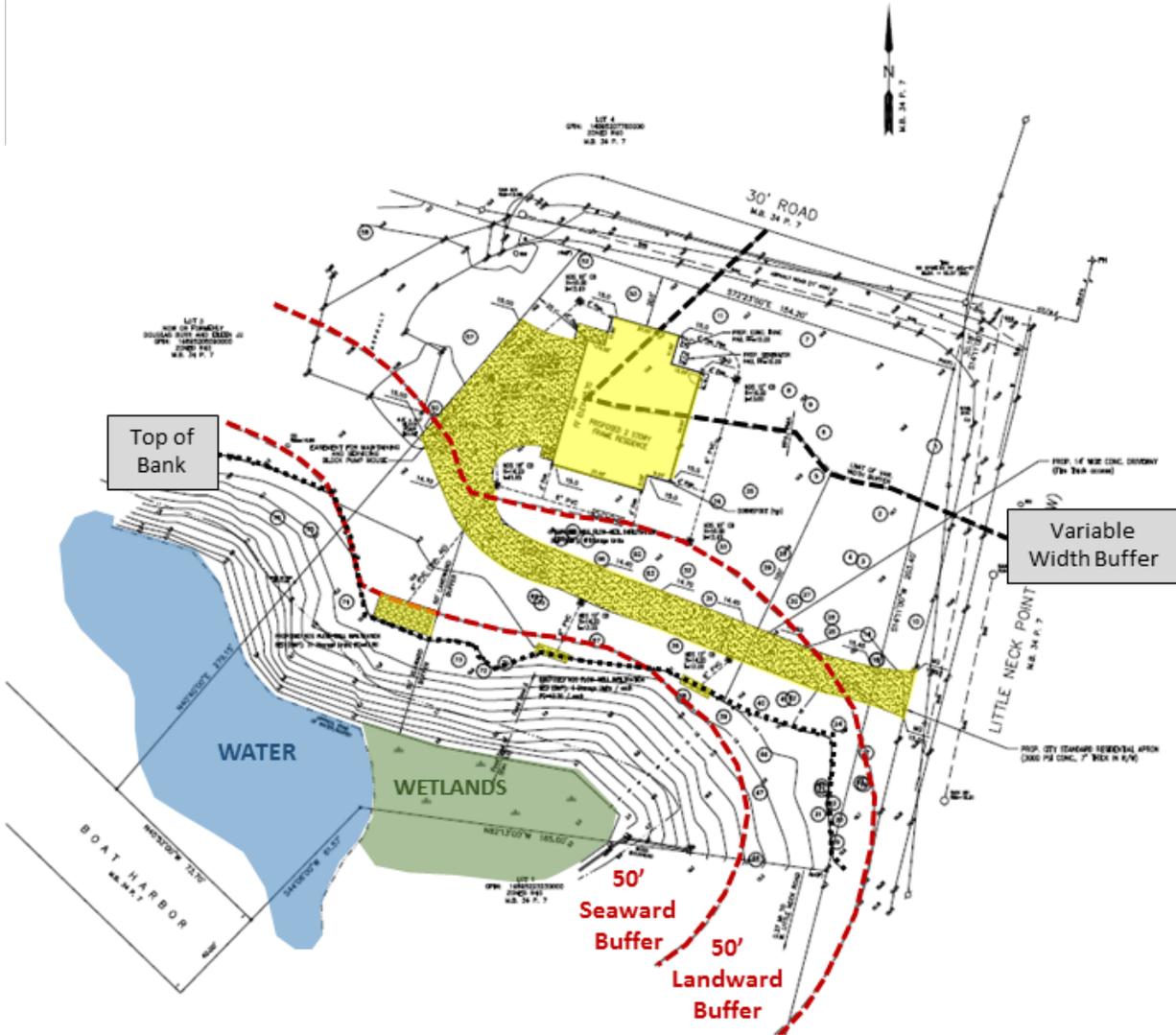
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Douglas Burr & Eileen Ju

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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: DOUG BURR & EILEEN JU
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

(A) List the Property Owner's name: DOUG BURR & EILEEN JU
If an LLC, list the member's names:



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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Gerrie West, Doug Aurand
<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	Bruce Gallup PE, Steve Boone LS
<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)	Bancorp South
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Eddie Bourdon
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

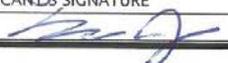
If yes, what is the name of the official or employee and what is the nature of the interest?



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.

	DOUGLAS S. BURR	12/3/18
APPLICANT'S SIGNATURE	PRINT NAME	DATE
	EILEEN JU	12/3/18

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

AS NEEDED, PAGE LEFT BLANK



Applicant and Property Owner **Douglas Burr & Eileen Ju**
 Address **3825 Little Neck Point**
 Public Hearing **January 28, 2019**
 City Council District **Lynnhaven**

Agenda Item

11

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer with the expansion to the primary structure and deck and to construct a swimming pool

Applicant's Agent

Eddie Bourdon

Staff Planner

PJ Scully

Lot Recordation

12/20/1952
 Map Book 34, Page 7

GPIN

1489-52-0509

SITE AREA

56,591 square feet or 1.299 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

38,843 square feet or 0.892 acre

EXISTING IMPERVIOUS COVER OF SITE

7,480.6 square feet or 19.3 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

10,714.7 square feet or 27.6 percent of site

Area of Redevelopment in RPA

6,572.0 square feet

Area of New Development in RPA

4,147.7 square feet

Location of Proposed Impervious Cover

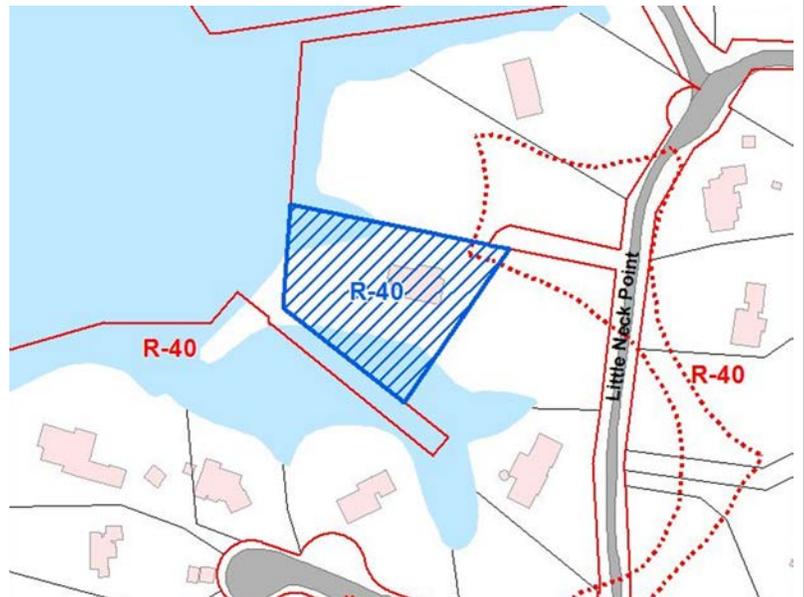
- 50 foot Seaward Buffer
- 50 foot Landward Buffer
- 100 foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- 1-story single family residence
- Brick walk
- Wood deck

Construction Details

- Single family 2-story residence with associated covered paver porch, covered paver patio and paver walkways
- Concrete driveway
- Swimming pool, hot tub and play ledge with paver pool patio

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Multiple Zones – Zone X, AE Base Flood Elevations (BFE): 8 and Zone VE – BFE: 10

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 in a natural state

Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 1
- Number of existing understory trees requested for removal within the RPA: 1
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing canopy tree removal request: Trees being requested for removal are within the delineated limits of construction, and located within the Resource Management Area (RMA). There are no trees proposed to be removed within the RPA with this variance request.

Evaluation and Recommendation

The variance request proposes to redevelop the majority of this property, which was originally platted in 1952, taking advantage of approximately 63 percent of the existing impervious cover. A majority of the new impervious cover will be located within the 50 foot landward buffer for walkways around the residence and within the variable width buffer of the RPA for the expansion of the existing driveway. The layout of the proposed improvements is conscience to the

sensitive portions of the lot and limits land disturbance associated with the proposed improvements to the flat and stable areas of the lot, landward of the top of bank feature. As mentioned above, no trees are proposed to be removed within the RPA.

The applicant's consciousness towards redeveloping this property in a manner consistent with the CBPA Ordinance performance standards is reflected by the intent to preserve and restore environmental conditions, combined with the extent of site analysis performed by the applicant's design professionals. Staff supports this request and provides a brief analysis below of the comments provided by the applicant's agent relative to the findings of the CBPA Ordinance specific to this variance request for the Board's deliberation.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *"this 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 been granted so the approval of this request will in no way confer any special privilege to the current owners."* Staff concurs.
- 2) 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 lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing this property within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"the minimum necessary is a vary 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."* Staff is of the opinion that the applicant's attempt to avoid the most sensitive areas of land, to design a project with regard to the existing geometry of the upland area, to leave as much area as possible in a natural state, including the entire 50 foot seaward buffer, while building a house that will encroach into the front and side yard setbacks that will be in keeping with the size and location of other dwellings in the neighborhood all provides merit to being the minimal necessary.
- 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 purpose and intent of the ordinance is simply water quality, to prevent pollution of the Bay as a result of non-point source pollution. Most of these homes currently have no storm water treatment on site. As a result of this variance request the owner will install bioretention beds, buffer restoration in areas currently devoted to turf and even off-site treatment via the Lynnhaven Oyster Heritage Program all to benefit water quality."* Staff concurs.
- 5) *"Strict erosion and sedimentation control measures do more to halt non-point source pollution, stock piling materials on existing hard surfaces, single point access way an 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.

Given the above comments, Staff recommends the following 18 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **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:
4,142 square feet x 200 percent = 8,284 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: **11 understory trees, 22 large shrubs, and 33 small shrubs.**

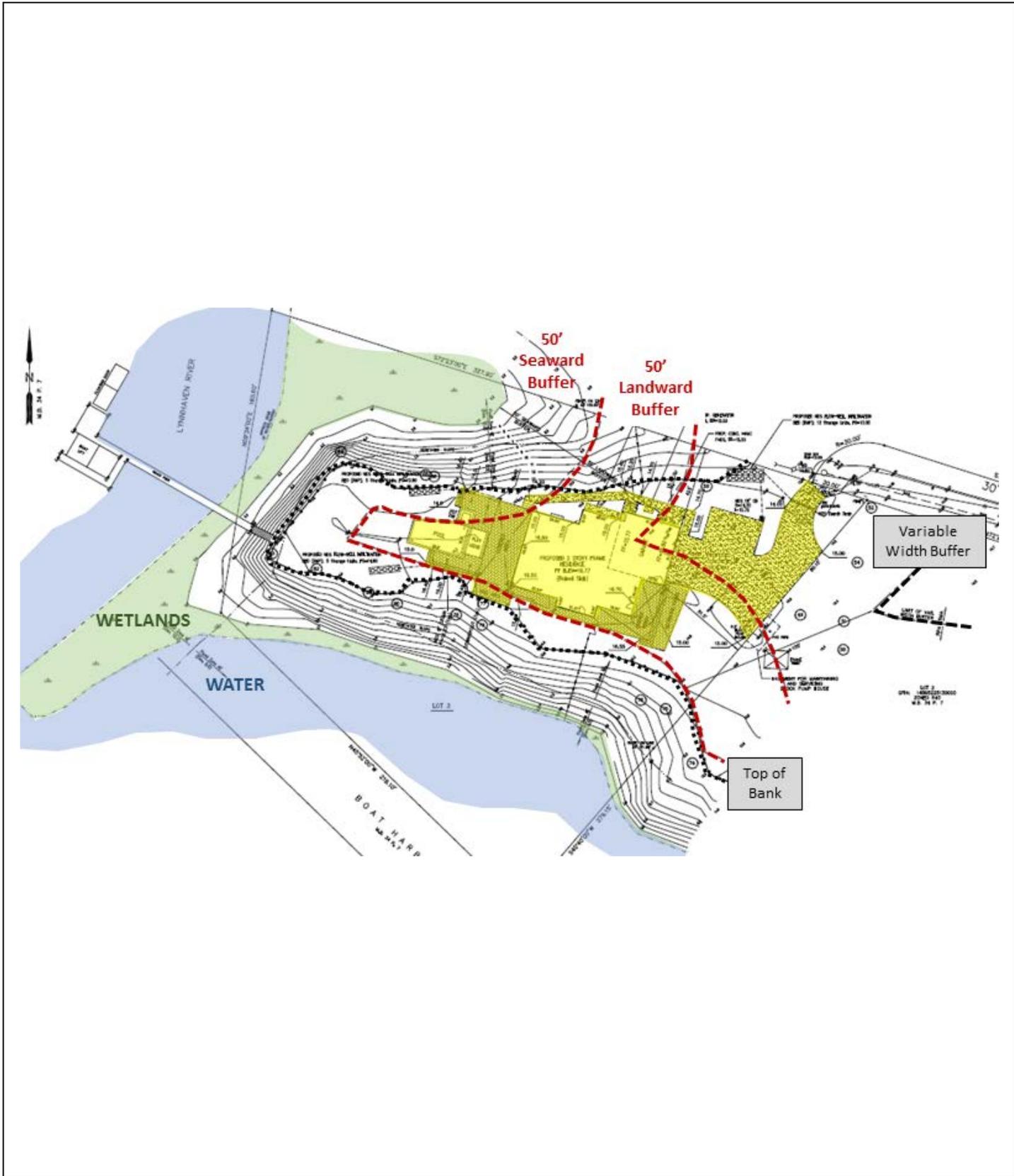
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13. **The pool shall be constructed prior to or concurrent with the residence.**
14. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
15. ****As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$950.16 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. 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.
17. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
18. The conditions and approval associated with this variance are based on the exhibit plan dated November 8, 2018, prepared by Gallup Surveyors & Engineers, signed November 17, 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. 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.

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CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Douglas Burr & Eileen Ju

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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	Gerrie West, Doug Aurand
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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?



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	<i>Douglas S. Burr</i>	12/3/18
APPLICANT'S SIGNATURE	PRINT NAME	DATE
	<i>EILEEN JU</i>	12/3/18

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

AS NEEDED, PAGE LEFT BLANK

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a new bulkhead approximately 6 feet seaward of the existing bulkhead

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

1/27/1959

Map Book 46, Page 24

GPIN

1499-57-3345

SITE AREA

11,405 square feet or 0.262 acre

SITE AREA OUTSIDE OF WATER/WETLANDS

11,405 square feet or 0.262 acre

EXISTING IMPERVIOUS COVER OF SITE

5,147 square feet or 45.13 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

5,147 square feet or 45.13 percent of site

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

0 square feet

Creation of Uplands in RPA

1,030 square feet

Location of Proposed Impervious Cover

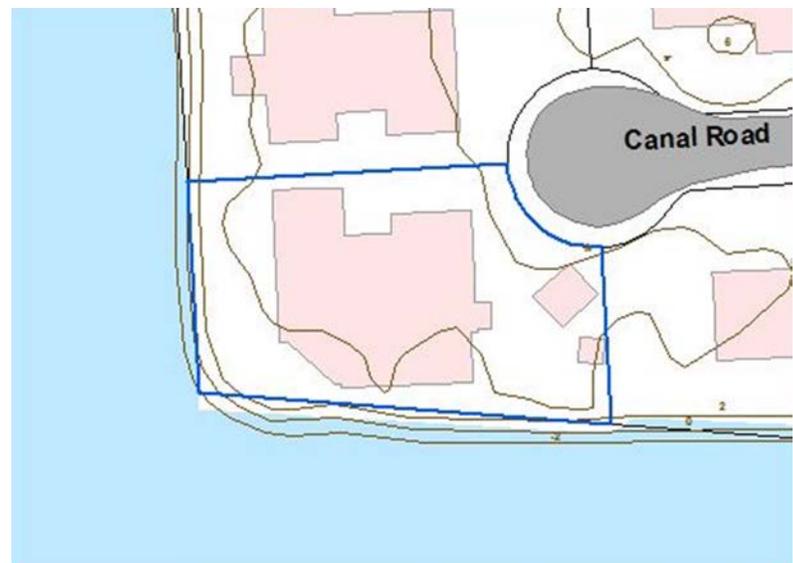
50 foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Deny as submitted



Summary of Proposal

Demolition Details

- None

Construction Details

- New bulkhead 6.1 feet seaward of existing failed bulkhead

CBPA Ordinance Variance History

April 28, 2008 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted demolish the existing house and construct a new house, deck and driveway with the following conditions:

1. *A pre-construction meeting shall be convened with Civil Inspections prior to any land disturbance, inclusive of demolition.*
2. *Wire reinforced 36" erosion and sedimentation control measures (silt fences) shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established.*
3. *Permanent and / or temporary soil stabilization as determined by staff shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy.*
4. *Construction limits shall lie a maximum of 10' seaward of improvements.*
5. *The construction access way shall be noted on the site plan, as well as the stockpile staging area.*
6. *Stormwater from existing and proposed impervious cover shall be conveyed to stormwater management facilities.*
7. *The proposed pool equipment pad shall be eliminated and pool equipment installed over proposed decking.*
8. *The pool shall be refurbished prior to or concurrent with the residence.*
9. *Under deck treatment of sand and gravel shall be installed. The proposed trex decking shall be installed with gaps to allow infiltration of stormwater. The portion of trex decking proposed between the pool house and pool shall be eliminated.*
10. *The two proposed wood platforms adjacent to the existing bulkhead shall employ under deck treatment.*
11. *Buffer restoration shall be installed which results in 5% of the remaining pervious area devoted to turf and shall utilize bayscape landscaping principles. The required restoration shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained as such and not removed or allowed to revert to turf in the future. In addition to the aforementioned buffer restoration area, a minimum of twenty (20) trees shall be installed and shall be comprised of 50% deciduous and 50% evergreen species. The required trees shall be evenly distributed throughout the lot to the greatest extent*

practicable. Said restoration shall be installed prior to the issuance of the certificate of occupancy. Said condition shall be so noted on the site plan.

12. A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed. The landscape plan shall clearly delineate existing naturalized area (forest floor), planting beds, and turf zones.

13. The conditions and approval associated with this variance are based on the site plan dated 12-7-07 with a sealed date of 3-20-08, prepared by WPL.

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

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

The April 28, 2008 Board granted variance has not been acted upon.

Environmental Conditions

Flood Zone

Zone AE, Base Flood Elevation (BFE): 7

Soil Type(s)

Psamments Series (moderately well-drained soils, disturbed from excavation)

Shoreline

Shoreline is hardened by a wood bulkhead that has failed. The applicant received Wetlands Board authorization to impact non-vegetated wetlands that have established behind the failed bulkhead on November 19, 2018.

Riparian Buffer

Sparsely wooded lot

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

Evaluation and Recommendation

In November 2018, the Wetlands Board approved the installation of a new bulkhead approximately 6.1 feet seaward of the existing failed wooden bulkhead and approved the filling of non-vegetated wetlands that had established behind the bulkhead. While the typical bulkhead replacement is located no farther seaward into the waterway than 2 feet, the unique site conditions and previously placed concrete required an alternative solution to address the severe erosion problem on this property. The applicant provided an engineer's evaluation to justify this amount of encroachment, which in turn will create as much as 1,030 square feet of new uplands, which necessitates review by the CBPA Board.

Although Staff does not typically support such an extensive encroachment into an existing water channel, Staff does acknowledge that there is a severe detriment to water quality occurring with the on-going erosion of uplands due to the failed bulkhead. In the absence of demolishing the house in order to provide construction access for the new bulkhead from the land, and all other alternatives presented to Staff during the multiple review and authorization process, CBPA

Staff is of the opinion that creating additional uplands affords a special privilege to the property owner 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. However, abating the ongoing shoreline erosion is essential in order for this lot, as seen in its current condition, to be in harmony with the intent of the CBPA Ordinance by protecting existing high quality state waters and comply with the performance standards established by the CBPA Ordinance to provide a means to minimize erosion and sediment potential.

Given the current condition of the lot and the lack of maintenance provided by previous owners of this lot, the applicant's position along with Staff's response are below regarding the Board's deliberation relative to the findings of the CBPA Ordinance specific to this variance request.

- 1) The applicant's agent provides that granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because "*the property floods. Similar properties in the area have been filled.*" While Staff respects this point of view, flooding of the lot does not necessitate the need to encroach further seaward. One option would be to elevate the structure to minimize potential flooding hazards. Staff's position is that the encroachment seaward is a creation of land, albeit to abate a detriment to water quality due to the eroding uplands, but in Staff's opinion this request is a special privilege that could lead to opening the door to a multitude of similar requests. To address this concern, Staff recommends conditions below that will limit upland improvements associated with impervious cover for the Board's deliberation.
- 2) Staff offers that the encroachment into the RPA on this lot is based upon conditions and circumstances that have been created the applicant and the applicant's predecessor in title. Staff is of the opinion that the shoreline for this lot has been in a state of disrepair for an extended period of time and that the lack of action to correct the serious eroding shoreline, and the outlying condition of the concrete debris field, further exasperates the situation. Staff offers for deliberation that all associated agencies (Federal and State) have granted permission or authorized impacts to the adjacent wetlands and waterways to correct the situation. In the absence of an established riparian ecosystem, Staff is of the opinion that if conditioned and ultimately implemented properly, the halting of the ongoing erosion and degradation of water quality will outweigh the encroach request, specific to this lot and only to the stated circumstances.
- 3) The applicant's agent provides that the variance is the minimum necessary to afford relief because the applicant is "*proposing fill only, no new impervious area.*" Staff is of the opinion that the minimum necessary to afford relief is the replacement of the bulkhead in line with the existing bulkhead. Should the Board desire to deliberate the minimum necessary to afford relief in regards to an encroachment seaward, then Staff is of the opinion that the minimum necessary to relief starts at the point where sheet piles associated with the proposed bulkhead could successfully be driven through the concrete debris field.
- 4) The applicant's agent provides that 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 "*no loss of buffer will occur. New bulkhead will halt an ongoing erosion problem.*" Staff is of the opinion that the current condition of the shoreline is a detriment to water quality and if failure of the bulkhead continues could be more injurious to the neighborhood.
- 5) The applicant's agent provides that "*no impervious areas have been added, only fill and a bulkhead*" as a means to manage towards a no net increase in nonpoint source pollution load. Staff acknowledges the applicant's point of view.

Given the above comments, Staff offers the following 14 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality should the Board desire to deliberate the 6 foot encroachment into the adjacent waterway associated with this variance request.

Recommended Conditions

1. With regards to the redevelopment of the existing bulkhead, a pre-construction meeting shall be held with the CBPA Inspector and Waterfront Operations 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. 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.
5. When the upland improvements are redeveloped, 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.
6. When the upland improvements are redeveloped, construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
7. The maximum impervious cover of the lot shall not exceed 5,147 square feet nor shall encroach any further seaward than the limits of the existing improvements on the lot. Said limits of impervious cover shall not be seaward of the 50 foot landward buffer.
8. When the upland improvements are redeveloped, 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 for the upland improvements 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: **5,147 square feet x 200 percent = 10,299 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: **6 canopy trees, 12 understory trees, 24 large shrubs, and 36 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. This variance and associated conditions **will supersede** the conditions of the Board variance granted April 28, 2008.
13. ****As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$236.04 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.**
14. The conditions and approval associated with this variance are based on the exhibit plan dated February 23, 2018, prepared by Gallup Surveyors & Engineers, LTD., signed April 7, 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



Engineer's Report – Bulkhead Evaluation and Concrete Debris Field

Structural
Engineering
•
Special Inspections

www.smandf.com



Daniel W. Speight, P.E.

Matt J. Marshall, Jr., P.E.

Jonathan Walesczyk, P.E.

J. Stephen Cowan, P.E.

July 16, 2018

City of Virginia Beach
Planning & Community Development
Wetlands/Waterfront Division
2405 Courthouse Drive, Room 191
Virginia Beach, VA 23456

Re: Bulkhead at 2725 Canal Road, Virginia Beach, VA
SM&F Job No.: 17.080 #18-0390



ADDITIONAL INFO
REVISION

To Whom it May Concern:

We have written this letter regarding the bulkhead at the referenced project. The present condition of the bulkhead is dire and has collapsed at several locations along its length. The collapsed bulkhead has placed the existing house in a precarious situation and the foundations are presently being adversely effected.

The owner of the property hired a bulkhead contractor to replace the existing wood bulkhead with a new wood bulkhead. The bulkhead contractor began to install the piles and quickly discovered the presence of very large concrete boulders and debris on the waterside of the existing bulkhead. The bulkhead contractor abruptly abandoned the project, leaving the owner in a very bad situation. He left the site with materials the owner had already paid for and without warning. The owner has an on-going legal case pending against the bulkhead contractor.

The owner contacted the writer shortly thereafter to serve as an expert witness in his legal case against the bulkhead contractor; and design a new bulkhead that one could actually install. We probed the waterside of the bulkhead and informed the owner of the existence of significant concrete boulders and debris. We recommended the owner hire a diving company to determine the extent of the concrete debris (depth and how far it extends outward from the existing bulkhead). The owner hired a diving company, as we requested, and they found the existence of significant concrete boulders and debris. The diving company found the debris to extend 6-8 feet from the face of the existing bulkhead.

The present condition of the house can be described as precarious at best. The failed bulkhead can no longer contain the soil within the property and the house foundations have been undermined at several locations. The house is potentially one storm event away, from falling into Wolfsnare Creek, a major recreational boating waterway in the city. The house is presently leased and occupied by tenants. The owner does not want to demolish the house and has been looking to raise the house under the FEMA program.

2125 McComas Way Suite 103, Virginia Beach, VA 23456 • 757.427.1020

7814 Carousel Lane Suite 200, Richmond, VA 23294 • 804.464.4111

RESTRUCTURING THE NORM

Engineer's Report – Bulkhead Evaluation and Concrete Debris Field



Bulkhead at 2725 Canal Drive
July 16, 2018
Page 2 of 2

The new bulkhead cannot be placed inside of the existing bulkhead; because there are two to three existing bulkheads located between the house and the failed bulkhead. Placing the new bulkhead inward of the multiple existing bulkheads would place the new bulkhead too close to the existing house, and without a doubt seriously undermine the foundations of the house. In fact, it is highly likely the house would experience significant foundation issues and portions of the house would end up in Wolfsnare Creek.

The property is located at a critical point along one of Virginia Beach's major water thoroughfares and any decision made regarding the bulkhead effects a significant number of homeowners and watercraft. The potential to adversely effect or damage properties collectively worth tens of millions of dollars is very high. The owner has experienced one of the most extreme hardships the writer has seen in 32 years of being in the industry. He has tried to do the right thing at every step, including everything the professionals have asked of him. The owner did not place the concrete boulders and debris in front of the existing bulkhead; however, he is not interested in passing the buck, as has been done in the past. He is very willing to deal with it. We have the opportunity to get this property stabilized for many decades to come and protect others along Wolfsnare Creek from damage.

If you have any questions, please contact me.

Sincerely,

SPEIGHT, MARSHALL & FRANCIS, P. C.

Daniel W. Speight, P.E.

dws/wls

F:\Jobs\2017\17080 Investigation of Bulkhead at 2725 Canal Drive\06 Nondesign Letters & Reports\180716_2725 Canal Drive Letter-City of VB Planning Dept. Letter.doc

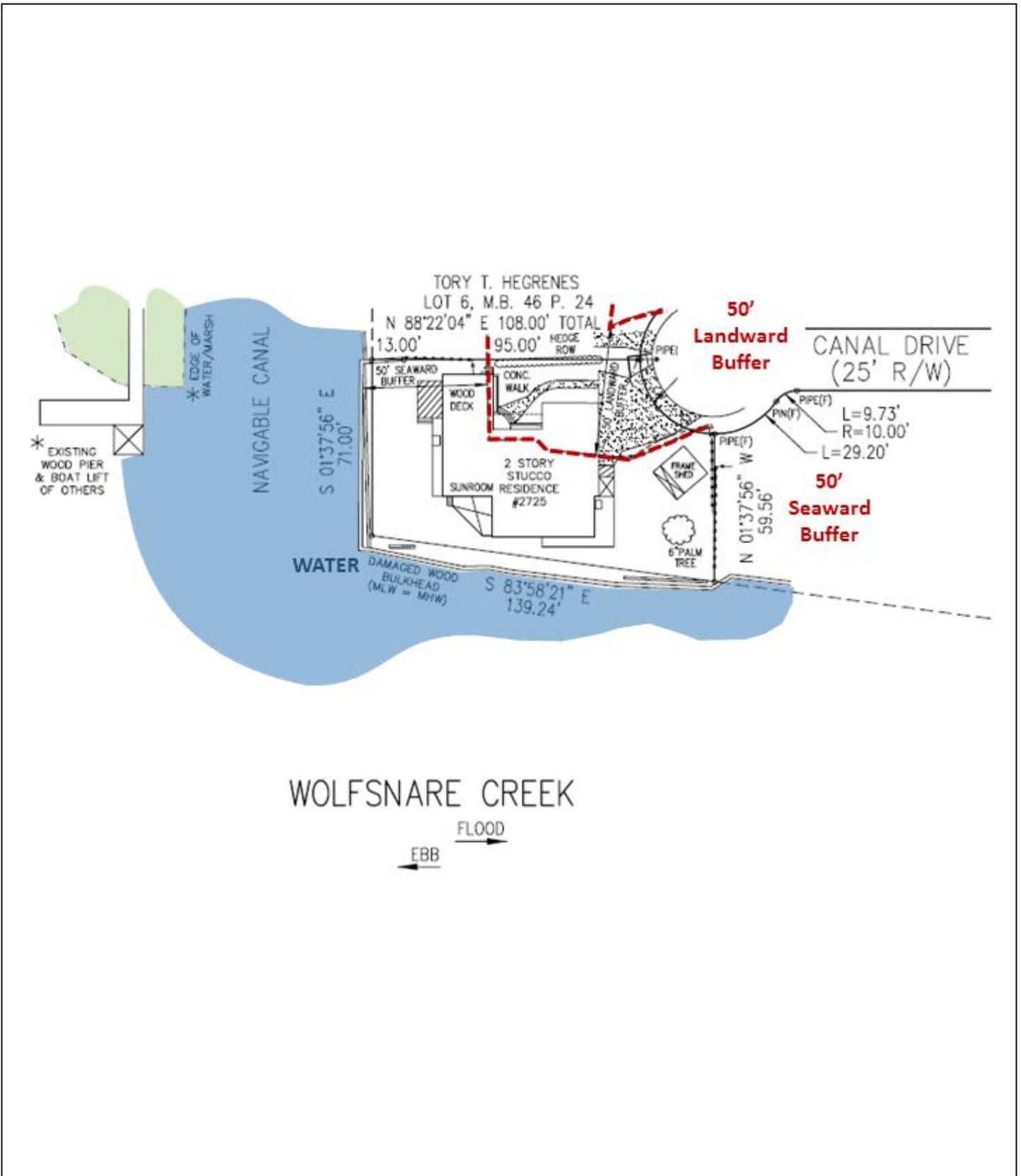


**ADDITIONAL INFO
REVISION**

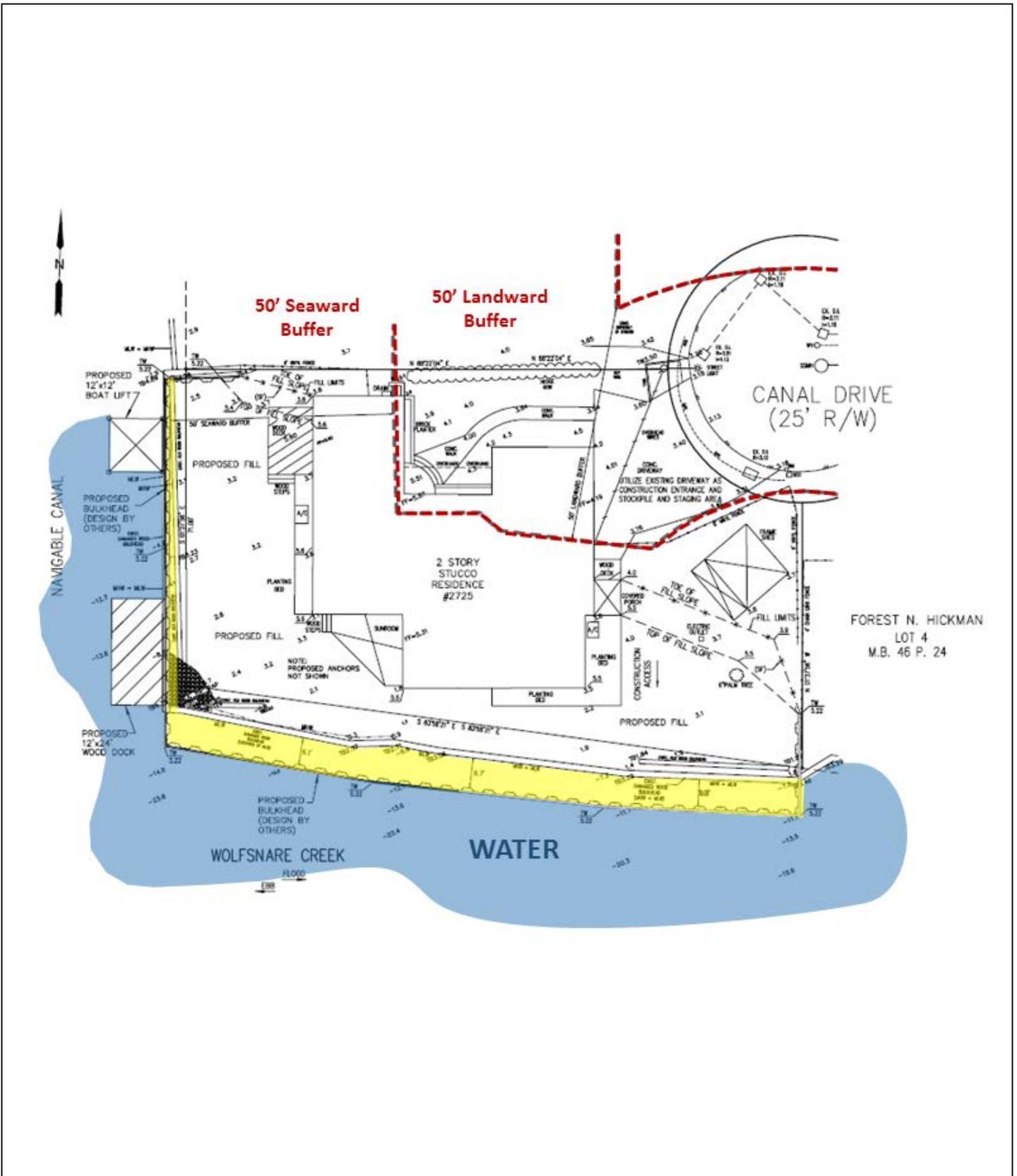
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7814 Carousel Lane Suite 200, Richmond, VA 23294 • 804.464.4111

RESTRUCTURING THE NORM

CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME CELEBI OZIC

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 checked="" 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: Celebi Ozic
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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



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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	STEW RIPPARD
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	KELLY J. OLT
<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	RAVE DAVE COFF.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Gallup Surveyors / Billy Garmington
<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)	PENNY MAC
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	BILL BUNDSIP
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

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



CERTIFICATION:

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

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

<i>Cebeb Ouz</i>	<i>Cebeb Ozic</i>	<i>3/8/18</i>
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



Applicant & Property Owner **Donald Flanders Jr. & Valerie DeLame**
 Address **1004 Witch Point Trail**
 Public Hearing **January 28, 2019**
 City Council District **Bayside**

Agenda Item

13

Variance Request

Encroachment into the 100 foot Resource Protection Area (RPA) buffer to construct a storage shed.

Applicant's Agent

Patricia Myroup

Staff Planner

PJ Scully

Lot Recordation

5/9/1979

Map Book 133, Page 42

GPIN

1488-04-6496

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

180 square feet

Location of Proposed Impervious Cover

50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- Storage shed – 10 feet by 18 feet

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 8

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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

Shoreline

Shoreline is hardened with a bulkhead.

Riparian Buffer

Sparsely wooded lot

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

Evaluation and Recommendation

Staff supports the application as submitted with the recommended conditions below and is of the opinion that the proposed improvements, given the location within the RPA and the minimal impact associated with the proposed improvements will not contribute to the degradation of water quality or prove detrimental to the resource protection area features.

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

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the redevelopment of this property conforms to other properties within this neighborhood who are subject to the provisions of this ordinance and are similarly situated where minor development has occurred within the RPA feature.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was platted

and the residence constructed prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing this property within the RPA.

- 3) The variance is the minimum necessary to afford relief, given the reasonable size of the shed and placement on skids so that the existing topography is not disturbed.
- 4) Due to the presence of riparian buffer vegetation along the seaward portion of the proposed improvements and the minimal increase in overall impervious cover for the site, Staff is of the opinion that the variance is in harmony with the purpose and intent of the CBPA ordinance and will not be injurious to the neighborhood, and will not be of substantial detriment to water quality.
- 5) The preservation of the existing riparian buffer vegetation and the mature forest floor seaward of the proposed improvements provides merit towards a means to manage erosion and sedimentation towards a no net increase in nonpoint source pollution load.

Given the above comments, Staff provides the following 4 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. 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.
4. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.

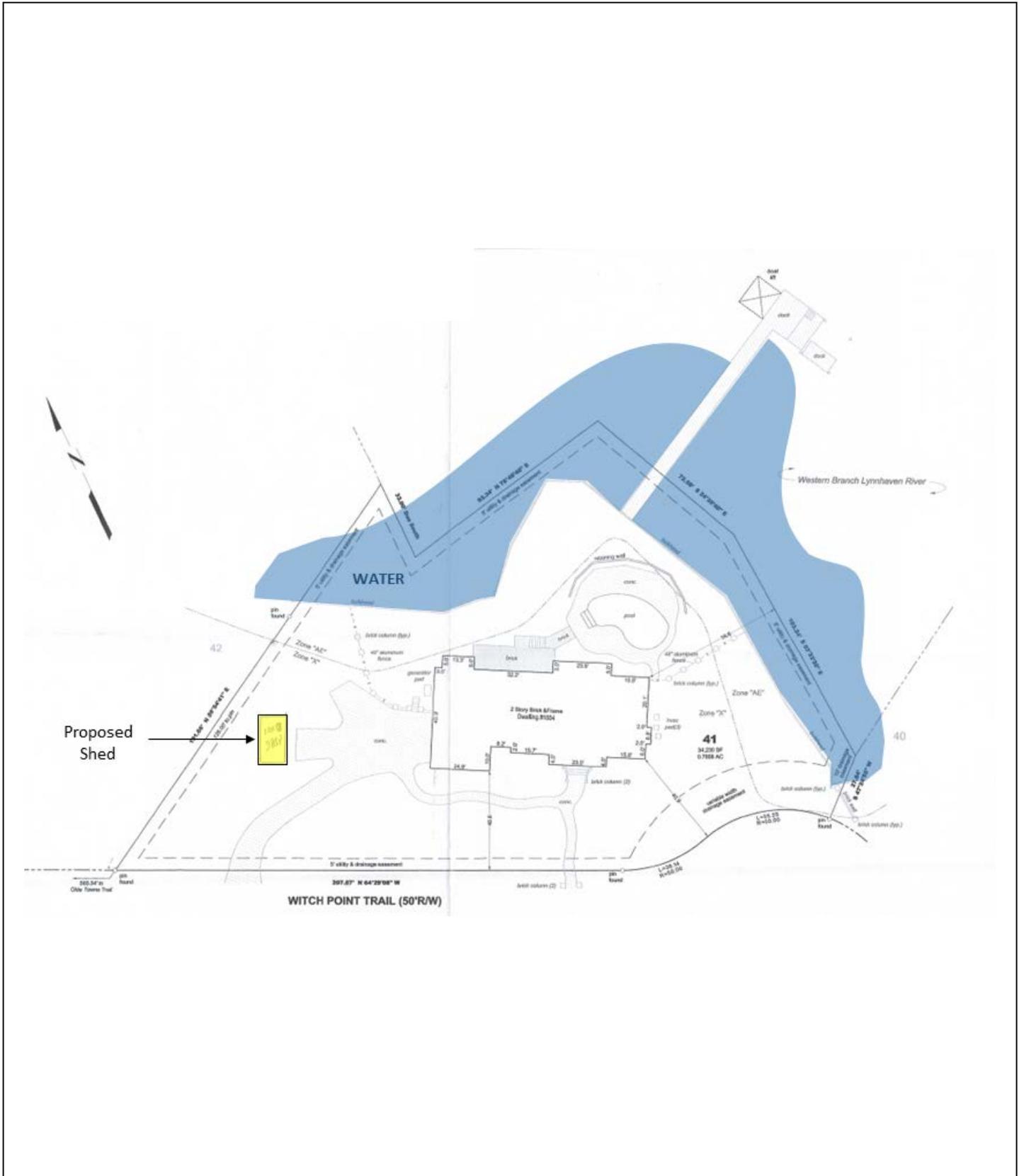
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

Site Aerial



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Donald H. Flanders Jr and
Valerie DeLame

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	License Agreement	

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- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.
- (A) List the Applicant's name: _____
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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



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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



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 checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	BACKYARD FUN & LEISURE
<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"/>	

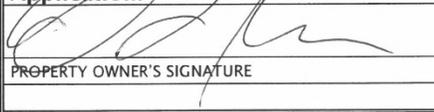
If yes, what is the name of the official or employee and what is the nature of the interest?



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.

	DON FLANDERS	12/11/18
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

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

Donald Flanders Jr. & Valerie DeLame

Agenda Item 13

Page 190



Applicant & Property Owner **Lynnhaven Area Properties, LLC**
 Address **Prop. of Allen E. Perrel, Lot 4 & Closed portion of
 Wolfsnare Rd & Wolfsnare Parcel B, Wolfsnare Rd**
 Public Hearing **January 28, 2019**
 City Council District **Beach**

Agenda Item
14

The applicant is requesting to defer this application to the February 25, 2019 CBPA Board Public Hearing to allow additional time to address Staff's concerns. Staff supports the request to defer.

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct 5 single family residences with associated accessory structures

Applicant's Agent

Lisa M. Murphy

Staff Planner

PJ Scully

Lot Recordation

7/2/1975
 Map Book 110, Page 48

GPIN

2407-09-4435, 2407-09-5412, and part of 2407-09-6257

SITE AREA

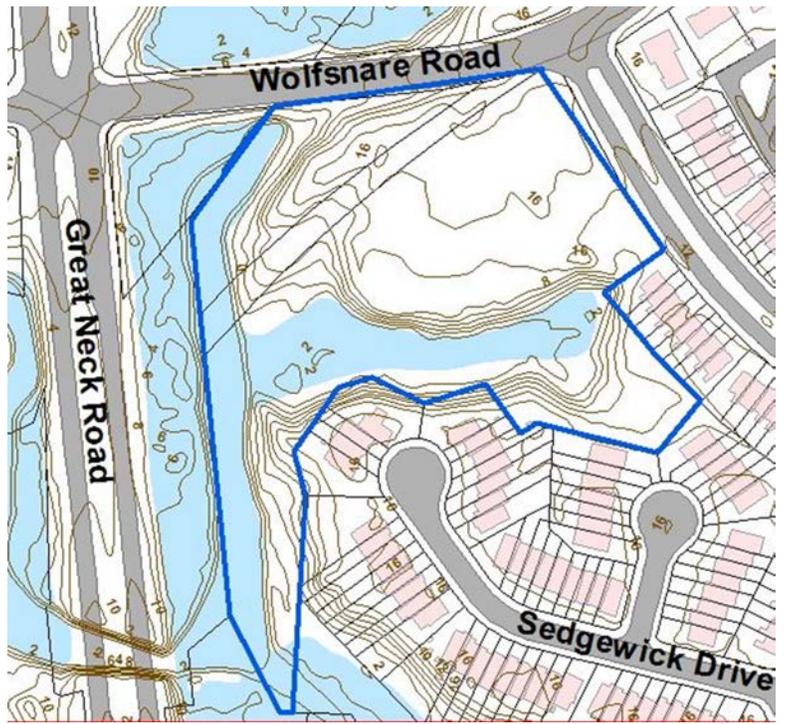
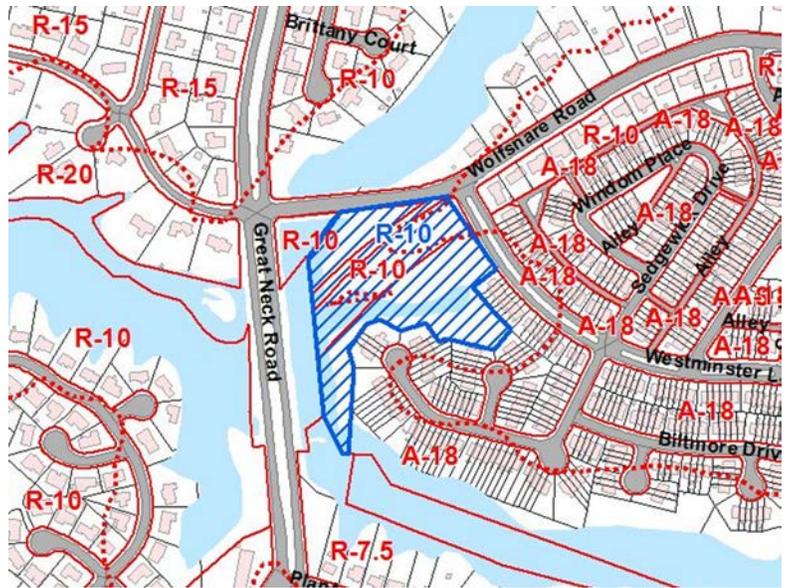
282,750 square feet or 6.491 acres
 144,118 square feet or 3.08 acres in R-10 zoning district for this lot

SITE AREA OUTSIDE OF WATER/WETLANDS

92,576 square feet or 2.125 acres

EXISTING IMPERVIOUS COVER OF SITE

5,022 square feet or 5.42 percent of site



AS NEEDED, PAGE LEFT BLANK



Applicant & Property Owner **Lynnhaven Area Properties, LLC**
 Address **Wolfsnare Parcel 2, Lot 7, Wolfsnare Road & Westminster Lane**
 Public Hearing **January 28, 2019**
 City Council District **Beach**

Agenda Item

15

The applicant is requesting to defer this application to the February 25, 2019 CBPA Board Public Hearing to allow additional time to address Staff's concerns. Staff supports the request to defer.

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct 11 two-story attached townhomes with associated access road and parking

Applicant's Agent

Lisa M. Murphy

Staff Planner

PJ Scully

Lot Recordation

12/26/1984

Map Book 186, Page 47

GPIN

Part of 2407-09-6257

SITE AREA

224,438 square feet or 5.152 acres

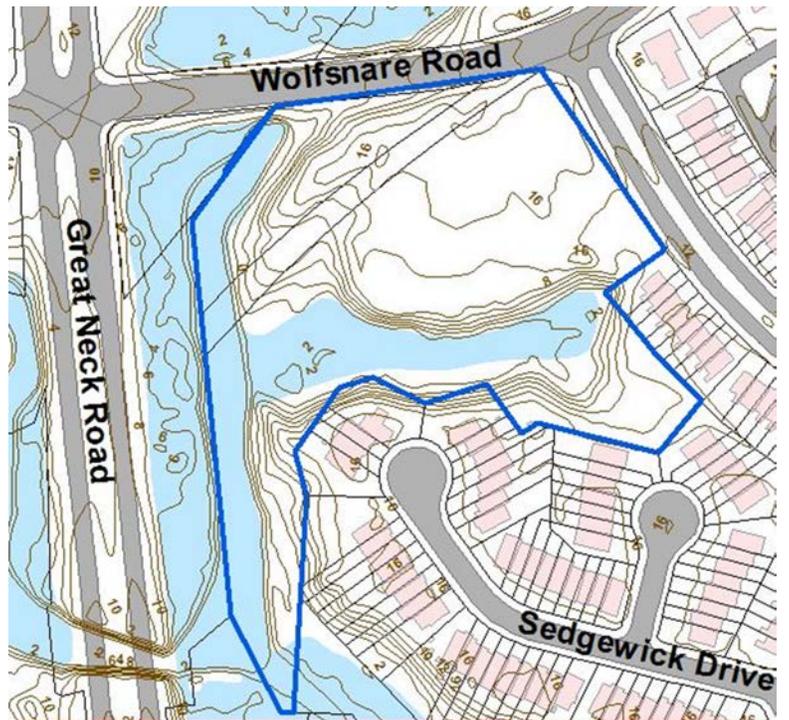
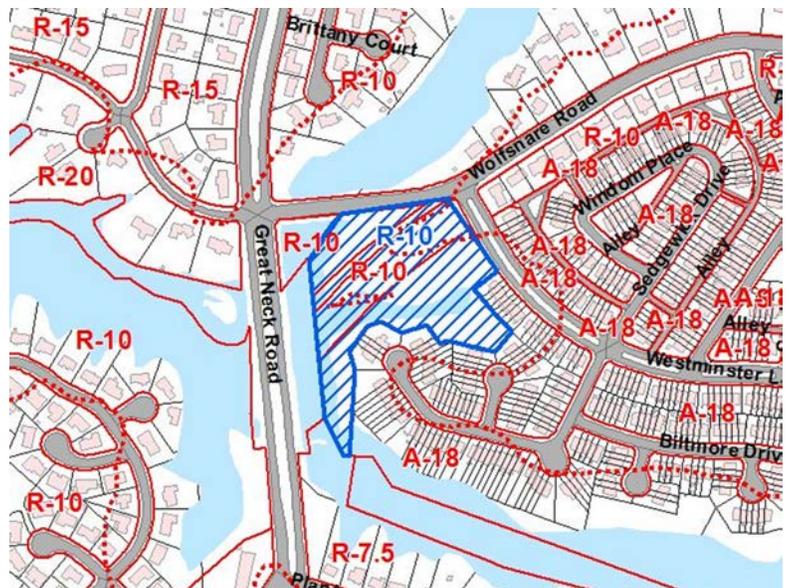
138,632 square feet or 3.183 acres in A-18 zoning district for this lot

SITE AREA OUTSIDE OF WATER/WETLANDS

67,775 square feet or 1.556 acres

EXISTING IMPERVIOUS COVER OF SITE

1,414 square feet or 2.09 percent of site



AS NEEDED, PAGE LEFT BLANK