

Chesapeake Bay Preservation Area Board Agenda

May 18, 2020

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CHESAPEAKE BAY PRESERVATION AREA BOARD

NOTICE OF PUBLIC HEARING

In accordance with Virginia Code Virginia § 2.2-3708.2(A)(3), Virginia Code § 15.2-1413 and the City's Continuity of Government Ordinance adopted on March 31, 2020, and Chapter 854 of the 2019 Acts of Assembly as amended, the chair of the Virginia Beach Chesapeake Bay Preservation Area (CBPA) Board has called a special meeting for a public hearing to be held on **Monday, May 18, 2020, at 10:00 am** BY ELECTRONIC COMMUNICATION MEANS which will be held virtually with CBPA Board Members, Staff and citizens participating via video/audio conference. This meeting will be broadcast on cable tv.

The Staff reviews all the items on this agenda and offers recommendations for consideration by the Board, in the event the Board should approve an application. However, it should not be assumed that those conditions constitute all the conditions that will ultimately be attached to the project. City agencies may impose further conditions and requirements applicable to city ordinances.

For those citizens who desire to attend this meeting virtually, registration is required. Please visit www.vbgov.com/cbpa or enter the following URL into your web browser to register: <https://vbgov.webex.com/vbgov/onstage/g.php?MTID=e035c5fa4d02d5eeee9892d1bd7826cc8>.

Citizens are encouraged to submit comments to the CBPA Board prior to the public hearing via email to pscully@vbgov.com or via United States Mail to PJ Scully, 2875 Sabre Street, Suite 500, Virginia Beach, VA 23452. **If you desire to speak at the virtual public hearing you must notify Staff prior to 8:00 am, May 18, 2020 at (757) 385-4621.**

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 HAVE ANY QUESTIONS, PLEASE CONTACT A STAFF MEMBER VIA EMAIL (pscully@vbgov.com) OR CALL THE DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT AT 757-385-4621).

- 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 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 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 Department of Planning and Community Development at (757) 385-4621.**



CHESAPEAKE BAY PRESERVATION AREA (CBPA) BOARD AGENDA

Public Hearing Date **May 18, 2020**

10:00 AM FORMAL REVIEW OF PUBLIC HEARING AGENDA ITEMS BY ELECTRONIC COMMUNICATION MEANS which will be held virtually with CBPA Board Members, Staff and citizens participating via video/audio conference.

OLD BUSINESS AGENDA ITEMS

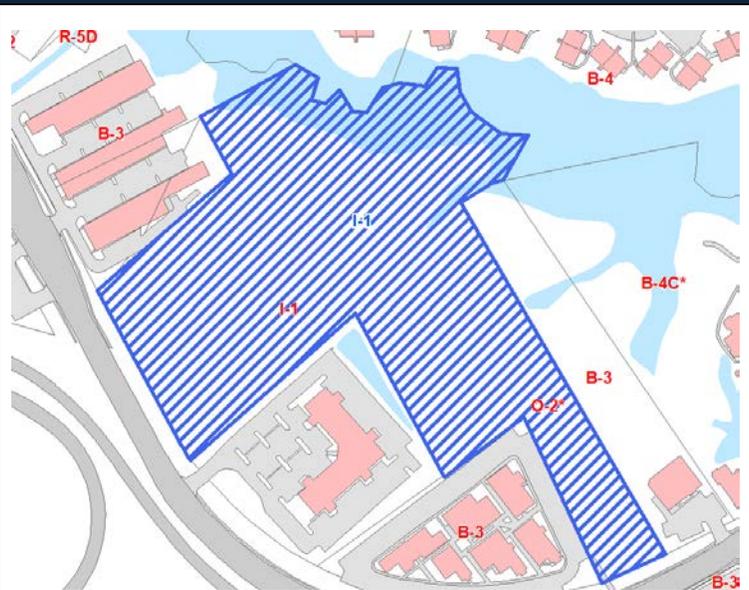
1. **City of Virginia Beach**
[Property Owner]

Olympia Development Co.
[Applicant]

Bonney Road
GPIN 1477-52-4516
Council District – Lynnhaven
Accela Record 2019-CBPA-00048

Variance Request – Encroachment into the Resource Protection Area (RPA) buffer for the development of three office buildings and associated infrastructure.

Staff Planner – PJ Scully
Staff Report – page 5



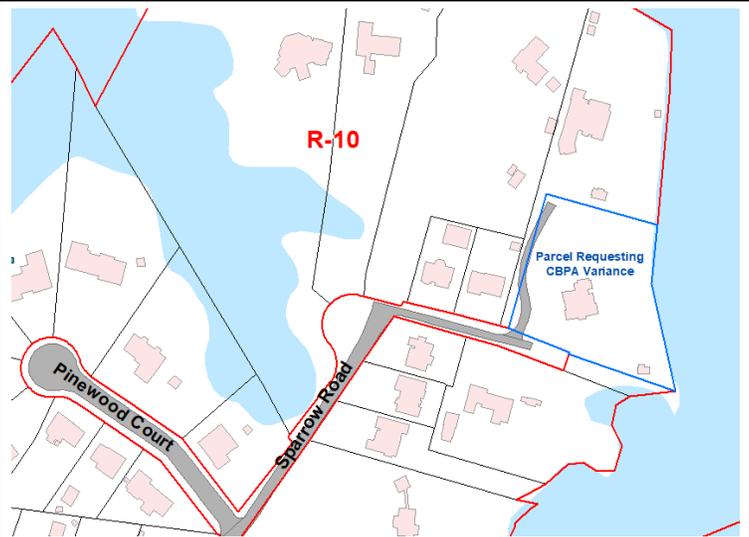
NEW BUSINESS AGENDA ITEMS

2. **Karen M. Jefferson LT**
[Property Owner & Applicant]

936 E. Sparrow Road
GPIN 1447-91-3309
Council District – Kempsville
Accela Record 2020-CBPA-00004

Variance Request – Encroachment into the Resource Protection Area (RPA) buffer to construct an inground swimming pool with associated paver patio and walkways, pool shed and gazebo.

Staff Planner – PJ Scully
Staff Report – page 25



<p>3. Charles E. & Mary G. White [Property Owner]</p> <p>Stephen Alexander Homes, LLC [Applicant]</p> <p>Leeward Shore Drive GPIN 2409-19-8659 Council District – Lynnhaven Accela Record 2020-CBPA-00005</p> <p>Variance Request – Encroachment into the Resource Protection Area (RPA) buffer to construct a single-family residence, swimming pool with associated patio and pool house, retaining walls and rip rap revetment.</p> <p>Staff Planner – PJ Scully Staff Report – page 39</p>	
<p>4. Christopher & Yasmine Hooper [Property Owner]</p> <p>Dr. Yugal Behl [Applicant]</p> <p>2916 Gaines Landing GPIN 1499-23-1940 Council District – Lynnhaven Accela Record 2020-CBPA-00006</p> <p>Variance Request – Encroachment into the Resource Protection Area (RPA) buffer to construct an inground swimming pool with associated paver patio and pool house.</p> <p>Staff Planner – PJ Scully Staff Report – page 41</p>	

2020 CBPA BOARD PUBLIC HEARING DATES

Due to the current situation surrounding the Coronavirus (COVID-19), Staff is continuing to provide services to the public in the safest way possible. Below is a list of CBPA Board Public Hearing dates and the tentative means of delivering the public hearing to the CBPA Board and interested citizens.

	DATE	FORMAL HEARING TIME	MEANS OF DELIVER
Monday	June 1, 2020	10:00 am	Virtual Public Hearing
Monday	June 22, 2020	10:00 am	To be determined
Monday	July 6, 2020	10:00 am	To be determined
Monday	August 3, 2020	10:00 am	To be determined
Thursday	September 10, 2020	10:00 am	To be determined
Monday	October 5, 2020	10:00 am	To be determined
Monday	November 2, 2020	10:00 am	To be determined
Monday	December 7, 2020	10:00 am	To be determined

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct 3 office buildings and associated infrastructure

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

Map Book 298, Page 9

Recorded 8/13/2001

GPIN

1477-52-4516

SITE AREA

512,699 square feet or 11.8 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

435,992 square feet or 10.0 acres

EXISTING IMPERVIOUS COVER OF SITE

13,412 square feet or 3 percent of site

Above figure represents just the Thalia Creek Greenway

PROPOSED IMPERVIOUS COVER OF SITE

258,736 square feet or 59.3 percent of site

Inclusive of the Thalia Creek Greenway

272,148 square feet or 62.4 percent of site

Area of Redevelopment in RPA

0 square feet – current condition

57,572 square feet – condition circa 1994

Area of New Development in RPA

18,001 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

100-foot Variable Width Buffer

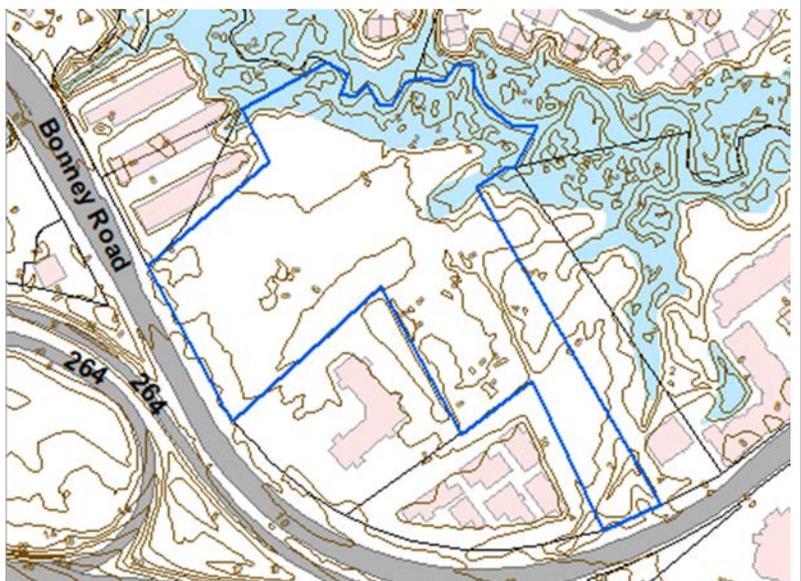
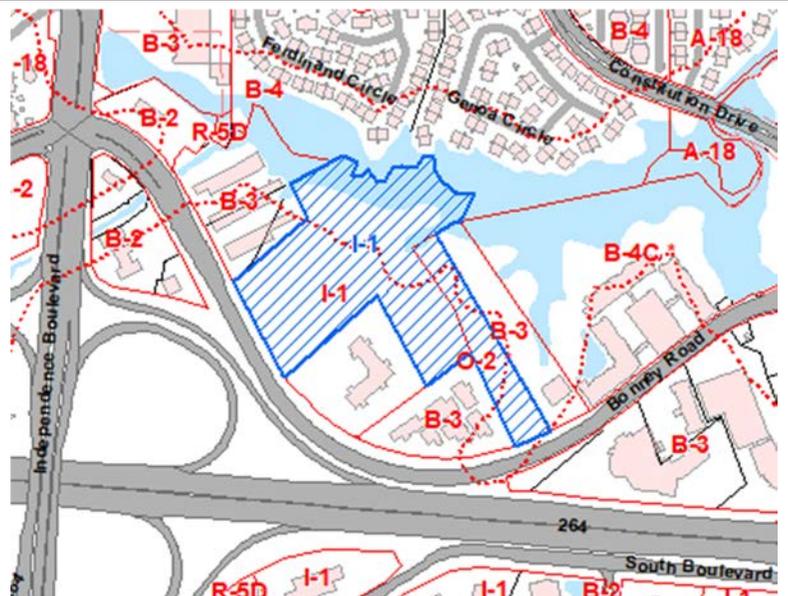
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

The property is currently owned by the City and has been previously developed. The applicant's Engineer of Record has provided that the "site was formerly home to a Lowe's and a hotel with a parking garage"; and has "indicated the footprints of the prior developments on our CBPA exhibit."

Construction Details

- Three (3) office buildings with associated parking lots
- Parking structure
- Asphalt entry road – 2 entrances off Bonney Road

CBPA Ordinance Variance History

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

This CBPA variance request has been deferred at the following CBPA Board Public Hearings.

- January 27, 2020 CBPA Board Public Hearing
- February 24, 2020 CBPA Board Public Hearing

Environmental Conditions

Flood Zone

Multiple Zones – Zone X, 0.2 percent annual chance of flooding and AE, Base Flood Elevation (BFE): 7

Soil Type(s)

Urban land (unit consists of areas where more than 80 percent of the surface is covered by impervious cover)

Acredale Series (deep, poorly drained soils)

Augusta Series (deep, somewhat poorly drained soils)

Shoreline

Shoreline is in a natural state with an established marsh along the northern portion of the lot that transition into an upland shrub/hardwood ecosystem.

Riparian Buffer

Moderately to sparsely wooded lot

- **Number of existing canopy trees requested for removal within the RPA:** Specific quantity not provided. The Water Quality Impact Assessment (WQIA) stated that the quantity was "to be determined".
- **Number of dead, diseased or dying existing canopy trees requested for removal within the RPA:** Specific quantity not provided. The Water Quality Impact Assessment (WQIA) stated that the quantity was "to be determined".
- **Evaluation of existing canopy tree removal request:** An unspecified number of trees will be impacted by this project. Staff estimates that approximately 18,000 square feet of forested Resource Protection Area (RPA) buffer will be encroached upon with the proposed improvements with most of the tree removal associated with this variance request occurring within the Resource Management Area (RMA) of the Chesapeake Bay watershed.

During the February 2020 CBPA Board Public Hearing, the area along the eastern portion of the lot was discussed regarding impacts to existing forested areas and mature tree canopy. The applicant's Engineer of

Record has provided that **“We have not removed the 44 parking spaces along the existing drive aisle on the eastern end of the project, even though we discussed doing so at the Board meeting. These parking spaces are not within the CBPA Resource Protection Area, and the proximity of those spaces to Proposed Office “C” is important enough to the development to keep them there.”** Staff acknowledges the Engineer of Record’s position, however, remains with the position that the area east of the proposed parking spaces should remain in a natural state.

In addition, Staff offers the following clarification for the area between the existing Thalia Creek Greenway and north of the proposed parking for “Proposed Office C”. While Staff supports directing stormwater sheetflow through the conserved open space as a component of a stormwater management, as further described below, Staff does not support the removal of existing riparian vegetation within the RPA buffer for the establishment of grade or placement of fill material associated with said component of a stormwater management plan.

Stormwater Management Methodology

Staff received the following correspondence from the applicant’s Engineer of Record since the February 2020 CBPA Public Hearing regarding stormwater management for the proposed improvements.

*“There was much discussion at the Board meeting about meeting the stormwater quality regulations on site instead of using potential off-site solutions (the purchase of stormwater nutrient offset credits). We believe that the standard allowance for development projects - to achieve 75% of quality mitigation on site and **25% off site** - should be acceptable for the proposed project. **We hope that Staff can support accomplishing a portion of the required stormwater quality mitigation using off site means.”***

The Engineer of Record has provided on the revised CBPA Exhibit three areas of underground stormwater storage facilities as a component of the proposed stormwater management plan. It is stated on the CBPA Exhibit that each underground stormwater storage facility provides 7,000 cubic feet of storage for a total of 21,000 cubic feet for the lot. Staff spoke with the Engineer of Record on or about March 3, 2020 regarding the revised CBPA Exhibit and stated that the underground stormwater storage facilities provided merit towards the CBPA variance application, specifically with the proposed facilities being located in the Resource Management Area (RMA) and utilizing the existing point source pipe outfalls to the greatest extent practicable, thus limiting further impacts within the RPA buffer. Also, during the March 3, 2020 conversation, Staff did express a lack of support with the location of the proposed outfall into the existing ditch located within the northeast portion of the lot. Staff is of the opinion that the proposed outfall should be within the limits of disturbance associated with the proposed road crossing. The applicant’s Engineer of Record relocated the outfall into the proposed culvert and has shown a limit of disturbance for this portion of the variance request.

*“We expect that “sheet flow to conserved open space” will be a component of the stormwater management design for the project, particularly along the existing walkway. To accomplish the design requirements of that BMP, we expect that grading and perhaps fill on the landward edge of the walkway will be necessary. For that reason, **we anticipate that the seaward limits of disturbance for the construction of the project will be the landward edge of the walkway**; limiting the disturbance further landward than that will annul the opportunity to utilize this natural and maintenance-free BMP.”*

Given the presence of an established riparian buffer within portions of the property, Staff would support uniformed sheetflow through vegetated uplands. Staff support is subject to no further encroachment into the RPA with the future development, including components of the ultimately approved stormwater management plan, and limits on the specifications associated with the use of fill material landward of the existing greenway for the purpose of sheetflowing stormwater runoff. Staff is of the opinion that any fill material associated with the establishment of sheetflow through a

conserved open space for the use of stormwater management should be limited to the minimum necessary to establish low velocity sheetflow and has addressed this concern within the recommended conditions below.

As of this writing, the applicant's Engineer of Record remains engaged with City Staff regarding stormwater management design criteria and calculations associated with the modeling for this specific watershed. The comments below, provided by City Staff, were presented to the Board at the February 2020 CBPA Board Public Hearing.

"We have reviewed your submitted information, and can offer the following guidance:

- *State codes 9VAC25-870-63-Water Quality Design Criteria Requirements and 9VAC25-870-66-Water Quantity include references to "prior developed lands", which you noted in your submittal. However, the comparison point used in these regulations is based on "pre-developed" versus "developed" conditions.*
- *Per state code 9VAC25-870-10, "Predevelopment" refers to the conditions that exist at the time that plans for the land development of a tract of land are submitted to the VSMP authority.*
- *Based on the current site conditions (at the time of plan submittal), there is no impervious area onsite related to the prior development. **However, Staff agrees that the existing construction staging area does not exhibit the characteristics of either "managed turf" or "impervious cover". As such, we can continue to discuss an appropriate land cover condition that falls somewhere between completely impervious and managed turf.***
- *Any changes to be made to the SWMM model (based on updated survey information or other means) associated with this project are expected to be completed by the design engineer. This is the standard policy and practice that has been used for every other project using a model based on the City's master drainage study."*

Evaluation and Recommendation

Staff write-up from the January 27, 2020 CBPA Board public hearing.

"The RPA feature along the northern portion of the lot is partially bisected by the Thalia Creek Greenway. Much of the RPA area seaward of the greenway is in a state of shrub/pine forest succession. The areas of succession are specific to previously developed areas of impervious cover that were demolished and removed around 1994. The RPA feature along the south eastern portion of the lot is an open ditch that is approximately 3 feet deep with dual 36 inch round concrete pipes (RCP) located at both the western end and eastern end of the open ditch. The majority of water conveyed through the open ditch to Thalia Creek is collected run-off from Bonney Road, Interstate 264 and approximately 40 acres of upstream mixed development. The condition of the open ditch is primarily a flat bottom channel approximately 4 to 5 feet wide with moderate amounts of sediment deposition within the channel. Staff is of the opinion that the available transport of sediment within the open ditch was supplied by upland run-off from existing roadways and developments more so than erosion from the existing banks of the open ditch. The prior development of the site consisted of approximately 265,783 square feet or 60.9 percent of the site above water and wetlands, of which 57,572 square feet of impervious cover was within the RPA buffer. The lot has remained undeveloped since the demolition of the improvements.

Currently, approximately 61,852 square feet or 14.1 percent of the lot area outside of water and wetlands is seaward of the Thalia Creek Greenway and will remain in a natural state with no improvement proposed within said area. Of the 260,992 square feet of proposed improvements, 24,322 square feet or 5.5 percent of the lot is within the RPA, of which 10,139 square feet of new impervious cover is within the 100-foot RPA. The remaining 236,670 square feet of new impervious cover is within the Resource Management Area (RMA) of the lot. Along the south eastern portion of the lot, a secondary access road is proposed for ingress/egress off Bonney Road. This portion of the lot is within the upper reach of the RPA with the delineated RPA buffer terminating approximately 80 linear feet away at the existing culvert crossing under Bonney Road. A portion of the access road associated with the proposed improvements will transverse the existing open ditch in this area of the RPA. Staff has met with the applicant's Engineer several times regarding the open ditch crossing, condition of the RPA buffer, and stormwater management requirements for the

proposed improvements and upstream analysis. Staff only offers support to a single crossing at the minimum width necessary to comply with the Public Works Specification and Standards (PWSS) of 30 feet in width at the property line transitioning to the minimum drive isle width for commercial developments through the RPA buffer. With regard to the required buffer restoration, Staff expressed two areas of interest when applying the required buffer restoration for new impervious cover within the RPA. First, the area seaward of the Thalia Creek Greenway exists in a natural state with forest succession occurring. Staff is of the opinion that this area should be left in its natural condition and allow regrowth to occur unbidden. Second, the area adjacent to the Thalia Creek Greenway should be utilized for buffer restoration to screen or soften the presence of the proposed improvements from individuals that utilize the greenway. However, selection and location of plant material shall be such that individual safety and security of those individuals utilizing the greenway is not deterred and natural surveillance is provided. As such, Staff has provided a recommended condition below that address the required buffer restoration that address the above interest and implements restoration requirements within the entire lot.

As an attempt to collaborate efforts of the applicant's design team and City Staff the following studies of the lot were provided to the CBPA Board for their deliberations during the February 24, 2020 CBPA public hearing.

- Wetlands identification by Bob Kerr of Kerr Environmental Services Corp. The applicant's Engineer of Record has provided that, *"the wetlands consultant has received an affirmative Jurisdictional Determination on the property; the proposed development and resulting destruction of minimal areas of wetlands can be permitted."*
- Subsurface evaluation by GeoEnvironmental Resources, Inc. The applicant's Engineer of Record indicated that *"the geotechnical engineer has determined that, at 12 of 13 boring locations analyzed, there is construction rubble, presumably left after the demolition of the prior improvements, either at the surface or a couple of inches below it. The remnants of the prior improvements remain as an environmental stain on the property. In addition, a large portion of the property has been used for the last dozen or so years as a construction staging area for the various development activities progressing at our City's Town Center, leaving a denuded area of approximately 4.5 acres in the main area of the property."*
- Historic and current aerials and previous site plan analysis by Brad Martin detailing impervious surface location and existing outfall structures for drainage into Thalia Creek.
- Survey and topographic analysis.

Since the February CBPA Board public hearing, the following revisions have been made to the submitted CBPA Exhibit:

- A reduction in the amount of encroachment within the RPA feature from 24,322 square feet to 18,001 square feet. The 6,321 square foot reduction in the amount of encroachment within the RPA feature primarily occurs along the northern portion of the lot, adjacent to the Thalia Creek Greenway.
- Three areas of underground stormwater storage facilities have been delineated as a component of the proposed stormwater management plan. It is stated on the CBPA Exhibit that each underground stormwater storage facility provides 7,000 cubic feet of storage for a total of 21,000 cubic feet for the site.
- Limits of disturbance shown for the construction of the access road over the existing stream adjacent to Bonney Road.

For the Board's deliberation, the applicant's Engineer of Record 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 applicant is purchasing the property from the City with the expressed intention of developing as shown on the exhibit. Proper mitigation measures will be pursued."* Staff offers that the lot falls within the Pembroke Strategic Growth Area (SGA) and is similar to adjacent developments that have utilized the design standards provided by the SGA in addition with requesting a variance to the CBPA Ordinance. Unique to this lot, encroachment into the RPA feature is less

than the previous developed conditions of the lot, circa 1991, by approximately 4,791 square feet and is limited within the RPA, unlike other lots within the Thalia Creek Greenway.

- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because *“encroachment will not extend into the 50’ seaward buffer, but developable areas on the property, including the roadway connection to east Bonny Road, must be optimized for the sale to proceed.”* Staff offers that the existing lot was originally platted on May 16, 1966 and in 2001 a revised platted was put to record that vacated interior lot lines. With the 2001 recordation, no additional land within the RPA was acquired or modified to create the current configuration of the subject lot.
- 3) The variance is the minimum necessary to afford relief because *“the extents of the proposed development will not exceed the existing seaward encroachment of the Thalia Greenway.”* Although the existing improvements have been removed from the lot for approximately 2 decades, the proposed improvements offer a reduction in the amount of encroachment within the RPA feature from 24,322 square feet to 18,001 square feet. The 6,321 square foot reduction in the amount of encroachment within the RPA feature primarily occurs along the northern portion of the lot, adjacent to the Thalia Creek Greenway.
- 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 encroachments are primarily in the areas of existing/prior impervious cover and for the near-perpendicular roadway crossing of the natural ditch.”* Three areas of underground stormwater storage facilities have been delineated as a component of the proposed stormwater management plan with each underground stormwater storage facility providing approximately 7,000 cubic feet of storage for a total of 21,000 cubic feet for the site. As of this writing, the applicant’s Engineer remains in discussion with Public Works Stormwater Engineering and the Development Services Center (DSC) regarding the analysis and modeling of the watershed specific to this request. With regard to the secondary access off Bonney Road, Staff is of the opinion that impacts to the RPA feature should be limited to the minimum necessary to afford relief as shown on the revised CBPA Exhibit.
- 5) As a means to manage towards a no net increase in nonpoint source pollution, the applicant’s agent provides that the *“the drainage requirements for the development of property, particularly with respect to the Virginia Runoff Reduction Methodology (the state-wide analysis requirement since July, 2014) will be met as we pursue the design, review, and approval of this project.”* Staff offers that the applicant’s attempt with providing 3 areas of underground stormwater storage facilities towards addressing nonpoint source pollutions provides merit for the variance being in harmony with the purpose and intent of the CBPA Ordinance.

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 Commercial 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.
- 2) 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.

- 3) Buffer restoration for the lot shall be achieved through the following methods and installed prior to the issuance of the certificate of occupancy or release of the building permit.
 - a) All areas seaward of the proposed improvements, landward of the Thalia Creek Greenway, and along the eastern property line – approximately 29,403 square feet shall be restored to a riparian buffer ecosystem. Said area 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.
 - b) On-site mitigation for buffer restoration shall be provided specific to the following quantities of **65 canopy trees and 100 understory trees**. Said quantities shall not be utilized towards other planting requirements within the City’s Landscaping Guide specific to parking lot and foundation landscaping specifications and standards; and landscape screening and buffer specifications and standards. Said quantities shall not be utilized towards other planting requirements within the City’s Landscaping Guide specific to parking lot and foundation landscaping specifications and standards; and landscape screening and buffer specifications and standards
- 4) Proposed improvements shall not encroach any further towards the landward edge of the Thalia Creek Greenway than depicted on the revised CBPA Exhibit.
- 5) Limits of disturbance and location of silt fence shall be as follows.
 - a) Encroachment into the RPA buffer associated with the open ditch crossing that removes and redevelops the existing dual 36-inch RCP within the southeastern portion of the lot shall be limited to a double row of wire reinforced 36 inch silt fence, for erosion and sedimentation control measures and shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fences shall be installed as delineated per the CBPA Variance Exhibit and shall be staked in the field by the Engineer of Record and reviewed with the Civil Inspector at the pre-construction meeting.
 - b) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 5 feet landward of the Thalia Creek Greenway.
- 6) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 7) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 8) 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.
- 9) 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.**

- 10) 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.
- 11) 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.
- 12) 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.
- 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) Upland backfill material shall not exceed a slope of 1 percent from the elevation of the rip rap revetment and bulkhead terminating into existing grade
- 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 \$4,125.22, based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA) and \$1,512.27, based on 25 percent of the remaining required buffer restoration for a grand total of \$5,637.49. Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 16) The conditions and approval associated with this variance are based on the exhibit plan dated March 9, 2020, prepared by Clark Design Group, LLC, checked by Brad Martin. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

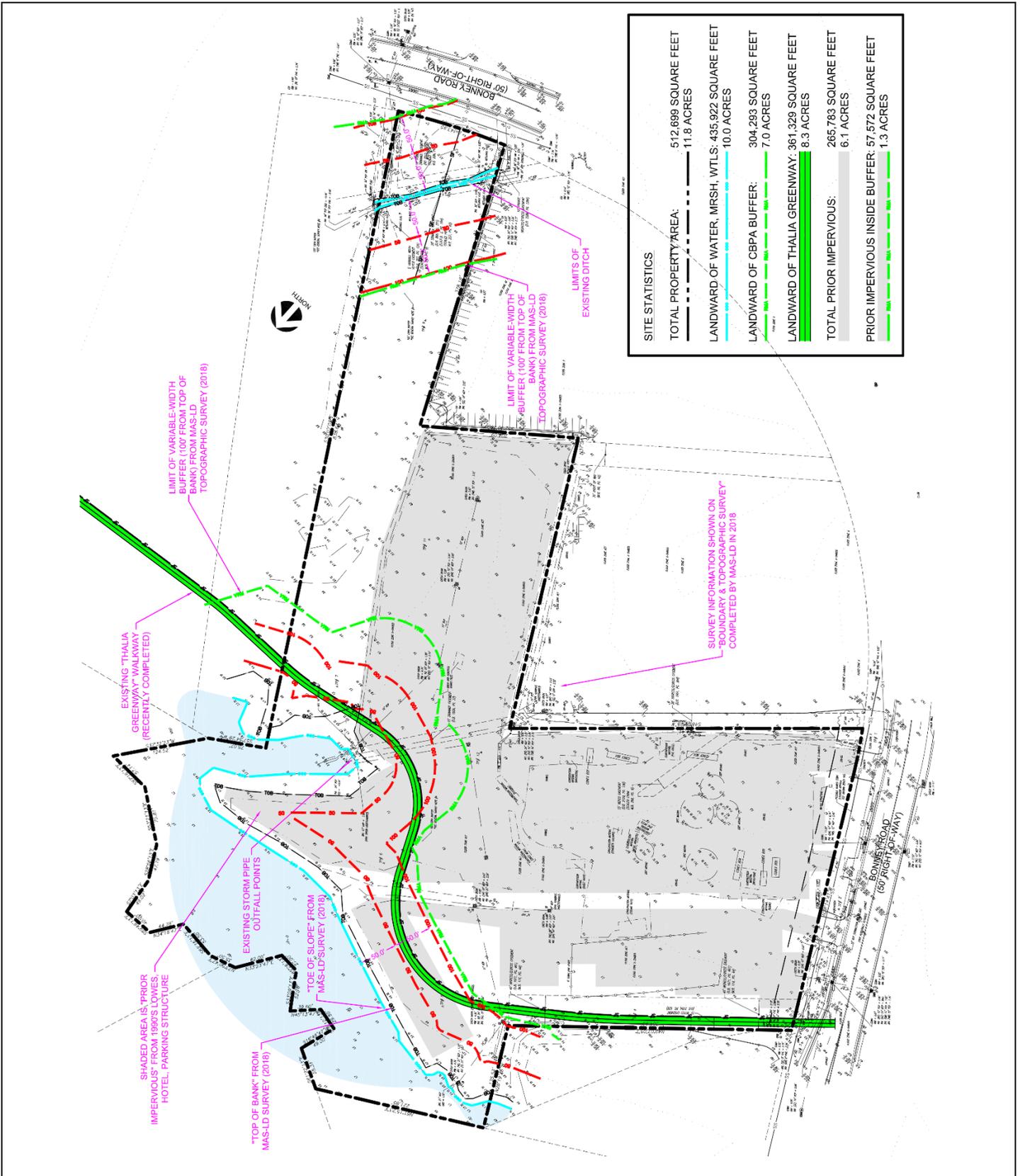
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

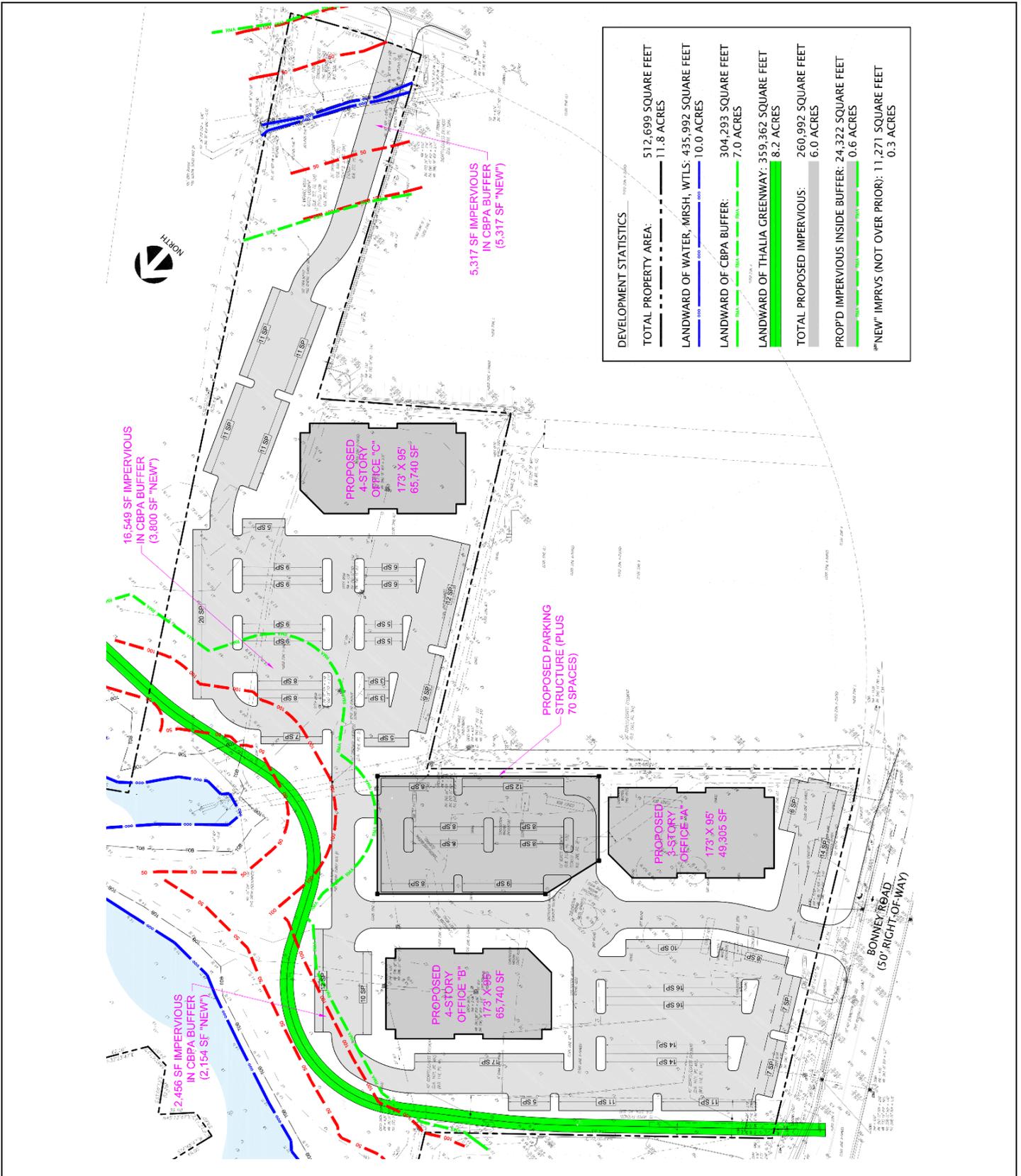
Site Aerial



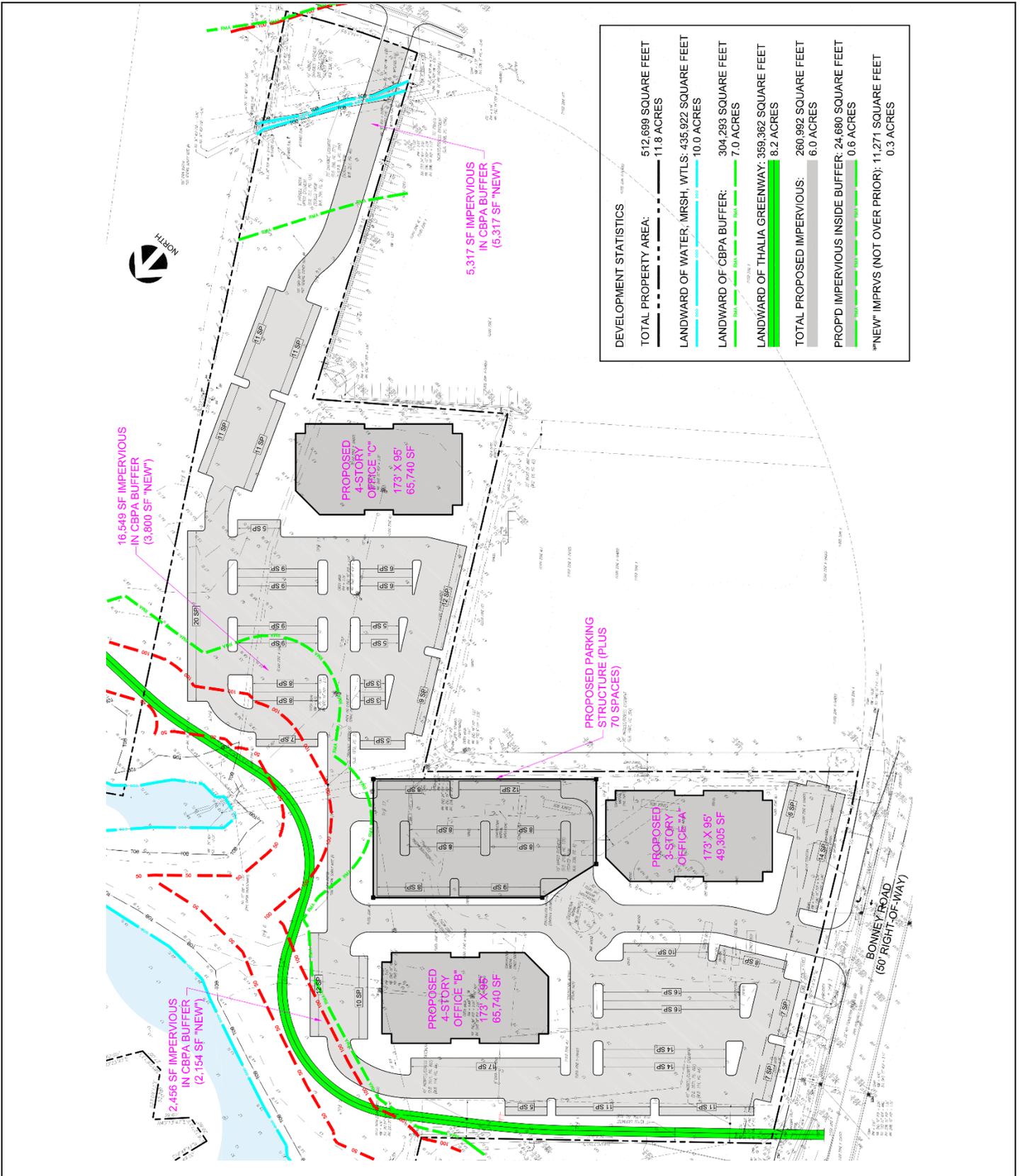
CBPA Exhibit – Existing Conditions



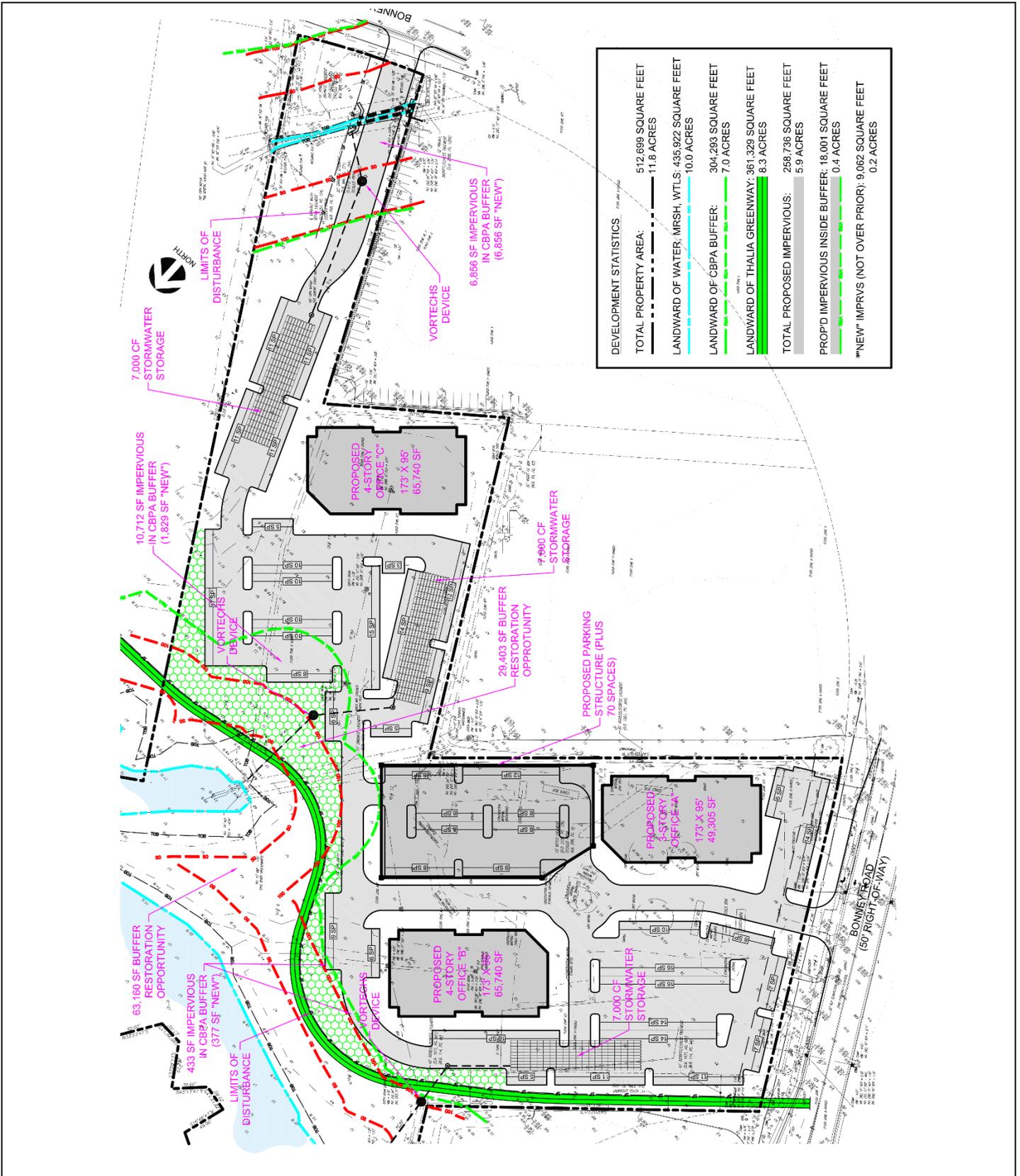
CBPA Exhibit – Proposed Improvements provided in the January 27, 2020 Staff Report



CBPA Exhibit – Proposed Improvements provided in the February 24, 2020 Staff Report



Revised CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME OLYMPIA DEVELOPMENT CORPORATION

DISCLOSURE STATEMENT FORM

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

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

SECTION 1 / APPLICANT DISCLOSURE

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

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: OLYMPIA DEVELOPMENT COF
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: CITY OF VIRGINIA BEACH
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 type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	BRAD MARTIN, CLARK DESIGN
<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 checked="" type="checkbox"/>	<input type="checkbox"/>	

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

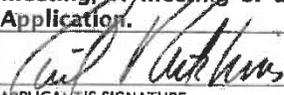
THE CITY OF VIRGINIA BEACH OWNS THE PROPERTY, AND THE INTENT IS FOR THE APPLICANT TO PURCHASE THE PROPERTY AND BUILD THE DEPICTED PROJECT ON IT.



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.

	Cecil V. Cuthchins	7/3/2019
APPLICANT'S SIGNATURE	PRINT NAME	DATE



OWNER

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



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<input checked="" type="checkbox"/>	<input type="checkbox"/>	

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

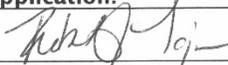
PROPERTY IS CURRENTLY OWNED BY THE CITY OF VIRGINIA BEACH.



CERTIFICATION:

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

	ROBERT J. TAJAN	1/17/2020
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE



Applicant & Property Owner **Karen M. Jefferson LT**
 Address **936 E. Sparrow Road**
 Public Hearing **May 18, 2020**
 City Council District **Kempsville**

Agenda Item

2

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct an inground swimming pool with associated paver patio and walkways, pool shed and gazebo.

Applicant's Agent

Self-represented

Staff Planner

PJ Scully

Lot Recordation

Map Book 283, Page 13

Recorded 1/14/2000

GPIN

1447-91-3309

SITE AREA

57,576.5 square feet or 1.32 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

55,109.5 square feet or 1.26 acres

EXISTING IMPERVIOUS COVER OF SITE

10,955.8 square feet or 19.8 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

12,707.8 square feet or 23 percent of site

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

1,457 square feet

Location of Proposed Impervious Cover

50-foot Landward Buffer

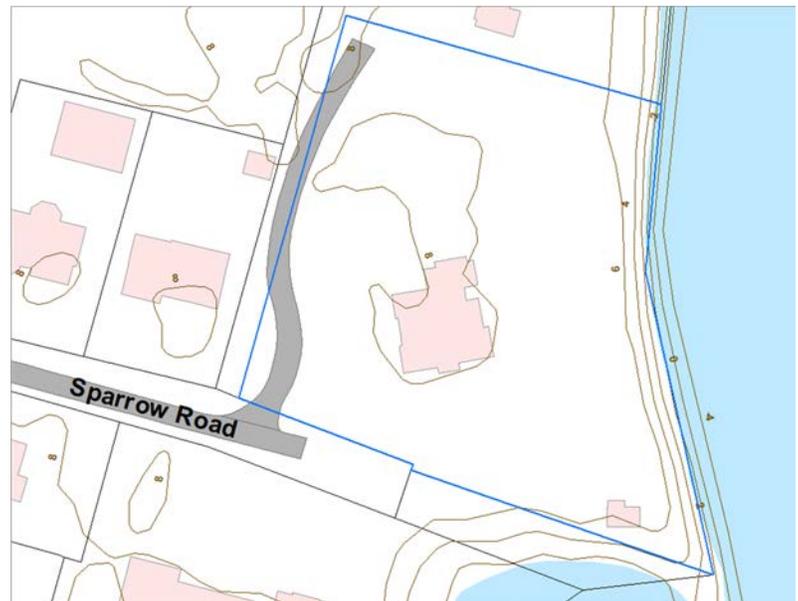
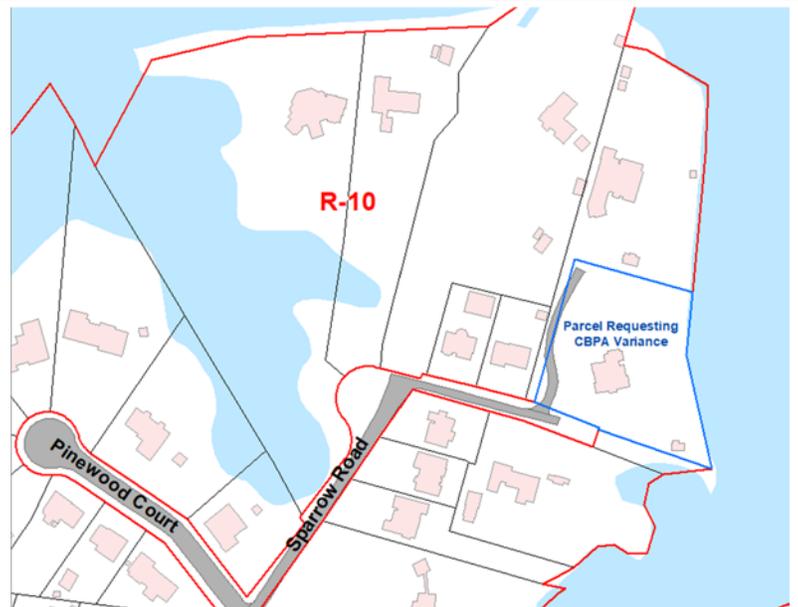
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- Swimming pool with associated paver patio pool surround
- Paver patio area adjacent to swimming pool
- Combined gazebo and pool shed

CBPA Ordinance Variance History

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

A Subdivision Variance was granted by City Council on September 28, 1999 for the creation of this lot out of the adjacent lot to the north.

Environmental Conditions

Flood Zone

Zone AE, Base Flood Elevation (BFE): 8

Please be advised that all construction within a flood zone shall be performed in compliance with the requirements of the Floodplain Ordinance [City Code, Appendix K].

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

Shoreline

Shoreline is hardened by a rip rap revetment

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

Stormwater Management Methodology

The applicant has stated in the Water Quality Impact Assessment (WQIA) for this variance request that bioretention planting beds around the proposed improvements, sand and gravel underdeck treatment, and rainwater harvesting will be provided as a best management practice for stormwater run-off mitigation.

Evaluation and Recommendation

Staff is of the opinion that the variance request as submitted provides merit towards the general performance standards of Section 106 of the Chesapeake Bay Preservation Area (CBPA) Ordinance for the following reasons. First, the applicant has situated the proposed improvements such that the existing driveway will be utilized for construction access and

stockpiling of materials, thereby limiting the amount of land disturbance specific to the proposed improvements. Furthermore, Staff has conditioned the limits of construction to 5 feet seaward of the proposed improvements. Conditioning the limits of construction as such keeps the overall land disturbance under 2,500 square feet. Second, the existing vegetation, specifically the mature canopy tree cover within the lot, will be preserved with the proposed improvements completely located within an area of existing turf grass. Third, the overall proposed impervious cover of the lot does not exceed 23 percent of the lot above water and wetlands. Fourth, the proposed improvements are located within the upper reach of the RPA feature and approximately 65 to 70 linear feet landward of the edge of the existing rip rap revetment. Lastly, the change in grade elevation between the proposed improvements and the existing rip rap revetment is minimal, approximately 3 percent or less and a well-established planted area exists.

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) Staff is of the opinion that granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because other properties in the area have similar improvements that provides minimal encroachment in the upper reach of the RPA buffer. Specific to this lot those encroachments do not impact existing vegetation, specifically mature canopy tree cover, and limits land disturbance to the minimum necessary to afford relief.
- 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 given that the overall proposed impervious cover of the lot does not exceed 23 percent and the improvements are proposed directly adjacent to the primary structure.
- 3) The variance is the minimum necessary to afford relief given the amount of land disturbance associated with the proposed improvements and location of the proposed improvements within the RPA buffer.
- 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 slope of the lot to the tidal feature being relatively minimal and stabilized with turf offering an effective means in retarding run-off, preventing erosion, and filtering nonpoint source pollution.
- 5) Staff offers that as a means to manage towards a no net increase in nonpoint source pollution load; all existing vegetation is being retained, land disturbance will be limited to the upper reach of the RPA buffer and utilizing an existing hard surface for construction access and stockpiling, and with run-off produced from the proposed improvements having approximately 70 linear feet of pervious cover to sheet-flow across before draining into tidal waters.

Given the above comments, Staff recommends the following 11 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

- 1) The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. A Single-Family RPA Small Projects 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. Land disturbance associated with the proposed improvements at any given time shall not exceeds 2,500 square feet.

If at any time land disturbance exceeds 2,500 square feet, Planning Department Staff may issue a stop work order. At that time, a full site development plan in compliance with local and State regulations shall be submitted for review and approval through the Development Services Center (DSC).

- 2) 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.
- 3) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,457 square feet x 200 percent = 2,914 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable.

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

- 4) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 5) 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.
- 6) 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.**
- 7) Construction limits along the seaward portion of the project shall lie a maximum of 5 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 5 feet from improvements.
- 9) 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.

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

11) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$333.89 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.

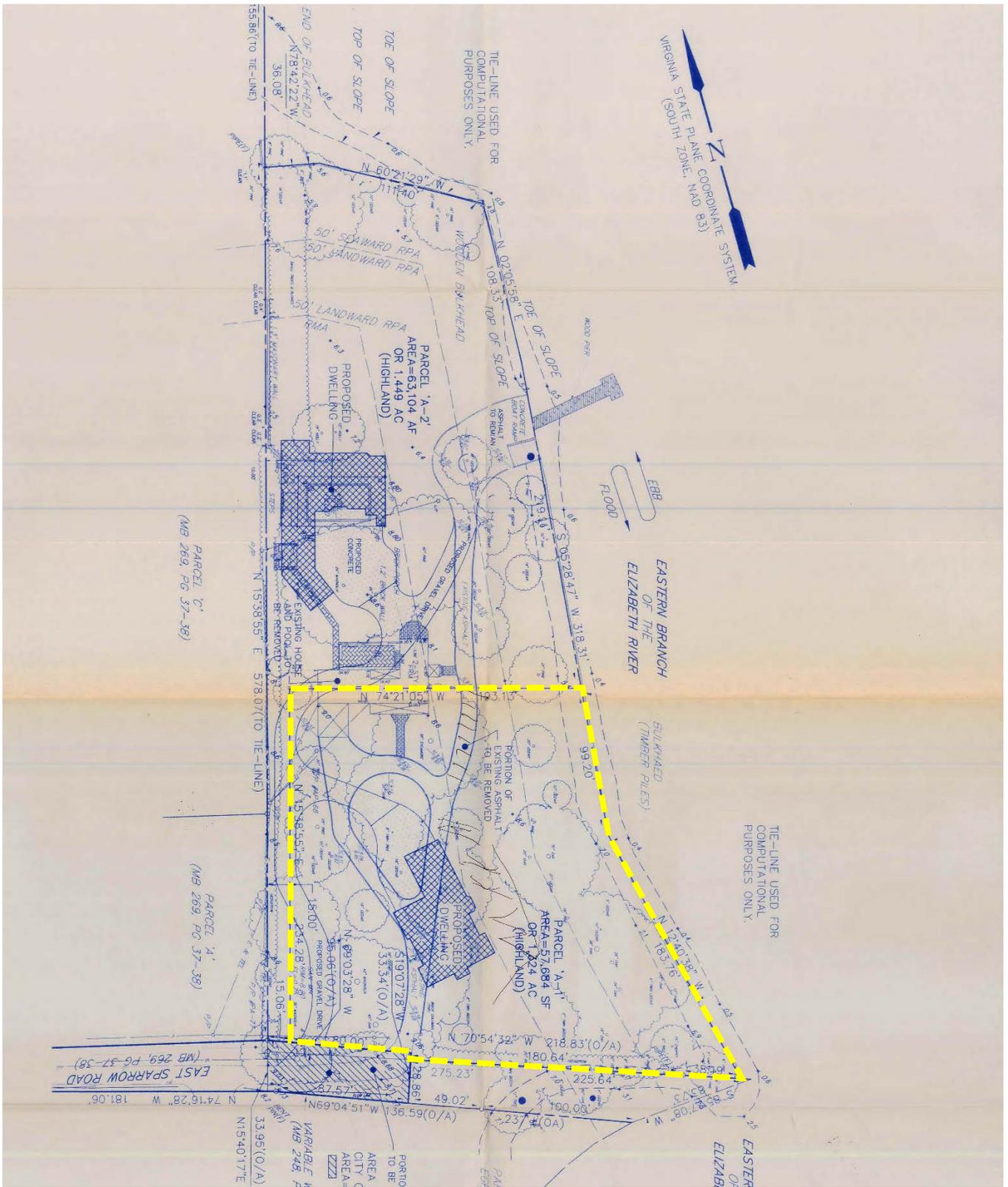
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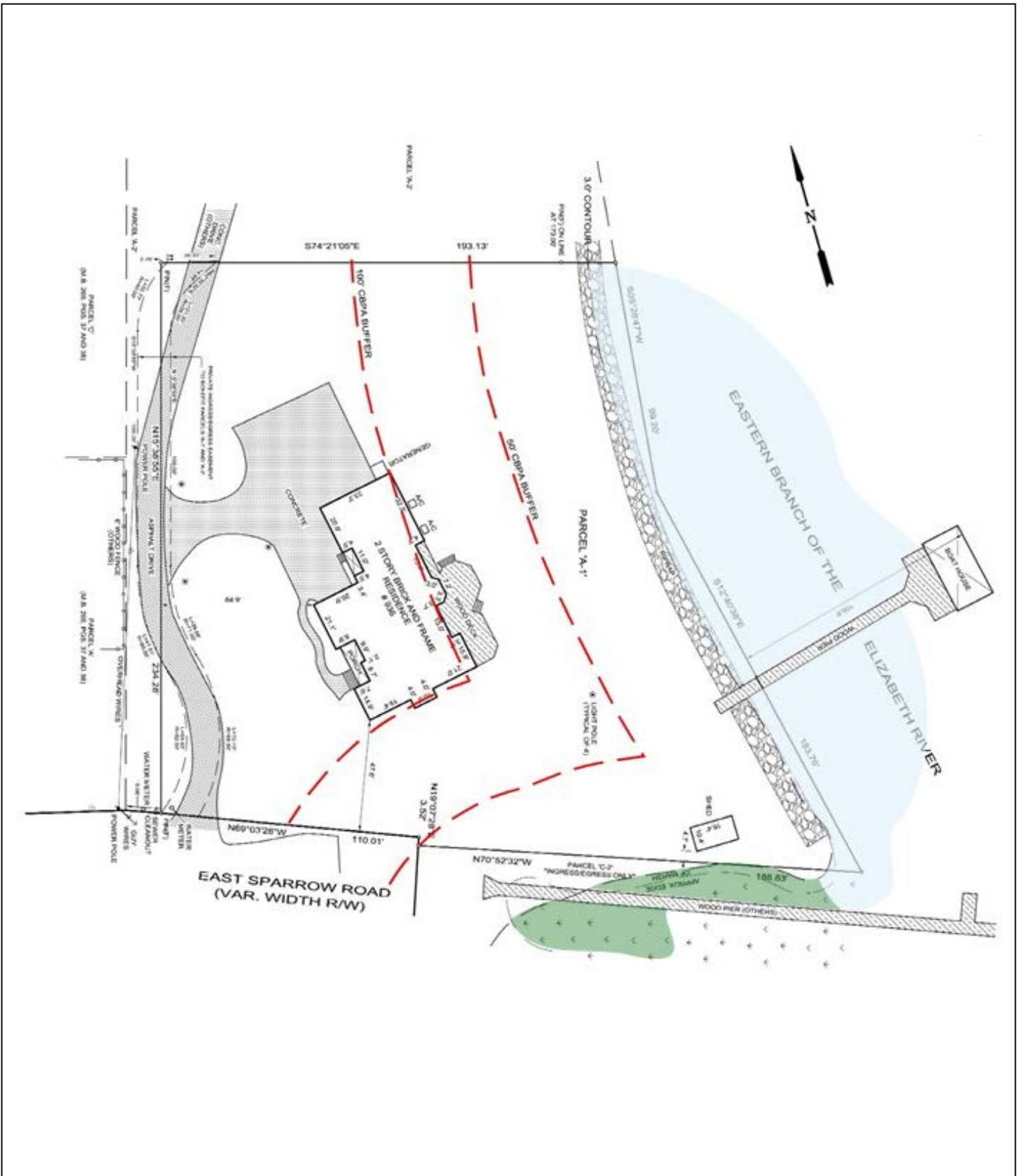
Site Aerial



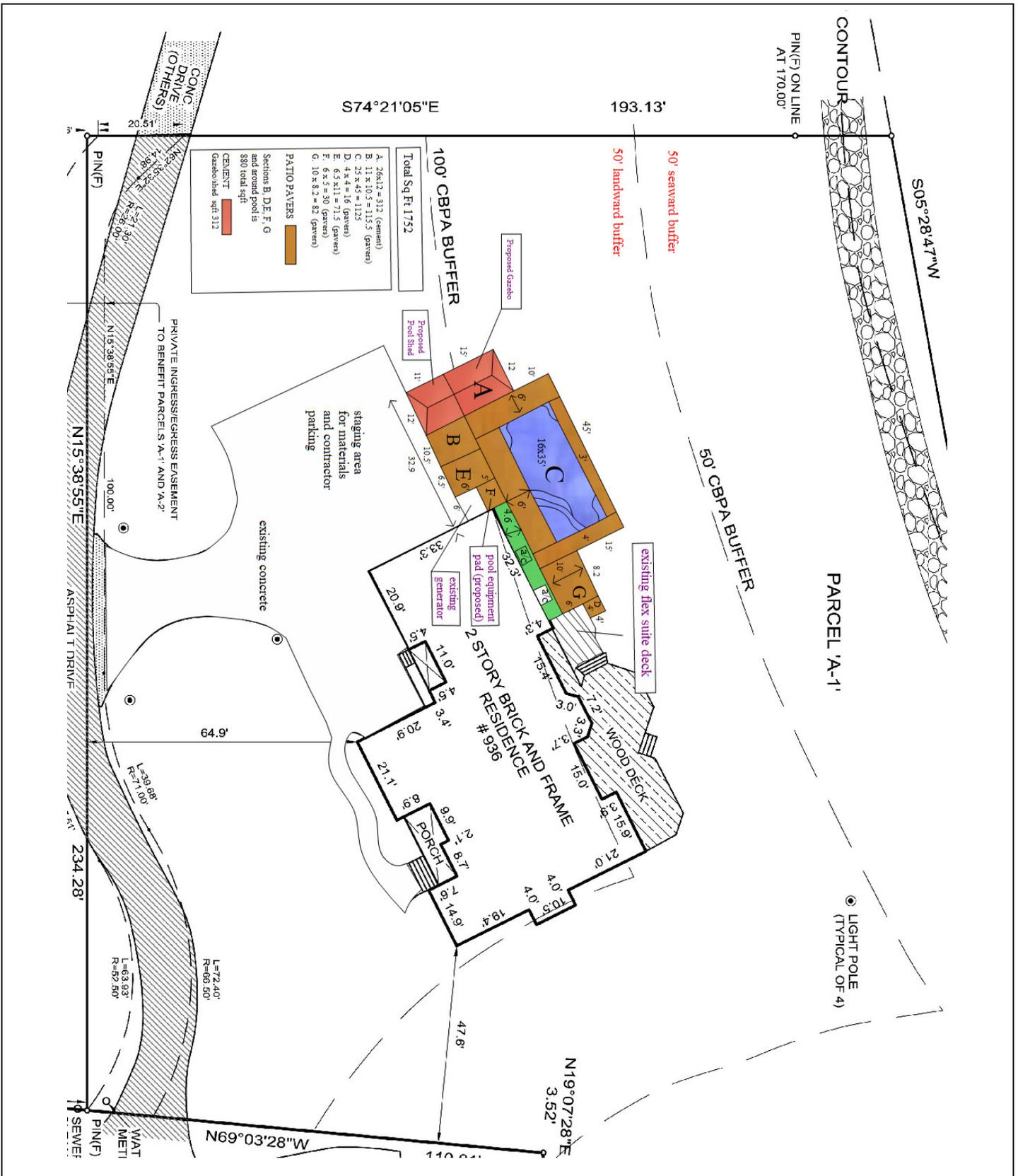
September 28, 1999 Subdivision Variance Exhibit



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Karen Jefferson

DISCLOSURE STATEMENT FORM

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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: Karen Jefferson
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.

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

(A) List the Property Owner's name: N/A
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.

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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	KATHRYN EGNOR, CPA
<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	ATLANTIS POOLS
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	BOONE SURVEYORS
<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	

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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?

Page 4 of 7



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.

	KAREN JEFFERSON	1-27-20
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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



Property Owner **Charles E. & Mary G. White**
Applicant **Stephen Alexander Homes, LLC**
Address **Leeward Shore Drive, Parcel GPIN 2409-19-8659**
Public Hearing **May 18, 2020**
City Council District **Lynnhaven**

Agenda Item

3

The applicant is requesting a deferral of this application to the Monday, July 6, 2020 CBPA Board Public Hearing. Staff supports the request to defer.

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a single-family residence, swimming pool with associated patio and pool house, retaining walls and rip rap revetment.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

Map Book 48, Page 15a

Recorded 10/6/1959

GPIN

2409-19-8659

SITE AREA

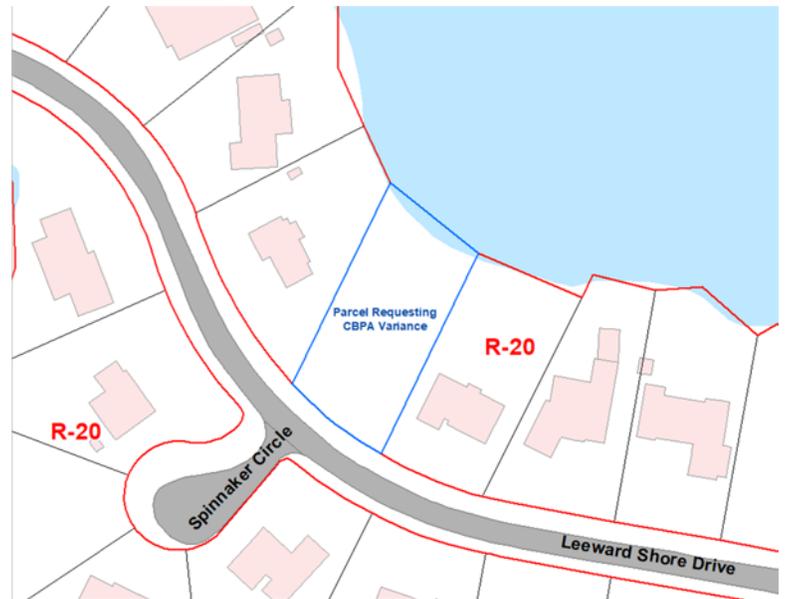
21,418 square feet or 0.49 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

19,682 square feet or 0.45 acres

EXISTING IMPERVIOUS COVER OF SITE

0 square feet or 0 percent of site



AS NEEDED, PAGE LEFT BLANK

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct an inground swimming pool with associated paver patio and pool house.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

Map Book 264, Page 23

Recorded 12/12/1997

GPIN

1499-23-1940

SITE AREA

47,705 square feet or 1.095 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

37,307 square feet or 0.856 acres

EXISTING IMPERVIOUS COVER OF SITE

12,419 square feet or 33.3 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

14,328 square feet or 38.4 percent of site

Area of Redevelopment in RPA

1,185 square feet

Area of New Development in RPA

1,909 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

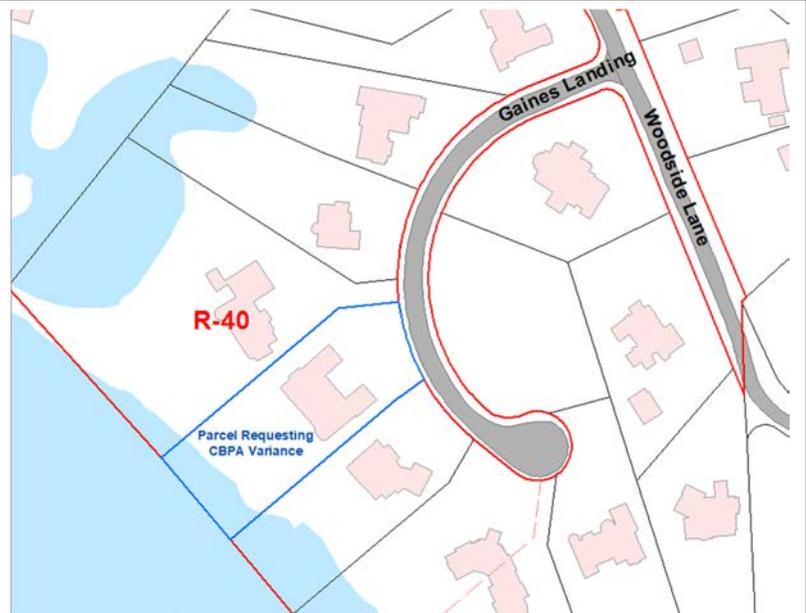
100-foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Concrete patio and walkway

Construction Details

- Swimming pool with associated brick paver patio
- Pool house

CBPA Ordinance Variance History

December 11, 1996 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for a 20-lot residential subdivision with the following conditions:

- 1. For Lots 1, 2 through 5 – land disturbance within the Resource Protection Area, adjacent to S. Woodside Lane shall be limited to driveway access only, all structures shall be located outside of the Resource Protection Area.*
- 2. For Lot 6 – land disturbance within the Resource Protection Area, adjacent to S. Woodside Lane shall be limited to driveway access and landscape and signage improvements within any common area.*
- 3. For Lots 10, 11, 13 through 16, 19, & 20, land disturbance shall be 75' from the top of bank.*
- 4. For Lots 12 and 17 all land disturbance shall be 75' from riverside top of bank and 50' from the cove side of the top of bank.*
- 5. Shoreline hardening shall be limited to rip rap revetment march protection only, consistent with recommendations offered by the Shoreline Erosion Advisory Service (SEAS).*
- 6. Deed restrictions shall be established for conditions 1 through 4 above and be recorded concurrent with the recordation of the subdivision plat. To assist in ensuring long term compliance with the deed restriction, a homeowner's association shall be established with membership being mandatory.*

The December 11, 1996 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): 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: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Stormwater Management Methodology

The applicant's agent has stated in the Water Quality Impact Assessment (WQIA) for this variance request that bioretention planting beds will be provided as a best management practice for stormwater run-off mitigation.

Evaluation and Recommendation

During the site visit, Staff evaluated the condition of the shoreline and existing upland improvements for signs of erosion and nonpoint source stormwater discharge. Given the stability of the existing vegetative cover along the shoreline and well-kept conditions of the existing upland improvements, Staff is of the opinion that the existing conditions of the lot are in harmony with the finding of the Chesapeake Bay Preservation Area (CBPA) Ordinance and the CBPA Board variance granted in 1996.

As for the proposed improvements, Staff is of the opinion that the dimensions of the proposed swimming pool are minimally greater than the average residential swimming pool (16 feet by 32 feet) and the layout of the proposed pool house and associated brick paver patio area do not reflect the minimal necessary to afford relief. Staff routinely conditions a limitation of a typical pool surround in the RPA to 4 foot by 4 foot by 4 foot by 8 foot or approximately 746 square feet for the size swimming pool represented on the CBPA Exhibit. As a compromise, Staff recommends a condition below that the overall post-impervious cover of the site be conditioned as a means towards being the minimum necessary to afford relief.

To support the proposed redevelopment of this lot, the applicant's agent has provided the following comments relative to the findings of the CBPA Ordinance specific to this variance request for the Board's deliberation.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *"the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels."* Staff offers that an aerial review of the lots associated with the 1996 CBPA Variance show similar improvements that the applicants is requesting with this variance application.
- 2) The applicant 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 because *"lot has topographic relief and the neighboring wetlands that have an impact on the CBPA buffer on the subject lot, these all appear to be natural conditions."* Staff offers that the existing vegetative cover along the shoreline and well-kept conditions of the existing upland improvements are in harmony with the finding of the Chesapeake Bay Preservation Area (CBPA) Ordinance and the CBPA Board variance granted in 1996.
- 3) The variance is the minimum necessary to afford relief given that *"the house was originally built in 2003 in its current location on the lot, we feel the best areas for expansion/redevelopment for the property is as shown to help avoid additional impacts to the resource. The proposed improvements have been limited to the landward buffer"* Staff respects the perspective of the applicant's agent regarding the location of the

Christopher & Yasmine Hooper

Agenda Item 4

Page 43

proposed improvements. However, Staff is of the opinion that the overall post-impervious cover of the lot should be reduced and offers the recommended condition 17 below for the Board's deliberation.

- 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 bay, however if approved, the proposed redevelopment will be required to have treatment provided between the improvements and the waterway."* Staff concurs.
- 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 waterway to capture and treat run-off prior to discharge into the Bay."* Given the existing topography within the rear yard and the distance the proposed improvements will be from the top of bank feature, Staff is of the opinion that the required buffer restoration would offer merit towards the creation of a riparian ecosystem within the 100-foot RPA buffer.

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 Single-Family RPA 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.
- 2) 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.
- 3) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,206 square feet x 200 percent = 2,412 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 18 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.

- 4) The maximum impervious cover of the parcel shall not exceed 13,625 square feet or 36.5 percent of site. Said limits of proposed impervious cover shall not be any further seaward than depicted on the CBPA Exhibit submitted for the subject variance request.
- 5) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 6) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 7) 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.
- 8) 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.**
- 9) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 5 feet from improvements.
- 10) Construction limits along the seaward portion of the project shall lie a maximum of 5 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 11) 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.
- 12) 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.
- 13) 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.
- 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 \$276.37 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.

16) This variance and associated conditions **are in addition to** the conditions of the Board variance granted December 11, 1996.

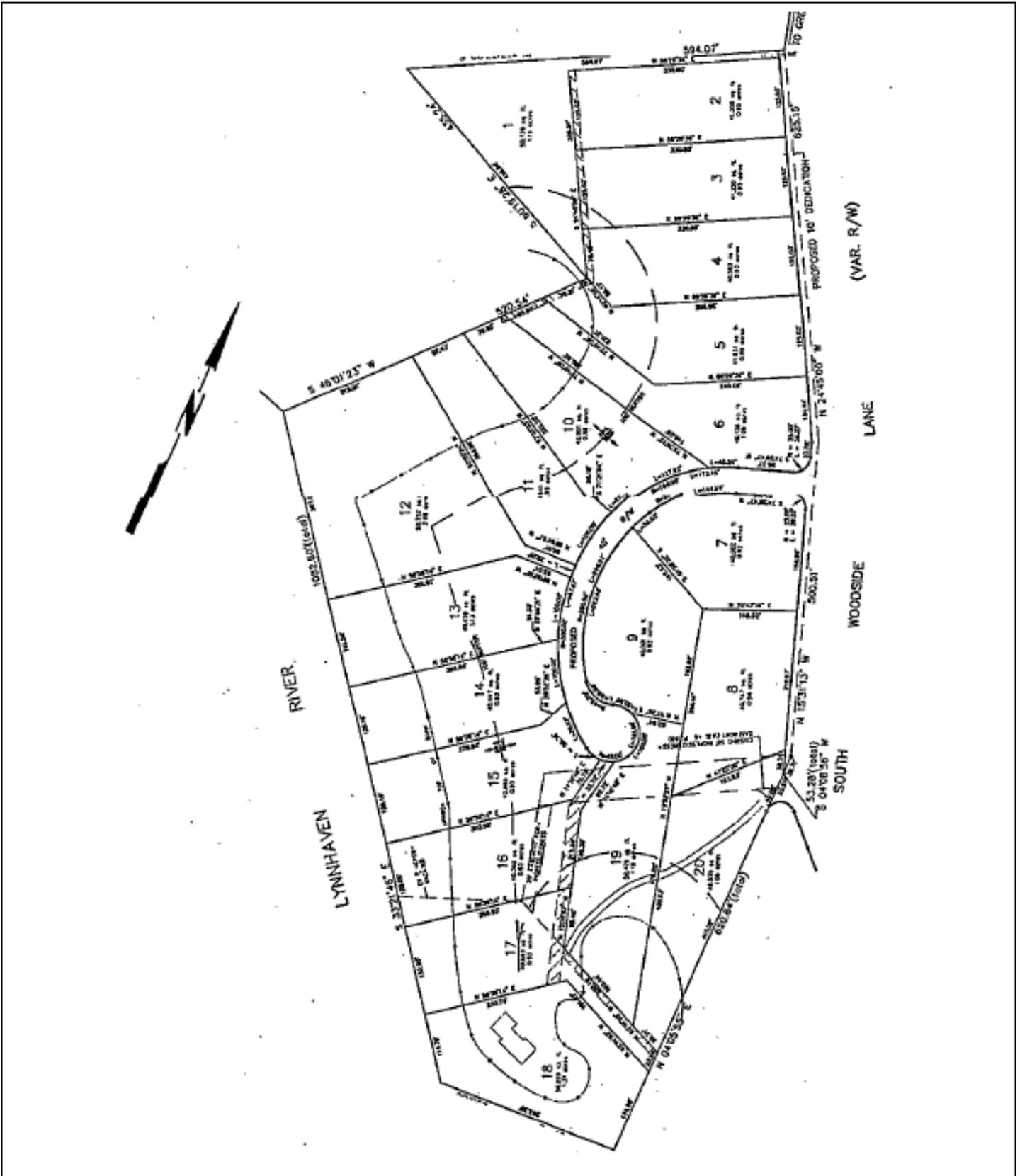
17) The conditions and approval associated with this variance are based on the exhibit plan dated February 4, 2020, prepared by WPL, signed February 5, 2020 by Eric A. Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented 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.

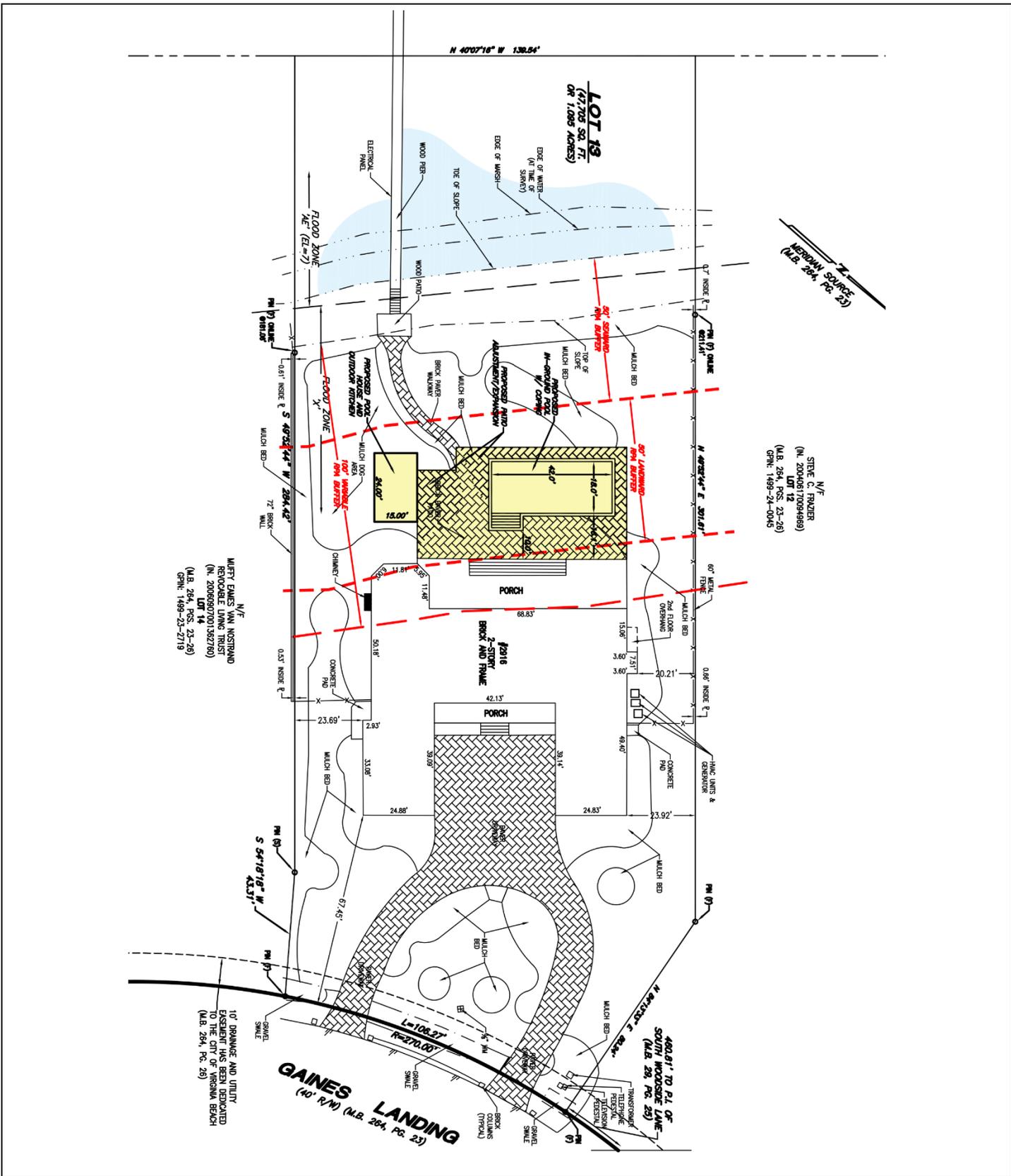
***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section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

Site Aerial





CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Dr. Yugal Behl DDS DSc

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: Dr. Yugal Behl DDS DSc
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: Christopher & Yasmine Hooper
If an LLC, list the member's names:



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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	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)	Paul Maysak, PNC Home Lending
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Billy Garrington, GPC
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	David Savino Berkshire Hathaway Home Services/Towne Realty

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

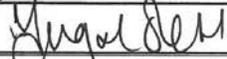
If yes, what is the name of the official or employee and what is the nature of the interest?



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.

	Dr. Yugal Behl	02/10/2020
APPLICANT'S SIGNATURE	PRINT NAME	DATE



OWNER

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

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"/>	

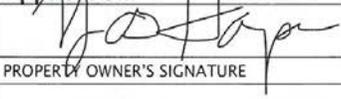
If yes, what is the name of the official or employee and what is the nature of the interest?



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	Yasmine Hooper	2/10/20
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

AS NEEDED, PAGE LEFT BLANK