

Chesapeake Bay Preservation Area Board Agenda

August 3, 2020

 **City of
Virginia Beach**

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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, August 3, 2020, 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 Council Chamber, Virginia Beach Municipal Center, Virginia Beach, Virginia. 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 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 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 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 the items that it believes should be on the Consent Agenda, it will vote at one time for all 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 **August 3, 2020**

- 9:00 AM INFORMAL STAFF BRIEFING OF PUBLIC HEARING AGENDA ITEMS. STAFF'S BRIEFING WILL BE HELD IN THE CITY COUNCIL CHAMBER.
- 10:00 AM FORMAL REVIEW OF PUBLIC HEARING AGENDA ITEMS. FORMAL REVIEW IS HELD IN THE CITY COUNCIL CHAMBER.

September 2020 Chesapeake Bay Preservation Area Board Public Hearing

Please be advised that the September 2020 Chesapeake Bay Preservation Area Board public hearing will be held on Thursday, September 10, 2020. The time and location of the informal Staff briefing, and the formal public hearing will remain the same.

ADMISTRATIVE AGENDA ITEM

Chesapeake Bay Preservation Area Board
Policies and Rules of Procedures

Staff Report – page 5

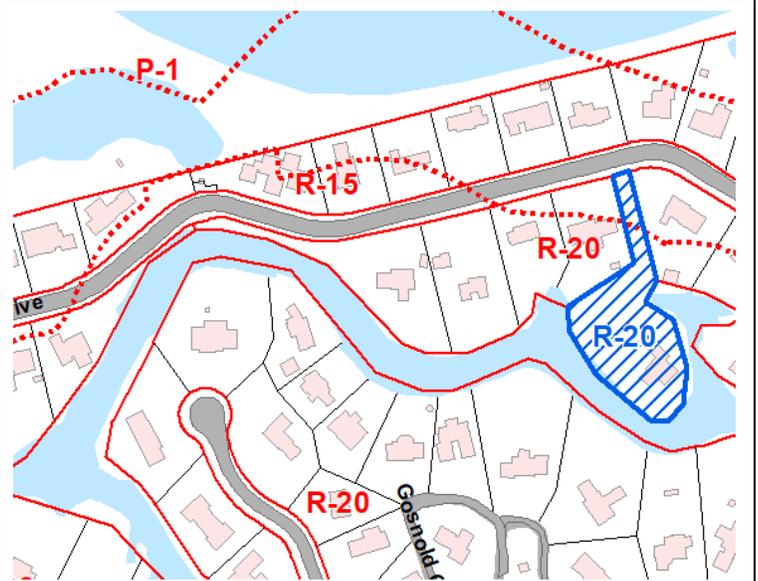
OLD BUSINESS AGENDA ITEM

- Jeremy & Natalie Biggie**
[Applicant & Property Owner]

409 Susan Constant Drive
GPIN 2419-61-4826
Council District – Lynnhaven
Accela Record 2019-CBPA-00044

Variance Request – Encroachment into the Resource Protection Area (RPA) buffer to construct a new single-family residence with associated accessory structures.

Staff Planner – PJ Scully
Staff Report – page 7



NEW BUSINESS AGENDA ITEM

2. Ryan & Corinne Angold
[Applicant & Property Owner]

1257 Hebden Cove

GPIN 1488-35-7862

Council District – Lynnhaven

Accela Record 2020-CBPA-00026

Statement of Noncompliance –

Encroachment into the Resource Protection Area (RPA) buffer to remove existing wood deck and construct a pavilion with associated pavers, retaining wall and backfill material.

Staff Planner – PJ Scully

Staff Report – page 25





Administrative Agenda Item

**Chesapeake Bay Preservation Area Board
Policies and Rules of Procedures**

Public Hearing **August 3, 2020**

The policies and procedures are adopted by the Chesapeake Bay Preservation Area Board of the City of Virginia Beach, to facilitate the performance of its duties and the exercise of its powers as set forth in the City's Chesapeake Bay Preservation Area Ordinance (Appendix F). Authority for the adoption and or modification of these policies and procedures is specifically set forth in Section 100(G) of the Chesapeake Bay Preservation Area Ordinance.

Policies and Rules of Procedures of the Chesapeake Bay Preservation Area Board

- | | |
|-------------|--|
| Article I | Meetings |
| Article II | Applications to the Board |
| Article III | Policies Pertaining to Land Disturbing Activities and Specified Structures |
| Article IV | Show Cause Procedures |

Date of Adoption

- | | |
|---------|-------------------|
| Adopted | November 22, 1999 |
| Amended | June 28, 2004 |
| Amended | January 23, 2006 |
| Amended | March 26, 2007 |
| Amended | August 27, 2007 |

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Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a new single-family residence with associated accessory structures.

Applicant's Agent

Robert Simon

Staff Planner

PJ Scully

Lot Recordation

Map Book 60, Page 30

Recorded 2/28/1964

GPIN

2419-61-4826

SITE AREA

44,078.9 square feet or 1.01 acre

SITE AREA OUTSIDE OF WATER/WETLANDS

41,896.9 square feet or 0.9 acre

EXISTING IMPERVIOUS COVER OF SITE

8,213 square feet or 19.6 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

12,531 square feet or 29.9 percent of site

Area of Redevelopment in RPA

7,354 square feet

Area of New Development in RPA

2,790 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

100-foot Variable Width Buffer

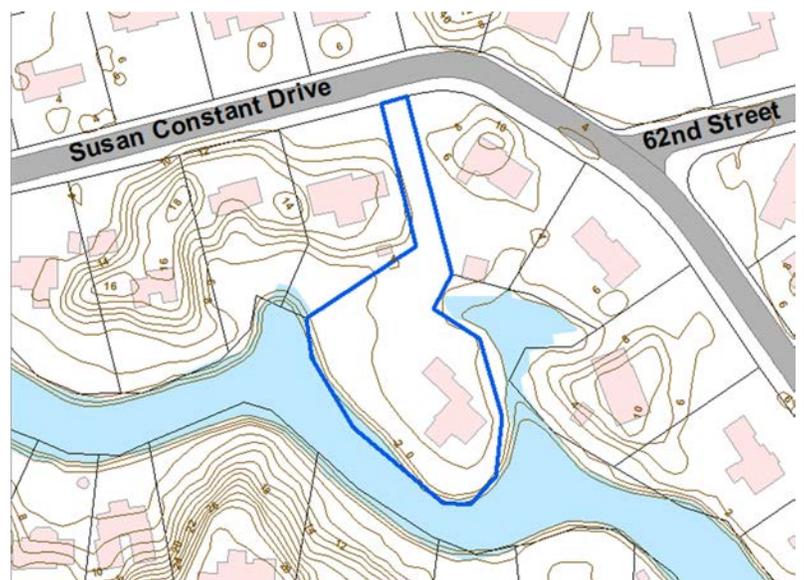
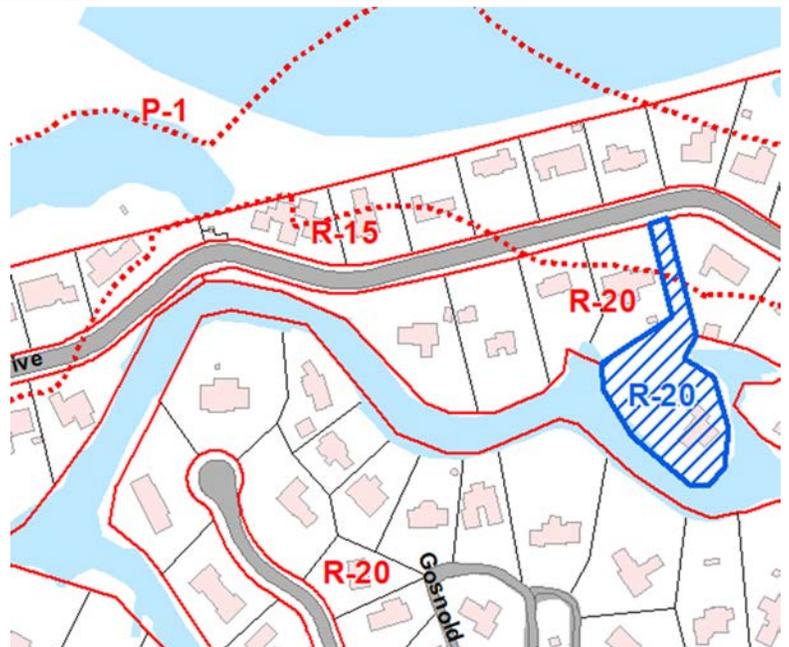
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Complete demolition of existing residential structure

Construction Details

- Single-family residence with attached garage
- 1-story attached structure with associated breezeway
- Swimming pool with associated pool patio and cabana
- Redevelop gravel driveway with concrete in the same footprint
- Shed

CBPA Ordinance Variance History

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

This variance request was deferred at the following CBPA Public Hearings.

- November 25, 2019 CBPA Board Public Hearing
- January 27, 2020 CBPA Board Public Hearing
- June 1, 2020 CBPA Board Public Hearing
- July 6, 2020 CBPA Board Public Hearing

Environmental Conditions

Flood Zone

Zone AE, Base Flood Elevation (BFE): 7

Soil Type(s)

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

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

Shoreline

Shoreline is hardened with a rip rap revetment. The redevelopment of the shoreline occurred in 2019. This was associated with a September 2018 Wetlands Board permit that included the removal of a dilapidated wood bulkhead and the installation of a 595 linear foot rip rap revetment. The rip rap revetment, which required grading of the shoreline as much as 13 feet landward, now extends 4 feet channelward of the former 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 of existing canopy tree removal request: The applicant has revised the layout of the proposed improvements with the intent to retain all existing canopy trees within the lot.

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

This variance request was first presented to the CBPA Board at the November 25, 2019 public hearing. At that time, the applicant proposed to redevelop the existing driveway and construct a room addition off the front of the existing single-family residence and install a swimming pool with associated patio area in the rear yard. Given the location of the existing improvements and relation to the geometry of the shoreline, both proposed improvements encroached into the 50-foot seaward buffer. The subsequent deferrals of the variance request were precipitated due to the calculated value of the proposed improvements in relation to the rules for improvements to properties located in the 100-year floodplain. Specifically, the improvements associated with the November 25, 2019 exhibit for the addition to the existing single-family residence necessitated coordination with the City's Floodplain Ordinance and base flood elevation compliance for the redevelopment this lot. As a result, the current CBPA Exhibit depicts the redevelopment of the lot with a new single-family residence that complies with the requirements of the Floodplain Ordinance's finished floor elevation.

With the 2018 Wetlands Board application, the replacement of the vertical bulkhead with rip rap resulted in the conversion of approximately 7,800 square feet of RPA uplands to a non-vegetated wetland (rip rap revetment). As a result of this conversion, the site area outside of water and wetlands was reduced from approximately 49,696 square feet to 41,896 square feet resulting in approximately 26,016 square feet or 62 percent of the site area outside of water and wetlands being located within the 50-foot seaward buffer for the lot. Although the redevelopment of the shoreline provides aquatic habitat (non-vegetated wetlands), the reduction of uplands increases the overall impervious cover of the lot by approximately 4 percent. For the area specific to the 50-foot seaward buffer, the proposed improvements redevelop approximately 1,335 square feet of existing impervious cover and result in approximately 1,827 square feet of new impervious cover.

Staff suggested to the applicant's agent that a conceptual buffer restoration plan be developed to provide visual affirmation that the buffer restoration can be accomplished based on the location and quantities of plant material conditioned. The restoration of the buffer is essential to maximum erosion and sedimentation control and overland flow of stormwater reduction, thereby capturing pollutants prior to entering the waterway while also enhancing water quality. The applicant's agent has explored the buffer restoration standard equal to 2 times the proposed impervious cover in the Resource Protection Area (RPA) [City Code, Appendix F, Sec. 106(C)(1)(a)] and has provided the exhibit provided on page 18 of this Staff report to further support the merits of this variance request. In addition, Staff has conditioned the coordination of the buffer restoration with the 1:1 replacement ratio for the 12 trees removed with the Wetlands Board approval for rehardening of the shoreline.

In addition, given the increase to the overall impervious cover of the lot associated with the redevelopment of the single-family residence and newly proposed accessory structures, should the Board consider approval of the application Staff has provided recommended conditions below to address the introduction of structural best management practices, use of permeable pavers in addition to the biorientation planting beds as stated in the WQIA as additional merit towards the stormwater treatment of nonpoint source pollution loads.

Should the Board desire to consider granting this variance request as submitted, the following comments relative to the findings of the CBPA Ordinance are offered by the applicant's agent 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 Areas who are subject to the provisions of this Ordinance and are similarly situated because *“the proposed improvements are at 26.8 percent of the site within the RPA, below the standard 30 percent threshold. The entire peninsula is bisected by the 50-foot seaward buffer with the balance encompassed by the 50-foot landward buffer.”* Staff recognizes that the peninsula-shaped lot creates challenges, as encroachment into the 50-foot seaward buffer is likely with any addition. Regardless, encroachment into the 50-foot seaward buffer often warrants additional consideration.
- 2) This variance request is not based upon conditions or circumstances that are or have been created because *“the lot was recorded in 1964 and the single-family residence was constructed in 1969. The original platting and development of this site in no way conforms to the CBPAO as adopted in 1990.”* Staff concurs that the recordation date of the plat was well in advance of the Chesapeake Bay Act adoption; however, through the variance process, development can occur subject to conditions unique to each application. In this case, the restoration of the buffer is particularly germane to Staff’s position.
- 3) The variance is the minimum necessary to afford relief because *“the subject request is reasonable in that it is at 26.8 percent and primarily associated with redevelopment of existing impervious cover.”* Staff recognizes that the peninsula-shaped lot creates challenges, as encroachment into the 50-foot seaward buffer is likely with any proposed redevelopment requests for a single-family residence on this lot. Regardless, encroachment into the 50-foot seaward buffer often warrants additional consideration.
- 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 site is not currently served by any BMPs and the entire site drains to Stratton’s Creek unabated. With this plan, BMPs will be installed downslope of all improvements.”* While BMPs are proposed, the restoration and expansion to the existing riparian buffer vegetation is essential to provide confirmation that such redevelopment of the lot can be accomplished in harmony with the existing environmental condition of the RPA as a significant component in stormwater runoff, as well as erosion control.
- 5) *“There will be a net reduction of the non-point source runoff with the installation of BMPs”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion that while BMPs are proposed, the installation of buffer restoration is essential to towards establishment of a riparian ecosystem, further ensuring a significant reduction in stormwater runoff, and to enhance erosion control.

Given the above comments provided by the applicant’s agent, Staff to accompany this variance request, the following 17 reasonable and appropriate conditions are provided by Staff for the Board’s consideration 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) The overall maximum impervious cover of the lot shall not exceed 11,260 square feet or 26.8 percent of the lot. Said limits of impervious cover shall not be increased within the 50-foot seaward buffer as shown on the submitted CBPA Exhibit.

- 3) 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.
- 4) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **2,790 square feet x 200 percent = 5,580 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 consisting of 7 canopy trees, 7 understory trees, 28 large shrub, and 42 small shrubs. Said buffer restoration is in addition to the 1:1 replacement ratio for the 12 trees removed with the Wetlands Board approval to reharden the shoreline. Both mitigation requirements shall be shown on the CBPA Site Plan, Buffer Restoration Plan for a total of **19 canopy trees, 7 understory trees, 28 large shrub, 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.

- 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 15 feet from improvements.
- 10) Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
- 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.

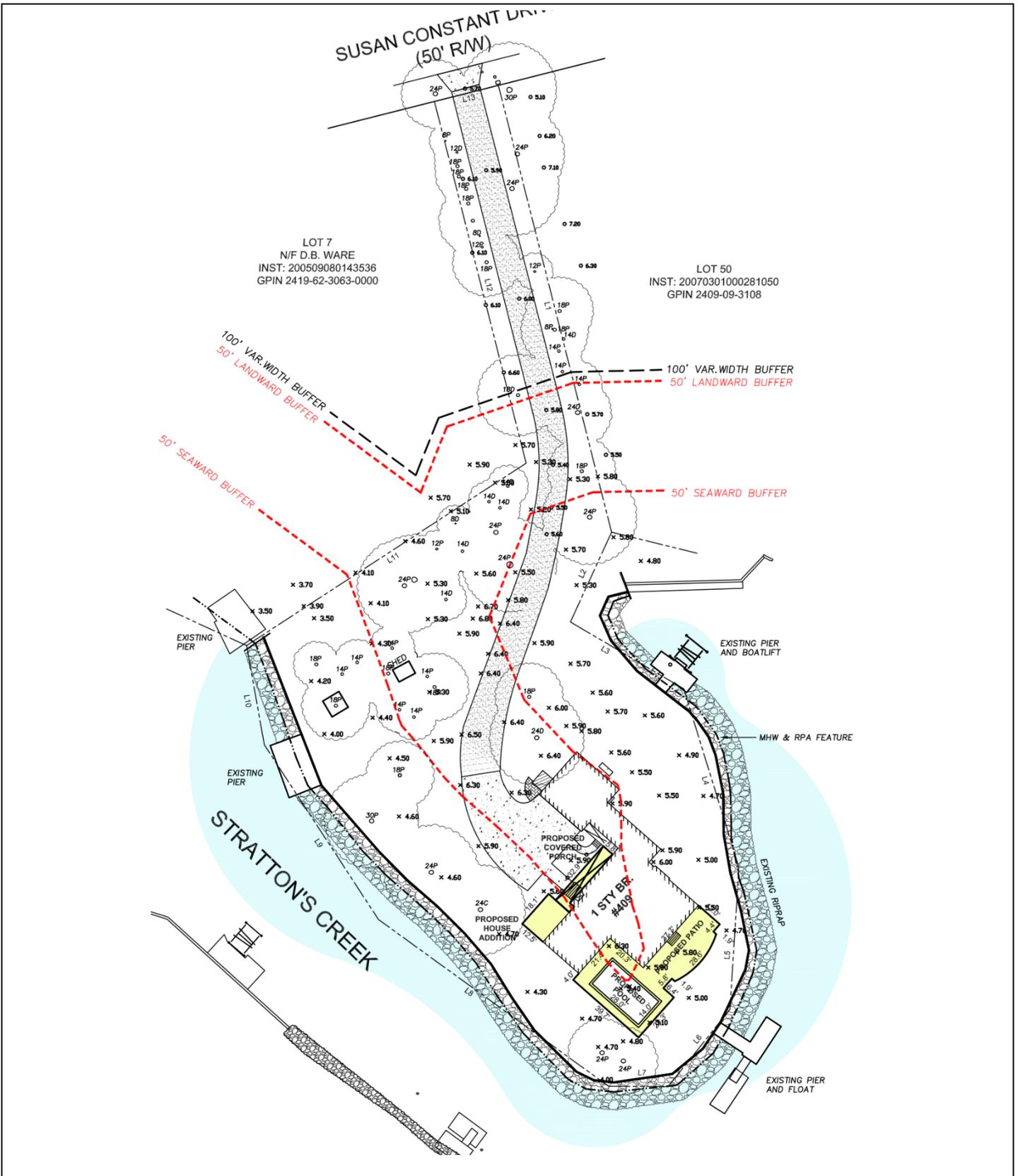
- 12) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 13) Permanent and / or temporary soil stabilization measures shall 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) The proposed paver path, exiting the north side of the proposed garage and all portion of the redeveloped driveway within the 50-foot seaward buffer of the RPA shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided site plan submitted to the Development Services Center for review and approval.
- 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 \$639.37 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.
- 17) The conditions and approval associated with this variance are based on the exhibit plan dated June 8, 2020, and revised July 9, 2020 prepared by Chesapeake Bay Site Solutions, Inc., signed July 15, 2020 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.

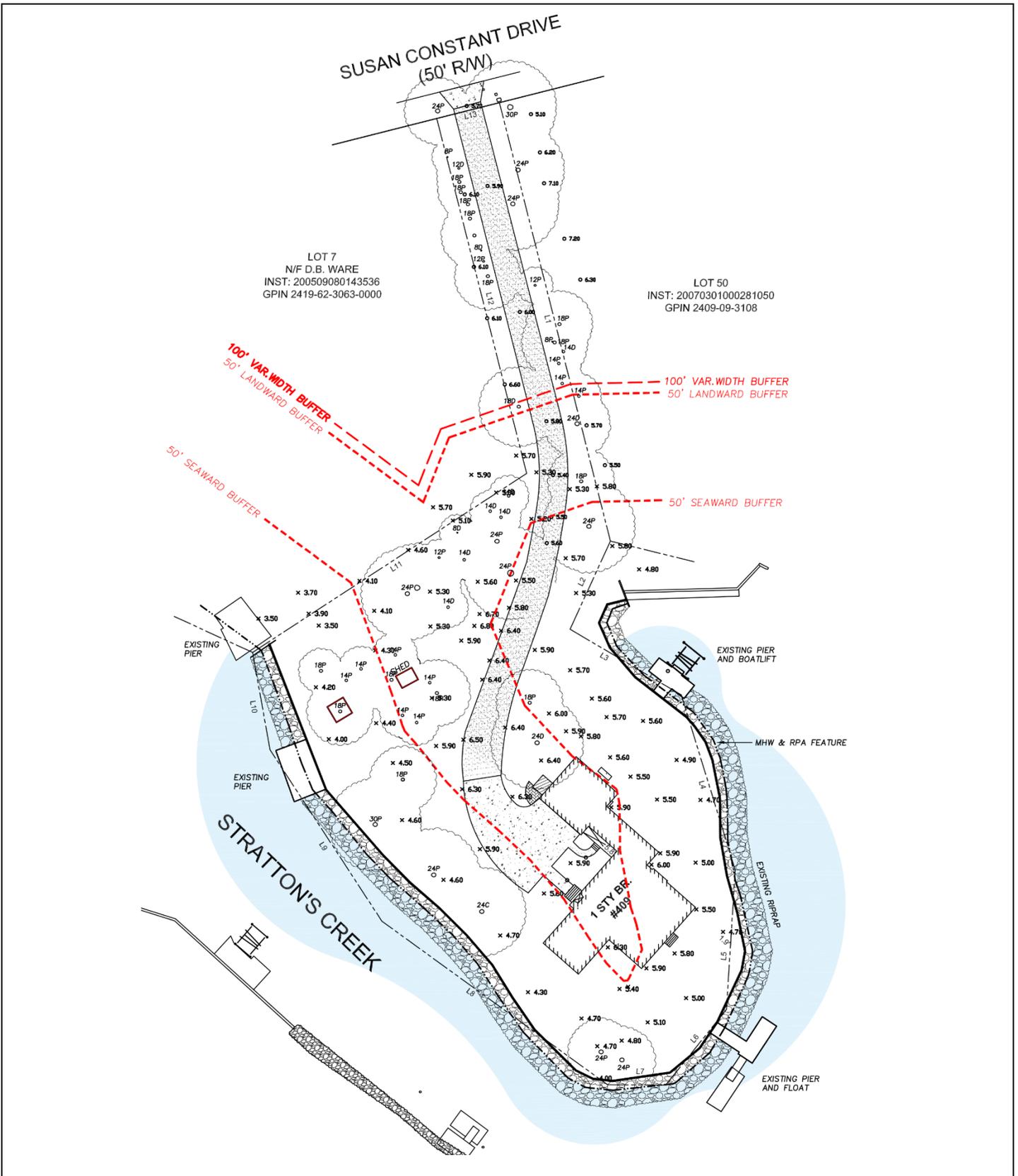
***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section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

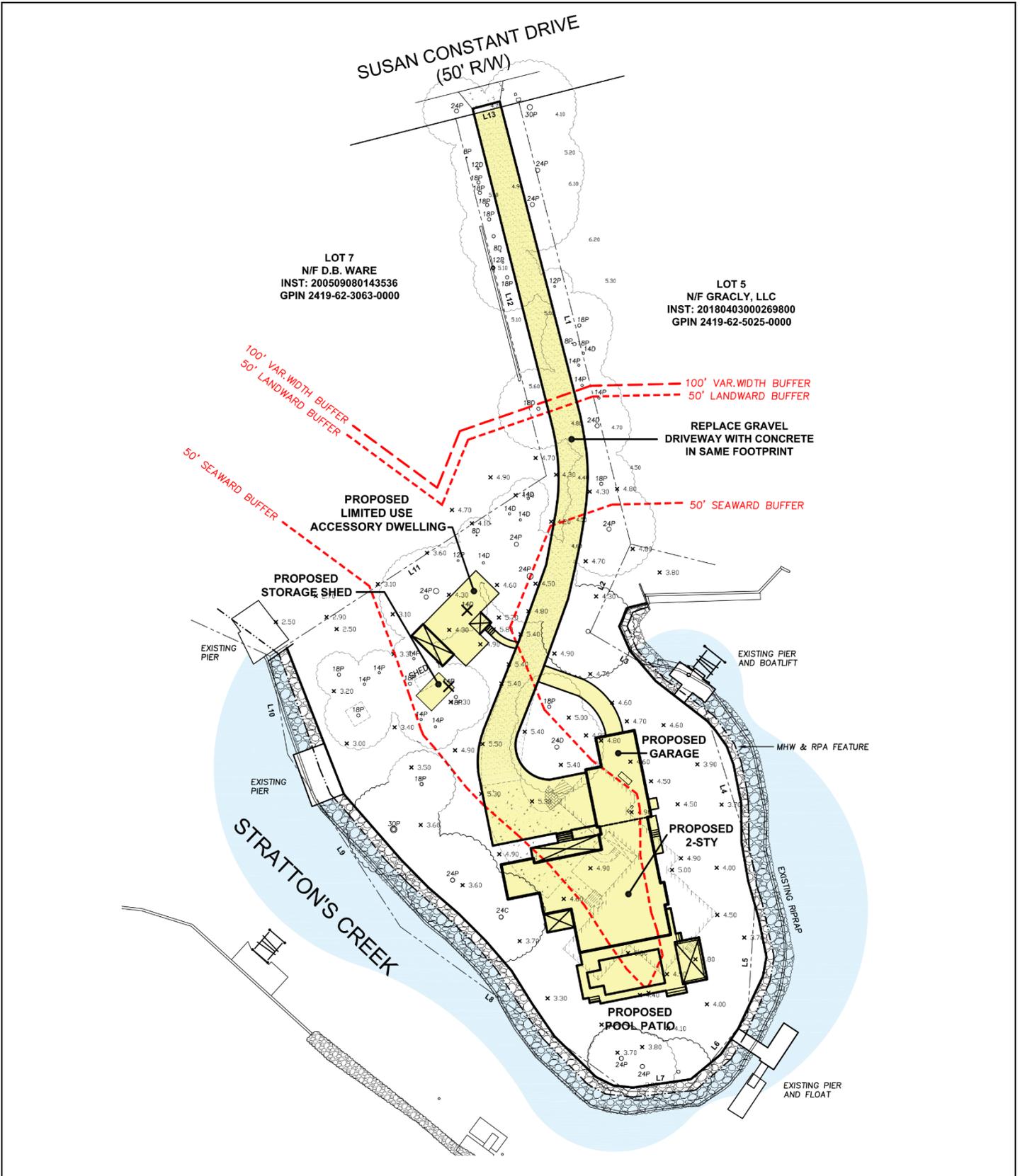
Site Aerial



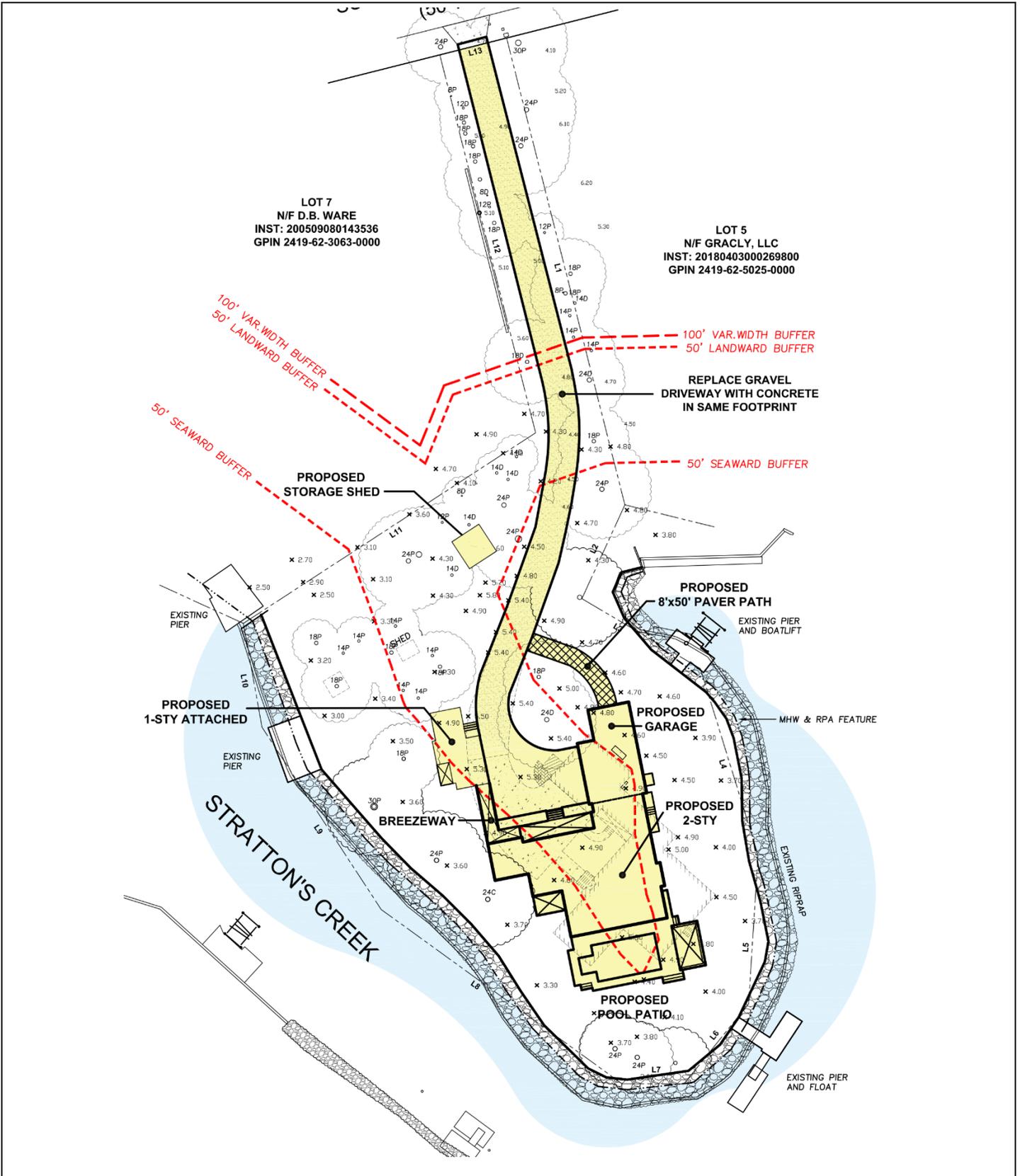


CBPA Exhibit – Existing Conditions

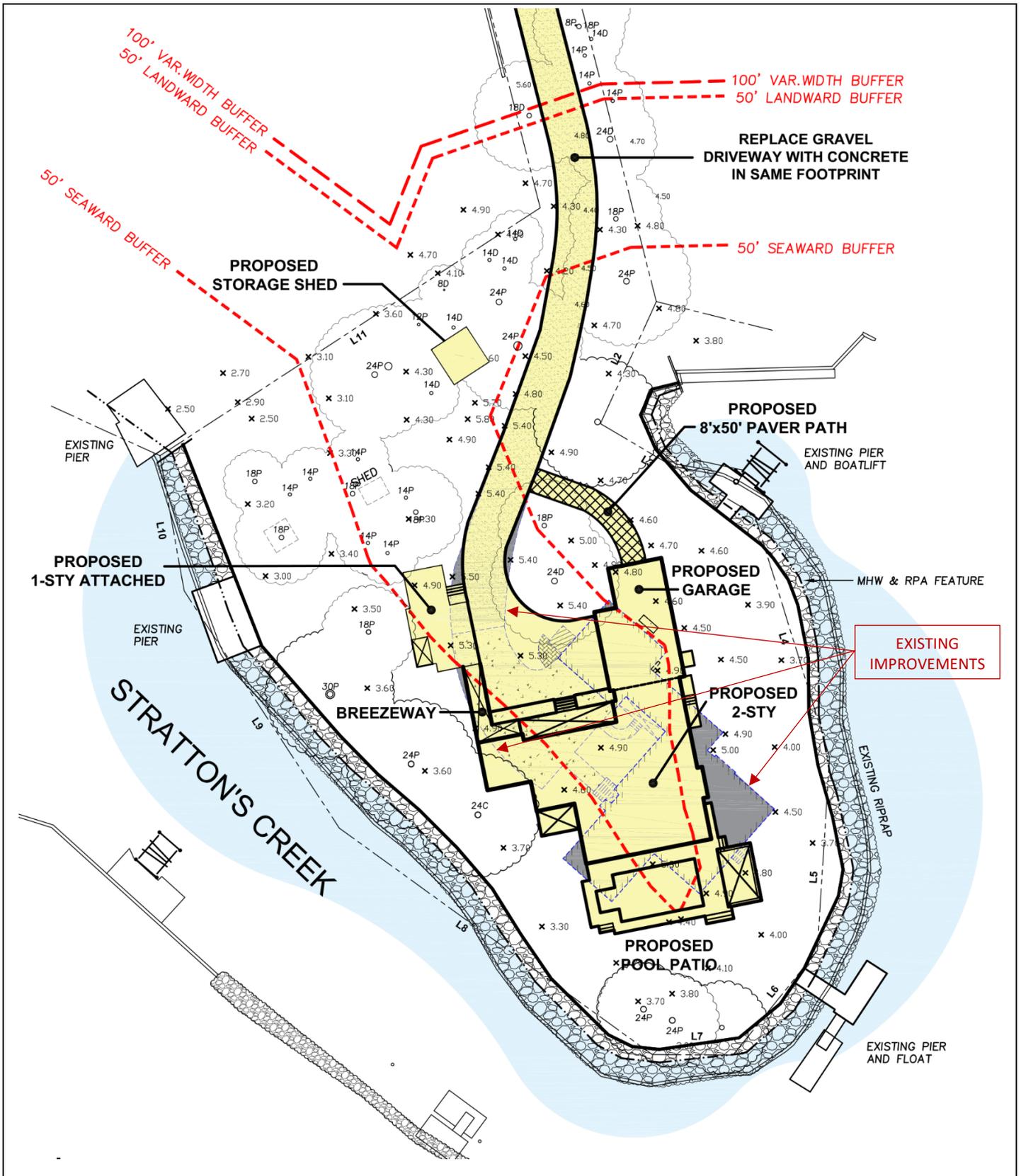




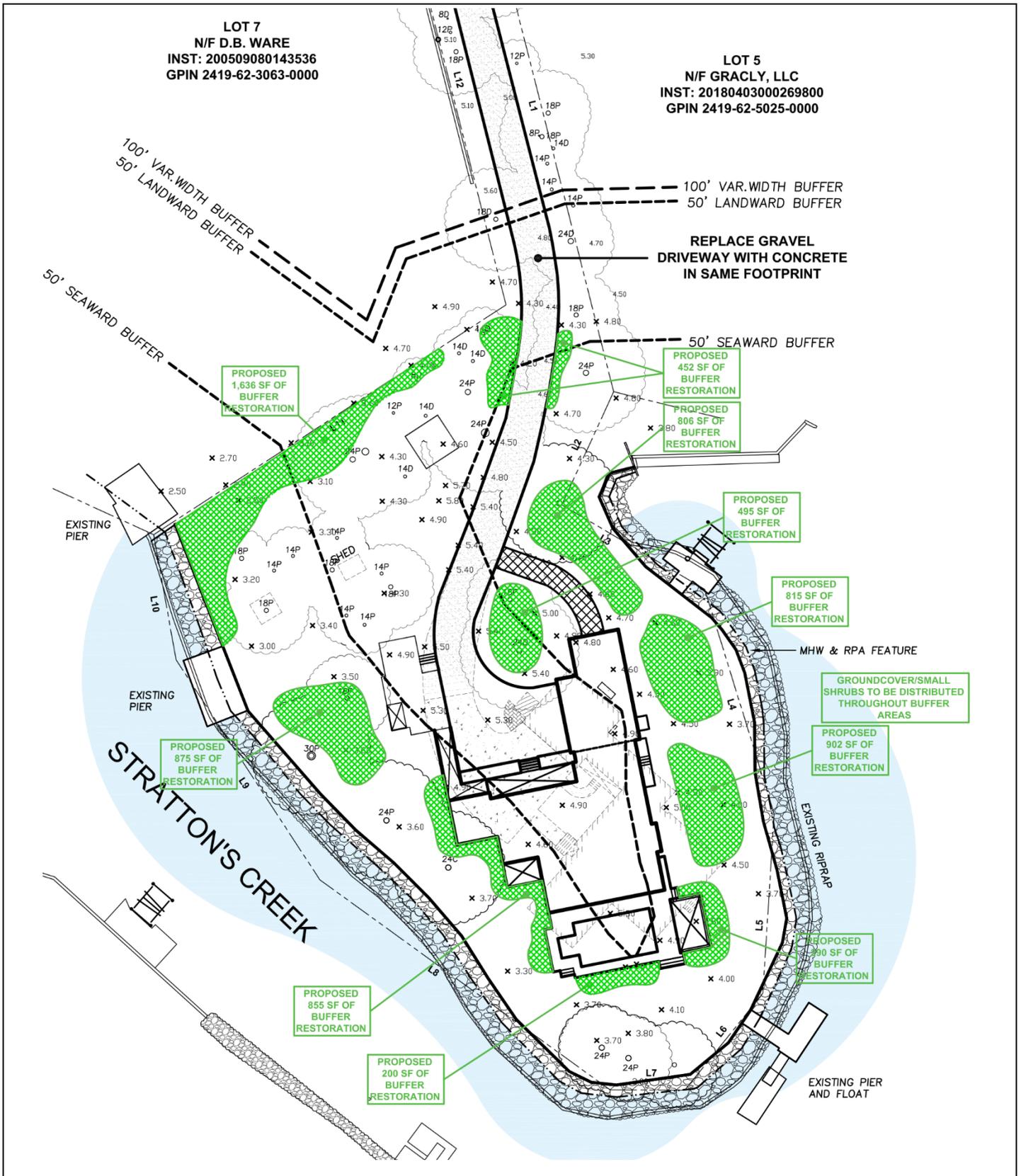
CBPA Exhibit – Proposed Improvements



CBPA Exhibit – Existing to Proposed Analysis



CBPA Exhibit – Conceptual Buffer Mitigation Layout





APPLICANT'S NAME Jeremy and Natalie Biggie

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: Jeramy and Natalie Biggie
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

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

- (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	Ginger Pickett
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Project out for bid
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	WCI, Chesapeake Bay Site Solutions
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Navy Federal Credit Union
<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"/>	

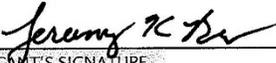
If yes, what is the name of the official or employee and what is the nature of the interest?



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.

	Jeremy K. and Natalie Biggie	July 25, 2018
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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



Applicant & Property Owner **Ryan & Corinne Angold**
 Address **1257 Hebden Cove**
 Public Hearing **August 3, 2020**
 City Council District **Lynnhaven**

Agenda Item

2

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to remove existing wood deck and construct a pavilion with associated pavers, retaining wall and backfill material.

Applicant’s Agent

Self-represented

Staff Planner

PJ Scully

Lot Recordation

Map Book 102, Page 32
 Recorded 3/6/1974

GPIN

1488-35-7862

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

1,280 square feet

Area of New Development in RPA

825 square feet

Location of Proposed Impervious Cover

50-foot Landward Buffer

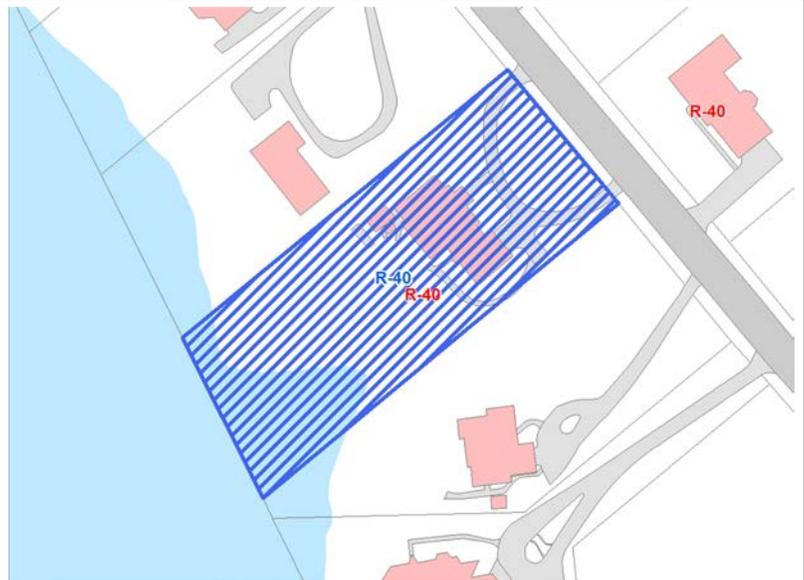
100-foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Wood deck – 2 in total
- Portion of brick retaining wall

Construction Details

- Retaining wall with associated backfill
- Open pavilion with associated paver patio
- Porcelain paver pool surround – overlay in the same footprint

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.

Riparian Buffer

Heavily to moderately wooded lot

- Number of 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

The applicant's desire to redevelop the lot consists of a porcelain tile overlay to the existing concrete pool surround, the removal of two wood decks and the construction of a 20-foot by 20-foot pavilion and retaining wall with associated backfill. The proposed retaining wall is located landward of the 50-foot seaward buffer and will tie into the existing brick retaining wall. The height of the proposed retaining wall is approximately 5 feet at the most vertical point and will transition into grade with steps at the existing walkway along the southeast side of the residence. Although the area of

new development in the RPA, as depicted on page 25 of this Staff report states 825 square feet, the applicant's agent has provided on the CBPA Exhibit that the total increase of impervious cover for the variance request only increases the overall impervious cover for the lot by 71 square feet with 770 square feet of existing impervious cover to be removed.

After conducting a site visit, Staff is not opposed to the proposed improvements or use of a retaining wall with associated backfill within the 50-foot landward buffer. Staff is of the opinion that the area within the 50-foot seaward buffer is the most valuable portion of the lot for providing long-term ecological and biological benefits for stormwater management and water quality. This area is susceptible to future inundation from sea level rise and offers a natural area of succession for future marsh migration given the natural condition of the shoreline and relative topography along the southern portion of the lot. This area of the lot offers a natural based opportunity towards coastal ecosystem evolution. If properly managed, overtime it is likely that the native vegetative growth in harmony with hydric soil conditions will provide an ideal environment for the migration of the marsh without manipulation of existing topography, all while permitting redevelopment within the uplands of the lot. Staff offers that the act of permitting a lot of this type, natural shore and topography to redevelop upland improvements, while maintaining the natural condition of the shoreline may enhance the future adaptation of the coastal ecosystem that establishes future resiliency for the benefit of both the resource protection area and the people who reside within this area. Due to the existing conditions and opportunities present, water quality has the potential to improve while allowing the RPA to function as intended by not severely altering existing site conditions within the 50-foot seaward buffer.

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 variance is allowing the owner a level lawn area for their children to play and utilize the pool (an existing feature when purchased the home) Other homeowners along the bay already enjoy a backyard they can functionally use without having to ask for a variance."* Staff offers that the redevelopment of lot occurring within the 50-foot landward buffer with a minimal increase, approximately 71 square feet of new impervious cover coupled with the recommended condition specific to buffer restoration provide merit towards the request not confer upon the applicant any special privileges to redevelop within the Resource Protection Area (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 lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this property are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"the area for the level lawn area with retaining wall is the only logical location off the back kitchen door of house. This is also the main access to the pool. This area also allows no impact to adjacent large trees."* Staff acknowledges the perspective of the applicant's agent regarding the location of the proposed improvements and is of the opinion that the applicant has developed a CBPA exhibit that offers a respectable request of impervious cover within the 100-foot RPA buffer while retaining the existing conditions of the most sensitive portion of the 100-foot buffer – the 50-foot seaward 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 *"by leveling off the lawn areas adjacent to the house, we are reducing the flow of water coming off the house and impervious pool patio - Ultimately reducing the flow rate of water to the bay."* Staff is of the opinion that the area within the 50-foot seaward buffer is the most valuable portion of the lot for providing

long-term ecological and biological benefits for non-propriety stormwater management and water quality and has provided recommended condition 3 below as merit to the redevelopment of this lot not being of substantial detriment to water quality.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load the proposed improvements will *“reduce the amount of water flow across current sloping lawn into the bay by capturing the rain water in gravel trenches and across the level lawn area - which will drain down behind the wall in the clean gravel backfill of the wall.”* Staff acknowledges the perspective of the applicant’s agent and offer that maintaining the natural condition of the shoreline promotes the future adaptation of the coastal ecosystem and establishes future resiliency for the benefit of both the resource protection area and management of nonpoint source pollution loads via uptake and filtering through a natural environment.

Given the above comments, Staff recommends the following 8 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 exceed 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 with all areas below the 5-foot contour and currently devoted turf. Said areas shall be restored to a suitable wetland community based on elevation (i.e. high marsh, transition, shrub, upland, etc.). Required restoration shall specify perennial, shrub and tree species and provide the required form / size (i.e. bare root, container, etc.) for each. 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. 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.
6. 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.**

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. No perimeter fill is authorized outboard or seaward of the proposed improvements.

** 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





APPLICANT'S NAME David Chewey

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)*

Shawn Anderson, Missy Anderson

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

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

- (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	Visionscapes Land Design 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 checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Visionscapes Land Design Inc
<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?



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<small>DocuSigned by:</small> <i>Angold, Ryan</i>	Ryan Angold	6/16/2020
<small>7E007FFC4D8D416</small> PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

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