

September 10, 2020

**Chesapeake Bay Preservation Area
Board Agenda**



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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 **Thursday, September 10, 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. For information or to examine copies of proposed plans, ordinances or amendments call (757) 385-4621 or go to www.vbgov.com/cbpa or visit the Planning Department, 2875 Sabre Street, Suite 500, Virginia Beach, Virginia by appointment.

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.**

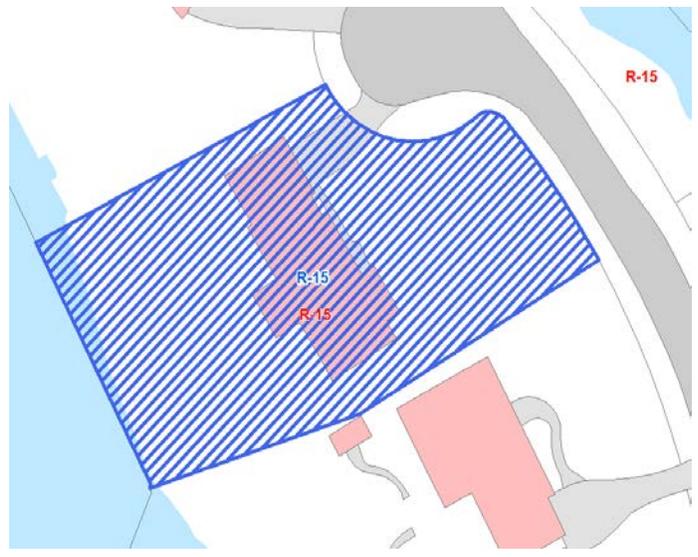
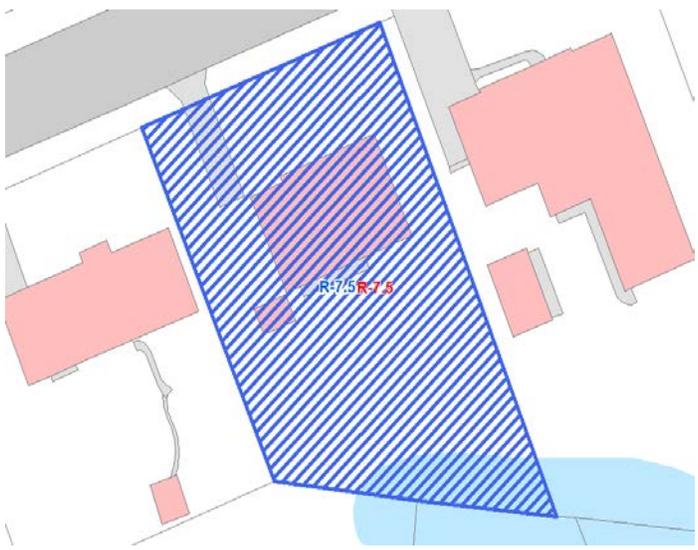


CHESAPEAKE BAY PRESERVATION AREA BOARD AGENDA

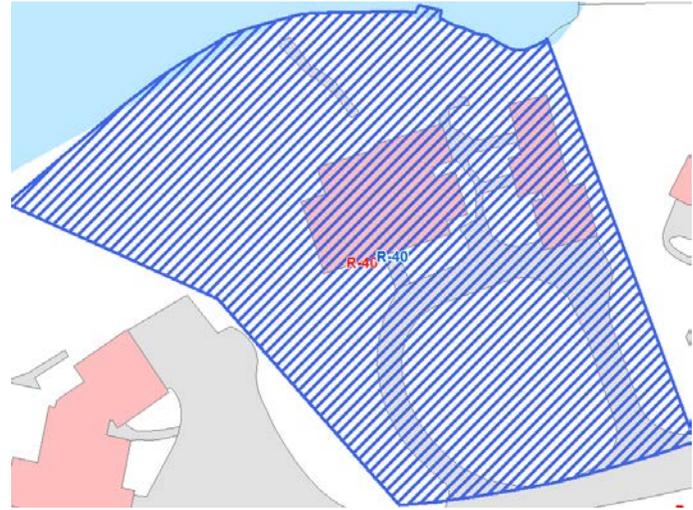
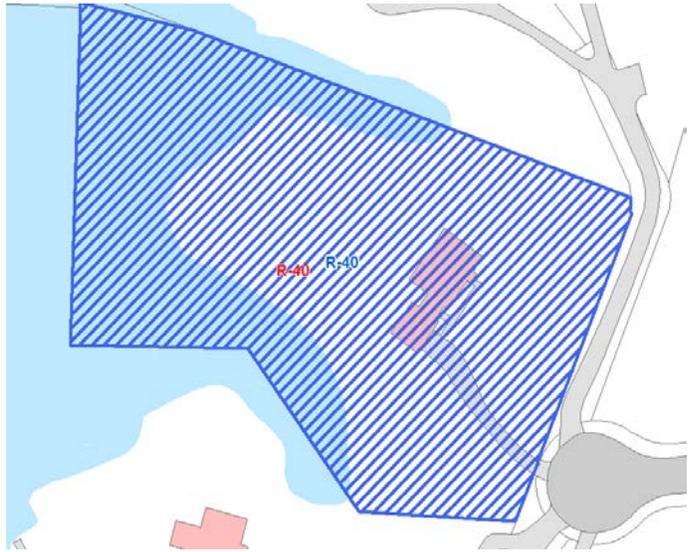
Public Hearing Date **September 10, 2020**

- 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.

NEW BUSINESS AGENDA ITEMS

<p>1. David & Stephany Moore [Applicant & Property Owner]</p> <p>2825 Timber Neck Trail GPIN 1497-47-6373 Council District – Beach Accela Record 2020-CBPA-00033</p> <p>Variance Request – Encroachment into the Resource Protection Area (RPA) buffer to construct a room addition, driveway expansion and swimming pool.</p> <p>Staff Planner – PJ Scully Staff Report – page 9</p>	
<p>2. Joseph & Susan Martone [Applicant & Property Owner]</p> <p>4413 Jeanne Street GPIN 1477-68-7107 Council District – Lynnhaven Accela Record 2020-CBPA-00031</p> <p>Variance Request – Encroachment into the Resource Protection Area (RPA) buffer to construct a swimming pool with associated two-tier retaining wall and backfill material.</p> <p>Staff Planner – PJ Scully Staff Report – page 23</p>	

<p>3. Bo & Erin McConnell [Applicant & Property Owner]</p> <p>1304 E. Bay Shore Drive GPIN 2418-59-2357 Council District – Lynnhaven Accela Record 2020-CBPA-00032</p> <p>Variance Request – Encroachment into the Resource Protection Area (RPA) buffer to construct a detached garage and swimming pool.</p> <p>Staff Planner – PJ Scully Staff Report – page 37</p>	
<p>4. Michael & Susan Hauser [Applicant & Property Owner]</p> <p>Meetinghouse Lane GPIN 1489-13-7288 Council District – Bayside Accela Record 2020-CBPA-00030</p> <p>Variance Request – Encroachment into the Resource Protection Area (RPA) buffer to construct a single-family residence with associated accessory structures.</p> <p>Staff Planner – PJ Scully Staff Report – page 51</p>	
<p>5. Charles R. Mehle II [Applicant & Property Owner]</p> <p>2217 Leeward Shore Drive GPINs 2409-19-8460 Council District – Lynnhaven Accela Record 2020-CBPA-00035</p> <p>Variance Request – Modification of the August 26, 2013 Chesapeake Bay Preservation Area (CBPA) Board variance to remove condition 8.</p> <p>Staff Planner – PJ Scully Staff Report – page 65</p>	

<p>6. Peter & Katherine Bosma [Applicant & Property Owner]</p> <p>1952 Twin Cove Road GPIN 1499-16-5042 Council District – Lynnhaven Accela Record 2020-CBPA-00029</p> <p>Variance Request – Encroachment into the Resource Protection Area (RPA) buffer to construct an addition to the residence and shed, new garage, wood deck and swimming pool.</p> <p>Staff Planner – PJ Scully Staff Report – page 83</p>	 <p>A map showing a property outlined in blue with diagonal hatching, representing the Resource Protection Area (RPA) buffer. The property is labeled 'R-40 R-40'. The map includes surrounding roads, other properties, and a body of water.</p>
<p>7. Trevor & Randi Dunlap [Applicant & Property Owner]</p> <p>1304 Wren Place GPIN 2418-23-1334 Council District – Lynnhaven Accela Record 2020-CBPA-00038</p> <p>Variance Request – Encroachment into the Resource Protection Area (RPA) buffer to construct several additions to the existing primary structure.</p> <p>Staff Planner – PJ Scully Staff Report – page 97</p>	 <p>A map showing a property outlined in blue with diagonal hatching, representing the Resource Protection Area (RPA) buffer. The property is labeled 'R-40 R-40'. The map includes surrounding roads, other properties, and a body of water.</p>
<p>8. Benjamin & Holly Proto [Applicant & Property Owner]</p> <p>2709 Shorehaven Drive GPIN 1498-59-6508 Council District – Lynnhaven Accela Record 2020-CBPA-00034</p> <p>Variance Request – Encroachment into the Resource Protection Area (RPA) buffer to construct a new single-family residence with associated accessory structures.</p> <p>Staff Planner – PJ Scully Staff Report – page 113</p>	 <p>A map showing a property outlined in blue with diagonal hatching, representing the Resource Protection Area (RPA) buffer. The property is labeled 'R-40 R-40'. The map includes surrounding roads, other properties, and a body of water.</p>

9. Freedom Operations LLC
[Applicant & Property Owner]

2809 Crusader Circle
GPIN 1495-48-7777
Council District – Rose Hall
Accela Record 2020-CBPA-00036

Variance Request – Encroachment into the Resource Protection Area (RPA) buffer to construct an after-the-fact building addition.

Staff Planner – PJ Scully
Staff Report – page 129



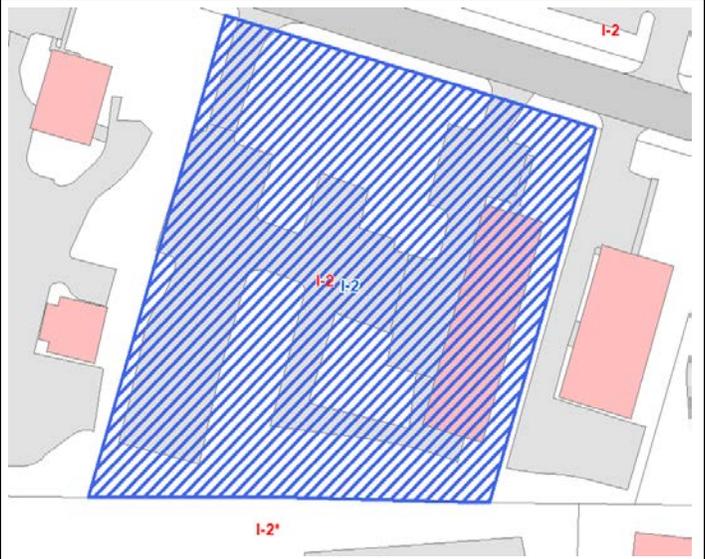
RESTORATION HEARING AGENDA ITEM

10. Freedom Operations LLC
[Applicant & Property Owner]

2809 Crusader Circle
GPIN 1495-48-7777
Council District – Rose Hall
Accela Record 2020-CBPV-00001

Statement of Noncompliance – Development within the Resource Protection Area (RPA) buffer with the construction of a building storage addition.

Staff Planner – PJ Scully
Staff Report – page 143





Applicant & Property Owner **David & Stephany Moore**
 Address **2825 Timber Neck Trail**
 Public Hearing **September 10, 2020**
 City Council District **Beach**

Agenda Item

1

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a room addition, driveway expansion and swimming pool.

Applicant’s Agent

Brad Martin, P.E.

Staff Planner

PJ Scully

Lot Recordation

Map Book 41 Page 21
 Recorded 4/25/1956

GPIN

1297-47-6373

SITE AREA

19,605 square feet or 0.450 acre

SITE AREA OUTSIDE OF WATER/WETLANDS

18,776 square feet or 0.431 acre

EXISTING IMPERVIOUS COVER OF SITE

4,099 square feet or 21.8 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

6,106 square feet or 32.5 percent of site

Area of Redevelopment in RPA

400 square feet

Area of New Development in RPA

2,007 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

100-foot Variable Width Buffer

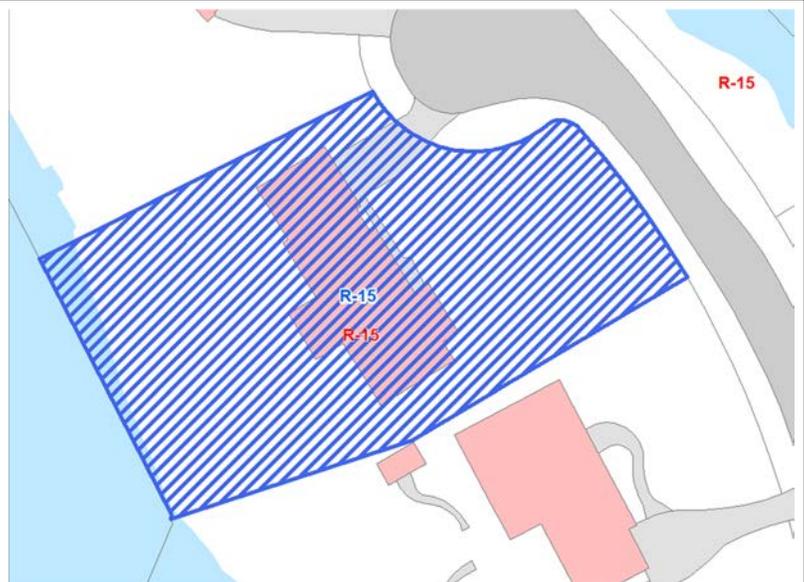
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Paver patio

Construction Details

- Swimming pool with associated pool deck and retaining wall
- Master bedroom addition
- Driveway addition

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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

Shoreline

Shoreline is hardened with a rip rap revetment.

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

The applicant is proposing to construct a master bedroom addition off the front of the residence located within the variable width buffer of the Resource Protection Area (RPA), expand the existing concrete driveway and construct a 314 square foot swimming pool with a 925 square foot pool deck. The pool deck includes 400 square feet of an existing paver patio located off the rear of the residence that will be redeveloped.

With the redevelopment of this lot, the applicant's agent provided in the WQIA that no canopy or understory trees will be removed with the construction of the proposed improvements. In addition, all the proposed improvements will occur within areas currently devoted to turf. With the construction of the swimming pool and given the topography of the lot, the existing retaining wall will be expanded approximately 25 linear feet at a height of approximately 18 inches to accommodate portions of the proposed pool deck without necessitating the need to place fill material within the 50-foot seaward buffer. As a means to limit land disturbance within the 50-foot seaward buffer, Staff is of the opinion that when the retaining wall is expanded, the entire structure should be redeveloped so that once the swimming pool is constructed future imminent maintenance or repairs to the existing wood retaining are minimized.

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 *"Aerial photos on the City website show multiple nearby homeowners similarly situated in the neighborhood have swimming pools, and several appear to be in the 50' seaward buffer."* Staff offers that the neighborhood is zoned at R-15 Residential District which requires minimum lot size of 15,000 square feet. This requirement specific to this lot, which is located on a cul-de-sac, situates the existing improvements within the 100-foot RPA buffer to accommodate the necessary square footage for a single-family residence while maintaining the required zoning front yard setback. As such, several lots within the neighborhood are challenged by the 50-foot seaward buffer making up the majority of the lots' rear yards.
- 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 *"The house was built in the 1960's, prior to the enactment of the CBPA Ordinance, and the CPA buffer encompasses almost the entire parcel."* Staff concurs.
- 3) The variance is the minimum necessary to afford relief because *"it is a modest request for a small pool (314 square feet) and pool deck, plus a single parking space addition, and a home addition that is mostly out of the RPA."* Staff concurs and is of the opinion that the location of the proposed improvements situates land disturbance associated with the construction of the improvements to portions of the lot that are more appropriate than others given the existing topography and vegetative cover.
- 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 project will be designed to achieve stormwater management; the proposed stormwater mitigation of the runoff which is not there today will improve water quality."* Staff concurs and is of the opinion that the required buffer restoration will add to the long-term improvement of water quality with the introduction of young canopy trees in an established neighborhood.
- 5) *"The BMP's will treat stormwater runoff as it enters Lynnhaven River"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion that the redevelopment of this lot provides opportunity to treat and maintain a stormwater management system on a single-family lot that was not required when the residence was constructed.

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

Recommended Conditions

- 1) A 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: **2,000 square feet x 200 percent = 4,000 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: **5 canopy trees, 5 understory trees, 20 large shrubs and 30 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.

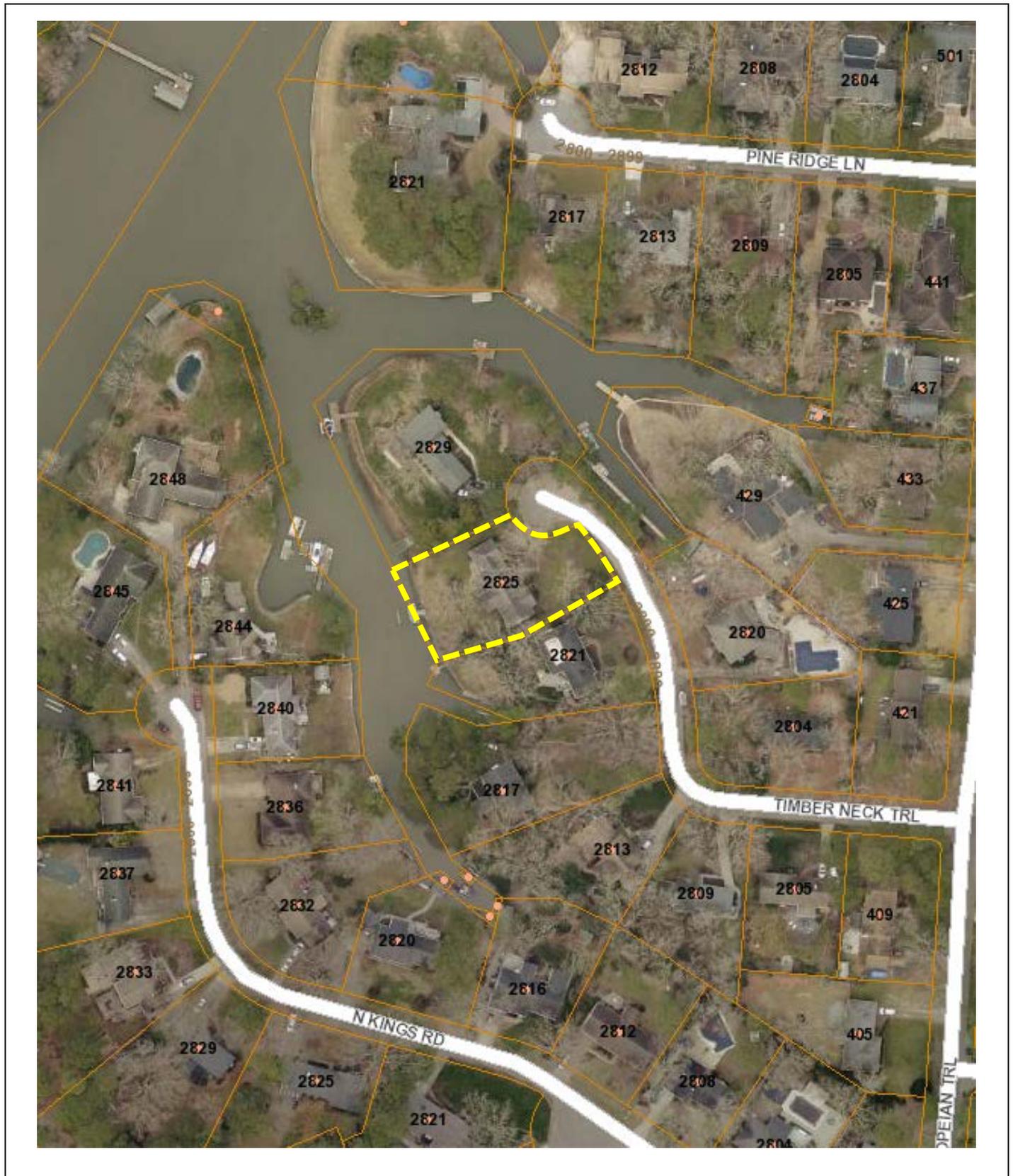
- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited 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.
- 7) 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.**
- 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 10 feet from improvements.
- 9) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.

- 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 within the 50-foot seaward buffer.
- 14) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$458.33 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.
- 15) The conditions and approval associated with this variance are based on the exhibit plan dated August 3, 2020, prepared by Brad Martin, P.E. of Clark Design Group, LLC. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant's agent and presented to the Board, the application submitted and the sworn presentation to the Board.

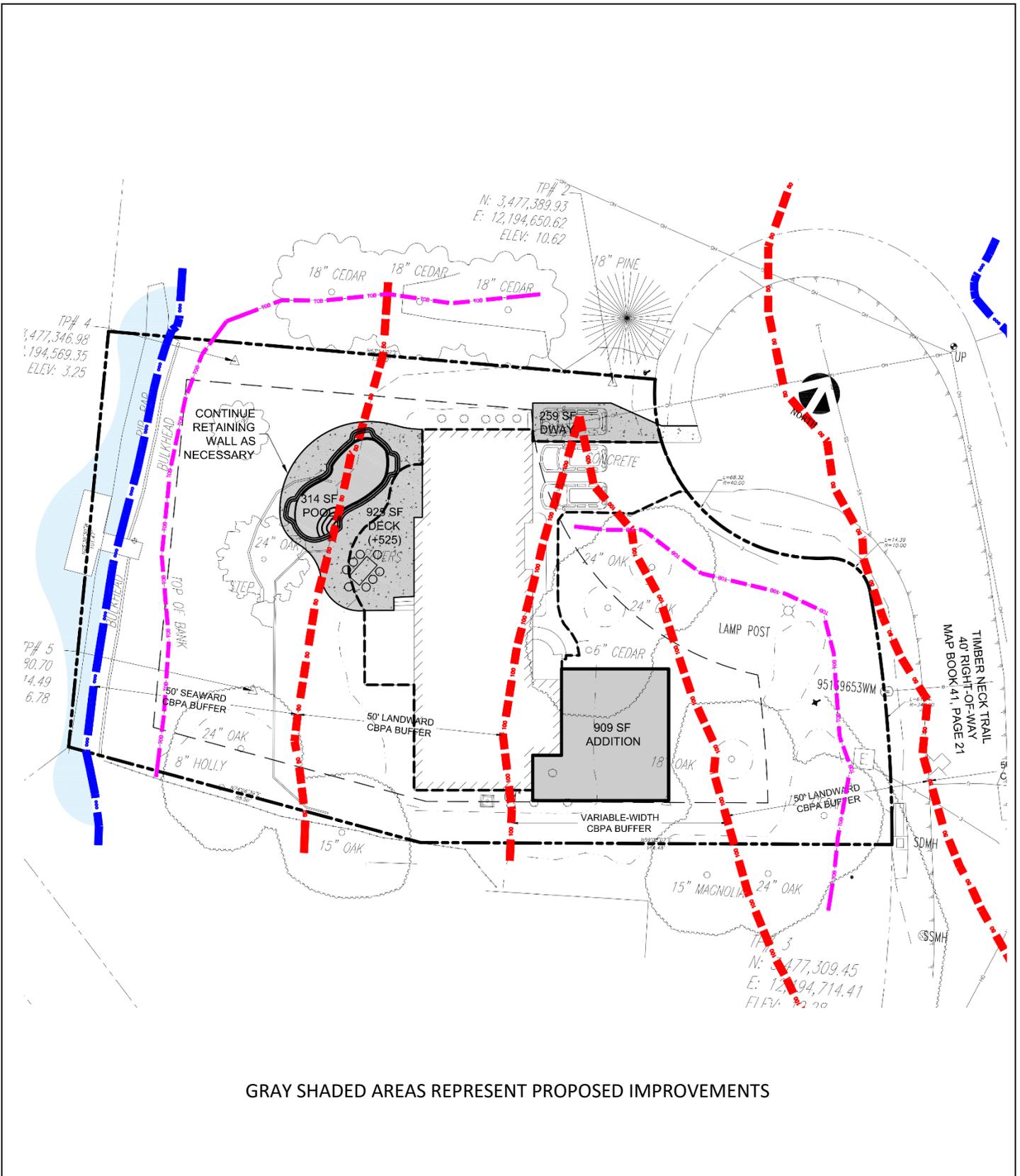
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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

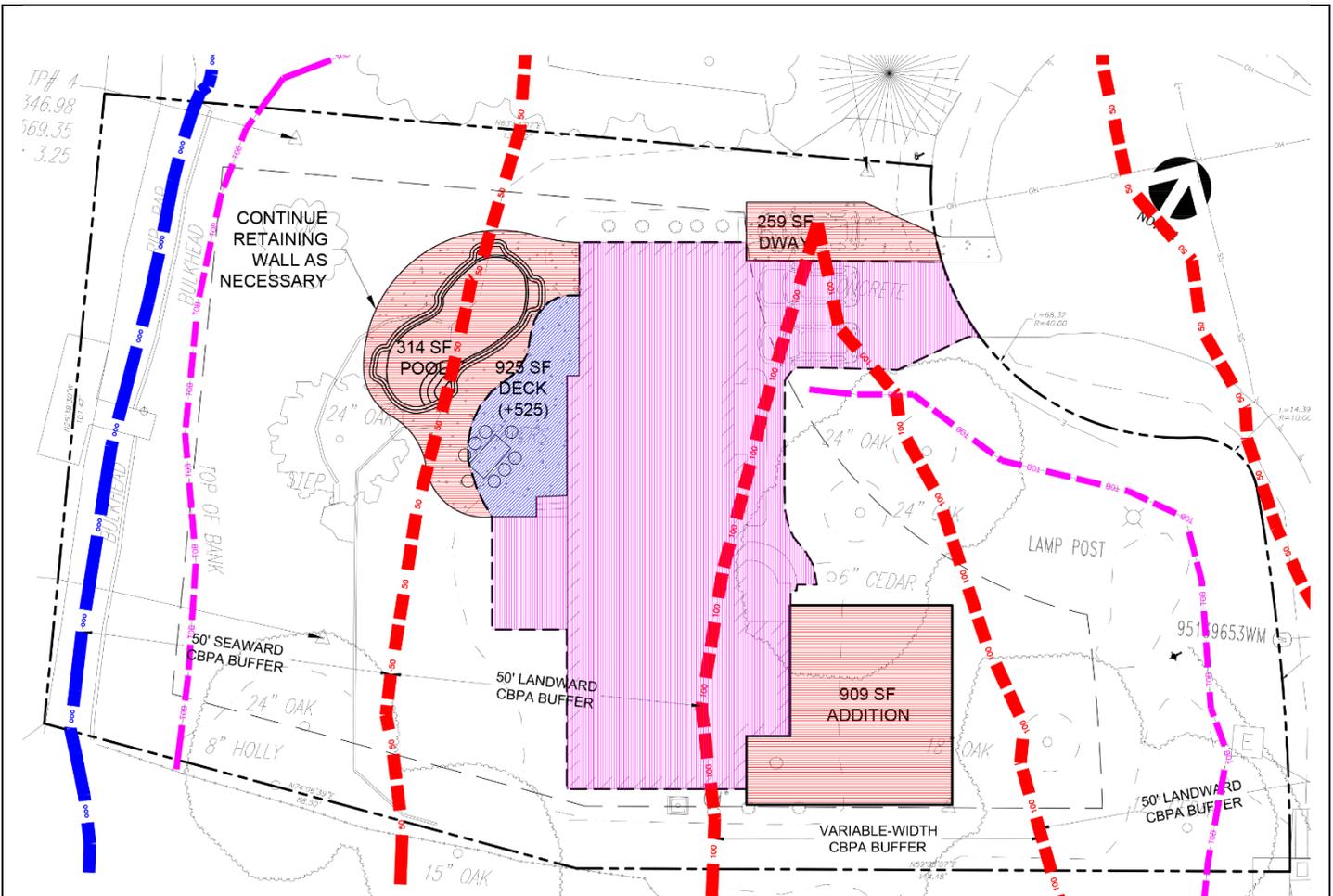


CBPA Exhibit – Proposed Improvements



GRAY SHADED AREAS REPRESENT PROPOSED IMPROVEMENTS

CBPA Exhibit – Color Analysis



	LEGEND	EXISTING	PROPOSED
TOTAL IMPERVIOUS AREA		4,099 SF	6,106 SF
IMPERVIOUS COVER DEMOLITION		400 SF	
IMPERVIOUS CONVERTED TO PERVIOUS		0 SF	
IMPERVIOUS COVER TO REMAIN		3,699 SF	3,699 SF
"REDEVELOPMENT" NEW OVER OLD		400 SF	400 SF
"NEW" IMPERVIOUS **			2,007 SF

* proposed stormwater management will achieve mitigation in lieu of redevelopment buffer restoration
 ** 4,000 SQUARE FEET OF BUFFER RESTORATION REQUIRED

APPLICANT'S NAME DAVID & STEPHANY MOORE

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	Floodplain Variance	Street Closure
(Historic Review Board)	Franchise Agreement	Subdivision Variance
Chesapeake Bay Preservation Area Board	Lease of City Property	Wetlands Board
Conditional Use Permit	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: DAVID & STEPHANY MOORE
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-subsiary ¹ or affiliated business entity ² relationship with the Property Owner: *(Attach list if necessary)*

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Dunn, Pedro, and Butler Rochester, NY
<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	BEACON CUSTOM HOMES
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	CLARK DESIGN GROUP, LLC
<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)	Central Loan Admin & Reporting CENLAR Ewing, NJ
<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?

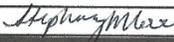
REESE SMITH, BEACON CUSTOM HOMES, IS THE CONTRACTOR.



CERTIFICATION:

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

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

	David P Moore	
APPLICANT'S SIGNATURE	PRINT NAME	DATE
	Stephany Moore	8/1/2020

*Last 2 pages of the Disclosure Statement not provided – Applicant and Property Owner are the same.
David & Stephany Moore
Agenda Item 1
Page 22



Applicant & Property Owner **Joe & Susan Martone**
 Address **4413 Jeanne Street**
 Public Hearing **September 10, 2020**
 City Council District **Lynnhaven**

Agenda Item

2

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a swimming pool with associated two-tier retaining wall and backfill material.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

Map Book 60 Page 43

Recorded 3/20/1964

GPIN

1477-68-7107

SITE AREA

11,986 square feet or 0.275 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

10,843 square feet or 0.249 acres

EXISTING IMPERVIOUS COVER OF SITE

3,348 square feet or 30.9 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

4,340 square feet or 40.0 percent of site

Area of Redevelopment in RPA

257 square feet

Area of New Development in RPA

992 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Demolish existing patios

Construction Details

- Swimming pool with concrete pool patio
- Two-tiered retaining wall

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

Shoreline

Shoreline is hardened with a vinyl bulkhead.

Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 2
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing canopy tree removal request: Trees being requested for removal are juvenile canopy trees with an approximate 6 to 8-inch diameter at breast height (DBH). Both trees are within proximity to the proposed improvements and will be impacted by construction activities within the limits of construction.

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 is proposing to construct a 373 square foot swimming pool with an 841 square foot pool deck. The pool deck includes a 50-foot linear retaining wall located along the seaward edge of the improvements. Inclusive of the proposed pool deck, approximately 200 square feet is allocated to the redevelopment of the existing patio located at the

southeast corner of the existing residence. A second 35-foot linear retaining wall is proposed landward of the existing bulkhead.

The applicant's agent stated WQIA that the property owner has *"lived in the residence for more than 40 years and has located the proposed improvements in the most natural place in the back yard, close to the home, but unfortunately in an area which is necessarily within the 50' seaward buffer."* Also stated in the WQIA, both retaining walls will have an approximate height of 18 inches and bioretention planting beds will be utilized to treat stormwater. As a means to manage the proposed request during the construction phase, the applicant's agent has proposed a method to minimize land disturbance and prevent potential adverse impacts to water quality by defining the limits of construction to 10 feet outboard of the proposed improvements and by staging for the construction of the proposed improvements on the existing driveway.

The applicant's agent provides the following comments relative to the findings of the CBPA Ordinance as merit towards the variance request being in harmony with the purpose and intent of the CBPA Ordinance and believes that the construction of the proposed improvements, coupled with restoration initiatives of stormwater management and riparian buffer mitigation stated in the WQIA, will aid with the redevelopment of this lot from not being of substantial detriment to water quality.

- 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 is a smaller lot than many others in the area, but multiple nearby homeowners similarly situated in the neighborhood have been granted a CBPA variance to build a swimming pool."* While Staff acknowledges the statement provided by the applicant's agent, Staff reiterates that variance requests presented to the CBPA Board are reviewed individually for the merits provided by each application. Staff is of the opinion that the proposed improvements would not convey any special privileges to the applicant should they agree to the recommended conditions for this variance request. These conditions require that the applicant provide a means for stormwater management and riparian buffer mitigation that would not otherwise be required if the residential lot was located outside of the 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 lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"it is a modest request for a small pool (373 square feet) and pool deck."* Staff concurs and agrees with the applicant's opinion that *"the proposed improvements are situated in the most natural place in the back yard, close to the home."*
- 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 entire will be designed to achieve stormwater management; the proposed stormwater mitigation of the existing runoff will improve water quality."* Staff is of the opinion that the introduction of stormwater management coupled with riparian buffer mitigation in an area with underlying soils that are moderately well drained offers merit towards providing water quality. Staff offers that the selection of plant material associated with the stormwater management facilities and riparian buffer mitigation should be evaluated off indigenous plants specific to the USDA Plant Hardiness Zone for this area, Zone 8a, and selected based off valuable water uptake specific to the plant species.

- 5) *“The BMP’s will treat stormwater runoff as it enters Thalia Creek”* to manage towards a no net increase in nonpoint source pollution load. Staff concurs and is of the opinion that the analysis and layout of the stormwater management facilities, if integrated with the layout of the retaining wall, provides merit towards nutrient reduction on a lot with existing improvements that currently does not treat stormwater run-off.

Given the above comments, Staff recommends the following 13 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: **992 square feet x 200 percent = 1,984 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: **3 canopy trees, 5 understory trees, 10 large shrubs and 15 small shrubs.**

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

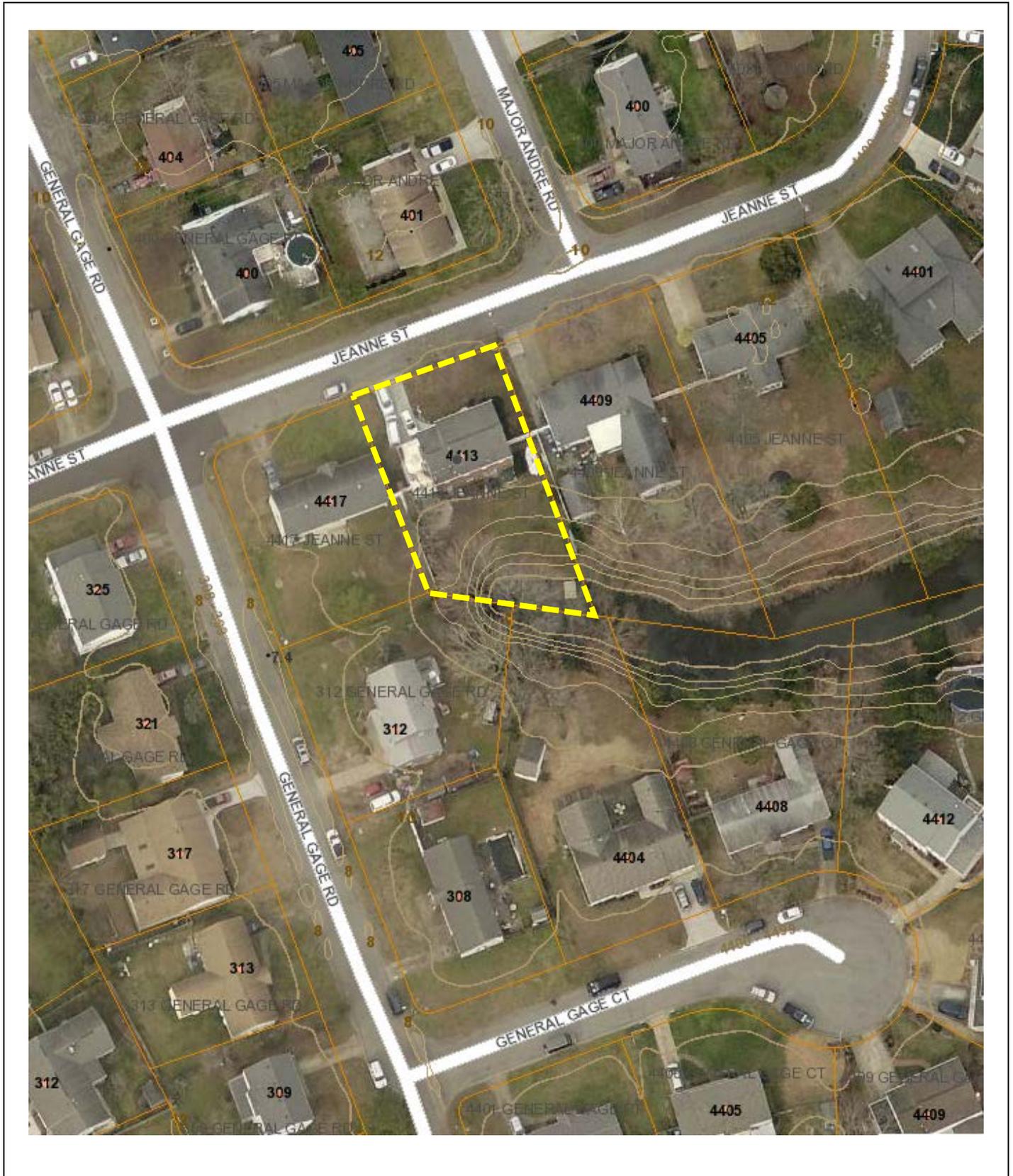
- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited 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.
- 7) 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.**

- 8) A double row of wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 10 feet from improvements.
- 9) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
- 10) 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.
- 11) 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 within the 50-foot seaward buffer.
- 12) ** 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 \$227.33 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.
- 13) The conditions and approval associated with this variance are based on the exhibit plan dated August 3, 2020, prepared by Brad Martin, P.E. of Clark Design Group, LLC. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant's agent and presented to the Board, the application submitted and the sworn presentation to the Board.

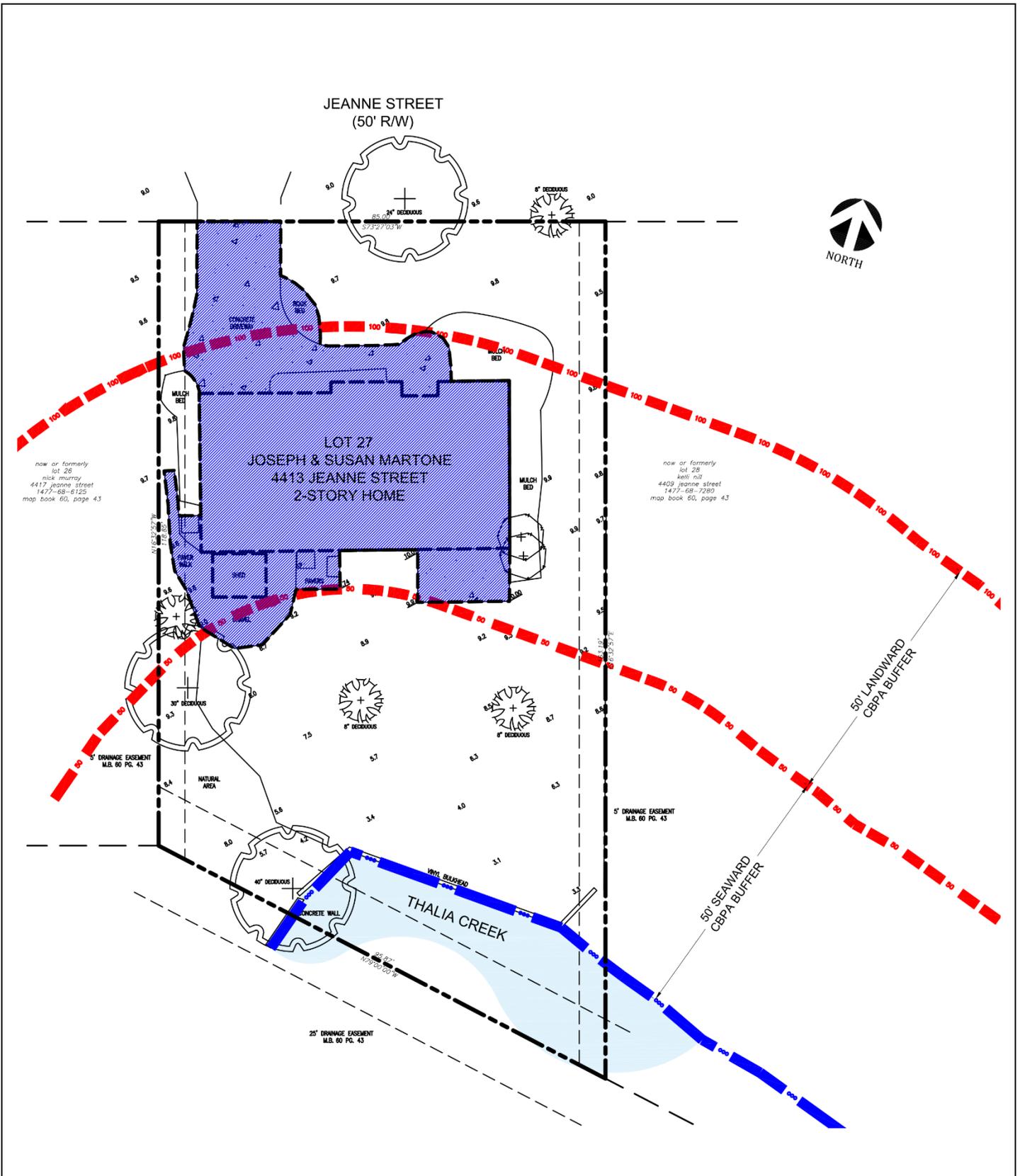
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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.

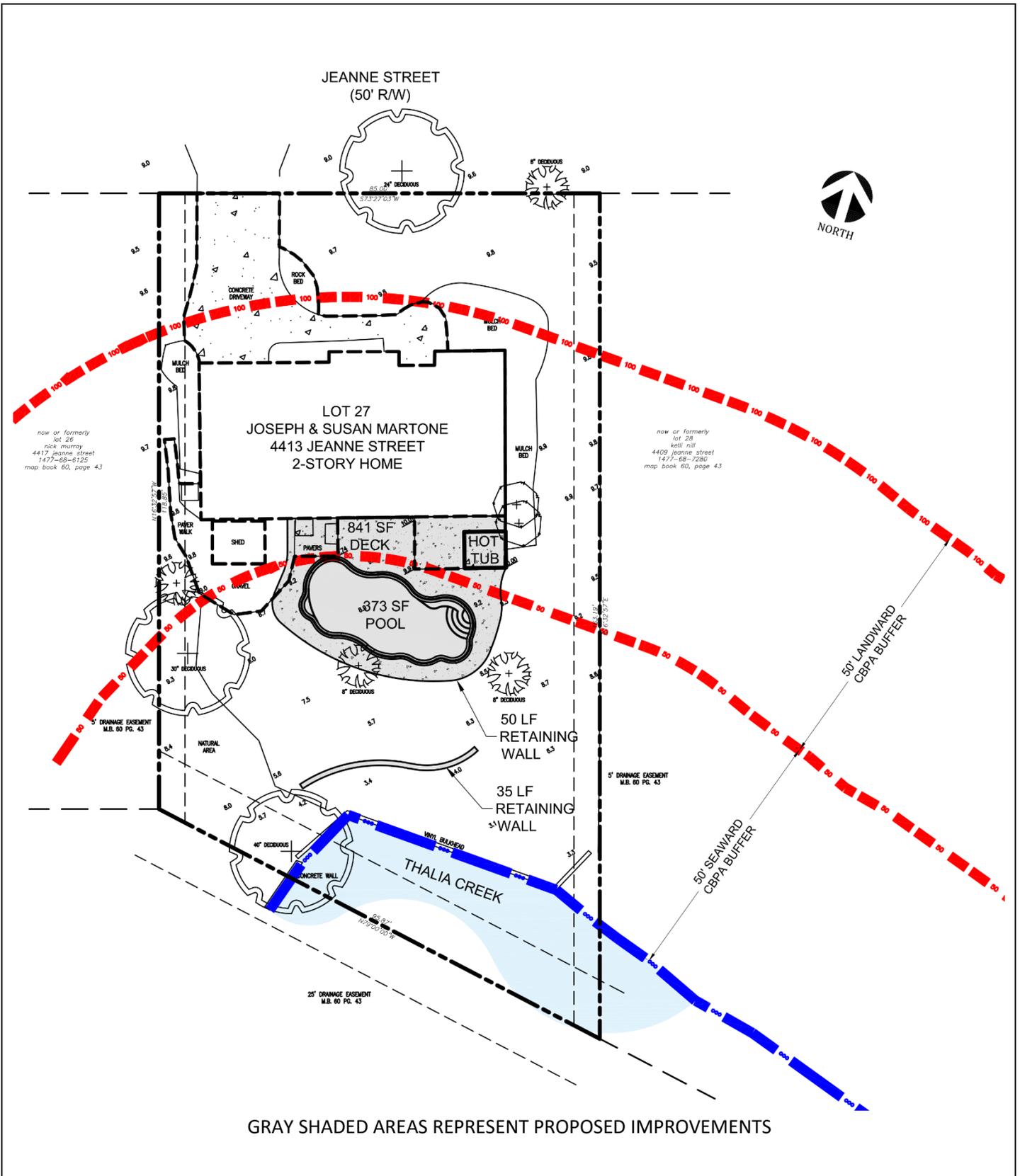
Site Aerial



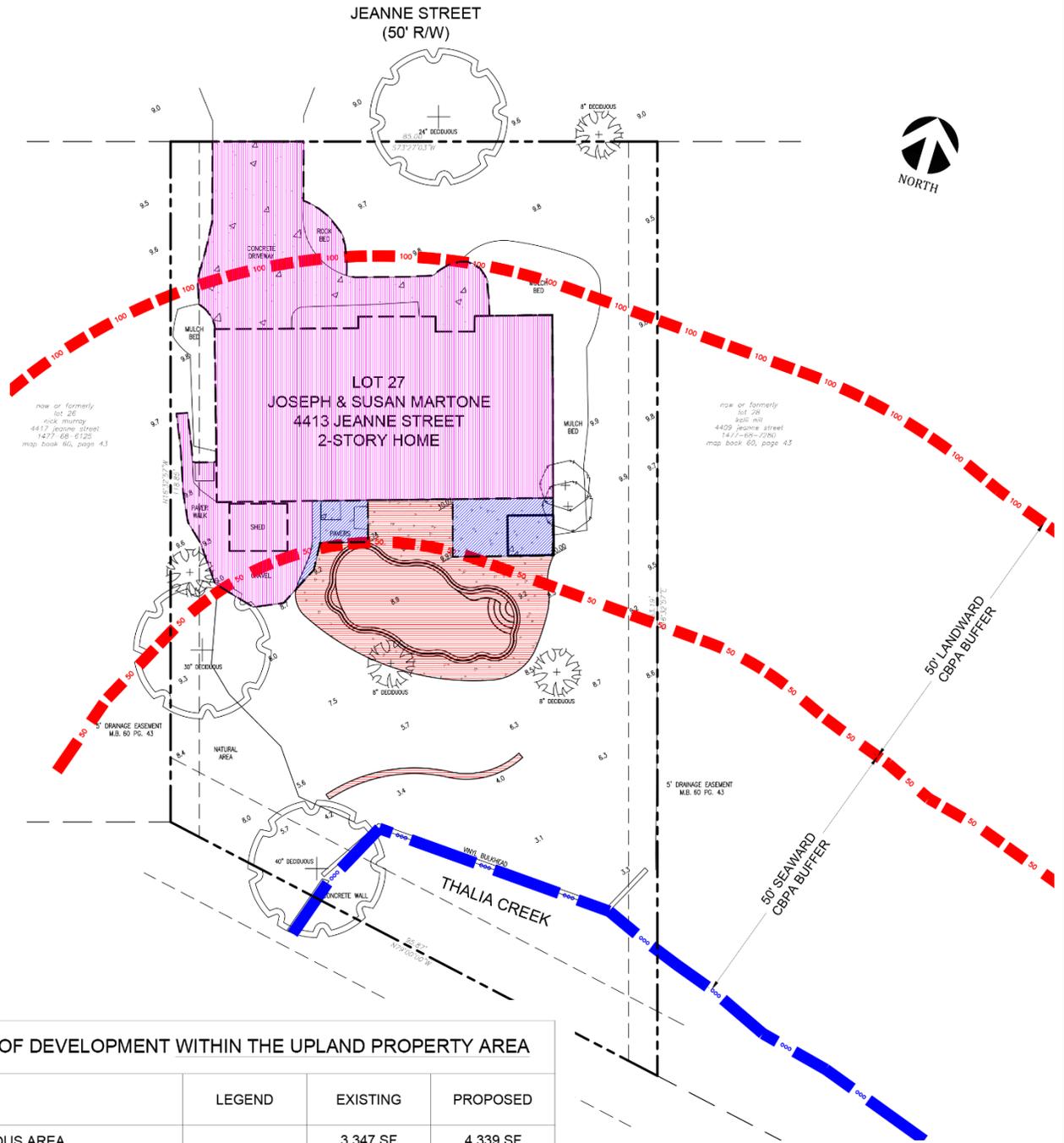
CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements



CBPA Exhibit – Color Analysis



ANALYSIS OF DEVELOPMENT WITHIN THE UPLAND PROPERTY AREA

	LEGEND	EXISTING	PROPOSED
TOTAL IMPERVIOUS AREA		3,347 SF	4,339 SF
IMPERVIOUS COVER DEMOLITION		257 SF	
IMPERVIOUS CONVERTED TO PERVIOUS		0 SF	
IMPERVIOUS COVER TO REMAIN		3,090 SF	3,090 SF
"REDEVELOPMENT" NEW OVER OLD		257 SF	257 SF
"NEW" IMPERVIOUS **			992 SF

* proposed stormwater management will achieve mitigation in lieu of redevelopment buffer restoration
 ** 1,984 SQUARE FEET OF BUFFER RESTORATION REQUIRED

APPLICANT'S NAME SUSAN & JOE MARTONE

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: SUSAN & JOE MARTONE
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 and²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

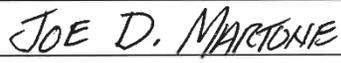
If yes, what is the name of the official or employee and what is the nature of the interest?



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.

		
APPLICANT'S SIGNATURE	PRINT NAME	DATE



Applicant & Property Owner **Bo & Erin McConnell**
Address **1304 E. Bay Shore Drive**
Public Hearing **September 10, 2020**
City Council District **Lynnhaven**

Agenda Item

3

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a detached garage and swimming pool.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

Map Book 178 Page 6
Recorded 04/09/1984

GPIN

2418-59-2357

SITE AREA

54,043 square feet or 1.241 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

47,290 square feet or 1.086 acres

EXISTING IMPERVIOUS COVER OF SITE

9,640 square feet or 20.4 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

15,413 square feet or 32.6 percent of site

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

2,246 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

- None

Construction Details

- Swimming pool with associated pool deck
- Detached garage with associated driveway and walkway to existing residence

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

Shoreline

Shoreline is hardened with a riprap revetment.

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

The applicant is proposing to construct a detached garage and driveway with access off Swan Lane, a walkway that connects the detached garage to Swan Lane and the existing single-family residence, and a 346 square foot swimming pool with a 1,737 square foot pool deck. No portions of the existing impervious cover on the lot will be redeveloped and all proposed improvements are located in areas currently devoted to turf. The property owner has situated the proposed detached garage and associated walkway to preserve the existing Magnolia tree located adjacent to Swan Lane within the RMA.

With the redevelopment of this lot, 5,773 square feet of new impervious cover is proposed. Of the 5,773 square feet, approximately 3,531 square feet or 62 percent of new impervious cover is proposed within the RMA, approximately 167 square feet or 3 percent of new impervious cover is proposed in the variable width buffer, approximate 1,557 square feet or 26 percent of new impervious cover is proposed in the 50-foot landward buffer and approximately 514 square feet or 9 percent of new impervious cover is proposed within the 50-foot seaward buffer.

During the site visit, Staff discussed the location of the construction accessway with the applicant and applicant's agent. Staff's concern was with access off East Bay Shore Drive. Although the shortest route with the least amount of land disturbance, this access route would traverse the most sensitive portion of the lot with a topographic relief of approximately 6 feet from the elevation of the roadway to the location of the proposed swimming pool area. In addition, it appears to be the drainage pathway for the existing driveway. Staff is of the opinion that if disturbed, this area could potential be subject to erosion during significant rain events. The applicant agrees with Staff's concern and plans on staging for the swimming pool construction off the subbase of the proposed garage and accessing the rear yard along the eastern property line. Staff provides that this accessway is relatively flat and is of the opinion this approach is least impactful to existing site conditions.

The applicant's agent provides the following comments relative to the findings of the CBPA Ordinance as merit towards the variance request being in harmony with the purpose and intent of the CBPA Ordinance and believes that the construction of the proposed improvements, coupled with restoration initiatives of stormwater management and riparian buffer mitigation stated in the WQIA, will aid with the redevelopment of this lot from not being of substantial detriment to water quality.

- 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 City's GIS mapping shows multiple nearby homeowners similarly situated in the neighborhood with a swimming pool in the CBPA buffer, many appear to be within 50'."* While Staff acknowledges the statement provided by the applicant's agent, Staff reiterates that variance requests presented to the CBPA Board are reviewed individually for the merits provided by each application. Staff is of the opinion that the proposed improvements would not convey any special privileges to the applicant should they agree to the recommended conditions provided by Staff for this variance request.
- 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 *"The house was built in the 1989, prior to the enactment of the CBPA Ordinance."* Staff concurs.
- 3) The variance is the minimum necessary to afford relief because *"it is a reasonable request for a pool and pool deck sized commensurate with the value of the property. The proposed garage avoids the RPA."* Staff is of the opinion that the location of the new improvements and the applicant's proposal to access the lot from Swan Lane is more appropriate than other areas of the lot given the existing topography and vegetative cover.
- 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 project will accomplish stormwater mitigation of the runoff which isn't there today, which will improve water quality."* Staff is of the opinion that the introduction of stormwater management coupled with riparian buffer mitigation in an area with underlying soils that are moderately well drained offers merit towards providing water quality improvement.

- 5) *“The BMP’s will treat stormwater runoff as it enters Crystal Lake”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff offers that the performance standards set forth within the CBPA Ordinance are intended to prevent a net increase in nonpoint source pollution from new development and redevelopment on previously developed land. Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the use or development proposed through the incorporation of structural or nonstructural urban best management practices. As such, Staff has provided the recommended conditions below that integrate both structural and nonstructural best management practices as a means to towards managing nonpoint source pollution.

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 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: **2,246 square feet x 200 percent = 4,492 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, 24 large shrubs, and 36 small shrubs.**

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

- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) 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.

- 7) 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.**
- 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 10 feet from improvements.
- 9) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
- 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) The proposed driveway shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided site plan submitted to the Development Services Center for review and approval.
- 14) 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 within the 50-foot seaward buffer.
- 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 \$514.70 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) The conditions and approval associated with this variance are based on the exhibit plan dated August 3, 2020, prepared by Brad Martin, P.E. of Clark Design Group, LLC. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant's agent and presented to the Board, the application submitted and the sworn presentation to the Board.

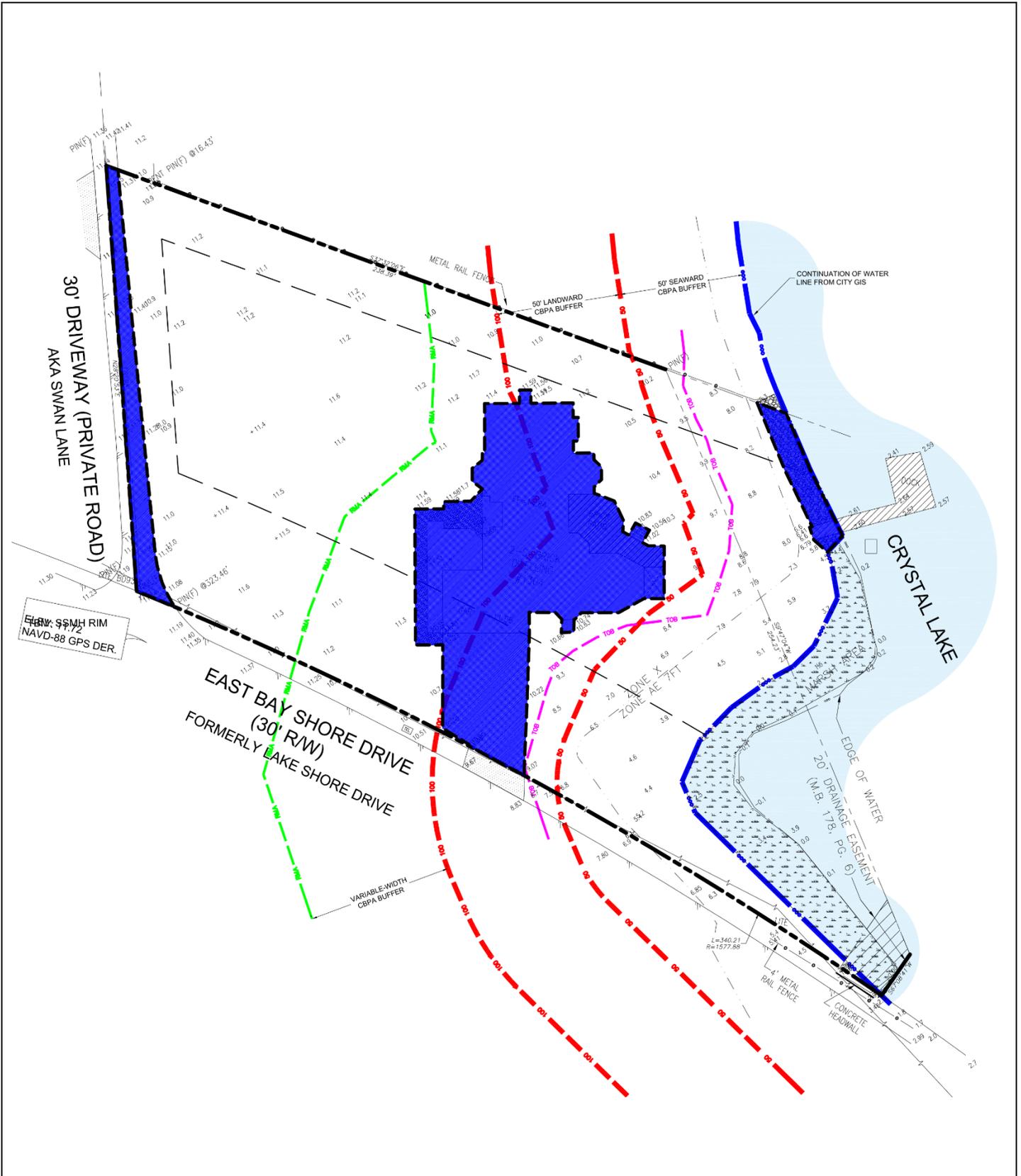
**** NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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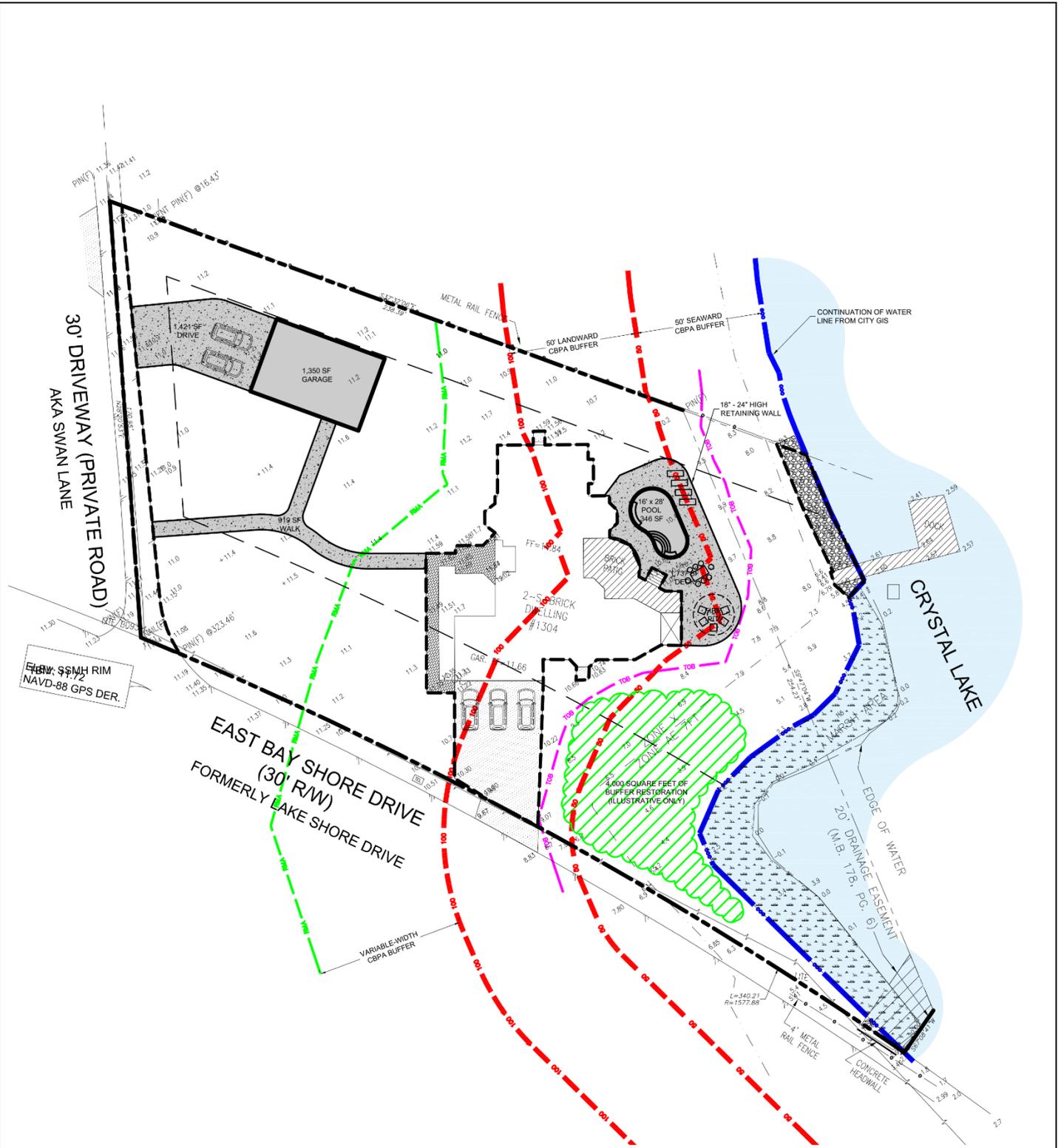
Site Aerial



CBPA Exhibit – Existing Conditions

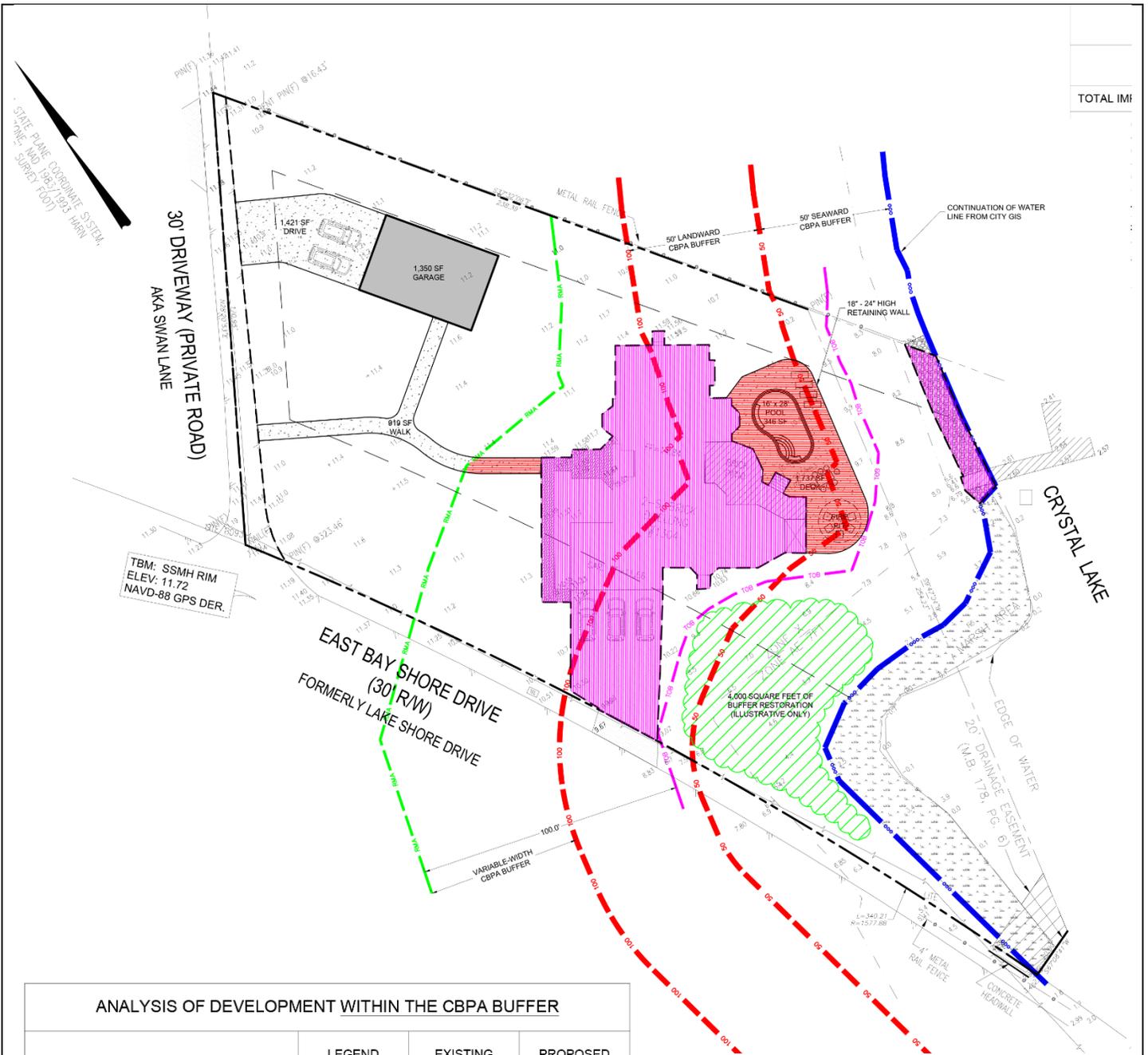


CBPA Exhibit – Proposed Improvements



GRAY SHADED AREAS REPRESENT PROPOSED IMPROVEMENTS

CBPA Exhibit – Color Analysis



ANALYSIS OF DEVELOPMENT WITHIN THE CBPA BUFFER

	LEGEND	EXISTING	PROPOSED
TOTAL IMPERVIOUS AREA		8,468 SF	10,714 SF
IMPERVIOUS COVER DEMOLITION		0 SF	
IMPERVIOUS CONVERTED TO PERVIOUS		0 SF	
IMPERVIOUS COVER TO REMAIN		8,468 SF	8,468 SF
"REDEVELOPMENT" NEW OVER OLD		0 SF	0 SF
"NEW" IMPERVIOUS **			2,246 SF

* proposed stormwater management will achieve mitigation in lieu of redevelopment buffer restoration
 ** 4,492 SQUARE FEET OF BUFFER RESTORATION REQUIRED



APPLICANT'S NAME BO & ERIN McCONNELL

DISCLOSURE STATEMENT FORM

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Chesapeake Bay Preservation Area Board	Floodplain Variance	Street Closure
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	Lease of City Property	Wetlands Board
	License Agreement	

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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: _____

awm



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: BO & ERIN McCONNELL
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

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

amw

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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.

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



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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

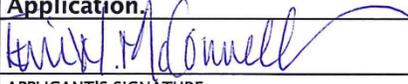
If yes, what is the name of the official or employee and what is the nature of the interest?



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.

	Erin W. McConnell	8/3/2020
APPLICANT'S SIGNATURE	PRINT NAME	DATE



Variance Request

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

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

Map Book 205 Page 65 - 71

Recorded 7/27/1990

GPIN

1489-13-7288

SITE AREA

52,391.35 square feet or 1.20 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

27,573 square feet or 0.63 acres

EXISTING IMPERVIOUS COVER OF SITE

0 square feet or 0 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

10,421 square feet or 37.8 percent of site

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

8,672 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

100-foot Variable Width Buffer

Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Undeveloped lot

Construction Details

- Single family residence with associated paver walkways and patio
- Concrete driveway with paver parking area
- Swimming pool with associated paver patio

CBPA Ordinance Variance History

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

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

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

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

The December 16, 1991 a CBPA Board variance has been acted upon and the improvements associated with the subdivision for this development constructed. The subject lot associated with the 1991 CBPA variance is undeveloped at this time.

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. Moderate maintenance should be performed along the existing bank feature to limb up low hanging branches that are shading the existing tidal shoreline. Additional selective thinning of the existing canopy layer should be performed to allow additional sunlight to the forest floor. Staff is of the opinion, given the slope of the bank and presence of underlying erodible soil, that additional understory growth would provide additional means towards stabilizing the existing bank.

Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 39
- Number of existing understory trees requested for removal within the RPA: 26
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 3
- Evaluation of existing canopy tree removal request: Trees being requested for removal are within proximity to the proposed improvements and will be impacted by construction activities within the limits of construction. Staff offers that the majority of trees within the property are limited to light penetration due to the existing forested condition. As such, much of the canopy growth is reduced for each species except for those species along the edge of the property where more light is available for photosynthesis. Staff is of the opinion that those trees located along the existing bank and within the 50-foot seaward buffer should be preserved during construction as a means to manage the development of this lot in harmony with the purpose and intent of the CBPA Ordinance to preserve existing vegetation to the greatest extent practicable while limiting clearing to provide necessary access, site drainage and water quality best management practices.

Stormwater Management Methodology

The applicant's agent has stated in the Water Quality Impact Assessment (WQIA) for this variance request that bioretention planting beds, permeable pavers and a living shoreline with managed tree limb removal at the shoreline will be provided as a best management practice for stormwater run-off mitigation.

Evaluation and Recommendation

The applicant is proposing to develop the vacant lot with a single-family residence and associated accessory structures consisting of a swimming pool with two patio areas and an additional concrete parking pad adjacent to the driveway. Approximately 6,639 square feet of the 10,421 square feet of new impervious cover is represented for the single-family residence, paver parking area and concrete driveway. The remaining 3,782 square feet is represented for the in-ground pool and paver patio, slate patio, paver walkways and concrete parking pad. The new impervious cover associated with the accessory structures equates to approximately 36 percent of the overall new impervious cover.

Staff is of the opinion with the overall new impervious cover of the lot proposed at 37.8 percent, the presence of a pronounced top of bank feature and the geometry of the lot situated on a cul-de-sac challenges the findings of the Chesapeake Bay Preservation Area (CBPA) Ordinance as being the minimum necessary to afford relief. To address this opinion, Staff has provided the recommended conditions below, specifically conditions 3 through 10, that offer a means towards developing this lot that limits land disturbance within the 50-foot seaward buffer, provides alternative materials for surface application that promote the infiltration of rainwater and addresses the overall new impervious

cover of the lot. In addition, condition 10 addresses the preservation and maintenance of the 50-foot preservation easement. In order to maintain the preservation easement, indigenous vegetation may be removed only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices.

To support the variance request as submitted, the applicant's agent provides the following comments relative to the findings of the CBPA Ordinance as merit towards the variance request being in harmony with the purpose and intent of the CBPA Ordinance and believes that the construction of the proposed improvements will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the neighborhood.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *"the lot will be developed in similar manner to the adjoining sites on Meeting House Lane."* While Staff acknowledges the statement provided by the applicant's agent, Staff reiterates that variance requests presented to the CBPA Board are reviewed individually for the merits provided by each application. Staff has provided the recommended conditions below from a site-specific perspective that would require minimal modifications to the variance request, as submitted. Staff is of the opinion that the recommend conditions below provide merit towards the variance request not conferring upon the applicant any special privilege or convenience not accorded to other owners of property in the neighborhood based off the size, geometry and topography of this lot.
- 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 *"the lot was created in 1990 and has never been developed. The request is to develop the lot in similar fashion as other properties given the current environmental features."* Staff provides that the encroachment into the RPA on this lot is based upon conditions of the original developer and 1991 CBPA variance that has been imposed by the applicant's predecessor in title that limits a reasonable construction footprint solely for a principal structure. Staff is of the opinion that this request to further encroach has been designed in a manner that reflects a true, realistic development for a property owner in-lieu of a building envelop and variance condition that only addressed the development of this lot with a primary structure.
- 3) The variance is the minimum necessary to afford relief because *"the proposed development square footage is similar to other sites; however this site is heavily impacted by the RPA buffers, which is causing the impervious percentage to exceed 30 percent."* While the geometry of the lot, presence on a cul-de-sac and existing bank feature all limit the development footprint of the lot, Staff has conditioned a reduction in the amount of new impervious cover coupled with the use of structural best management practices as a means towards the variance being the minimum necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"while the proposed development is 37.8 percent in the RPA, all stormwater runoff from the development will be treated with BMPs and therefore in harmony with the ordinance."* Staff acknowledges that the use of BMPs to treat stormwater is a viable means towards providing water quality; however, Staff is of the opinion that the value of the existing riparian buffer and forest floor are equally beneficial towards stormwater management. In the absence of not developing this legally platted lot, Staff offers that the stormwater management required by the Stormwater Ordinance for this lot coupled with the retention of the 50-seaward buffer, as recommended in the conditions below, provides merit towards this variance being in harmony with the purpose and intent of the CBPA Ordinance.
- 5) *"Pervious pavers, bioretention beds, natural areas to be enhanced and shoreline management will reduce nonpoint source pollution running off this lot unchecked"* as a means to manage towards a no net increase

in nonpoint source pollution load. If executed properly and managed both pre and post- construction of the proposed improvements, Staff concurs with the applicant's agent statement.

Given the above comments, Staff recommends the following 21 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) A maximum of 750 square feet of turf is permitted for this lot. Said turf shall not be permitted within the 50-foot seaward buffer. All remaining pervious area shall be areas of buffer restoration. Buffer restoration areas shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable consisting of **22 understory trees, 44 large shrubs, and 66 small shrubs.**

The required restoration shall be installed beginning in the upper limits of 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. 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 9,671 square feet or 35 percent of the lot above water and wetlands.
- 5) New impervious cover shall not encroach into the 50-foot seaward buffer of the Resource Protection Area.
- 6) The proposed paver parking area and driveway, exclusive of that portion within the City right-of-way 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.
- 7) The pool shall be constructed prior to or concurrent with the residence.
- 8) A double row of wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be provided and installed as follows:
 - Along the seaward portion of the project the required silt fence shall be staked in the field by the applicant's agent prior to scheduling the preconstruction meeting with Civil Inspections. Said silt fence shall be installed no further seaward of the 50-foot seaward buffer than 10 feet.
 - Along the remain portions of the property the required silt fence shall be installed 15 feet from all proposed improvements.

- 9) All construction activity inclusive of land disturbance shall be contained within the limits of the required silt fence with all areas outboard of the silt fence left in a natural state.
- 10) Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal shore and existing forest floor within the 50-foot seaward buffer. Areas of maintenance shall be discussed with Staff during the preconstruction meeting and authorized before performed. Maintenance activities shall be performed consistent with the horticultural practices described in the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation regarding woodlot management.
- 11) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 12) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 13) 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.**
- 14) 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.
- 15) 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.
- 16) 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.
- 17) 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.
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- 19) It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
- 20) This variance and associated conditions **are in addition to** the conditions of the Board variance granted December 16, 1991.
- 21) The conditions and approval associated with this variance are based on the exhibit plan dated July 1, 2019, prepared by Gregory Milsted of Chesapeake Bay Site Solutions Inc. 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.

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Site Aerial





APPLICANT'S NAME Michael J. and Susan M. Hauser

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

(A) List the Applicant's name: Michael J. and Susan M. Hauser
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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	Dixon, Hughs, Goodman.
<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 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	
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<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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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.

APPLICANT'S SIGNATURE	PRINT NAME	DATE
<i>[Signature]</i>	Michael J. and Susan M. Hauser	8/2/10

CONTRACT PURCHASER (if different from current property owner)

Name: _____
Email: _____
Phone Number: _____

APPLICANT'S AGENT or CONSULTANT

Name: Waterfront Consulting, Inc.
Email: bob@waterfrontconsulting.net
Phone Number: 787 618-7302

PARCEL INFORMATION

Property Address: 1885 Meeting House Lane
Legal description of property: Lot 33, Section 2, Church Point Farm
Voting District: Bayside
Gpin: 1488-13-7288

When was the property or lot recorded?
 Prior to October 1, 1989
 Between October 1, 1989 and January 1, 2004
 After January 1, 2004

HISTORY & COMPLIANCE

is the applicant seeking or obtaining approvals or permits from other local, state or federal agencies?
 Wetlands Board or Joint Permit Application
 Board of Zoning Appeals
 Historical Review Board
 Planning Commission and City Council
Has there been a prior Chesapeake Bay Preservation Area (CBPA) Board variance granted for this parcel or lot?
 Unknown No Yes
If yes, please provide date of prior variance(s):
Were the improvements granted by the prior variance constructed/implemented? Yes No
Is this request identified with an issue of noncompliance to the provisions of the CBPA Ordinance?

*Last 2 pages of the Disclosure Statement not provided – Applicant and Property Owner are the same.
Michael & Susan Hauser
Agenda Item 4
Page 64



Applicant & Property Owner **Charles R. Mehle, II**
Address **2217 Leeward Shore Drive**
Public Hearing **September 10, 2020**
City Council District **Lynnhaven**

Agenda Item

5

Variance Request

Modification of the August 26, 2013 CBPA Board variance to remove condition 8.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

Map Book 48 Page 15A

Recorded 10/6/1959

GPIN

2409-19-9846

SITE AREA

28,017 square feet or 0.643 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

26,634 square feet or 0.611 acres

EXISTING IMPERVIOUS COVER OF SITE

7,219 square feet or 27.1 percent of site

Location of Proposed Impervious Cover

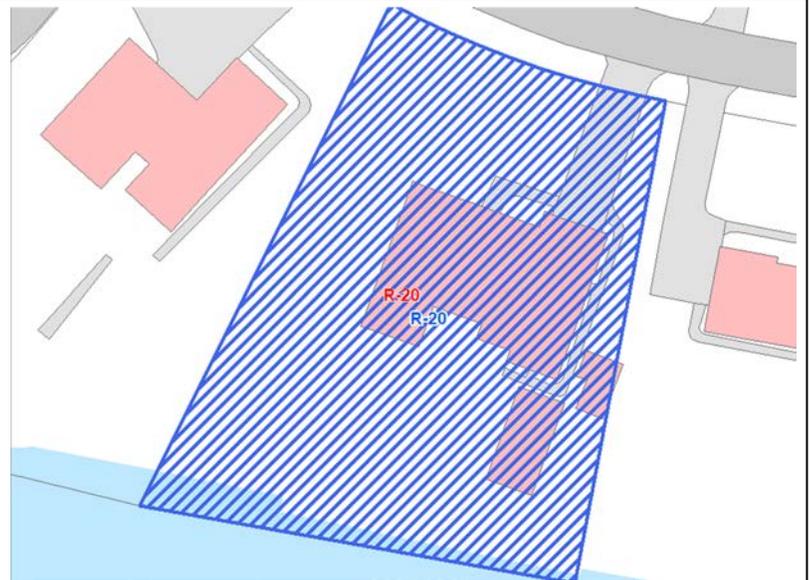
50-foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Wood wharf

Construction Details

- Vinyl bulkhead – 2 feet outboard of the existing bulkhead

CBPA Ordinance Variance History

August 26, 2013 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a swimming pool with associated pool surround and arbor structure, shed and equipment and generator pads with the following conditions:

1. *A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.*
2. *Land disturbance shall be limited to the area necessary to provide for the proposed use or development.*
3. *Wire re-enforced 36" erosion and sedimentation control measures (silt fences), shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed 15 ft. from proposed improvements. Best management practices for erosion and sediment control shall be employed during restoration activities to protect adjacent wetlands and shorelines of water bodies.*
4. *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.*
5. *Prior to the issuance of any certificate of occupancy, or the final release of any permit authorizing a land disturbing activity, all disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations by such methods as, but not limited to, temporary seeding, permanent seeding, sodding or soil stabilization blankets and matting. The Building Code Official may authorize a temporary certificate of occupancy without the required soil stabilization if the failure to stabilize is due to circumstances **beyond the control** of the permit holder.*
6. *Construction limits shall lie a maximum of 15' outboard of improvements.*
7. *The construction access way shall be noted on the site plan, as well as the stockpile / staging area.*
8. *If and when the shoreline is rehardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead). The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands, unless the Wetlands Board determines that site specific conditions warrant a more seaward alignment.*
9. *The pool shape, size, and location shall be as shown on the submitted plan.*

10. *Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.*
11. *A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed. The landscape plan shall clearly delineate existing naturalized (trees, landscaping and mulched organic surfaces) areas, planting beds, and turf zones.*
12. *A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.*
13. *The conditions and approval associated with this variance are based on the site plan prepared by Gallup Surveyors and Engineers dated June 26, 2013 and sealed June 26, 2013 by Bruce Gallup.*
14. *Stormwater runoff from 80% of the total impervious cover shall be conveyed to stormwater management facilities. Low maintenance best management practices shall be employed to the maximum extent practicable. Stormwater facilities shall be installed prior to the certificate of occupancy or release of the building permit.*
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 \$251.16 and is based on 25% of the proposed impervious cover within the RPA, inclusive of the variable width portion of the buffer. Said payment shall provide for the equivalent of an approximate 274 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
16. *Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA (1098 sq. ft. x 200% = 2,196 sq. ft.) and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance. The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.*
17. *Buffer restoration shall be installed equal to 100% of the proposed area of redevelopment within the RPA (397 sq. ft. x 100% = 397 sq. ft.) and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance. The required restoration shall be located within the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit. In lieu of 100% restoration for redevelopment areas, a 10% reduction in pollutant removal load is acceptable via a structural BMP.*

The August 26, 2013 CBPA Board granted variance has been acted upon and the associated improvements constructed.

September 24, 2014 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a bluestone patio and concrete walkway with the following conditions:

1. *A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.*
2. *Land disturbance shall be limited to the area necessary to provide for the proposed use or development.*
3. *The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the CBPA exhibit. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.***
4. *If necessary, wire reinforced 36" 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. Said silt fence shall be installed 15 feet from proposed improvements.*
5. *Construction limits shall lie a maximum of 15' seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.***
6. *Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.*
7. *Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA (285 sq. ft. x 200% = 570 sq. ft.) and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance. The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.*
8. *Buffer restoration shall be installed equal to 100% of the proposed area of redevelopment within the RPA (152 sq. ft. x 100% = 152 sq. ft.) and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance. The required restoration shall be located within the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. 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. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit. In lieu of 100%*

restoration for redeveloped areas, a 10% reduction in pollutant removal load is acceptable via a structural best management practices (BMP).

9. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit. The Development Services Center and/or Permits and Inspections may require additional information that may affect the release of a building permit.
10. The proposed stone patio shall be pervious construction (dry laid constructed) inclusive of an aggregate sub-base and sand setting bed.
11. During detailed site plan review, a drainage study ensuring positive drainage shall be provided to make sure the down spouts are not contributing to a problem.
12. Fill is authorized to achieve positive drainage within the area between the residence and swimming pool (where the patio is proposed).
13. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.

The September 24, 2014 CBPA Board granted variance has been acted upon and the associated improvements constructed.

Environmental Conditions

Flood Zone

Zone AE, Base Flood Elevation (BFE): 7

Soil Type(s)

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

Shoreline

Shoreline is hardened with a wood bulkhead.

Riparian Buffer

Moderately to sparsely wooded lot

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

Stormwater Management Methodology

No stormwater management required as the proposed improvements are a water dependent facility - a development of land which cannot exist outside of a Resource Protection Area and which must be located on the shoreline by reason of the intrinsic nature of its operation, as authorized under the provisions of Sections 1400—1418 of the City Zoning Ordinance (Appendix A).

Evaluation and Recommendation

Condition 8 of the August 2013 CBPA Board variance requires that *"If and when the shoreline is rehardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead). The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands, unless the Wetlands Board determines that site specific conditions warrant a more seaward alignment."* The applicant's agent has submitted this variance request to have said condition reconsidered by the Board. The request is to allow the applicant to install a vinyl bulkhead 2 feet channelward of the existing wood bulkhead and boat basin. The methodology to redevelop the existing shoreline will be accessed from the uplands to construct the vinyl bulkhead with minimal impacts to the existing upland vegetation.

To further support 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, *"The riprap only condition was imposed on all CBPA plans without regard to practicability or with regard to site characteristics or constraints. The site conditions warrant placing the riprap in excess of the landward alignment of the existing structure as imposed by the condition."* While Staff respects the agent's statement regarding the practicability of redeveloping the existing shoreline, shoreline analysis conducted by the Center for Coastal Resource Management suggests the use of a revetment for this lot due to the width of the manmade channel.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather *"a required condition for the CBPA variance approval in 2013 without regard to actual site conditions and the exposed height of the bulkhead out of the bottom."* 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 lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"the property has an extensive buffer restoration area up to 30' landward of the existing bulkhead and strict enforcement of the condition would change much of the required buffer restoration to riprap which offers no reduction in nonpoint source pollution."* Staff offers that the request to redevelop the existing shoreline is the minimum necessary to afford relief with the methodology for accessing the existing shoreline proposed from the uplands to construct the vinyl bulkhead with no long-term impacts to the existing upland vegetation proposed.
- 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 existing buffer restoration is well vegetated and functioning and the proposed vinyl bulkhead is 8-8.5' EH. This would require the removal of up to 16' of the existing shoreline, and line the north side of the navigation canal with riprap."* Staff acknowledges the statement provided by the applicant's agent. Staff offers that the redevelopment of shorelines and the practices selected to do so need to account for the intent of the CBPA Ordinance to restore state waters to a condition or quality that will permit all reasonable public use and will support the propagation and growth of all aquatic life, including game fish which might reasonably be expected to inhabit them.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load, *“the is no increase in impervious cover and therefore no increase in nonpoint source pollution.”* Staff concurs.

Should the Board desire to consider granting this variance request, Staff recommends the following reasonable and appropriate condition towards preventing the variance from causing or contributing to a degradation of water quality

Recommended Conditions

- 1) This variance is in addition to the conditions of the CBPA Board variance granted September 24, 2014 and August 26, 2013 removing condition 8 of said 2013 CBPA variance that states *“If and when the shoreline is rehardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead). The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands, unless the Wetlands Board determines that site specific conditions warrant a more seaward alignment.”*.

***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

THIS PLAN IS BASED ON MLW = 0.0'
 THE SITE ELEVATIONS WERE
 ESTABLISHED VIA RTK GPS ON THE
 TOPNET REFERENCE NETWORK.

LOT 65
 N/F PHILOMONA H. THOMPSON
 2409-19-8185

LOT 64
 N/F OLIVER-MACLEAY LT
 2409-19-7157

TREASURE CANAL

N/F CITY OF VIRGINIA BEACH
 MANMADE CANALS IN BAY
 ISLAND

WIDTH OF
 WATERWAY AT EX.
 BULKHEAD IS 59'±



N 77°47'48" W 172.09'

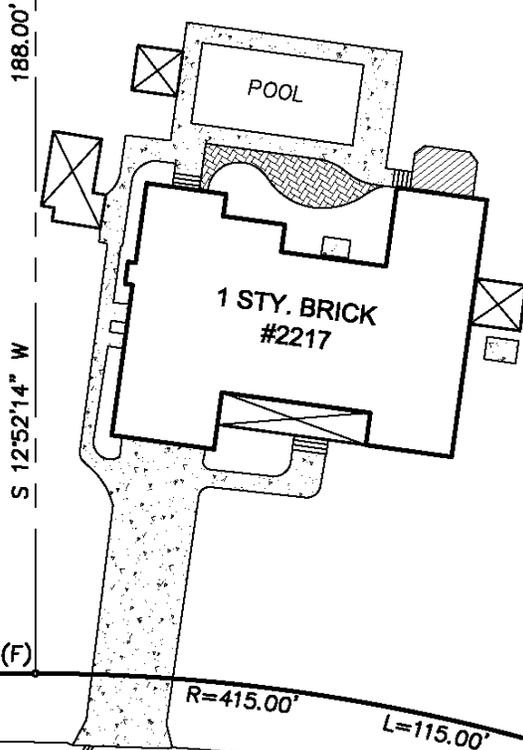
MLW
 MHW

EX. BKHD

EX. WHARF

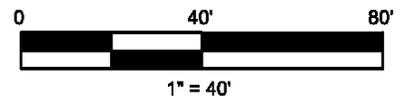
LOT 204A
 N/F BRIAN TWIDDY
 2409-29-0308

LOT 206
 N/F MICHAEL E. GAUTHIER
 2409-19-7456

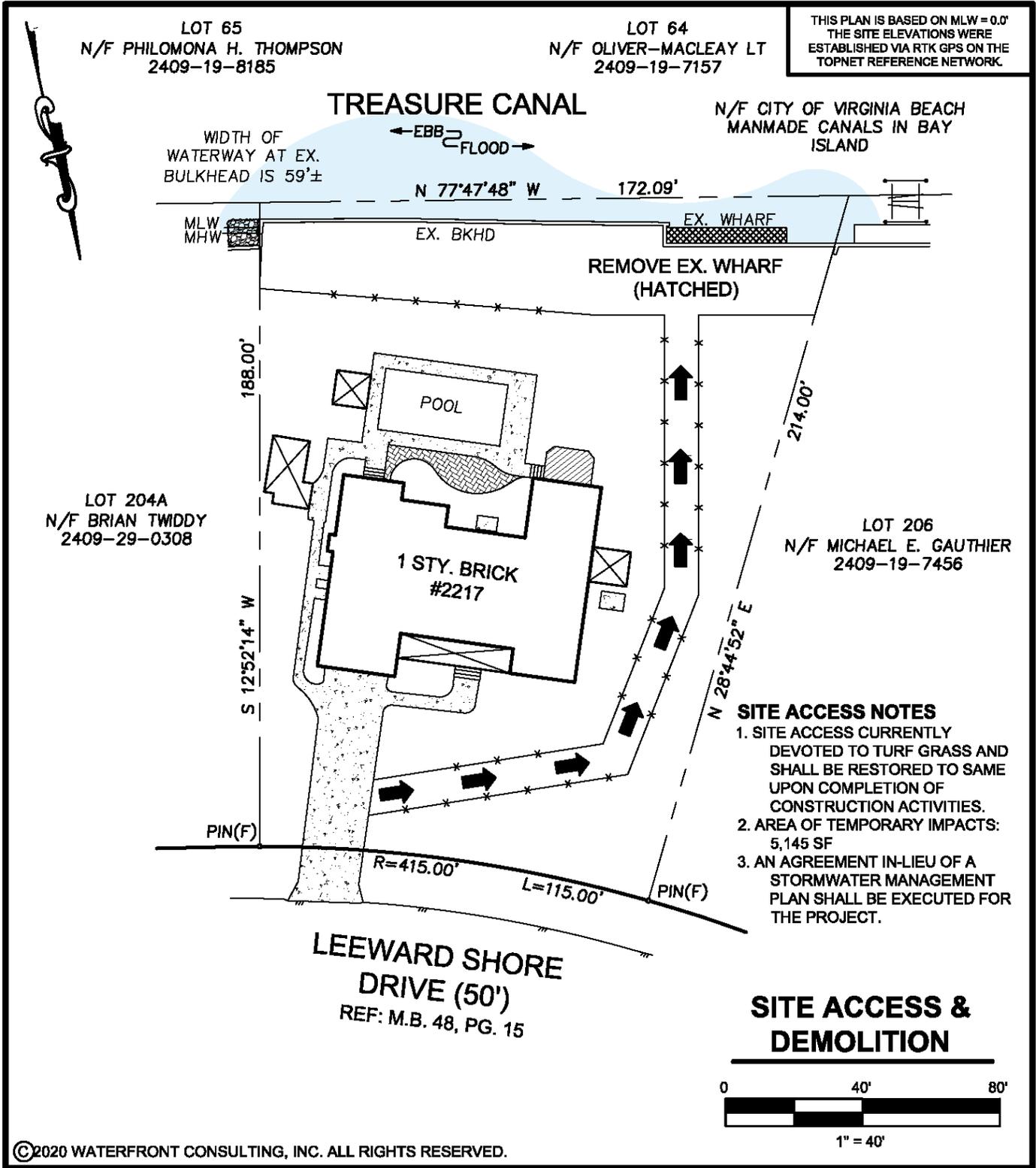


LEEWARD SHORE
 DRIVE (50')
 REF: M.B. 48, PG. 15

**EXISTING SITE
 CONDITIONS**



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CBPA Exhibit – Proposed Improvements

THIS PLAN IS BASED ON MLW = 0.0'
THE SITE ELEVATIONS WERE
ESTABLISHED VIA RTK GPS ON THE
TOPNET REFERENCE NETWORK.

LOT 65
N/F PHILOMONA H. THOMPSON
2409-19-8185

LOT 64
N/F OLIVER-MACLEAY LT
2409-19-7157

TREASURE CANAL

N/F CITY OF VIRGINIA BEACH
MANMADE CANALS IN BAY
ISLAND

WIDTH OF
WATERWAY AT EX.
BULKHEAD IS 59'±

← EBB FLOOD →

N 77°47'48" W 172.09'
121'

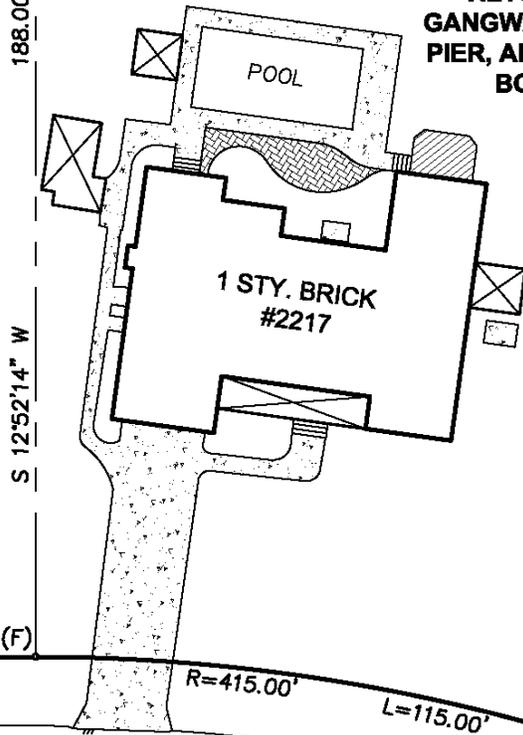
MLW
MHW

EX. BKHD

**PROPOSED 175 LF OF
VINYL BULKHEAD WITH
AN 11 LF AND 22 LF
RETURN, 3'x14'
GANGWAY, FLOATING
PIER, AND FOUR PILE
BOAT LIFT**

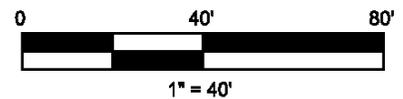
LOT 204A
N/F BRIAN TWIDDY
2409-29-0308

LOT 206
N/F MICHAEL E. GAUTHIER
2409-19-7456



**LEEWARD SHORE
DRIVE (50')**
REF: M.B. 48, PG. 15

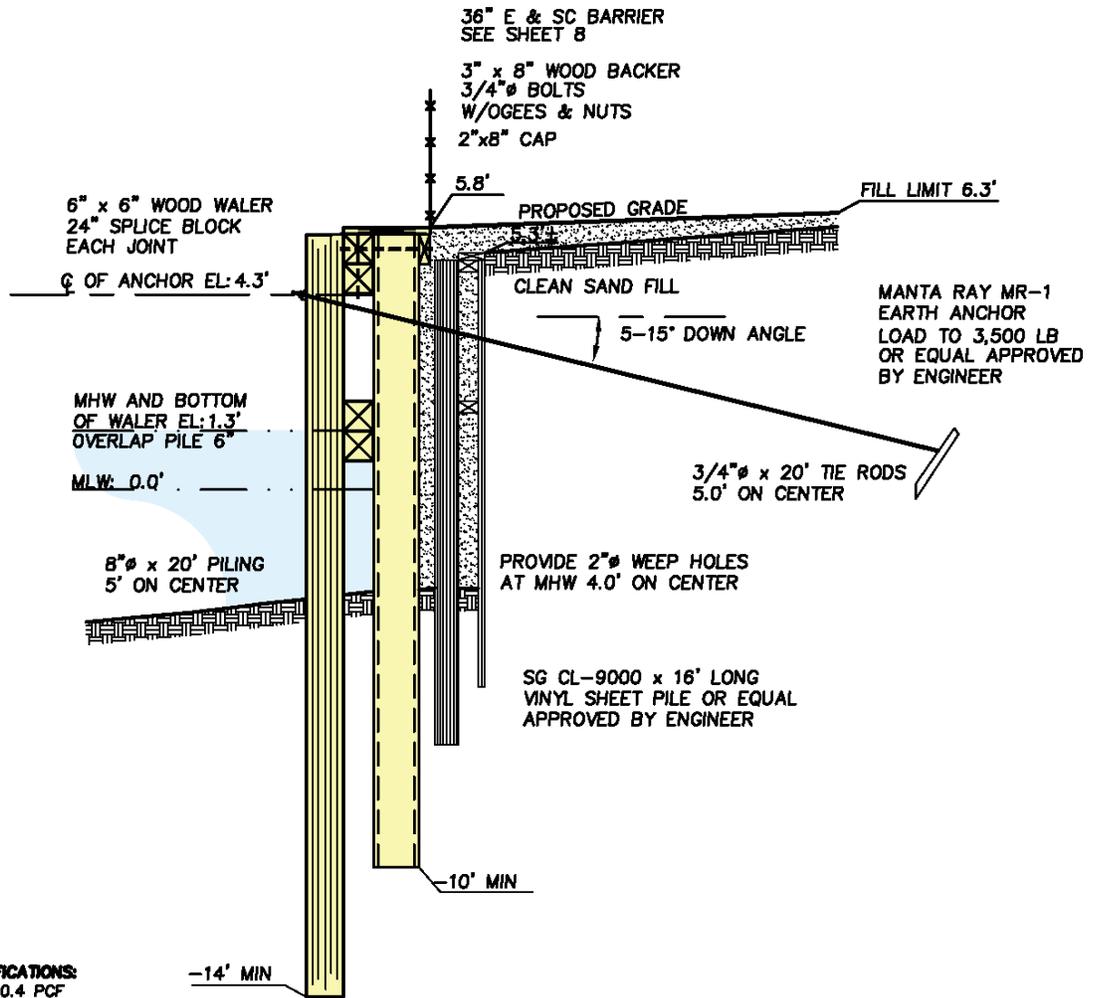
**PROPOSED SITE
IMPROVEMENTS**



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CROSS SECTION PROPOSED BULKHEAD

SC: 1" = 4'



MATERIALS SPECIFICATIONS:
 CAP BOARD CCA 0.4 PCF
 ALL OTHER TIMBER CCA 2.5 PCF
 ALL WOOD GRADE 2 OR BETTER
 ALL HARDWARE H.D. GALVANIZED

BULKHEAD DESIGN IS BASED ON STANDARD DESIGN PRACTICES. ATYPICAL SITE CONDITIONS NOT VISIBLY APPARENT HAVE NOT BEEN TAKEN INTO ACCOUNT. DIMENSIONS SHOWN ARE MINIMUMS TO BE ALLOWED. CONTRACTOR SHALL FIELD VERIFY BOTTOM CONDITIONS TO ASSURE THAT FIRM MATERIAL IS IN PLACE. THE ENGINEER IS TO BE NOTIFIED OF ANY ABNORMAL SOIL CONDITIONS FOR EITHER SHEET PILE OR DEADMAN FIELD.



APPLICANT'S NAME Charles R. Mehle, II

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: Charles R. Mehle, II
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	Cheryll Mann, Jackson Hewitt
<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 type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

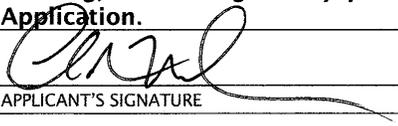
If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

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

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

	Charles R. Mehle, II	5 May 20
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

AS NEEDED, PAGE LEFT BLANK

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct an addition to the residence and shed, new garage, wood deck and swimming pool.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

Map Book 22 Page 11

Recorded 1/30/1948

GPIN

1499-16-5042

SITE AREA

164,784 square feet or 3.783 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

71,881 square feet or 1.650 acres

EXISTING IMPERVIOUS COVER OF SITE

8,606 square feet or 12.0 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

14,431 square feet or 20.1 percent of site

Area of Redevelopment in RPA

534 square feet

Area of New Development in RPA

5,825 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

100-foot Variable Width Buffer

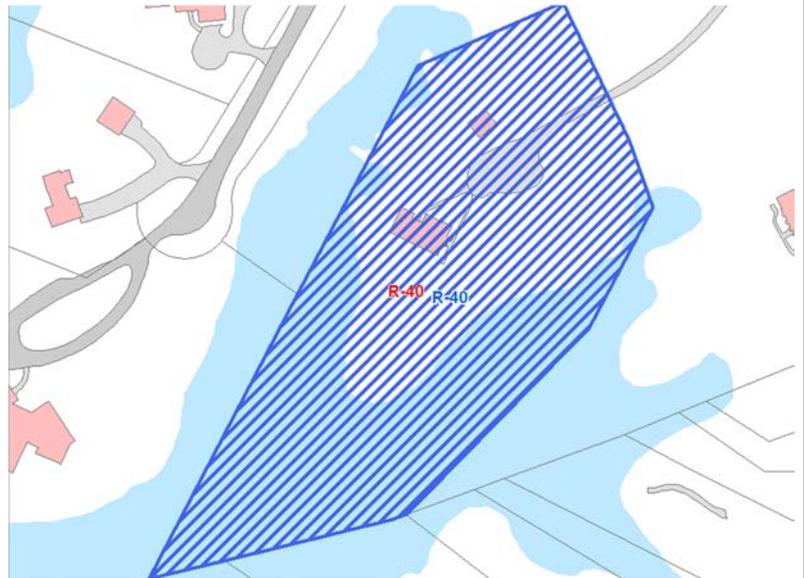
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Remove portions of existing concrete walks and enclosed porch

Construction Details

- Attached garage with paver parking area
- Shed addition
- Swimming pool, fire pit and hot tub with paver patio
- Additions to the primary structure
- Screened porch
- Wood deck

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

Augusta Series (loam)

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

Shoreline

Shoreline is in a natural state. Moderate maintenance should be performed to limb up low hanging branches shading existing tidal marsh.

Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 15
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing canopy tree removal request: Trees being requested for removal are within the delineated limits of construction, as shown on the CBPA Exhibit. Staff is of the opinion that the overall condition of the canopy trees on this lot are healthy; however, some of the older canopy trees deviate from normal canopy shape due to old growth die back and minimal signs of storm damage.

Stormwater Management Methodology

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

Evaluation and Recommendation

The applicant is proposing to construct several additions to the primary structure which includes renovations to the interior and a breezeway connection to a detached garage. The additions to the primary structure increase the size of the footprint by approximately 580 square feet for a total of approximately 2,328 square feet and the construction of the detached garage and breezeway adds approximately 1,737 square feet of new impervious cover to the lot. New impervious cover on the lot associated with the construction of accessory structures consists of a wood deck, swimming pool with paver patio and an addition to the existing shed. This portion of the variance request equates to approximately 2,893 square feet of the new impervious cover or approximately 20 percent of the overall impervious cover of lot above water and wetlands.

With the redevelopment of this lot Staff is of the opinion given the original structure of the lot being built in 1944 coupled with the peninsula-shape shoreline geometry and the canopy cover on the lot being aged that the applicant has situated the proposed improvements to the best of their abilities with the existing environmental conditions of the lot. While the improvements remove several older trees, Staff is of the opinion that the long-term benefit will provide better stormwater management in terms of runoff avoided and rainfall interception by the introduction of younger canopy trees into the riparian buffer ecosystem of this lot. Overall, the post-construction pervious cover of this lot will be approximately 80 percent and will be augmented with the required buffer restoration as provided in the recommended conditions below.

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 *"the additions will be commensurate with other waterfront properties in the area. The upgrades include additions to the main dwelling, wood decking, an attached garage and parking area and a pool and hot tub."* Staff concurs that the redevelopment of this lot is consistent with other CBPA variances within the surrounding neighborhood.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because *"this lot was created many years prior to the Bay Act and avoidance of the buffer now is not possible. Other homes have been remodeled in a similar fashion so there is no special privilege associated with this request."* 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 lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"we are keeping the lot coverage as low as possible and locating the improvements as close to the existing dwelling as possible to meet the minimum relief requirement."* Staff provides that although portions of the new impervious cover encroach into the 50-foot seaward buffer, approximately 80 percent of the lot will remain in a pervious condition with approximately 722 linear feet of the 50-foot seaward buffer remaining undisturbed.
- 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 *"with the existing home built so long before the Bay Act, the applicants have very few options to upgrade the residence. The applicant feels the project will not lead to a degradation of water quality. In*

fact, with the mitigation measures that will be included, the applicant feels the water quality will be enhanced post construction. The applicant will be including stormwater treatment where there is none presently, they will be including additional buffer restoration and leaving significant natural buffer in place and off-site mitigation will take place through the LOHF program, all to ensure non-point source pollution does not increase here.” Staff concurs.

- 5) *“The strict application of the ordinance would make it almost impossible to upgrade this dwelling, which currently has no treatment for stormwater at all,”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion that the 80 percent overall post-construction pervious cover of the lot, the installation of both structural and non-structural best management practices for stormwater treatment, and the approximately 722 linear feet of the 50-foot seaward buffer in a natural state all provide merit towards a no net increase in nonpoint source pollution load.

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) Those portions of the 50-foot seaward buffer and 50-foot landwards buffer currently in a natural state shall remain. Buffer restoration shall be installed along the top of bank feature within the 50-foot seaward buffer in areas currently devoted to turf. Buffer restoration beds shall extent landward of the top of bank feature for a minimum width of 10 feet. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **7 canopy trees, 14 understory trees, 58 large shrubs, and 87 small shrubs.**

The restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) 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.

- 7) 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.**
- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
- 9) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 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) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
- 14) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 15) ****** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,334.89 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.
- 16) Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.
- 17) The conditions and approval associated with this variance are based on the exhibit plan prepared by Gaddy Engineering Services, LLC signed July 31, 2020 by Michael S. Gaddy. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

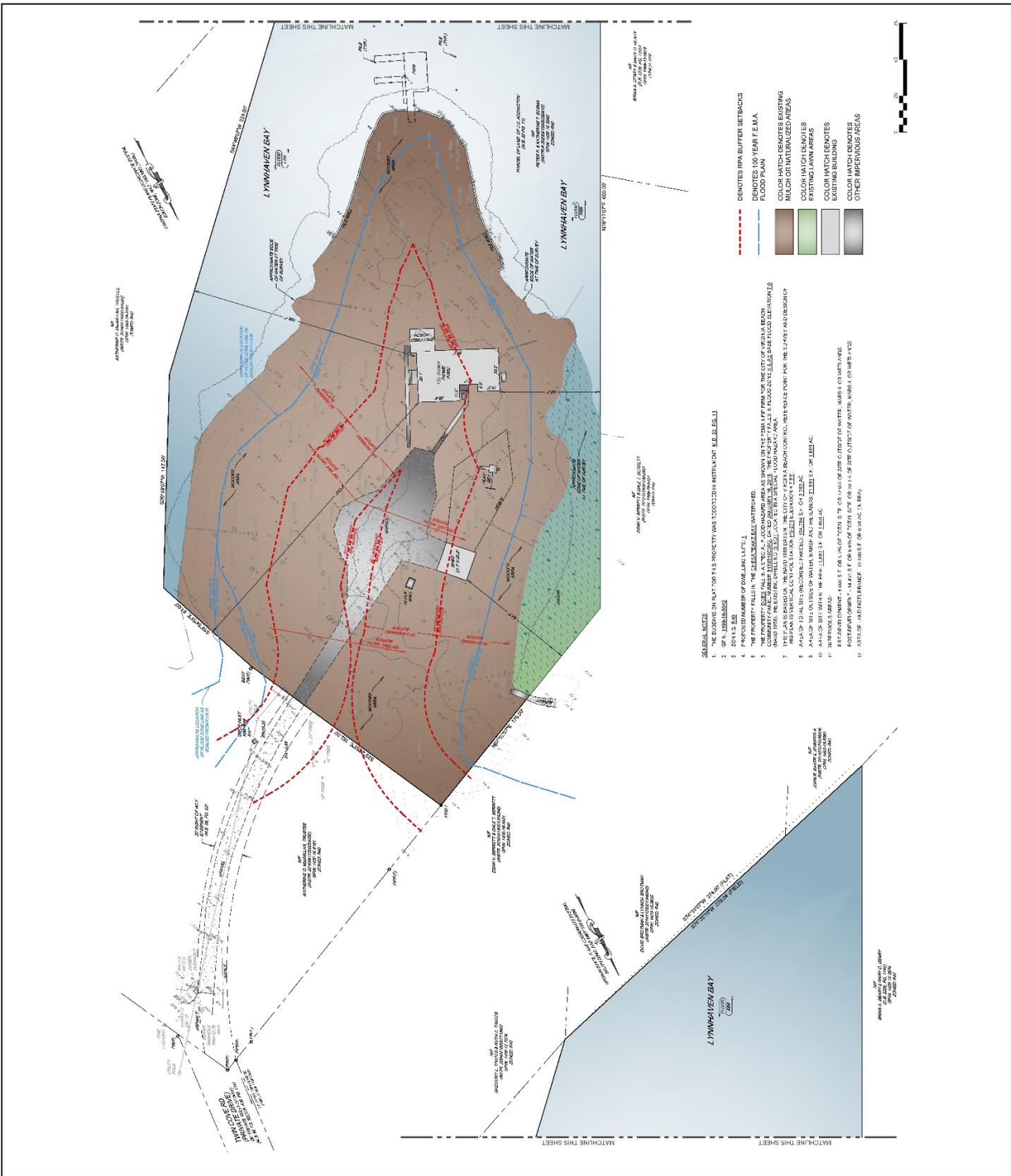
****** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

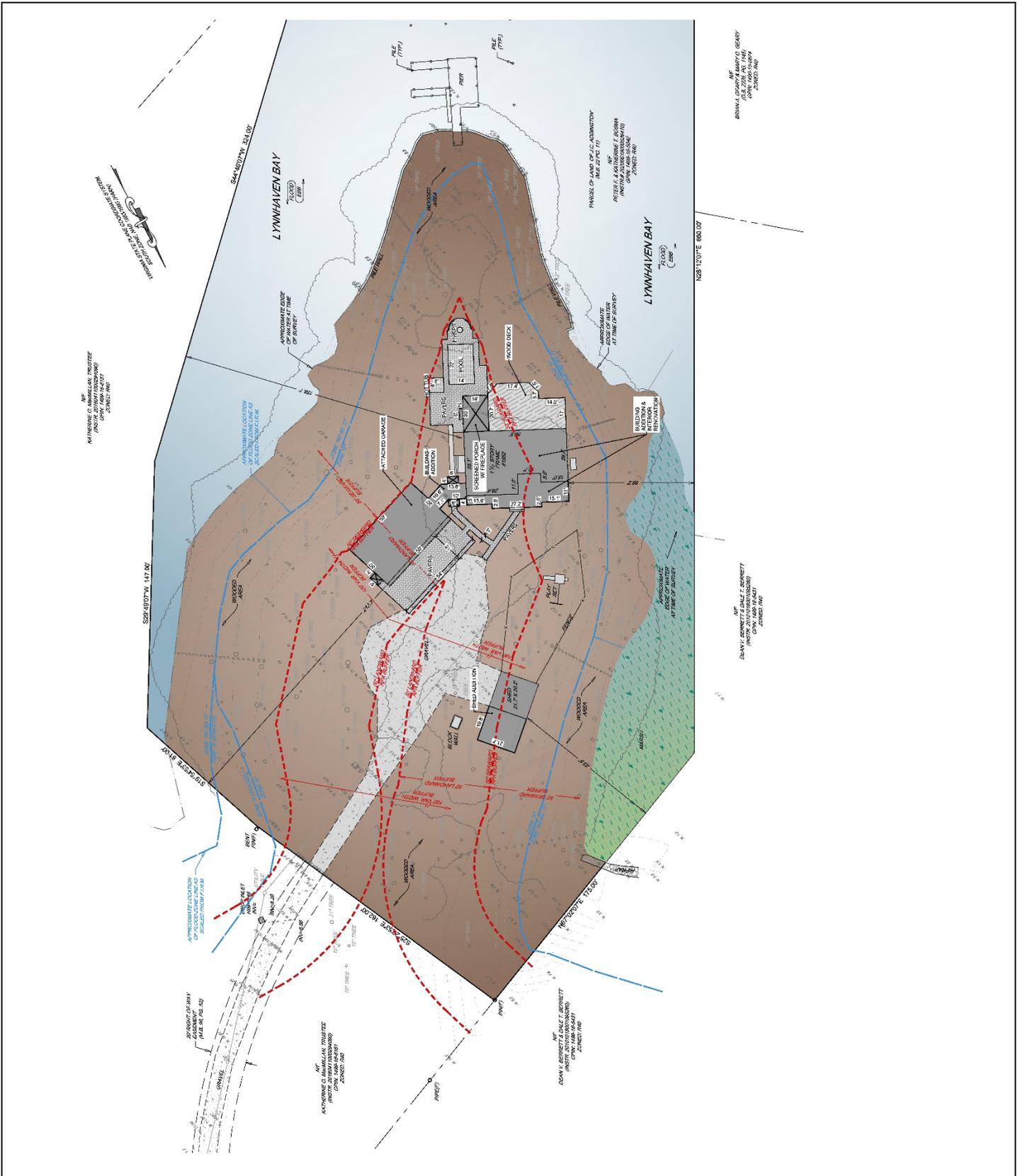
Site Aerial



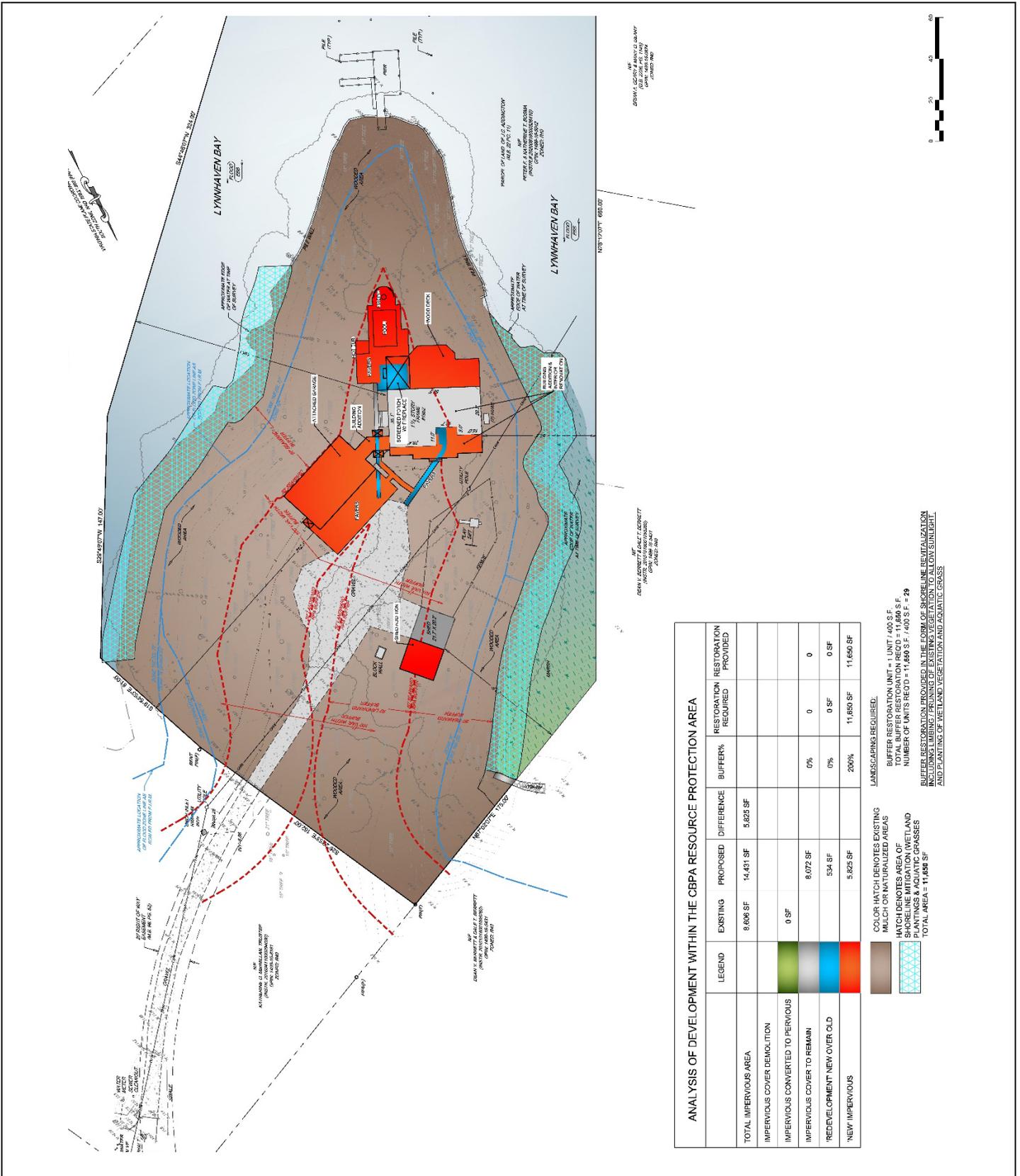
CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements



CBPA Exhibit – Color Analysis





APPLICANT'S NAME

M/M Bosma

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: Peter & Katherine Bosma
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

(A) List the Property Owner's name: Peter & Katherine Bosma
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	Kel Kirby
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) – identify purchaser and purchaser’s service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser’s service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Mike Gaddy
<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)	Property Home
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Billy Garrison
<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 type="checkbox"/>	

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



CERTIFICATION:

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

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

<i>KBosma</i>	<i>Katherine Bosma</i>	7/30/20
APPLICANT'S SIGNATURE	PRINT NAME	DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Property Owner are the same.
Peter & Katherine Bosma
Agenda Item 6
Page 96



Applicant & Property Owner **Trevor & Randi Dunlap**
 Address **1304 Wren Place**
 Public Hearing **September 10, 2020**
 City Council District **Lynnhaven**

Agenda Item

7

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct several additions to the primary structure.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

Map Book 7 Page 193
 Recorded 07/14/1926

GPIN

2418-23-1334

SITE AREA

46,067 square feet or 1.012 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

36,223 square feet or 0.832 acres

EXISTING IMPERVIOUS COVER OF SITE

9,409 square feet or 25.9 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

9,999 square feet or 27.6 percent of site

Area of Redevelopment in RPA

611 square feet

Area of New Development in RPA

590 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

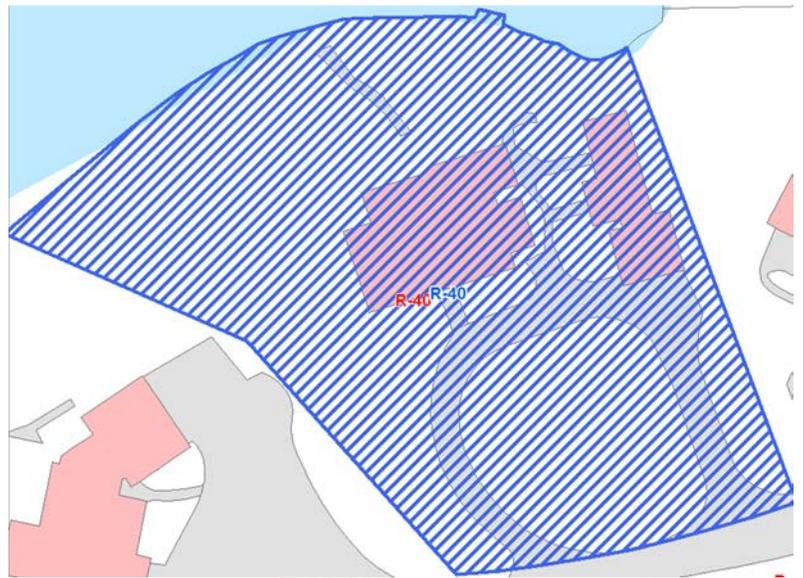
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Portions of existing stone walkway

Construction Details

- Redevelopment of existing wood deck
- Building addition to the existing residential structure with connection to detached garage
- Building addition / proposed garage addition

CBPA Ordinance Variance History

June 23, 2003 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of room additions, gravel walkways and replacement of the existing wood deck with the following conditions:

1. *A preconstruction meeting shall be convened with Civil Inspections prior to any land disturbance.*
2. *Dual 36" erosion and sedimentation control measures (silt fences) shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established.*
3. *Construction limits shall lie a maximum of 15' seaward of improvements.*
4. *The construction access way shall be noted on the site plan, as well as the stockpile staging area.*
5. *All stormwater from existing and proposed impervious cover shall be conveyed to structural stormwater management facilities*
6. *Under deck treatment of sand and gravel shall be installed.*
7. ***As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program prior to or concurrent with site plan approval. Payment shall be in the amount of \$500.00 and is based on 25% of the new proposed impervious cover. Said payment shall provide for the equivalent of an approximate 545 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
8. *Buffer restoration shall be installed equal to 100% of impervious cover (2,181 sq. ft.) and shall utilize bayscape landscaping principles. Said restoration shall be installed prior to the final building inspection. Said condition shall be so noted on the site plan.*
9. *A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed.*
10. *Tree compensation shall be at a 3:1 ratio.*
11. *The proposed gravel walkway shall be constructed of #57 washed aggregate at a minimum depth of 6 inches.*

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

Yeopim Series (deep and moderately well-drained soils)

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

Shoreline

The shoreline is hardened by a rip rap revetment.

Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of existing understory trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0. Staff is of the opinion that the existing Cherry tree that is exhibiting signs of bacterial canker spread around the trunk of the tree should be removed. If removed, the tree should be disposed of and not composted.

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 is proposing to construct several additions to the existing single-family residence. With the additions, an enclosed breezeway connects the detached garage to the existing single-family residence. Portions of the proposed improvements expand the encroachment of the primary structure into the 50-seaward buffer of the Resource Protection Area (RPA) on a lot that was platted prior to the adoption of the Chesapeake Bay Preservation Area (CBPA) Ordinance. Staff is of the opinion that the scope of the improvements and minimal land disturbance anticipated with the construction are the minimum necessary to afford relief, will not be detrimental to water quality, nor will result in an increase in nonpoint source pollution load into the adjacent tidal waters.

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 *"the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels."* Staff is of the opinion that the redevelopment of the lot is reasonable as the property was that was platted in 1926, with the original structure built in 1935

which is clearly decades prior to the adoption of the CBPA Ordinance in 1991. Furthermore, the geometry of the lot places approximately 80 percent of the parcel within the RPA buffer. Based on these facts, Staff concludes that the request does not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas.

- 2) Staff provides that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was originally platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance.
- 3) The variance is the minimum necessary to afford relief because *"the majority of the development is over existing decks, house, and walkways and the proposed location is the best areas for expansion and redevelopment for the property as shown."* Staff concurs given the minimal amount of new impervious cover requested within the RPA.
- 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, if approved, additional planting buffer restoration will be placed between the improvements and the shoreline prior to discharging into the Little Neck Creek."* Staff concurs and offers that with the review of this variance request comes the opportunity to verify that the conditions of the 2003 CBPA variance, specifically the stormwater management practices, are functioning as intended.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, *"additional planting buffer restoration will be placed between the improvements and the shoreline prior to discharging into the Little Neck Creek."* Staff concurs.

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 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 conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required buffer restoration and stormwater management facilities shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior restoration requirements shall be installed if not present.
- 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:
590 square feet x 200 percent = 1,180 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: **3 canopy trees, 3 understory trees, 6 large shrubs, and 9 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 10 feet from improvements.
- 10) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
- 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) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
- 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 within the 50-foot seaward buffer.

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 \$135.20 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.

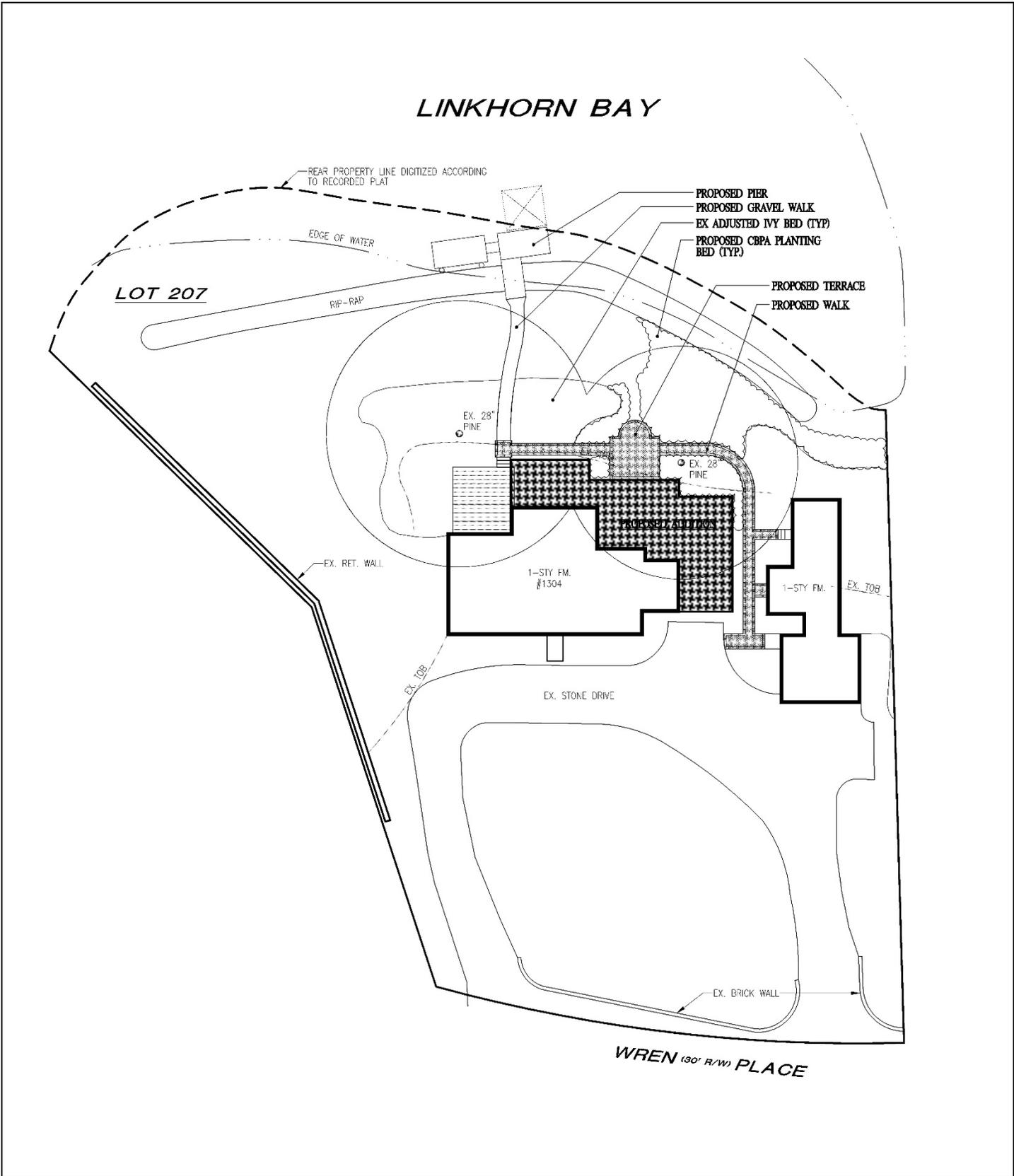
16) The conditions and approval associated with this variance are based on the exhibit plan dated September 29, 2019, prepared by WPL, signed July 31, 2020 by Eric A. Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

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

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

Site Aerial







APPLICANT'S NAME Trevor & Randi Dunlap

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

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

SECTION 1 / APPLICANT DISCLOSURE

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

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



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

(A) List the Applicant's name: Trevor & Randi Dunlap
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

(A) List the Property Owner's name: Trevor & Randi Dunlap
If an LLC, list the member's names:



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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Cox, Klierer & Company, P.C.
<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	Standing Development
<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)	Suntrust Mortgage
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Billy Garrington, GPC, Inc.
<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.

	Trevor Dunlap	7/16/10
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

AS NEEDED, PAGE LEFT BLANK

Variance Request

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

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

Deed Book 114 Page 425

Deed Book 330, Page 514

GPIN

1498-59-6508

SITE AREA

117,783 square feet or 2.704 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

76,050 square feet or 1.746 acres

EXISTING IMPERVIOUS COVER OF SITE

5,126 square feet or 7 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

10,176 square feet or 13 percent of site

Area of Redevelopment in RPA

2,312 square feet

Area of New Development in RPA

7,864 square feet

Location of Proposed Impervious Cover

50-foot Landward Buffer

100-foot Variable Width Buffer

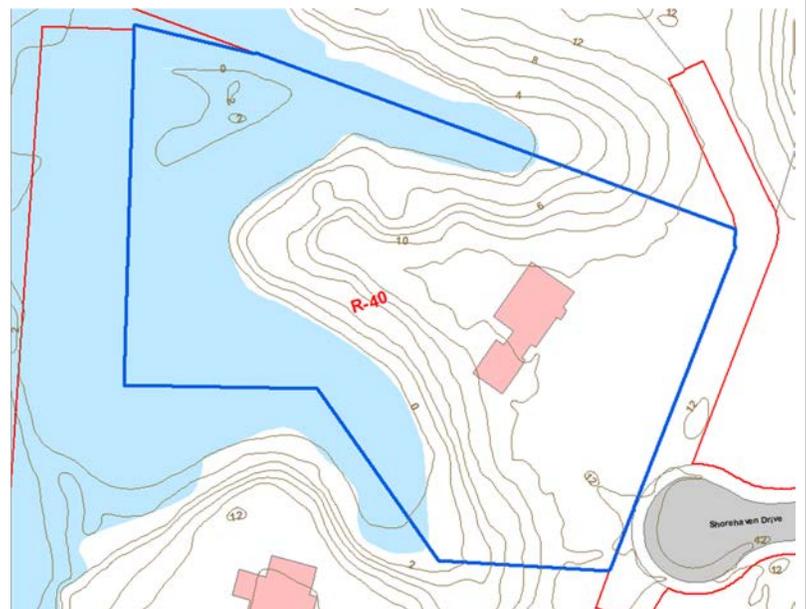
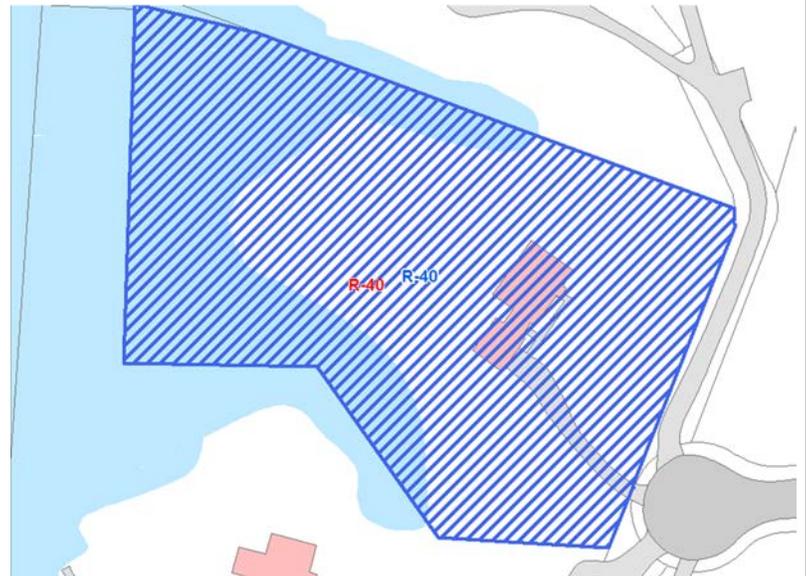
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Demolish existing single-family residence and associated accessory structures

Construction Details

- Single family residence with associated walkways
- Driveway
- Swimming pool with pool patio
- Covered porch
- Steppingstone walkways

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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

Shoreline

The northern portion of the shoreline was hardened by a wood bulkhead; however, at some point the bulkhead failed and tidal conditions are now present behind the dilapidated bulkhead. The remaining portion of the shoreline is in a natural state. Staff walked the property with the applicant's agent and Arborist to review the existing conditions of the riparian ecosystem. Several trees within the 100-foot Resource Protection Area (RPA) are declining in health and a few trees have fallen and are either held up within the existing canopies of adjacent trees or are on the forest floor and compromising the growth of your understory trees. Along the perimeter of the shoreline, several areas are overgrown with invasive vine species and numerous trees along the existing bank are shading portions of the existing tidal marsh, particularly along the north and northwest portions of the lot. During the site visit, the applicant's agent indicated that if the shoreline is modified, a living shoreline is the preferred method for this area of the lot.

Moderate maintenance should be performed consistent with the horticultural practices described in the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, regarding woodlot management to the existing riparian buffer and to remove invasive vines species that are shading vegetative undergrowth and out competing native plant species within the 50-foot seaward buffer.

Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 26
- Number of existing understory trees requested for removal within the RPA: 1

Benjamin & Holly Proto

Agenda Item 8

Page 114

- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: TBD
- Evaluation of existing canopy tree removal request: Trees being requested for removal are within the delineated limits of construction, shown as approximately 10 feet outboard the proposed improvements.

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 is proposing to redevelop the existing lot with a new single-family residence and swimming pool. Although the overall impervious cover will increase with this variance request, the proposed improvements provide a reduction in the amount of impervious cover within the 100-foot Resource Protection Area (RPA) buffer by approximately 700 square feet from approximately 3,743 square feet to 3,032 square feet. The proposed layout places the new single-family residence at the front yard setback and situates the driveway primarily within the 100-foot variable width buffer. As a result, approximately 6,982 square feet or 69 percent of the overall impervious cover for the lot above water and wetlands is within the 100-foot variable width buffer.

As stated above, the current condition of the 100-foot Resource Protection Area (RPA) buffer primarily consists of a vegetative buffer impacted by non-native invasive vine species along the shoreline and moderate signs of declining health to the existing canopy trees within riparian buffer ecosystem. The high marsh and woody upland community adjacent to the tidal marsh along the northern shoreline is in a transitional stage, however, is compromised by the limited sunlight and lack of woodlot management. Erosion is occurring on the existing bank within the 100-foot RPA buffer due to the lack of woodlot maintenance. Due to this condition, the applicant has obtained an Arborist and Landscape Architect to provide the needed expertise for maintenance of the riparian buffer ecosystem and intends to preserve the peninsula portion of this lot in a natural state.

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 *"the proposed dwelling and associated improvements are in keeping with the neighborhood."* Staff concurs.
- 2) *"The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was originally platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance."* Staff concurs.
- 3) The variance is the minimum necessary to afford relief because *"the owners have designed the proposed improvements to minimize the impact to the Chesapeake Bay, the new home has been placed toward the front setback line and shifted around on the site to minimize site impacts and avoid development in the 50' seaward portion of the site."* Staff concurs.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare

because “the proposed dwelling and 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 bay.” Staff concurs.

- 5) “The existing natural riparian buffer will be enhanced and expanded upon to enhance the site. Bioremediation stormwater management will be placed between the improvements and the waterway to capture and treat runoff prior to discharging into the bay” as a means to manage towards a no net increase in nonpoint source pollution load. Staff concurs.

Given the above comments, Staff recommends the following 15 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 and limits of turf shall be in substantial compliance with the Design Plan prepared by WPL dated July 28, 2020 and on file with the Department of Planning and Community Development.

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.
- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) 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.
- 7) 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.**
- 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 15 feet from improvements.

- 9) Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
- 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) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,802.16 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.
- 14) Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal shore and existing forest floor within the 50-foot seaward buffer. Areas of maintenance shall be discussed with Staff during the preconstruction meeting and authorized before performed. Maintenance activities shall be performed consistent with the horticultural practices described in the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation regarding woodlot management.
- 15) The conditions and approval associated with this variance are based on the exhibit plan dated September 29, 2019, prepared by WPL, signed July 31, 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. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

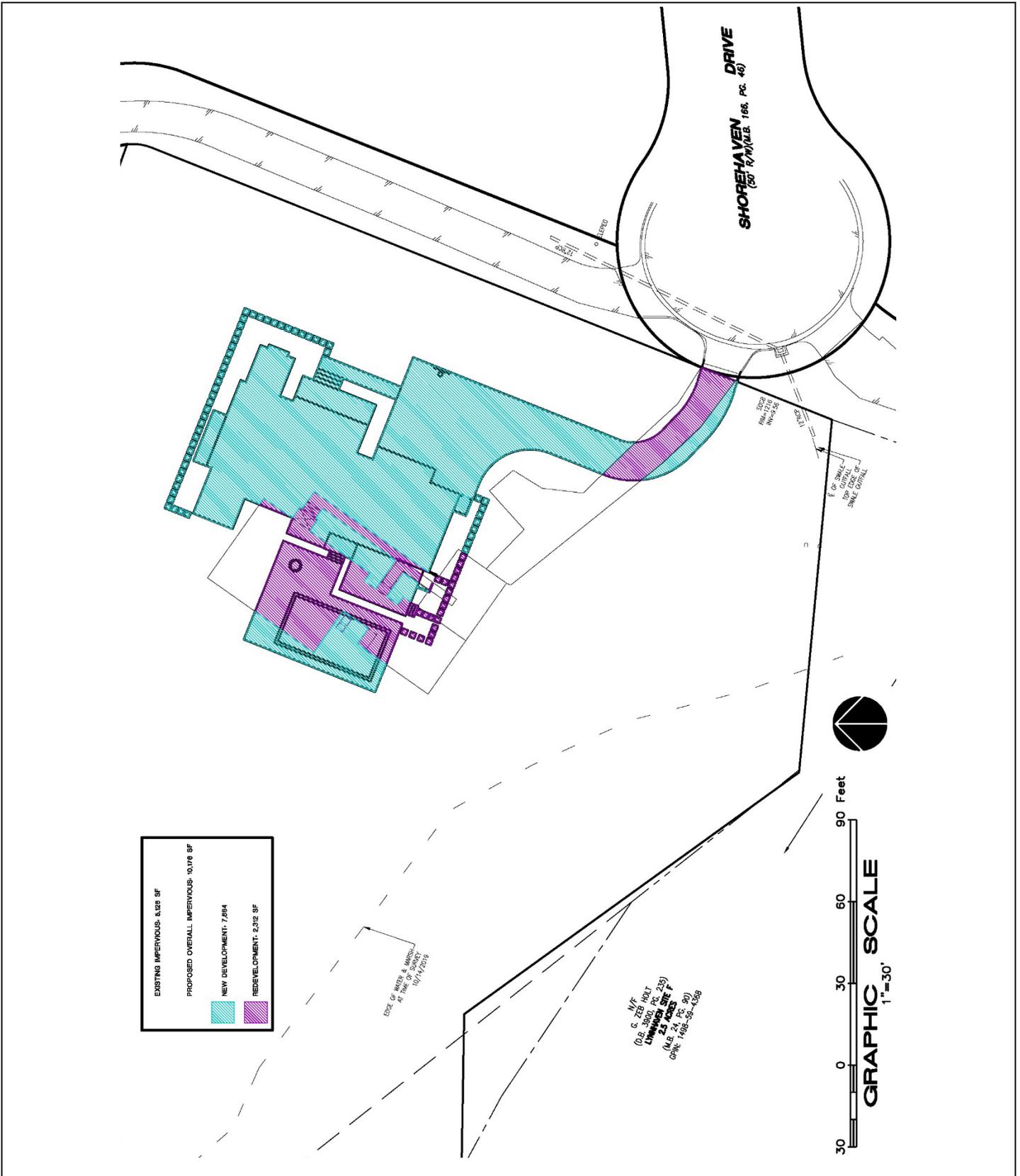
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

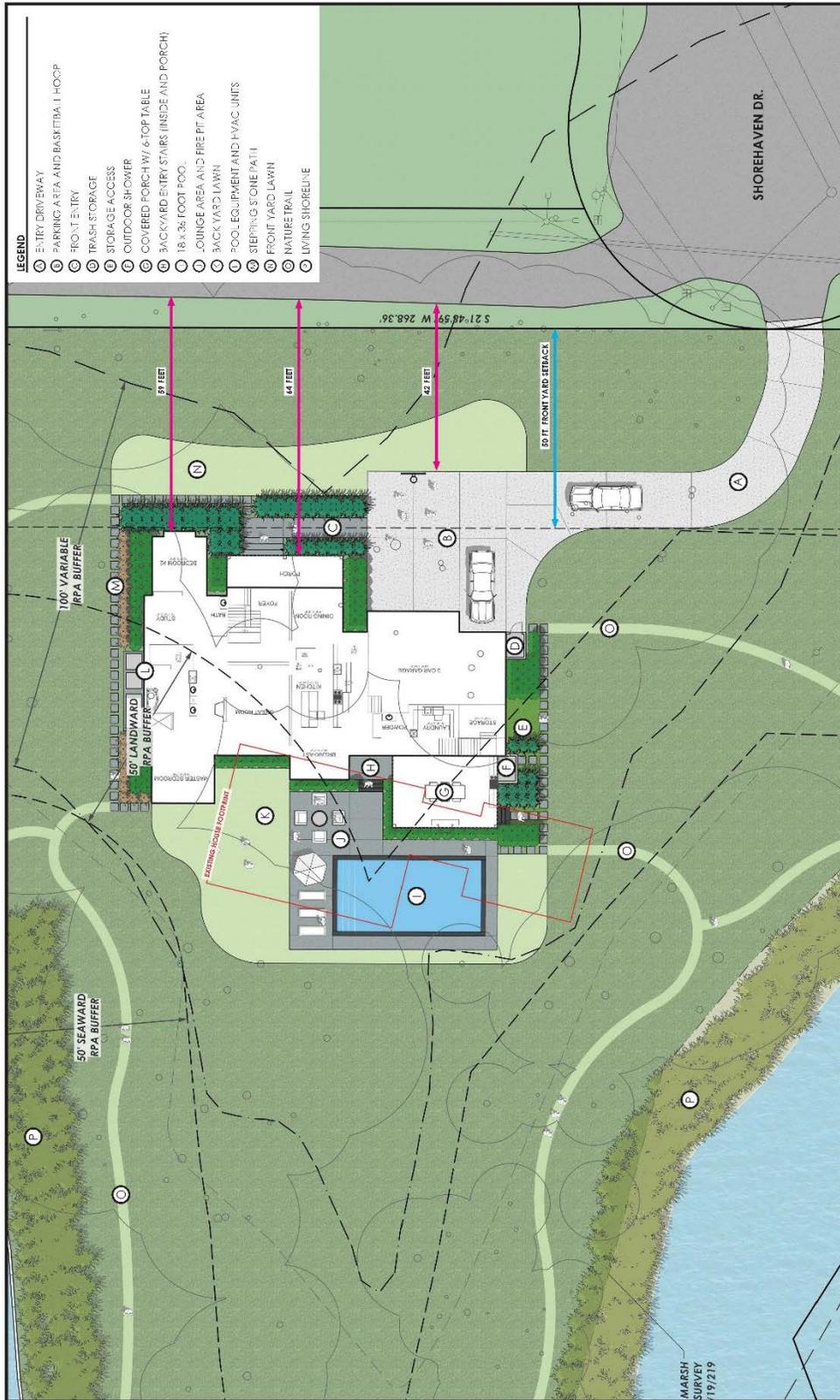
Site Aerial



CBPA Exhibit – Color Analysis



CBPA Exhibit – Design Plan





APPLICANT'S NAME Holly & Benjamin Proto

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	

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Page 1 of 7

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



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

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

(A) List the Applicant's name: Holly & Benjamin Proto
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)*

N/A

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

N/A

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

(A) List the Property Owner's name: Holly & Benjamin Proto
If an LLC, list the member's names:

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

N/A

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

N/A

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

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

N/A



CERTIFICATION:

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

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

<i>Holly Proto</i>	<i>Holly Proto</i>	<i>P-4-2020</i>
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

AS NEEDED, PAGE LEFT BLANK



Applicant & Property Owner **Freedom Operations, LLC**
 Address **2809 Crusader Circle**
 Public Hearing **September 10, 2020**
 City Council District **Rose Hall**

Agenda Item

9

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer with the construction of an after-the-fact building storage addition.

Applicant's Agent

Self-represented

Staff Planner

PJ Scully

Lot Recordation

Instrument No. 20150401000283760

Recorded 04/01/2015

GPIN

1495-48-7777

SITE AREA

111,949.2 square feet or 2.57 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

111,078 square feet or 2.55 acres

EXISTING IMPERVIOUS COVER OF SITE

56,913 square feet or 51.2 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

57,813 square feet or 52 percent of site

Area of Redevelopment in RPA

164 square feet

Area of New Development in RPA

900 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- After-the-fact building storage addition

CBPA Ordinance Variance History

No known Chesapeake Bay Preservation Area (CBPA) Board variance history to report. A Show Cause hearing was held and a finding of Noncompliance was made by the Board on June 22, 2020.

Environmental Conditions

Flood Zone

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

Soil Type(s)

Nawney Series (deep, poorly drained soils)

Tomotley Series (deep, poorly drained soils)

Shoreline

Shoreline is an open ditch and is in a natural state.

Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees removed within the RPA: 0
- Evaluation of existing riparian buffer disposition: Staff evaluated the area of noncompliance during the site visit and did not observe any unauthorized removal of jurisdictionally regulated vegetation associated with the noncompliance.

Stormwater Management Methodology

The stormwater management methodology for this lot is treated by a bioretention planting bed adjacent to the existing parking lot and two separate grass channels that collect sheet flow from the upland improvements.

Evaluation and Recommendation

The applicant is requesting an after-the-fact variance request for an unauthorized 1,064 square foot building addition of which 900 square feet is new impervious cover within the 50-foot seaward buffer. The previous use of this industrially zoned lot was a marine contracting business that utilized the 100-foot Resource Protection Area (RPA) as a lay down and storage lot. Much of the land cover for the subject area was compacted gravel, building materials and storage containers. Staff conducted an aerial analysis of the lot from 2018 against the approved site plan. From the preliminary analysis, Staff is of the opinion that approximately 7,200 square feet of the 100-foot RPA was disturbed land, compacted land or land covered by impervious cover associated with the marine contracting use. The current property owner has

Freedom Operations LLC

Agenda Item 9

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restored the majority of the RPA feature to a natural state and provided Staff with documentation that the unauthorized improvement meet the finished floor requirements of the City's Floodplain Ordinance. The applicant is working with Development Service Center (DSC) Staff regarding stormwater management compliance on the existing treatment system installed by the previous property owner. Staff is of the opinion that the current property owner has provided value towards a reduction in nonpoint source pollution with the redevelopment of the lot given the extent of clean-up and restoration that has been performed, as well as work to restore the existing stormwater management system.

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 particular area is zoned I2 / heavy industrial and is designed for this type of business. Commercial businesses are greatly limited to certain locations in which to operate as I-1 or I-2 in Virginia Beach. Furthermore, many areas also carry an APZ designation which further limits what businesses can do in certain areas. This property was purchased with the intent of using the entire 2.5 acres to support business operations. There is no advantage over other businesses in this industrial area, the location of the property is more than 1/2 mile from any tributary to the bay and the company has taken extensive measures to prevent water from leaving the property through improvements to the BMP."* Staff concurs.
- 2) Staff offers that this finding is intended to ensure that an exception request would not give the applicant something that has been denied others in similar situations, and addresses the equity, fairness, and arbitrary and capricious aspects of any exception request and decision. Given the zoning use of the lot and similar developments within the area, Staff is of the opinion that the proposed improvements associated with the after-the-fact variance request will not confer upon the applicant any special privileges because of the applicant's effort to develop this lot with a stormwater management plan in place on site, coupled with Staff's recommended conditions below.
- 3) The variance is the minimum necessary to afford relief because *"the addition to the existing building (that is also in part of the seaward RPA) will satisfy the current needs of the company and further improvements in the RPA are not needed to operate the business at this time."* Staff is of the opinion that the redevelopment of the lot from an approximately 7,200 square foot stockpile and storage lot to a 900 square foot building addition reintroduces approximately 6,300 square feet of pervious cover into the RPA.
- 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 *"once again, 2809 Crusader Circle is zoned I-2 and is intended for the heaviest of industrial uses. The previous owner conducted this type of activity. Freedom Operations and its affiliate Point One intend to use the property for light fabrication and therefore have improved the use of the land considerably compared to its past owners. This fact, in addition to the newest improvements that will take place to include much improved landscaping and turf areas will greatly improve the water quality and help better protect the bay."* Staff concurs.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, *"extensive improvements to storm water runoff in a new BMP created as a result of new construction currently taking place on the property and improved landscaping and turf areas as a result of the new construction."* Staff concurs.

Given the above comments, Staff recommends the following 5 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

- 1) Inclusive of the required Plan Revision for the after-the-fact building addition, a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements shall be submitted for review and approval associated with the after-the-fact variance request. 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.
- 2) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **900 square feet x 200 percent = 1,800 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: **5 canopy trees, 10 understory trees and 15 large shrubs.**

The required restoration shall be located in the Resource Protection Area 50 -foot seaward buffer in areas currently devoted to turf. The restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

- 3) ****** 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 \$371.25 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.
- 4) Upon granting of a variance, a post-plan revision shall be reviewed by the Department of Planning, Development Services Center and approved within 60 days from the date of this hearing. Once the plans have been approved, **CBPA / CIVIL permit** must be obtained within 30 days. All required restoration must be installed or in the process of installation within 45 days after issuance of the building permit. Failure to comply with this condition may result in a show cause hearing.
- 5) The conditions and approval associated with this variance are based on the exhibit plan dated May 30, 2019, prepared by NDI Engineering Company, signed August 20, 2020 by William E. Uebelhoer. 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.



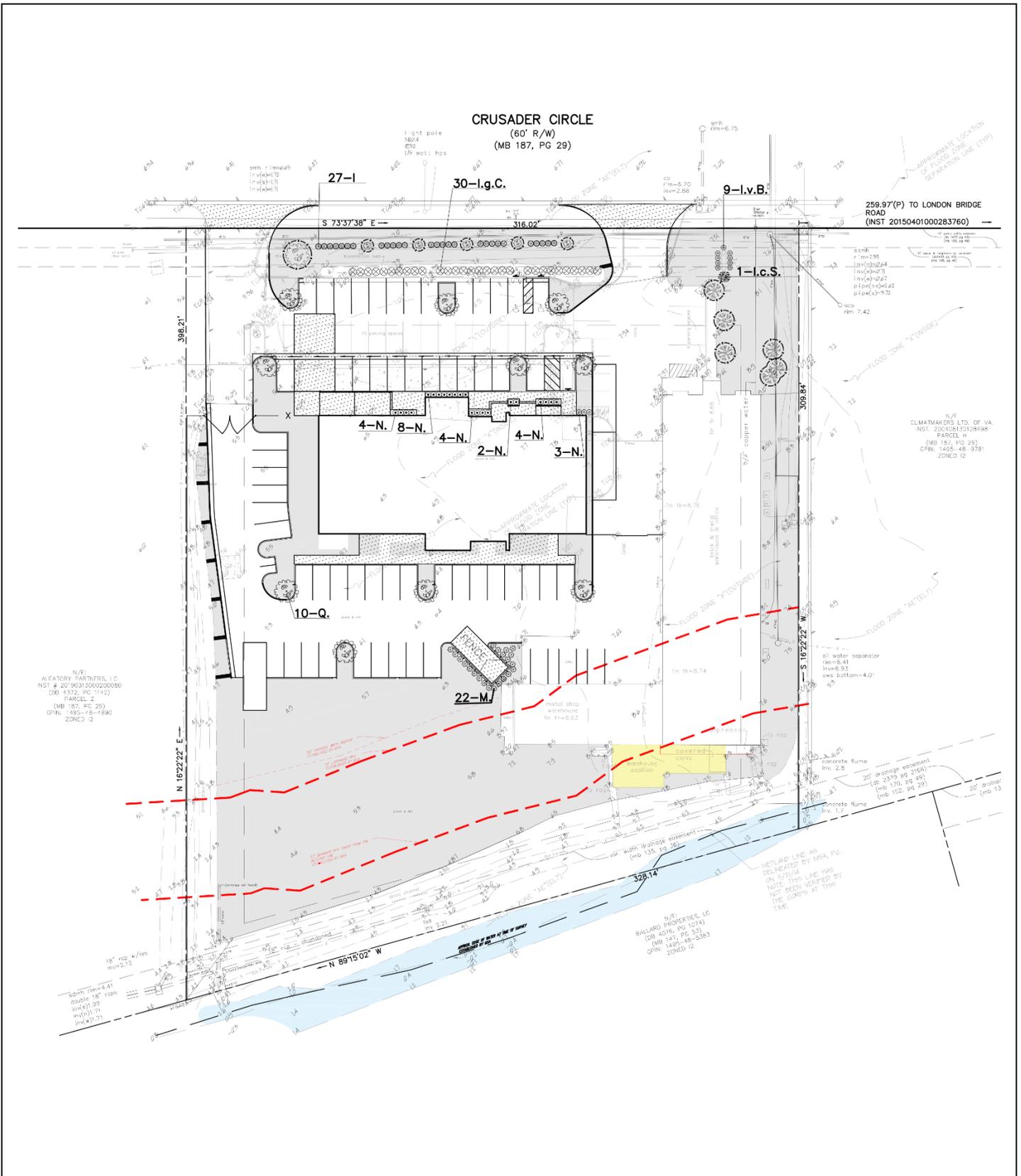
Site Aerial



2018 Aerial with Overlay to Proposed Improvements



CBPA Exhibit – After-The-Fact Proposed Improvement





APPLICANT'S NAME _____

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: Freedom Operations, LLC
If an LLC, list all member's names:
Robert Brush
Michelle Glasscock

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

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

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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



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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	WALL, EINHORN & CHERNITZER, P.C. , Robert Burke, David Chase
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Lemole Architects, Sal Lemole
<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	C.L. Pincus, Steve Pincus
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	NDI Engineering, Bill Ueboloher
<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)	Townebank, Steve McNulty
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Eastern Virginia Law Group, J.Bowman
<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.

	ROBERT BMSHT	8/3/2020
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

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Address of Noncompliance **2809 Crusader Circle**
Property Owner **Freedom Operations, LLC**
Public Hearing **September 10, 2020**
City Council District **Rose Hall**

Agenda Item

10

Noncompliance with the CBPA Ordinance

Encroachment into the Resource Protection Area (RPA) buffer with the construction of an unauthorized building addition.

Restoration Hearing

Noncompliance found.

On June 22, 2020 the Chesapeake Bay Preservation Area (CBPA) Board made a finding of noncompliance with the provisions of the CBPA Ordinance for the unauthorized improvements.

A civil charge was imposed, and a Restoration Hearing was ordered by the CBPA Board for the property owner – Freedom Operations, LLC.

The civil charge has been paid.

Lot Description

Resubdivision of Parcel AA, O & I, Oceana West Industrial Park, 2809 Crusader Circle.

Lot Recordation

Instrument No. 20150401000283760
Recorded 04/01/2015

GPIN

1495-48-7777

Applicant's Agent

Self-represented

Staff Planner

PJ Scully



Environmental Conditions

Flood Zone

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

Soil Type(s)

Nawney Series (deep, poorly drained soils)
Tomotley Series (deep, poorly drained soils)

Shoreline

Shoreline is an open ditch and is in a natural state.

Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees removed within the RPA: 0
- Evaluation of existing riparian buffer disposition: Staff evaluated the area of noncompliance during the site visit and did not observe any unauthorized removal of jurisdictionally regulated vegetation associated with the noncompliance.

CBPA Ordinance Variance History

No known prior Chesapeake Bay Preservation Area Board variance history.

History of Noncompliance

To Staff's knowledge, Freedom Operations, LLC has no known history of noncompliance with the Chesapeake Bay Preservation Area Board prior to this incident for this lot.

Chronology of Noncompliant Event

January 1, 2020	Site plan to construct an office/warehouse building approved by the Development Services Center (DSC). Proposed improvements associated with the approved site plan are located within the Resource Management Area (RMA) of the Chesapeake Bay Preservation Area.
March 3, 2020	Stop Work Order issued by Permits & Inspections, Civil Inspections for <i>"an unauthorized modification performed to the existing building, that voids the existing site plans and violates the CBPA Ordinance. No construction work can proceed until all documentation is corrected. The only work authorized to proceed is stabilization of denuded areas and work necessary to maintain Erosion and Sediment Controls."</i> The unauthorized modification to the existing building occurred within the 50-foot seaward and 50-foot landward buffer of the Resource Protection Area (RPA) buffer of the Chesapeake Bay Preservation Area.
March 10, 2020	Planning Staff met with a representative of the property owner, Engineer of Record and Architect to discuss the unauthorized improvements and the needed process to bring the lot and unauthorized improvements into compliance with City code and Ordinances.

- March 20, 2020 Staff met in the field with the property owner regarding the unauthorized improvements within the RPA and proposed improvements being constructed within the RMA. Staff explained the situation and postponement of public hearings due to the COVID-19 pandemic and informed the property owner once a public hearing date is determined that a letter will be sent to attend a Show Cause Hearing.
- March 24, 2020 Staff accepted a field change to review the finalized stormwater management design, a modification to the construction general permit (CGP) for additional coverage issued by Virginia Department of Environmental Quality (VA DEQ) and verify the location of the unauthorized improvements within the RPA.
- April 14, 2020 DSC Staff issued a review letter of the submitted field change to the property owner. Staff informed the property owner in the review letter that *“the building addition constructed along the south side of the metal shop and warehouse encroaches into the 50-foot seaward buffer of the Chesapeake Bay Resource Protection Area (RPA). In accordance with the Chesapeake Bay Preservation Area (CBPA) Ordinance, projects of this type, which encroach further within the RPA, require that a variance to the CBPA Ordinance must be granted by the CBPA Board. Given that the constructed improvements occurred without CBPA Board approval, a Notice to Comply letter will be sent to the property owner and a Show Cause hearing scheduled to be heard by the CBPA Board once the public hearing process resumes.”*
- May 8, 2020 Staff sent written notice to the property owners to appear before the Chesapeake Bay Preservation Area Board at the public hearing scheduled for Monday, June 22, 2020 for a show cause hearing.
- June 22, 2020 Show Cause hearing was held and a noncompliance found. A motion was made at the June 22, 2020 Chesapeake Bay Preservation Area (CBPA) Board public hearing to find the unauthorized improvements in noncompliance to the provisions of the Chesapeake Bay Preservation Area Ordinance.
- A civil charge was imposed, and a Restoration Hearing for the September 10, 2020 public hearing was ordered by the CBPA Board for the property owner – Freedom Operations, LLC.

Evaluation and Recommendation

The subject area of the unauthorized building expansion occurred within the 50-foot buffer of the Resource Protection Area (RPA) buffer of the Chesapeake Bay watershed adjacent to a tidal ditch. Staff estimates that the area of land disturbance associated with the unauthorized improvements is less than 2,500 with most of the land disturbance for the unauthorized improvements defined by the associated construction footprint.

Should the Board approve the aforementioned agenda item 9 after-the-fact CBPA variance, Staff recommends that the conditions associated with that Staff report qualify as restoration initiatives. However, should the after-the-fact application be denied, Staff recommends that the unauthorized improvements be removed, the site restored to the original conditions prior to the unauthorized construction activity, and the site stabilized with vegetative cover within 90 days from the date of the September 10, 2020 CBPA Board public hearing.

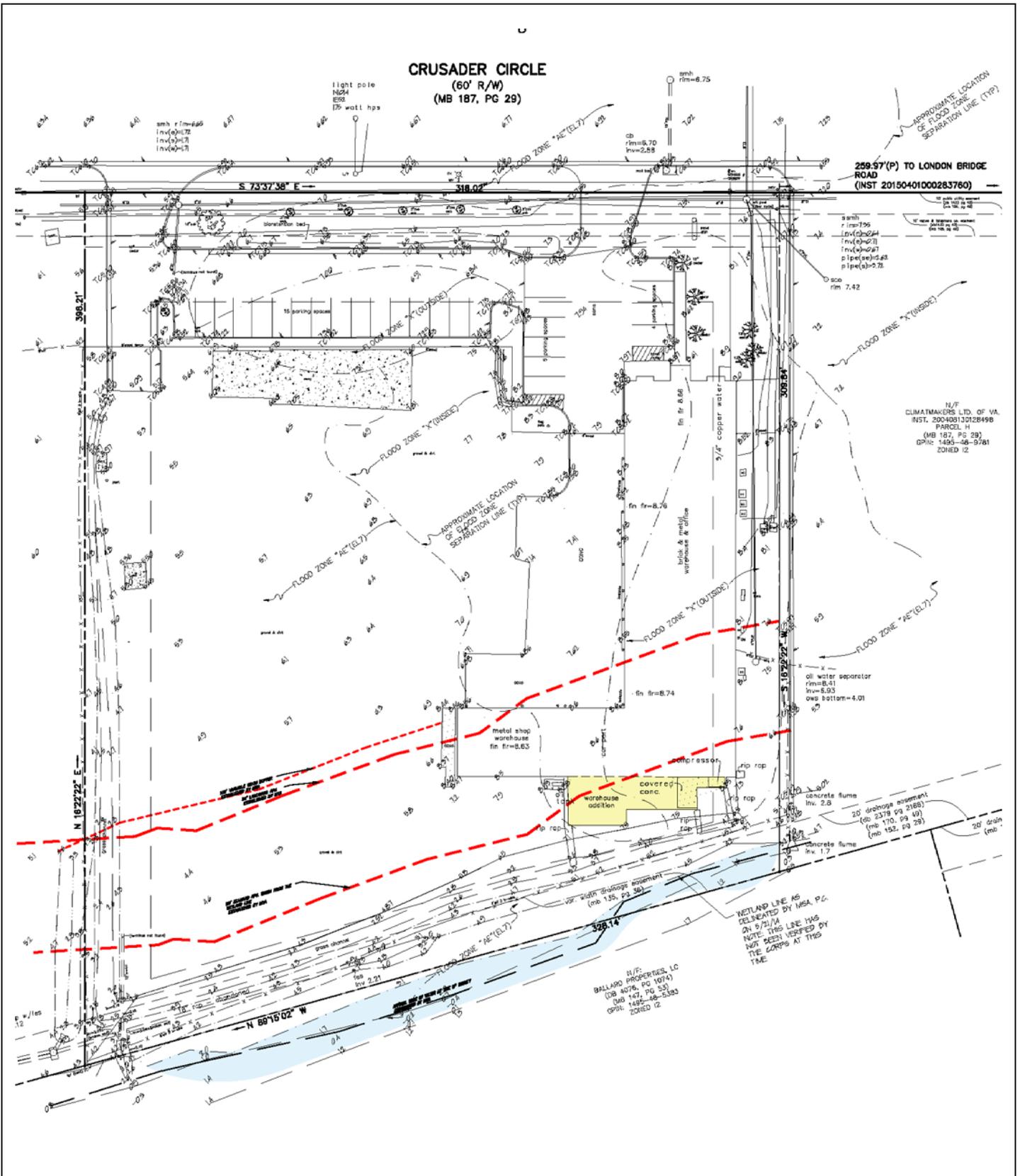
Site Aerial – circa February 2018



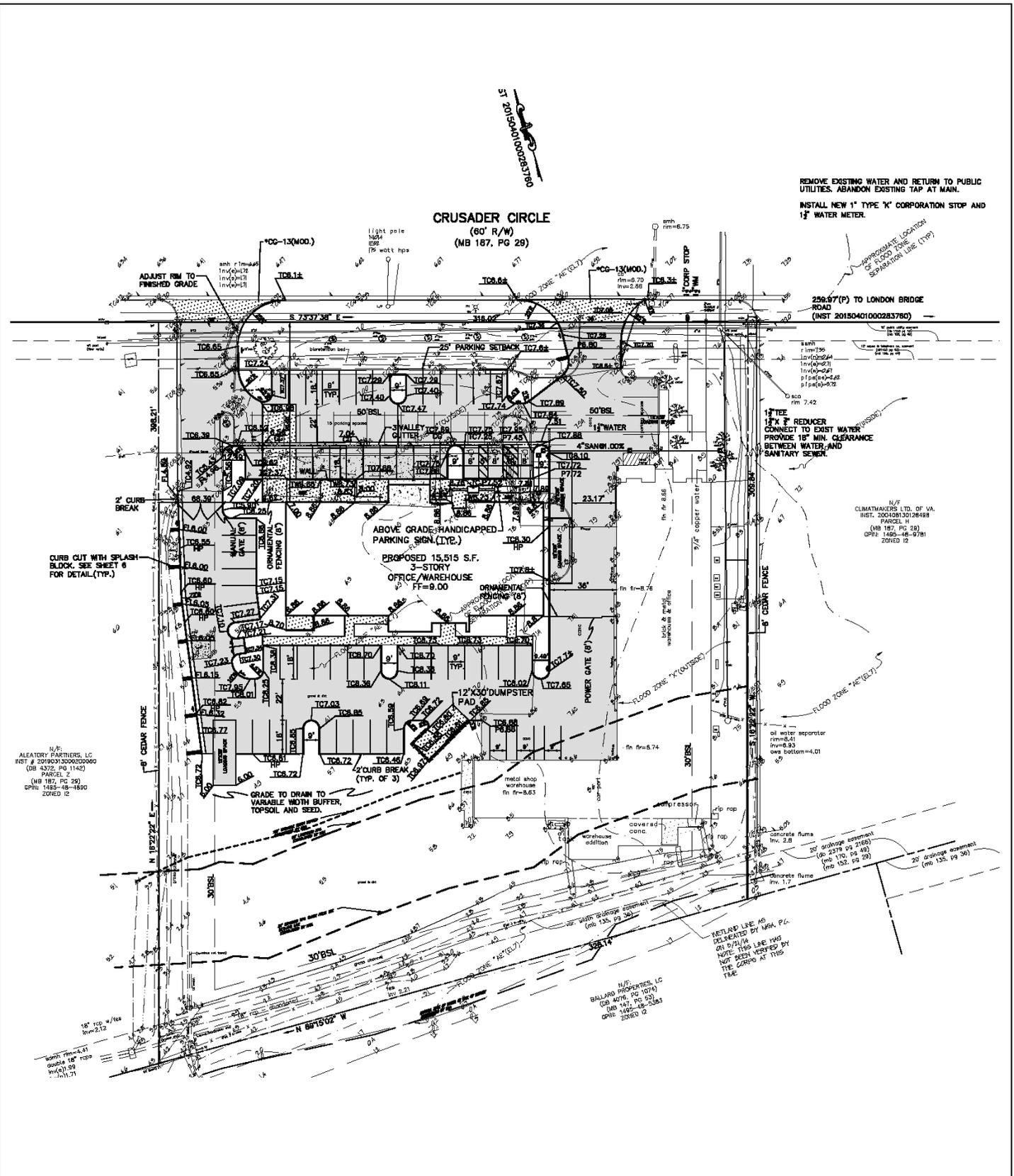
Site Aerial



Existing Conditions with Unauthorized Improvements



Approved Site Plan with Unauthorized Improvements



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