

# Chesapeake Bay Preservation Area Board Agenda

October 5, 2020

PAGE LEFT BLANK

# CHESAPEAKE BAY PRESERVATION AREA BOARD

## NOTICE OF PUBLIC HEARING

The City of Virginia Beach Chesapeake Bay Preservation Area (CBPA) Board will hold a Public Hearing on **Monday, October 5, 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](http://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 **October 5, 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.

OLD BUSINESS AGENDA ITEMS	
<p><b>1. Michael &amp; Susan Hauser</b> [Applicant &amp; Property Owner]</p> <p><b>Meetinghouse Lane</b> GPIN 1489-13-7288 Council District – Bayside Accela Record 2020-CBPA-00030</p> <p><b>Variance Request</b> – Encroachment into the Resource Protection Area (RPA) buffer to construct a single-family residence with associated accessory structures.</p> <p><b>Staff Planner</b> – PJ Scully <b>Staff Report</b> – page 9</p>	
<p><b>2. Bo &amp; Erin McConnell</b> [Applicant &amp; Property Owner]</p> <p><b>1304 E. Bay Shore Drive</b> GPIN 2418-59-2357 Council District – Lynnhaven Accela Record 2020-CBPA-00032</p> <p><b>Variance Request</b> – Encroachment into the Resource Protection Area (RPA) buffer to construct a detached garage and swimming pool.</p> <p><b>Staff Planner</b> – PJ Scully <b>Staff Report</b> – page 25</p>	

## NEW BUSINESS AGENDA ITEMS

**3. Woodhouse Limited Partnership**  
[Applicant & Property Owner]

**1805 Estates Court**  
GPIN 1499-14-5390  
Council District – Lynnhaven  
Accela Record 2020-CBPA-00019

**Variance Request** – Encroachment into the Resource Protection Area (RPA) buffer for a 3-lot subdivision to construct 3 single-family residences with associated accessory structures.

**Staff Planner** – PJ Scully  
**Staff Report** – page 43



**4. Michael Gianascoli**  
[Applicant & Property Owner]

**1740 Lovetts Pond Lane**  
GPIN 1499-76-7107-2300  
Council District – Lynnhaven  
Accela Record 2020-CBPA-00040

**Variance Request** – Encroachment into the Resource Protection Area (RPA) buffer to construct a new single-family residence, detached garage and swimming pool.

**Staff Planner** – PJ Scully  
**Staff Report** – page 57

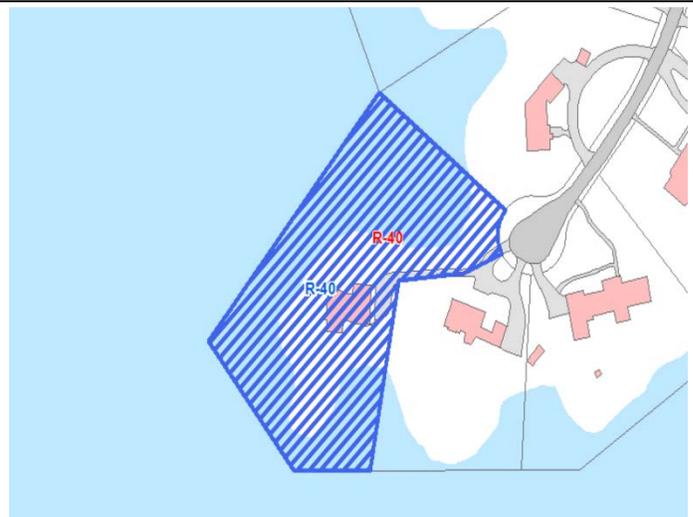


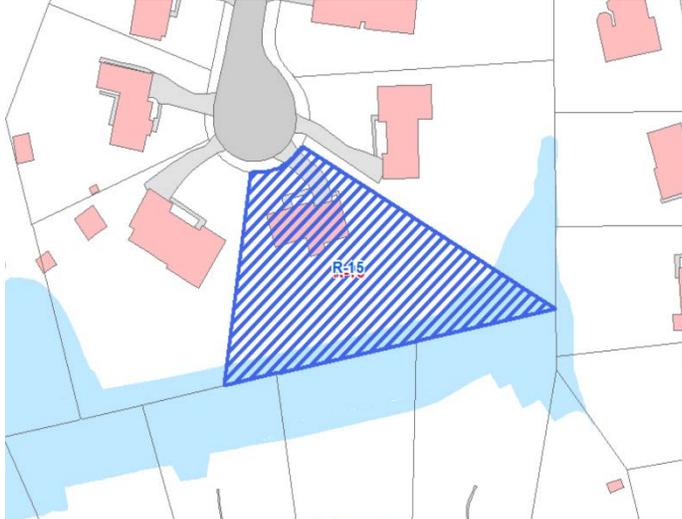
**5. Michael & Heather Robinson**  
[Applicant & Property Owner]

**1600 Arrowhead Point**  
GPIN 1489-01-6684  
Council District – Bayside  
Accela Record 2020-CBPA-00039

**Variance Request** – Encroachment into the Resource Protection Area (RPA) buffer to construct a parking pad adjacent to the existing driveway.

**Staff Planner** – PJ Scully  
**Staff Report** – page 69



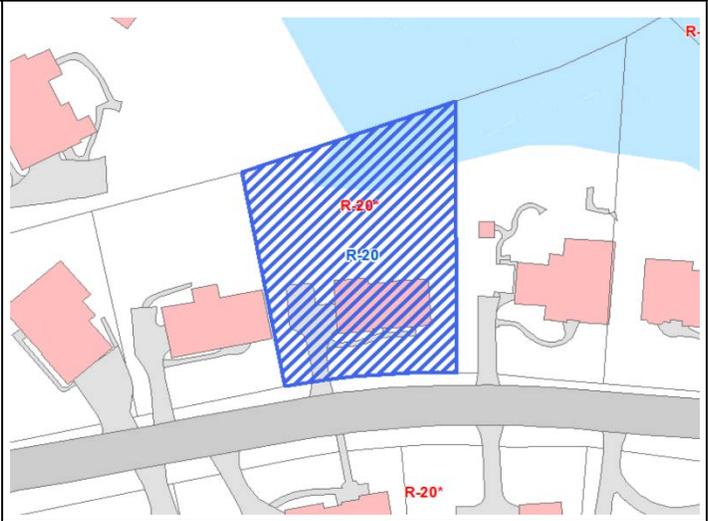
<p><b>6. Gregory &amp; Ruth Takacs</b> [Applicant &amp; Property Owner]</p> <p><b>2904 Estates Drive</b> GPIN 1499-15-7674 Council District – Lynnhaven Accela Record 2020-CBPA-00041</p> <p><b>Variance Request</b> – Encroachment into the Resource Protection Area (RPA) buffer to construct a swimming pool with associated pool surround.</p> <p><b>Staff Planner</b> – PJ Scully <b>Staff Report</b> – page 79</p>	
<p><b>7. Seema &amp; Tajamul Hasan</b> [Applicant &amp; Property Owner]</p> <p><b>790 Adrian Court</b> GPIN 1488-41-3468 Council District – Lynnhaven Accela Record 2020-CBPA-00042</p> <p><b>Variance Request</b> – Encroachment into the Resource Protection Area (RPA) buffer to construct a concrete pad for a hot tub.</p> <p><b>Staff Planner</b> – PJ Scully <b>Staff Report</b> – page 81</p>	
<p><b>8. Herrel &amp; Pamela Gallop</b> [Applicant &amp; Property Owner]</p> <p><b>1208 Gloucester Lane</b> GPIN 2408-87-4716 Council District – Lynnhaven Accela Record 2020-CBPA-00043</p> <p><b>Variance Request</b> – Encroachment into the Resource Protection Area (RPA) buffer to construct a retaining wall with associated backfill material.</p> <p><b>Staff Planner</b> – PJ Scully <b>Staff Report</b> – page 91</p>	

**9. Jason & Sabrina Condino**  
[Applicant & Property Owner]

**3112 Audley Way**  
GPIN 1498-02-7341  
Council District – Lynnhaven  
Accela Record 2020-CBPA-00044

**Variance Request** – Encroachment into the Resource Protection Area (RPA) buffer to construct a shed.

**Staff Planner** – PJ Scully  
**Staff Report** – page 101





Applicant & Property Owner **Michael & Susan Hauser**  
 Address **1605 Meeting House Lane**  
 Public Hearing **October 5, 2020**  
 City Council District **Bayside**

Agenda Item

**1**

**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**

9,781 square feet or 35.5 percent of site

**Area of Redevelopment in RPA**

0 square feet

**Area of New Development in RPA**

8,058 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 reach 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 stabilization of the bank.

## Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 37
- 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 have limited light penetration due to the existing forested condition. As such, much of the canopy growth is reduced for each species except for those 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. The Ordinance requires the preservation of existing vegetation to the greatest extent practicable while allowing limited clearing to provide necessary access, site drainage and water quality best management practices. The revised CBPA exhibit reduces the number of trees to be removed from 39 to 37 canopy trees. Said trees are located within the 50-foot seaward buffer of the RPA.

## 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

Staff write-up from the September 10, 2020 Chesapeake Bay Preservation Area Board Public Hearing.

*"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.”*

The revised CBPA Exhibits reduces the overall impervious cover of the lot from 10,421 square feet or 37.8 percent of the lot outside of water and wetlands to 9,781 square feet or 35.5 percent of the lot outside of water and wetlands. Of the 640 square foot reduction in the overall impervious cover on the lot, approximately 614 square feet was provided within the 100-foot buffer of the RPA. This reduction in impervious cover was accomplished by reducing the size of the pool and associated paver patio. Reducing the size of these proposed improvements resulted in zero encroachment into the 50-foot seaward buffer. With the overall proposed impervious cover of the site at 35.5 percent, Staff recommends condition 6 below as a means towards the variance request being in harmony with the purpose and intent of the CBPA Ordinance, specifically to promote infiltration of stormwater into the ground consistent with the use or development proposed through the incorporation of structural urban best management practices. Staff is of the opinion that the use of a permeable surface for the specified areas - proposed paver parking area, driveway and concrete parking pad - provides an annual run off reduction of approximately 45 percent over an area of approximately 2,638 square feet. As submitted, these areas would be 100 percent impervious. The 2,638 square feet recommended to be constructed out of a permeable surface accounts for 27 percent of the overall proposed impervious cover of the lot.

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, Staff recommends 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 9,512 square feet or 34.5 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 except for a 4-foot wide walkway for access to a pier.
- 6) The proposed paver parking area, driveway and concrete parking pad 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.
- 18) \*\* 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 \$1,846.62 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.
- 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 September 9, 2020, 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.

\*\* 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

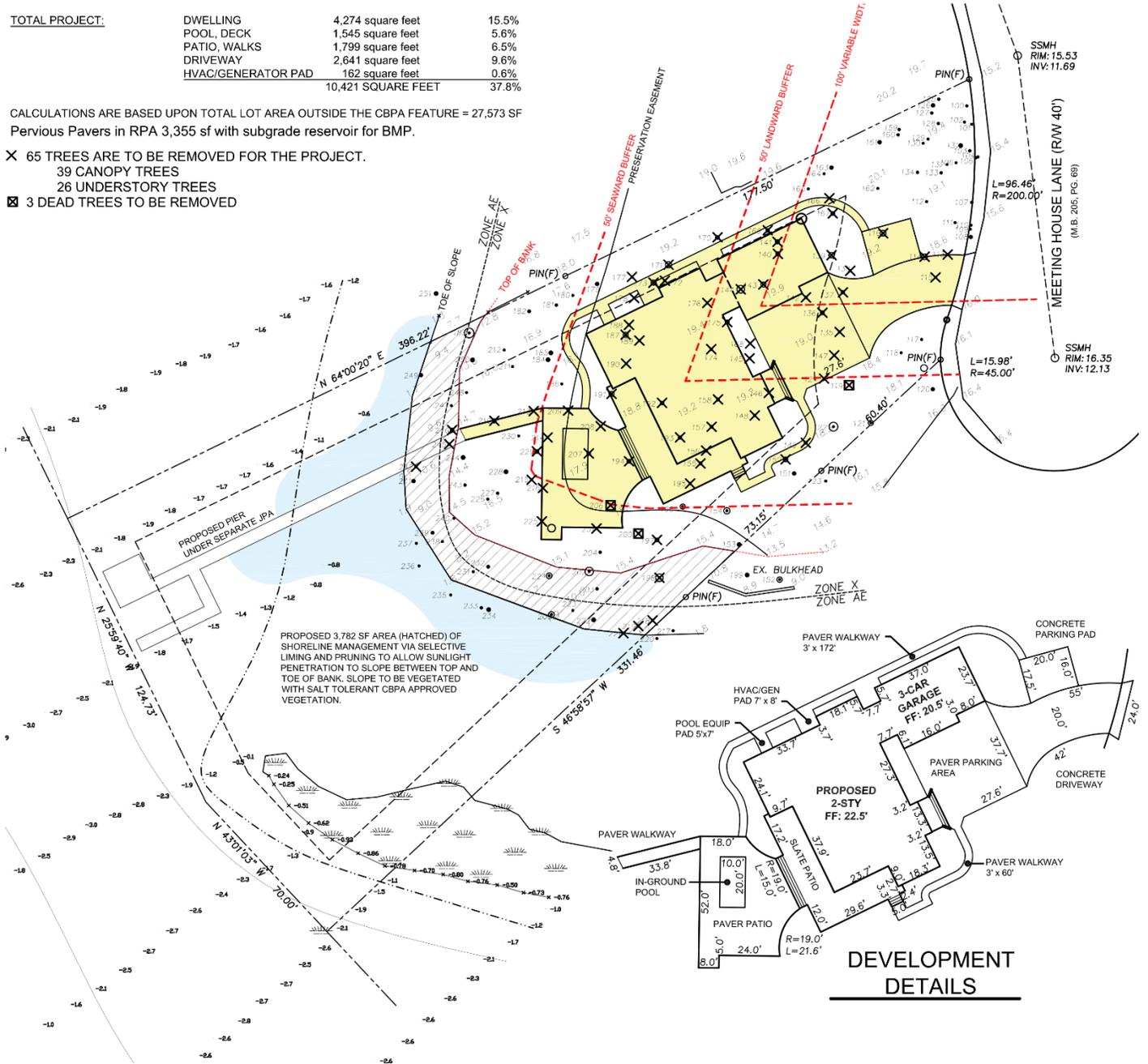


# CBPA Exhibit – September 10, 2020 Public Hearing

TOTAL PROJECT:			
DWELLING	4,274 square feet	15.5%	
POOL, DECK	1,545 square feet	5.6%	
PATIO, WALKS	1,799 square feet	6.5%	
DRIVEWAY	2,641 square feet	9.6%	
HVAC/GENERATOR PAD	162 square feet	0.6%	
	<b>10,421 SQUARE FEET</b>	<b>37.8%</b>	

CALCULATIONS ARE BASED UPON TOTAL LOT AREA OUTSIDE THE CBPA FEATURE = 27,573 SF  
 Pervious Pavers in RPA 3,355 sf with subgrade reservoir for BMP.

- X 65 TREES ARE TO BE REMOVED FOR THE PROJECT.
  - 39 CANOPY TREES
  - 26 UNDERSTORY TREES
- ☒ 3 DEAD TREES TO BE REMOVED



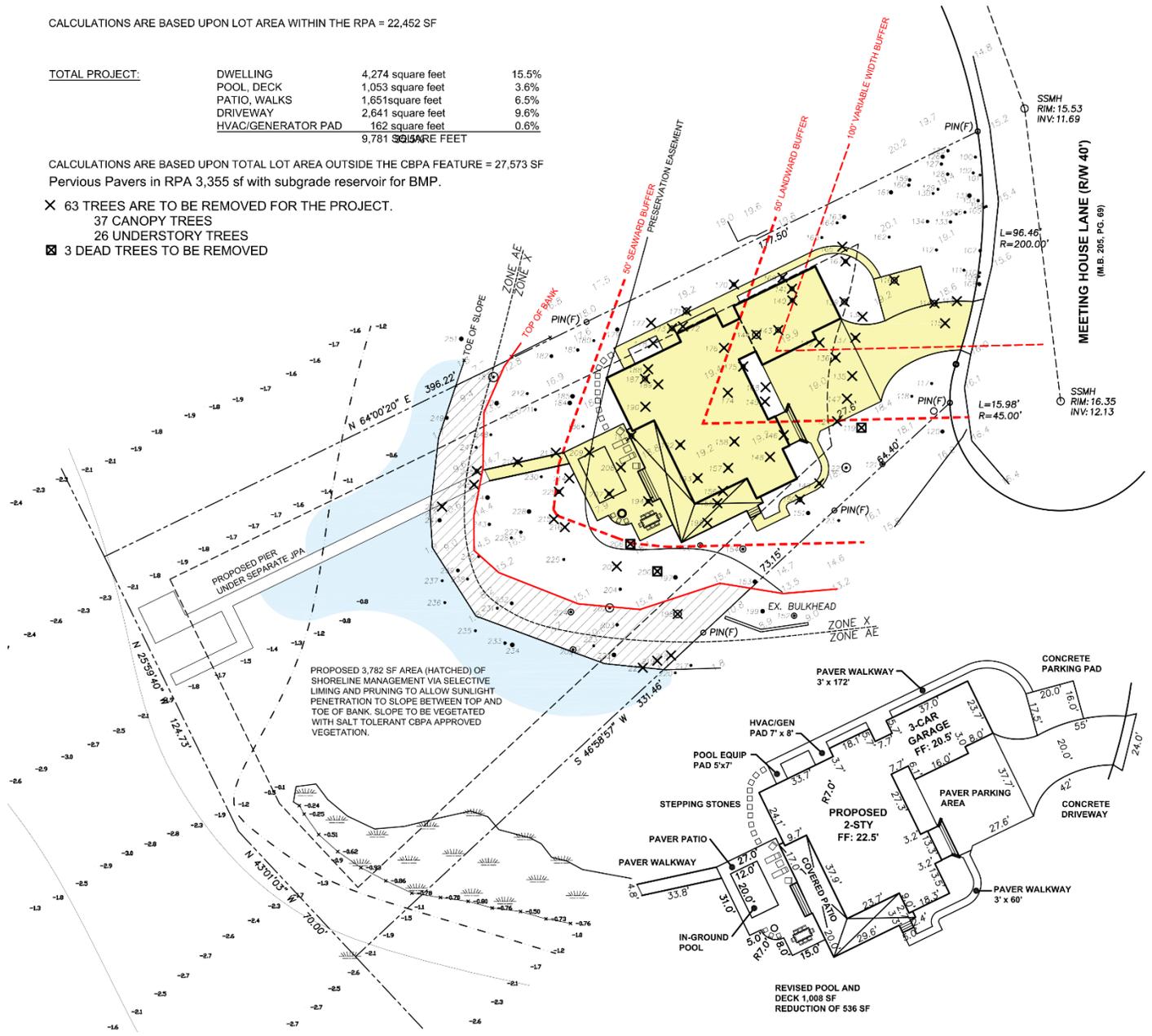
# Revised CBPA Exhibit – Proposed Improvements

CALCULATIONS ARE BASED UPON LOT AREA WITHIN THE RPA = 22,452 SF

TOTAL PROJECT:			
DWELLING	4,274 square feet	15.5%	
POOL, DECK	1,053 square feet	3.6%	
PATIO, WALKS	1,651 square feet	6.5%	
DRIVEWAY	2,641 square feet	9.6%	
HVAC/GENERATOR PAD	162 square feet	0.6%	
	<b>9,781 SQUARE FEET</b>		

CALCULATIONS ARE BASED UPON TOTAL LOT AREA OUTSIDE THE CBPA FEATURE = 27,573 SF  
 Pervious Pavers in RPA 3,355 sf with subgrade reservoir for BMP.

- X 63 TREES ARE TO BE REMOVED FOR THE PROJECT.
- 37 CANOPY TREES
- 26 UNDERSTORY TREES
- ☒ 3 DEAD TREES TO BE REMOVED





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

**DISCLOSURE STATEMENT FORM**

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

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

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

**SECTION 1 / APPLICANT DISCLOSURE**

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

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



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

(A) List the Applicant's name: Michael J. and Susan M. Hauser  
If an LLC, list all member's names:

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

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

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

---

## SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

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

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

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

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

---

### SECTION 3. SERVICES DISCLOSURE

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



## APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input 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	
<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?



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

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

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

Water Quality Impact Assessment

Page 5 of 7

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?  No  Yes

Is this request identified with an issue of noncompliance to the provisions of the CBPA Ordinance?

Planning Commission and City Council

Historical Review Board

Board of Zoning Appeals

Wetlands Board or Joint Farming Application

Proposed Pier and Boat Lift

is the applicant seeking or obtaining approvals or permits from other local, State or Federal agencies?

**HISTORY & COMPLIANCE**

When was the property or lot recorded?

After January 1, 2004

Between October 1, 1989 and January 1, 2004

Prior to October 1, 1989

Legal description of property: Lot 33, Section 2, Church Point Farm

Property Address: 1855 Meeting House Lane

**PARCEL INFORMATION**

APPLICANT'S AGENT or CONSULTANT

Name: Waterfront Consulting, Inc.

Email: bob@waterfrontconsulting.net

Phone Number: 757 618-7302

CONTRACT PURCHASER (if different from current property owner)

Name:

Email:

Phone Number:

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

AS NEEDED, PAGE LEFT BLANK



Applicant & Property Owner **Bo & Erin McConnell**  
 Address **1304 E. Bay Shore Drive**  
 Public Hearing **October 5, 2020**  
 City Council District **Lynnhaven**

Agenda Item  
**2**

**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**

9,110 square feet or 19.3 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

14,568 square feet or 30.8 percent of site

**Area of Redevelopment in RPA**

0 square feet

**Area of New Development in RPA**

1,931 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

Staff write-up from the September 10, 2020 Chesapeake Bay Preservation Area Board Public Hearing.

*"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 revised CBPA Exhibit provides a reduction to the overall impervious cover of the lot from 15,413 square feet or 32.6 percent of the lot outside of water and wetlands to 14,568 square feet or 30.8 percent of the lot outside of water and wetlands from what was present to the CBPA Board at the September 2020 Public Hearing. This reduction is provided through a recalculation of the existing impervious cover of the lot and a reduction to the proposed impervious cover for the lot. The recalculation of the existing impervious cover is as follows.

- 9,640 square feet or 20.4 percent of the lot outside of water and wetlands – September CBPA Exhibit.
- 9,110 square feet or 19.3 percent of the lot outside of water and wetlands – October CBPA Exhibit.

The applicant's Engineer of Record stated to Staff that the 530 square foot reduction to the existing impervious cover of the lot calculated an existing plant bed at the front of the residence as impervious cover.

As for the proposed impervious cover of the lot, the revised CBPA Exhibit provides a reduction of 390 square feet. The reduction of impervious cover occurs within the 50-foot seaward buffer of the RPA calculated as follows.

- 514 square feet of impervious cover proposed within the 50-foot seaward buffer – September CBPA Exhibit.
- 124 square feet of impervious cover proposed within the 50-foot seaward buffer – October CBPA Exhibit.

This reduction in impervious cover was accomplished by reducing the pool deck and associated fire pit area. An exhibit is provided on page 36 of this Staff report that represents the encroachment request into the 50-foot seaward buffer associated with each CBPA Exhibit. Staff acknowledges the reduction provided by the applicant and the direction by the CBPA Board to defer this variance request at the September 2020 CBPA Board public hearing to address the need to encroach into the 50-foot seaward buffer specific to this lot. As a result, Staff has provided the recommended conditions below, specifically condition 4 as a means towards the variance request being in harmony with the findings of the CBPA Ordinance with regard to the variance request being the minimum necessary to afford relief when requesting to encroach into the 100-foot RPA buffer.

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 related to stormwater management and riparian buffer mitigation as 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 and evaluated based on the merits of each application. Staff is of the opinion that the proposed improvements would not convey any special privileges to the applicant subject 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 17 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

## Recommended Conditions

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.

- 3) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,931 square feet x 200 percent = 3,862 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 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) New impervious cover shall not encroach into the 50-foot seaward buffer of the Resource Protection Area.
- 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) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 12) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.

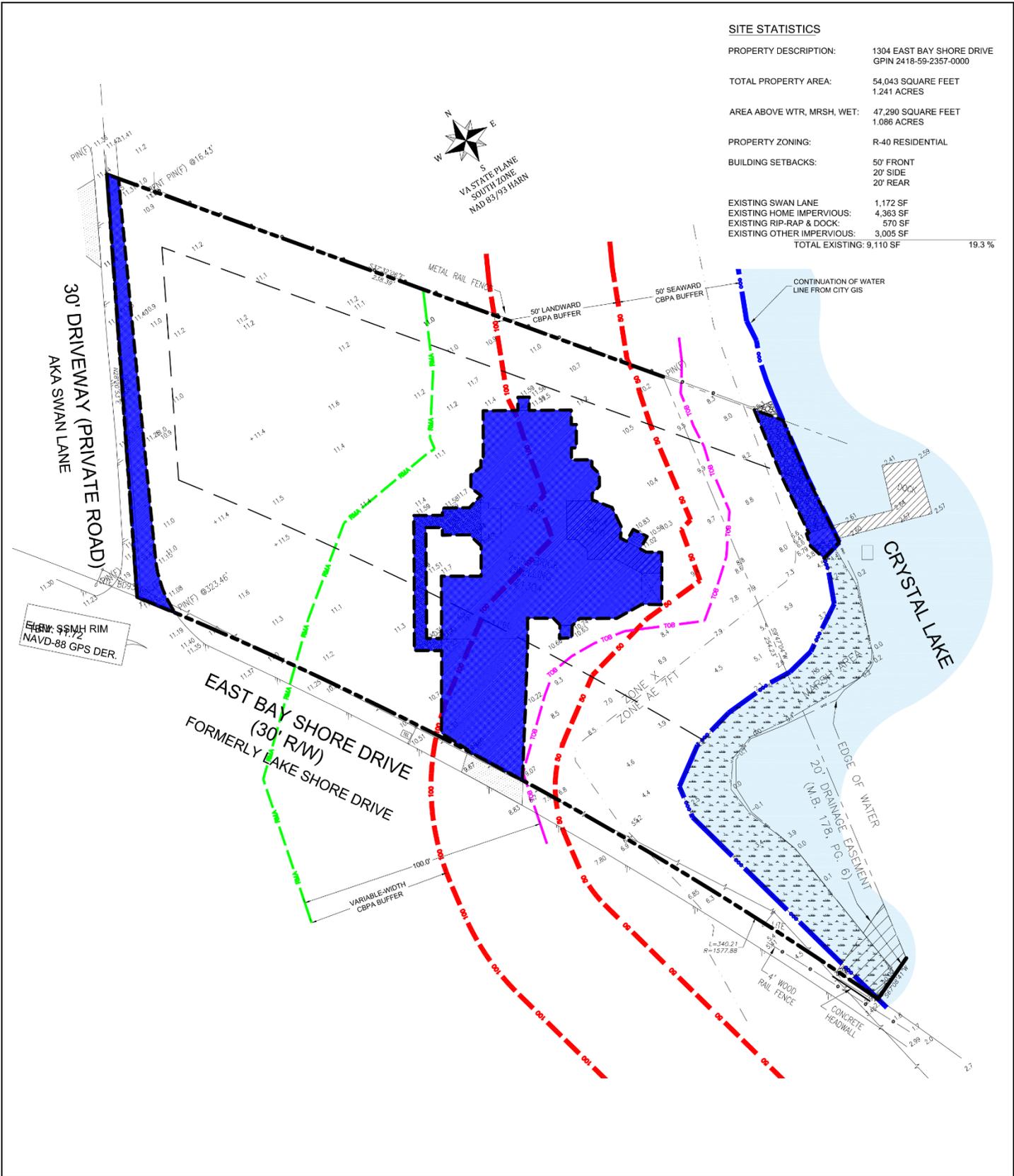
- 13) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 14) 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.
- 15) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements within the 50-foot seaward buffer.
- 16) \*\* As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$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.
- 17) The conditions and approval associated with this variance are based on the exhibit plan dated September 17, 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.

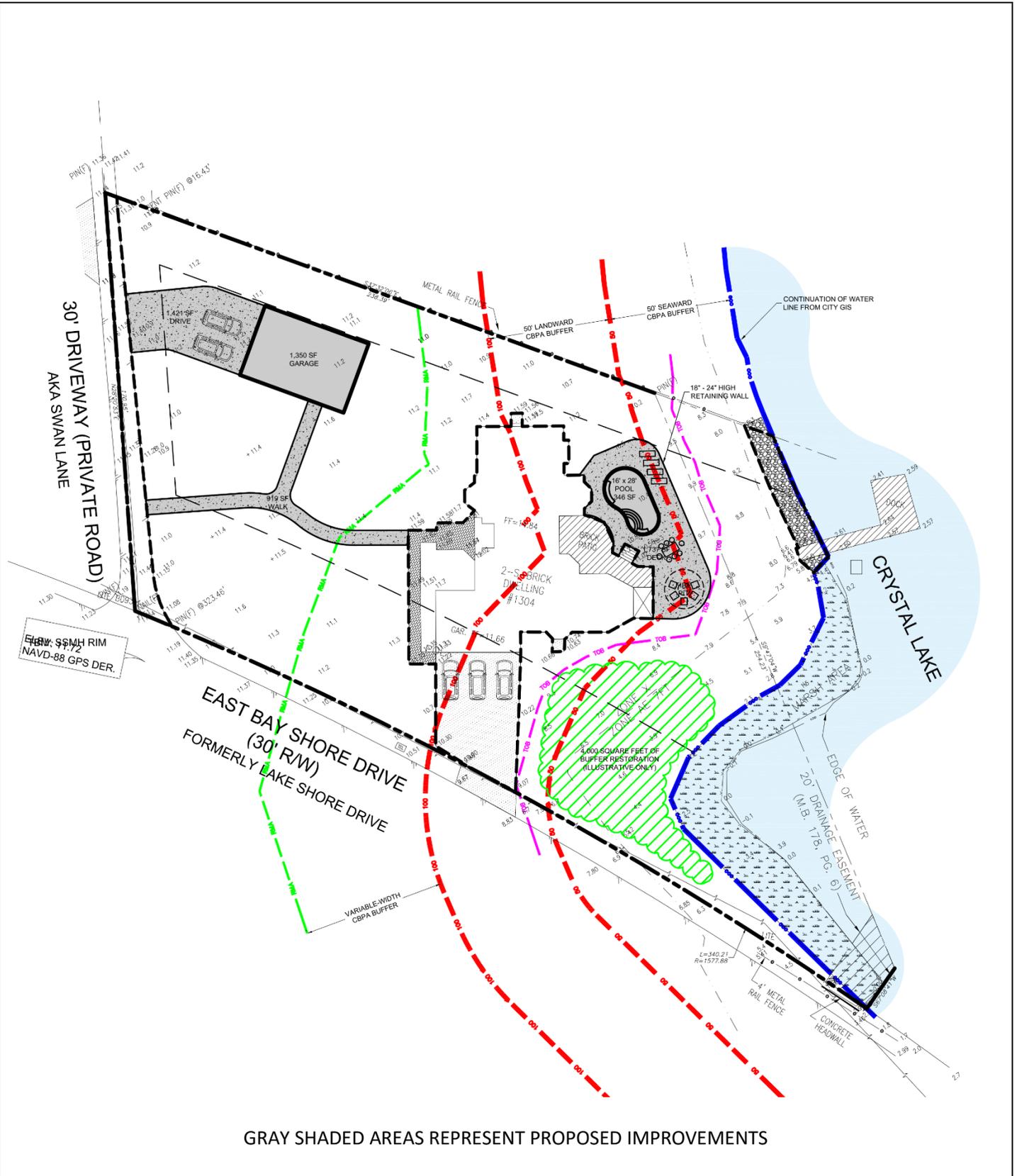
\*\* NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

\*\*\*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.



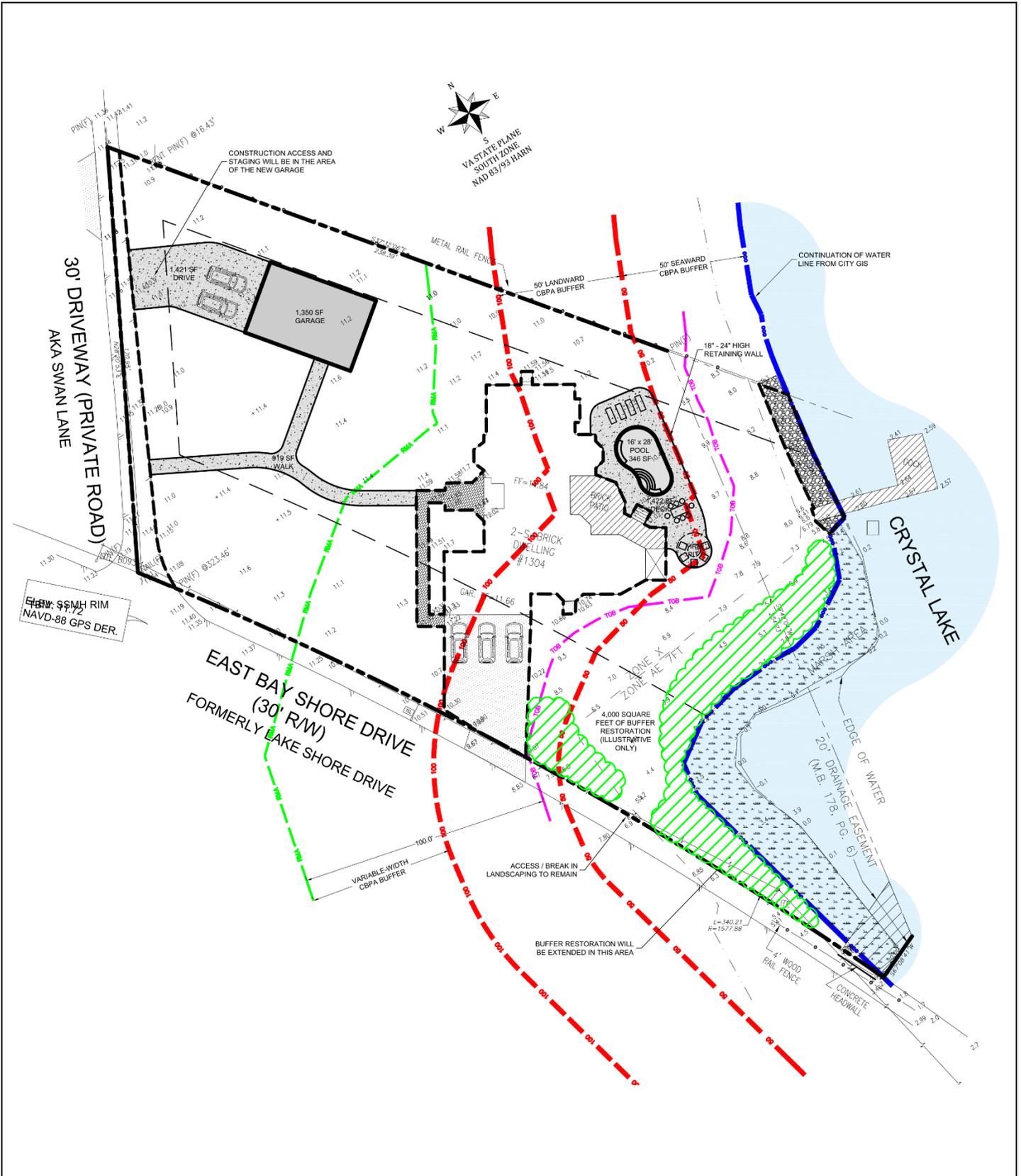
# CBPA Exhibit – Existing Conditions



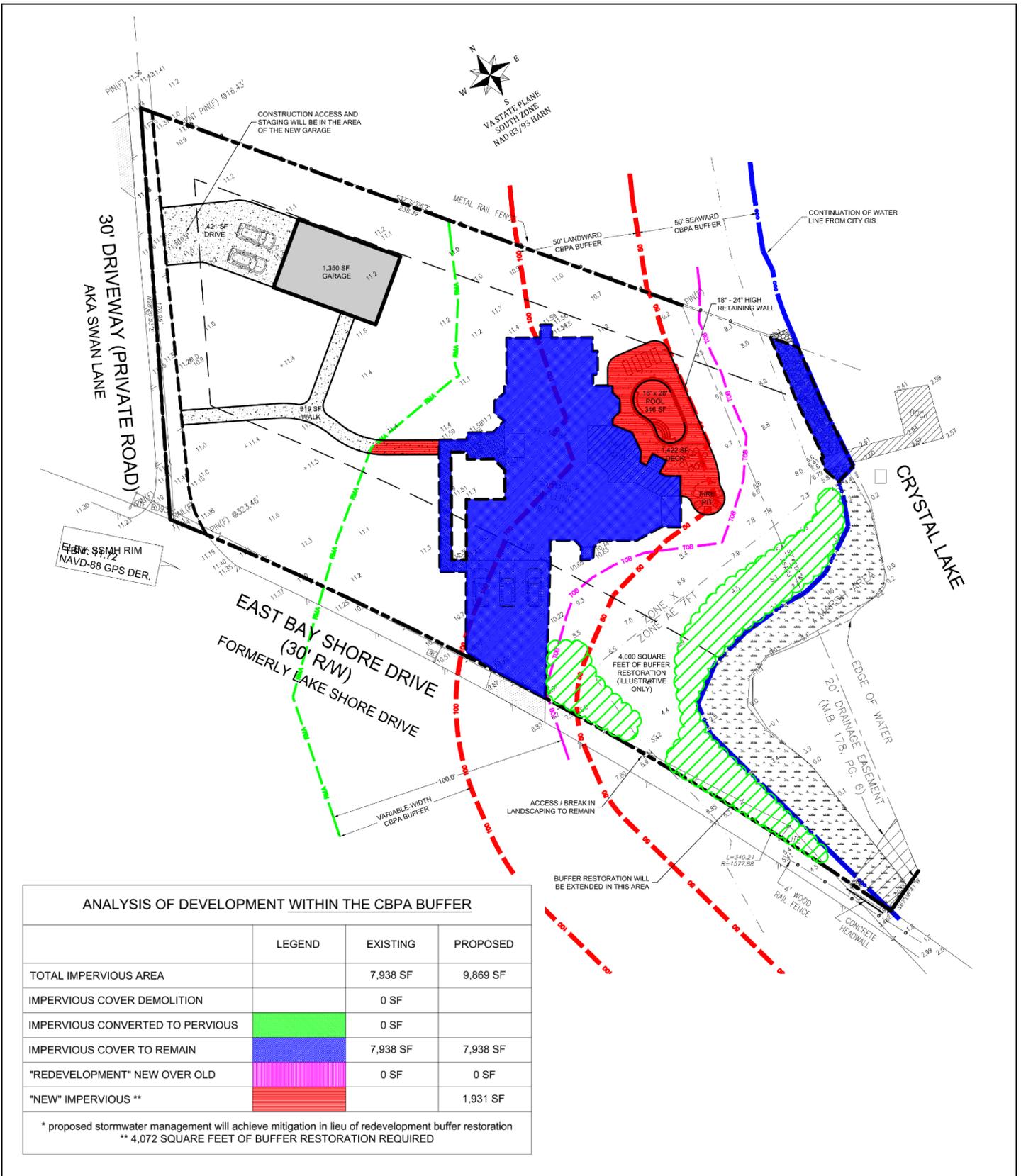


GRAY SHADED AREAS REPRESENT PROPOSED IMPROVEMENTS

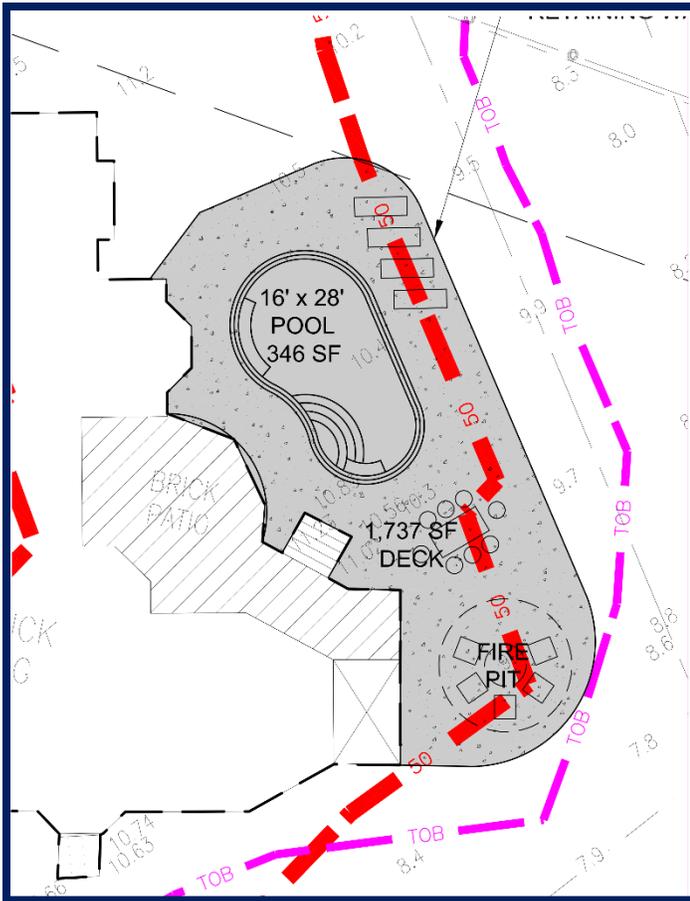
# Revised CBPA Exhibit – Proposed Improvements



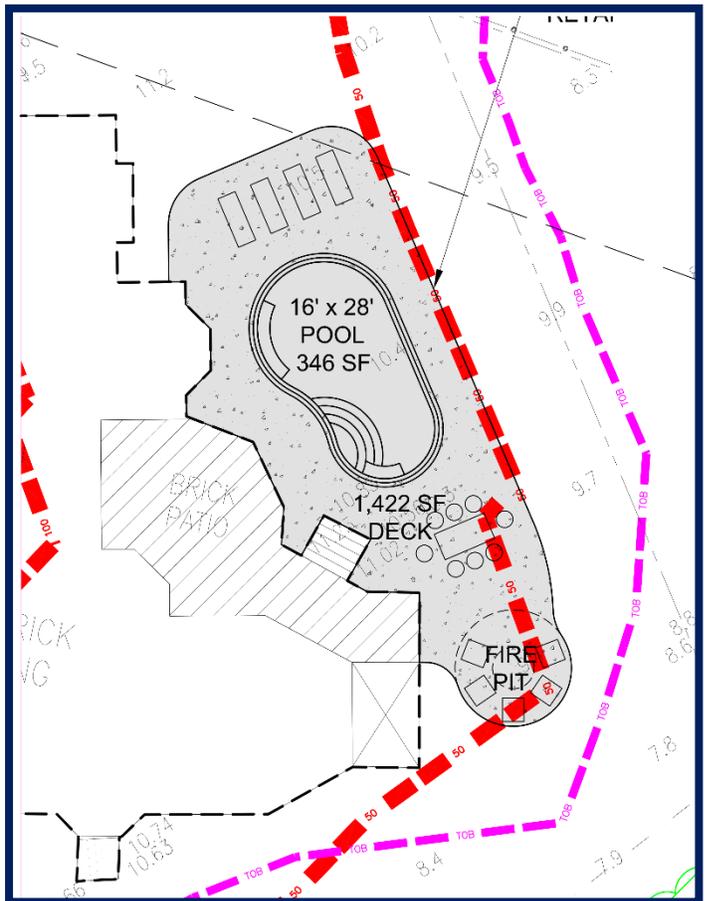
# CBPA Exhibit – Color Analysis



**CBPA Exhibit – Encroachment into the 50-foot Seaward Buffer Comparison**



**September 2020 CBPA Exhibit**



**October 2020 CBPA Exhibit**



**APPLICANT'S NAME** BO & ERIN McCONNELL

**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 Board of Zoning Appeals	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Certificate of Appropriateness (Historic Review Board)	Encroachment Request	Rezoning
Chesapeake Bay Preservation Area Board	Floodplain Variance	Street Closure
Conditional Use Permit	Franchise Agreement	Subdivision Variance
	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:	

*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-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

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

---

## SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

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

*amw*



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

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

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

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

---

### SECTION 3. SERVICES DISCLOSURE

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

*ewm*



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

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

AS NEEDED, PAGE LEFT BLANK



Applicant & Property Owner **Woodhouse Limited Partnership**  
Address **1805 Estates Court**  
Public Hearing **October 5, 2020**  
City Council District **Lynnhaven**

Agenda Item

**3**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer for a 3-lot subdivision to construct 3 single-family residences with associated accessory structures.

**Applicant's Agent**

Billy Garrington

**Staff Planner**

PJ Scully

**Lot Recordation**

Instrument No. 200212193082949

Recorded 12/19/2002

**GPIN**

1499-14-5390

**SITE AREA**

363,290 square feet or 8.34 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

226,856 square feet or 5.21 acres

**EXISTING IMPERVIOUS COVER OF SITE**

18,045 square feet or 7.9 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

33,068 square feet or 14.6 percent of site

**Area of Redevelopment in RPA**

6,234 square feet

**Area of New Development in RPA**

21,342 square feet

**Location of Proposed Impervious Cover**

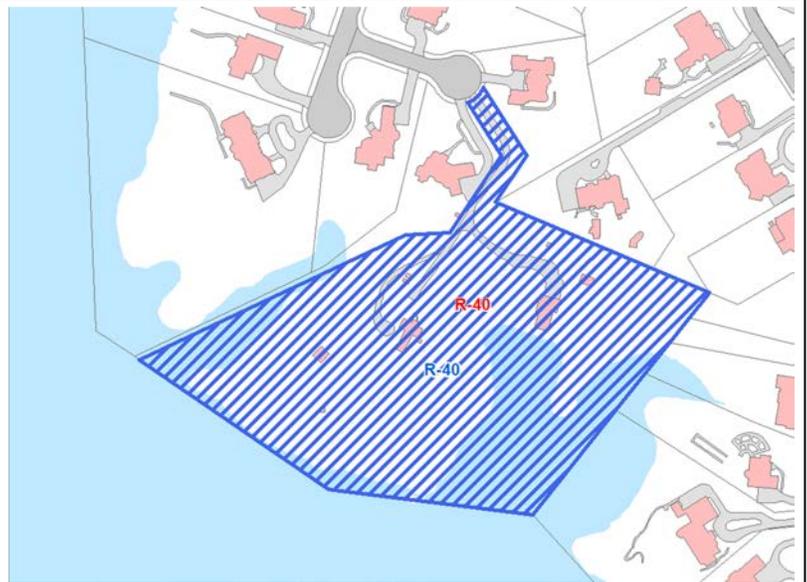
100-foot Variable Width Buffer  
Resource Management Area (RMA)

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Demolish existing houses and accessory structures

### Construction Details

- 3-lot subdivision to construct single-family residences with associated accessory structures
- Shared concrete driveways

## CBPA Ordinance Variance History

A CBPA variance request for a 4-lot subdivision to construct 4 single-family residences with associated accessory structures was denied on February 24, 2020 by the CBPA Board.

On March 26, 2001, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the Estates on the Lynnhaven neighborhood, an adjacent 28 lot subdivision to this lot. With the subdivision, access was provided via a 40-foot wide portion of land to this lot from the created Estates Court cul-de-sac.

## Environmental Conditions

### Flood Zone

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

### Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

Rappahannock Series (deep and poorly drained soils) located below the top of bank

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

### Shoreline

Shoreline is in a natural state.

### Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 6 trees, approximately 24,485 square feet of canopy cover for the overall lot.
- Number of existing understory trees requested for removal within the RPA: 8
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 1
- Evaluation of existing canopy tree removal request: Trees being requested for removal are within the delineated limits of construction, shown on the CBPA exhibit. The existing canopy trees and established forest floor within the 100-foot Resource Protection Area (RPA) buffer is shown to be preserved with all proposed impervious cover within the variable width buffer of the RPA.

## Stormwater Management Methodology

The applicant's agent has indicated in the WQIA for this variance request that "*rooftop disconnects allow for sheetflow over pervious surfaces, grass channels and infiltration beds*" will be utilized as a means to manage stormwater run-off to prevent the variance request from contributing to an increase in nonpoint source pollution load.

## Evaluation and Recommendation

The existing configuration of the 8.32-acre site area is the result of the March 26, 2001 CBPA variance for the adjacent 28-lot subdivision known as the Estates on the Lynnhaven neighborhood, which was platted and recorded in 2002. In 2016, Staff met with the applicant's agent and engineer to discuss the redevelopment of this lot. Discussion at that time revealed the applicant's desire to develop the lot with up to 5 new lots; however, Staff did not support that request given the environmental features, particularly the location of the top of bank and associated slope with regard to the cove on the southeastern portion of the property.

Now the applicant is proposing to re-subdivide the 5.21-acre lot to create 3 new single-family residential lots ranging in size from approximately 1.93 acres to 1.44 acres above water and wetlands. The lots will each have a new single-family residential dwelling and will be accessed with via a private 40-foot wide shared driveway from Estates Court. The applicant's agent has indicated that 2 of the proposed 2-story homes will be approximately 6,000 square feet in size and 1 will be approximately 4,300 square feet in size. Each home is proposed with an attached garage, and swimming pool with decks as accessory structures. The applicant's agent is of the opinion that the outdoor amenity space is reasonably sized to allow for these accessory uses. The CBPA Exhibit depicts the proposed dwelling units and accessory structures located outside of the 100-foot RPA buffer.

A Subdivision Variance will be required for all 3 lots, as no direct access to a public street as required for each lot will be provided. This variance requires action by both the Planning Commission and City Council following action by the CBPA Board. Specific to this variance request, encroachment into the RPA may be permitted by an administrative variance when a lot has been recorded between the years 1989 and 2004 in conformity with the Subdivision Ordinance. However, in this case, given that a Subdivision Variance is required for this CBPA variance request, CBPA Board action is required. As noted above, the proposed improvements are situated so that encroachment into the RPA buffer with new impervious cover is limited to the variable width buffer of the RPA.

Should the CBPA Board grant the variance request for encroachment into the RPA buffer for a 3-lot subdivision with associated improvements, as shown on the CBPA Exhibit, the layout may be modified due to future owners' preferences since each lot is proposed to be developed individually.

Staff acknowledges the applicant's capability to retain and sustain the existing riparian ecosystem, and that the request will not contribute to the detriment of water quality with the location of the proposed improvements as shown on the CBPA Exhibit limited to the variable width buffer. Staff is of the opinion that the proposed impervious cover within the RPA buffer, specifically for proposed Lot 3 provides merit towards limiting the encroachment request into the RPA on the most sensitive portion of the lot. However, Staff is concerned with regard to the future sale of this speculative project and what could give rise to subsequent variance requests if all parties are not knowledgeable to the content of this report. Future modifications for CBPA variance requests with encroachments into the 100-foot RPA buffer will be difficult for Staff to support.

Should the Board consider granting this variance request, the following comments relative to the findings of the CBPA Ordinance specific to this variance 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 applicant has proposed to locate all of the new structures outside of the 50' landward buffer. Due to the unique shape of the parcel the only remaining developable area is located within the Variable Width Buffer. The proposed lots will require a subdivision variance for lot width at the right-of-way. All other requirements associated with R-40 shall be met. The proposed reduced lot widths are consistent with properties throughout the City and will not create any special privilege or convenience.”* Staff is of the opinion, with regard to encroachment into the RPA buffer, that there will be no special privilege granted to this property owner and that this variance is consistent with the variance granted to the adjacent property owners associated with the 2001 CBPA variance for the 28-lot subdivision of the Estates on the Lynnhaven.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because *“the encroachment into the RPA on the proposed parcels has been limited to the Variable Width Buffer only and has not been created or imposed by the Applicant, rather it is necessitated by the fact that the Variable Width Buffer encumbers all of the developable area of the site outside of the 50' Landward Buffer. The size of the existing parcel supports the proposed four lots with a sub-division variance required for lot width.”* Although the lot was platted after the adoption of the CBPA Ordinance, Staff is of the opinion that the applicant has maintained a functional RPA buffer despite the existing encroachments and has complied with the performance standards of the CBPA Ordinance, specifically limiting land disturbance to the area necessary to provide for the proposed use and preserving the existing vegetation to the maximum extent practicable. However, the action to create these lots is self-imposed. As stated above, it is recognized that due to the large size of the property up to 3 new lots would be acceptable to Staff.
- 3) The variance is the minimum necessary to afford relief because *“the existing site area will support 3 single family lots with a shared access drive and subdivision variance for lot width. The location of the proposed structures to only the variable width buffer and the removal of the existing structures within the 50' seaward and 50' landward portions of the buffer and the proposed encroachment totaling 14.6% of the total parcel outside of the wetlands is the minimum necessary to achieve reasonable buildable area.”* Staff is of the opinion that the low impact associated land disturbance associated with the proposed improvements within the 100-foot RPA buffer provides merit towards the minimum necessary to afford relief with the applicant’s effort to remove existing impervious cover from the 100-foot RPA and limiting all new impervious cover to the variable width buffer and Resource Management Area (RMA).
- 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 have been located outside the most sensitive areas of the site and approximately 2.7 acres of the existing riparian buffer will remain. The proposed residential lots will meet the zoning standards for lot size overall and area outside of wetlands (a variance will be required for lot width) and will be consistent with the surrounding neighborhood. This along with proposed mitigation measures are in harmony with the ordinance and will not have substantial detriment to the water quality or the public welfare.”* Staff concurs and offers and that the retention of the 100-foot buffer provides significant merit towards the variance request not being of substantial detriment to water quality based off a 100-foot buffer being deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients [City Code, Appendix F, Sec 106 (B)(3)(a)].
- 5) *“The proposed development will preserve approximately 2.7 acres of riparian buffer, the implementation of buffer restoration, and any stormwater management combined with the removal of existing structures will*

*provide a means to manage towards a no net increase in nonpoint source pollution load.”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff concurs.

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

## Recommended Conditions

1. A presubmittal meeting shall be required with the Development Services Center (DSC) once all variances and approvals have been obtained from the Chesapeake Bay Preservations Area (CBPA) Board, and City Council. Said meeting shall be scheduled prior to submission of the final site plan review.
2. Exclusive of the shared driveway and that portion to each individual residence, the maximum impervious cover for primary and accessory structures shall not exceed the following amount specific to each lot.
  - **Proposed Lot 1 5,200 square feet of overall impervious cover**
  - **Proposed Lot 2 5,200 square feet of overall impervious cover**
  - **Proposed Lot 3 4,000 square feet of overall impervious cover**
3. The shared driveway and that portion to each individual residence shall not exceed a width of 24 feet. No more than 325 square feet of additional parking area shall be permitted for each lot. Said area of additional parking 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.
4. There shall be no encroachment of proposed impervious cover, redevelopment of existing impervious cover, or placement of fill material within the 100-foot Resource Protection Area (RPA) buffer.
5. There shall be no turf provided within the 100-foot RPA buffer for each lot. If turf exists within the 100-foot buffer, said areas shall be returned to buffer area.
6. The 100-foot RPA buffer shall be restored for each lot. The mitigation rate for each lot shall be as follows.
  - **Proposed Lot 1 13 buffer restoration units**
  - **Proposed Lot 2 13 buffer restoration units**
  - **Proposed Lot 3 10 buffer restoration units**

Each restoration unit shall consist of 1 canopy tree, 1 understory tree, 2 large shrubs and 3 small shrubs. The required restoration shall be located in the 100-foot Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

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

8. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition for each individual lot and any associated construction for access, utilities, etc.
9. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
10. The limits of construction and associated land disturbance for the removal of the existing improvements within the RPA buffer shall be contained within the footprint of the existing improvements with 1 single point of access permitted. The single point of access shall be achieved through the shortest linear distance through the RPA buffer to minimize impacts to the existing forest floor to the greatest extent practicable.
11. A double row of wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed as delineated on the CBPA Exhibit 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. Said silt fence shall be staked in the field by the Engineer of Record and reviewed with the Civil Inspector at the pre-construction meeting.
12. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. Silt fence shall be installed along the landward side of the delineated limits of construction and shall remain in place until such time as vegetative cover is established. **All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan.**
13. 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.
14. 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.
15. 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.
16. **\*\*** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval for each individual lot. Payment for each lot shall be in the following amount per lot. The minimum amount of buffer restoration for each lot shall be as follows.
  - **Proposed Lot 1    \$1,874.58**
  - **Proposed Lot 2    \$1,861.97**
  - **Proposed Lot 3    \$1,154.31**

Said payment is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.

17. No trees outboard of the silt fence / limits of disturbance as shown on the CBPA Exhibit shall be removed. Any additional requests for tree removal shall be reviewed and approved by the CBPA Board.

18. A certified arborist report shall be provided for review during the site plan review process for each lot. Said report shall provide written verification as to the disposition of the residual riparian buffer, those portions of the riparian buffer to be restored, minimal pruning and shoreline maintenance practices, and the methodology for addressing any invasive species that may be compromising the health of the native vegetation. Said arborist report shall provide the necessary requirements to ensure that construction activity is not detrimental to the remaining riparian buffer before, during and after the project is complete.
  
19. The conditions and approval associated with this variance are based on the exhibit plan dated May 4, 2020, prepared by MSA, P.C., signed May 4, 2020 by Nathan A. Lahy. However, a revised plan shall be submitted depicting the reduction from 4 lots to 3 lots addressing all of the conditions above. 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.

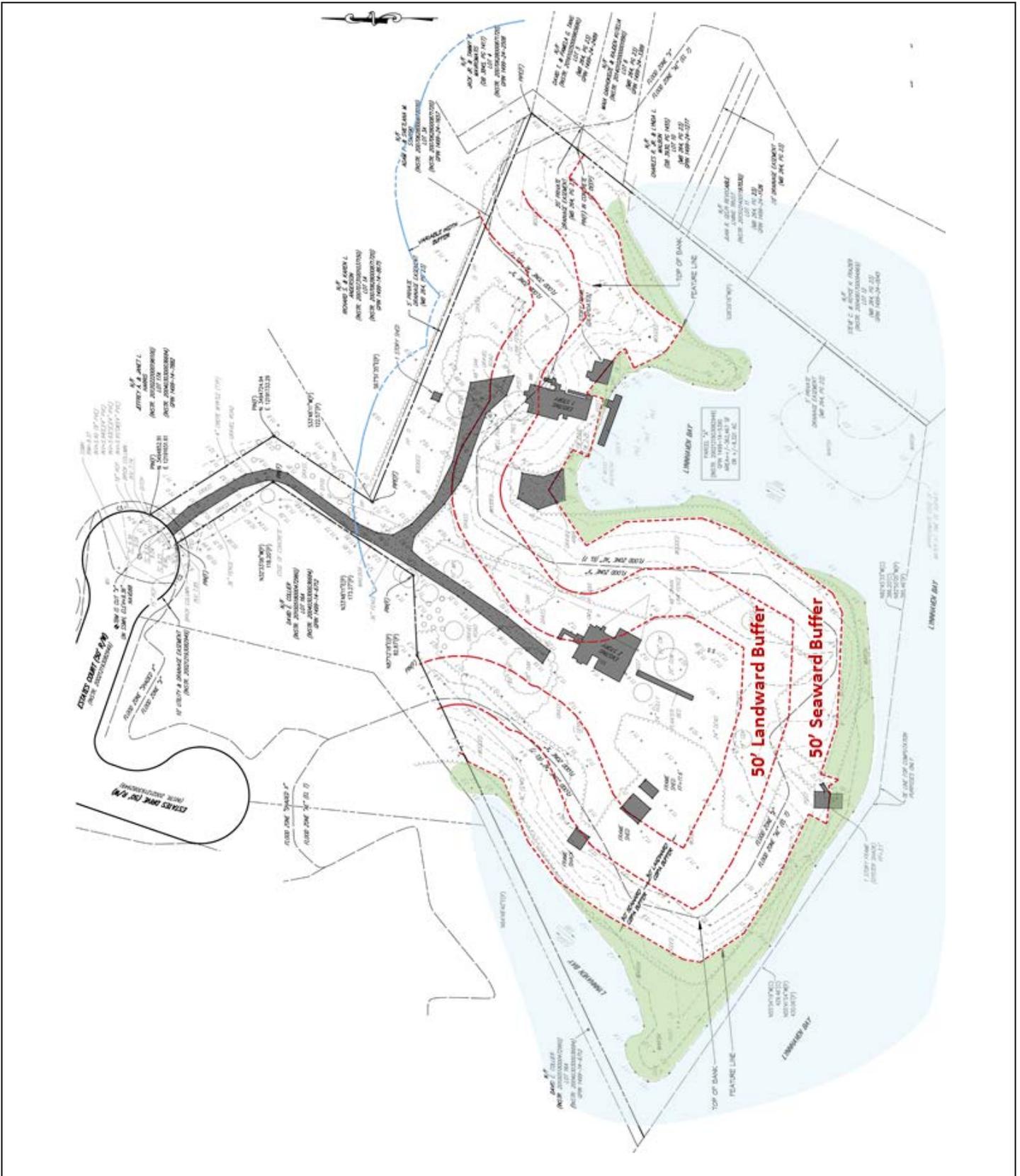
\*\* NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

\*\*\*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.

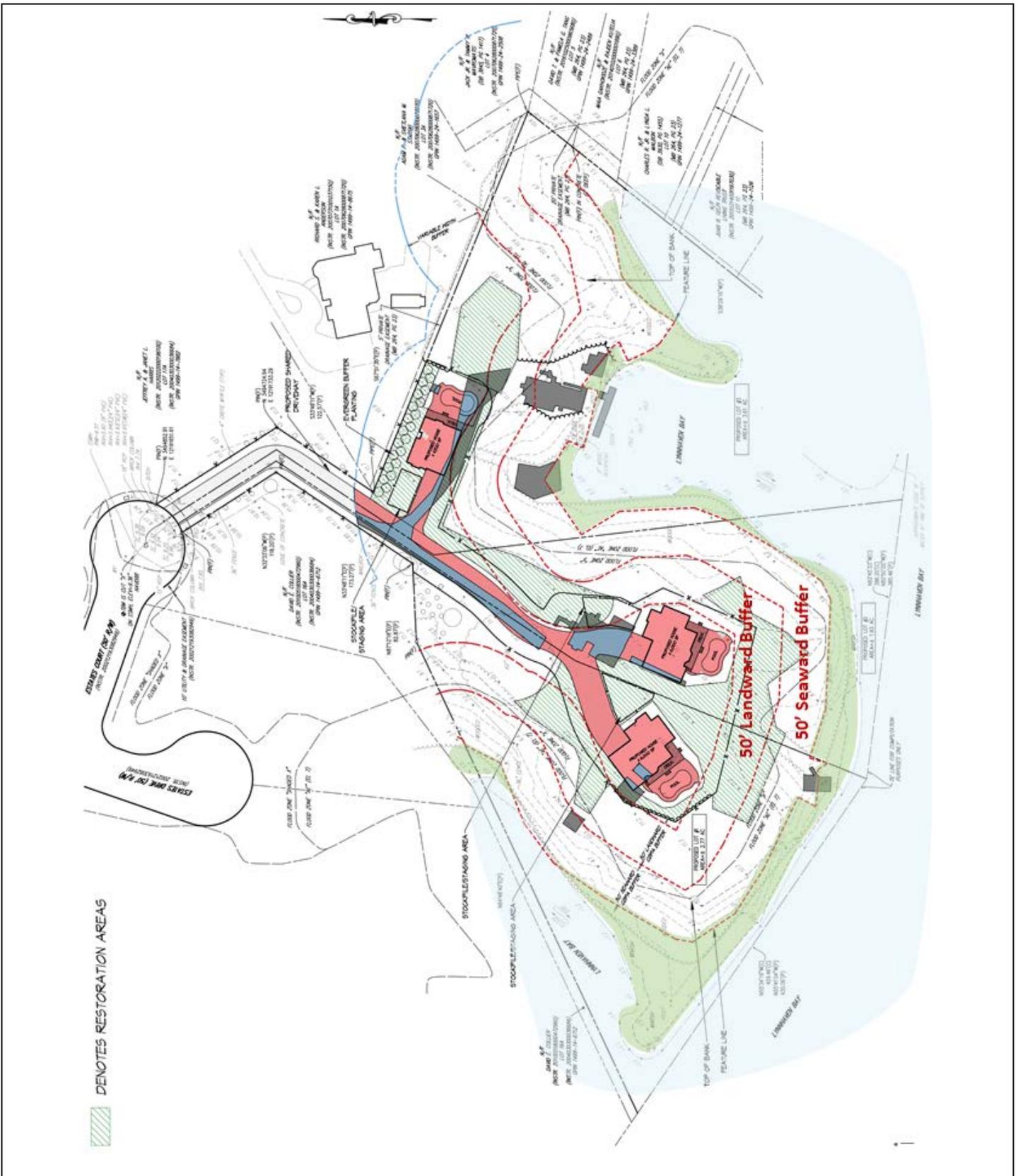
Site Aerial



# CBPA Exhibit – Existing Conditions



# CBPA Exhibit – Proposed Improvements



# Disclosure Statement

## Disclosure Statement



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. 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 City board, commission or other body.

### Applicant Disclosure

Applicant Name Woodhouse Limited Partnership

Does the applicant have a representative?  Yes  No

- If yes, list the name of the representative.

Billy Garrington & Les Watson

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business?  Yes  No

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

Robert W. Woodhouse (Co-General Partner), Sarah W. Woodhouse (Co-General Partner), Sarah E. Woodhouse, Robert M. Woodhouse, Amanda Orchowosky, Andrew Orchowosky, Lou Woodhouse

- If yes, list the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

N/A

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

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

# Disclosure Statement



## Known Interest by Public Official or Employee

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?  **Yes**  **No**

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

## Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the financial institutions.
- 

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?  **Yes**  **No**

- If **yes**, identify the real estate broker/realtor.

Rebecca Watkins, Wainwright Real Estate

---

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the firm or individual providing the service.

Bourdow, Bowen & Ellis, PC (Midlothian, VA)

---

4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the firm or individual providing the service.

Orbis Landscape Architecture (Land Architecture/Planning)

---

5. Is there any other **pending or proposed purchaser** of the subject property?  **Yes**  **No**

- If **yes**, identify the purchaser and purchaser's service providers.
-

# Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If yes, identify the construction contractor.

7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If yes, identify the engineer/surveyor/agent.

MSA, P.C. (Engineer, Surveyor) ; Billy Garrington - Governmental Permitting Consultants (Agent)

8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If yes, identify the name of the attorney or firm providing legal services.

Les Watson - Wolcott Rivers Gates Attorneys

## Applicant Signature

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 meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

*Robert W. Woodhouse IV*

*Sarah W. Woodhouse*

Applicant Signature

*Robert W. Woodhouse IV, Co-General Partner Sarah W. Woodhouse, Co-general Partner*

Print Name and Title

*9/23/20*

Date

Is the applicant also the owner of the subject property?  Yes  No

- If yes, you do not need to fill out the owner disclosure statement.

**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 applications**

<input type="checkbox"/>	No changes as of	Date	Signature
			Print Name

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

WOODHOUSE LIMITED PARTNERSHIP

Robert W. Woodhouse (Co-General Partner)

Sarah W. Woodhouse (Co-General Partner)

Sarah E. Woodhouse

Robert M. Woodhouse

Amanda Orchowsky

Andrew Orchowsky



Applicant & Property Owner **Michael Gianascoli**  
 Address **1740 Lovetts Pond Lane**  
 Public Hearing **October 5, 2020**  
 City Council District **Lynnhaven**

Agenda Item

**4**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct a new single-family residence, detached garage and swimming pool.

**Applicant's Agent**

Eddie Bourdon

**Staff Planner**

PJ Scully

**Lot Recordation**

Map Book 160, Page 43

Recorded 10/07/1982

**GPIN**

1499-76-7107-2300

**SITE AREA**

29,115 square feet or 0.668 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

27,829 square feet or 0.6393 acres

**EXISTING IMPERVIOUS COVER OF SITE**

6,893 square feet or 24.76 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

9,248 square feet or 33.2 percent of site

**Area of Redevelopment in RPA**

4,944 square feet

**Area of New Development in RPA**

4,304 square feet

**Location of Proposed Impervious Cover**

50-foot Landward Buffer

100-foot Variable Width Buffer

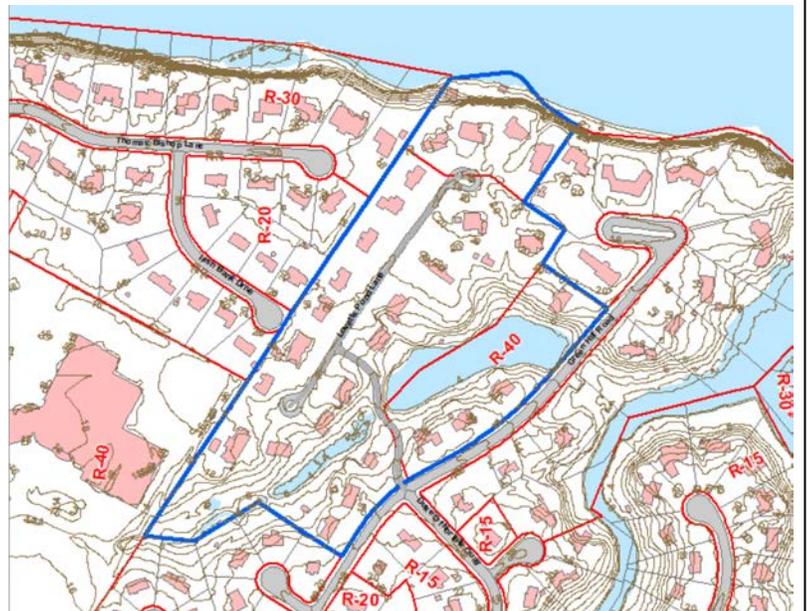
Resource Management Area (RMA)

**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
- Detached garage with associated driveway
- Swimming pool with associated terrace area
- Paver block walkway – 2 walkways proposed

## 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)

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

### Shoreline

The shoreline is in a natural state and sandy beach with vegetated tidal wetlands exists along the toe of slope. Moderate maintenance has been performed consistent with the sound horticultural practices to remove invasive vine species along the existing bank that was shaded the native undergrowth.

### Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 4
- Number of existing understory trees requested for removal within the RPA: 5
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 1
- 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. Six of the requested trees are located within the variable width buffer of the RPA or in the Resource Management Area. 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, selected to be removed 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 bioretention planting beds will be provided as a best management practice for stormwater run-off mitigation.

## Evaluation and Recommendation

The applicant is proposing to demolish all existing improvements on the lot and construct a new single-family residence with associated accessory structures as described above. Although the proposed improvements increase the amount of overall impervious cover for the lot, Staff is of the opinion that the applicant's design team has conscientiously situated the proposed improvements. With the proposed improvements for this variance request, 4,944 square feet of existing impervious cover will be redeveloped with 4,304 square feet of new impervious cover proposed. Of this 4,304 square feet, approximately 781 square feet or 19.8 percent of new impervious cover is proposed within the 50-foot landward buffer, approximately 754 square feet or 17.5 percent of new impervious cover is proposed in the variable width buffer and the remaining 2,506 square feet or 58.2 percent of the new impervious cover is proposed within the Resource Management Area of the Chesapeake Bay watershed. No encroachment of impervious cover is proposed within the 50-foot seaward buffer.

Given the existing topography of the lot and the drainage patterns present, Staff is of the opinion that the use of a permeable surface for the proposed driveway offers merit towards the redevelopment of this lot providing substantial benefits towards water quality. The use of a permeable surface for the proposed driveway will provide an annual run off reduction of approximately 45 percent over an area of approximately 2,434 square feet. This reduction in annual run off would account for approximately 26 percent of the overall impervious cover of the lot.

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) Staff offers that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing portions of this lot within the RPA.
- 3) The variance is the minimum necessary to afford relief because, *"the owners have designed the proposed improvements to be minimize the impact to the Chesapeake Bay, the new home has been placed towards the front setback lined 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 and has provided recommended conditions that address buffer restoration and structural best management practices towards water quality initiatives.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load *"the existing shoreline will be enhanced and expanded upon to compliment the site. Bioretention stormwater management will be placed between the improvements and the waterway to capture and treat runoff prior to discharging into the bay."* Staff concurs with the above statement provided by the applicant's agent and is of the opinion

that the conceptual site plan exhibit provided with this variance request detailing the location of planting beds, turf areas and natural shoreline preservation areas compliment the proposed improvements and offers substantial restoration areas in harmony with the existing topography of the lot to promote the infiltration of rainwater.

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 in substantial compliance with the proposed planting beds areas, turf areas and natural shoreline preservation areas as shown on the conceptual site plan exhibit.  
  
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 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) 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.
- 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 \$986.33 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.
- 16) The conditions and approval associated with this variance are based on the exhibit plan dated June 5, 2020, prepared by WPL, signed July 6, 2020 by Eric A. Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

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

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

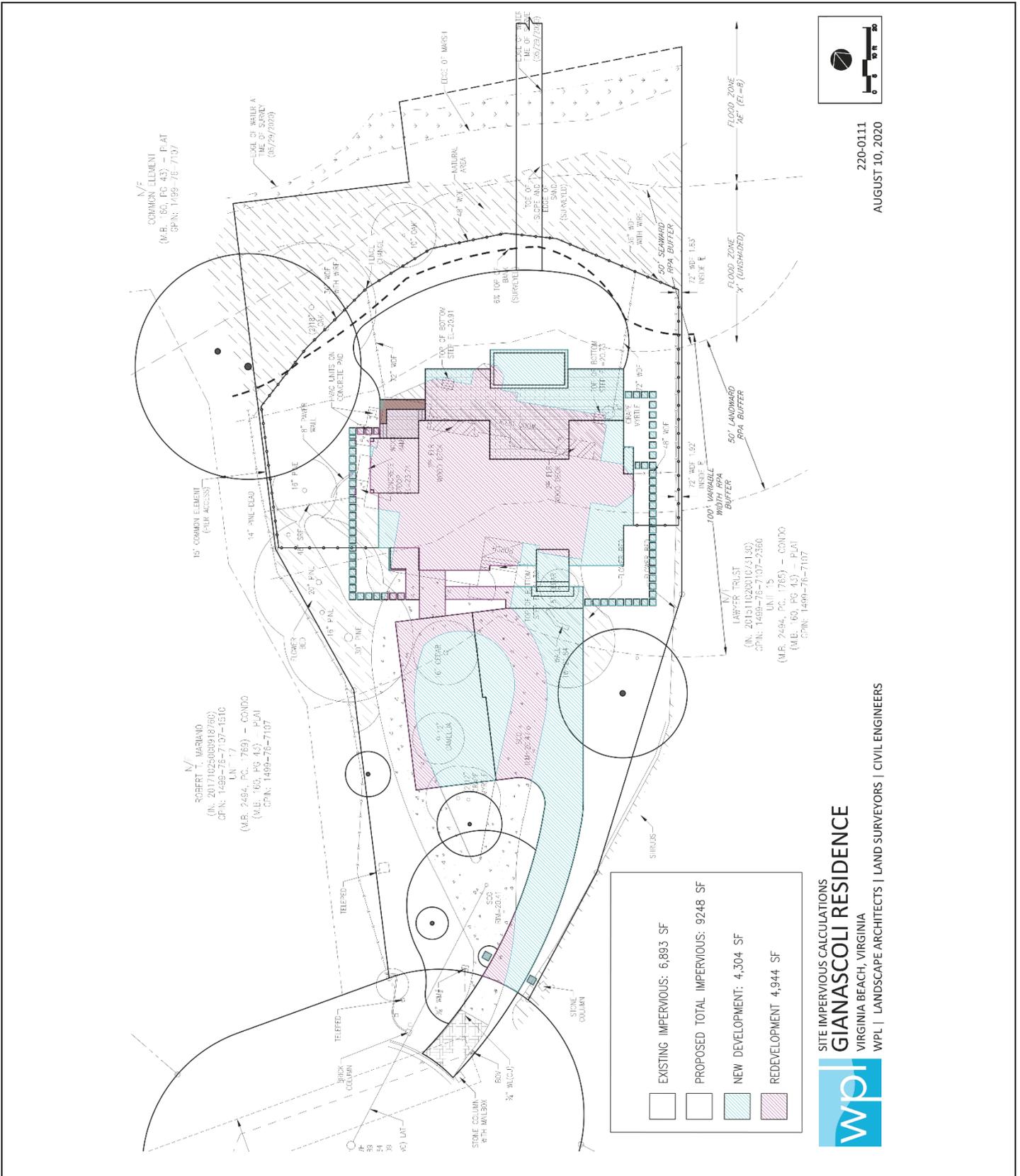
# Site Aerial







# CBPA Exhibit – Color Analysis



# Disclosure Statement



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. 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 City board, commission or other body.

## Applicant Disclosure

**Applicant Name** Michael Gianascoli

Does the applicant have a representative?  Yes  No

- If **yes**, list the name of the representative.

R. Edward Bourdon, Jr. Esquire

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business?  Yes  No

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- If **yes**, list the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

\_\_\_\_\_  
\_\_\_\_\_

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

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

# Disclosure Statement



## Known Interest by Public Official or Employee

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?  **Yes**  **No**

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

## Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?

**Yes**  **No**

- If **yes**, identify the financial institutions.
- 

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?

**Yes**  **No**

- If **yes**, identify the real estate broker/realtor.
- 

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the firm or individual providing the service.
- 

4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the firm or individual providing the service.

WPL

---

5. Is there any other **pending or proposed purchaser** of the subject property?  **Yes**  **No**

- If **yes**, identify the purchaser and purchaser's service providers.
-

# Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If yes, identify the construction contractor.

7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If yes, identify the engineer/surveyor/agent.

WPL

8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If yes, identify the name of the attorney or firm providing legal services.

### Applicant Signature

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 meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

*Michael Gianascoli*

Applicant Signature

Michael Gianascoli

Print Name and Title

08/31/2020

Date

Is the applicant also the owner of the subject property?  Yes  No

- If yes, you do not need to fill out the owner disclosure statement.

**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 applications**

<input type="checkbox"/>	No changes as of	Date	Signature	
			Print Name	

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

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct a parking pad adjacent to the existing driveway.

**Applicant's Agent**

Robert Simon

**Staff Planner**

PJ Scully

**Lot Recordation**

Map Book 114, Page 28  
 Recorded 5/14/1976

**GPIN**

1489-01-6684

**SITE AREA**

99,224.69 square feet or 2.28 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

31,779.44 square feet or 0.73 acres

**EXISTING IMPERVIOUS COVER OF SITE**

8,431 square feet or 26.5 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

8,774 square feet or 27.66 percent of site

**Area of Redevelopment in RPA**

4,791 square feet

**Area of New Development in RPA**

343 square feet

**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

- Concrete driveway, redeveloped in the same footprint
- Paver pool patio, redeveloped in the same footprint
- Timber decking, redeveloped in the same footprint

### Construction Details

- Parking pad

## CBPA Ordinance Variance History

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

## Environmental Conditions

### Flood Zone

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

### Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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

### Shoreline

A portion of the shoreline is in a natural state transitioning into a vinyl bulkhead along the peninsula portion of the lot.

### Riparian Buffer

Heavily Wooded Lot

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

## Stormwater Management Methodology

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

## Evaluation and Recommendation

The applicant is proposing 343 square feet of new impervious cover on the lot and intends to redevelop 4,791 square feet of existing impervious cover consisting of the concrete driveway, all the timber decks on the lot and the paver pool patio. The redevelopment of this existing impervious cover accounts for approximately 56 percent of the imperviousness of the lot.

Michael & Heather Robinson

Agenda Item 5

Page 70

Although the proposed improvement is minimal in the amount of new impervious cover in the RPA, the majority of the impervious cover, both new and existing, and all of the land disturbance and construction accessway occurs within the 50-foot seaward buffer. Staff is concerned that if not managed properly during construction with erosion and sedimentation control measures and disturbed areas stabilized systematically until redevelopment of existing surfaces are complete, the construction activities have the potential to be a detriment to water quality. Staff derived this opinion during the site visit after reviewing existing grades of the lot, potential construction access points to the rear yard and existing canopy cover within proximity to the existing improvements and shoreline. As a result, Staff has provided the recommended conditions below, specifically conditions 1 and 2, that require the submittal of an erosion and sediment control plan for the redevelopment of this lot and that a preconstruction meeting with Civil Inspections be held prior to any land disturbance to safeguard against the potential of this request being a detriment to water quality based on the amount of redevelopment proposed.

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 site was subdivided in 1976 and has no on-street parking and little on-site parking that does not block the driveway."* Staff is of the opinion that the subdivision of the lot does provide a hardship for the owner of this lot and that the minimal request for a 343 square foot parking area does not convey any special privilege to the current owner of the 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, but rather is necessitated by the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this property are within the RPA.
- 3) The variance is the minimum necessary to afford relief by *"the proposed development square footage being 27.6 percent and no trees being impacted."* Staff acknowledges the statement provided by the applicant's agent but is of the opinion that the proposed redevelopment of the lot offers an opportunity to the variance request being in harmony with the purpose and intent of the CBPA Ordinance, specifically to promote infiltration of stormwater into the ground consistent with the use or development proposed through the incorporation of structural urban best management practices. As such, Staff recommends condition 7 below.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"the proposed development is at 27.6 percent in the RPA, and there will be a 10 percent reduction in stormwater runoff from development and therefore is in harmony with the Ordinance."* Staff has conditioned the layout of the erosion and sediment control measures and stabilization of the lot during construction as a means to ensure that the variance request not detrimental to water quality.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load *"pervious pavers, bioretention beds and natural areas to be enhanced will reduce nonpoint source pollution running off this lot unchecked."* Staff concurs.

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

## Recommended Conditions

1. A Single-Family RPA Small 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. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition
3. Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed contiguous 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.
4. Construction limits shall be contained within the limits of the conditioned silt fence layout. **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.**
5. 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.
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Seven hundred (700) square feet of the driveway to be redeveloped shall be redeveloped with 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.
8. Under deck treatment of sand and gravel shall be installed.
9. No perimeter fill is authorized outboard or seaward of the proposed improvements.
10. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **343 square feet x 200 percent = 686 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: **1 canopy trees, 3 understory trees, 3 large shrubs and 3 small shrubs.**

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

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

11. The conditions and approval associated with this variance are based on the exhibit plan dated August 5, 2020, prepared by Chesapeake Bay Site Solutions, Inc. 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.

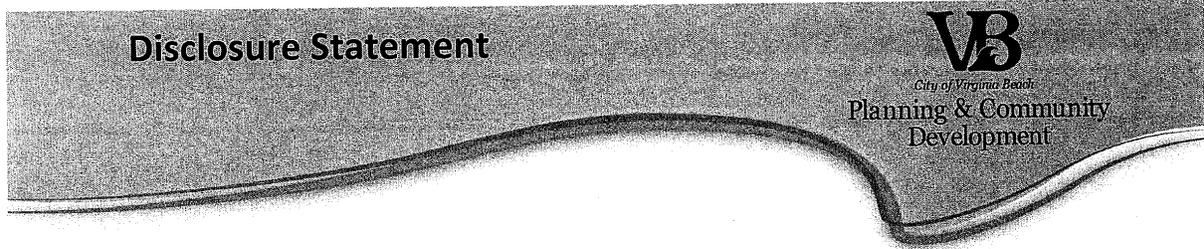
\*\*\*NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section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

# Site Aerial





# Disclosure Statement



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. 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 City board, commission or other body.

## Applicant Disclosure

**Applicant Name** Michael and Heather Robinson

Does the applicant have a representative?  Yes  No

- If **yes**, list the name of the representative.

Waterfront Consulting, Inc

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business?  Yes  No

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

---

---

---

- If **yes**, list the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

---

---

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

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

## Disclosure Statement



### Known Interest by Public Official or Employee

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?  Yes  No

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

### Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the financial institutions.
- 

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?  Yes  No

- If **yes**, identify the real estate broker/realtor.
- 

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the firm or individual providing the service.
- 

4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the firm or individual providing the service.
- 

5. Is there any other **pending or proposed purchaser** of the subject property?  Yes  No

- If **yes**, identify the purchaser and purchaser's service providers.
-

# Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the construction contractor.

7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the engineer/surveyor/agent.

Waterfront Consulting, Inc and Chesapeake Bay Site Solutions

8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the name of the attorney or firm providing legal services.

### Applicant Signature

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 meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.**

Applicant Signature

Michael and Heather Robinson

Print Name and Title

8/26/20

Date

Is the applicant also the owner of the subject property?  Yes  No

- If **yes**, you do not need to fill out the owner disclosure statement.

**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 applications**

<input type="checkbox"/>	No changes as of	Date	Signature
			Print Name

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



Applicant & Property Owner **Gregory & Ruth Takacs**  
 Address **2904 Estates Drive**  
 Public Hearing **October 5, 2020**  
 City Council District **Lynnhaven**

Agenda Item

**6**

**The applicant is requesting to withdrawal this application. Staff supports the request to defer.**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct a swimming pool with associated pool surround.

**Applicant's Agent**

Billy Garrington

**Staff Planner**

PJ Scully

**Lot Recordation**

Instrument No. 200212193082949

Recorded 3/03/2004

**GPIN**

1499-15-7674

**SITE AREA**

52,071 square feet or 1.195 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

41,663 square feet or 0.956 acres

**EXISTING IMPERVIOUS COVER OF SITE**

7,830 square feet or 18.8 percent of site



AS NEEDED, PAGE LEFT BLANK

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct a concrete pad for a hot tub.

**Applicant's Agent**

Self-represented

**Staff Planner**

PJ Scully

**Lot Recordation**

Map Book 95, Page 5  
 Recorded 1/18/1973

**GPIN**

1488-41-3468

**SMALL PROJECT IN THE RPA**

**PROPOSED IMPERVIOUS COVER**

**Area of Redevelopment in RPA**

0 square feet

**Area of New Development in RPA**

266 square feet

**Location of Proposed Impervious Cover**

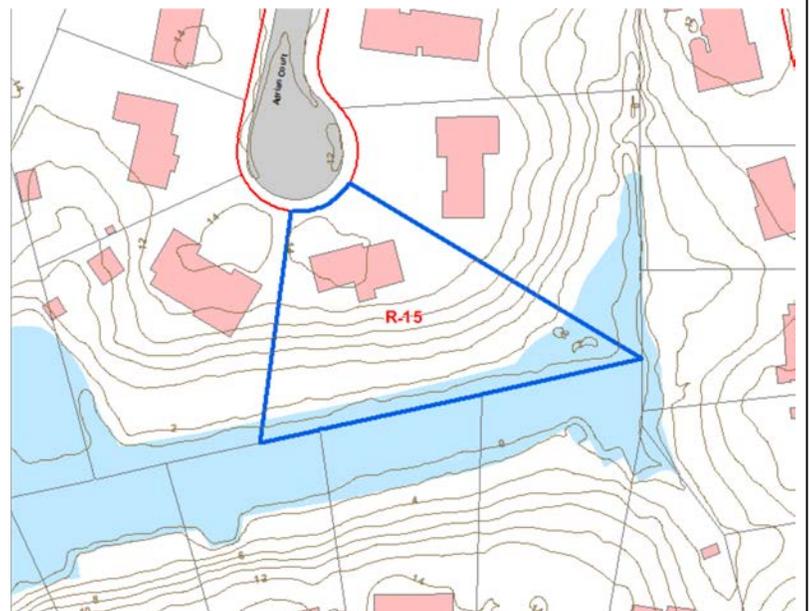
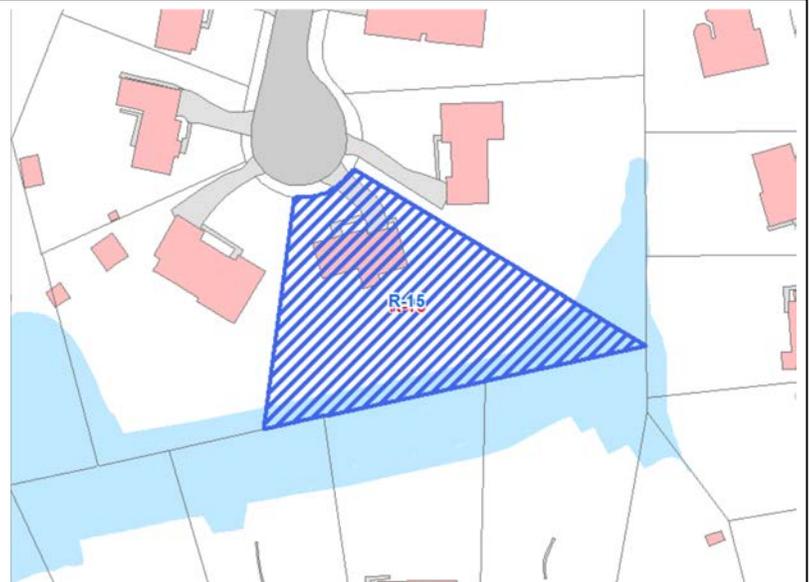
50-foot Landward Buffer

**AMOUNT OF LAND DISTURBANCE**

Less than 2,500 square feet

**Staff Recommendation**

Approval as submitted



## Summary of Proposal

### Construction Details

- Concrete pad for a hot tub and associated concrete paver landing

## CBPA Ordinance Variance History

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

## Environmental Conditions

### Flood Zone

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

### Soil Type(s)

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

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

Rappahannock Series (deep, nearly level and very poorly drained) located along the toe of slope

### Shoreline

Shoreline is hardened by a wood bulkhead with a small portion of the shoreline in a natural state along the eastern portion of the lot.

### Riparian Buffer

Heavily Wooded Lot

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

## Stormwater Management Methodology

The land disturbance associated with proposed improvements will be less than 2,500 square feet; therefore, no stormwater management facility is required.

## Evaluation and Recommendation

The applicant is proposing to construct a 170 square foot concrete pad for a hot tub off the rear of the residence within the upper reach of the 50-foot landward buffer. During the site visit, Staff observed a concrete paver area constructed adjacent to the screened porch to provide for a landing associated with a new ingress/egress way to the residence. With the combined request for the concrete pad and concrete paver landing, the overall impervious cover of the lot, should the CBPA Board grant this variance, will be approximately 4,027square feet or 14.7 percent of the lot above water and wetlands.

The majority of the 100-foot buffer for this lot is stabilized by turf with mature areas of vegetation primarily located along the existing bank feature. During the site visit, Staff did not observe any major signs of erosion occurring on the lot and is of the opinion that the existing naturalized areas could be expanded with the recommended buffer restoration, conditioned below, to promote infiltration of stormwater.

To further support the variance request, the applicant has provided 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) The applicant provides the 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 *"we are going through the general application process. Other residents in the CBPA, including in our neighborhood have pools or other development in the RPA."* Staff concurs with the applicant and offers that the request to encroach into the RPA is minimal and occurs within the upper reach 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 placing portions of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"this is a minimal request for new improvements."* Staff concurs and offers that should the CBPA Board grant this request, the overall post-approval impervious cover of the lot will be less than 15 percent of the lot above water and wetlands.
- 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 variance request is a small area of disturbance as opposed to constructing a large pool. With this variance request, no vegetation is being disturbed."* Staff concurs.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load *"a small area of land disturbance will occur."* Staff concurs and has conditioned buffer restoration within the 100-foot RPA buffer to aid with the infiltration of rainwater run-off on the lot.

Given the above comments, Staff recommends the following 6 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

## Recommended Conditions

1. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.
2. Submitted concurrent with the CBPA Exhibit 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 **800 square feet** within the RPA.

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: **2 canopy trees, 2 understory trees, 4 large shrubs, and 6 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. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
5. Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. No perimeter fill is authorized outboard or seaward of the proposed improvements.

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

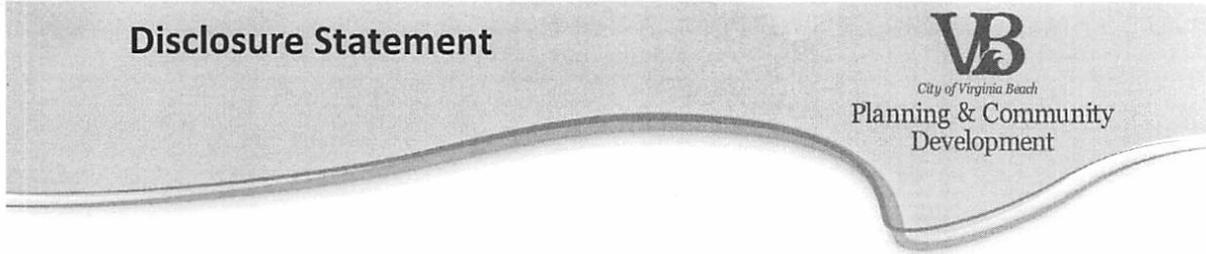
\*\*\*NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section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

Site Aerial





# Disclosure Statement



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. 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 City board, commission or other body.

### Applicant Disclosure

Applicant Name Tajamul Hasan

Does the applicant have a representative?  Yes  No

- If yes, list the name of the representative.

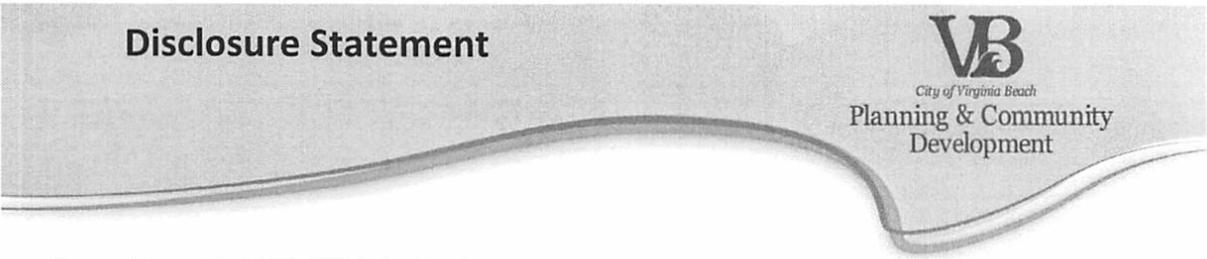
Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business?  Yes  No

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

- If yes, list the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

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

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



**Known Interest by Public Official or Employee**

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?  Yes  No

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

---

**Applicant Services Disclosure**

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the financial institutions.

ghrt

---

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?  Yes  No

- If **yes**, identify the real estate broker/realtor.

rte

---

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the firm or individual providing the service.

---

4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the firm or individual providing the service.

---

5. Is there any other **pending or proposed purchaser** of the subject property?  Yes  No

- If **yes**, identify the purchaser and purchaser's service providers.

---

# Disclosure Statement



- 6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No
  - If **yes**, identify the construction contractor.

None at this time
  
- 7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No
  - If **yes**, identify the engineer/surveyor/agent.
  
- 8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No
  - If **yes**, identify the name of the attorney or firm providing legal services.

**Applicant Signature**

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 meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

*[Handwritten Signature]*

Applicant Signature

TAJAMUL HASAN

Print Name and Title

9/2/2020

Date

Is the applicant also the owner of the subject property?  Yes  No

- If **yes**, you do not need to fill out the owner disclosure statement.

**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 applications**

<input type="checkbox"/>	No changes as of	Date	Signature	
			Print Name	

\*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 retaining wall with associated backfill material.

**Applicant's Agent**

Robert Simon

**Staff Planner**

PJ Scully

**Lot Recordation**

Map Book 36, Page 26

Recorded 5/11/1954

**GPIN**

2408-87-4716

**SITE AREA**

44,204.66 square feet or 1.01 acres

(Per City Record)

**SITE AREA OUTSIDE OF WATER/WETLANDS**

45,389.8 square feet or 1.043 acres

**EXISTING IMPERVIOUS COVER OF SITE**

10,560 square feet or 23.26 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

10,660 square feet or 23.48 percent of site

**Area of Redevelopment in RPA**

0 square feet

**Area of New Development in RPA**

86 square feet – timber retaining wall

752 square feet – area of backfill material

**Location of Proposed Impervious Cover**

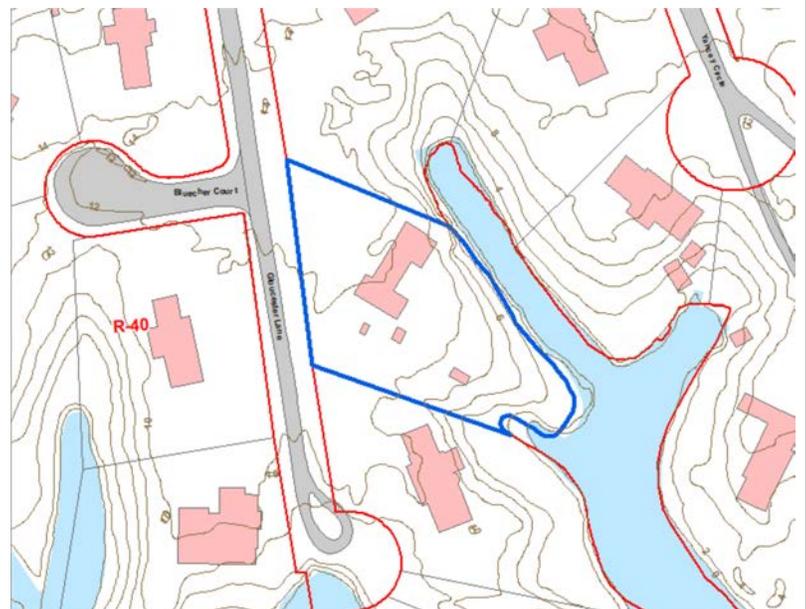
50-foot Seaward Buffer

**AMOUNT OF LAND DISTURBANCE**

Less than 2,500 square feet

**Staff Recommendation**

Deny as submitted



## Summary of Proposal

### Construction Details

- Timber retaining wall with associated backfill

## 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 by a timber bulkhead and concrete boat ramp.

### Riparian Buffer

Heavily Wooded Lot

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

## Stormwater Management Methodology

The land disturbance associated with proposed improvements will be less than 2,500 square feet; therefore, no stormwater management facility is required.

## Evaluation and Recommendation

Staff is of the opinion that the proposed use associated with this variance request, placement of fill material to create a raised garden area, can be accommodated on the lot in other areas that are less sensitive than the area proposed.

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 performance standards 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 lend support that the proposed improvements will not be substantially detrimental 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 site was subdivided in 1953 and the rear yard is entirely encompassed by the buffers.”* Staff acknowledges the statement provided by the applicant’s agent; however, even though the lot was platted prior to the adoption of the CBPA Ordinance, encroachment and land disturbance into the 50-foot seaward buffer warrants additional consideration beyond solely the use.
- 2) The applicant’s agent provides that encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, *“but rather is necessitated by the fact that this 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.”* Staff concurs that the recordation date of the plat was well in advance of the Chesapeake Bay Act adoption; however, through the variance process, development can occur subject to conditions unique to each application. In this case, Staff is of the opinion that the use can be accommodated within other areas of the lot that would not necessitate the amount of fill or the need for a retaining wall as proposed.
- 3) The variance is the minimum necessary to afford relief because *“the proposed development SF is only at 25.5% and no trees are being impacted.”* Staff is of the opinion that while the proposed impervious cover of the lot is less than 26 percent, the amount of land disturbance associated with the variance request does not warrant the minimum necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare; because *“the proposed deployment is at 25.5% in the RPA, the entire raised garden will act as a BMP.”* Staff does acknowledge that reducing the slope of the lot in the area of the proposed garden would slow the velocity of stormwater run-off; however, Staff is of the opinion that areas of the lot may contribute more to the detriment of water quality due to direct discharge into the adjacent waterway and has provided the recommended condition 4 for the Board’s consideration.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load the applicant’s agent provides that *“the proposed 752 square foot garden area will be removing turf grass and replacing it with a BMP. There are no BMP’s currently on the site.”*

While Staff recommends denial as submitted, the following 11 conditions are provided below for consideration should the Board consider granting this variance request.

## Recommended Conditions

- 1) A Single-Family RPA Small 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: **838 square feet x 200 percent = 1,676 square feet.**

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

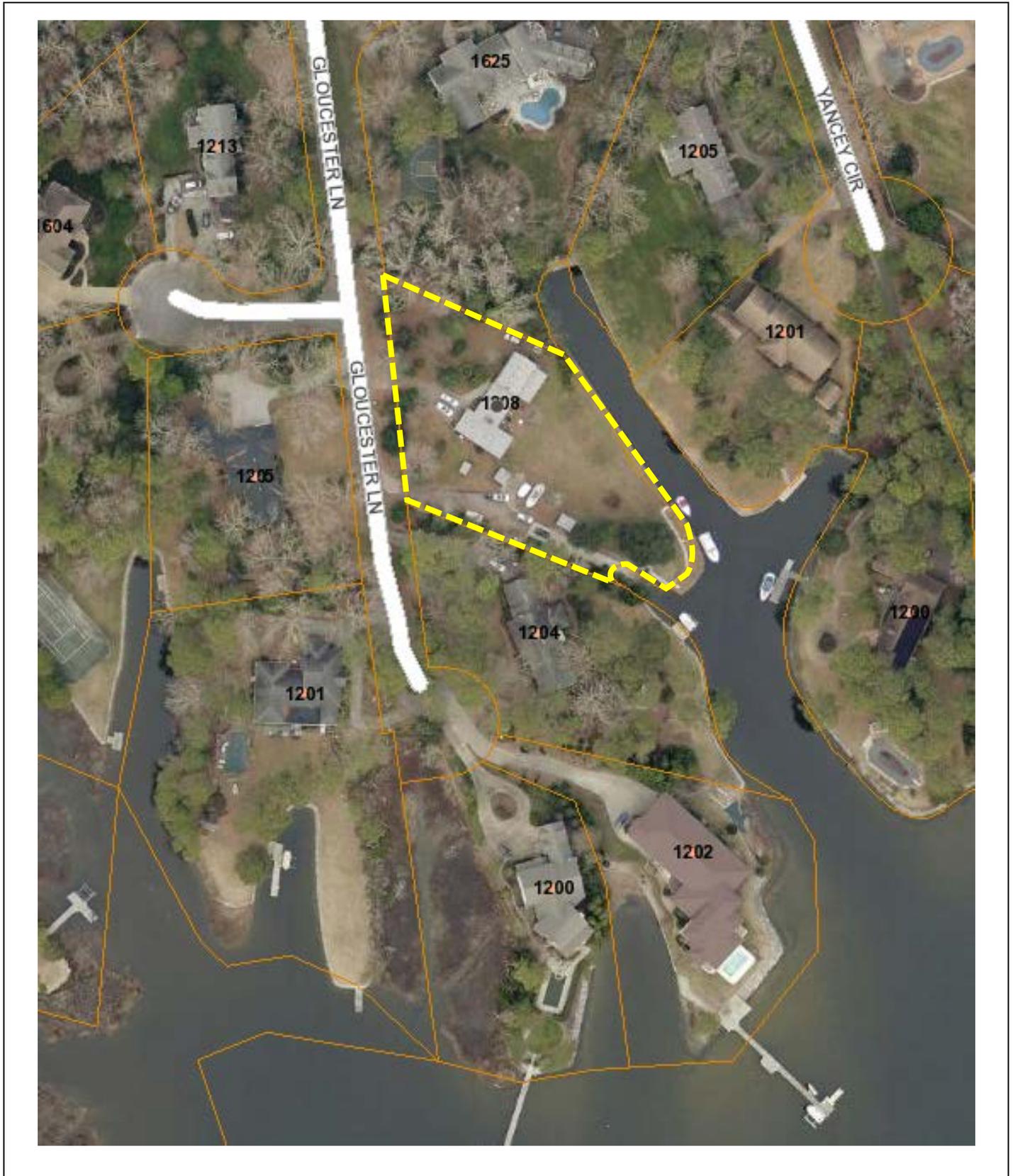
The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed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

- 4) A trench drain shall be provided at the 5-foot elevation of the existing concrete boat ramp to capture rainwater run-off and be directed to a best management practice (BMP) sized by the Engineer of Record to accommodate and treat for pollutant removal.
- 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) Double wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed continuous along the toe of bank and transition up slope to the delineated top of bank with a maximum 10-foot offset along the 15-foot return wall.
- 9) Construction limits shall be contained within the limits of the silt fence.
- 10) **\*\*** 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 \$192.04 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.
- 11) The conditions and approval associated with this variance are based on the exhibit plan dated July 15, 2020, prepared by Waterfront Consulting, 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.

**\*\*** 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





# Disclosure Statement



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. 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 City board, commission or other body.

### **Applicant Disclosure**

**Applicant Name** Herrel L. Gallop, Jr. and Pamela A. Gallop

**Does the applicant have a representative?**  **Yes**  **No**

- If **yes**, list the name of the representative.

Waterfront Consulting, Inc

**Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business?**  **Yes**  **No**

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- If **yes**, list the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

\_\_\_\_\_  
\_\_\_\_\_

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

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

# Disclosure Statement



## Known Interest by Public Official or Employee

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?  Yes  No

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

---

## Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?

Yes  No

- If **yes**, identify the financial institutions.

---

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?

Yes  No

- If **yes**, identify the real estate broker/realtor.

---

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the firm or individual providing the service.

---

4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the firm or individual providing the service.

---

5. Is there any other **pending or proposed purchaser** of the subject property?  Yes  No

- If **yes**, identify the purchaser and purchaser's service providers.

---

# Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the construction contractor.

Broad Bay Contracting

7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the engineer/surveyor/agent.

Waterfront Consulting, Inc and Chesapeake Bay Site Solutions

8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the name of the attorney or firm providing legal services.

### Applicant Signature

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 meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.**

Herrel L. Gallop, Jr.

Applicant Signature

Herrel L. Gallop, Jr. and Pamela A. Gallop

Print Name and Title

9/4/2020

Date

Is the applicant also the owner of the subject property?  **Yes**  **No**

- If **yes**, you do not need to fill out the owner disclosure statement.

**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 applications**

<input type="checkbox"/>	No changes as of	Date	Signature	
			Print Name	

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

AS NEEDED, PAGE LEFT BLANK



Applicant & Property Owner **Jason & Sabrina Condino**  
 Address **3112 Audley Way**  
 Public Hearing **October 5, 2020**  
 City Council District **Lynnhaven**

Agenda Item

**9**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct a shed

**Applicant's Agent**

Self-represented

**Staff Planner**

PJ Scully

**Lot Recordation**

Map Book 2670, Page 1586  
 Recorded 9/03/1987

**GPIN**

1498-02-7341

**SMALL PROJECT IN THE RPA**

**PROPOSED IMPERVIOUS COVER**

**Area of Redevelopment in RPA**

0 square feet

**Area of New Development in RPA**

128 square feet

**Location of Proposed Impervious Cover**

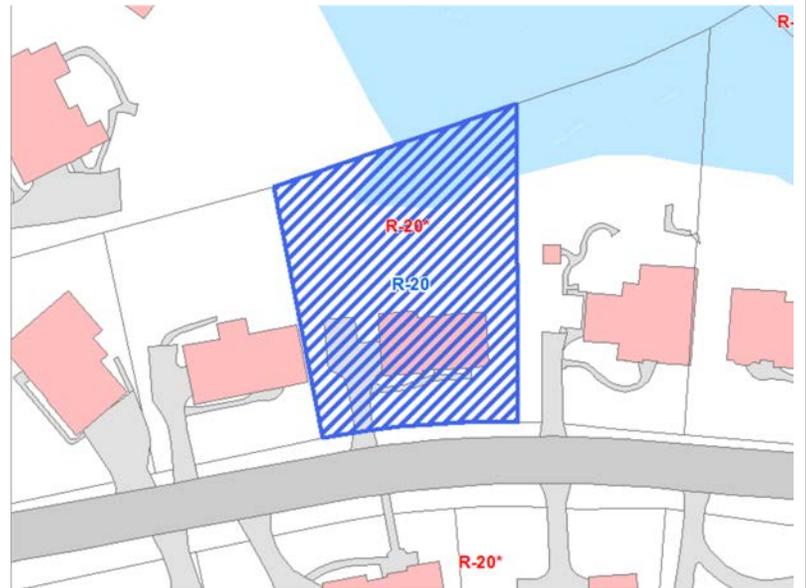
50-foot Seaward Buffer

**AMOUNT OF LAND DISTURBANCE**

Less than 2,500 square feet

**Staff Recommendation**

Approval as submitted



## Summary of Proposal

### Construction Details

- Shed

## CBPA Ordinance Variance History

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

## Environmental Conditions

### Flood Zone

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

### Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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

### Shoreline

Shoreline is in a natural state.

### Riparian Buffer

Heavily Wooded Lot

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

## Stormwater Management Methodology

The land disturbance associated with proposed improvements will be less than 2,500 square feet; therefore, no stormwater management facility is required.

## Evaluation and Recommendation

Given the minor scope of this variance request and construction methodology to build the shed on site to minimize land disturbance and customize the layout to accommodate existing grade elevation conditions, Staff is of the opinion that the proposed improvements will not be detrimental to water quality or injurious to the neighborhood as proposed.

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 *“several other homes in the RPA area have a shed in their back yard.”* Staff concurs.

- 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 platted prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance, therefore portions of this property are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *“it is an 8 x 16 shed and involves no removal of any of the plants or trees associated with the riparian buffer.”* Staff concurs.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *“we will be placing a shed in the back yard consistent with many homes in the RPA within our neighborhood, and not removing any plants or trees.”* Staff concurs and offers that the proposed shed will not encroach into the designated open space associated with this development.
- 5) Staff offers that as a means to manage towards a no net increase in nonpoint source pollution load, under deck treatment of gravel has been recommended in condition 2 to abate any erosion potential.

Given the above comments, Staff recommends the following 3 reasonable and appropriate conditions towards preventing the variance from causing or contributing to the degradation of water quality.

### Recommended Conditions

1. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.
2. Under deck treatment of gravel shall be installed under the footprint of the shed.
3. No perimeter fill is authorized outboard or seaward of the proposed improvements.

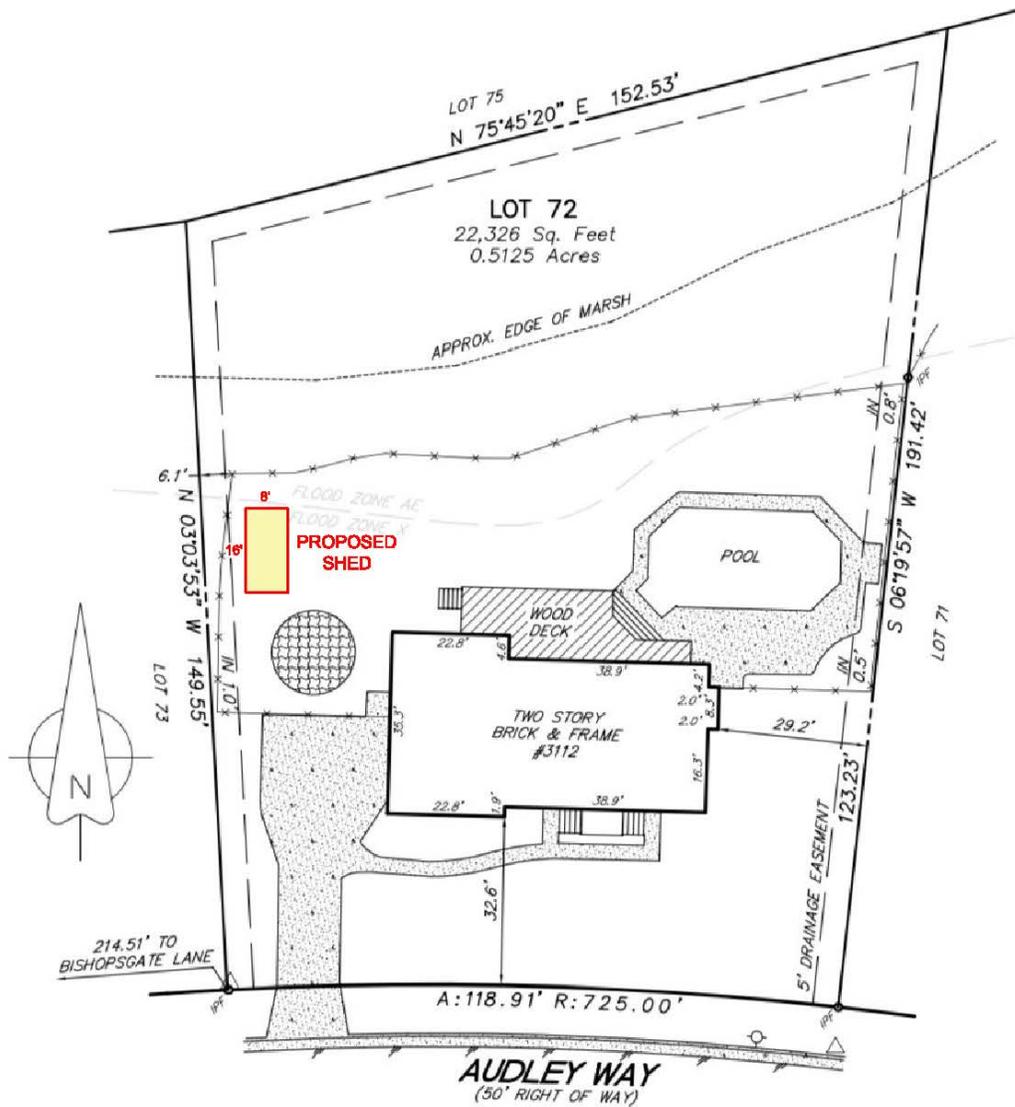
\*\* NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

Site Aerial



CBPA Exhibit – Proposed Improvements



# Disclosure Statement

**Disclosure Statement**

**VB**  
City of Virginia Beach  
Planning & Community  
Development

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. 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 City board, commission or other body.

**Applicant Disclosure**

Applicant Name Jason Condino

Does the applicant have a representative?  Yes  No

- If yes, list the name of the representative.  
\_\_\_\_\_

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business?  Yes  No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- If yes, list the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)  
\_\_\_\_\_  
\_\_\_\_\_

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

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

1 | Page

# Disclosure Statement



## Known Interest by Public Official or Employee

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?  **Yes**  **No**

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

## Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the financial institutions.
- 

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?  **Yes**  **No**

- If **yes**, identify the real estate broker/realtor.
- 

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the firm or individual providing the service.
- 

4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the firm or individual providing the service.
- 

5. Is there any other **pending or proposed purchaser** of the subject property?  **Yes**  **No**

- If **yes**, identify the purchaser and purchaser's service providers.
-

# Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the construction contractor.

Colonial Barns and Sheds will be the contractors hired to build the shed

7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the engineer/surveyor/agent.

8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the name of the attorney or firm providing legal services.

## Applicant Signature

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 meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

Applicant Signature

Jason J. Condino

Print Name and Title

8/29/2020

Date

Is the applicant also the owner of the subject property?  **Yes**  **No**

- If **yes**, you do not need to fill out the owner disclosure statement.

**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 applications**

<input type="checkbox"/>	No changes as of	Date	Signature	
			Print Name	