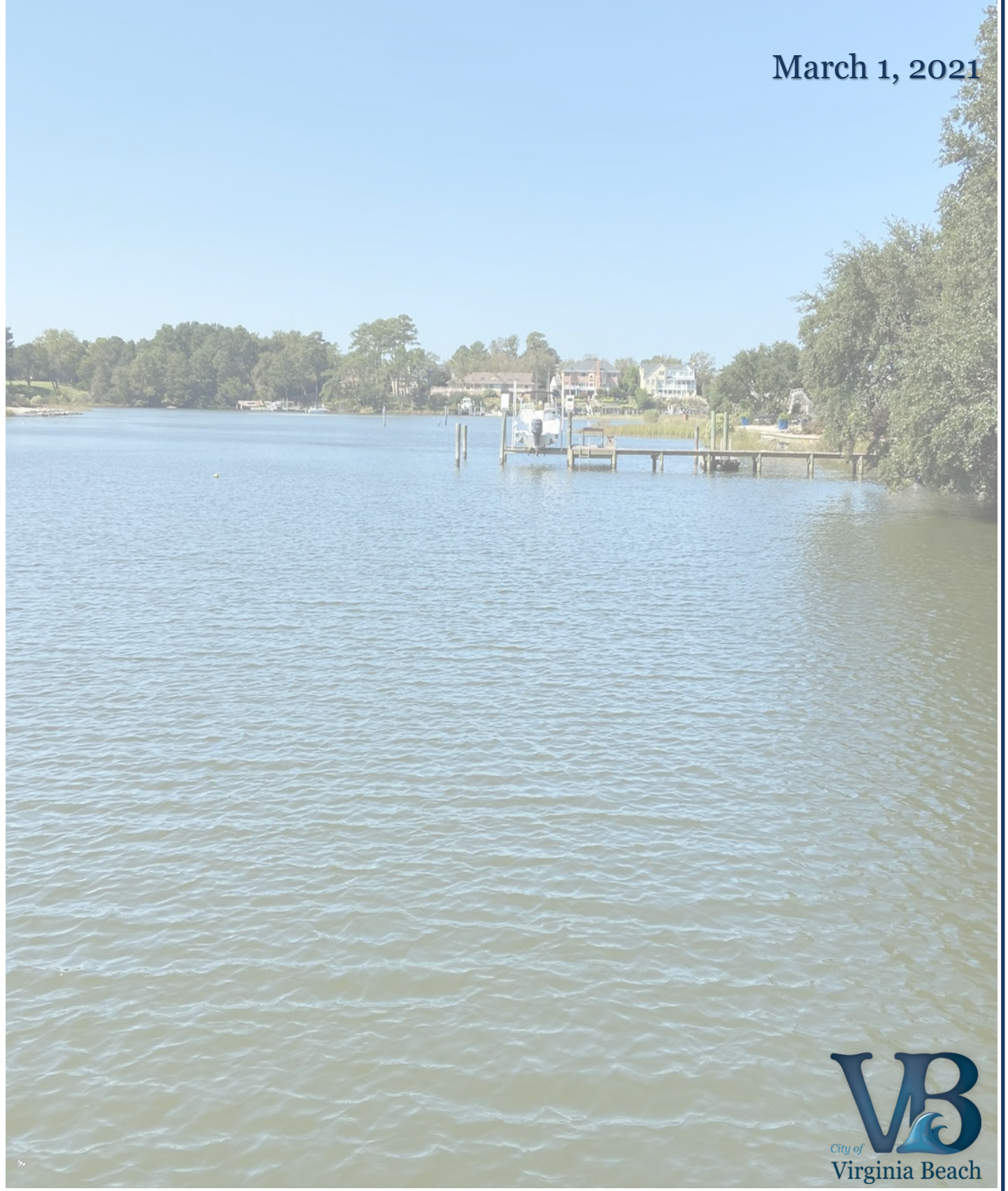


Chesapeake Bay Preservation Area Board Agenda

March 1, 2021



PAGE LEFT BLANK

CHESAPEAKE BAY PRESERVATION AREA BOARD

NOTICE OF PUBLIC HEARING

In accordance with Virginia Code § 2.2-3708.2, Virginia Code § 15.2-1413 and the City's Continuity of Government Ordinance adopted on September 15, 2020, and Chapter 1289 of the 2020 Acts of Assembly as amended, a Virtual Public Hearing of the Virginia Beach Chesapeake Bay Preservation Area Board will be held on Monday, March 1, 2021 at 10:00 a.m.. A Staff briefing session will be held at 9:00 a.m.. This public hearing will be held by electronic communication means. All interested parties are invited to participate by following the two-step process provided below. Due to the ongoing Covid-19 Pandemic, please check the Chesapeake Bay Preservation Area Board website at www.vbgov.com/cbpa for the most updated meeting information.

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

For those citizens who desire to attend this meeting virtually, registration is required. Please visit www.vbgov.com/cbpa or enter the following URL into your web browser to register:
<https://vbgov.webex.com/vbgov/onstage/g.php?MTID=ea1aab83315c656fedda4c46cda6f9707>

Citizens are encouraged to submit comments to the CBPA Board prior to the public hearing via email to pscully@vbgov.com or via United States Mail to PJ Scully, 2875 Sabre Street, Suite 500, Virginia Beach, VA 23452. **If you desire to speak at the virtual public hearing you must notify Staff prior to 5:00 pm, February 26, 2021 at (757) 385-4621 or via email at sheederi@vbgov.com.**

Those members of the public interested in attending the public hearing should be advised that, for reasons the Board deems appropriate, certain items on the agenda may be heard out of order and that it should not be assumed that the order listed below will be exactly followed during the public hearing.

THE FOLLOWING DESCRIBES THE ORDER OF BUSINESS FOR THE PUBLIC HEARING

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

- 1. DEFERRALS:** The first order of business is the consideration of requests to defer an item. The Board will ask those in attendance at the hearing if there are any requests to defer an item that is on the agenda. PLEASE NOTE THE REQUESTS THAT ARE MADE, AS ONE OF THE ITEMS BEING DEFERRED MAY BE THE ITEM THAT YOU HAVE AN INTEREST IN.

If an item is deferred, a deferral date will be determined at the public hearing. Typically, deferrals range from thirty (30) to sixty (60) days or may be deferred indefinitely. The Board will vote on all the items deferred individually. It is important, therefore, if you have an objection to an item being deferred to note your objection as the Board goes through the items being considered for deferral.

- 2. CONSENT AGENDA:** The second order of business is consideration of the "consent agenda." The consent agenda contains those items:
 - a. that the Board believes are unopposed and
 - b. which have a favorable Staff recommendation.

If an item is placed on the Consent Agenda, that item will be heard with other items on the agenda that appear to be unopposed and have a favorable staff recommendation. The Board will vote on all the items at

one time. Once the Board has approved the item as part of the Consent Agenda, the variance request is granted and will not be discussed any further. It is important, therefore, if you have an objection to an item being placed on the Consent Agenda to note your objection as the Board goes through the items being considered for the Consent Agenda.

Process for the Consent Agenda:

- The Board will announce the item number and item title being considered for inclusion on the Consent Agenda.
- The Board will ask if there is anyone in the audience representing the item, and if so, ask them to go up to the podium and state their name for the record.
- The Board will ask the representative of the item if they are aware of the conditions and if they agree to the conditions.
- The Board will then ask if there is anyone in the audience in opposition to the item. If you are opposed to the item, stand or raise your hand to let the Board know.
- If the item is opposed, it will be removed from the consent agenda and heard in its normal place on the agenda.
- After the Board has gone through all of the items that it believes should be on the Consent Agenda, it will vote at one time for all of the items, announcing the number of each item being voted on. Pay attention to the list of items being voted on.

3. REGULAR AGENDA: The Board will then proceed with the remaining items on the agenda, according to the following process:

- a. The applicant or applicant's representative will have 10 minutes to present its case.
- b. Next, those who wish to speak in support to the application will have 3 minutes to present their case.
- c. If there is a spokesperson for the opposition, he or she will have 10 minutes to present their case.
- d. All other speakers not represented by the spokesperson in opposition will have 3 minutes.
- e. The applicant or applicant's representative will then have 3 minutes for rebuttal of any comments from the opposition.
- f. There is then discussion among the Board members. No further public comment will be heard at that point. The Board may, however, allow additional comments from the opposition if a member of the Board sponsors the opposition. Normally, you will be sponsored only if it appears that new information is available, and the time will be limited to 3 minutes.
- g. The Board does not allow slide or computer-generated projections other than those prepared by the Department of Planning and Community Development Staff.

The Board asks that speakers not be repetitive or redundant in their comments. Do not repeat something that someone else has already stated. Petitions may be presented and are encouraged. If you are part of a group, the Board requests, in the interest of time, that you use as 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 Chair, this time may be increased to 5 minutes. Speakers will be electronically timed.

If you require reasonable accommodation for this meeting due to a disability, please call the Department of Planning and Community Development at (757) 385-4621. If hearing impaired, you may contact Virginia Relay at 711 for TDD services.



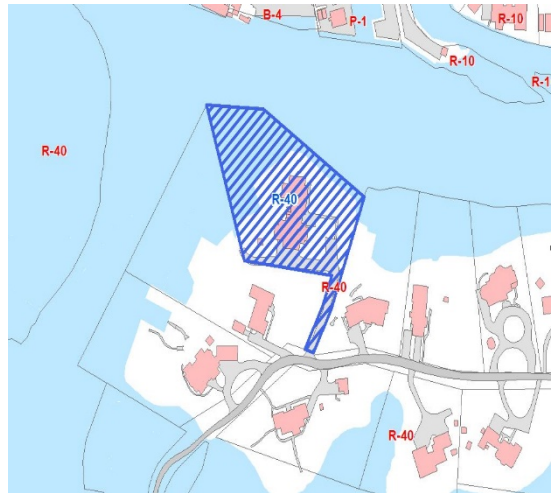
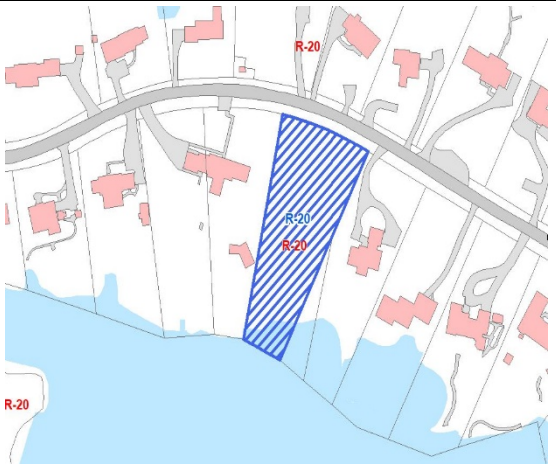
CHESAPEAKE BAY PRESERVATION AREA BOARD AGENDA

Public Hearing Date **March 1, 2021**

Due to the ongoing Covid-19 Pandemic, please check the Chesapeake Bay Preservation Area (CBPA) Board website at www.vbgov.com/cbpa for the most updated meeting information.

- 9:00 AM** INFORMAL STAFF BRIEFING OF PUBLIC HEARING AGENDA ITEMS.
- 10:00 AM** FORMAL REVIEW OF PUBLIC HEARING AGENDA ITEMS.

Please be advised that copies of the proposed plans, ordinances, amendments and/or resolutions associated with this public hearing are also on file and may be examined by appointment at the Department of Planning & Community Development located at 2875 Sabre St, Suite 500, Virginia Beach, VA 23452 or online at www.vbgov.com/cbpa. For information call (757) 385-4621.

NEW BUSINESS AGENDA ITEMS	
<p>1. Skyline Trust [Applicant & Property Owner]</p> <p>3146 Inlet Road GPIN 1489-97-2449 Council District – Lynnhaven Accela Record 2021-CBPA-00009</p> <p>Variance Request – Encroachment into the RPA to redevelop and expand swimming pool & patio, walkways, driveway and boat ramp access.</p> <p>Staff Planner – PJ Scully Staff Report – page 7</p>	
<p>2. Charis Properties LLC [Applicant & Property Owner]</p> <p>465 Goodspeed Road GPIN 2419-41-8184 Council District – Lynnhaven Accela Record 2021-CBPA-00003</p> <p>Variance Request – Encroachment into the RPA with the placement of fill material.</p> <p>Staff Planner – PJ Scully Staff Report – page 21</p>	

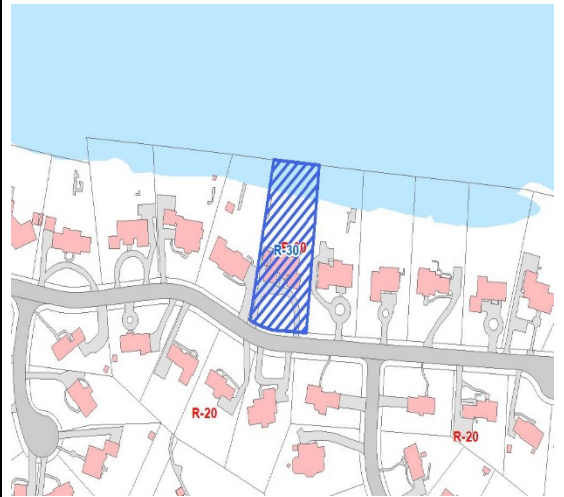
NEW BUSINESS AGENDA ITEMS

3. Steven Quisenberry
[Applicant & Property Owner]

2069 Thomas Bishop Lane
GPIN 1499-66-9714
Council District – Lynnhaven
Accela Record 2021-CBPA-00004

Variance Request – Encroachment into the RPA to construct a retaining wall with associated backfill material.

Staff Planner – PJ Scully
Staff Report – page 33

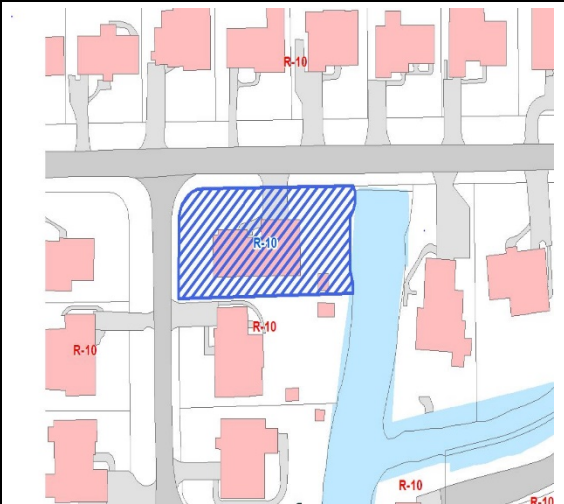


4. Jacob Krawitz & Blake Goldmerstein
[Applicant & Property Owner]

2945 Lynnhaven Drive
GPIN 1499-28-2985
Council District – Lynnhaven
Accela Record 2021-CBPA-00005

Variance Request – Encroachment into the RPA to construct a swimming pool with associated pool deck.

Staff Planner – PJ Scully
Staff Report – page 47

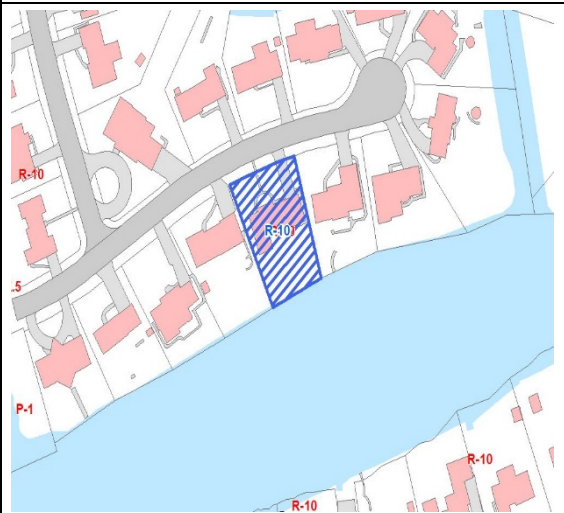


5. Janet & Stephen Morris
[Applicant & Property Owner]

2613 Heston Road
GPIN 1499-79-1287
Council District – Lynnhaven
Accela Record 2021-CBPA-00006

Variance Request – Encroachment into the RPA to construct a swimming pool with associated pool deck.

Staff Planner – PJ Scully
Staff Report – page 49



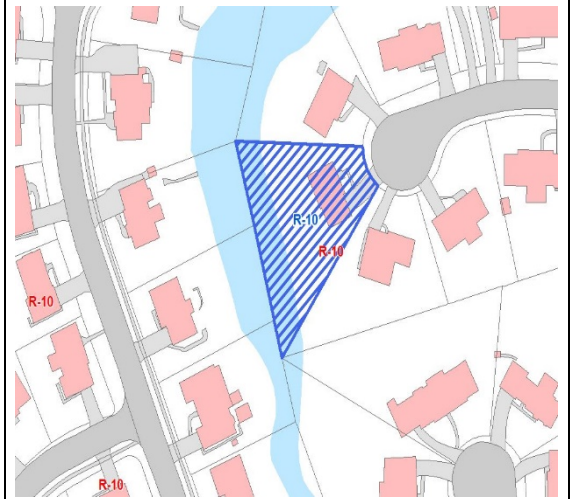
NEW BUSINESS AGENDA ITEMS

6. James & Amanda Vallos
[Applicant & Property Owner]

605 Reazor Drive
GPIN 1466-26-2703
Council District – Kempsville
Accela Record 2021-CBPA-00010

Variance Request – Encroachment into the RPA to construct a pergola, deck area and swimming pool with associated patio area.

Staff Planner – PJ Scully
Staff Report – page 51



Due to the ongoing Covid-19 Pandemic, please check the Chesapeake Bay Preservation Area (CBPA) Board website at www.vbgov.com/cbpa for the most updated meeting information.

PAGE LEFT BLANK



Applicant & Property Owner **Skyline Trust**
Address **3146 Inlet Road**
Public Hearing **March 1, 2021**
City Council District **Lynnhaven**

Agenda Item

1

Variance Request

Encroachment into the Resource Protection Area (RPA) to redevelop and expand swimming pool & patio, walkways, driveway, and boat ramp access.

Applicant's Agent

Eddie Bourdon
Sykes, Bourdon, Ahern & Levy, P.C.

Staff Planner

PJ Scully

Lot Recordation

Map Book 61, Page 16
Recorded 05/05/1964

GPIN

1489-97-2449

SITE AREA

86,671 square feet or 1.99 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

55,103 square feet or 1.265 acres

EXISTING IMPERVIOUS COVER OF SITE

24,593 square feet or 44.6 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

28,693 square feet or 52.6 percent of site

Area of Redevelopment in RPA

14,039 square feet

Area of New Development in RPA

6,365 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

100-foot Variable Width Buffer

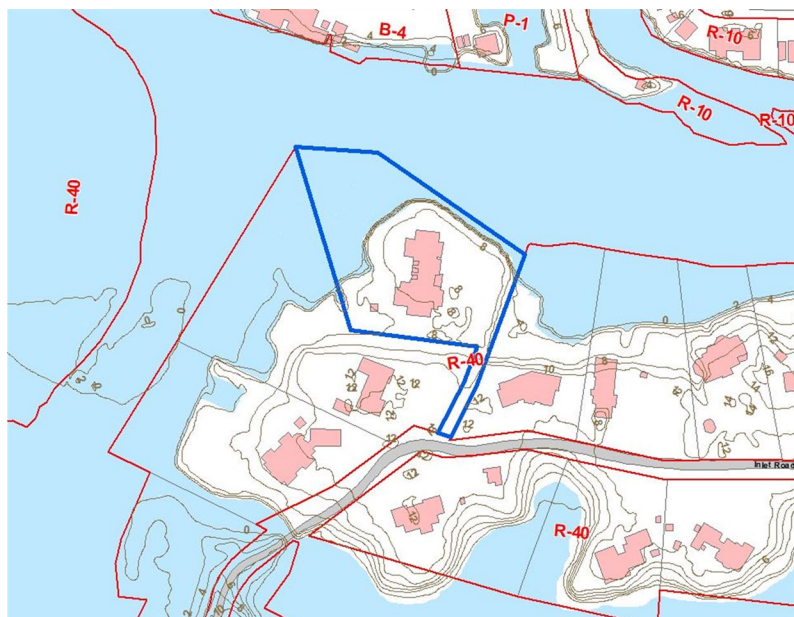
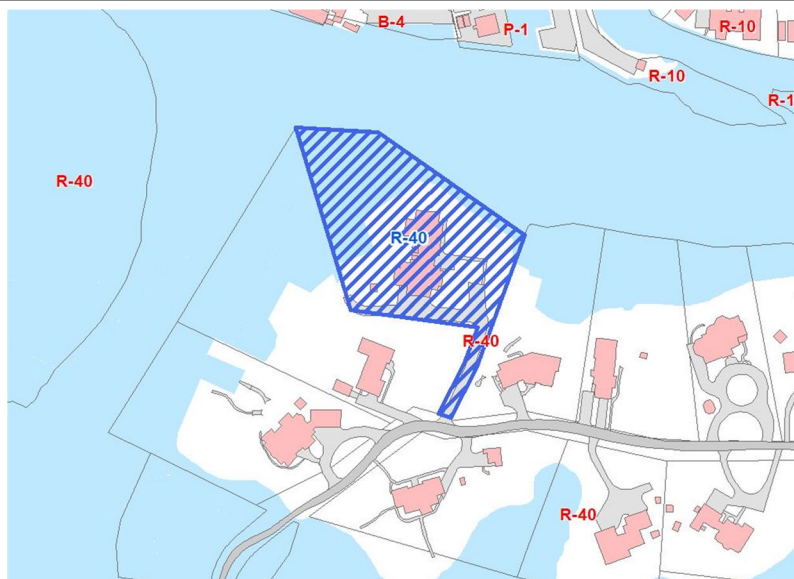
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Driveway and walkways, both concrete and gravel
- Brick building located in the rear yard
- Stone and stucco wall
- Swimming pool with associated paver patio

Construction Details

- Permeable paver driveway – portion of existing driveway layout
- Circular driveway
- Swimming pool with associated pool surround – redevelopment and expansion of existing swimming pool
- Entry court with overhead structure
- Outdoor seating terrace

CBPA Ordinance Variance History

April 26, 1991 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a single-family residence and associated improvements. The April 26, 1991 CBPA Board variance has been acted upon.

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 7 and 8

Soil Type(s)

Udorthents Series (well-drained and moderately well-drained soils)

Tetotum Series (deep, moderately well-drained soils)

Shoreline

Shoreline is hardened by a concrete bulkhead and associated boat ramp.

Riparian Buffer

Sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 1
- Number of existing understory trees requested for removal within the RPA: 11
- Evaluation of existing canopy tree removal request: The understory trees being requested for removal are associated with the existing ornamental landscaping primarily located around the foundation of the existing residence and within the area the existing driveway expansion is proposed.

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. In

In addition, the submitted CBPA Exhibit indicates that portions of the existing driveway will be removed and replaced in the same footprint with permeable pavers, approximately 5,645 square feet.

Evaluation and Recommendation

The variance request proposes to remodel the existing single-family residence and redevelop all the existing accessory structures on the lot. The redevelopment of the existing accessory structures proposes expansions to the existing swimming pool, driveway, front entry, front porches, and walkway around the residence. The redevelopment of the lot increases the amount of overall impervious cover by 4,100 square feet from 24,593 square feet to 28,693 square feet of the lot above water and wetlands. The following provides an analysis towards the use of impervious cover within the 100-foot Resource Protection Area (RPA) for the lot.

	50-foot Seaward Buffer	50-foot Landward Buffer	Total Area
• Removed impervious cover	785 square feet	1,281 square feet	2,066 square feet
• Redevelopment impervious cover	4,273 square feet	9,455 square feet	13,728 square feet
• New impervious cover	2,464 square feet	3,122 square feet	5,586 square feet

Staff is of the opinion that the retention of the existing single-family residence and the extent of redevelopment accounting for approximately 49 percent of the overall impervious cover on the lot challenges the findings of the Chesapeake Bay Preservation Area (CBPA) Ordinance as being the minimum necessary to afford relief when introducing new impervious cover within the RPA. To address this opinion, Staff has provided the recommended conditions below, specifically conditions 3 through 10, that offer a means towards developing this lot in a manner that minimizes land disturbance within the 50-foot seaward buffer, recommends the use of alternative materials for surface applications that promotes the infiltration of rainwater for impervious surfaces being redeveloped and addresses the overall new impervious cover of the lot. In addition, recommended condition 10 addresses the collaboration of the design team, general contractor(s) and Staff prior to the construction of the proposed improvements should the CBPA Board grant a variance for this request. Staff is of the opinion, given the location of the lot and exposure to wind and tidal events that the application sequencing of construction with the maintenance of erosion and sediment control measures is critical towards the variance request not being of substantial detriment to water quality during construction activities with the redevelopment of this lot as proposed.

To support the variance request as submitted, the applicant’s agent provides the following comments relative to the findings of the CBPA Ordinance as merit towards the variance request being in harmony with the 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 within the Lynnhaven River watershed.

- 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; *“the property was platted in 1965 prior to the Chesapeake Bay Preservation Act and the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels.”* 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 extent of redevelopment proposed to the existing conditions of this lot.

- 2) The applicant 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 lot are within the RPA.”* Staff concurs.
- 3) The variance is the minimum necessary to afford relief because *“the owners have designed the improvement over existing structures to the greatest extent practicable to maximize the redevelopment and to minimize site impacts.”* Staff offers with the retention of the existing single-family residence challenging the expansion of existing accessory structures, currently located within the 50-foot seaward buffer of the lot and redevelopment accounting for approximately 49 percent of the overall impervious cover, Staff has conditioned a reduction in the amount of new impervious cover coupled with the use of structural best management practices as a means towards the variance being the minimum necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *“the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels, the site currently does not offer any stormwater mitigation for the bay, however if approved, the proposed redevelopment will be required to have treatment provided between the improvements and the river.”* Staff acknowledges the requirement to treat stormwater with the redevelopment of this lot as a viable means towards providing water quality; however, Staff is of the opinion that the value of establishing a riparian buffer and amended soil profile within the 50-foot seaward buffer are equally beneficial towards stormwater management. In the absence of not redeveloping this legally platted lot, Staff offers that the stormwater management required by the Stormwater Ordinance for this lot coupled with buffer mitigation within the 100-foot RPA buffer and the use of structural best management practices – permeable pavers provides merit towards this variance being in harmony with the purpose and intent of the CBPA Ordinance.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load because *“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 river.”* Staff concurs with the statement provided by the applicant’s agent and offers that the redevelopment of the existing driveway with the use of permeable pavers provides merit towards a series of best management practices managing nonpoint source pollution load over the entire lot.

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

Recommended Conditions

- 1) A 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 in substantial compliance with the conceptual site plan dated January 29, 2020 prepared by WPL as follow.

- Lawn area shall be a maximum of 5,900 square feet
- Buffer restoration areas shall be equal to 20,627 square feet and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable consisting of **10 canopy trees, 15 understory trees, 60 large shrubs, and 90 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 28,000 square feet of the lot above water and wetlands.
- 5) The following areas of the existing driveway shall be constructed out of a permeable pavement system.
 - The stem portion of the existing driveway from Inlet Road to the proposed circular driveway.
 - The parking area adjacent to the existing garage and driveway to the existing boat ramp as shown on the conceptual site plan dated January 29, 2020 prepared by WPL.

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.

- 6) The new impervious cover and the areas of redeveloped impervious cover shall be constructed concurrent.
- 7) 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 proposed improvements than 10 feet.
 - Along the remaining portions of the property the required silt fence shall be installed 15 feet from all proposed improvements.
- 8) 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.
- 9) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 10) A pre-construction meeting shall be held with the CBPA Inspector, CBPA Staff, the applicant's design team (Engineer of Record and Landscape Architect) and the Contractor(s) hired for the construction of the proposed improvements to review the approved site plan and sequence of construction in the field prior to any land disturbance, including demolition.
- 11) 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.**
- 12) 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.

- 13) 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.
- 14) 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.
- 15) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 16) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,458.64 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) It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
- 18) This variance and associated conditions **will supersede** the Board variance granted April 26, 1991.
- 19) The conditions and approval associated with this variance are based on the exhibit plan dated May 15, 2020, prepared by WPL, signed January 29, 2021 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.

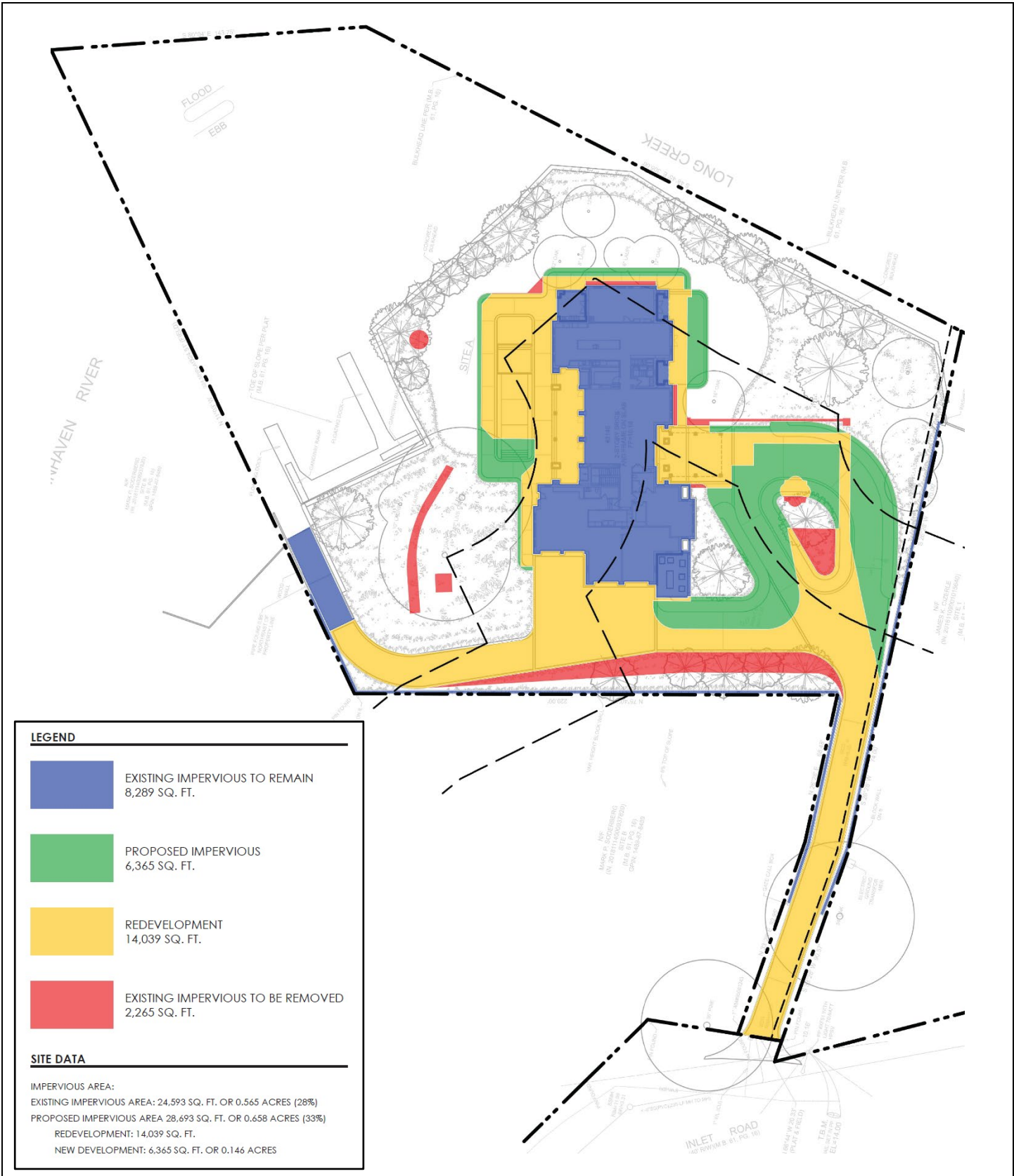
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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

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 Skyline Trust

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)

Skyline Trust - Bessy Wong, Managing Member

- If yes, list the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

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 & Hanbury

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.

R. Edward Bourdon, Jr. Esquire

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
Bessy Wong, Managing Member of Skyline Trust

Print Name and Title
12/30/2020

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	



Applicant & Property Owner **Charis Properties LLC**
Address **465 Goodspeed Road**
Public Hearing **March 1, 2021**
City Council District **Lynnhaven**

Agenda Item

2

Variance Request

Encroachment into the Resource Protection Area (RPA) with the placement of fill material.

Applicant's Agent

Billy Garrington
Governmental Permitting Consultants

Staff Planner

PJ Scully

Lot Recordation

Map Book 41, Page 2
Recorded 3/01/1956

GPIN

2419-41-8184

SITE AREA

58,874.7 square feet or 1.35 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

49,496.8 square feet or 1.13 acres

EXISTING IMPERVIOUS COVER OF SITE

14,517.9 square feet or 29.3 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

14,517.9 square feet or 29.3 percent of site

Area of Redevelopment in RPA

4,200 square feet of fill material

Area of New Development in RPA

0 square feet

Location of Proposed Impervious Cover

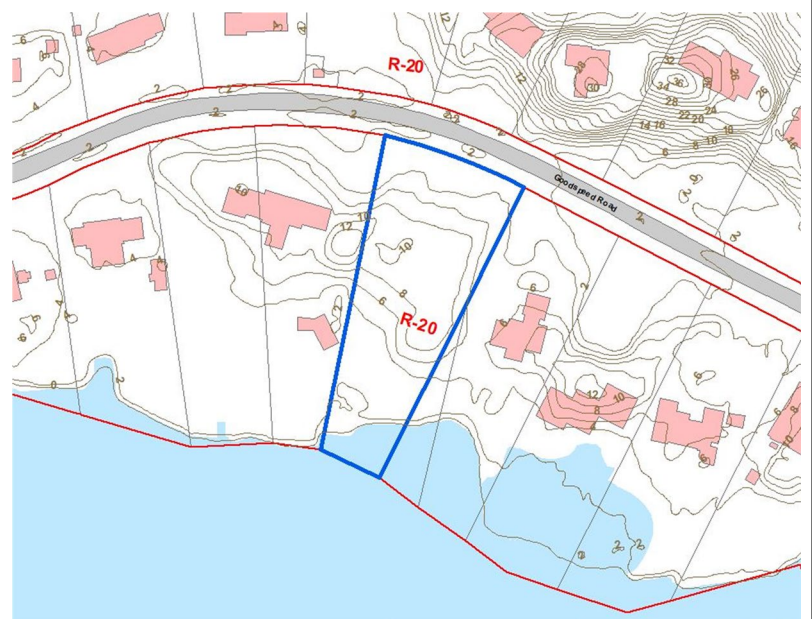
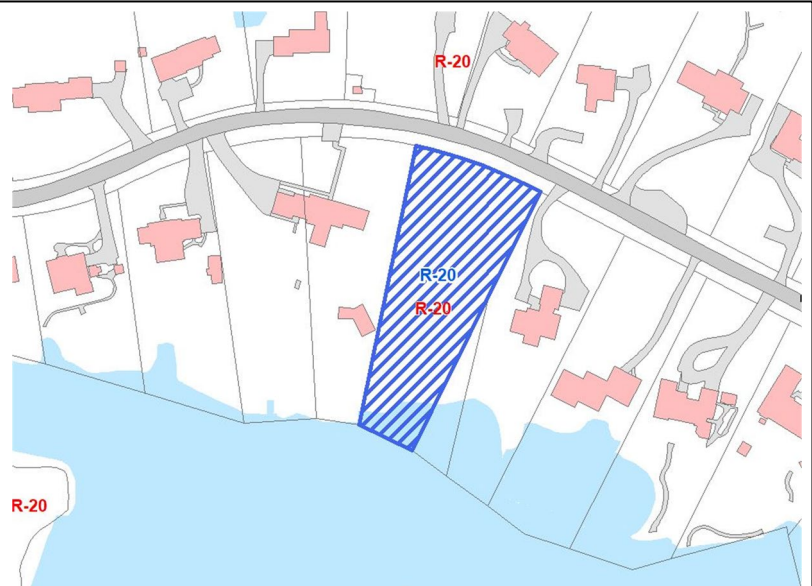
50-foot Seaward Buffer
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- 4,200 square feet of fill material in the 100-foot Resource Protection Area (RPA) buffer

CBPA Ordinance Variance History

A Chesapeake Bay Preservation Area (CBPA) Administrative variance was granted in 2013 for the redevelopment and construction of a new single-family residence with associated accessory structures within the 100-foot CBPA Variable Width Buffer and Resource Management Area (RMA) of the Chesapeake Bay watershed.

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 6

Soil Type(s)

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

Psammets Series (well-drained and moderately well-drained soils, sandy material)

Shoreline

Shoreline is hardened by a low-profile riprap revetment with high marsh vegetation present along the landward edge of the riprap.

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 soil amendments will be provided as a best management practice for stormwater run-off mitigation.

Evaluation and Recommendation

The applicant is proposing to place fill material within the 100-foot RPA buffer over an area of existing turf to improve drainage within a portion of the rear yard of the subject lot. The area of proposed fill material is approximately 4,200 square feet, as provided in the Water Quality Impact Assessment (WQIA) with an approximate depth of 8 inches that slopes to meet existing grade elevation along the perimeter of the fill material area. The applicant's agent also provided in the WQIA that soil amendments will be provided as a best management practice as a means to prevent the variance request from contributing to an increase in nonpoint source pollution load. Staff offers that soil restoration is an environmental site design practice with the intent to provide soil porosity by amending existing soils with compost. When applied, soil composting can provide reduction to upland runoff.

Staff is of the opinion, from a site specific analysis perspective that allowances for activities that adapt or address climate change impacts may be valid only if the activities provide requirements towards best management practices that reduce runoff, prevent erosion and filter nonpoint source pollution. As submitted, the proposed area of fill material does not propose removal of existing canopy tree cover and would alter the existing slope of this portion of the rear yard by approximately 2 percent.

The applicant's agent is of the opinion that consideration has been given to future migration of the floodplain, water level and migration of existing marsh by not introducing any structural improvements or impervious cover with this variance request. Staff offers that an allowance towards adaptive activities within the RPA to address current environmental conditions should only be considered if the preservation of existing vegetation, particularly mature canopy trees is provided and the incorporation of natural measures such as planting of vegetation is conditioned towards reestablishing the ecological benefit of the coastal ecosystem. Providing such measures, water quality has the potential to improve while allowing the RPA to function as intended by not introducing an extensive amount of fill material or severely altering existing topographic conditions.

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) The applicant's agent provides that granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *"no special privileges are taken here, we are bringing a reasonable request for the Board to review."* Staff offers that the proposed request limits the amount of fill material to a portion of the existing lot and does not propose to remove any mature canopy trees from the lot. To further address this variance request, Staff has provided the recommended conditions below as a means towards balancing this allowance of fill material within the RPA while providing adaptive mitigation measures towards enhancing the existing environmental conditions of the shoreline.
- 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 because *"this is an existing area that has not been touched other than sodding/ planting during construction."* Staff offers that the encroachment into the RPA on this lot is not based upon the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"we are trying to do the minimum amount of filling to fix a problem."* Staff is of the opinion that the depth of the proposed fill material – approximately 8 inches that slopes to meet existing grade elevation along the perimeter of the fill material area and minimal alteration to the existing slope within the area provides merit towards being the minimal necessary to afford relief.
- 4) The applicant's agent provides that the variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"this project will have no effect on any neighbors or the Bay itself."* Staff offers that the proposed limits of the fill material are approximate 5 feet off the east property line of the lot and approximately 5 feet to 23 feet off the western property line. In addition, the area along the western property line that is landward of the existing low-profile riprap will remain in a natural state. Said area accounts for approximately 3,500 square feet.

- 5) The applicant's agent provides as a means to manage towards a no net increase in nonpoint source pollution load, "*there is no change to the point of pollutant from what exists.*" Staff offers that the incorporation of natural measures such as planting of vegetation as conditioned below towards reestablishing the ecological benefit of the coastal ecosystem provides merit towards a no net increase in nonpoint source pollution load.

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

Recommended Conditions

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required buffer restoration and stormwater management facilities shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior restoration requirements shall be installed if not present.
- 3) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 4) Buffer restoration shall be installed equal to 3,500 square feet within the 100-foot RPA buffer.

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs, grasses and groundcovers suitable for the existing grade elevations and environmental conditions to the greatest extent practicable to establish a suitable wetland community based on elevation (i.e. high marsh, transition, shrub, upland, etc.). Required restoration shall specify perennial, shrub and tree species and provide the required form / size (i.e. bare root, container, etc.) for each.

Buffer restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Large canopy trees shall not be planted within 30 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

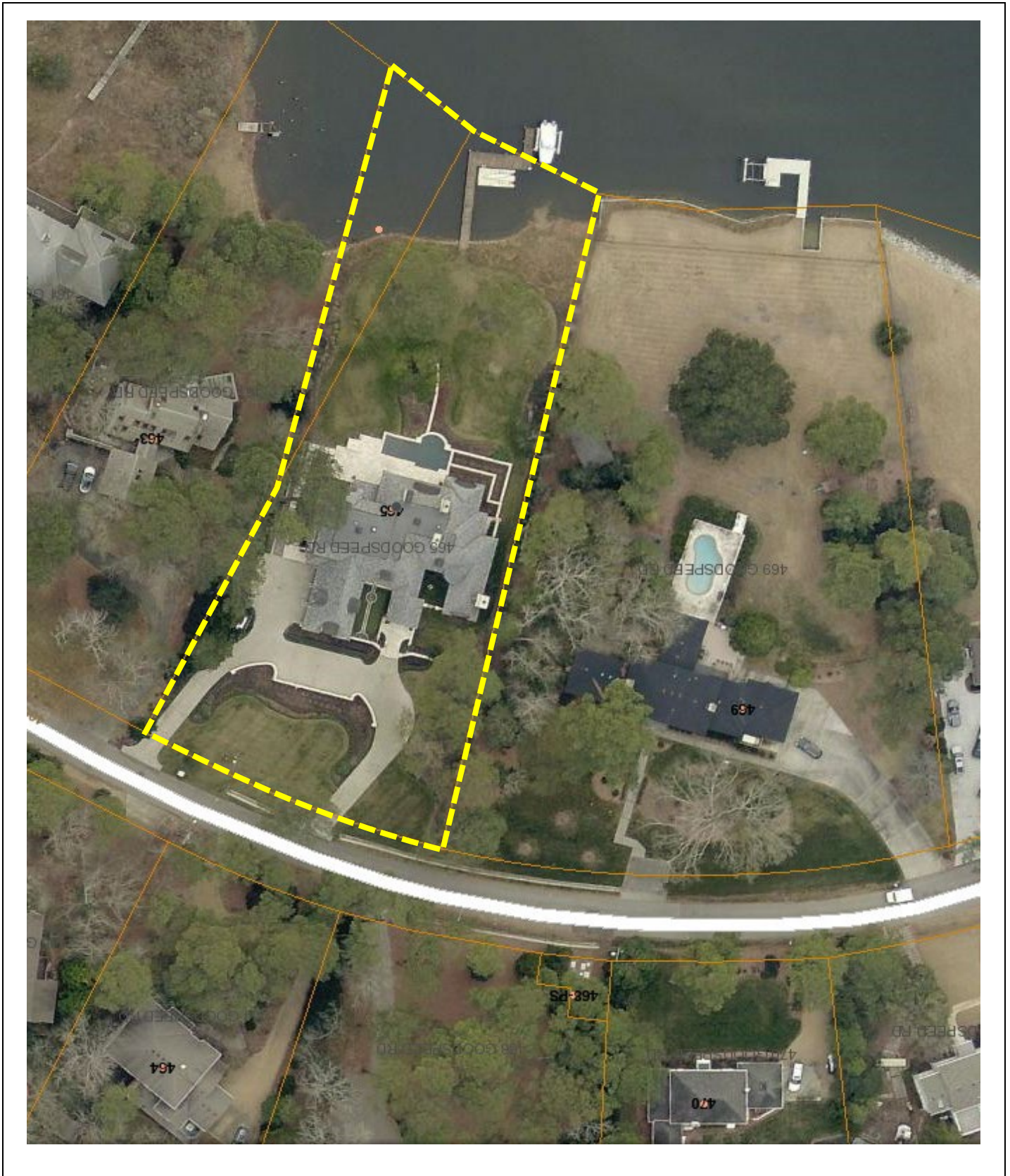
- 5) Soil compost amendments shall be provided for the area of fill material consistent with the VA DEQ Stormwater Design Specifications for physical feasibility and design applications.
- 6) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 7) An erosion and sediment control blanket, suitable for longer-term use shall be installed over the area of fill material and associated land disturbance. Said material shall be secured using a peg, staple or stake per manufacturer recommendations and a vegetative cover provided so that the areas of disturbance have a complete vegetative cover post-construction.

- 8) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 9) 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.
- 10) 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.**
- 11) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 5 feet from improvements.
- 12) Construction limits along the seaward portion of the project shall lie a maximum of 5 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 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. Payment shall be in the amount of \$962.50 and is based on 25 percent of the proposed fill material area 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 February 12, 2021, prepared by Siska Aurand Landscape Architects. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

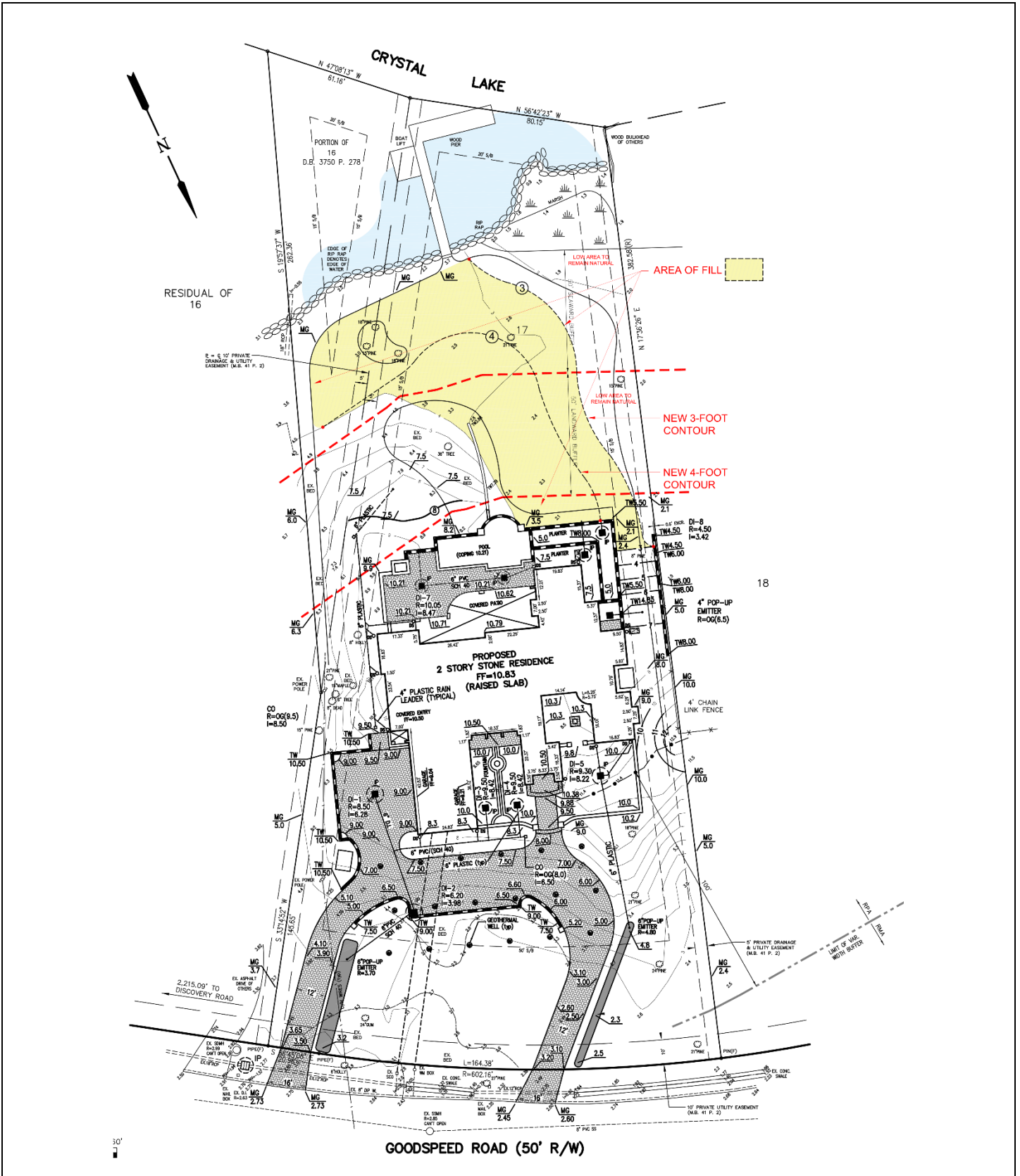
**** NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

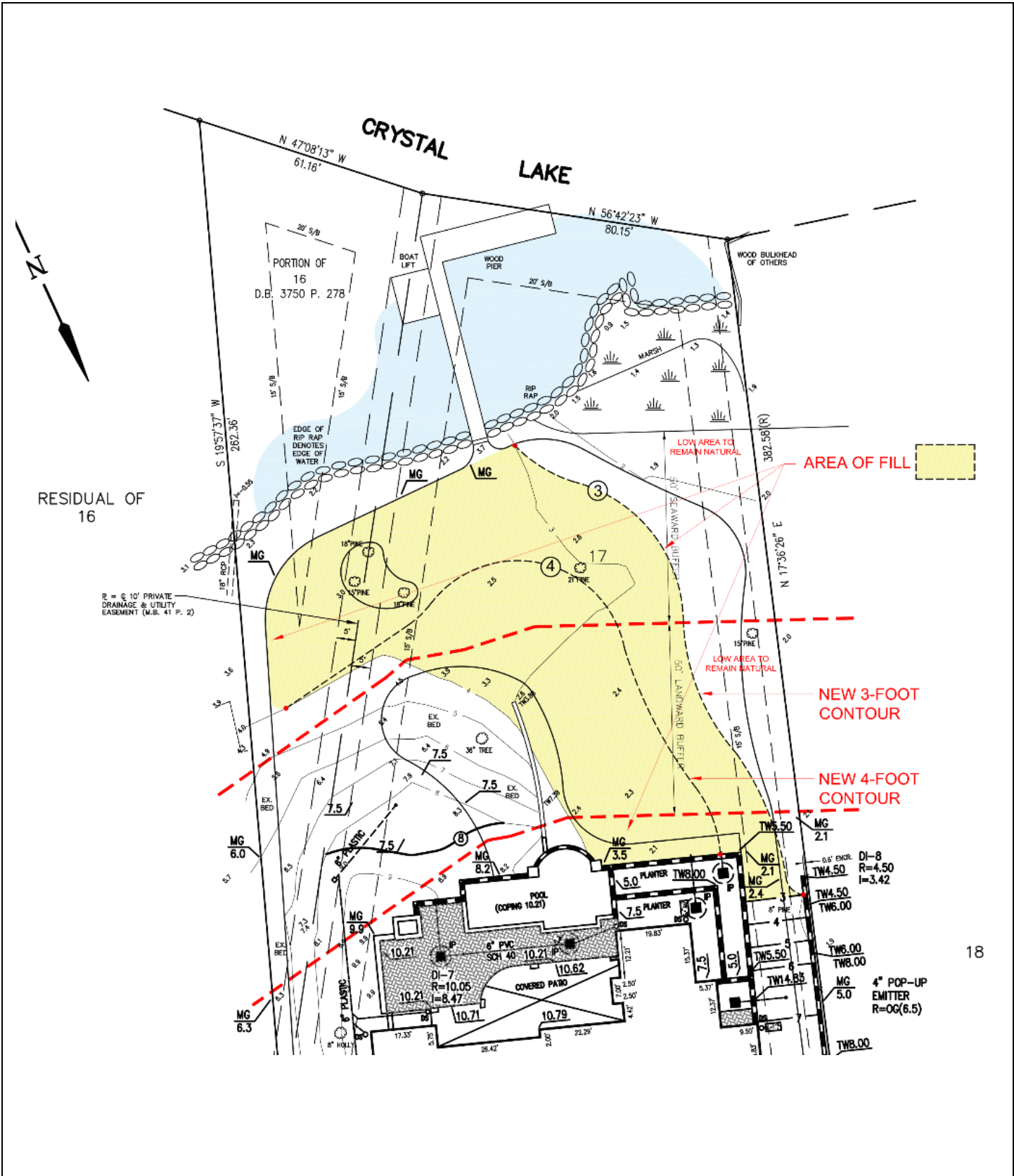
Site Aerial



CBPA Exhibit – Proposed Improvements



CBPA Exhibit – Enlarged View



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 Charis Properties LLC

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

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

John 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)

- If **yes**, list the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

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 providing the service.

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 company and individual providing the service.

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 and 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 and individual providing the service.

Siska Aurand

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 company and individual providing the service.
No, but we intend to put this out to bid

- 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 firm and individual providing the service.
But Bruce Gallup did original submittal

- 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 firm and individual providing the service.

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.

Lewis Webb, Manager
Applicant Signature
Lewis Webb, Manager
Print Name and Title
2/4/2021
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	

AS NEEDED, PAGE LEFT BLANK



Applicant & Property Owner **Steven Quisenberry**
Address **2069 Thomas Bishop Lane**
Public Hearing **March 1, 2021**
City Council District **Lynnhaven**

Agenda Item

3

Variance Request

Encroachment into the Resource Protection Area (RPA) to construct a retaining wall with associated backfill material.

Applicant's Agent

Bob Simon
Waterfront Consulting, Inc.

Staff Planner

PJ Scully

Lot Recordation

Map Book 127 Page 26
Recorded 6/9/1978

GPIN

1499-66-9714

SITE AREA

38,838 square feet or 0.89 acre

SITE AREA OUTSIDE OF WATER/WETLANDS

32,498 square feet or 0.75 acre

EXISTING IMPERVIOUS COVER OF SITE

10,206 square feet or 31.4 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

10,346 square feet or 31.8 percent of site

Area of Redevelopment in RPA

1,805 square feet of fill material

Area of New Development in RPA

140 square feet

Location of Proposed Impervious Cover

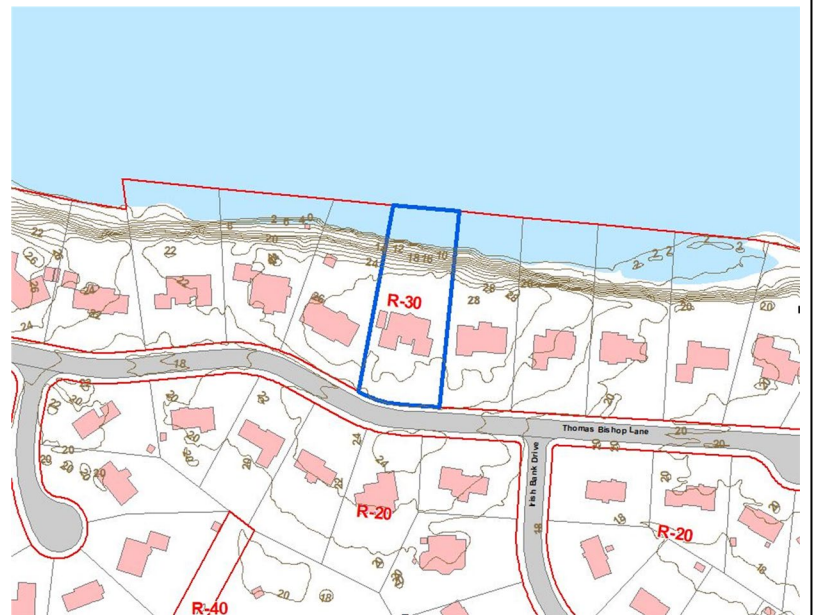
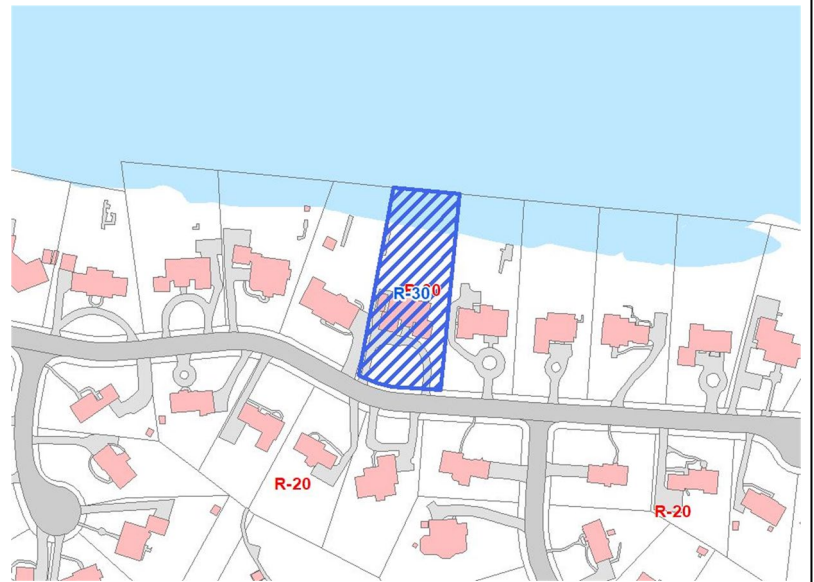
50-foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Deny as submitted



Summary of Proposal

Construction Details

- Gravity block retaining wall
- 1,805 square feet of fill material in the 100-foot Resource Protection Area (RPA) buffer

CBPA Ordinance Variance History

April 28, 2014 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted to construct a swimming pool, square off the existing deck, add a second-floor deck and half bath with the following conditions:

1. *A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.*
2. *Land disturbance shall be limited to the area necessary to provide for the proposed use or development.*
3. *Wire re-enforced 36" erosion and sedimentation control measures (silt fences), shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed 10 ft. from proposed improvements. Best management practices for erosion and sediment control shall be employed during restoration activities to protect adjacent wetlands and shorelines of water bodies.*
4. *Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline (to the greatest extent practicable) of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.*
5. *Prior to the issuance of any certificate of occupancy, or the final release of any permit authorizing a land disturbing activity, all disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations by such methods as, but not limited to, temporary seeding, permanent seeding, sodding or soil stabilization blankets and matting. The Building Code Official may authorize a temporary certificate of occupancy without the required soil stabilization if the failure to stabilize is due to circumstances beyond the control of the permit holder.*
6. *Construction limits shall lie a maximum of 10' outboard of improvements.*
7. *The construction access way shall be noted on the site plan, as well as the stockpile / staging area.*
8. *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.*
9. *A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed. The landscape plan shall clearly delineate existing naturalized (trees, landscaping and mulched organic surfaces) areas, planting beds, and turf zones.*
10. *A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.*

11. *The conditions and approval associated with this variance are based on the site plan prepared by Sea View Consulting; LLC dated February 18, 2014 and sealed February 25, 2014 by Gregory O. Milstead.*
12. *Stormwater runoff from areas of either existing or proposed impervious cover equal to the amount of proposed impervious cover shall be conveyed to stormwater management facilities. Low maintenance best management practices shall be employed to the maximum extent practicable. Stormwater facilities shall be installed prior to the certificate of occupancy or release of the building permit.*
13. ***As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$43.99 and is based on 25% of the proposed impervious cover within the RPA, inclusive of the variable width portion of the buffer. Said payment shall provide for the equivalent of an approximate 48 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
14. *Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA (192 sq. ft. x 200% = 384 sq. ft.) and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance. The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.*
15. *Buffer restoration shall be installed equal to 100% of the proposed area of redevelopment within the RPA (232 sq. ft. x 100% = 232 sq. ft.) and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance. The required restoration shall be located within the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit. In lieu of 100% restoration for redevelopment areas, a 10% reduction in pollutant removal load is acceptable via a structural BMP.*
16. *It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.*
17. *This variance supersedes all prior variances.*

Portions of the April 28, 2014 CBPA Board granted variance have been acted upon and the associated improvements constructed.

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

Shoreline

Shoreline is hardened with a wood bulkhead

Riparian Buffer

Sparsely Wooded Lot

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

Stormwater Management Methodology

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

Evaluation and Recommendation

The applicant is proposing to construct a retaining wall and place fill material within the 100-foot RPA buffer over an area of existing turf to reduce the slope of and stabilize the existing bank on the subject lot. The applicant's agent provided in the Water Quality Impact Assessment (WQIA) that the height of the proposed retaining wall will be approximately 4 feet and the associated area of proposed fill material approximately 1,805 square feet. Staff is of the opinion that the desired use to amend the slope of the existing bank and stabilize the area landward of the retaining wall with turf proposed by this variance request does not meet the findings of the Chesapeake Bay Preservation Area (CBPA) Ordinance, specifically Section 110 (H)(3) that the variance is the minimum necessary to afford relief. Aside from the variance request being an attempt to provide a safety measure along the top of bank feature given the severity of the existing slope, much of the 50-foot landward buffer is currently devoted to turf and provides ample area towards the use of this lot for single-family residential development.

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 proposed retaining wall is similar slope stabilization as both adjoining properties and may other properties on Thomas Bishop lane."* Staff acknowledges the statement provided by the applicant's agent; however, even though the request to construct a retaining wall as a means to stabilize the existing slope is similar to both adjoining properties, Staff is of the opinion that the type of request – encroachment into the 50-foot seaward buffer with an accessory structure and associated land disturbance warrants additional consideration beyond the necessity of providing a structural improvement such as a retaining wall given the severity of the existing slope.
- 2) The 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 topography of the site has not been altered since the lot was created."* Staff is of the opinion that the area of the proposed improvements appear to be stable and other portions of the 100-foot RPA buffer provide ample use of this lot for single-family residential development.

Steven Quisenberry

Agenda Item 3

Page 36

- 3) The variance is the minimum necessary to afford relief because *“the proposed retaining wall footprint is only 140 sf.”* Staff is of the opinion that while the proposed impervious cover is minimal, the amount of land disturbance and location of the proposed retaining wall within an area of the lot that has a slope of approximately 38 percent does not reflect the minimum necessary to afford relief standard.
- 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 slope stabilization will reduce/halt sediment run off into Broad Bay.”* Staff does acknowledge that reducing the slope of the lot in the subject area would slow the velocity of stormwater run-off; however, Staff is of the opinion that the severity of the existing slope and associated land disturbance during construction may contribute more to the detriment of water quality due to direct discharge into the adjacent waterway and has provided the recommended condition 5 and 6 below for the CBPA Board’s consideration.
- 5) *“The slope stabilization will reduce/halt sediment run off into Broad Bay”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion that if executed properly and managed, both pre- and post- construction of the proposed improvements off a means towards managing the lot towards a no net increase in nonpoint pollution load.

Given the above comments and Staff’s recommendation for this variance request as submitted, Staff provides the following 14 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality for the Board’s deliberation.

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.
- 3) 1,805 square feet of buffer restoration shall be installed. 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. 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 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 proposed retaining wall shall be located at the midpoint of the existing deck with an alignment that is parallel to the existing topography of the bank.

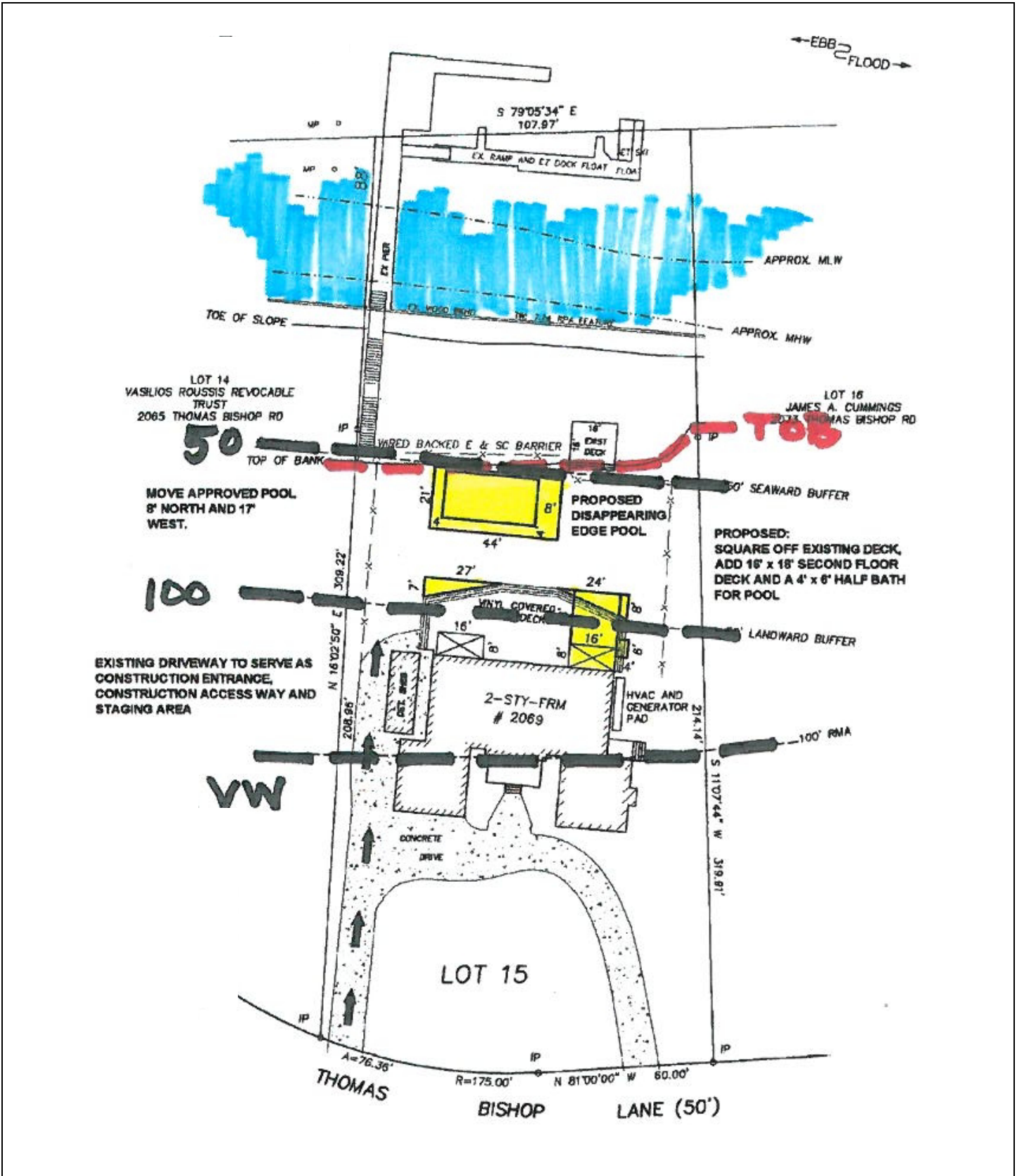
- 5) An erosion and sediment control blanket, suitable for areas that require higher flow rates, steeper slopes, or longer-term use shall be installed over all areas of disturbed land both seaward and landward of the retaining wall. Said material shall be secured using a peg, staple or stake per manufacturer recommendations and a vegetative cover provided so that the areas of disturbance have a complete vegetative cover post-construction.
- 6) The area of land seaward of the retaining wall shall remain in a "cover crop" vegetative cover such as grasses or perennial legumes that provides an active root system in the soil that holds the soil from water erosion while above ground growth shields soil movement from wind erosion and rainfall splatter to minimize soil movement.
- 7) Soil compost amendments shall be provided for the area of fill material consistent with the VA DEQ Stormwater Design Specifications for physical feasibility and design applications
- 8) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 9) 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.
- 10) 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.**
- 11) 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.
- 12) Construction limits shall be contained within the limits of the silt fence.
- 13) ****** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$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.
- 14) 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.

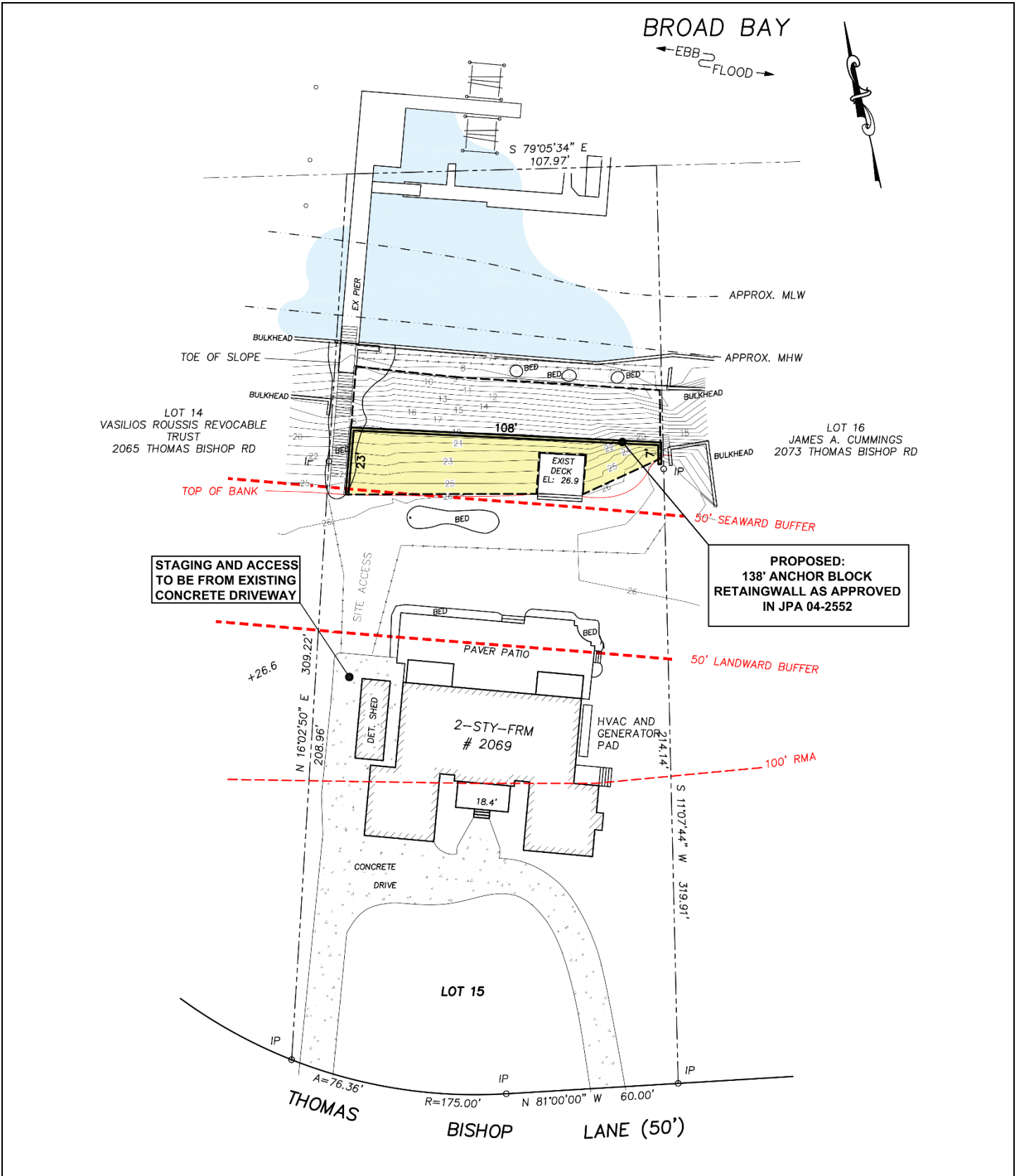
*******NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of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

Site Aerial



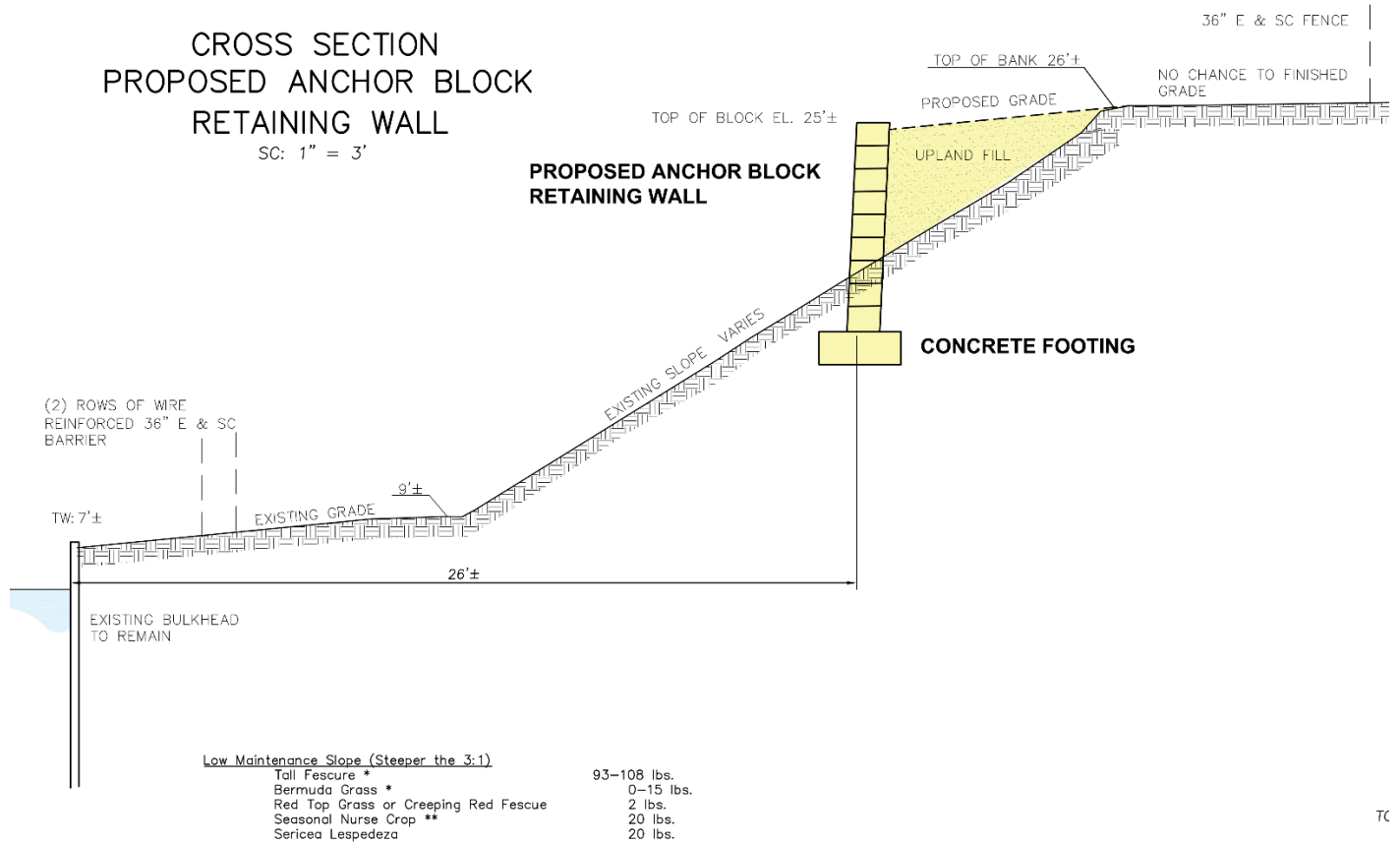


CBPA Exhibit – Proposed Improvements



CBPA Exhibit – Retaining Wall Cross Section/Elevation View

CROSS SECTION PROPOSED ANCHOR BLOCK RETAINING WALL SC: 1" = 3'



TC

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 Steven C Quisenberry

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-subsiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

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.

United Mortgage, WV

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.

Ed Jones, Jones, Madden & Council, P.C.

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

Steven C Quisenberry

Print Name and Title

01/13/2021

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	

AS NEEDED, PAGE LEFT BLANK



**The applicant is requesting a deferral of this application to the April 5, 2021 CBPA Board Public Hearing.
Staff supports the request to defer.**

Variance Request
 Encroachment into the Resource Protection Area (RPA) to construct a swimming pool with associated pool deck.

Applicant's Agent
 Billy Garrington
 Governmental Permitting Consultants

Staff Planner
 PJ Scully

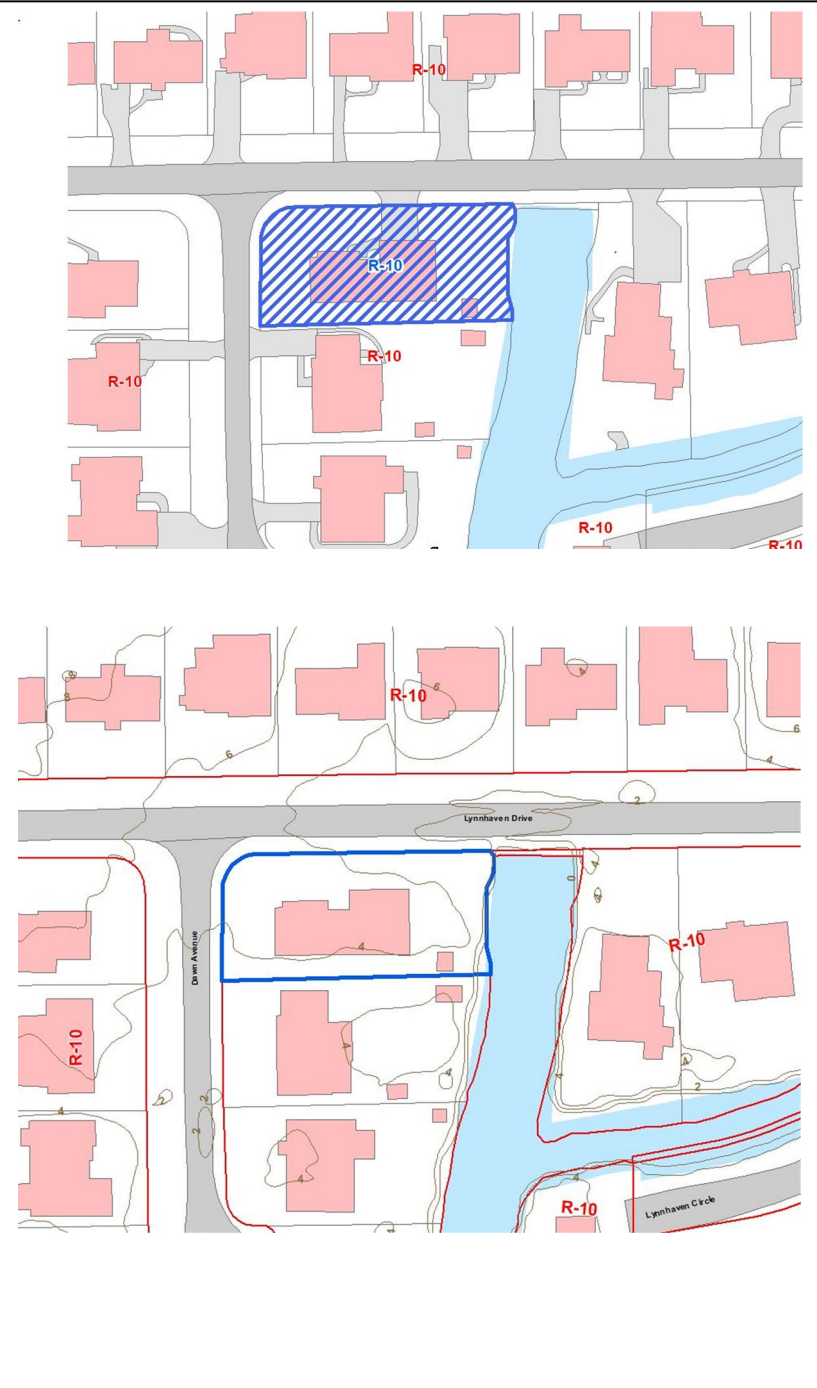
Lot Recordation
 Map Book: 37 Page: 7
 Recorded 9/9/1954

GPIN
 1499-28-2985

SITE AREA
 13,628 square feet or 0.313 acre

SITE AREA OUTSIDE OF WATER/WETLANDS
 13,501 square feet or 0.310 acre

EXISTING IMPERVIOUS COVER OF SITE
 4,219 square feet or 31.2 percent of site



Site Aerial





Applicant & Property Owner **Janet & Stephen Morris**
Address **2613 Heston Road**
Public Hearing **March 1, 2021**
City Council District **Lynnhaven**

Agenda Item

5

The applicant is requesting a deferral of this application to the April 5, 2021 CBPA Board Public Hearing.
Staff supports the request to defer.

Variance Request

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

Applicant's Agent

Billy Garrington
Governmental Permitting Consultants

Staff Planner

PJ Scully

Lot Recordation

Map Book 86, Page 33
Recorded 4/29/1971

GPIN

1499-79-1287

SITE AREA

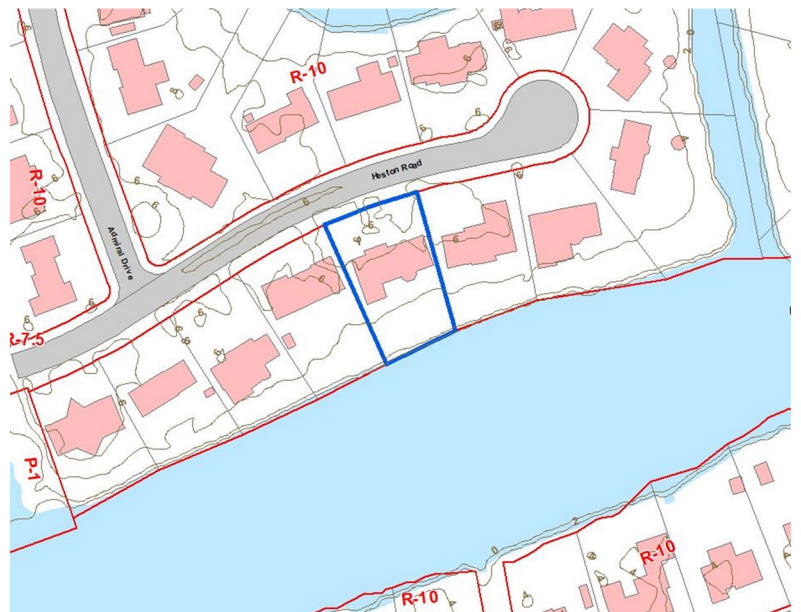
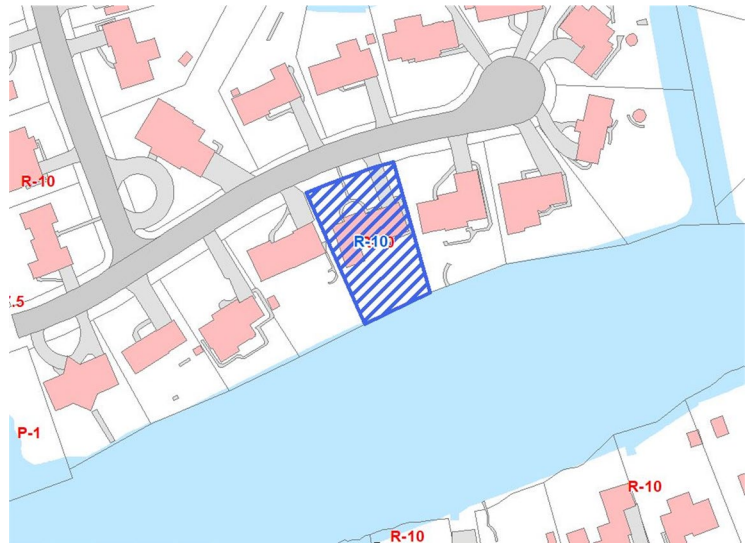
15,577 square feet or 0.358 acre

SITE AREA OUTSIDE OF WATER/WETLANDS

15,577 square feet or 0.358 acre

EXISTING IMPERVIOUS COVER OF SITE

5,365 square feet or 34.4 percent of site



Site Aerial





Applicant & Property Owner **James & Amanda Vallos**
 Address **605 Reasor Drive**
 Public Hearing **March 1, 2021**
 City Council District **Kempsville**

Agenda Item

6

Variance Request

Encroachment into the Resource Protection Area (RPA) to construct a covered patio, swimming pool with associated patio area, retaining wall and walkways

Applicant's Agent

Billy Garrington
 Governmental Permitting Consultants

Staff Planner

PJ Scully

Lot Recordation

Map Book 99, Page 18
 Recorded 9/11/1975

GPIN

1466-26-2703

SITE AREA

21,235 square feet or 0.487 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

12,320 square feet or 0.283 acres

EXISTING IMPERVIOUS COVER OF SITE

3,195 square feet or 25.9 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

4,010 square feet or 30.7 percent of site

Area of Redevelopment in RPA

531 square feet

Area of New Development in RPA

771 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

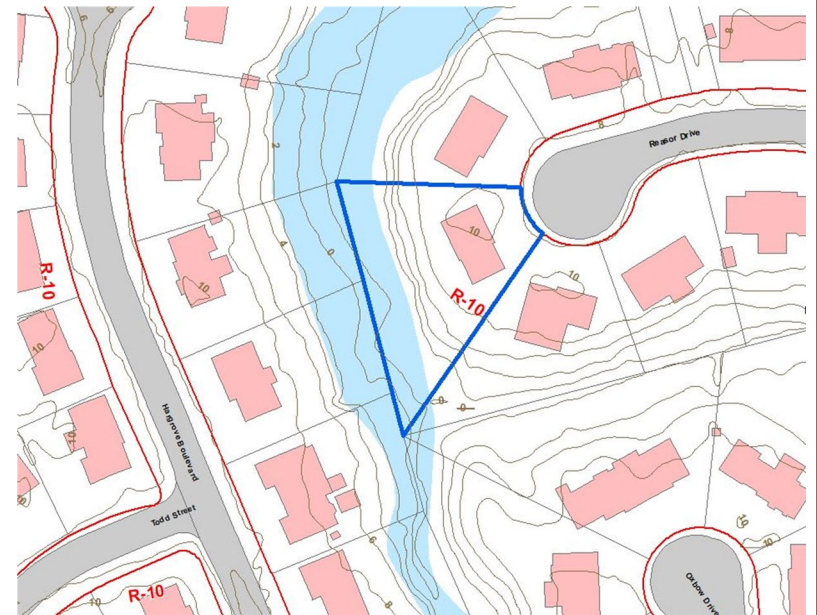
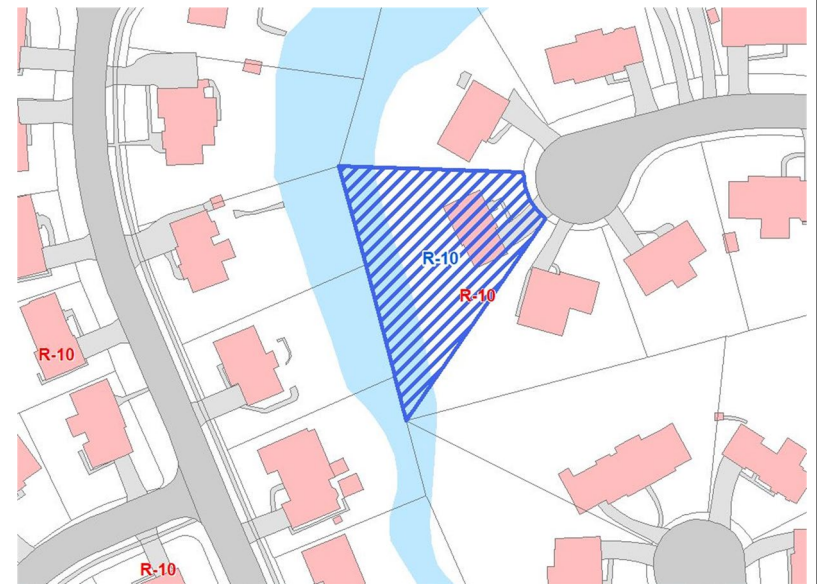
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Remove existing wood deck and concrete sidewalks

Construction Details

- Pergola structure with associated deck
- Swimming pool and hot tub with associated paver patio and retaining wall
- Paver walkway

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Multiple Zones – Zone AE, Base Flood Elevation (BFE): 8 and 0.2 percent annual chance of flooding

Soil Type(s)

Yeopim Series (deep and moderately well-drained soils)

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

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Heavily to moderately wooded lot

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

Stormwater Management Methodology

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

Evaluation and Recommendation

The applicant is proposing to construct accessory structures consisting of a swimming pool (approximately 212 square feet) and pergola (approximately 285 square feet) with associated patio areas within the 50-foot seaward buffer of the RPA of this lot, which was platted in 1975, prior to the adoption of the CBPA Ordinance. The proposed swimming pool will include a retaining wall along the seaward edge to minimize the limits of impervious cover within the RPA and to limit fill material along the top of bank feature.

Given the unique geometry of the platted lot and existing environmental conditions of the property – topography and location of the 100 foot RPA buffers – Staff supports the application as submitted with the recommended conditions below and is of the opinion that said improvements will not contribute to the degradation of water quality or prove detrimental to the resource protection area features

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 property was platted in 1972 prior to the Chesapeake Bay Preservation Act and the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels.”* Staff offers that limiting the proposed improvements with the introduction of a retaining wall and primarily focusing the improvements landward of the top of bank feature; given the unique geometry of the lot provides merit towards not conferring upon the applicant any special privilege.
- 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 property was platted in 1972 and the existing topography and buffers as required by the Chesapeake Bay Preservation Act require the property to seek variance approvals.”* Staff concurs.
- 3) The variance is the minimum necessary to afford relief because *“the owners have designed the improvement over existing structures to the greatest extent practicable to maximize the redevelopment and to minimize site impacts above the top of bank.”* Staff concurs.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *“the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels, the site currently does not offer any stormwater mitigation for the bay, however if approved, the proposed redevelopment will be required to have treatment provided between the improvements and the river.”* Staff concurs.
- 5) The applicant’s agent provides that *“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 river”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff concurs.

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

Recommended Conditions

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

- 3) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **771 square feet x 200 percent = 1,542 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 understory trees 8 large shrubs and 12 small shrubs.**

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

- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 7) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 10 feet from improvements.
- 9) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.

- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 13) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
- 14) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 15) The conditions and approval associated with this variance are based on the exhibit plan dated September 16, 2020, prepared by WPL, signed January 29, 2021 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

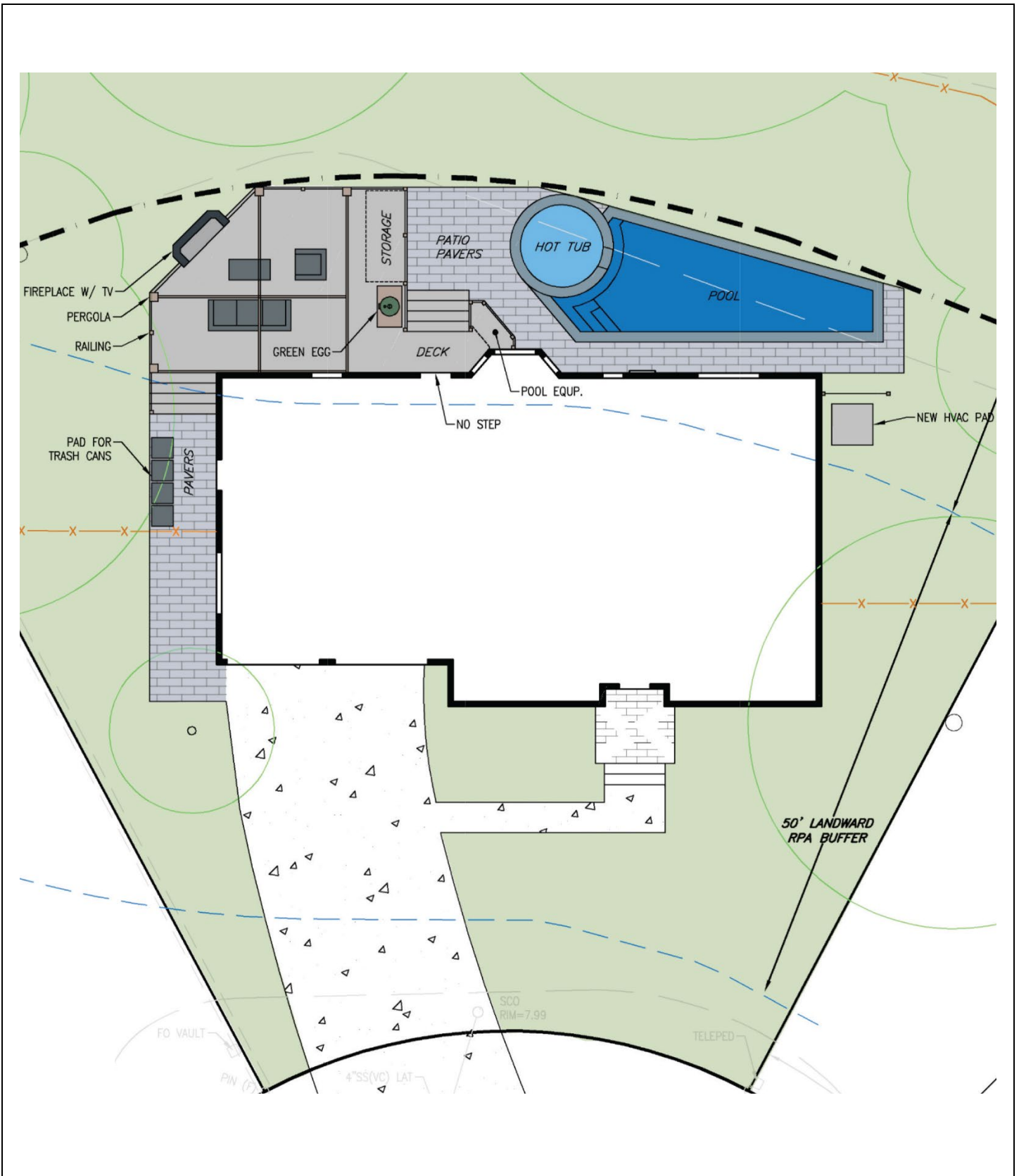
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

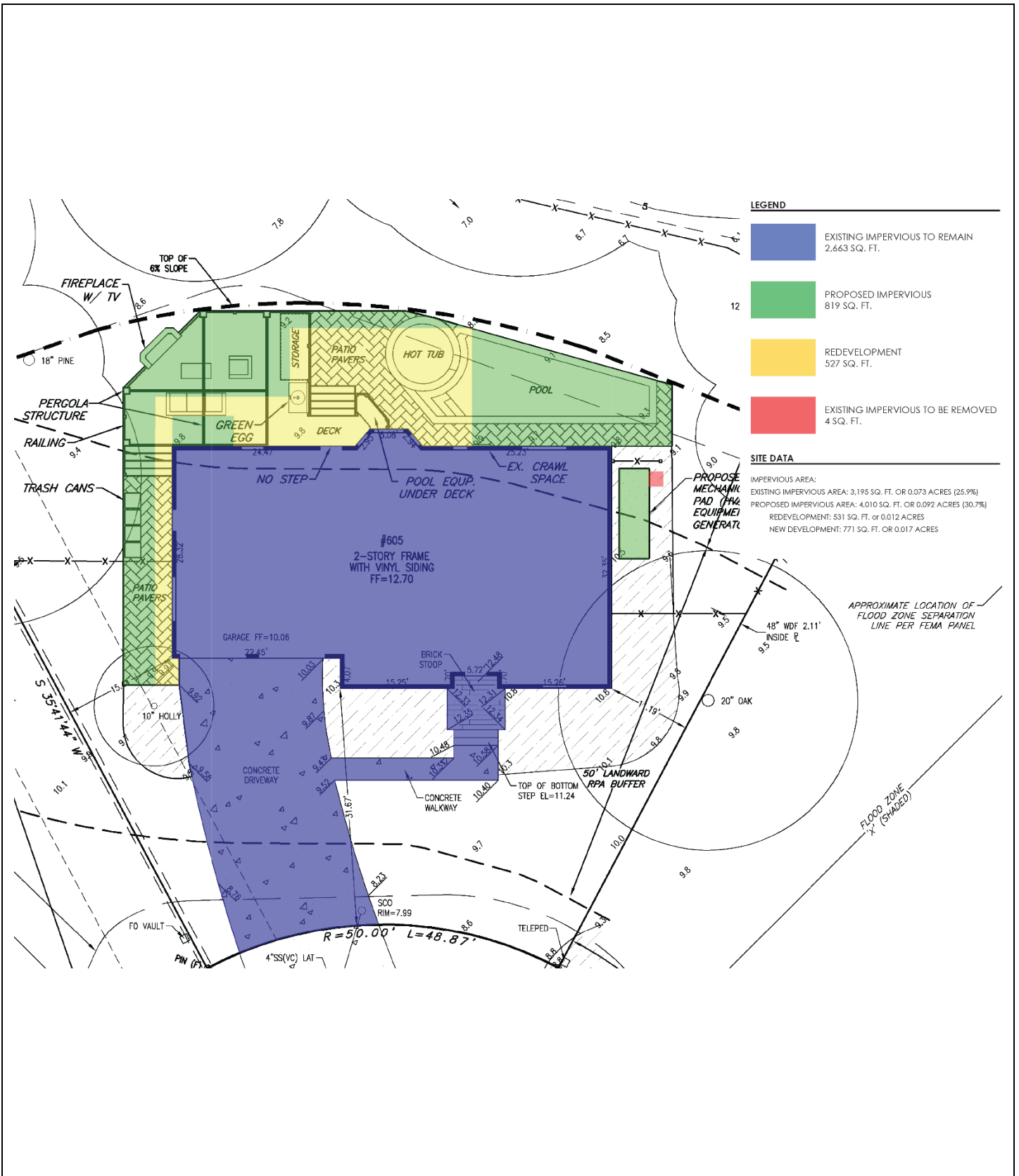
Site Aerial



CBPA Exhibit – Color Rendering



CBPA Exhibit – Color Analysis



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 James Vallos & Amanda Lynn Vallos

Does the applicant have a representative? Yes No

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

Billy Garrington, GPC, 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-subsiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

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.

NEWREZ, LLC

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.**



Applicant Signature

James Vallos & Amanda Lynn Vallos

Print Name and Title

Date 2/3/2021

- 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	

AS NEEDED, PAGE LEFT BLANK