

Chesapeake Bay Preservation Area Board Agenda

July 8, 2021

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CHESAPEAKE BAY PRESERVATION AREA BOARD

NOTICE OF PUBLIC HEARING

A Public Hearing of the Virginia Beach Chesapeake Bay Preservation Area Board will be held on Thursday, July 8, 2021 at 10:00 a.m. in the Council Chamber - City Hall, Bldg. 1 Municipal Center, Virginia Beach, VA.

An informal session will be held the same day at 9:00 a.m. in the Council Chamber - City Hall, Bldg. 1 Municipal Center, Virginia Beach, VA. During the informal session, Staff briefs the Board on agenda items. All interested persons are invited to attend. There is no opportunity for citizenry to speak at the briefing session; however, the public is invited to speak at the formal CBPA Board Public Hearing that follows. For information or to examine copies of proposed plans, ordinances or amendments call (757) 385-4621 or go to www.vbgov.com/cbpa or visit the Department of Planning and Community Development, 2875 Sabre Street, Suite 500, Virginia Beach, Virginia by appointment.

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

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

THE FOLLOWING DESCRIBES THE ORDER OF BUSINESS FOR THE PUBLIC HEARING

(IF YOU 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 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.

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.



CHESAPEAKE BAY PRESERVATION AREA BOARD AGENDA

Public Hearing Date **July 8, 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.

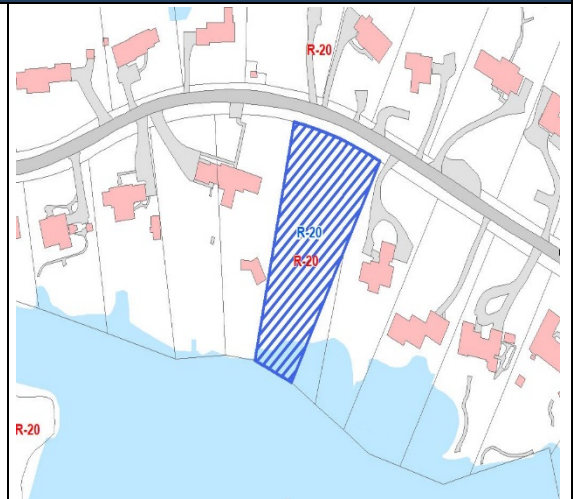
OLD BUSINESS AGENDA ITEMS

1. Charis Properties, LLC
[Applicant & Property Owner]

465 Goodspeed Road
GPIN 2419-41-8184
Council District – Lynnhaven
Accela Record 2021-CBPA-00003

Variance Request – Encroachment into the Resource Protection Area (RPA) 50-foot seaward buffer with the placement of fill material.

Staff Planner – PJ Scully
Staff Report – page 5

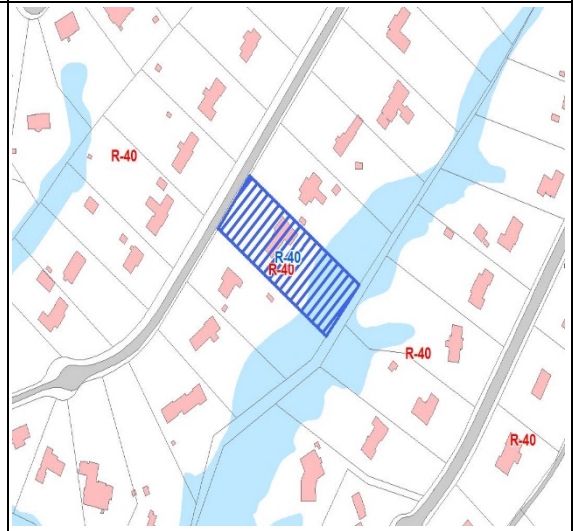


2. Melanie Haga & Ryan Dunlap
[Applicant & Property Owner]

1028 Michaelwood Drive
GPIN 1488-55-3453
Council District – Lynnhaven
Accela Record 2021-CBPA-00023

Variance Request – Encroachment into the RPA to construct a garage addition with gravel drive, covered porch, paver area, swimming pool and walkway to dock.

Staff Planner – PJ Scully
Staff Report – page 7



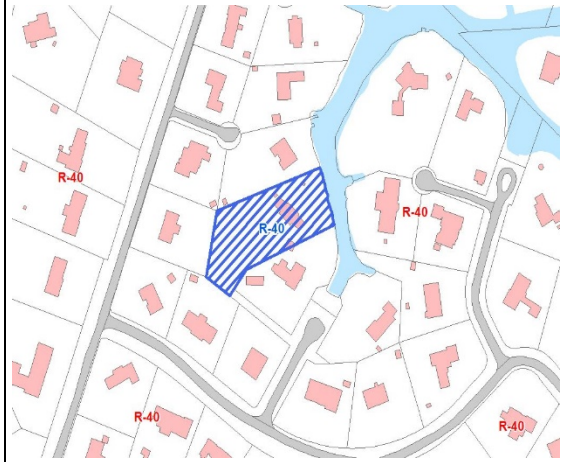
NEW BUSINESS AGENDA ITEMS

3. Scott & Kelly Polinkas
[Applicant & Property Owner]

3428 Misty Place
GPIN 1488-67-8184
Council District – Lynnhaven
Accela Record 2021-CBPA-00040

Variance Request – Encroachment into the RPA to construct a covered deck with fireplace.

Staff Planner – Chuck Payne
Staff Report – page 19

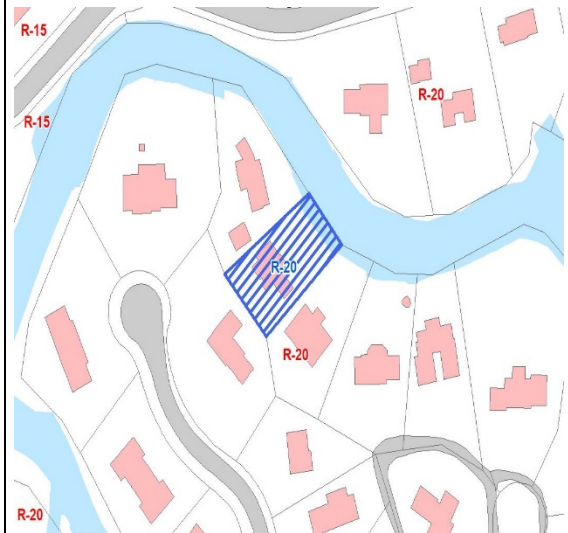


4. Lionel N. Jacob
[Applicant & Property Owner]

446 Discovery Road
GPIN 2419-51-8757
Council District – Lynnhaven
Accela Record 2021-CBPA-00039

Variance Request – Encroachment into the RPA to construct a new driveway, gravel guest parking space, patio area with associated steps and retaining walls and pathway to dock.

Staff Planner – PJ Scully
Staff Report – page 31

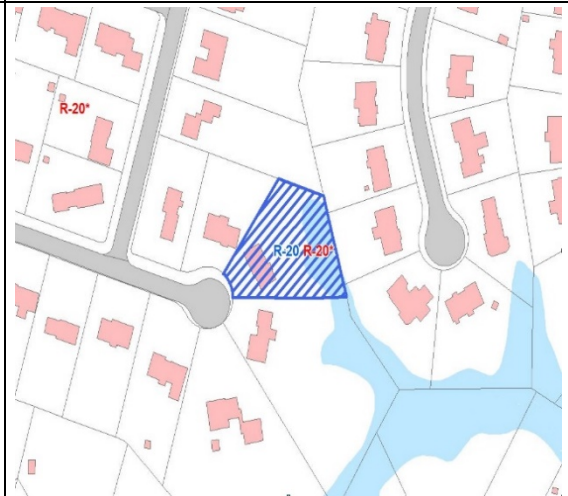


5. Douglas & Mary Elizabeth Law
[Applicant & Property Owner]

3300 Regent Park Walk
GPIN 1498-06-0225
Council District – Lynnhaven
Accela Record 2021-CBPA-00038

Variance Request – Encroachment into the RPA to construct a paver patio area, grill area with steps, retaining wall with associated backfill.

Staff Planner – Cole Fisher
Staff Report – page 43





Applicant & Property Owner **Charis Properties, LLC**
 Address **465 Goodspeed Road**
 Public Hearing **July 8, 2021**
 City Council District **Lynnhaven**

Agenda Item

1

The applicant is withdrawing the variance request. Staff supports the withdrawal request.

Variance Request

Encroachment into the Resource Protection Area (RPA) 50-foot seaward buffer with the placement of fill material.

The variance request was deferred at the following CBPA Board Public Hearings.

- March 1, 2021 CBPA Board Public Hearing.
- May 3, 2021 CBPA Board Public Hearing.

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

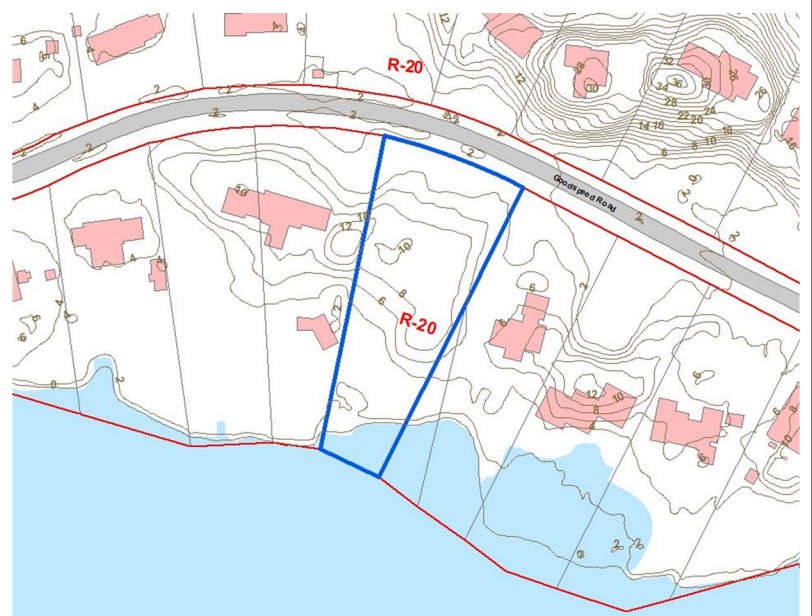
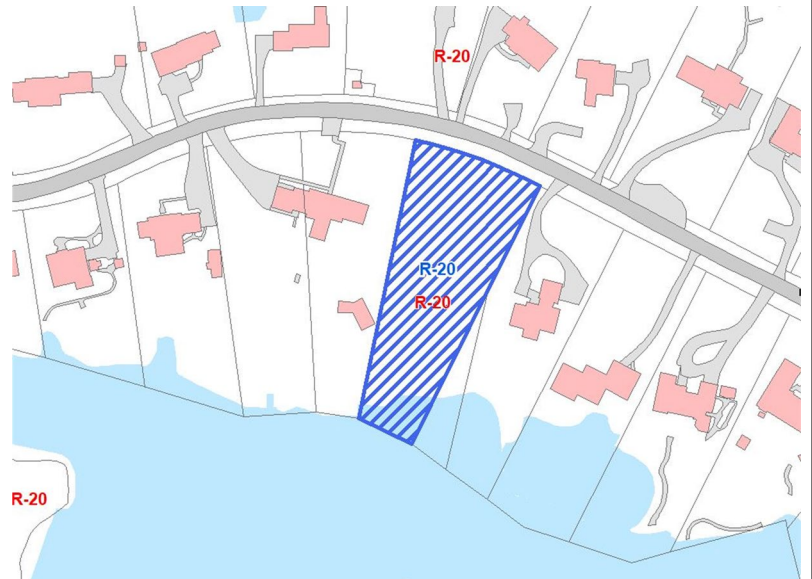
58,874.7 square feet or 1.35 acres

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



Site Aerial





Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a garage addition with gravel drive, covered porch, paver area, swimming pool and walkway to dock.

Applicant's Agent

Beth Anne Campbell
MidAtlantic Surveying and Land Design

Staff Planner

PJ Scully

Lot Recordation

Map Book 31 Page 51
Recorded 3/11/1954

GPIN

1488-55-3453

SITE AREA

60,377 square feet or 1.386 acre

SITE AREA OUTSIDE OF WATER/WETLANDS

41,666 square feet or 0.957 acres

EXISTING IMPERVIOUS COVER OF SITE

8,247 square feet or 19.8 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

13,483 square feet or 32.3 percent of site

Area of Redevelopment in RPA

1,340 square feet

Area of New Development in RPA

3,429 square feet

Location of Proposed Impervious Cover

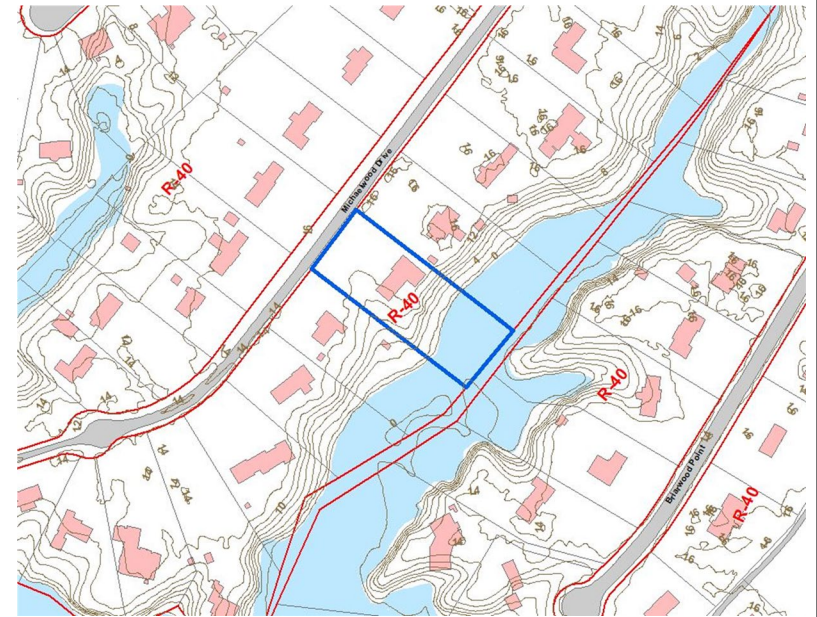
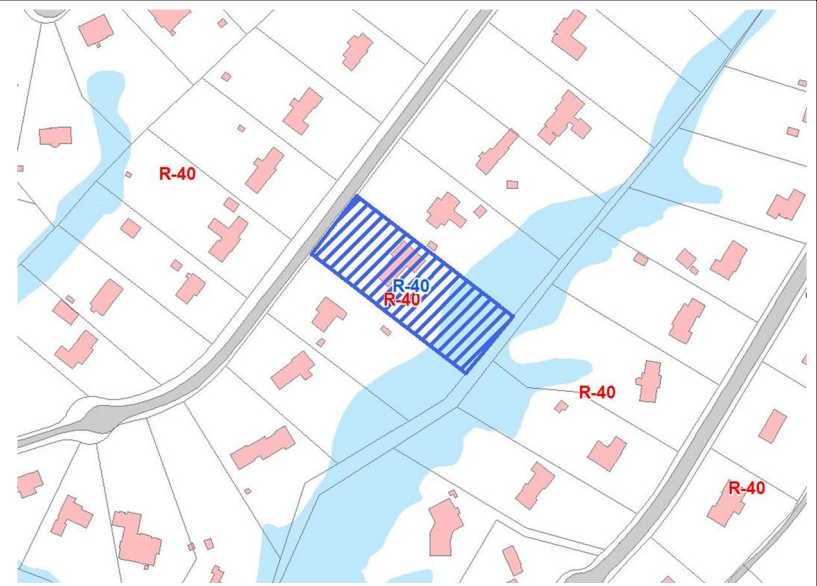
- 50-foot Seaward Buffer
- 50-foot Landward Buffer
- 100-foot Variable Width Buffer
- Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Remove concrete walk, brick patio and concrete fire pit pad

Construction Details

- Garage addition
- Gravel driveway
- Covered porch
- Swimming pool and hot tub with paver patio
- Stepped wood walkway to dock

CBPA Ordinance Variance History

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

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

- May 3, 2021 CBPA Board Public Hearing

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

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

Rappahannock Series (deep and poorly drained soils) located adjacent to the shoreline

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Moderately wooded lot

- Number of existing canopy trees requested for removal within the RPA: 9
- Number of understory trees requested for removal within the RPA: 3
- Evaluation of existing canopy tree removal request: The majority of the trees being removed are within the upper reach of the 100-foot Resource Protection Area (RPA) buffer and the City's 100-foot variable width buffer. Those trees within the 100-foot RPA buffer are either located in the footprint of the proposed improvements or within the delineated limits of associated land disturbance. Given the age of the trees and proximity of the critical root zone massing to the associated land disturbance, Staff is of the opinion that the preservation of these trees is not suitable for long-term conservation. For those trees being preserved that are adjacent to the proposed improvements that may have areas of the critical root zones impacted by construction irrigation or a method of providing a slow water application to the root system during land disturbing activities should be provided. Providing irrigation will aid in the preservation of the mature trees and should be monitored based on seasons.

Melanie Haga & Ryan Dunlap

Agenda Item 2

Page 8

Stormwater Management Methodology

The applicant's agent has stated in the Water Quality Impact Assessment (WQIA) for this variance request that sand and gravel underdeck treatment and preservation of existing riparian buffer will be provided as a best management practice for stormwater run-off mitigation. Given the amount of land disturbance associated with the proposed improvements, a site plan review compliant with the City's Stormwater Management Ordinance will be required.

Evaluation and Recommendation

The rear portion of the property is moderately shaded by mature canopy cover with minimal to no trophic layering of understory vegetation present other than turf grass within the 100-foot Resource Protection Area (RPA). As stated in the Environmental Conditions section of this report, many of the trees being removed are within the upper reach of the 100-foot RPA buffer and the City's 100-foot variable width buffer. The overall condition and health of these trees exhibit signs of decline due to age with several areas of abnormal branching variations within the existing tree canopy.

After the May 2021 CBPA Board public hearing deferral request, Staff met with the applicant and applicant's agents at the property to discuss the intent of the Chesapeake Bay Preservation Area (CBPA) Ordinance in relation to applicant's desire to redevelop the lot. At that meeting, Staff expressed consideration should be taken to the following items when revising the CBPA Exhibit.

- The overall proposed impervious cover on the lot in relation to the existing environmental conditions of the RPA buffer and existing impervious cover conditions on adjacent lots.
- The use of existing impervious cover on the lot towards the overall redevelopment of new impervious cover quantities and location of proposed improvements within the 100-foot RPA buffer.
- Minimizing impacts to the existing top of bank feature and retaining the vegetative cover present along the existing bank within the 50-foot seaward buffer.

Since said meeting, the following revisions have been made to the submitted CBPA Exhibit:

- A reduction in the amount of overall impervious cover on the lot from 14,508 square feet to 13,483 square feet. The 1,025 square foot reduction in the amount of overall impervious cover occurs primarily within two areas of the lot. The first area is located along the northern side of the existing residence within the upper reach of the 50-foot landward buffer specific to the proposed hardscape area. The second area is located along the front of the residence associated with the existing gravel driveway. Reductions have been provided to the overall size of the proposed gravel driveway redevelopment within the upper reach of the variable width buffer and Resource Management Area (RMA) of the Chesapeake Bay watershed.

The applicant provides the following comments relative to the findings of the CBPA Ordinance as merit towards the variance request being in harmony with the purpose and intent of the CBPA Ordinance and believes that the construction of the proposed improvements are appropriate towards the redevelopment of this lot based on the following.

- 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 majority of homes along Michaelwood Dr. contain pools, patios, walking paths to the waters, etc., in similar nature to this request."* Staff supports the statement provided by the applicant and provides that most of the residential development along Michaelwood Drive occurred in the early 1960's. Since that time and the City's adoption of the CBPA Ordinance, approximately seven CBPA Variances along Michaelwood Drive have been granted.

- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because *“the site as platted was inherently inside what is now known as the Chesapeake Bay Buffer area.”* Staff concurs.
- 3) The variance is the minimum necessary to afford relief because *“construction, where possible, is occurring in the front of the house; all other proposed items are kept as far away from the water as possible.”* Staff acknowledges the statement provided by the applicant; however, the proposed improvements increase the overall amount of impervious cover on the lot by approximately 2,475 square feet. Although not all of the proposed improvements are located within the 100-foot RPA, Staff is of the opinion that the extent of the proposed paver area adjacent to the swimming pool within the 100-foot RPA buffer challenges the minimum necessary to afford relief. As such, Staff has provided the recommended condition 1 below that *“the maximum impervious cover of the lot above water and wetlands shall not exceed 12,500 square feet or 30 percent”* and recommended condition 2 that *“all proposed improvements, exclusive of the stepped wood walkway to dock shall be landward of the 50-foot seaward buffer”* for the Board’s deliberation.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *“this request will improve the neighborhood by adding value to the home. All stormwater will be channeled to the public system where possible and filtered through strategic plantings where not possible.”* Staff is of the opinion that the natural shoreline coupled with the creation of a riparian buffer ecosystem within the 50-foot seaward buffer with the conditioned buffer mitigation would provide substantial water quality benefits by slowing runoff velocities and allowing sediment and attached pollutants to infiltrate prior to discharge into the adjacent waterways.
- 5) *“All storm water will be channeled to the public system where possible and filtered through strategic plantings where not possible”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion that the review of the site plan, implementation of erosion and sediment control measure, stormwater management practices being introduced on the lot and situating the proposed improvements in an area currently devoted to turf offers merit towards the proposed improvements being a no net increase in nonpoint source pollution load.

Given the above comments, Staff recommends the following 18 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

- 1) The maximum impervious cover of the lot above water and wetlands shall not exceed 12,500 square feet or 30 percent.
- 2) All proposed improvements, exclusive of the stepped wood walkway to dock shall be landward of the 50-foot seaward buffer.
- 3) 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.
- 4) 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.

- 5) Buffer restoration shall be installed equal to 3,429 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: **9 canopy trees, 9 understory trees, 18 large shrubs, and 27 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.

- 6) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 7) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 8) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 9) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 10) 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.
- 11) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
- 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 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) Under deck treatment of sand and gravel shall be installed under all wood walkways and landings.
- 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 \$785.81 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 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) The conditions and approval associated with this variance are based on the exhibit plan dated March 18, 2021, prepared by MidAtlantic Surveying and Land Design, signed March 21, 2021 by Beth Anne G. Campbell. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

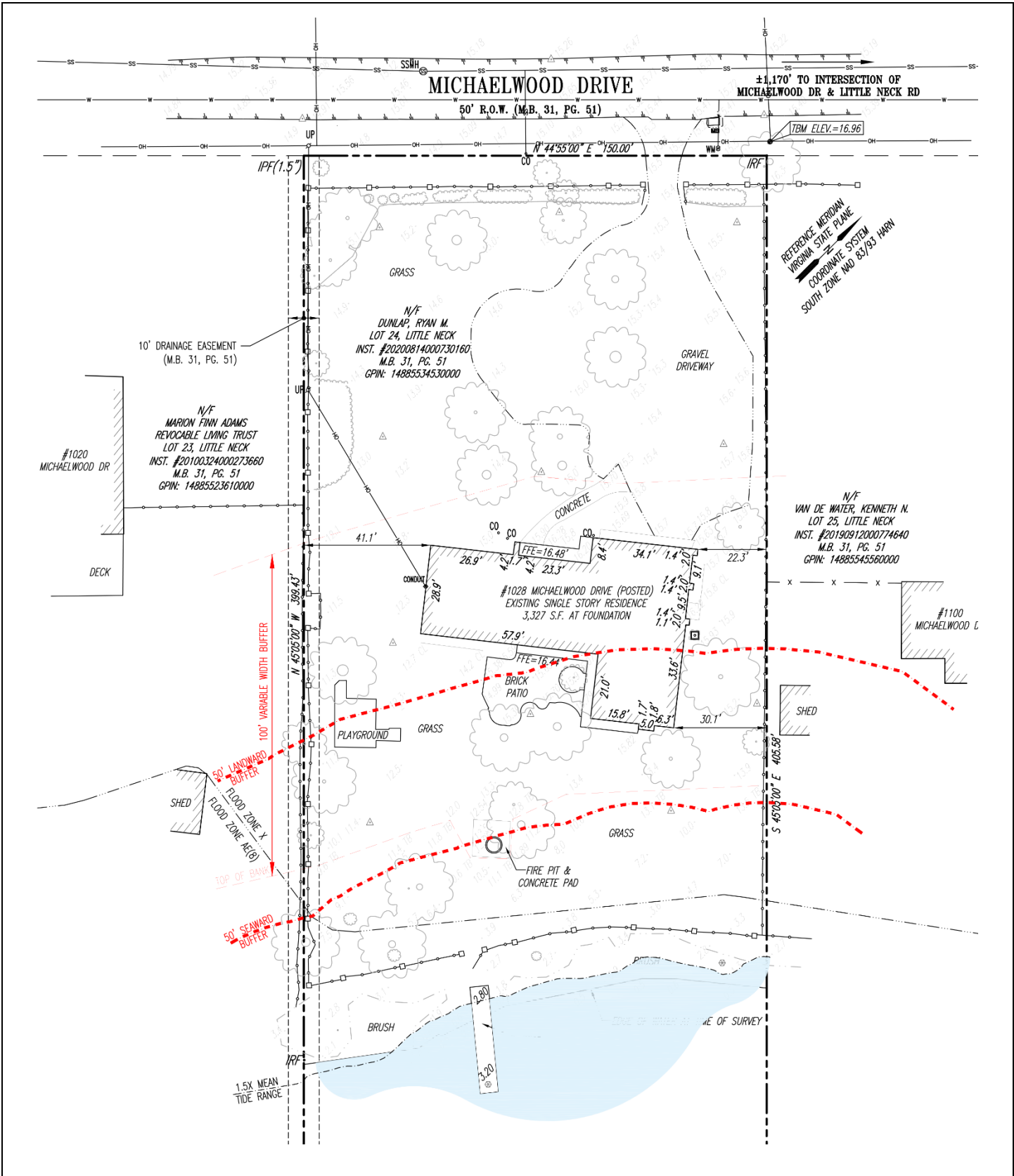
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

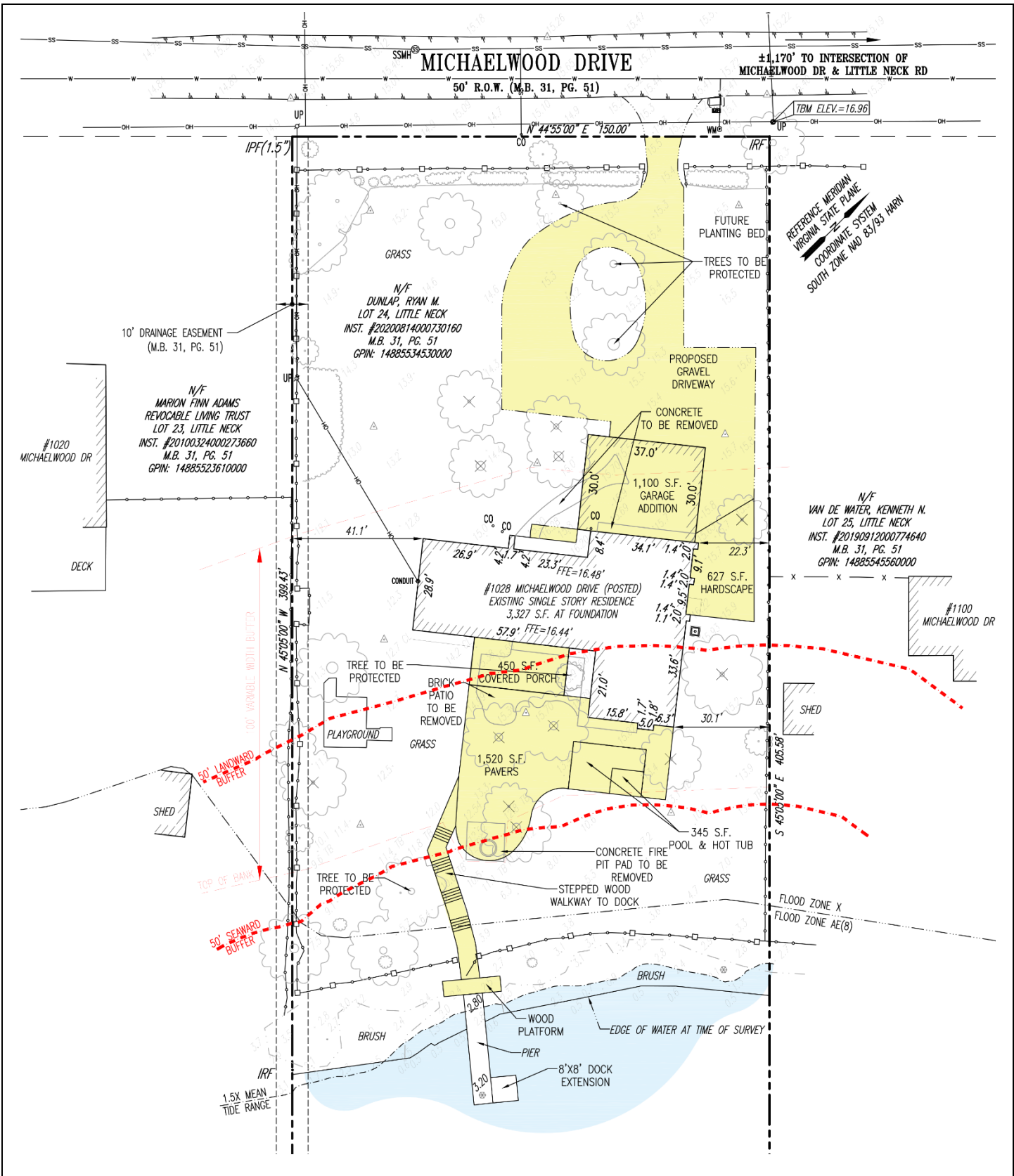
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements



Disclosure Statement

Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name Ryan Dunlap

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

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

Beth Anne Campbell, L.S.

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.

The owner, is a VA licensed real estate agent, Ryan Dunlap. He hangs his license with Wainwright Real Estate

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

- If **yes**, identify the firm 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.

Robyn Thomas Architects

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.

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.

Beth Anne Campbell, L.S. MidAtlantic Surveying and Land Design

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.

Ryan Dunlap

Applicant Signature

Ryan Dunlap Owner Applicant

Print Name and Title

Ryan Dunlap

4/1/21

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 **Scott & Kelly Polinkas**
 Address **3428 Misty Place**
 Public Hearing **July 8, 2021**
 City Council District **Lynnhaven**

Agenda Item

3

Variance Request

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

Applicant's Agent

Self-represented

Staff Planner

Chuck Payne

Lot Recordation

Map Book 36, Page 4
 Recorded 8/13/1953

GPIN

1488-67-8184

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

271 square feet

Area of New Development in RPA

313 square feet

Location of Proposed Impervious Cover

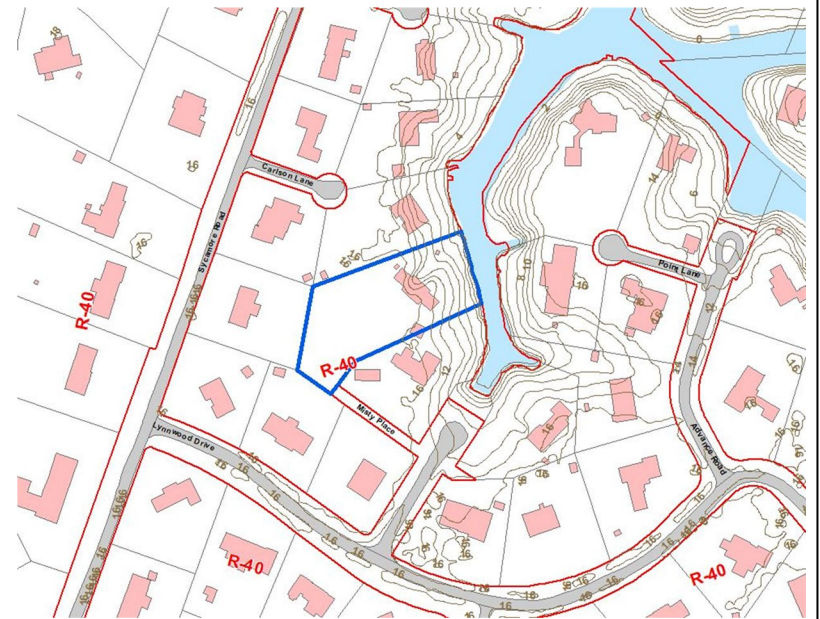
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- None

Construction Details

- Covered deck with fireplace

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

Shoreline

Shoreline is hardened with a wood bulkhead.

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

Evaluation and Recommendation

The applicant desires to construct an elevated covered deck and fireplace extending off the rear of the first floor of the single-family residence. The deck is located above a basement level concrete patio and retaining walls that provide ingress and egress for the basement. Staff is of the opinion that the increased impervious cover will not cause a substantial increase in runoff or be detrimental to water quality. In addition, the conditioned buffer restoration will provide increased stormwater management that does not currently exist on the site, providing merit towards reducing nonpoint source pollution load.

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 *"new construction is consistent with existing property improvements of other owners of property in the CBPA."* Staff concurs.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because *"the house was built 24 years prior to the enactment of the Chesapeake Bay Preservation Act and the area to be improved has been unmodified since."* Staff concurs.
- 3) The variance is the minimum necessary to afford relief because the project is *"utilizing as much existing impervious cover as possible for a net 313 square foot increase."* 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 *"nearly 50% of the area to be covered is already impervious. The remaining area is hard-packed, moss-covered ground that provides little run-off adsorption. The additional vegetation to be planted will provide a substantially better benefit to water quality than what currently exists."* Staff concurs.
- 5) *"Planting of trees and other vegetation will offset the increase in impervious cover"* 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 5 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.
2. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **313 square feet x 200 percent = 626 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: **2 canopy trees, 4 understory trees and 6 small shrubs.**

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

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

3. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
4. Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
5. 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.

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

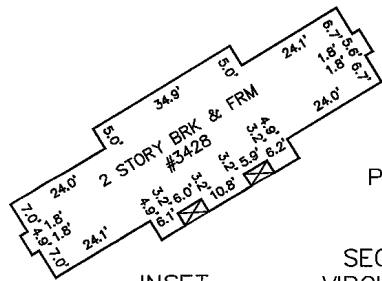
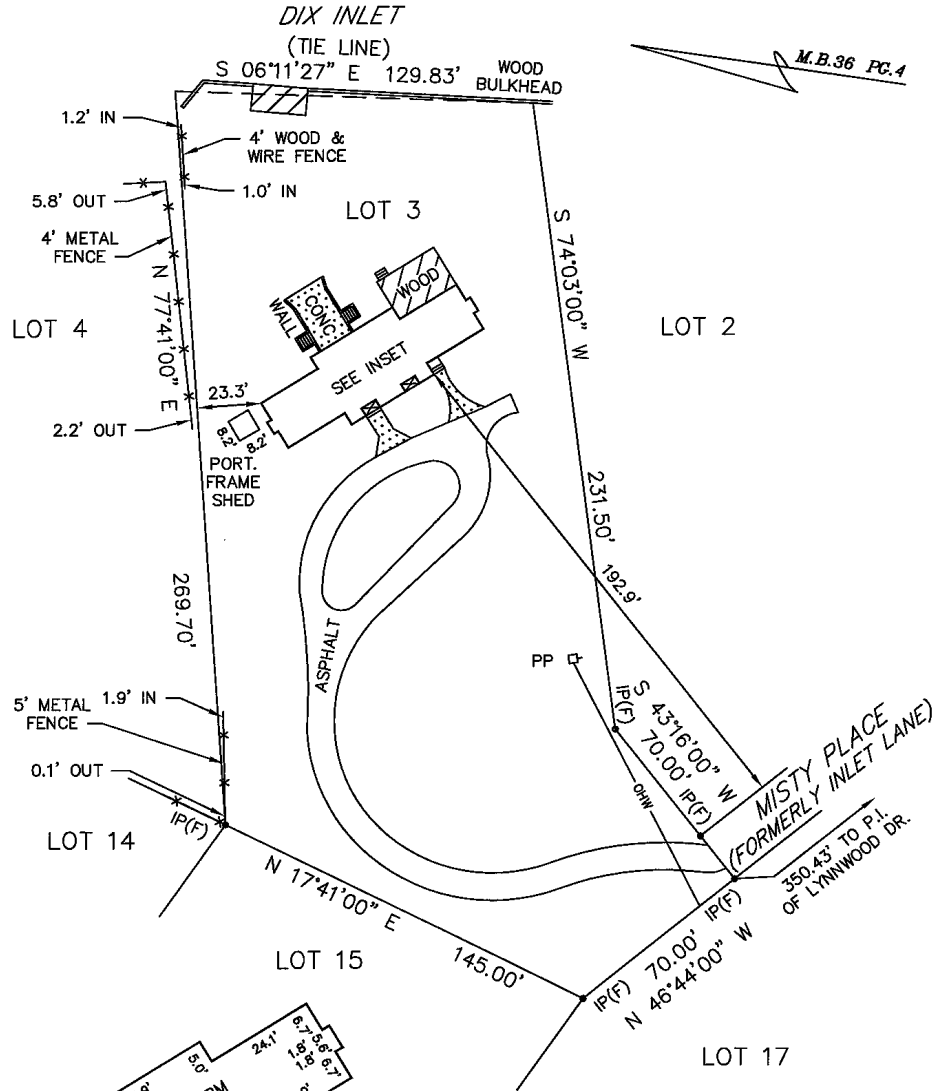
Site Aerial



CBPA Exhibit – Existing Conditions

NOTES:

- 1) THE PROPERTY SHOWN HEREON APPEARS TO LIE IN "X" (UNSHADED) FLOOD ZONE ACCORDING TO F.E.M.A. MAP PANEL NO. 515531-0102G REVISED JAN. 16, 2015.
- 2) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, AND MAY NOT SHOW ANY/ALL EASEMENTS AFFECTING THE PROPERTY.



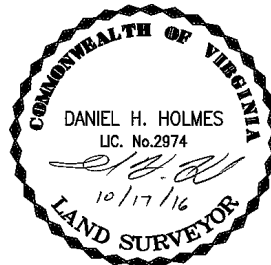
INSET
SCALE: 1" = 30'

DATE: OCT. 17, 2016
 SCALE: 1" = 50'
 NOTE: FOR PLAT SEE
 M.B. 36 PG. 4
 VIRGINIA BEACH, VA

DRAWN BY: WTL

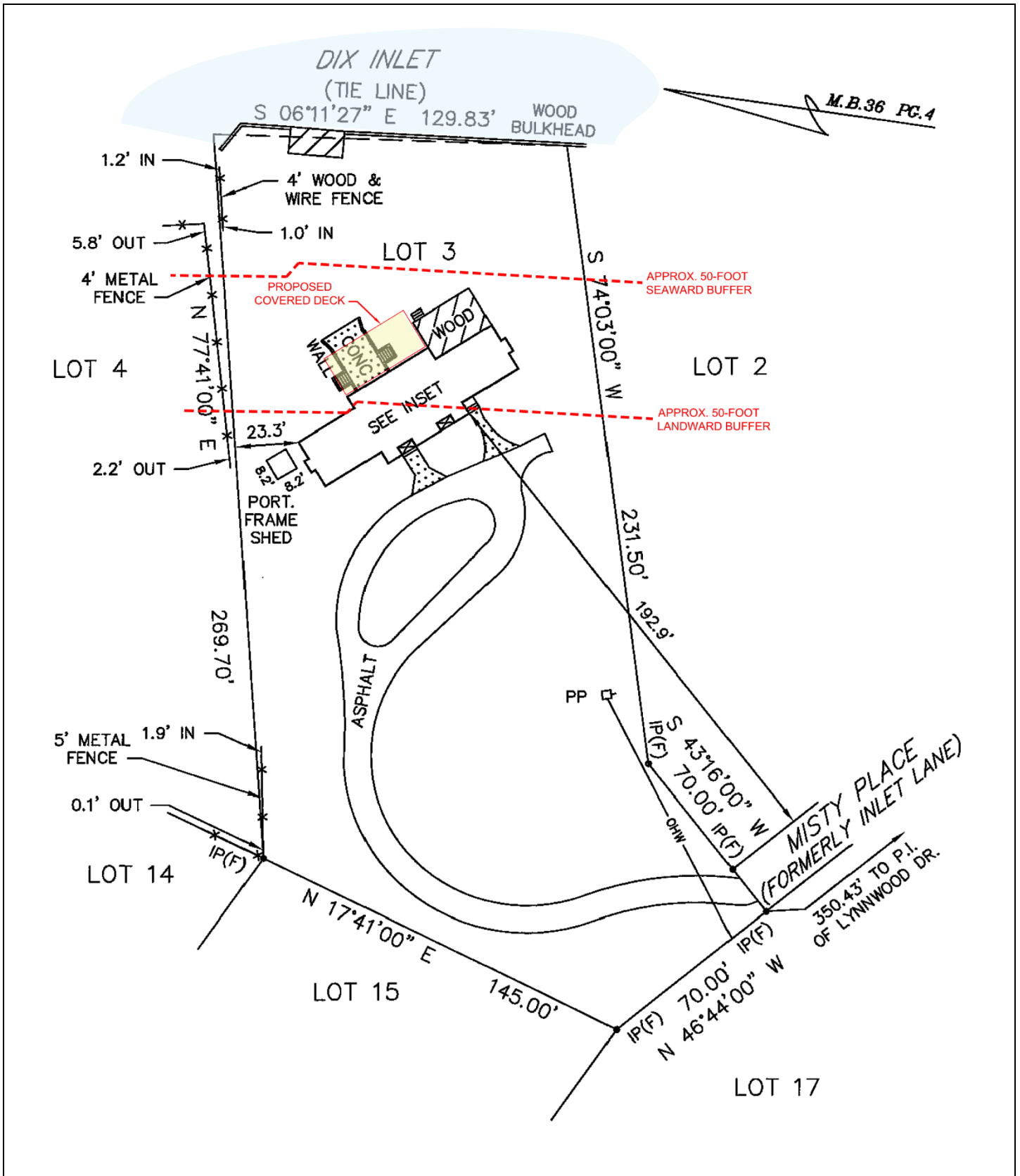
PHYSICAL SURVEY
 OF
 LOT 3
 SECTION 3 LYNNWOOD
 VIRGINIA BEACH, VIRGINIA
 FOR
 SCOTT B. POLINKAS AND
 KELLY C. POLINKAS

WARD M. HOLMES
 LAND SURVEYOR, P.C.
 9225 GRANBY STREET
 NORFOLK, VIRGINIA 23503
 757-480-1230



PROJECT NO. 16-882

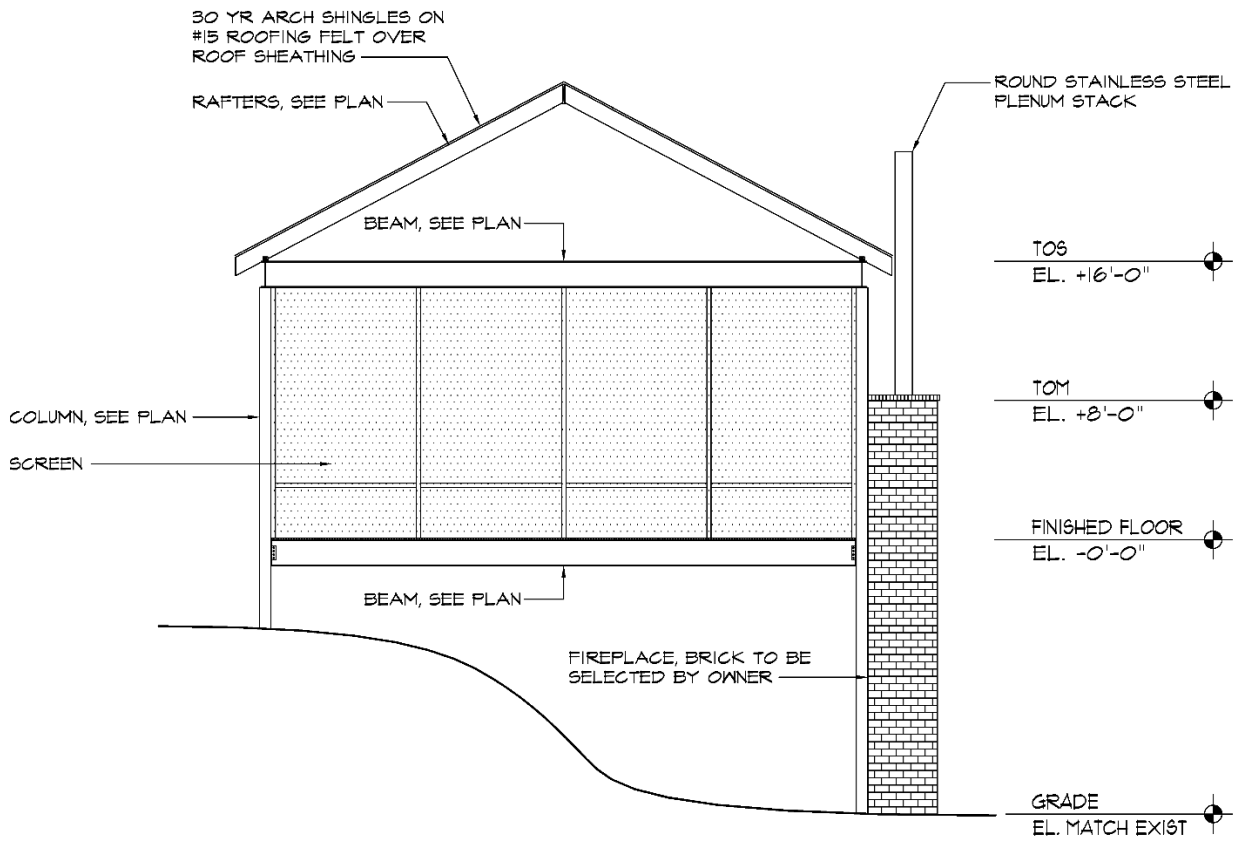
CBPA Exhibit – Proposed Improvements



CBPA Exhibit – Section Elevation and Rendering



RENDERING OF PROPOSED IMPROVEMENTS



REAR ELEVATION
SCALE: 3/16" = 1'-0"

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 Scott Polinkas

Does the applicant have a representative? Yes No

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

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

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

- If **yes**, list the businesses that have a parent-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.

Mortgage on primary residence through Navy Federal Credit Union

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.

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.

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.
- Simple Design LLC, 521 W Washington St, Suite 2, Suffolk, VA 23434

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.**

Applicant Signature

Scott Polinkas

Print Name and Title

6/1/21

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 | |

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Variance Request

Encroachment into the RPA to construct a new driveway, gravel guest parking space, patio area with associated steps and retaining walls and pathway to dock.

Applicant's Agent

Billy Garrington
Governmental Permitting Consultants

Staff Planner

PJ Scully

Lot Recordation

Map Book 54 Page 42
Recorded 12/15/1961

GPIN

2419-51-8757

SITE AREA

14,504 square feet or 0.33 acre

SITE AREA OUTSIDE OF WATER/WETLANDS

12,477 square feet or 0.286 acres

EXISTING IMPERVIOUS COVER OF SITE

7,919 square feet or 63.5 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

5,951 square feet or 47.7 percent of site

Area of Redevelopment in RPA

424 square feet

Area of New Development in RPA

461 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

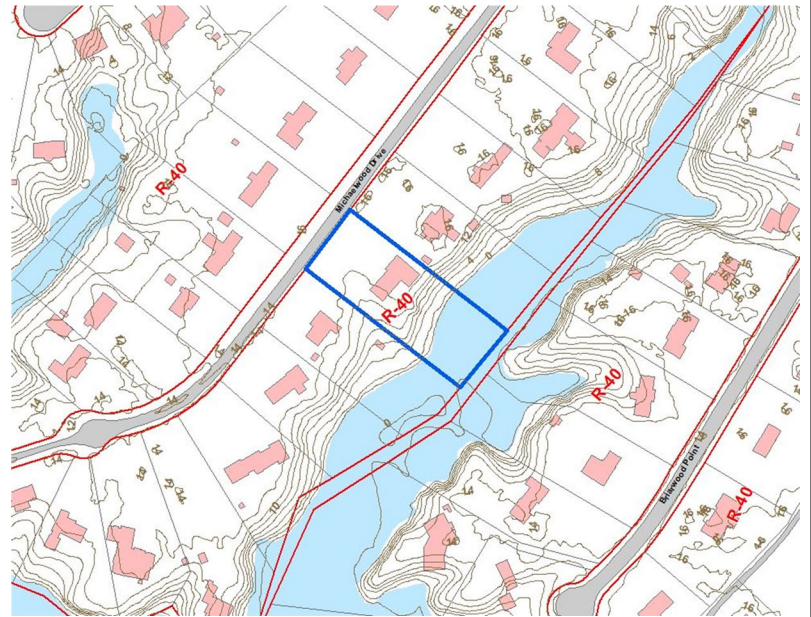
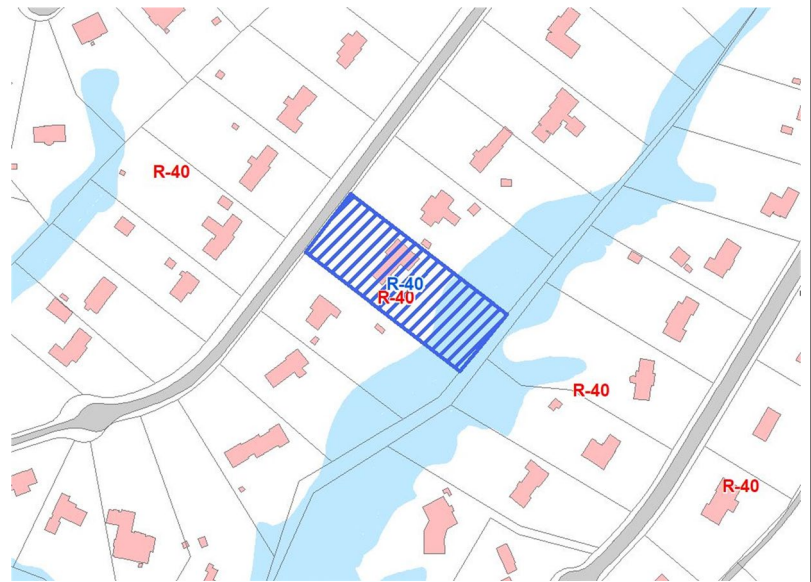
100-foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Concrete walkways with associated gravel beds

Construction Details

- Driveway, majority of existing footprint to be redeveloped
- Gravel guest parking area
- Hard surface path to existing dock
- Retaining wall system with associated mulch path
- Patio area with steps

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

Shoreline

Shoreline is hardened by a wood bulkhead.

Riparian Buffer

Moderately wooded lot

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of understory 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 roof top disconnects with gravel downspout intercepts and soil amendments will be provided as a best management practice for stormwater run-off mitigation. Given the amount of land disturbance associated with the proposed improvements, a site plan review compliant with the City's Stormwater Management Ordinance will be required.

Evaluation and Recommendation

The homeowner desires to improve the existing driveway, provide additional pervious parking area along a substandard private street, and construct accessways in harmony with existing grade elevations along both the northern and southern portion of the lot. The primary purpose of these improvements is to slow the velocity of stormwater runoff and

improve the infiltration rates. With the proposed improvements along the southern portion of the lot, a series of retaining walls with a mid-level patio is proposed to aid towards the applicant's desire to make their outdoor space more usable and easier to maintain along the existing bank feature. Currently, this portion of the lot is exhibiting eroding conditions and is overgrown with invasive vine species.

The applicant provides the following comments relative to the findings of the CBPA Ordinance as merit towards the variance request being in harmony with the purpose and intent of the CBPA Ordinance and believes that the construction of the proposed improvements are appropriate towards the redevelopment of this lot based off the following.

- 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 *"granting a variance request in this circumstance would not confer privileges to the applicant which have been denied to other property owners within the CBPA Overlay District in this area"* Staff is of the opinion that the applicant's desire to redevelop this lot with the integration of retaining walls to help slow the velocity and infiltrate stormwater run-off from adjacent impervious covers through a series of terraced planted areas does not provide a convenience to the applicant given the existing topographic relief along this portion of Discovery Road.
- 2) Staff offers that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because the lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this property are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"the 100-foot RPA encumbers a majority of the lot. The patio, retaining walls, and generator pad, and portions of the replaced driveway would be located in both the 50' Seaward and Landward Buffers. The proposed placement is due to the proximity of their home within the RPA. Proposed improvements show an overall retreat of impervious surface in the RPA while also reducing the amount of impervious surface. In this regard, the proposed improvements are in the most logical locations and are a minimum amount to gain usable space within their lot."* Given the rip rap stone along the existing bank feature and concrete walk with associated stone mulch within the RPA being redeveloped and a design proposed that both slows the velocity and infiltrates stormwater run-off Staff supports the application as submitted by the applicant's agent.
- 4) The applicant's agent provides that *"the existing buffer area on this lot is comprised of grass, ornamental landscaping, and invasive species. The proposed pathways to the North and South of the home are proposed of mulch with wood timber steps as required pending the grade/elevations. The applicants request requires no tree removal. This request will require the establishment of additional vegetation within the buffer to help address runoff from the proposed improvements. This request will not be injurious to the neighborhood and with the addition of vegetation, will not be a detriment to water quality as the applicant is mitigating impacts within the buffer to help with the increase in runoff generated by the proposed improvements. The proposed request is not expected to be injurious to the public welfare and is not of substantial detriment of water quality."* Staff concurs.
- 5) *"Landscaping will be installed to mitigate the impact of impervious surfaces within the RPA Buffer. The proposed patio and retaining walls should aid in slowing the velocity of stormwater leaving the site while the proposed landscaping will help absorb runoff. The applicant has submitted a conceptual landscape plan that is consistent with the Riparian Buffers Modification and Mitigation Manual and identifies an appropriate quantity of canopy trees, understory trees, and shrubs within the RPA Buffer"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff supports the approach provided

by the applicant and applicant's agent through the use of grading, planting and redevelopment of impervious cover within the 50-foot seaward buffer towards managing nonpoint source pollution on the lot.

Given the above comments, Staff recommends the following 12 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 1,200 square feet. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable.

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. 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) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 7) 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.
- 8) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
- 9) 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.

- 10) 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.
- 11) 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.
- 12) The conditions and approval associated with this variance are based on the exhibit plan dated June 1, 2021, prepared by Painted Fern Landscape Architecture, signed June 1, 2021 by Jessica Nelson. 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.

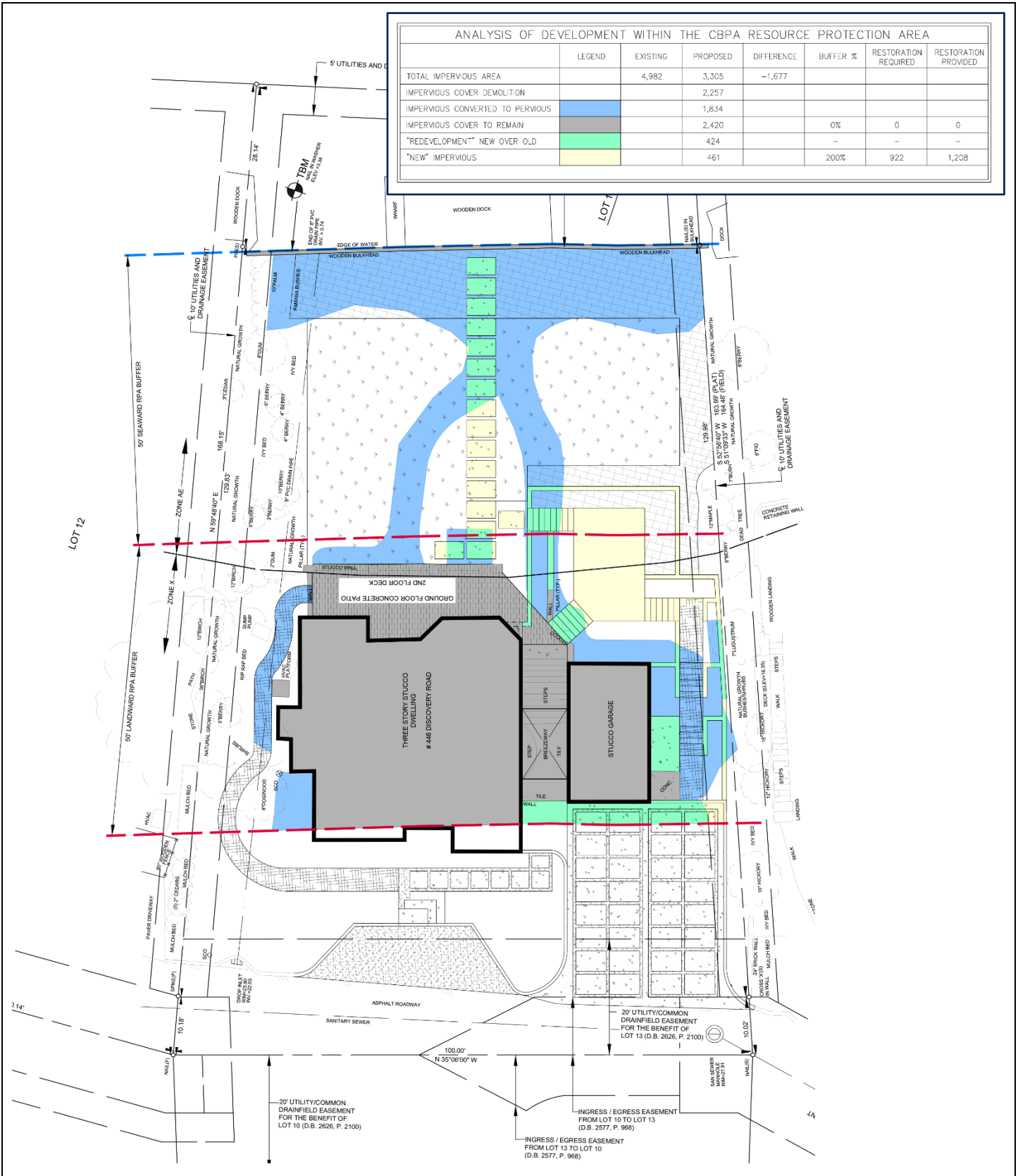
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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



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Applicant Disclosure

Applicant Name Lionel & Deborah Jacob

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

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

Billy Garrington

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

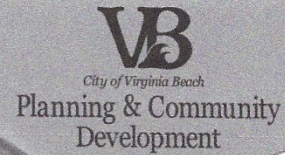
- If **yes**, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

- 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.

USAA

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.

Painted Fern, Jason Thomas

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.

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.

Rouse Sirine, Jeff Williams

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.

Lionel Jacob
Applicant Signature

Deborah Jacob
Print Name and Title

May 27th 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 | |



Applicant & Property Owner **Douglas & Mary Elizabeth Law**
Address **3300 Regent Park Walk**
Public Hearing **July 8, 2021**
City Council District **Lynnhaven**

Agenda Item

5

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a retaining wall, paver patio, shed, and modified driveway and walkway.

Applicant's Agent

Billy Garrington
Governmental Permitting Consultants

Staff Planner

Cole Fisher

Lot Recordation

Map Book 141, Page 28
Recorded 04/11/80

GPIN

1498-06-0225

SITE AREA

31,907 square feet or 0.732 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

17,129 square feet or 0.393 acres

EXISTING IMPERVIOUS COVER OF SITE

4,640 square feet or 27.09 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

4,899 square feet or 28.60 percent of site

Area of Redevelopment in RPA

2,089 square feet

Area of New Development in RPA

4,648 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

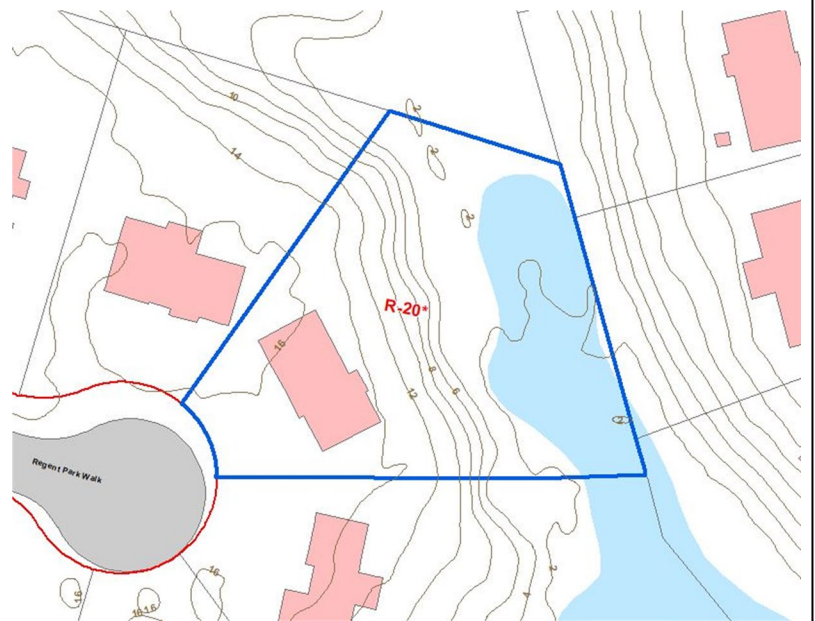
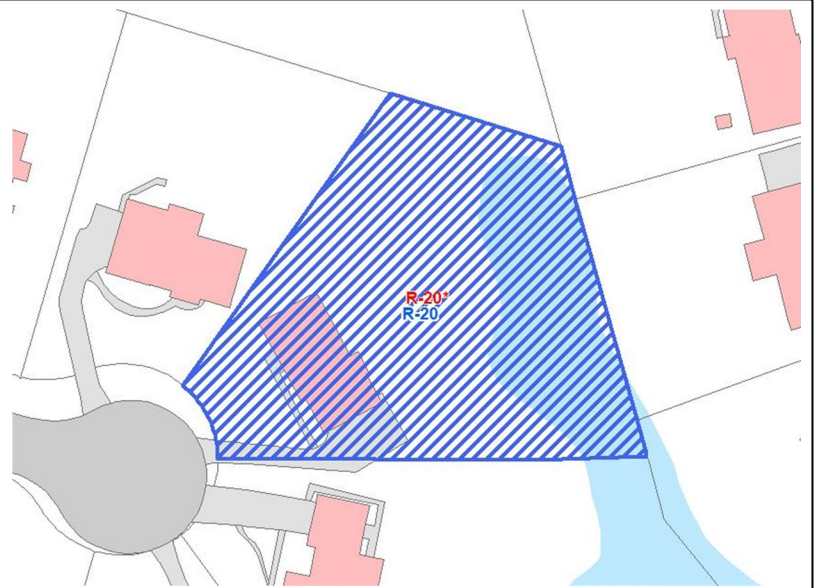
100-foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Demolish existing wood deck and steps

Construction Details

- New paver patio and fire pit
- Steps & grill area
- Retaining wall
- Shed
- Replace existing driveway and walkway

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

Yeopim Series (deep, moderately well-drained soils) located upland
Rumford Series (highly erodible soils) located below the top of bank

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Heavily Wooded Lot

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

Stormwater Management Methodology

The applicant's agent has stated in the Water Quality Impact Assessment (WQIA) that best management practices to prevent an increase in nonpoint source pollution load for this variance request shall consist of:

- Gravel downspout intercepts to catch drainage debris
- Soil Amendments to improve disturbed, low organic soils to reestablish the soils capacity for infiltration and pollution removal
- Preservation of the existing riparian buffer

Evaluation and Recommendation

This variance request proposes to remove the existing wood deck and steps off the rear of the residence and replace the existing driveway and front walkway to the residence. The applicant proposes to construct a new paver patio, fire pit, steps, & grill area in place of the existing wood deck as well as a shed and a retaining wall located landward of the top of bank feature. The rear yard of this property has a moderate slope and the applicant proposes the retaining wall to make their outdoor space more usable and to help prevent any runoff at the rear of the property. In addition, the intent of the retaining wall is to provide a better soil condition with the proposed backfill that aids in the infiltration of rainwater and runoff. Staff is of the opinion that the location of the retaining and associated backfill is acceptable given that the layout of the proposed improvements will not impact tidal flow or fluctuation to the adjacent wetlands nor cause for the removal of existing canopy trees within the established riparian buffer.

Should the Board desire to consider granting this variance request, the following comments relative to the findings of the CBPA Ordinance specific to this variance request are offered by the applicant's agent for the Board's deliberation.

- 1) Granting this 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 *"granting a variance request in this circumstance would not confer privileges to the applicant which have been denied to other property owners within the CBPA Overlay District in this area."* Staff concurs.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because *"The subject lot and home was created and constructed prior to October 1, 1989, prior to the adoption of the CBPA Ordinance."* Staff concurs with the applicant's agent 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 fall within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"the 100-foot RPA and Variable Width Buffer encumbers a majority of the lot. The shed, retaining wall, and leveled lawn area would be located in both the 50' Seaward and Landward Buffers. The proposed placement is due to the limiting factor of the Top of Bank behind their home, which all improvements remain landward of. Moving the wall would limit the amount of usable space behind the home and the 100 square foot shed is located in an area where no trees will need to be removed. In that regard, the proposed improvements are in the most logical locations."* Staff acknowledges the statement provided by the applicant's agent and is of the opinion that the applicant has demonstrated an understanding of the CBPA ordinance findings with the proposed size and locations of the proposed structures. Staff is of the opinion that the location of the proposed structures offer merit 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 existing buffer area on this lot is comprised of grass and ornamental landscaping. Moving seaward into the buffer, the property becomes a more natural, forested area comprised of woody vegetation. The applicants request requires no vegetation to be removed. This request will require the establishment of additional vegetation within the buffer to help address runoff from the proposed improvements. This request will not be injurious to the neighborhood and with the addition of vegetation, will not be a detriment to water quality as the applicant is mitigating impacts within the buffer to help with the increase in runoff generated by the proposed improvements. The proposed request is not expected to be injurious to the public welfare and is not of substantial detriment of water quality."* Staff is of the opinion that the proposed changes with this variance request is not of substantial detriment to water quality. As

state in the WQIA, the applicant has taken means to minimize impacts in the RPA, including keeping all improvements above the top of bank, no proposed tree removals, and enhanced buffer plantings to aid in the capture of runoff. The applicant is also proposing 838 square feet of buffer restoration instead of the required 828 square feet. This project provides additional benefits to the water quality of the Chesapeake Bay given there are no proposed tree removals and the applicant is proposing to plant more than required.

- 5) *“It is expected City Staff will work with the Applicant to ensure that the landscaping will be installed to mitigate the impact of the additional impervious surface within the RPA Buffer. The proposed retaining wall should aid in slowing the velocity of stormwater leaving the site while the proposed landscaping will help absorb runoff. The applicant has submitted a conceptual landscape plan that is consistent with the Riparian Buffers Modification and Mitigation Manual and identifies an appropriate quantity of canopy trees, understory trees, and shrubs within the RPA Buffer”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff shall work with the applicant with to recommend tree and plants suitable for riparian buffer planting.

Staff recommends the following 12 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: **414 square feet x 200 percent = 828 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: **2 canopy trees, 4 understory trees, 0 large shrubs, and 6 small shrubs.**

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

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

- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 7) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
- 9) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan. – or - Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 10) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 11) Gravel downspout intercepts and/or gravel dripline intercepts shall be provided as a means of erosion and sediment control for stormwater run-off from the proposed improvements.
- 12) The conditions and approval associated with this variance are based on the exhibit plan dated 06/01/2020, prepared by Painted Fern Landscape Architecture, signed 06/01/2020 by Jessica Nelson. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

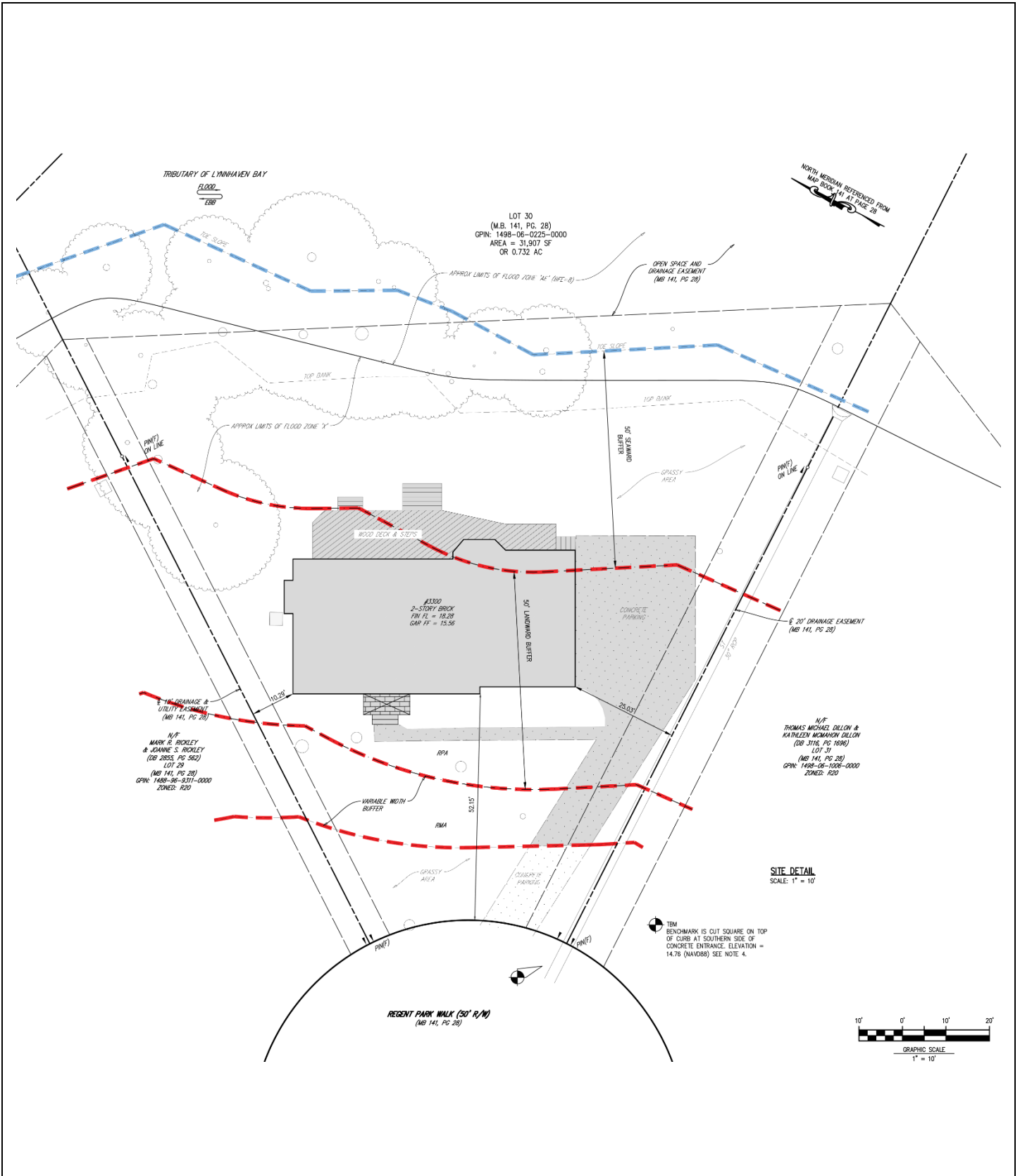
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

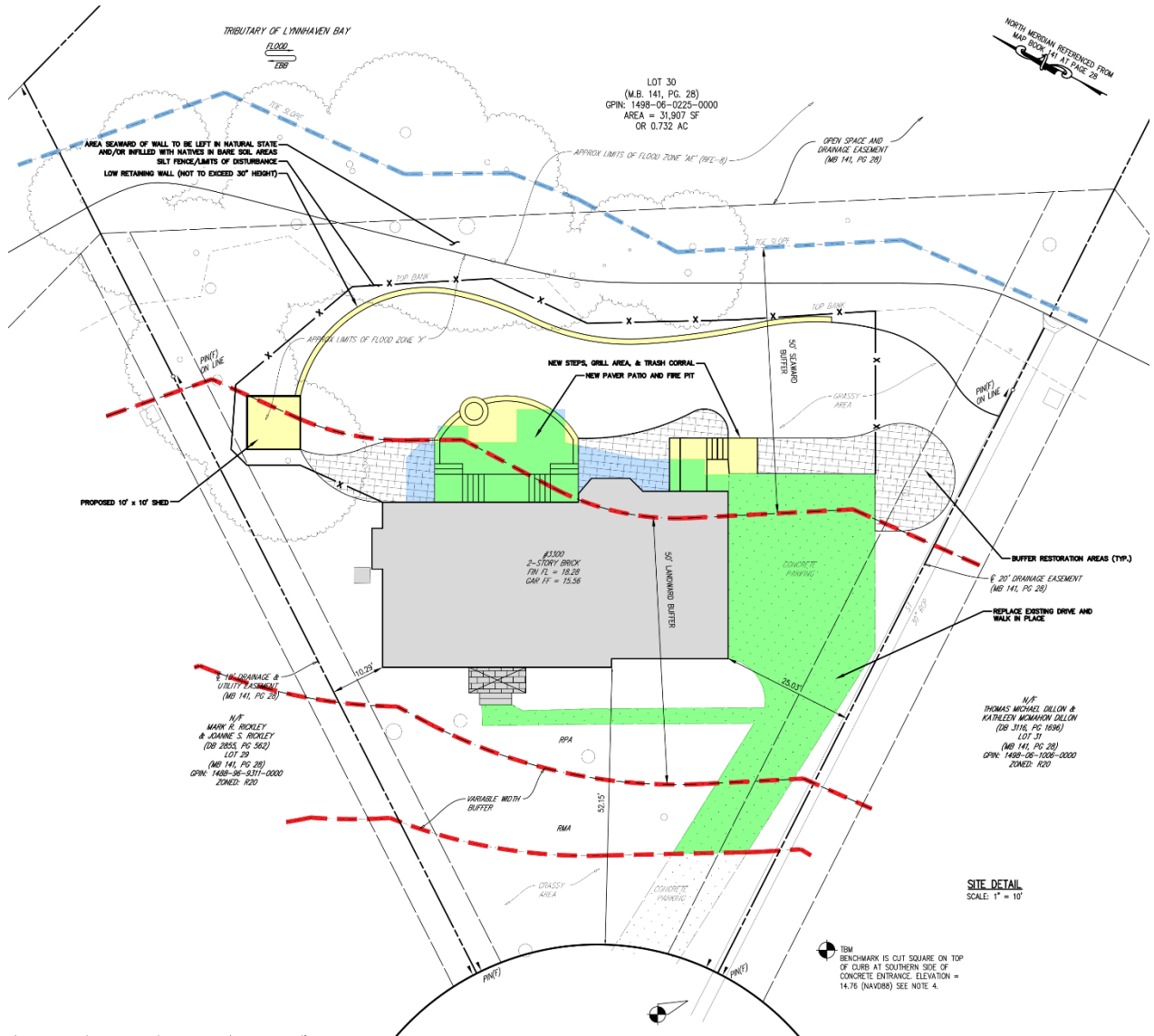
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements with Color Analysis



| ANALYSIS OF DEVELOPMENT WITHIN THE CBPA RESOURCE PROTECTION AREA | | | | | | | |
|--|--------|----------|----------|------------|----------|----------------------|----------------------|
| | LEGEND | EXISTING | PROPOSED | DIFFERENCE | BUFFER % | RESTORATION REQUIRED | RESTORATION PROVIDED |
| TOTAL IMPERVIOUS AREA | | 4,389 | 4,648 | 259 | | | |
| IMPERVIOUS COVER DEMOLITION | | | 2,242 | | | | |
| IMPERVIOUS CONVERTED TO PERVIOUS | | | 153 | | | | |
| IMPERVIOUS COVER TO REMAIN | | | 2,145 | | 0% | 0 | 0 |
| "REDEVELOPMENT" NEW OVER OLD | | | 2,089 | | - | - | - |
| "NEW" IMPERVIOUS | | | 414 | | 200% | 828 | 838 |

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 Beth and Doug Law

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

Billy Garrington

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-subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

¹ "Parent-subsidiary 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-subsidiary 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.

Bank of America

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.

Painted Fern, Jessica Nelson, Richard G. Poole Architecture

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.

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.

MSA, PC Jeffrey Vierrether

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.

Douglas J. Law

Applicant Signature

DOUGLAS J. LAW

Print Name and Title

20 MAY 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 | |

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