

Chesapeake Bay Preservation Area Board Agenda

February 7, 2022

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CHESAPEAKE BAY PRESERVATION AREA BOARD

NOTICE OF PUBLIC HEARING

A Public Hearing of the Virginia Beach Chesapeake Bay Preservation Area (CBPA) Board will be held on **Monday, February 7, 2022** at 10:00 a.m. in the Council Chamber - City Hall, Building 1, Second Floor, 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 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 **February 7, 2022**

- 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. Jeffrey & Carrie Watkins [Applicant & Property Owner]</p> <p>946 Oriole Dr GPIN 2418-43-0651 City Council District District 5, formerly Lynnhaven Accela Record 2022-CBPA-00003</p> <p>Variance Request – Encroachment into the RPA to construct a porch addition, swimming pool with pool house, circular driveway and redevelopment of existing driveway with fill material.</p> <p>Staff Planner – Cole Fisher Staff Report – page 5</p>	
<p>2. Ohad Sheffy [Applicant & Property Owner]</p> <p>1404 Sycamore Rd GPIN 1488-78-5611 City Council District District 5, formerly Lynnhaven Accela Record 2022-CBPA-00002</p> <p>Variance Request – Encroachment into the RPA to construct a garage/building addition, swimming pool with patio area, garden area and driveway expansion.</p> <p>Staff Planner – Cole Fisher Staff Report – page 19</p>	

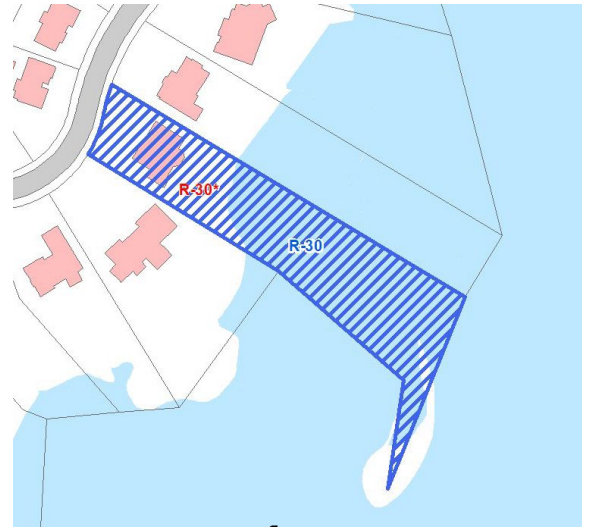
NEW BUSINESS AGENDA ITEMS (CONTINUED)

3. Haversham LLC
[Applicant & Property Owner]

2393 Haversham Ct
GPIN 2409-14-6639
City Council District District 5, formerly Lynnhaven
Accela Record 2022-CBPA-00004

Variance Request – Encroachment into the RPA to construct a swimming pool with associated patio and excavate uplands for a bulkhead realignment.

Staff Planner – PJ Scully
Staff Report – page 31

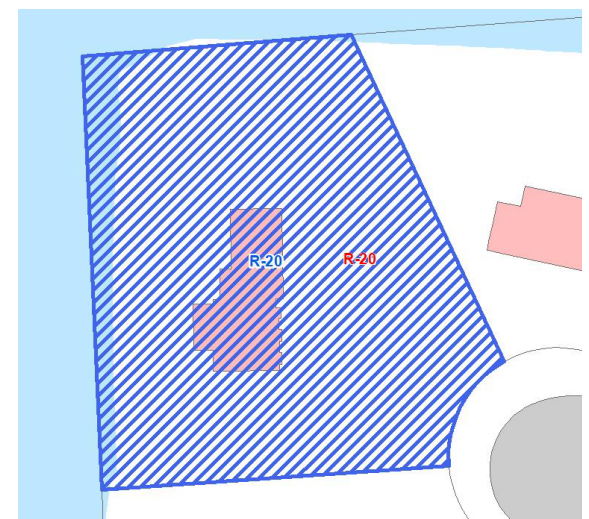


4. Niklas Oskarsson & Annemijn Ven Der Bijl
[Applicant & Property Owner]

2428 Windward Shore Dr
GPIN 1499-88-7535
City Council District District 5, formerly Lynnhaven
Accela Record 2022-CBPA-00001

Variance Request – Encroachment into the RPA to construct a swimming pool with associated patio, covered porch, new building additions and new concrete driveway.

Staff Planner – Cole Fisher
Staff Report – page 47

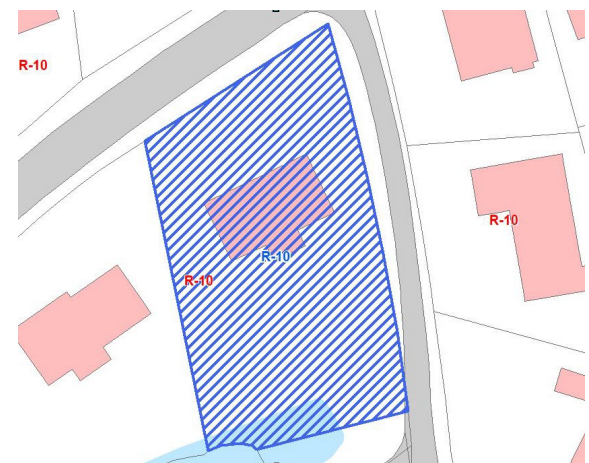


5. Walker & Cindy Milici Family Trust
[Applicant & Property Owner]

2617 Broad Bay Rd
GPIN 1499-68-9190
City Council District District 5, formerly Lynnhaven
Accela Record 2021-CBPA-00080

Variance Request – Encroachment into the RPA to construct a framed deck.

Staff Planner – Cole Fisher
Staff Report – page 59



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.

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a porch addition, swimming pool with pool house, circular driveway, and redevelopment of existing driveway with fill material.

Applicant's Agent

Billy Garrington

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 111, Page 33

Recorded 08/22/1975

GPIN

2418-43-0651

SITE AREA

40,337 square feet or 0.926 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

40,337 square feet or 0.926 acres

EXISTING IMPERVIOUS COVER OF SITE

6,756 square feet or 16.74 percent of site

*9,271 square feet or 22.9 percent of site including driveway serving 940 Oriole Drive

PROPOSED IMPERVIOUS COVER OF SITE

9,166 square feet or 22.7 percent of site

*11,681 square feet or 28.9 percent of site including driveway serving 940 Oriole Drive

Area of Redevelopment in RPA

2,437.5 square feet

Area of New Development in RPA

3,906.8 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

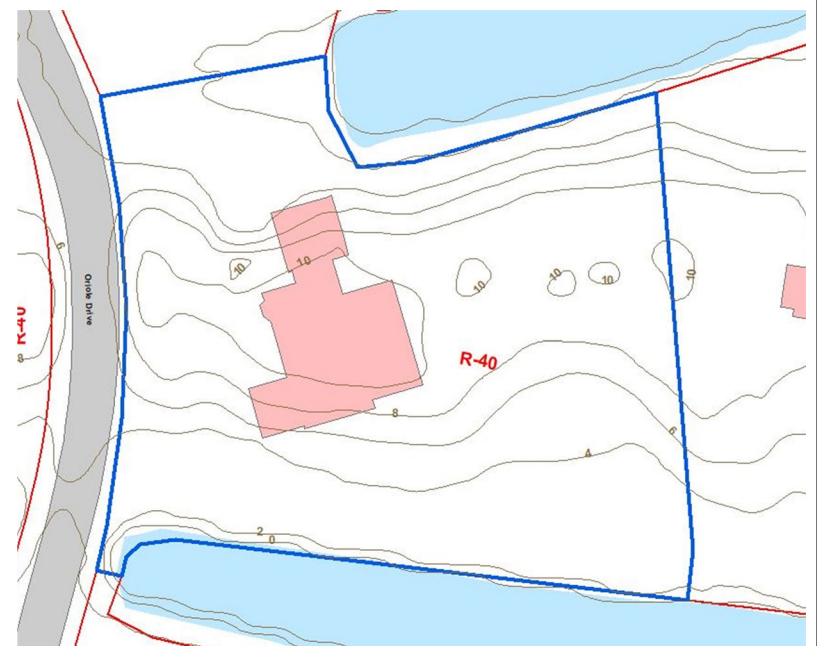
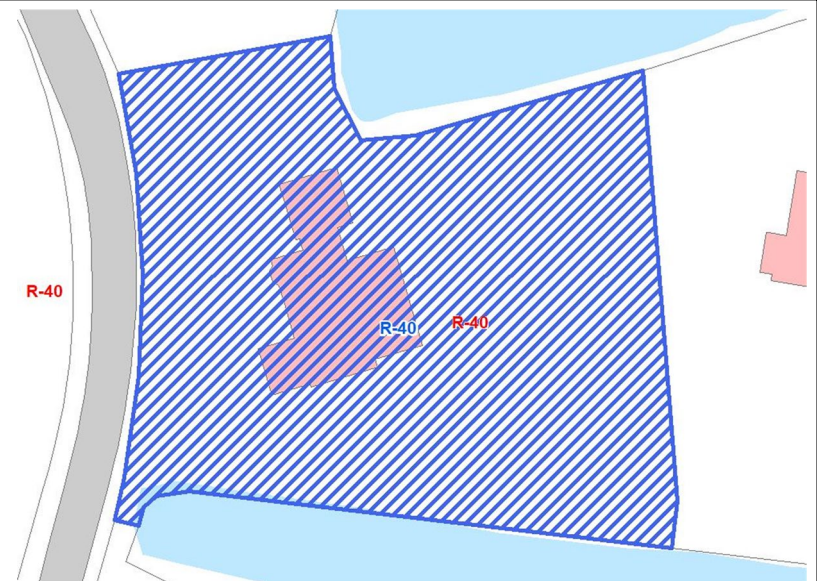
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Concrete driveway

Construction Details

- Concrete circular driveway
- Swimming pool with permeable patio surround and associated garden shed/pool house
- Porch additions and 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)

Yeopim Series (deep and moderately well-drained soils)

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

Shoreline

Shoreline is hardened by a failing concrete bulkhead. The applicant proposed to remove the existing bulkhead and replace with a rip rap/marsh living shoreline. A Joint Permit Application (JPA) will be required to be submitted to the Virginia Marine Resources Commission (VMRC) and brought before the City of Virginia Beach Wetlands Board for approval as proposed. Staff supports the redevelopment of the shoreline given the existing conditions and presence of erosion occurring behind the existing bulkhead.

Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 11
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: not provided
- Evaluation of existing canopy tree removal request: The majority of the trees proposed for removal are within the delineated limits of construction for the proposed pool, pool surround, and pool house. Two trees are requested for removal in the front yard for the construction of the circular driveway and one is proposed in the side yard due to proximity to the residence. This request for tree removal has been reduced from 25 as initially submitted prior to the applicant's agent meeting with Staff to review the proposed improvements associated with the CBPA Variance request.

Stormwater Management Methodology

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

Jeffrey & Carrie Watkins

Agenda Item 1

Page 6

Evaluation and Recommendation

The existing single-family residence was constructed in 1966 with the overall peninsula shaped lot being subdivided in 1975 for the creation of lot A-1, subject lot associated with this variance request, and lot B-1 located to the rear or east of this property. With this variance request the applicant desires to construct swimming pool with associated garden shed off the rear of the residence within the 50-foot landward buffer. Portions of the single-family residence will be redeveloped with the construction of a porch addition and front entry. The applicant also desires to raise the finished floor elevation of the existing garage by approximately 14 inches to alleviate flooding issues, redevelop the existing concrete driveway to match proposed grade elevations, and construct a circular driveway to provide access to the front of the residence. In addition, the circular driveway also provides additional relief for parking vehicles at a higher elevation during abnormal storm surge events. With the redevelopment of the existing driveway and shoreline, the area located to the north of the driveway will be converted to high marsh buffer restoration associated with the installation of the living shoreline.

Staff met with the applicant's agent and Engineer of Record to review the initial CBPA submittal specific to the proposed improvements as shown on page 14 of this Staff report. From those discussions, the revised CBPA Exhibit provides an overall reduction in impervious cover on the lot as provided in comparative analysis as follows.

	Initial Submittal	Revised CBPA Exhibit	Difference
Overall Impervious Cover	12,249 square feet	11,681 square feet	568 square feet (<i>reduction</i>)
Pool Surround	1,734 square feet	1,400 square feet	334 square feet (<i>reduction</i>)
Pool House	500 square feet	250 square feet	250 square feet (<i>reduction</i>)

Regarding the overall impervious cover of the lot, portions of the asphalt driveway that serves the adjacent lot, Lot B-1 located to the rear or east of this property fall within this lot and make up approximately 2,515 square feet of existing impervious cover. Exclusive of this driveway, the total post development impervious area on the lot stands at 9,166 square feet or 22.7 percent of the site. To further support this variance request the applicant's agent provides the following comments towards this variance being in harmony with the purpose and findings of the CBPA Ordinance.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *"this subdivision was recorded many years prior to the adoption of the Bay Act and as a result every waterfront home is significantly impacted by the ordinance. Since the enactment in 1991, numerous homes have made similar variance requests and been granted, so the approval of this request will no way confer any special privilege to the current owners."* Staff is of the opinion that the reduction to the overall impervious cover of the lot as provided with the revised CBPA Exhibit coupled with the use of materials, stormwater methodology and redevelopment of the existing shoreline integrates multiple best management practices on the lot. These efforts to correct current areas of erosion and provide infiltration of stormwater runoff offers merit towards the variance request not conferring upon the applicant any special privilege or convenience not afforded to other owners of property in the neighborhood based upon the extent of redevelopment proposed to the existing conditions of this lot.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant but rather *"the buffer zones were made a part of the Bay Act and these houses were already in place when it was enacted and the hardship that is now on these properties will never go away."* Staff concurs with the statement provided by the applicant's agent.

- 3) The variance is the minimum necessary to afford relief because *“the minimum necessary is a very arbitrary concept but the board has routinely granted variances with the understanding that the total impervious cover does not exceed 30% of the land area which leaves a significant amount of land to be used for buffer restoration and bioretention beds.”* Staff acknowledges the statement provided by at the applicant’s agent and is of the opinion that the reduction to the overall impervious cover as revised by the applicant offer merit towards the variance request being the minimum necessary when evaluating the lot to flood reduction impacts.
- 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 purpose and intent of the ordinance is simply water quality, to prevent pollution of the bay as a result of non-point source pollution. Most of these homes currently have no storm water treatment on site. As a result of this variance request the owner will install bioretention beds, buffer restoration in areas currently devoted to turf and even off-site treatment via the Lynnhaven Oyster Heritage Program all to benefit water quality.”* Staff acknowledges the requirement to treat stormwater with the redevelopment of this lot as a viable means towards providing water quality benefits. The applicant has offered a water quality approach towards managing stormwater on a residential lot through the use of permeable pavers, bioretention planting beds, and an integration of a living shoreline.
- 5) *“Strict erosion and sedimentation control measures do more to halt non-point source pollution, stock piling materials on existing hard surfaces, single point access way and revegetating any denuded areas all help to limit pollution from entering the adjacent waters”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff concurs and acknowledges that the site currently offers no stormwater management and as stated above, the applicant has taken measures to achieve a no net increase in nonpoint source pollution load into the Chesapeake Bay Watershed by permeable pavers, bioretention planting beds, and an integration of a living shoreline as well as the installation of the conditioned 7,812 square feet of buffer restoration that restores any tree removals associated with this request. Staff is of the opinion that the proposed best management practices provide merit to minimizes the erosion and sedimentation potential, reduces land application of nutrients and toxins, and maximizes rainwater infiltration.

Given the above comments, Staff recommends the following **14** 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: **3,476 square feet x 200 percent = 7,812 square feet.**

Of the 7,812 square feet of buffer restoration approximately 3,200 square feet shall be allocated to high marsh/shrub restoration located north of the redeveloped driveway. The remaining buffer restoration,

approximately 4,612 square feet 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, 16 large shrubs, and 24 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. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.

13) ** 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 \$895.12 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 December 12, 2021, prepared by Gallup Surveyors & Engineers, signed December 12, 2021 by David R. Butler. 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.

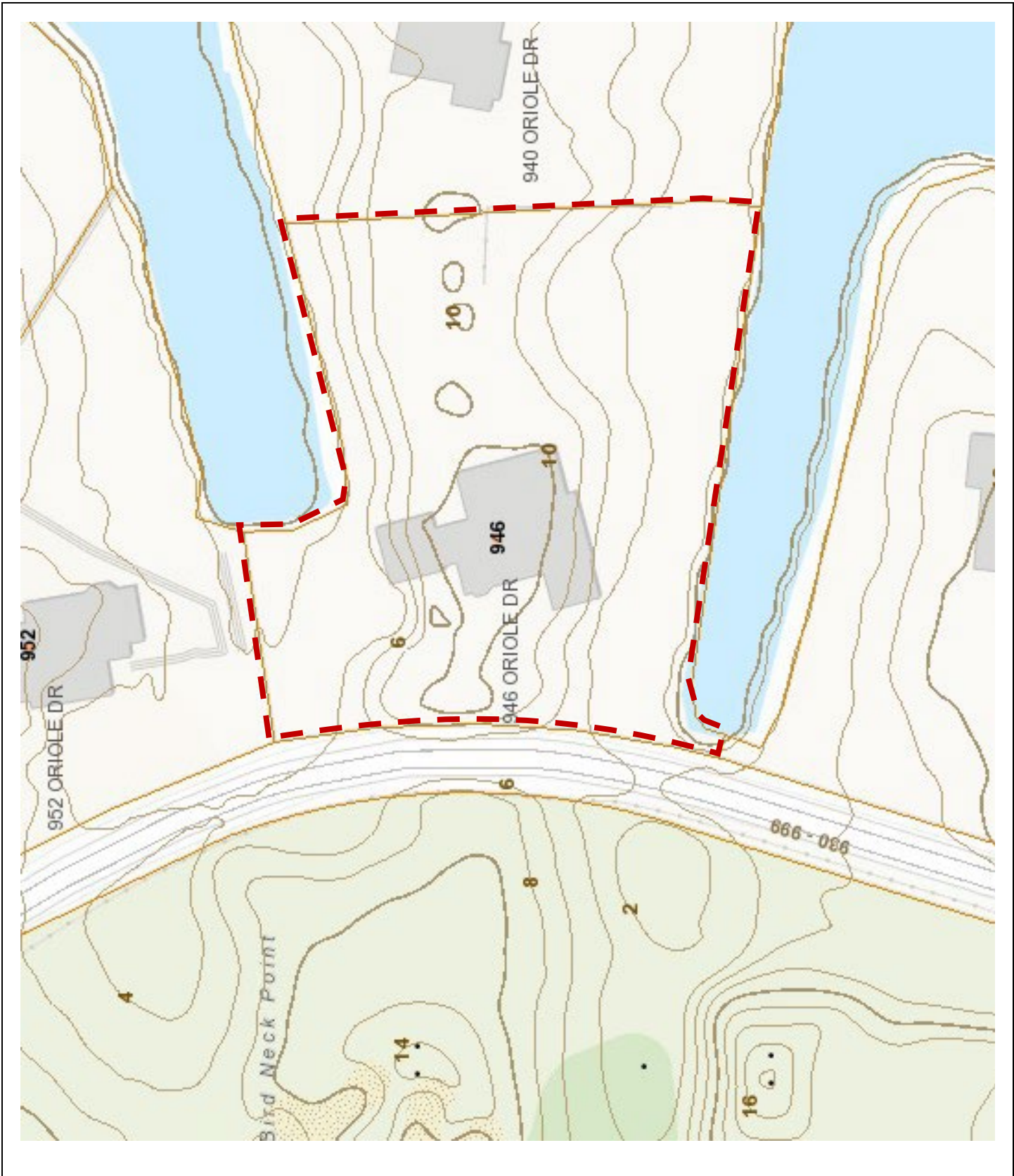
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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.

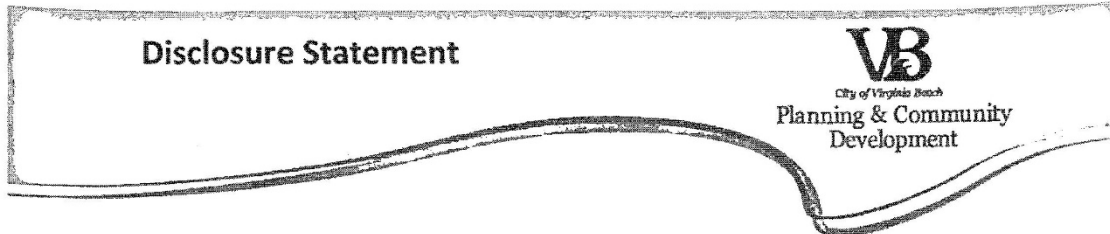
Site Aerial



Aerial View with Topography



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 Jeffrey + Caroline Watkins

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.
-

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.

Mayfield Design, Visionscapes Land Design

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.
Virginia Coastal Homes (house renovation)
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.
Gallup Surveys + Engineers
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.

[Signature] Caroline W. Watkins
 Applicant Signature
Jeffrey D. Watkins Caroline W. Watkins
 Print Name and Title
January 2, 2022
 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	

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a garage/building addition, swimming pool with patio area, garden area, and driveway expansion.

Applicant's Agent

Billy Garrington

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 57, Page 4
 Recorded 10/11/1962

GPIN

1488-78-5611

SITE AREA

76,694 square feet or 1.761 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

42,966 square feet or 0.1273 acres

EXISTING IMPERVIOUS COVER OF SITE

10,107 square feet or 23.5 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

12,904 square feet or 30 percent of site

Area of Redevelopment in RPA

5,380 square feet

Area of New Development in RPA

3,476 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

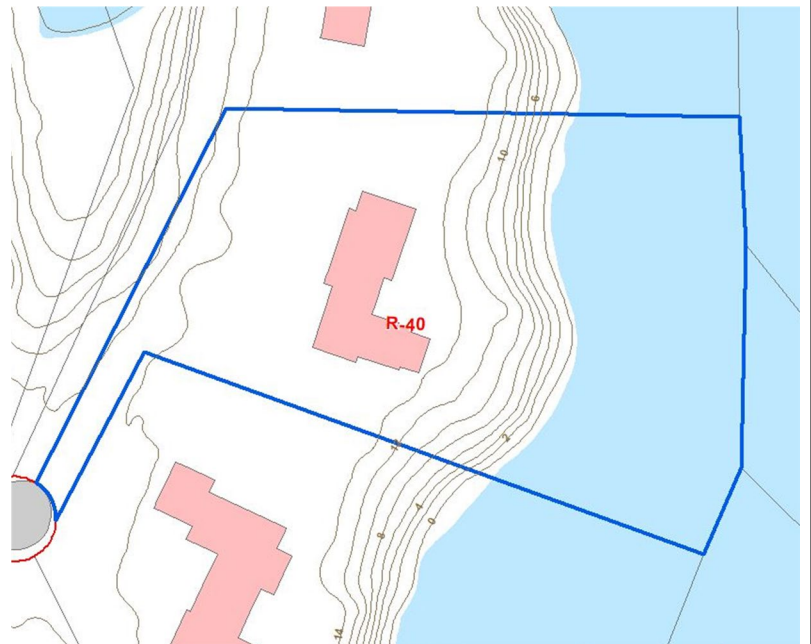
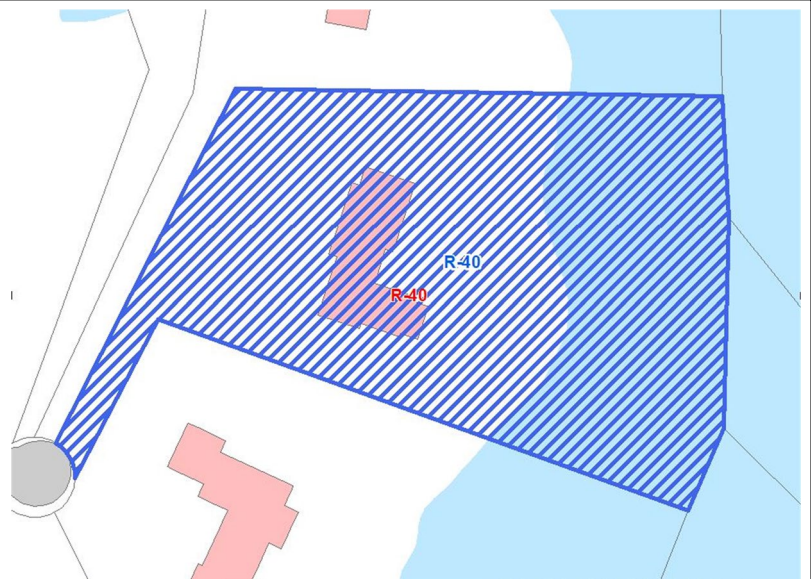
100-foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- Driveway with paved parking area
- Swimming pool with pool deck surround and retaining wall
- Garden area with greenhouse
- Gravel path and concrete walkways

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

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

Shoreline

Shoreline is in a natural state. Moderate maintenance should be performed to limb up low hanging branches shading existing tidal shoreline and to remove vegetation debris.

Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 1
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 2
- Evaluation of existing canopy tree removal request: Trees being requested for removal are associated with an evaluation of the entire lot conducted by the applicant's Landscape Architect that reviewed the health of the existing tree canopy within the upland areas of the lot. Staff supports the removal of the subject trees.

Stormwater Management Methodology

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

Evaluation and Recommendation

The applicant wishes to construct an attached garage off the southern portion of the existing single-family residence, a swimming pool with associated pool surround and patio area, and an expansion to the existing driveway to provide a paved parking area at the front of the residence. The majority of the proposed improvements associated with this

variance request occur within the 50-foot landward and variable width buffer of the Resource Protection Area (RPA) of the Chesapeake Bay Watershed. Although this request increases the overall impervious cover of the lot from 10,107 square feet to 12,904 square feet, the applicant has provided a buffer restoration plan that reestablishes a substantial portion of the 100-foot RPA buffer to riparian planting.

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 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 acknowledges the statement provided by the applicant and is of the opinion that that the location of the proposed improvements within the RPA are similar to other lots developed along this peninsula. The development of improvements on those lots are situated as such that both primary and accessory structures are within the 50-foot landward buffer of the RPA consistent with development patterns in the neighborhood and similar to improvements on surrounding lots.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant but rather *"the subject lot and home was created and constructed prior to October 1, 1989, prior to the adoption of the CBPA Ordinance."* Staff concurs.
- 3) The variance is the minimum necessary to afford relief because *"the 100-foot RPA encumbers a large area of the lot while the remainder of the lot lies entirely within the Variable Width Buffer. All proposed improvements are located in the 50' Landward and Variable Width Buffers. The proposed placement of improvements are due to the proximity of their home within the RPA. While the proposed improvements increase their overall impervious surface in the RPA, all take place in areas that are currently dedicated to lawn or overgrown shrubbery (which includes invasive species). In this regard, the proposed improvements are in the most logical locations and are a minimum amount to gain usable space within their lot."* Staff acknowledges that this lot is encumbered by the Resource Protection Area (RPA) and concurs with the statement provided by the applicant.
- 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 RPA buffer on this lot is comprised of grass, ornamental landscaping, and invasive species. All proposed improvements are outside of the 50' Seaward Buffer and sited adjacent to their existing residence and/or impervious surfaces. 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 best management practices offered, and the provided buffer restoration associated with this request will benefit water quality and water quantity management that this lot does not currently provide.
- 5) *"It is expected that 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 improvements will be mitigated with additional landscape that should aid in slowing the velocity of stormwater leaving the site while the also allowing for the absorption of any additional 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 concurs and

offers that granting this variance would require the landscaping to remain functioning as intended in perpetuity.

Given the above comments, Staff recommends the following **16** reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Buffer restoration shall be installed per the Conceptual Landscape Plan provided by Painted Fern Landscape Architects dated January 3, 2022. Said restoration plan shall be submitted concurrent with the site plan and shall detail the location, number, and species of vegetation to be installed. 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) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 4) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 5) 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.
- 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) 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.
- 13) 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.
- 14) Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.
- 15) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$796.58 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 16) The conditions and approval associated with this variance are based on the exhibit plan dated December 30, 2021, prepared by Painted Fern Landscape Architecture, signed December 30, 2021 by Jessica L. 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.

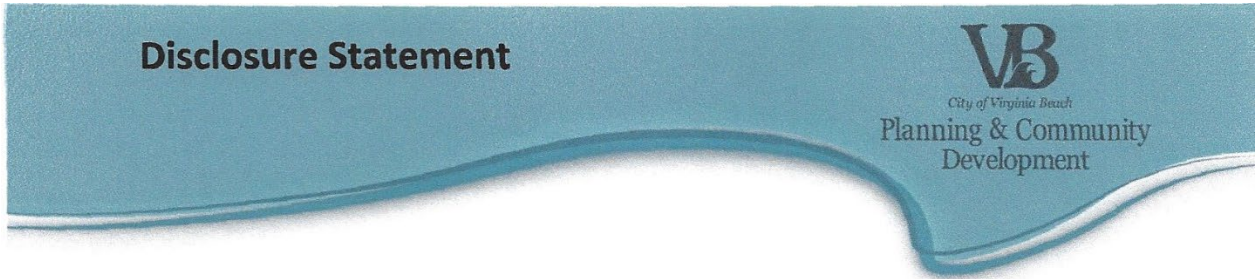
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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



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 Ohad Sheffy

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.

Sun Trust Mortgage

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 Landscape Architecture, Jason Thomas, PLA

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.

DKT Associates, Land Surveyor, Dennis Taflambas, LS

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 

Print Name and Title
CHAD SHEFFY

Date
12/29/21

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 **Haversham Close, LLC**
 Address **2393 Haversham Close**
 Public Hearing **February 7, 2022**
 City Council District **District 5**, formerly Lynnhaven

Agenda Item

3

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a swimming pool with associated patio and excavate uplands for a bulkhead re-alignment.

Applicant's Agent

Robert Simon

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 188, Page 8

Recorded 10/11/1984

GPIN

2418-04-0096

SITE AREA

67,040 square feet or 1.54 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

20,234 square feet or 0.47 acres

EXISTING IMPERVIOUS COVER OF SITE

10,172 square feet or 50.3 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

11,026 square feet or 54.5 percent of site

Area of Redevelopment in RPA

688 square feet

Area of New Development in RPA

854 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

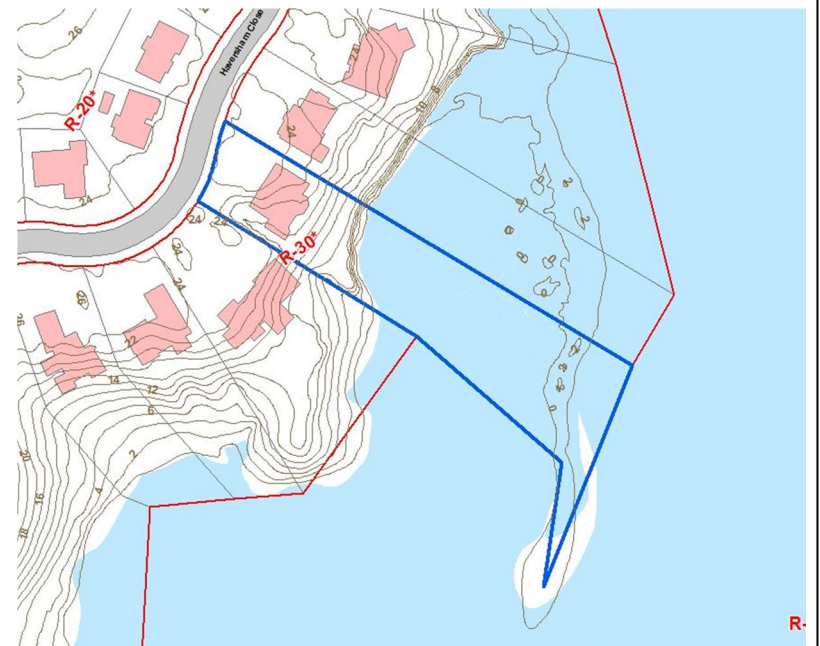
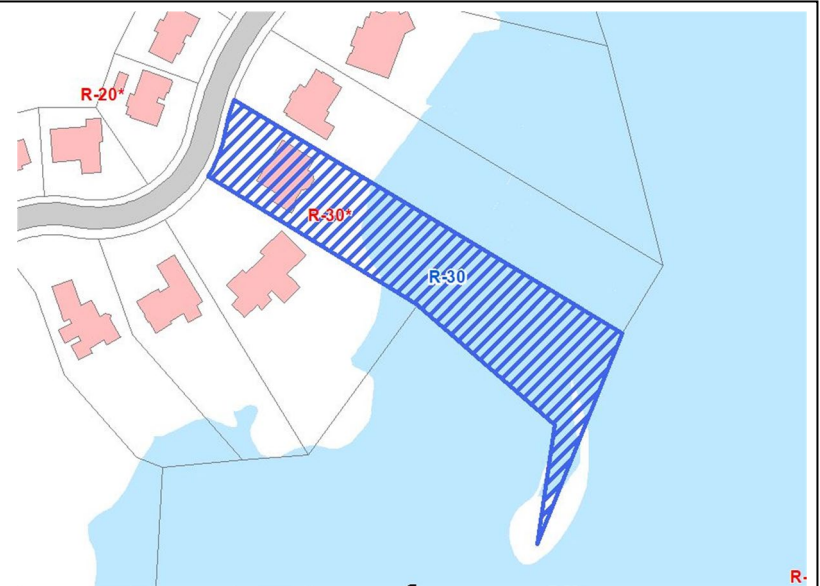
100-foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Stairs, composite decking and retaining walls located at the rear of the residence
- Timber bulkhead realignment at the southern end to allow for proposed boat house

Construction Details

- Swimming pool with associate decks and retaining walls
- Excavation of upland to replace and realign a steel or composite bulkhead

CBPA Ordinance Variance History

On April 27, 2009, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of two retaining walls with backfill and paver walkways/steps with the following conditions:

1. *A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.*
2. *Orange 36" re-enforced silt fence, for erosion and sedimentation control measures, shall be installed along the seaward limits 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.*
3. *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.*
4. *Construction limits shall lie a maximum of 10' outboard of improvements.*
5. *The construction access way shall be noted on the site plan, as well as the stockpile staging area.*
6. *Stormwater runoff from existing and proposed impervious cover shall be conveyed to stormwater management facilities. All stormwater treatment facilities shall be installed prior to the release of the building permit.*
7. *If and when the shoreline is re-hardened, a composite vertical bulkhead or segmental block wall shall be constructed. The toe of said bulkhead / wall shall lie at or landward of mean high water or tidal vegetated wetlands, unless the Wetlands Board determines that site specific conditions warrant a more seaward alignment. Said condition shall be so noted on the site plan.*
8. ***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 \$46.00 and is based on 25% of the proposed impervious cover. Said payment shall provide for the equivalent of an approximate 50 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
9. *Buffer restoration shall be installed as shown on the site plan sealed by Mr. James W. Brawley dated 3-17-09. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers. The required restoration 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. A minimum of eighteen (18) trees shall be installed and shall be comprised of 50% deciduous and 50% evergreen*

species. The required trees shall be evenly distributed throughout the RPA to the greatest extent practicable. All required landscaping shall be installed prior to the release of the building permit.

- 10. Best management practices for erosion and sediment control shall be employed during restoration activities to protect adjacent wetlands and shorelines of water bodies.*
- 11. A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed. The landscape plan shall clearly delineate existing naturalized area (forest floor), planting beds, and turf zones.*
- 12. The conditions and approval associated with this variance are based on the site plan dated March 16, 2009, prepared by James W. Brawley, P.E.*
- 13. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.*
- 14. 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.*

The April 27, 2009 Board granted variance has been acted upon and the associated improvements constructed.

Environmental Conditions

Flood Zone

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

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

Rappahanock Series (deep and poorly drained soils) located seaward of the existing bulkhead

Sandy Beach located along the peninsula portion of the lot

Shoreline

Shoreline is hardened by a wood bulkhead constructed approximately 30 years ago. The existing bulkhead is approximately 9 feet in height and is located approximately 60 feet from the existing single-family residence on the lot. Portions of the existing bulkhead specific to the wood piles are showing signs of failure and are compromised approximately 6 to 7 feet above the tidal shoreline, these piles have begun to split and splinter. A portion of the overall redevelopment of this lot proposes to replace and realign the existing wood bulkhead. The realignment of the bulkhead occurs along the southern portion of the lot where the existing bulkhead comes to a point. The applicant desires to remove this portion of the bulkhead and associated uplands, approximately 878 square feet to accommodate for a future boathouse and lift. The request to construct the proposed boathouse and dredging of subaqueous bottom located seaward of the bulkhead will require a Joint Permit Application (JPA) and City Wetland Boards approval.

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 variance request proposes to redevelop the rear portion of the lot associated with the 2009 CBPA Variance. The existing retaining walls and associated fill material will be removed and a swimming pool with patio area constructed. The proposed swimming pool and patio area will remain within the limits of the existing retaining wall layout. The proposed improvements will increase the overall impervious cover by 854 square feet from 10,172 square feet to 11,026 square feet of the lot above water and wetlands. This new impervious cover on the lot accounts for approximately 8 percent of the overall impervious cover on the lot. This amount is calculated using the realignment of the bulkhead which reduces the area of uplands on the lot by 878 square feet as follows.

	Site Area	Proposed Impervious Cover	Percent of Site
• Existing lot area	21,112 square feet	11,026 square feet	52.2 square feet
• Lot area with realigned bulkhead	20,234 square feet	11,026 square feet	54.5 square feet

Staff is of the opinion that the retention of the existing single-family residence and the extent of redevelopment associated with the proposed swimming pool area accounting for approximately 8 percent of the overall impervious cover on the lot provides merit towards the redevelopment of the lot given that the proposed improvements fall within an area that was approved by the 2009 CBPA Variance to construct the retaining walls with associated backfill material. To address the location of the proposed improvements within the RPA, Staff provides the recommended conditions below – specifically conditions 3 through 9 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 from impervious surfaces and addresses the single accessway to the pier. In addition, recommended condition 9 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 topography of the lot and exposure to fetch, that the application of sequencing the construction activities 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 given the extent of redeveloping the shoreline.

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 because *"the site was subdivided in 1984 with 96 percent of the site above water, marsh and wetlands in the RPA."* 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 *“the site was platted in 1984 and developed in 1989/1990 and the CBPA buffer encompasses the entire lot.”* Staff concurs this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance, therefore portions of this lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *“the proposed pool and patio are located immediately adjacent to the existing deck and over existing impervious cover to the greatest extent practicable.”* Staff offers that the retention of the existing single-family residence when redeveloping this lot coupled with the size of the lot above water and wetland being approximately 21,112 square feet (as submitted) challenges the expansion of existing accessory structures, currently located within the 50-foot seaward buffer of the lot. Staff does commend the applicant and their design team for locating the proposed improvements within the area approved by the 2009 CBPA Variance to construct the retaining walls with associated backfill material.
- 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 *“stormwater management associated with this project will include both existing and proposed improvements and will improve water quality by mitigating runoff. In addition, a review of the development in the neighborhood provides that 31 of the 61 waterfront lots on Haversham Close and Dey Cove Drive are developed with swimming pools.”* 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 within the RPA is equally beneficial towards stormwater management. Staff offers that the stormwater management conditioned for this lot from this variance request and the 2009 CBPA Variance coupled with buffer mitigation within the RPA feature and the use of structural best management practices – permeable pavement system when the existing driveway is redeveloped 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 *“all stormwater runoff will be directed to bioretention beds thereby reducing nonpoint source pollution load running off this site prior to entering Dey Cove.”* Staff is of the opinion that the recommended conditions below and coordination of the proposed improvements associated with this request through the multiple discretionary application processes offer merits towards the variance not contributing to an increase in nonpoint source pollution loading.

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) 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 areas shall be equal to 3,084 square feet (two times the area of the swimming pool and patio or 1,542 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 **4 canopy trees, 16 understory trees, 16 large shrubs, and 24 small shrubs**. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.
- 4) The proposed access/walkway to the pier shall be a permeable material to allow for rainwater infiltration and shall be built into the existing grade. Steps may be used for transitioning the existing grade and the width of the access/walkway shall not exceed 5 feet in width.
- 5) When redeveloped, the following areas of the existing driveway shall be constructed out of a permeable pavement system.
 - The stem portion of the existing driveway located seaward of the existing garage access.
 - The circular portion of the existing driveway located at the front of the residence.

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) 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 5 feet.
 - Along the remaining portions of the property the required silt fence shall be installed 10 feet from all proposed improvements.
- 7) 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.
- 8) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 9) A pre-construction meeting shall be held with the CBPA Inspector, CBPA Staff, Waterfront Operations Inspector, 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.
- 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) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline (**to the greatest extent practicable**) of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

- 12) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 13) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 14) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized seaward of the proposed improvements.
- 15) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$782.83 and is based on the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 16) It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
- 17) This variance and associated conditions **will supersede** the Board variance granted April 27, 2009 except for condition 6 that *"stormwater runoff from existing and proposed impervious cover shall be conveyed to stormwater management facilities. All stormwater treatment facilities shall be installed prior to the release of the building permit."*
- 18) The conditions and approval associated with this variance are based on the exhibit plan dated January 3, 2022, prepared by Chesapeake Bay Site Solutions, Inc. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

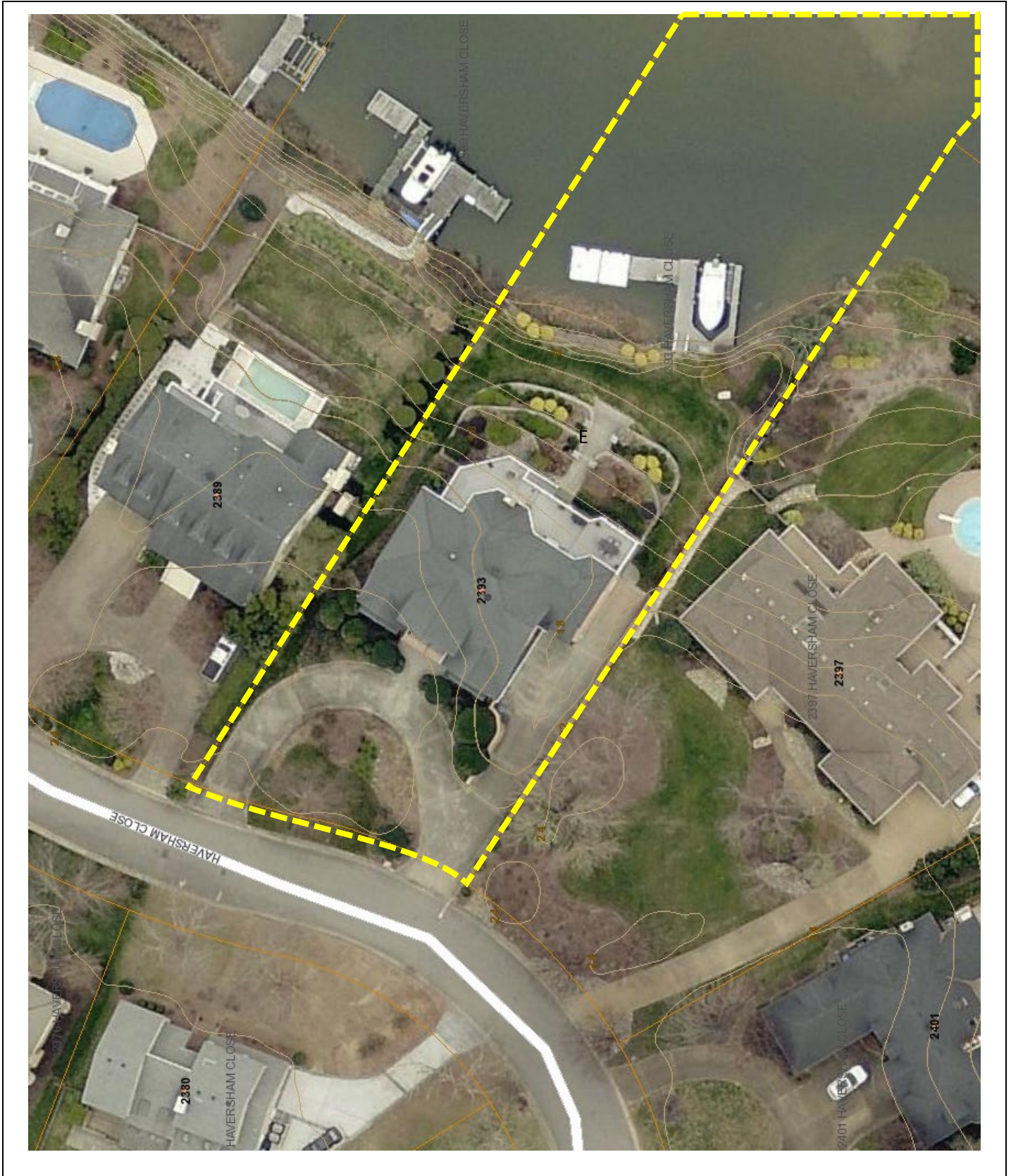
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

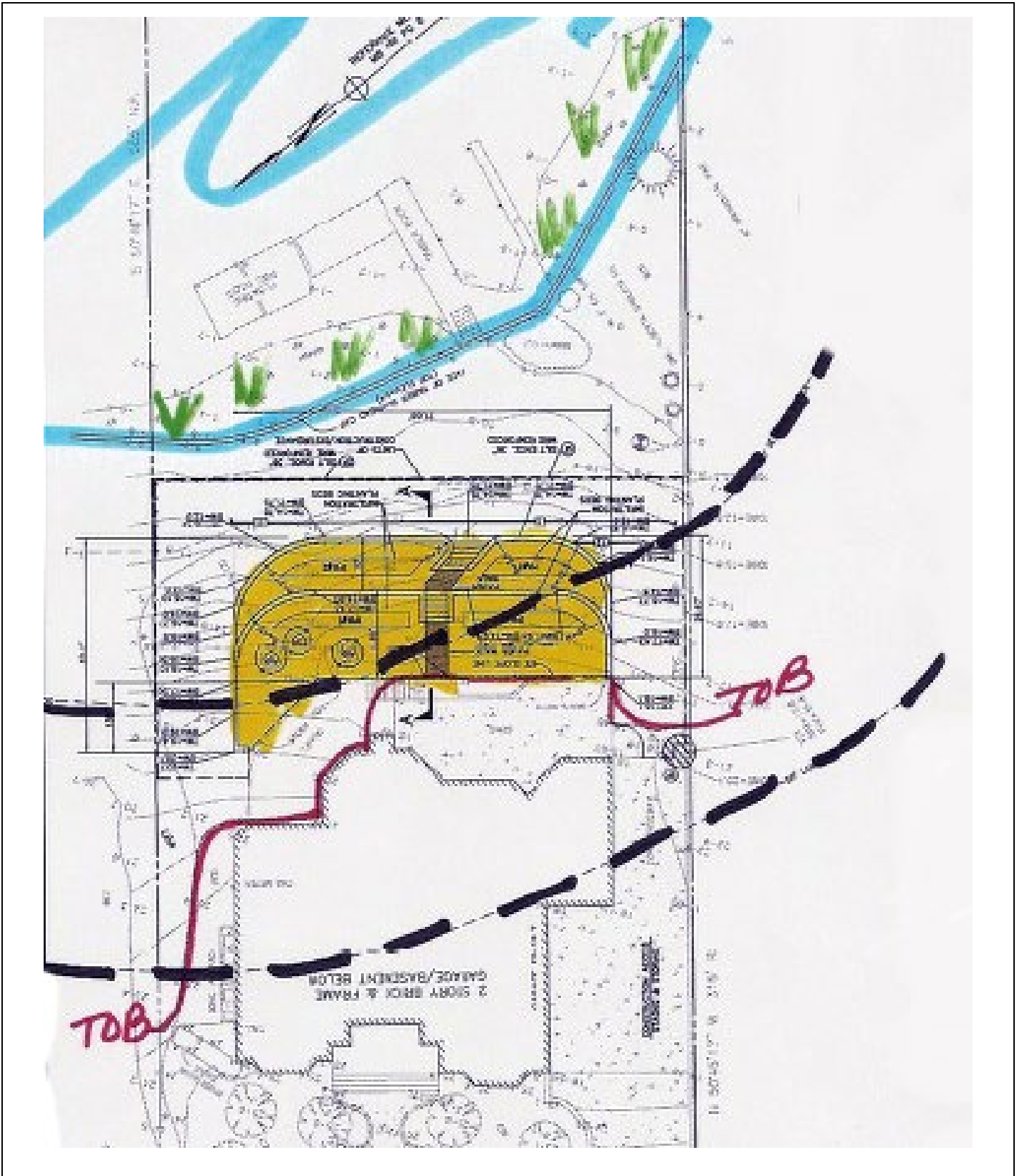
***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section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

Site Aerial

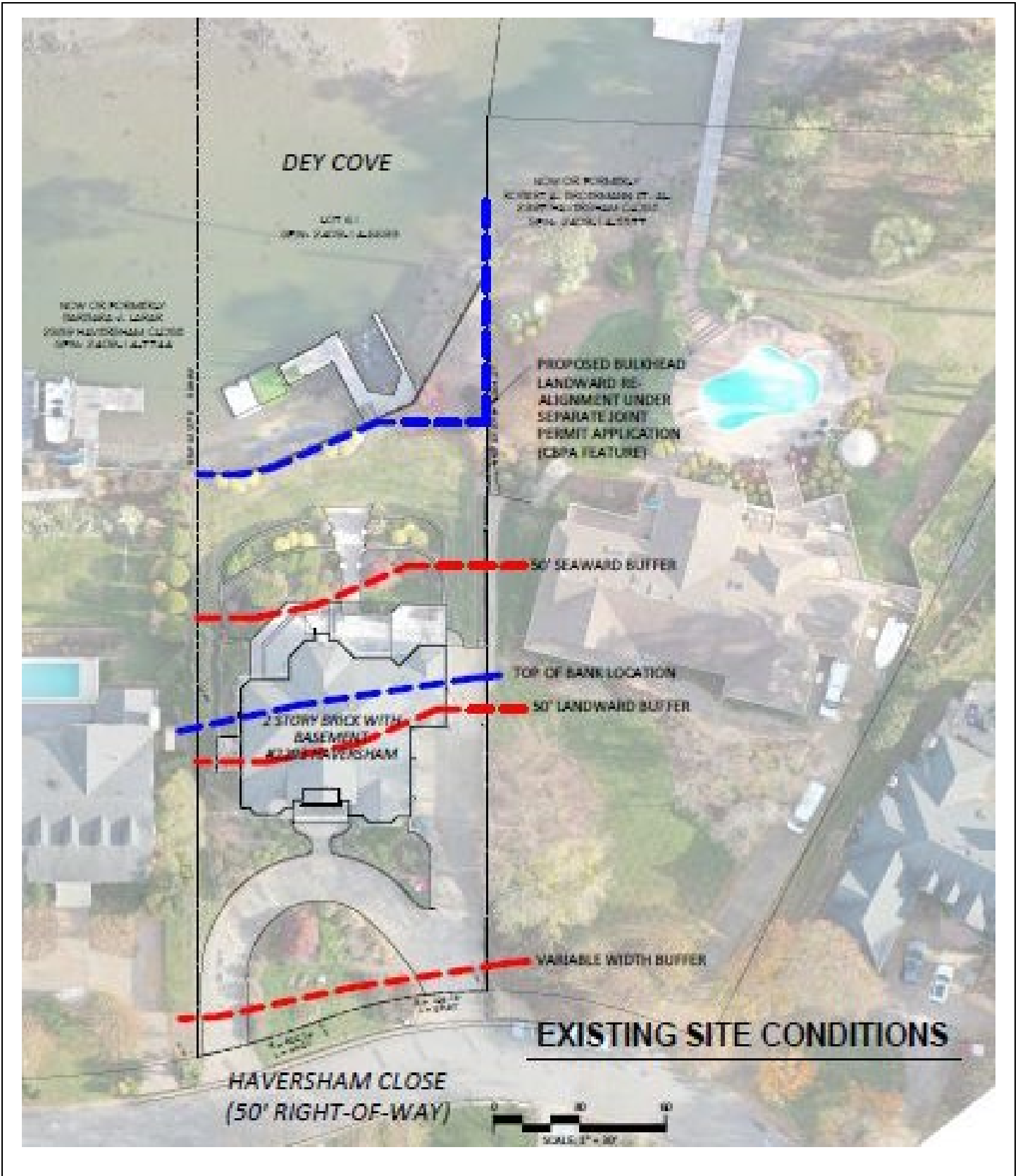


Site Aerial with Topography

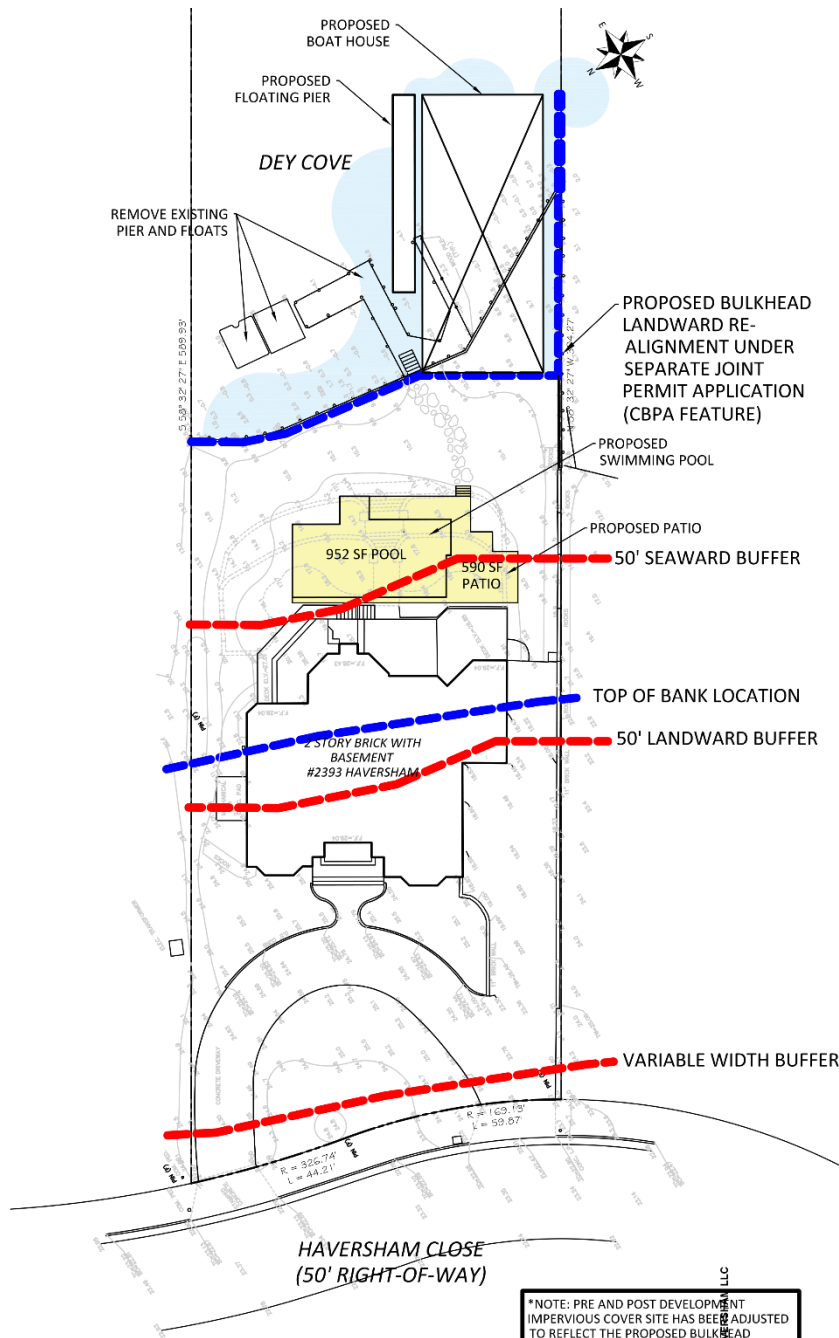




CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements



*NOTE: PRE AND POST DEVELOPMENT IMPERVIOUS COVER SITE HAS BEEN ADJUSTED TO REFLECT THE PROPOSED BULKHEAD LANDWARD RE-ALIGNMENT REQUESTED IN A SEPARATE JOINT PERMIT APPLICATION

PROPOSED IMPROVEMENTS

AREA TABLE

Area of Site*	20,234 SF		
Pre Development Impervious Cover of Site:	10,172 sf	50.3%	
Post Development Impervious Cover of Site:	11,026 sf	54.5%	
Area of Site in RPA*:	19,346 sf		
Area of new development in the RPA:	854 sf	4.4%	

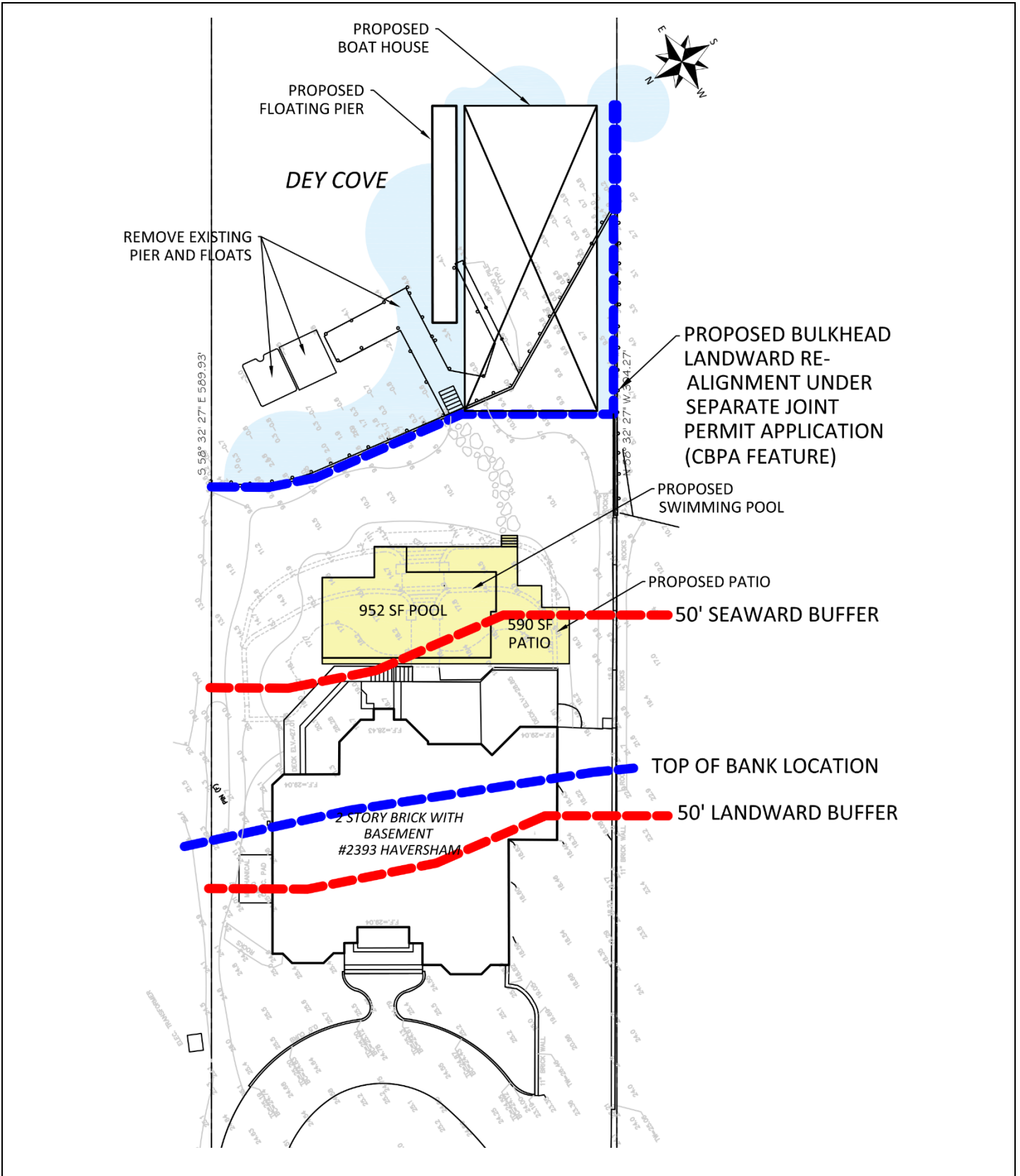
SITE DATA:

2393 HAVERSHAM CLOSE
VIRGINIA BEACH, VA 23454
PHONE: (757) 689-5459

GPIN: 2409-14-6639
LEGAL: BROAD BAY POINT GREENS PHASE 1 LOT 61



CBPA Exhibit – Proposed improvements, 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 Haversham Close, LLC

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

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

Waterfront Consulting, Inc, Robert E Simon and GPC, 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)

Stephen B Ballard, 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)

N/A

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

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

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.

Billy Almond, 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.
Salmons Dredging, bulkhead, pier and boat house out for 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 engineer/surveyor/agent.
Waterfront Consulting, Inc, GPC, Chesapeake Bay Site Solutions, Carter Sinclair
-
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

Haversham Close, LLC by: Stephen B Ballard, Managing Member

Print Name and Title

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	



Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a swimming pool with associated patio, covered porch, new building additions, and new concrete driveway.

Applicant's Agent

Billy Garrington

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 45, Page 37

Recorded 08/15/1958

GPIN

1499-88-7535

SITE AREA

31,761 square feet or 0.729 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

29,208 square feet or 0.671 acres

EXISTING IMPERVIOUS COVER OF SITE

5,951 square feet or 18.7 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

7,418 square feet or 23.4 percent of site

Area of Redevelopment in RPA

1,220 square feet

Area of New Development in RPA

1,238 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

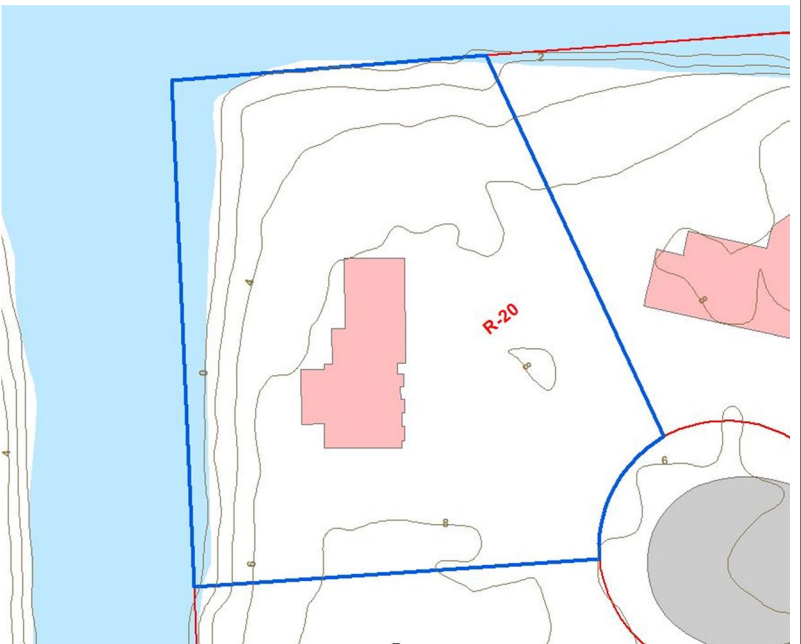
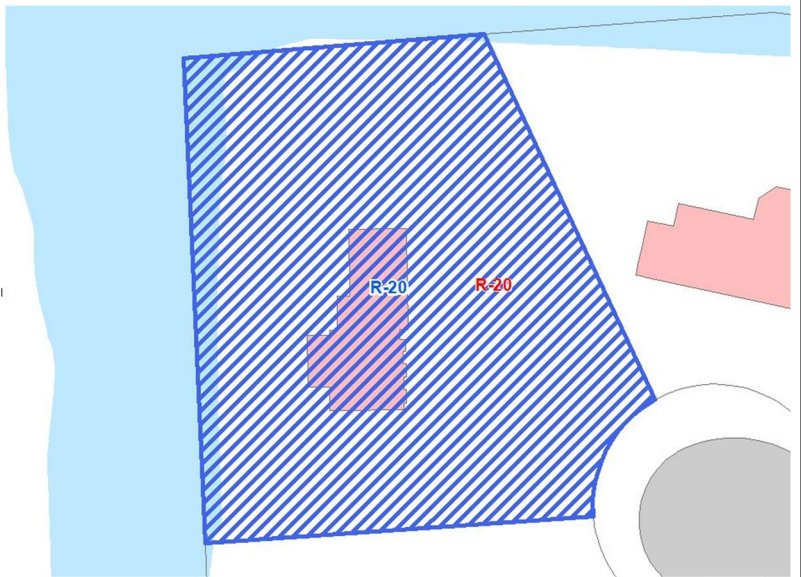
100-foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Portions of gravel driveway, remaining driveway will be redeveloped and expanded
- Concrete parking area

Construction Details

- Reconfigure and expand concrete driveway
- Two building additions and covered porch area
- Swimming pool with concrete pool patio
- Paver walkways

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Multiple Zones – Zone X, Shaded 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 primarily in a natural state with a low rip rap sill at the tidal edge of the toe of slope.

Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 3
- Evaluation of existing canopy tree removal request: - The three trees requested for removal fall within the layout of the proposed concrete driveway and Staff supports this request given the buffer restoration required with the new impervious cover in the RPA.

Stormwater Management Methodology

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

Evaluation and Recommendation

The applicant proposed to construct two small building additions to the existing single-family residence with a covered porch, new swimming pool and associated pool surround area, paver walkways, and reconfigure the existing gravel

driveway to create a new concrete driveway/parking area. This variance request increases the overall impervious cover of the lot from 5,951 square feet or 18.7 percent of the site to 7,418 square feet or 23.4 percent of the site above water or wetlands. Approximately 2,821 square feet of new impervious cover is proposed with this request with the majority coming from the swimming pool area and new concrete driveway. Additionally, the applicant proposes to convert 1,354 square feet of impervious cover to pervious cover with the reconfiguration and removal of the two circular portions of existing driveway. A large portion of this new pervious cover falls within the seaward buffer to offset for the slight impacts to the buffer added in by portions of a new sidewalk and the new concrete driveway area.

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 existing dwelling was built many years prior to the adoption of the bay act as a result the house is situated significantly farther back from the front property line than the minimum front yard setback affiliated with this zoning category now. The house has no storm water treatment facilities currently in place."* Staff concurs with the applicant's statement.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant but rather *"the plan calls for a significant amount of existing impervious cover to be converted back to pervious (1441 sf) and a significant amount of redevelopment over impervious cover (1220 sf) and new impervious cover of 2679 sf to be mitigated at a 2:1 ratio. Given the location of the existing dwelling built many years ago there will be new impervious cover in the seaward buffer and the existing house impacts the seaward buffer now. The lot has buffer on 2 sides not the typical lot with just one buffer."* Staff concurs that the RPA buffer encompasses the majority of this lot and offers that the existing residence was built prior to the adoption of the Chesapeake Bay Act and the City's CBPA Ordinance.
- 3) The variance is the minimum necessary to afford relief because *"the strict application of the ordinance would make it impossible to make any improvements to this older dwelling since it already encroaches into the seaward buffer and many homes in the immediate vicinity have been redeveloped in a similar fashion recently so this will not be a convenience or special privilege for the owner. The current owner nor his predecessor could have predicted the bay act adoption and moving the house would have been the only option which would remove a significant amount of mature tree canopy."* Staff is of the opinion that the applicant has demonstrated an understanding of the CBPA Ordinance findings with the proposed improvements as delineated on the CBPA Exhibit for this variance request. Staff offers that the location and size of the proposed structures provide 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 new additions have been placed with the minimum encroachment possible and with the removal of a significant amount of existing impervious cover and a significant amount of redevelopment we feel this meets the minimum relief."* As previously mentioned, Staff is of the opinion that the proposed improvements with this variance request is not of substantial detriment to water quality. As the agent indicated in the WQIA, this property currently does not offer stormwater mitigation for the bay. This variance request has minimal land disturbance to the property and with the proposed mitigation methods, the project provides additional benefits to the water quality of the Chesapeake Bay.

- 5) *“The existing property has no treatment facilities currently. Post construction the lot will have significantly more buffer in the RPA, significantly more water treatment since we are required to treat 100 % of all impervious cover and off-site mitigation via the oyster program “as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion that the applicant’s approach to ensure a no net increase in nonpoint source pollution is acceptable. These management techniques include bioretention stormwater bed plantings within the riparian buffer to slow and treat the on-site stormwater runoff to the greatest extent practicable.*

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) 5,655 square feet of buffer restoration shall be installed per the Buffer Restoration Plan provided with the CBPA Exhibit. The required restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.
- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 7) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
- 9) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**

- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 13) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 14) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$283.70 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 15) The conditions and approval associated with this variance are based on the exhibit plan prepared by Gaddy Engineering Services, LLC, signed December 30, 2021 by Michael S. Gaddy. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

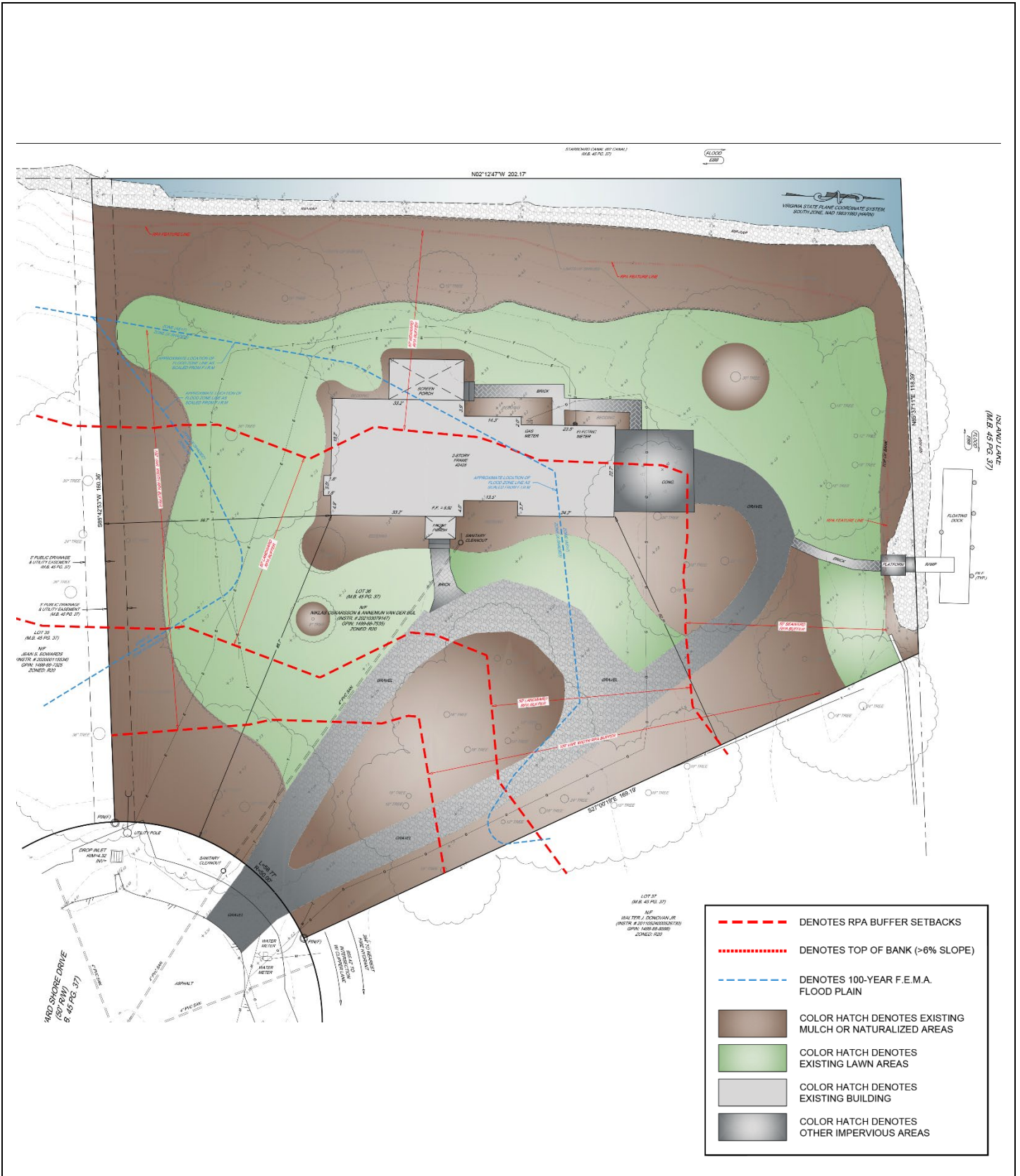
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

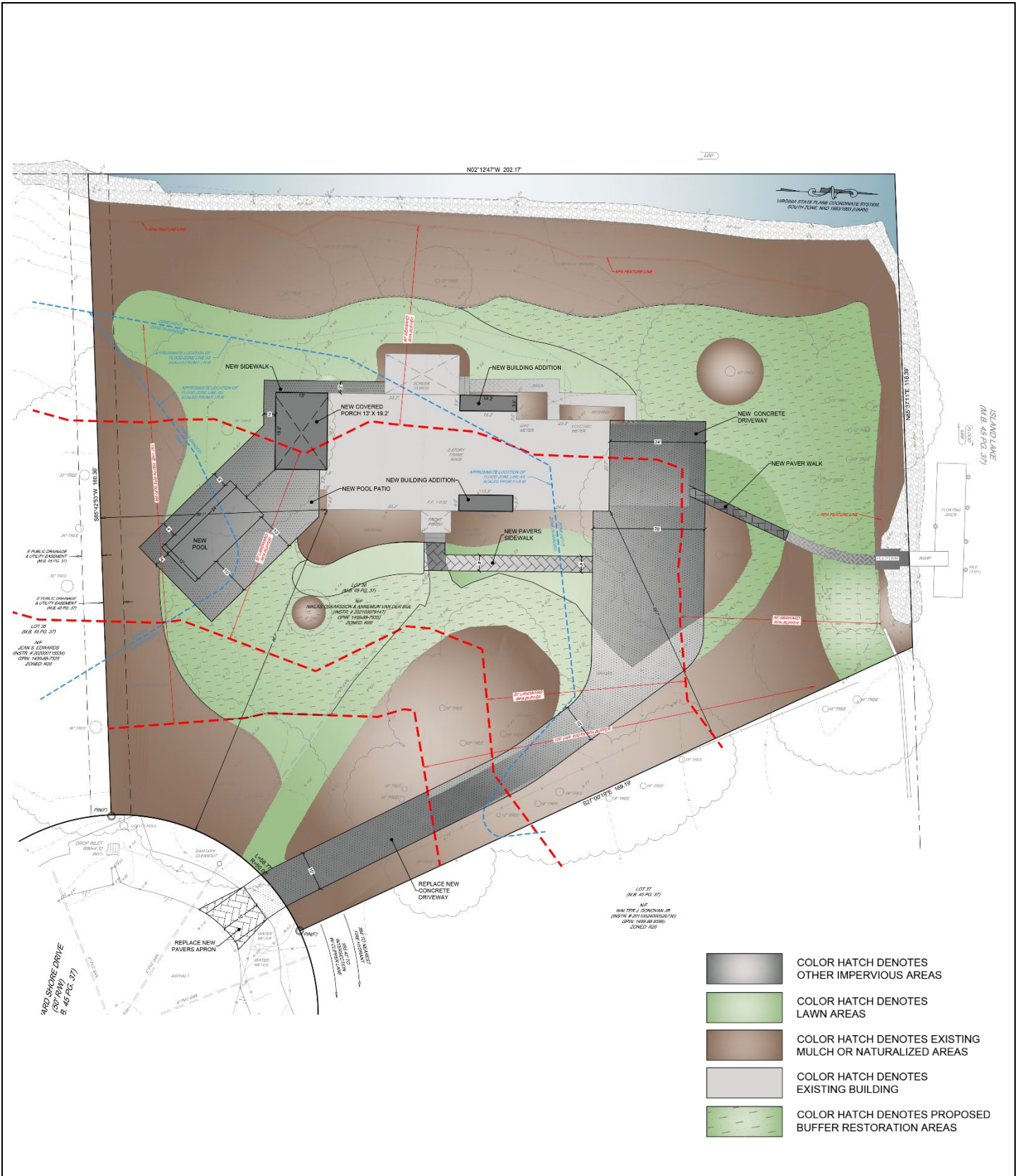
Site Aerial



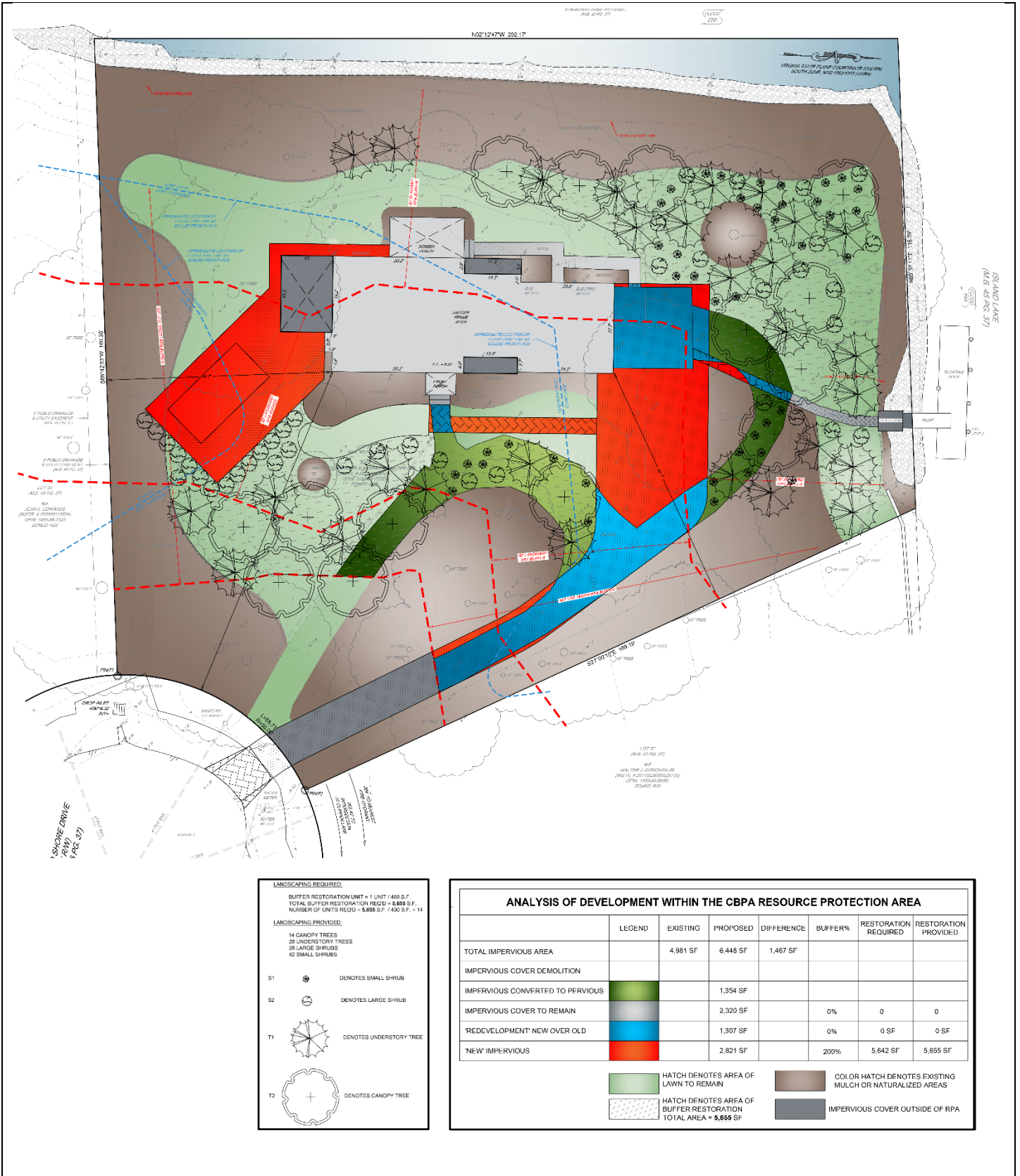
CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements



CBPA Exhibit – Color Analysis and Buffer Restoration Plan



Disclosure Statement

Disclosure Statement



Applicant & owner

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Applicant Disclosure

Applicant Name

Niklas Oskarrson / Anke Oskarrson

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

Billy Garrison GPC

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 ~~the~~ financial institutions providing the service.

TEWIST

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.

SELF

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.

CAROL JOHNSON RES. DESIGN, LTD.

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.
CHRIS ETEL V.B. QATS.
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.
MIKE GADLEY - Gadley Eng.
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.

[Signature]

Applicant Signature

NIKLAS OSKARRSON

Print Name and Title

12/29/21

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 **Walker Milici**
Address **2617 Broad Bay Road**
Public Hearing **February 7, 2022**
City Council District **District 5**, formerly Lynnhaven

Agenda Item

5

Variance Request

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

Applicant's Agent

David Kledzik

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 90, Page 36
Recorded 03/20/1972

GPIN

1499-68-9190

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

1,190 square feet

Area of New Development in RPA

98 square feet

Location of Proposed Impervious Cover

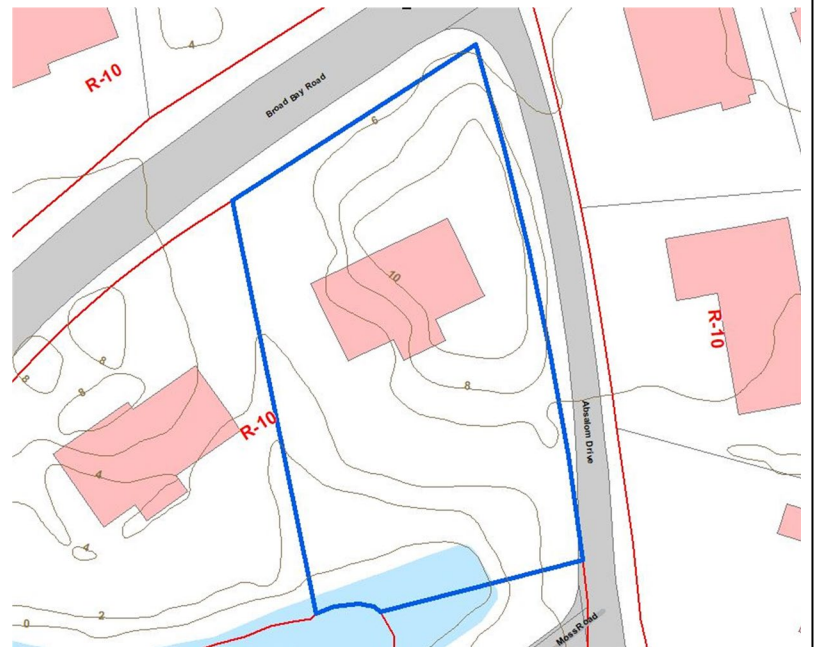
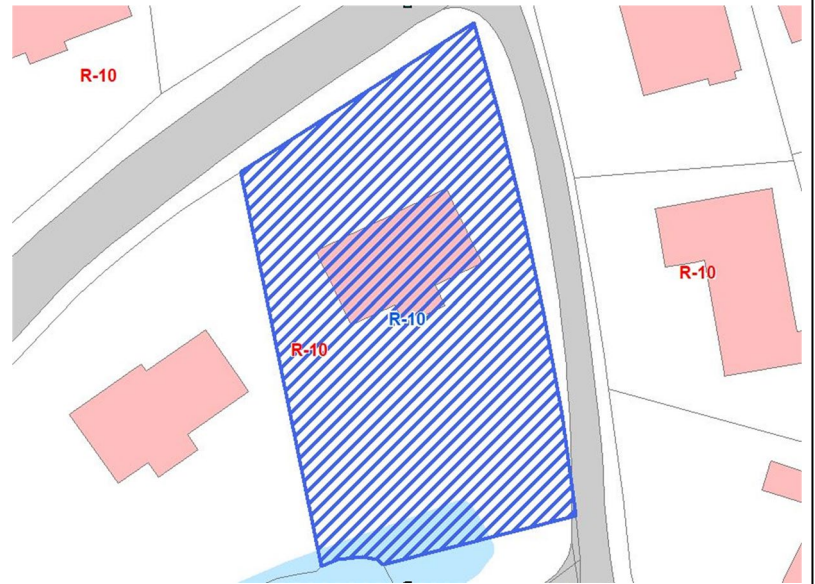
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Concrete patio, brick pad, gravel, and steps

Construction Details

- Framed timber deck and steps

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Zones AE, Base Flood Elevation (BFE): 7

Soil Type(s)

Fripp Series (deep, excessively drained sandy marine and eolian sediment soils)
Lakehurst Series (deep, moderately drained sandy marine and eolian sediment soils)
Psammments Series (moderately well-drained soils, disturbed from excavation)

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Sparsely wooded lot

- Number of 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. The applicant is proposing at grade gravel drip intercepts for rooftop runoff, gravel downspout intercepts, sand and gravel underdeck treatment, and to preserve the existing riparian buffer as ways to ensure a no net increase in nonpoint source pollution load into the watershed.

Evaluation and Recommendation

Portions of the rear yard on the subject lot are currently developed with brick and stone pathways, brick pads, and a concrete patio. Outboard of these areas the underlying soil condition within the southwest portion of the lot in the 100-foot RPA buffer primarily consists of compacted gravel and denuded areas underneath the existing canopy tree cover. The applicant desires to redevelop this area with the proposed timber deck, which would constitute for 1,190 square feet of redevelopment over existing impervious cover and areas of compacted gravel. The proposed wood deck would be approximately 3 to 8 feet above the existing grade elevation with access to and from the structure contained within

the structure as shown on the CBPA Exhibit. Given the existing impervious cover and underlying soil conditions, Staff is of the opinion that the redevelopment of these conditions offers merit towards augmenting the existing soil profile to improve current void space availability to promote a higher rate of rainwater infiltration. In addition, minor signs of erosion are present in this area caused by channeling of runoff due to topography conditions along the west property line of the lot. To address this condition, Staff provides the recommended conditions below, specifically recommended condition 2 and 3 towards the variance request being in harmony with the purpose and intent of the Chesapeake Bay Preservation Area (CBPA) Ordinance.

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 *"our variance request for the proposed deck is so we can enjoy our back yard in similar concept to others."* 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 *"our proposed deck is not linked to any previous activity."* Staff concurs and provides that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this property are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"our proposed deck provides improved space with minimal new impervious cover in the RPA."* Staff concurs and offers that the applicant has provided a layout that is cognitive of the existing confined conditions of the lot, zoning setbacks, and delineated RPA feature within the neighborhood, which appears to be consistent with the findings of the CBPA Ordinance.
- 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 deck is stacked over existing impervious surfaces and adjacent to the side/back of the dwelling in the landward buffer to allow space for infiltration into Fripp like sandy soils."* Staff concurs and offers that the conditioned buffer restoration associated with the proposed improvements, under deck treatment, and retention of existing vegetation of the lot provide merit towards water quality benefits.
- 5) *"Our request leads to a reduction and a retreat of impervious area on the property and in the Resource Protection Area"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff offers the recommended conditions below as a means towards managing nonpoint source pollution load.

Given the above comments, Staff recommends the following 9 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

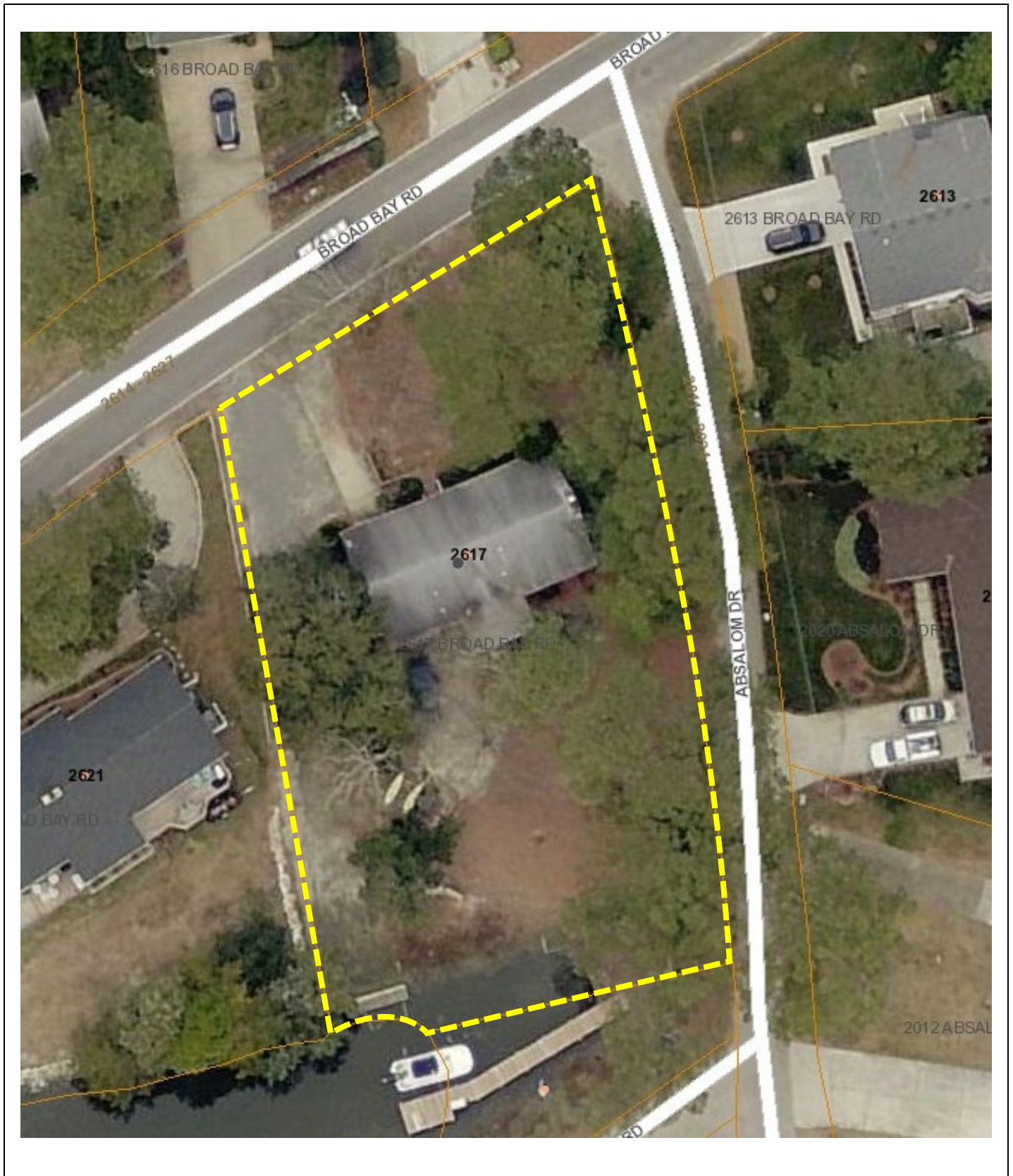
1. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division 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.

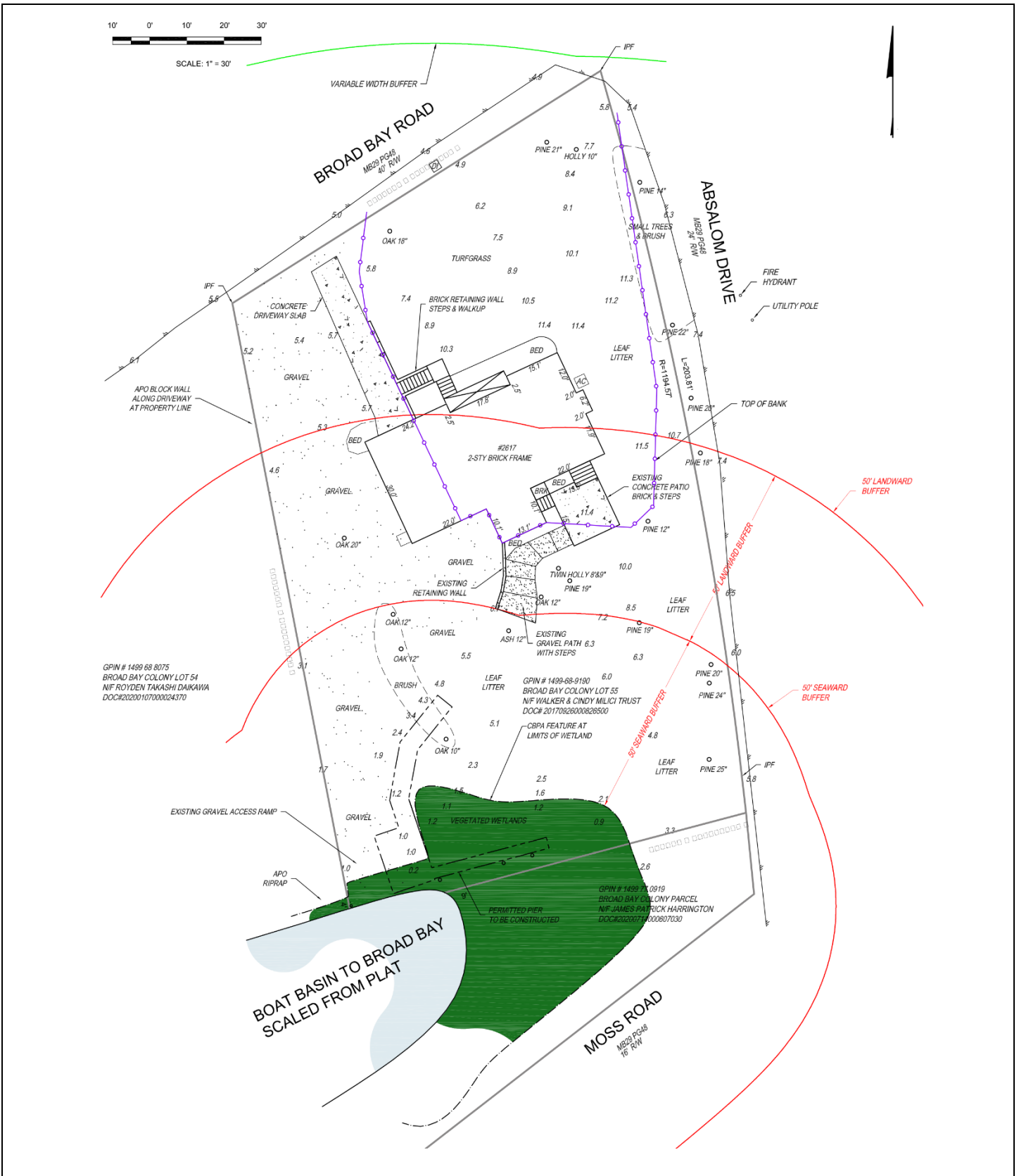
2. 1,288 square feet of buffer restoration shall be installed within the 50-foot seaward buffer within the area of existing gravel specific to the area between the permitted pier and west property line of the lot. Said restoration shall achieve the full complement of vegetation consisting of groundcovers, grasses, shrubs and understory trees that are salt and flood tolerant. The restoration area shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.
3. The area of buffer restoration specific to soil amendment and vegetation density shall be installed consistent with the specifications provided in the Virginia Stormwater BMP Clearinghouse, Practice 2: Sheet Flow to Vegetated Filter Strip. Said area shall be prepared and maintenance per specifications regarding physical feasibility, design applications and design criteria to abate sediment erosion and concentrated runoff on the lot.
4. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
5. Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project and required areas of buffer restoration 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.
6. Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
7. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
8. Under deck treatment of sand and gravel shall be installed.
9. No perimeter fill is authorized outboard or seaward of the proposed improvements.

***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



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 Walker Milici

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

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

David Kledzik

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.

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.
Marine Engineering LLC David Kledzik

- 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.

Walker Milici
Applicant Signature
Walker Milici
Print Name and Title
12/23/21
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	