

Chesapeake Bay Preservation Area Board Agenda

April 4, 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, April 4, 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, Second Floor, 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.

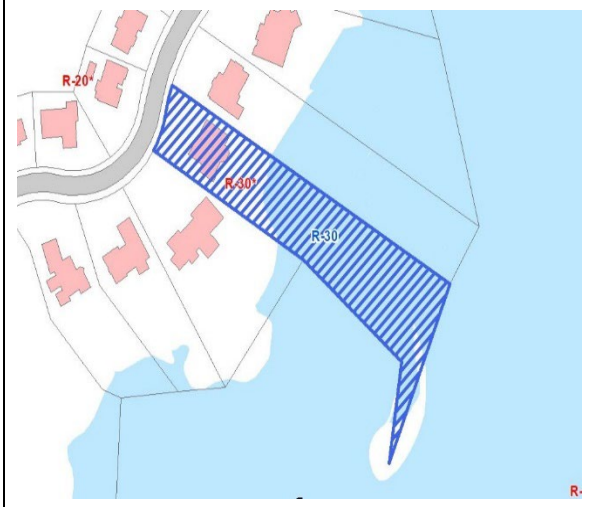
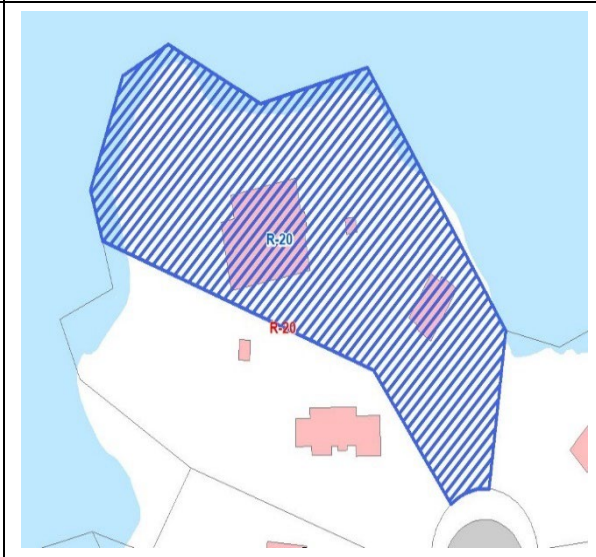


CHESAPEAKE BAY PRESERVATION AREA BOARD AGENDA

Public Hearing Date **April 4, 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.

OLD BUSINESS AGENDA ITEMS	
<p>1. Haversham LLC [Applicant & Property Owner]</p> <p>2393 Haversham Close GPIN 2409-14-6639 City Council District: District 5, formerly Lynnhaven Accela Record 2022-CBPA-00004</p> <p>Variance Request – Encroachment into the RPA to construct a swimming pool with associated patio and excavate uplands for a bulkhead realignment.</p> <p>Staff Planner – PJ Scully Staff Report – page 5</p>	
<p>2. Jonathan & Ashley McAchran [Applicants & Property Owners]</p> <p>933 Queen Elizabeth Drive GPIN 1488-44-9313 City Council District: District 8, formerly Lynnhaven Accela Record 2022-CBPA-00006</p> <p>Variance Request – Encroachment into the RPA to construct an addition to the residence, swimming pool with associated walkways, paver area adjacent to residence and resurface existing driveway.</p> <p>Staff Planner – PJ Scully Staff Report – page 25</p>	

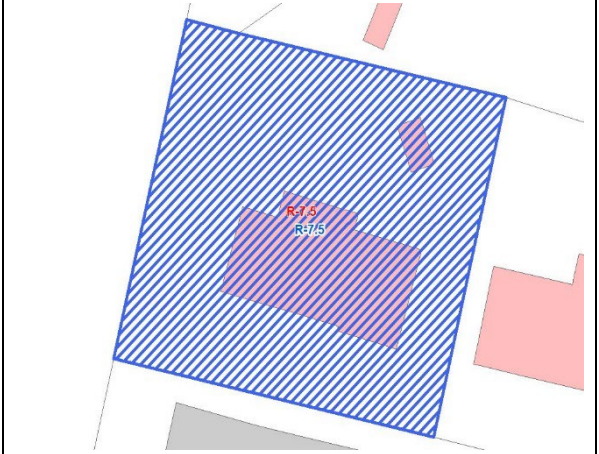
NEW BUSINESS AGENDA ITEMS

3. Christianne Harmon
[Applicant & Property Owner]

5272 Beaumont Drive
GPIN 1466-45-5610
City Council District: District 1, formerly Kempsville
Accela Record 2022-CBPA-00010

Variance Request – Encroachment into the RPA to construct swimming pool.

Staff Planner – Cole Fisher
Staff Report – page 39

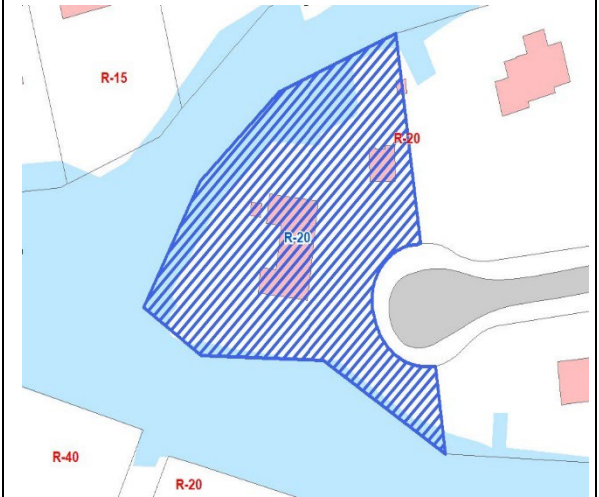


4. Jonathan L Schreiber & E. D. Kulas
[Applicants & Property Owners]

500 Goodspeed Road
GPIN 2419-31-6360
City Council District: District 6, formerly Lynnhaven
Accela Record 2022-CBPA-00011

Variance Request – Encroachment into the RPA to construct a new single-family home, swimming pool, and detached garage.

Staff Planner – PJ Scully
Staff Report – page 51

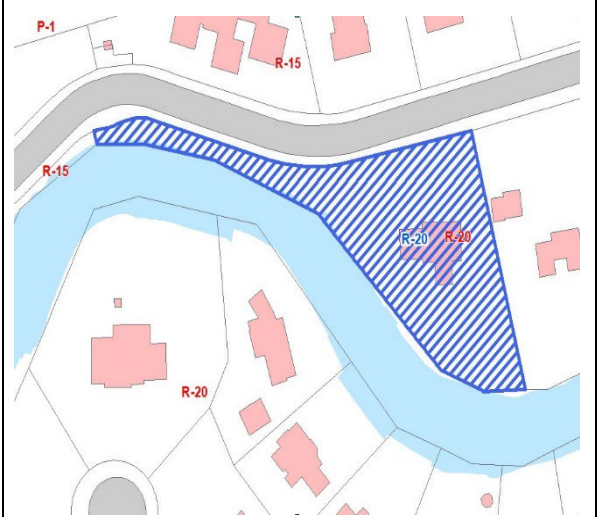


5. David & Michelle Adams
[Applicants & Property Owners]

437 Susan Constant Drive
GPIN 2419-51-9976
City Council District: District 6, formerly Lynnhaven
Accela Record 2022-CBPA-00012

Variance Request – Encroachment into the RPA to expand driveway, patio area and construct walkways.

Staff Planner – Cole Fisher
Staff Report – page 63



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.



Applicant & Property Owner **Haversham Close, LLC**
 Address **2393 Haversham Close**
 Public Hearing **April 4, 2022**
 City Council District **District 5**, formerly Lynnhaven

Agenda Item

1

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

Billy Garrington
 Governmental Permitting Consultants

Staff Planner

PJ Scully

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

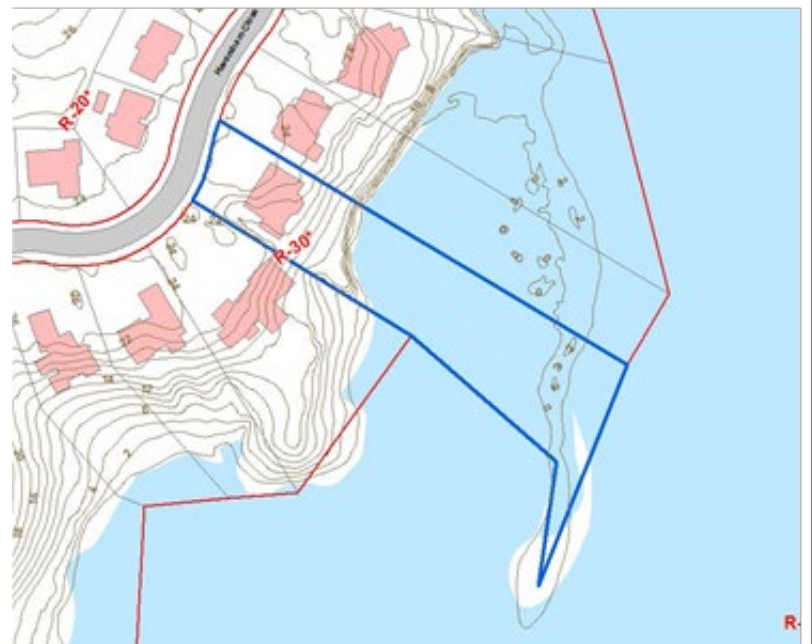
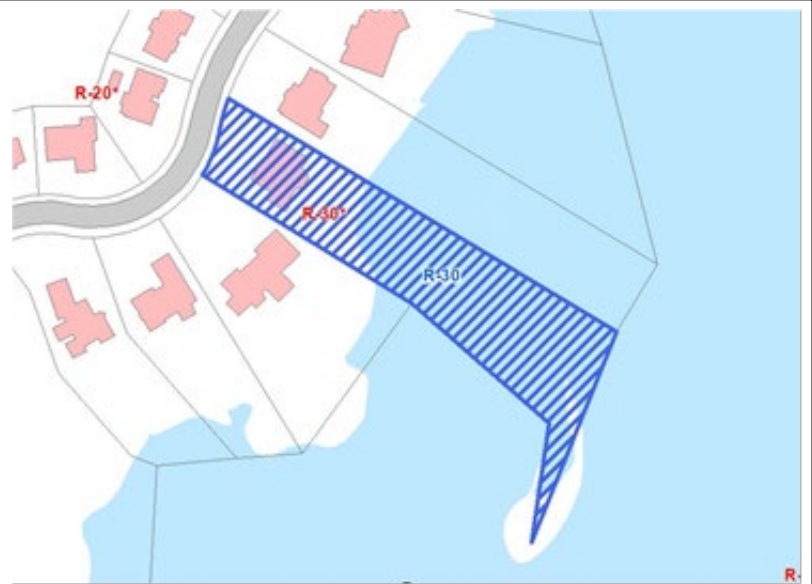
100-foot Variable Width Buffer

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

Current CBPA Variance Request Deferral History

- This variance request was deferred at the February 7, 2022 Chesapeake Bay Preservation Area (CBPA) Board Public Hearing to the March 7, 2022 CBPA Board Public Hearing.
- This variance request was deferred at the March 7, 2022 Chesapeake Bay Preservation Area (CBPA) Board Public Hearing to the April 4, 2022 CBPA Board Public Hearing.

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

Excerpt from the February 7, 2022 CBPA Board Staff Report.

“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.”

Since the deferral by the CBPA Board at the March 2022 public hearing, the applicant’s agent provided a buffer restoration plan and section elevations of the proposed swimming pool in relationship to the existing grade elevations of the rear yard. Refer to page 17 through 20 of this Staff report for those section elevations.

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 in substantial compliance with the Buffer Restoration Plan exhibit plan dated March 25, 2022, prepared by WPL.
- 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.

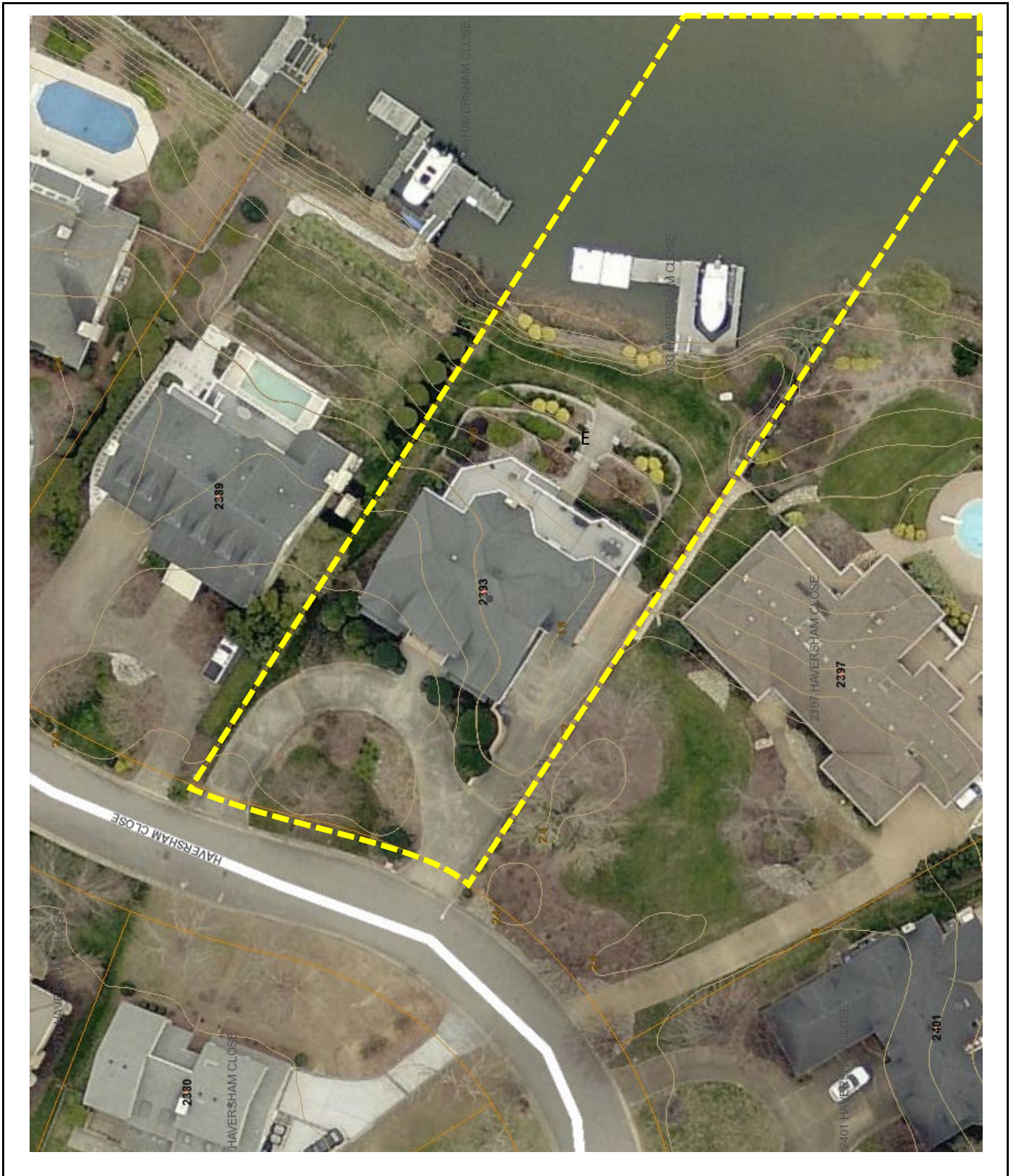
**** NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

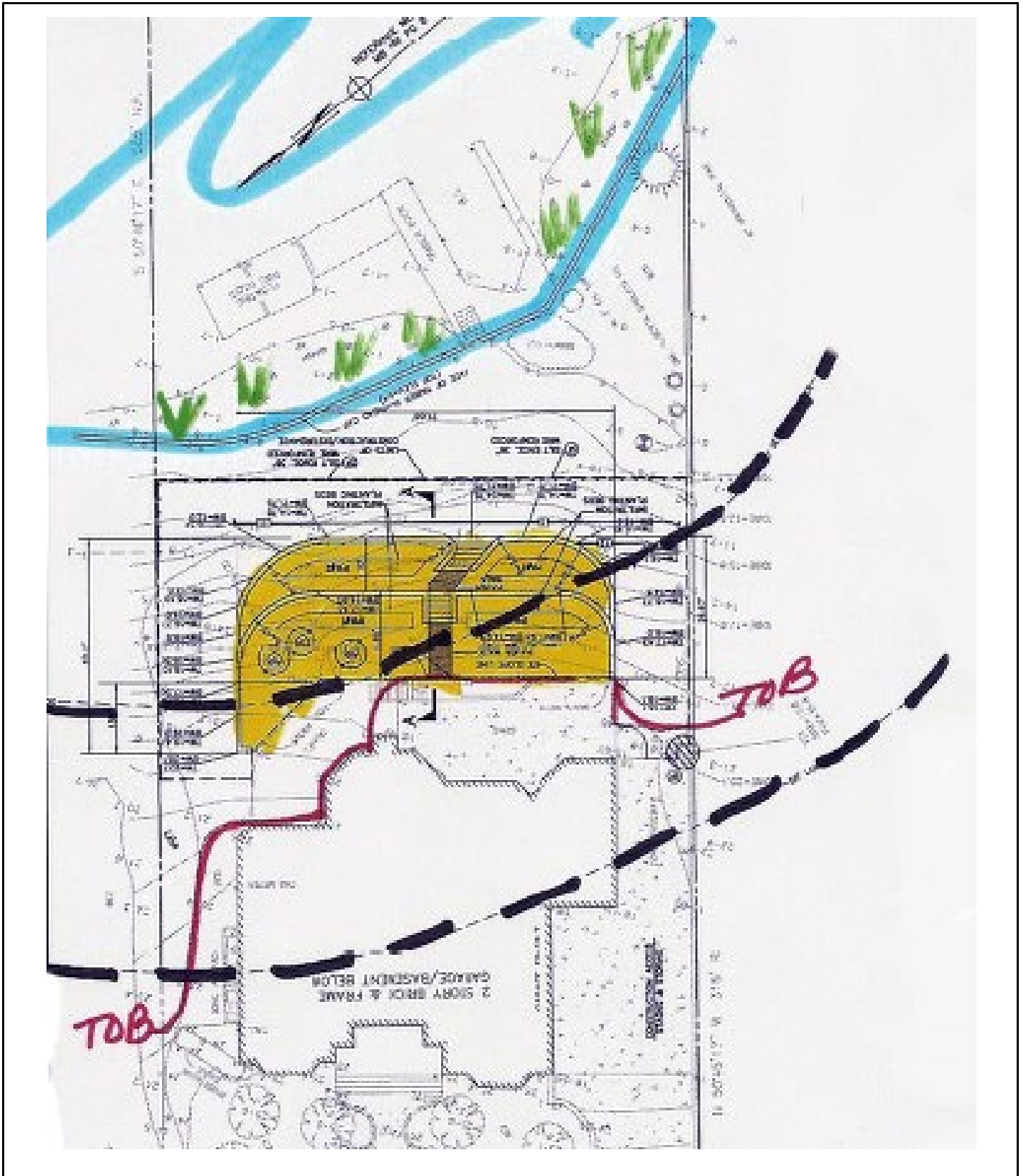
*****NOTE:** The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of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

Site Aerial

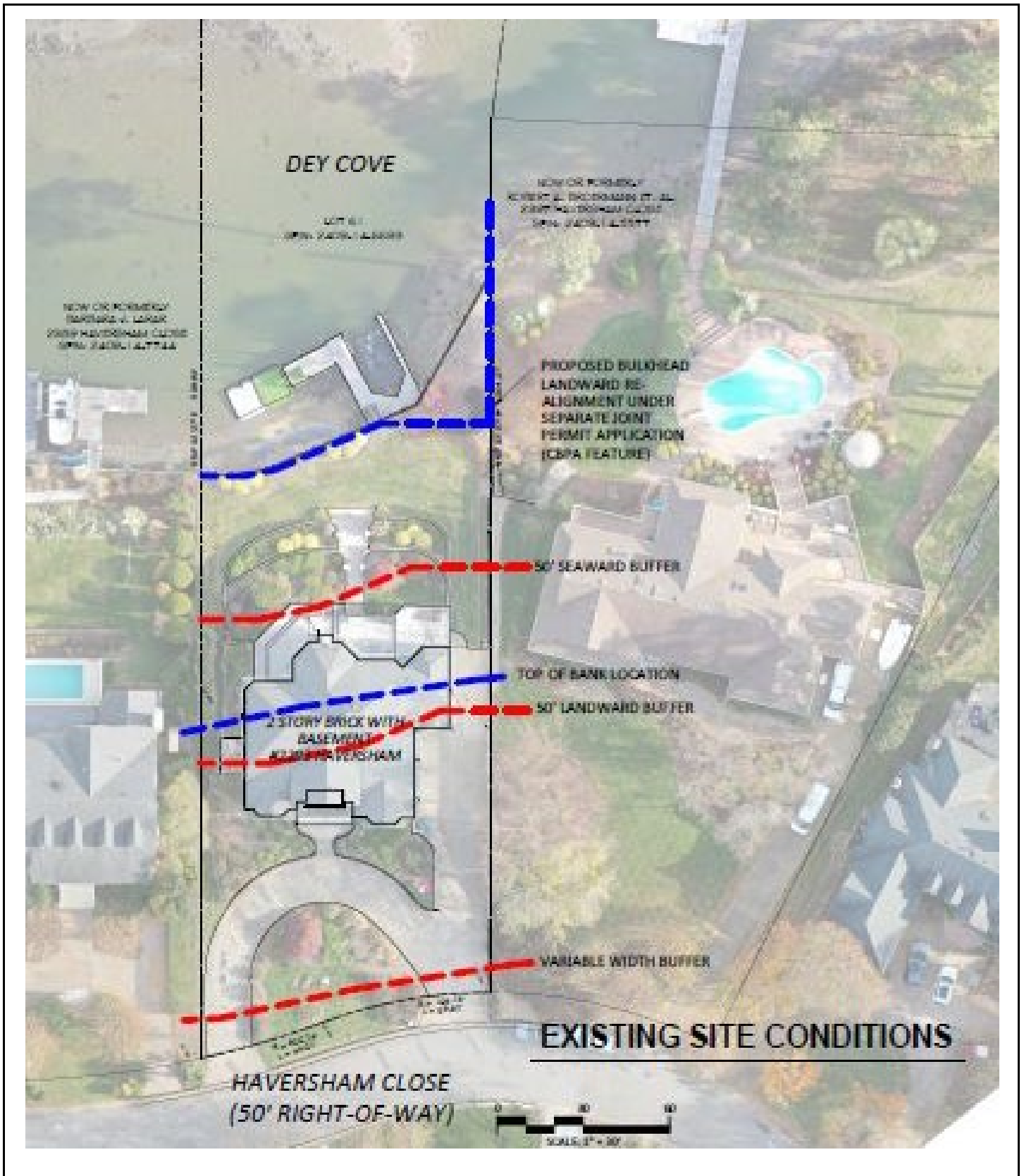


Site Aerial with Topography

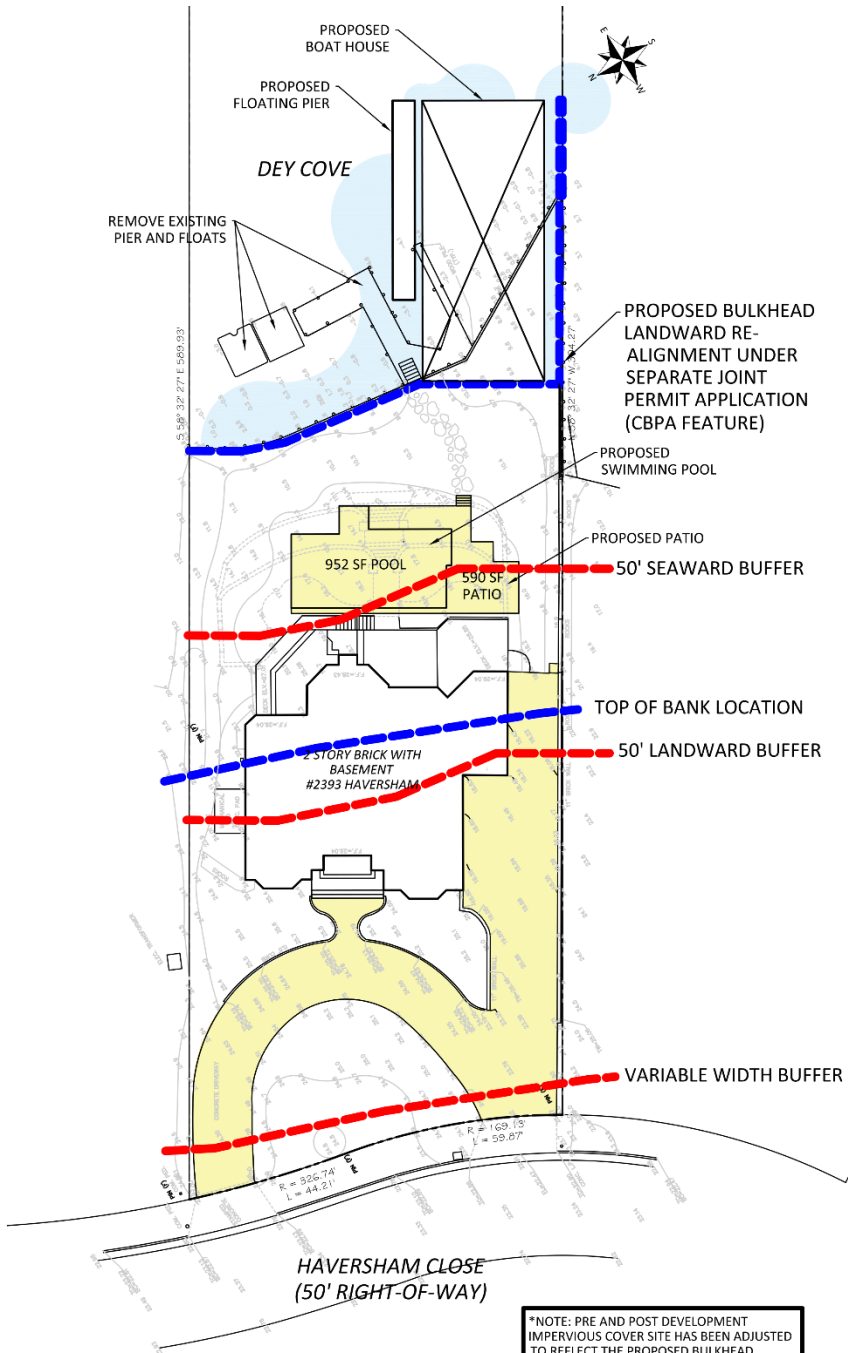




CBPA Exhibit – Existing Conditions



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

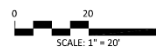
AREA TABLE

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%	

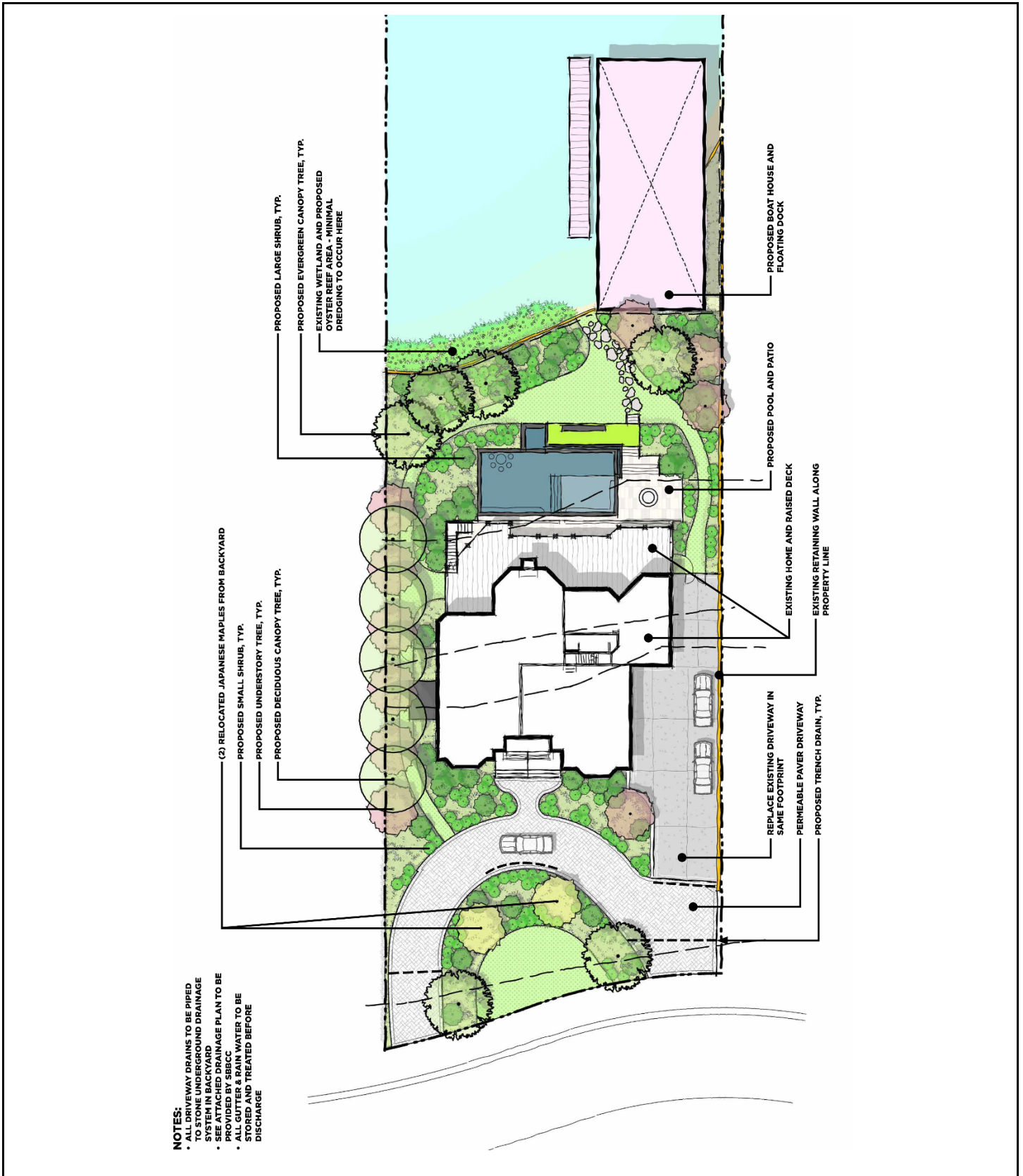
SITE DATA:

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

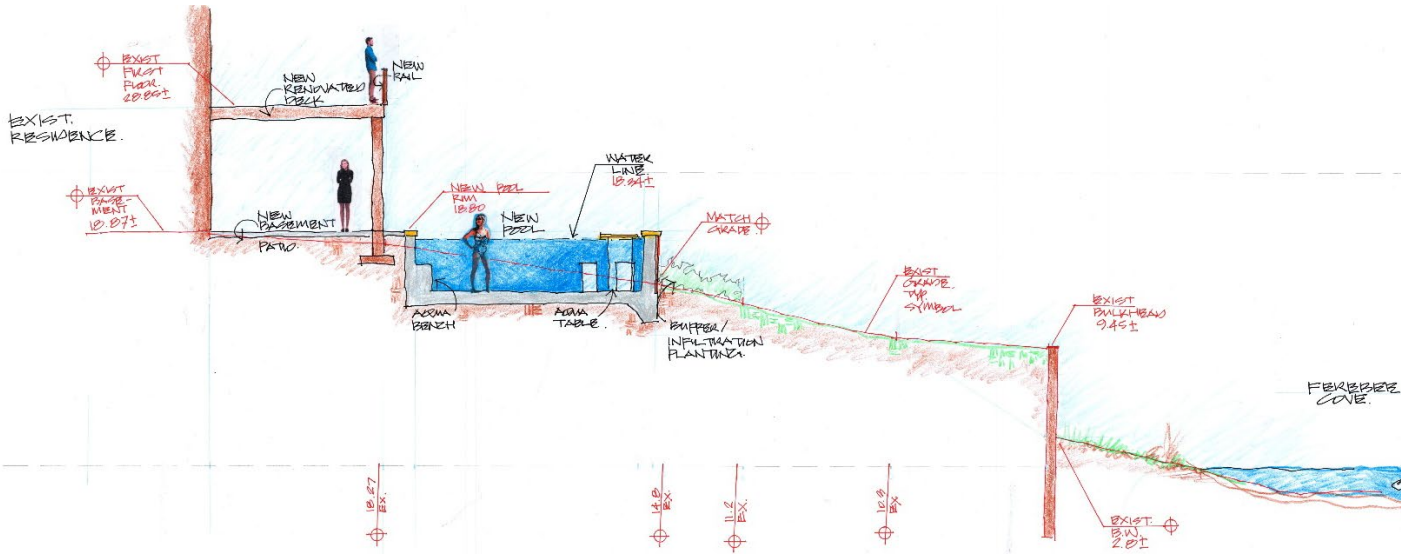
GPIN: 2409-14-6639
 LEGAL: BROAD BAY POINT GREENS PHASE 1 LOT 61



CBPA Exhibit – Buffer Restoration Plan

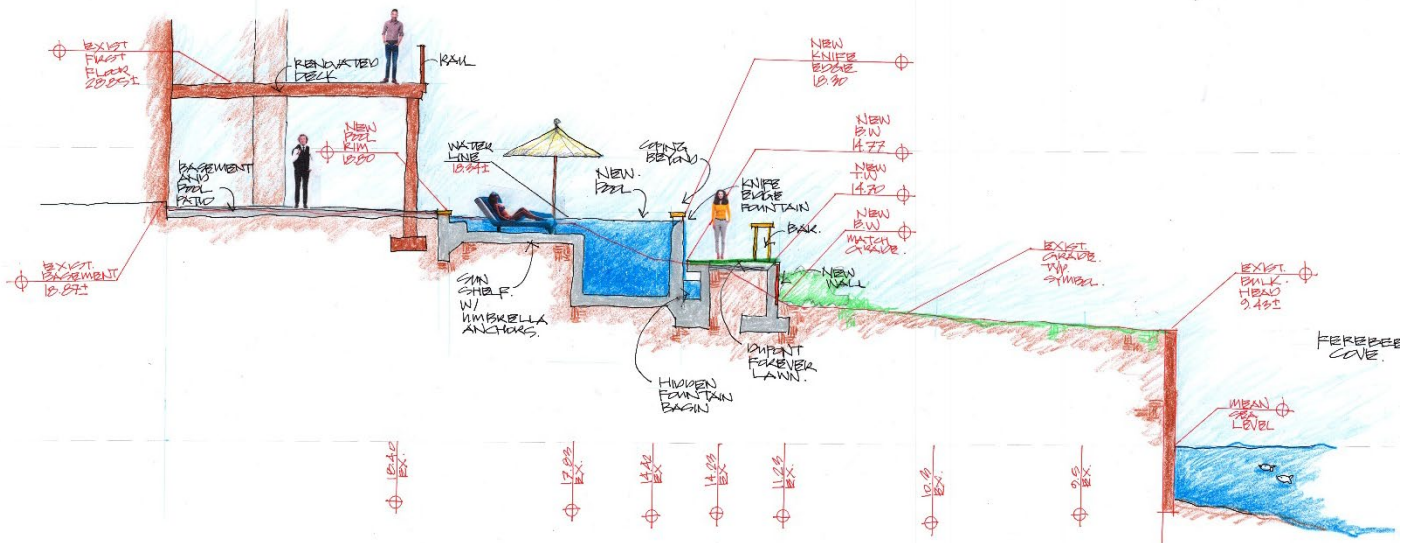


CBPA Exhibit – Swimming Pool Area, Section Elevations SWP2A and SWP2B



SWP2A

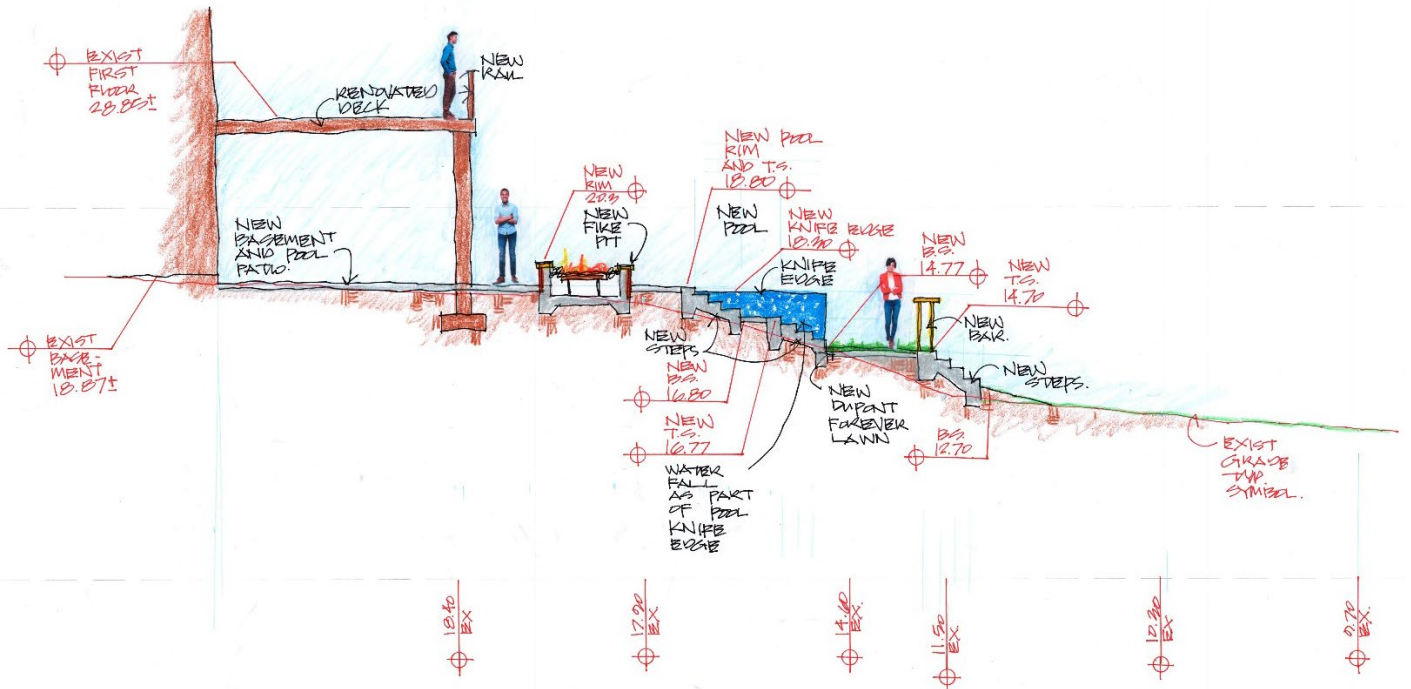
Section Elevation



SWP2B

Section Elevation

CBPA Exhibit – Swimming Pool Area, Section Elevation SWP2C



SWP2C

Section Elevation

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	

AS NEEDED, PAGE LEFT BLANK

Variance Request

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

Applicant's Agent

Billy Garrington
 Governmental Permitting Consultants

Staff Planner

Cole Fisher

Lot Recordation

Map Book 61, Page 17
 Recorded 05/07/1964

GPIN

1488-44-9313

SITE AREA

63,680 square feet or 1.46 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

53,403 square feet or 1.23 acres

EXISTING IMPERVIOUS COVER OF SITE

16,089 square feet or 30.12 percent of the site

PROPOSED IMPERVIOUS COVER OF SITE

16,234 square feet or 30.39 percent of site

Area of Redevelopment in RPA

7,542 square feet

Area of New Development in RPA

1,753 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

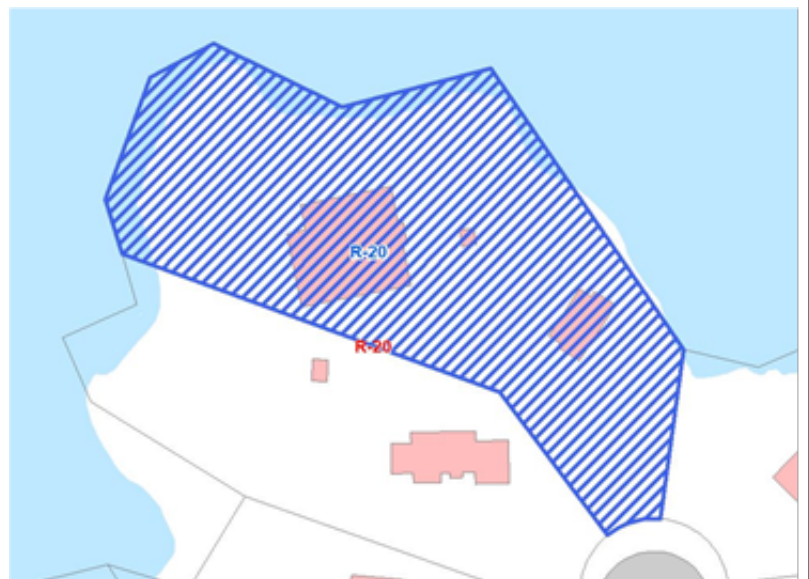
100-foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Framed shed
- Concrete pad
- Wood decking

Construction Details

- Swimming pool with associated paver patio area and retaining wall
- Paver parking area and building addition
- Front porch and associated walkway
- Resurface existing driveway

CBPA Ordinance Variance History

Current CBPA Variance Request Deferral History

- This variance request was deferred at the March 7, 2022 Chesapeake Bay Preservation Area (CBPA) Board Public Hearing to the April 4, 2022 CBPA Board Public Hearing.

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

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

Shoreline

The western portion of the shoreline is hardened by a wooden bulkhead transitioning along the northern portion of the lot into a natural condition.

Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 23
- Number of existing understory trees requested for removal within the RPA: 10
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 2
- Evaluation of existing canopy tree removal request: Staff is of the opinion that the overall request to remove 35 trees associated with the redevelopment of this lot is excessive. An analysis of the limits of construction, set at 10 feet outboard of the proposed improvements was performed by Staff to further understand the request to remove 35 trees from the lot versus potential preservation of trees along the perimeter of the lot. Staff is of the opinion that approximately 12 to 14 trees could be preserved if properly managed during the phases of construction for the redevelopment of this lot. In addition, it appears that 2 trees, located adjacent to Queen

Elizabeth Drive are within the City right-of-way. Removal of trees within a City right-of-way requires review and approval from Landscape Management. Staff has provided recommended condition 2 below to address this concern and for the CBPA Board’s consideration should the CBPA Variance request be granted.

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

Excerpt from the March 7, 2022 CBPA Board Staff Report.

“The applicant proposes to construct a swimming pool with associated pool surround, a building addition off the side of the existing single-family residence, a front porch with associated walkway, and a parking area adjacent to the existing driveway. A portion of the building addition and walkway off the swimming pool surround slightly encroaches into the 50-foot seaward buffer of the Resource Protection Area.

Before a CBPA Board application was submitted, Staff met with applicant (new property owner) and their builder on site to discuss the overall desire of redeveloping the lot and providing maintenance to the existing vegetation within the RPA buffer. With the initial submittal for this variance request, the applicant brought forth a CBPA Exhibit proposing 2,947 square feet of new impervious cover in the RPA with an overall impervious cover on the lot of 17,984 square feet or 33.7 percent of the lot above water and wetlands. Staff discussed concern with the applicant’s agent regarding the overall proposed impervious cover of the lot and the applicant and their agent provided a revised CBPA Exhibit to Staff. The revised Exhibit reduced the overall impervious cover of the lot from 17,984 square feet or 33.7 percent of the lot above water and wetlands to 16,234 square feet or 30.4 percent of the lot above water and wetlands. In addition to the reduction of proposed impervious cover on the lot, the applicant has revised the layout of the swimming pool to be primary located within the footprint of the existing wood deck. This revision removes any encroachment of the accessory structure from the 50-foot seaward buffer and increases the use of redeveloping existing impervious cover for this improvement by 527 square feet from 1,004 square feet to 1,531 square feet. A comparison of reduced impacts to the riparian buffer is represented in the table below.

	Initial CBPA Exhibit	Revised CBPA Exhibit	Difference
<i>Proposed Swimming Pool</i>	<i>920 square feet</i>	<i>612 square feet</i>	<i>308 square feet (reduction)</i>
<i>Proposed Paver Area (Pool)</i>	<i>1,342 square feet</i>	<i>1,254 square feet</i>	<i>88 square feet (reduction)</i>
<i>Proposed Paver Area (Driveway)</i>	<i>936 square feet</i>	<i>708 square feet</i>	<i>288 square feet (reduction)</i>
<i>Proposed Building Addition</i>	<i>500 square feet</i>	<i>500 square feet</i>	<i>0 square feet</i>
<i>Proposed Porch & Walkway</i>	<i>417 square feet</i>	<i>417 square feet</i>	<i>0 square feet</i>
Overall Impervious Cover	17,984 square feet	16,234 square feet	1,750 square feet (reduction)

Collectively with the redevelopment of impervious cover and removal of impervious cover within the RPA the revised Exhibit increases the overall impervious cover of the lot from 16,089 square feet (existing) to 16,234 square feet (proposed).”

Since the deferral by the CBPA Board at the March 2022 public hearing, the applicant’s agent has revised the Site Statistic calculations for the total existing impervious cover on the lot and the analysis of development within the RPA feature specific to the amount of redevelopment (7,542 square feet), new impervious cover (1,753 square feet), and area of existing impervious cover converted to pervious cover (1,585 square feet) associated with this variance

request. As such, the overall impervious cover of the lot will increase by approximately 154 square feet from 16,089 square feet or 30.1 percent of the lot above water and wetlands to 16,243 square feet or 30.39 percent of the lot above water and wetlands.

To further 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 house was built prior to the Bay Act now with limited areas to build that are not within the 100-foot RPA. The proposed plan is the minimal necessary as most of the proposed project is redevelopment of existing conditions."* Staff concurs.
- 2) Staff offers that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"most of the work is redevelopment of existing conditions. New development is at a minimum and the homeowner has also converted over 600 square feet of pervious cover to impervious cover."* Staff concurs.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"the heavily wooded lot is an ideal natural filter. Additional stormwater mitigation of existing stormwater runoff will improve overall water quality."* Staff acknowledges the statement provided by the applicant's agent and is of the opinion that the redevelopment of the lot as proposed, and the recommended conditions provided by Staff provides merit towards the variance request 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 the applicant's agent is of the opinion that *"the heavily wooded lot is an ideal natural filter and together with BMPs and additional plantings."* Staff acknowledges the statement provided by the applicant's agent and provides the recommend conditions below for the CBPA Board's deliberation.

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) Specific to tree removal with the redevelopment of this lot, all trees to be preserved and the trees requested to be removed as shown on the CBPA Exhibit that are below the top of bank shall be preserved except for those trees located within the footprint of the existing driveway. Removal of trees within the City right-of-way requires authorization from Landscape Management during formal site plan review.

- 3) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.

All area within the 50-foot seaward buffer and seaward of the existing driveway shall be left in a natural state. Buffer restoration within the RPA shall consist of **2 canopy trees, 8 understory trees, 16 large shrubs, and 24 small shrubs.**

The restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. 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) Construction limits associated with the proposed redevelopment of the lot shall lie a maximum of 10 feet outboard of the improvements.
- 9) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 10 feet from improvements.
- 10) 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 \$401.72 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) 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. Moderate maintenance shall be performed consistent with the horticultural practices described in the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation regarding woodlot management to remove invasive vines species that are shading vegetative undergrowth and out competing native plant species within the RPA buffer
- 16) The conditions and approval associated with this variance are based on the exhibit plan dated March 18, 2022, prepared by Clark Design Group, Inc., signed by Walter T. McKenna. 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.

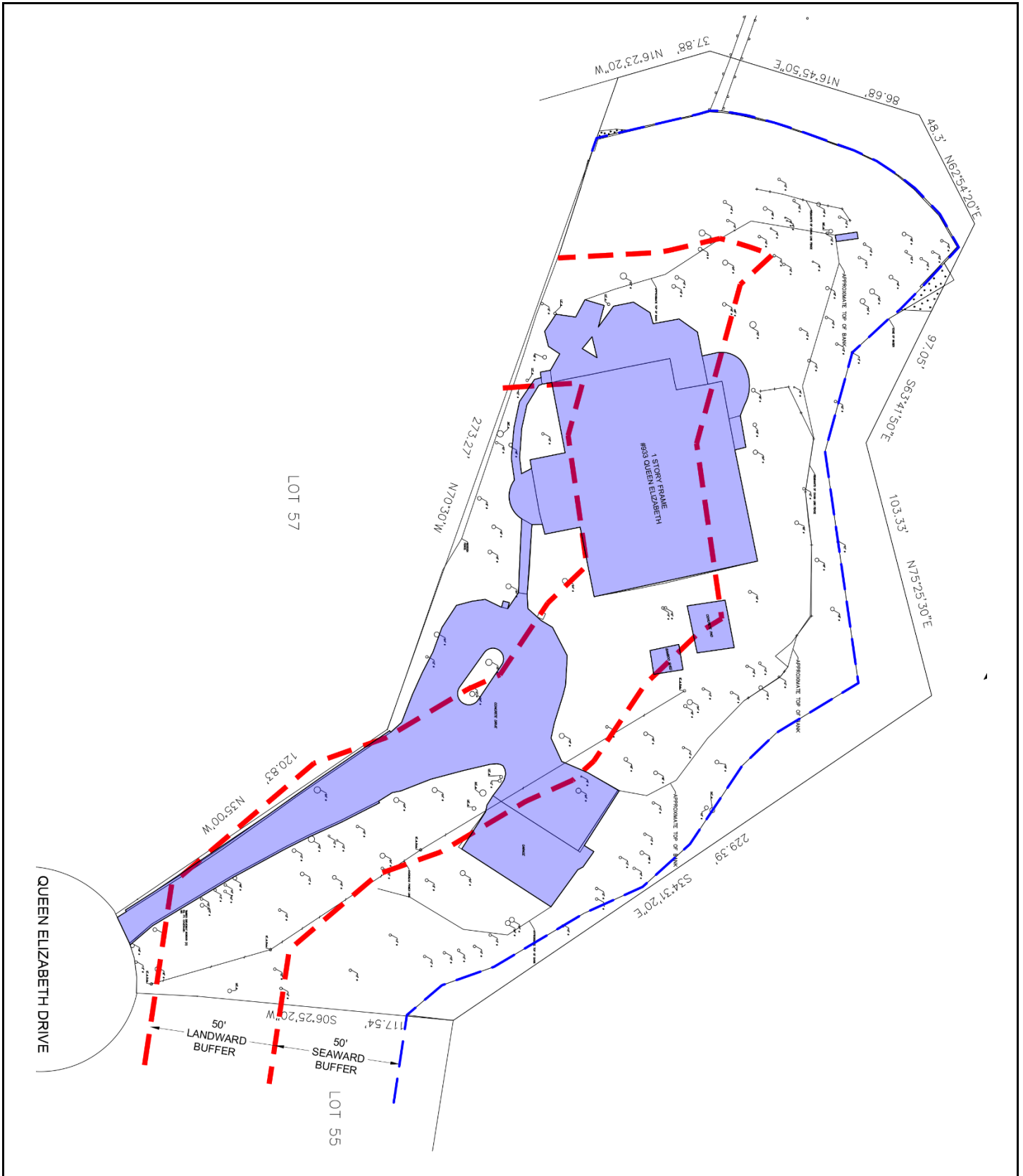
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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.

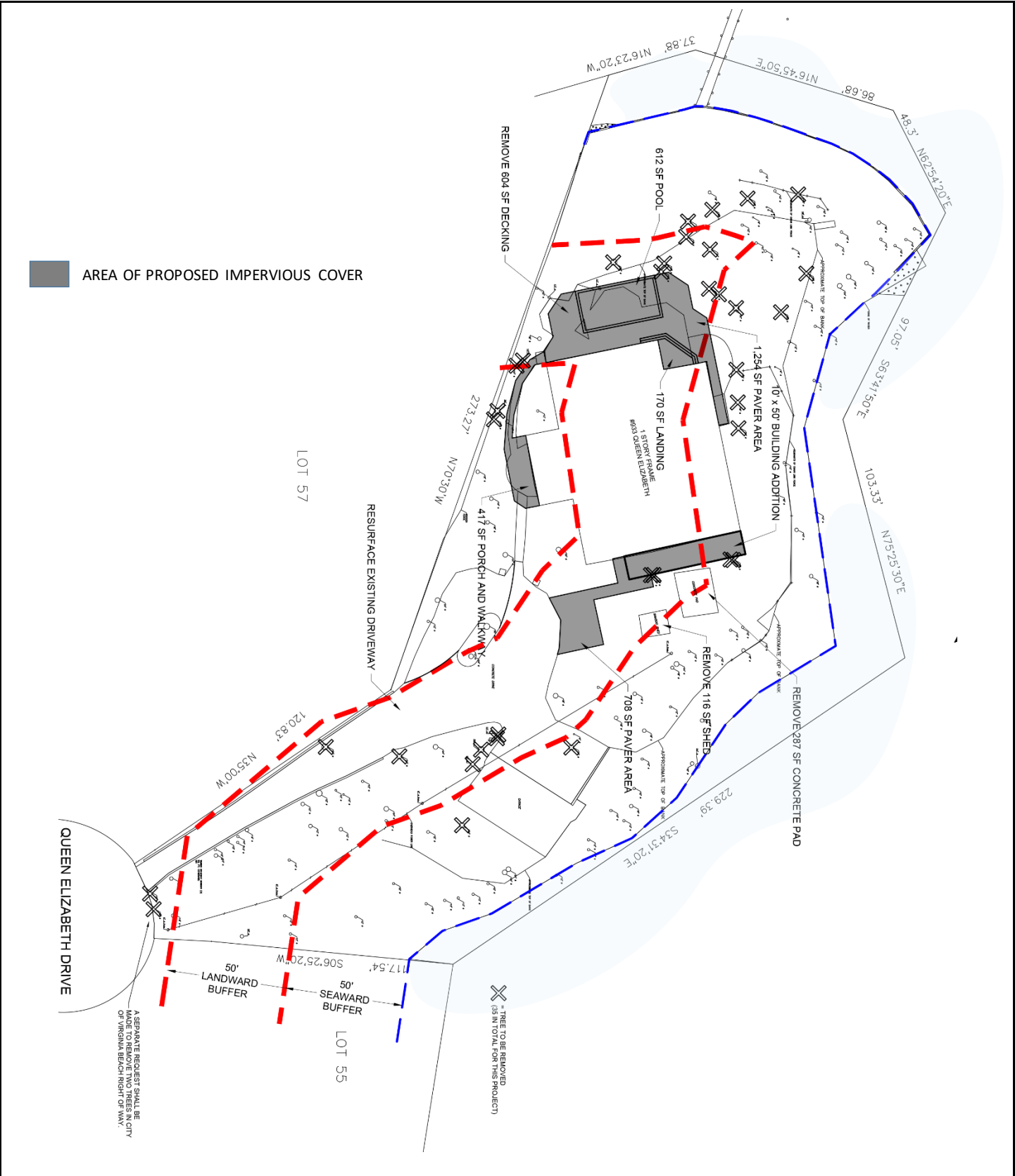
Site Aerial



CBPA Exhibit – Existing Conditions

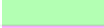





CBPA Exhibit – Proposed Improvements

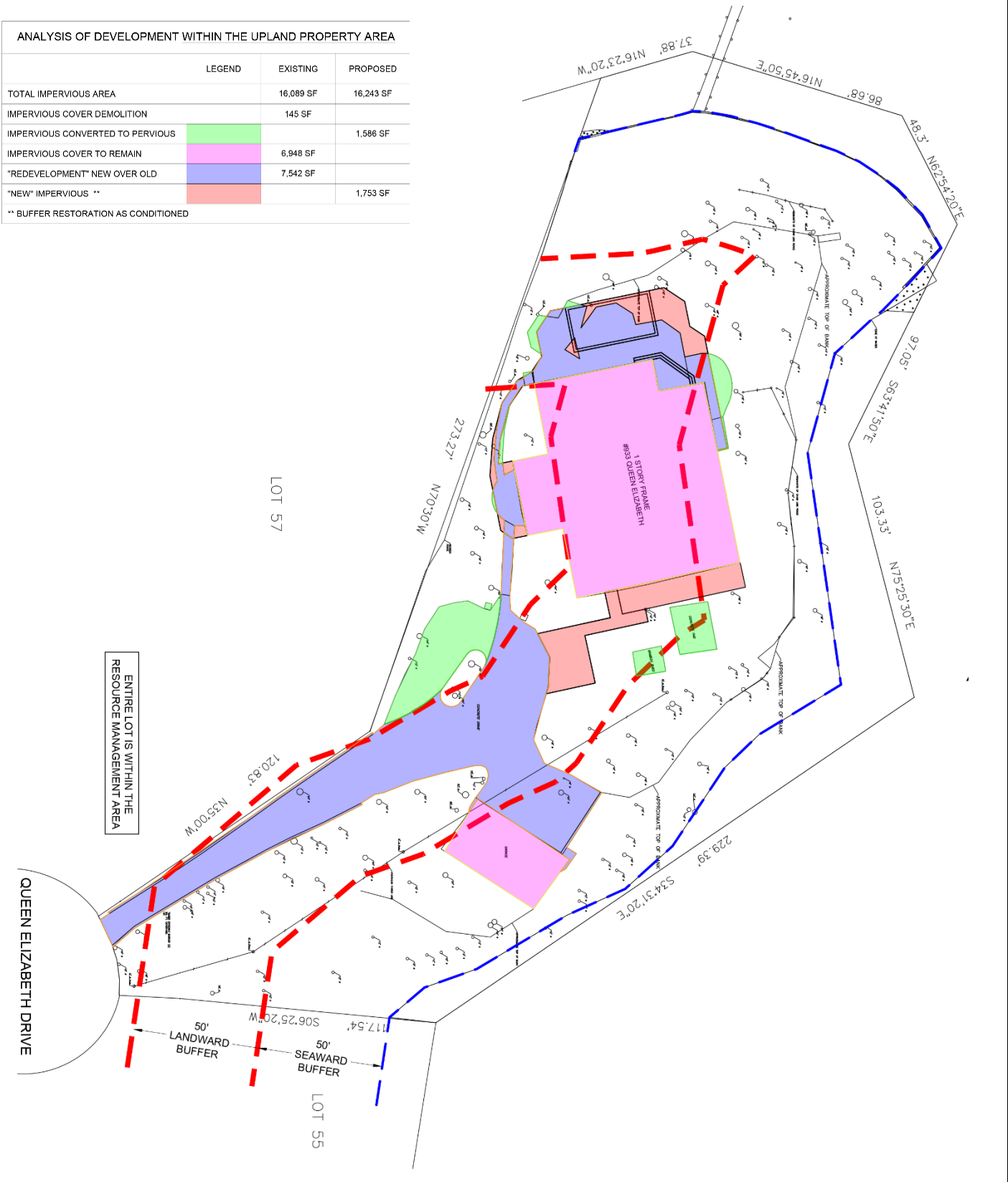


CBPA Exhibit – Color Analysis

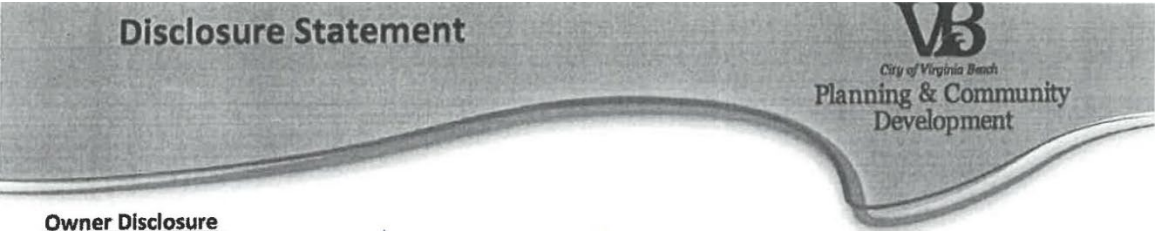
ANALYSIS OF DEVELOPMENT WITHIN THE UPLAND PROPERTY AREA

	LEGEND	EXISTING	PROPOSED
TOTAL IMPERVIOUS AREA		16,089 SF	16,243 SF
IMPERVIOUS COVER DEMOLITION		145 SF	
IMPERVIOUS CONVERTED TO PERVIOUS			1,586 SF
IMPERVIOUS COVER TO REMAIN		6,948 SF	
"REDEVELOPMENT" NEW OVER OLD		7,542 SF	
"NEW" IMPERVIOUS **			1,753 SF

** BUFFER RESTORATION AS CONDITIONED



Disclosure Statement



Owner Disclosure

Owner Name Jonathan & Ashley McAchran

Applicant Name _____

Is the Owner 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-subsiary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

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?

³ "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.

⁴ "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



Owner Services Disclosure

1. Does the Owner 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.

Atlantic Bay Mortgage Group

2. Does the Owner 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 Owner 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 Owner 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.

6. Does the Owner 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.

J.M. Froehle

+ Clark Building Group Inc, Clark B. Ober

7. Does the Owner 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.

WALTER F. McKENNA II

(Surveyor)

Billy Garrington (Agent)

Disclosure Statement



8. Is the Owner 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 legal the service.

Owner 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.

Owner Signature

Jon McAchrn

Print Name and Title

01-28-2022

Date

AS NEEDED, PAGE LEFT BLANK



Variance Request

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

Applicant’s Agent

Self-Represented

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 92 Page 2

Recorded 6/8/1972

GPIN

1466-45-5610

SMALL PROJECT IN THE RPA

SITE AREA

14,400 square feet or 0.33 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

14,400 square feet or 0.33 acres

EXISTING IMPERVIOUS COVER OF SITE

3,315 square feet or 23 percent of the site

PROPOSED IMPERVIOUS COVER OF SITE

4,840 square feet or 33.6 percent of site

Area of Redevelopment in RPA

92 square feet

Area of New Development in RPA

1,525 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

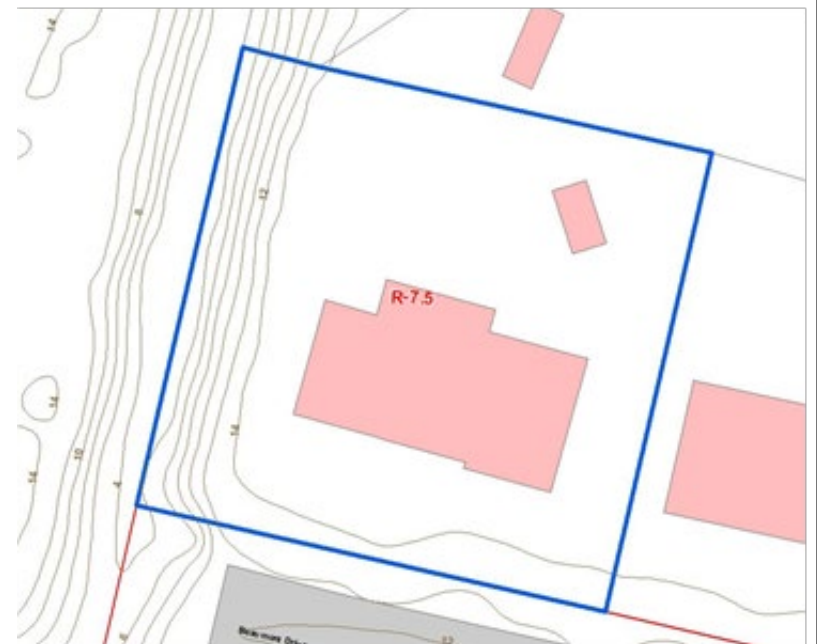
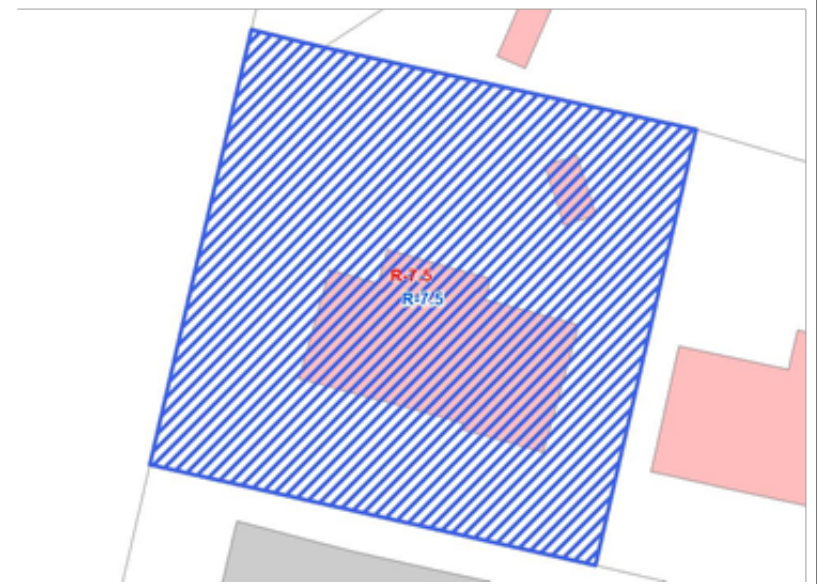
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- Swimming pool with associated pool surround
- Relocate existing shed

CBPA Ordinance Variance History

On June 7, 2021, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of an enclosed building addition with the following 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) *The equivalent of 400 square feet of buffer restoration shall be installed. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: 1 canopy tree, 2 understory trees and 3 small shrubs.*

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

- 3) *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.*
- 4) *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.*
- 5) *Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.*
- 6) *Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.*
- 7) *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.*

The June 7, 2021 Board granted variance has been acted upon and the associated improvements constructed.

Environmental Conditions

Flood Zone

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

Soil Type(s)

Acredale (silt loam)

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 2
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing canopy tree removal request: The applicant is proposing to remove two magnolia trees that are located in the front yard of the property within the RPA buffer. Given the proximity of the trees to the residence and crown condition of the Magnolia adjacent to the driveway, Staff supports the removal of said tree.

Stormwater Management Methodology

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

Evaluation and Recommendation

An existing man-made channel is located along the western portion of the lot. The bottom of the channel is at an approximate elevation range of 4 to 5 feet above sea level at this point and does not receive daily tidal ebb and flow. However, the channel does have a contiguous connection to the Eastern Branch of the Elizabeth River and drains a substantial area of the upland watershed therefore putting this property within the Resource Protection Area (RPA) of the Chesapeake Bay watershed.

The applicant resides in a multi-generational household and desires to enhance the property and quality of life for those residing at the residence by constructing a swimming pool. The proposed improvements will add approximately 1,525 square feet of new impervious cover within the 50-foot landward buffer of the Resource Protection Area. While the dimensions of the proposed swimming pool (18 feet by 36 feet) are slightly larger than the average residential swimming pool (16 feet by 32 feet), Staff is of the opinion that the size is acceptable given the additional limitations posed to this lot from a 30-foot drainage easement at the western portion of the property from the ditch.

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 and Staff for the Board's deliberation.

- 1) Staff offers that granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because the improvements are consistent with other homes within the neighborhood along this channel. Staff performed a conceptual analysis based off aerial photography to examine existing impervious cover of lots in the vicinity for comparison. It was determined that the average existing impervious cover for properties in the vicinity range from approximately 35 percent to 52 percent.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because *“the house was built in the 1970’s prior to the enactment of the CBPA Ordinance and the CBPA buffer encompasses the entire parcel.”* 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 *“it is a modest request for installing a pool like my neighbors have around us.* Staff concurs and offers that the swimming pool with associated pool surround is located landward of the 50-foot seaward buffer and adjacent to the residence.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *“the entire property will be designed to achieve stormwater management.”* Staff offers that the increase in impervious cover on the site will not significantly increase stormwater runoff from the site given the required buffer restoration measures and minimal land disturbance associated with this request.
- 5) Staff offers that the existing vegetation along the ditch, flat topography of the lot, and minimal increase in impervious cover for the proposed improvements provides merit towards limiting the increase in nonpoint source pollution load.

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

Recommended Conditions

1. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.
2. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,525 square feet x 200 percent = 3,050 square feet.**

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

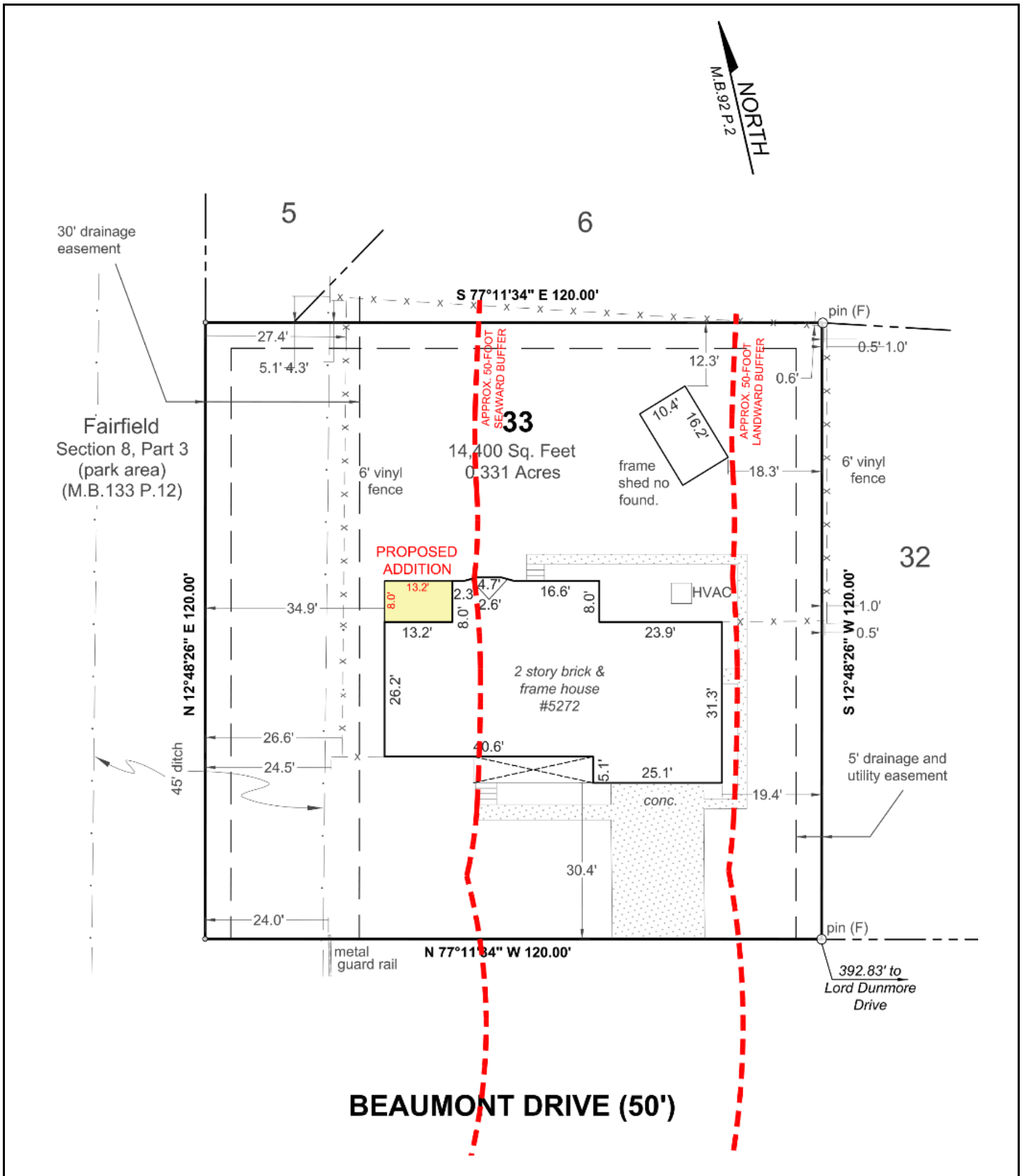
The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material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

3. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
4. A 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.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
6. This variance and associated conditions **are in addition to** the conditions of the CBPA Board variance granted June 7, 2021.

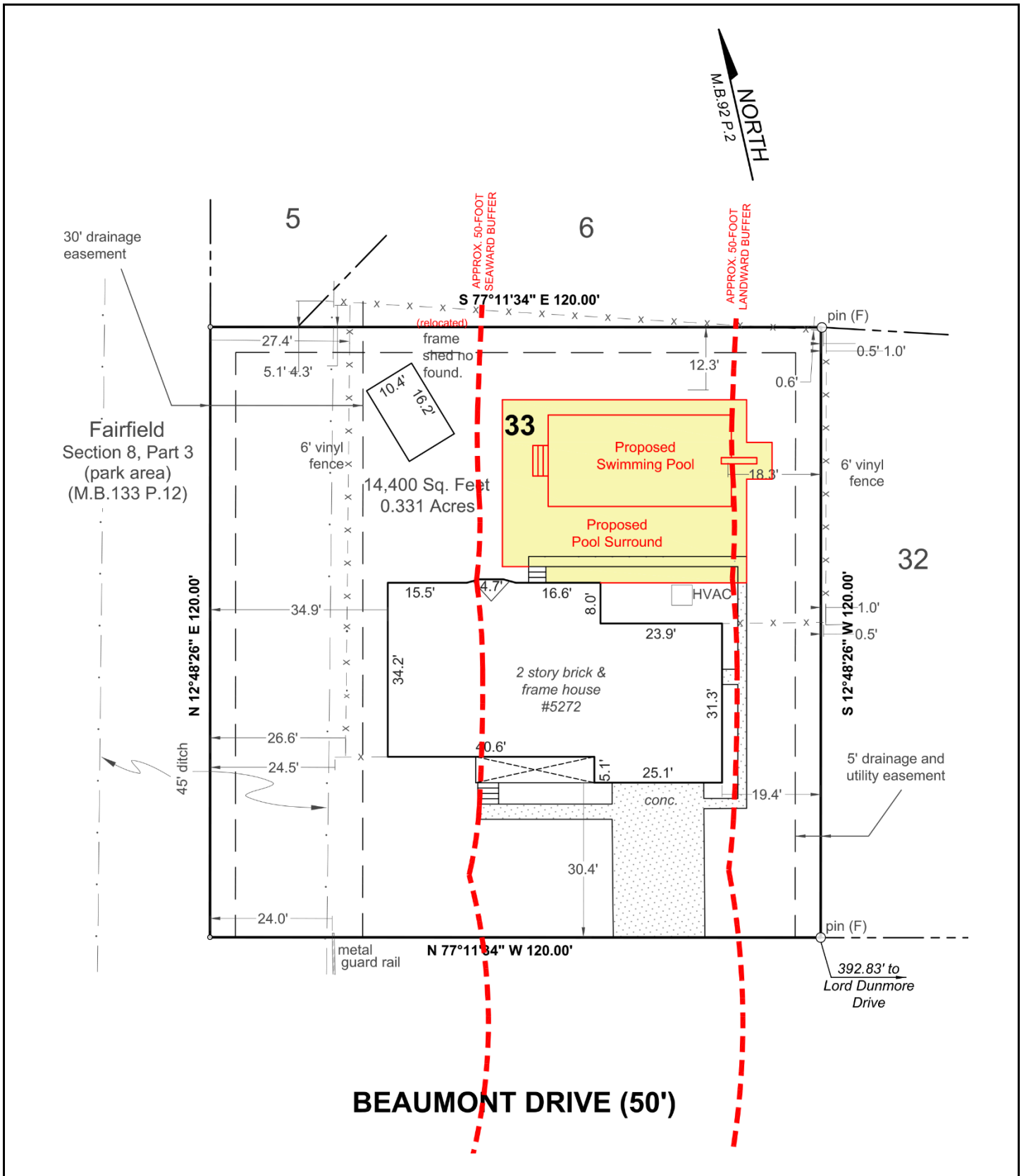
***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section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

Site Aerial





CBPA Exhibit – Proposed Improvements



Disclosure Statement



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 Christianne Harmon

Does the applicant have a representative? Yes No

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

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

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

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

Does an **official or employee of the City of Virginia Beach** have an interest in the subject land or any proposed development contingent on the subject public action? Yes No

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

Applicant Services Disclosure

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

Yes No

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

PHH 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.

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.
algean pools

- 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.

- 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.**

Christianne Harmon

Applicant Signature

Christianne Harmon

Print Name and Title

02/05/2022

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	

AS NEEDED, PAGE LEFT BLANK



Property Owner **Jonathan L Schreiber & E. D. Kulas**
Address **500 Goodspeed Road**
Public Hearing **April 4, 2022**
City Council District **District 5**, formerly Lynnhaven

Agenda Item

4

Variance Request

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

Applicant's Agent

Eddie Bourdon
Sykes, Bourdon, Ahern, Levy PC

Staff Planner

PJ Scully

Lot Recordation

Map Book 82, Page 40
Recorded 03/03/1970

GPIN

2419-31-6360

SITE AREA

46,237 square feet or 1.0615 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

34,136 square feet or 0.783 acres

EXISTING IMPERVIOUS COVER OF SITE

10,350 square feet or 30.3 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

8,450 square feet or 24.7 percent of site

Area of Redevelopment in RPA

5,675 square feet

Area of New Development in RPA

2,705 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

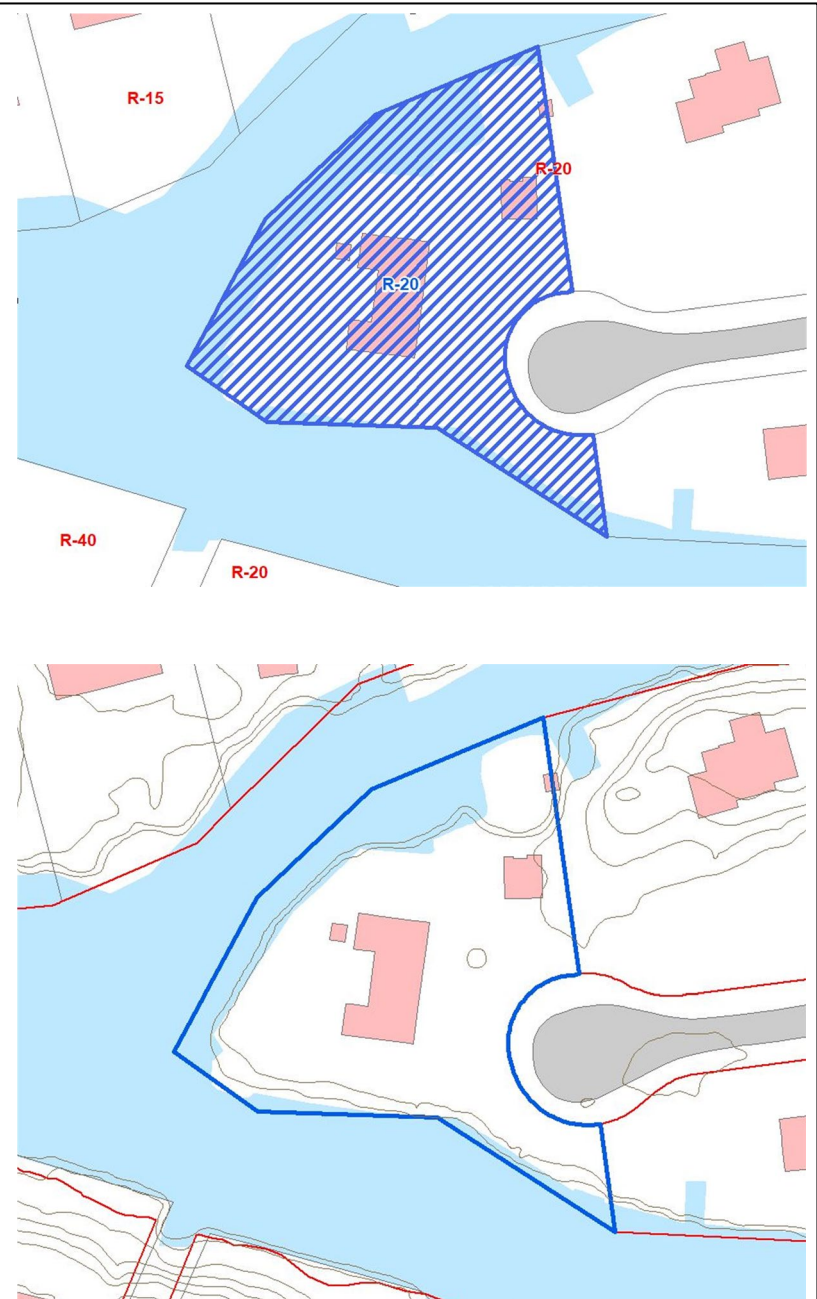
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Existing single-family residence and associated accessory structures
(Complete demolition of all improvements on the lot)

Construction Details

- Single family residence with associated walkways (*Board of Zoning Appeals Variance required*)
- Concrete driveway and detached garage
- Swimming pool with pool patio and detached pool house
- Retaining walls with associated fill material

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

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

Shoreline

Shoreline is hardened by a failing wooden bulkhead. The applicant is addressing the bulkhead failure by removing and replacing with a rip rap revetment and living shoreline. Approximately 3,768 square feet of uplands will be graded associated with the redevelopment of the existing bulkheaded shoreline. Of the 3,768 square feet of upland conversion to a rip rap revetment approximately 628 square feet will be developed into a living shoreline. A Joint Permit Application (JPA) will be submitted for approval by the City's Wetlands Board.

Riparian Buffer

Sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 9
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: -
- Evaluation of existing canopy tree removal request: This is a sparsely wooded lot with significant areas devoted to turf and the trees being requested for removal are within the delineated limits of construction with the majority falling within the front yard of the property. The required buffer restoration will be located in the RPA and in areas currently devoted to turf to compensate for the tree removals with this request.

Stormwater Management Methodology

This variance request reduces the overall impervious area of the lot by an amount greater than 10%, therefore best management practices (BMP's) are not required or have been proposed.

Evaluation and Recommendation

The applicant is proposing to demolish the existing single-family residence, constructed in 1971 and all associated accessory structures to construct a new single-family residence with a swimming pool and detached garage on a lot that was platted in 1970. The initial Chesapeake Bay Preservation Area (CBPA) exhibit reviewed by Staff and the applicant's consultant team proposed 9,125 square feet of impervious cover on the lot or 26.8 percent of the lot above water and wetlands. After said discussion, the proposed improvements were modified by shifting the new single-family residence forward on the lot, requiring a Board of Zoning Appeals (BZA) variance and reducing the proposed impervious cover on the lot to 8,450 square feet or 24.7 percent of the lot above water and wetlands. An analysis of the existing conditions compared to the proposed improvements associated with this variance request are as follow.

	Existing Conditions	Proposed Improvements	Difference
50-foot Seaward Buffer	5,785 square feet	2,818 square feet	2,967 square feet (reduction)
50-foot Landward Buffer	2,818 square feet	5,563 square feet	2,744 square feet (increase)
Resource Management Area	75 square feet	69 square feet	6 square feet (reduction)
Overall Impervious cover	10,350 square feet	8,450 square feet	1,900 square feet (reduction)

Overall, the applicant as designed the proposed improvements to provide a reduction of impervious cover within the 50-foot seaward buffer, an overall reduction of impervious cover for the lot, and will redevelop 3,768 square feet of uplands into a rip rap revetment with 628 square feet of living shoreline. Staff is of the opinion that the introduction of fill material associated with this variance request is site specific to the environmental conditions of the lot and provides adaptation measures towards coastal resiliency. Allowing for the use of fill material on the lot the applicant has done so in a manner that the grading and slope created by the use of fill is not greater than necessary based upon the project specifications and is implemented in a manner that minimizes the impact of rainwater sheet flow to not enhance stormwater runoff from the RPA. Staff has provided recommended condition 4 below to address the type of fill material used as a means towards the variance being in harmony with the intent of the CBPA Ordinance.

To further 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 *"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 have been granted so the approval of this request will in no way confer any special privilege to the current owners."* Staff concurs and offers that the applicant's request to redevelopment this lot will reduce the overall impervious cover of the lot.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant but rather *"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 offers that the encroachment 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.

- 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 not exceed 30% of the land area which leaves a significant amount of land to be used for buffer restoration and bioretention beds.”* Staff offers that the proposed improvements provide a reduction of impervious cover within the 50-foot seaward buffer, an overall reduction in impervious cover for the lot, and redevelops the existing shoreline.
- 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 is of the opinion that the encroachment request for this lot provides a substantial reduction of impervious cover within the 50-foot seaward buffer and redevelop 3,768 square feet of uplands into a rip rap revetment with 628 square feet of living shoreline as a means to abate the ongoing shoreline erosion.
- 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 is of the opinion that the extent of buffer restoration provided with this variance request, the limited amount of land disturbance, and the existing underlying soil condition all contribute to the opportunity for a reduction in annual nutrient load into the waterway.

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

Recommended Conditions

- 1) A Single-Family RPA 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) 2,744 square feet of buffer restoration shall be installed within the Resource Protection Area. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **7 canopy trees, 7 understory trees, 14 large shrubs, and 21 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.

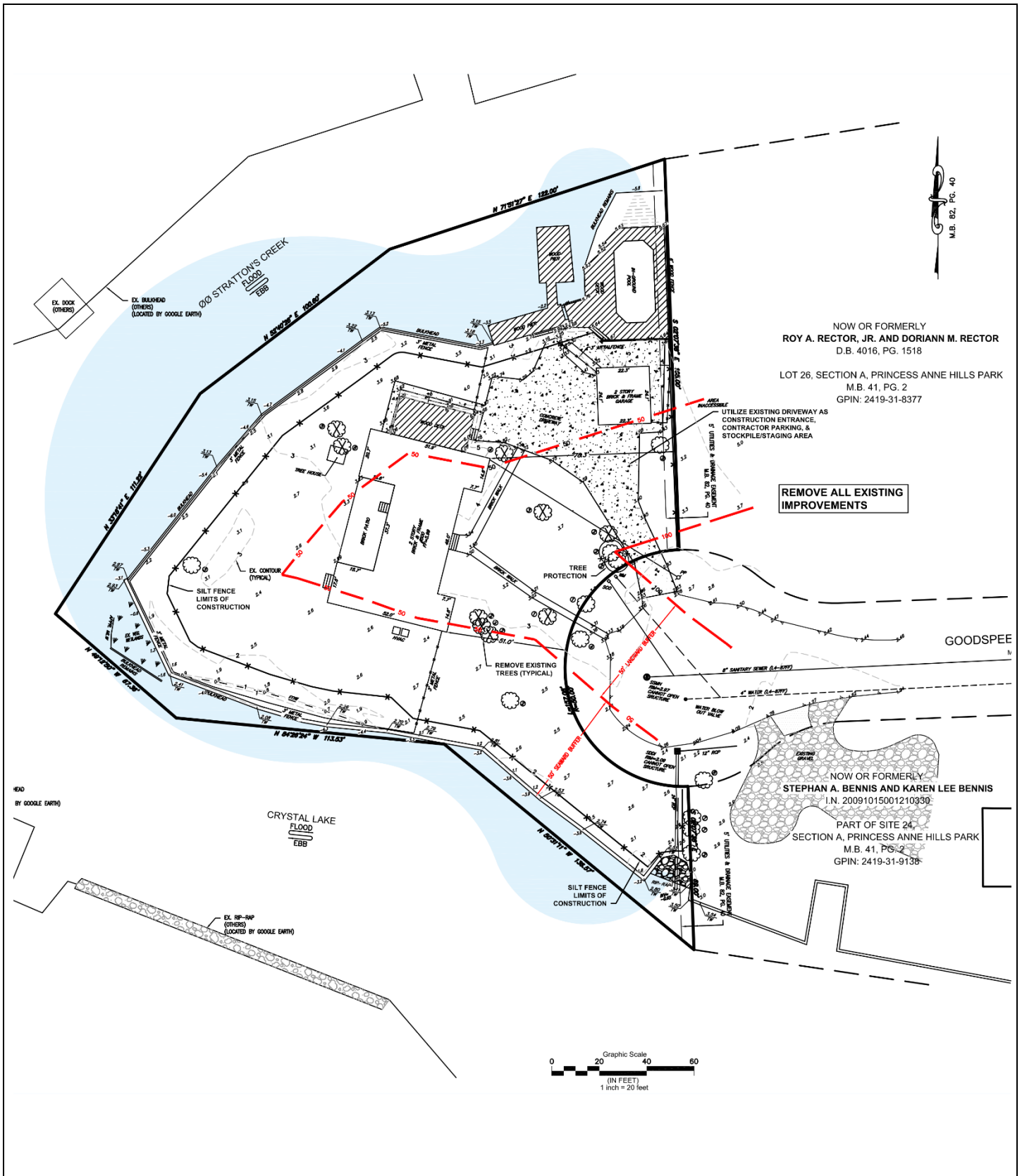
- 4) Fill material shall have the necessary biogeochemical characteristics, including sufficient organic content, to support the growth of vegetation and adequate permeability to allow infiltration.
- 5) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 6) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 7) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 8) A double row of 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.
- 10) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 11) The conditions and approval associated with this variance are based on the exhibit plan dated October 26, 2021, prepared by Gallup Surveyors & Engineers, signed October 26, 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 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



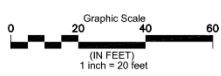
NOW OR FORMERLY
ROY A. RECTOR, JR. AND DORIANN M. RECTOR
 D.B. 4016, PG. 1518

LOT 26, SECTION A, PRINCESS ANNE HILLS PARK
 M.B. 41, PG. 2
 GPIN: 2419-31-8377

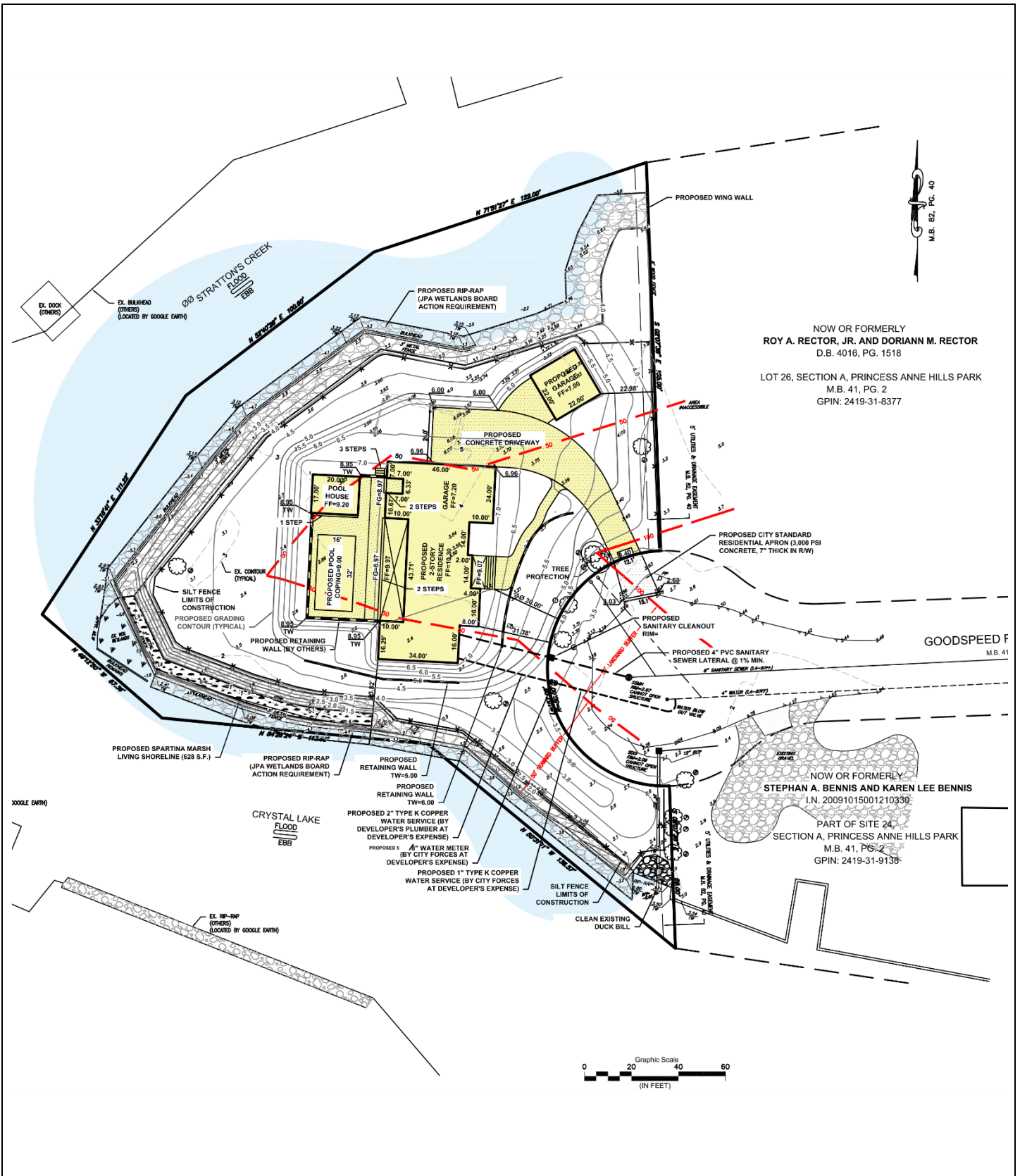
REMOVE ALL EXISTING IMPROVEMENTS

NOW OR FORMERLY
STEPHAN A. BENNIS AND KAREN LEE BENNIS
 I.N. 20091015001210330

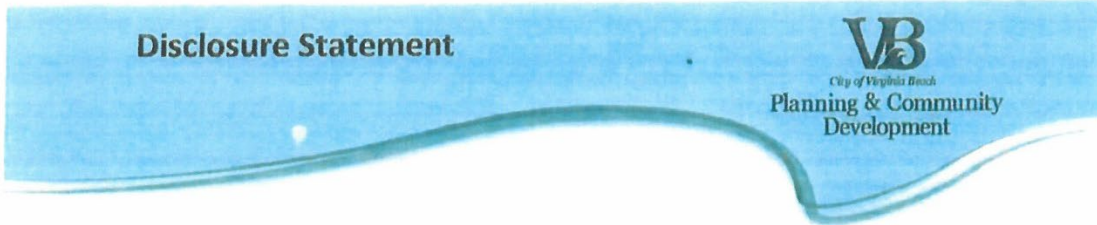
PART OF SITE 24,
 SECTION A, PRINCESS ANNE HILLS PARK
 M.B. 41, PG. 2
 GPIN: 2419-31-9138



CBPA Exhibit – Proposed Improvements



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 Jonathan Schreiber and Elizabeth Kulas

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

Eddie Bourdon

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

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

- If yes, list the businesses that have a parent-subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

Disclosure Statement



Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? Yes No

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

Applicant Services Disclosure

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

Yes No

- If yes, identify the financial institutions providing the service.

TIAB Bank and PNC

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.

BHHS Towne Realty and Kimberly Denton

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.

Stephen Alexander Homes LLC

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.
Stephen Alexander Homes, LLC, Stephen B Quick III, Stephen B Quick IV, Keith Alexander Quick
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.
Gallup Surveyors & Engineers - David Butler
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.
Sykes, Bourdon, Ahern, Lay PC - Eddie Bourdon

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.

Jonathan Schreiber and Elizabeth Kulas
 Applicant Signature
Jonathan Schreiber and Elizabeth Kulas
 Print Name and Title
10/30/2021
 Date

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

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

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications				
<input type="checkbox"/>	No changes as of	Date	Signature	
			Print Name	

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Applicant & Property Owner **David & Michelle Adams**
Address **437 Susan Constant Drive**
Public Hearing **April 4, 2022**
City Council District **District 5**, formerly Lynnhaven

Agenda Item

5

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to expand driveway, patio area, and construct walkways.

Applicant's Agent

Billy Garrington
Governmental Permitting Consultants

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 8, Page 30
Recorded 05/1969

GPIN

2419-51-9976

SMALL PROJECT IN THE RPA

SITE AREA

37,626 square feet or 0.86 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

34,723 square feet or 0.797 acres

EXISTING IMPERVIOUS COVER OF SITE

5,483 square feet or 15.8 percent of the site

PROPOSED IMPERVIOUS COVER OF SITE

6,263 square feet or 18 percent of site

Area of Redevelopment in RPA

2,492 square feet

Area of New Development in RPA

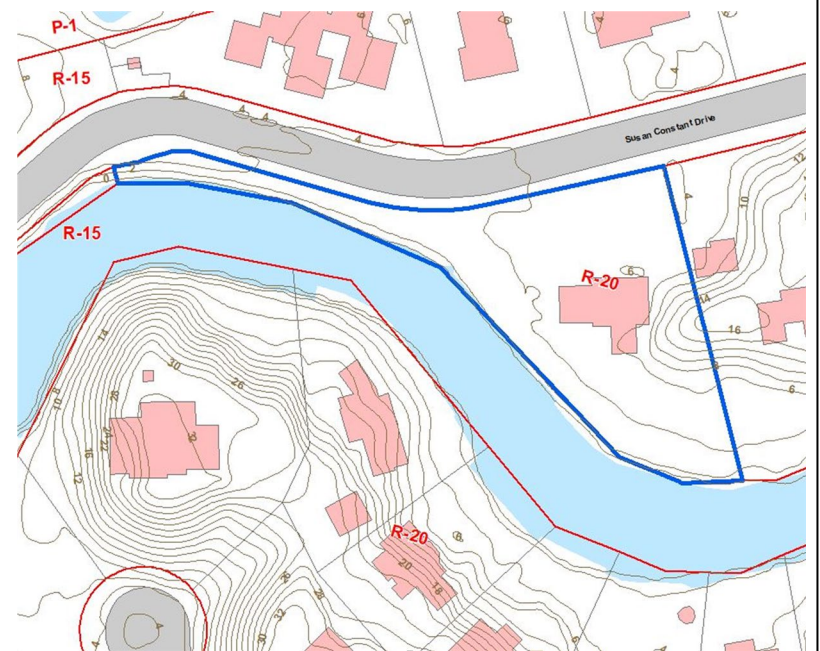
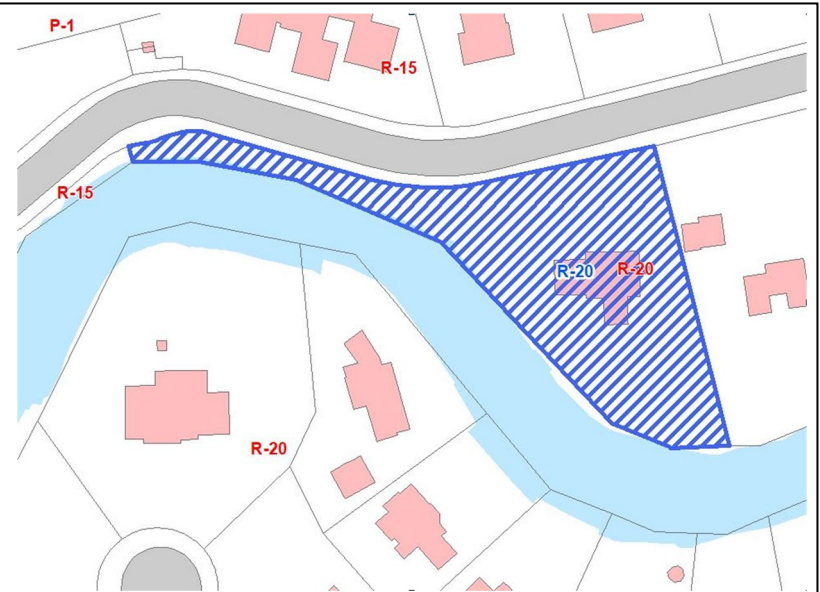
1,056 square feet

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as submitted



Summary of Proposal

Demolition Details

- Concrete driveway

Construction Details

- Redevelop existing concrete driveway with paver driveway
- Two-car paver parking area
- Expand patio area with new walkway

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

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

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

Shoreline

Shoreline is hardened by a rip rap revetment.

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.

Evaluation and Recommendation

The applicant is proposing to redevelop and expand their existing driveway with a two-car parking area, slightly expand the footprint of their existing patio, and construct a walkway. The proposed improvements primarily fall within the seaward buffer of the Resource Protection Area (RPA) with slight increases in the landward buffer with the proposed increased footprint of the patio. Staff is of the opinion that this lot would benefit from the buffer restoration requirements required with the increase in impervious cover proposed given that the majority of the rear yard of this lot is devoted to turf and not providing much benefit to the watershed. Furthermore, the slight increase in impervious

cover would not be a substantial detriment to the water quality of the Chesapeake Bay Watershed given the opportunities to further enhance the RPA feature on this lot with this request.

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 *"we have never been before the CBPA Board and this is our first request of this site. We are trying to go about this the correct way."* 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 *"this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's Chesapeake Bay Ordinance."* Staff acknowledges that the lot was platted prior to the adoption of the CBPA act and the City's CBPA ordinance and that the home was constructed in 1964, therefore this lot falls within the Resource Protection Area.
- 3) The variance is the minimum necessary to afford relief because *"there is minimal room for parking and turn around with our existing driveway. We would like to expand our patio and upgrade to match the home."* Staff acknowledges the statement given 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 concrete driveway is old and in need of repair. We want to replace it with pavers."* Staff is of the opinion that this request is warranted given the state of the existing driveway and that the slight increase in impervious cover will be offset by buffer restoration plantings in areas currently devoted to turf.
- 5) *"We can grade so runoff can go to our existing BMP"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff concurs and adds that existing bioretention planting beds currently aid in preventing nonpoint source pollution load from entering the waterway. Additional buffer restoration measures will further prevent any increase in nonpoint source pollution load.

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

Recommended Conditions

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 3) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,056 square feet x 200 percent = 2,112 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **5 canopy trees, 5 understory trees, 10 large shrubs, and 15 small shrubs.**

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

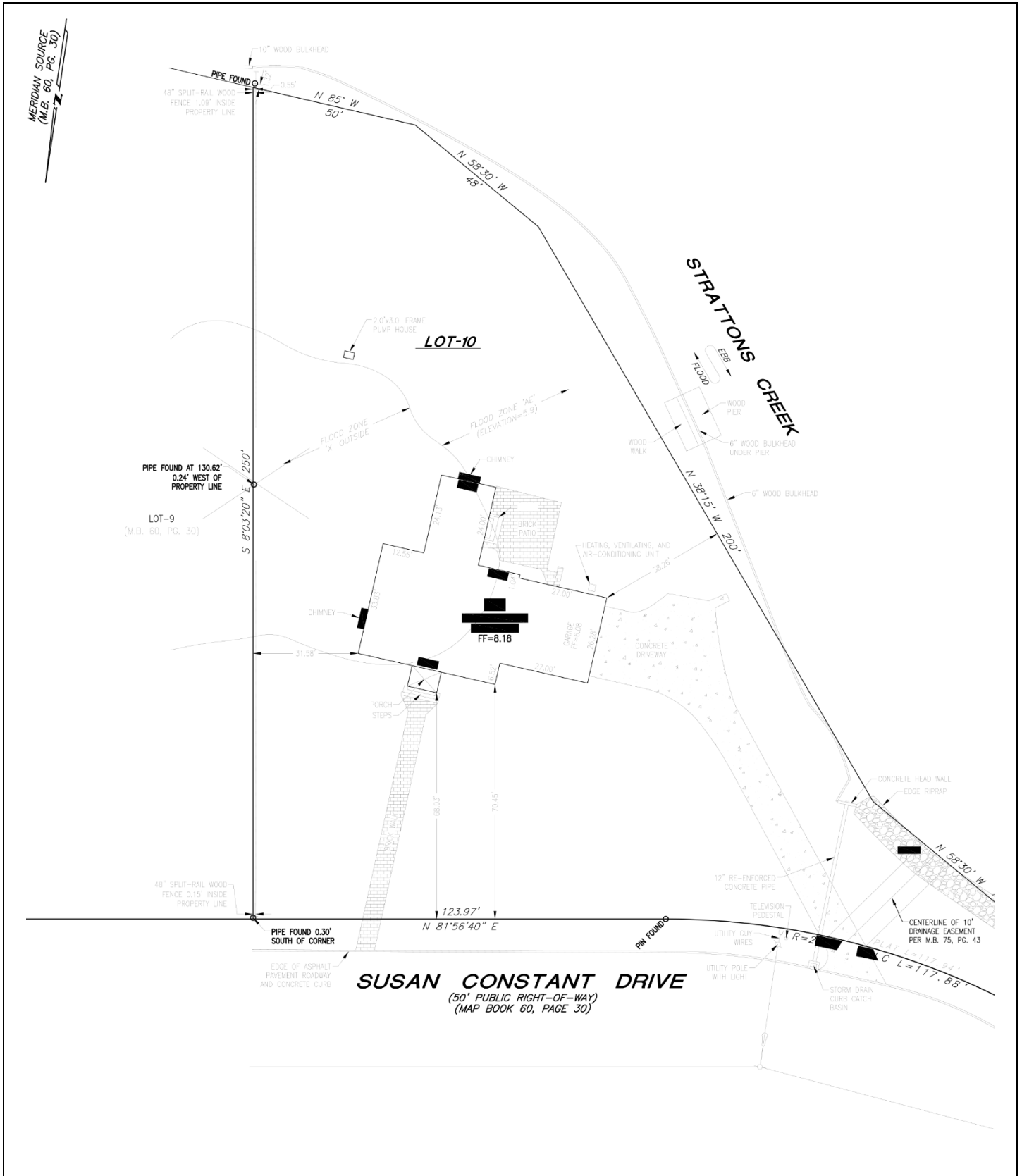
- 4) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 5) 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain 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.
- 6) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of 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.

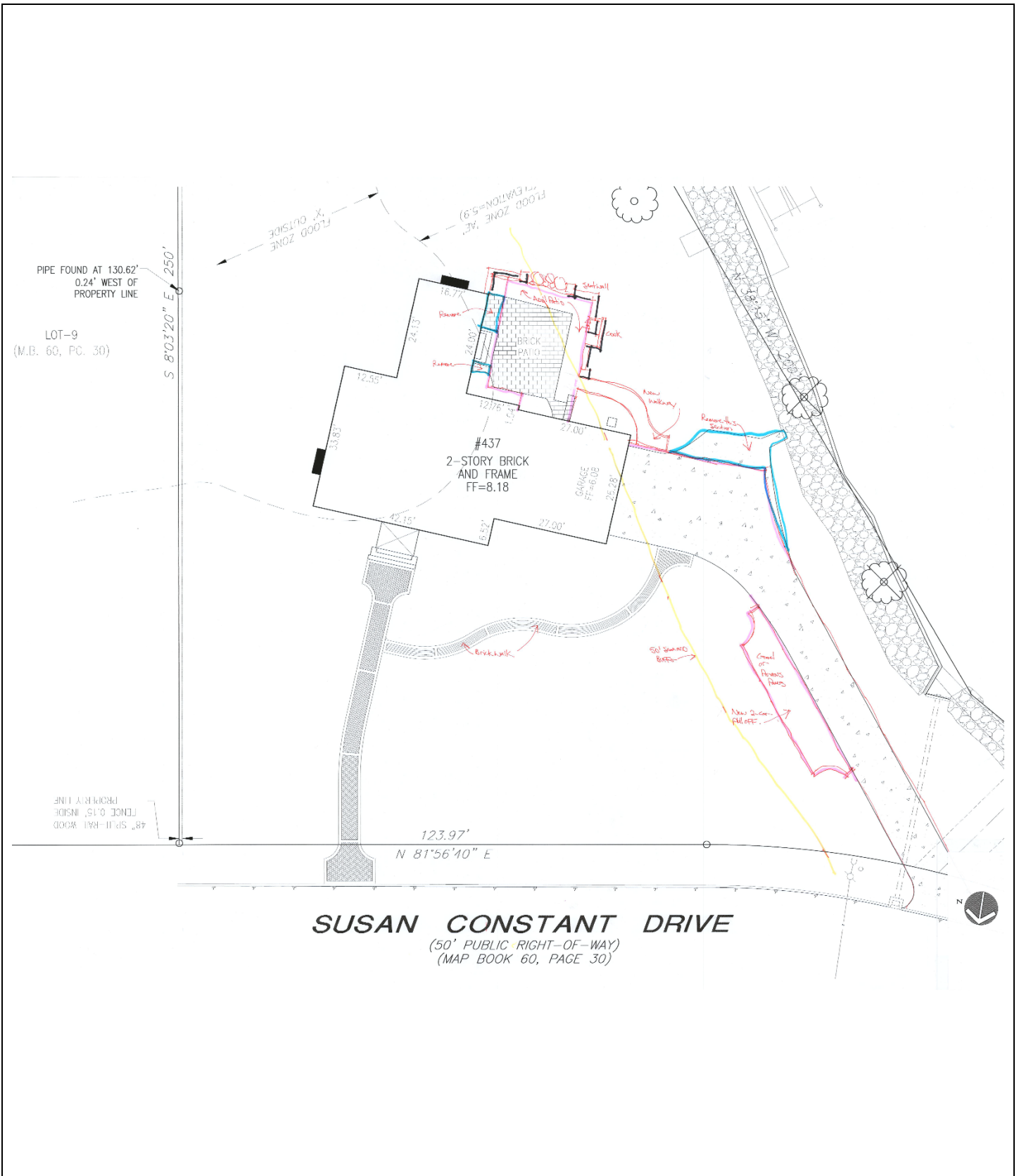
Site Aerial



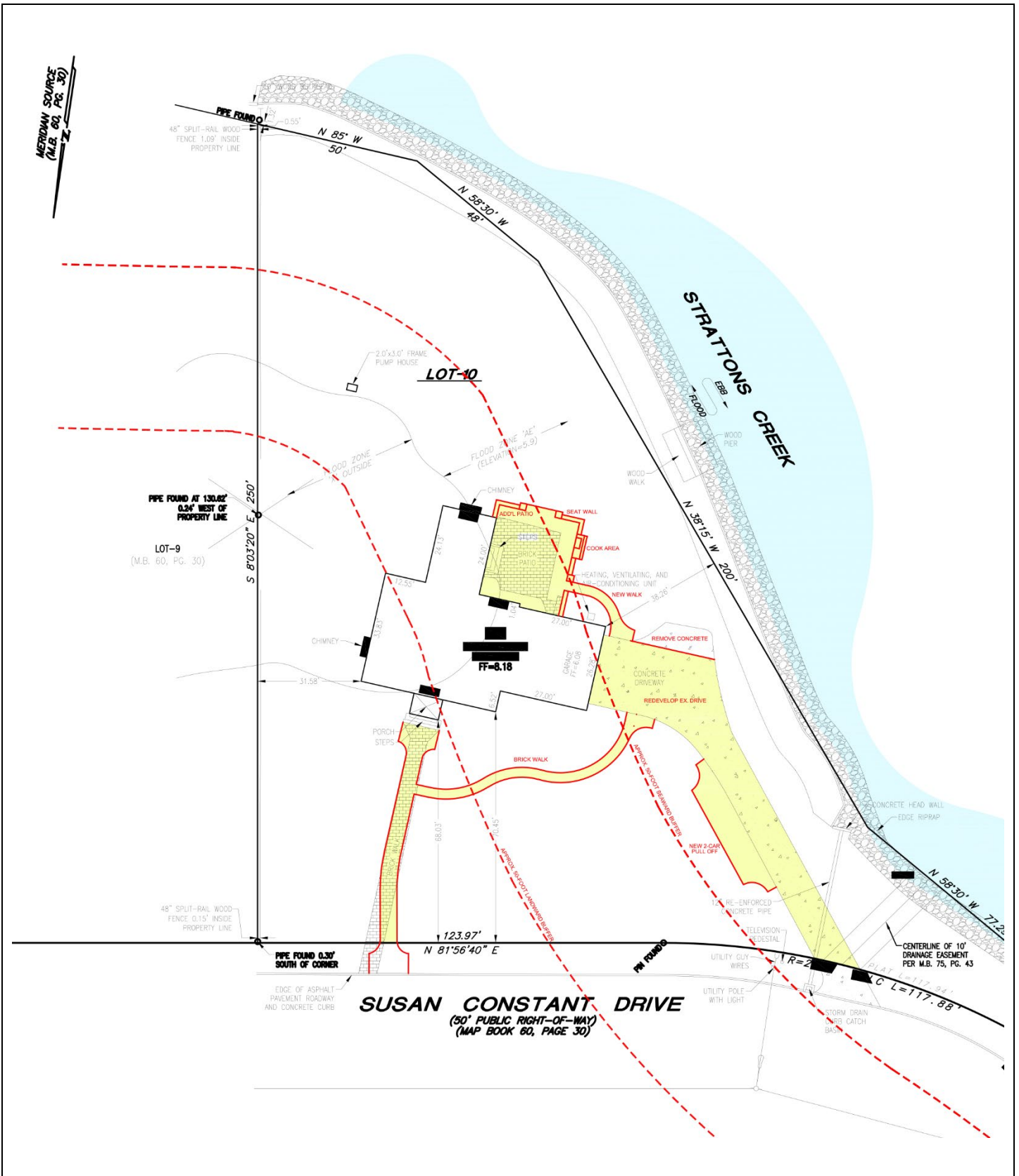
CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements



CBPA Exhibit – Proposed Improvements



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 David Huntington Adams, Jr.

Does the applicant have a representative? Yes No

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

John Watson or 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.

Huntington Bank (mortgage) / Southern Bank (line of credit)

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.

John Watson / Siska Aurand

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

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

Disclosure Statement



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

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.

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.

David Huntington Adams, Jr.

Applicant Signature

David Huntington Adams, Jr.

Print Name and Title

March 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.

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

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