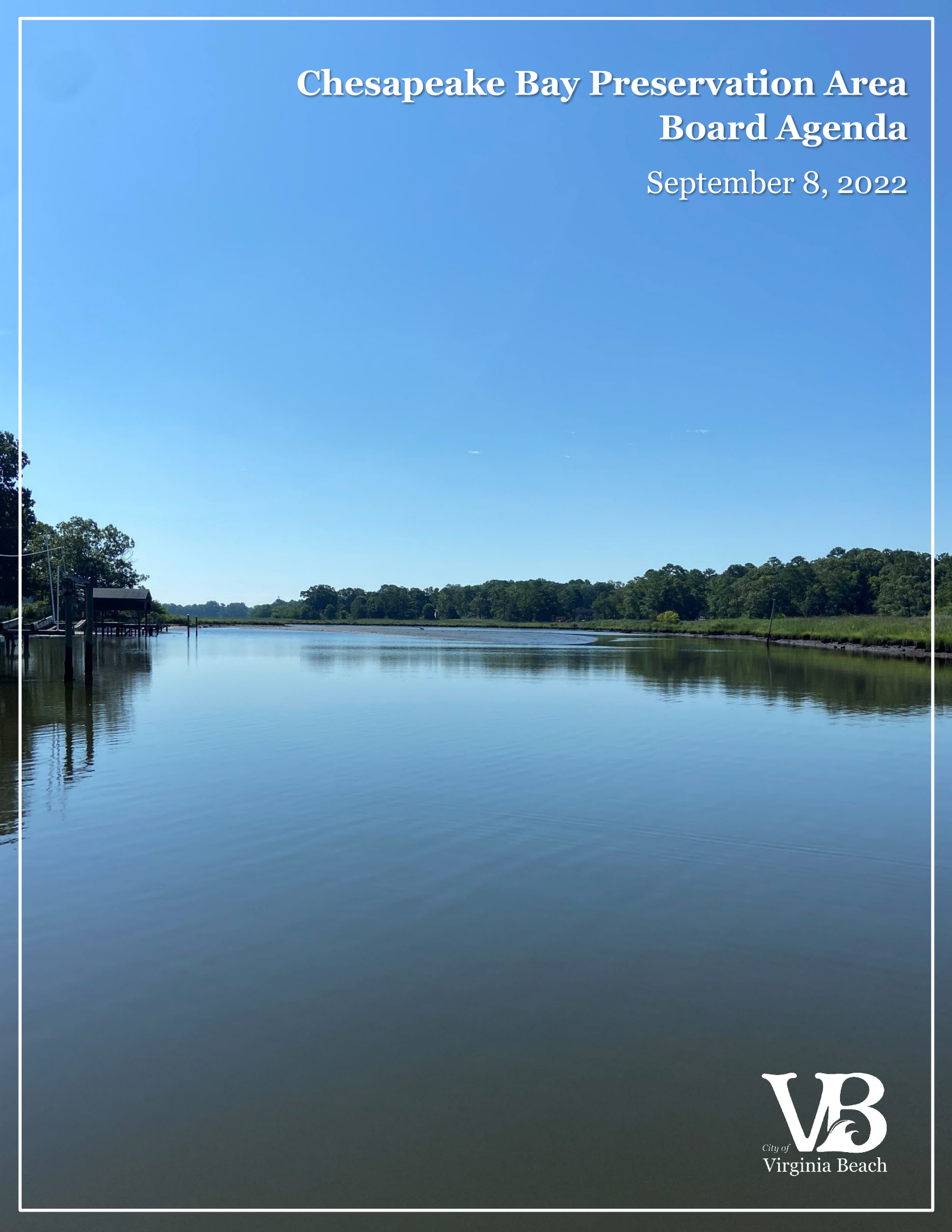


Chesapeake Bay Preservation Area Board Agenda

September 8, 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 **Thursday, September 8, 2022** at 10:00 a.m. in the New Council Chamber - 2401 Courthouse Drive, Building 1, Second Floor, Virginia Beach, VA.

An informal session will be held the same day at 9:00 a.m. in room 2034, City Manager's Conference Room - 2401 Courthouse Drive, Building 1, Second Floor, 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 **September 8, 2022**

9:00 AM INFORMAL STAFF BRIEFING OF PUBLIC HEARING AGENDA ITEMS.

10:00 AM FORMAL REVIEW OF PUBLIC HEARING AGENDA ITEMS.

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

NEW BUSINESS AGENDA ITEMS

1. John Reid

[Applicant & Property Owner]

2113 E Admiral Dr

GPIN 1499-79-8662

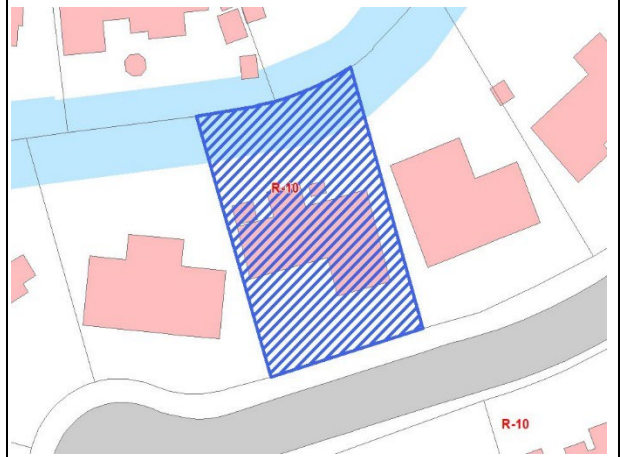
City Council District: District 8, formerly Lynnhaven

Accela Record: 2022-CBPA-00043

Variance Request – Encroachment into the RPA to construct a garage and front porch.

Staff Planner – Cole Fisher

Staff Report – page 9



2. Philip & Jane Jones

[Applicants & Property Owners]

1291 Ketch Pt

GPIN 1498-76-8959

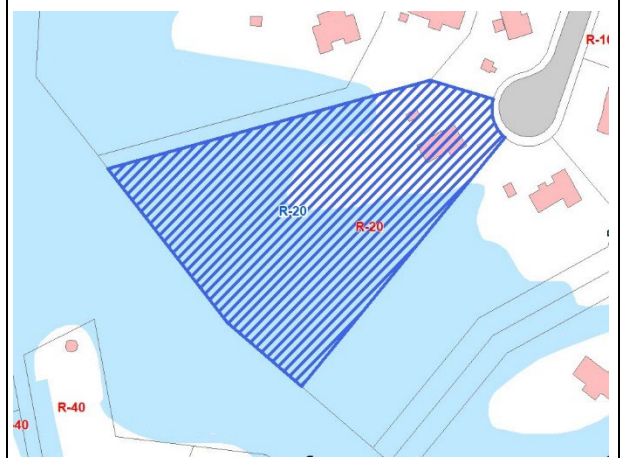
City Council District: District 8, formerly Lynnhaven

Accela Record: 2022-CBPA-00042

Variance Request – Encroachment into the RPA to construct a shed.

Staff Planner – Cole Fisher

Staff Report – page 19



NEW BUSINESS AGENDA ITEMS (CONTINUED)

3. David & Mary Sweeney [Applicants & Property Owners]

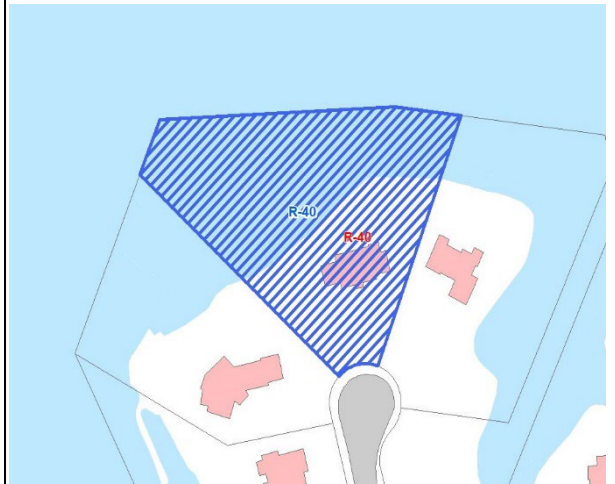
1257 N Inlynnview Rd

GPIN 1498-36-6433

City Council District: District 8, formerly Lynnhaven
Accela Record: 2022-CBPA-00044

Variance Request - Encroachment into the RPA to expand a pool surround, construct a shed, gazebo, and outdoor shower, and reconfigure a driveway.

Staff Planner – Cole Fisher
Staff Report – page 29



4. Ralph & Margaret King [Applicants & Property Owners]

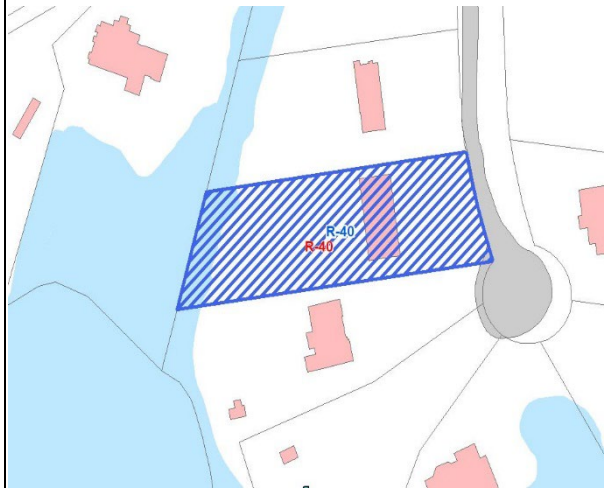
809 S Spigel Dr

GPIN 1498-51-5051

City Council District: District 8, formerly Lynnhaven
Accela Record: 2022-CBPA-00045

Variance Request – Encroachment into the RPA to construct a single-family residence with associated accessory structures.

Staff Planner – Cole Fisher
Staff Report – page 41



5. Randall & Lisa Peck [Applicants & Property Owners]

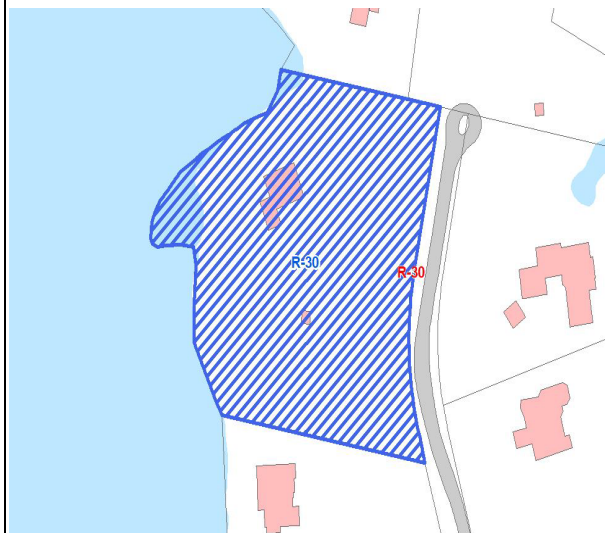
1675 Godfrey Ln

GPIN 2409-13-7203

City Council District: District 8, formerly Lynnhaven
Accela Record: 2022-CBPA-00046

Variance Request – Encroachment into the RPA to construct a garage with associated stairs, walkway, concrete landing, deck and parking pad, building addition & swimming pool.

Staff Planner – Cole Fisher
Staff Report – page 53



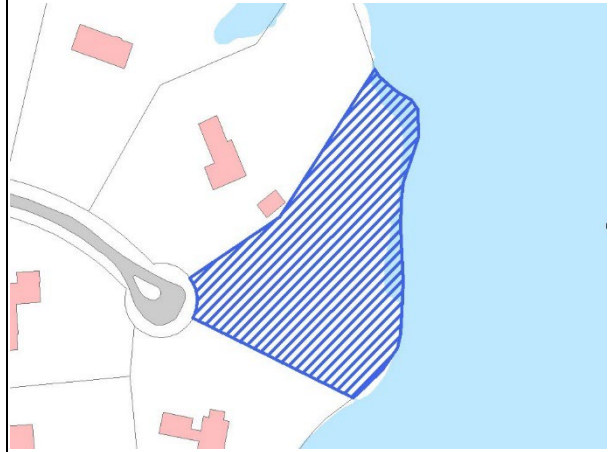
NEW BUSINESS AGENDA ITEMS (CONTINUED)

6. 1600 Arnold Circle, LLC
[Applicant & Property Owner]

1600 Arnold Cir
GPIN 2409-82-3546
City Council District: District 6, formerly Lynnhaven
Accela Record: 2022-CBPA-00047

Variance Request – Encroachment into the RPA to construct an artificial turf area.

Staff Planner – Cole Fisher
Staff Report – page 65



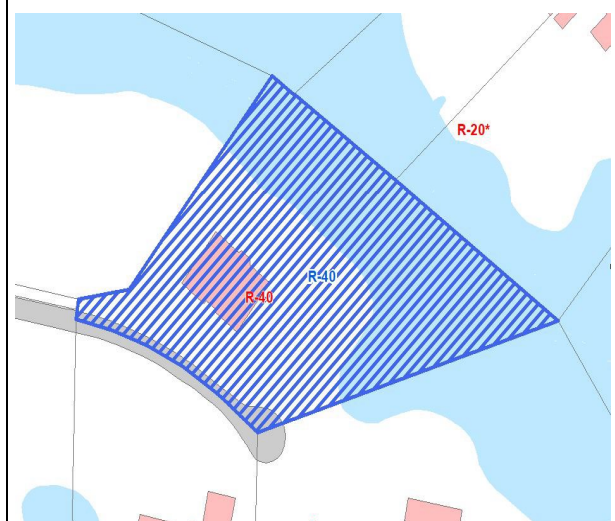
SHOW CAUSE AGENDA ITEMS

7. Francis & Lauren Cuozzo
[Property Owner]

3281 Doncaster Road
GPIN 1498-01-4329
City Council District: District 8, formerly Lynnhaven
Accela Record: 2022-CBPV-00001

Statement of Noncompliance – Development within the Resource Protection Area (RPA) buffer that deviates from the conditions of the December 19, 2012 CBPA Board variance.

Staff Planner – Cole Fisher
Staff Report – page 67

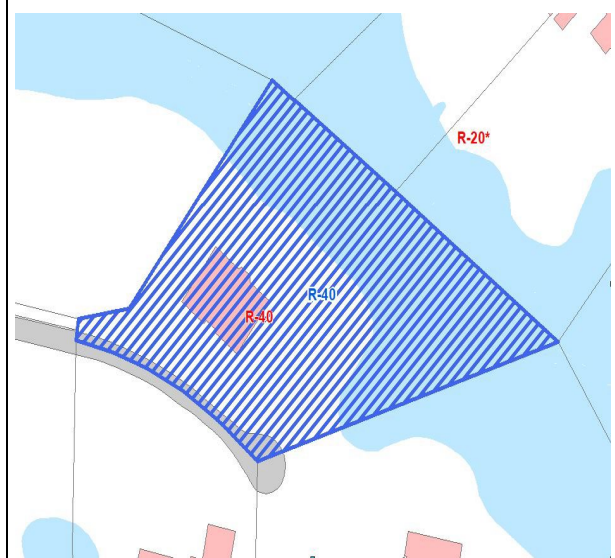


8. Ryan Earley
Solid Structures
[Contractor]

3281 Doncaster Road
GPIN 1498-01-4329
City Council District: District 8, formerly Lynnhaven
Accela Record: 2022-CBPV-00001

Statement of Noncompliance – Development within the Resource Protection Area (RPA) buffer that deviates from the conditions of the December 19, 2012 CBPA Board variance.

Staff Planner – Cole Fisher
Staff Report – page 73



SHOW CAUSE AGENDA ITEMS (CONTINUED)

9. David R. Miller
[Property Owner]

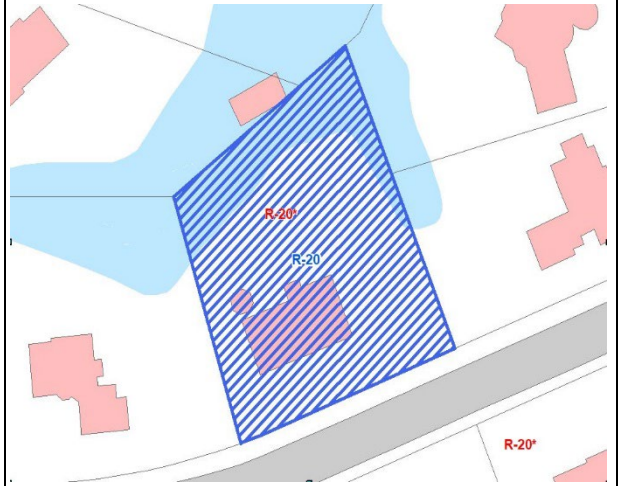
3220 Stapleford Chase

GPIN 1498-16-4212

City Council District: District 8, formerly Lynnhaven
Accela Record: 2022-CBPV-00003

Statement of Noncompliance –Land disturbance and removal of existing vegetation (turf) for the installation of segmented retaining walls.

Staff Planner – Cole Fisher
Staff Report – page 79



10. Robert Anderson
Bulldog Lawn Service
[Contractor]

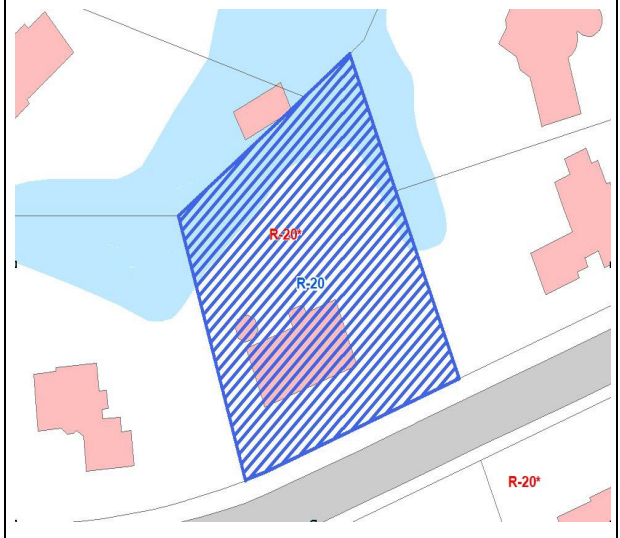
3220 Stapleford Chase

GPIN 1498-16-4212

City Council District: District 8, formerly Lynnhaven
Accela Record: 2022-CBPV-00003

Statement of Noncompliance –Land disturbance and removal of existing vegetation (turf) for the installation of segmented retaining walls.

Staff Planner – Cole Fisher
Staff Report – page 83



11. Dennis and Janice Ellmer
[Property Owners]

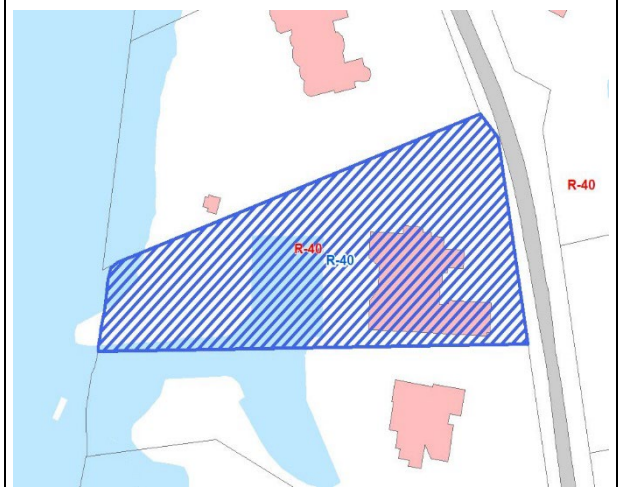
2871 River Road

GPIN 1499-41-4751

City Council District: District 8, formerly Lynnhaven
Accela Record: 2022-CBPV-00002

Statement of Noncompliance – Land disturbance and removal of existing vegetation (turf) for the installation of synthetic turf.

Staff Planner – Cole Fisher
Staff Report – page 87



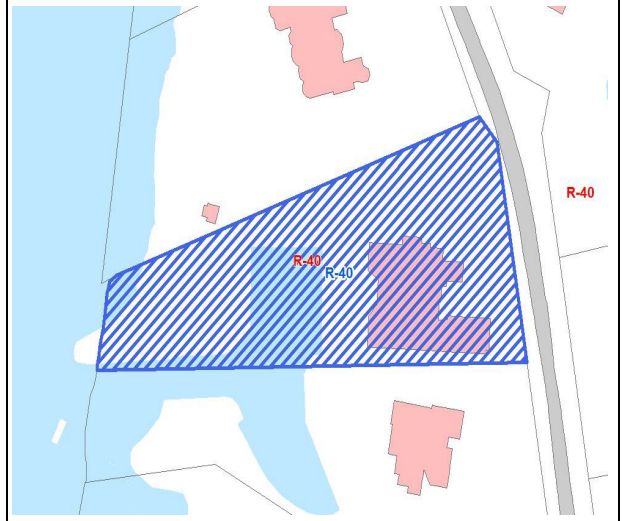
SHOW CAUSE AGENDA ITEMS (CONTINUED)

12. Kaitlyn Lord
SYNLawn
 [Contractor]

2871 River Road
 GPIN 1499-41-4751
 City Council District: District 8, formerly Lynnhaven
 Accela Record: 2022-CBPV-00002

Statement of Noncompliance – Land disturbance and removal of existing vegetation (turf) for the installation of synthetic turf.

Staff Planner – Cole Fisher
Staff Report – page 93



TENTATIVE 2023 CBPA BOARD PUBLIC HEARING DATES

Monday	January 23rd	Monday	July 24th
Monday	February 27th	Monday	August 28th
Monday	March 27th	Monday	September 25th
Monday	April 24th	Monday	October 23rd
Monday	May 22nd	Monday	November 27th
Monday	June 26th	Thursday	December 28th

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.

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Applicant & Property Owner **John Reid**
Address **2113 E Admiral Drive**
Public Hearing **September 8, 2022**
City Council District **District 8**, formerly Lynnhaven

Agenda Item

1

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a garage and front porch

Applicant's Agent

Self-represented

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 67, Page 28

Recorded 11/29/1965

GPIN

1499-79-8662

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

480 square feet

Area of New Development in RPA

160 square feet

Location of Proposed Impervious Cover

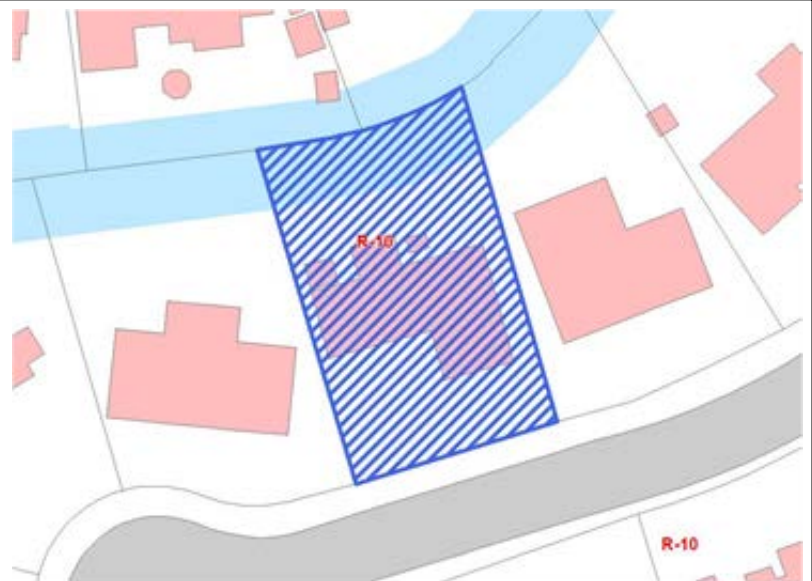
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Frame shed

Construction Details

- Garage addition to primary structure
- Front porch

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)

Psamments Series (moderately well-drained soils, disturbed from excavation)

Shoreline

Shoreline is stabilized by a vinyl bulkhead.

Riparian Buffer

Heavily 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 has extensive interior home renovation plans that includes utilizing the existing attached garage space to relocate the master bedroom and bath. With the redevelopment of the home interior, the applicant desires to construct a new 480 square foot garage addition over a portion of the existing concrete driveway with portions expanding over areas currently devoted to turf. In addition, a new 160 square foot front porch with a new walkway to the driveway is proposed. All proposed improvements are located within the 50-foot landward buffer of the Resource Protection Area (RPA) and Staff is of the opinion that this variance request will not cause a substantial detriment to water quality given the minimal amount of new impervious cover within the RPA proposed.

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

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *"it is an addition of a small front porch which is being requested in a manner that is available to anyone within the Chesapeake Bay Preservation Area."* Staff concurs and adds that portions of the new garage will expand into the front yard within the landward buffer of the RPA, however the redevelopment of this single-family residence is similar to adjacent properties that have redeveloped existing residences that were built in the 1960's.
- 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 proposed request for a variance is for work that has yet to be completed."* Staff concurs and offers that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, this lot falls within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"this the minimum sized porch to create symmetry with the proposed addition, and is the space allowed for seating and function."* Staff adds that the RPA buffer falls on the majority of the lot and the proposed improvements provides merit towards the variance request being the minimal necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"this variance request is for a small porch which is a far distance from the waterway. It is not a large addition of impervious surfaces. Gardens will be in-front of the porch."* Staff concurs and adds that the proposed improvements are situated in the landward buffer of the Resource Protection Area and there is no encroachment seaward with this request.
- 5) *"Utilizing redevelopment over existing impervious cover for the majority of this project and keeping new impervious cover at a minimum"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff concurs and adds that the garage redevelopment over the existing portion of the concrete driveway, the front walkway replacement, and portions of the front porch expansion all utilize redevelopment to the greatest extent practicable.

Given the above comments, Staff recommends the following **7** 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 consisting of trees and shrubs shall be installed within the RPA. Said restoration shall be installed at the following rate: **2 canopy trees, 2 understory trees, 4 large shrubs and 6 small shrubs.**

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

3. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
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. 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.
7. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.

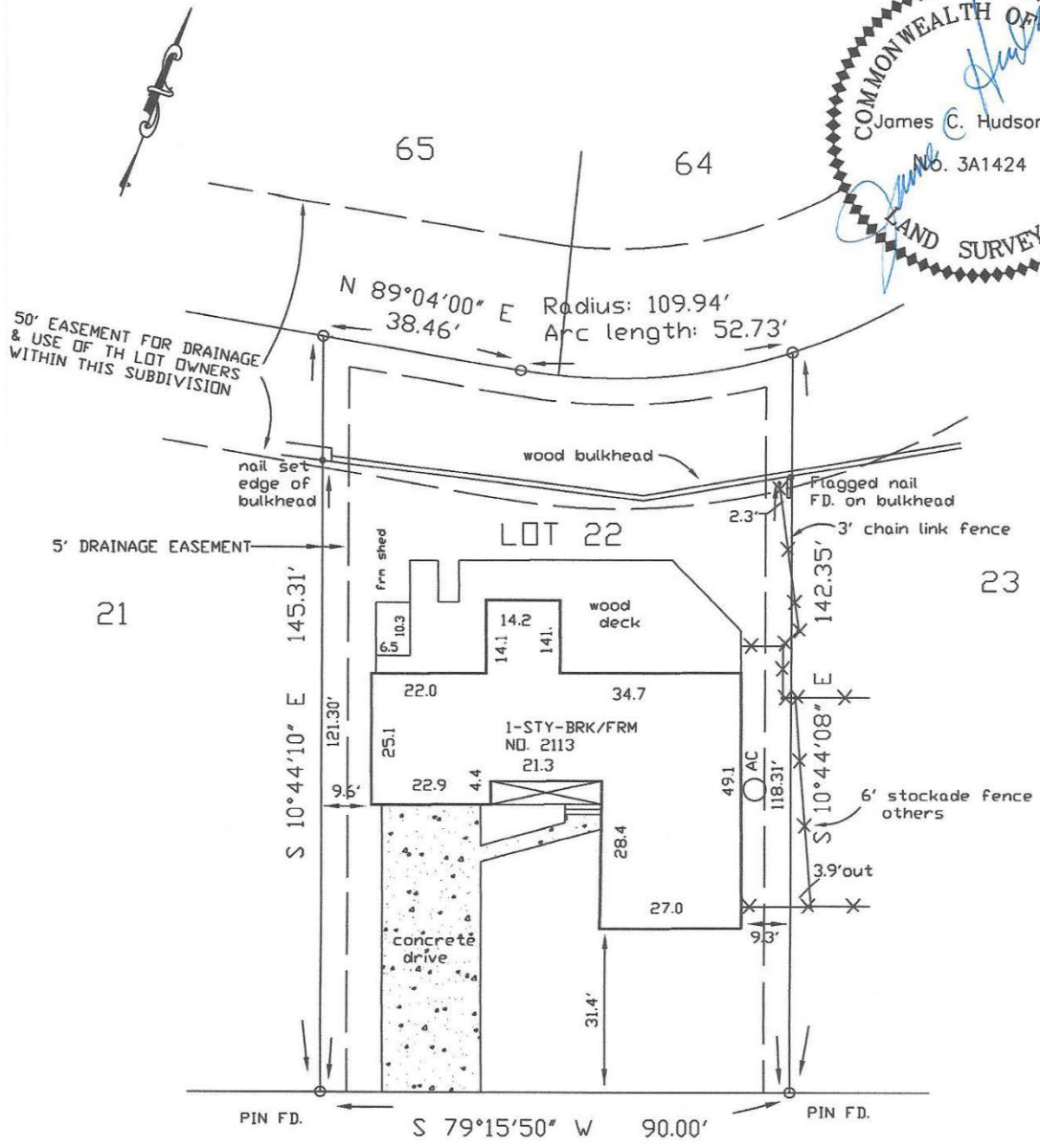
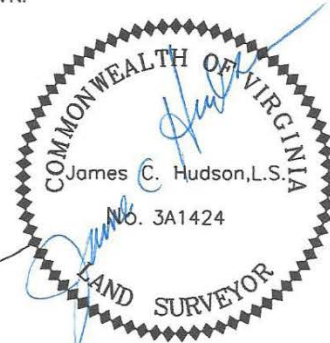
***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 110(E) of the Chesapeake Bay Preservation Area Ordinance.

Site Aerial



CBPA Exhibit – Existing Conditions

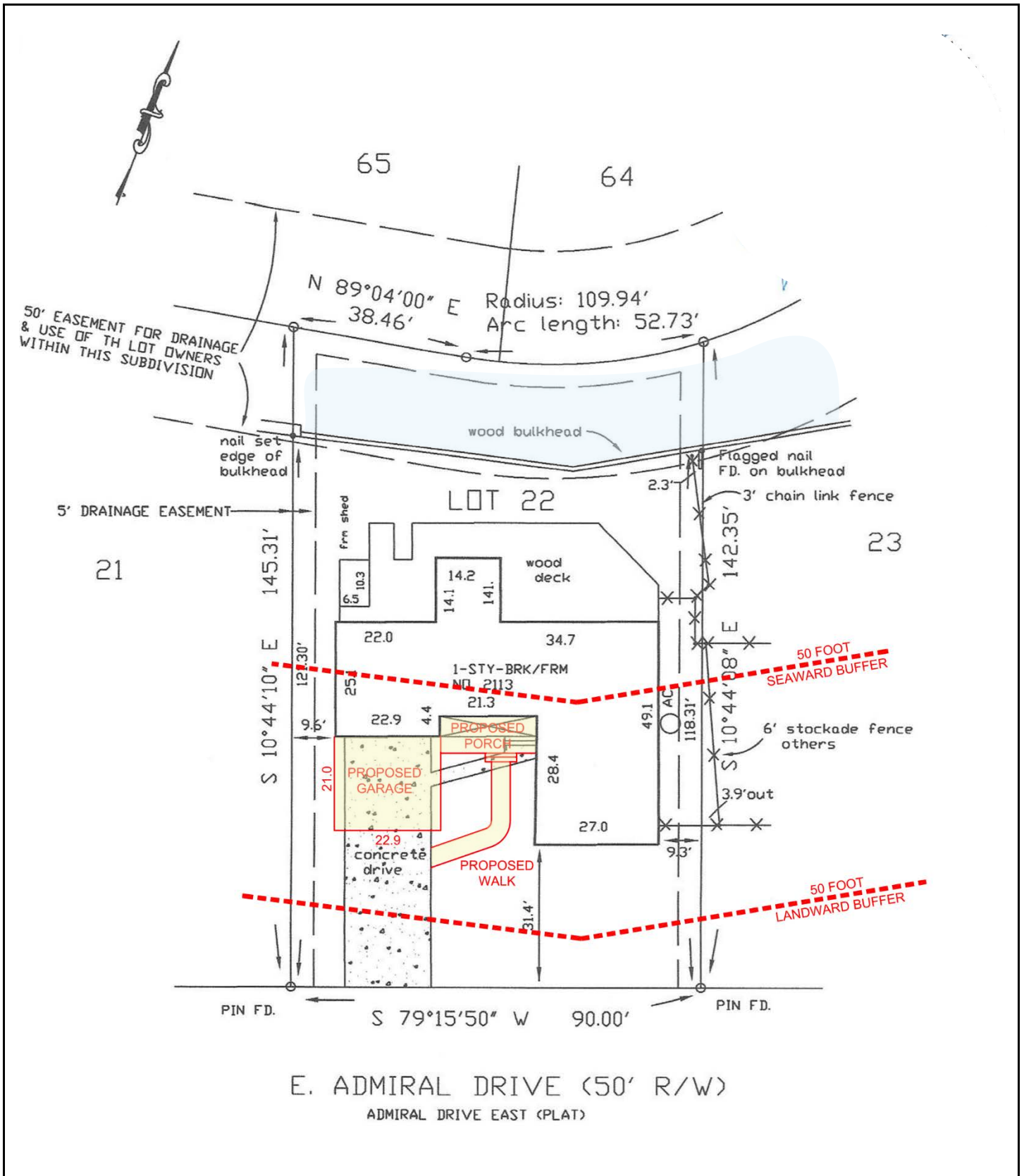
THIS IS TO CERTIFY THAT ON MAR 14, 2018, I SURVEYED THE PROPERTY SHOWN BELOW AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE SHOWN HEREON. THE IMPROVEMENTS SHOWN HEREON ARE STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.



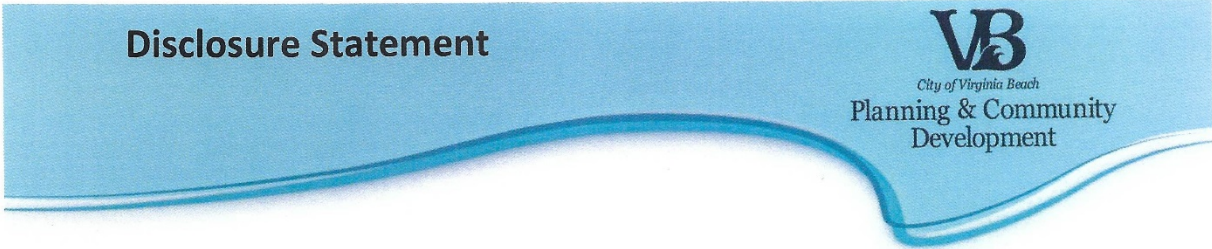
E. ADMIRAL DRIVE (50' R/W)
ADMIRAL DRIVE EAST (PLAT)

PHYSICAL SURVEY
OF
2113 E. ADMIRAL DRIVE
LOT 22

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 John Charles Reid

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.

Current Mortgage through Atlantic Bay 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.

Plans created by designer - Glenn Smith

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.
Small Potatoes Structural Engineering (plans for hiding beam in Kitchen)

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

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

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, **I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.**

Applicant Signature
John C. Reid - Property Owner

Print Name and Title
07/26/2022

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	



Applicant & Property Owner **Philip & Jane Jones**
 Address **1291 Ketch Point**
 Public Hearing **September 8, 2022**
 City Council District **District 8**, formerly Lynnhaven

Agenda Item

2

Variance Request

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

Applicant's Agent

Self-represented

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 92, Page 3
 Recorded 06/08/1972

GPIN

1498-76-8959

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

192 square feet

Location of Proposed Impervious Cover

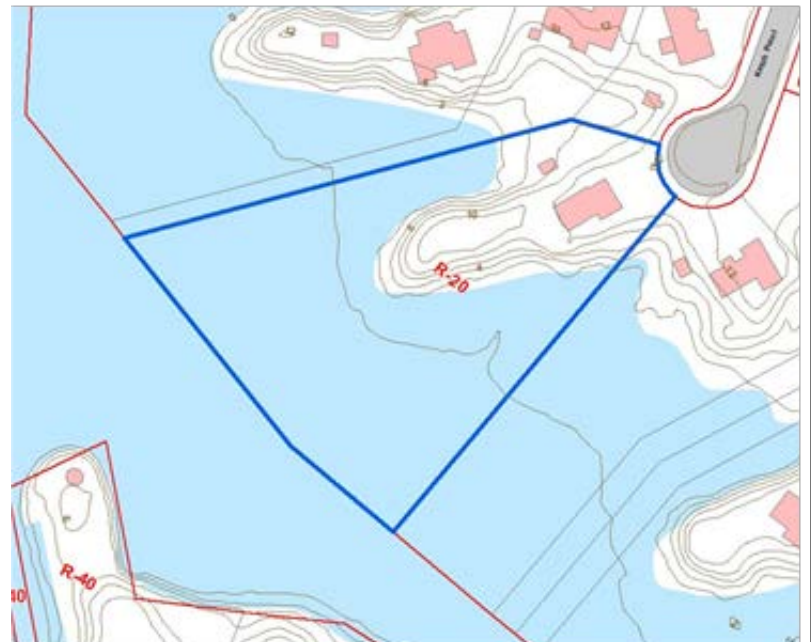
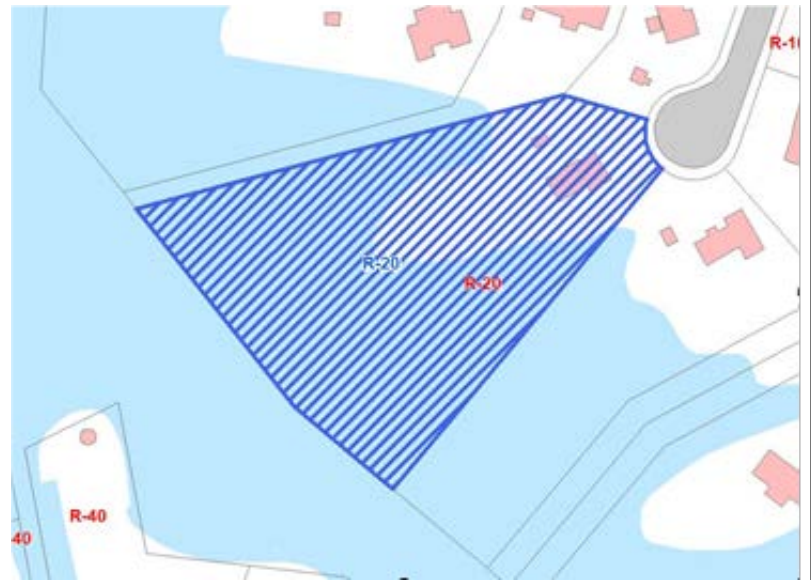
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- Framed shed

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

Rappahannock Series (deep and poorly drained soils)
Rumford Series (highly erodible soils) located below the top of bank
Tetotum Series (deep, moderately well-drained soils)

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Heavily 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

This is a heavily wooded lot with a moderate slope and with a natural shoreline comprising of a large tidal marsh area. The applicant is proposing to construct a new 192 square foot shed within the landward buffer of the Resource Protection Area (RPA) on their property to accommodate for storage of pool and gardening equipment. The applicant desires to construct the shed adjacent to the existing pool to access the necessary equipment more easily for maintenance of the pool and gardening tools used on a weekly basis. Staff is of the opinion that the construction of the new shed will not cause a substantial detriment to water quality given the size and location of the proposed structure and the minimal impact to the existing riparian buffer.

Should the Board desire to grant 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 *“other property owners in the RPA area have applied for and have had approved similar small projects.”* 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 *“All previous impervious cover and property improvements were prior to the CBPAO adopted on January 1, 1991. Requesting smallest size to fit existing equipment in.”* Staff concurs.
- 3) The variance is the minimum necessary to afford relief because *“the variance request is to use the property to construct a storage shed to most efficiently use/store pool, gardening, and water sport equipment closer to where it is used and to free up space in the existing garage to store a vehicle. Means taken to minimize impacts include but not limited to, requesting the smallest size shed to fit existing equipment, and will not have to disrupt any existing trees. It will be constructed in a flat area with minimum excavation to existing area, will use silt fence to catch construction debris, will perform majority of debris producing construction in-front on driveway away from back buffer area.”* Staff believes the size and location of the proposed improvements offers merit towards the variance request being the minimum necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *“utilizing the minimum necessary to afford relief. The proposed project is located in a heavily wooded mature canopy area and will not have to disrupt any existing trees.”* Staff adds that the shed is the minimum size necessary to store the necessary pool/gardening equipment.
- 5) *“We will not be impacting the existing riparian buffer vegetation”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff concurs and adds that coupled with the required buffer restoration that this variance request will not cause a substantial increase in runoff or be detrimental to the water quality of the Chesapeake Bay.

Given the above comments, Staff recommends the following 4 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. Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
3. 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.

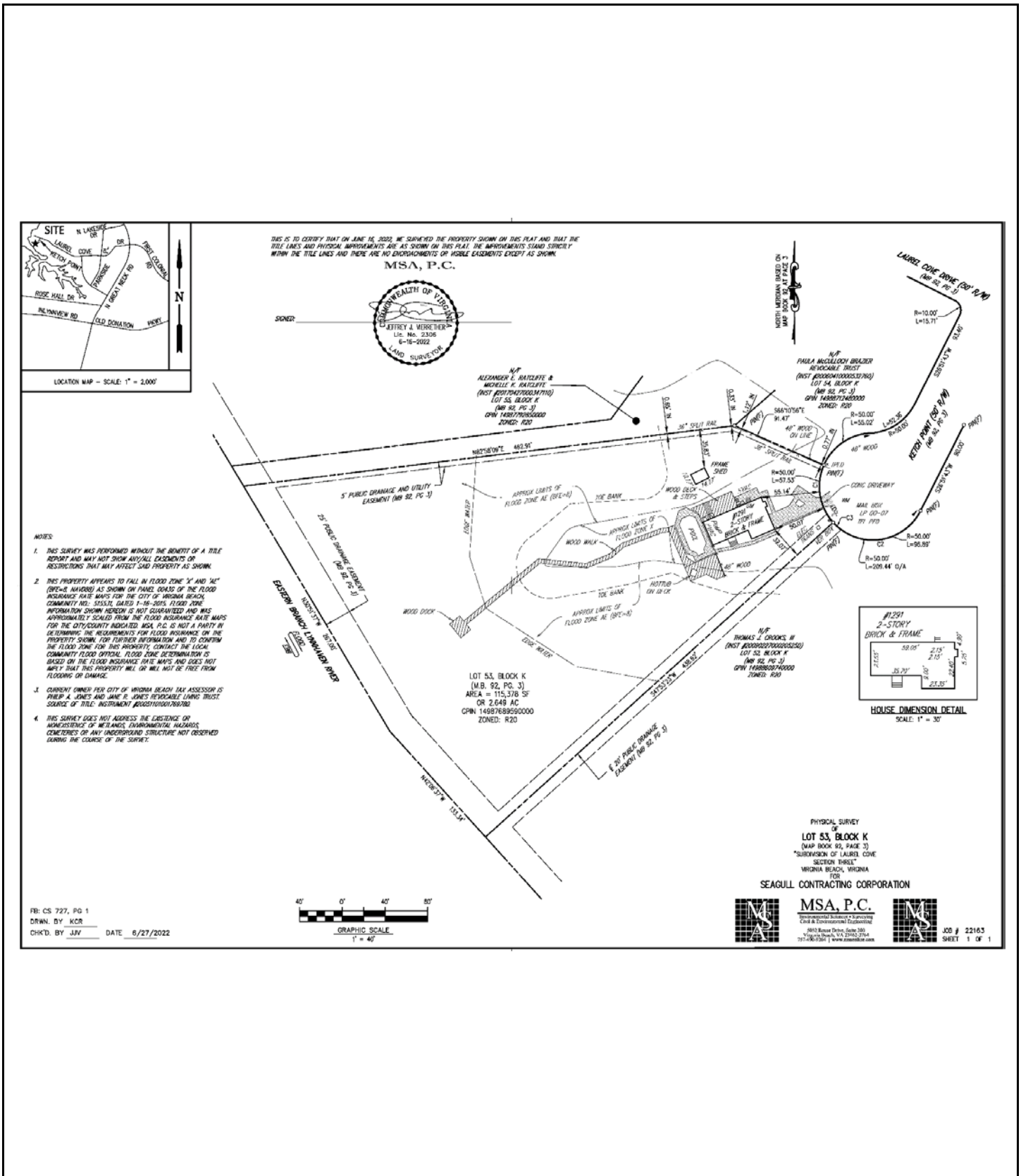
4. No perimeter fill is authorized outboard or seaward of the proposed improvements.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 110(E) of the Chesapeake Bay Preservation Area Ordinance.

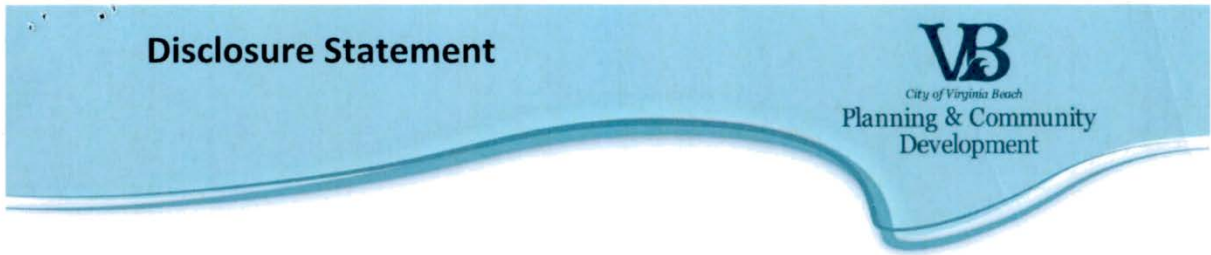
Site Aerial



CBPA Exhibit – Existing Conditions



Disclosure Statement



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

Applicant Disclosure

Applicant Name Philip A Jones

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.
-

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.
Seagull Contracting Corporation
7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? **Yes** **No**
- If **yes**, identify the firm and individual providing the service.
MSA, PC
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? **Yes** **No**
- If **yes**, identify the firm and individual providing the service.

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

Applicant Signature

Philip A. Jones, Applicant & Owner

Print Name and Title

Philip A Jones 07-21-2022

Date

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

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

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

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

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to expand a pool surround, construct a shed, gazebo, and outdoor shower, and reconfigure a driveway.

Applicant's Agent

Billy Garrington
 Governmental Permitting Services

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 126, Page 12
 Recorded 04/05/1978

GPIN

1498-36-6643

SITE AREA

91,619 square feet or 2.103 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

34,531 square feet or 0.793 acres

EXISTING IMPERVIOUS COVER OF SITE

11,991 square feet or 34.7 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

12,569 square feet or 36.4 percent of site

Area of Redevelopment in RPA

5,008 square feet

Area of New Development in RPA

1,543 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

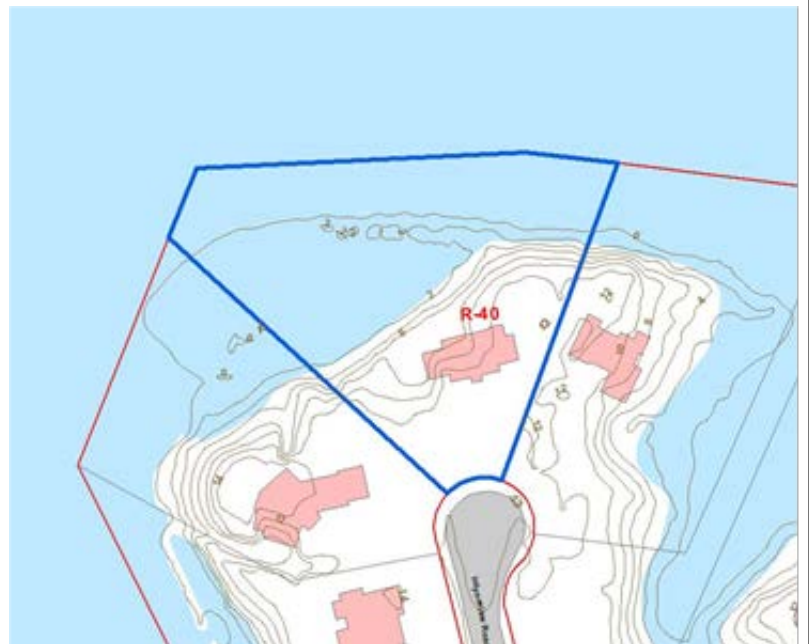
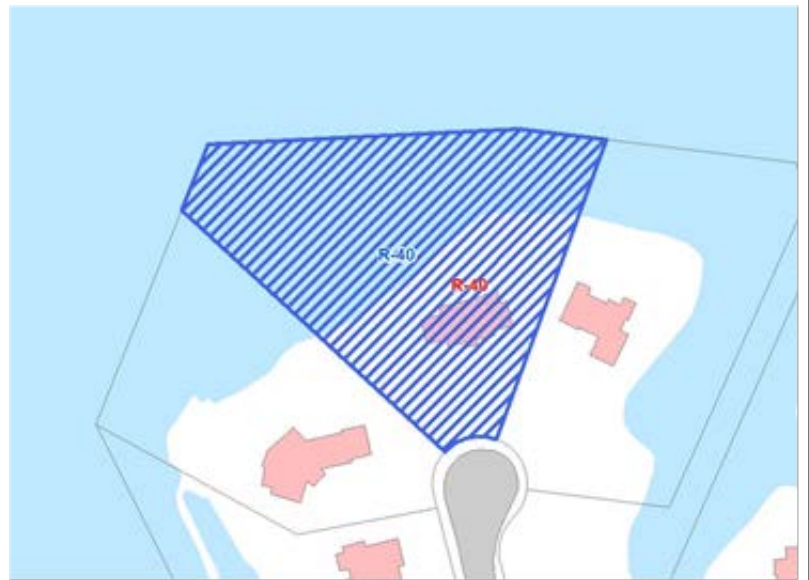
100-foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Concrete driveway with associated front walk and brick landing with steps
- Swimming pool with pool surround and patio area
- Frame shed

Construction Details

- Swimming pool with pool surround and associated shed
- Gazebo and outdoor shower
- Redevelop brick walks and patio area
- Reconfigure existing concrete driveway to circular driveway

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Multiple Zones – Zone X, AE and VE, Base Flood Elevation (BFE): AE – 9 and VE - 10

Soil Type(s)

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

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Moderately to sparsely wooded lot

- Number of 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 rooftop disconnection, soil amendments, and infiltration beds will be provided as a best management practice for stormwater run-off mitigation.

Evaluation and Recommendation

This is a moderately sloped lot with a large area of tidal marsh extending off the northwestern portion of the property. The existing concrete driveway is proposed to be redeveloped to include a circular driveway that will be encroaching into the upper limits of the landward buffer, with the remaining portions of the driveway adjacent to the garage to be

redeveloped in the same footprint. In the rear yard of the lot, the existing square footage of the pool and pool surround are proposed to remain the same at 618 square feet, but the applicant is proposing to remove the majority of the surround out of the seaward buffer and reconstruct within the landward buffer, adjacent to a proposed gazebo and outdoor shower area. Additionally, an existing shed shall be moved further out of the seaward buffer and relocated landward adjacent to the redeveloped pool surround. In the rear portion of the lot, the existing brick patio and walkways are proposed for redevelopment and the brick walkways shall be converted to gravel.

With the redevelopment of this lot, the overall impervious cover increases from 11,991 square feet to 12,569 square feet (34.7 percent to 36.4 percent) of the lot area above water/wetlands. Although there is an increase of new impervious cover within the 100-foot Resource Protection Area (RPA), the applicant has designed the proposed improvements on the lot to reduce impervious cover in the seaward buffer by 408 square feet, removing the existing accessory structures and relocating them landward. In addition, the applicant has utilized redevelopment over existing impervious cover where practicable resulting in 5,008 square feet of redevelopment with this request with an additional 930 square feet of existing impervious area being converted to pervious within the RPA. To mitigate for the new impervious cover, approximately 3,333 square feet of buffer restoration is shown on the submitted CBPA exhibit to be installed between the proposed improvements and the toe of slope, which is 291 square feet more restoration than required. Given the utilization of redevelopment and layout of the proposed improvements, coupled with the existing environmental conditions on the lot and proposed buffer restoration measures, Staff supports the variance request as conditioned below.

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 *"Granting a variance request in this circumstance would not confer privileges to the applicant which have been denied to other property owners within the CBPA Overlay District in this area."* Staff concurs.
- 2) 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 *"the 100-foot RPA encumbers a large area of the lot while much of the remaining lot lies within the Variable Width Buffer. Proposed improvements provide an overall retreat from the 50' Seaward Buffer. The proposed placement of improvements is due to the proximity of their home within the RPA. While the proposed improvements increase their overall impervious surface in the RPA, all take place in areas that are currently dedicated to lawn or overgrown shrubbery. In this regard, the proposed improvements are in the most logical locations and are a minimum amount to gain usable space within their lot."* Staff acknowledges the applicant's statement and adds that the proposed improvements utilize redevelopment of the existing impervious cover on the lot to the greatest extent practicable and removes impervious cover from the seaward buffer portion of the RPA.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"the existing RPA buffer on this lot is comprised of some turf grass, ornamental landscaping, canopy trees, and impervious cover well within the 50' Seaward Buffer. All proposed improvements inside the 50' Seaward Buffer have been reduced and sited adjacent to their existing residence and/or impervious surfaces. This request will require the establishment of additional vegetation within the buffer to help*

address runoff from the proposed improvements. This request will not be injurious to the neighborhood and with the addition of vegetation, will not be a detriment to water quality as the applicant is mitigating impacts within the buffer to help with the increase in runoff generated by the proposed improvements. The proposed request is not expected to be injurious to the public welfare and is not of substantial detriment of water quality.” Staff concurs with the applicant’s statement. This request provides a retreat of impervious cover within the 50-foot seaward buffer, utilization of redevelopment over existing impervious cover, best management practices to manage stormwater on the residential lot, and additional buffer restoration within the seaward buffer.

- 5) *“It is expected that City Staff will work with the applicant to ensure that the landscaping will be installed to mitigate the impact of the additional impervious surface within the RPA Buffer. The improvements will be mitigated with additional landscape that should aid in slowing the velocity of stormwater leaving the site while the also allowing for the absorption of any additional runoff. The applicant has submitted a conceptual landscape plan that is consistent with the Riparian Buffers Modification and Mitigation Manual and identifies an appropriate quantity of canopy trees, understory trees, and shrubs within the RPA buffer”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion that the buffer restoration area as shown on the proposed plans and best management practices proposed provide merit to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater potential.

Given the above comments, Staff recommends the following **14** reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

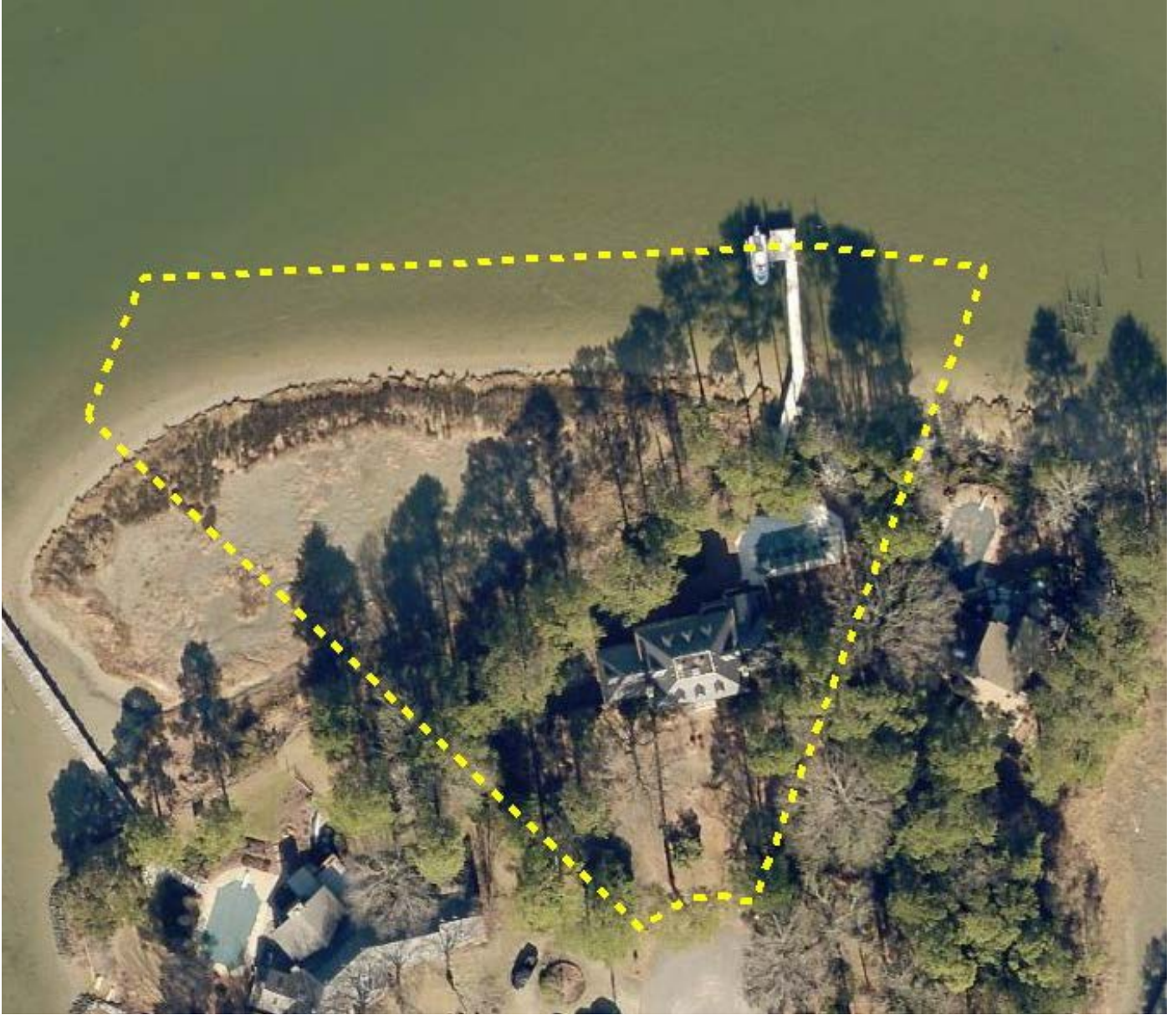
- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 3) Buffer restoration shall be installed per the layout provided in the CBPA Exhibit – **3,333 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: **8 understory trees, 24 large shrubs, and 32 small shrubs.**

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

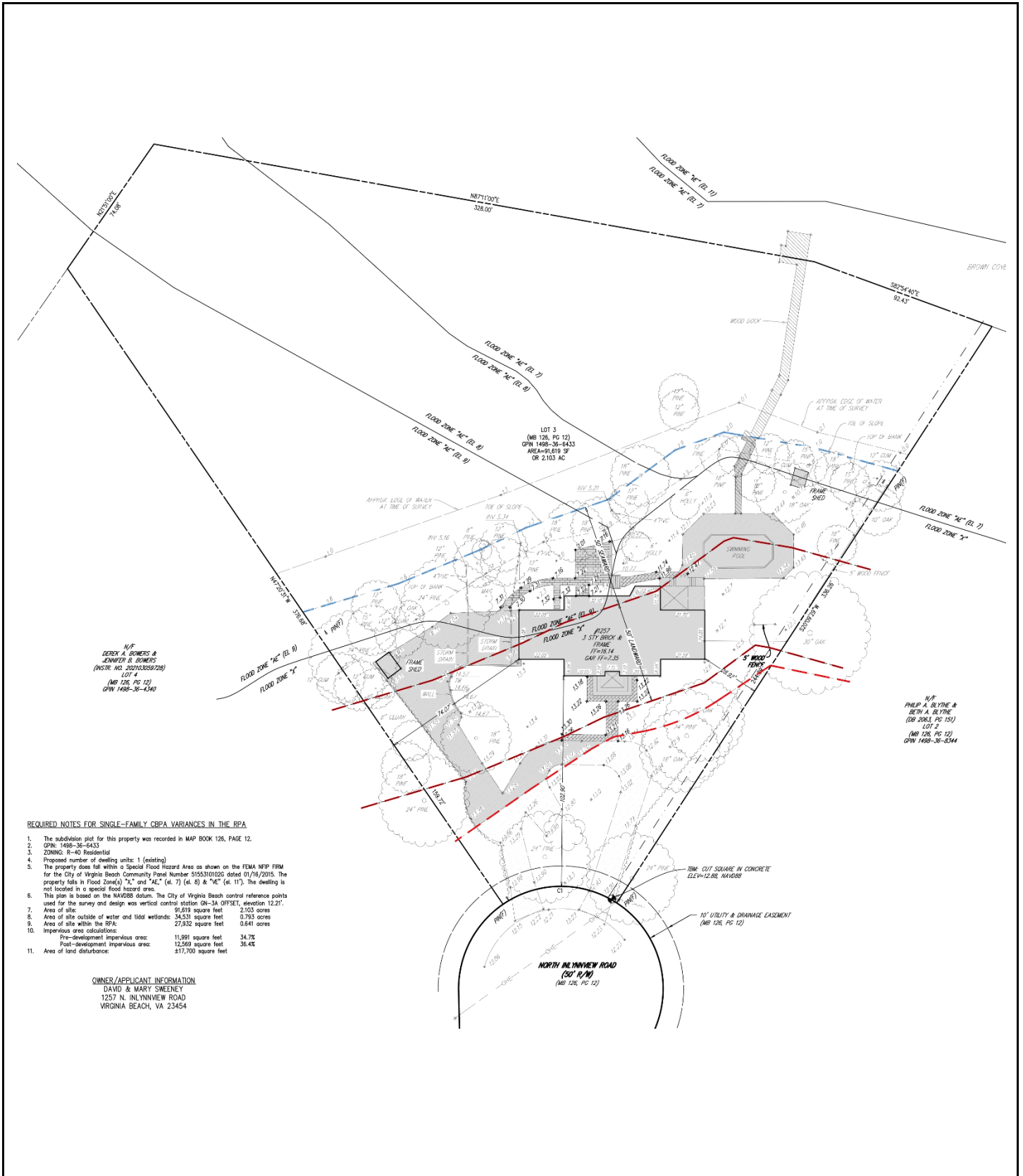
- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 7) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 10 feet from improvements.
- 8) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 9) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 10) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 11) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 12) Perimeter fill within the limits of construction shall be the minimum necessary to facilitate positive drainage away from the proposed improvements. Fill material for such development shall be limited to minimize disturbance of existing vegetation and contours to effectively maintain the integrity of the buffer area.
- 13) 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.
- 14) The conditions and approval associated with this variance are based on the exhibit plan dated July 29, 2022, prepared by Painted Fern Landscape Architecture, signed 07/29/22 by Jessica L. Nelson. The conditions and approval associated with this variance are based on the CBPA Board exhibit prepared by the applicant and presented to the CBPA Board, the application submitted and the sworn presentation to the CBPA Board. Deviation from said conditions during site plan review may require re-submittal for CBPA Board consideration.

***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 110(E) of the Chesapeake Bay Preservation Area Ordinance.

Site Aerial



CBPA Exhibit – Existing Conditions



N/F
DERRICK A. BOWERS &
JENNIFER R. BOWERS
(INSTR. NO. 202103059728)
LOT 4
(MB 126, PG. 12)
CPN 1498-36-4340

N/F
PHILIP A. BLYTHE &
BETH A. BLYTHE
(DB 2063, PG. 151)
LOT 2
(MB 126, PG. 12)
CPN 1498-36-4344

REQUIRED NOTES FOR SINGLE-FAMILY CBPA VARIANCES IN THE RPA

1. The subdivision plot for this property was recorded in MAP BOOK 126, PAGE 12.
2. CPN: 1498-36-4343
3. ZONING: R-40 Residential
4. Proposed number of dwelling units: 1 (existing)
5. The property does fall within a Special Flood Hazard Area as shown on the FEMA NFP FIRM for the City of Virginia Beach Community Panel Number 535310102, dated 01/18/2015. The property falls in Flood Zone(s) "X," and "AE," (el. 7) (el. 8) & "AE" (el. 11). The dwelling is not located in a special Flood hazard area.
6. This plan is based on the NAVD83 datum. The City of Virginia Beach control reference points used for the survey and design was vertical control station GN-3A OFFSET, elevation 12.21'.
7. Area of site: 95,619 square feet 2.103 acres
8. Area of site outside of water and tidal wetlands: 34,531 square feet 0.793 acres
9. Area of site within the RPA: 27,932 square feet 0.641 acres
10. Impervious area calculations:

Pre-development impervious area:	11,991 square feet	34.7%
Post-development impervious area:	12,569 square feet	36.4%
11. Area of land disturbance:

OWNER/APPLICANT INFORMATION
DAVID & MARY SWEENEY
1257 N. INLYNNVIEW ROAD
VIRGINIA BEACH, VA 23454

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 & Mary Sweeney

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

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

Billy Garrington

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

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

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

Yes **No**

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

Navy Federal Credit Union

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

Yes **No**

- If **yes**, identify the company and individual providing the service.
-

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

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

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

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

Painted Fern Landscape Architecture, Jess Nelson, PLA

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

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


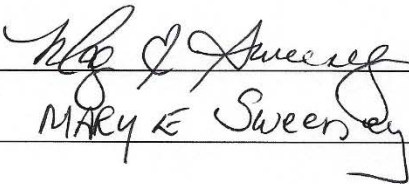
Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? Yes No
- If **yes**, identify the company and individual providing the service.
-
7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? Yes No
- If **yes**, identify the firm and individual providing the service.
- MSA, PC, Gregory Zoby, LS
-
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? Yes No
- If **yes**, identify the firm and individual providing the service.
-

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, **I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.**


 Applicant Signature

 Print Name and Title
 David Sweeney
 MARY E Sweeney
 Date
 29 July 2022

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

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

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

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

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Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a single-family residence with associated accessory structures.

Applicant's Agent

Billy Garrington
 Governmental Permitting Services

Staff Planner

Cole S. Fisher

Lot Recordation

Deed Book 550, Page 239-241

GPIN

1498-51-5051

SITE AREA

34,109 square feet or 0.783 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

27,155 square feet or 0.623 acres

EXISTING IMPERVIOUS COVER OF SITE

4,086 square feet or 15% percent of site

PROPOSED IMPERVIOUS COVER OF SITE

7,225 square feet or 26.6 percent of site

Area of Redevelopment in RPA

2,140 square feet

Area of New Development in RPA

5,085 square feet

Location of Proposed Impervious Cover

50-foot Landward Buffer

100-foot Variable Width Buffer

Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Single-family residence with associated accessory structures and driveway

Construction Details

- Two-story single-family residence with associated walkways and attached garage
- Permeable paver driveway
- Swimming pool and hot tub with wood deck surround

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

Yeopim Series (deep and moderately well-drained soils)

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

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 7
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing canopy tree removal request: Trees being requested for removal are within the footprint of the proposed improvements.

Stormwater Management Methodology

The applicant's agent has stated in the Water Quality Impact Assessment (WQIA) for this variance request that gravel downspout intercepts, permeable pavers, managed tree limb removal at the shoreline, sand/gravel underdeck treatment, and bioretention planting beds will be provided as a best management practice for stormwater run-off mitigation.

Evaluation and Recommendation

As shown on the CBPA exhibit, the majority of the proposed residence is situated in the variable width buffer of the Resource Protection Area (RPA). In addition to the new two-story dwelling, an attached garage and permeable paver driveway are also proposed within the variable width buffer, with the majority of the driveway located within the Resource Management Area (RMA). The remaining portions of the proposed improvements fall within the landward

buffer of the RPA with the construction of an in-ground swimming pool and hot tub area, fire pit, walkways, and portions of the primary residence.

Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the use or development proposed through the incorporation of structural or nonstructural urban best management practices [Sec. 106 (A)(3)]. Per the Applicant's Engineer, this proposal will combine the use of structural (permeable pavers) and nonstructural (bioretention planting beds) best management practices for the stormwater treatment of this site. In addition, Staff met with the applicant's agent after reviewing the initial submittal of this variance request, which included situating the proposed improvements in close proximity to the top of bank. As a result, the applicant's agent revised the proposed improvements, shifting the layout landward and closer to the front yard setback to alleviate an encroachment over the top of bank feature.

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 this neighborhood.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *"the proposed dwelling and associated improvements are in keeping with the neighborhood."* Staff is of the opinion that the CBPA exhibit provided coupled with the use of materials and stormwater methodology integrating best management practices on the lot offers merit towards the variance request not conferring upon the applicant any special privilege or convenience not accorded to other owners of the property in the neighborhood that have redeveloped lots platted prior to the adoption of the CBPA Ordinance.
- 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 *"the owners have designed the proposed improvements to minimize the impacts to the Chesapeake Bay, the new home has been placed towards the front setback line and shifted around on the site to maximize the redevelopment, to minimize site impacts, and avoid development in the 50' seaward portion of the site."* Staff acknowledges that the placement of the proposed improvements limits encroachment to the landward and variable width buffers and utilize the redevelopment of impervious cover on the lot to the greatest extent practicable.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"the proposed dwelling and improvements are in keeping with the development."* Staff offers that the requirement to treat stormwater with the redevelopment of this lot provides merit towards the variance request not being a detriment to water quality coupled with the retention of existing vegetation within the 50-foot seaward buffer. These best management practices can provide an annual runoff volume reduction with beneficial reductions of phosphorous and nitrogen mass load removal.
- 5) *"The existing shoreline will be enhanced and expanded upon to compliment the site. Bioretention stormwater management will be placed between the proposed improvements and the waterway to capture and treat runoff prior to discharged into the bay"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff concurs.

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

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: **5,085 square feet x 200 percent = 10,170 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: 1 canopy trees, 1 understory trees, 2 large shrubs, and 3 small shrubs per 400 square feet to the greatest extent practicable.

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

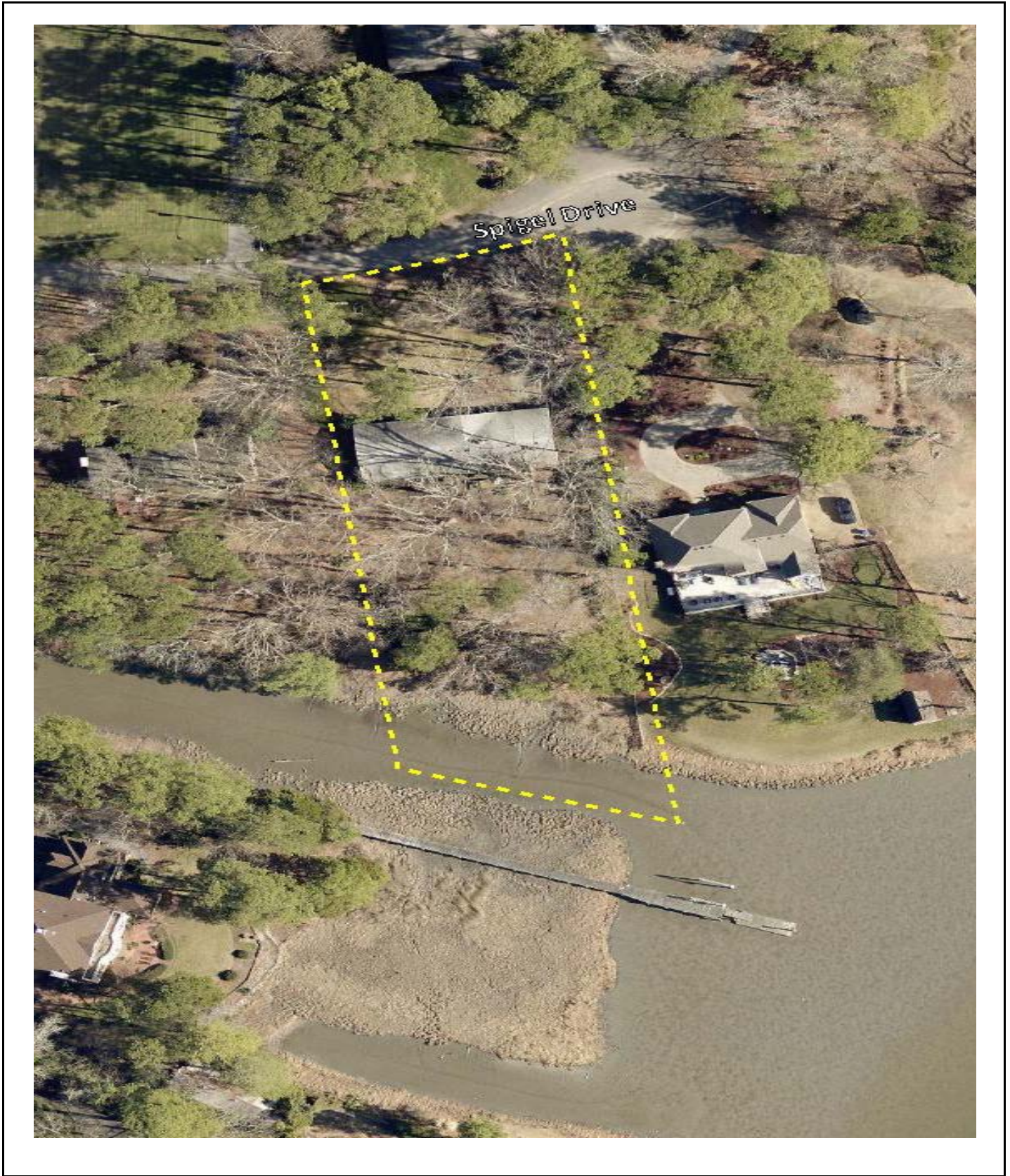
- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 7) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.

- 9) Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 13) The proposed driveway shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided on the site plan submitted to the Development Services Center for review and approval.
- 14) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
- 15) Perimeter fill within the limits of construction shall be the minimum necessary to facilitate positive drainage away from the proposed improvements. Fill material for such development shall be limited to minimize disturbance of existing vegetation and contours to effectively maintain the integrity of the buffer area.
- 16) Gravel downspout intercepts and/or gravel dripline intercepts shall be provided as a means of erosion and sediment control for stormwater run-off from the proposed improvements.
- 17) 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.
- 18) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,165.31 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 19) The conditions and approval associated with this variance are based on the exhibit plan dated July 29, 2022, prepared by WPL Landscape Architecture, signed July 29, 2022, by Eric A. Garner. The conditions and approval associated with this variance are based on the CBPA Board exhibit prepared by the applicant and presented to the CBPA Board, the application submitted and the sworn presentation to the CBPA Board.

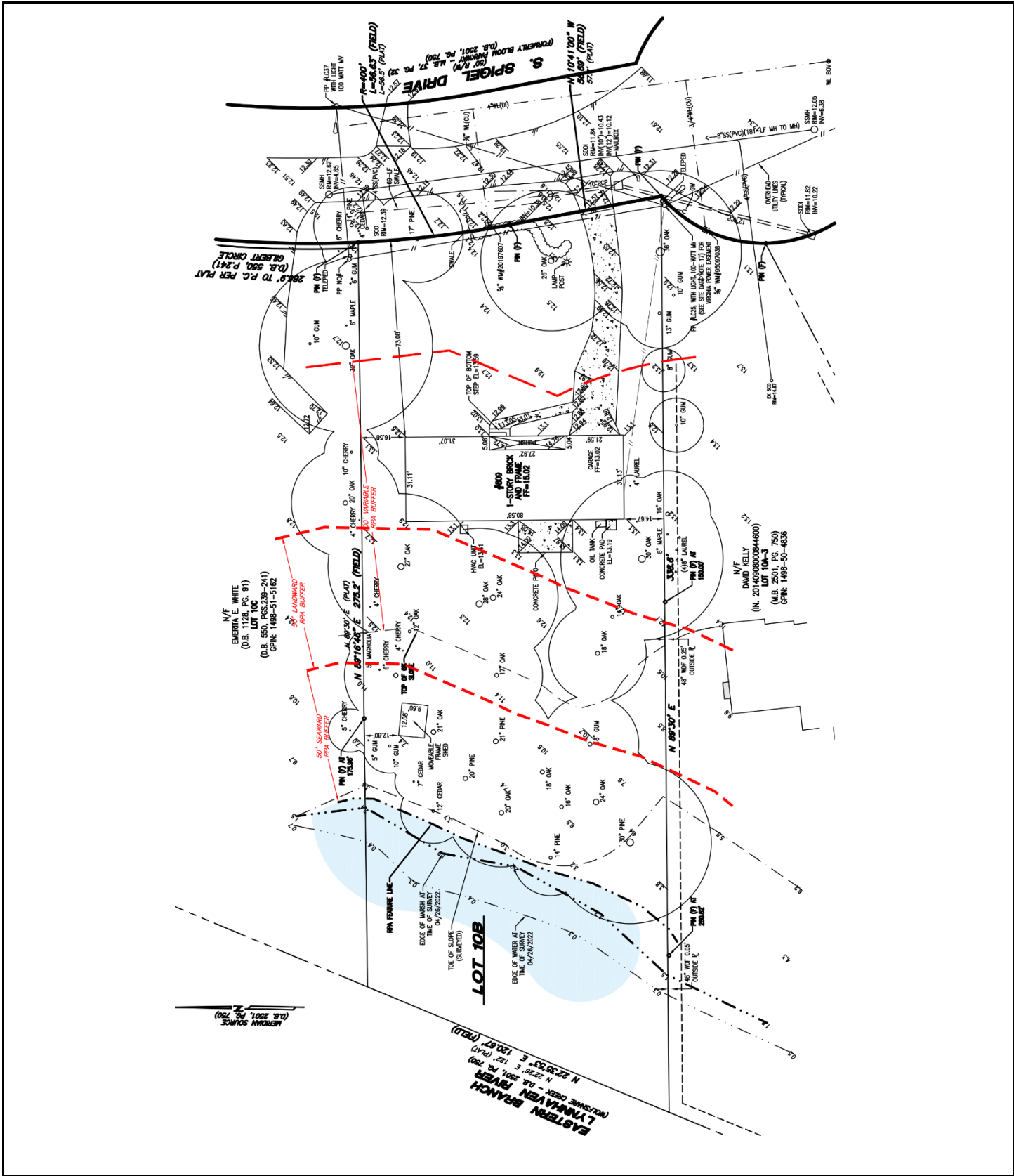
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

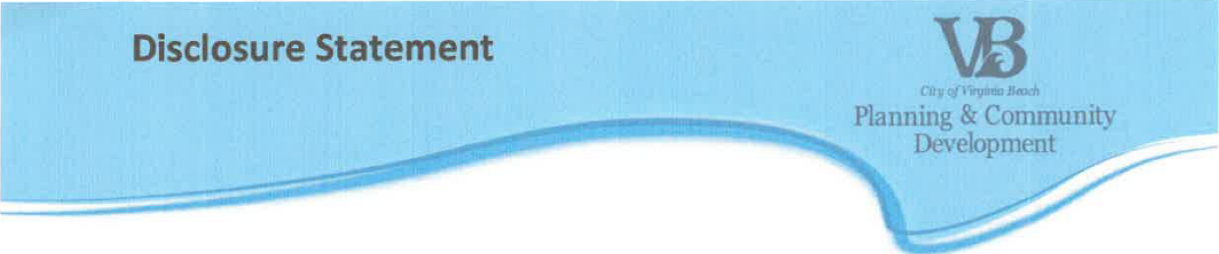
***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 110(E) of the Chesapeake Bay Preservation Area Ordinance.

Site Aerial



CBPA Exhibit – Existing Conditions





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 Ralph I King, II & Margaret B King

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

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

Billy Garrington, GPC, Inc

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

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

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

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

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



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

Yes No

- If yes, identify the financial institutions.

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

Yes No

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

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

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

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

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

WPL & RBA Architects

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

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



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

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

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

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

WPL

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

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

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.



 Applicant Signature

Ralph I King, II & Margaret B King

Print Name and Title

 Date
 8/11/22

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 **Randall & Lisa Peck**
 Address **1675 Godfrey Lane**
 Public Hearing **September 8, 2022**
 City Council District **District 8**, formerly Lynnhaven

Agenda Item

5

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a garage with associated stairs, walkway, concrete landing, deck and parking pad, building addition & swimming pool.

Applicant's Agent

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

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 52, Page 53
 Recorded 07/17/1961

GPIN

2409-13-7203

SITE AREA

119,201 square feet or 2.736

SITE AREA OUTSIDE OF WATER/WETLANDS

108,939 square feet or 2.501 acres

EXISTING IMPERVIOUS COVER OF SITE

8,770 square feet or 8 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

13,282 square feet or 12 percent of site

Area of Redevelopment in RPA

278 square feet

Area of New Development in RPA

5,410 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

50-foot Landward Buffer

100-foot Variable Width Buffer

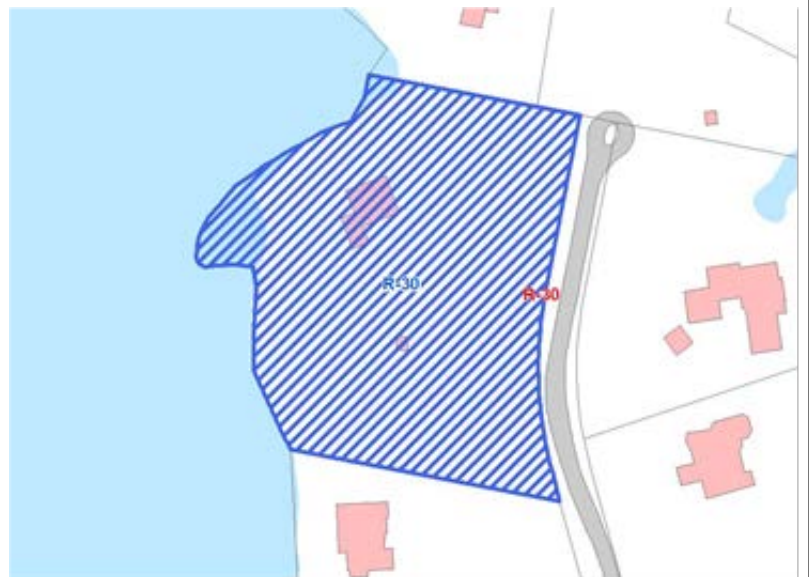
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Wood deck for plunge pool installation and building addition

Construction Details

- Two-story garage addition with second story deck with associated stairs, walkways, concrete landing
- New building addition with relocated stairs
- Plunge pool
- Gravel driveway with concrete parking pad

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

Yeopim Series (deep and moderately well-drained soils)

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

Shoreline

Shoreline is in a natural state. The applicant is in process of redeveloping the shoreline to stabilize the existing toe of slope and preserve existing vegetated wetlands with a constructed living shoreline. Given the presence of mature canopy vegetation and slope of the bank it is anticipated that some grading along the bank will occur to address current conditions and abate long term erosion concerns.

Riparian Buffer

Heavily Wooded Lot

- **Number of existing canopy trees requested for removal within the RPA:** 16
- **Evaluation of existing canopy tree removal request:** The majority of the trees being requested for removal fall within the footprint of the proposed gravel driveway, concrete parking pad, and two-story garage. Staff is of the opinion removal of these trees are necessary for the scope of the project and will be mitigated with the management and select restoration of the existing mature riparian buffer enhancement both in the upland areas of the RPA and along the existing tidal shoreline.

Stormwater Management Methodology

The applicant's agent has stated in the Water Quality Impact Assessment (WQIA) for this variance request that rainwater harvesting, bioretention planting beds, sand & gravel underdeck treatment, and living shoreline will be provided as a best management practice for stormwater run-off mitigation.

Evaluation and Recommendation

This variance request is a proposal to construct a two-story garage addition on the east side of the existing primary structure with a second story wood deck, associated walkway, concrete landing, and stairs. A second story wood deck is also proposed to extend off the rear of the garage addition. In addition, off the rear of the existing single-family residence within the footprint of the existing wood deck, a minimal building addition is proposed and also a new plunge pool. Outboard of the 100-foot RPA buffer, the applicant desires to remove a portion of the existing gravel driveway and construct a new gravel driveway with a concrete parking pad adjacent to the proposed garage addition.

As submitted, the proposed improvements increase the overall impervious cover of the lot from 8,770 square feet to 13,282 square feet (8 percent to 12 percent) of the lot area above water/wetlands. Staff has provided a breakdown of the impervious cover calculations – approximate new impervious cover and redeveloped impervious cover with this variance request in the table below.

	Redevelopment	New Impervious
50-foot Seaward Buffer	256 square feet	20 square feet
50-foot Landward Buffer	0 square feet	1,101 square feet
100-foot Variable Width Buffer	0 square feet	3,872 square feet
Resource Management Area	0 square feet	417 square feet

As shown in the above table, the majority of the new impervious cover with this request has been situated within the landward and variable width buffer portions of the Resource Protection Area (RPA). Approximately 3,137 square feet of the 5,410 square feet of new proposed impervious cover is associated with the proposed gravel driveway, which is all situated within the variable width buffer. Staff is of the opinion that the applicant has taken means to ensure minimal increase within the more environmentally sensitive 50-foot seaward buffer portion of the RPA by utilizing redevelopment of existing developed areas in the buffer of the RPA and Resource Management Area (RMA). Coupled with the utilization of multiple best management practices and substantial retention of the mature riparian buffer on the lot, Staff supports the encroachment as conditioned below.

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

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *"The property was platted in 1950 decades prior to the Chesapeake Bay Preservation Act. The proposed improvements are in keeping with the development of the neighborhood and adjacent parcels."* Staff is of the opinion that the location of the proposed improvements within the RPA are similar to other lots developed in the neighborhood.
- 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 *"the owners have designed the proposed improvements to be minimize the impact to the Chesapeake Bay, the new addition has been placed to the east and shifted around on the site to minimize site impacts and avoid development in the 50' seaward portion of the site."* Staff acknowledges the statement provided by the applicant's agent and adds that the

majority of the proposed improvements encroach within the City's 100-foot variable width buffer of the RPA.

- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *“the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels, the site currently does not offer any stormwater mitigation except for the ideal wooded riparian buffer. However, if approved, the proposed redevelopment will be required to have treatment provided between the improvements and the bay as well as enhancements to the existing natural buffer.”* Staff is of the opinion that the multiple best management practices offered, and the provided buffer restoration associated with this request ensures that the proposed improvements will not be a substantial detriment to water quality of the Chesapeake Bay.
- 5) *“The existing shoreline will be enhanced and expanded upon to compliment the site. Bioretention stormwater management will be placed behind the new addition to capture and achieve the stormwater management requirements prior to discharging into the river”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff concurs.

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

Recommended Conditions

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 3) Buffer restoration consisting of trees and shrubs shall be installed within the RPA. Said restoration shall be installed at the following rate: **14 understory trees, 21 large shrubs and 42 small shrubs.**

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

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

- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 7) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
- 9) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan.**
- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 13) Under deck treatment of sand and gravel shall be installed under the proposed second story deck. Said treatment shall be installed under the wood deck and stairs.
- 14) Perimeter fill within the limits of construction shall be the minimum necessary to facilitate positive drainage away from the proposed improvements. Fill material for such development shall be limited to minimize disturbance of existing vegetation and contours to effectively maintain the integrity of the buffer area.
- 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.
- 16) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,239.79 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 17) The conditions and approval associated with this variance are based on the exhibit plan dated July 29, 2022, prepared by WPL Landscape Architecture, Land Surveying, and Civil Engineering, signed July 29, 2022 by Eric A. Garner. The conditions and approval associated with this variance are based on the CBPA Board exhibit prepared

by the applicant and presented to the CBPA Board, the application submitted and the sworn presentation to the CBPA Board.

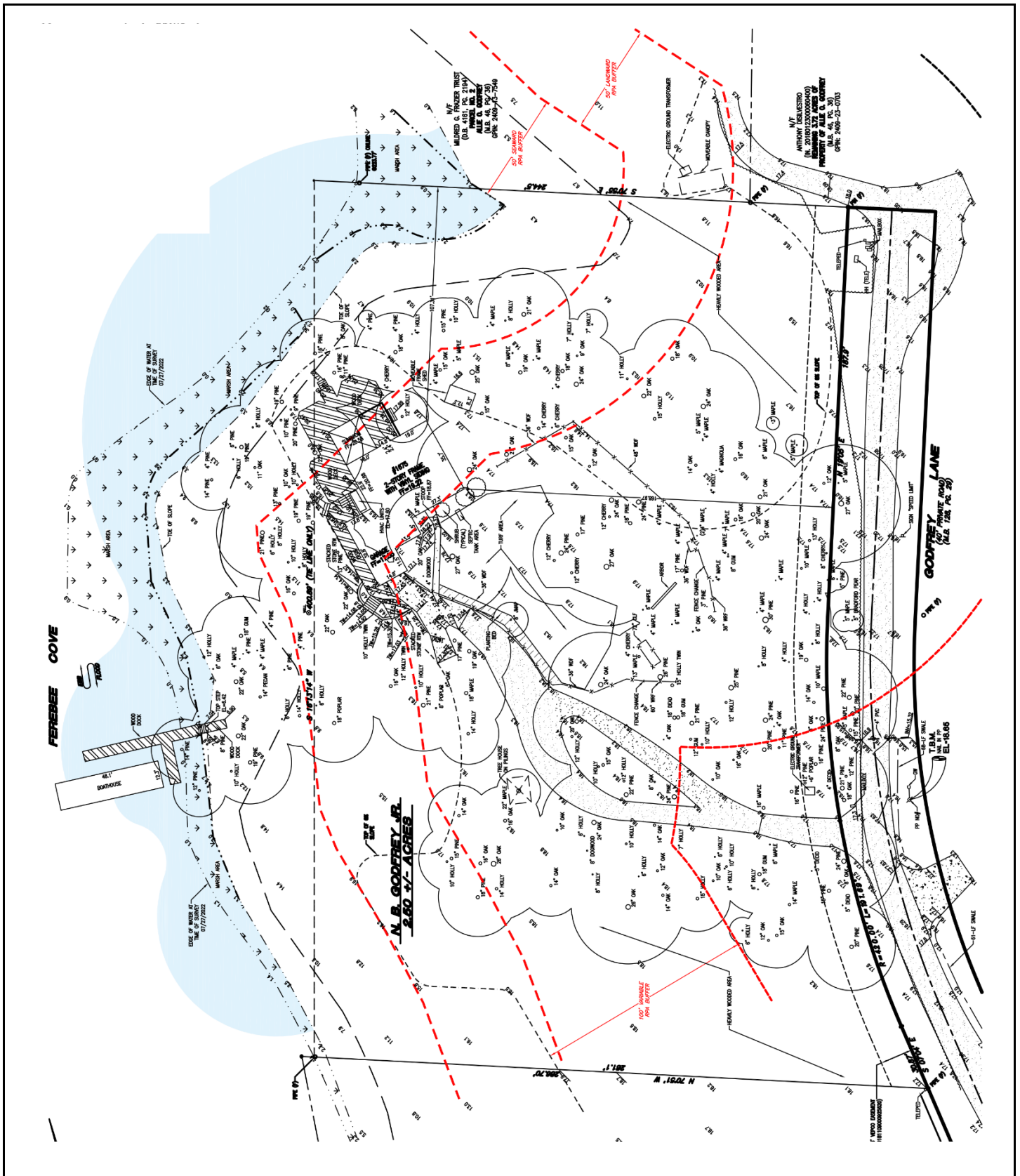
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

*** 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 110(E) of the Chesapeake Bay Preservation Area Ordinance.

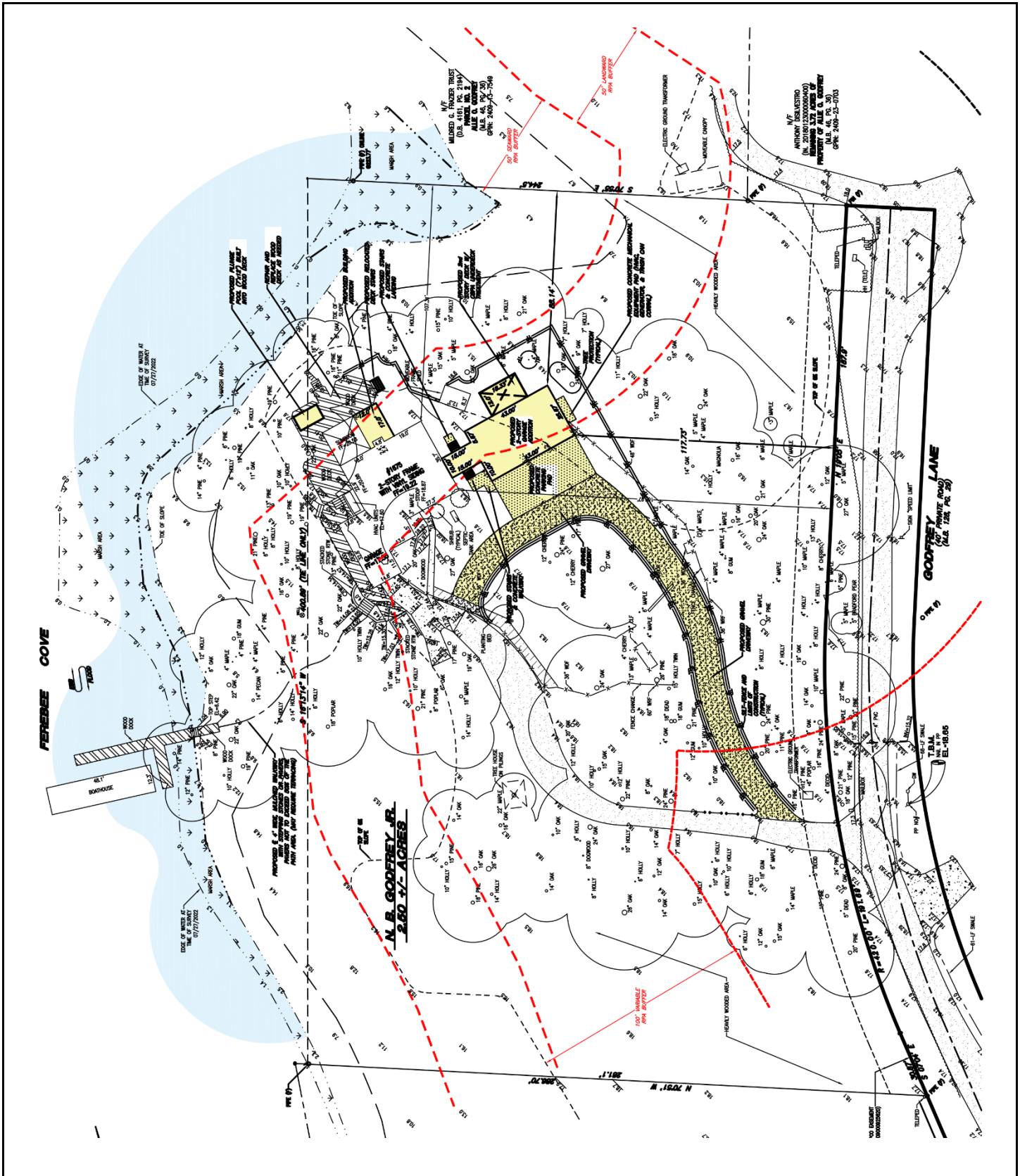
Site Aerial



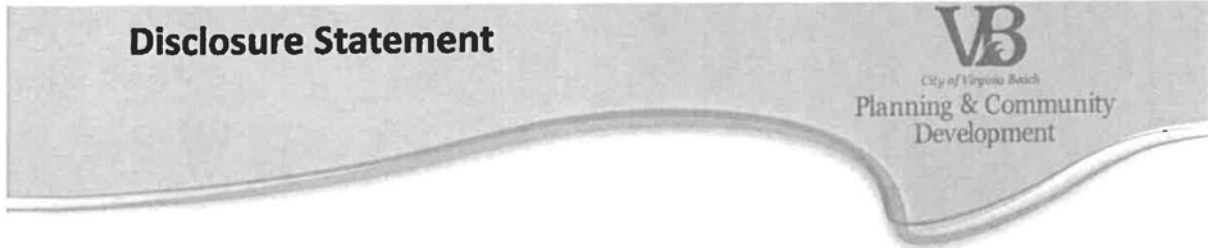
CBPA Exhibit – Existing Conditions



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 Lisa Peck & Randall W Peck

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C.

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.

Freedom 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.

Lemole Architects & 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 company and individual providing the service.
Marty Schara, LLC
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.
WPL
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? **Yes** **No**
- If **yes**, identify the 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.

Lisa Peck

Applicant Signature

Lisa Peck and/or Randall W Peck

Print Name and Title

27 JULY 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	



Applicant & Property Owner **1600 Arnold Circle, LLC**
 Address **1600 Arnold Circle**
 Public Hearing **September 8, 2022**
 City Council District **District 6**, formerly Lynnhaven

Agenda Item

6

The applicant is requesting a deferral of this application to the Monday, October 3, 2022 CBPA Board Public Hearing to allow additional time to address Staff's concerns. Staff supports the request to defer.

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct an artificial turf area

Applicant's Agent

Billy Garrington
 Governmental Permitting Services

Staff Planner

PJ Scully

Lot Recordation

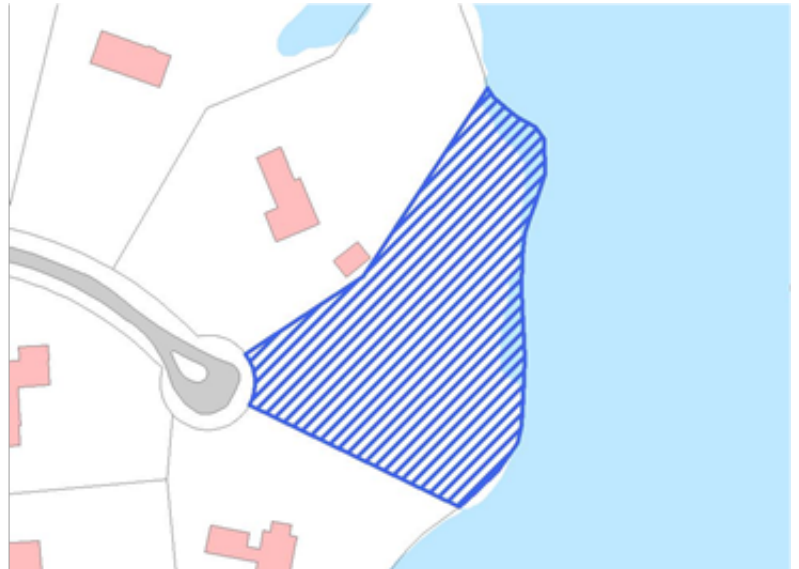
Map Book 34, Page 43
 Recorded 01/09/1953

GPIN

2409-82-3546

EXISTING IMPERVIOUS COVER OF SITE

8,451 square feet or 13.9 percent of site



AS NEEDED, PAGE LEFT BLANK



Address of Noncompliance **3281 Doncaster Road**
Property Owner **Francis & Lauren Cuozzo**
Public Hearing **September 8, 2022**
City Council District **District 8**, formerly Lynnhaven

Agenda Item

7

Current Property Owner

Francis & Lauren Cuozzo

Staff Planner

PJ Scully

Lot Recordation

Map Book 195, Page 87
Recorded 09/27/1989

Lot Description

Lot 3, Bishopsgate

GPIN

1498-01-4329

DESCRIPTION OF NONCOMPLIANCE

Unauthorized Improvements

- Expansion of pool patio surround

Location of Unauthorized Improvements

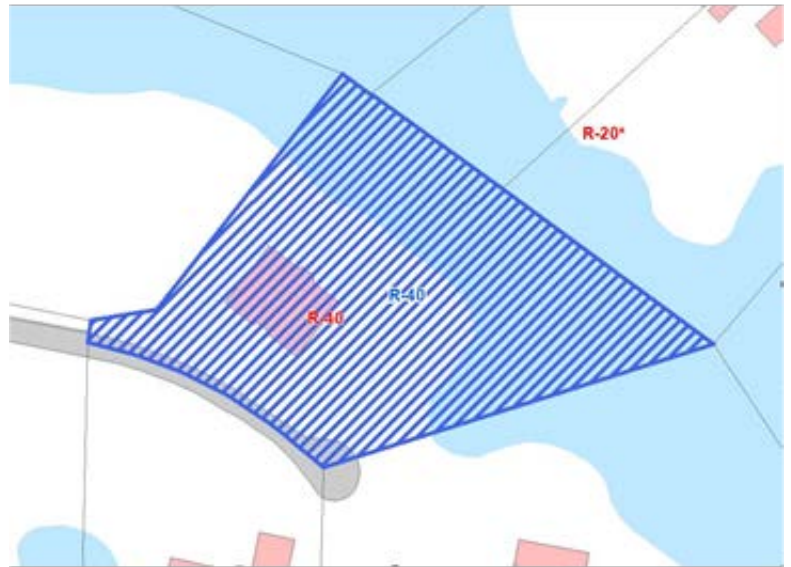
50-foot Seaward Buffer
50-foot Landward Buffer

CBPA Ordinance

- The unauthorized improvements constitute a noncompliance and deviates from the conditions of the December 19, 2012 CBPA Board variance and the development criteria for the Resource Protection Area (RPA) as set forth in Section 106(B) of the CBPA Ordinance. This deviation represents an increase in impervious cover and a further encroachment into the RPA buffer that has not been authorized.

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet



CBPA Ordinance Variance History

On August 26, 1996, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a two-story single-family residence, concrete driveways and decking:

- 1. No portion of the proposed structure or accessory structure (deck) shall be located below the top-of-bank.*
- 2. The site plan shall be revised to depict the limits of construction not to extend more than ten feet beyond the top-of-bank. The plan shall include a note that all area outside the limits of construction including all of the area below the top-of-bank remain in a natural state.*
- 3. All trees six inches in caliper or greater to be removed must be identified on the revised site plan. Mitigation shall be at a 1-1 ratio, or planting beds be installed equal to displaced tree canopy or any combination thereof.*
- 4. Erosion and sediment control measures are to be doubled on the seaward side of the project.*
- 5. A revised site plan shall be submitted to the DSC for review and approval prior to the issuance of a building permit.*

On December 19, 2012, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of concrete generator pad, mulch path with steppingstone, pergola, swimming pool, rock screen wall with waterfall, and pool equipment building:

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

9. *The pool shall be constructed prior to or concurrent with all proposed improvements (the 12' x 12' pool equipment building).*
10. *Under deck treatment of sand and gravel shall be installed.*
11. *Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.*
12. *A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed. The landscape plan shall clearly delineate existing naturalized (trees, landscaping and mulched organic surfaces) areas, planting beds, and turf zones.*
13. *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.*
14. *The conditions and approval associated with this variance are based on the site plan prepared by Gallup Surveyors and Engineers dated October 11, 2012 and sealed November 1, 2012 by Bruce Gallup.*
15. *All trees six inches in caliper or greater to be removed, exclusive of construction footprint and access way shall be mitigated for at a 1:1 ratio (7 trees total). Said mitigation for removed trees is in addition to the required buffer restoration.*
16. *No portion of the pool, pool decking or rock screen wall shall be located seaward of the 50' seaward buffer.*
17. *In addition to condition 7 listed above, the construction access way shall incorporate soil and root protection. Said method (i.e. wood mats, 6 – 12" of mulch, logging mats, etc.) shall be consistent with the publication Managing Trees during Construction, a companion publication to the ANSI A300 Part 5: Tree, Shrub and Other Woody Plant Maintenance – Soil and Root Protection.*
18. *Disconnect existing downspouts from underground drainpipes discharging below the top-of-bank and install gravel downspout intercepts.*
19. *Provide a means of erosion and sediment control (i.e. gravel downspout intercept, gravel dripline intercept, etc.) of stormwater run-off from proposed pergola.*
20. *Mature trees exist adjacent to tidal waters; the select removal of lower tree limbs shall be identified and performed thereby permitting sunlight to interface with tidal fringe marsh.*
21. *Stormwater runoff from proposed impervious cover shall be conveyed to stormwater management facilities. Low maintenance best management practices shall be employed to the maximum extent practicable. Stormwater facilities shall be installed prior to the certificate of occupancy or release of the building permit.*
22. ***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 \$272.25 and is based on 25% of the proposed impervious cover within the RPA, inclusive of the variable width portion of the buffer. Said payment shall provide for the equivalent of an approximate 297 sq. ft., 12-inch-deep oyster shell plant within the Lynnhaven River Basin.*
23. *Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA (1,189 sq. ft. x 200% = 2,378 sq. ft.) and shall achieve the full complement of vegetation consisting of canopy trees, understory*

trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance.

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

Buffer restoration shall be installed equal to 100% of the proposed area of redevelopment within the RPA (280 sq. ft. x 100% = 280 sq. ft.) and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance. The required restoration shall be located within the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit. In lieu of 100% restoration for redevelopment areas, a 10% reduction in pollutant removal load is acceptable via a structural BMP.

History of Noncompliance

To Staff's knowledge, Francis & Lauren Cuozzo have no known history of noncompliance with the Chesapeake Bay Preservation Area Board beyond the aforementioned description of noncompliance.

Chronology of Noncompliant Event

- | | |
|-----------------|---|
| July 11, 2022 | Staff received a Chesapeake Bay Preservation Area (CBPA) Board variance application for the expansion of a previously approved pool patio surround. |
| August 1, 2022 | At the CBPA Board Public Hearing it was determined that the improvements being constructed at the property referenced above deviate from the conditions of the December 19, 2012 CBPA Board variance. |
| August 15, 2022 | Staff sent written notice to the property owner to appear before the Chesapeake Bay Preservation Area Board at the public hearing scheduled for Thursday, September 8, 2022 for a show cause hearing. |

Evaluation and Recommendation

Relative Degree of Deviation

The subject activity of noncompliance, expansion of the pool patio surround was performed without Staff review, CBPA Board approval or permitting. Staff provides that to construct a paver patio on a gravel bed does not require a building permit, however given the location of the improvements within the 100-foot RPA buffer a variance to the CBPA

Ordinance is required. In addition, the area of noncompliance is not in harmony with the conditions of the 2012 CBPA Variance, specifically regarding encroachment into the 50-foot seaward buffer per condition 16 listed above.

Land disturbance associated with the pool patio surround expansion is less than 2,500 square feet.

Environmental Impact

The subject area of noncompliance lies within the 50-foot seaward and 50-foot landward buffer of the Chesapeake Bay Preservation Area (CBPA) Resource Protection Area (RPA) adjacent to tidal waterway.

The subject activity of noncompliance does not appear to have disturbed a substantial area of existing forest floor on the lot. A minimal amount of sediment was present adjacent to the area of construction when Staff visited the site however it does not appear to have migrated into the adjacent tidal marsh.

Recommendation

It is the opinion of the Department of Planning and Community Development that the degree of deviation or noncompliance has been low and the environmental impact has been low.

Site Aerial



Property Owner's Contractor

Ryan Earley
Solid Structure

Staff Planner

PJ Scully

Lot Recordation

Map Book 195, Page 87
Recorded 09/27/1989

Lot Description

Lot 3, Bishopsgate

GPIN

1498-01-4329

Current Property Owner

Francis & Lauren Cuozzo

DESCRIPTION OF NONCOMPLIANCE

Unauthorized Improvements

- Expansion of pool patio surround

Location of Unauthorized Improvements

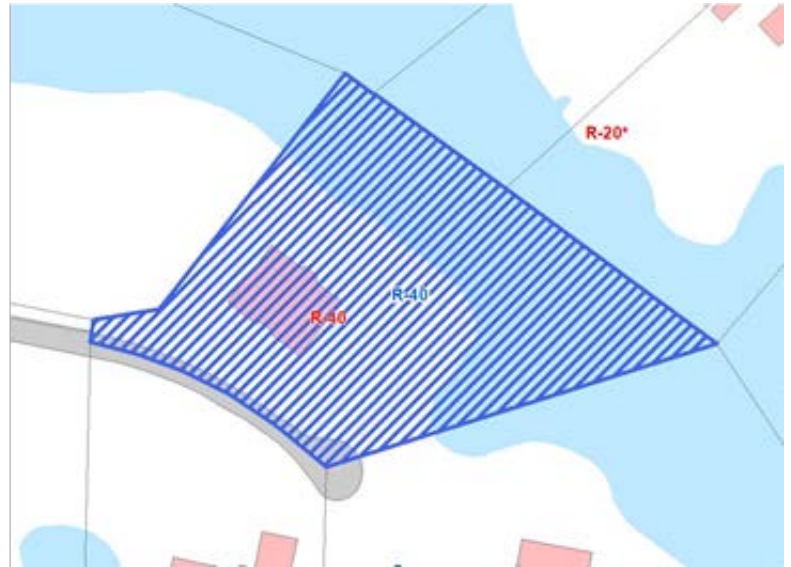
50-foot Seaward Buffer
50-foot Landward Buffer

CBPA Ordinance

- The unauthorized improvements constitute a noncompliance and deviates from the conditions of the December 19, 2012 CBPA Board variance and the development criteria for the Resource Protection Area (RPA) as set forth in Section 106(B) of the CBPA Ordinance. This deviation represents an increase in impervious cover and a further encroachment into the RPA buffer that has not been authorized.

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet



CBPA Ordinance Variance History

On August 26, 1996, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a two-story single-family residence, concrete driveways and decking:

1. *No portion of the proposed structure or accessory structure (deck) shall be located below the top-of-bank.*
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5. *Prior to the issuance of any certificate of occupancy, or the final release of any permit authorizing a land disturbing activity, all disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations by such methods as, but not limited to, temporary seeding, permanent seeding, sodding or soil stabilization blankets and matting. The Building Code Official may authorize a temporary certificate of occupancy without the required soil stabilization if the failure to stabilize is due to circumstances beyond the control of the permit holder.*
6. *Construction limits shall lie a maximum of 10' outboard of improvements.*
7. *The construction access way shall be noted on the site plan, as well as the stockpile / staging area.*
8. *The pool shape, size, and location shall be as shown on the submitted plan.*

9. *The pool shall be constructed prior to or concurrent with all proposed improvements (the 12' x 12' pool equipment building).*
10. *Under deck treatment of sand and gravel shall be installed.*
11. *Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.*
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16. *No portion of the pool, pool decking or rock screen wall shall be located seaward of the 50' seaward buffer.*
17. *In addition to condition 7 listed above, the construction access way shall incorporate soil and root protection. Said method (i.e. wood mats, 6 – 12" of mulch, logging mats, etc.) shall be consistent with the publication Managing Trees during Construction, a companion publication to the ANSI A300 Part 5: Tree, Shrub and Other Woody Plant Maintenance – Soil and Root Protection.*
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20. *Mature trees exist adjacent to tidal waters; the select removal of lower tree limbs shall be identified and performed thereby permitting sunlight to interface with tidal fringe marsh.*
21. *Stormwater runoff from proposed impervious cover shall be conveyed to stormwater management facilities. Low maintenance best management practices shall be employed to the maximum extent practicable. Stormwater facilities shall be installed prior to the certificate of occupancy or release of the building permit.*
22. ***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 \$272.25 and is based on 25% of the proposed impervious cover within the RPA, inclusive of the variable width portion of the buffer. Said payment shall provide for the equivalent of an approximate 297 sq. ft., 12-inch-deep oyster shell plant within the Lynnhaven River Basin.*
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trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance.

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

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History of Noncompliance

To Staff's knowledge, Solid Structures has no known history of noncompliance with the Chesapeake Bay Preservation Area Board beyond the aforementioned description of noncompliance.

Chronology of Noncompliant Event

- | | |
|-----------------|---|
| July 11, 2022 | Staff received a Chesapeake Bay Preservation Area (CBPA) Board variance application for the expansion of a previously approved pool patio surround. |
| August 1, 2022 | At the CBPA Board Public Hearing it was determined that the improvements being constructed at the property referenced above deviate from the conditions of the December 19, 2012 CBPA Board variance. |
| August 15, 2022 | Staff sent written notice to the contractor to appear before the Chesapeake Bay Preservation Area Board at the public hearing scheduled for Thursday, September 8, 2022 for a show cause hearing. |

Evaluation and Recommendation

Relative Degree of Deviation

The subject activity of noncompliance, expansion of the pool patio surround was performed without Staff review, CBPA Board approval or permitting. Staff provides that to construct a paver patio on a gravel bed does not require a building permit, however given the location of the improvements within the 100-foot RPA buffer a variance to the CBPA

Ordinance is required. In addition, the area of noncompliance is not in harmony with the conditions of the 2012 CBPA Variance, specifically regarding encroachment into the 50-foot seaward buffer per condition 16 listed above.

Land disturbance associated with the pool patio surround expansion is less than 2,500 square feet.

Environmental Impact

The subject area of noncompliance lies within the 50-foot seaward and 50-foot landward buffer of the Chesapeake Bay Preservation Area (CBPA) Resource Protection Area (RPA) adjacent to tidal waterway.

The subject activity of noncompliance does not appear to have disturbed a substantial area of existing forest floor on the lot. A minimal amount of sediment was present adjacent to the area of construction when Staff visited the site however it does not appear to have migrated into the adjacent tidal marsh.

Recommendation

It is the opinion of the Department of Planning and Community Development that the degree of deviation or noncompliance has been medium and the environmental impact has been low.

Site Aerial





Current Property Owner

David R. Miller

Staff Planner

PJ Scully

Lot Recordation

Map Book 180, Page 42
Recorded 06/21/1984

Lot Description

Lot 60, Middle Plantation

GPIN

1498-16-4212

DESCRIPTION OF NONCOMPLIANCE

Unauthorized Improvements

- Land disturbance and removal of existing vegetation (turf) for the installation of segmented retaining walls.

Location of Unauthorized Improvements

50-foot Seaward Buffer
50-foot Landward Buffer

CBPA Ordinance

- The unauthorized improvements constitute a noncompliance to Section 106 of the Chesapeake Bay Preservation Area Ordinance.

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet



CBPA Ordinance Variance History

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

History of Noncompliance

To Staff's knowledge, David R. Miller has no known history of noncompliance with the Chesapeake Bay Preservation Area Board beyond the aforementioned description of noncompliance.

Chronology of Noncompliant Event

August 10, 2022	City Staff visited the property located at 3220 Stapleford Chase to investigate an inquiry regarding land disturbance occurring on the property.
August 17, 2022	Stop Work Order issued by Permits & Inspections, Civil Inspections for unauthorized land disturbance in the Chesapeake Bay Preservation Area. The unauthorized improvements occurred within the 50-foot seaward and 50-foot landward buffer of the Resource Protection Area (RPA) buffer of the Chesapeake Bay Preservation Area.
August 22, 2022	Staff sent written notice to the property owner to appear before the Chesapeake Bay Preservation Area Board at the public hearing scheduled for Thursday, September 8, 2022 for a show cause hearing.

Evaluation and Recommendation

Relative Degree of Deviation

The subject activity of noncompliance, land disturbance associated with the construction of a series of segmented block retaining walls within the lot appears to be greater than 2,500 square feet. Given the location of the unauthorized improvements within the Chesapeake Bay Resource Protection Area (RPA) and amount of land disturbance that has occurred, the following reviews and approvals would be required.

- A variance to the CBPA Ordinance for an increase of impervious cover and further encroachment of accessory structures into the RPA
- Site plan review by the Development Services Center for erosion and sediment control compliance and stormwater management mitigation.

Environmental Impact

The subject area of noncompliance occurred within the 50-foot seaward and 50-foot landward buffers of the Chesapeake Bay Preservation Area, Resource Protection Area (RPA) adjacent to a contiguous tidal wetland of a tidal waterway. At the time the noncompliance was reported erosion and sediment controls were present seaward of the area of land disturbance.

Recommendation

It is the opinion of the Department of Planning and Community Development that the degree of deviation or noncompliance has been low and the environmental impact has been low.

Site Aerial



AS NEEDED, PAGE LEFT BLANK



Applicant of Noncompliance **3220 Stapleford Chase**
Contractor Name **Robert Anderson, Bulldog Lawn Service**
Public Hearing **September 8, 2022**
City Council District **District 8**, formerly Lynnhaven

Agenda Item

10

Property Owner's Contractor

Robert Anderson
Bulldog Lawn Service

Staff Planner

PJ Scully

Lot Recordation

Map Book 180, Page 42
Recorded 06/21/1984

Lot Description

Lot 60, Middle Plantation

GPIN

1498-16-4212

Current Property Owner

David R. Miller

DESCRIPTION OF NONCOMPLIANCE

Unauthorized Improvements

- Land disturbance and removal of existing vegetation (turf) for the installation of segmented retaining walls.

Location of Unauthorized Improvements

50-foot Seaward Buffer
50-foot Landward Buffer

CBPA Ordinance

- The unauthorized improvements constitute a noncompliance to Section 106 of the Chesapeake Bay Preservation Area Ordinance.

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet



CBPA Ordinance Variance History

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

History of Noncompliance

To Staff's knowledge, Bulldog Lawn Service has no known history of noncompliance with the Chesapeake Bay Preservation Area Board beyond the aforementioned description of noncompliance.

Chronology of Noncompliant Event

August 10, 2022	City Staff visited the property located at 3220 Stapleford Chase to investigate an inquiry regarding land disturbance occurring on the property.
August 17, 2022	Stop Work Order issued by Permits & Inspections, Civil Inspections for unauthorized land disturbance in the Chesapeake Bay Preservation Area. The unauthorized improvements occurred within the 50-foot seaward and 50-foot landward buffer of the Resource Protection Area (RPA) buffer of the Chesapeake Bay Preservation Area.
August 22, 2022	Staff sent written notice to the contractor to appear before the Chesapeake Bay Preservation Area Board at the public hearing scheduled for Thursday, September 8, 2022 for a show cause hearing.

Evaluation and Recommendation

Relative Degree of Deviation

The subject activity of noncompliance, land disturbance associated with the construction of a series of segmented block retaining walls within the lot appears to be greater than 2,500 square feet. Given the location of the unauthorized improvements within the Chesapeake Bay Resource Protection Area (RPA) and amount of land disturbance that has occurred, the following reviews and approvals would be required.

- A variance to the CBPA Ordinance for an increase of impervious cover and further encroachment of accessory structures into the RPA
- Site plan review by the Development Services Center for erosion and sediment control compliance and stormwater management mitigation.

Environmental Impact

The subject area of noncompliance occurred within the 50-foot seaward and 50-foot landward buffers of the Chesapeake Bay Preservation Area, Resource Protection Area (RPA) adjacent to a contiguous tidal wetland of a tidal waterway. At the time the noncompliance was reported erosion and sediment controls were present seaward of the area of land disturbance.

Recommendation

It is the opinion of the Department of Planning and Community Development that the degree of deviation or noncompliance has been low and the environmental impact has been low.

Site Aerial



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Applicant of Noncompliance **2871 River Road**
Property Owner **Dennis & Janice Ellmer**
Public Hearing **September 8, 2022**
City Council District **District 8**, formerly Lynnhaven

Agenda Item

11

Current Property Owner

Dennis and Janice Ellmer

Staff Planner

PJ Scully

Lot Recordation

Map Book 32, Page 18
Recorded 07/14/1952

Lot Description

Lot 6A, River and N. Shorehaven Waterfront

GPIN

1499-41-4751

DESCRIPTION OF NONCOMPLIANCE

Unauthorized Improvements

- Land disturbance and removal of existing vegetation (turf) for the installation of synthetic turf

Location of Unauthorized Improvements

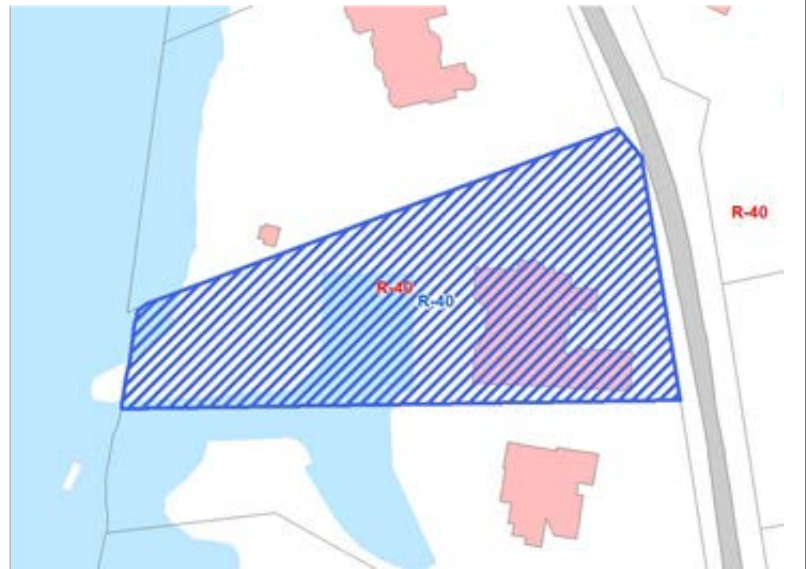
50-foot Seaward Buffer
50-foot Landward Buffer

CBPA Ordinance

- The unauthorized improvements constitute a noncompliance to Section 106 of the Chesapeake Bay Preservation Area Ordinance.

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet



CBPA Ordinance Variance History

On November 24, 2003, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for construction of a single-family residence with the following conditions:

- 1. A preconstruction meeting shall be convened with Civil Inspections prior to any land disturbance, inclusive of demolition.*
- 2. Dual 36" erosion and sedimentation control measures (silt fences) shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Additionally, a heavy-duty construction fence, acceptable to Civil Inspections, shall be installed along the aforementioned E & S controls and shall be maintained during all phases of construction.*
- 3. Construction limits shall lie a maximum of 15' outboard of the project.*
- 4. All construction access ways shall be noted on the site plan, as well as the stockpile staging area. This condition applies to the demolition phase of the project as well.*
- 5. **As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program prior to or concurrent with site plan approval. Payment shall be in the amount of \$ 2,865.00 and is based on 25% of the proposed impervious cover. Said payment shall provide for the equivalent of an approximate 3,126 sq. ft., 12-inch-deep oyster shell plant within the Lynnhaven River Basin.*
- 6. The pool shall be built prior to or concurrent with the construction of the residence. A retaining wall will be necessary for any fill material more than 5' outboard of the pool itself.*
- 7. All stormwater from proposed impervious cover (both within the RMA and RPA) shall be conveyed to structural stormwater management facilities.*
- 8. When the shoreline is hardened, a sloped revetment shall be installed along the northern and eastern portions of the project. In addition, a marsh toe breakwater revetment shall be installed seaward of the proposed marsh. Tidal marsh compensation shall be approximately 1,500 square feet. A Joint Permit Application will be necessary.*
- 9. Buffer restoration shall be installed equal to 125% of proposed impervious cover (15,629 sq. ft.) and shall utilize bayscape landscaping principles. Said restoration shall be installed prior to the issuance of the certificate of occupancy. Said condition shall be so noted on the site plan.*
- 10. A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed.*
- 11. No less than 17 trees shall be installed on-site.*
- 12. Pool decking shall be a maximum of 4'x4'x4'x8' (diving board end).*
- 13. 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.*

On July 23, 2007, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for construction of a four-foot-high brick fence, auxiliary parking area, ornamental fence / knee wall along ROW, automatic gate, 225' by 6'

paver walkway, 4' solid brick wall with brick columns, steppingstone pathways, short masonry retaining walls with backfill, stone storage area, retaining wall on the northern side of the residence, and tree removal (19). with the following conditions:

1. *A preconstruction meeting shall be convened with Civil Inspections prior to any land disturbance, inclusive of demolition.*
2. *Dual 36" erosion and sedimentation control measures (silt fences) shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established.*
3. *Additionally, a heavy-duty construction fence, acceptable to Civil Inspections, shall be installed along the aforementioned E & S controls and shall be maintained during all phases of construction.*
4. *Construction limits shall lie a maximum of 15' outboard of the project.*
5. *All construction access ways shall be noted on the site plan, as well as the stockpile staging area.*
6. ***As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program prior to or concurrent with site plan approval. Payment shall be in the amount of \$709.00 and is based on 25% of the new impervious cover above that previously authorized. Said payment shall provide for the equivalent of an approximate 774 sq. ft., 12-inch-deep oyster shell plant within the Lynnhaven River Basin.*
7. *The pool shall be built prior to or concurrent with the construction of the residence. A retaining wall will be necessary for any fill material more than 5' outboard of the pool itself.*
8. *All stormwater from proposed impervious cover (both within the RMA and RPA) shall be conveyed to structural stormwater management facilities.*
9. *Buffer restoration shall be installed equal to 125% of proposed impervious cover and shall utilize bayscape landscaping principles. Said restoration shall be installed prior to the issuance of the certificate of occupancy. Said condition shall be so noted on the site plan. Buffer restoration shall be extended to run parallel to the bulkhead, minimum 4' wide buffer where turf meets bulkhead.*
10. *A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed.*
11. *No less than eighty (80) trees shall be installed. Said trees shall be comprised of 50% deciduous and 50% evergreen species. The required trees shall be evenly distributed throughout the lot to the greatest extent practicable.*
12. *The proposed paver walkway shall be a maximum of 4' in width and shall be comprised of organic material or its equivalent.*
13. *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.*
14. *Conditions in addition to other variance conditions imposed.*
15. *It is the Boards opinion that the impervious cover approved is the maximum the lot can support.*

History of Noncompliance

To Staff's knowledge, Dennis and Janice Ellmer has no known history of noncompliance with the Chesapeake Bay Preservation Area Board beyond the aforementioned description of noncompliance.

Chronology of Noncompliant Event

- August 8, 2022 City Staff visited the property located at 2871 River Road to investigate an inquiry regarding land disturbance occurring on the property.
- August 15, 2022 Staff sent written notice to the property owner to appear before the Chesapeake Bay Preservation Area Board at the public hearing scheduled for Thursday, September 8, 2022 for a show cause hearing.

Evaluation and Recommendation

Relative Degree of Deviation

The subject activity of noncompliance, land disturbance associated with the installation of synthetic turf was performed without obtaining a variance to the Chesapeake Bay Preservation Area Ordinance.

Land disturbance associated with the noncompliance appears to be greater than 2,500 square feet.

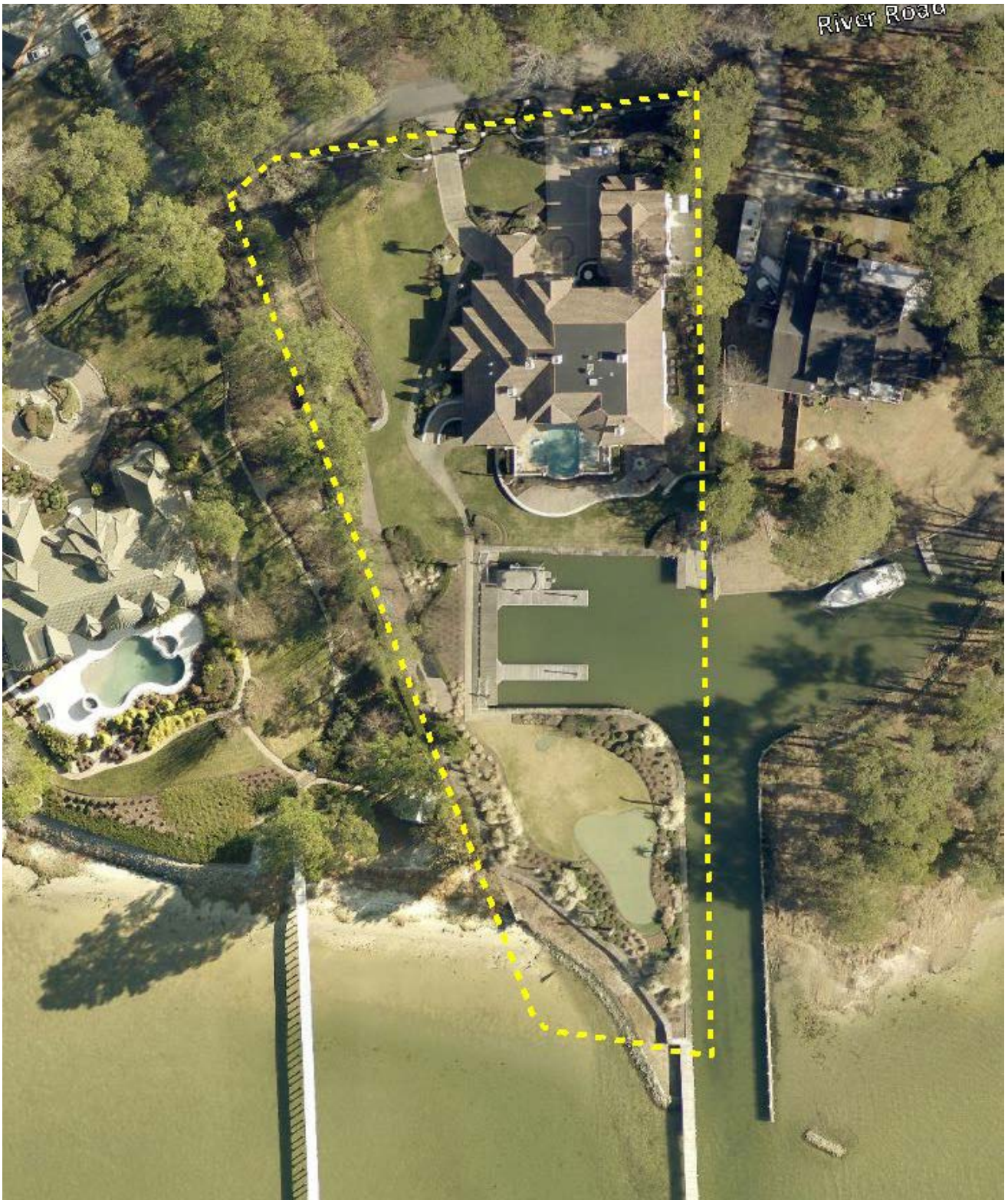
Environmental Impact

The subject area of noncompliance occurred within the 50-foot seaward and 50-foot landward buffers of the Chesapeake Bay Preservation Area, Resource Protection Area (RPA) adjacent to a contiguous tidal wetland of a tidal waterway. All associated land disturbance has occurred in areas that were devoted to turf. No woody vegetation has been removed.

Recommendation

It is the opinion of the Department of Planning and Community Development that the degree of deviation or noncompliance has been low and the environmental impact has been low.

Site Aerial



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Applicant of Noncompliance **2871 River Road**
Contractor Name **Kaitlyn Lord, SYNLawn**
Public Hearing **September 8, 2022**
City Council District **District 8**, formerly Lynnhaven

Agenda Item

12

Property Owner's Contractor

Kaitlyn Lord
SYNLawn

Staff Planner

PJ Scully

Lot Recordation

Map Book 32, Page 18
Recorded 07/14/1952

Lot Description

Lot 6A, River and N. Shorehaven Waterfront

GPIN

1499-41-4751

Current Property Owner

Dennis and Janice Ellmer

DESCRIPTION OF NONCOMPLIANCE

Unauthorized Improvements

- Land disturbance and removal of existing vegetation (turf) for the installation of synthetic turf

Location of Unauthorized Improvements

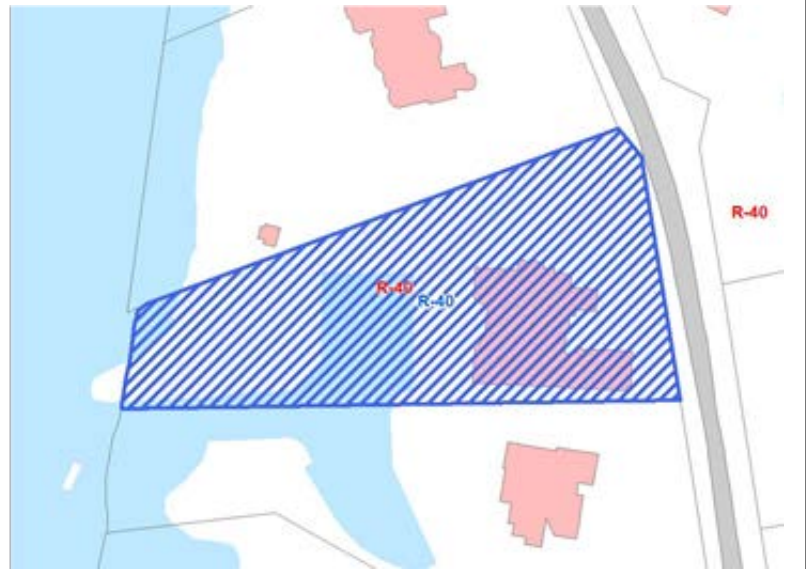
50-foot Seaward Buffer
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- 3. Construction limits shall lie a maximum of 15' outboard of the project.*
- 4. All construction access ways shall be noted on the site plan, as well as the stockpile staging area. This condition applies to the demolition phase of the project as well.*
- 5. **As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program prior to or concurrent with site plan approval. Payment shall be in the amount of \$ 2,865.00 and is based on 25% of the proposed impervious cover. Said payment shall provide for the equivalent of an approximate 3,126 sq. ft., 12-inch-deep oyster shell plant within the Lynnhaven River Basin.*
- 6. The pool shall be built prior to or concurrent with the construction of the residence. A retaining wall will be necessary for any fill material more than 5' outboard of the pool itself.*
- 7. All stormwater from proposed impervious cover (both within the RMA and RPA) shall be conveyed to structural stormwater management facilities.*
- 8. When the shoreline is hardened, a sloped revetment shall be installed along the northern and eastern portions of the project. In addition, a marsh toe breakwater revetment shall be installed seaward of the proposed marsh. Tidal marsh compensation shall be approximately 1,500 square feet. A Joint Permit Application will be necessary.*
- 9. Buffer restoration shall be installed equal to 125% of proposed impervious cover (15,629 sq. ft.) and shall utilize bayscape landscaping principles. Said restoration shall be installed prior to the issuance of the certificate of occupancy. Said condition shall be so noted on the site plan.*
- 10. A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed.*
- 11. No less than 17 trees shall be installed on-site.*
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12. *The proposed paver walkway shall be a maximum of 4' in width and shall be comprised of organic material or its equivalent.*
13. *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.*
14. *Conditions in addition to other variance conditions imposed.*
15. *It is the Boards opinion that the impervious cover approved is the maximum the lot can support.*

History of Noncompliance

To Staff's knowledge, SYNLawn has no known history of noncompliance with the Chesapeake Bay Preservation Area Board beyond the aforementioned description of noncompliance.

Chronology of Noncompliant Event

- | | |
|-----------------|---|
| August 8, 2022 | City Staff visited the property located at 2871 River Road to investigate an inquiry regarding land disturbance occurring on the property. |
| August 15, 2022 | Staff sent written notice to the contractor to appear before the Chesapeake Bay Preservation Area Board at the public hearing scheduled for Thursday, September 8, 2022 for a show cause hearing. |

Evaluation and Recommendation

Relative Degree of Deviation

The subject activity of noncompliance, land disturbance associated with the installation of synthetic turf was performed without obtaining a variance to the Chesapeake Bay Preservation Area Ordinance.

Land disturbance associated with the noncompliance appears to be greater than 2,500 square feet.

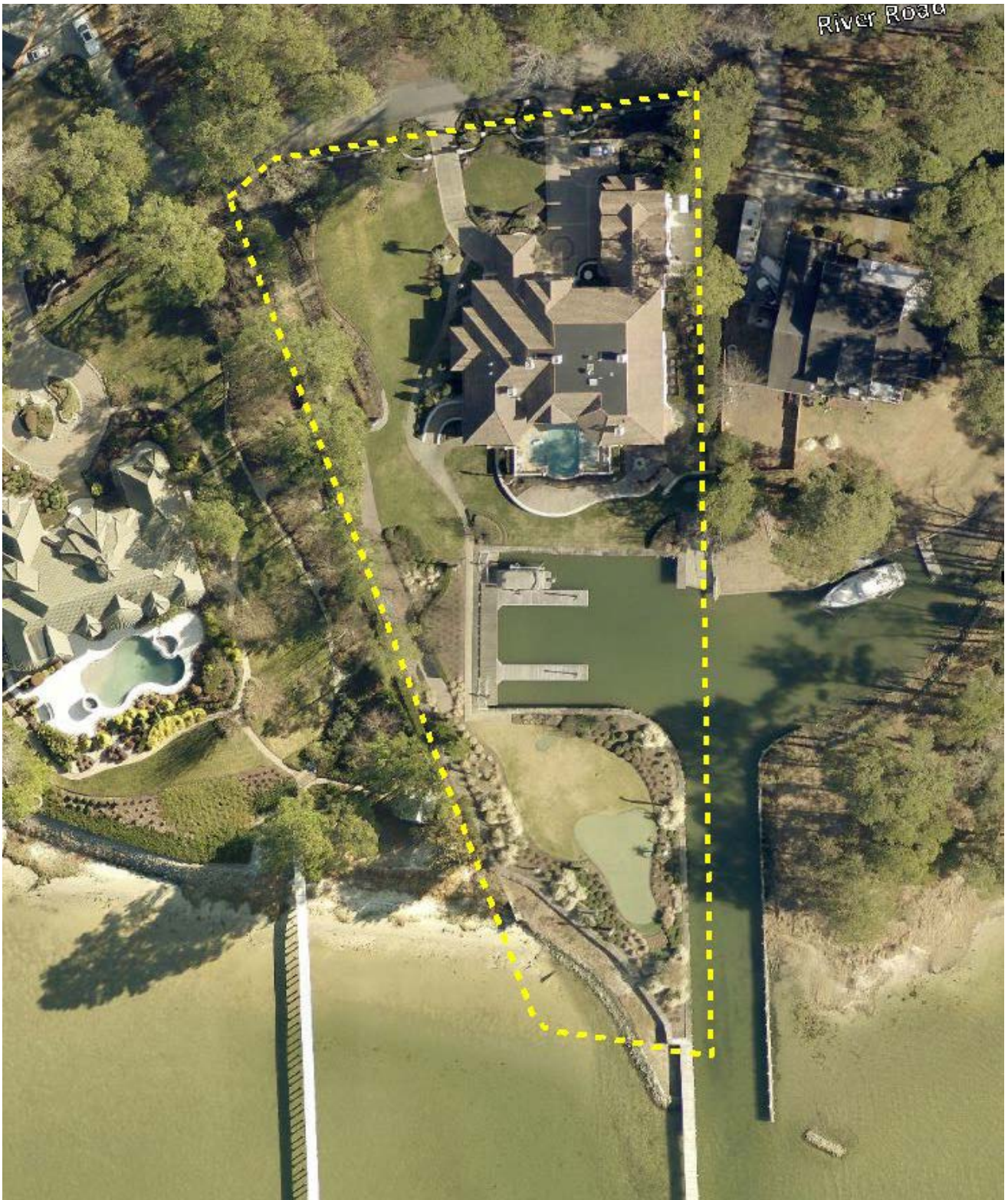
Environmental Impact

The subject area of noncompliance occurred within the 50-foot seaward and 50-foot landward buffers of the Chesapeake Bay Preservation Area, Resource Protection Area (RPA) adjacent to a contiguous tidal wetland of a tidal waterway. All associated land disturbance has occurred in areas that were devoted to turf. No woody vegetation has been removed.

Recommendation

It is the opinion of the Department of Planning and Community Development that the degree of deviation or noncompliance has been medium and the environmental impact has been low.

Site Aerial



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