

# Chesapeake Bay Preservation Area Board Agenda

June 26, 2023





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# CHESAPEAKE BAY PRESERVATION AREA BOARD

## NOTICE OF PUBLIC HEARING

A Public Hearing of the Virginia Beach Chesapeake Bay Preservation Area (CBPA) Board will be held on **Monday, June 26, 2023** 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 [virginiabeach.gov/cbpa](http://virginiabeach.gov/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](mailto: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.





# CHESAPEAKE BAY PRESERVATION AREA BOARD AGENDA

Public Hearing Date **June 26, 2023**

**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 [virginiabeach.gov/cbpa](http://virginiabeach.gov/cbpa). For information call (757) 385-4621.

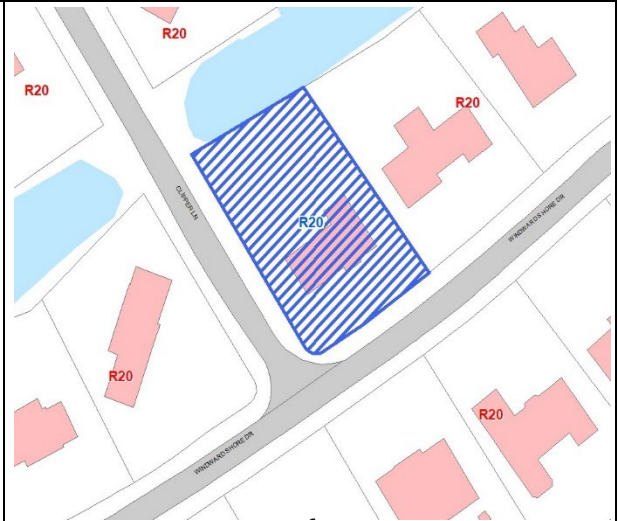
## NEW BUSINESS AGENDA ITEMS

**1. Andrew & Elaine Vanderpoll**  
[Applicants & Property Owners]

**2320 Windward Shore Drive**  
GPIN 1499-98-7770  
City Council District: District 8, formerly Lynnhaven  
Accela Record: 2023-CBPA-00027

**Variance Request** – Encroachment into the RPA to construct a paver patio and driveway replacement.

**Staff Planner** – Cole Fisher  
**Staff Report** – page 7



**2. Joseph & Debra Martino**  
[Applicants & Property Owners]

**584 Ingram Road**  
GPIN 1497-49-2935  
City Council District: District 8, formerly Lynnhaven  
Accela Record: 2023-CBPA-00029

**Variance Request** – Encroachment into the RPA to construct a detached garage and driveway expansion.

**Staff Planner** – Cole Fisher  
**Staff Report** – page 19



## NEW BUSINESS AGENDA ITEMS (CONTINUED)

### 3. Dean Kent & August Armstrong [Applicants & Property Owners]

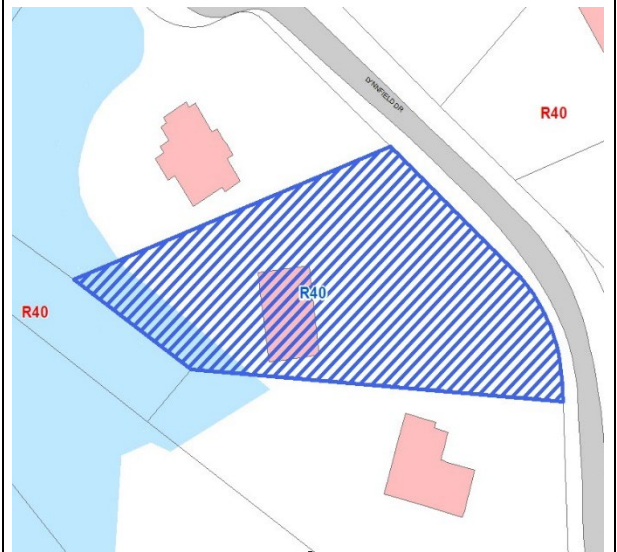
#### 3733 Lynnfield Drive

GPIN 1489-40-2308

City Council District: District 8, formerly Lynnhaven  
Accela Record: 2023-CBPA-00030

**Variance Request** – Encroachment into the RPA to construct an attached garage, wood deck expansion, and driveway expansion with parking area.

**Staff Planner** – Cole Fisher  
**Staff Report** – page 29



### 4. John W. Drescher [Applicant & Property Owner]

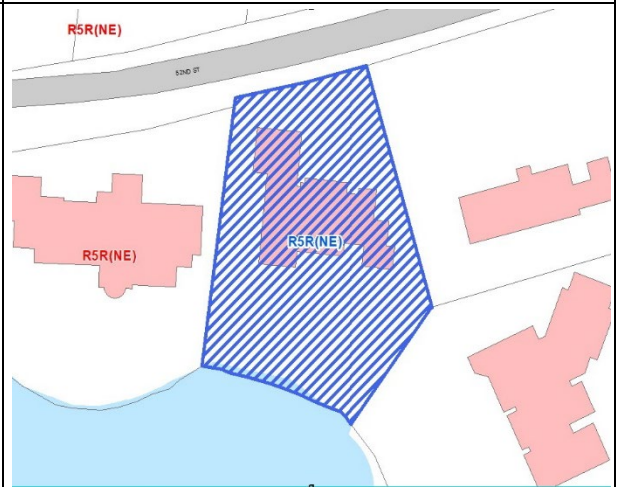
#### 410 52nd Street

GPIN 2418-78-0883

City Council District: District 6, formerly Lynnhaven  
Accela Record: 2023-CBPA-00031

**Variance Request** – Encroachment into the RPA to construct a paver patio and walkway.

**Staff Planner** – Cole Fisher  
**Staff Report** – page 41



### 5. Randall & Donna Stickley [Applicants & Property Owners]

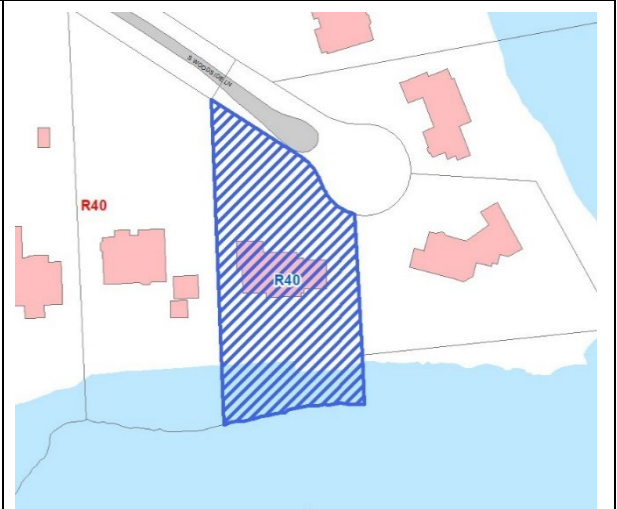
#### 1698 S. Woodside Lane

GPIN 1499-33-2431

City Council District: District 8, formerly Lynnhaven  
Accela Record: 2023-CBPA-00032

**Variance Request** – Encroachment into the RPA to construct a building addition with deck, boat shed, walkway, and driveway expansion.

**Staff Planner** – Cole Fisher  
**Staff Report** – page 53





## NEW BUSINESS AGENDA ITEMS (CONTINUED)

**6. Aileen Tiro & Liam O'Connor**  
[Applicants & Property Owners]

**701 Donham Court**

GPIN 1488-20-6952

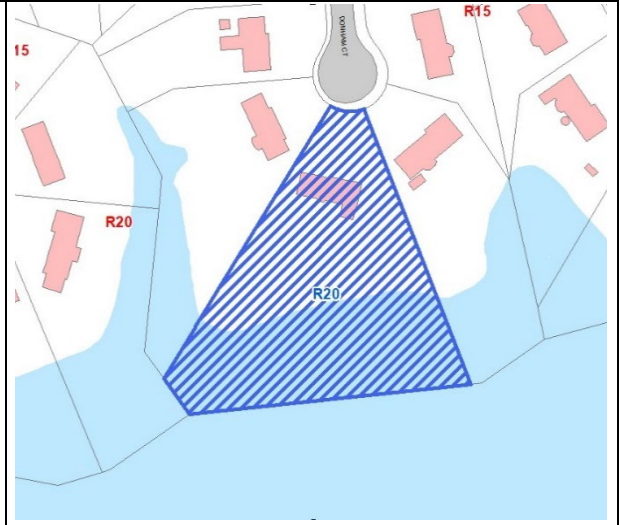
City Council District: District 8, formerly Lynnhaven

Accela Record: 2023-CBPA-00033

**Variance Request** – Encroachment into the RPA to construct a pool surround, deck, walkway, and sunroom expansion.

**Staff Planner** – Cole Fisher

**Staff Report** – page 65



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Applicant & Property Owner **Andrew & Elaine Vanderpoll**  
 Address **2320 Windward Shore Drive**  
 Public Hearing **June 26, 2023**  
 City Council District **District 8**, formerly Lynnhaven

Agenda Item

**1**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct a paver patio and driveway replacement.

**Applicant’s Agent**

Robert Simon

**Staff Planner**

Cole S. Fisher

**Lot Recordation**

Map Book 45, Page 37  
 Recorded 08/15/1958

**GPIN**

1499-98-7770

**SITE AREA**

21,667 square feet or 0.50 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

21,667 square feet or 0.50 acres

**EXISTING IMPERVIOUS COVER OF SITE**

4,950 square feet or 23 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

6,205 square feet or 29 percent of site

**Area of Redevelopment in RPA**

225 square feet

**Area of New Development in RPA**

1,255 square feet

**Location of Proposed Impervious Cover**

50-foot Landward Buffer

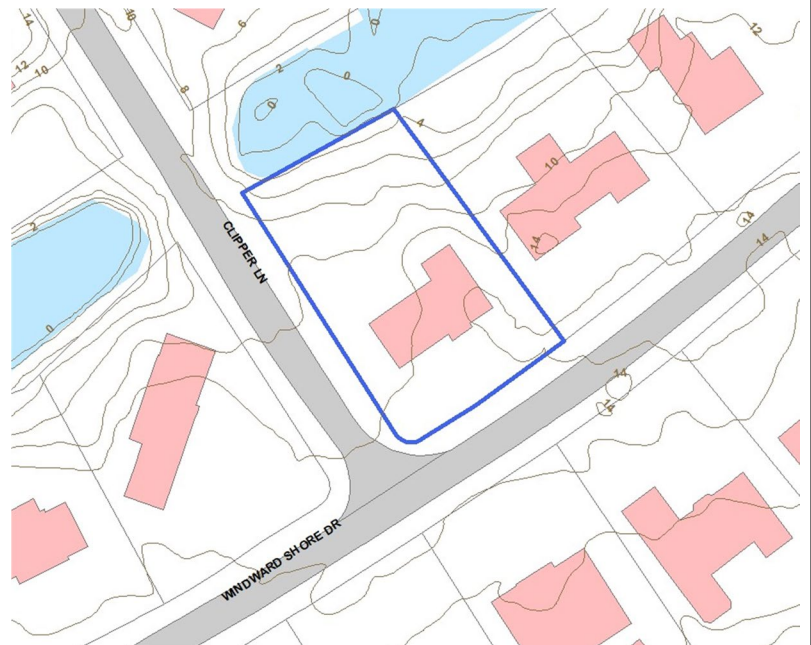
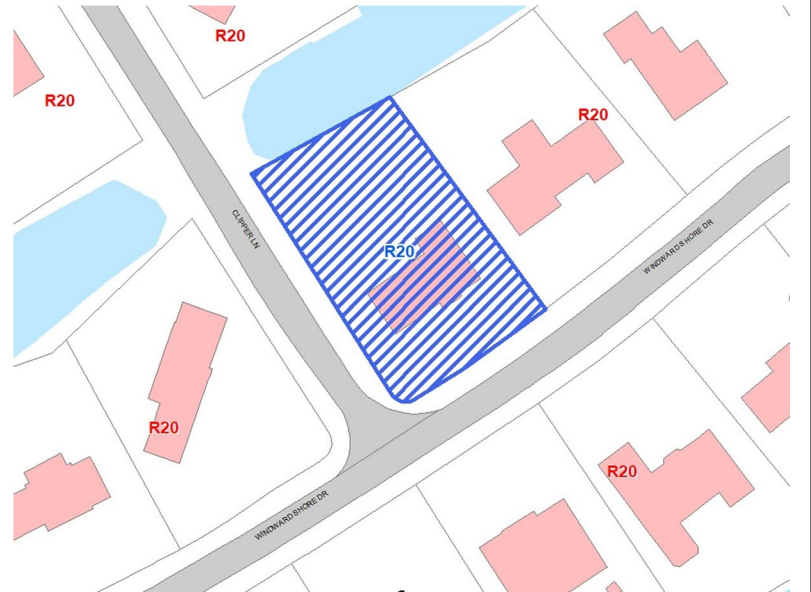
100-foot Variable Width Buffer

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Existing concrete driveway and front/rear walkways

### Construction Details

- Patio area with sitting wall and associated walkway
- Concrete driveway within the existing footprint

## CBPA Ordinance Variance History

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

## Environmental Conditions

### Flood Zone

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

### Soil Type(s)

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

### Shoreline

Shoreline is stabilized by a timber bulkhead.

### Riparian Buffer

Heavily Wooded Lot

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

## Stormwater Management Methodology

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

## Evaluation and Recommendation

This variance request includes the construction of a new paver patio and walkway off the rear of the residence as well as replacing the existing concrete driveway within the same footprint. As submitted, this variance request increases the overall impervious cover of the lot from 4,950 square feet to 6,205 square feet or 23 percent to 29 percent of the lot above water and wetlands. The applicant's agent provides that the proposed improvements are situated immediately adjacent to the residence to limit encroachment into the upper reach of the 50-foot landward buffer of the Resource Protection Area (RPA) on the lot. Staff acknowledges the statement provided by the applicant's agent and is of the opinion that the size of the proposed patio does not provide merit towards being the minimum necessary to afford relief. In an effort to further define the merits of this 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 purpose and intent of the ordinance.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *“the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels.”* Staff offers that the proposed improvements are located within the upper reaches of the 100-foot buffer and are in harmony with similar variance requests granted to adjacent properties in the area regarding encroachment into the RPA buffer however many of those variance requests dealt with the redevelopment of multiple improvements opposed to this request for a single improvement – patio area.
- 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 proposed development is encroaching minimally into the 50-foot landward buffer and all other proposed improvements are in the variable width buffer or outside the RPA.”* Staff concurs and offers that the proposed improvements are situated immediately adjacent to the existing residence and does not require any removal of existing vegetation on the lot. However, Staff is of the opinion that the variance request is the minimum necessary subject to the recommended conditions below that reduces the size of proposed improvements.
- 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 buffer restoration and BMPs will be placed to catch runoff to improve water quality.”* Staff acknowledges the statement provided by the applicant’s agent and provides the recommended conditions below as a means to the variance request being in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality.
- 5) *“Buffer restoration and bio-retention stormwater management will be placed between the proposed structures and the top of bank to capture and treat runoff prior to entering 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 **15** reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

## Recommended Conditions

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

- 3) The proposed patio shall be reduced to 720 square feet and limited to the area adjacent to the existing residence without further encroaching into the RPA buffer.
- 4) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **720 square feet x 200 percent = 1,440 square feet.**

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

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

- 5) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 6) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 7) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 8) 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.**
- 9) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
- 10) Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
- 11) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 12) 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) 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.
- 14) \*\* As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$165.00 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 15) The conditions and approval associated with this variance are based on the exhibit plan dated March 23, 2023, prepared by Stone Green Consulting, LLC, signed by Sean E. Green. 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 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.

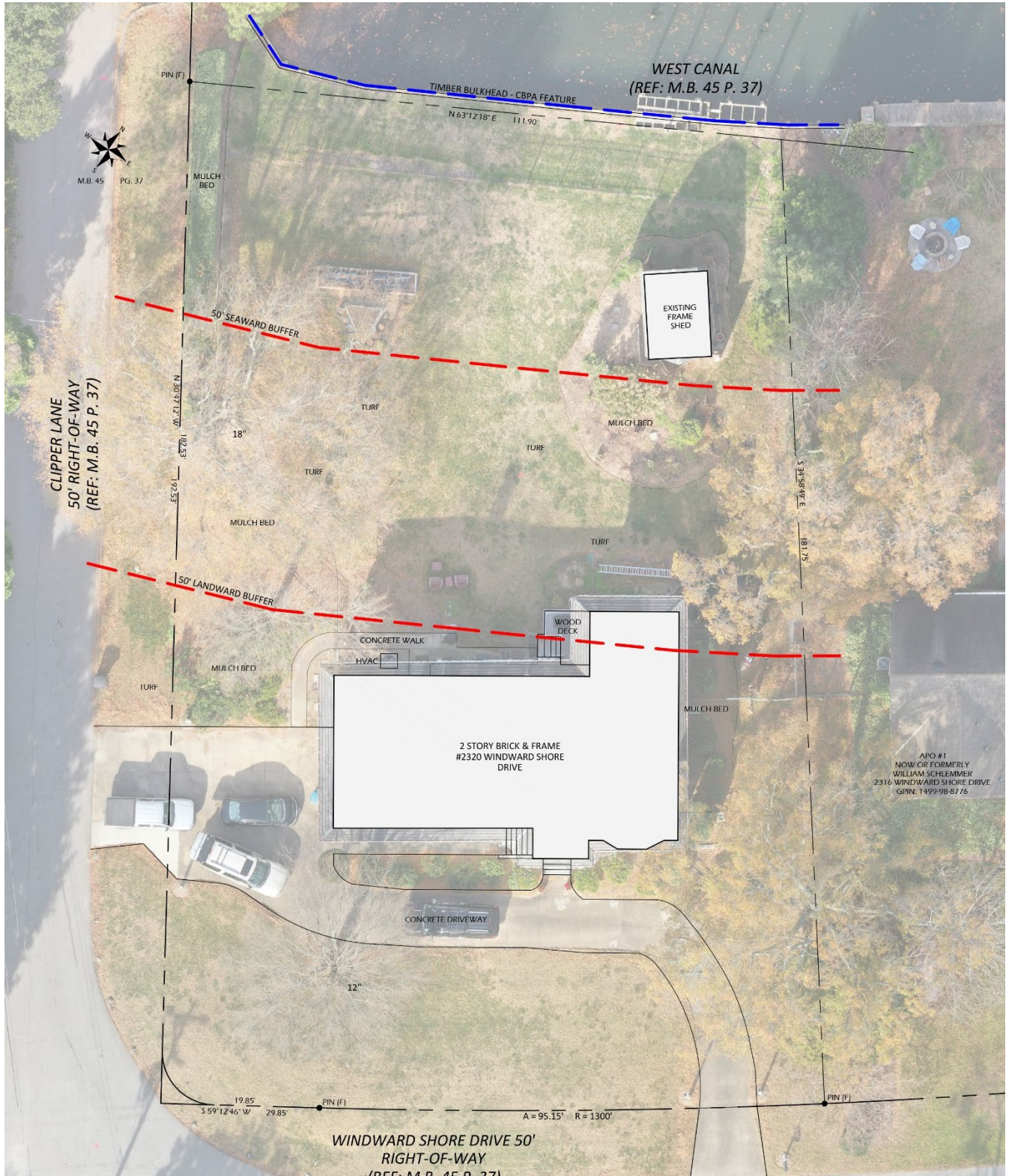


Site Aerial

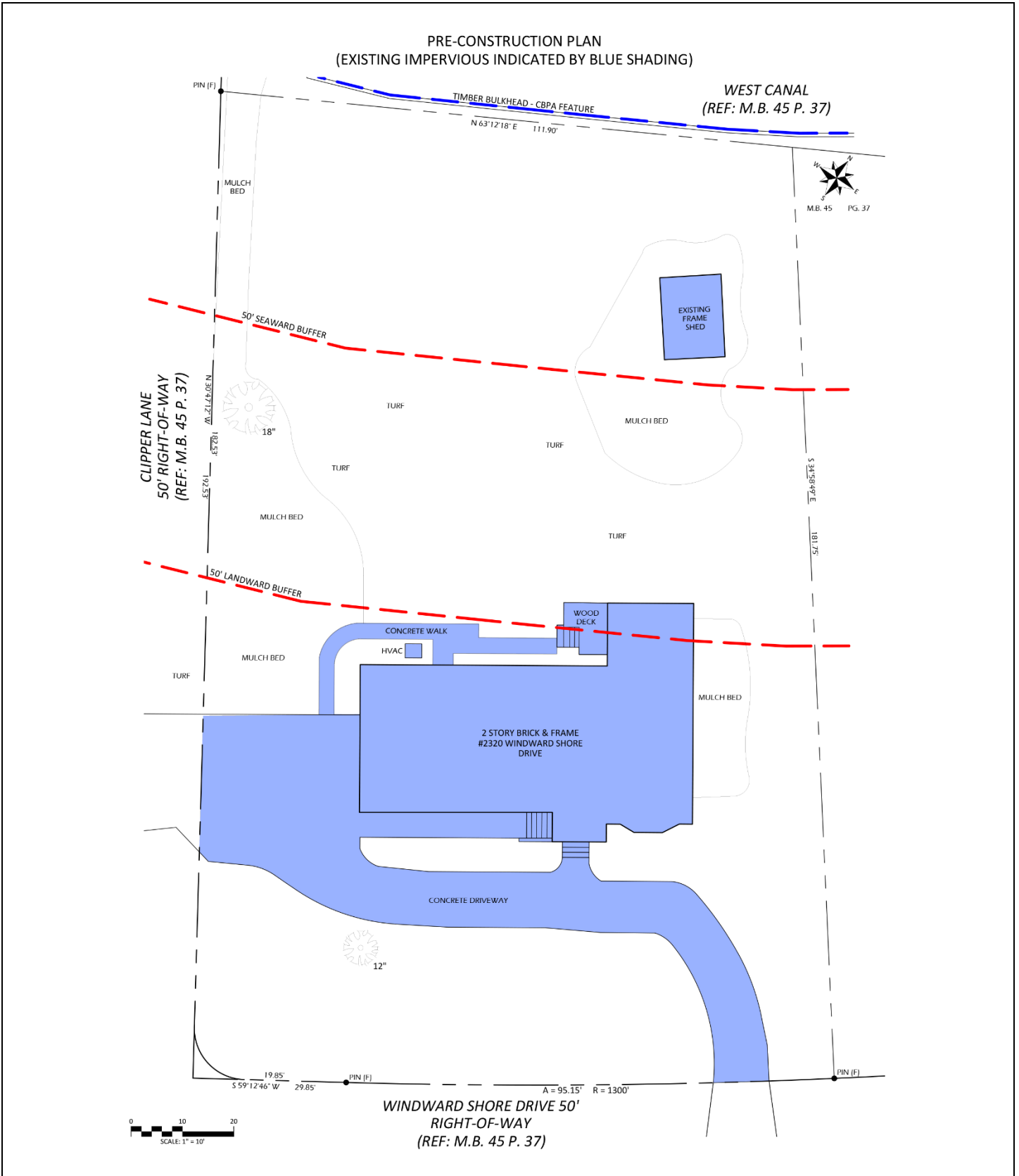




# CBPA Exhibit – Existing Conditions

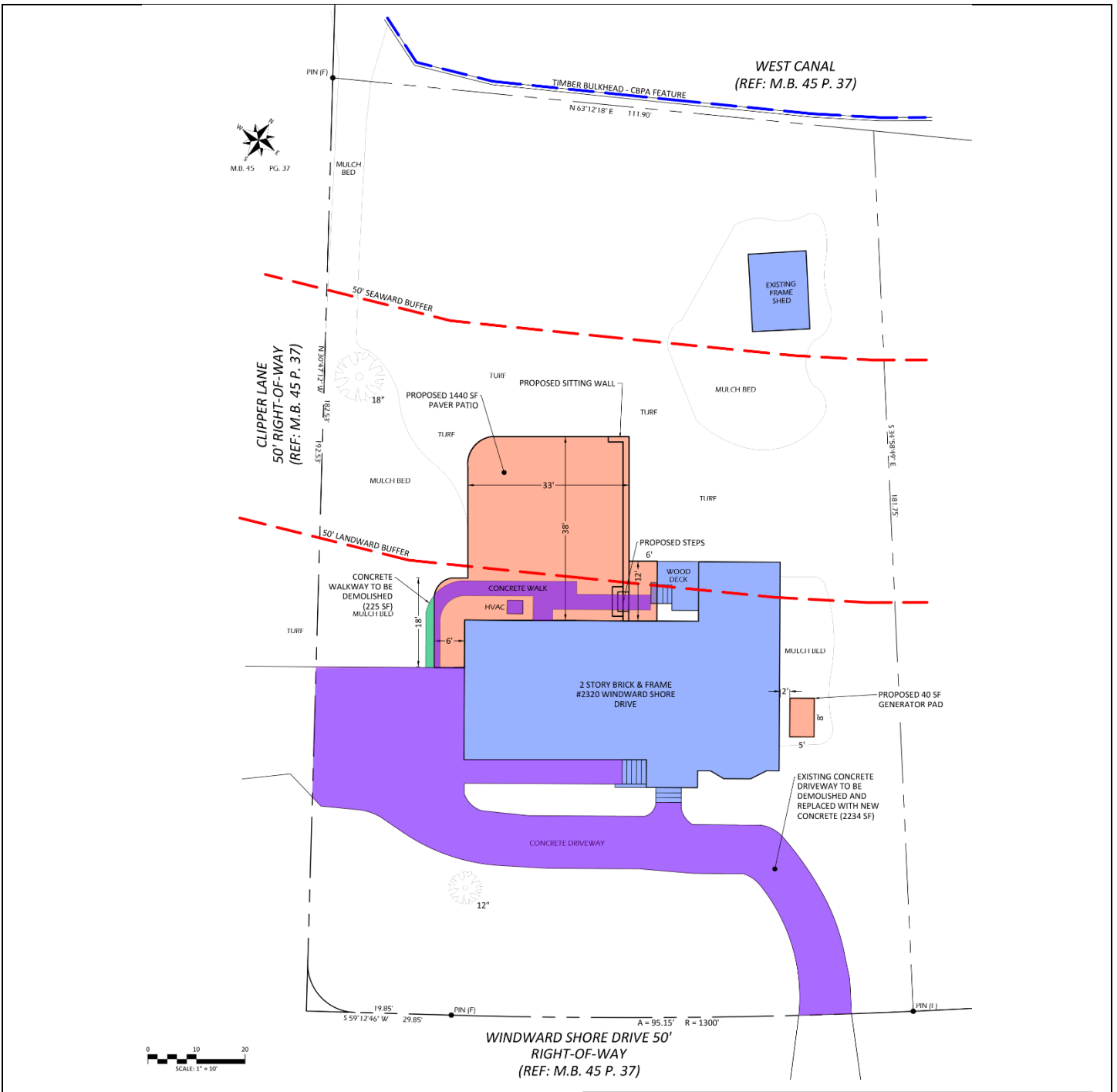


# CBPA Exhibit – Proposed Improvements





# CBPA Exhibit – Color Analysis



ANALYSIS OF DEVELOPMENT WITHIN THE CBPA RESOURCE PROTECTION AREA				
	LEGEND	EXISTING	PROPOSED	DIFFERENCE
TOTAL IMPERVIOUS AREA		4,950 SQUARE FEET	6,205 SQUARE FEET	1,255 SQUARE FEET
DEMOLITION	NOTED		2,459 SQUARE FEET	
IMPERVIOUS CONVERTED TO PERVIOUS			25 SQUARE FEET	
IMPERVIOUS COVER TO REMAIN		2,491 SQUARE FEET		
*REDEVELOPMENT OVER OLD			2434 SQUARE FEET	
**NEW IMPERVIOUS			1,255 SQUARE FEET	

\* PROPOSED STORMWATER MANAGEMENT WILL ACHIEVE MITIGATION IN LIEU OF REDEVELOPMENT BUFFER RESTORATION  
 \*\* 2,510 SQUARE FEET OF BUFFER RESTORATION REQUIRED (2X NEW IMPERVIOUS COVER)

# Disclosure Statement

DocuSign Envelope ID: B8A4D68E-37B3-4749-945C-75E533974B4B

## 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** Andrew van der Poll

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

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

Waterfront Consulting Inc. - Robert Simon

**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)

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- If **yes**, list the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

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<sup>1</sup> "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.

<sup>2</sup> "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?

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### 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.

N/A

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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.

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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.

N/A

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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.

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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.

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# Disclosure Statement



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

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

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

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

Waterfront Consulting Inc. - Agent    Stone Green Consulting LLC - Engineer

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.**

DocuSigned by:  
*Andrew van der Poll*  
E59BA52B209E49E

**Applicant Signature**

Andrew van der Poll

**Print Name and Title**

4/5/2023

**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 **Joseph & Debra Martino**  
 Address **584 Ingram Road**  
 Public Hearing **June 26, 2023**  
 City Council District **District 8**, formerly Lynnhaven

Agenda Item

**2**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct a detached garage and driveway expansion.

**Applicant's Agent**

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

**Staff Planner**

Cole S. Fisher

**Lot Recordation**

Map Book 78, Page 27  
 Recorded 11/01/1968

**GPIN**

1497-49-2935

**SMALL PROJECT IN THE RPA**

**PROPOSED IMPERVIOUS COVER**

**Area of Redevelopment in RPA**

0 square feet

**Area of New Development in RPA**

1,294 square feet

**Location of Proposed Impervious Cover**

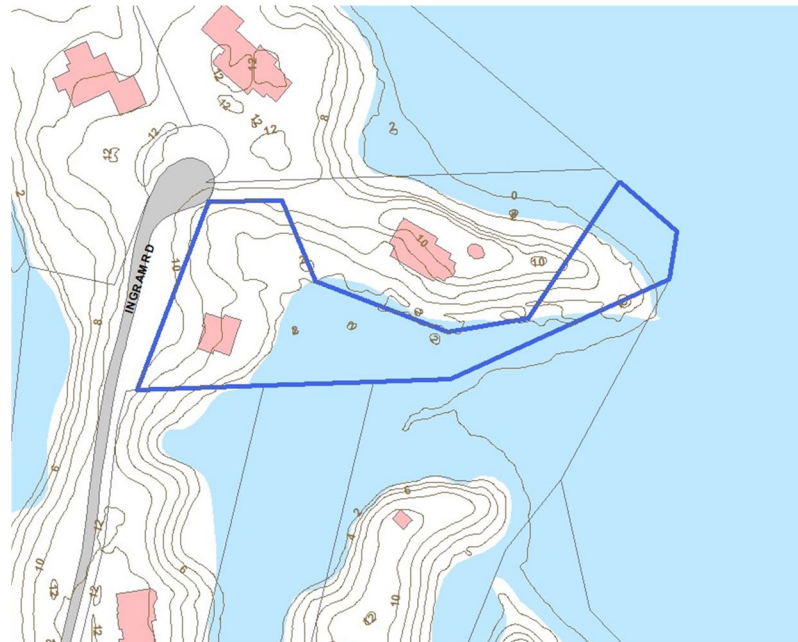
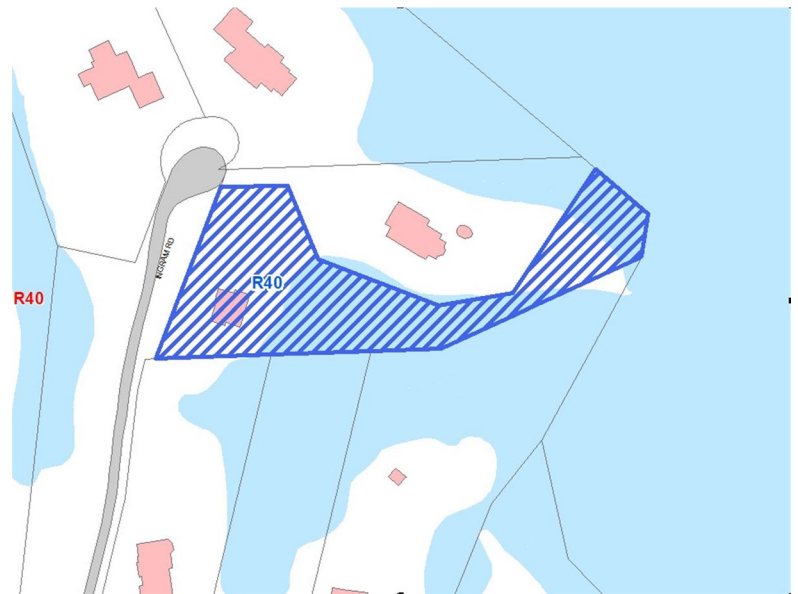
- 50-foot Landward Buffer
- 100-foot Variable Width Buffer
- Resource Management Area (RMA)

**AMOUNT OF LAND DISTURBANCE**

Less than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Construction Details

- Driveway expansion with pavers and gravel
- Detached garage

## 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  
Yeopim Series (deep and moderately well-drained soils)

### Shoreline

Shoreline is in a natural state with a large tidal marsh area extending off the rear of the existing residence.

### Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 1
- Evaluation of existing canopy tree removal request: The tree being requested for removal is within the delineated limits of construction, shown as approximately 10 feet outboard the proposed improvements.

## 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 homeowners wish to construct a detached garage and expand the existing driveway to create a more functional circular driveway layout. With the proposed improvements, 890 square feet of new impervious cover is proposed within the 100-foot Resource Protection Area (RPA) with all improvements in the upper reaches of the 50-foot landward buffer. The remaining 404 square feet of improvements are situated in the variable width buffer portion on the lot. Staff is of the opinion that this variance request will not cause a substantial detriment to water quality given the minimal amount of land disturbance, minimal existing vegetation impacted, and minimal amount of new impervious cover added within the RPA.

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 *"this property was created and the home was in existence prior to adoption of the CBPA Ordinance in January 1991. The buildable area of the lot based upon the setbacks lies completely within the state mandated 100-foot RPA buffer. The house has no garage and is modestly sized. The applicant is proposing to construct a garage as far from the feature as possible to minimize encroachment."* Staff concurs and adds that the proposed improvements are similar to adjacent properties.
- 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 applicant purchased the home as it exists today and as set forth above is making every effort to minimize encroachment, by building a detached garage instead of attaching a garage to the home."* Staff concurs and offers that the lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance.
- 3) The variance is the minimum necessary to afford relief because *"this property is zoned R-40 but only has 23,942 square feet of land above water, marsh and wetlands and is non-conforming. The property lies completely within the full RPA buffer. The improvements were pushed as close to the right-of-way (away from the CBPA feature) as is conceivable and will require a significant front yard setback variance which the applicant will vigorously pursue. The existence of a very large section of unimproved right of way between the edge of pavement on this narrow and very lightly traveled section, at the end of Ingram Road, makes obtaining this variance possible. The disturbance within the buffer is minimal."* Staff adds that the 100-foot buffer falls on the majority of the lot and the location of the proposed improvements have been situated so as to avoid encroachment within the most environmentally sensitive portions of the lot.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"this request ensures there is minimal disturbance within the buffer that does not encroach upon the large percentage of the lot which is heavily treed. The development is modest in size and similar to adjacent properties."* Staff concurs.
- 5) *"The state of the existing buffer with significant tree canopy will be maintained. There will be minimal runoff from this project because the limits of disturbance and amount of proposed impervious is small and the required stormwater treatment will be utilized. Roof downspouts will be discharged on grade and will be treated by the existing buffer"* 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 **8** 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 plan dated May 5, 2023, prepared by American Engineering Associates, signed May 5, 2023 by Edward F. Rudiger, Jr. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. If required, revised plans and calculations shall be submitted to the Planning Administration Chesapeake Bay Board team for review and



approval prior to the issuance of a building permit. Land disturbance associated with the proposed improvements at any given time shall not exceed 2,500 square feet. If at any time land disturbance exceeds 2,500 square feet, Planning Department Staff may issue a stop work order. At that time, a full site development plan in compliance with local and State regulations shall be submitted for review and approval through the Development Services Center (DSC).

2. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
3. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,294 square feet x 200 percent = 2,588 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: **3 canopy trees, 6 understory trees, 9 large shrubs, and 12 small shrubs.**

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

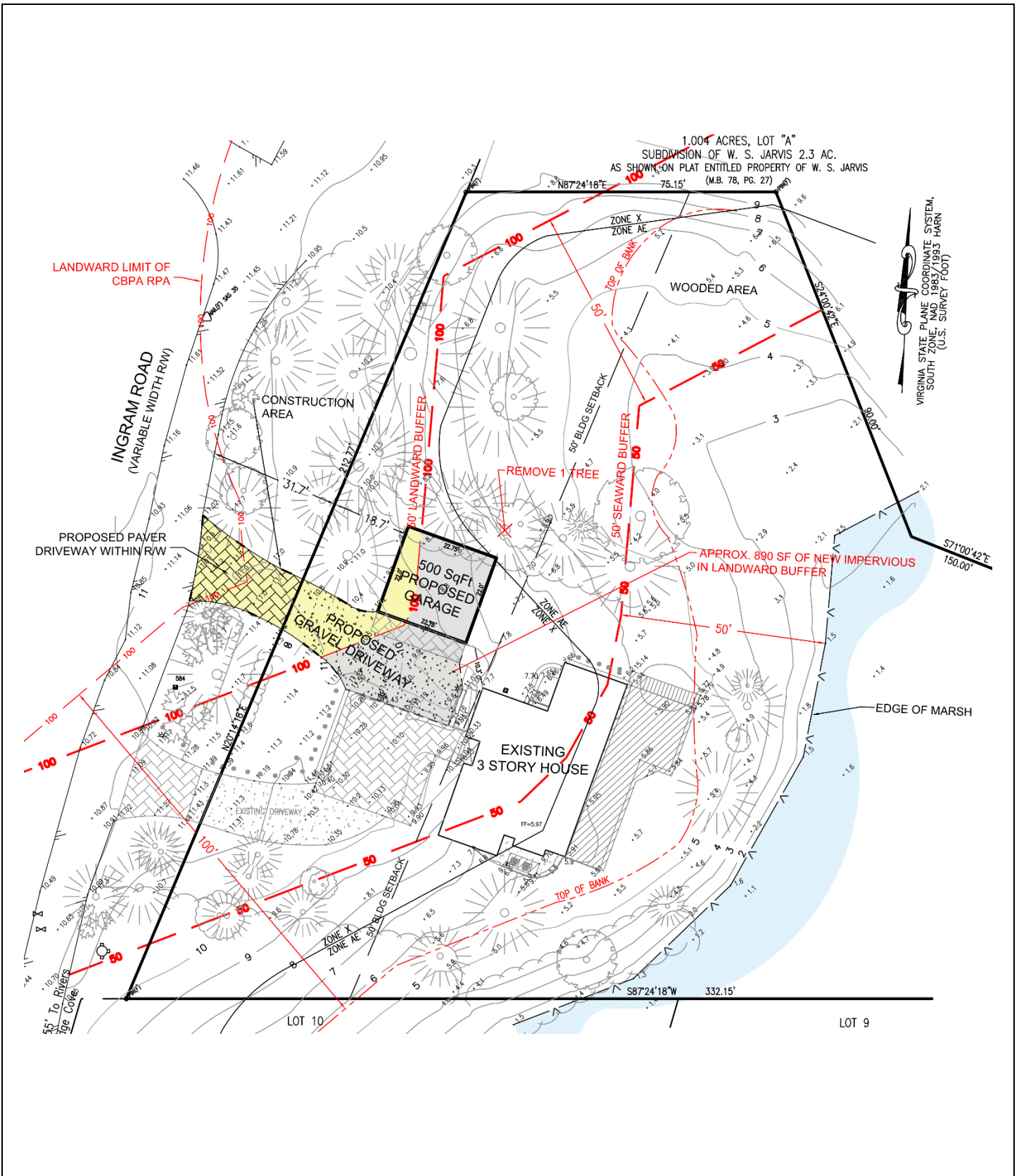
4. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
5. Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and 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.
6. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
7. 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.
8. 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 – Proposed Improvements





# CBPA Exhibit – Proposed Garage Elevations

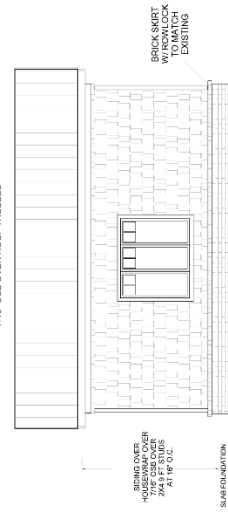
EXISTING HOUSE NO WORK



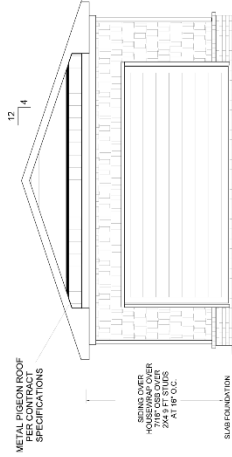
**FRONT ELEVATION**  
SCALE: 1/4" = 1'-0" (1/32" PANEL)  
SCALE: 1/8" = 1'-0" (1/16" PANEL)

ALL NEW GARAGE EXTERIOR FINISH MATERIALS TO MATCH EXISTING HOUSE

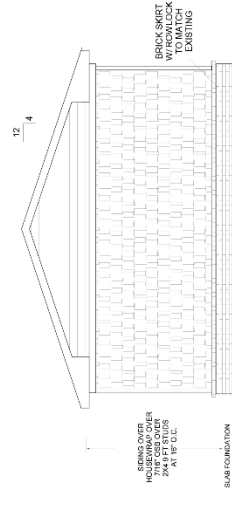
**REAR ELEVATION**  
SCALE: 1/4" = 1'-0" (1/32" PANEL)  
SCALE: 1/8" = 1'-0" (1/16" PANEL)



**RIGHT ELEVATION**  
SCALE: 1/4" = 1'-0" (1/32" PANEL)  
SCALE: 1/8" = 1'-0" (1/16" PANEL)



**LEFT ELEVATION**  
SCALE: 1/4" = 1'-0" (1/32" PANEL)  
SCALE: 1/8" = 1'-0" (1/16" PANEL)





# Disclosure Statement

## Disclosure Statement



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

### Applicant Disclosure

Applicant Name Joseph Martino

Does the applicant have a representative?  Yes  No

- If yes, list the name of the representative.

R. Edward Bourdon, Jr.

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)

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- If yes, list the businesses that have a parent-subsidiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

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

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

# Disclosure Statement



## **Known Interest by Public Official or Employee**

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

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

## **Applicant Services Disclosure**

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

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

Will self-fund.

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2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?  **Yes**  **No**

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

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

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

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

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

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

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

# Disclosure Statement



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

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

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

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

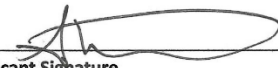
American Engineering c/o Rick Rudiger

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

JOSEPH L. MARTINO (OWNER)  
\_\_\_\_\_  
Print Name and Title

04/25/2023  
\_\_\_\_\_  
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 **Dean Kent & August Armstrong**  
 Address **3733 Lynnfield Drive**  
 Public Hearing **June 26, 2023**  
 City Council District **District 8**, formerly Lynnhaven

Agenda Item

**3**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct an attached garage with driveway expansion and parking area.

**Applicant's Agent**

Billy Garrington

**Staff Planner**

Cole S. Fisher

**Lot Recordation**

Map Book 5, Page 16  
 Recorded 11/23/1959

**GPIN**

1489-40-2308

**SITE AREA**

43,517 square feet or 0.99 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

38,896 square feet or 0.893 acres

**EXISTING IMPERVIOUS COVER OF SITE**

8,624 square feet or 22 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

11,935 square feet or 31 percent of site

**Area of Redevelopment in RPA**

0 square feet

**Area of New Development in RPA**

3,311 square feet

**Location of Proposed Impervious Cover**

50-foot Landward Buffer

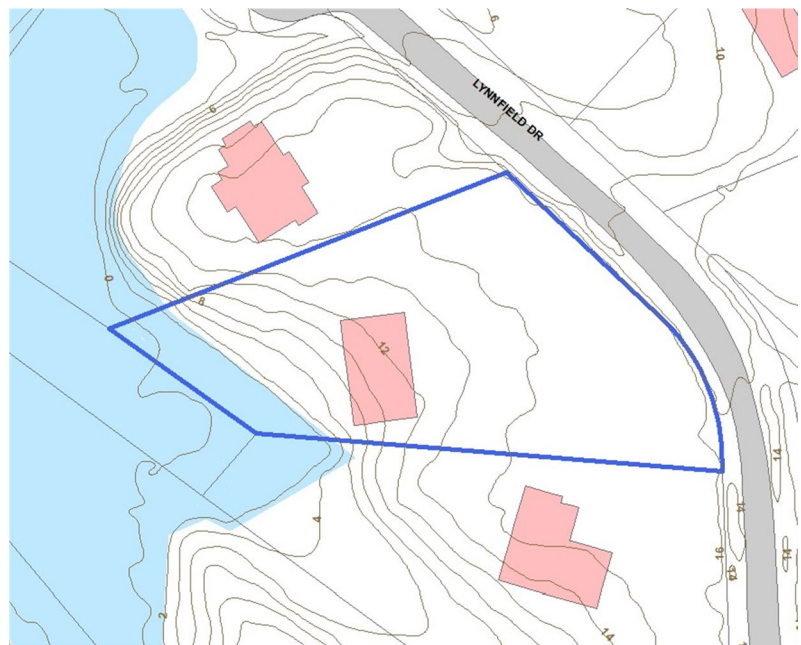
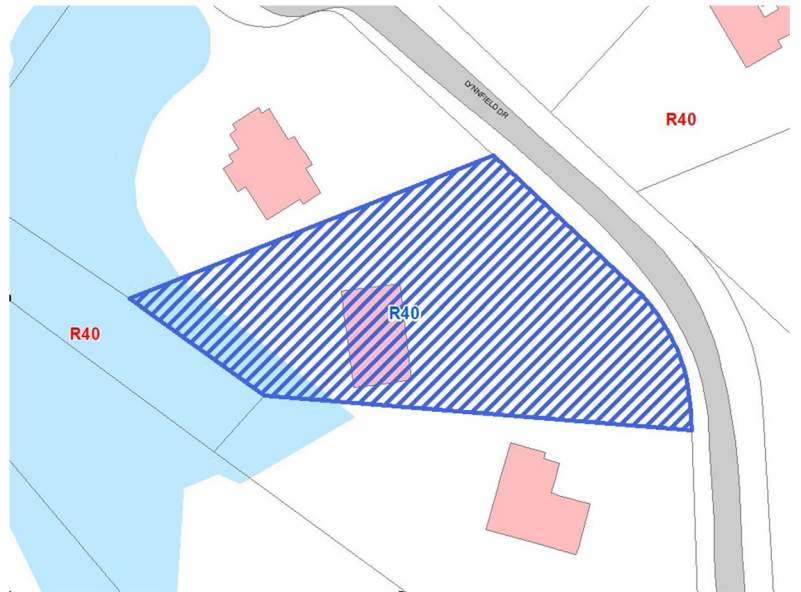
100-foot Variable Width Buffer

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned





## Summary of Proposal

### Construction Details

- Gravel driveway extension with concrete parking area
- Attached garage with associated breezeway and steps
- Wood deck expansion

## CBPA Ordinance Variance History

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

## Environmental Conditions

### Flood Zone

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

### Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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

### Shoreline

Shoreline is stabilized by rip rap and a timber/metal bulkhead.

### Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 9
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing canopy tree removal request: Trees being requested for removal are within the footprint of the proposed driveway expansion and proposed garage. Staff is of the opinion that removal of the trees is necessary for construction of the project and mitigation is reflected in condition #4 below.

## Stormwater Management Methodology

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

## Evaluation and Recommendation

The applicant is proposing to construct an attached garage with an enclosed breezeway and new concrete parking area with an expansion to the existing driveway. A slight expansion to the existing wood deck off the rear of the residence is also proposed to provide deck access from proposed breezeway. This request avoids encroachment into the 50-foot seaward buffer of the Resource Protection Area (RPA) and situates the improvements in the 50-foot landward buffer and variable width buffer on the lot.

As submitted, the proposed improvements increase the overall impervious cover of the lot from 8,624 square feet to 11,935 square feet (22 percent to 31 percent) of the lot area above water/wetlands. Staff is of the opinion that the applicant has submitted a plan cognizant of the sensitive environmental portions of the lot and has situated the proposed improvements as to minimize encroachment into the RPA.

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 *"this subdivision was recorded many years prior to the adoption of the bay act and as a result every waterfront home is significantly impacted by the ordinance. Since the enactment in 1991 numerous homes have made similar variance requests and been granted so the approval of this request will in no way confer any special privilege to the current owners."* 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 minimum necessary is a very arbitrary concept but the board has routinely granted variances with the understanding that the total impervious cover not exceed 30% of the land area which leaves a significant amount of land to be used for buffer restoration and bioretention beds."* Staff acknowledges the statement provided by the applicant's agent and offers that this variance request includes no encroachment within the 50-foot seaward buffer and almost half of the new impervious cover with the request situated in the RMA on the lot.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"the purpose and intent of the ordinance is simply water quality, to prevent pollution of the bay as a result of non-point source pollution. Most of these homes currently have no storm water treatment on site. As a result of this variance request the owner will install bioretention beds, buffer restoration in areas currently devoted to turf and even off-site treatment via the Lynnhaven oyster heritage program all to benefit water quality."* Staff is of the opinion that the applicant has brought forth a request that limits the amount of new impervious within the RPA and, that coupled with the required stormwater management methodology and buffer restoration, this request will not be a detriment to water quality.
- 5) *"Strict erosion and sedimentation control measures do more to halt non-point source pollution, stock piling materials on existing hard surfaces, single point access way and revegetating any denuded areas all help to limit pollution from entering the adjacent waters"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff concurs.

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

## Recommended Conditions

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 3) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **3,311 square feet x 200 percent = 6,622 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: **18 canopy trees, 34 understory trees, and 51 large shrubs.**

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

- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 7) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
- 9) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**

- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts not included with this variance request.
- 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) 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.
- 14) \*\* As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$758.77 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 15) The conditions and approval associated with this variance are based on the exhibit plan dated March 16, 2023, prepared by Gallup Surveyors & Engineers, signed March 16, 2023 by David R. Butler. 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 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.



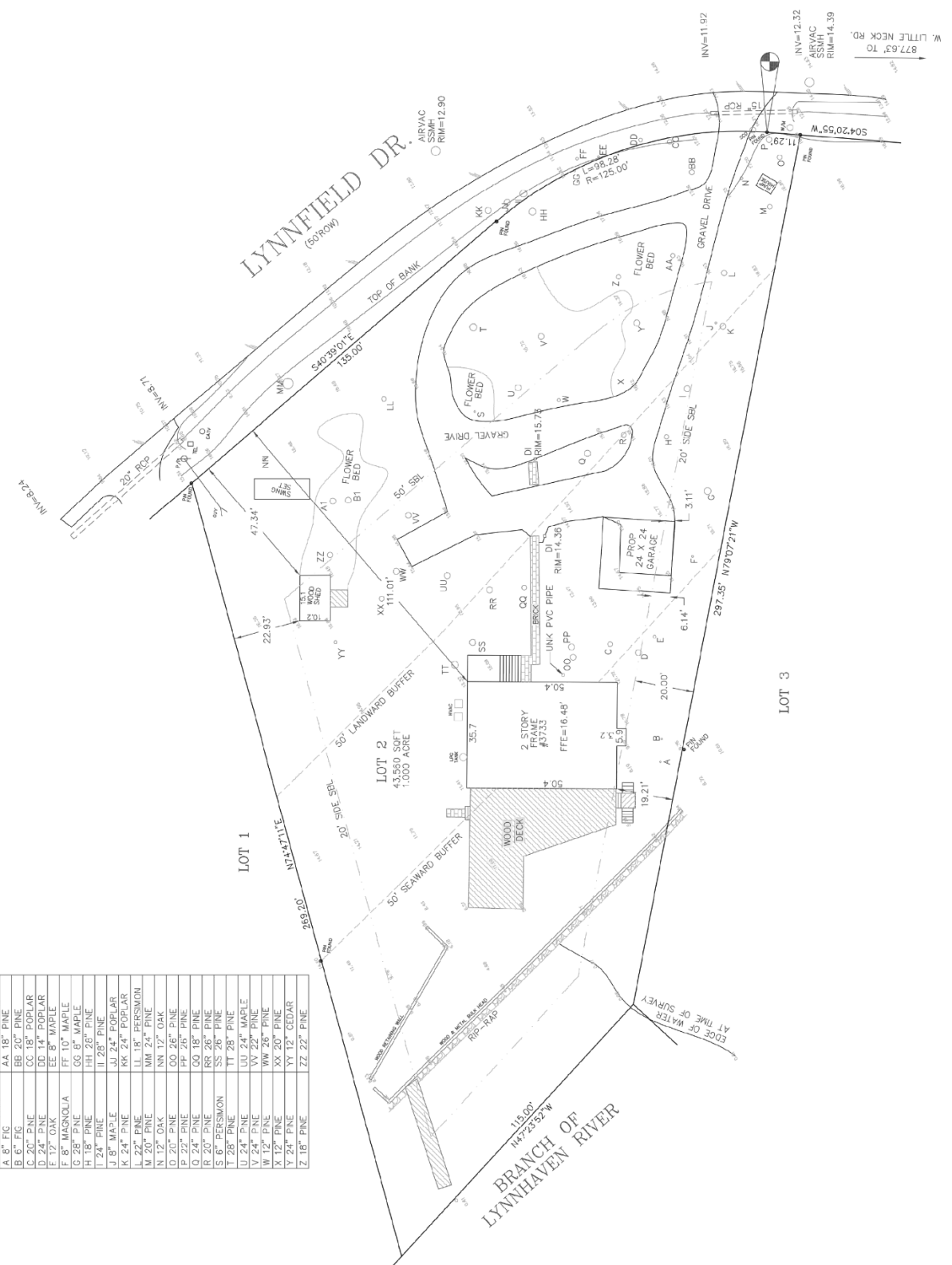
Site Aerial



# CBPA Exhibit – Existing Conditions

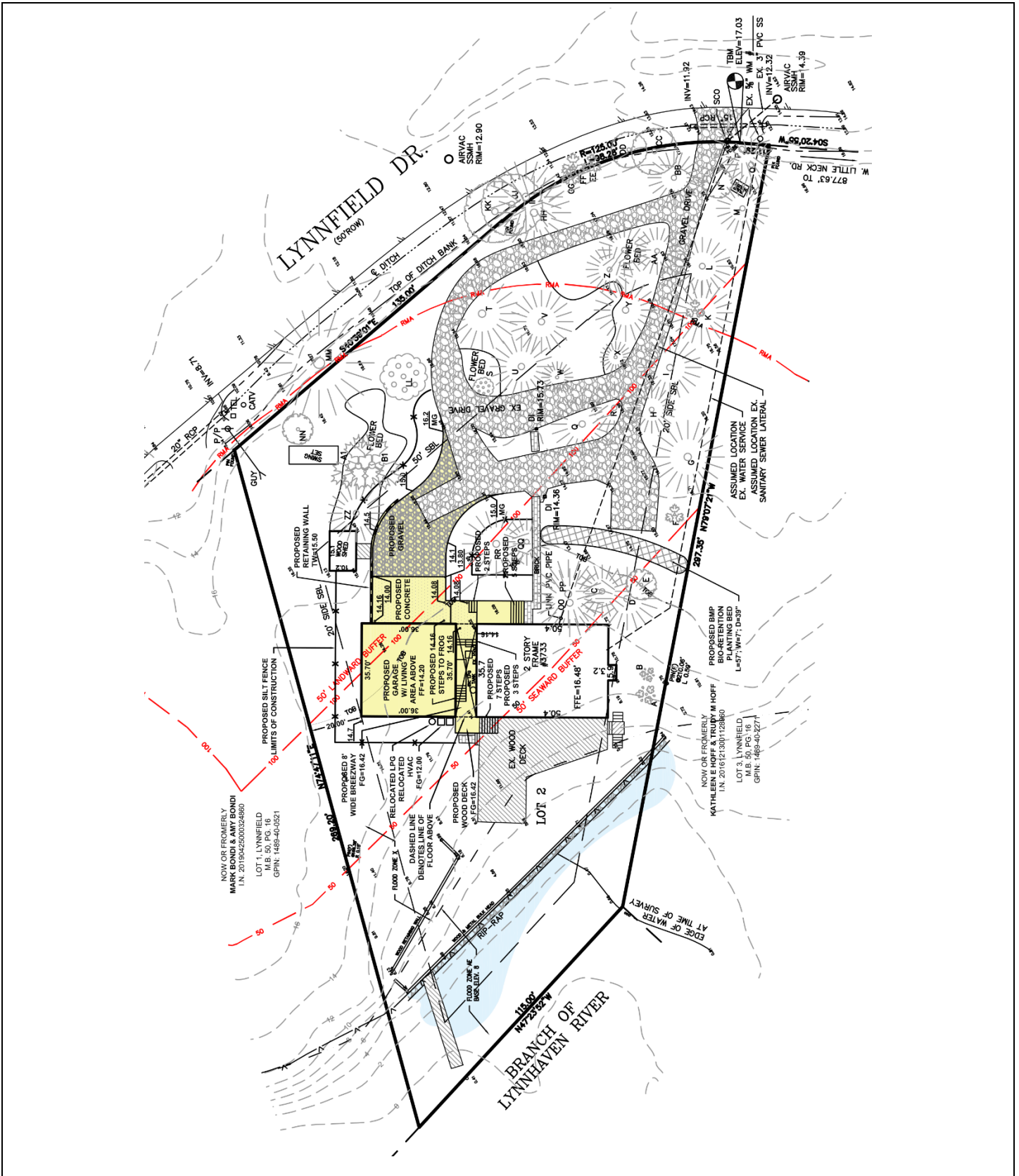
TREE TABLE

A1 24" MAPLE	BT 26" MAPLE
A 8" FIG	AA 18" PINE
B 6" FIG	BB 20" PINE
C 20" PNE	CC 18" POPLAR
D 24" PNE	DD 14" POPLAR
E 12" OAK	EE 8" MAPLE
F 8" MAGNOLA	FF 10" MAPLE
G 28" PNE	GG 8" MAPLE
H 18" PNE	HH 28" PINE
I 24" PNE	II 28" PINE
J 24" PNE	JJ 24" POPLAR
K 24" PNE	KK 24" POPLAR
L 20" PNE	LL 18" PERSIMON
M 20" PNE	NN 24" PINE
N 12" OAK	NN 12" OAK
O 20" PNE	OO 26" PINE
P 22" PNE	PP 26" PINE
Q 24" PNE	QQ 18" PINE
R 20" PNE	RR 26" PINE
S 6" PERSIMON	SS 26" PINE
T 28" PNE	TT 28" PINE
U 24" PNE	UU 24" MAPLE
V 24" PNE	VV 22" PINE
W 12" PNE	WW 20" PINE
X 20" PNE	XX 20" PINE
Y 24" PNE	YY 12" CEDAR
Z 18" PNE	ZZ 22" PINE

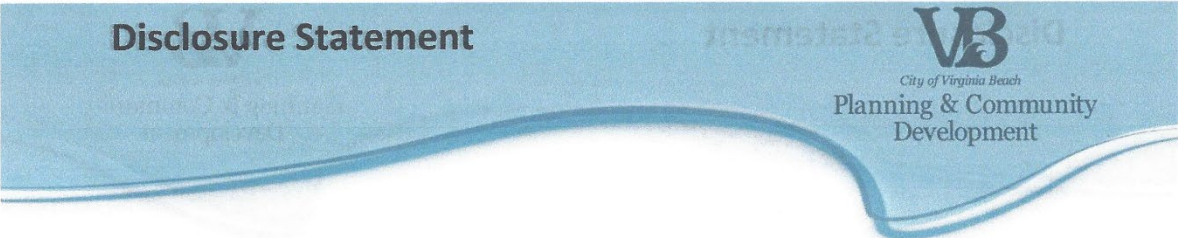




# CBPA Exhibit – Proposed Improvements



# 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 Dean E Kent

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-subsidiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

\_\_\_\_\_  
\_\_\_\_\_

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

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



# Disclosure Statement



### Known Interest by Public Official or Employee

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

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

### Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

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

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.

*RICHARD FITZ*

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

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

# Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No
- If yes, identify the construction contractor.
- 
7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No
- If yes, identify the engineer/surveyor/agent.
- Gallup Surveyors and Engineers*
- 
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No
- If yes, identify the name of the attorney or firm providing legal services.
- 

### Applicant Signature

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

*Dean E Kent*

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Applicant Signature

*Dean E Kent*

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Print Name and Title

*4/27/2023*

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Date

- Is the applicant also the owner of the subject property?  Yes  No
- If yes, you do not need to fill out the owner disclosure statement.

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

AS NEEDED, PAGE LEFT BLANK



Applicant & Property Owner **John W. Drescher**  
 Address **410 52nd Street**  
 Public Hearing **June 26, 2023**  
 City Council District **District 6**, formerly Lynnhaven

Agenda Item

**4**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct a paver patio and walkway.

**Applicant's Agent**

Billy Garrington  
 Governmental Permitting Consultant

**Staff Planner**

Cole S. Fisher

**Lot Recordation**

Map Book 101, Page 74  
 Recorded 09/1935

**GPIN**

2409-29-0640

**SMALL PROJECT IN THE RPA**

**PROPOSED IMPERVIOUS COVER**

**Area of Redevelopment in RPA**

0 square feet

**Area of New Development in RPA**

416 square feet

**Location of Proposed Impervious Cover**

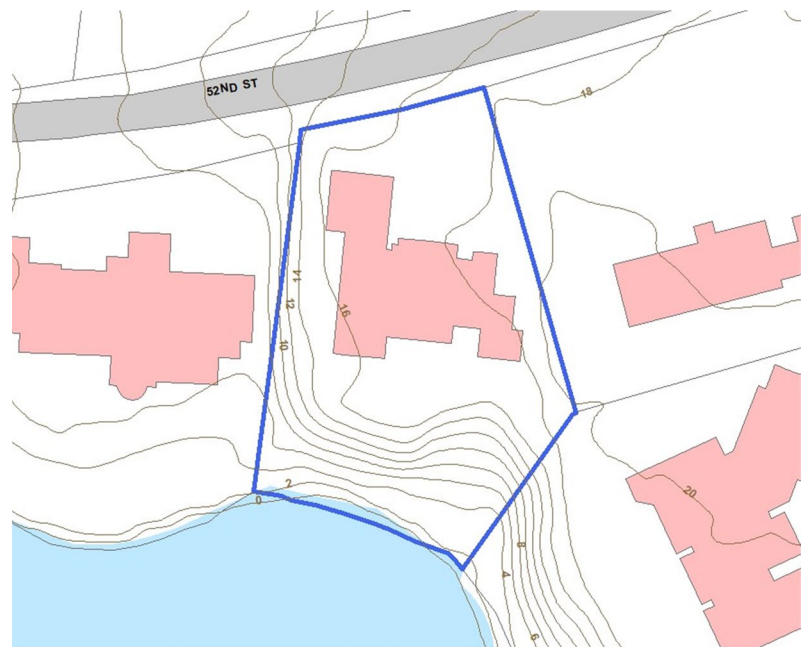
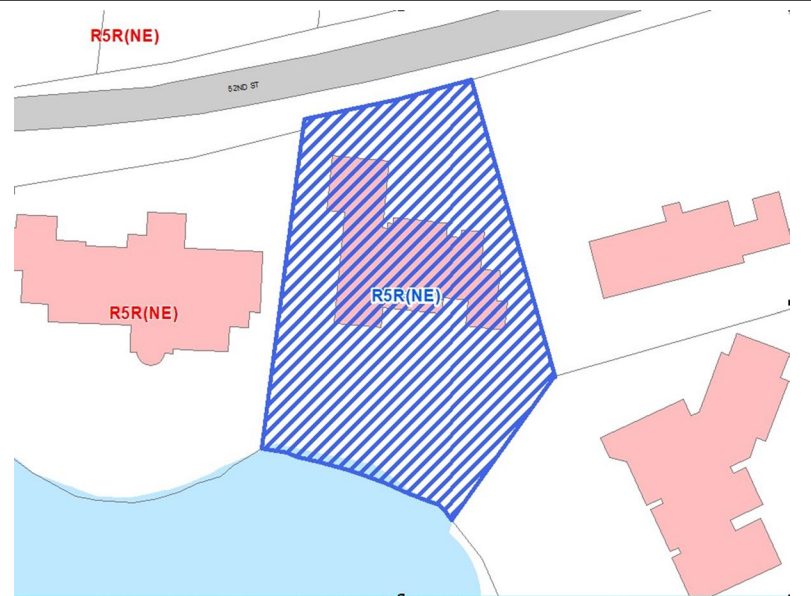
50-foot Landward Buffer

**AMOUNT OF LAND DISTURBANCE**

Less than 2,500 square feet

**Staff Recommendation**

Approval as conditioned





## Summary of Proposal

### Construction Details

- Paver patio area  
*\*self-reported After-the-Fact CBPA Variance request*

## CBPA Ordinance Variance History

**October 28, 1991, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a timber bulkhead with backfill with the following conditions:**

1. *A landscape plan is required to mitigate the proposed limits of construction and backfill area.*
2. *A site plan must be submitted to the Development Services Center for review and approval by the Planning Department and Landscapes Services and appropriate bonds posted prior to the issuance of a building permit.*

The October 28, 1991 Board granted variance has been acted upon and the associated improvements constructed.

**August 25, 2003, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a single-family residence, concrete driveway, and walkway 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, heavy duty construction fencing, acceptable to Civil Inspections, shall be installed adjacent to the erosion and sedimentation control measures.*
3. *Construction limits shall lie a maximum of 10' seaward of improvements but shall not extend over the top-of-bank.*
4. *The construction access way shall be noted on the site plan, as well as the stockpile staging area.*
5. *All stormwater from proposed impervious cover shall be conveyed to structural stormwater management facilities. The 73' BMP planting bed located along the southern portion of the site, shall be eliminated. Alternative structural BMPs should be considered which minimize tree root disruption.*
6. *If and when the shoreline is hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (timber or steel bulkhead). Said condition shall be so noted on the site plan. The toe of said revetment shall lie no further seaward than 4 feet of the existing bulkhead.*
7. *\*\*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 \$1,453.00 and is based on 25% of the new impervious cover. Said payment shall provide for the equivalent of an approximate 1585 sq. ft., 12inch deep oyster shell plant within the Lynnhaven River Basin.*

8. *Buffer restoration shall be installed equal to 25% of the new impervious cover (1,585 sq. ft.) and shall utilize bayscape landscaping principles. Said restoration shall be installed prior to the issuance of a certificate of occupancy. Said condition shall be so noted on the site plan.*
9. *A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed.*
10. *Tree compensation shall be at a 3:1 ratio (12 trees). Trees may be planted on the area of highly erodible soils.*
11. *No portion of the residence shall lie below the top-of-bank.*
12. *The rear of the residence (73.43' section) shall be either shifted (or reduced in depth), no less than 5 feet to the north.*
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.*

The August 25, 2003 Board granted variance has been acted upon and the associated improvements constructed.

## Environmental Conditions

### Flood Zone

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

### Soil Type(s)

Newhan Series (excessively drained soils, sandy material)

### Shoreline

Shoreline is stabilized by a timber bulkhead.

### Riparian Buffer

Heavily Wooded Lot

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

## 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 current property owner is not associated with the previous Chesapeake Bay Preservation Area (CBPA) Variances for this lot. This variance request is a self-reported After-the-Fact application brought to Staff by the applicant and applicant's agent. The intent of the applicant was to expand the existing patio and walkway in an area devoted to turf

with all improvements located landward of the top of bank feature. As conditioned by the 2003 CBPA Variance, *“no portion of the residence shall lie below the top-of-bank.”* As submitted, the proposed improvements are approximately 3 feet landward of the top of bank feature. The proposed patio area is approximately 416 square feet and designed to provide space for outdoor seating and a hard surface to place a fire pit on. The rear yard has a steep elevation change from approximately 17 feet at the area of the proposed improvements transitioning to two (2) feet at the shoreline. As shown on the submitted CBPA exhibit, all the proposed new impervious cover is located within the 50-foot landward buffer of the Resource Protection Area (RPA) and the areas of existing turf adjacent to the bulkhead shall be areas of buffer restoration.

Staff is of the opinion that this request to encroach into the RPA as presented will not cause a substantial increase in runoff nor be a detriment to water quality in the Chesapeake Bay watershed. In addition, the amount of land disturbance is minimal, as it is limited to the area necessary to provide for the proposed use. The applicant and their agent provide the following comments relative to the findings of the CBPA Ordinance as merit towards the variance request being in harmony with the intent of the CBPA Ordinance and believes that the construction of the proposed improvements will not confer upon the applicant any special privilege or convenience not accorded to other owners of property within the Lynnhaven River watershed.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *“the property was platted prior to the Chesapeake Bay Preservation Act. The proposed improvements are in keeping with the development of the neighborhood and adjacent parcels.”* Staff provides that the proposed improvements are minimal and is of the opinion that the applicant has situated the proposed improvements in an area of the lot that compliments the existing environmental features that is mindful of the conditions of previous CBPA Variances obtained for this lot by past owners.
- 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 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 originally platted prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance. The CBPA buffers cover over 90% of the lot.”* Staff concurs.
- 3) The variance is the minimum necessary to afford relief because *“we have designed the small patio and walkway to be as close to the building as possible and to avoid the 50’ seaward buffer.”* Staff is of the opinion that the proposed improvements, as situated in the rear yard and entirely within the landward buffer, provides merit towards the variance request being the minimum necessary to afford relief given the location of the proposed improvements directly adjacent to the existing single-family residence.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *“the proposed improvements are in keeping with the development within the neighborhood. If approved, additional buffer restoration will be installed to provided additional water quality benefit.”* Staff concurs.
- 5) *“The existing shoreline will be enhanced and expanded upon to compliment the site. Additional buffer restoration will be installed between the existing plantings and the bulkhead to remove the remaining turf in the 50’ seaward buffer”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff adds to the applicant’s statement that over 850 square feet of existing turf will be converted to buffer restoration, all within the seaward buffer portion on the lot.

Given the above comments, Staff recommends the following 5 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

## Recommended Conditions

1. The conditions and approval associated with this variance are based on the exhibit plan dated June 5, 2023, prepared by WPL, signed June 5, 2023 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. If required, revised plans and calculations shall be submitted to the Planning Administration Chesapeake Bay Board team for review and approval prior to the issuance of a building permit. Land disturbance associated with the proposed improvements at any given time shall not exceeds 2,500 square feet. If at any time land disturbance exceeds 2,500 square feet, Planning Department Staff may issue a stop work order. At that time, a full site development plan in compliance with local and State regulations shall be submitted for review and approval through the Development Services Center (DSC).
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: **416 square feet x 200 percent = 832 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs, and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **2 canopy trees, 4 understory trees, 6 large shrubs, and 8 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. 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. 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.
5. This variance and associated conditions **are in addition to** the conditions of the Board variance granted August 25, 2003.

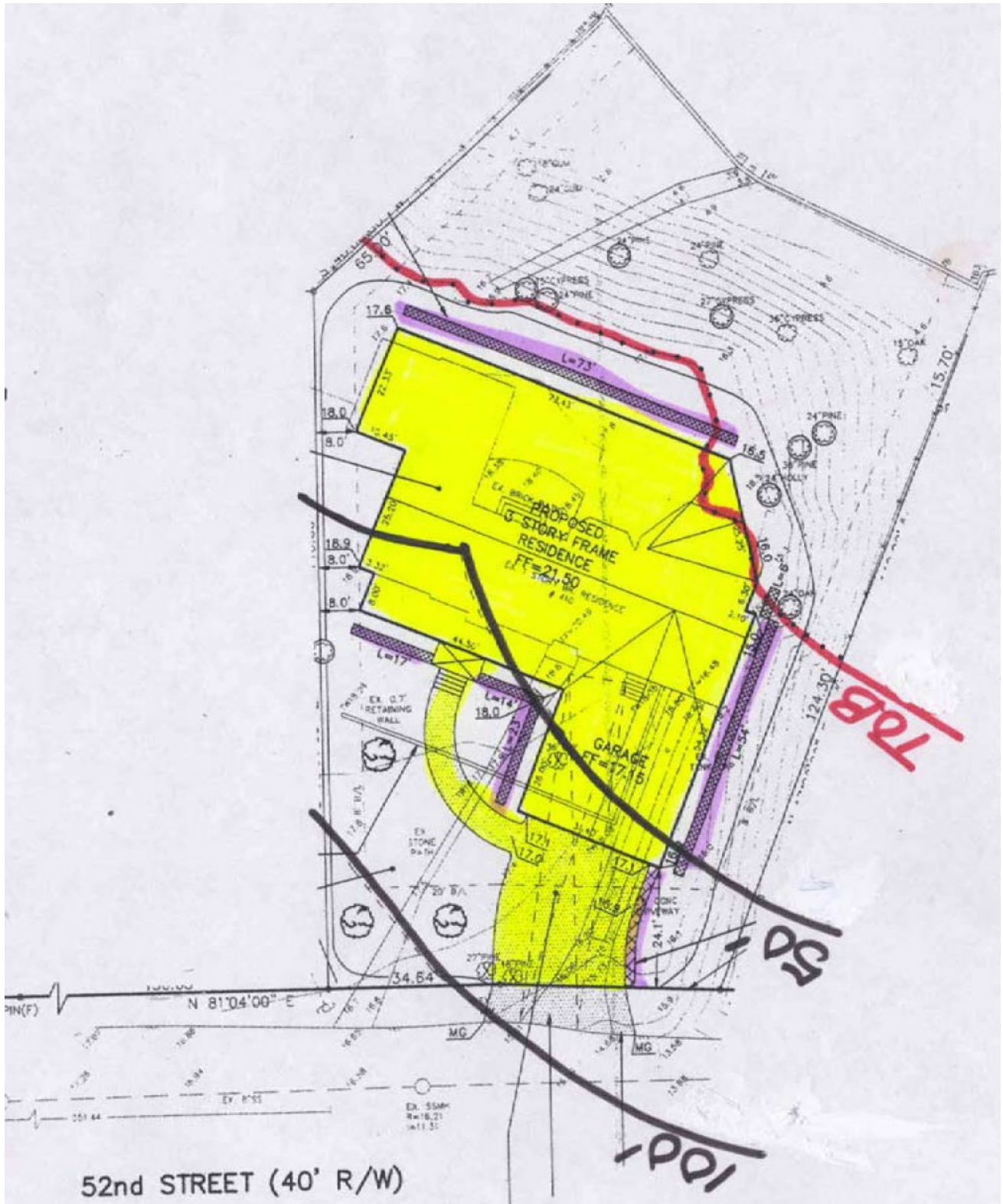
\*\*\*NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section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



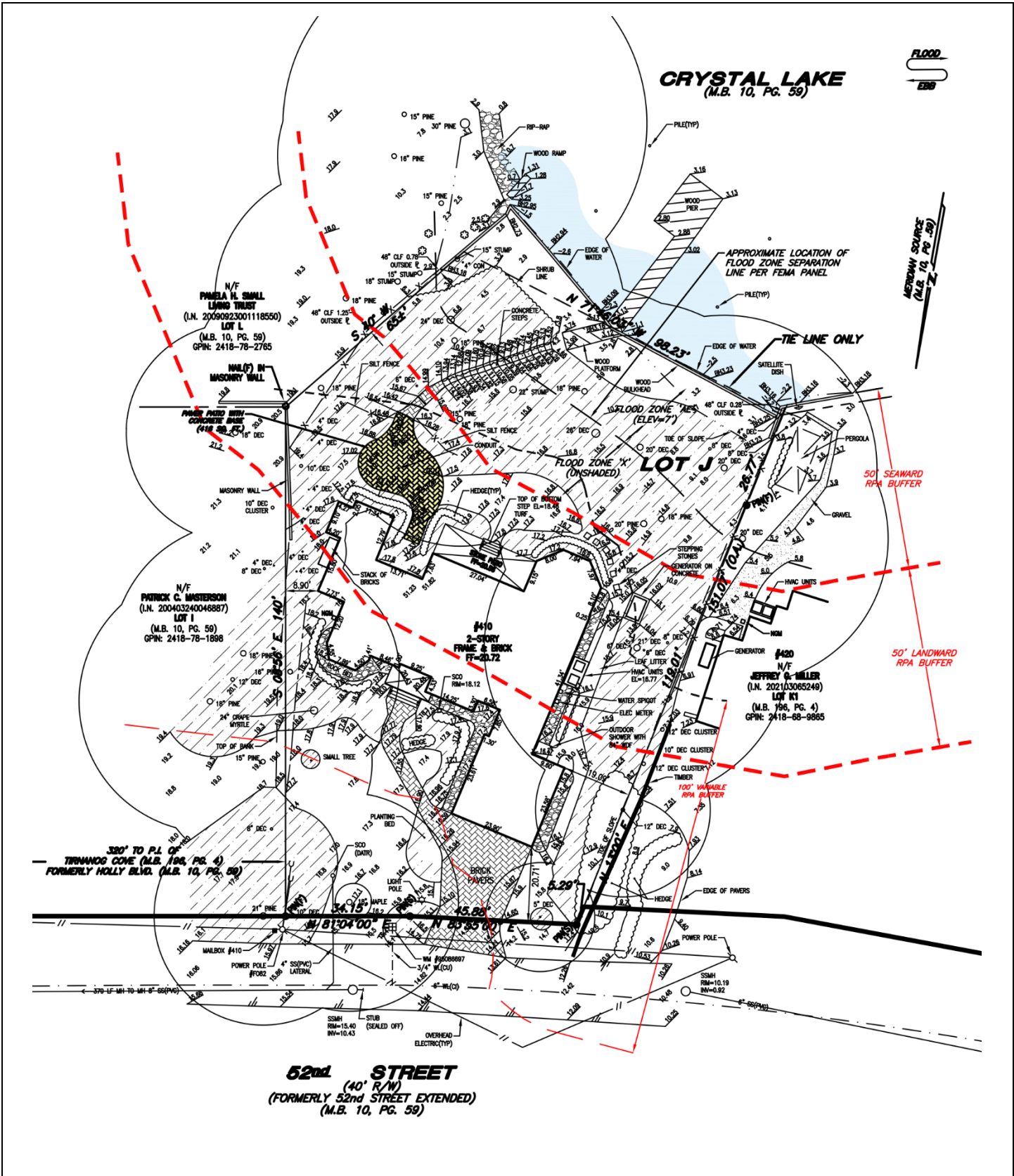
Site Aerial





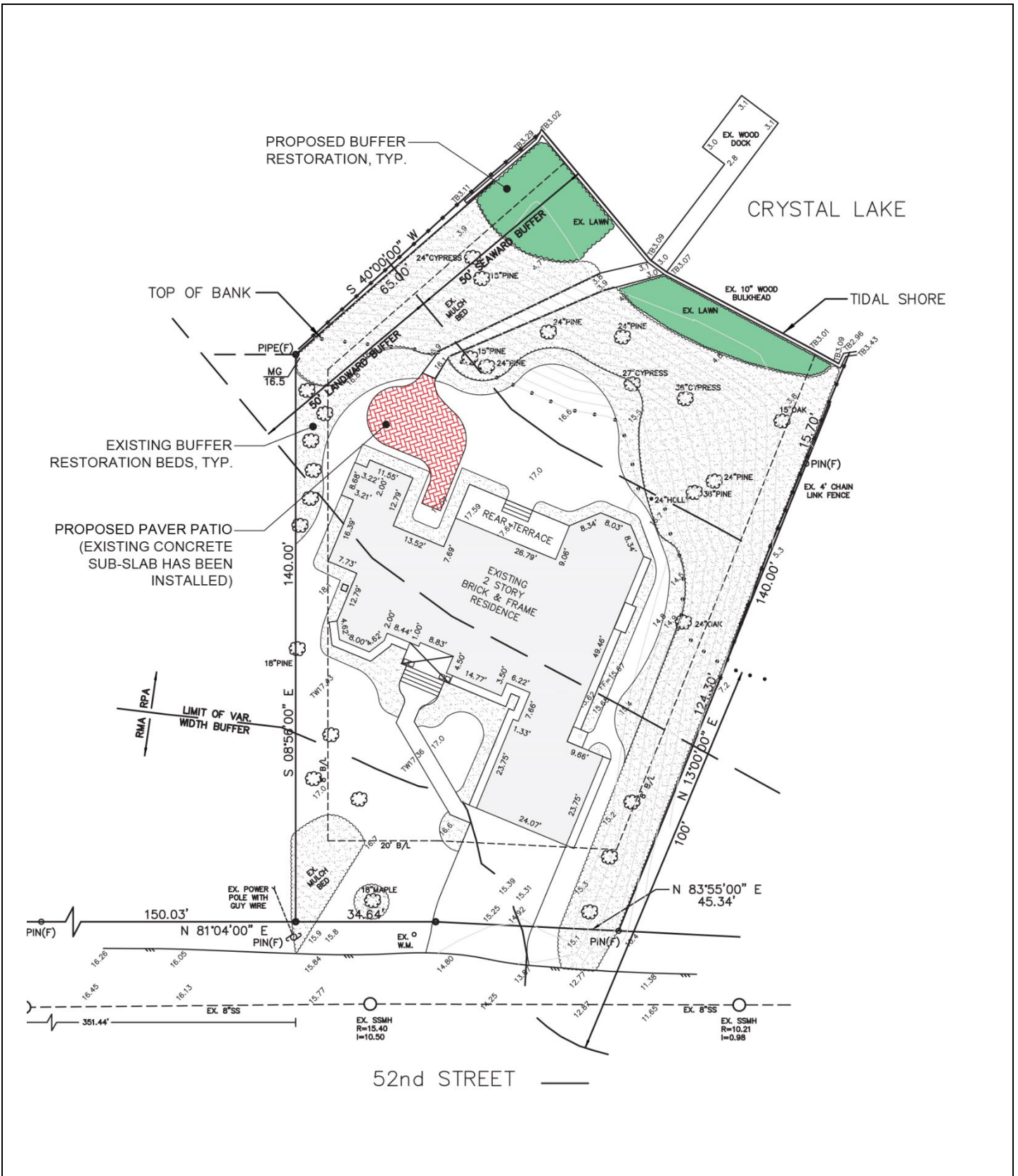


**CBPA Exhibit – Proposed Improvements**





**CBPA Exhibit – Proposed Improvements with Proposed Buffer Restoration Area**





# Disclosure Statement

## Disclosure Statement



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### Applicant Disclosure

**Applicant Name** John W Drescher

**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)

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- If **yes**, list the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

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<sup>1</sup> "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.

<sup>2</sup> "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.

NewTowne Mortgage / *Wells Fargo*

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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.

WPL

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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.

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.

Applicant Signature

John W Drescher

Print Name and Title

05/01/2023

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 **Randall & Donna Stickley**  
 Address **1698 S. Woodside Lane**  
 Public Hearing **June 26, 2023**  
 City Council District **District 8**, formerly Lynnhaven

Agenda Item

**5**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct a building addition with deck, boat shed, walkway, and driveway expansion.

**Applicant's Agent**

Billy Garrington  
 Governmental Permitting Consultant

**Staff Planner**

Cole S. Fisher

**Lot Recordation**

Instrument No. 20190916000783670  
 Recorded 9/12/2002

**GPIN**

1499-33-2431

**SITE AREA**

42,248 square feet or 0.970 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

34,533 square feet or 0.793 acres

**EXISTING IMPERVIOUS COVER OF SITE**

10,251 square feet or 30 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

11,012 square feet or 32 percent of site

**Area of Redevelopment in RPA**

1,646 square feet

**Area of New Development in RPA**

1,030 square feet

**Location of Proposed Impervious Cover**

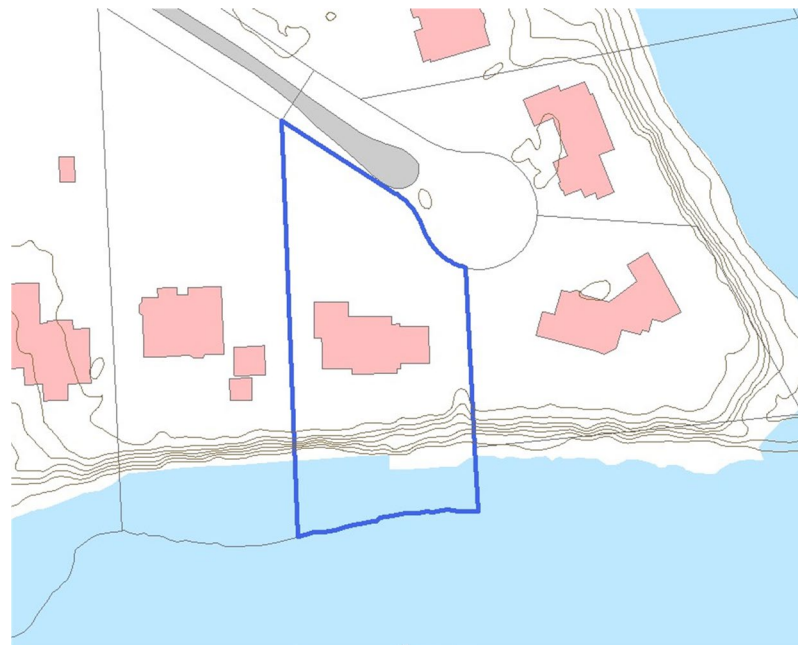
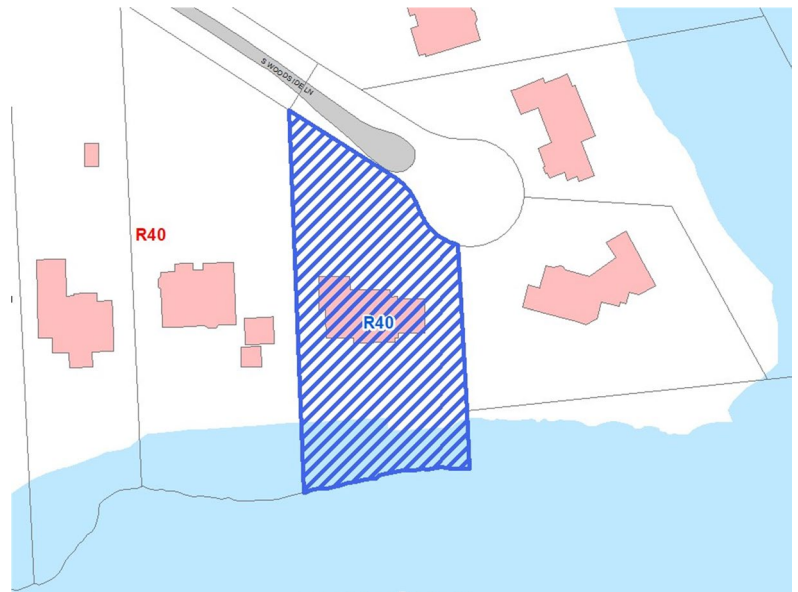
- 50-foot Landward Buffer
- 100-foot Variable Width Buffer
- Resource Management Area (RMA)

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned





## Summary of Proposal

### Demolition Details

- Demolish existing front porch, rear deck, boat shed, and asphalt driveway.

### Construction Details

- Building addition and new front porch
- Sunroom and screened porch over new wood deck
- Replaced boat shed
- New and expanded asphalt 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 and AE, Base Flood Elevation (BFE): 7

### Soil Type(s)

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

### Shoreline

Shoreline is stabilized by a timber bulkhead.

### Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 4
- Evaluation of existing canopy tree removal request: Two of the four trees proposed to be removed are located within the construction footprint. Staff has accounted for the tree removals within the buffer restoration requirements.

## Stormwater Management Methodology

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

## Evaluation and Recommendation

The applicant is proposing to construct a building addition, new sunroom, screened porch, and expanded deck off the rear of the residence, as well as a driveway replacement and expansion. Overall, this request increases the impervious cover on the lot from 10,251 square feet to 11,012 square feet or 30 percent to 32 percent of the lot area above water or wetlands. As shown on the provided CBPA exhibit, much of the new impervious cover within the 100-foot buffer with

this request is due to the redevelopment and expansion of the existing wood deck off the rear of the residence. The proposed building addition off the northeastern portion of the residence is situated within the variable width buffer and the driveway expansions fall within the Resource Management Area (RMA).

The applicant has situated the proposed improvements to include no encroachment within the environmentally sensitive 50-foot seaward buffer of the Resource Protection Area (RPA) and has utilized 1,646 square feet of redevelopment over existing impervious cover with this request. With minimal impacts to the existing riparian buffer, the best management practices and buffer restoration proposed, Staff is of the opinion that this variance request is not a substantial detriment to water quality.

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 prior to the adoption of the Chesapeake Bay Preservation Act. The proposed improvements are in keeping with the development of the neighborhood and adjacent parcels."* 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 *"we have designed the proposed improvements over existing impervious area to the greatest extent practicable for redevelopment and to minimize site impacts."* Staff acknowledges the statement provided by the applicant's agent and is of the opinion that the applicant has demonstrated an understanding towards the findings of the CBPA Ordinance with the proposed size and layout of the improvements.
- 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 does not offer minimum stormwater mitigation for the bay. If approved, the proposed stormwater mitigation will be provided to facilitate treatment from the new improvement."* Staff is of the opinion that the proposed improvements would not pose a substantial detriment to water quality given the location of the lot within the RPA of the Chesapeake Bay watershed and the presence of a mature forest floor seaward of the proposed improvements.
- 5) *"The existing shoreline will be enhanced and expanded upon to compliment the site. Bioretention planting beds will be installed between the improvements and the waterway to achieve stormwater management requirements and will be placed to capture and treat runoff prior to discharging into the river"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion that the applicant's approach to ensure a no net increase in nonpoint source pollution load is acceptable as stated in the Water Quality Impact Assessment (WQIA).

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

## Recommended Conditions

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 3) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,030 square feet x 200 percent = 2,060 square feet.**

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

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

- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 7) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
- 9) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**

- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts not included with this variance request.
- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 13) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
- 14) 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) \*\* 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 \$342.14 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 16) The conditions and approval associated with this variance are based on the exhibit plan dated August 10, 2022, prepared by WPL, signed June 25, 2023 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

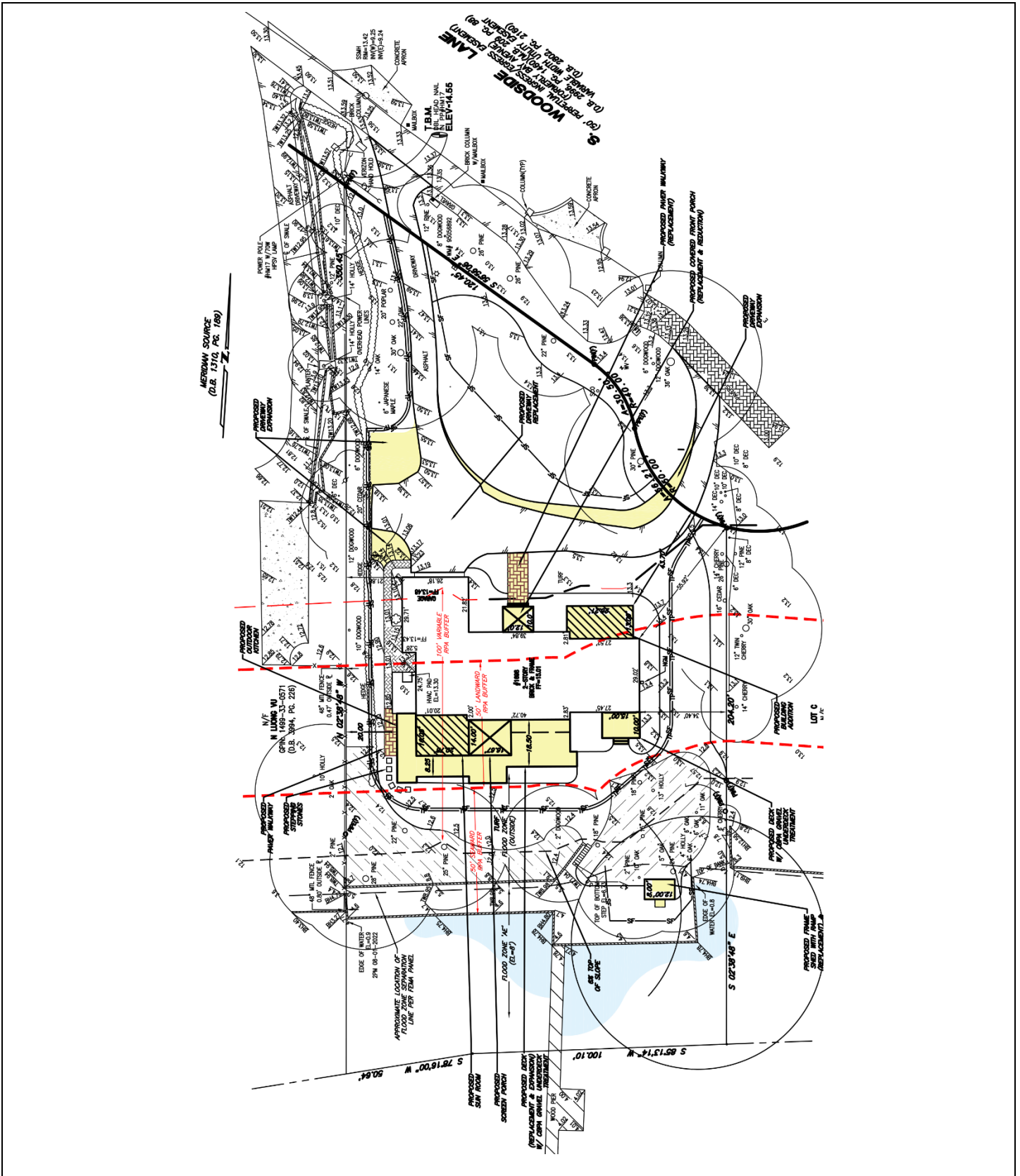


**CBPA Exhibit – Existing Conditions**





# CBPA Exhibit – Proposed Improvements



# CBPA Exhibit – Conceptual Buffer Restoration





# Disclosure Statement

## Disclosure Statement



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

### Applicant Disclosure

**Applicant Name** Donna E Stickley & G Randall Stickley

**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)

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- If **yes**, list the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

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<sup>1</sup> "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.

<sup>2</sup> "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.

Wells Fargo Bank, NA

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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.

Battaglia Design (Greg Battaglia) & WPL

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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.

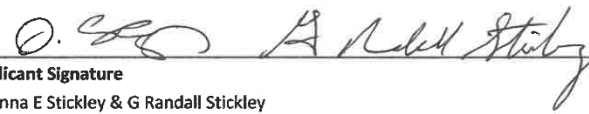
7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**
- If **yes**, identify the firm and individual providing the service.

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.

  
\_\_\_\_\_  
**Applicant Signature**  
Donna E Stickley & G Randall Stickley

**Print Name and Title**  
\_\_\_\_\_  
**Date**  
4/28/2023

- 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 **Aileen Tiro & Liam O'Connor**  
 Address **701 Donham Court**  
 Public Hearing **June 26, 2023**  
 City Council District **District 8**, formerly Lynnhaven

Agenda Item

**6**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct a pool surround, deck, walkway, and sunroom expansion.

**Applicant's Agent**

Jason Thomas  
 Painted Fern Landscape Architects

**Staff Planner**

Cole S. Fisher

**Lot Recordation**

Map Book 95, Page 5  
 Recorded 1/18/1973

**GPIN**

1488-20-6952

**SITE AREA**

88,507 square feet or 2.032 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

43,150 square feet or 0.991 acres

**EXISTING IMPERVIOUS COVER OF SITE**

8,112 square feet or 18.8 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

8,673 square feet or 20 percent of site

**Area of Redevelopment in RPA**

3,512 square feet

**Area of New Development in RPA**

685 square feet

**Location of Proposed Impervious Cover**

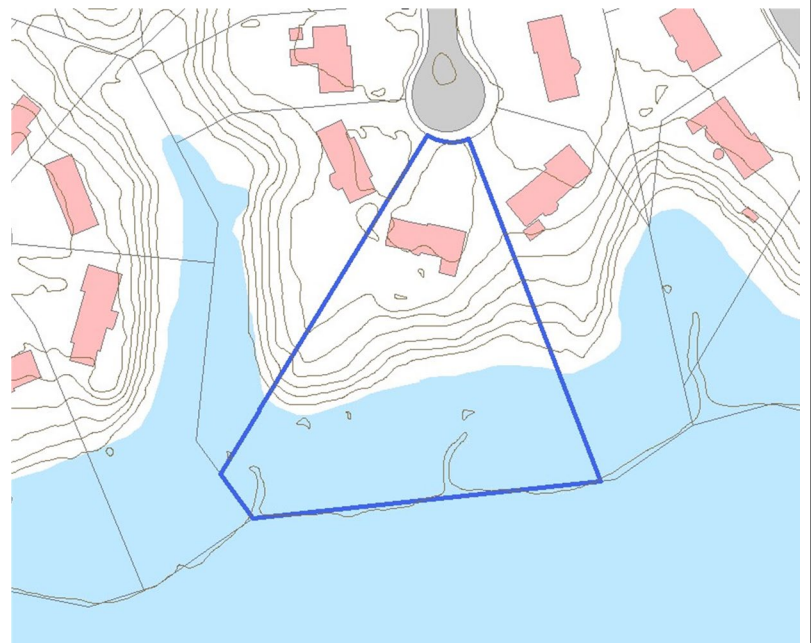
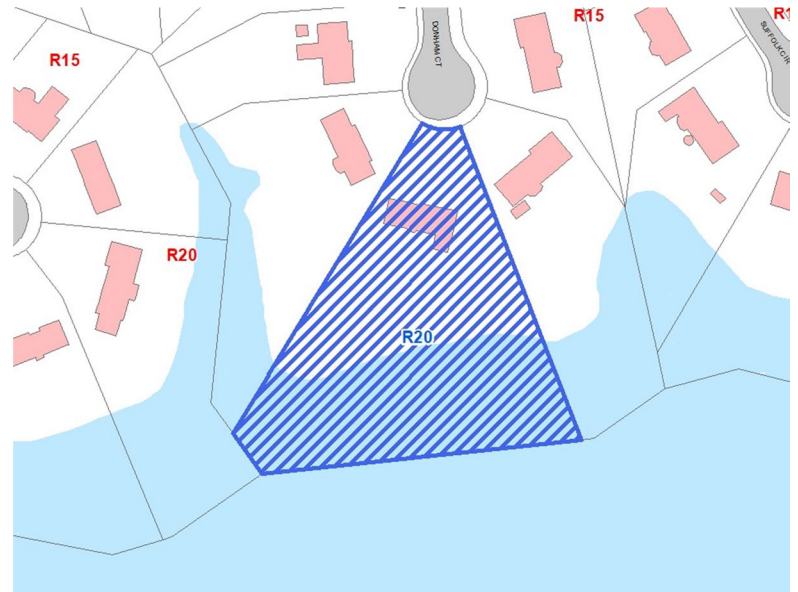
- 50-foot Landward Buffer
- 100-foot Variable Width Buffer
- Resource Management Area (RMA)

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned





## Summary of Proposal

### Demolition Details

- Demolish and renovate existing driveway, deck, pool surround, walkways, and greenhouse.

### Construction Details

- Grill area and outdoor shower
- Swimming pool surround and associated walkway
- Expanded driveway with parking area and walkway redevelopment
- Shed and greenhouse redevelopment

## CBPA Ordinance Variance History

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

## Environmental Conditions

### Flood Zone

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

### Soil Type(s)

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

### Shoreline

Shoreline is in a natural state.

### Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 1
- Evaluation of existing canopy tree removal request: The applicant is proposing to remove one cedar tree in the front yard within the variable width buffer limits.

## Stormwater Management Methodology

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

## Evaluation and Recommendation

The rear yard of this lot has a relatively moderate slope, and a large tidal marsh area extends roughly 150 feet out to the Western Branch of the Lynnhaven River. With this request, the applicant proposes to redevelop and slightly expand the existing concrete driveway and construct a new parking area with slight expansions to the redeveloped front walkway.

Aileen Tiro & Liam O'Connor

Agenda Item 6

Page 66

In the rear yard of the lot, the applicant proposes to redevelop and slightly expand the existing accessory structures, including the deck and new sunroom area, rear walkway, pool surround, and greenhouse. Additionally, a new shed is proposed to be constructed outboard of the 100-foot buffer in the rear yard to accommodate for storage of yard equipment.

With the redevelopment of this lot, the overall impervious cover increases from 18 percent to 20 percent of the lot area above water or wetlands and introduces 685 square feet of new impervious cover on the lot. Staff is of the opinion that the applicant has designed the proposed improvements on the lot to minimize impacts to the Resource Protection Area (RPA). In addition, the applicant has utilized redevelopment over existing impervious cover resulting in 3,512 square feet of redevelopment with this request as well as 469 square feet of impervious cover converted to pervious cover. Given the utilization of redevelopment, the layout of the proposed improvements, and two different best management practices coupled with the required buffer restoration, 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 and the Variable Width Buffer encumbers a large area of this lot. Proposed improvements occur adjacent to existing impervious, and all is outside 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, nearly all improvements work their way landward from their existing conditions and the total percentage of impervious is only 20.1%. 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 the proposed improvements utilize redevelopment of the existing impervious cover on the lot to the greatest extent practicable and removes impervious cover from 100-foot RPA buffer.
- 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, canopy trees, leaf litter and some existing impervious cover. With the possible exception of 6"x6" timber steps, all proposed improvements occur outside the 50' Seaward Buffer and have been located only within the 50' landward and variable width buffers 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 introduces little impervious cover within the 100-foot

buffer and utilizes redevelopment over existing impervious cover while providing new best management practices and buffer restoration on the lot.

- 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 and some timber terraced steps that should aid in slowing the velocity of stormwater leaving the site while 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 the best management practices coupled with the required buffer restoration provides merit towards a no net increase in nonpoint source pollution load with this variance request.

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

### Recommended Conditions

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 3) **1,435 square feet** of buffer restoration shall be installed within the RPA on the lot.

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

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

- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.

- 7) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
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- 13) 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.
- 14) **\*\*** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$156.97 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 15) The conditions and approval associated with this variance are based on the exhibit plan dated May 1, 2023, prepared by Painted Fern Landscape Architecture, signed May 1, 2023 by Jason M. Thomas. 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 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.

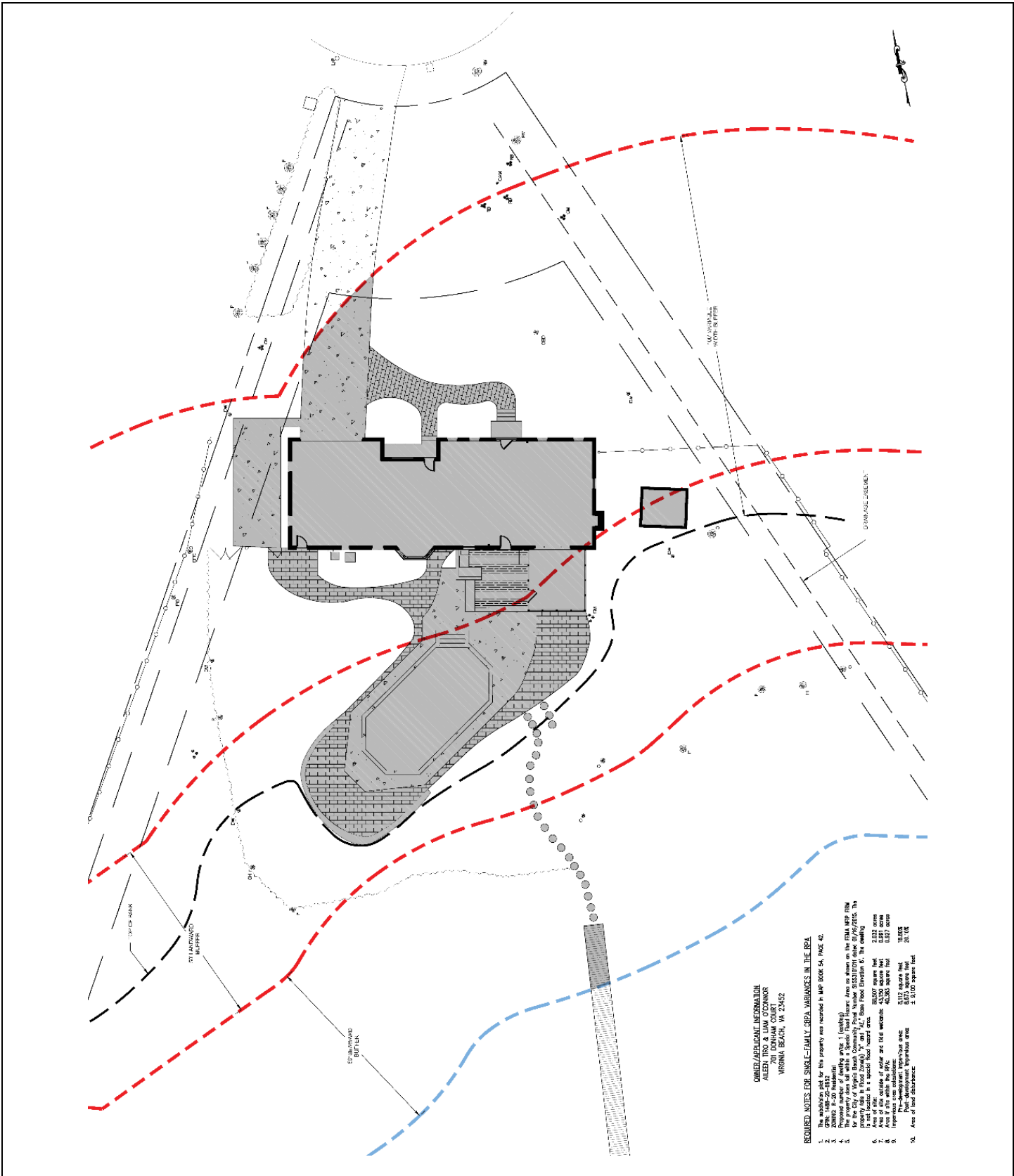
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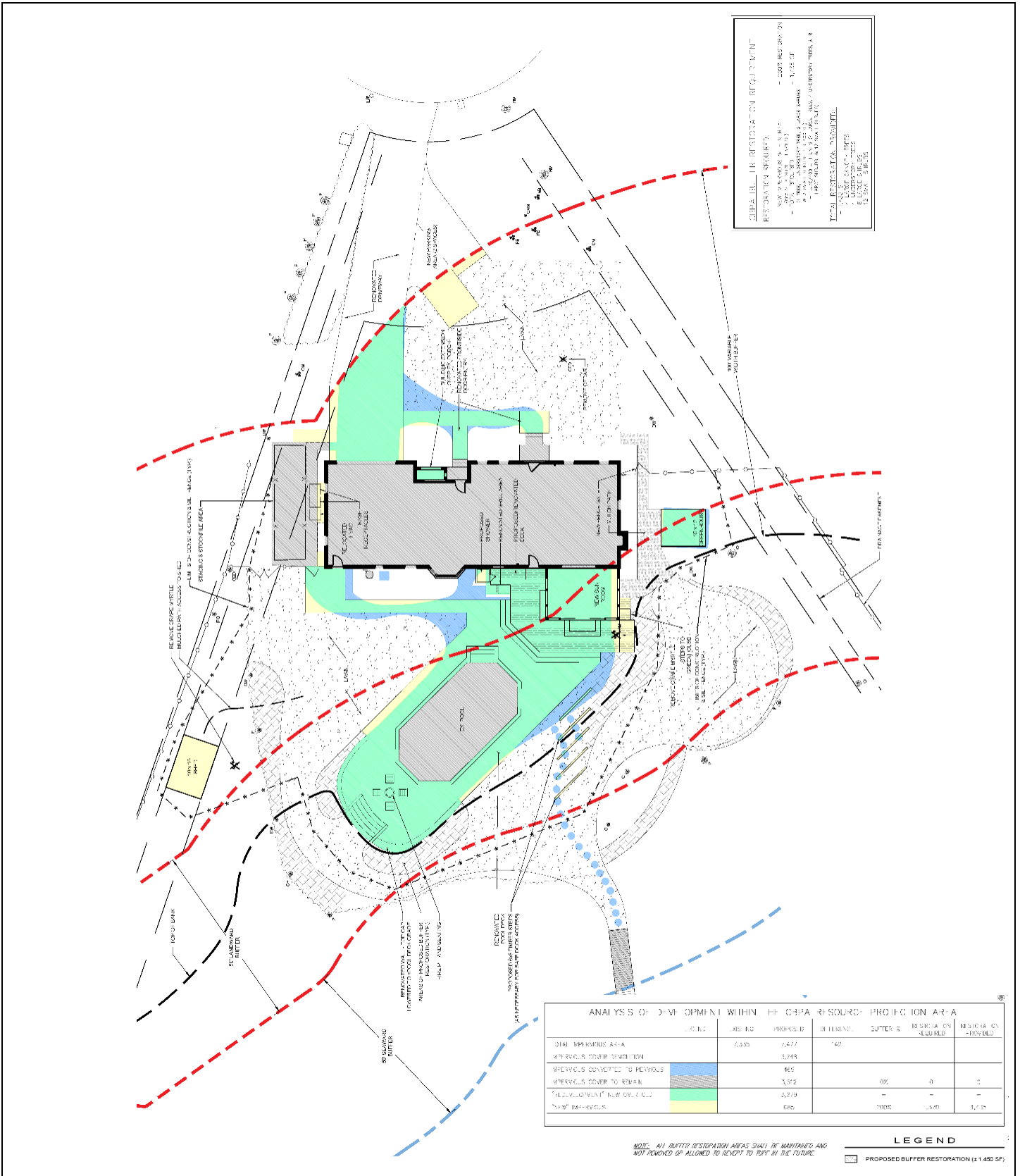
Site Aerial



# CBPA Exhibit – Existing Conditions



# CBPA Exhibit – Proposed Improvements





# Disclosure Statement

## Disclosure Statement



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### Applicant Disclosure

**Applicant Name** Aileen Tiro & Liam O'Connor

**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)

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- If **yes**, list the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

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# 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?

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## 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.

Truist Bank

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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.

Jason Thomas, PLA with Painted Fern

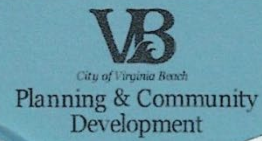
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5. Is there any other **pending or proposed purchaser** of the subject property?  Yes  No

- 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.  
Nick Nestor with Oceanside Structures

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

---

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

### Applicant Signature

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

*[Handwritten Signature]*  
**Applicant Signature**  
 Aileen Tiro      Liam O'Connor      Homeowners  
**Print Name and Title**  
 5/1/2023      5/1/2023  
**Date**

- Is the applicant also the owner of the subject property?  **Yes**  **No**
- If **yes**, you do not need to fill out the owner disclosure statement.

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

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

AS NEEDED, PAGE LEFT BLANK