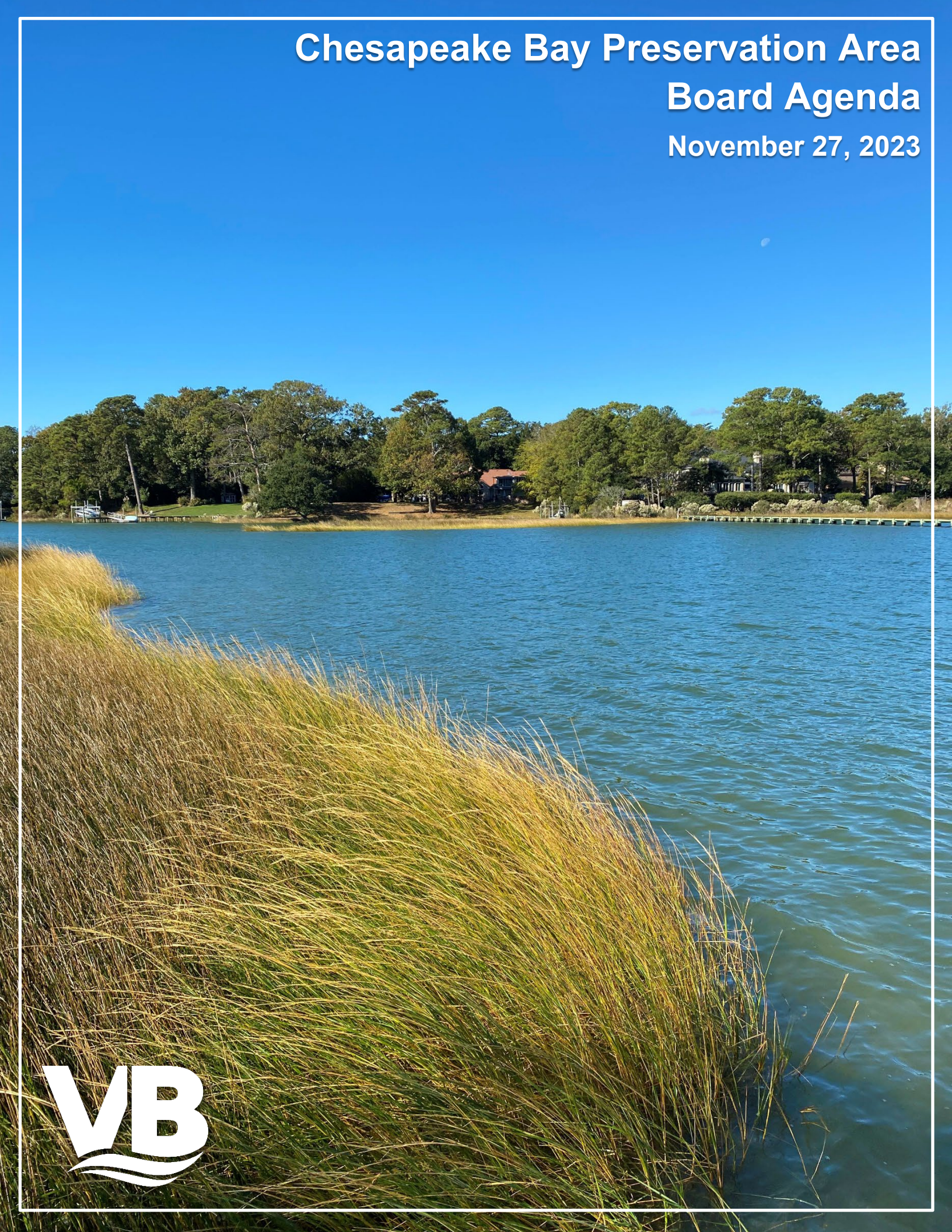


Chesapeake Bay Preservation Area Board Agenda November 27, 2023



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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, November 27, 2023** at 10:00 a.m. in the City 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 or visit the Department of Planning and Community Development, 2875 Sabre Street, Suite 500, Virginia Beach, Virginia by appointment.

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

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

THE FOLLOWING DESCRIBES THE ORDER OF BUSINESS FOR THE PUBLIC HEARING

(IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT A STAFF MEMBER VIA EMAIL (pscully@vbgov.com) OR CALL THE DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT AT 757-385-4621).

1. **DEFERRALS:** The first order of business is the consideration of requests to defer an item. The Board will ask those in attendance at the hearing if there are any requests to defer an item that is on the agenda. PLEASE NOTE THE REQUESTS THAT ARE MADE, AS ONE OF THE ITEMS BEING DEFERRED MAY BE THE ITEM THAT YOU HAVE AN INTEREST IN.

If an item is deferred, a deferral date will be determined at the public hearing. Typically, deferrals range from thirty (30) to sixty (60) days or may be deferred indefinitely. The Board will vote on all the items deferred individually. It is important, therefore, if you have an objection to an item being deferred to note your objection as the Board goes through the items being considered for deferral.

2. **CONSENT AGENDA:** The second order of business is consideration of the "consent agenda." The consent agenda contains those items:
 - a. that the Board believes are unopposed and
 - b. which have a favorable Staff recommendation.

If an item is placed on the Consent Agenda, that item will be heard with other items on the agenda that appear to be unopposed and have a favorable staff recommendation. The Board will vote on all the items at one time. Once the Board has approved the item as part of the Consent Agenda, the variance request is granted and will not be discussed any further. It is important, therefore, if you have an objection to an item being placed on the Consent Agenda to note your objection as the Board goes through the items being considered for the Consent Agenda.

Process for the Consent Agenda:

- The Board will announce the item number and item title being considered for inclusion on the Consent Agenda.
- The Board will ask if there is anyone in the audience representing the item, and if so, ask them to go up to the podium and state their name for the record.
- The Board will ask the representative of the item if they are aware of the conditions and if they agree to the conditions.
- The Board will then ask if there is anyone in the audience in opposition to the item. If you are opposed to the item, stand or raise your hand to let the Board know.
- If the item is opposed, it will be removed from the consent agenda and heard in its normal place on the agenda.
- After the Board has gone through all the items that it believes should be on the Consent Agenda, it will vote at one time for all the items, announcing the number of each item being voted on. Pay attention to the list of items being voted on.

3. **REGULAR AGENDA:** The Board will then proceed with the remaining items on the agenda, according to the following process:

- a. The applicant or applicant's representative will have 10 minutes to present its case.
- b. Next, those who wish to speak in support to the application will have 3 minutes to present their case.
- c. If there is a spokesperson for the opposition, he or she will have 10 minutes to present their case.
- d. All other speakers not represented by the spokesperson in opposition will have 3 minutes.
- e. The applicant or applicant's representative will then have 3 minutes for rebuttal of any comments from the opposition.
- f. There is then discussion among the Board members. No further public comment will be heard at that point. The Board may, however, allow additional comments from the opposition if a member of the Board sponsors the opposition. Normally, you will be sponsored only if it appears that new information is available, and the time will be limited to 3 minutes.
- g. The Board does not allow slide or computer-generated projections other than those prepared by the Department of Planning and Community Development Staff.

The Board asks that speakers not be repetitive or redundant in their comments. Do not repeat something that someone else has already stated. Petitions may be presented and are encouraged. If you are part of a group, the Board requests, in the interest of time, that you use as a spokesperson, and the spokesperson is encouraged to have his or her supporters stand to indicate their support.

Those members of the public interested in speaking in support or in opposition to an agenda item shall be limited to 3 minutes in which to address the Board. At the discretion of the Board Chair, this time may be increased to 5 minutes. Speakers will be electronically timed.

If you require reasonable accommodation for this meeting due to a disability, please call the Department of Planning and Community Development at (757) 385-4621. If hearing impaired, you may contact Virginia Relay at 711 for TDD services.



CHESAPEAKE BAY PRESERVATION AREA BOARD AGENDA

Public Hearing Date **November 27, 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. For information call (757) 385-4621.

NEW BUSINESS AGENDA ITEMS

1. Edward & Rebecca Downs
[Applicants & Property Owners]

2912 Buccaneer Road
GPIN 1499-38-0320
City Council District: District 8
Accela Record: 2023-CBPA-00051

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

Staff Planner – Cole Fisher
Staff Report – page 7

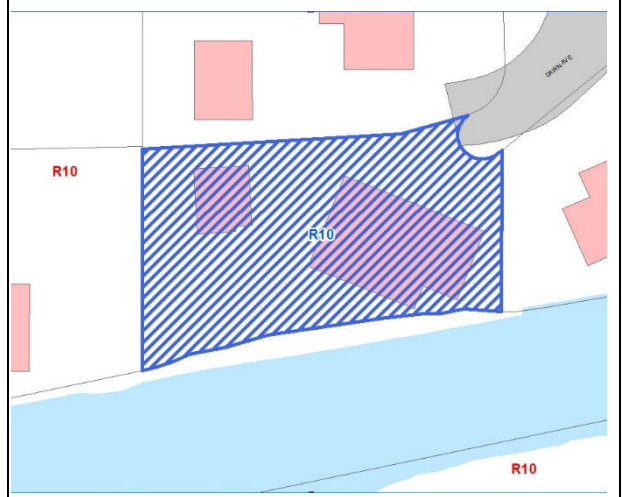


2. Richard & Theresa Shapiro
[Applicants & Property Owners]

2101 Dawn Avenue
GPIN 1499-28-0691
City Council District: District 8
Accela Record: 2023-CBPA-00053

Variance Request – Encroachment into the RPA to construct a building addition.

Staff Planner – Cole Fisher
Staff Report – page 19



NEW BUSINESS AGENDA ITEMS (CONTINUED)

3. Gregory & Christine Provencher [Applicants & Property Owners]

565 Susan Constant Drive
GPIN 2419-31-3464
City Council District: District 6
Accela Record: 2023-CBPA-00052

Variance Request – Encroachment into the RPA to remove 22 canopy trees.

Staff Planner – Cole Fisher
Staff Report – page 29

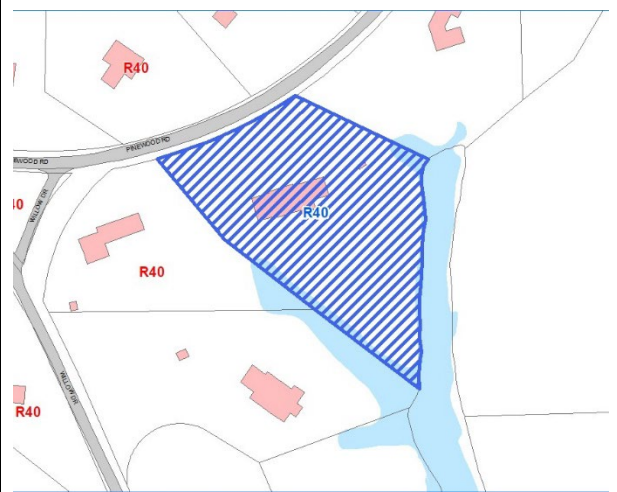


4. Joe Petersen & Marcy Draper [Applicants & Property Owners]

148 Pinewood Road
GPIN 2418-73-9753
City Council District: District 6
Accela Record: 2023-CBPA-00054

Variance Request – Encroachment into the RPA to remove 22 canopy trees.

Staff Planner – Cole Fisher
Staff Report – page 39

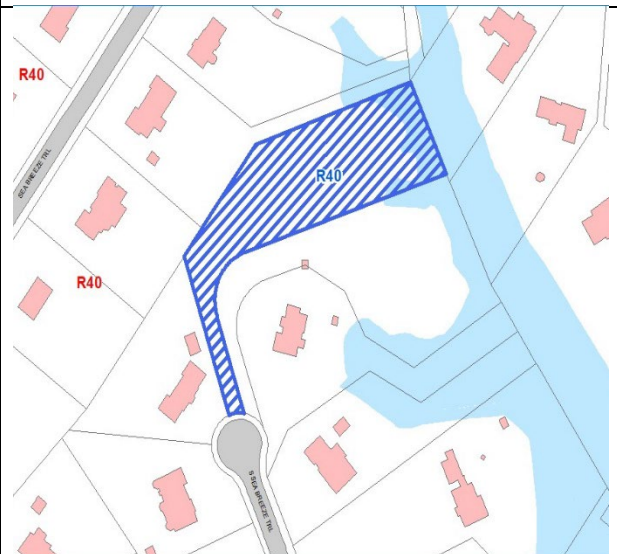


5. Joshua & Jamie Bondurant [Applicants & Property Owners]

Lot 57, Subdivision of Sea Breeze Farm
GPIN 1489-60-7684
City Council District: District 8
Accela Record: 2023-CBPA-00055

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

Staff Planner – Cole Fisher
Staff Report – page 51



NEW BUSINESS AGENDA ITEMS (CONTINUED)

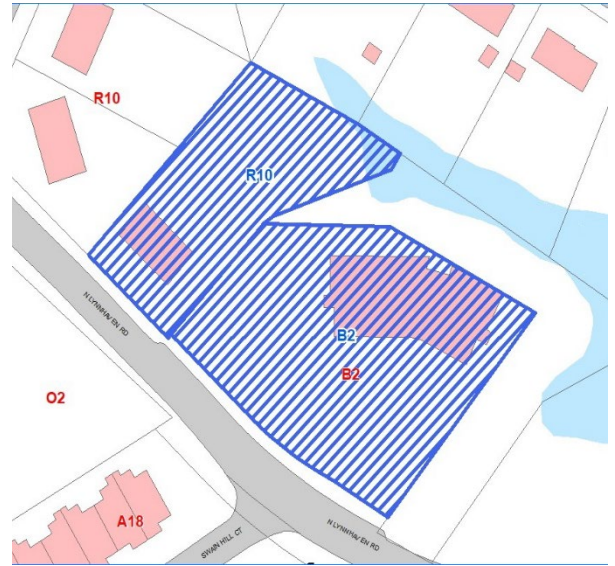
6. Stewart Investments, LLC
[Applicant & Property Owner]

2940 & 2950 N. Lynnhaven Road
GPINs 1497-26-4306 & 1497-26-2489
City Council District: District 8

Accela Record: 2023-CBPA-00056

Variance Request – Encroachment into the RPA to construct a two-story commercial office building with associated accessory structures and sidewalks.

Staff Planner – Cole Fisher
Staff Report – page 63



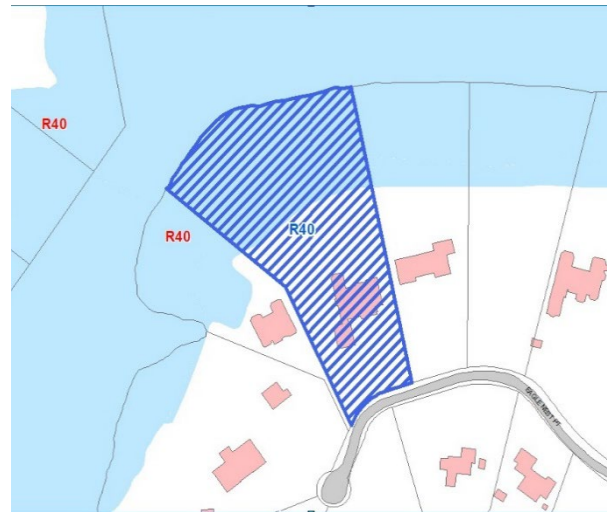
7. John & Maria Motta
[Applicants & Property Owners]

3380 Eagle Nest Point
GPIN 1489-81-4025
City Council District: District 8

Accela Record: 2023-CBPA-00057

Variance Request – Encroachment into the RPA to construct tiered retaining walls and permeable paver patio.

Staff Planner – Cole Fisher
Staff Report – page 79



8. Lynn & Michael Kaufman
[Applicants & Property Owners]

2124 E. Admiral Drive
GPIN 1499-89-2675
City Council District: District 8

Accela Record: 2023-CBPA-00060

Variance Request – Encroachment into the RPA to construct a building addition and relocate hot tub.

Staff Planner – Cole Fisher
Staff Report – page 95



RESTORATION HEARING

9. Christina Minton
[Applicant & Property Owner]

2212 Leeward Shore Drive
GPIN 2409-29-0640
City Council District: District 8

Accela Record: 2023-CBPV-00003

Statement of Noncompliance – Unauthorized development within the RPA with the redevelopment and expansion of accessory structures.

Staff Planner – Cole Fisher
Staff Report – page 105



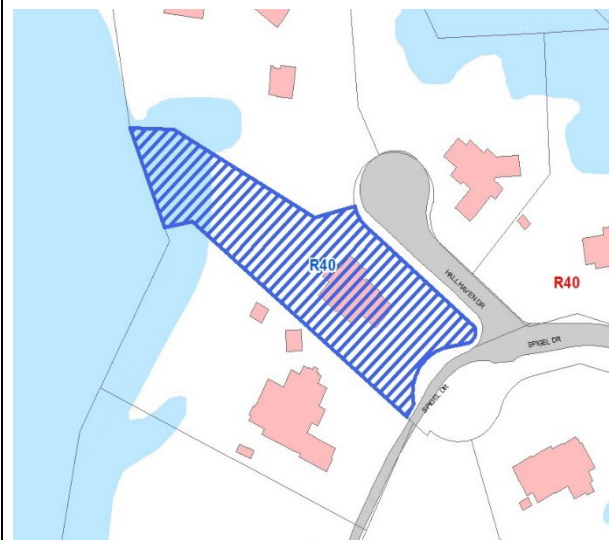
SHOW CAUSE HEARING

10. Nilkanth and Kalpana Patel
[Applicants & Property Owners]

909 Hall Haven Drive
GPIN 1498-42-6983
City Council District: District 8
Accela Record: 2022-CBPV-00004

Statement of Noncompliance – Unauthorized development within the Resource Protection Area (RPA) with the expansion of existing accessory structures.

Staff Planner – Cole Fisher
Staff Report – Page 115



TENTATIVE 2024 CBPA BOARD PUBLIC HEARING DATES

Monday **January 22**
Monday **February 26**
Monday **March 25**
Monday **April 22**
Monday **May 30**
Monday **June 24**

Monday **July 22**
Monday **August 26**
Monday **September 23**
Monday **October 28**
Monday **November 25**
Thursday **December 19**



Applicant & Property Owner **Edward & Rebecca Downs**
 Address **2912 Buccaneer Road**
 Public Hearing **November 27, 2023**
 City Council District **District 8**

Agenda Item

1

Variance Request

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

Applicant’s Agent

Self-represented

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 44, Page 53
 Recorded 04/23/1958

GPIN

1499-38-0320

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

264 square feet

Location of Proposed Impervious Cover

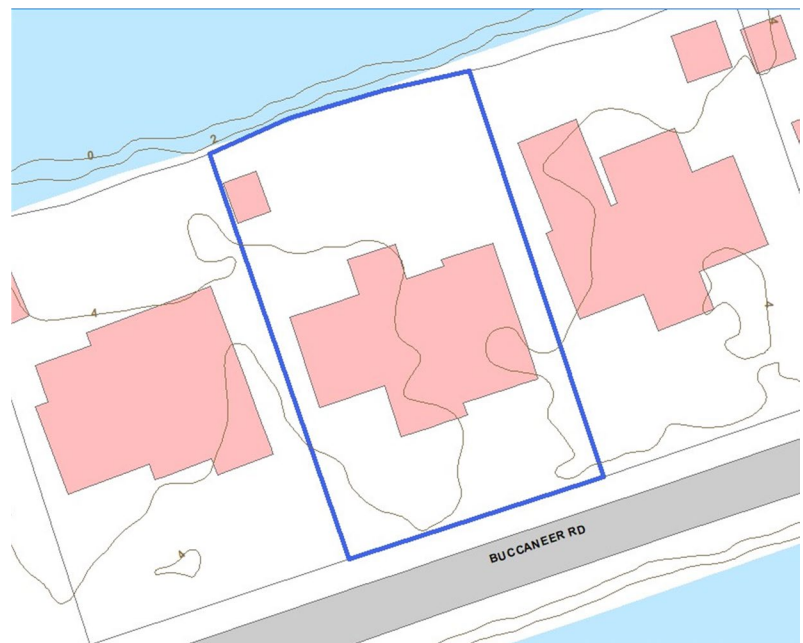
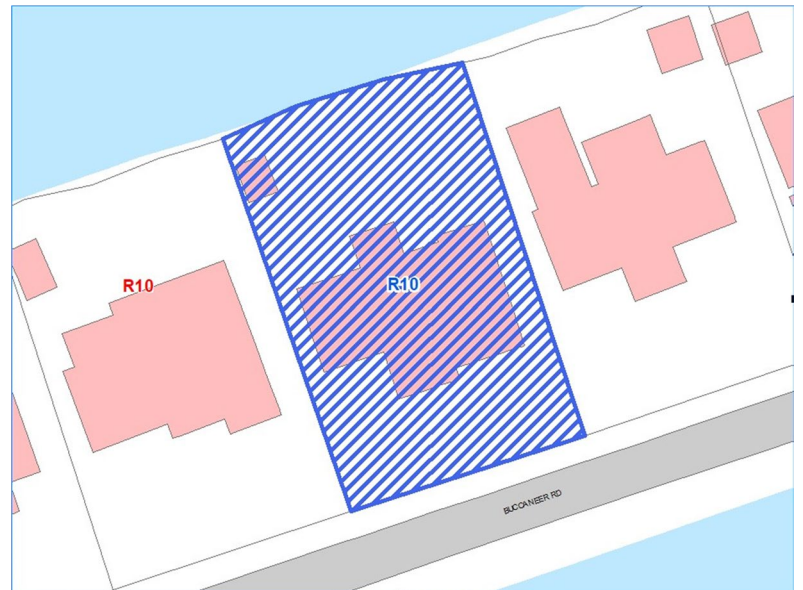
50-foot Seaward Buffer
 50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- Wood deck – 12 feet by 22 feet

CBPA Ordinance Variance History

December 21, 2006, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a two-story room addition, concrete patio, concrete driveway, screened porch, oyster shell walk, covered front porch and wood deck with the following conditions:

1. *A pre-construction meeting shall be convened with Civil Inspections prior to any land disturbance, inclusive of demolition.*
2. *Wire reinforced 36" erosion and sedimentation control measures (silt fences) shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established.*
3. *Permanent and / or temporary soil stabilization as determined by staff shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy.*
4. *Construction limits shall lie a maximum of 15' seaward of improvements.*
5. *The construction access way shall be noted on the site plan, as well as the stockpile staging area.*
6. *Stormwater from existing and proposed impervious cover shall be conveyed to stormwater management facilities.*
7. *If and when the shoreline is hardened, a rip-rap revetment or vinyl vertical retaining structure shall be constructed. The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands. Said condition shall be so noted on the site plan.*
8. *Under deck treatment of sand and gravel shall be installed.*
9. ***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 \$95.00 and is based on 25% of the proposed impervious cover. Said payment shall provide for the equivalent of an approximate 104 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
10. *Restoration shall be as shown on the revised site plan dated December 8, 2006, prepared by WPL and shall utilize bayscape landscaping principles. The required restoration shall employ a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained as such and not removed or allowed to revert to turf in the future. In addition to the aforementioned buffer restoration area, a minimum of sixteen (16) trees shall be installed and shall be comprised of 50% deciduous and 50% evergreen species. The required trees shall be evenly distributed throughout the lot to the greatest extent practicable. Said restoration shall be installed prior to the final building inspection. Said condition shall be so noted on the site plan.*
11. *A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed. The landscape plan shall clearly delineate existing naturalized area (forest floor), planting beds, and turf zones.*

12. *The conditions and approval associated with this variance are based on the site plan dated September 7, 2006, revised (with no revision date given), prepared by WPL.*
13. *A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.*
14. *The Board's opinion is that these improvements represent the maximum impervious cover that this lot can sustain.*

The December 21, 2006 Board granted variance has been acted upon and the associated improvements constructed.

Environmental Conditions

Flood Zone

Zone AE, Base Flood Elevation (BFE): 7

Soil Type(s)

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

Shoreline

Shoreline is stabilized by a wooden bulkhead.

Riparian Buffer

Moderately to sparsely wooded lot

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

Stormwater Management Methodology

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

Evaluation and Recommendation

The applicant is proposing to construct a 264 square foot wood deck off the rear of the residence within upper limits of the 50-foot seaward and 50-foot landward buffers of the Resource Protection Area (RPA). The topography of the lot is relatively flat with an elevation of approximately four (4) feet above sea level with an underlying soil composition of marine sand. The proposed wood deck would be at an elevation of approximately 5.5 feet with access to and from the existing single-family residence from an existing porch. Staff is of the opinion that the proposed deck would not be of substantial detriment to the water quality of the Chesapeake Bay and that the applicant has brought forth a reasonably sized deck immediately adjacent to the existing residence to minimize encroachment within the 100-foot RPA buffer.

Should the Board desire to consider granting this variance request, the following comments relative to the findings of the CBPA Ordinance specific to this variance request are offered by the applicant 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 *“to our knowledge, the request is for something that is regularly approved.”* Staff adds that should the Board grant the variance to encroach into the RPA for the wood deck, that a special privilege will not be afforded to the applicant that other property owners in the neighborhood have been similarly afforded with the improvement of lots that were platted and single-family residences constructed prior to the adoption of the Chesapeake Bay Preservation Area (CBPA) Ordinance.

- 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 request seems reasonable to the size of the lot and location of the proposed deck.”* Staff offers that this lot was platted prior to the adoption of the CBPA Ordinance, therefore, portions of this lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *“we initially intended to have a larger deck, but we reduced the size given we are within the CBPA buffer.”* Staff is of the opinion that the size of the deck is modest and the applicant has taken means to reduce impacts to the RPA.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *“we have opted minimally footing and dirt replacement silt fence no cylinder footings rather than continuous. We will use building products that will last.”* Staff is of the opinion that given the minimal land disturbance and condition that addresses underdeck treatment that the variance request will not be of substantial detriment to water quality.
- 5) *“Minimize concrete and elevation and future runoff of natural decking instead of plastic”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion that the deck will not contribute to nonpoint source pollution load into the waterway.

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

Recommended Conditions

1. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.
2. 400 square feet of buffer restoration shall be installed within the RPA.

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

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

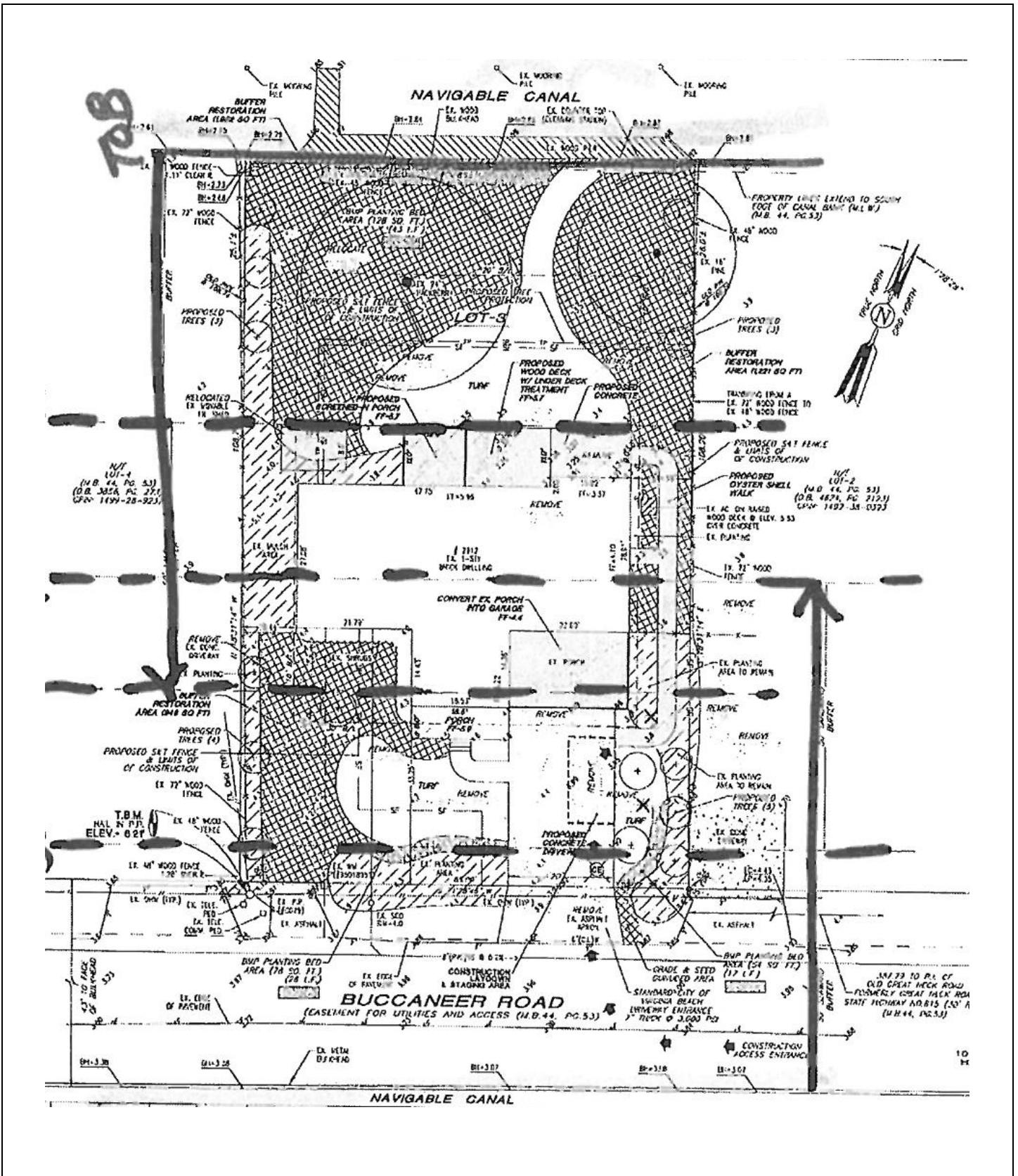
The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

3. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
4. Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
5. Under deck treatment of sand and gravel shall be installed.
6. This variance and associated conditions **are in addition to** the conditions of the Board variance granted December 21, 2006.

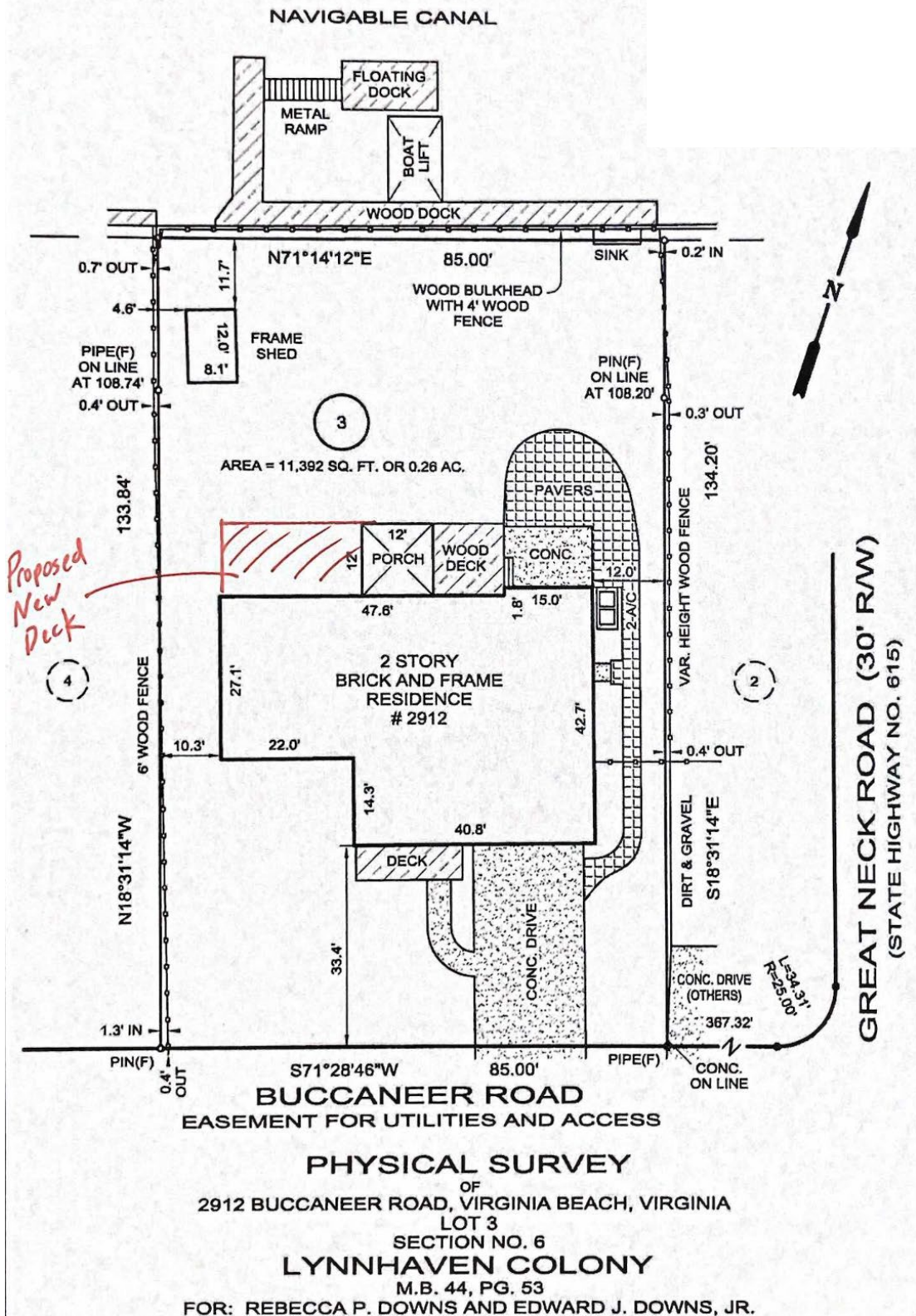
***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section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

Site Aerial





CBPA Exhibit – Proposed Improvements



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 Jayson and Paige Downs

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

Brian Hutchinson - CoVA

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

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

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

Yes No

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

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

Yes No

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

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

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

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

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

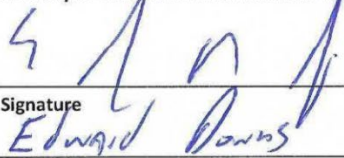
5. Is there any other **pending or proposed purchaser** of the subject property? Yes No

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

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

Applicant Signature

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


 Applicant Signature
 Edward Downs

Print Name and Title
 09/09/2023

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



Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct building addition.

Applicant's Agent

Self-represented

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 2710, Page 831
 Recorded 02/16/1988

GPIN

1499-28-0691

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

384 square feet

Area of New Development in RPA

206 square feet

Location of Proposed Impervious Cover

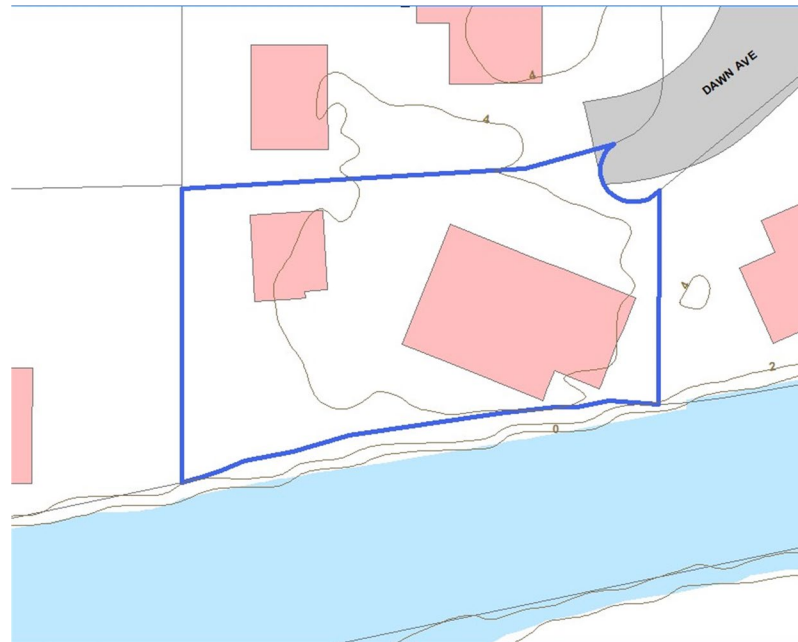
50-foot Seaward Buffer
 50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- Two-story building addition – approximately 20 feet x 30 feet

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Zone AE, Base Flood Elevation (BFE): Seven (7) feet above sea level. Per the site plan provided with this variance request, the finished floor (FF) elevation of the single-family residence is at an elevation of 7.60 feet above sea level. Construction of the addition to the existing residence will be required to meet the provision of the city's Floodplain Ordinance, specifically Section 4.3, elevation and construction requirements and substantial improvements determinations.

Soil Type(s)

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

Shoreline

Shoreline is stabilized by a wooden 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 applicant is proposing to construct a two-story building addition within the 50-foot seaward buffer and 50-foot landward buffer of the Resource Protection Area (RPA). Approximately 384 square feet of the proposed addition constitutes redevelopment with approximately 206 square feet of the new addition expanding beyond the footprint of the existing residence and over an area of existing turf and planting beds. Staff is of the opinion that a hardship exists to redevelop the lot given that the 50-foot seaward buffer encompasses the majority of the existing single-family residence. Additionally, the proposal introduces minimal new impervious cover within the Resource Protection Area (RPA) and the remaining areas will be converted to buffer restoration to ensure a no net increase in nonpoint source pollution load.

Should the Board desire to consider granting this variance request, the following comments relative to the findings of the CBPA Ordinance specific to this variance request are offered by the applicant 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 modest expansion of the one side of the residence, of 210 sq. feet, combined with the additional planted vegetation, will not confer any special privileges."* Staff acknowledges the statement provided by the applicant and adds that similar improvements are found on adjacent properties throughout 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 *"residence is only 2,000 sq. ft. on 1/4 acre lot, daughter and husband and baby may move in with us, minimal expansion provides one more bedroom."* Staff is of the opinion that the applicant has utilized redevelopment to the greatest extent practicable to limit the amount of new impervious cover introduced on the lot with this variance request.
- 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 *"contractor will clean area each day, erect silt fence and plastic fence surrounding work area to minimize any runoff and to protect water quality."* Staff adds that additional buffer restoration will be planted throughout the lot in associated with the minimal new impervious cover with the request.
- 5) *"The 210 sq. feet of the addition includes three shrubs situated besides the existing residence, and owner will plant a combination of vegetation in excess of this number. Silt fence will be added along bulkhead area"* 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 20, 2019, prepared by Hoggard-Eure Associates, P.C., signed September 22, 2023 by J. Stephen Ferguson. 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. 400 square feet of buffer restoration shall be installed within the RPA.

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 understory trees, 2 large shrubs, and 3 small shrubs.**

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

3. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
4. Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 10 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
7. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
8. No perimeter fill is authorized outboard or seaward of the proposed improvements.

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

Site Aerial



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 Richard N. Shapiro

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

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

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

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

Yes No

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

PennyMac, Los Angeles, CA

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.
Becraft Plastering, 5720 Princess Anne Road, VB, VA

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.
Hoggard-Eure Surveying

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
Richard N. Shapiro

Print Name and Title
August 30, 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



Applicant & Property Owner **Gregory & Christine Provencher**
 Address **565 Susan Constant Drive**
 Public Hearing **November 27, 2023**
 City Council District **District 6**

Agenda Item

3

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to remove 22 canopy trees.

Applicant's Agent

Self-represented

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 75 Page 43
 Recorded 06/03/1968

GPIN

2419-31-3464

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

0 square feet

Location of Proposed Impervious Cover

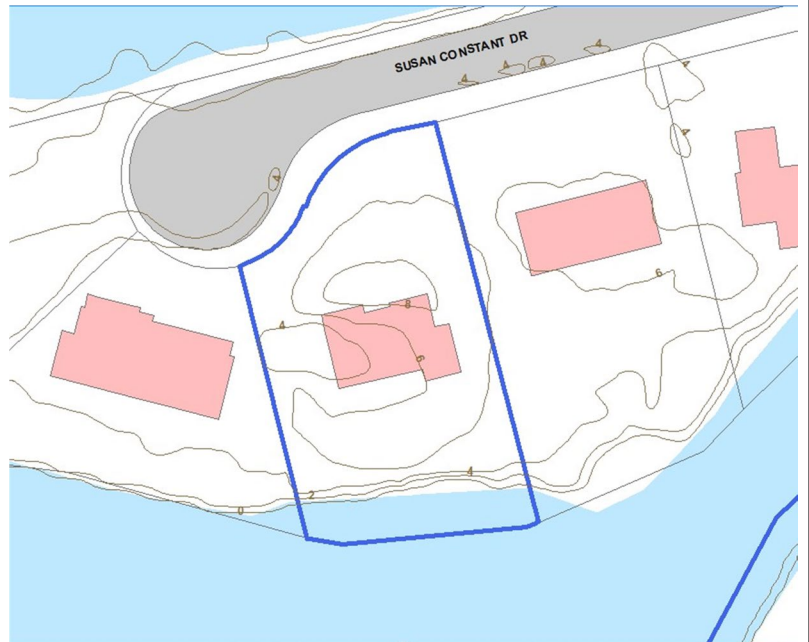
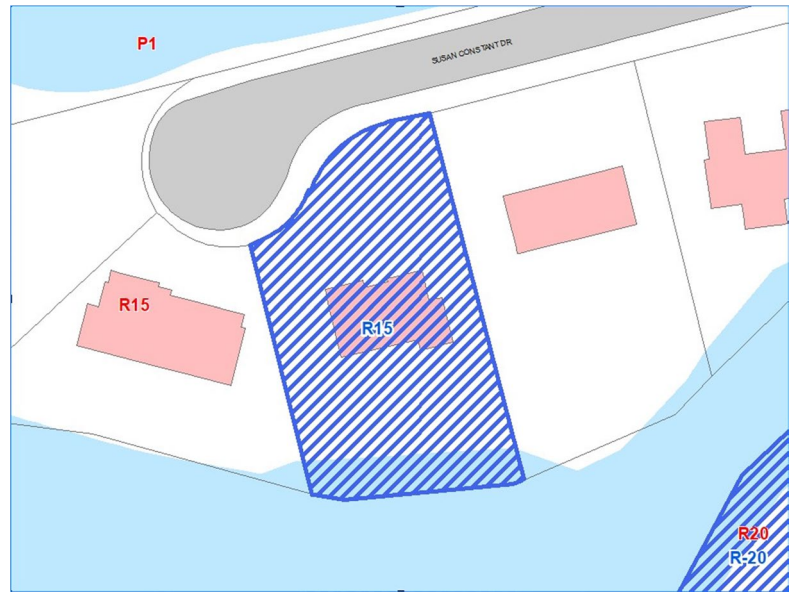
50-foot Seaward Buffer
 50-foot Landward Buffer
 Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approved as conditioned



Summary of Proposal

Demolition Details

- Removal of 22 canopy tree from the lot.

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Zone AE, Base Flood Elevation (BFE): 7

Soil Type(s)

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

Shoreline

Shoreline is stabilized by a wooden bulkhead.

Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 22
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 2

Stormwater Management Methodology

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

Evaluation and Recommendation

The applicant desires to remove 22 canopy trees from the lot stating safety concerns as part of the reasoning and a desire to relandscape and vegetate the lot with different species of canopy and understory trees. The proposal includes removing the existing canopy cover on the lot consisting of mainly mature pine, gum, and birch trees with all but three of the trees being located within the 100-foot Resource Protection Area (RPA). An arborist report provided with the submittal indicated that one mature birch tree and one mature pine tree shows signs of bifurcation and trunk failure with the remaining 20 trees being healthy, but in close proximity to the wood bulkhead and existing single-family residence.

Given the evaluation of the existing canopy trees stated in the arborist report and the location of said trees on the lot, Staff has concern with the extent of this request and provides the recommended conditions – specifically recommended condition 1 and 2 provided below to address this concern. Staff is of the opinion that the recommended conditions will ensure the opportunity to provide age diversity with regard to canopy tree species on this lot that was developed in the

mid-1980s. Mitigation will result in a mix of species age that will in turn offer merit towards extending the function and productivity of this riparian ecosystem through diversity beyond species selection alone.

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 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 *"looking to remove trees in the RPA."* Staff adds that we routinely work with property owners to manage riparian resources on properties throughout the RPA in the City with the intent to address the age and health of canopy trees in addition to a potential hazard there may be to structural improvements of a lot.
- 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 trees are mature and have been growing on the lot for multiple decades."* Staff concurs and adds that the mature canopy cover on the lot are clustered in groups throughout the backyard and are situated in close proximity to the shoreline. Not only does an evaluation of the trees specific to this lot need to be performed but also to what extent could the removal of this amount of trees impact trees on adjacent lots due to wind exposure.
- 3) The variance is the minimum necessary to afford relief because *"trees would be removed to provide structure integrity of bulkhead, not be over roof of house, and can cause navigation issues to Rainey Gut if they fall down into the water."* Staff adds that the recommended conditions in this staff report provides merit towards the variance request being the minimum necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"we are not adding any hardscape to our property with this request."* Staff offers that the mitigation conditioned below will add to the age and species diversity of the riparian buffer on the lot.
- 5) *"No hardscape would be added and removal of the trees would not affect water quality"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion that the interception of rainfall that a tree contributes to a watershed is a means of water quality and should be acknowledged as a benefit towards water quality.

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

Recommended Conditions

1. A landscape 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. The landscape plan shall detail the location, number, and species of vegetation to be installed as per the buffer restoration requirements. The landscape 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 following trees or tree clusters as described on the CBPA Exhibit shall be preserved.
 - Tree(s) numbered 1, 3, 16, 17, 19, 20, 21, and 22, and 23
4. Mitigation options for the remaining 8 canopy trees requested to be removed due to being hazardous or in close proximity to structures on the lot as described on the CBPA exhibit and arborist report shall be required as follows.
 - 8 canopy trees and 16 understory trees
 - or-
 - 2:1 ratio (16 canopy trees to be planted)

The required mitigation shall be located in the RPA to the greatest extent practicable. 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 release of the utility/right of way permit.

Minimum size at installation for replacement trees shall be as listed below:

- Canopy tree (matures to a height greater than 35') 1 ½" – 2" caliper at time of installation.
 - Understory tree (matures to a height of 12' to 35') ¾" – 1 ½" caliper at time of installation.
5. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
 6. A pre-construction meeting shall be held with a CBPA inspector prior to tree removal. All trees approved for removal shall be marked with red tree markers and all trees to be preserved as conditioned in this report shall be marked with blue tree markers.

***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



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 Greg Provencher

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

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

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

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

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

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

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

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

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

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

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

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

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

Disclosure Statement



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

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

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.

Greg Provencher

Applicant Signature
Greg Provencher, owner

Print Name and Title
September 20, 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 **Joel Petersen & Marcy Draper**
 Address **148 Pinewood Road**
 Public Hearing **November 27, 2023**
 City Council District **District 6**

Agenda Item

4

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to remove 22 canopy trees.

Applicant's Agent

Dar Partin
 Arbor Tree Care, Inc.

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 5, Page 151
 Recorded 11/29/1916

GPIN

2418-73-9753

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

0 square feet

Location of Proposed Impervious Cover

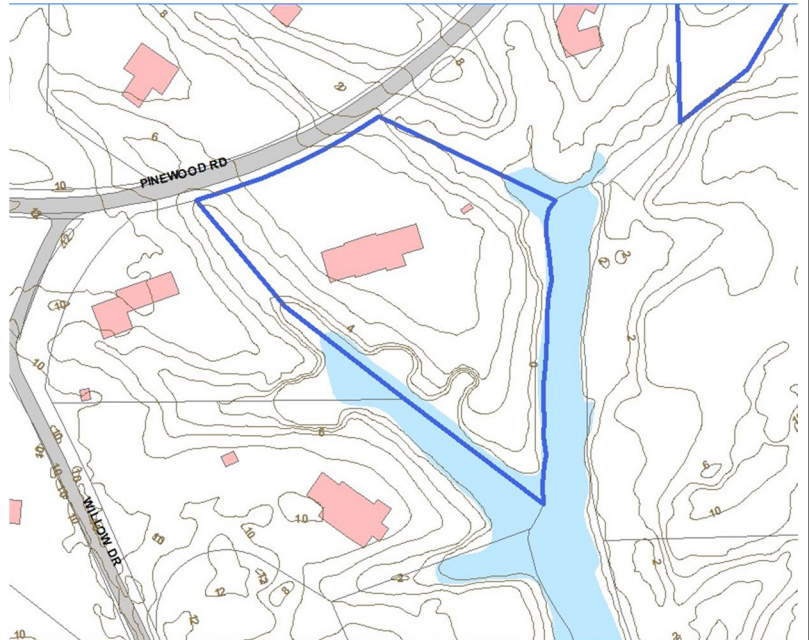
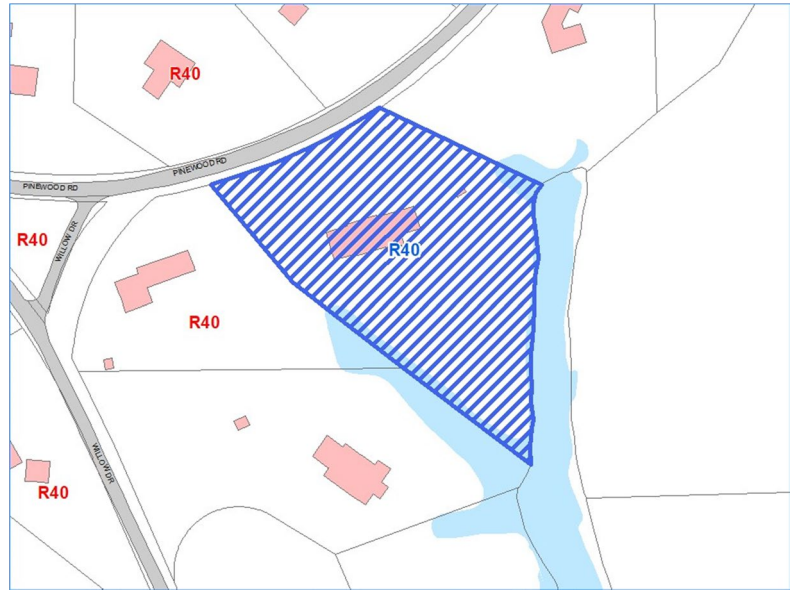
- 50-foot Seaward Buffer
- 50-foot Landward Buffer
- 100-foot Variable Width Buffer
- Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approved as conditioned



Summary of Proposal

Demolition Details

- Remove 22 canopy trees from the lot.

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

Chapanoke Series (deep, poorly drained soils)

Tetotum Series (deep, moderately well-drained soils)

Shoreline

Shoreline is in natural state.

Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 22
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 6

Stormwater Management Methodology

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

Evaluation and Recommendation

This is a heavily wooded peninsula shaped lot within the Linkhorn Park subdivision. The Chesapeake Bay Preservation Area (CBPA) exhibit provided with this variance request indicates that 6 of the 22 trees proposed for removal with this request are dead, diseased, or dying trees on the lot, ascribed to both biotic factors, such as borer beetles and disease, and abiotic factors, such as limb drop due to environmental conditions. Trees proposed for removal fall within both the 50-foot seaward and 50-foot landward buffer of the Resource Protection Area (RPA) on the lot. Staff offers that the riparian buffer is a living resource that needs to be managed over time to preserve the function of the riparian ecosystem. Given the urban development of our shorelines, natural succession within the riparian buffer ecosystem is fragmented, causing a change in species composition and structure. Small saplings are developing into the next generation of trees as older canopy trees are exposed to wind throw, storm events, and long-term construction impacts that accelerate dieback and decline.

As submitted, Staff has concern with the extent of this request and provides recommended conditions 3 and 4 below towards offering an opportunity to provide age diversity with regard to canopy tree species on this lot that was developed in the 1950s. Mitigation will result in a mix of species age that will in turn offer merit towards extending the function and productivity of this riparian ecosystem through diversity beyond species selection alone. Additionally, Staff is of the opinion that several trees on the lot show no signs of decline and therefore could be preserved with this request to better serve the riparian buffer on the lot.

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 proposed removal of these trees is due to hazards to the structures on the property or them being dead/diseased/dying."* Staff adds that the submitted arborist report from Arbor Tree Care, Inc. indicate six trees in a dead/diseased/dying state and has recommended conditions to preserve select trees on the lot with this request.
- 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 *"conditions of requested trees are due to environmental factors and the natural life cycle of the trees, which is to no fault of the applicant."* Staff offers that the riparian buffer is a living resource that needs to be managed over time to preserve the function of the riparian ecosystem and offers the recommended conditions to manage and preserve the riparian buffer on the lot.
- 3) The variance is the minimum necessary to afford relief because *"the only trees to be removed are either already in a state of decline and/or poses a hazardous risk to the property and occupants. Owner will preserve the health of all remaining trees."* Staff is of the opinion that several trees that show no signs of decline can be preserved with this request and offers the recommended conditions to ensure the request is the minimum necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"the removal of the requested trees will improve the property and not harm the integrity of the neighborhood or nearby water sources. Removal will allow remaining trees to receive adequate water and nutrients as well as reduce the risk of damage to the home and hazardous conditions to people on the property."* Staff offers the recommended conditions to ensure the variance request is in harmony with the purpose and intent of the CBPA Ordinance.
- 5) *"After removal of requested trees, replacement with understory trees and bushes will help mitigate pollution load"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff offers that preservation of select canopy trees and the buffer restoration required with the removal of healthy trees in close proximity to the existing residence will not be detrimental to water quality and contribute to any nonpoint source pollution load on the lot.

Given the above comments, Staff recommends the following **7** reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

- 1) A Landscape 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) The landscape plan shall detail location, number, and species of vegetation to be installed as per the buffer restoration requirements. The landscape 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 following healthy trees or tree clusters described as hazardous to the property on the submitted arborist report and numbered on the CBPA Exhibit shall be preserved as follows:
 - Tree(s) numbered 2, 8, 9, 10, 11, and 12
- 4) Mitigation options for the remaining 10 healthy trees requested to be removed described as hazardous to the property on the submitted arborist report and numbered on the CBPA Exhibit shall be required as follow.
 - 3:1 ratio (**30** new canopy trees to be planted)
 - or-
 - 10 canopy trees, 10 understory trees, 15 large shrubs, and 20 small shrubs

The required mitigation shall be located in the RPA to the greatest extent practicable. 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 release of the utility/right of way permit.

Minimum size at installation for replacement trees shall be as listed below:

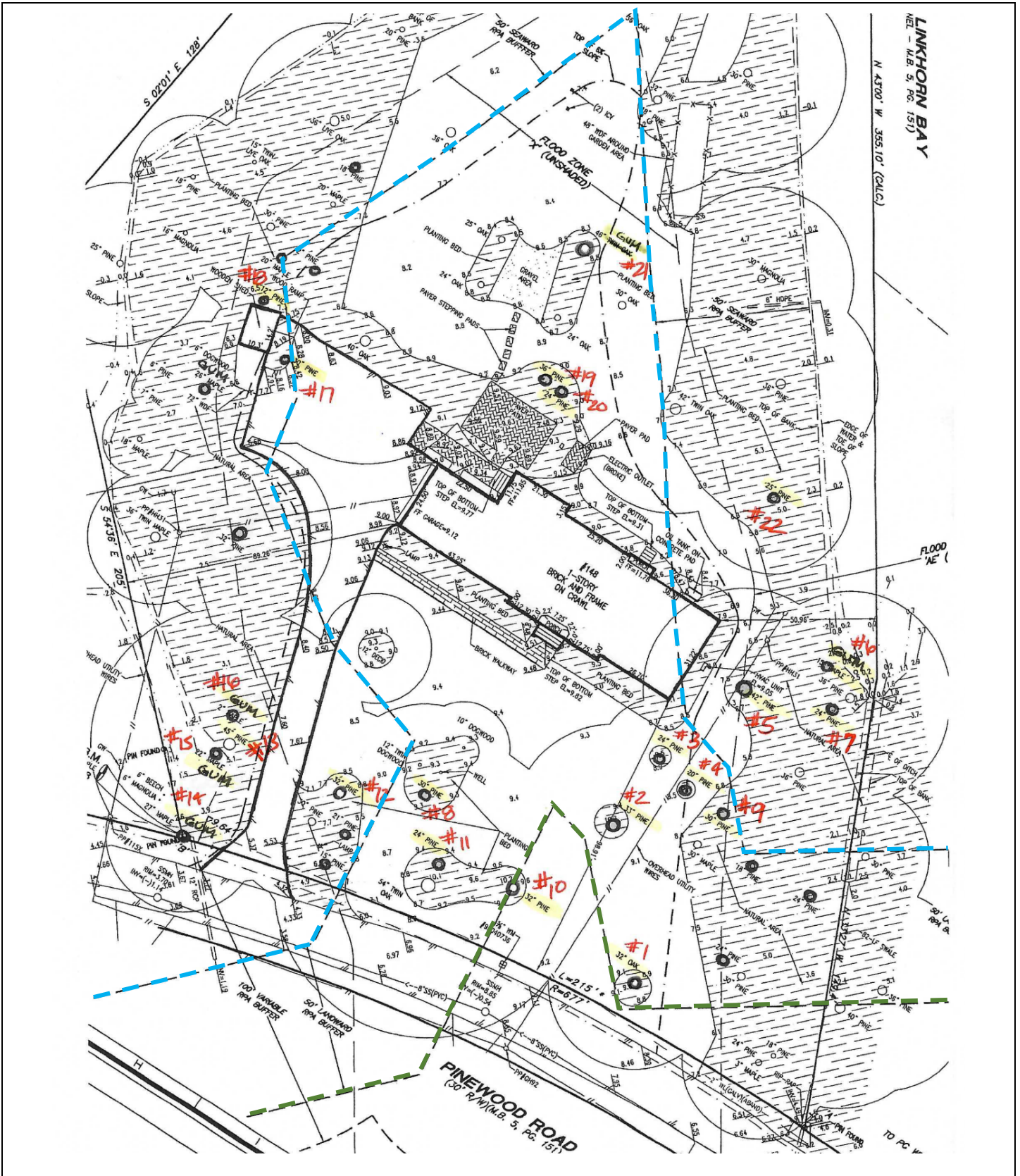
- Canopy tree (matures to a height greater than 35') 1 ½" – 2" caliper at time of installation.
 - Understory tree (matures to a height of 12' to 35') ¾" – 1 ½" caliper at time of installation.
- 5) A pre-construction meeting shall be held with a CBPA inspector prior to tree removal. All trees approved for removal shall be marked with red tree markers and all trees to be preserved as conditioned in this report shall be marked with blue tree markers.
 - 6) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline (**to the greatest extent practicable**) of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
 - 7) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts not included with this variance request.

***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.

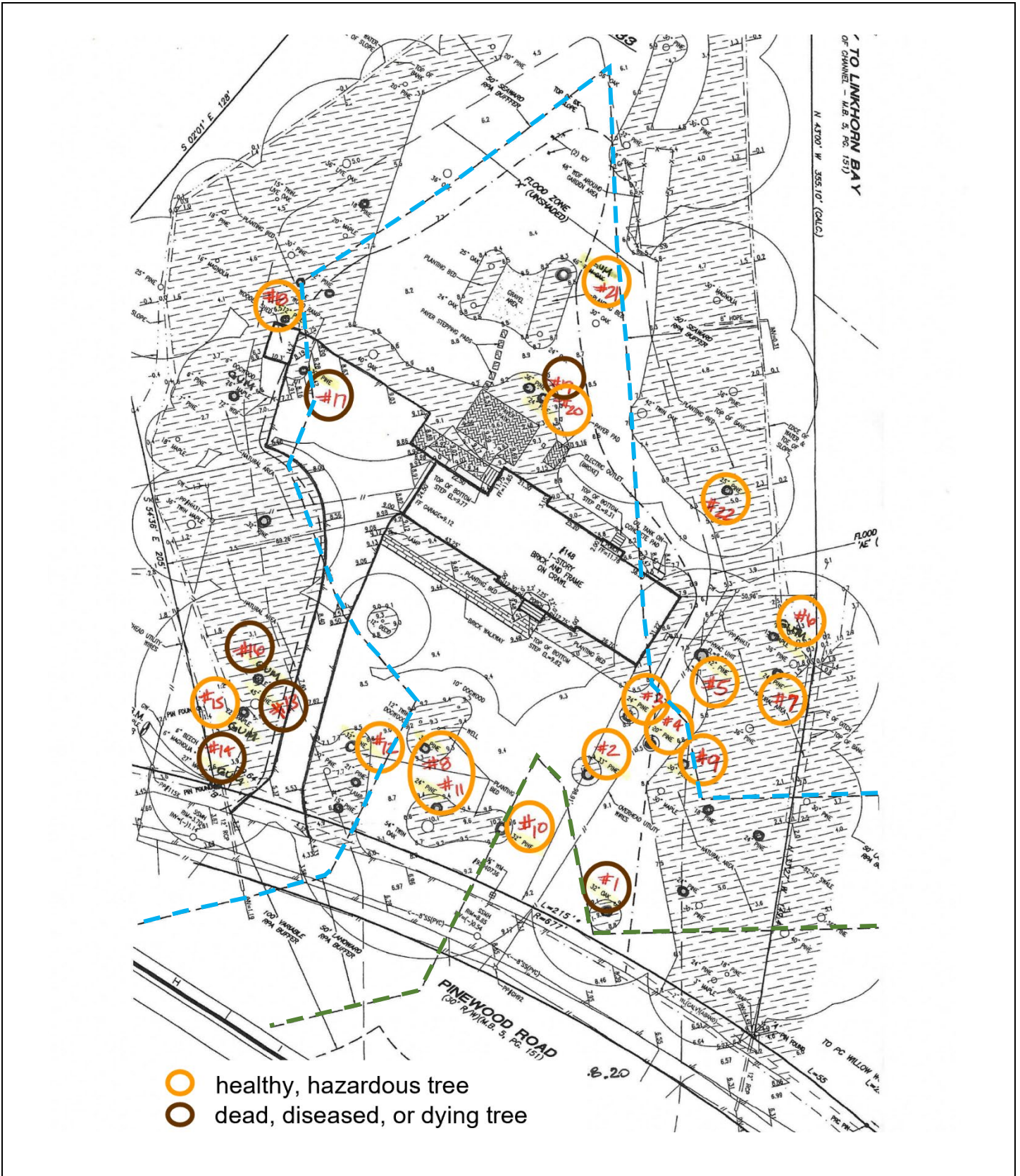
Site Aerial



CBPA Exhibit – Tree Removals with associated Arborist Report



CBPA Exhibit – Tree Removals (See Arborist Report)





ARBOR TREE CARE, INC.

Tel 757-425-1995
Fax 757-965-5185

2576 Aviator Dr.
Virginia Beach, VA 23453

www.ArborTreeCareVA.com
ArborTCnVB@aol.com

09/20/2023

Virginia Beach CBPA Board

RE: Removal of trees for Joel S. Peterson, Jr. – 148 Pinewood Rd.

To whom it may concern:

Please accept this letter detailing the proposed trees to be removed at 148 Pinewood Rd. Virginia Beach, VA 23451. Please see "Arborist's Map" to correlate tree number with location.

Upon my inspection I found the following trees to be in a state of decay/disease/decline and are in need of removal:

- **Tree 1** - Oak tree with broken top: 35' tall, 34" dbh. Sits 36' from right side of house and 15' from road.
- **Tree 13** - Pine with advanced decay pockets: 90' tall, 18" dbh. 70' in front of house and 6' to the left side.
- **Tree 14, 15, & 16** – Three (3) Gum trees with broken tops and decay pockets: 40'-60' tall, 16" dbh.
- **Tree 18** - Dead Pine: 30' tall, 10" dbh. Sits 1' from shed and 30' from left rear of house.
- **Tree 19** - Dead Pine: 90' tall, 34" dbh. Sits 18' from back left side of house.
- **Tree 21** - Dead Blackgum: 65' tall, 16" dbh. Sits 32' from back left side of house.

The following trees are in positions to the road, driveway, property structure, etc. that could potentially cause property damage and/or injury if they were to fall over or have limbs break and fall.

- **Tree 2** - Pine: 95' tall, 32" dbh. Sits 39' in front of house and 4' to right of house.
- **Tree 3** - Pine: 95' tall, 22" dbh. Sits 15' in front of house and 6' to the right of house.
- **Tree 4** - Pine: 75' tall, 18" dbh. Sits 17' in front of house and 18' to the right of house.
- **Tree 5** - Pine: 90' tall, 35" dbh. Sits 18' from the center of the right side of house.

- **Tree 6** - Gum: 50' tall, 12" dbh. Sits 32' from the right side of house and 3' to the rear.
- **Tree 7** - Pine: 95' tall, 18" dbh. Sits 30' from the right side of the house and 3' to the rear.
- **Tree 8** - Pine: 95' tall, 22" dbh. Sits 57' in front of house and 6' left of center.
- **Tree 9** - Pine: 95' tall, 30" dbh. Sits 17' in front of house and 30' to the right side of house.
- **Tree 10** - Pine: 95' tall, 30" dbh. Sits 70' in front of house and 21' to the right side.
- **Tree 11** - Pine: 95' tall, 18" dbh. Sits 73' in front of house and 15' to the right side.
- **Tree 12** - Pine: 95' tall, 34" dbh. Sits 70' in front of house and 27' to the right side.
- **Tree 17** - Pine: 80' tall, 26" dbh. Sits 2' from shed and 25' from left side of garage.
- **Tree 20** - Pine: 90' tall, 18" dbh. Sits 18' from back left side of house.
- **Tree 22** - Pine: 80' tall, 34" dbh. Sits 20' from back right side of house.

Thank you.

Garry Senato

Garry Senato
Certified Arborist #MA0075

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 Joel S. Peterson, Jr.

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

Dar Partin - Arbor Tree Care

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

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

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

Yes **No**

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

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

Yes **No**

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

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

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

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

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

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

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

Disclosure Statement



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

Joel S. Peterson, Jr.

Applicant Signature

Joel S. Peterson, Jr. - Owner

Print Name and Title

09/26/2023

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 **Joshua & Jamie Bondurant**
 Address **Lot 57, Subdivision of Sea Breeze Farm**
 Public Hearing **November 27, 2023**
 City Council District **District 8**

Agenda Item

5

Variance Request

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

Applicant's Agent

Billy Garrington
 Governmental Permitting Consultant, Inc.

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 156, Page 39
 Recorded 06/02/1982

GPIN

1489-60-7684

SITE AREA

67,151 square feet or 1.54 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

54,619 square feet or 1.25 acres

EXISTING IMPERVIOUS COVER OF SITE

0 square feet or 0 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

14,373 square feet or 26 percent of site

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

8,814 square feet

Location of Proposed Impervious Cover

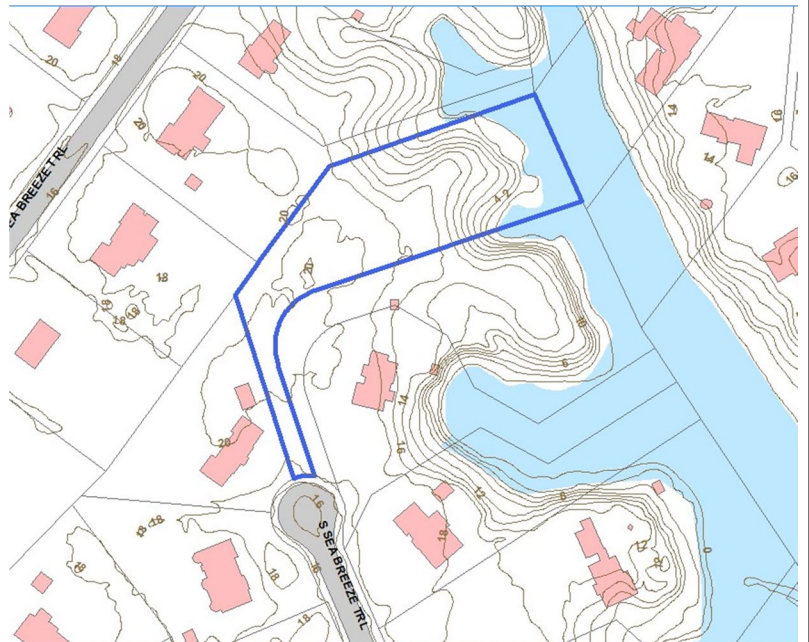
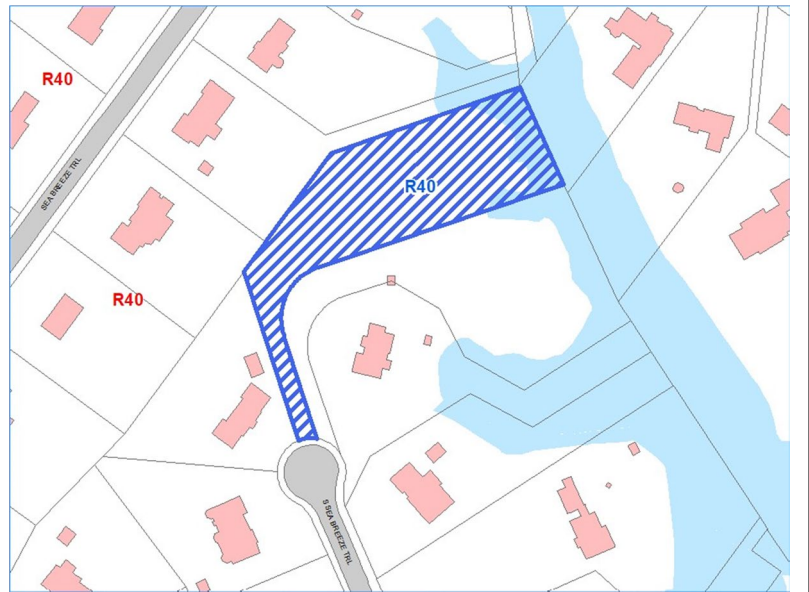
- 50-foot Landward Buffer
- 100-foot Variable Width Buffer
- Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- Single family residence with stepper pathway
- Gravel entry driveway with gravel roundabout
- Concrete driveway and front entry walkway
- Swimming pool with concrete pool patio, outdoor kitchen area, and pool house

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

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

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 13
- 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 delineated limits of construction of the proposed single-family residence and associated accessory structures.

Stormwater Management Methodology

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

Evaluation and Recommendation

This undeveloped lot in the Little Neck subdivision is proposed to be developed with a two-story single-family dwelling with an associated swimming pool, patio, outdoor kitchen area, walkways, and associated driveway/parking area. As shown on the CBPA exhibit, approximately 8,814 square feet of new impervious cover is proposed within the Resource Protection Area (RPA) on the lot of which 7,389 of that new impervious cover is located within the city's Variable Width buffer of the Resource Protection Area (RPA). The applicant's consultant team has situated the proposed improvements

mindful of the existing mature canopy trees within northern and eastern portions of the lot and shoreline topography within those same areas. As a result, portions of the proposed swimming pool, pool patio, and pool house are situated within the upper limits of the 50-foot landward buffer and no encroachment seaward is proposed with this request.

Staff is of the opinion that the applicant's consultant team has provided a development plan that minimize impervious cover to promote infiltration of stormwater into the ground consistent with the use or development of the lot through the incorporation of structural or nonstructural urban best management practices [Sec. 106 (A)(3)]. Per the Applicant's Engineer, this proposal will combine the use of structural (gravel downspout intercepts and gravel driveway) and nonstructural (bioretention planting beds) best management practices for the stormwater treatment of this site. Staff is of the opinion that the layout of the proposed improvements minimizes encroachment into the RPA to the greatest extent practicable and is in harmony with the purpose and intent of the CBPA Ordinance.

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

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *"the site was originally platted in 1982 prior to the Chesapeake Bay Preservation Act, and the RPA buffers currently impact 75% of the lot. The proposed improvements are in keeping with the development of the neighborhood and adjacent parcels."* Staff is of the opinion that the CBPA exhibit provided coupled with the use of materials and stormwater methodology integrating best management practices on the lot offers merit towards the variance request not conferring upon the applicant any special privilege or convenience not accorded to other owners of the property in the neighborhood that have redeveloped lots platted prior to the adoption of the CBPA Ordinance.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because *"the site was originally platted in 1982 prior to the Chesapeake Bay Preservation Act and its impact on the development of similar waterfront parcels. The proposed site would be deemed undevelopable without the ability to request a variance to the Chesapeake Bay Preservation Act. The proposed improvements are in keeping with the development of the neighborhood and adjacent parcels."* 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 *"the owners have designed the proposed improvements to be minimal and stay outside of the 50' seaward buffer to the greatest extent practicable."* Staff acknowledges that the placement of the proposed improvements limits encroachment to the landward and variable width buffers and utilize the redevelopment of impervious cover on the lot to the greatest extent practicable.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels, the site currently does not offer any stormwater mitigation for the bay, however if approved, the proposed redevelopment will be required to have treatment or buffer restoration provided between the improvements and the bay."* Staff offers that the requirement to treat stormwater with the redevelopment of this lot provides merit towards the variance request not being a detriment to water quality coupled with the retention of existing vegetation within the 50-foot seaward buffer. These best

management practices can provide an annual runoff volume reduction with beneficial reductions of phosphorous and nitrogen mass load removal.

- 5) *“Planting buffer restoration and/or bio-retention stormwater management will be placed between the improvements and the river to capture and treat runoff prior to discharging into the bay”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff concurs.

Given the above comments, Staff recommends the following **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.

Buffer restoration shall be installed in substantial compliance with the Improvements Plan, Concept Plant Schedule and layout submitted with this variance request. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers per said plan consisting of **25 canopy trees, 25 understory trees, 50 large shrubs, 75 small shrubs and a perennial meadow mix.**

The required restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

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

- 9) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 10) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts not included with this variance request.
- 11) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 12) Perimeter fill within the limits of construction shall be the minimum necessary to facilitate positive drainage away from the proposed improvements. Fill material for such development shall be limited to minimize disturbance of existing vegetation and contours to effectively maintain the integrity of the buffer area.
- 13) Gravel downspout intercepts and/or gravel dripline intercepts shall be provided as a means of erosion and sediment control for stormwater run-off from the proposed improvements.
- 14) ** 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 \$2,019.87 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 15) Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.
- 16) The conditions and approval associated with this variance are based on the exhibit plan dated July 10, 2023, prepared by WPL, signed November 7, 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. 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



Disclosure Statement

Disclosure Statement



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Applicant Disclosure

Applicant Name Joshua T & Jamie W Bondurant

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

GPC, Inc. - Billy Garrington

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

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

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

Yes **No**

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

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

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.

Kirbor Homes

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

Print Name and Title

Joshua Bondurant, Owner

Date 10/02/2023

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	



Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a two-story commercial office building with associated accessory structures.

Applicant's Agent

Eddie Bourdon
 Sykes Bourdon, Ahern & Levy PC

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 48, Page 28
 Recorded 10/13/1959

GPIN

1497-26-4306 & 1497-26-2489

SITE AREA

Lot 11 – 19,759 square feet or 0.454 acres
 Lot C – 36,113 square feet or 0.83 acres
 *Combined = 55,872 square feet or 1.28 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

Lot 11 – 19,453 square feet or 0.447 acres
 Lot C – 35,859 square feet or 0.82 acres
 *Combined = 55,312 square feet or 1.26 acres

EXISTING IMPERVIOUS COVER OF SITE

Lot 11 – 2,465 square feet or 13 percent of site
 Lot C – 23,201 square feet or 65 percent of site
 *Combined = 25,666 square feet or 46 percent

PROPOSED IMPERVIOUS COVER OF SITE

Lot 11 – 8,834 square feet or 45 percent of site
 Lot C – 24,104 square feet or 67 percent of site
 *Combined = 32,938 square feet or 59 percent

Area of Redevelopment in RPA

Lot 11 – 1,470 square feet
 Lot C – 554 square feet

Area of New Development in RPA

Lot 11 – 7,364 square feet
 Lot C – 903 square feet

Location of Proposed Impervious Cover

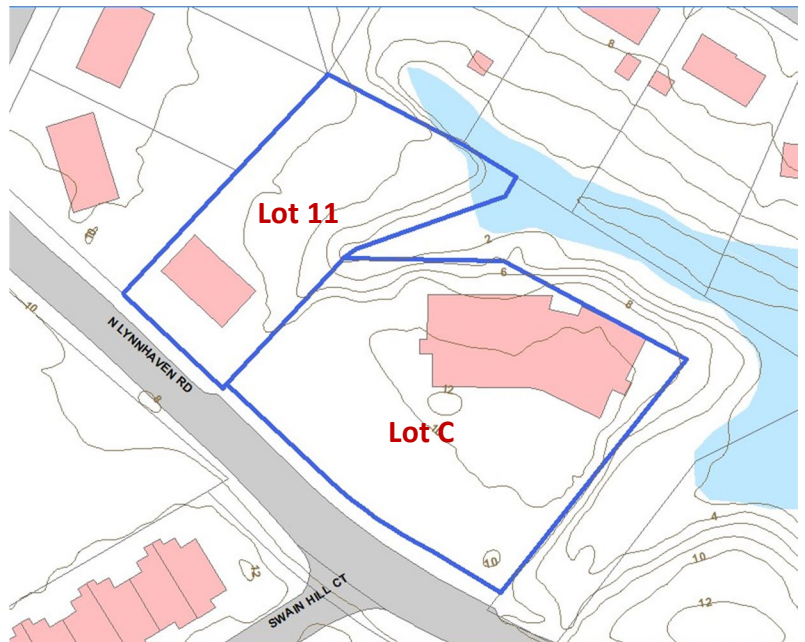
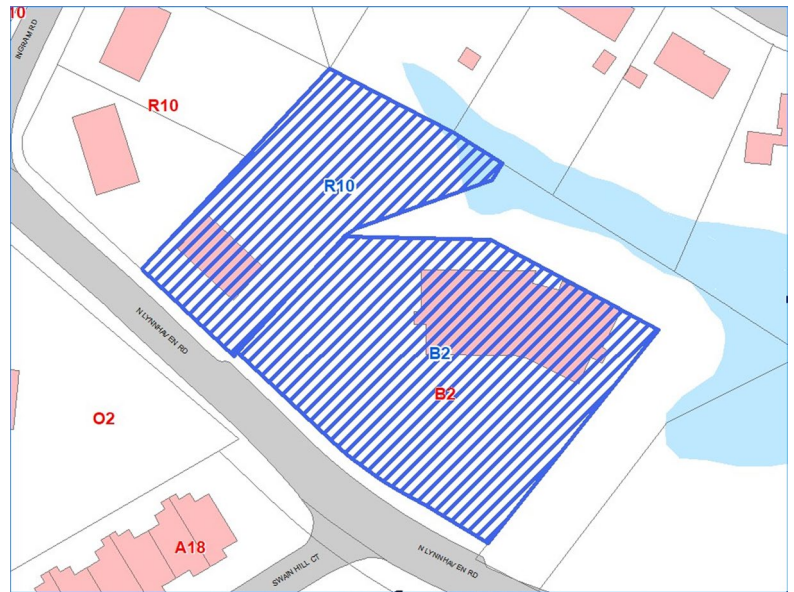
- 50-foot Seaward Buffer
- 50-foot Landward Buffer
- 100-foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Demolish existing single-family residence and associated driveway, deck, patio, and shed

Construction Details

- Two-story commercial office building with associated deck, ramp, sidewalks, and parking lot

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Multiple Zones – Zone Shaded 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

Udorthents Series (moderately well-drained soils altered by excavation)

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 6
- 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 delineated limits of construction, shown as within the footprint of the proposed office building.

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 existing single-family home on the property of 2950 N. Lynnhaven Road (Lot 11) is proposed to be demolished to construct a two-story commercial office building with associated decks, sidewalks, and parking lot. As shown on the Chesapeake Bay Preservation Area (CBPA) exhibit approximately 7,364 square feet of new impervious cover is proposed within the Resource Protection Area (RPA) on this lot of which portions of the proposed office building will encroach into the 50-foot seaward and 50-foot landward buffers of the RPA.

Stewart Investments, LLC

Agenda Item 6

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Redevelopment occurs with this request due to the new proposed parking lot area, which would connect to the existing parking lot on the adjacent lot. A permeable paver infiltration basin is proposed within four of the new parking spaces to treat stormwater runoff from the new and existing parking lot areas before reaching the existing stormwater drain. Additionally, due to the elevation of the lot, the applicant proposes a wood deck area and associated ramp connecting to the proposed parking lot to provide an elevated access to the proposed office complex. Furthermore, the lot is currently zoned R-10 and will be applying for a conditional rezoning with the Planning Commission to rezone the lot to O-2 to allow for the use of the office complex. On the adjacent lot on the property of 2940 N. Lynnhaven Road (Lot C), the applicant wishes to construct two sidewalk expansions within the 50-foot landward buffer portion on the lot to connect to existing sidewalk spaces leading to the office complex on the lot.

The riparian buffer on the lot is mature and heavily wooded with dense underbrush and the applicant is proposing to remove only six trees with this variance request and will be retaining the remaining vegetation on the lot. The RPA encompasses the entirety of the property with the 50-foot seaward buffer encroaching onto nearly half of the lot and Staff is of the opinion that any redevelopment of the property shall be challenging given the location of the RPA on the entire lot. Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the use or development proposed through the incorporation of structural or nonstructural urban best management practices [Sec. 106 (A)(3)]. Per the applicant's engineer, this proposal will combine the use of structural (permeable pavers, infiltration beds, gravel downspout intercepts, and sand/gravel underdeck treatment) and nonstructural (bioretention planting beds) for stormwater treatment on the site. In addition, Staff met with the applicant's agent after reviewing the initial submittal of this variance request to include additional best management practices to ensure enhanced treatment of stormwater runoff on the site.

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 site was platted in 1959, prior to the Chesapeake Bay Preservation Act. The RPA buffers currently impact 100% of the lot and development on this lot cannot be obtained without encroaching into the RPA."*
- 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 owner and design team have worked to customize the building and improvements for the site while trying to meet other city ordinances. The proposed site will utilize additional storm water measures as well as being building on a raised piling foundation where practical."* Staff is of the opinion that encroachment into the RPA to redevelop the lot is inevitable given zoning requirements and the location of the RPA buffer encompassing the entire lot. In addition, Staff's recommended conditions specifically address post plan approval implementation of the proposed improvements to preserve existing conditions of the seaward buffer of the RPA and mature canopy trees on the lot beyond limits of construction.
- 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 adjacent commercial parcels. The site currently does not offer any stormwater mitigation for the bay, however if approved, the*

proposed redevelopment will be required to have treatment or buffer restoration provided between the improvements and the bay. In addition to the stormwater mitigation for this site, the owner is inclined convert the sections of gutters downspouts on his adjacent parcel (2940) into gravel downspout interceptors to provide additional E&S measures and increase pollutant removal.” Staff is of the opinion that the request is in harmony with the purpose and intent of the Ordinance and not injurious to the neighborhood, and not of substantial detriment to water quality subject to the recommended conditions provided in this staff report that include the installation of both structural and nonstructural best management practices throughout the lot to promote infiltration of stormwater.

- 5) *“Planting buffer restoration and bio-retention stormwater management will be placed between the improvements and the river to capture and treat runoff prior to discharging into the bay”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion that the BMPs proposed for this variance request coupled with the required buffer restoration measures will provide a means to manage towards a no net increase in nonpoint source pollution load.

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

Recommended Conditions

- 1) A Commercial 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 in substantial compliance with the CBPA Improvements Plan Exhibit, Concept Schedule for the proposed new impervious cover within the RPA: **7,364 square feet x 200 percent = 14,728 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of **6 canopy trees, 12 understory trees, the Riparian Slope Mix area planting, and Understory Slope Mix planting.** The required Category IV Buffer with associated planting and proposed bioretention planting bed areas with associated plantings are excluded from this condition.

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

- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A double row of wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be provided and installed as follows:

- Along the seaward portion of the proposed improvements, the required silt fence shall be installed no further seaward than five (5) feet.
 - Along the remaining portions of the property, the required silt fence shall be installed 10 feet from all proposed improvements.
 - All construction activity shall be contained within the limits of the silt fence.
- 6) **The silt fence shall be staked in the field by the Engineer of Record and reviewed with the Civil Inspector at the pre-construction meeting.**
 - 7) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
 - 8) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
 - 9) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
 - 10) ARBORIST REPORT 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) Gravel downspout intercepts and/or gravel dripline intercepts shall be provided as a means of erosion and sediment control for stormwater run-off from the proposed improvements.
 - 16) **** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,894.52 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.**

17) The conditions and approval associated with this variance are based on the exhibit plan dated February 24, 2023, prepared by WPL, signed November 8, 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. Deviation from said conditions during site plan review may require re-submittal for CBPA Board consideration.

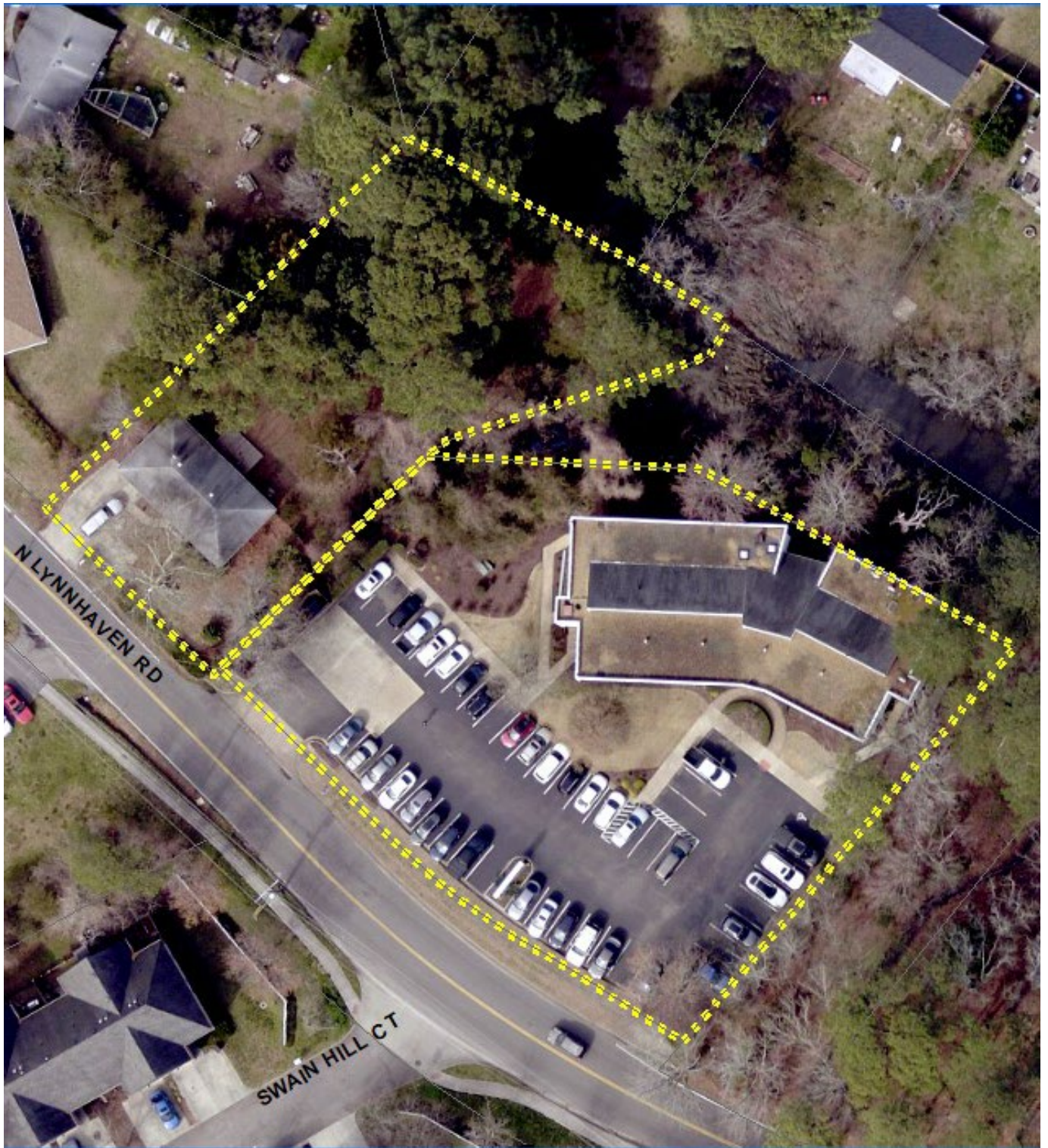
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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 Overview



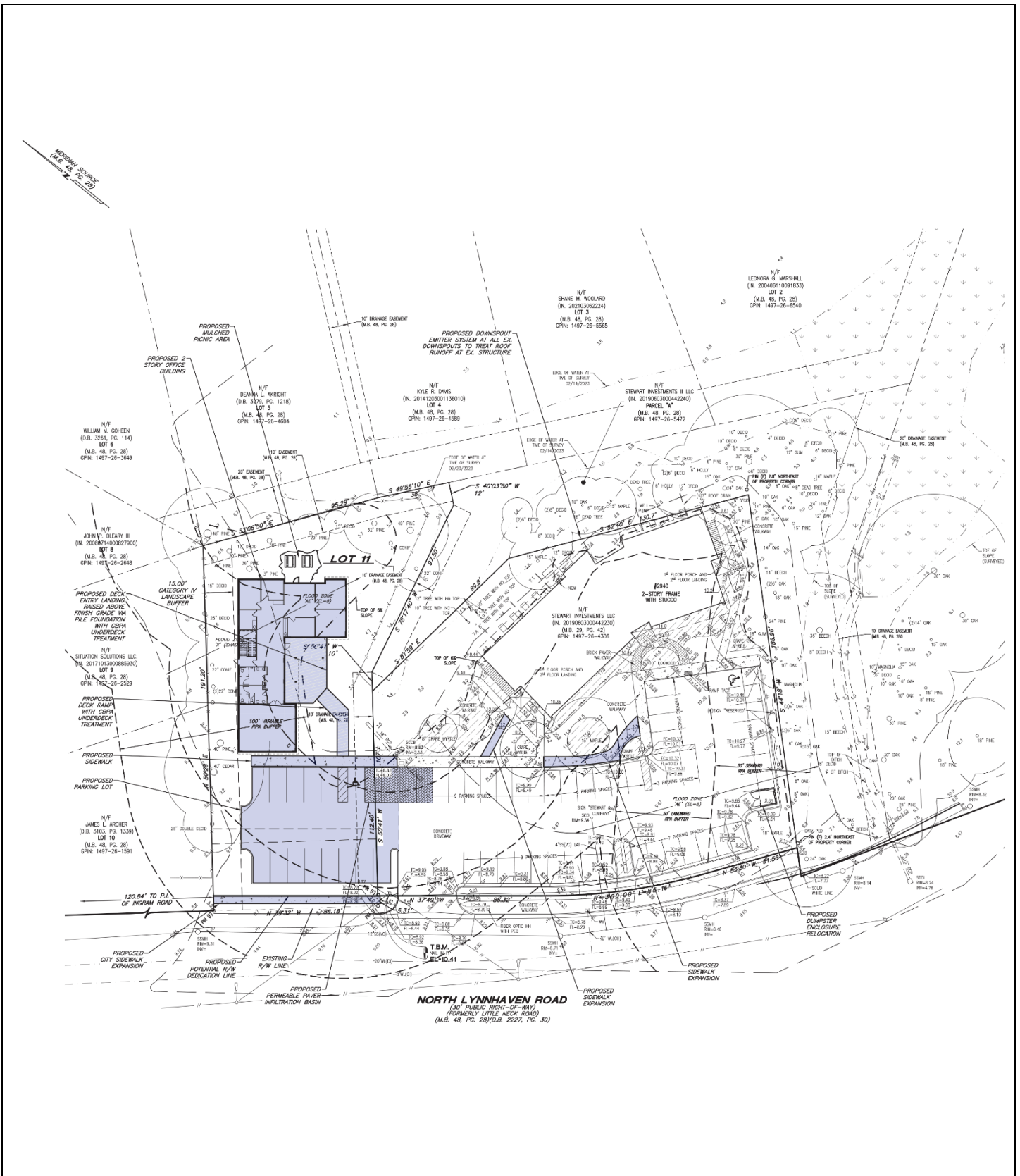
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements



CBPA Exhibit – Color Analysis

**CBPA CALCULATIONS
(LOT 11)**

TOTAL LOT AREA
19,769 SQ. FT.

TOTAL LOT AREA OUTSIDE OF
WATER, WETLAND, MARSH, REVETMENT
19,463 SQ. FT.

TOTAL IMPERVIOUS
PRE-DEVELOPMENT
2,465 SQ. FT.

TOTAL IMPERVIOUS
POST-DEVELOPMENT
8,834 SQ. FT.

 REDEVELOPMENT
1,470 SQ. FT.

 NEW IMPERVIOUS
7,364 SQ. FT.

 REMOVED IMPERVIOUS
935 SQ. FT.

**CBPA CALCULATIONS
(PARCEL 0.84 ACRES)**

TOTAL LOT AREA
36,113 SQ. FT.

TOTAL LOT AREA OUTSIDE OF
WATER, WETLAND, MARSH, REVETMENT
35,869 SQ. FT.

TOTAL IMPERVIOUS
PRE-DEVELOPMENT
23,201 SQ. FT.

TOTAL IMPERVIOUS
POST-DEVELOPMENT
24,104 SQ. FT.

 REDEVELOPMENT
554 SQ. FT.

 NEW IMPERVIOUS
903 SQ. FT.

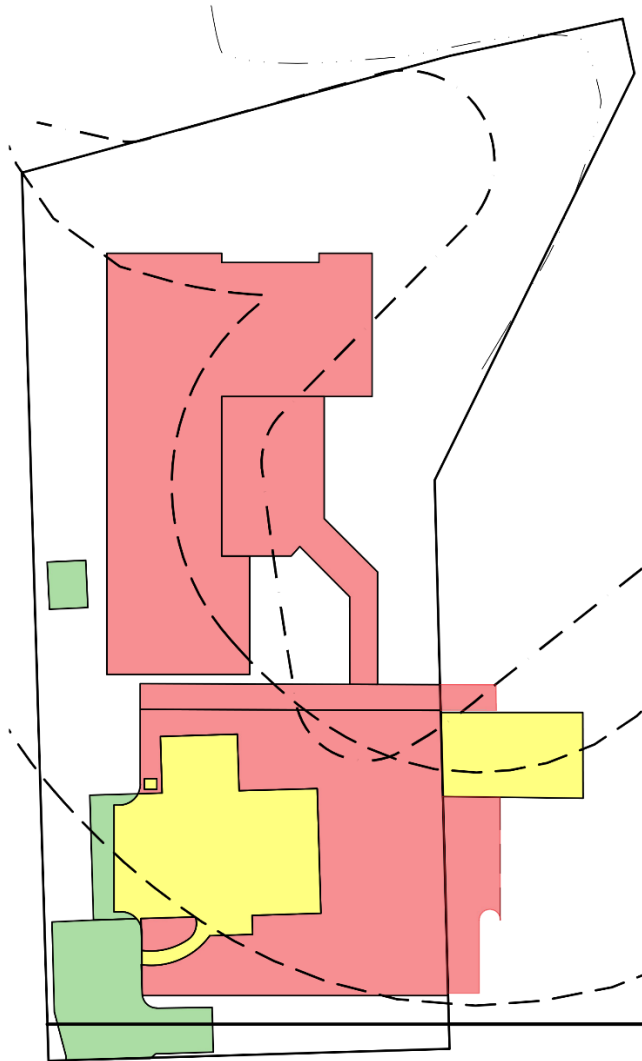
**CBPA CALCULATIONS
(PARCEL 'A')**

TOTAL LOT AREA
21,591 SQ. FT.

TOTAL LOT AREA OUTSIDE OF
WATER, WETLAND, MARSH, REVETMENT
9,433 SQ. FT.

TOTAL IMPERVIOUS
PRE-DEVELOPMENT
0 SQ. FT.

TOTAL IMPERVIOUS
POST-DEVELOPMENT
0 SQ. FT.



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 Stewart Investments LLC

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

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

Eddie Bourdon / Sykes, Bourdon, Ahern & Levy.

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)

William R. Stewart, Member

W. Kevin Stewart, Member

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

William R. Stewart & Associates, Inc. and Stewart Financial Services, Inc.

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

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

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

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

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

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

William R. Stewart & Associates dba Stewart & Company

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

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

Print Name and Title

W. Kevin Stewart, Member

Date 10/02/2023

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	

AS NEEDED, PAGE LEFT BLANK



Applicant & Property Owner **John & Maria Motta**
 Address **3380 Eagle Nest Point**
 Public Hearing **November 27, 2023**
 City Council District **District 8**

Agenda Item

7

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct tiered retaining walls and permeable paver patio.

Applicant’s Agent

Robert Kellam

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 23, Page 31

Recorded 09/20/1948

GPIN

1489-81-4025

SITE AREA

103,807 square feet or 2.38 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

58,098 square feet or 1.34 acres

EXISTING IMPERVIOUS COVER OF SITE

13,211 square feet or 23 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

14,138 square feet or 24 percent of site

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

947 square feet

Location of Proposed Impervious Cover

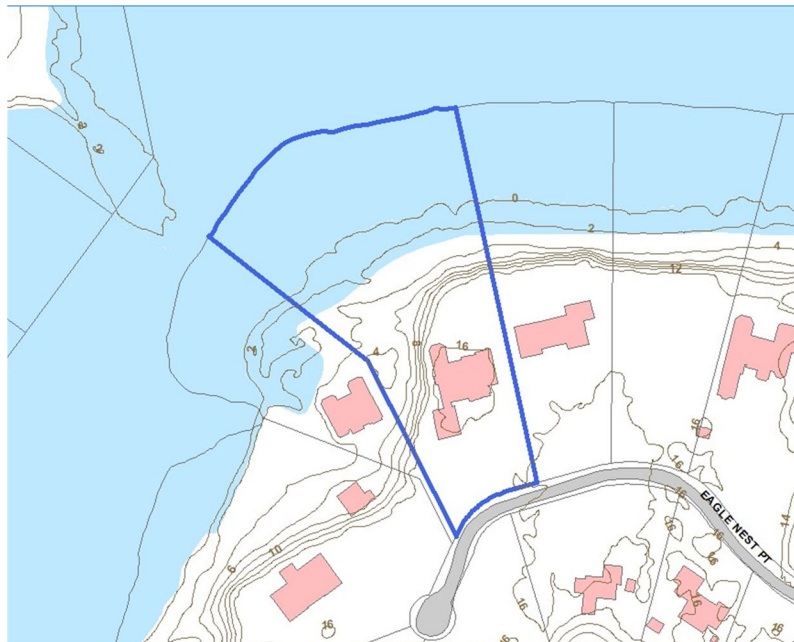
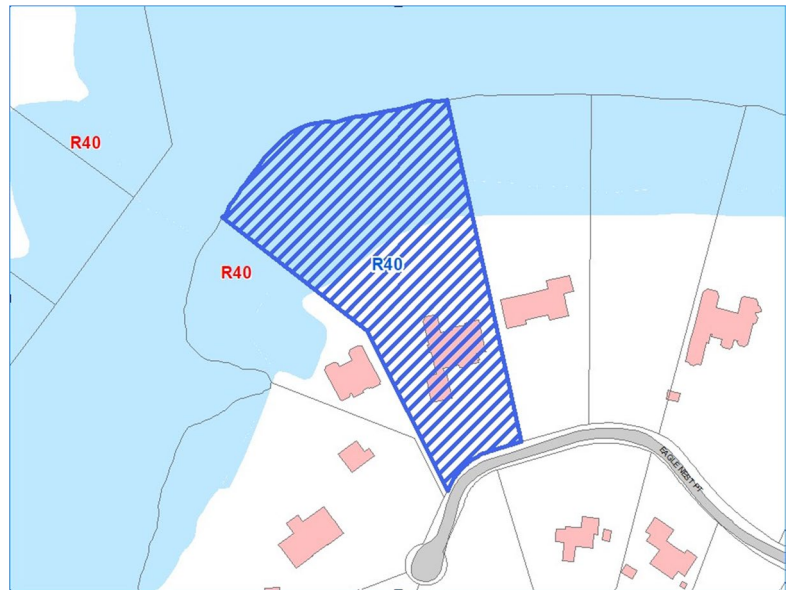
50-foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- Three-tiered retaining walls with associated permeable paver patio space

CBPA Ordinance Variance History

January 28, 2002, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a single-family dwelling and deck with the following conditions:

1. *Dual erosion and sedimentation control measures shall be installed prior to any land disturbance. Said controls shall be maintained until such time as vegetative cover is established. In addition, a temporary chain link fence shall be installed adjacent to said controls.*
2. *Construction limits shall lie a maximum of 15 feet outboard of improvements, exclusive of the corner of the residence that lies near the top-of-bank. Construction limits on said corner shall be 10 feet.*
3. *Fifteen (15) trees shall be installed.*
4. *If and when the shoreline is hardened, a rip-rap revetment shall be installed in lieu of a vertical retaining structure (bulkhead) and be so noted on the site plan.*
5. *All stormwater from impervious cover shall be conveyed to structural stormwater management facilities.*
6. *Buffer restoration equal to the impervious cover shall be provided. Said restoration shall incorporate bayscape landscaping principles and be so noted on the site plan. A separate landscape plan shall accompany the revised site plan. All restoration shall be installed prior to the issuance of an occupancy permit.*
7. *Payment into the Lynnhaven Oyster Heritage Fund in the amount of \$2,241 shall be provided prior to issuance of an occupancy permit. Said payment will provide for an approximate 12 inch deep, 2,417 square foot oyster shell plant / reef within the Lynnhaven River. Said compensation is for 25% of the proposed on-site impervious cover.*
8. *A revised site plan and landscape 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 January 28, 2002 Board granted variance has been acted upon and the associated improvements constructed.

Environmental Conditions

Flood Zone

Multiple Zones – Zone VE and AE, Base Flood Elevation (BFE): 10 and 8

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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

John & Maria Motta

Agenda Item 7

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Shoreline

Shoreline is in a natural state. Moderate maintenance should be performed to limb up low hanging branches shading existing tidal marsh and to remove invasive plant species, specifically *Smilax rotundifolia* (Roundleaf Greenbrier).

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

The applicant is proposing to construct three-tiered segmented retaining walls in the rear yard of the lot with a permeable paver patio area between the top and mid-level tiered walls for a seating area. The distance from the landward edge of tidal wetlands to the base of the proposed retaining walls ranges from approximately 17 feet to 30 feet and occurs at an elevation of approximately 6 to 7 feet above sea level along an existing bank feature. The average length of each retaining wall is approximately 100 linear feet (approximately 305 linear feet in total) with an average vertical height of ranging from 3 to 4 feet. The applicant has indicated concern about the slope of the yard area where the improvements are proposed and associated erosion occurring along the bank due to runoff from increased heavy rainfall storm events. Staff is of the opinion that the applicant's use of retaining walls will help infiltrate rainwater runoff and will allow for vegetative cover to establish within this area of the lot by slowing down the velocity of runoff. As shown on the provided aerial imagery, vegetation is present through all areas of the 50-foot seaward buffer, aside from the lot area north of the proposed retaining walls. Staff is of the opinion that the applicant has taken measures to ensure that the proposed improvements minimize impacts to the Resource Protection Area (RPA) while allowing for future wetland marsh migration given the location for the proposed improvements being substantial landward of the existing tidal feature. With regard to the proposed paver patio area, Staff is of the opinion that ample recreational space is present adjacent to the existing swimming pool and the further encroachment seaward is not due to a hardship rather a desire. As such, Staff has provided the recommended conditions below to address this concern.

To further support the variance request as submitted, the applicant's agent provides the following comments relative to the findings of the Chesapeake Bay Preservation Area (CBPA) Ordinance as merit towards the variance request being in harmony with the findings of the CBPA Ordinance for the Boards 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 project will protect the owner's property from further erosion and subsidence next to the existing swimming pool."* Staff adds that similar requests are seen throughout the City to stabilize embankments and prevent runoff and erosion into tidal waterways however, the addition of the paver patio area lends additional impervious cover within the 50-foot seaward buffer.
- 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 three-wall system has been designed to reduce excavation of the shoreline and the use of fill."* Staff offers that the proposed improvements increase the impervious cover by 947 square feet as submitted, which increases the impervious cover on the lot from approximately 23 to 24 percent of the lot area above water and wetlands. However, should the Board grant the variance request with the conditions below, the overall impervious cover would only increase by approximately 487 square feet with the removal of the paver patio area.
- 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 *"by stabilizing the shoreline, soil transfer due to erosion, will be reduce or eliminated."* Staff concurs and adds that the required buffer restoration provides merit towards the proposed improvements not being of substantial detriment to the water quality of the Chesapeake Bay.
- 5) *"The terraces between the walls will be stabilized by permeable paver patio and plantings which will prevent further erosion and promote infiltration into the soils"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff offers the recommended conditions below as a means towards managing nonpoint source pollution loading on the lot.

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

Recommended Conditions

- 1) The proposed paver patio area shall be removed from the variance request.
- 2) 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.
- 3) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 4) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **487 square feet x 200 percent = 974 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, 3 understory trees, 6 large shrubs, and 9 small shrubs.**

The required restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-

foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

- 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 10 feet from improvements.
- 10) Construction limits along the seaward portion of the project shall lie a maximum of 10 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) This variance and associated conditions **are in addition to** the conditions of the Board variance granted January 28, 2002.
- 14) The conditions and approval associated with this variance are based on the exhibit plan dated September 11, 2023, prepared by Robert S. Kellam, signed November 2, 2023 by Robert S. Kellam. 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.

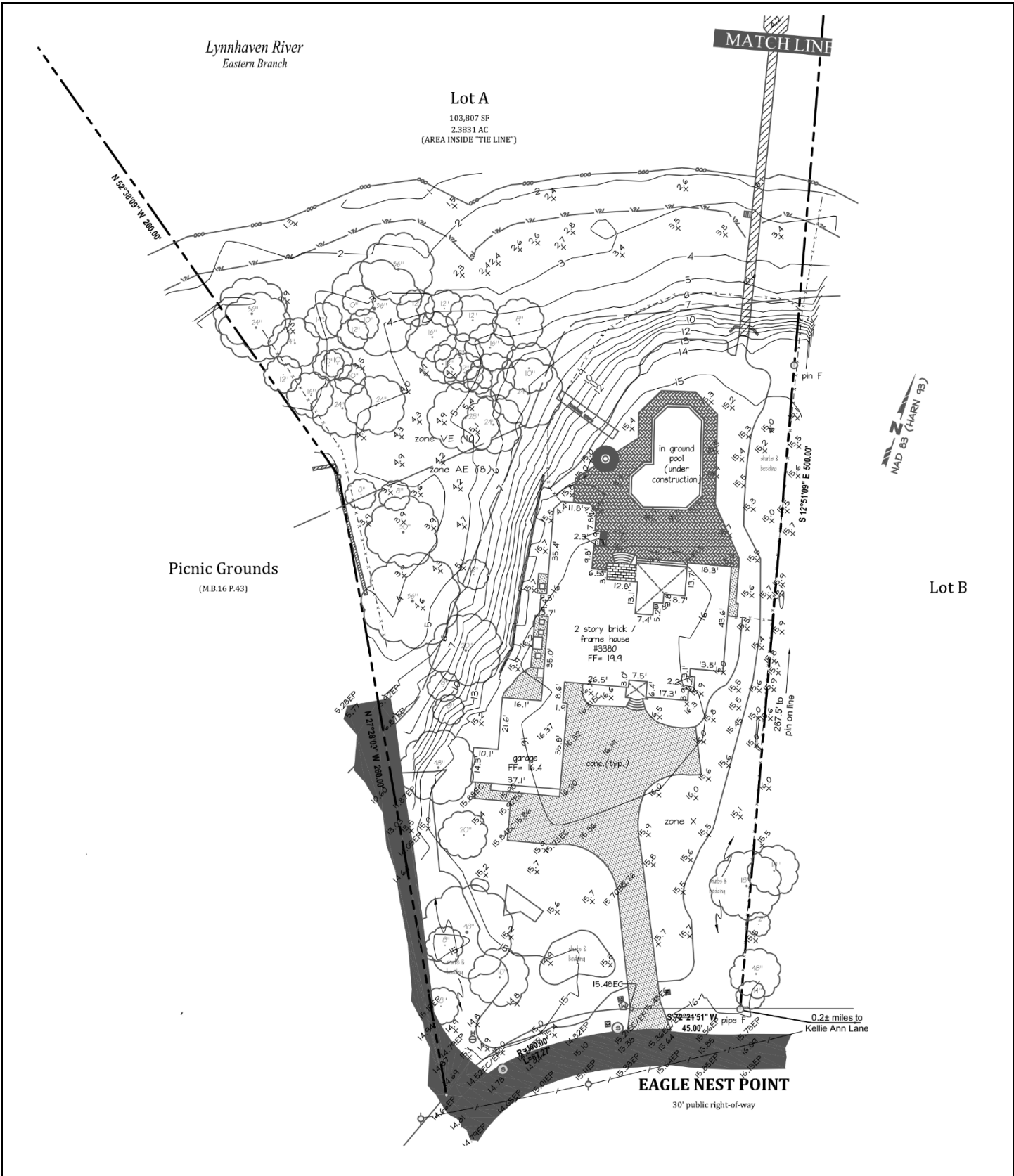
Site Aerial



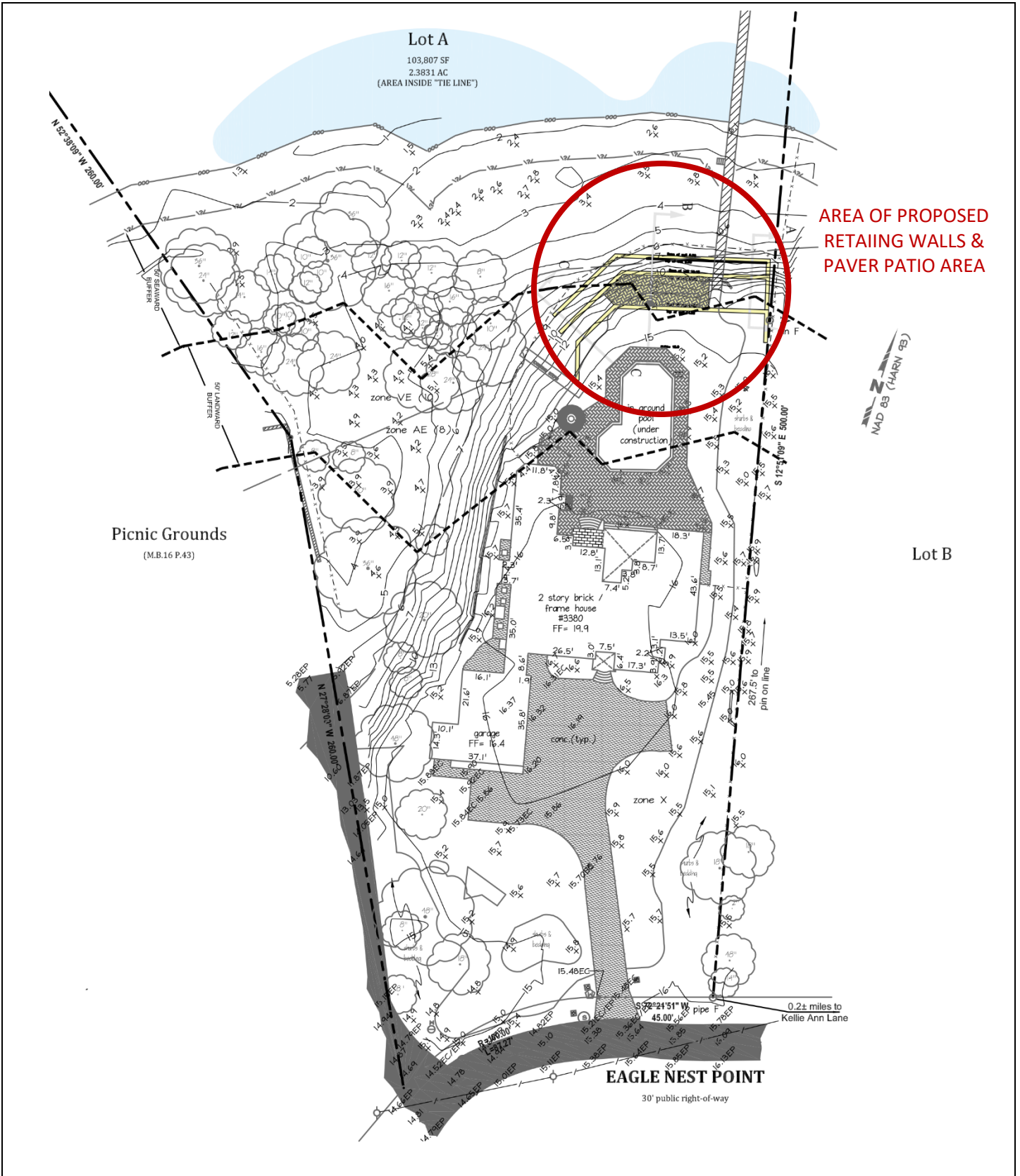
Site Aerial



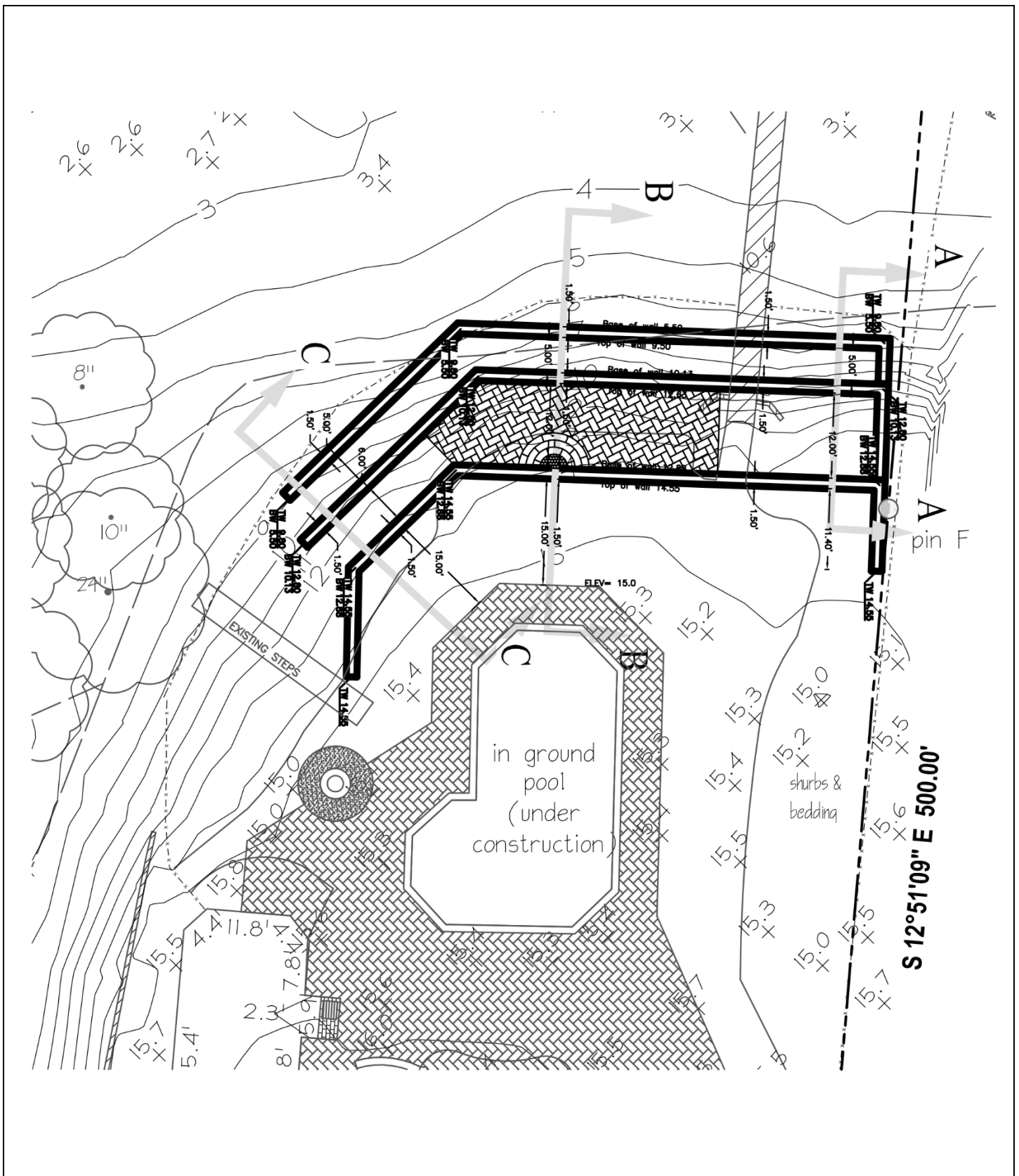
CBPA Exhibit – Existing Conditions



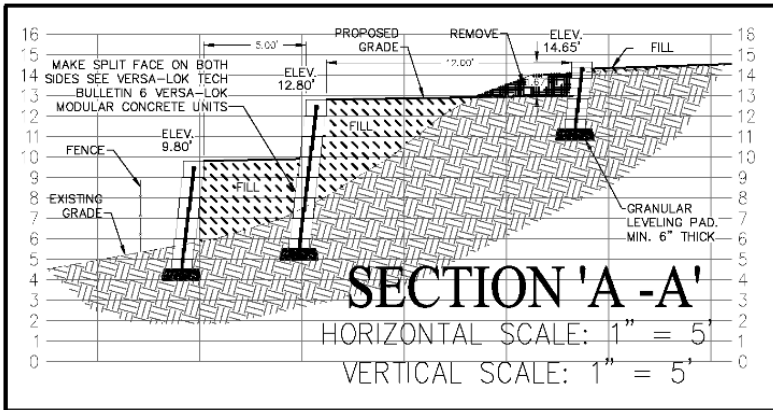
CBPA Exhibit – Proposed Improvements



CBPA Exhibit – Proposed Improvements, Enlarged View



CBPA Exhibit – Cross Section A - A



LOCATIONS OF WALL SECTION A-A

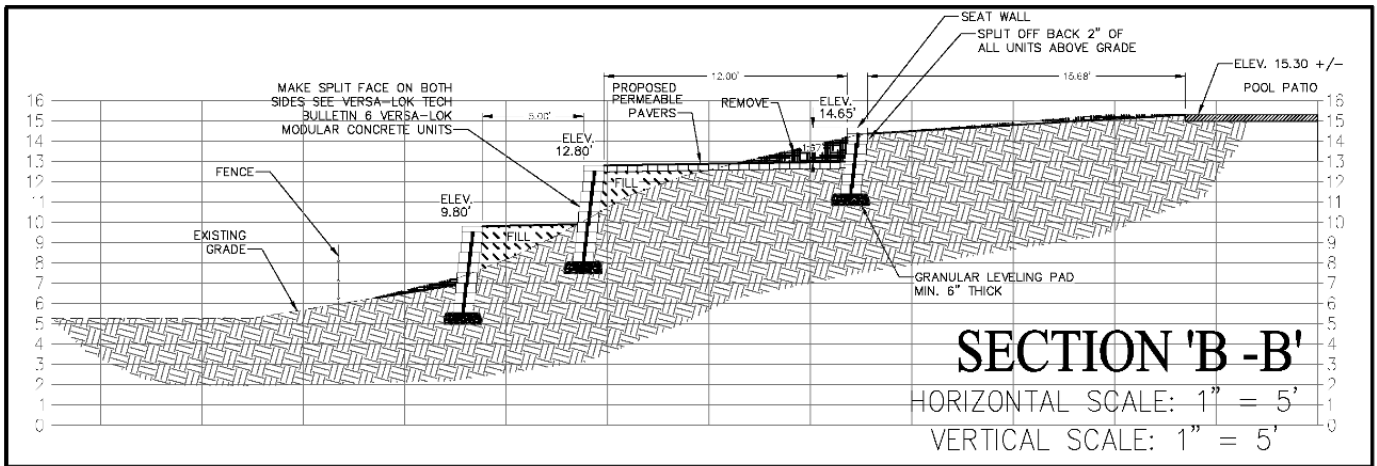


LOCATIONS OF WALL SECTIONS



EXISTING SHORE LINE

CBPA Exhibit – Cross Section A - A



LOCATIONS OF WALL SECTION B-B

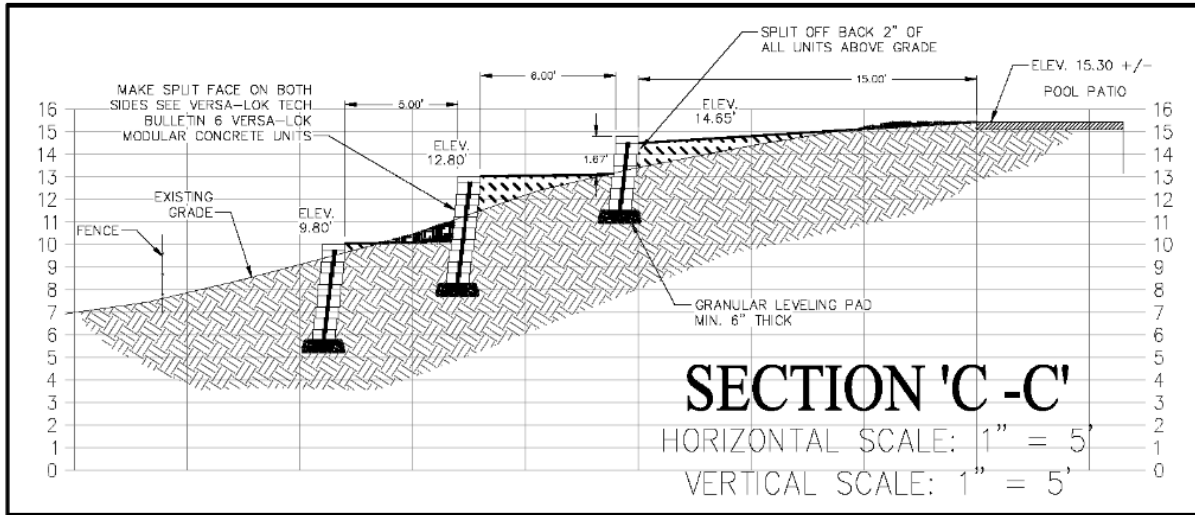


LOCATIONS OF WALL SECTION B-B



LOCATIONS OF WALL SECTION B-B

CBPA Exhibit – Cross Section A - A

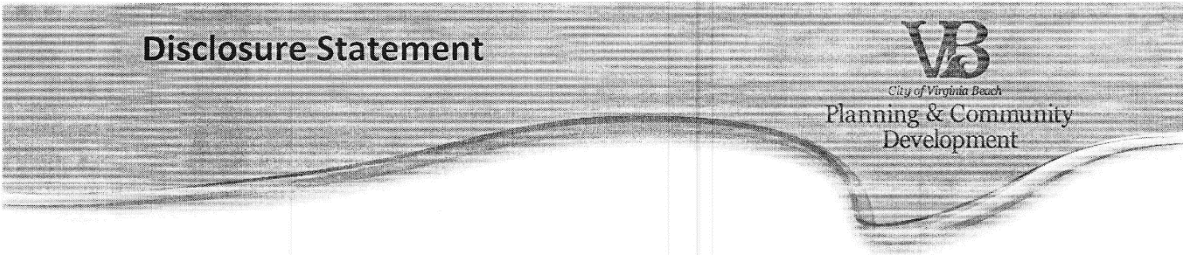


LOCATIONS OF WALL SECTION C-C



LOCATIONS OF WALL SECTION C-C

Disclosure Statement



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

Applicant Disclosure

Applicant Name John P. and Maria Motta

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

Kellam Gerwitz, Inc.; Robert S. Kellam

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

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

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

Yes No

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

Santander Bank

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.

Kellam Gerwitz, Inc.

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.
Virginia Beach PAVERS

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.
Kellam Gerwitz, Inc.; Robert S. Kellam

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.

John P. Motta
 Applicant Signature
John P. Motta
 Print Name and Title
September 29, 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 **Lynn & Michael Kaufman**
 Address **2124 E. Admiral Drive**
 Public Hearing **November 27, 2023**
 City Council District **District 8**

Agenda Item

8

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a building addition and relocate hot tub.

Applicant's Agent

Brad Martin, P.E.
 WPL

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 46, Page 2
 Recorded 11/11/1958

GPIN

1499-89-2675

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

262 square feet

Area of New Development in RPA

144 square feet

Location of Proposed Impervious Cover

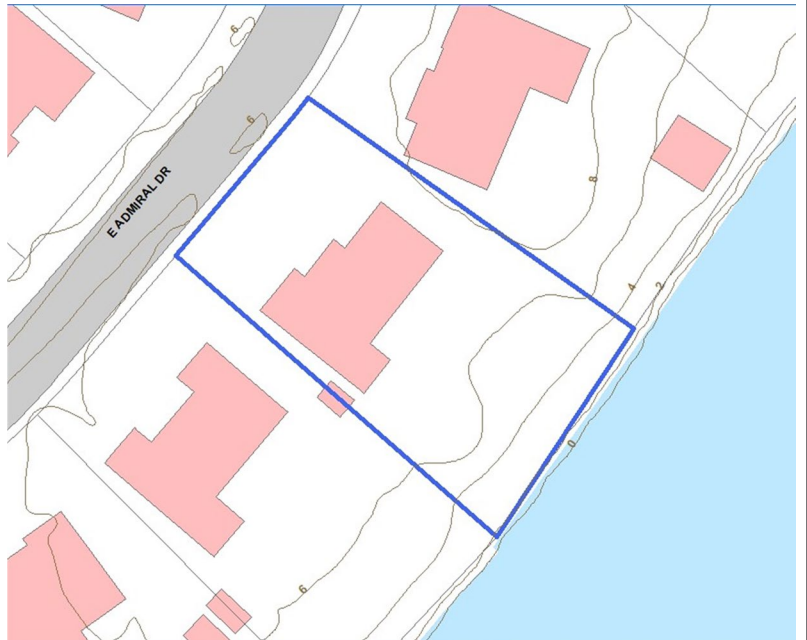
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- Building addition to the existing single-family residence
- Concrete slab to relocate existing hot tub

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

Shoreline

Shoreline is stabilized by a wood bulkhead.

Riparian Buffer

Sparsely wooded lot

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

Stormwater Management Methodology

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

Evaluation and Recommendation

The applicant is proposing to construct a building addition off the northeastern side of the existing single-family residence and relocate the existing hot tub onto a lawn area within the landward portion of the Resource Protection Area (RPA). This request consists of approximately 262 square feet of redevelopment over existing gravel and approximately 200 square feet of new impervious cover due to the hot tub relocation into a lawn area of the lot. Staff is of the opinion that the redevelopment of the lot is consistent with other redevelopment requests from owner of property in the neighborhood and that the applicant has provided a means to expand the existing single-family residence to meet their individual needs while limiting further encroachment within the RPA to the 50-foot landward buffer.

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

- 1) Granting 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 is similar to others in the neighborhood - redevelopment of these older homes and improvements accomplish an improvement to runoff.”* Staff concurs and offers that the primary purpose of this variance request is to construct an addition to the existing single-family residence, which results in relocating the hot tub within the landward buffer in order to keep the accessory structure within the rear yard of the property.
- 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 home addition is reasonable in size and scope to the existing home, and proposed improvements avoid the 50’ seaward buffer.”* Staff is of the opinion that the layout of the proposed improvements minimizes impact to the 100-foot buffer to the greatest extent practicable to address the needs of the property owner.
- 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 buffer restoration will accomplish improvements in the quality of stormwater runoff into the natural waterway.”* Staff offers that the topography of the lot is relatively flat and offers merit towards runoff from the existing impervious cover infiltrating into the underlying soil profile at moderate rate. In addition, the area of the proposed improvements does not substantially impact the existing vegetative cover of the lot therefore providing additional infiltration opportunity.
- 5) *“Erosion controls will be employed during construction and post-development stormwater management will be accomplished”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff acknowledges the statement provided by the applicant and offers that the overall amount of land disturbance is less than 2,500 square feet and limited to the upper limits of the RPA buffer.

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

Recommended Conditions

1. The conditions and approval associated with this variance are based on the exhibit plan dated October 27, 2023, prepared by WPL. 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. 400 square feet of buffer restoration shall be installed for the proposed new impervious cover within the RPA.

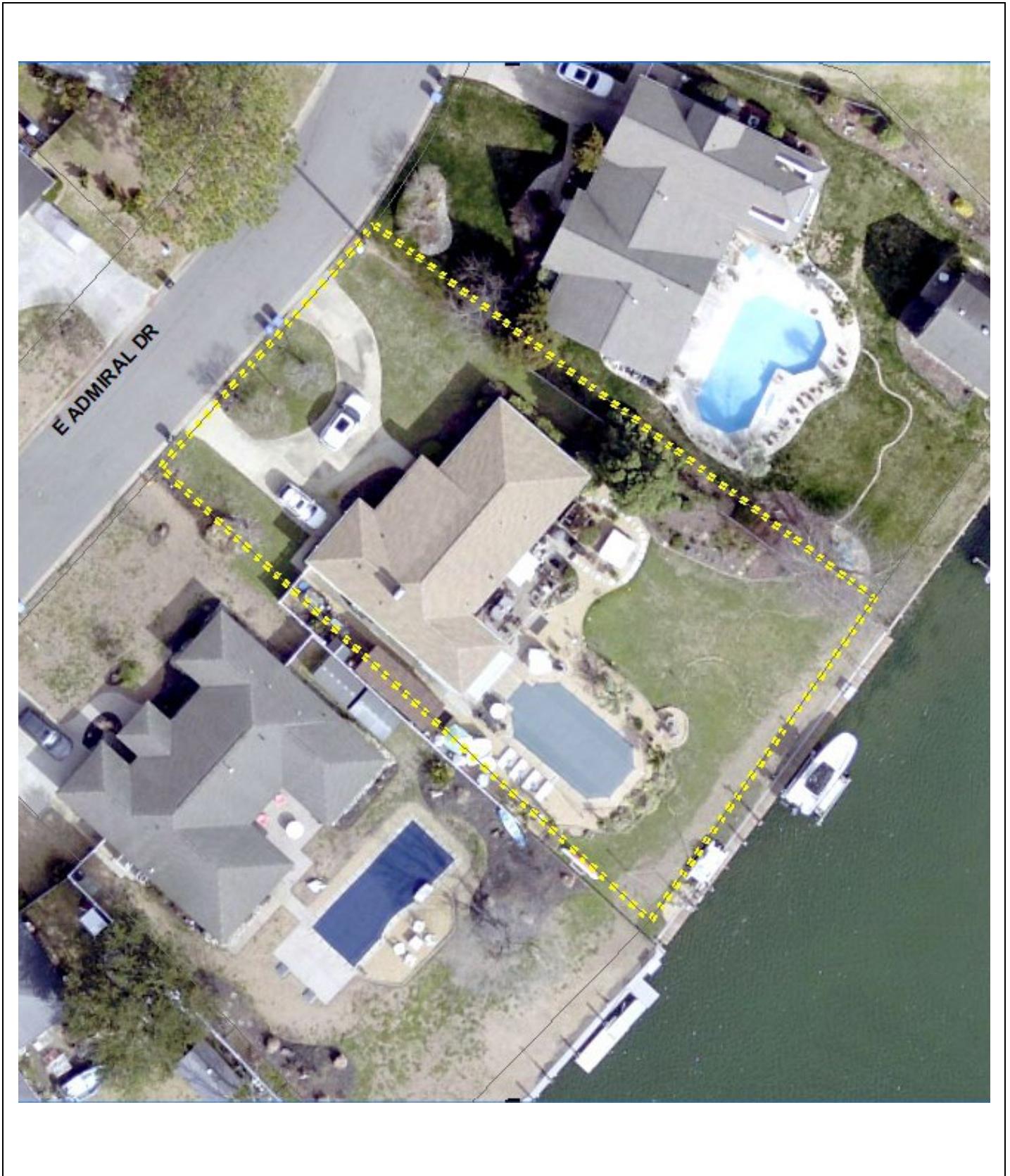
Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: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

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.

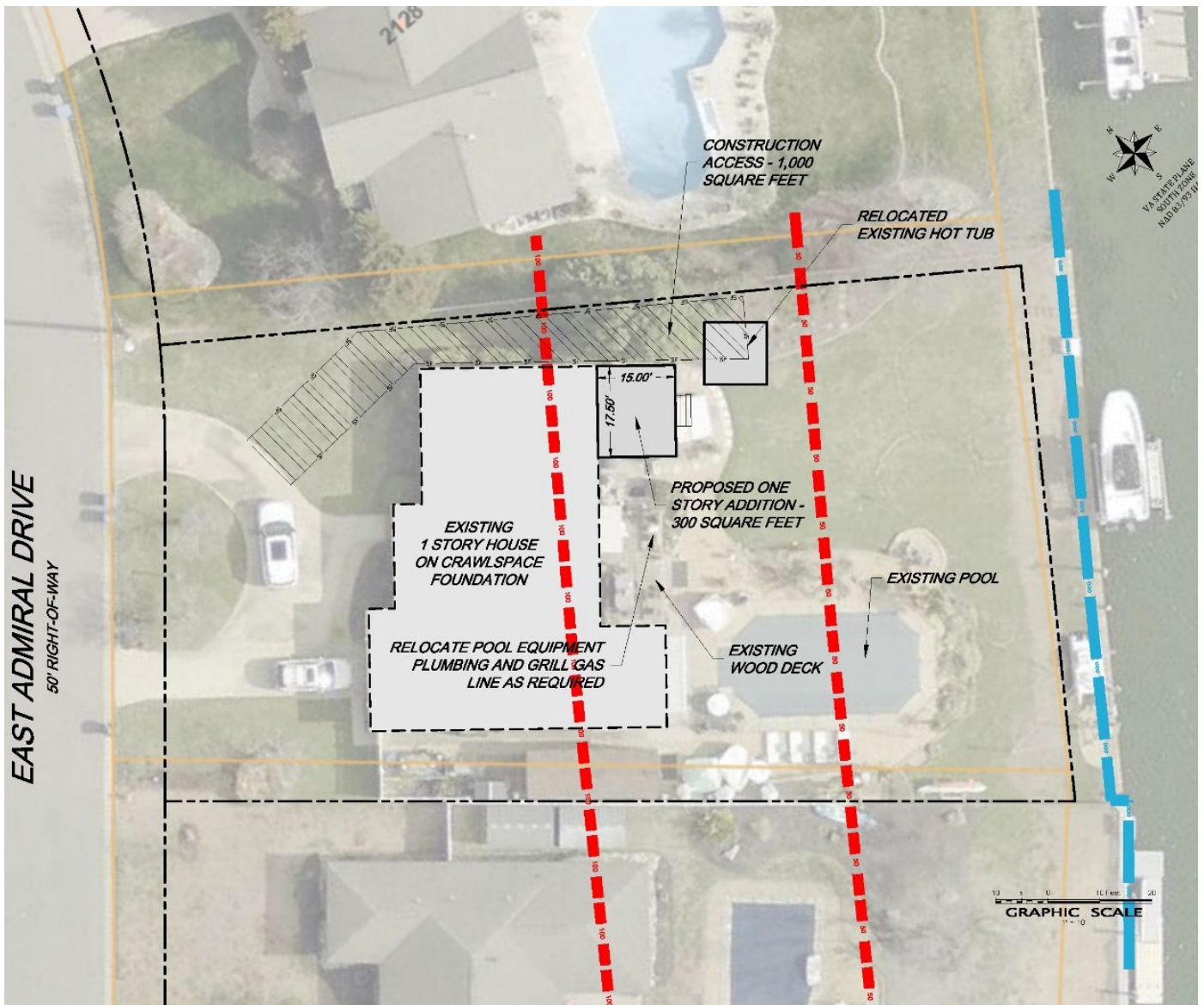
3. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
4. Silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until 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.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
6. No perimeter fill is authorized outboard or seaward of the proposed improvements.

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

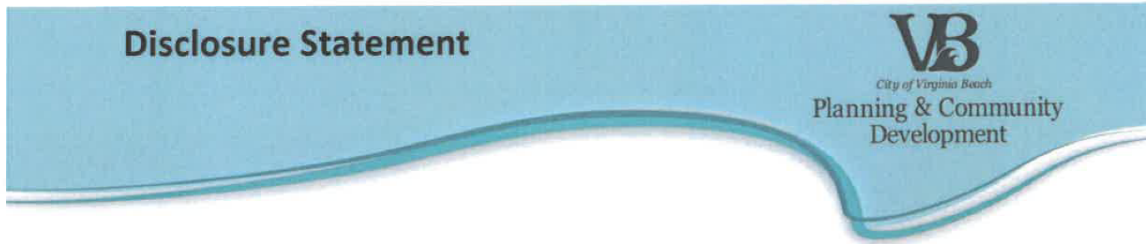
Site Aerial



CBPA Exhibit – 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 LYNN & MICHAEL KAUFMAN

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

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

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

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

Yes **No**

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

Mortgage with Chase

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.

Ken Kirby, Progressive R&D 2205 Elder Road VA Beach VA 23451 & WPL 242 Mustang Trail, Suite 8 Virginia Beach, VA 23452

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.

proposed contractor - McDrake Remodeling mcdrakeremodeling.com 5719 Arrowhead Dr, Virginia Beach, VA 23462

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 242 Mustang Trail, Suite 8 Virginia Beach, VA 23452 757.431.1041 ext. 21 | Cell: 757.574.5454

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

Lynn C. Kaufman

Print Name and Title

Lynn C. Kaufman

Date

10/25/2023

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

AS NEEDED, PAGE LEFT BLANK



Applicant’s Agent

George Dillon, Esq.
Anchor Legal Group, PLLC

Staff Planner

Cole S. Fisher

Lot Description

Lot 289, Bay Island, Section 2
2212 Leeward Shore Drive

Lot Recordation

Map Book 74, Page 2
Recorded 11/30/1967

GPIN

2409-29-0640

Statement of Noncompliance

Unauthorized development within the Resource Protection Area (RPA) buffer for the expansion of an accessory structure – swimming pool surround.

Show Cause Hearing

A Show Cause hearing was held on July 24, 2023 and a matter of noncompliance found. The extent of noncompliance was based off the following degree of deviation or noncompliance and environmental impacts matrix.

Degree of Deviations or Noncompliance

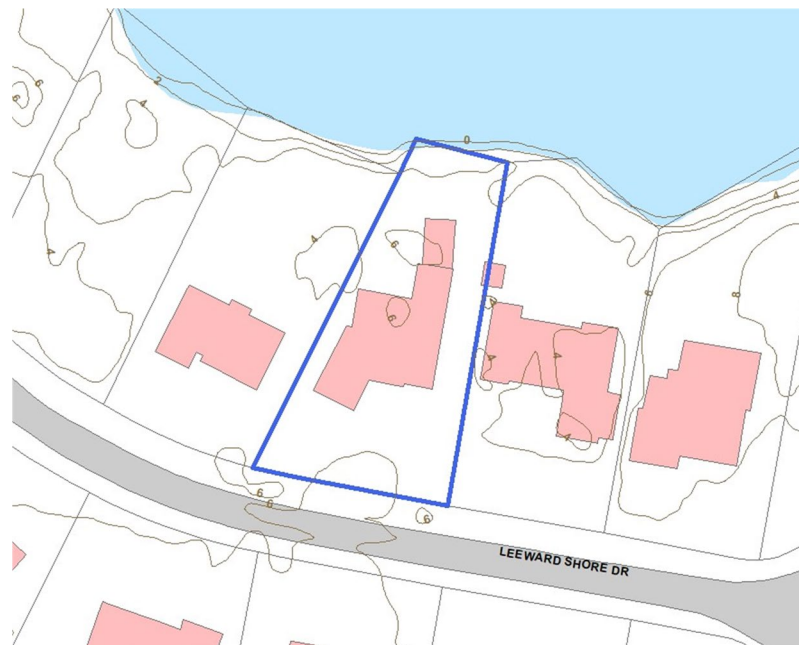
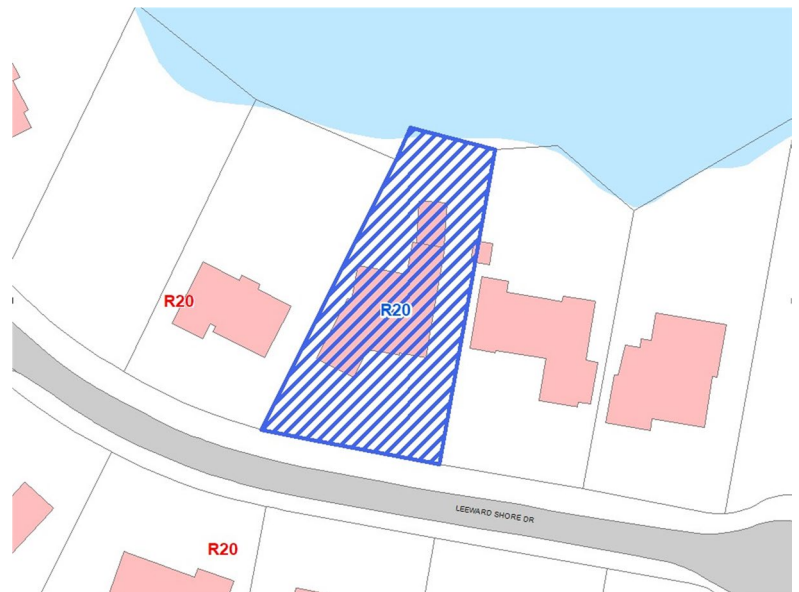
- Medium

Environmental Impacts

- High

A civil charge of \$1,000.00 was imposed to the property owner and a Restoration Hearing ordered by the Chesapeake Bay Preservation Area (CBPA) Board to be heard at the November 27, 2023 CBPA Board Public Hearing for the Property Owner – Christina Minton.

The civil charge has been paid.



Environmental Conditions

Flood Zone

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

Soil Type(s)

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

Shoreline

Shoreline is stabilized by a rip rap revetment

Riparian Buffer

Sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 0

CBPA Ordinance Variance History

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

History of Noncompliance

Staff's knowledge, Christina Minton has no known history of noncompliance with the Chesapeake Bay Preservation Area Board prior to this incident for this lot.

Chronology of Noncompliant Event

July 27, 2022	A Stop Work Order (SWO) was placed on the property for unauthorized work being performed without a building permit and erosion & sediment control measures installed.
August 1, 2022	Staff received a citizen inquiry regarding construction work being performed at the property. Permits & Inspections (P&I) Staff visited the property located at 2212 Leeward Shore Drive to investigate a citizen inquiry regarding construction activity occurring on the property. At that time, no additional work had been performed.
August 22, 2022	Staff sent a Notice to Comply letter to the property owner stating, <i>"this letter shall serve as written notice that you have thirty (30) days from the date of this letter to provide Staff with documentation that the unauthorized improvements do not represent an increase in impervious cover or a further encroachment within the RPA on the property."</i>
August 29, 2022	Staff received an email from the property owner seeking clarity on the requirements of the Notice to Comply letter specific to the physical survey. The property owner stated in the email that no additional work has been performed. The property owner will be out of town dealing with a family matter.
August 30, 2002	Staff replied to the property owner stating, <i>"your property is within the Resource Protection Area (RPA) of the Chesapeake Bay watershed and subject to the provisions of the Chesapeake</i>

Bay Preservation Area (CBPA) Ordinance. If you are working within the footprint of existing improvements (i.e., patios, pool decks, etc.) then Staff may be able to review the redevelopment of those surfaces administratively. If those areas were expanded, then a variance to the CBPA Ordinance will be required. Do you have an existing physical survey of the property, in addition to the new one that your surveyor is working on?"

- September 6, 2022 Staff met with the property owner at the Department of Planning and Community development to discuss the activity that had occurred on the property and the future desires of the property owner to redevelop the lot. The Chesapeake Bay Preservation Area (CBPA) process was discussed and the necessity for a current up-to-date physical survey to be performed to determine what, if any, encroachment into the Resource Protection Area (RPA) buffer had occurred.
- October 11, 2022 Permits & Inspections performed a site compliance check for the SWO placed July 27, 2022. No further progress or activity had occurred.
- May 4, 2023 Staff received a citizen inquiry regarding construction work being performed at the property.
- May 5, 2023 A second SWO was placed on the property for unauthorized work being performed without a building permit. At that time, it was determined by Staff that additional work had been performed post-issuance of the July 27, 2022 SWO.
- May 5, 2023 The property owner visited the Department of Planning and Community Development after the SWO was placed on the property. The purpose of the visit was to obtain a fence permit to rebuild the property fence, damaged by the tornado and sure the rear of the property which contains an inground swimming pool. Staff informed the property owner that the only work permitted on the property is for the installation of the fence, no other work is authorized, and that the property owner will be receiving a Notice to Comply letter to attend a CBPA public hearing as a Show Cause.
- May 9, 2023 A Notice to Comply letter was sent to the property owner as written notice that you are to appear before the CBPA Board at the public hearing scheduled Monday, May 22, 2023.
- May 10, 2023 Staff received an email from the property owner asking if topsoil could be placed on the lot.
- May 11, 2023 Staff replied to the property owners request to place topsoil on the lot stating, *"at this time, I would advise you not to perform any work on the lot until the Chesapeake Bay Preservation Area (CBPA) Board show cause hearing is complete."*
- May 31, 2023 Staff met with the property owner's attorney to discuss step going forward to bring the site into compliance, the deferral process, and necessary permits and approvals potentially needed based on the outcome of the Show Cause hearing.
- July 14, 2023 Staff spoke with the property owner's contractor and attorney regarding the July, 22 2023 CBPA Board public hearing and Show Cause agenda item for the subject property. The property owner's representatives inquired about the necessary steps going forward to remove the unauthorized improvements. Staff provided the following – *"Staff will need a plan showing the areas of unauthorized improvements to be removed for review and approval. Once the plan is approved a building permit may be obtained from Permits & Inspections. After obtaining the building permit the Contractor will schedule a pre-demolition meeting with Civil Inspections to*

go over the sequence of activities on the site. Once the improvements are removed and the areas of disturbance stabilized, E&S measure may be removed. A final inspection will be conducted, and the building permit closed.

Please submit the plan showing the areas of unauthorized improvements to be removed through our Accela Citizen Access (ACA) as a Preliminary Project Request (PPR) for documentation. Attached are guidance documents for the online submittal process and a PPR form.”

Staff informed the property owner’s attorney that the CBPA Board may levee a civil charge even though the property owner is progressing forward with coordinating the removal of the unauthorized improvements.

- July 24, 2023 At the July 24, 2023 CBPA public hearing, the property owner appeared before the CBPA Board for the Show Cause hearing for the unauthorized improvements constructed on the lot. A motion was made, with a second provided, to find the property in non-compliance with a civil charge of \$1,000.00 and a restoration hearing ordered for the November 27, 2023 CBPA public hearing.
- November 14, 2023 Staff met with the applicant’s agent and received a survey of existing conditions. The existing conditions survey depicts area of removal for the unauthorized improvements.

Evaluation and Recommendation

The subject area of unauthorized redevelopment and expansion of an accessory structure – swimming pool surround occurred within the 50-foot seaward and 50-foot landward buffers of the Resource Protection Area (RPA) of the Chesapeake Bay watershed. Staff estimates that approximately 650 square feet of unauthorized new impervious cover was introduced into the RPA feature due to the redevelopment and expansion of the swimming pool surround. Given the location of the adjacent tidal feature along the shoreline of this lot and the adjacent lot to the west, Staff is of the opinion that the majority of the 650 square feet of unauthorized new impervious cover within the RPA is located within the 50-foot seaward buffer.

Given the degree of deviation that occurred associated with the construction of the unauthorized improvements and environmental impacts found by the CBPA Board at the July CBPA Board public hearing Staff offers the following recommended restoration orders.

Recommended Restoration Order Conditions

- 1) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition. The construction access way, staging area if needed, and stockpiling area shall be delineated in the field at said meeting.
- 2) Land disturbance shall be limited to the area necessary to provide for the proposed activity associated with the restoration order.
- 3) A 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 5 feet from improvements.

- 4) Construction limits along the seaward portion of the project shall lie a maximum of 5 feet seaward of improvements.
- 5) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final inspection. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 6) Upon granting of a restoration order a **CBPA / CIVIL permit** must be obtained within 30 days. All required unauthorized improvements shall be in the process of being removed within 45 days after issuance of the building permit. Failure to comply with this condition may result in a show cause hearing.
- 7) The conditions associated with this restoration order are based on the exhibit plan dated November 13, 2023 prepared by WPL. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit. 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.

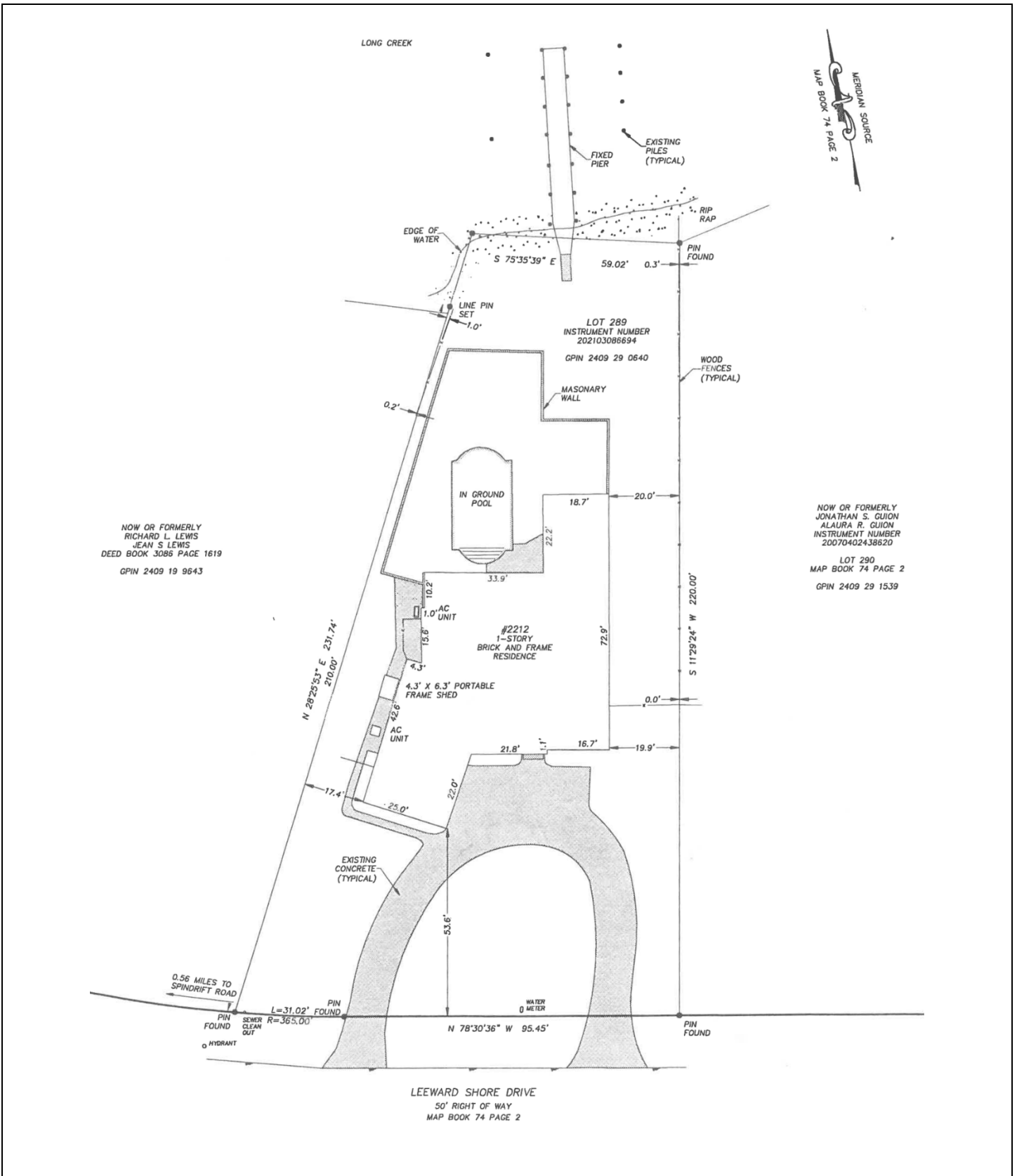
Site Aerial



2023 Site Aerial



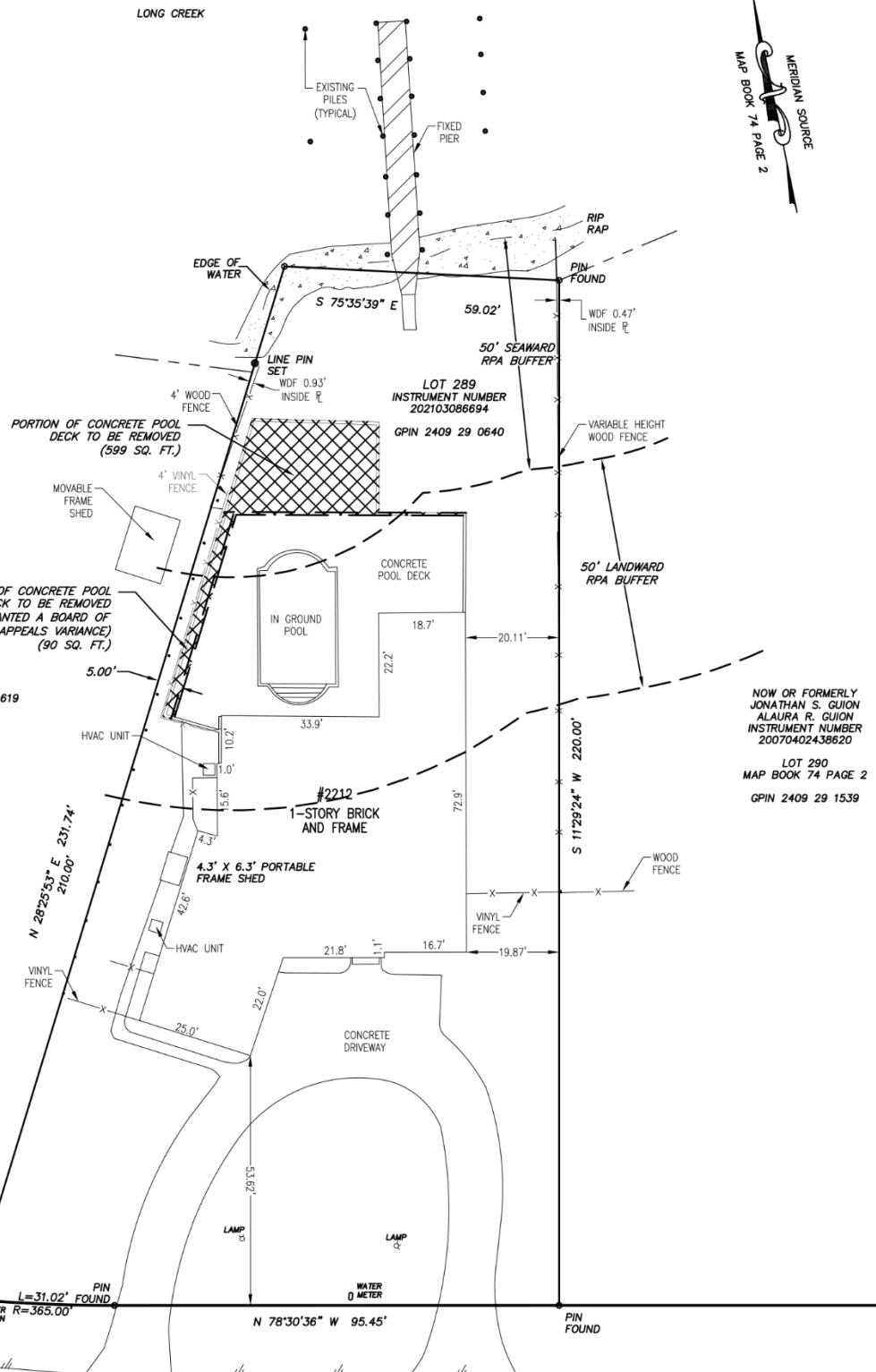
Physical Survey – Current Site Conditions



CBPA Exhibit – Restoration Plan

SITE DATA

1. THE PROPERTY IS CURRENTLY LEGALLY DESCRIBED AS LOT 289, RESTRICTION OF BAY ISLAND, SECTION TWO, PLAT RECORDED IN MAP BOOK 74, PAGE 2, IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH, VIRGINIA.
2. GPIN 2409-29-0640
3. ZONING: R-20
4. THE PROPERTY FALLS IN THE DISCUSSIBLE RY WATERSHED.
5. THE PROPERTY SHOWN HEREON APPEARS TO FALL WITHIN FLOOD ZONE AE (ELEVATION 7) (BASE FLOOD ELEVATION DETERMINED), AS SHOWN ON F.E.M.A.'S FLOOD INSURANCE RATE MAP (F.I.R.M.) FOR THE CITY OF VIRGINIA BEACH, VIRGINIA, COMMUNITY PANEL NO. 31553010410 DATED JANUARY 16, 2015.
6. WHO IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON. THIS SURVEY DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE SUBJECT TO FLOODING. FOR FURTHER INFORMATION, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ALL ENCUMBRANCES OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN. THIS PLAT DOES NOT INTEND TO REPRESENT A SUBDIVISION OF LAND.
7. THE PROPERTY DOES NOT FALL IN "100-YEAR SUBJECT TO SPECIAL RESTRICTIONS" (OTHER TO SITE PLAN ORDINANCE, SECTION 58.5 (C)).
8. THIS SITE LIES WITHIN AIRCRAFT ACCIDENT POTENTIAL ZONE AEA AND/OR NOISE ZONEDS) CLAS. BE BE MAY BE SUBJECT TO AIRCRAFT ACCIDENT POTENTIAL ZONE AEA RESTRICTIONS DUE TO ITS PROXIMITY TO AIRPORT OPERATIONS. NOISE ZONE RESTRICTIONS MEASURES FOR NEW CONSTRUCTION ARE REQUIRED BY ACCORDANCE WITH THE AIRPORT NOISE ATTENUATION AND SAFETY ORDINANCE AND HEIGHT RESTRICTIONS HAVE BEEN IMPOSED IN ACCORDANCE WITH SECTION 202(B) OF THE CITY ZONING ORDINANCE.
9. AREA OF SITE: 26,614 SQ. FT. OR 0.613 ACRES.
10. AREA OF SITE OUTSIDE OF WATER, MARSH, WETLANDS, AND WATERSHED: 20,446 SQ. FT. OR 0.469 ACRES (APPROXIMATE).
11. UNRECORDED AREAS:
 EXISTING 6,000 SQ. FT. OR 0.137 ACRES (APPROXIMATE)
 POST-DEVELOPMENT 8,579 SQ. FT. OR 0.197 ACRES (APPROXIMATE)
 IMPROVED AREA TO BE REMOVED: 890 SQ. FT. OR 0.020 ACRES (APPROXIMATE)
12. LOT SERVED BY CITY SEWER AND WATER.
13. THE UNDERGROUND UTILITIES SHOWN, IF ANY, HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPLETE ALL SUCH UTILITIES IN THE AREA. OTHER IN SERVICE OR ABANDONED, THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.
14. THIS TOPOGRAPHIC SURVEY OF LOT 289, RESTRICTION OF BAY ISLAND, SECTION TWO, PLAT RECORDED IN MAP BOOK 74, PAGE 2, IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH, VIRGINIA WAS COMPLETED BY WARREN & ASSOCIATES, P.C. AND USED WITH PERMISSION FROM PROPERTY OWNER.



LEEWARD SHORE DRIVE
 50' RIGHT OF WAY
 MAP BOOK 74 PAGE 2

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Applicant & Property Owner **Nilkanth and Kalpana Patel**
 Address **909 Hall Haven Drive**
 Public Hearing **November 27, 2023**
 City Council District: **District 8**

Agenda Item

10

Property Owner’s Agent

Self-represented

Staff Planner

Cole Fisher

Lot Recordation

Deed Book 2526, Page 780 & 781
 Recorded 07/30/1986

Lot Description

Trant Berkshire Area, Lot 4, Robinhood Forest,
 909 Hall Haven Drive

GPIN

1498-42-6983

Current Property Owner

Nilkanth N. & Kalpana N. Patel

DESCRIPTION OF NONCOMPLIANCE

Unauthorized Improvements

- Unauthorized development within the Resource Protection Area (RPA) with the expansion of existing accessory structures.

Location of Unauthorized Improvements

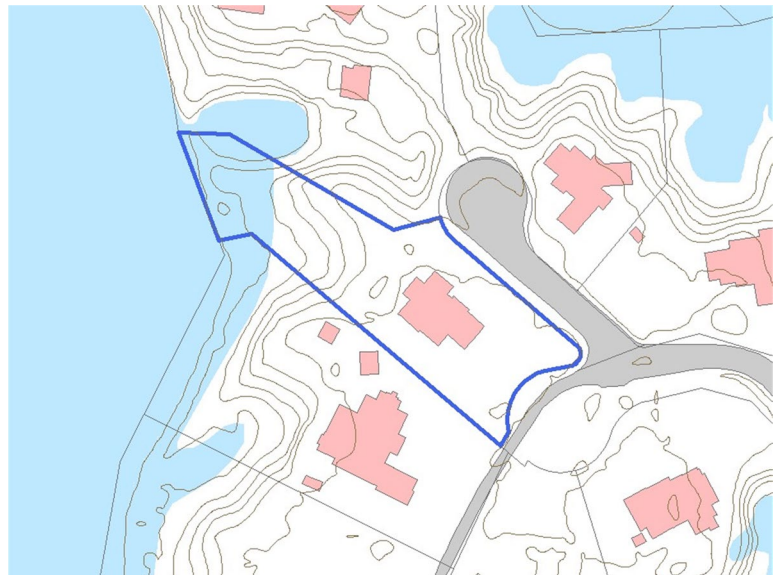
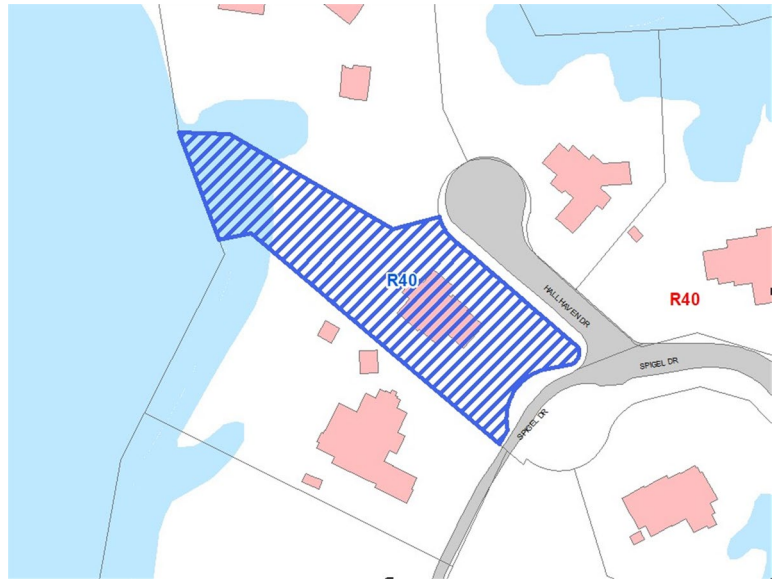
50-foot Landward Buffer

CBPA Ordinance

- The unauthorized improvements constitute a noncompliance to Section 106 specific to permitted encroachments into the RPA buffer area and 107 specific to the plan of development process of the Chesapeake Bay Preservation Area Ordinance.

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet



CBPA Ordinance Variance History

This variance request was deferred at the following Chesapeake Bay Preservation Area (CBPA) Board Public Hearings.

- August 28, 2023, CBPA Board Public Hearing
- October 23, 2023 CBPA Board Public Hearing

There is no known prior Chesapeake Bay Preservation Area (CBPA) Board variance history for this lot.

A CBPA Administrative Variance was authorized on September 10, 2021 for an addition to the primary structure, expansion of the existing driveway, and paver sidewalk.

History of Noncompliance

To Staff's knowledge, Nilkanth & Kalpana Patel have no known history of noncompliance with the Chesapeake Bay Preservation Area Board beyond the description of noncompliance.

Chronology of Noncompliant Event

September 2, 2021	<p>A preliminary Project Request (PPR) was submitted to the Department of Planning and Community Development for the following improvements.</p> <ul style="list-style-type: none">• Removal of one declining Pine tree in accordance with the Virginia Beach Department of Housing and Neighborhood Preservation Hazardous Tree(s) Violation Notice dated June 25, 2021• Additions to the primary structure• Paver sidewalks and driveway
August 10, 2021	<p>Staff sent a Chesapeake Bay Preservation Area (CBPA) Administrative Variance authorization letter to the property owner for the proposed improvements associated with the PPR request.</p>
November 5, 2021	<p>A Single-Family Site Plan in the RPA was accepted for review by the Development Services Center.</p>
November 8, 2021	<p>Chesapeake Bay Preservation Area (CBPA) Administrative Variance signs were provided to the property owner and the property posted advertising the CBPA Administrative Variance request in compliance with City Code, Appendix F, Sec. 110(B) <i>Administrative Variances</i>.</p>
December 8, 2021	<p>A review letter was sent to the property owner regarding the completion of the first review of the Single-Family Site Plan in the RPA for the property. The site plan was not approved at that time.</p>
August 19, 2022	<p>Staff sent a Notice to Comply letter to the property owner to remove the unauthorized improvements within the Resource Protection Area. Said removal of unauthorized improvements could be handled through the site plan review process and addressed on the resubmittal of the Single-Family Site Plan in the RPA to the DSC.</p>
August 10, 2023	<p>Staff sent a Show Cause letter to the property owner to serve as written notice to appear before the CBPA Board at the public hearing scheduled Monday, August 28, 2023.</p>

- August 28, 2023 A motion was brought forth at the CBPA Board public hearing to defer the Show Cause hearing for the property located at 909 Hall Haven Drive to the October 23, 2023 CBPA Board public hearing. The motion passed.

- October 23, 2023 A motion was brought forth at the CBPA Board public hearing to defer the Show Cause hearing for the property located at 909 Hall Haven Drive to the November 27, 2023 CBPA Board public hearing. The motion passed.

- November 14, 2023 Staff received and up to date physical survey of the property from the property owner’s agent.

Evaluation and Recommendation

Relative Degree of Deviation

Staff is of the opinion that the subject activity of noncompliance, expanding existing accessory structures on the lot is without appropriate Staff review, approval or permitting. Said expansion of the existing wood deck and the construction of a Tiki Bar area, concrete walkway and pad located off the rear of the residence appear to have occurred within the upper reach of the 50-foot landward buffer and city’s 100-foot Variable Width Buffer of the Resource Protection Area (RPA). Expansions of accessory structures within the 100-foot RPA of the Chesapeake Bay watershed may not be handled administratively by Staff and require that the property owner comply with City Code, Appendix F, Sec. 110(A) and (C) of the CBPA Ordinance. In addition, the proposed improvements associated with the 2021 CBPA Administrative Variance require review and approval by the Development Services Center before permitting and construction.

Upon receipt of an up-to-date physical survey of the property there appears to be a substantial increase to the amount of impervious cover on the lot. Staff provides the following analysis between the 2021 CBPA Administrative Variance Exhibit and the up-to-date physical survey provided on page 119 below.

- | | |
|--|--|
| • Area of Site | 40,724 square feet or 0.93 acres |
| • Area of Site Outside of Water and Wetlands | approximately 34,624.9 square feet or 0.79 acres |
| • Overall Impervious Cover of the Lot | approximately 14,201.78 square feet or 41 percent of the lot |
| • Additional Impervious Cover on the Lot | approximately 4,275 square feet |
| *Not shown on the 2021 CBPA Administrative Variance Exhibit | |
| • Additional Impervious Cover in the 50-foot Landward Buffer of the RPA | approximately 1,110 square feet |
| • Additional Impervious Cover in the 100-foot Variable Width Buffer of the RPA | Approximately 1,512 square feet |

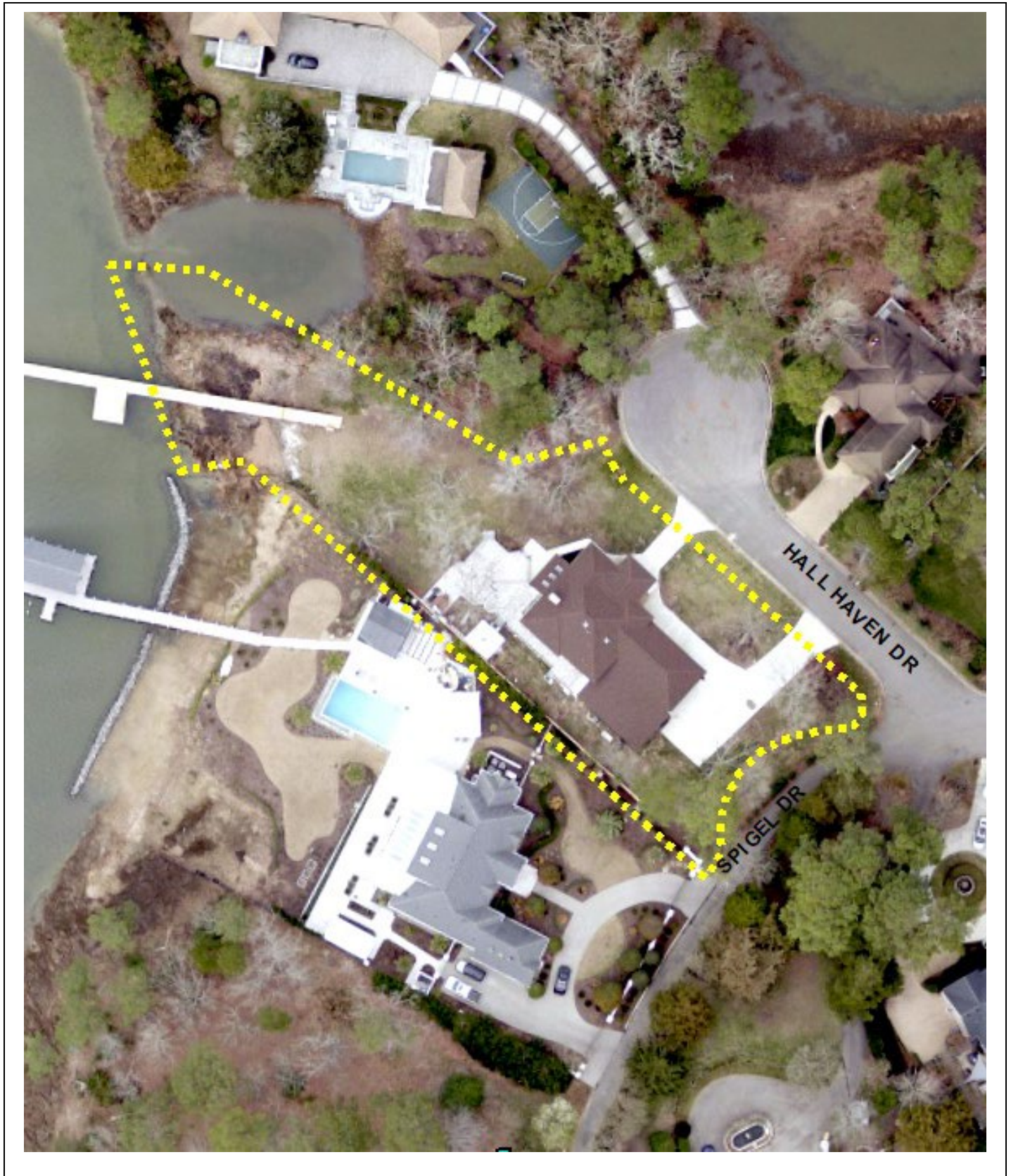
Environmental Impact

Staff is of the opinion that the subject area of noncompliance lies within the 50-foot landward buffer of the Chesapeake Bay Preservation Area (CBPA) RPA adjacent to the tidal shores of the Lynnhaven River. Although there are no signs of sediment migration associated with the land disturbance on the lot into the adjacent tidal waterbody, the unauthorized improvements were constructed without site plan approval and compliance with all applicable erosion and sediment control measures.

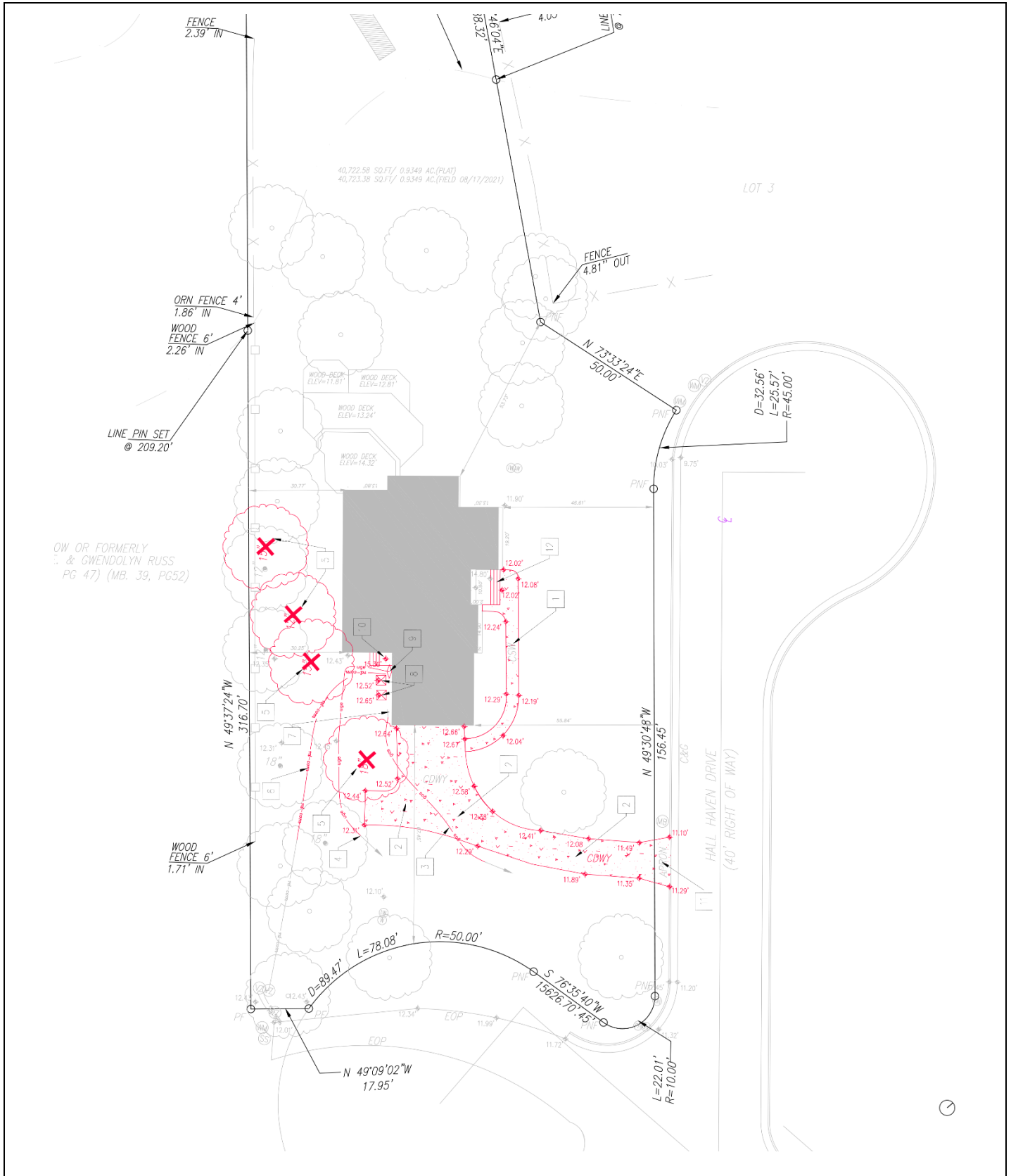
Recommendation

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

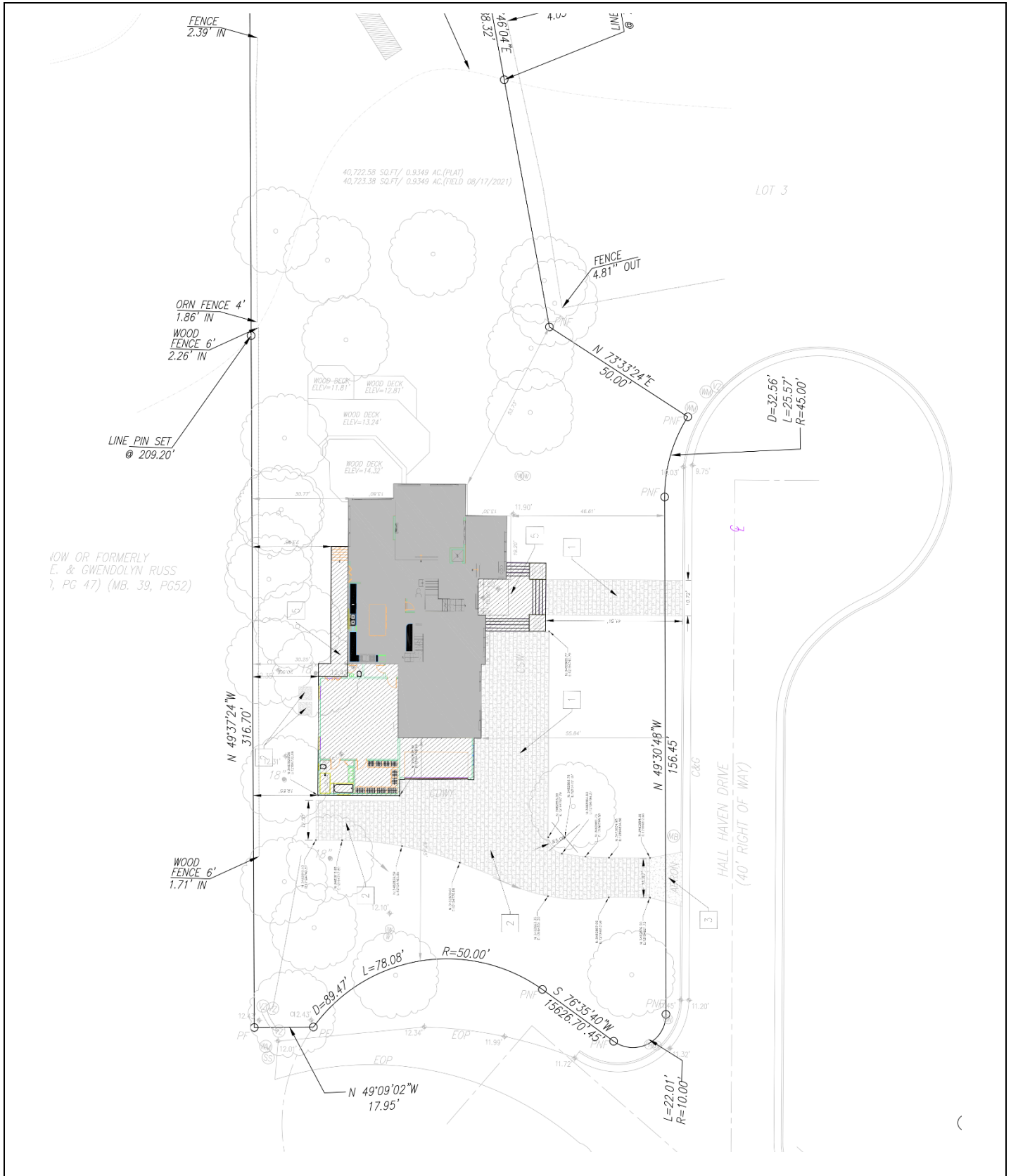
Site Aerial



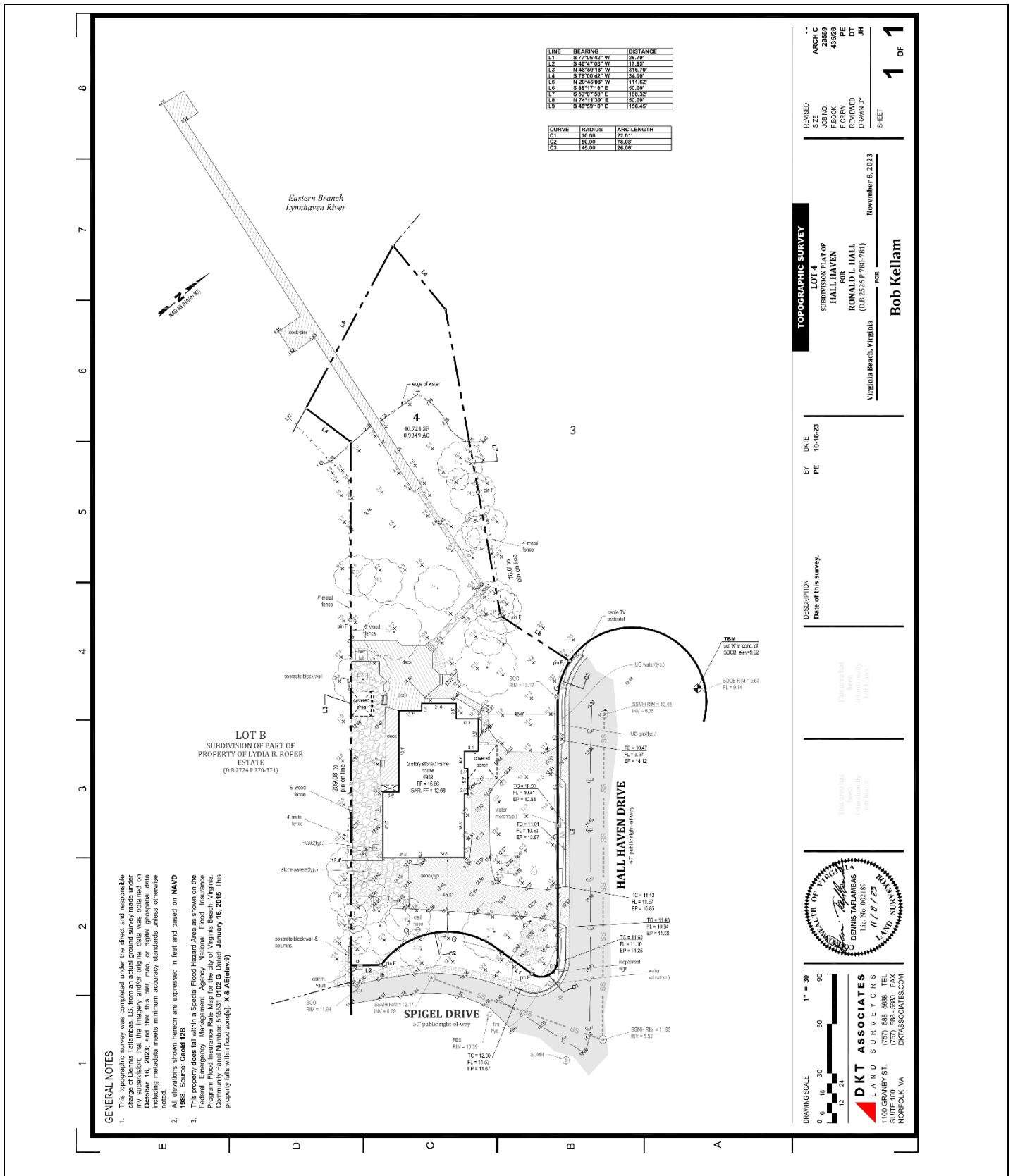
2021 CBPA Administrative Variance – Existing Conditions



2021 CBPA Administrative Variance – Proposed Improvements



CBPA Exhibit – Existing Conditions, Surveyed 2023



GENERAL NOTES

- This topographic survey was completed under the direct and responsible charge of Dennis T. Kellam, L.S. from an actual ground survey and on or about October 16, 2023, and that this plat, map, or digital geospatial data including metadata meets minimum accuracy standards unless otherwise indicated. Elevations shown hereon are expressed in feet and based on NAVD 1988. Source: Geoid 12B.
- This property does fall within a Special Flood Hazard Area as shown on the Federal Emergency Management Agency National Flood Insurance Program Flood Insurance Rate Map for the city of Virginia Beach, Virginia, dated January 16, 2015, and is within flood zone(s) X & AE (view 9).

LINE	BEARING	DISTANCE
L1	S 77°05'44" W	29.70'
L2	S 44°41'05" W	17.80'
L3	N 48°36'15" W	316.70'
L4	S 37°57'42" W	34.00'
L5	N 28°45'09" W	117.62'
L6	S 88°11'11" E	50.00'
L7	S 52°07'25" E	188.32'
L8	N 14°13'33" E	50.00'
L9	S 48°59'11" E	156.45'

CURVE	RADIUS	ARC LENGTH
C1	10.00'	22.61'
C2	50.00'	74.00'
C3	45.00'	24.00'

REUSED ARCH C
 SIZE 20559
 JOB NO. 435/28
 F.BOOK PE
 F.CREW JH
 REVISIONS
 DRAWN BY
 SHEET

TOPOGRAPHIC SURVEY
 LOT 4
 SUBMISSION PLAT OF
 HALL HAVEN
 FOR
 RONALD L. HALL
 (D.B. 22547786-781)
 FOR
 Bob Kellam
 Virginia Beach, Virginia November 8, 2023

BY DATE
 PE 10/16/23

DESCRIPTION
 Date of this survey.

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DRAWING SCALE
 1" = 30'
 0 6 15 30 60 90
 12 24
DKT ASSOCIATES
 LAND SURVEYORS
 1100 GRANBY ST.
 SUITE 100
 NORFOLK, VA
 (757) 688-5888 TEL
 (757) 688-5880 FAX
 DKTASSOCIATES.COM

1 OF 1

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