

Chesapeake Bay Preservation
Area Board Staff Report

April 22, 2024



Chesapeake Bay Preservation Area Board

Notice of Public Hearing

A Public Hearing of the Virginia Beach Chesapeake Bay Preservation Area (CBPA) Board will be held on **Monday, April 22, 2024** 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.



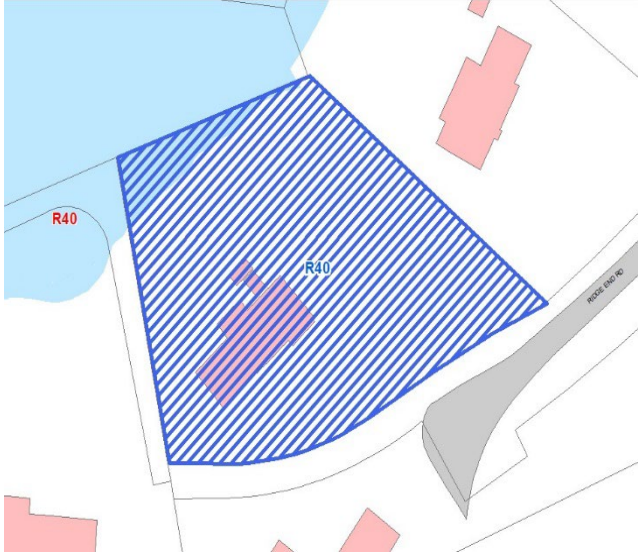

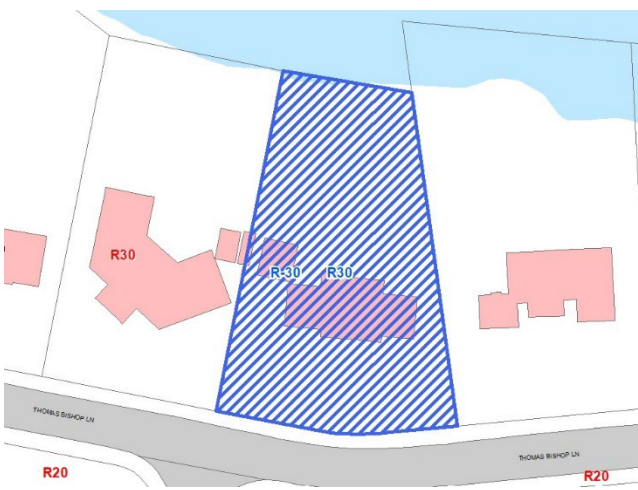
Chesapeake Bay Preservation Area Board Agenda
Public Hearing Date: April 22, 2024

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.

Old Business Agenda Items	
<p>1. Bryan Matthew Killian Trust [Applicant & Property Owner]</p> <p>2904 Breezy Road GPIN 1499-38-0667 City Council District: District 8 Accela Record: 2024-CBPA-00004</p> <p>Variance Request – Encroachment into the RPA to construct a gazebo and walkway.</p> <p>Staff Planner – Cole Fisher Staff Report – page 7</p>	
<p>2. Carl & Denise Gideon [Applicants & Property Owners]</p> <p>2944 Breezy Road GPIN 1499-18-7380 City Council District: District 8 Accela Record: 2024-CBPA-00005</p> <p>Variance Request – Encroachment into the RPA to construct a building addition, concrete driveway, and swimming pool with patio surround.</p> <p>Staff Planner – Cole Fisher Staff Report – page 23</p>	

New Business Agenda Items	
<p>3. Lang Nguyen [Applicant & Property Owner]</p> <p>2032 Ridge End Road GPIN 1489-96-7883 City Council District: District 8 Accela Record: 2024-CBPA-00010</p> <p>Variance Request – Encroachment into the RPA to construct a sunroom, covered porch, and swimming pool with associated patio, pool house/detached garage.</p> <p>Staff Planner – Cole Fisher Staff Report – page 39</p>	
<p>4. Rodney & Rosecheryl Danao [Applicants & Property Owners]</p> <p>548 W. Plantation Road GPIN 2407-08-4378 City Council District: District 6 Accela Record: 2024-CBPA-00011</p> <p>Variance Request – Encroachment into the RPA to construct a swimming pool with associated pool surround and patio.</p> <p>Staff Planner – Cole Fisher Staff Report – page 51</p>	
<p>5. Benjamin A. Carey [Applicant & Property Owner]</p> <p>2053 Thomas Bishop Lane GPIN 1499-66-3796 City Council District: District 8 Accela Record: 2024-CBPA-00013</p> <p>Variance Request – Encroachment into the RPA to construct a bulkhead with associated fill.</p> <p>Staff Planner – Cole Fisher Staff Report – page 63</p>	

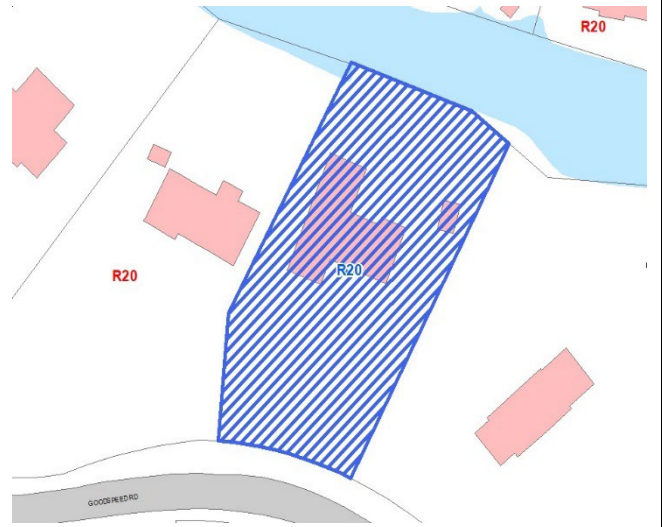
New Business Agenda Items (CONTINUED)

6. Mark P. Scanlon
[Applicant & Property Owner]

428 Goodspeed Road
GPIN 2419-60-0868
City Council District: District 6
Accela Record: 2024-CBPA-00014

Variance Request – Encroachment into the RPA to construct a swimming pool with permeable paver patio.

Staff Planner – Cole Fisher
Staff Report – page 75



7. Kelly L Bussey Revocable Trust
[Applicant & Property Owner]

1305 W Little Neck Road
GPIN 1488-27-8659
City Council District: District 8
Accela Record: 2024-CBPA-00015

Variance Request – Encroachment into the RPA to construct a paver patio area.

Staff Planner – Cole Fisher
Staff Report – page 87

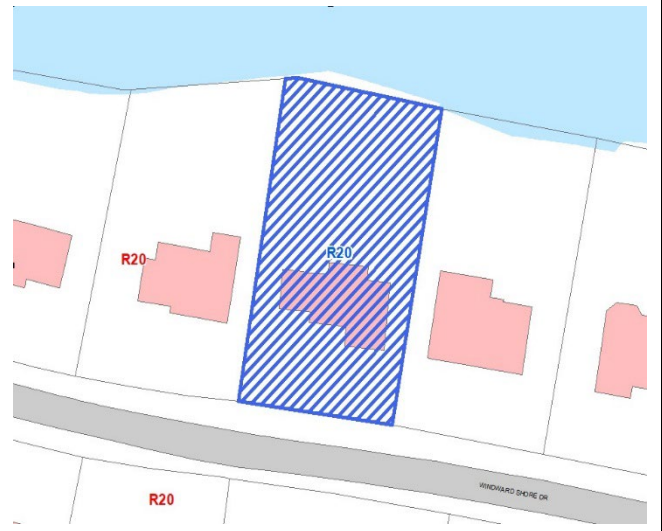


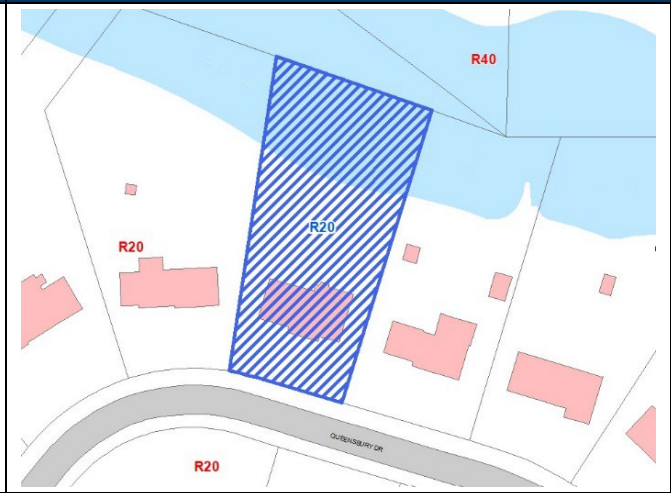
8. Donnie & Stacey Humphries
[Applicants & Property Owners]

2140 Windward Shore Drive
GPIN 2409-29-6024
City Council District: District 8
Accela Record: 2024-CBPA-00016

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

Staff Planner – Cole Fisher
Staff Report – page 99



New Business Agenda Items (CONTINUED)	
<p>9. Melissa & Patrick Smith [Applicants & Property Owners]</p> <p>3220 Queensbury Drive GPIN 1498-00-2832 City Council District: District 8 Accela Record: 2024-CBPA-00022</p> <p>Variance Request – Encroachment into the RPA to construct a shed and greenhouse.</p> <p>Staff Planner – Cole Fisher Staff Report – page 111</p>	 <p>The map displays a residential area with several lots. A central lot is highlighted with blue diagonal hatching and labeled 'R20'. To its right, another lot is labeled 'R40'. Other lots are labeled 'R20'. A road at the bottom is labeled 'QUEENSBURY DR'. A light blue area at the top represents a water body or park area.</p>



Applicant & Property Owner: **Bryan Matthew Killian Trust**
Address: **2904 Breezy Road**
Public Hearing: **April 22, 2024**
City Council District: **District 8**

Agenda Item

1

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a pavilion with associated walkway.

Applicant's Agent

Billy Garrington

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 37, Page 47
Recorded 05/05/1953

GPIN

1457-30-3208

SITE AREA

12,688 square feet or 0.291 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

12,439 square feet or 0.286 acres

EXISTING IMPERVIOUS COVER OF SITE

6,179 square feet or 49.7 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

6,325 square feet or 51 percent of site

Area of Redevelopment in RPA

180 square feet

Area of New Development in RPA

97 square feet

Location of Proposed Impervious Cover

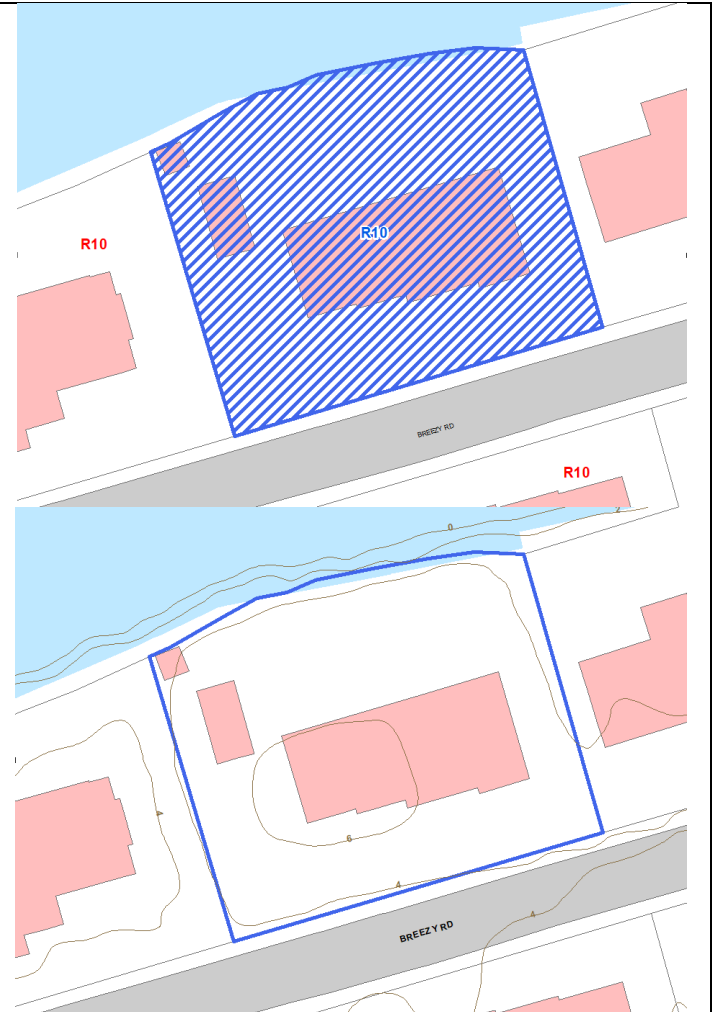
50-foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approve as conditioned



Summary of Proposal

Construction Details

- 180 square foot pavilion with associated 97 paver expansion

CBPA Ordinance Variance History

May 24, 2012, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted to construct a two-story residence with associated accessory structures with the following conditions:

1. *A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.*
2. *Land disturbance shall be limited to the area necessary to provide for the proposed use or development.*
3. *Wire re-enforced 36" erosion and sedimentation control measures (silt fences), shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed 10 ft. from proposed improvements. Best management practices for erosion and sediment control shall be employed during restoration activities to protect adjacent wetlands and shorelines of water bodies.*
4. *Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline (to the greatest extent practicable) of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.*
5. *Prior to the issuance of any certificate of occupancy, or the final release of any permit authorizing a land disturbing activity, all disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations by such methods as, but not limited to, temporary seeding, permanent seeding, sodding or soil stabilization blankets and matting. The Building Code Official may authorize a temporary certificate of occupancy without the required soil stabilization if the failure to stabilize is due to circumstances beyond the control of the permit holder.*
6. *Construction limits shall lie a maximum of 10' outboard of improvements.*
7. *The construction access way shall be noted on the site plan, as well as the stockpile / staging area.*
8. *The pool shape, size, and location shall be as shown on the submitted plan.*
9. *The pool shall be constructed prior to or concurrent with the residence.*
10. *Under deck treatment of sand and gravel shall be installed.*
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 (trees, landscaping, and mulched organic surfaces) areas, planting beds, and turf zones.*
12. *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.*
13. *The conditions and approval associated with this variance are based on the site plan prepared by Gallup Surveyors and Engineers dated March 27, 2012, sealed by Bruce Gallup dated April 3, 2012.*

14. *Stormwater runoff from proposed impervious cover shall be conveyed to stormwater management facilities. Low maintenance best management practices shall be employed to the maximum extent practicable. Stormwater facilities shall be installed prior to the certificate of occupancy or release of the building permit.*
15. *A means of intercept (i.e., trench drain, concrete gutter pan, etc.) shall be provided within the driveway so that stormwater runoff from the proposed impervious cover is not conveyed to the public right-of-way.*
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 \$390.49 and is based on 25% of the proposed impervious cover within the RPA, inclusive of the variable width portion of the buffer. Said payment shall provide for the equivalent of an approximate 426 sq. ft., 12-inch-deep oyster shell plant within the Lynnhaven River Basin.*
17. *Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA (1,702 sq. ft. x 200% = 3,404 sq. ft.) and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs, and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance. The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.*
18. *Buffer restoration shall be installed equal to 100% of the proposed area of redevelopment within the RPA (3,586 sq. ft. x 100% = 3,586 sq. ft.) and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs, and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance. The required restoration shall be located within the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit. In lieu of 100% restoration for redevelopment areas, a 10% reduction in pollutant removal load is acceptable via a structural BMP.*
19. *It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.*

The May 24, 2012, Board granted variance has been acted upon and the associated improvements constructed.

October 26, 2015, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted to construct a two-story residence with associated accessory structures with the following conditions:

1. *A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.*
2. *Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.*

3. *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.*
4. *Wire reinforced 36" 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. Said silt fence shall be installed 10' from improvements.*
5. *Construction limits shall lie a maximum of 10' seaward of improvements. Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.*
6. *Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.*
7. *A site plan shall be submitted to the Department of Planning, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.*
8. *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.*
9. *Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.*
10. *The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required buffer restoration and stormwater management facilities shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior restoration requirements shall be installed if not present.*
11. *Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA: 295 sq. ft. x 200% = 590 sq. 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 Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance: 2 canopy trees, 4 understory, and 8 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" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50% deciduous and 50% 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.
12. *No perimeter fill is authorized outboard or seaward of the proposed improvements.*
13. *Gravel downspout intercepts and/or gravel dripline intercepts shall be provided as a means of erosion and sediment control for stormwater run-off from the proposed improvements.*

14. *This variance and associated conditions are in addition to the conditions of the Board variance granted May 24, 2012.*
15. *The conditions and approval associated with this variance are based on the exhibit plan dated August 31, 2015, prepared by Gaddy Engineering Service, signed August 31, 2015, by Michael Gaddy. Deviation from said conditions during site plan review may require re-submittal for Board consideration.*

The October 26, 2015, Board granted variance has been acted upon and the associated improvements constructed.

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

Shoreline

Shoreline is stabilized by a wood bulkhead.

Riparian Buffer

Heavily to moderately wooded lot

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

Stormwater Management Methodology

Land disturbance associated with the proposed improvements will be less than 2,500 square feet; therefore, no stormwater management facility is required. Rainwater harvesting and bioretention beds were provided in the WQIA with the statement “some of these indicated measures will be used as necessary for stormwater management requirements.”

Evaluation and Recommendation

Staff provides the write-up from the March 2024 staff report for the CBPA Board’s reference.

“The 2012 Chesapeake Bay Preservation Area (CBPA) Variance for this lot was granted for the construction of a new single-family residence with associated swimming pool. At that time, it was the opinion of the CBPA Board “that the approval granted is the maximum impervious cover the site can support.” In 2015 the same property owner was granted a modification to the 2012 CBPA Variance moving the swimming pool from the side yard of the lot to the rear of the lot. Currently the property is under new ownership and the applicant desires to construct a 235 square foot pavilion with a 60 square foot walkway adjacent to the existing swimming pool within the 50-foot seaward buffer of the lot. Although the proposed new impervious cover is a minimal request with regard to new impervious cover, Staff’s opinion, the new overall impervious cover would exceed that which the CBPA Board stated was the maximum impervious cover that the lot could support in 2012. Staff acknowledges the lot is challenged by the presence of the Resource Protection Area (RPA) buffer of which the 50-foot seaward buffer encumbers approximately half of the lot, however, given the variance history

of the lot and layout of the proposed improvements within the buffer area, Staff is of the opinion the variance request as submitted does not represent the minimum necessary to afford relief.”

Since the deferral of the application at the March 2024 public hearing, the applicant’s agent has revised the plans to reduce the size of the proposed pavilion to 180 square feet and relocate the structure over existing impervious cover on portions of the existing patio surround. The applicant proposed that 97 square feet of paver expansion on the southern side of the patio to allow for more seating area around the existing swimming pool. Staff is of the opinion that this revised plan that utilizes existing impervious cover and minimizes new encroachment within the RPA buffer is acceptable and in harmony with the purpose and intent of the CBPA Ordinance.

As a means to provide merit towards the variance request being in harmony with the purpose and intent of the CBPA Ordinance the applicant’s agent offers the following comments relative to the findings of the CBPA Ordinance specific to this variance request 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 (breezy & buccaneer), some of which have been permitted similarly situated back yard improvements.”* While Staff acknowledges the statement provided by the applicant’s agent, Staff reiterates variance requests presented to the CBPA Board are reviewed individually for the merits provided by each request based off, but not limited to, environmental conditions, extent of encroachment request, the intent of the CBPA Ordinance, and prior variance requests granted by the CBPA Board.
- 2) The applicant’s agent 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 because *“the property was created before the CBPA act. This is a minimal addition in an area that is currently turf.”* Staff concurs with the applicant’s statement 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 property owner is requesting a reasonable amount of covered outdoor living space, around the deck area and the existing pool.”* Staff acknowledge the property is challenged due to the dimensional depth of the lot and is of the opinion the revised layout of the proposed improvements reflects 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 *“this redevelopment project is similar to other properties in the neighborhood and will result in improved water quality since stormwater management is required.”* Staff offers the recommended conditions below towards this variance request being in harmony with the purpose and intent of the CBPA Ordinance and conditions of the previous CBPA Variances granted for this lot.
- 5) The applicant’s agent stated in the Water Quality Impact Assessment (WQIA) that to manage towards a no net increase in nonpoint source pollution load *“the stormwater runoff will be directed to and treated by BPs which will reduce pollution in the post-development stormwater runoff.”* No best management practices (BMPs) have been shown on the CBPA exhibit. Rainwater harvesting and bioretention beds were provided in the WQIA with the statement *“some of these indicated measures will be used as necessary for stormwater management requirements.”*

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

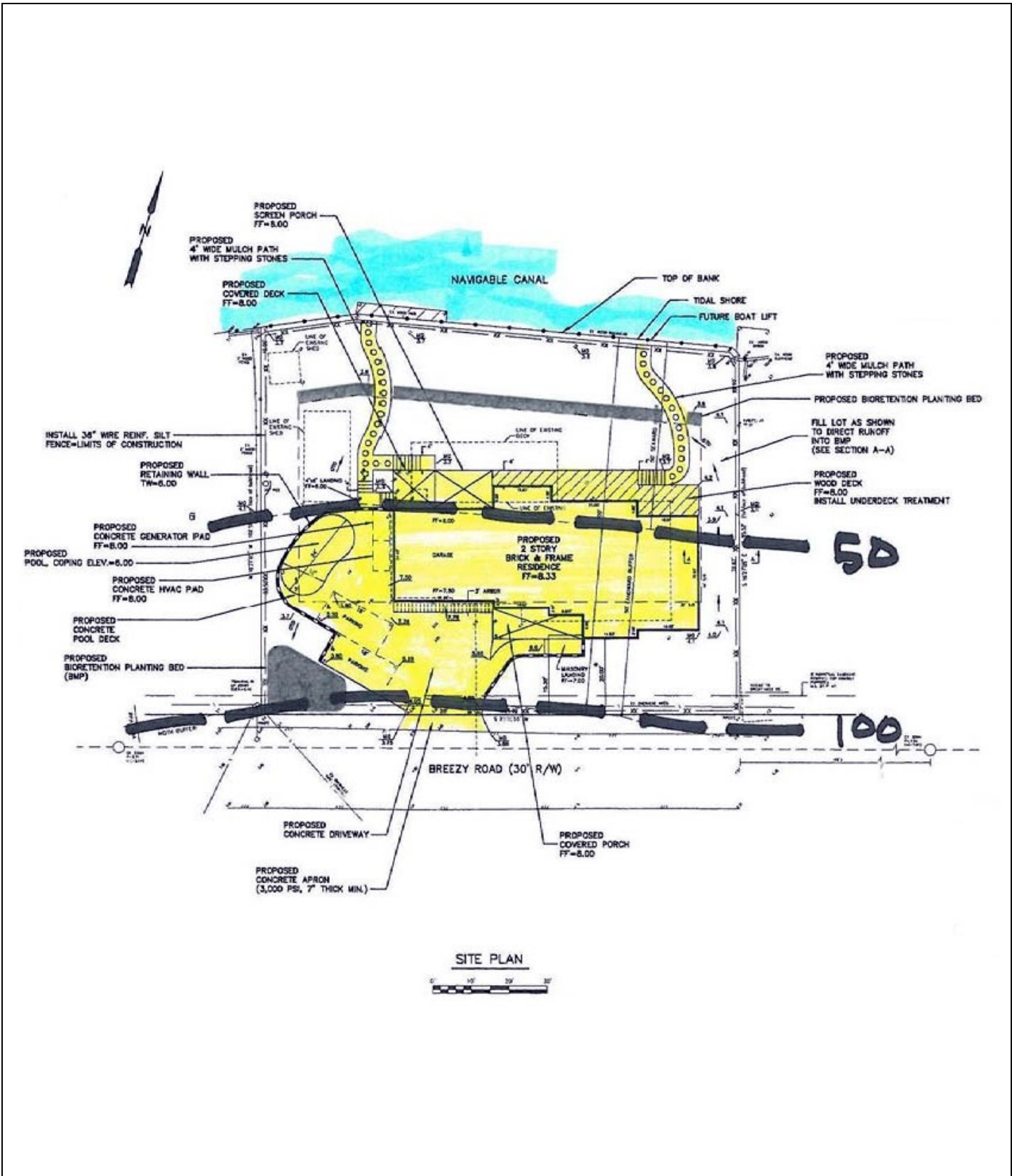
- 1) The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required buffer restoration and stormwater management facilities shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior restoration requirements shall be installed if not present.
- 2) Buffer restoration shall be installed for the proposed new impervious cover within the RPA as follows.
 - **1 canopy tree and 1 understory tree**

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 shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit.
- 5) The conditions and approval associated with this variance are based on the exhibit plan dated April 11, 2024, prepared by WPL, signed April 11, 2024, by Brad Martin. 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.
- 6) This variance and associated conditions **are in addition to** the conditions of the Chesapeake Bay Preservation Area (CBPA) Board variance granted May 24, 2012, and October 26, 2015.

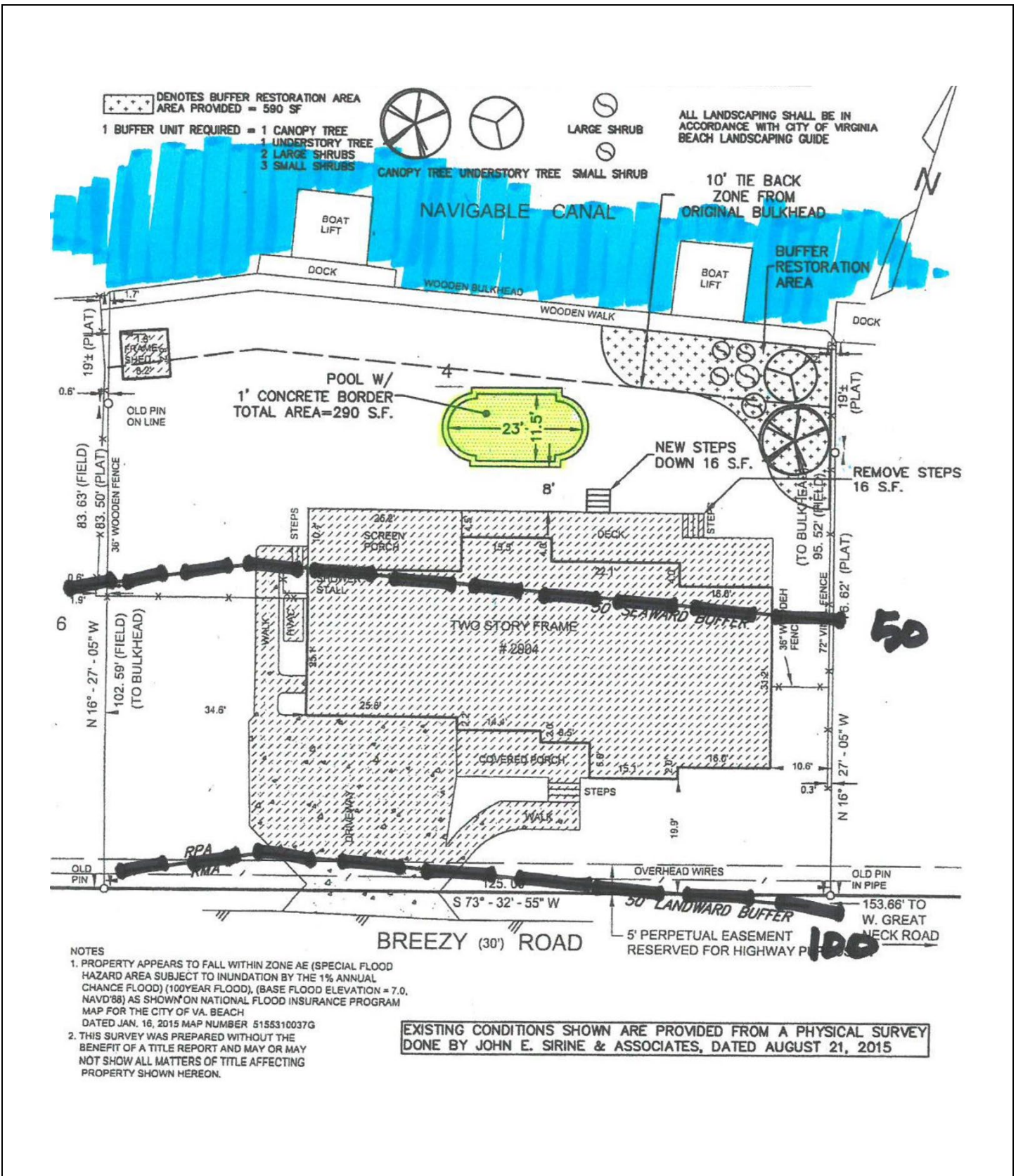
***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section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

Site Aerial

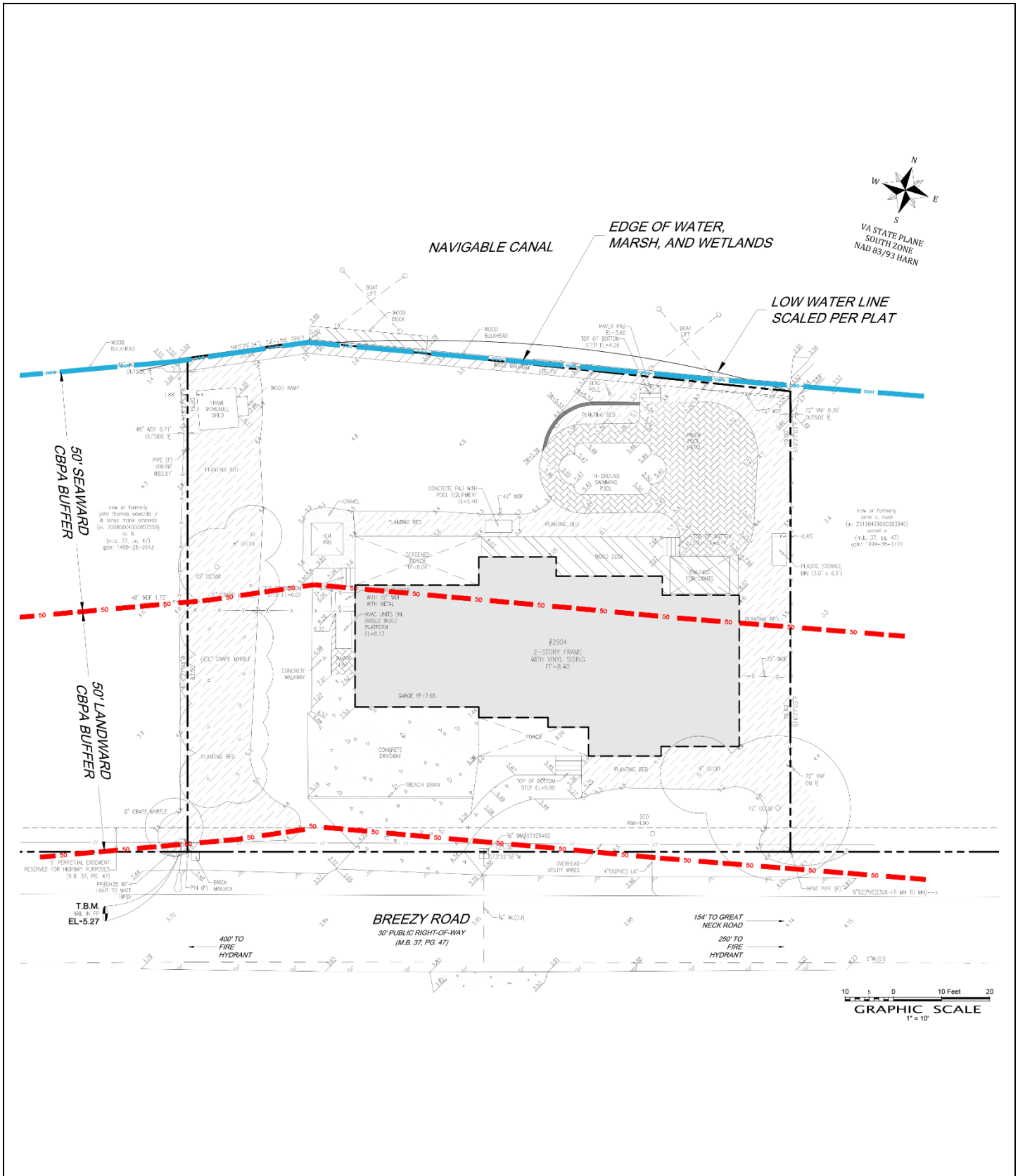




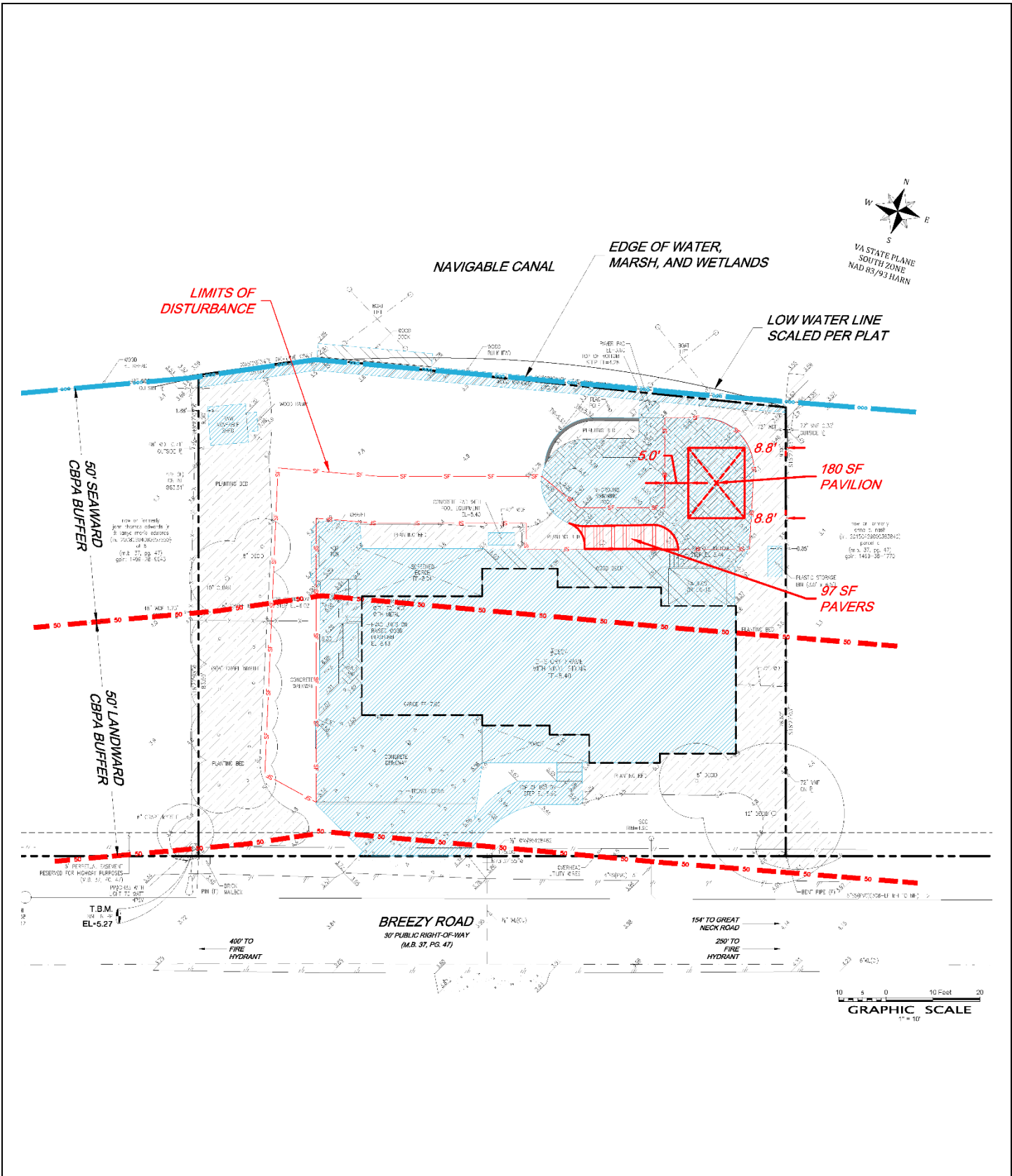
October 26, 2015, Chesapeake Bay Preservation Area (CBPA) Board Exhibit



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Revised Plans



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 BRYAN KILLIAN

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

BILLY GARRINGTON, GPC

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

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

BRYAN MATTHEW KILLIAN (BRYAN MATTHEW KILLIAN TRUST)

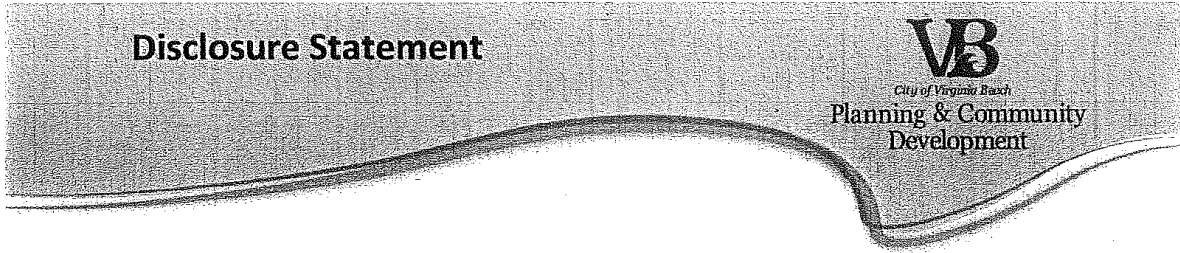
- If yes, list the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

N/A

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

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

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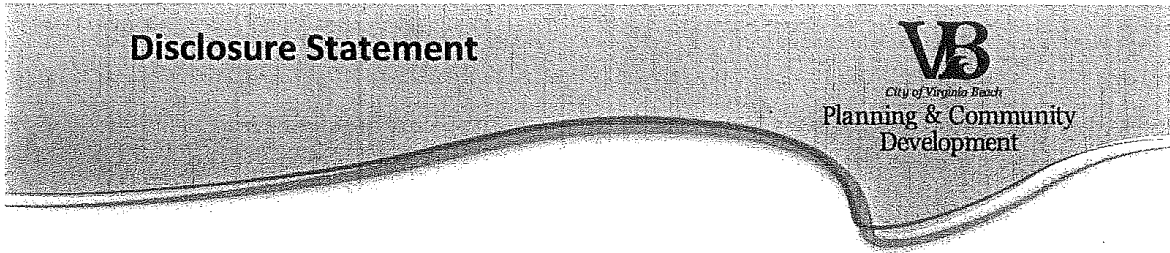
4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? Yes No

- If **yes**, identify the firm 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.
- BRAD MARTIN, WPL & BILLY GARRINGTON, GPC
-
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.

Bryan M. Killian
 Applicant Signature

BRYAN M. KILLIAN
 Print Name and Title

1/31/2024
 Date

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

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

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Applicant & Property Owner: **Carl & Denise Gideon**
 Address: **2944 Breezy Road**
 Public Hearing: **April 22, 2024**
 City Council District: **District 8**

Agenda Item

2

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a building addition, concrete driveway, and swimming pool with patio surround.

Applicant’s Agent

Billy Garrington

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 37, Page 47
 Recorded 08/13/1951

GPIN

1499-18-7380

SITE AREA

9,432 square feet or 0.217 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

10,710 square feet or 0.245 acres

EXISTING IMPERVIOUS COVER OF SITE

5,820 square feet or 54.3 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

6,149 square feet or 57 percent of site

Area of Redevelopment in RPA

1,325 square feet

Area of New Development in RPA

1,352 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

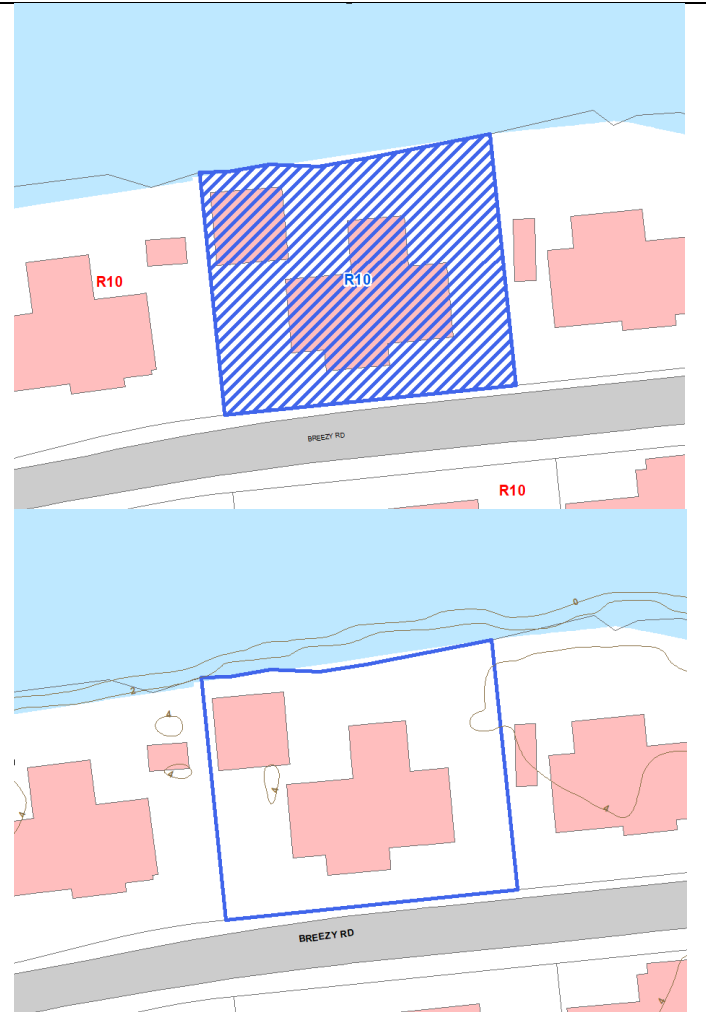
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Existing driveway, detached garage, wood deck, and paver walkway

Construction Details

- Two-story building addition with garage
- Swimming pool with associated pool surround and patio space

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

- The existing finished floor (F.F.) elevation for the single-family residence is below the FEMA base flood elevation for the lot. As such, improvement of any kind to a structure and/or use, in any floodplain district to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the criteria of the city's Floodplain Ordinance and shall require the entire structure to conform to the VA USBC [City Code, Appendix F, Article V].

Soil Type(s)

Psammets 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, and/or dying existing canopy trees requested for removal within the RPA: 0

Stormwater Methodology

Gravel downspout intercepts and bioretention planting beds.

Evaluation and Recommendation

Staff provides the write-up from the March 2024 staff report for the CBPA Board's reference.

"The applicant is proposing to demolish, reconstruct, and slightly expand their existing concrete driveway and remove the existing detached garage to construct a new two-story building addition on the west side of the property. The first floor

of the proposed building addition will connect to the existing single-family home by an internal staircase to the second floor. Additionally, the applicant proposes to remove the existing wood deck and construct a new swimming pool with an associated pool surround and patio area. Staff provides this reach of Breezy Road is a narrow peninsula with manmade canals located to the north and south of all existing residential lots with the average width of the peninsula ranging from approximately 145 feet to 240 feet, shoreline to shoreline. Lots located along breezy road are entirely within the 100-foot Resource Protection Area (RPA) buffer with the 50-foot seaward buffer encompassing over half of this lot.

Staff is of the opinion the extent of proposed improvements on the lot challenges the finding of the Chesapeake Bay Preservation Area (CBPA) Ordinance towards being the minimum necessary to afford relief and not being of substantial detriment to water quality based off the overall proposed impervious cover. To address this concern the applicant's agent reduced the proposed building addition by approximately 184 square feet from 24.5 feet by 48 feet to 22 feet by 45 feet. Portions of the existing driveway to the right of the residence were removed to reduce the overall impervious cover on the lot. To further support the variance request as submitted, the applicant's agent provides the following comments relative to the findings of the CBPA Ordinance specific to this variance request for the Board's deliberation."

Since the March 2024 CBPA public hearing, the applicant has revised the proposed plans to reduce the footprint of both driveway/parking areas on the lot to reflect a reduction of 254 square feet of new impervious cover as compared to the initial plan submittal. Additionally, the applicant has changed the materials of the pool surround and western driveway from concrete/pavers to solely permeable pavers to help aid in stormwater runoff and rainwater infiltration on the lot, consisting of 786 square feet of permeable pavers associated with the new impervious cover calculations within the RPA and a net total of 1,205 square feet of permeable pavers proposed on the lot. With these revisions, Staff is of the opinion that while permeable pavers are calculated as impervious cover, the main increase in new impervious cover with the request is derived from the expanded portions of the building addition, in which the applicant has situated to locate primarily out of the 50-foot seaward buffer. Staff is of the opinion that the applicant has taken means to reduce portions of existing impervious cover on the lot to accommodate the difficulties in redeveloping this lot that entirely sits within the 100-foot RPA buffer and the use of materials and location of proposed improvements have been situated as to not negatively affect the water quality of the Chesapeake Bay.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *"the property was platted in 1953 prior to the Chesapeake Bay Preservation Act. The proposed improvements are in keeping with the development of the neighborhood and adjacent parcels."* While Staff acknowledges the statement provided by the applicant's agent, Staff reiterates variance requests presented to the CBPA Board are reviewed individually for the merits provided by each request based off but not limited to environmental conditions, extent of encroachment request, the intent of the CBPA Ordinance, and prior variance requests granted by the CBPA Board. Staff is of the opinion the recommended conditions in this Staff report provides merit towards the variance request not conferring special privileges to this applicant.
- 2) Staff offers that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"we have designed the improvement over existing impervious area to the greatest extent practicable for redevelopment and to minimize site impacts and lessen the impervious area in the RPA."* While Staff acknowledges the statement provided by the applicant's agent, the specific conditions of the lot warrant an analysis of the proposed improvements to the access of the site, associated land disturbance to construct the proposed improvements, location within the RPA buffer of the proposed improvements and mitigation measures provided to enhance water

quality. As such, Staff has provided the recommended conditions below as a means for the variance request to be in harmony with the intent of the CBPA Ordinance.

- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *“the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels and if approved, the stormwater mitigation and buffer restoration will be installed to facilitate stormwater treatment from the new improvement.”* Staff is of the opinion the introduction of stormwater management with a request that disturbs more than 2,500 square feet of uplands, coupled with riparian buffer mitigation in an area with underlying soils that are moderately well drained offers merit towards providing water quality. Staff offers the selection of plant material associated with the stormwater management facilities and riparian buffer mitigation should be evaluated off indigenous plants specific to the USDA Plant Hardiness Zone for this area, Zone 8a, and selected based off valuable water uptake specific to the selected plant species.
- 5) *“Bioretention beds and Buffer plantings will be installed between the improvements and the waterway to achieve stormwater management requirements to capture and treat runoff prior to discharging into the canal”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff concurs and is of the opinion the analysis and layout of the stormwater management facilities, if sequenced thought-out the lot, offers nutrient reduction annually on a lot and associated project that would not require stormwater management as proposed.

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) The proposed concrete driveway and pool surround shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided on the site plan submitted to the Development Services Center for review and approval. Said construction of the area shall follow the Virginia Department of Environmental Quality (DEQ) Stormwater Design Specification 7 for permeable pavement system installation.
- 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) **2,704 square feet** of buffer restoration shall be installed within the RPA on the lot.

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs, and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **4 canopy trees, 7 understory trees, 14 large shrubs, and 21 small shrubs.**

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

- 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 5 feet from improvements.
- 10) Construction limits along the seaward portion of the project shall lie a maximum of 5 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) 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.
- 13) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 14) Perimeter fill within the limits of construction shall be the minimum necessary to facilitate positive drainage away from the proposed improvements. Fill material for such development shall be limited to minimize disturbance of existing vegetation and contours to effectively maintain the integrity of the buffer area.
- 15) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$309.83 and is based on 25 percent of the proposed

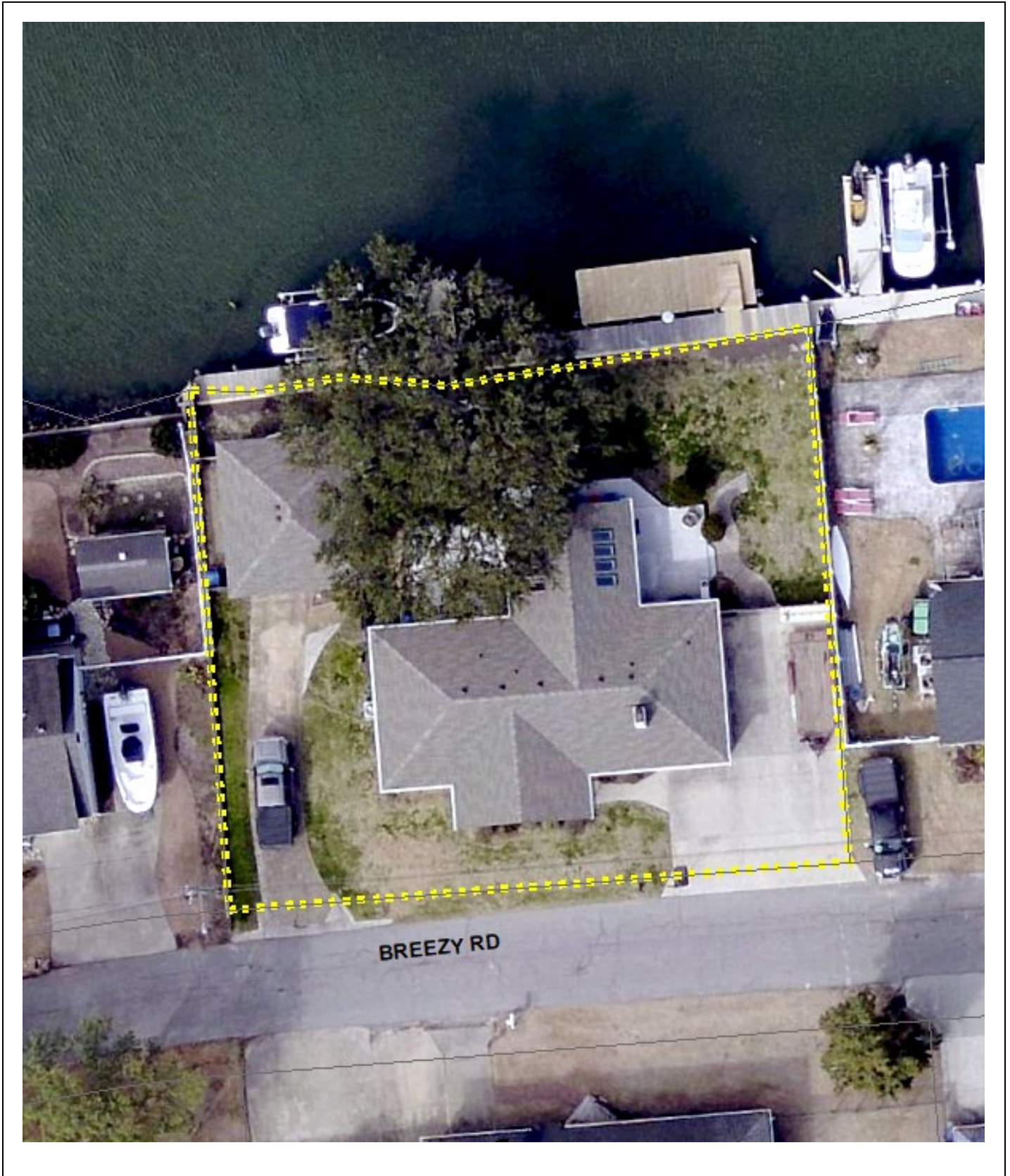
impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.

- 16) The conditions and approval associated with this variance are based on the exhibit plan dated January 12, 2024, prepared by WPL, signed March 22, 2024, by Eric A. Garner. The conditions and approval associated with this variance are based on the CBPA Board exhibit prepared by the applicant and presented to the CBPA Board, the application submitted and the sworn presentation to the CBPA Board.

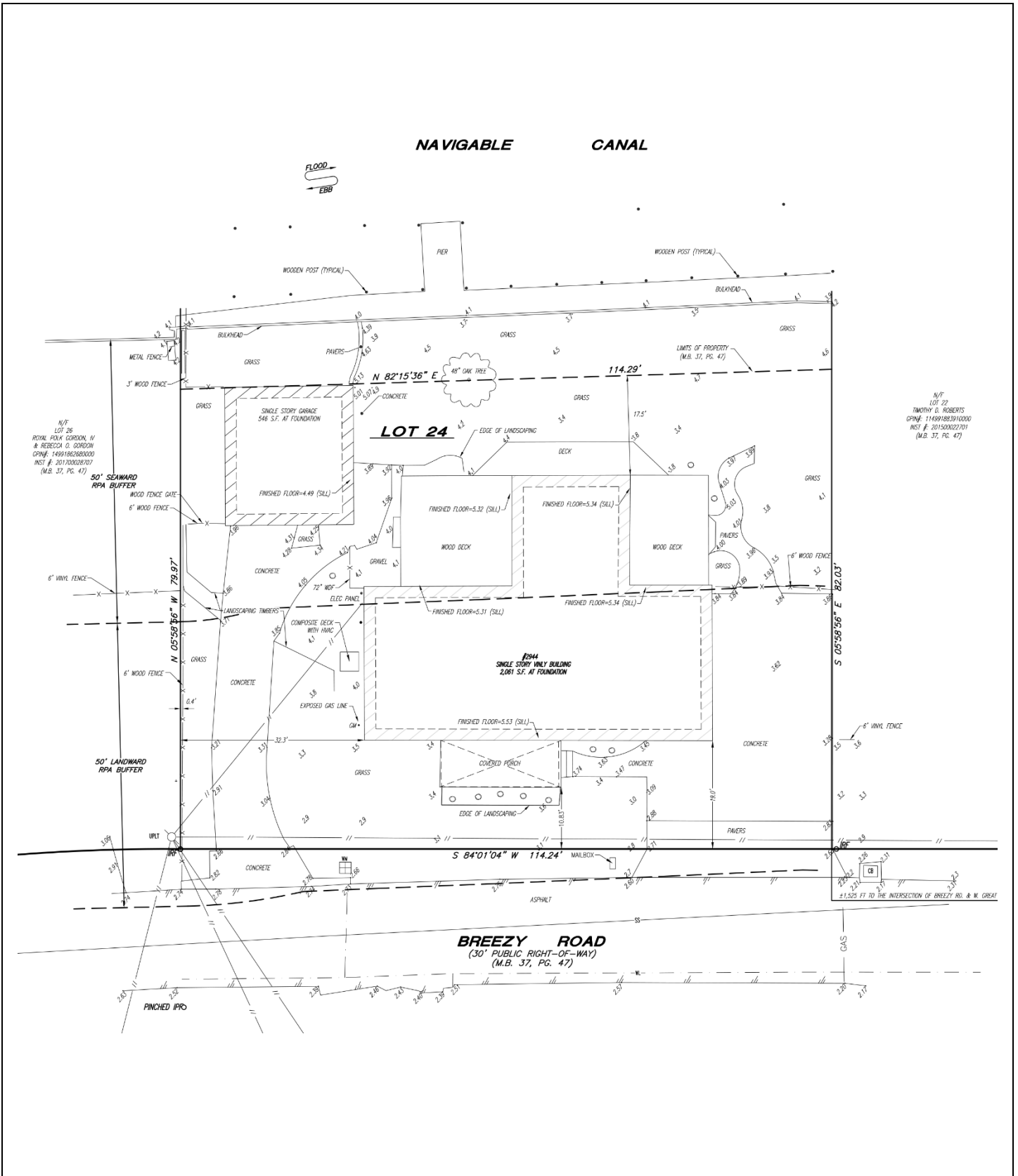
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

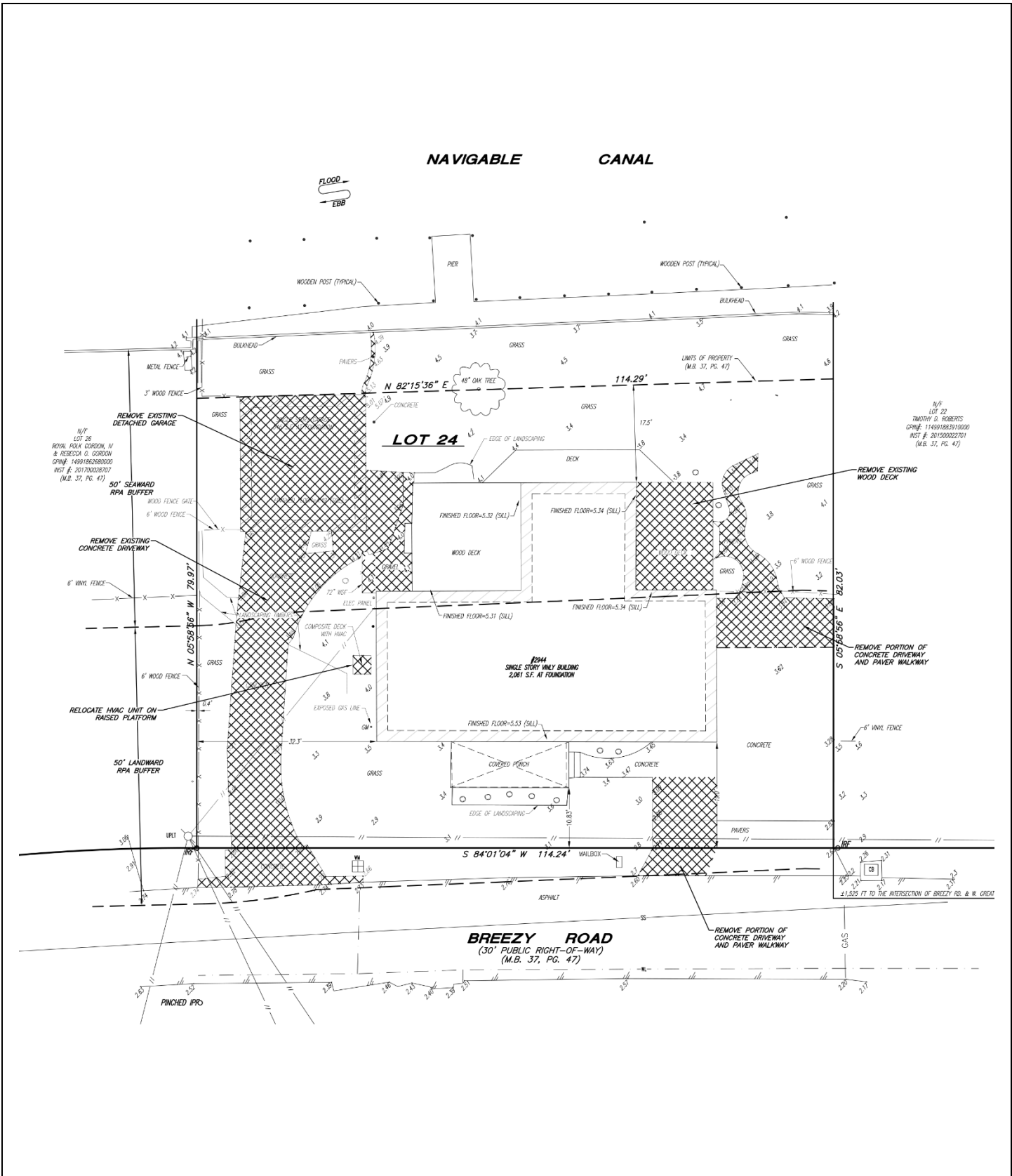
Site Aerial



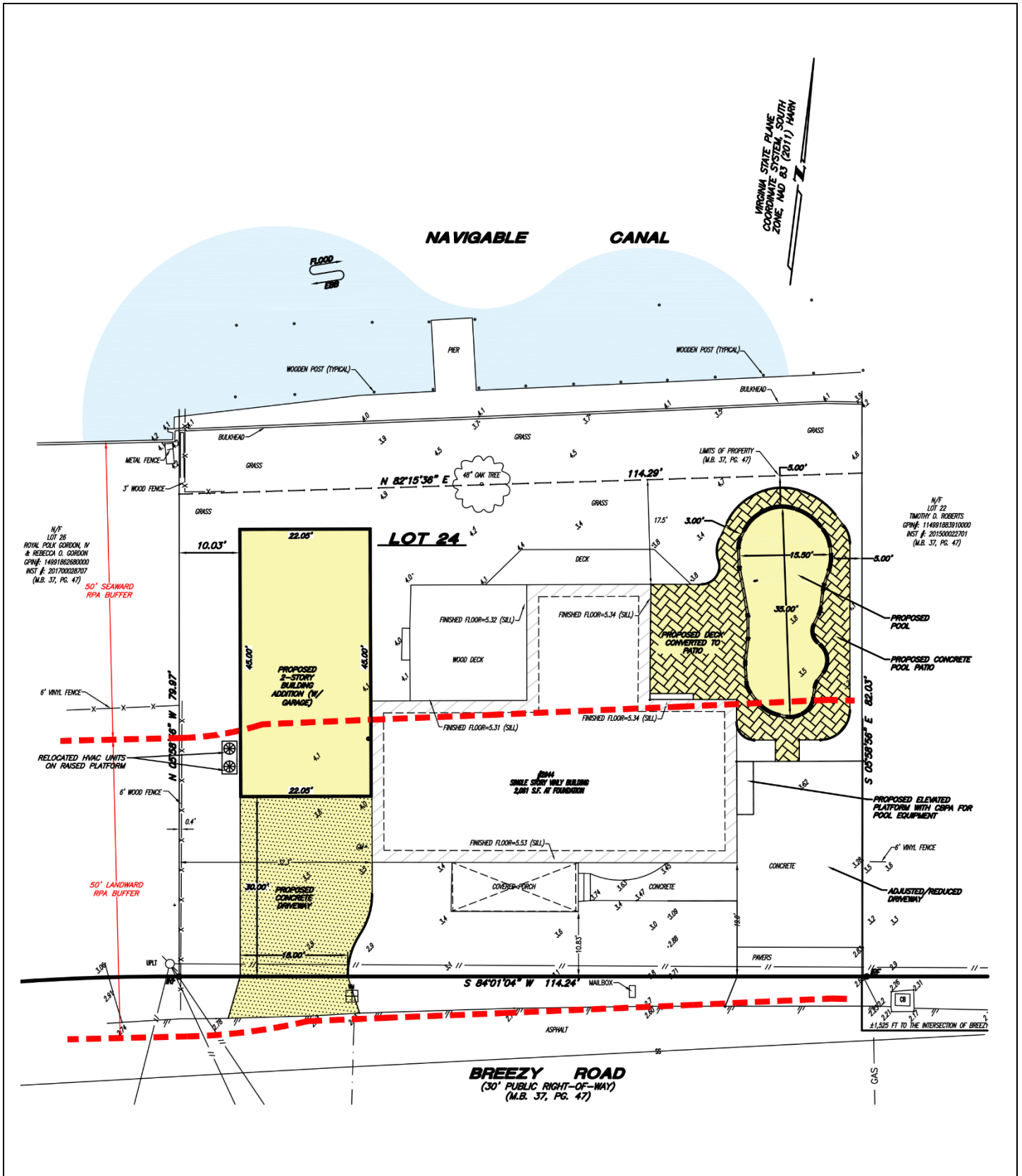
CBPA Exhibit – Existing Conditions



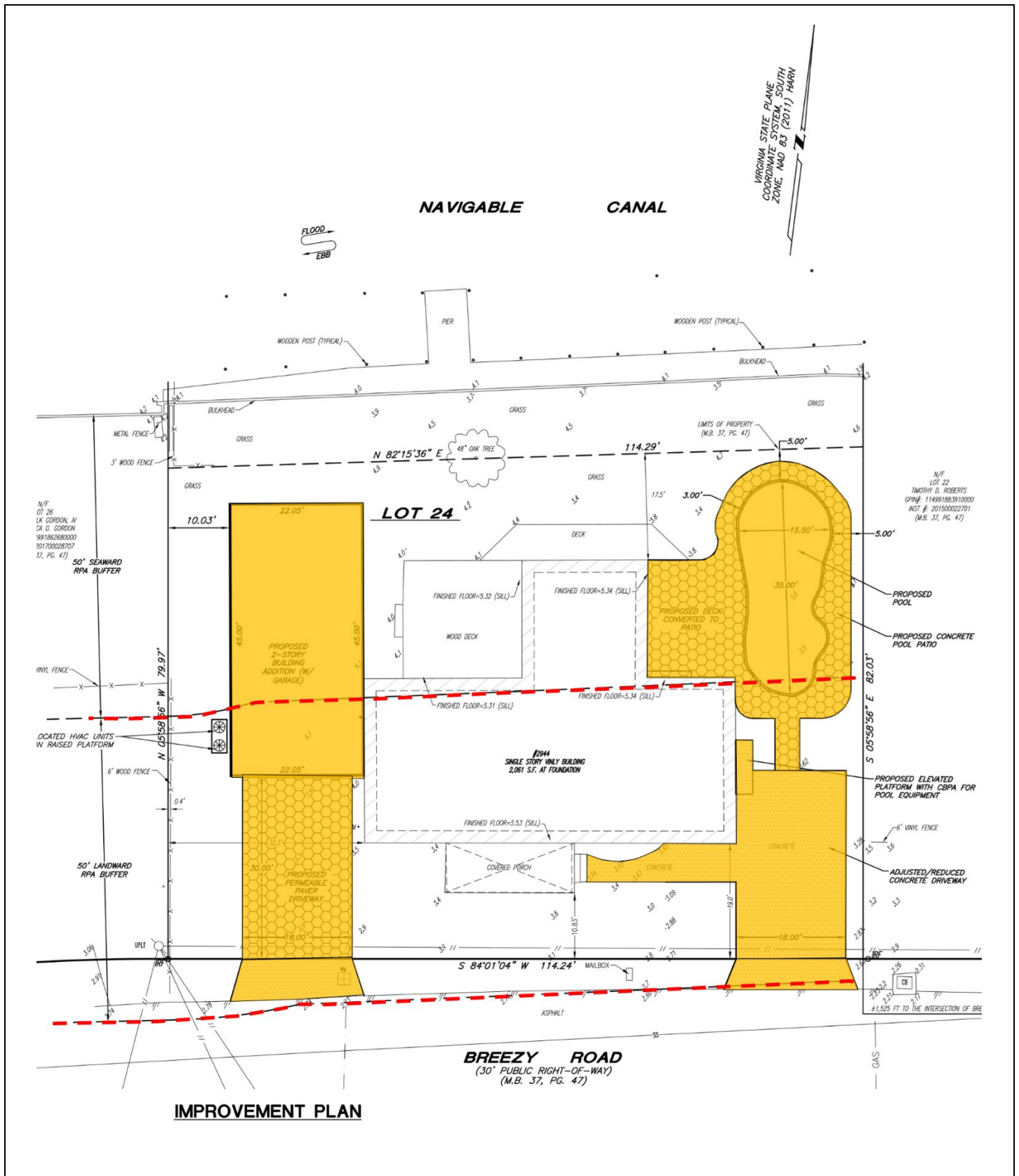
CBPA Exhibit – Demolition Plan



CBPA Exhibit – First Submittal



CBPA Exhibit – Revised Plans



CBPA Exhibit – Color Analysis

 **TOTAL LOT AREA**
9,432 SQ. FT. (TIE-LINE)


 **TOTAL LOT AREA OUTSIDE OF WATER, MARSH, WETLAND & REVETMENT**
10,710 SQ. FT. (100.0%)

TOTAL IMPERVIOUS PRE-DEVELOPMENT
5,820 SQ. FT. (54%)


TOTAL IMPERVIOUS POST-DEVELOPMENT
6,149 SQ. FT. (57%)

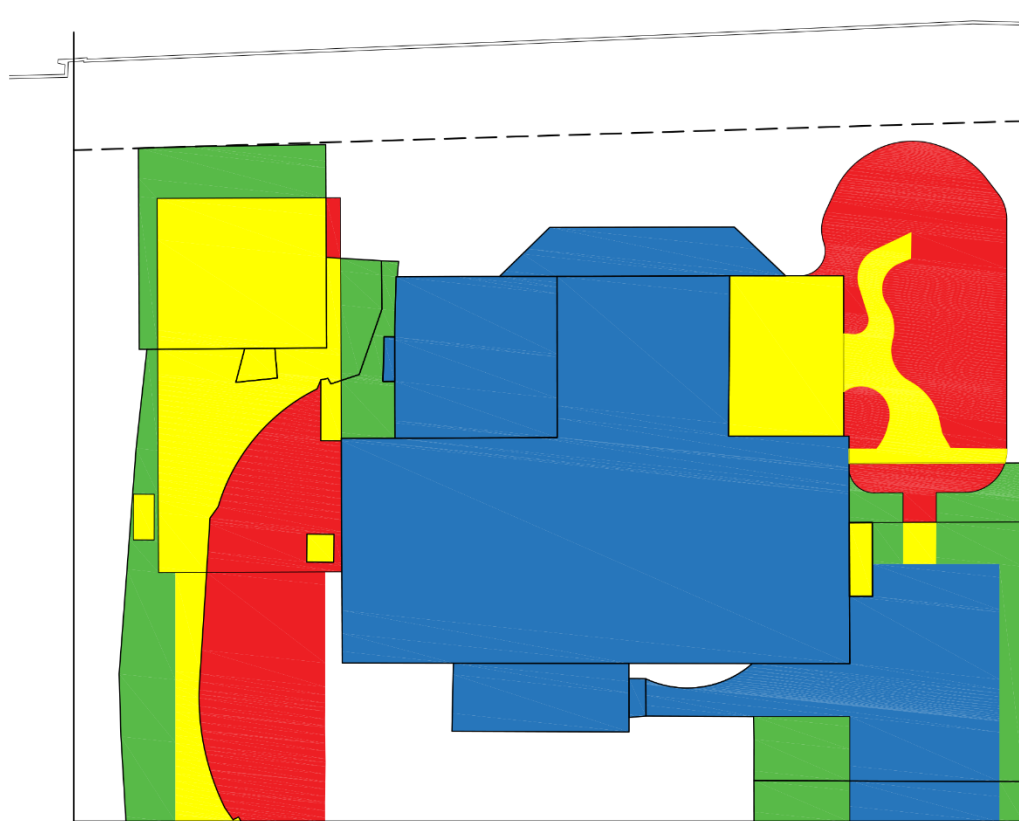
 **EX. IMPERVIOUS**
3,472 SQ. FT. (32.4%)

 **REDEVELOPMENT**
1,325 SQ. FT. (12.4%)

 **NEW DEVELOPMENT INSIDE RPA**
1,352 SQ. FT. (12.6%)

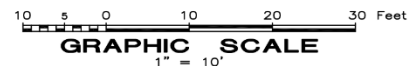
 **REMOVED IMPERVIOUS**
945 SQ. FT. (8.82%)

 **PROPOSED PERMEABLE PAVER**
1,205 SQ. FT. (11.3%)

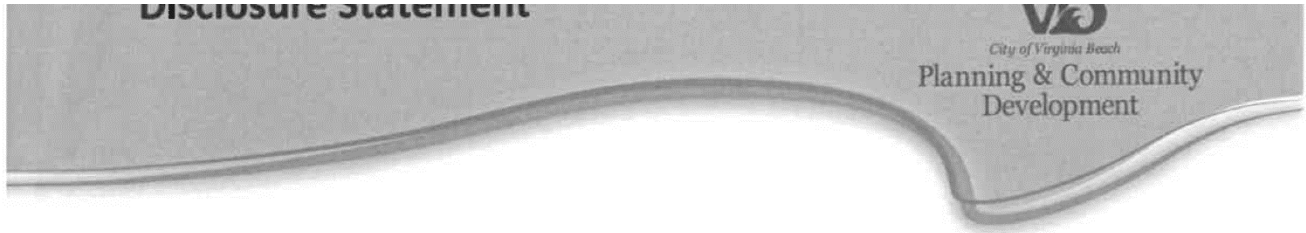


OVERLAY EXHIBIT

— GAS —



Disclosure Statement



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Applicant Disclosure

Applicant Name Carl D Gideon & Denise B Gideon

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

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

Billy Garrington, GPC, Inc

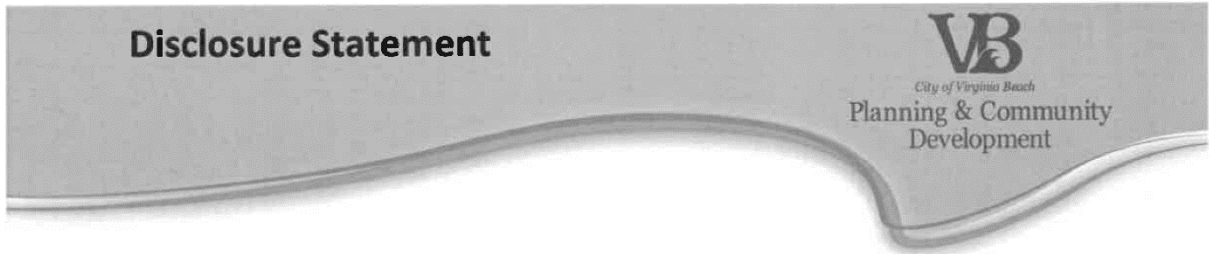
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Known Interest by Public Official or Employee

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

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

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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.

Primelending, A Plainscapital Company

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

Yes **No**

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

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

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

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

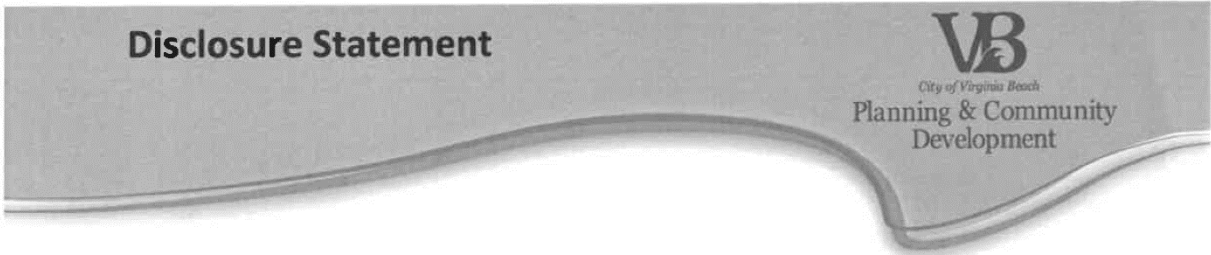
- If **yes**, identify the firm or individual providing the service.

WPL & Ken Kirby (Progressive R & D)

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

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

Disclosure Statement



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

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

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

Applicant Signature

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

C. David Gideon
Applicant Signature

C. DAVID GIDEON
Print Name and Title

15 MAR 2024
Date

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

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

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Applicant & Property Owner: **Lang Nguyen**
 Address: **2032 Ridge End Road**
 Public Hearing: **April 22, 2024**
 City Council District: **District 8**

Agenda Item

3

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a sunroom, covered porch, and swimming pool with associated patio, pool house/detached garage.

Applicant’s Agent

Billy Garrington

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 44, Page 3
 Recorded 04/17/1956

GPIN

1489-96-7883

SITE AREA

41,381 square feet or 0.95 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

38,654 square feet or 0.89 acres

EXISTING IMPERVIOUS COVER OF SITE

5,233 square feet or 14 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

7,029 square feet or 18 percent of site

Area of Redevelopment in RPA

647 square feet

Area of New Development in RPA

2,776 square feet

Location of Proposed Impervious Cover

50-foot Landward Buffer

100-foot Variable Width Buffer

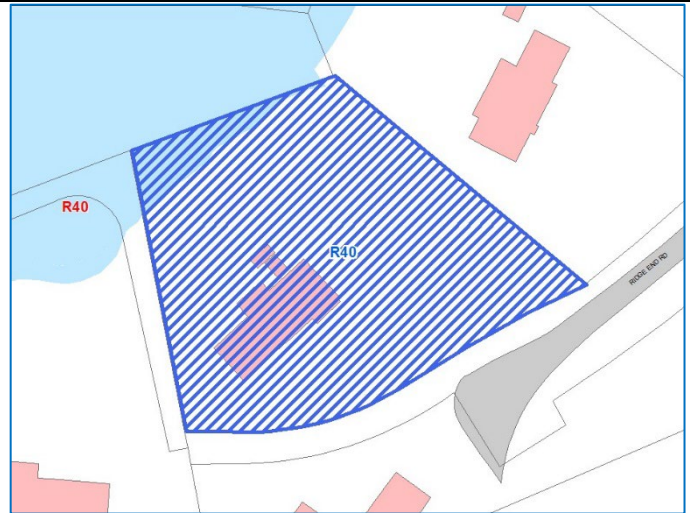
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Demolish existing shed, rear deck, addition, and front sidewalk and steps

Construction Details

- 14 feet x 24 feet sunroom
- 14 feet x 26 feet covered porch
- 16 feet x 36 feet swimming pool with associated patio
- 20 feet x 45 feet detached garage

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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

Shoreline

Shoreline is stabilized by a timber bulkhead.

Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 5
- Number of dead, diseased, and/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 rooftop disconnections will be provided as a best management practice for stormwater run-off mitigation.

Evaluation and Recommendation

The applicant is proposing to demolish an existing deck and building addition off the rear of the residence to redevelop the area with a new sunroom and covered porch. Additionally, to the east of the residence, the applicant wishes to construct a new swimming pool with associated pool patio that connects to a new detached garage/pool house. Furthermore, an existing 320 square foot shed is proposed to be removed and reverted to a natural state, which is situated on the cusp of the 50-foot seaward and 50-foot landward buffers of the Resource Protection Area (RPA). All

proposed improvements with this request are within the upper reaches of the 50-foot landward buffer of the RPA. Approximately 647 square feet of redevelopment is proposed with this request and occurs due to the footprint of the new sunroom and covered porch area being built primarily in the same footprint as the existing deck and addition. 2,776 square feet of new impervious cover is proposed with this request deriving primarily from the new swimming pool, patio, and detached garage area, with the applicant situating the majority of the footprint of the garage out of the 100-foot buffer. Additionally, 478 square feet of existing impervious cover will be reverted to a natural state with this request. Given that the proposed impervious cover numbers of the site and the location of the proposed improvements on the lot and in the RPA, Staff is of the opinion the request 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 owner is seeking a variance on this waterfront lot that was created and the house built many years prior to the adoption of the bay act thus the entire lot is impacted avoidance is not possible and numerous other homes in the vicinity have been approved for similar requests thus there is no special privilege here for the owner."* Staff concurs the lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance and offers the encroachment request is similar to existing improvements on adjacent lots.
- 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 total amount of impervious cover post-construction is only going to equal 17.3% which is well below the 30% threshold the board likes for projects to remain below and as a result of the amount of land disturbance here the storm water treatment will require 100% of the impervious cover to be treated."* Staff is of the opinion that the variance request is the minimum necessary to afford relief given the location of the proposed improvements on the lot and the best management practices and buffer restoration proposed.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"the purpose of the bay act is water quality while also protecting economic development, the water quality here post-construction will be greatly improved by means of bmp facilities significant buffer restoration in areas currently devoted to turf and off-site treatment via the oyster heritage program."* The applicant has proposed rooftop disconnections to aid in stormwater runoff in association with the proposed detached garage.
- 5) *"On-site bmp's, landscape beds with mulch layers, trees, shrubs ground cover all will help enhance water quality and steps during construction like single point access, stockpile areas E & S measures all help significantly since the time when runoff could be the greatest is during all phases of construction"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion the provided best management practices and buffer restoration provides merit to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration.

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

Recommended Conditions

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 3) Buffer restoration shall be installed in substantial compliance with the submitted buffer restoration plan by Gaddy Engineering Services, LLC detailed 5,586 square feet of buffer restoration.

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: **14 canopy trees, 28 understory trees, 28 large shrubs, and 42 small shrubs.**

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

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

- 9) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan. – or - Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts not included with this variance request.
- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 13) Perimeter fill within the limits of construction shall be the minimum necessary to facilitate positive drainage away from the proposed improvements. Fill material for such development shall be limited to minimize disturbance of existing vegetation and contours to effectively maintain the integrity of the buffer area.
- 14) ****** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$636.16 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 15) The conditions and approval associated with this variance are based on the exhibit plan, prepared by Gaddy Engineering Services, LLC, signed January 26, 2024, by Michael S. Gaddy. The conditions and approval associated with this variance are based on the CBPA Board exhibit prepared by the applicant and presented to the CBPA Board, the application submitted and the sworn presentation to the CBPA Board. Deviation from said conditions during site plan review may require re-submittal for CBPA Board consideration.

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

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

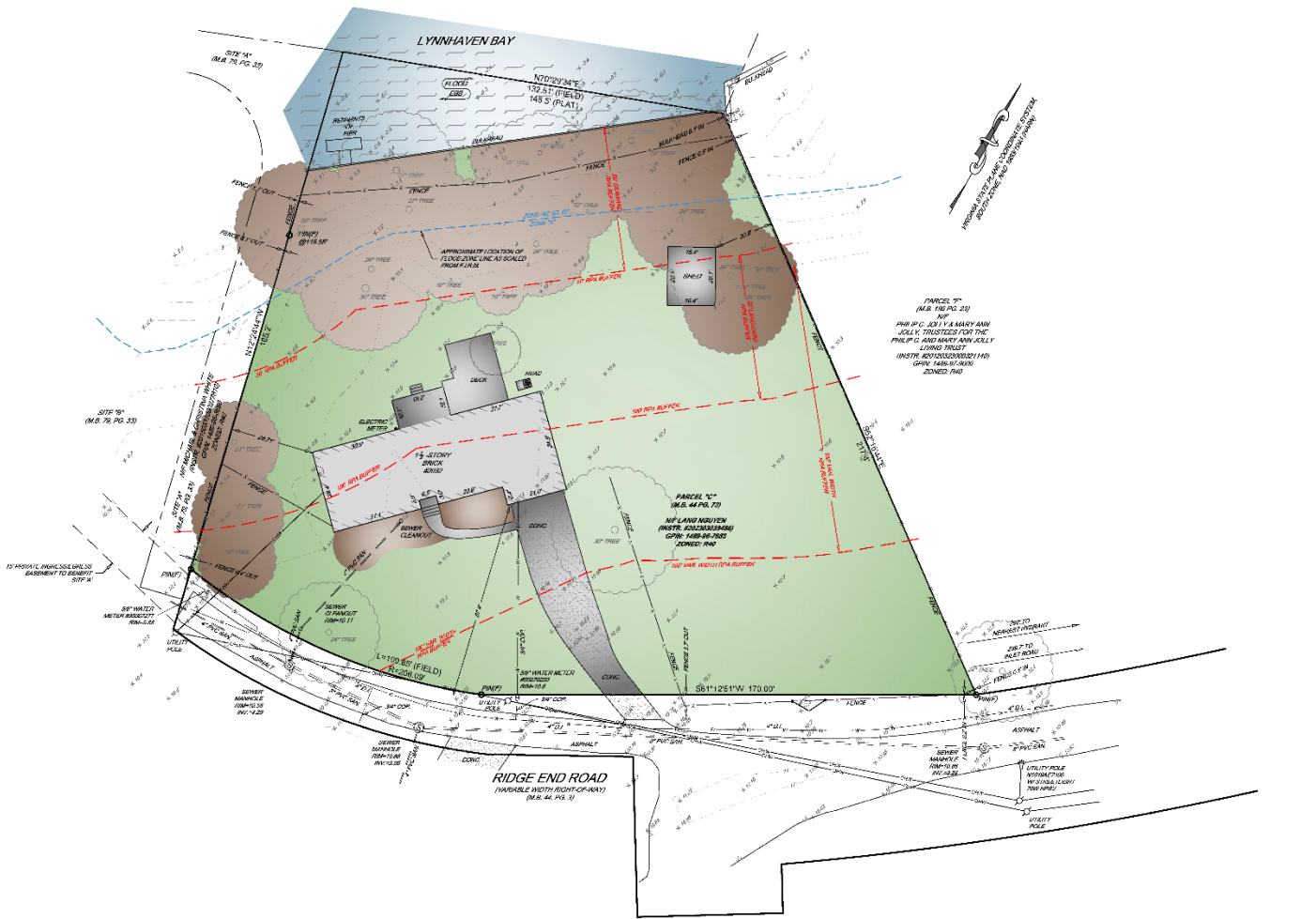
Site Aerial








CBPA Exhibit – Existing Conditions

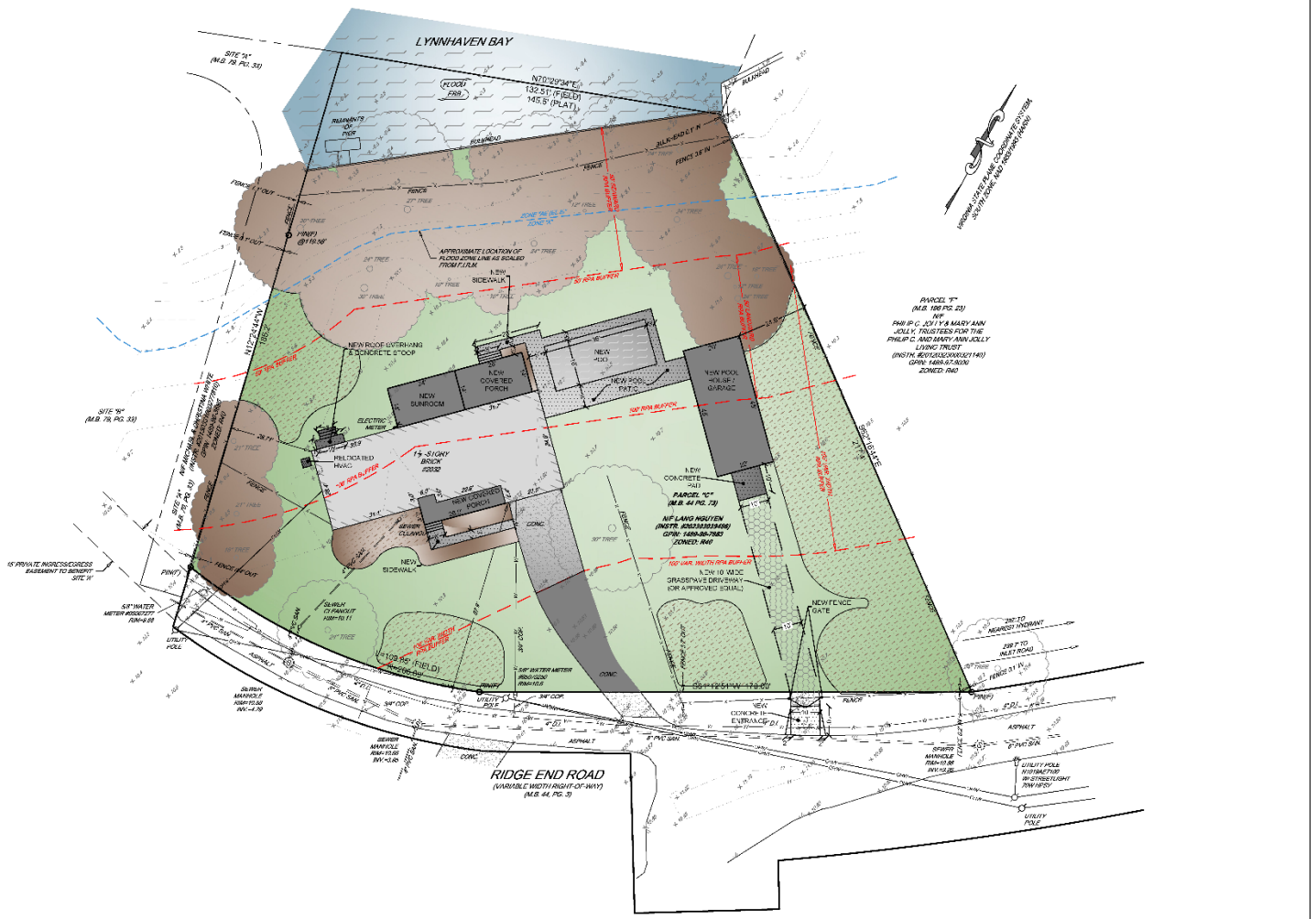
3181A BEACH,
BASE FLOOD ELEVATION
VEY AND DESIGN OF

- - - - - DENOTES RPA BUFFER SETBACKS
- ⋯⋯⋯ DENOTES TOP OF BANK (>6% SLOPE)
- - - - - DENOTES 100-YEAR F.E.M.A. FLOOD PLAIN
- COLOR HATCH DENOTES EXISTING MULCH OR NATURALIZED AREAS
- COLOR HATCH DENOTES EXISTING LAWN AREAS
- COLOR HATCH DENOTES EXISTING BUILDING
- COLOR HATCH DENOTES OTHER IMPERVIOUS AREAS



CBPA Exhibit – Proposed Improvements





-  COLOR HATCH DENOTES OTHER IMPERVIOUS AREAS
-  COLOR HATCH DENOTES LAWN AREAS
-  COLOR HATCH DENOTES EXISTING MULCH OR NATURALIZED AREAS
-  COLOR HATCH DENOTES EXISTING BUILDING
-  COLOR HATCH DENOTES PROPOSED BUFFER RESTORATION AREAS







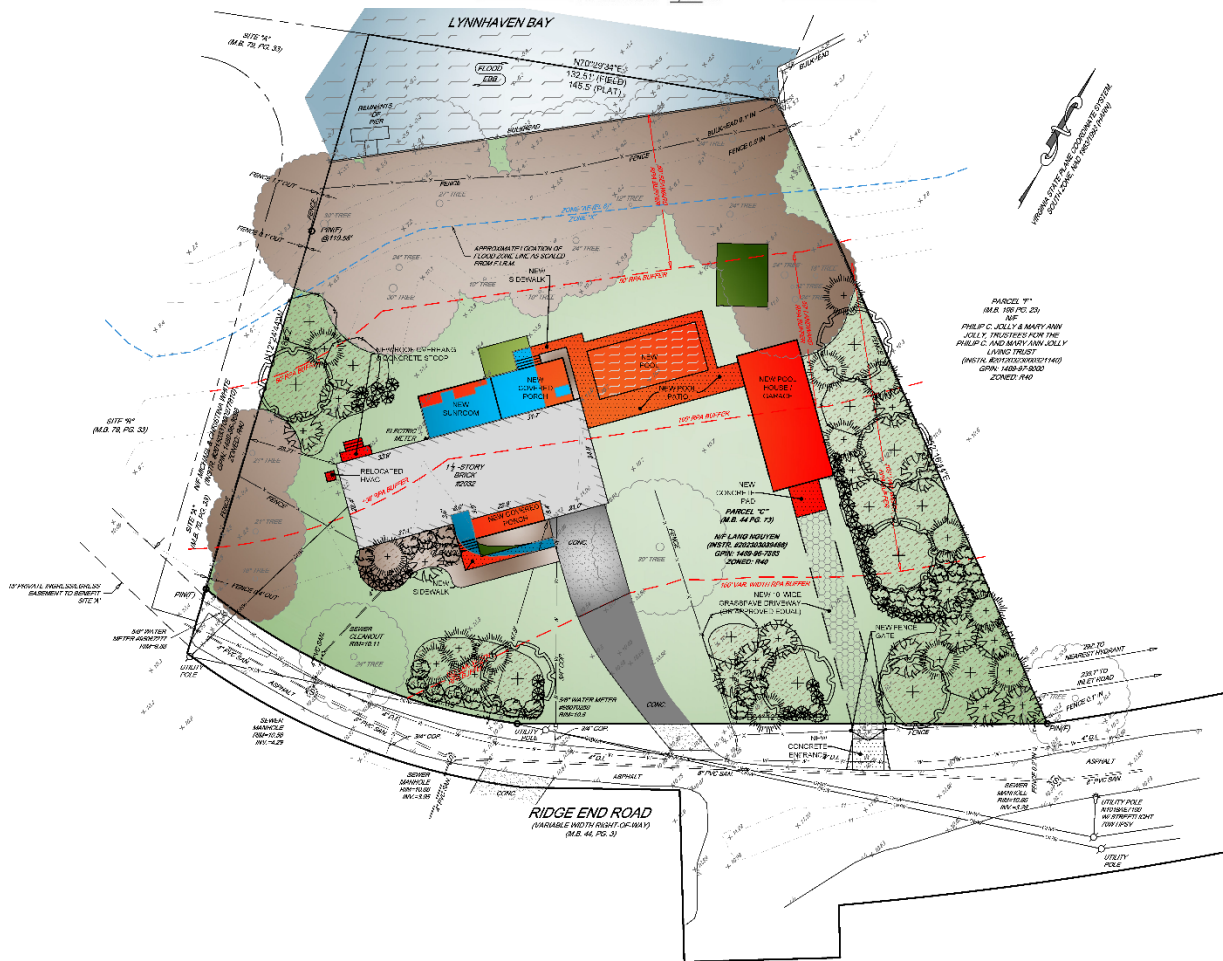
PROPOSED PLAN



CBPA Exhibit – Color Analysis

ANALYSIS OF DEVELOPMENT WITHIN THE CBPA RESOURCE PROTECTION AREA							
	LEGEND	EXISTING	PROPOSED	DIFFERENCE	BUFFER%	RESTORATION REQUIRED	RESTORATION PROVIDED
TOTAL IMPERVIOUS AREA		4,124 SF	6,422 SF	2,298 SF			
IMPERVIOUS COVER DEMOLITION							
IMPERVIOUS CONVERTED TO PERVIOUS			478 SF				
IMPERVIOUS COVER TO REMAIN			2,999 SF		0%	0	0
'REDEVELOPMENT' NEW OVER OLD			647 SF		0%	0 SF	0 SF
'NEW' IMPERVIOUS			2,776 SF		200%	5,552 SF	5,586 SF

-  HATCH DENOTES AREA OF LAWN TO REMAIN
-  COLOR HATCH DENOTES EXISTING MULCH OR NATURALIZED AREAS
-  HATCH DENOTES AREA OF BUFFER RESTORATION TOTAL AREA = 5,886 SF
-  IMPERVIOUS COVER OUTSIDE OF RPA



BUFFER RESTORATION PLAN



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 Lang Nguyen

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

Billy Garlington - GPC

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

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

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

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

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

Disclosure Statement

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.

Morgan 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.

Foris Ocmg.

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.

Steele McNaughton, Tom Underhill

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.

Disclosure Statement



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

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

Mike Gaddy, P.E.

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.

Lang Nguyen
Applicant Signature

Lang Nguyen
Print Name and Title

2/19/2024
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	

Continue to Next Page for Owner Disclosure



Applicant & Property Owner: **Rodney & Rosecheryl Danao**
 Address: **548 W. Plantation Road**
 Public Hearing: **April 22, 2024**
 City Council District: **District 6**

Agenda Item

4

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct swimming pool with associated pool surround and patio.

Applicant’s Agent

Self-represented

Staff Planner

Cole Fisher

Lot Recordation

Map Book 52, Page 24
 Recorded May 10, 1961

GPIN

2407-08-4378

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER OF SITE

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

920 square feet

Location of Proposed Impervious Cover

50-foot Seaward Buffer

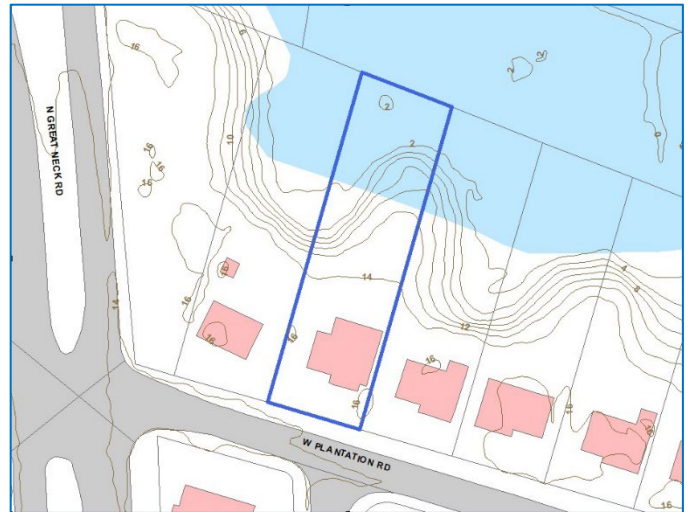
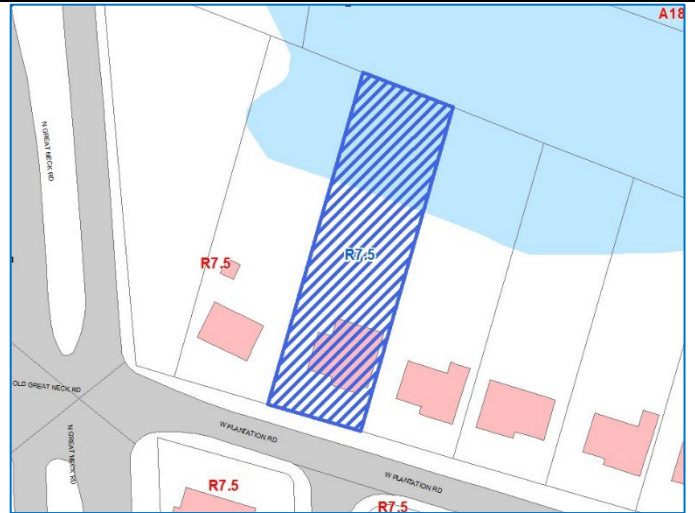
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned.



Summary of Proposal

Construction Details

- 14 feet x 30 feet swimming pool with concrete pool patio

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Moderately to sparsely wooded lot

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

Stormwater Management Methodology

The associated land disturbance with the variance request is less than 2,500 square feet, therefore, no stormwater management methodology is required.

Evaluation and Recommendation

The applicant is proposing to construct a 430 square foot swimming pool with an associated concrete pool surround and patio space in the rear yard of the lot adjacent to the existing single-family home. An expansive tidal marsh area extends off the rear of the property leading to a tributary to the Lynnhaven River, and the rear yard of the lot is flat and stabilized. As submitted, the proposed improvements are situated in both the 50-foot seaward buffer and 50-foot landward buffer of the Resource Protection Area (RPA) and introduces 920 square feet of new impervious cover with the request. With the 100-foot buffer encompassing the entirety of the buildable area of lot, Staff is of the opinion this presents a hardship to redeveloping any portions of the lot.

Staff is of the opinion the size of the proposed swimming pool is acceptable, however, given the location of the proposed improvements within the RPA buffer and the existing patio space in the rear yard, Staff is of the opinion the pool surround is slightly larger than necessary. With this proposal, Staff offers the recommended conditions, specifically condition number one, to ensure the variance request is the minimum necessary to afford relief.

Rodney & Rosecheryl Danao

Agenda Item 4

Page 52

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 *"swimming pool are common requests throughout the RPA."* Staff is of the opinion the request is similar to and consistent with neighborhood standards and does not confer special privilege or convenience to the applicant/owner that other owners of property in the CBPA were afforded.
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 *"design, dimensions, and placement of the pool is appropriate for lot size and it's existing space used by current resident."* Staff is of the opinion that the variance request is the minimum necessary to afford relief given the location of the proposed improvements, the recommended conditions, the best management practices and buffer restoration proposed.
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 *"saltwater pool location and design does not remove or interfere with existing natural habitat nor require tree removal. Utilizing fiberglass material with a specific shape to minimize excavation. Open to many options as using efficient infiltrations systems for water quality and conservation, reduce chemical usage and opportunity to improve overall backyard aesthetics using natural materials."* Staff acknowledges the applicant has consciously situated the proposed improvements on the lot and selected materials that are sensitive to the environmental constraints on the lot.
5. *"Awareness of direct connections between the pool water and storm drainage system/access to RPA. Knowledge of chlorine levels for proper discharge of pool water with regard to future maintenance"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion the provided landscaping beds and buffer restoration will ensure a no net increase in nonpoint source pollution load with the request.

Given the above comments, Staff recommends the following **10** reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

- 1) The pool surround shall be reduced by 300 square feet.
- 2) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **620 square feet x 200 percent = 1,240 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 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.

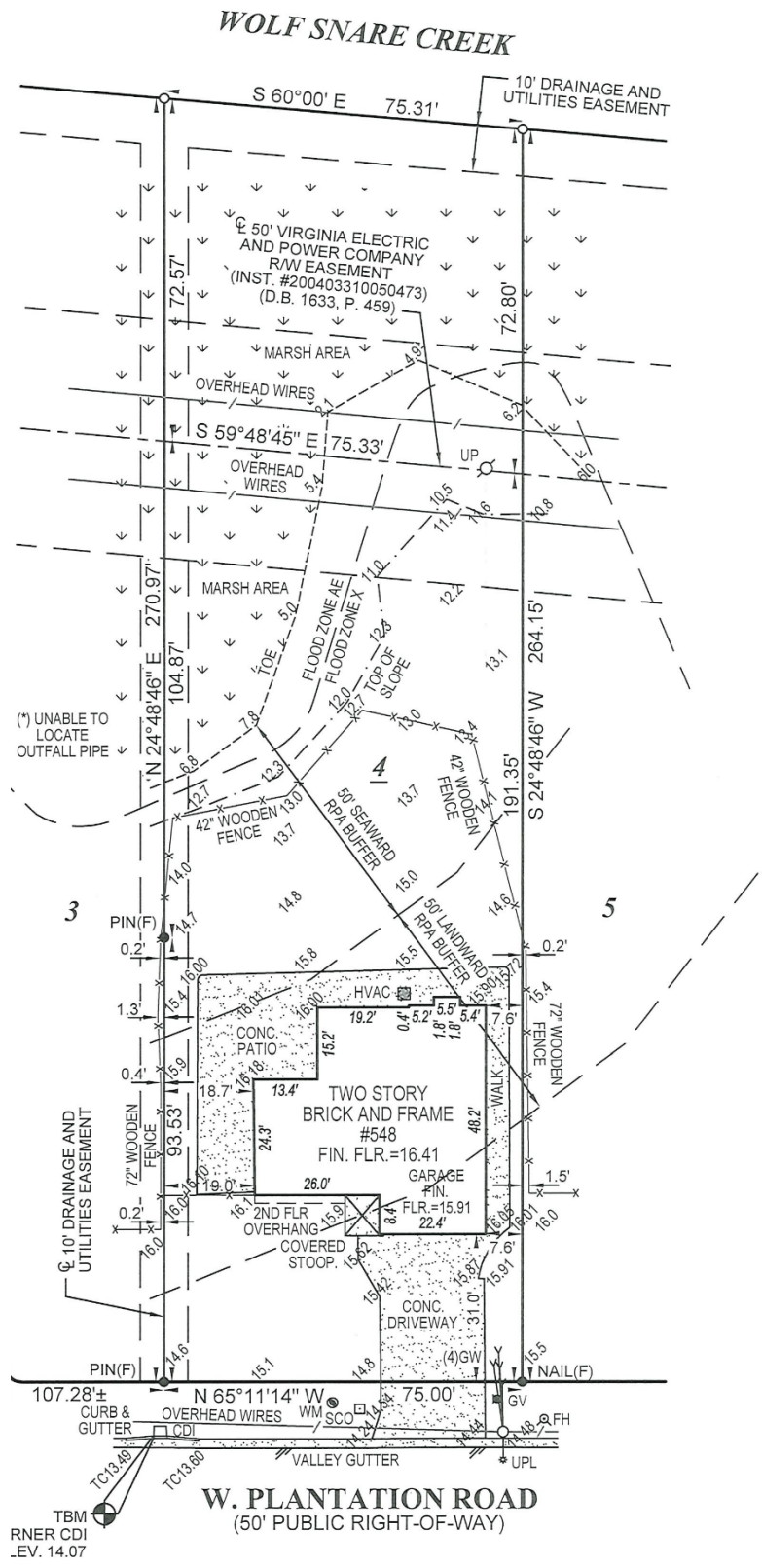
- 3) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 4) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 5) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 5 feet from improvements.
- 6) Construction limits shall be contained within the silt fence.
- 7) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 8) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts not included with this variance request.
- 9) 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.
- 10) 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.

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

Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements

THIS SURVEY IS BASED ON A PLAT RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH, VIRGINIA IN MAP BOOK 52, PAGE 24.

THIS IS TO CERTIFY THAT I, ON NOVEMBER 17, 2023, SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT. THE BUILDINGS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY OR MAY NOT SHOW ALL MATTERS OF TITLE AFFECTING PROPERTY SHOWN HEREON.

PROPERTY APPEARS TO FALL WITHIN ZONE AE (SPECIAL FLOOD HAZARD AREA SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD) (100-YEAR FLOOD), (BASE FLOOD ELEVATION = 6.0, NAVD'83) AND WITHIN ZONE X (UNSHADED) (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS SHOWN ON NATIONAL FLOOD INSURANCE PROGRAM MAP FOR THE CITY OF VIRGINIA BEACH, VIRGINIA, MAP NUMBER 5155310106G, DATED JANUARY 16, 2015. FLOOD ZONE LINES ARE APPROXIMATE AND SCALED FROM FLOOD MAP.

PROPERTY IS LOCATED WITHIN THE CHESAPEAKE BAY PRESERVATION AREA (CBPA) AND THUS IS SUBJECT TO THE PROVISIONS OF THE CHESAPEAKE BAY PRESERVATION AREA ORDINANCE.

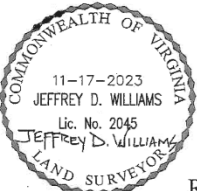
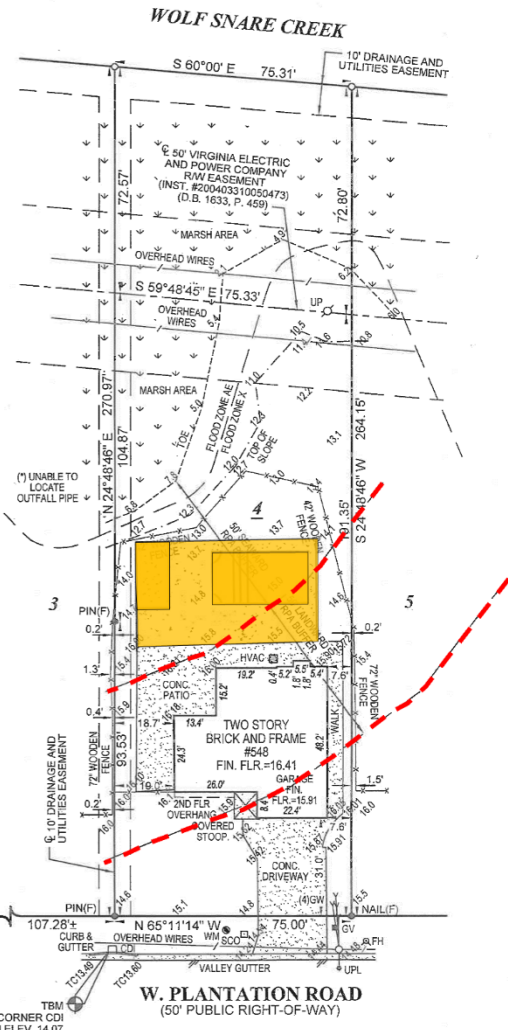
ELEVATIONS SHOWN HEREON ARE BASED ON NAVD'83. THE CITY OF VIRGINIA BEACH CONTROL REFERENCE POINT USED FOR THE SURVEY IS CVB STA. 134-0098 (ELEV.=13.91).

LEGEND

●	NAIL (F)	NAIL FOUND
○	PIN (F)	PIN FOUND
□	CDI	CURB DRAIN BASIN
⊕	FH	FIRE HYDRANT
⊕	GV	GAS VALVE
⊕	GW	GUY WIRE
⊕	HVAC	HEATING/ AIR CONDITIONING UNIT
⊕	UP	UTILITY POLE
⊕	UPL	UTILITY POLE W/ LIGHT
⊕	WM	WATER METER
⊕	CONC.	CONCRETE
⊕	TBM	TEMPORARY BENCHMARK
⊕	FENCE	FENCE
⊕	OVERHEAD WIRES	OVERHEAD WIRES



(VARIABLE WIDTH PUBLIC RIGHT-OF-WAY)
N. GREAT NECK ROAD



PHYSICAL SURVEY OF
 LOT 4, BLOCK I
 SUBDIVISION OF
POINT O' WOODS
 SECTION TWO
 (M.B. 52, P. 24)
 VIRGINIA BEACH, VIRGINIA
 FOR

RODNEY DANA O AND ROSECHERYL F. DANA O



SCALE: 1"=30' NOVEMBER 17, 2023
ROUSE-SIRINE ASSOCIATES, LTD.
 LAND SURVEYORS, MAPPING CONSULTANTS & S.U.E. QUALITY LEVELS "B-D"
 www.rouse-sirine.com
 333 OFFICE SQUARE LANE 1311 JAMESTOWN ROAD
 VIRGINIA BEACH, VIRGINIA 23462 SUITE 103
 TEL. (757) 490-2300 WILLIAMSBURG, VIRGINIA 23185
 FAX: (757) 499-9136 TEL. (757) 903-4695



CBPA Exhibit – 3D Rendering



Pool is 14 x 30 and with concrete would be 21 feet from the edge of the house

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 Rodney Danao

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.

Mortgage with PennyMac

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.
Premier Pools and Spa - John Witte
-
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.
Rouse-Sirine Associates, Ltd
-
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
Rodney Danao

Print Name and Title
22 February 2024

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: **Benjamin A. Carey**
 Address: **2053 Thomas Bishop Lane**
 Public Hearing: **April 22, 2024**
 City Council District: **District 8**

Agenda Item

5

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a bulkhead with associated fill.

Applicant's Agent

Robert Simon

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 136, Page 4

Recorded 7/10/1978

GPIN

1499-66-3796

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER OF SITE

Area of Redevelopment in RPA

2,584 square feet

Area of New Development in RPA

122 linear feet

1,425 square feet of fill

Location of Proposed Impervious Cover

50-foot Seaward Buffer

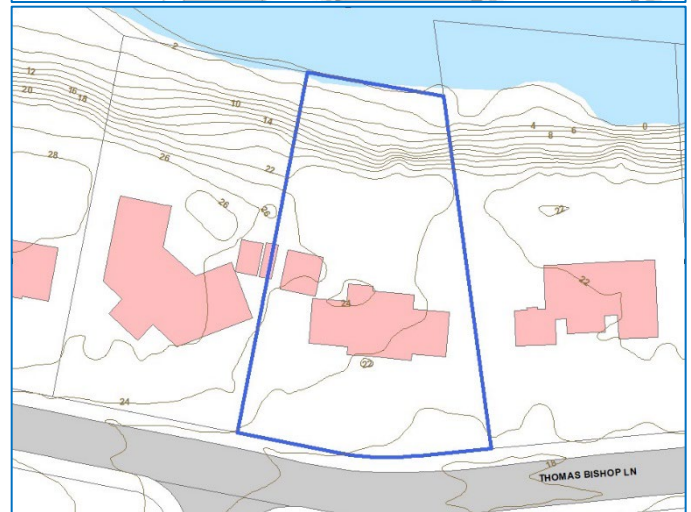
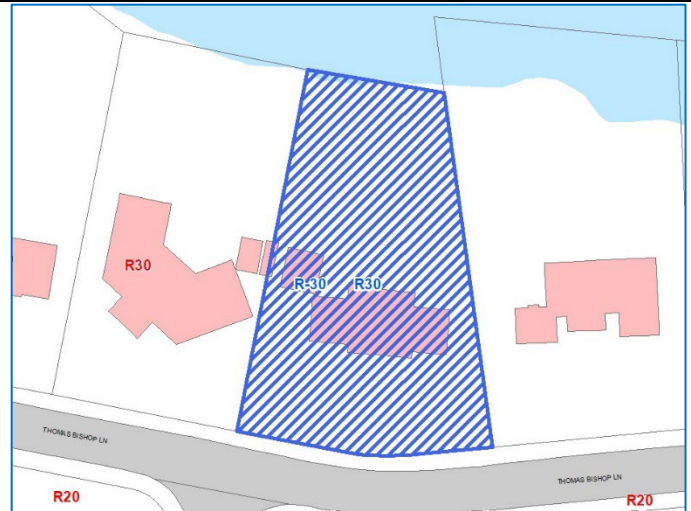
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned.



Summary of Proposal

Demolition Details

- Demolish existing paver patio

Construction Details

- New paver pool patio
- One 96 linear foot bulkhead and one 102 linear foot bulkhead
- 1,425 square feet of fill

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

Shoreline

Shoreline is stabilized by a wood bulkhead.

Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 2
- Number of dead, diseased, and/or dying existing canopy trees requested for removal within the RPA: 0

Stormwater Management Methodology

The associated land disturbance with the variance request is less than 2,500 square feet, therefore, no stormwater management methodology is required.

Evaluation and Recommendation

Properties along this stretch of Thomas Bishop Lane have steep grades in the rear yard down to the edge of water. The elevation in the rear yard of this property transitions from approximately 23 feet at the edge of the pool patio surround to approximately six feet at the existing lower bulkhead in the rear yard. Given this steep elevation, the property has two existing bulkheads that stabilize the embankment and existing shoreline. The applicant wishes to redevelop and replace the lower bulkhead in the same footprint as well as construct a new upper bulkhead that is showing signs of failure, consisting of approximately 102 linear feet with one eight-foot return and one 12-foot return. Approximately 1,425 square feet of backfill is proposed with the two bulkheads to ensure soil stabilization and proper drainage with the

new walls. Additionally, the applicant wishes to redevelop the existing dilapidated multi-level timber deck which leads down the embankment to the existing pier. The project is comprised primarily of redevelopment with the only new impervious cover and land disturbance resulting from the new upper bulkhead construction. Staff is of the opinion the proposed improvements are necessary to ensure stability and usability of the rear yard of the lot for the owners and the request 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 *"all of the proposed improvements are redevelopment in the same footprint."* Staff adds that the upper bulkhead is proposed in-front of the existing upper bulkhead, resulting in new impervious cover within the RPA and the request is to ensure the stability of 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 improvements are all redevelopment in the same footprint."* Staff adds that the upper bulkhead is proposed in-front of the existing upper bulkhead, resulting in new impervious cover within the RPA. The project is to reinforce the rear yard of the lot with new bulkheads and redevelop the existing patio and timber deck space.
- 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 lot is challenged by the existing topography and the project is all redevelopment."* Staff acknowledges the applicant has offered a water quality approach towards managing stormwater on a residential lot through the use of bioretention planting beds.
- 5) *"A BMP will be installed to have a 10% reduction in stormwater runoff"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion the provided best management practices provides merit to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration.

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

Recommended Conditions

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) 1,669 square feet of buffer restoration shall be installed within the Resource Protection Area (RPA) on the lot.

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs, and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual,

prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **4 canopy trees, 4 understory trees, 8 large shrubs, and 12 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall 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) 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.
- 5) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 5 feet from improvements.
- 6) Construction limits along the seaward portion of the project shall lie a maximum of 5 feet seaward of improvements.
- 7) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 8) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts not included with this variance request.
- 9) 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.
- 10) 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.
- 11) The conditions and approval associated with this variance are based on the exhibit plan, prepared by David Harmeyer, Waterfront Consulting, Inc. The conditions and approval associated with this variance are based on the CBPA Board exhibit prepared by the applicant and presented to the CBPA Board, the application submitted and the sworn presentation to the CBPA Board. Deviation from said conditions during site plan review may require re-submittal for CBPA Board consideration.

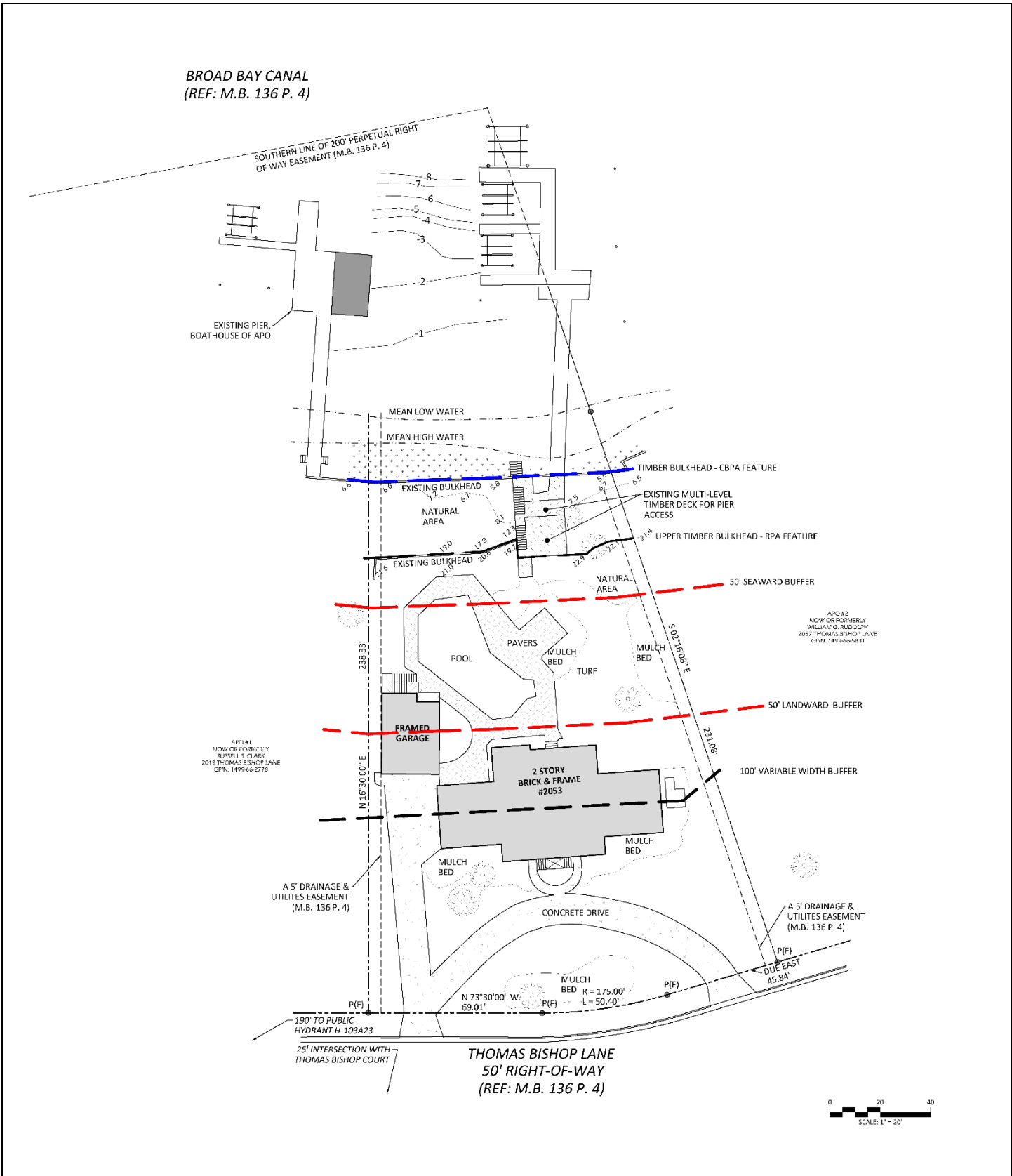
***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section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

Site Aerial



CBPA Exhibit – Existing Conditions

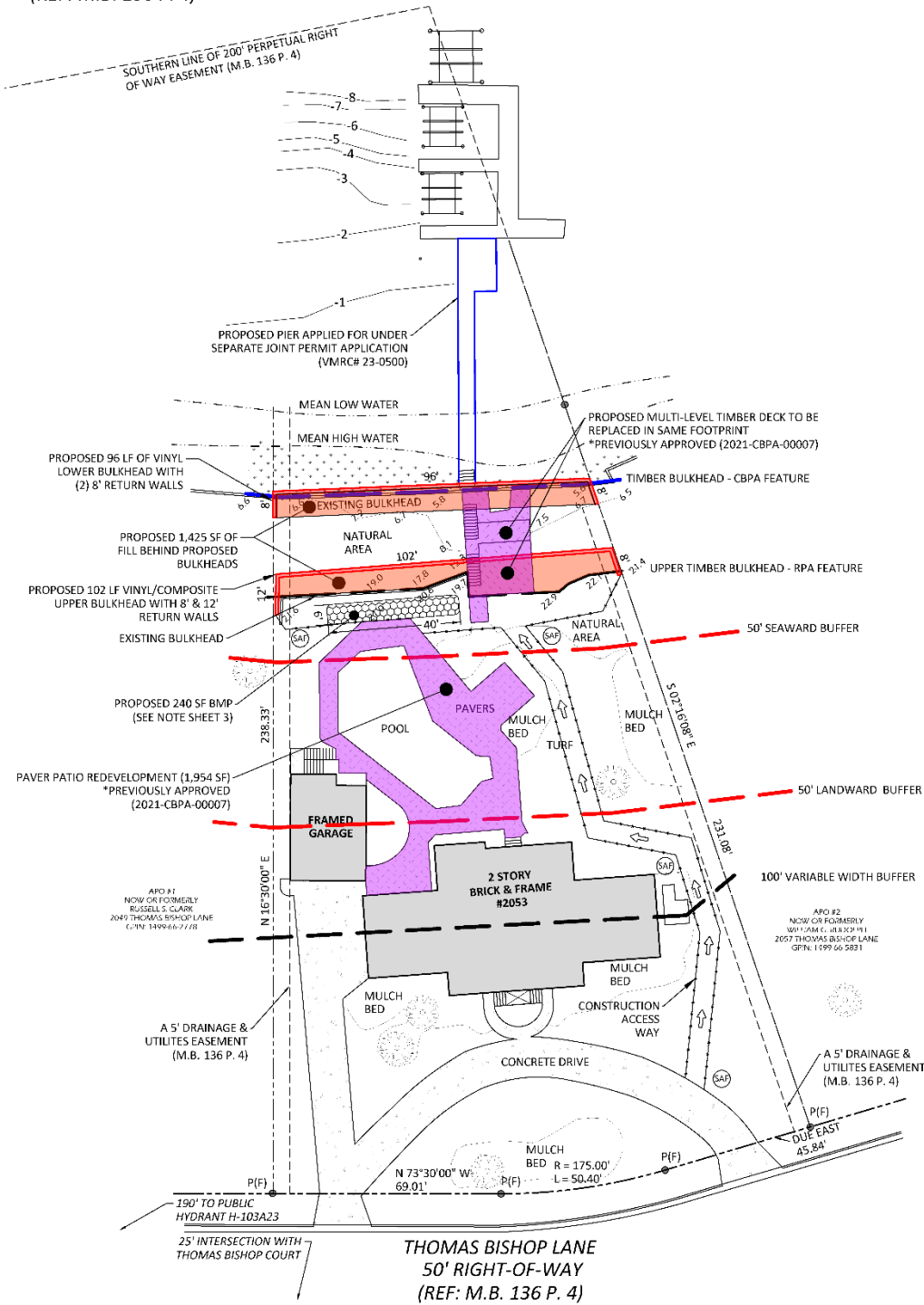
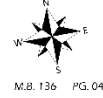
BROAD BAY CANAL
(REF: M.B. 136 P. 4)



CBPA Exhibit – Proposed Improvements

PROPOSED CONSTRUCTION PLAN (PROPOSED FILL INDICATED BY ORANGE SHADING)

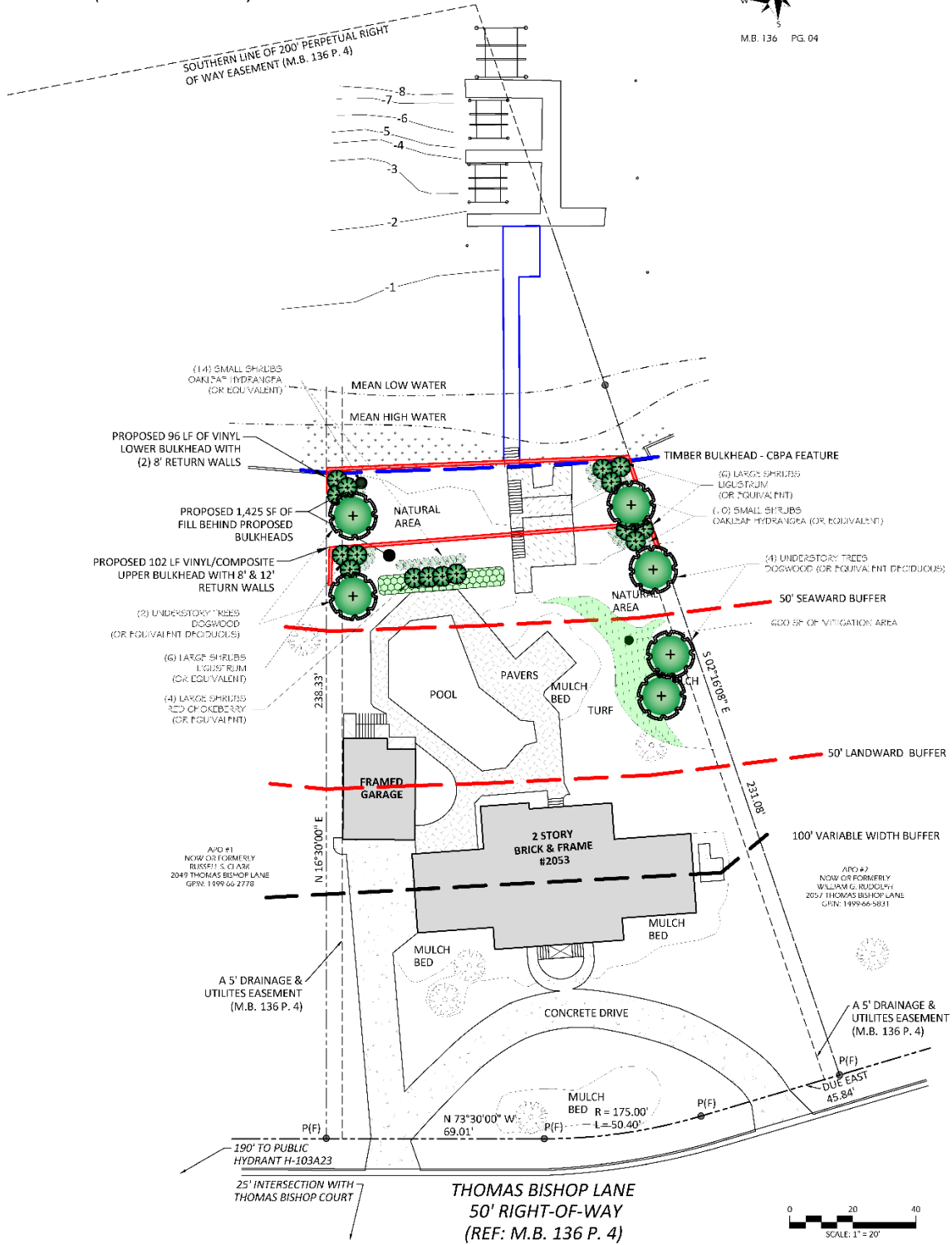
BROAD BAY CANAL
(REF: M.B. 136 P. 4)



PREPARED BY: DAVID HARMEY

CBPA Exhibit – Landscape Plan

BROAD BAY CANAL
(REF: M.B. 136 P. 4)



Disclosure Statement

DocuSign Envelope ID: 67270F7A-38FF-4287-9EE5-1F7C4D72189B

Disclosure Statement



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Applicant Disclosure

Applicant Name Benjamin A. Carey

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

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

Waterfront Consulting, Inc.

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

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

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

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

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

Disclosure Statement

DocuSign Envelope ID: 67270F7A-38FF-4287-9EE5-1F7C4D72189B

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

Yes **No**

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

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

Yes **No**

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

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

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

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

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

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

DocuSign Envelope ID: 67270F7A-38FF-4287-9EE5-1F7C4D72189B

Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? **Yes** **No**
- If **yes**, identify the construction contractor.
H & H Enterprises
-
7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? **Yes** **No**
- If **yes**, identify the engineer/surveyor/agent.
Waterfront Consulting, Inc., Stone Green Consulting, Everlast Seawalls
-
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? **Yes** **No**
- If **yes**, identify the name of the attorney or firm providing legal services.
-

Applicant Signature

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

DocuSigned by:
Benjamin A. Carey

Applicant Signature

Benjamin A. Carey

Print Name and Title

2/13/2024

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: **Mark P. Scanlon**
 Address: **428 Goodspeed Road**
 Public Hearing: **April 22, 2024**
 City Council District: **District 6**

Agenda Item

6

Variance Request

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

Applicant’s Agent

Self-represented

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 107, Page 44
 Recorded 11/13/1974

GPIN

2418-04-0096

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER OF SITE

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

786 square feet

Location of Proposed Impervious Cover

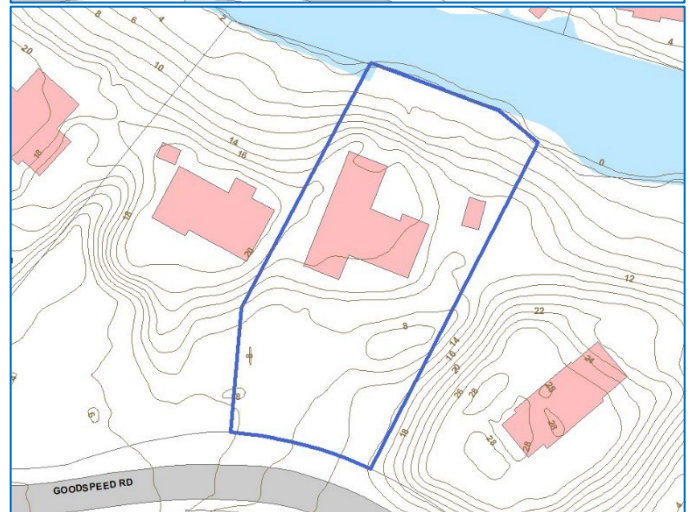
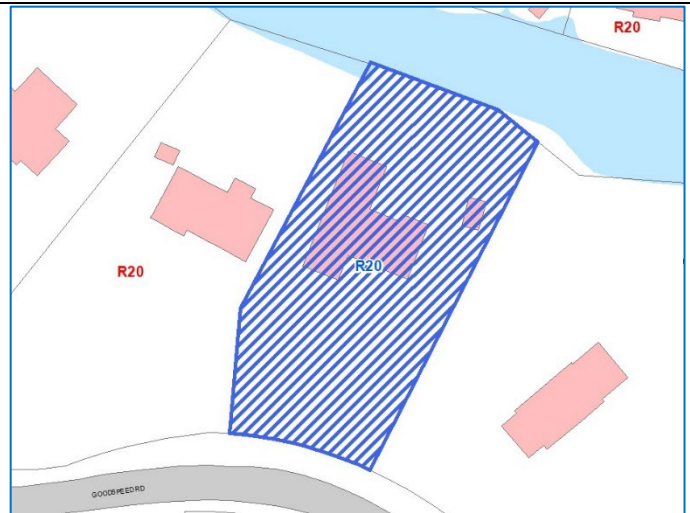
- 50-foot Seaward Buffer
- 50-foot Landward Buffer
- 100-foot Variable Width Buffer
- Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned.



Summary of Proposal

Construction Details

- 10' x 14' swimming pool with associated permeable paver patio

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

Shoreline

Shoreline is stabilized by a wood bulkhead.

Riparian Buffer

Moderately to sparsely wooded lot

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

Stormwater Management Methodology

The associated land disturbance with the variance request is less than 2,500 square feet, therefore, no stormwater management methodology is required.

Evaluation and Recommendation

The applicant is proposing to construct a swimming pool with an associated permeable paver patio. The proposed improvements will add approximately 786 square feet of new impervious cover within the 100-foot buffer of the Resource Protection Area (RPA), specifically within the 50-foot landward buffer. The dimensions of the proposed swimming pool (10 feet by 14 feet) are smaller than the average residential swimming pool (16 feet by 32 feet). The applicant has provided that the land disturbance, as calculated from the area within the proposed limits of construction, is to be less than 2,500 square feet. Staff is of the opinion the size of the pool and the surrounding permeable paver surround are acceptable, and the scope of the improvements should not be detrimental to water quality. Staff believes the materials of the pool surround provide a means to minimize rainwater sheet flow to promote infiltration of stormwater into the ground.

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.

Mark P. Scanlon

Agenda Item 6

Page 76

1. Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *“this subdivision was recorded many years prior to the adoption of the bay act and as a result every waterfront home is significantly impacted by the ordinance. since the enactment in 1991 numerous homes have made similar variance requests and been granted so the approval of this request will in no way confer any special privilege to the current owners.”* Staff concurs the lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance and offers the encroachment request is similar to existing improvements on adjacent lots.
2. Staff offers that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance, therefore portions of this lot are within the RPA.
3. The variance is the minimum necessary to afford relief because *“the minimum necessary is a very arbitrary concept but the board has routinely granted variances with the understanding that the total impervious cover not exceed 30% of the land area which leaves a significant amount of land to be used for buffer restoration and bioretention beds.”* Staff is of the opinion that the variance request is the minimum necessary to afford relief given the location of the proposed improvements on the lot and the best management practices and buffer restoration proposed.
4. The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *“the purpose and intent of the ordinance is simply water quality, to prevent pollution of the bay as a result of non-point source pollution. most of these homes currently have no storm water treatment on site. as a result of this variance request the owner will install bio retention beds, buffer restoration in areas currently devoted to turf and even off-site treatment via the lynn haven oyster heritage program all to benefit water quality.”* Staff acknowledges the applicant has offered a water quality approach towards managing stormwater on a residential lot through the use of permeable paver systems.
5. *“Strict erosion and sedimentation control measures do more to halt non-point source pollution, stock piling materials on existing hard surfaces, single point access way and revegetating any denuded areas all help to limit pollution from entering the adjacent waters”* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion the provided best management practices provides merit to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration.

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

Recommended Conditions

- 1) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **786 square feet x 200 percent = 1,572 square feet.**

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

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

- 2) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 3) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 4) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
- 5) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 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.
- 8) 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.
- 9) The proposed paver patio surround shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided on the site plan submitted to the Development Services Center for review and approval. Said construction of the area shall follow the Virginia Department of Environmental Quality (DEQ) Stormwater Design Specification 7 for permeable pavement system installation.

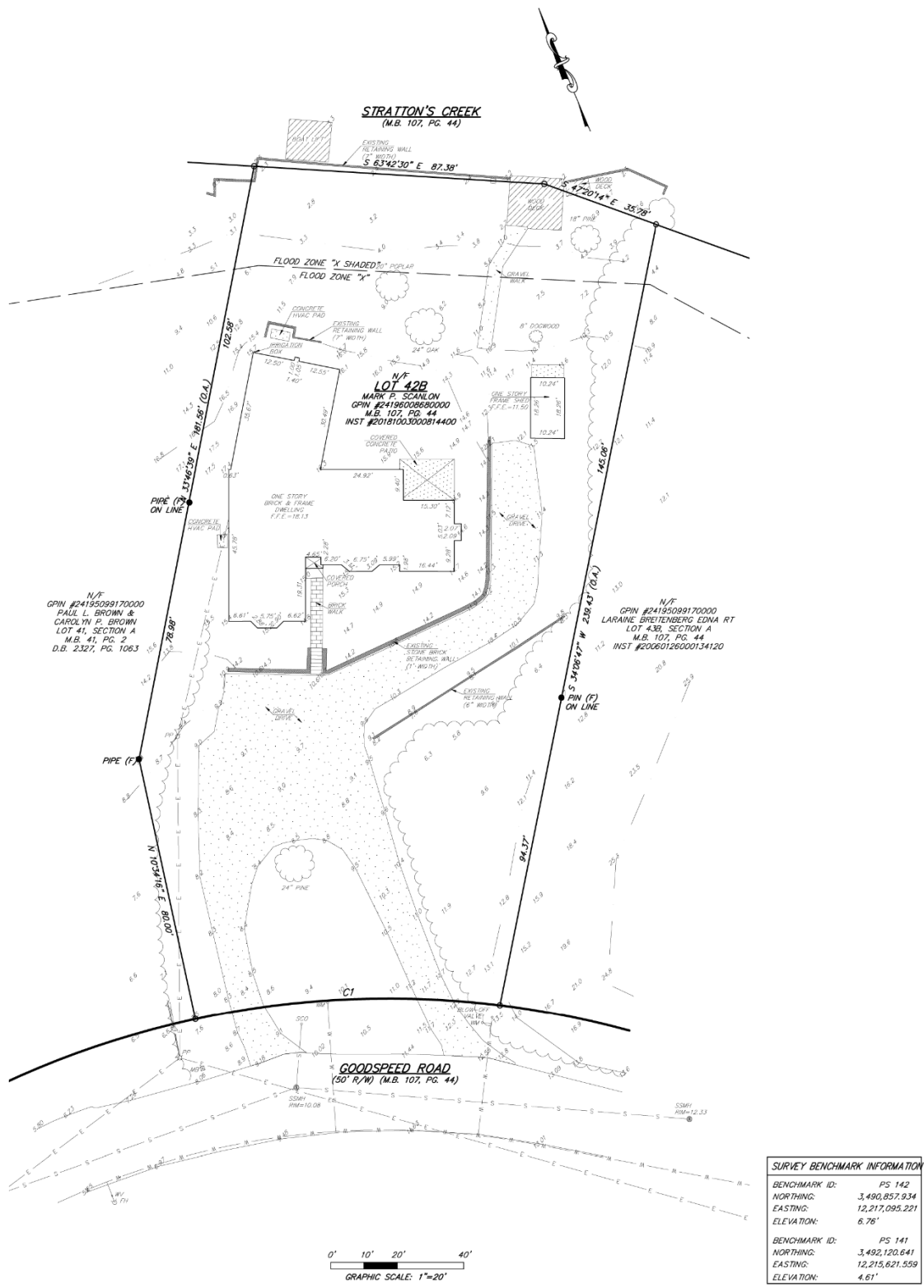
- 10) Perimeter fill within the limits of construction shall be the minimum necessary to facilitate positive drainage away from the proposed improvements. Fill material for such development shall be limited to minimize disturbance of existing vegetation and contours to effectively maintain the integrity of the buffer area.
- 11) The conditions and approval associated with this variance are based on the exhibit plan dated February 28, 2024, prepared by Gallup Surveyors & Engineers, signed February 28, 2024, by David R. Butler. The conditions and approval associated with this variance are based on the CBPA Board exhibit prepared by the applicant and presented to the CBPA Board, the application submitted and the sworn presentation to the CBPA Board. Deviation from said conditions during site plan review may require re-submittal for CBPA Board consideration.

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

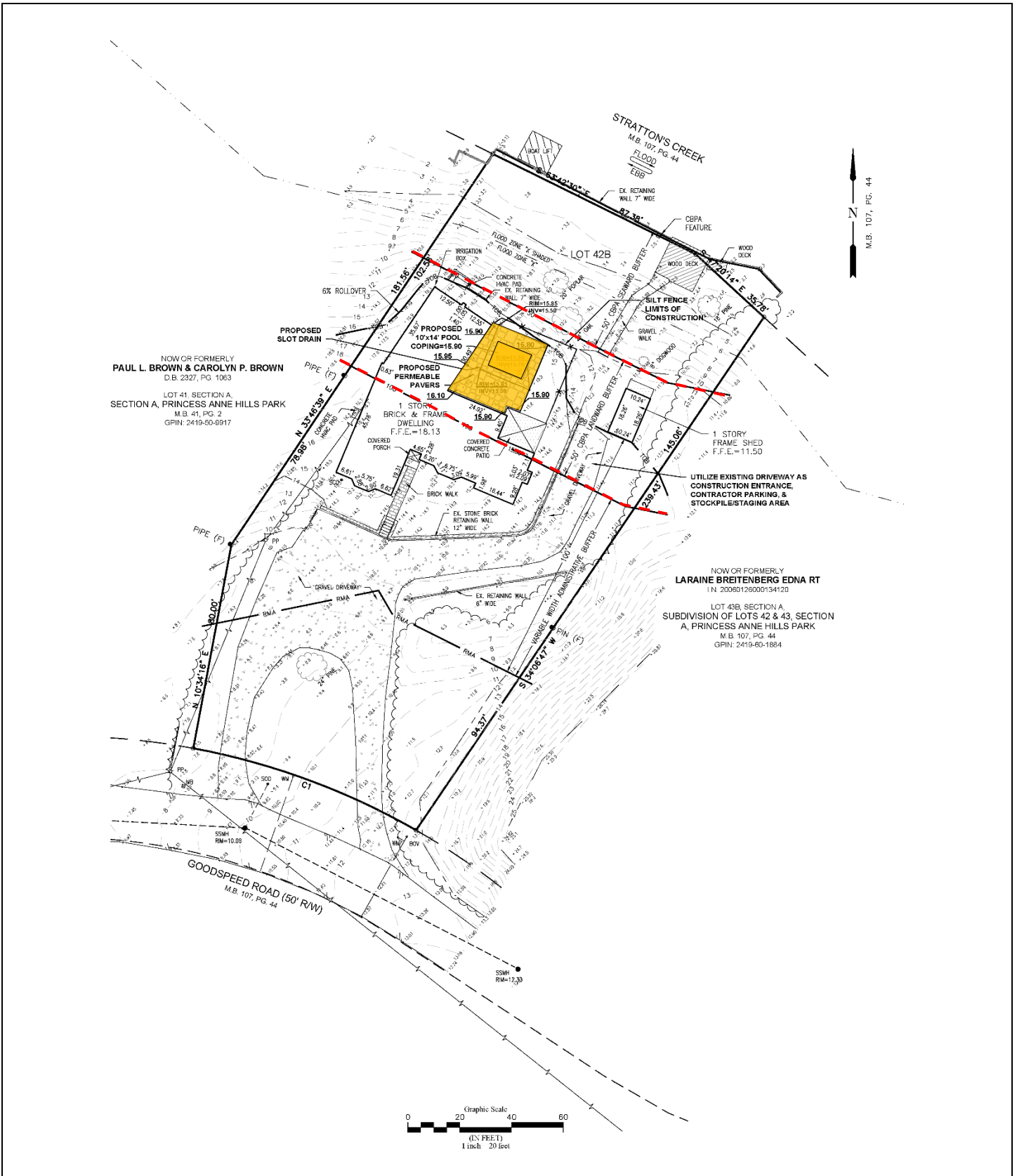
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements



Disclosure Statement



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

Applicant Disclosure

Applicant Name MARK P. SCANLON

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

MARK P. SCANLON

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

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

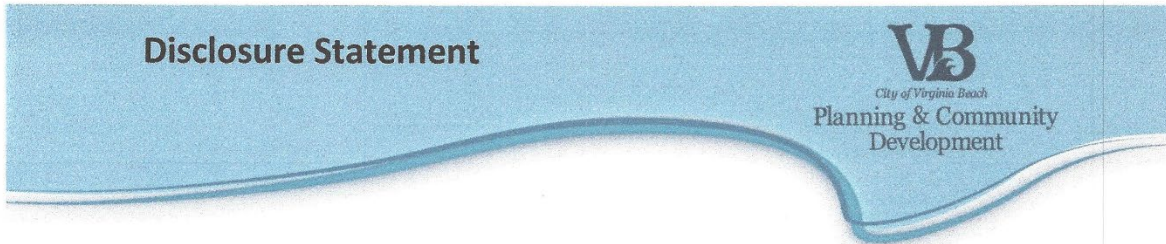
- If **yes**, identify the firm and individual providing the service.

GALLUP SURVEYORS - VB

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

Applicant Signature

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

[Handwritten Signature]

Applicant Signature

MARK P. SCANLON

Print Name and Title

OWNER & APPLICANT

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: **Kelly L. Bussey Revocable Trust**
 Address: **1305 W. Little Neck Road**
 Public Hearing: **April 22, 2024**
 City Council District: **District 8**

Agenda Item

7

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a paver patio, covered patio, and retaining wall.

Applicant’s Agent

Billy Garrington

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 42, Page 5
 Recorded 08/06/1956

GPIN

1488-27-8659

SITE AREA

70,879 square feet or 1.627 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

63,818 square feet or 1.465 acres

EXISTING IMPERVIOUS COVER OF SITE

18,626 square feet or 29 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

19,188 square feet or 30 percent of site

Area of Redevelopment in RPA

494 square feet

Area of New Development in RPA

301 square feet

Location of Proposed Impervious Cover

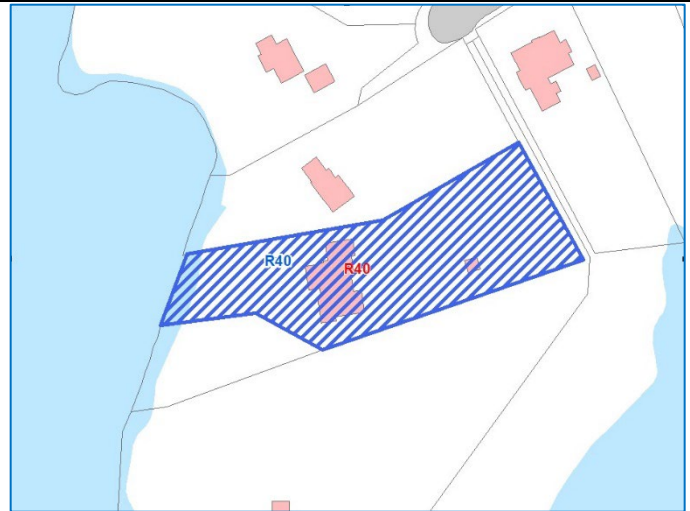
- 50-foot Seaward Buffer
- 50-foot Landward Buffer
- 100-foot Variable Width Buffer
- Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Remove existing wood deck and retaining wall

Construction Details

- Paver patio with fire pit area
- Segmented block retaining wall
- Covered patio – 18' x 24'

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

Shoreline

Shoreline is stabilized by a segmented block retaining wall.

Riparian Buffer

Heavily Wooded Lot

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased, and/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 permeable pavers will be provided as a best management practice for stormwater run-off mitigation.

Evaluation and Recommendation

An existing wood deck sits landward of the existing pier and the applicant proposes to replace the deck with a permeable paver patio area. Additionally, the existing segmented block wall that is stabilizing the uplands of the shoreline area is proposed to be replaced within the same footprint and an 18' x 24' covered patio is proposed out of the 100-foot Resource Protection Area (RPA) on the lot. As proposed, the request utilizes approximately 494 square feet of redevelopment and introduces 301 square feet of new impervious cover within the RPA. Staff is of the opinion the

location of the proposed improvements and use of materials are in harmony with the purpose and intent of the CBPA Ordinance and will not be of substantial detriment to water quality of the Chesapeake Bay.

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

1. Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *"this subdivision was recorded many years prior to the adoption of the bay act and as a result every waterfront home is significantly impacted by the ordinance. since the enactment in 1991 numerous homes have made similar variance requests and been granted so the approval of this request will in no way confer any special privilege to the current owners."* Staff concurs the lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance and offers the encroachment request is similar to existing improvements on adjacent lots.
2. Staff offers that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this lot are within the RPA.
3. The variance is the minimum necessary to afford relief because *"the minimum necessary is a very arbitrary concept but the board has routinely granted variances with the understanding that the total impervious cover not exceed 30% of the land area which leaves a significant amount of land to be used for buffer restoration and permeable pavers."* Staff is of the opinion that the variance request is the minimum necessary to afford relief given the location of the proposed improvements on the lot and the best management practices and buffer restoration proposed.
4. The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"the purpose and intent of the ordinance is simply water quality, to prevent pollution of the bay as a result of non-point source pollution. most of these homes currently have no storm water treatment on site. as a result of this variance request the owner will install permeable pavers, buffer restoration in areas currently devoted to turf and even off-site treatment via the lynn haven oyster heritage program all to benefit water quality."* Staff acknowledges the applicant has offered a water quality approach towards managing stormwater on a residential lot through the use of permeable paver systems.
5. *"Strict erosion and sedimentation control measures do more to halt non-point source pollution, stock piling materials on existing hard surfaces, single point access way and revegetating any denuded areas all help to limit pollution from entering the adjacent waters"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion the provided best management practices provides merit to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration.

Given the above comments, Staff recommends the following **12** reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **301 square feet x 200 percent = 602 square feet.**

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

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

- 1) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 2) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 3) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 4) 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.**
- 5) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 5 feet from improvements.
- 6) Construction limits along the seaward portion of the project shall lie a maximum of 5 feet seaward of improvements.
- 7) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

- 8) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts not included with this variance request.
- 9) 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.
- 10) 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.
- 11) ** 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 \$68.97 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 12) The conditions and approval associated with this variance are based on the exhibit plan dated February 29, 2024, prepared by Gallup Surveyors & Engineers, signed February 29, 2024, by David R. Butler. The conditions and approval associated with this variance are based on the CBPA Board exhibit prepared by the applicant and presented to the CBPA Board, the application submitted and the sworn presentation to the CBPA Board. Deviation from said conditions during site plan review may require re-submittal for CBPA Board consideration.

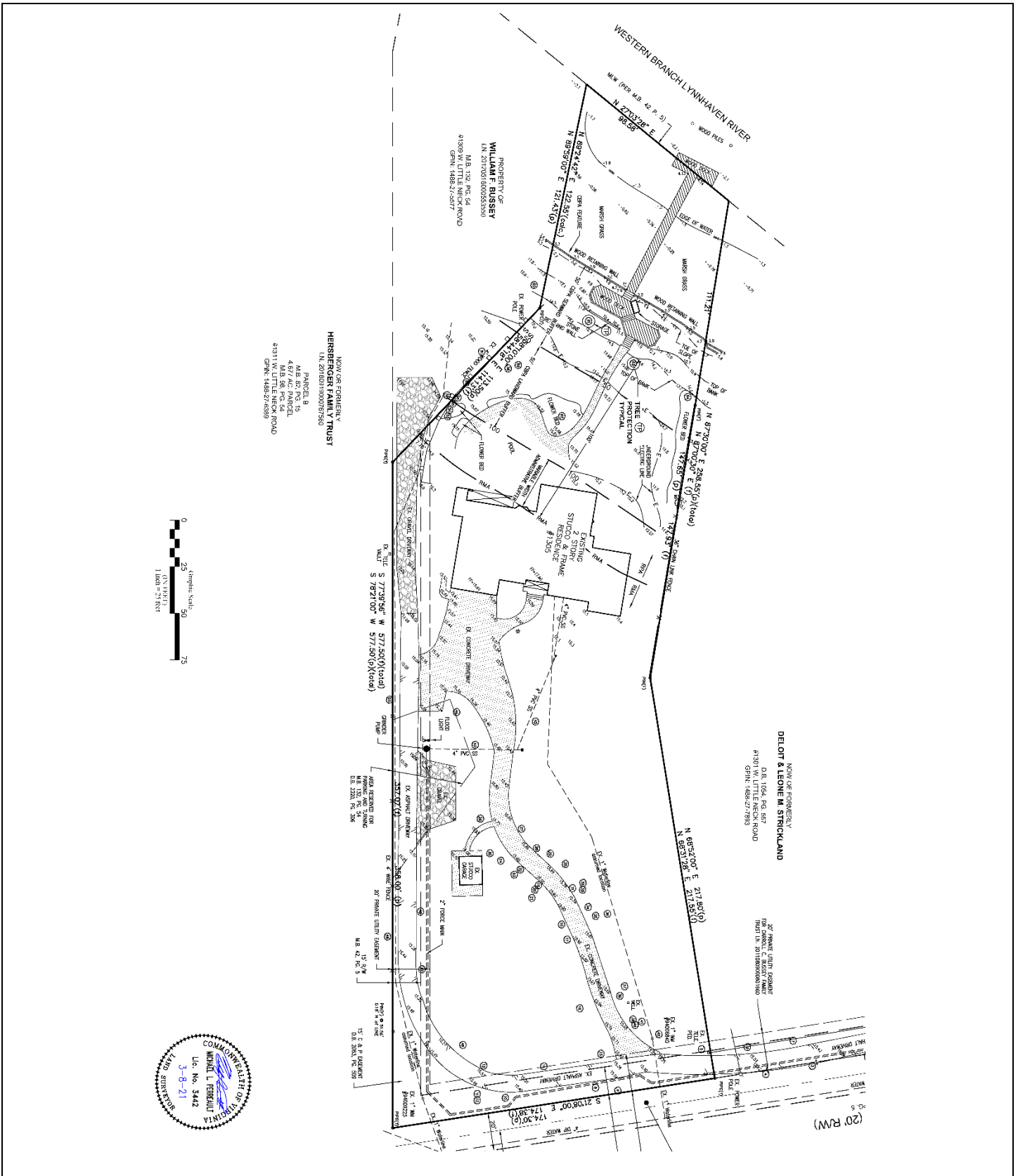
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

Site Aerial



CBPA Exhibit – Existing Conditions



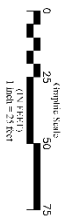
PROPERTY OF
WILLIAM F. BUSSEY
 LN 201051800025250
 M.B. 102, PG. 64
 41937 W. LITTLE NECK ROAD
 GRAN. 1488-2746389

NON-LIFE ESTATE
HERSENGER FAMILY TRUST
 LN 201051800027750

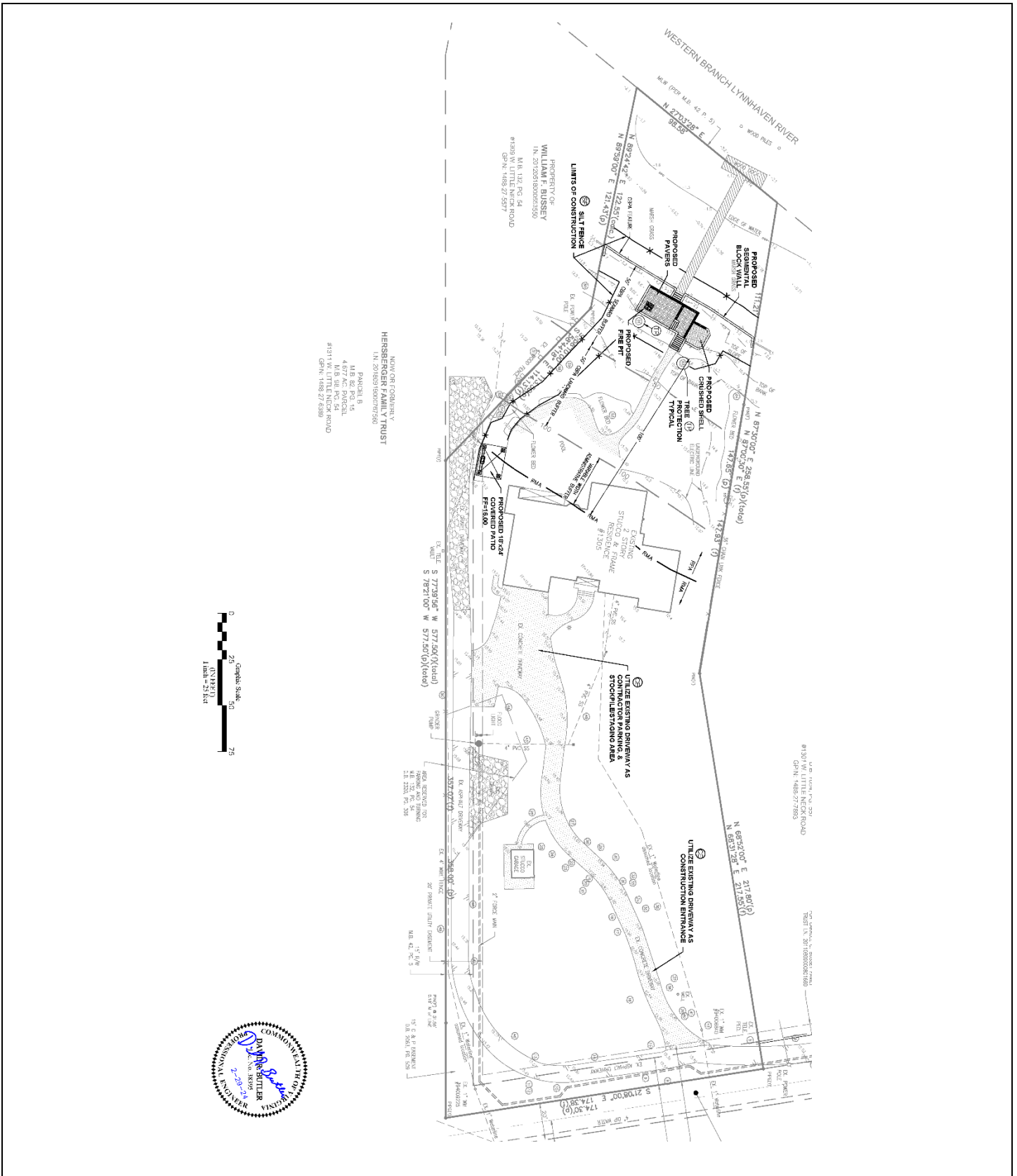
PARCEL B
 M.B. 67, PG. 15
 41917 W. LITTLE NECK ROAD
 GRAN. 1488-2746389

NON-LIFE ESTATE
DELOIT & LEONE M. STRICKLAND
 D.L.R. 1024, PG. 667
 #1305
 GRAN. 1488-2746389

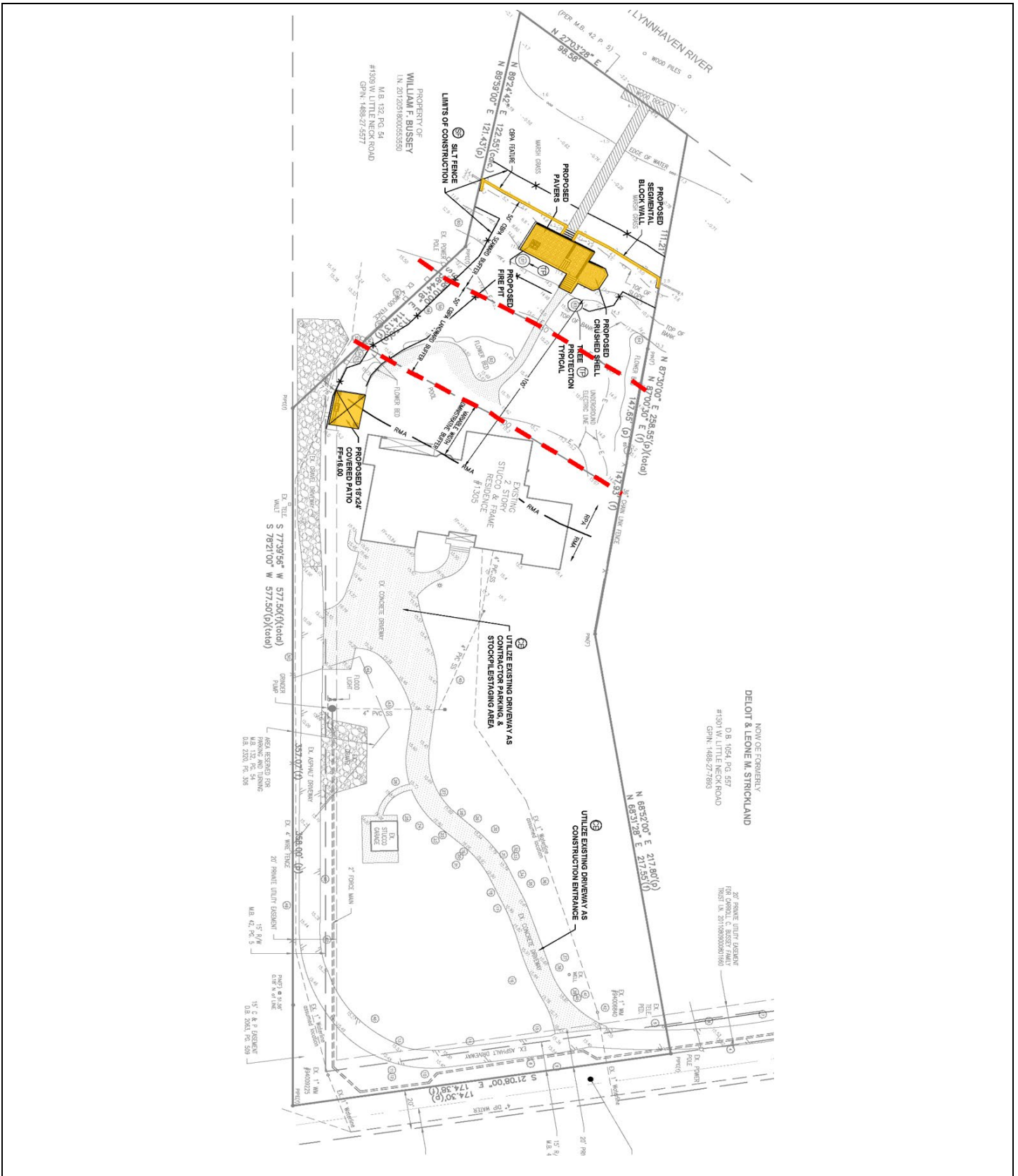
20' FRAME UTILITY EASEMENT
 FOR CABLE, EX. BEST PRACTICE
 FROM 11' SETBACK FROM RIVER



CBPA Exhibit – Proposed Improvements



CBPA Exhibit – Enlarged Plan



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 Ryan Light, Kelly Bussey

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

Billy Garrington

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

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

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

¹ "Parent-subsidary 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-subsidary 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

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

Applicant Signature

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

[Signature]
 Applicant Signature
Ryan Licht
 Print Name and Title

[Signature]
Kelly Bussey
 Print Name and Title

Feb 29, 2024
 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: **Donnie & Stacy Humphries**
 Address: **2140 Windward Shore Drive**
 Public Hearing: **April 22, 2024**
 City Council District: **District 1**

Agenda Item

8

Variance Request

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

Applicant’s Agent

Billy Garrington

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 47, Page 45
 Recorded 01/09/1959

GPIN

2409-29-6024

SITE AREA

21,907 square feet or 0.503 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

21,907 square feet or 0.503 acres

EXISTING IMPERVIOUS COVER OF SITE

4,690 square feet or 21 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

9,026 square feet or 41 percent of site

Area of Redevelopment in RPA

3,291 square feet

Area of New Development in RPA

3,379 square feet

Location of Proposed Impervious Cover

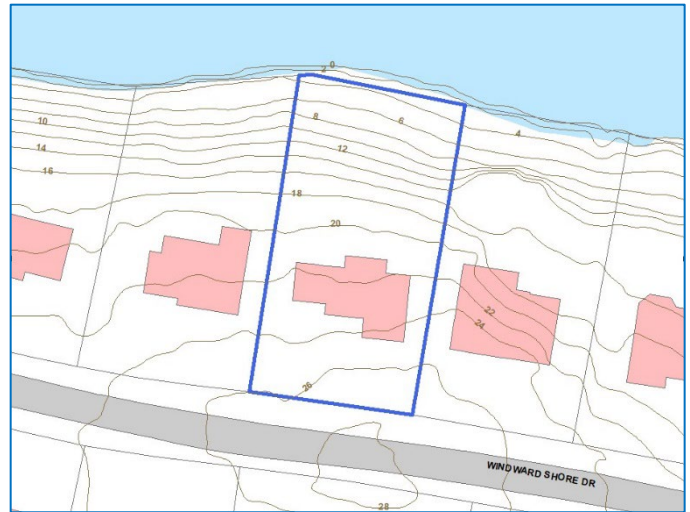
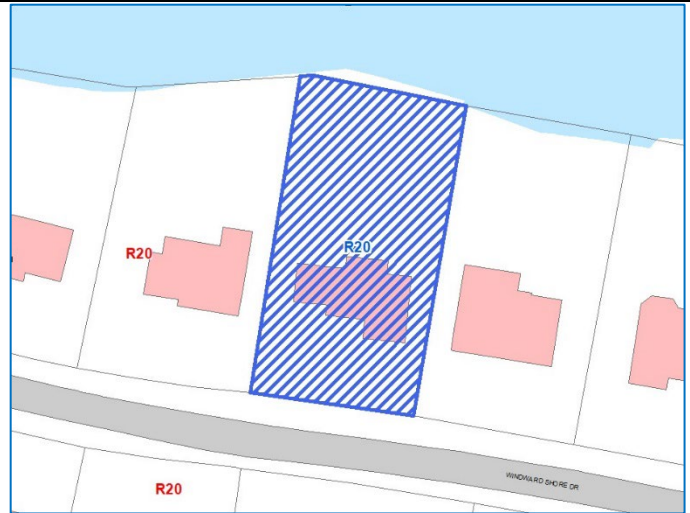
- 50-foot Seaward Buffer
- 50-foot Landward Buffer
- 100-foot Variable Width Buffer
- Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Demolish existing single-family residence and associated accessory structures.

Construction Details

- Single family residence with associated covered deck and walkways
- Concrete driveway with concrete entry court adjacent to residence
- Swimming pool with paver pool patio and shed

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

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

Shoreline

Shoreline is stabilized by a wooden bulkhead.

Riparian Buffer

Sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased, and/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 and gravel downspout intercepts will be provided as a best management practice for stormwater run-off mitigation.

Evaluation and Recommendation

The applicant wishes to demolish the existing single-family residence and associated accessory structures to construct a new two-story single-family residence with the associated covered deck, swimming pool and paver patio, cabana, shed, and walkways. As submitted, the proposed residence is situated primarily within the footprint of the existing home, resulting in approximately 3,291 square feet of redevelopment, with additional new impervious cover of 3,379 within the Resource Protection Area (RPA) buffer resulting from the addition of the swimming pool, paver patio area, cabana, and shed. While the overall impervious cover of the site increases from 21 percent to 41 percent, primarily due to

portions of the concrete driveway located within the Resource Management Area (RMA), the applicant's agent provides the overall impervious cover within the RPA is proposed at 30 percent. The applicant's agent also provided that 2,299 square feet of new impervious cover with this request (11 percent of the impervious cover of the lot) is situated within the RMA. A waterfront access path is the only portion of the submittal that includes new construction within the 50-foot seaward buffer and is a permitted use per the performance standards set forth in City Code, Appendix F, Section 106. Given the location of the proposed improvements being situated immediately adjacent to the proposed single-family home and within the upper limits of the 50-foot landward buffer, Staff is of the opinion the variance request is in harmony with the purpose and intent of the CBPA Ordinance and will not be of substantial detriment to the water quality of the Chesapeake Bay.

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

1. Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *"the property was platted in 1959 prior to the Chesapeake Bay Preservation Act. The proposed dwelling and associated improvements are in keeping with the development of the neighborhood and adjacent parcels."* Staff concurs the lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance and offers the encroachment request is similar to existing improvements on adjacent lots.
2. Staff offers that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this lot are within the RPA.
3. The variance is the minimum necessary to afford relief because *"the owners have designed the proposed improvements to be minimize the impact to the Chesapeake Bay, the new home has been placed towards the front setback line and shifted around on the site to maximize the redevelopment, to minimize site impacts, and avoid development in the 50' seaward portion of the site."* Staff is of the opinion that the variance request is the minimum necessary to afford relief given the location of the proposed improvements on the lot and the best management practices and buffer restoration proposed.
4. The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"the proposed dwelling and improvements are in keeping with the development 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 provided between the improvements and the bay."* Staff acknowledges the applicant has offered a water quality approach towards managing stormwater on a residential lot through the use of bioretention planting beds and gravel downspout intercepts.
5. *"Bioretention beds and Buffer plantings will be installed between the improvements and the waterway to achieve stormwater management requirements to capture and treat runoff prior to discharging into the canal"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion the provided best management practices provides merit to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration.

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

Recommended Conditions

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 3) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **3,379 square feet x 200 percent = 6,758 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: **17 canopy trees, 17 understory trees, 34 large shrubs, and 51 small shrubs.**

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

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

- 9) Construction limits shall be contained within the limits of the silt fence. **All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan. – or - Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts not included with this variance request.
- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 13) **The pool shall be constructed concurrent with the residence.**
- 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 \$774.35 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 prepared by WPL, signed February 29, 2024, 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.

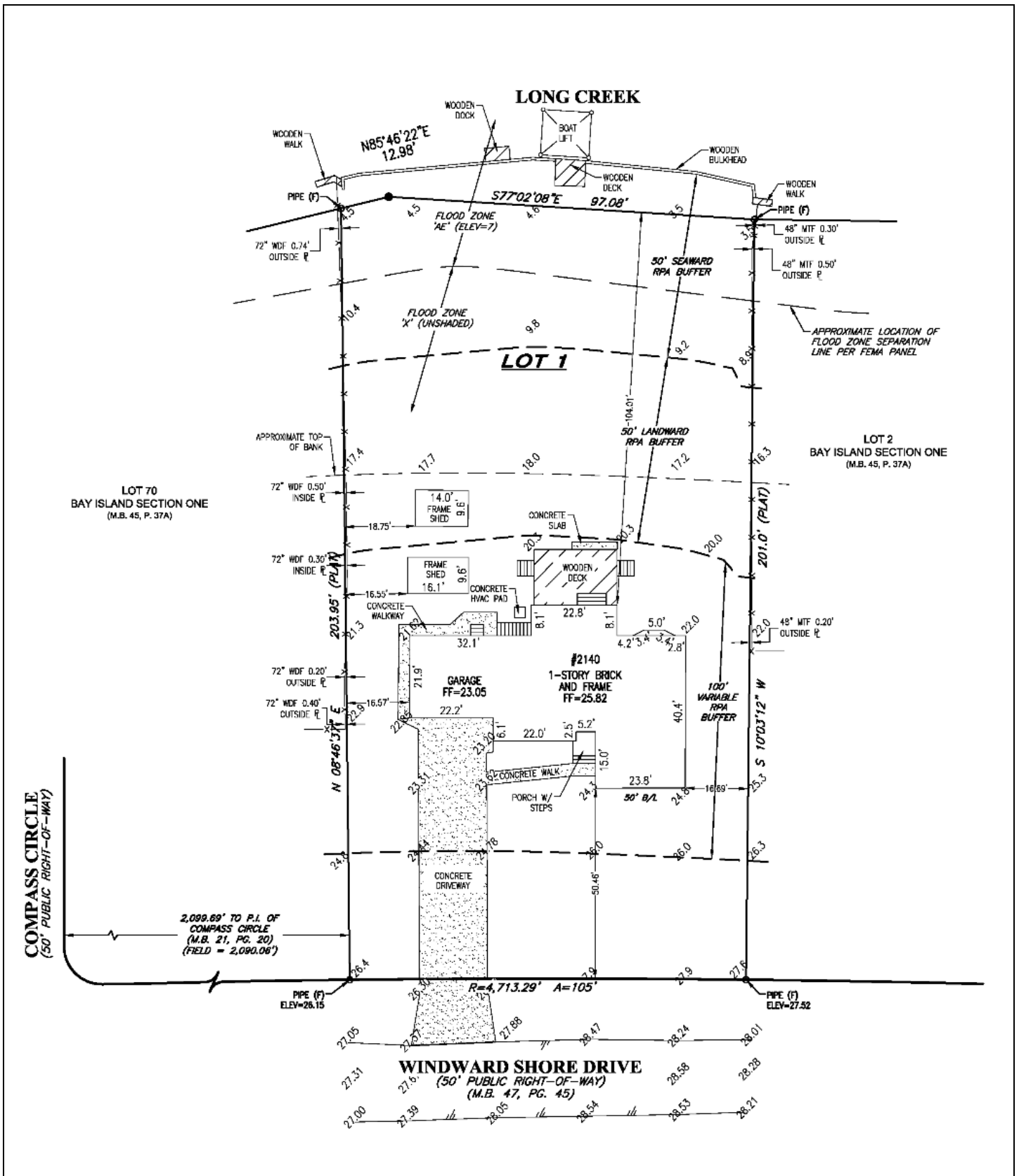
**** NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

*****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.

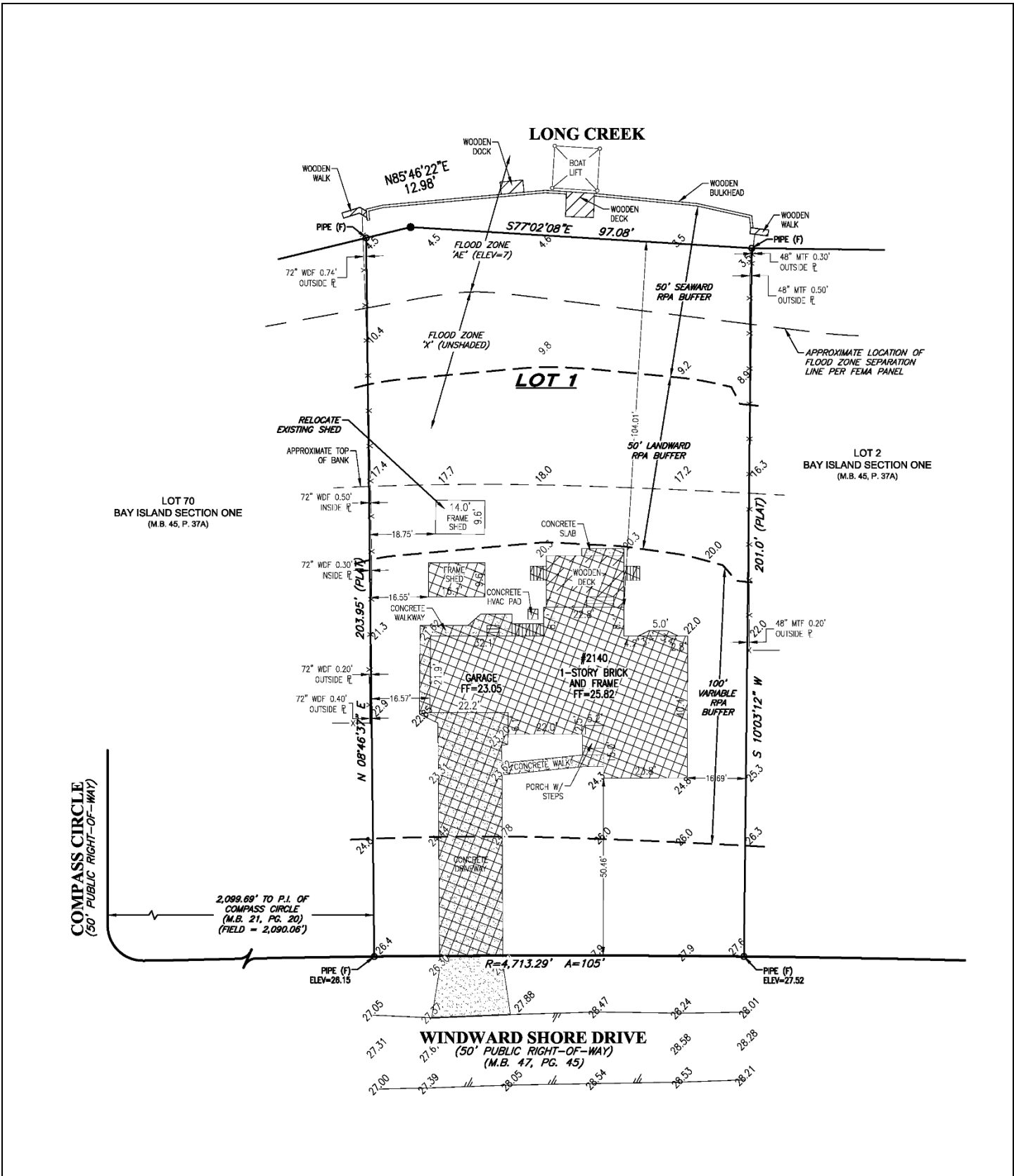
Site Aerial



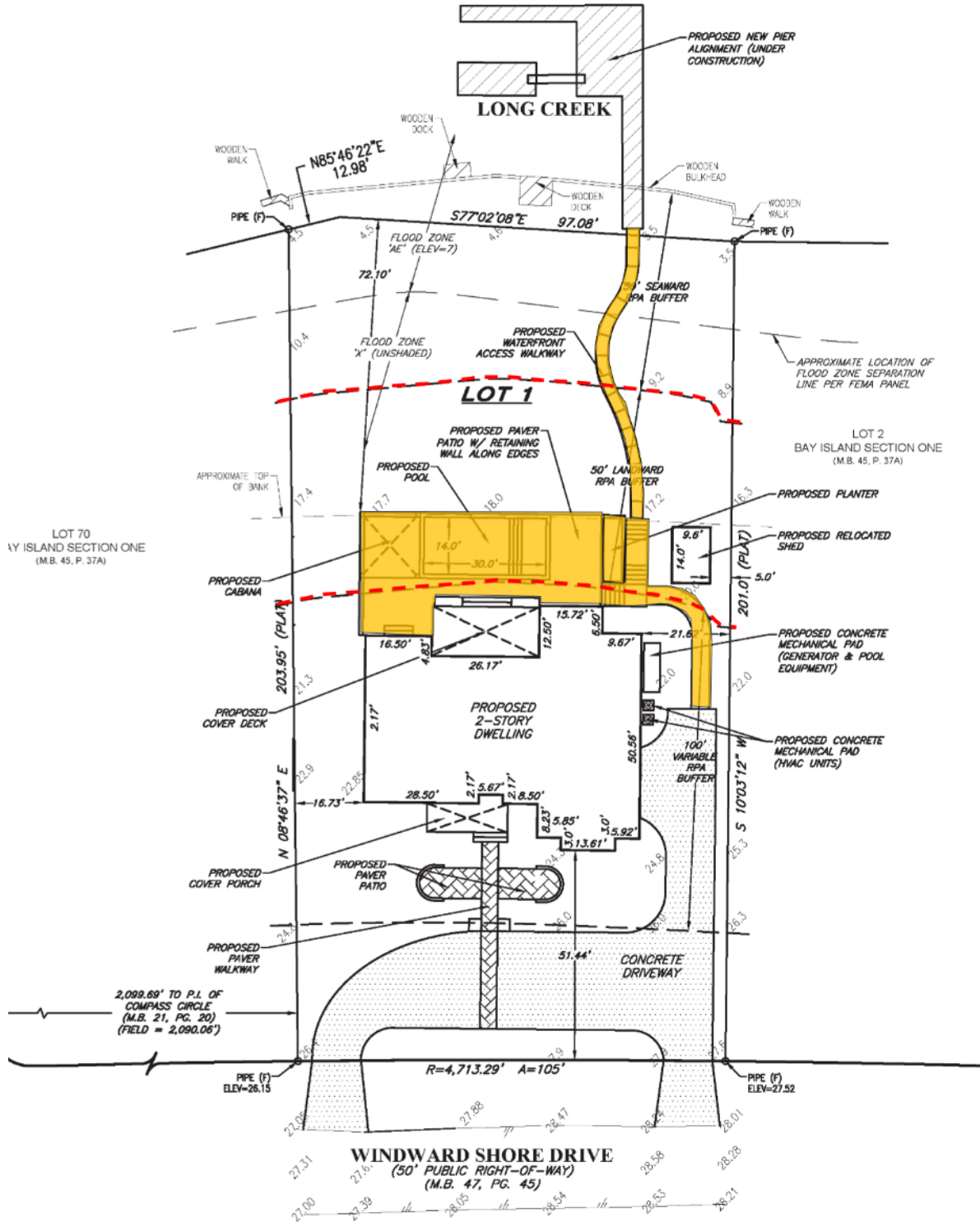
CBPA Exhibit – Existing Conditions



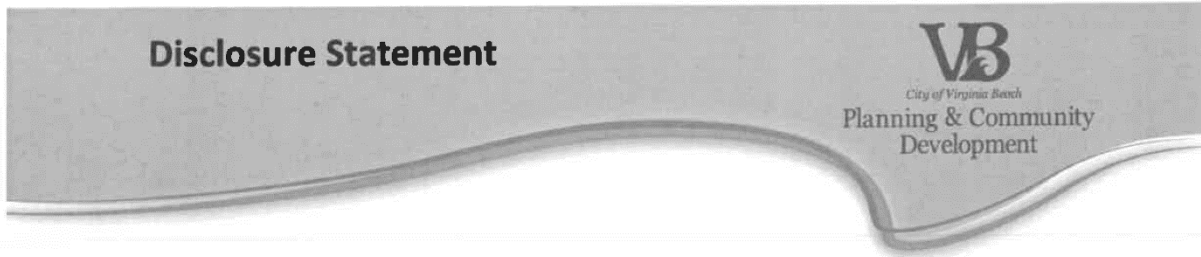
CBPA Exhibit – Demolition Plan



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 Donnie Humphries & Stacy S Humphries

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

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.

CMG Mortgage Inc, dba CMG Home Loans

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

Yes **No**

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

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

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

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

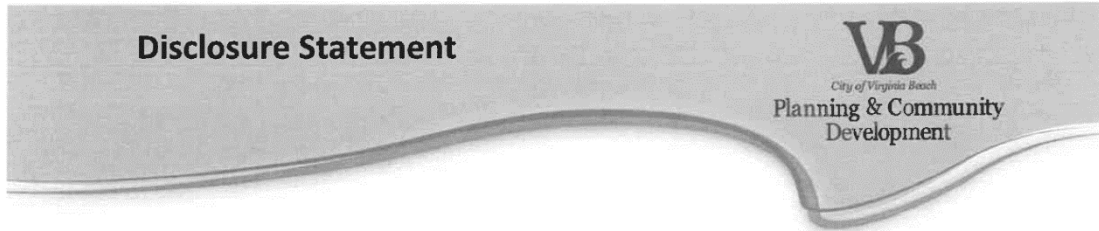
- If **yes**, identify the firm or individual providing the service.

WPL & Linda Sullivan, Progressive Designs

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

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

Disclosure Statement



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

Applicant Signature

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

Donnie Humphries
 Applicant Signature
 DONNIE HUMPHRIES OWNER
 Print Name and Title
 2/29/24
 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: **Melissa & Patrick Smith**
 Address: **3220 Queensbury Drive**
 Public Hearing: **April 22, 2024**
 City Council District: **District 8**

Agenda Item

9

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct shed and greenhouse.

Applicant's Agent

Self-represented

Staff Planner

Cole S. Fisher

Lot Recordation

Map Book 54, Page 23
 Recorded 08/15/1961

GPIN

1498-00-2832

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER OF SITE

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

500 square feet

Location of Proposed Impervious Cover

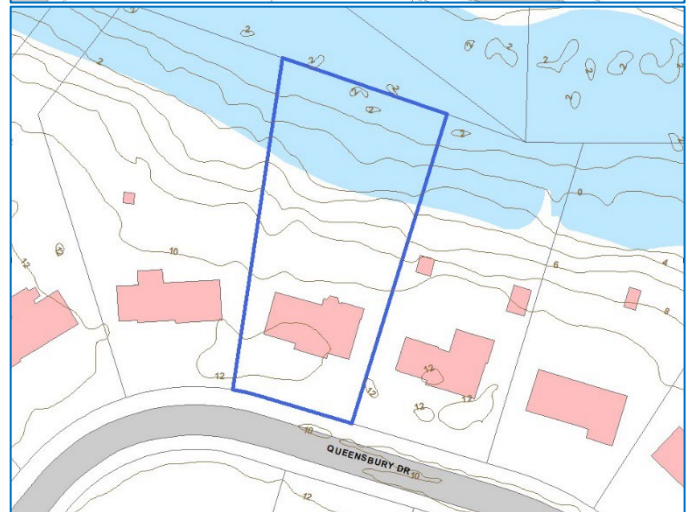
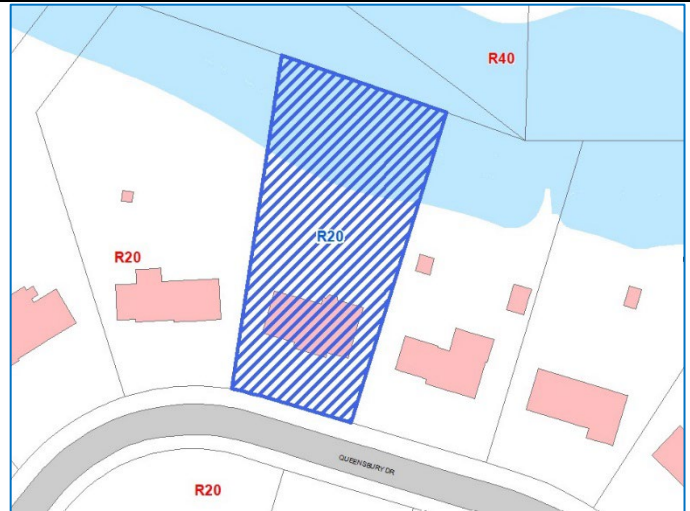
50-foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned.



Summary of Proposal

Construction Details

- Construct a 250 square foot shed and 250 square foot greenhouse

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

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

Soil Type(s)

Udorthents Series (well-drained and moderately well-drained soils)

Tetotum Series (deep, moderately well-drained soils)

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Sparsely wooded lot

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

Stormwater Management Methodology

The associated land disturbance with the variance request is less than 2,500 square feet, therefore, no stormwater management methodology is required. However, the applicant has indicated they will be utilizing gravel downspout intercepts, rain barrels, and sand/gravel treatment for the proposed structures.

Evaluation and Recommendation

The applicant is proposing to construct a 250 square foot shed and 250 square foot greenhouse within the 50-foot landward buffer of the Resource Protection Area (RPA) in the rear yard of their lot. The purpose of the project is to have a space to grow various vegetable plants throughout the year and have the necessary storage space for the yard maintenance and gardening equipment. Additionally, the applicant will be removing two old storage sheds from within the 50-foot seaward buffer with this request and reverting the area back to a natural state. As submitted, Staff is of the opinion the proposal will not be of substantial detriment to water quality and the applicant also indicated sand and gravel will be placed under the proposed greenhouse to aid in water infiltration. Given the location and size of the proposed improvements, Staff is of the opinion the variance request 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 request is routinely seen within the neighborhood and other areas in the Virginia Beach."* Staff adds that the lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance and offers the encroachment request is similar to existing improvements on adjacent lots.
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 intention is to place variance requested structures closer to the house and away from the tidal channel to support preservation efforts. French drains and chalet to be layered as foundation for the greenhouse and rain barrels to catch run off and re-use to water plants. Additionally, landscaping designed with local horticulturist to add buffer for water filtration."* Staff is of the opinion that the variance request is the minimum necessary to afford relief given the location of the proposed improvements on the lot and the best management practices and buffer restoration proposed.
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 greenhouse will enhance natural experience, supporting a non-toxic growing environment. Structures to be placed/ built to add aesthetically pleasing view. They will blend with home. Greenhouse-commercial grade kit with poly/ glass."* Staff acknowledges the applicant has multiple BMPs with this request when not required given that this is a small project within the RPA.
5. *"French drains and chalet to filter run off, rain barrels to catch rainwater and to be used a watering source in greenhouse, native landscaping to enhance natural environment"* as a means to manage towards a no net increase in nonpoint source pollution load. Staff is of the opinion the provided best management practices provides merit to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration.

Given the above comments, Staff recommends the following **2** reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

- 1) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **500 square feet x 200 percent = 1,000 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 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.

- 2) The conditions and approval associated with this variance are based on the exhibit plan 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.

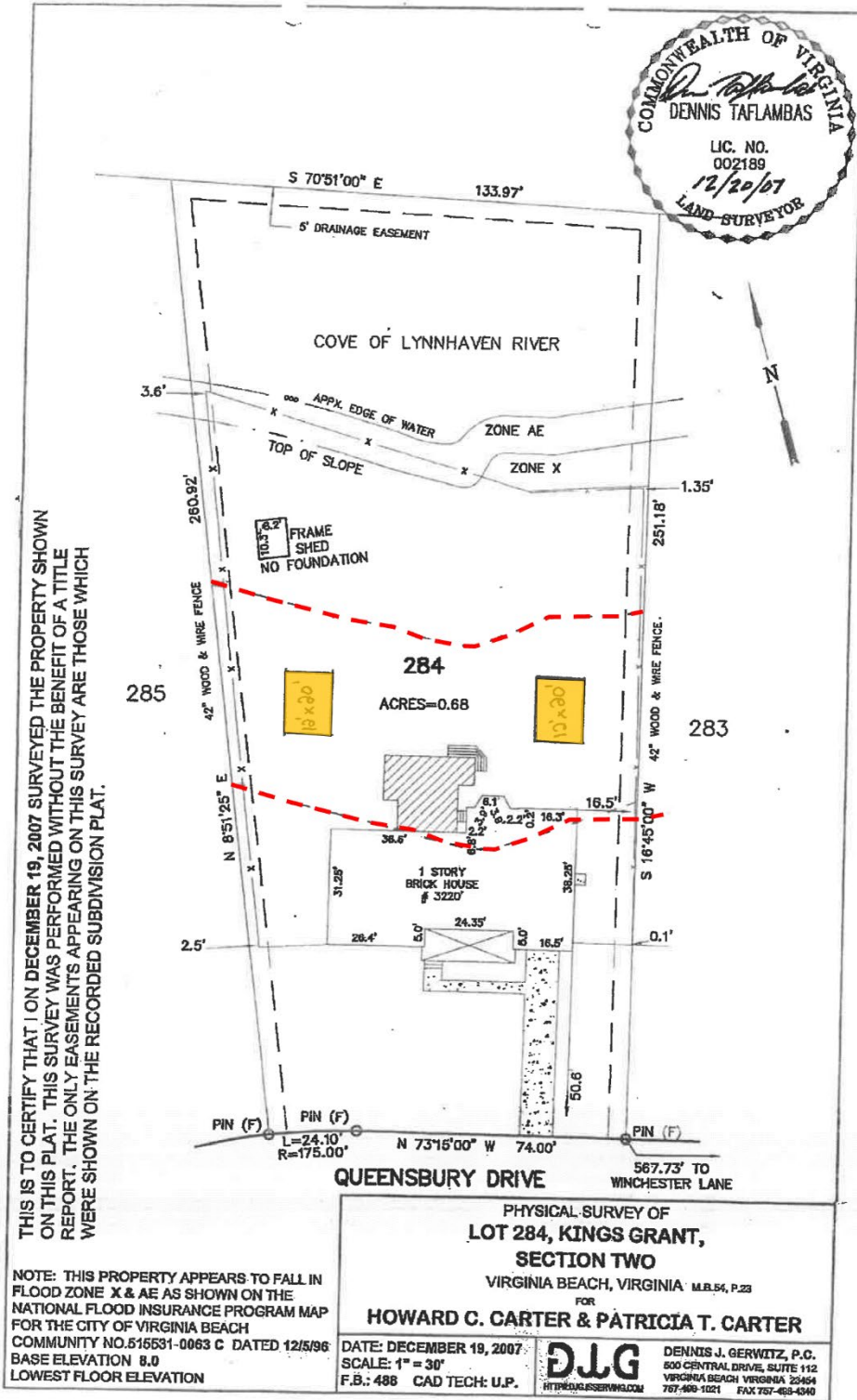
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

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

Site Aerial



CBPA Exhibit – Proposed Improvements



Patrick & Melissa Smith
 2809 Queensbury Drive
 Virginia Beach, VA 23458

S

Disclosure Statement

Disclosure Statement



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Applicant Disclosure

Applicant Name Melissa A Smith

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)

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Disclosure Statement

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 for property is with NFCU. No financing specific to requested project at this time.

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



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

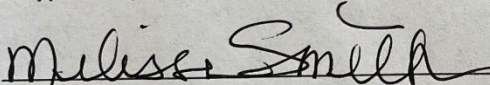
- If yes, identify the firm and individual providing the service.

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.**



Applicant Signature
Melissa A Smith

Print Name and Title
Home owner

Date 4/5/24

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	

Revised 11.09.2020 3 | Page

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