

Wetlands Board Staff Report

March 15, 2021

Wetlands Board Hearing Procedures

Due to the ongoing COVID-19 pandemic, the Virginia Beach Wetlands Board meeting will be held virtually on March 15, 2021 at 10:00 a.m. with Wetlands Board Members, Staff and citizens participating via video/audio conference. Prior to the public hearing, a virtual Staff briefing will be held at 9:00 a.m.

For those citizens who desire to attend this meeting virtually, registration is required. Please visit www.vbgov.com/wetlands or enter the following URL into your web browser to register: <https://vbgov.webex.com/vbgov/onstage/g.php?MTID=e550bfde42d968153073043833e848ced>

If you desire to speak at the virtual public hearing you must notify Staff prior to 5:00 pm, Friday, March 12, 2021 at (757) 385-4621. Citizens are encouraged to submit comments to the Wetlands Board prior to the public hearing via email to waterfront@vbgov.com or via United States Mail to Waterfront Operations, 2875 Sabre Street, Suite 500, Virginia Beach, VA 23452.

Staff will attempt to facilitate real-time citizen participation/comments in the public hearing for those citizens who registered, which includes speaker's name, physical address, email address, and phone number. For more information on this process, please review the Wetlands Board website at www.vbgov.com/wetlands or contact Staff at (757) 385-4621. If you are **physically disabled** or **visually impaired** and need assistance at this meeting, please call **The Department of Planning and Community Development at (757) 385-4621**

Copies of plans, ordinances and amendments are on file and may be examined by appointment in the Department of Planning at 2875 Sabre St, Suite 500 or online at www.vbgov.com/wetlands. For additional information call the Planning Department at 757-385-4621. Staff reports will be available on the webpage 5 days prior to the meeting.

PLEASE TURN YOUR CELL PHONE OFF OR TO VIBRATE WHILE IN THE COUNCIL CHAMBER.

THE ADMINISTRATIVE COMMENTS CONTAINED IN THE ATTACHED AGENDA CONSTITUTE STAFF RECOMMENDATIONS FOR EACH APPLICATION AND ARE ADVISORY ONLY. FINAL DETERMINATION OF THE APPLICATION IS MADE BY THE VIRGINIA BEACH WETLANDS BOARD AT THE PUBLIC HEARING.

THE FOLLOWING DESCRIBES THE ORDER OF BUSINESS FOR THE PUBLIC HEARING

1. **WITHDRAWALS AND DEFERRALS:** The first order of business is the consideration of withdrawals or requests to defer an item. The Board will ask those in attendance at the hearing if there are any requests to withdraw or defer an item that is on the agenda. **PLEASE NOTE THE REQUESTS THAT ARE MADE, AS ONE OF THE ITEMS BEING WITHDRAWN OR DEFERRED MAY BE THE ITEM THAT YOU HAVE AN INTEREST IN.**
 - a. An applicant may **WITHDRAW** an application without the Boards's approval at any time prior to the commencement of the public hearing for that item. After the commencement of the hearing, however, the applicant must request that the Wetlands Board allow the item to be withdrawn.
 - b. In the case of **DEFERRALS**, the Board's policy is to defer the item **FOR AT LEAST 60 DAYS**. Although the Board allows an item to be deferred upon request of the applicant, the Board will ask those in attendance if there are any objections to the request for deferral. If you wish to oppose a deferral request, let the Board know when they ask if there is anyone in attendance who is opposed to the deferral. **PLEASE** confine your

* Deferral

** Withdrawal

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remarks to the deferral request and do not address the issues of the application – in other words, please let the Board know why deferring the application is unacceptable rather than discussing what your specific issue is with the application.

2. **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 the 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 speakers if a member of the Board sponsors them. 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 Planning Department Staff.
 - h. 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 a spokesperson, and the spokesperson is encouraged to have his or her supporters stand to indicate their support.

The Staff reviews of some or all of the items on this agenda suggest that certain conditions be attached to approval by the Wetlands Board. 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 during administration of applicable City ordinances.

* Deferral
** Withdrawal

9:00 A.M. – STAFF BRIEFING AND DISCUSSION

- REVIEW OF PUBLIC HEARING AGENDA ITEMS
- DISCUSSION OF FIELD VISITS

10:00 A.m. – PUBLIC HEARING

1. Update Sand Management General Permit Conditions

OLD BUSINESS – WETLANDS

2. 2021-WTRA-00002

David Bowden [Applicant/Owner]

DEFERRED FROM FEBRUARY 15, 2021

To construct a bulkhead, rip rap, and boat ramp and plant vegetation involving wetlands

4018 N Witchduck Road
(GPIN 1488-08-9788)

Waterway – Western Branch Lynnhaven River

Subdivision – Witchduck
Council District – Bayside



NEW BUSINESS – WETLANDS

3. 2021-WTRA-00014

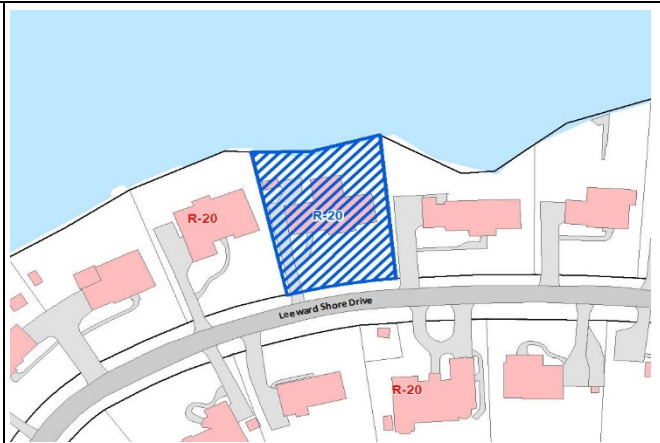
William & Jacqueline Deanes
[Applicant/Owner]

To construct rip rap involving wetlands

2344 Leeward Shore Drive
(GPIN 1590-90-8290)

Waterway – Canal off Broad Bay

Subdivision – Bay Island
Council District – Lynnhaven



* Deferral

** Withdrawal

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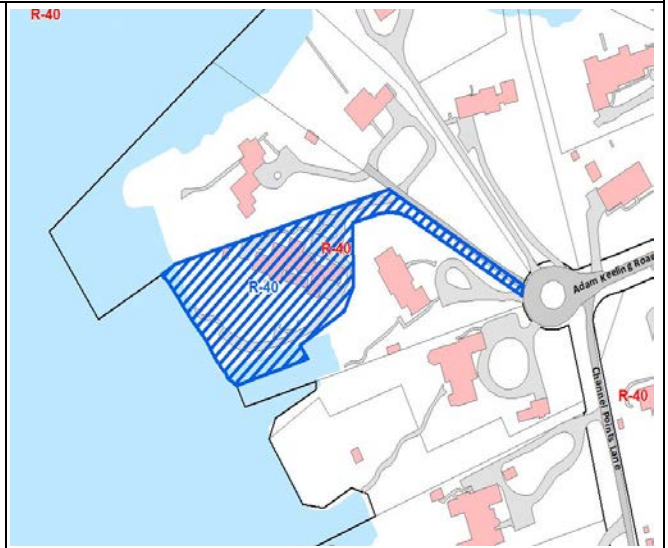
NEW BUSINESS – WETLANDS

4. 2021-WTRA-00044
 James Boyd [Applicant]
 James M. Boyd Revocable
 Living Trust [Owner]

To rework rip rap and install a boat ramp involving wetlands

3199 Adam Keeling Road
 (GPIN 1489-85-8862)

Waterway – Lynnhaven Bay
 Subdivision – Great Neck Point River Point
 Council District – Lynnhaven

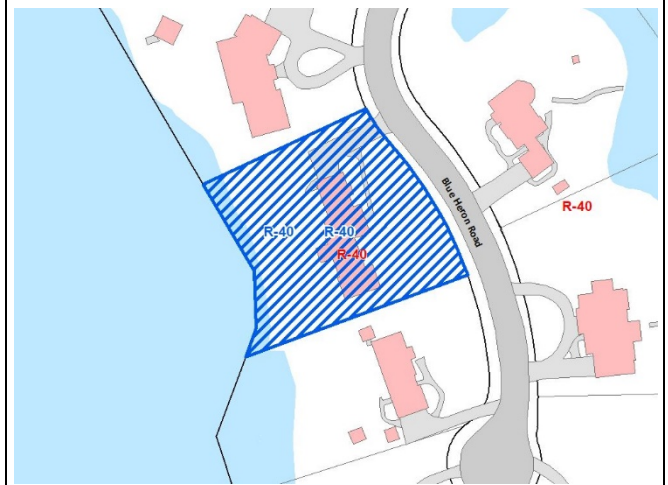


5. 2021-WTRA-00038
 Lorna C. Donatone
 [Applicant/Owner]

To relocate rip rap and install a bulkhead involving wetlands

1421 Blue Heron Road
 (GPIN 1498-58-4496)

Waterway – Eastern Branch of Lynnhaven
 River
 Subdivision – Shorehaven
 Council District – Lynnhaven

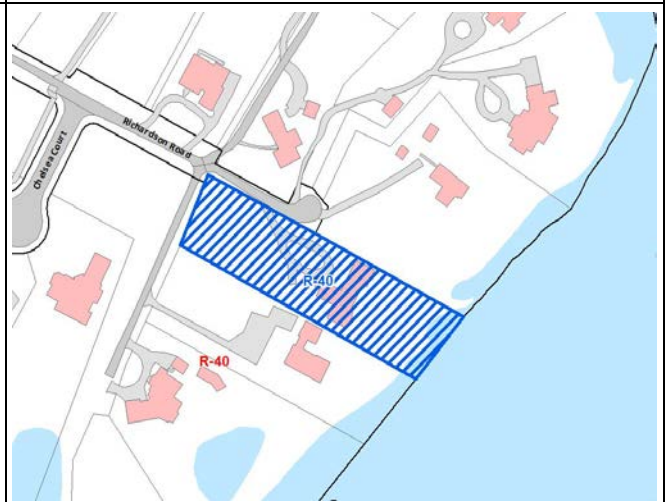


6. 2021-WTRA-00043
 Hollomon-Brown Funeral
 Home Bayside Chapel
 [Applicant/Owner]

To construct rip rap involving wetlands

3901 Richardson Road
 (GPIN 1488-15-9870)

Waterway – Western Branch Lynnhaven
 River
 Subdivision – Witchduck
 Council District – Bayside



* Deferral
 ** Withdrawal



Request

After feedback from the US Fish and Wildlife Service (USFWS), Staff has been asked to update the Sandbridge Sand Management General Permit Conditions to include a condition about sea turtle nests.

Summary of Request

- Sandbridge is part of an authorized USACE Beach Nourishment program, which periodically places sand along Sandbridge Beach to maintain beach width, providing residents a level of protection from storm events. The USACE issues a Section 408 permit to allow sand to be moved as part of a Sandbridge General Permit.
- During a meeting in Fall 2020 with USACE, it was brought to Staff's attention that Sandbridge Beach is periodically home to sea turtle nests, and that US Fish and Wildlife Service was requesting that additional steps be taken as part of the Sandbridge General Permit to ensure that sand movement does not adversely impact a nest.
- Staff is requesting the addition of a new condition to the general permit conditions to ensure that approved sand management permits meet these requirements.

Recommendation

Sea turtle nests are rare along the developed portion of Sandbridge Beach, and are more commonly found on the beaches located in Back Bay National Wildlife Refuge and False Cape State Park. While rare, sea turtle nests are sometimes located on Sandbridge Beach, and sand management activities occurring during nesting season need to ensure that the nest is not disturbed. Sea turtle nests are marked each morning by Back Bay National Wildlife Refuge, and it is the responsibility of the applicant, their agent, or contractor to check for sea turtle nests prior to moving sand. Accordingly, Staff recommends that the Board approve the addition of the following condition to the general permit:

- Prior to moving sand, the property owner, their agent, or their contractor shall check the beach for the presence of sea turtle nests. If any marked nests are found, all action shall be coordinated with US Fish and Wildlife Service to ensure compliance with state and federal laws. The US Fish and Wildlife Service can be reached at 804-824-2405. Once activities have been coordinated with the US Fish and Wildlife Service, documented compliance shall be provided by the applicant/property owner to Waterfront Operations Staff.

Agent

Robert Simon, Waterfront Consulting, Inc.

Location

4018 N Witchduck Road

GPIN

1488-08-9788

Staff Planner

Whitney McNamara

Proposal

To construct a bulkhead and boat ramp involving wetlands

Staff Recommendation

Approval as Submitted

Waterway

Western Branch Lynnhaven River

Subdivision

Witchduck

Impacts

Non-Vegetated: 72 square feet

Subaqueous: 41 square feet

Overall length of proposed structure: 145 linear feet of bulkhead

Volume of Backfill: 25 cubic yards

Proposed Mitigation and/or Compensation

Payment of an in-lieu fee



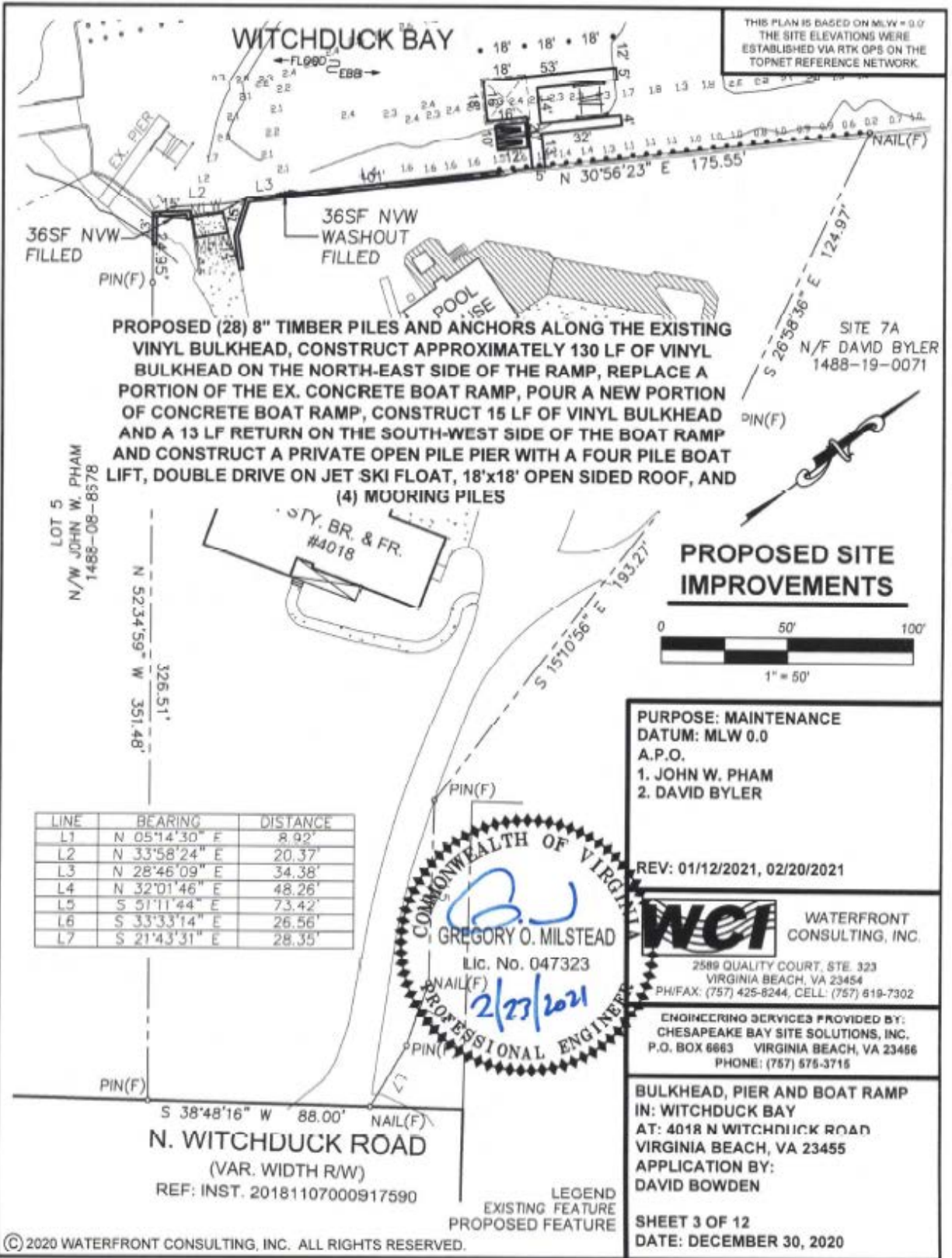
Site Aerial Map



CBPA Variances & Wetlands Board Permit History

This property is in the Chesapeake Bay Watershed; however, no recent CBPA Board Permits or Wetlands Permits were found for this property.

Proposed Site Plan



Site Photos



Site Photos



Summary of Proposal

The applicant proposes to install 145 linear feet of new vinyl bulkhead in the same footprint or landward of the existing bulkhead and replace the existing concrete boat ramp.

The proposed project will impact 36 square feet of non-vegetated wetlands in an area of washout behind the existing bulkhead, and 36 square feet of non-vegetated wetlands in an area behind the proposed bulkhead on the southwest end of the property. The applicant is proposing payment of an in-lieu fee for the 72 square feet of non-vegetated wetlands loss. The primary purpose of the proposed project is to prevent further erosion of the shoreline.

Evaluation & Staff Recommendations

The existing bulkhead has failed and needs to be replaced. A living shoreline is not feasible along this shoreline due to the proximity of existing structures on the property being less than 30 feet from the shoreline and the channel in this area is over 1,000 feet wide. At the February 15, 2021 hearing, the applicant proposed incorporating a living shoreline feature along a portion of the shoreline that is located in a small cove and is farther away from upland structures. However, upon discussion by the Board with the applicant's agent, concern was raised by the Board that this area still experiences heavy wave action and collects debris from storms, as evidenced by the collection of rack behind the existing bulkhead, most likely making a living shoreline unsuccessful on this property. The applicant's agent requested a 30-day deferral to re-design the project to incorporate a bulkhead in this area of the property instead. Staff supports the applicant's request for payment of an in-lieu fee for the 72 square feet of non-vegetated wetlands that will be lost by replacing the bulkhead.

Accordingly, the Department of Planning and Community Development Staff recommends that the application be **approved as submitted** as shown on the plans received by the Virginia Marine Resources Commission on February 23, 2021.

Next Steps

Wetlands Board decisions can be reviewed by or appealed to the Marine Resource Commission. The Marine Resource Commission must receive the appeal request within 10 day of the hearing. Accordingly, no approvals can be issued until at least 10 days after the hearing.

Following the Wetlands Board meeting, applicants and their agents can expect to receive a Board Actions Summary via email.

Within 14 days of the Wetlands Board hearing, applicants and their agents can expect to receive a letter detailing any fees owed, any revisions required, and next steps to obtain their permit.

All questions related to Board decisions or information required to obtain a permit can be directed toward the City of Virginia Beach Planning Department – Waterfront Operations Division at 757-385-8246.

Agent

Billy Garrington

Location

2344 Leeward Shore Drive

GPIN

1590-90-8290

Staff Planner

Whitney McNamara

Proposal

To construct rip rap involving wetlands

Staff Recommendation

Approval as Submitted

Waterway

Canal off Broad Bay

Subdivision

Bay Island

Impacts

Non-Vegetated: 107 square feet

Subaqueous: 458 square feet

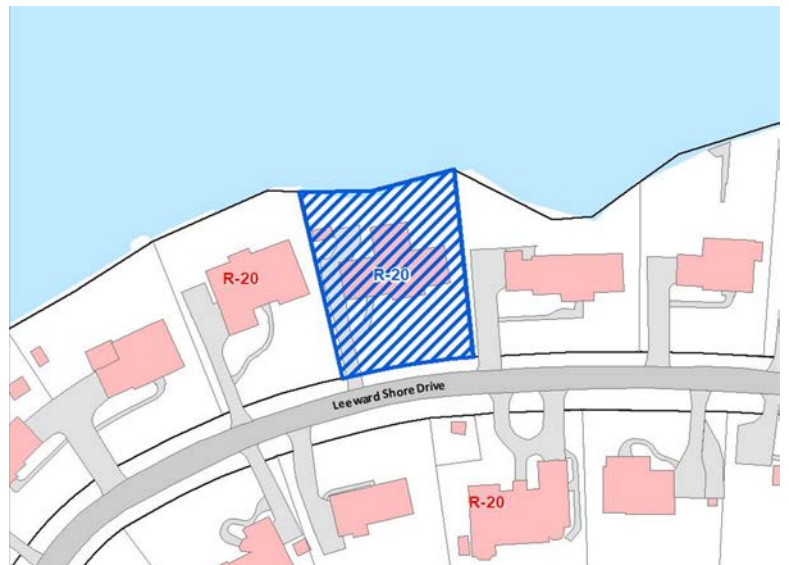
Overall length of proposed structure: 148.1

linear feet of bulkhead

Volume of Backfill: 5.5 cubic yards

Proposed Mitigation and/or Compensation

On-site



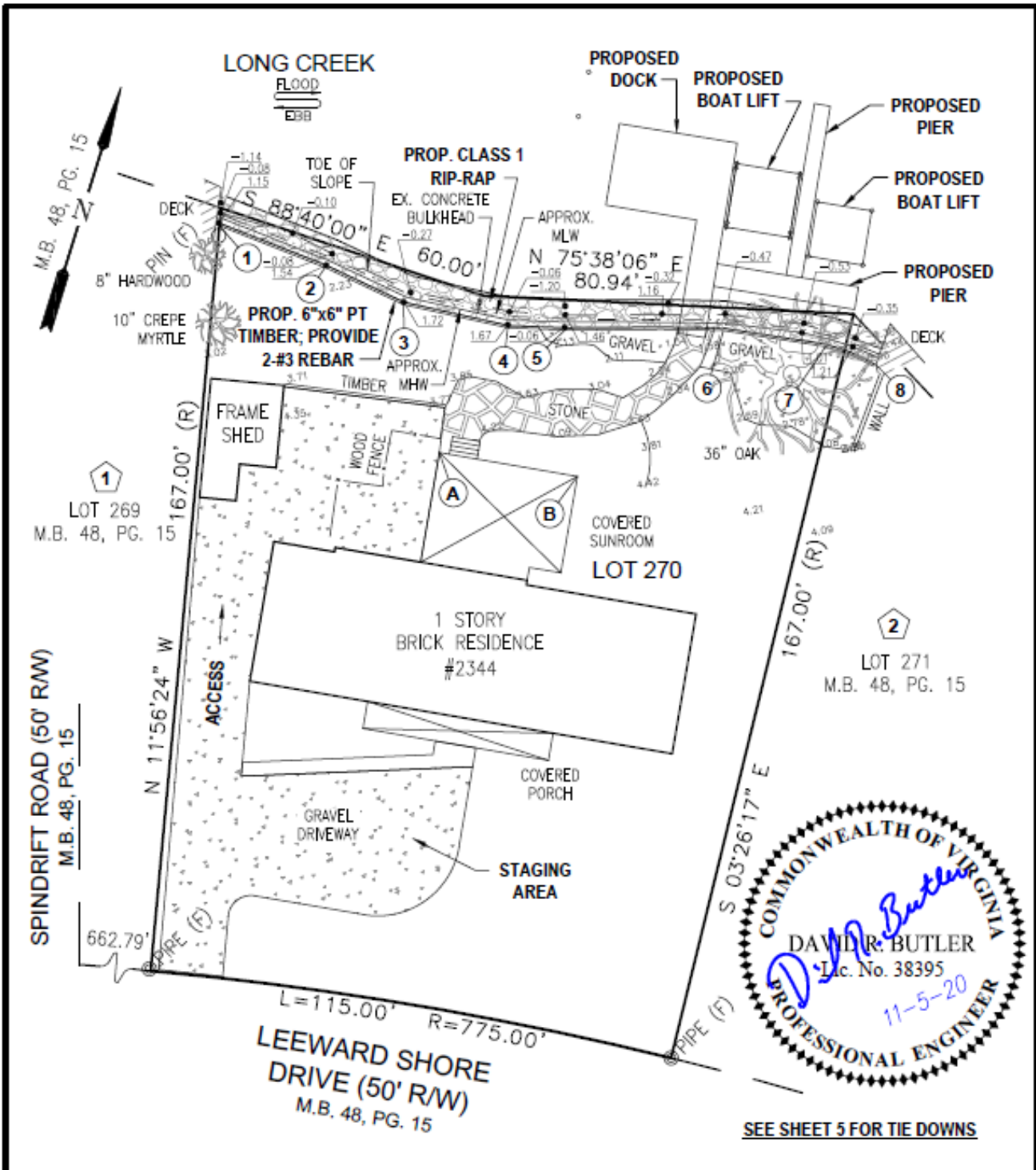
Site Aerial Map



CBPA Variances & Wetlands Board Permit History

This property is in the Chesapeake Bay Watershed; however, no recent CBPA Board Permits or Wetlands Board permits were found for this property.

Proposed Site Plan



SEE SHEET 5 FOR TIE DOWNS

REVISION SCHEDULE		OVERALL PLAN 1" = 30'	PROJECT: RIP-RAP, BOAT LIFT & PIER BY: WILLIAM DEANS & JACQUELINE W. DEANES IN: LONG CREEK DATE: NOV. 4, 2020 SHEET: 4 OF 12
DATE	COMMENT		

Site Photos



Site Photos



Summary of Proposal

The applicant is proposing to install 148.1 linear feet of rip rap in front of a sloped concrete bulkhead. The existing concrete bulkhead is sinking due to wave action undermining the footing. The applicant does not believe that a living shoreline is feasible in this location due to boat wake, the location of the existing pier and boat lift, and the presence of a live oak tree that would be lost to achieve the necessary grading. The proposed project will impact 107 square feet of non-vegetated wetlands along the face of the existing bulkhead and 458 square feet of subaqueous bottom. The applicant proposes on-site compensation for the non-vegetated wetlands losses because it will be converted to non-vegetated rock habitat.

Evaluation & Staff Recommendations

The existing bulkhead is sinking, necessitating the need for additional shoreline stabilization. Staff is in agreement with the applicant's agent that a living shoreline is not feasible for this property. The waterway experiences heavy boat traffic and the main structure (dwelling) is located approximately 30 feet from the shoreline. Staff supports the applicant's proposal to mitigate the non-vegetated wetlands impacts on site by converting the concrete face of the existing bulkhead to rock habitat.

Accordingly, the Department of Planning and Community Development recommends that the application be **approved as submitted** as shown on the plans sealed on November 5, 2020.

Next Steps

Wetlands Board decisions can be reviewed by or appealed to the Marine Resource Commission. The Marine Resource Commission must receive the appeal request within 10 day of the hearing. Accordingly, no approvals can be issued until at least 10 days after the hearing.

Following the Wetlands Board meeting, applicants and their agents can expect to receive a Board Actions Summary via email.

Within 14 days of the Wetlands Board hearing, applicants and their agents can expect to receive a letter detailing any fees owed, any revisions required, and next steps to obtain their permit.

All questions related to Board decisions or information required to obtain a permit can be directed toward the City of Virginia Beach Planning Department – Waterfront Operations Division at 757-385-8246.



Application Number **2021-WTRA-00044**
Applicant **James Boyd**
Owner **James M. Boyd Revocable Living Trust**
Public Hearing **March 15, 2021**
City Council Election District **Lynnhaven**

Agenda Item

4

Agent

David Kledzik, Marine Engineering

Location

3199 Adam Keeling Road

GPIN

1489-85-8862

Staff Planner

Whitney McNamara

Proposal

To rework rip rap and install a boat ramp involving wetlands

Staff Recommendation

Approval as Submitted

Waterway

Lynnhaven Bay

Subdivision

Great Neck Point River Point

Impacts

Non-Vegetated: 429 square feet

Overall length of proposed structure: 167 linear feet of rip rap

Proposed Mitigation and/or Compensation

On-site



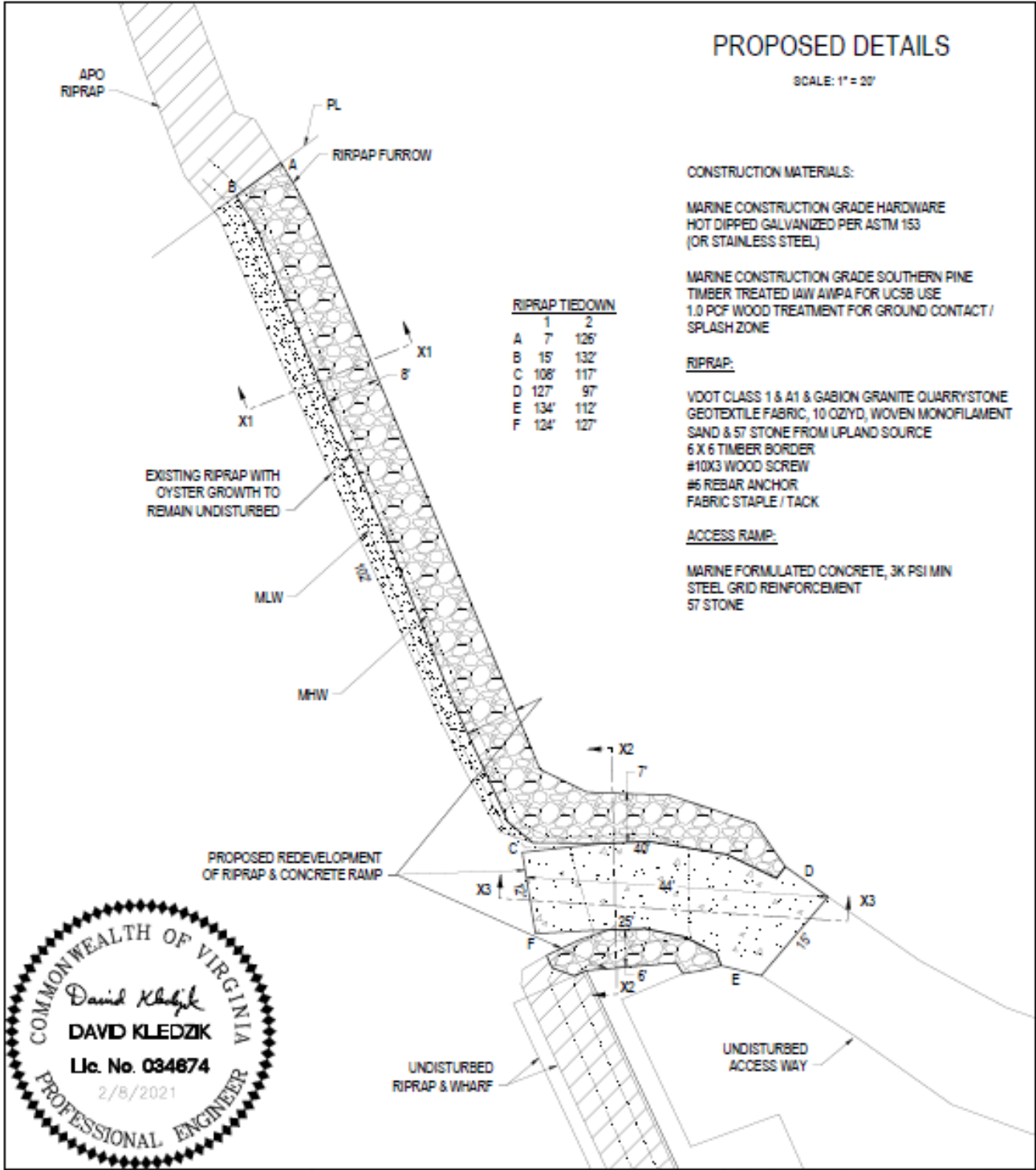
Site Aerial Map



CBPA Variances & Wetlands Board Permit History

This property is in the Chesapeake Bay Watershed. A CBPA Board variance was approved in January 2015 to construct a storage shed. A Waterfront Permit for a bulkhead and wharf was approved in December 2011.

Proposed Site Plan



APPLICANT:
JAMES M BOYD
3199 ADAM KEELING ROAD
VIRGINIA BEACH, VA 23454

MARINE ENGINEERING LLC
4212 DOUGHERTY CT
VIRGINIA BEACH, VA 23455
PH: (757) 477-4787

PROPOSED PROJECT FOR ACCESS &
EROSION PROTECTION
DATUM: MLW = 0.00'
SHEET 2 OF 5
DATE: FEBRUARY 8, 2021
REV-

Site Photos



Site Photos



Summary of Proposal

The applicant is proposing to replace the existing rip rap and concrete boat ramp in the same footprint. There are two sections of rip rap proposed, separated by the boat ramp. The first section is 142 linear feet, and the second is 25 linear feet. Approximately 229 square feet of non-vegetated wetlands will be mitigated on-site by converting non-vegetated rock habitat to non-vegetated rock habitat. No backfill or upland fill is proposed. The primary purpose of the proposed project is to replace the existing shoreline stabilization to prevent erosion.

Evaluation & Staff Recommendations

The existing rip rap is settling. The applicant is proposing to remove the existing rip rap, place a sand layer and filter cloth, and replace with new Class 1 granite in the same footprint. There are existing oyster colonies on some of the rip rap; however, the applicant's agent is proposing to toe-in the new rip rap revetment above the existing oyster colonies to prevent impacts to the oyster colonies. Staff agrees with the applicant's agent that a living shoreline is not appropriate for this property. It is located along the Lynnhaven River and experiences fetch, currents, and boat traffic from the Lynnhaven Inlet.

The applicant is also proposing to replace the existing boat ramp. Because the existing boat ramp is in good condition, staff does not consider the proposed boat ramp replacement to have non-vegetated wetlands impacts. Accordingly, the Department of Planning and Community Development Staff recommends that the application be **approved as submitted** as shown on the plans sealed on February 8, 2021.

Next Steps

Wetlands Board decisions can be reviewed by or appealed to the Marine Resource Commission. The Marine Resource Commission must receive the appeal request within 10 day of the hearing. Accordingly, no approvals can be issued until at least 10 days after the hearing.

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Within 14 days of the Wetlands Board hearing, applicants and their agents can expect to receive a letter detailing any fees owed, any revisions required, and next steps to obtain their permit.

All questions related to Board decisions or information required to obtain a permit can be directed toward the City of Virginia Beach Planning Department – Waterfront Operations Division at 757-385-8246.

Agent

Robert Simon, Waterfront Consulting, Inc.

Location

1421 Blue Heron Road

GPIN

1498-58-4496

Staff Planner

Whitney McNamara

Proposal

To relocate rip rap and install a bulkhead involving wetlands

Staff Recommendation

Approval

Waterway

Eastern Branch of Lynnhaven River

Subdivision

Shorehaven



Agent

Robert Simon, Waterfront Consulting, Inc.

Location

3901 Richardson Road

GPIN

1488-15-9870

Staff Planner

Whitney McNamara

Proposal

To construct rip rap involving wetlands

Staff Recommendation

Approval as Modified

Waterway

Western Branch of Lynnhaven River

Subdivision

Witchduck

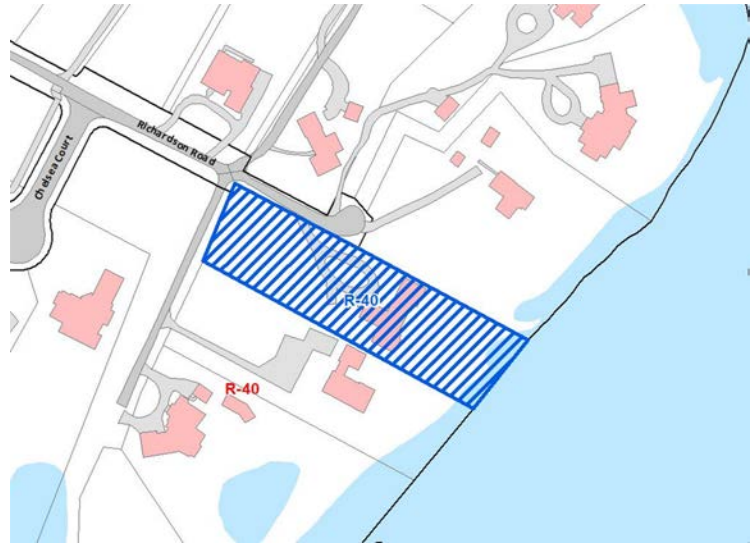
Impacts

Non-Vegetated: 171 square feet

Overall length of proposed structure: 150 linear feet of rip rap

Proposed Mitigation and/or Compensation

On-site



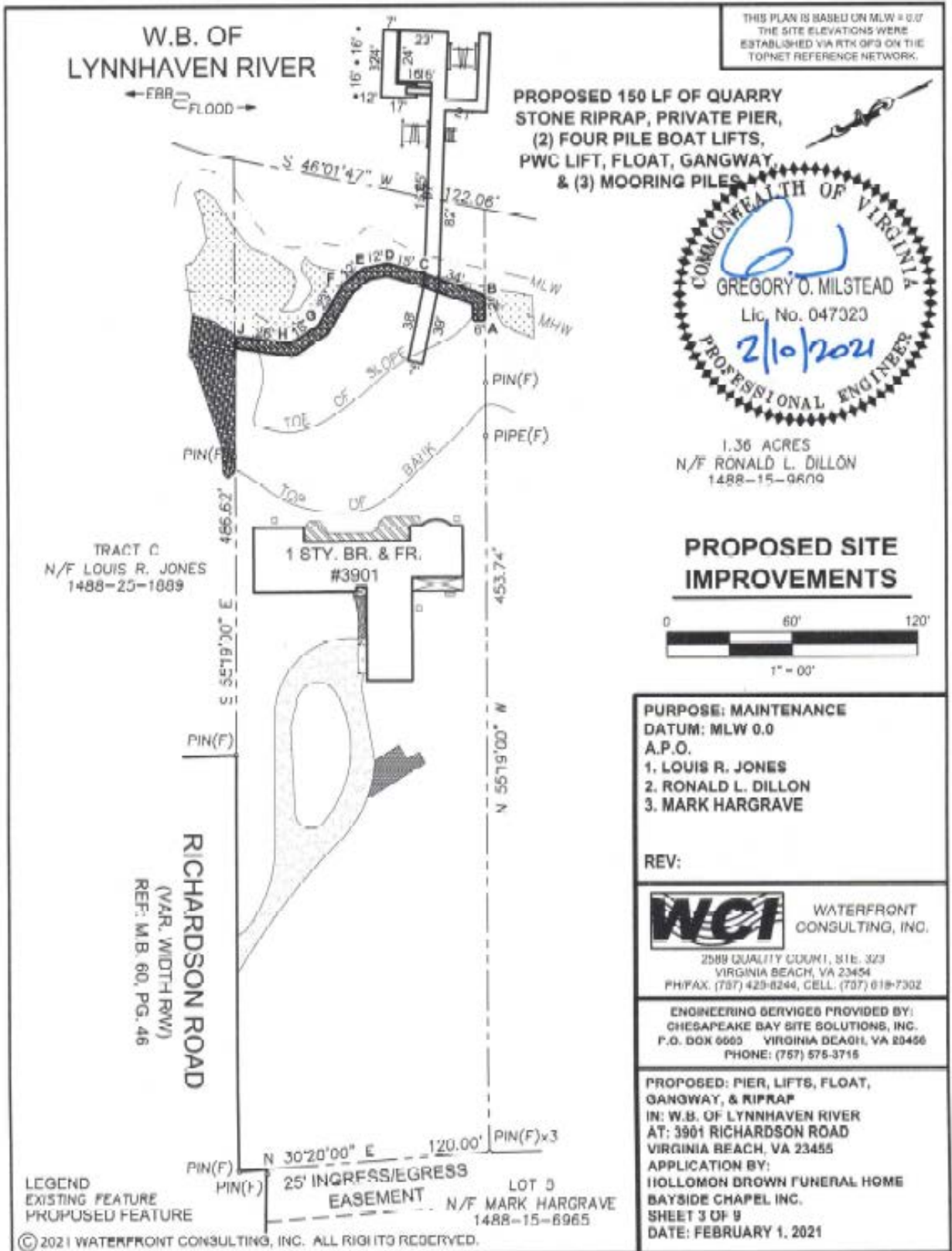
Site Aerial Map



CBPA Variances & Wetlands Board Permit History

This property is in the Chesapeake Bay Watershed; however, no recent CBPA Board Variances or Wetlands Permits were found for this property.

Proposed Site Plan



Site Photos



Site Photos



Summary of Proposal

The applicant is proposing to remove the existing concrete bulkhead and rip rap rubble and construct a 150 linear foot rip rap revetment. The proposed rip rap will be located landward of Mean High Water, with the exception of temporary impacts for excavation and placement of the rip rap toe. There are 171 square feet of non-vegetated wetlands impacts from the removal of the rip rap rubble, which will be converted to non-vegetated mud flat and non-vegetated rock habitat. The applicant is proposing on-site compensation for the non-vegetated wetlands impacts. No fill is proposed as part of this project. The primary purpose is to maintain the shoreline to prevent erosion.

Evaluation & Staff Recommendations

The existing rip rap rubble and concrete wall are not designed to current shoreline stabilization standards, and there are signs of erosion along the shoreline. The applicant has located the majority of the project above Mean High Water, and only the placement of the toe of the rip rap will impact non-vegetated wetlands. These impacts will be restored after placement of the rock.

When Staff visited the site, it appeared that there may be some impacts to vegetated wetlands in the 1.5x Upper Jurisdictional Limits for vegetated wetlands. The applicant's agent indicated that the toe of the rip rap will be located landward of all wetlands vegetation growing on the site. Staff also found wetlands vegetation and oysters growing in and on the rip rap rubble proposed for removal. Due to the condition of the rip rap rubble and desire to clean up and restore the shoreline, Staff recommends relocating the rubble with oysters to the base of the new rip rap and re-grading and sprigging the area with wetlands vegetation. The applicant's agent has agreed to this recommendation.

Accordingly, the Department of Planning and Community Development recommends the application be **approved as modified** with the following conditions:

1. The toe of the rip rap shall be located landward of all wetlands vegetation growing on the site. The extent of wetlands vegetation shall be determined and marked during a required pre-construction meeting with Planning and Community Development Staff. A note shall be added to the plans to advise the contractor of this requirement.
2. Wetlands vegetation shall be planted seaward of the rip rap revetment in the area of existing rip rap rubble to incorporate a living shoreline component into the project.
3. Rip rap rubble and rocks with oysters growing on them shall be preserved during construction and placed along the toe of the rip rap revetment after construction is complete.
4. Revised plans shall be submitted to the Virginia Marine Resources Commission and ultimately approved by the Department of Planning and Community Development with the information required in conditions 1, 2, and 3 above prior to the issuance of a building permit.

Next Steps

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