

Wetlands Board Staff Report

June 21, 2021



Wetlands Board Hearing Procedures

A Public Hearing of the Virginia Beach Wetlands Board will be held on **Monday, June 21, 2021 at 10:00 a.m. in Suite 5 of the Virginia Beach Convention Center**. A Staff briefing session will be held at 9:00 a.m.. All interested parties are invited to attend.

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.

Due to the ongoing COVID-19 pandemic, please review the Wetlands Board website at www.vbgov.com/wetlands for the most up to date information. 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 DURING THE HEARING.

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 **PLEASE NOTE THE REQUESTS THAT ARE MADE, AS ONE OF THE ITEMS BEING WITHDRAWN OR DEFERRED MAY BE THE ITEM THAT YOU HAVE AN INTEREST IN.**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After the commencement of the hearing, however, the applicant must request that the Wetlands Board allow the item to be withdrawn.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 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:

* Deferral

** Withdrawal

**Wetlands Board Staff Report
June 21, 2021**

- 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

10:00 A.M. – PUBLIC HEARING

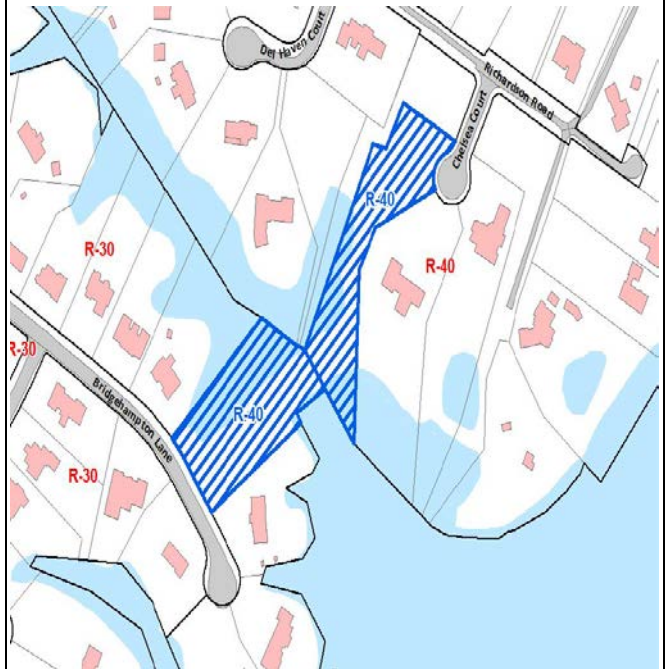
NEW BUSINESS – WETLANDS

1. 2021-WTRA-00112
City of Virginia Beach [Applicant]
1109 Chelsea Court LLC and
Daniel and Aleksandra Mujica
[Owners]

**To construct a reinforced concrete pipe,
rip rap apron and drainage channel
involving wetlands**

1109 Chelsea Court
(GPINs 1488-15-3859 and 1488-05-9400)

Waterway – Western Branch Lynnhaven
River
Subdivision – Witchduck Point & Saw Pen
Point
Council District – Bayside

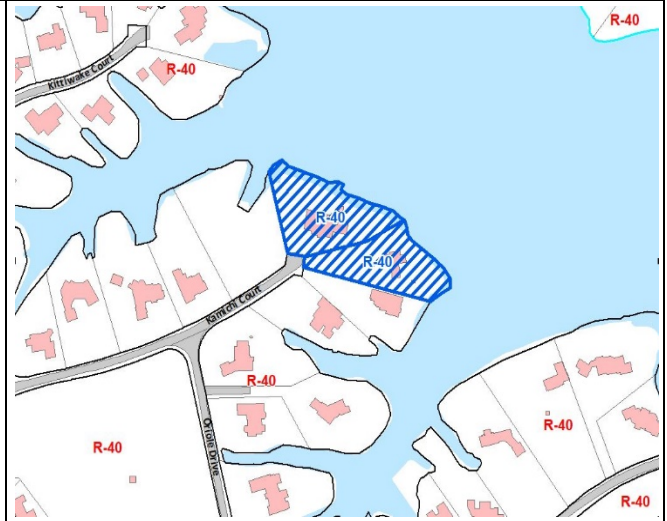


2. 2021-WTRA-00141
Mark and Kelsey Kinnane
[Applicant/Owners]
D. Dickerson [Owner]

**To construct rip rap and plant vegetation
involving wetlands**

1200 and 1204 Kamichi Court
(GPINs 2418-42-9570 and 2418-42-7691)

Waterway – Little Neck Creek
Subdivision – Birdneck Point
Council District – Lynnhaven



* Deferral
** Withdrawal

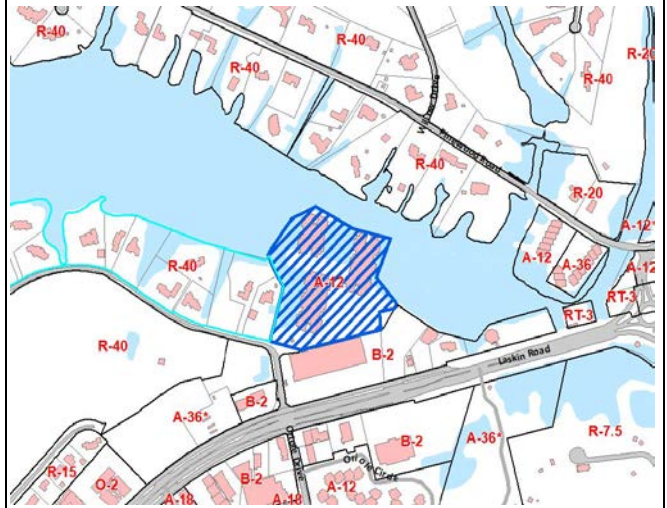
NEW BUSINESS – WETLANDS

3. 2021-WTRA-00146
Cove Point Council of Co-
Owners [Applicant/Owner]

**To construct rip rap and plant vegetation
involving wetlands**

700 Oriole Drive
(GPIN 2418-71-3841)

Waterway – Little Neck Creek
Subdivision – Birdneck Point
Council District – Lynnhaven



4. 2021-WTRA-00147
Gennaro & Susan Fiore
Revocable Living Trust
[Applicant/Owner]

**To construct a bulkhead involving
wetlands**

2277 Haversham Close
(GPIN 1499-96-6273)

Waterway – Broad Bay
Subdivision – Broad Bay Point Greens
Waterfront
Council District – Lynnhaven



* Deferral
** Withdrawal

Agent

Taylor Hollingsworth, Kimley-Horn & Associates, Inc.

Location

1109 Chelsea Court

GPIN

1488-15-3859 and 1488-05-9400

Staff Planner

Whitney McNamara

Proposal

To construct a reinforced concrete pipe, rip rap apron, and drainage channel involving wetlands

Staff Recommendation

Approval as Modified

Waterway

Western Branch Lynnhaven River

Subdivision

Witchduck Point & Saw Pen Point

Impacts

Vegetated: 84 square feet

Proposed Mitigation and/or Compensation

Payment of an in-lieu fee



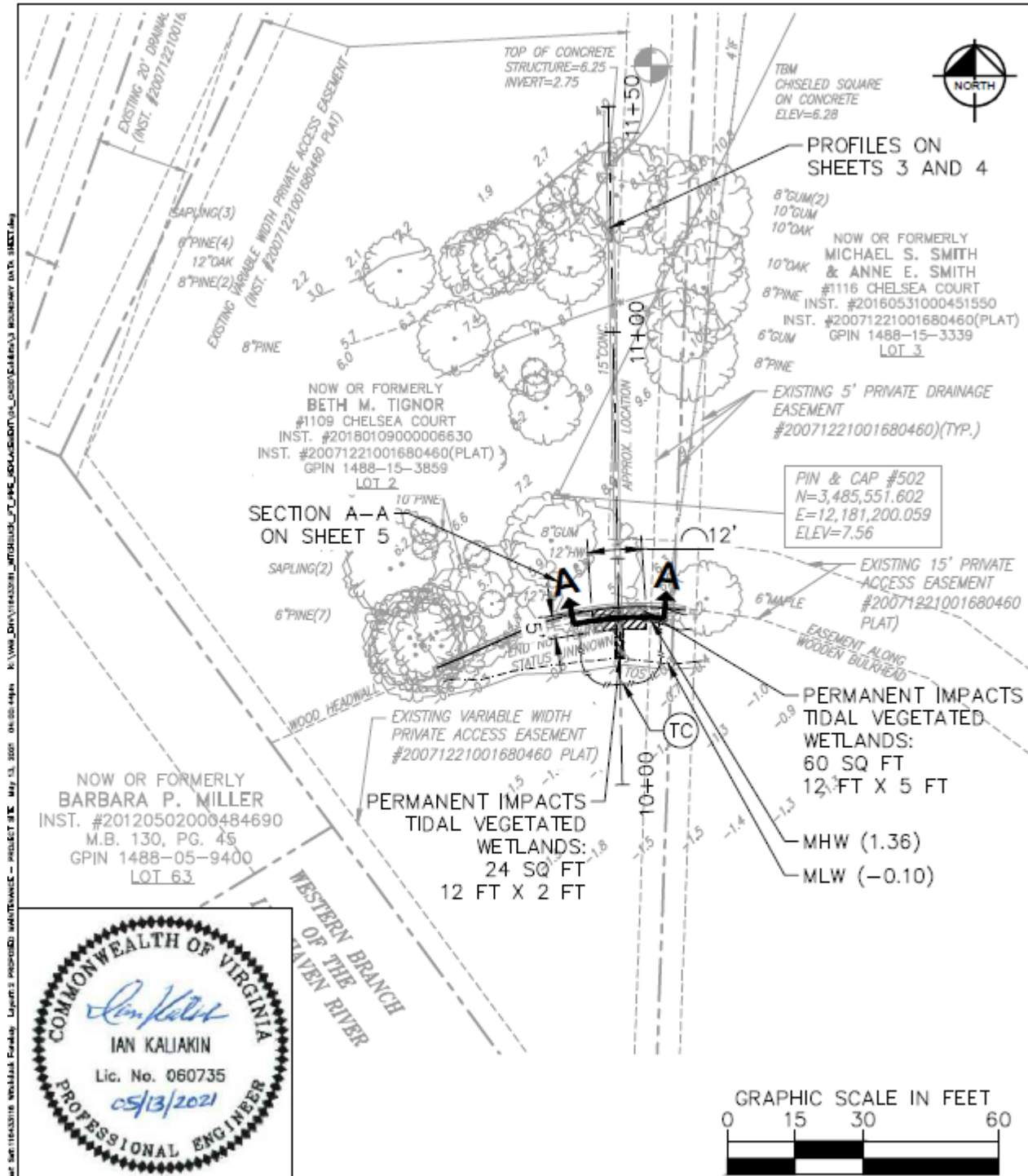
Site Aerial Map



CBPA Variances & Wetlands Board Permit History

This property is located in the Chesapeake Bay Watershed. There are no recent Chesapeake Bay Preservation Area (CBPA) Board Variance for this property. A Wetlands permit was approved in January 2019 to remove accumulated sediment and debris from an existing 18-inch stormwater pipe.

Proposed Site Plan



PURPOSE: MAINTENANCE
 CITY: VIRGINIA BEACH, VA
 APP BY: VIRGINIA BEACH
 HUC: 02080108

PROPOSED MAINTENANCE - PROJECT SITE

Kimley-Horn

CREATED BY: JAR
 SCALE: 1" = 30'
 DATE: 05/13/2021
 SHEET: 2 OF 6

Site Photos



Summary of Proposal

The City of Virginia Beach previously received approval from the Wetlands Board to remove accumulated sediment and debris from an existing 15-inch stormwater pipe connecting a dammed lake to the Lynnhaven River. During the maintenance activities, the City was unable to access the entire pipe to remove the accumulated sediment and fully restore flow to the Lynnhaven River. While the City made several attempts to locate the pipe outfall, they were not successful, and it has been determined that the existing pipe has collapsed and is debilitated.

To re-establish the connection between the lake and the Lynnhaven River, the City is proposing to remove and replace the existing pipe. The pipe replacement will include the removal of the existing pipe and the installation of a new 15-inch reinforced concrete pipe with associated rip rap. A 2-foot wide channel will be constructed extending outward from the pipe invert to mean low water (-0.10) to allow positive flow from the lake. The proposed activities will result in permanent impacts to 84 square feet of tidal vegetated wetlands.

Evaluation & Staff Recommendations

The pipe is currently blocked by sediment and debris, preventing the lake from draining to the Lynnhaven River. During storm events, the City has been using a portable water pump to lower the water level in the lake to prevent it from flooding adjacent residential properties. A more permanent solution is needed to address the blockage and to restore proper drainage from the lake to the Lynnhaven River. The applicant is asking that the in-lieu fee for the vegetated wetlands impacts be waived because it is anticipated that the area will restore itself after construction is complete. Consistent with typical practices, Staff recommends that the Wetlands Board require that the applicant either pay the in-lieu fee or provide a vegetated wetlands restoration plan to restore the vegetated wetlands impacts once construction is complete.

Accordingly, the Department of Planning and Community Development Staff recommends that the application be **approved as modified** based on the plans submitted by Kimley Horn entitled Proposed Maintenance for City of Virginia Beach sealed on May 13, 2021 with the following conditions:

1. The applicant shall either provide compensation for the wetlands impacts in the form of an in-lieu fee or restore the vegetated wetlands impacted by the project once construction is complete.
2. Revised plans shall be submitted to the Virginia Marine Resources Commission and ultimately approved by the Department of Planning and Community Development prior to the issuance of a permit.

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

David Harmeyer, Clark Design Group, LLC

Location

1200 & 1204 Kamichi Court

GPI-N

2418-42-9570 and 2418-42-7691

Staff Planner

Cole Fisher

Proposal

To construct rip rap and plant vegetation involving wetlands

Staff Recommendation

Approval as Submitted

Waterway

Little Neck Creek

Subdivision

Birdneck Point

Impacts

Non-Vegetated: 24 square feet

Subaqueous: 608 square feet

Overall length of proposed structure: 12 linear feet of rip rap revetment; 62 linear feet of rip rap sill

Volume of Backfill: 15 cubic yards

Proposed Mitigation and/or Compensation

On-site



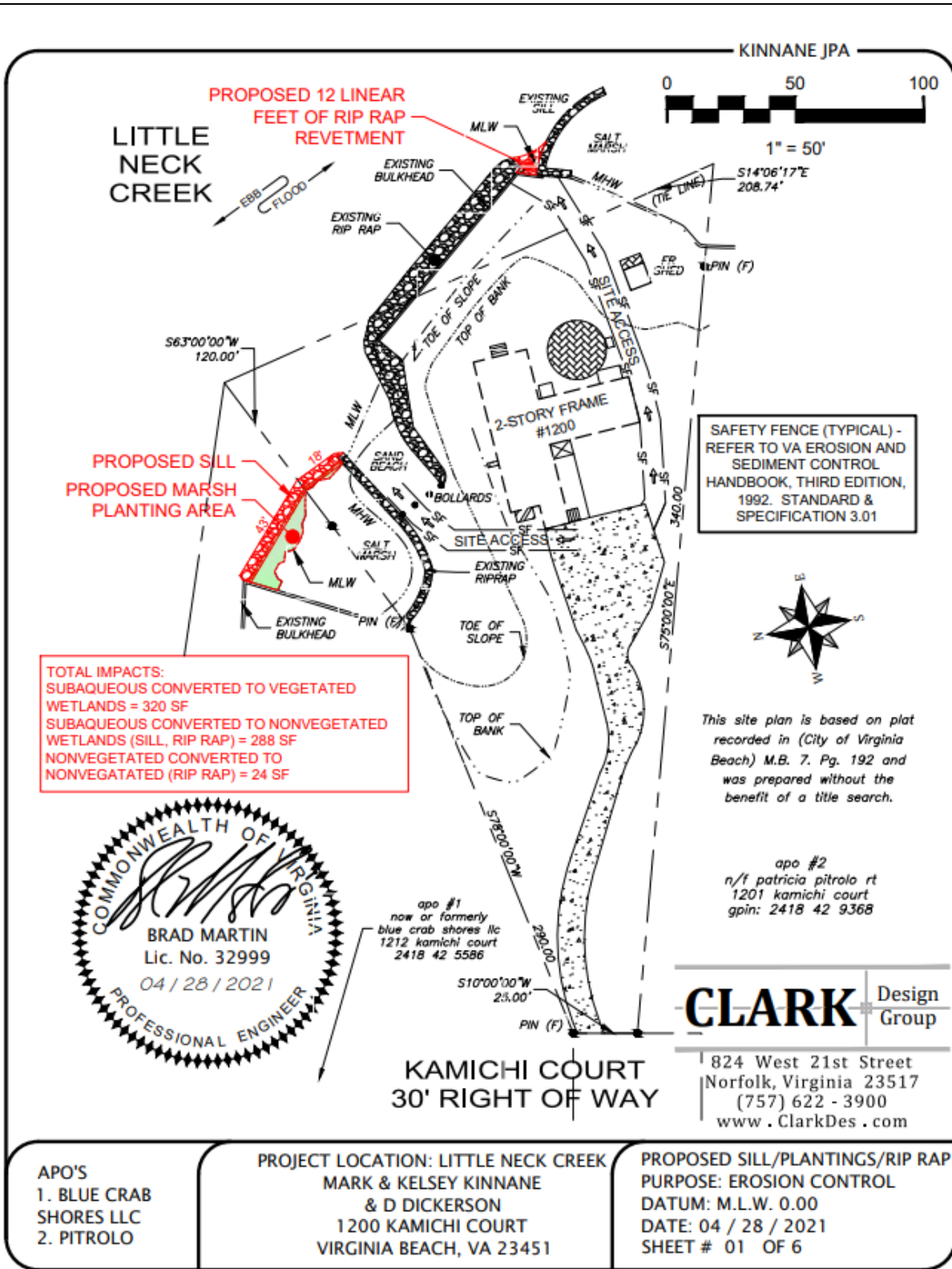
Site Aerial Map



CBPA Variances & Wetlands Board Permit History

The project is located in the Chesapeake Bay watershed. A Chesapeake Bay Preservation Area (CBPA) variance was granted in April 1995 at 1204 Kamichi Court for the construction of a dwelling complete with sidewalks, driveways, pool, and patios. A subsequent CBPA variance was granted on December 7, 2020 at 1200 Kamichi Court for the construction of a detached garage, elevated deck with associated walk, paver patio, and driveway expansion. In February 2021, a Joint Permit Application (JPA) was submitted to City of Virginia Beach Waterfront Operations for 1200 Kamichi Court to construct an 85 linear foot rip rap revetment seaward of the existing bulkhead; this rip rap is shown as "existing rip rap" on sheet one of the proposed plans.

Proposed Site Plan



Site Photos



Site Photos



Summary of Proposal

The majority of the shoreline at 1200 Kamichi Court is currently stabilized by a bulkhead, existing rip rap revetment seaward of the bulkhead, and a rip rap sill along a section of vegetated wetlands and sandy beach at the southeastern portion of the property. The applicant is proposing to construct approximately 12 linear feet of rip rap revetment along the southeastern portion of the property and 61 linear feet of rip rap sill along the shoreline on Little Neck Creek along the north western portion of the property. The proposed 12 linear feet of rip rap revetment will connect the existing section of rip rap sill to the existing rip rap revetment in-front of the bulkhead and will convert 24 square feet of non-vegetated mudflat to non-vegetated rock habitat.

Additionally, a 61 linear foot rip rap sill is proposed along the north western portion of the shoreline, of which 18 linear feet is proposed on the property at 1200 Kamichi Court and the remaining 43 linear feet extends onto the adjacent property at 1204 Kamichi Court and connects to the existing bulkhead on the property. The proposed rip rap sill will follow the same design as the existing sill, which currently has a thriving area of vegetated wetlands growing behind it. The applicant has indicated that approximately 608 square feet of subaqueous bottom will be impacted by the rip rap sill and 15 cubic yards of sand fill will be used to create the proposed marsh planting area behind the sill, which will create 320 square feet of vegetated wetlands and 288 square feet of non-vegetated wetlands. The primary purpose of this project is for marsh protection and the secondary purpose is for erosion prevention.

Evaluation & Staff Recommendations

Upon Staff's field inspection, Staff concurs that the proposed rip rap revetment and rip rap sill are warranted for this property. The location of the proposed 12 linear feet of rip rap revetment would connect an existing section of rip rap sill and rip rap revetment in an area that is currently only stabilized by an old timber bulkhead. Staff is of the opinion that this section of revetment is necessary to provide sufficient stabilization of this shoreline and protection for the home. Staff supports on-site compensation for the conversion of non-vegetated wetlands to non-vegetated rock habitat associated with the 12 linear feet of rip rap revetment for this project.

As stated in the proposal summary, the proposed rip rap sill will create over 608 square feet of wetlands between the two properties. The existing salt marsh in this area is eroding due to boat wake and rough water conditions, and the creation of a new rip rap sill in this location will protect and further enhance the vegetated wetlands along this shoreline. The applicant's agent did include a note that a monitoring plan will be provided for the *Spartina Alterniflora* in the marsh planting area, as required by the City for all projects featuring wetlands vegetation planting.

Accordingly, the Department of Planning & Community Development Staff recommends the application be **approved as submitted** as shown on the plans sealed April 28, 2021 and received by the Virginia Marine Resources Commission on April 30, 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

David Kledzik, Marine Engineering, LLC

Location

700 Oriole Drive

GPIN

2418-71-3841

Staff Planner

Cole Fisher

Proposal

To construct rip rap and plant vegetation involving wetlands

Staff Recommendation

Approval as Modified

Waterway

Little Neck Creek

Subdivision

Birdneck Point

Impacts

Vegetated: 4 square feet

Non-Vegetated: 1,928 square feet

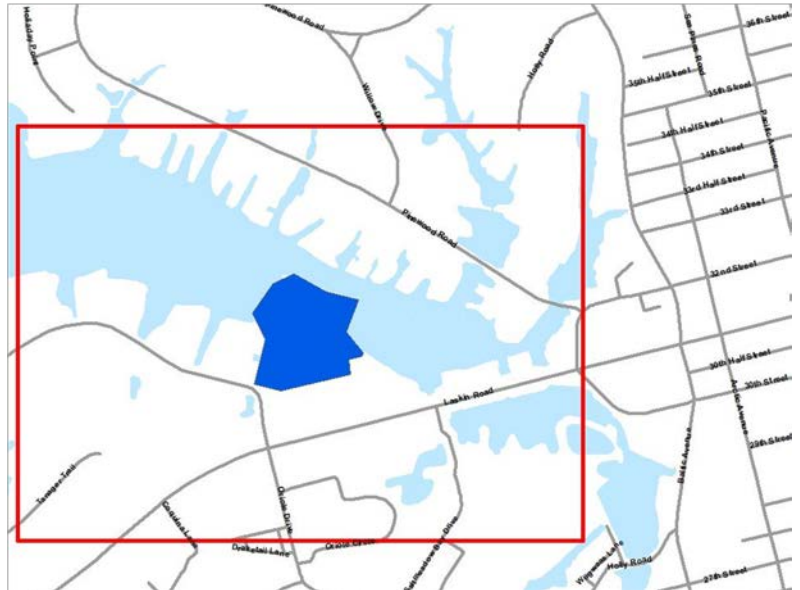
Subaqueous: 1,311 square feet

Overall length of proposed structure: 342 linear feet of rip rap revetment; 124 linear feet of rip rap sill

Volume of Backfill: 209 cubic yards

Proposed Mitigation and/or Compensation

On-site



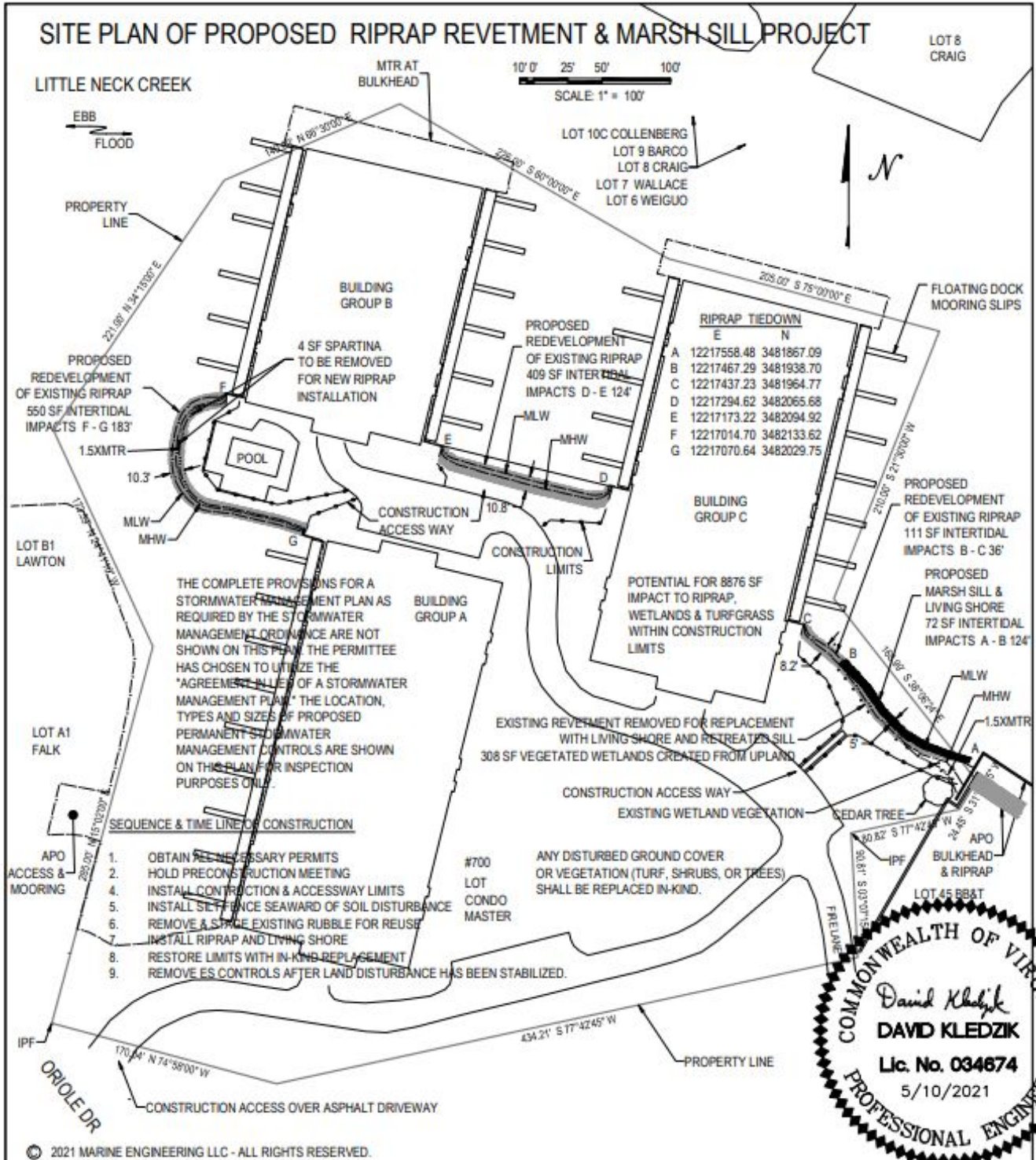
Site Aerial Map



CBPA Variances & Wetlands Board Permit History

A Wetlands permit was approved in August 2019 and completed in March 2020 for the construction of a bulkhead and rip rap revetment along the southwestern portion of this property's shoreline. This property is located in the Chesapeake Bay Watershed.

Proposed Site Plan



APPLICANT: COVEPOINT COUNCIL OF CO-OWNERS
700 ORIOLE DRIVE
VIRGINIA BEACH, VA 23451

MARINE ENGINEERING LLC
4212 DOUGHERTY CT
VIRGINIA BEACH, VA 23455

PROPOSED PROJECT FOR EROSION CONTROL
DATUM: MLW = 0.00'

Site Photos



Site Photos



Summary of Proposal

The applicant is proposing to construct approximately 342 linear feet of rip rap revetment and 124 linear feet of rip rap sill with a marsh planting area on Little Neck Creek for the following sections of shoreline:

- 183 linear feet of rip rap adjacent to the existing swimming pool
- 124 linear feet of rip rap adjacent to the existing marina between Building Group B and Building Group C
- 36 linear feet of rip rap adjacent to proposed marsh sill
- 124 linear feet of rip rap sill

These shorelines were previously been developed with multiple sections of rip rap revetment and the applicant proposes to reconstruct these three sections, as well as constructing a living shoreline. The reconstruction of the existing rip rap revetments will convert approximately 1,070 total square feet of non-vegetated rock habitat to non-vegetated rock habitat. In addition, four-square feet of vegetated wetlands will be lost. The creation of the sill with marsh plantings will convert 786 square feet of non-vegetated rock habitat to vegetated wetlands and create an additional 308 square feet of vegetated wetlands by grading uplands to the appropriate elevation followed by the installation of *Spartina Alterniflora* and *Spartina Patens*.

The applicant specified that the choice to reconstruct the remaining rip rap revetments as opposed to construction of a living shoreline was due to the combination of distance to the existing multi-family buildings, water depth, proximity of the channel and mooring, and over 3,200 feet of fetch adjacent to the shoreline at the pool location. The primary purpose of this project is to protect the property from erosion from tidal action and boat wake.

Evaluation & Staff Recommendations

Portions of this shoreline associated with this project have previously been stabilized with existing sections of rip rap revetment. This area of Little Neck Creek has frequent boat activity and the existing rip rap revetments serves to protect the property from erosion. All non-vegetated wetlands impacts will either be a conversion of non-vegetated rock habitat to non-vegetated rock habitat or to vegetated wetlands; therefore, there will be no net loss of wetlands associated with the non-vegetated wetland impacts. Four-square feet of vegetated wetlands will be lost near the existing pool. Staff is of the opinion that the loss of the four-square feet of vegetated wetlands will be substantially compensated by the grading of uplands to create 308 square feet of new vegetated wetlands in the living shoreline/marsh sill area.

Upon Staff's field inspection, Staff observed a large number of oysters present on the existing rip rap revetments; therefore, a condition has been added to preserve these oysters with this project. Additionally, an invasive wetlands grass known as *Phragmites* exists within the proposed limits of construction associated with the marsh planting area. The applicant's agent has provided a *Phragmites* eradication plan on sheet seven of the proposed plans to address eradication and protection against regrowth. The applicant's agent also indicated that a wetlands vegetation monitoring report will be submitted to the Department of Planning & Community Development in mid-August for three years following the installation of the wetlands vegetation in the marsh planting area. A condition is recommended below to ensure follow through of these stated commitments.

Accordingly, the Department of Planning & Community Development Staff recommends the application be **approved as modified**, as shown on the plans sealed April 29, 2021 and received by the Virginia Marine Resources Commission on May 3, 2021, with the following conditions:

1. Any oysters impacted by the proposed rip rap revetment or proposed rip rap sill shall be preserved and relocated back onto the shoreline.
2. Following the installation of the wetlands vegetation, an annual vegetation monitoring report shall be submitted to the Department of Planning & Community Development in mid-August for three (3) years. The annual report shall include photographs and a re-vegetation plan for any areas of where the vegetation has failed to establish.

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

David Kledzik, Marine Engineering LLC

Location

2277 Haversham Close

GPIN

1499-96-6273

Staff Planner

Charles Payne

Proposal

To construct vinyl sheet & pile bulkhead

Staff Recommendation

Approval as Submitted

Waterway

Broad Bay

Subdivision

Broad Bay Point Greens Waterfront

Impacts

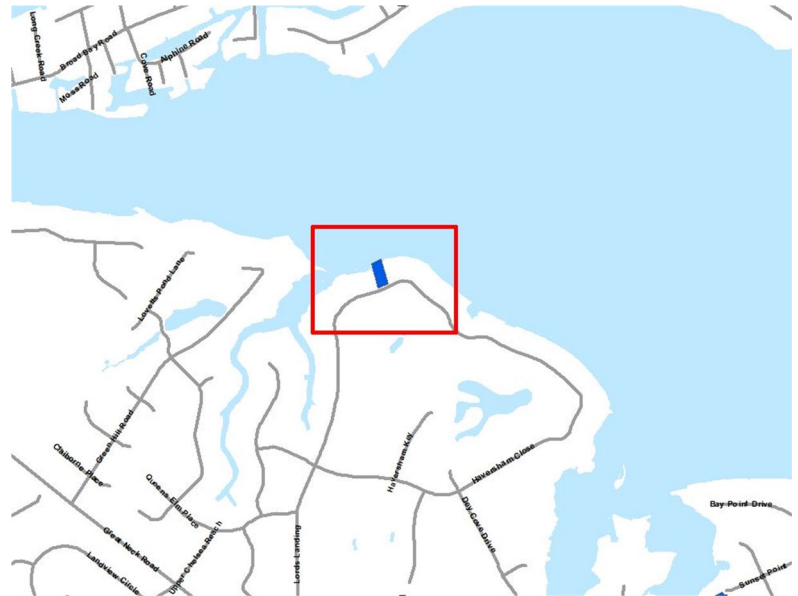
Non-Vegetated: 184 square feet

Overall length of proposed structure: 117 linear feet of bulkhead

Volume of Backfill: 44 cubic yards

Proposed Mitigation and/or Compensation

Payment of an in-lieu fee



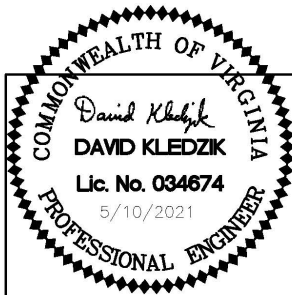
Site Aerial Map



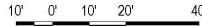
CBPA Variances & Wetlands Board Permit History

This property is located in the Chesapeake Bay Watershed; however, there are no known Chesapeake Bay Preservation Area (CBPA) Board variances or Wetlands Board approvals for this property.

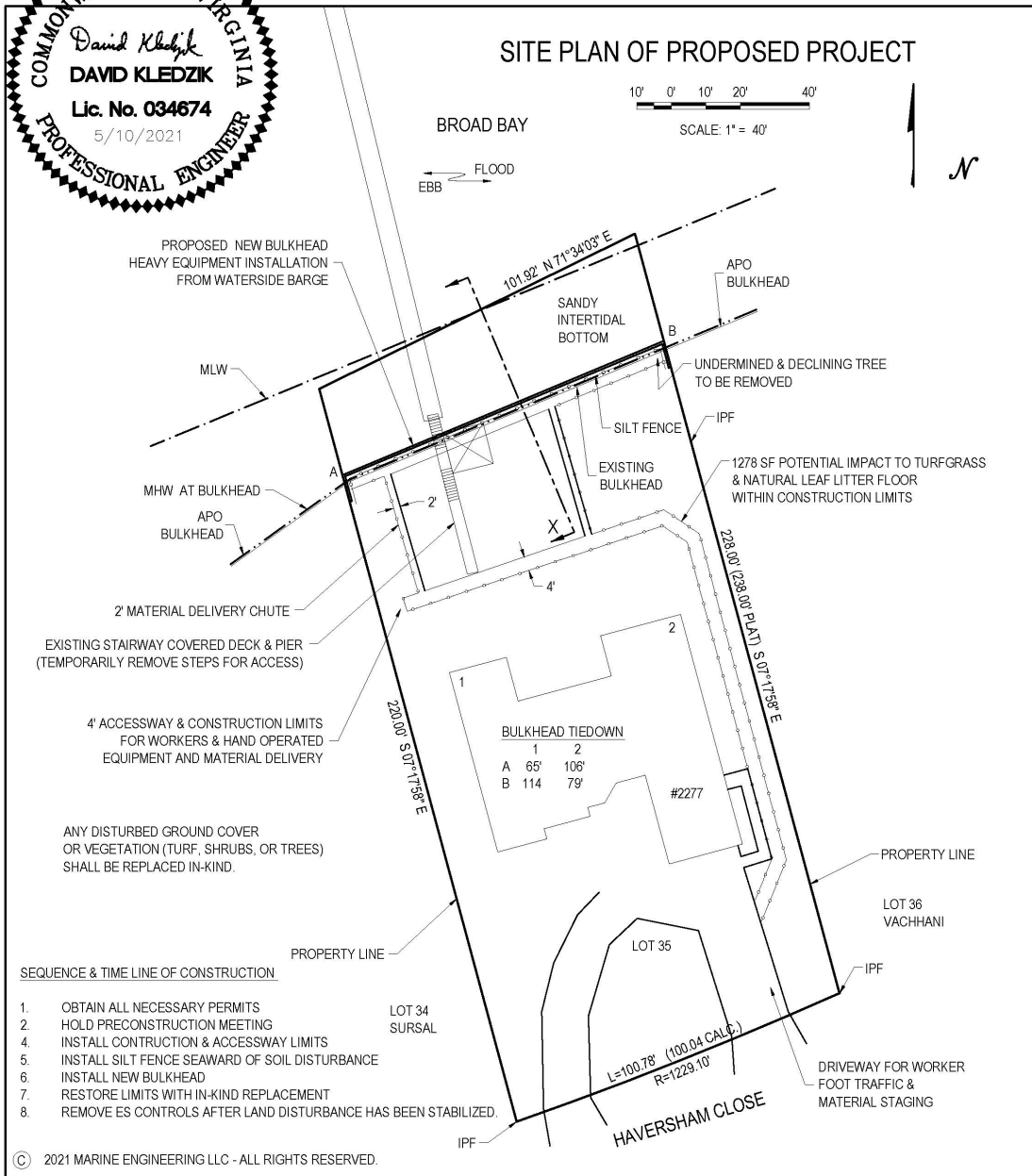
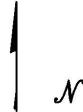
Proposed Site Plan



SITE PLAN OF PROPOSED PROJECT



SCALE: 1" = 40'



<p>APPLICANT: GENNARO FIORE 2277 HAVERSHAM CLOSE VIRGINIA BEACH, VA 23454</p> <p>ADJACENT PROPERTY OWNERS SHOWN ON SHEET ONE</p>	<p>MARINE ENGINEERING LLC 4212 DOUGHERTY CT VIRGINIA BEACH, VA 23455 PH: (757) 477-4787</p>	<p>PROPOSED PROJECT FOR EROSION CONTROL</p> <p>DATUM: MLW = 0.00'</p> <p>SHEET 1 OF 4 DATE: APRIL 30, 2021 REV-</p>
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JOB NUMBER 20336

Site Photos



Site Photos



Summary of Proposal

The applicant is proposing to construct a vinyl sheet and pile bulkhead 2 feet seaward of an existing timber bulkhead along Broad Bay. The primary purpose of the project is to protect the property from erosion due to tidal influence, wave action and boat wake forces.

The proposed bulkhead is 6.8 feet tall and 117 feet long, inclusive of an 8-foot return at each end. The bulkhead will be built using a waterside barge with site access via the waterfront and a single accessway from the street for worker foot traffic and delivery of sand and building materials. Although up to 1,278 square feet (0.03 acre) of upland may be subject to disturbance from these activities, no grading or clearing is proposed. However, 1 undermined and declining tree adjacent to the existing bulkhead is proposed for removal.

The proposed project will impact 184 square feet of non-vegetated wetlands. The applicant is proposing to compensate for these impacts via payment of an in-lieu fee.

Evaluation & Staff Recommendations

The existing bulkhead is showing signs of failure where several areas of non-vegetated wetlands have established due to the loss of backfill. Replacement of the bulkhead will result in 184 square feet of non-vegetated wetlands impacts, where these pockets of non-vegetated wetlands have established. Staff concurs with the applicant's agent that a new bulkhead is the most appropriate shoreline stabilization method for this property given the environmental condition, existing bulkhead height and bank feature with associated grade. The property is characterized by a steep bank (approximately 20 feet in height), with a tall existing bulkhead. As noted above, the property experiences wake from heavy boat traffic through this busy waterway and wind-generated wave action from the approximately 0.5-mile fetch between the site and Bay Island to the north.

Staff supports the compensation of these impacts via payment of an in-lieu fee. Accordingly, the Department of Planning & Community Development Staff recommends that this application be **approved as submitted** as shown on the exhibit dated April 30, 2021, prepared by Marine Engineering LLC, signed May 10, 2021 by David Kledzik.

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.

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