

Wetlands Board Staff Reports

March 21, 2022



Wetlands Board Hearing Procedures

A Public Hearing of the Virginia Beach Wetlands Board will be held on **Monday, March 21, 2022 at 10:00 a.m. in the Council Chamber - City Hall, Bldg. 1 Municipal Center, Virginia Beach, VA.** 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@vb.gov 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 **PLEASE NOTE THE REQUESTS THAT ARE MADE, AS ONE OF THE ITEMS BEING WITHDRAWN OR DEFERRED MAY BE THE ITEM THAT YOU HAVE AN INTEREST IN.**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After the commencement of the hearing, however, the applicant must request that the Wetlands Board allow the item to be withdrawn.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 Reports
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- 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

OLD BUSINESS – WETLANDS

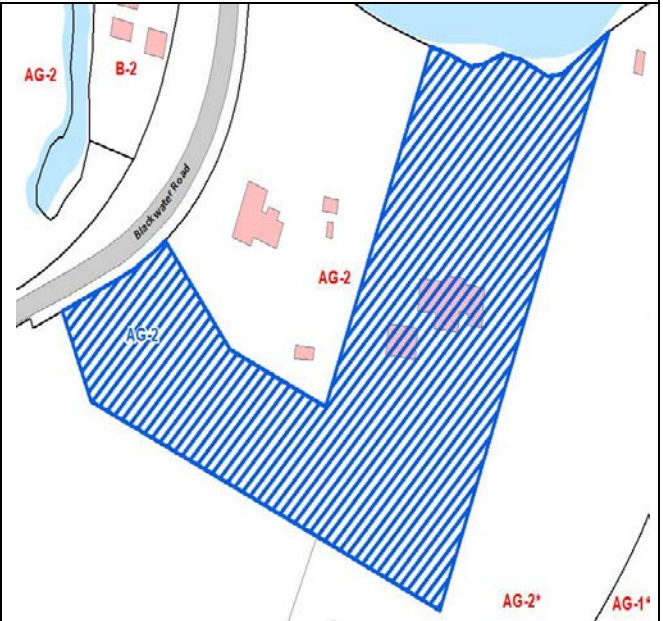
1. 2021-WTRA-00378
Mark Keske & Millette
Mallillin [Applicants & Owners]

DEFERRAL FROM FEBRUARY 21, 2022

To install a boat ramp with return walls involving wetlands

5620 Blackwater Road
(GPIN 1398-29-1333)

Waterway – Blackwater Creek
Subdivision – Blackwater
City Council District: District 7, formerly
Princess Anne



NEW BUSINESS – WETLANDS

2. 2022-WTRA-00029
William & Marisa Walpert,
Gregory & Beth Strangways,
Michael Anderson
[Applicants & Owners]

To dredge involving wetlands

1020 Witch Point Trail, 1016 Witch Point
Trail and 4058 Schilling Point
(GPINs 1488-04-1543, 1488-04-2675,
1488-05-1062)

Waterway – Western Branch Lynnhaven
River
Subdivision – Saw Pen Point
City Council District: District 4, formerly
Bayside



* Deferral
** Withdrawal

NEW BUSINESS – WETLANDS (CONTINUED)

3. 2022-WTRA-00022

Brady K. Behrman Revocable Trust [Applicant & Owner]

To construct a bulkhead, rip rap revetment, and groin involving wetlands

1644 Cutty Sark Road
(GPIN 2409-43-3691)

Waterway – Broad Bay
Subdivision – Baycliff Waterfront
City Council District: District 5, formerly Lynnhaven



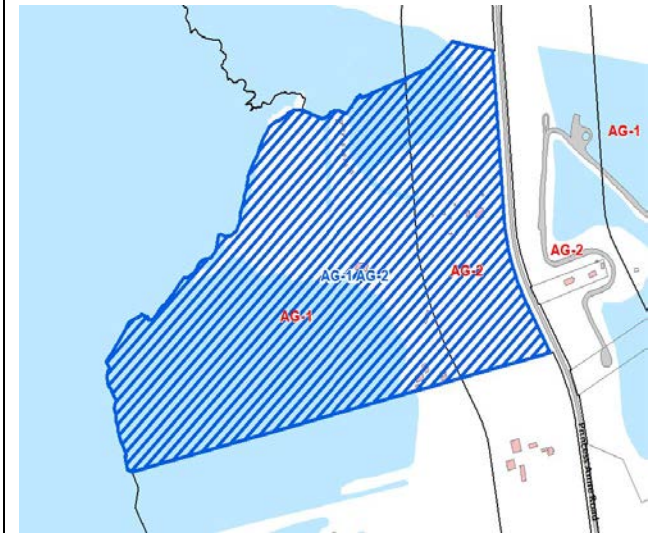
4. 2022-WTRA-00023

North Landing Beach RV Resort & Cottages – Virginia Beach, LLC
[Applicant & Owner]

To construct a bulkhead and groin, dredge, and place sand fill involving wetlands

161 Princess Anne Road
(GPIN 2317-41-2793)

Waterway – North Landing River
Subdivision – Campground
City Council District: District 7, formerly Princess Anne



* Deferral
** Withdrawal

Agent

Robert Simon
 Waterfront Consulting, Inc.

Location

5620 Blackwater Road

GPIN

1398-29-1333

Staff Planner

Whitney McNamara

Proposal

To install a boat ramp with return walls involving wetlands

Staff Recommendation

Approval as Submitted

Waterway

Blackwater Creek

Subdivision

Blackwater

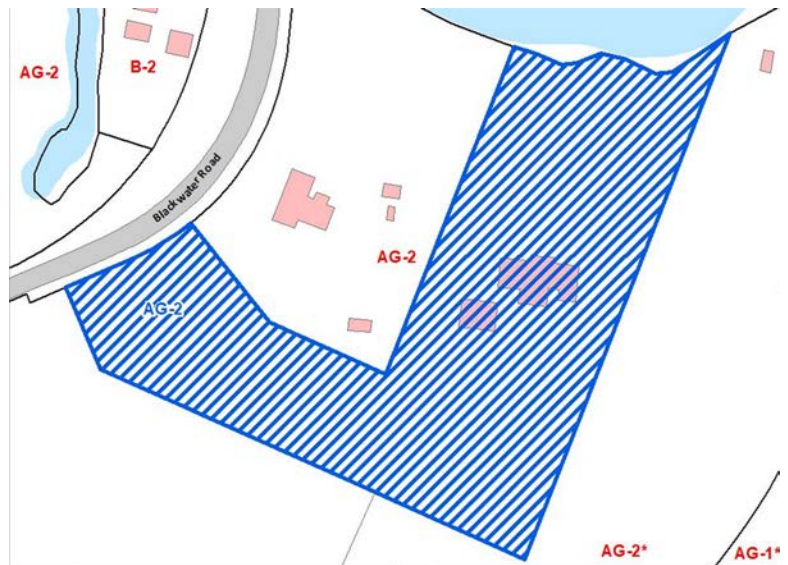
Impacts

Non-Vegetated: 48 square feet

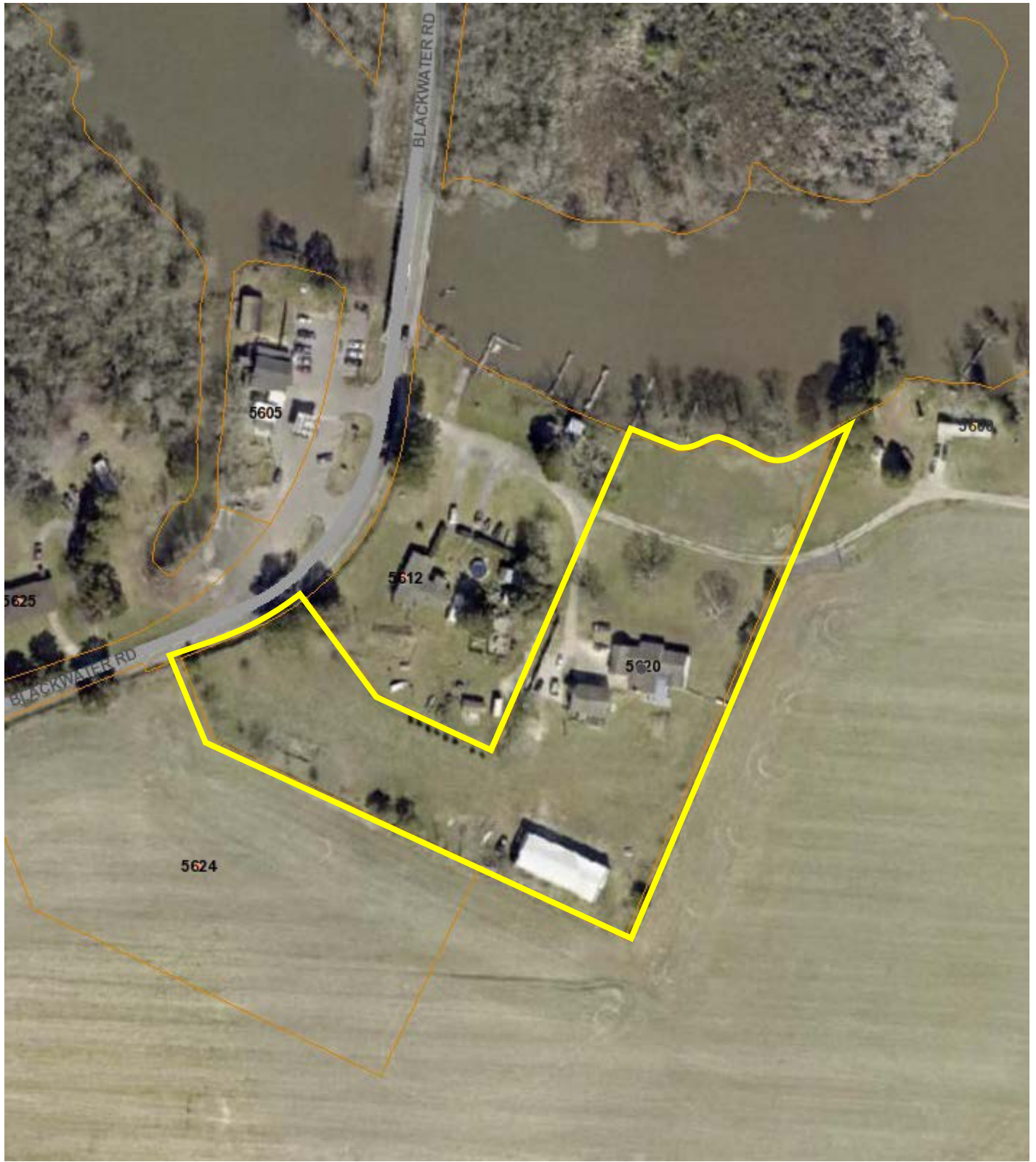
Overall length of proposed structure: Two 26 linear foot return walls

Proposed Mitigation and/or Compensation

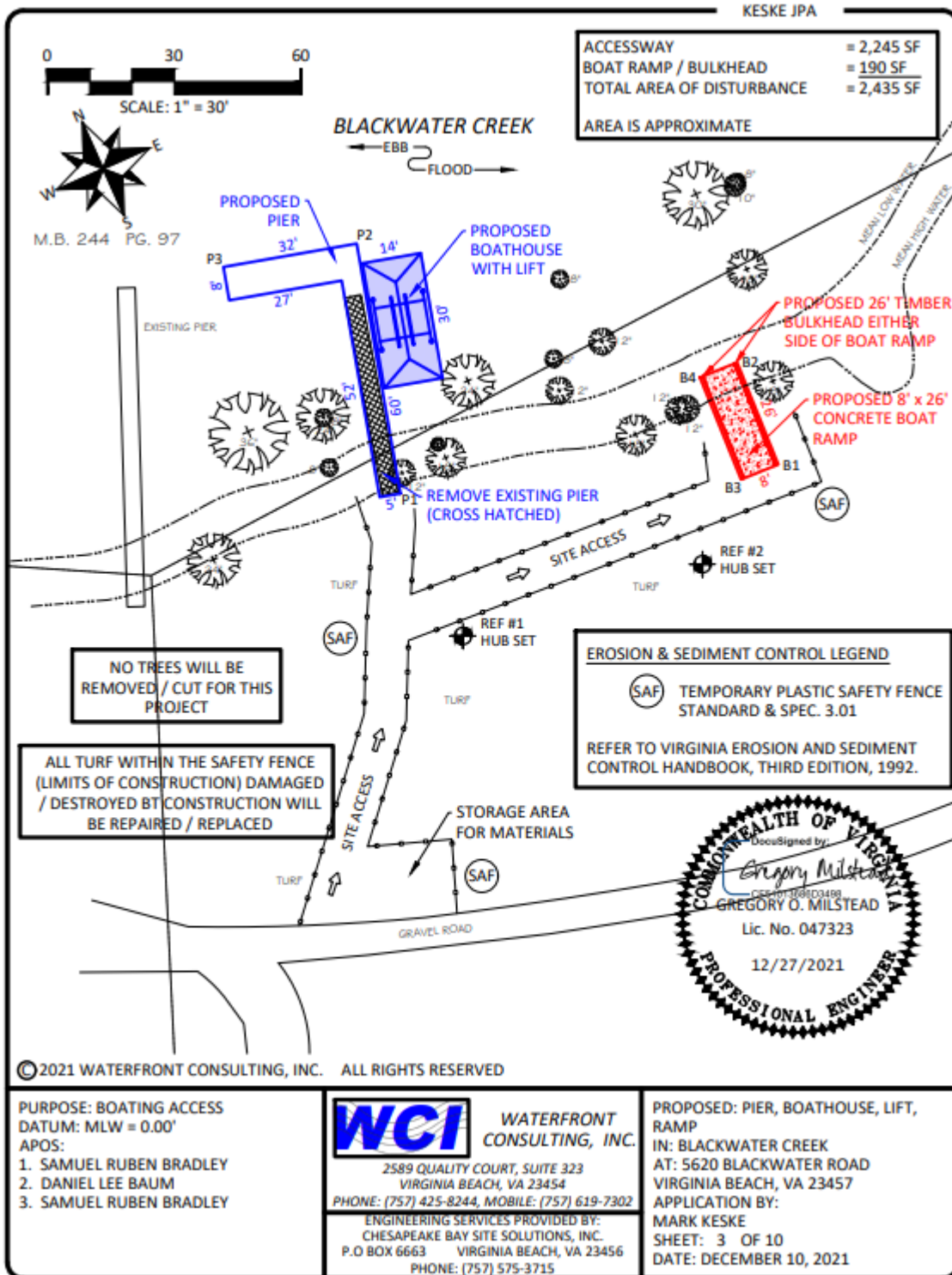
Payment of an in-lieu fee



Site Aerial Map



Proposed Site Plan



Received by VMRC on December 28, 2021 /lra

Site Photos



Site Photos



Wetlands Board Permit History

The property is located in the Southern Rivers Watershed. The shoreline is in a natural state, and there are no known Wetlands permits on file for this property.

Summary of Proposal

The applicant is proposing to install an 8-foot by 26-foot concrete boat ramp with two 26 linear foot return walls. The proposed boat ramp location was chosen to not impact vegetated wetlands or canopy trees and associated pneumatophores (Bald Cypress knees) but will impact 48 square feet of non-vegetated wetlands. The applicant is proposing to pay an in-lieu fee for the non-vegetated wetlands impacts.

Evaluation & Staff Recommendations

The applicant would like to install a boat ramp to be able to remove his personal watercraft from Blackwater Creek. While the Blackwater Trading Post boat ramp is located across the street, however the applicant's boat is too large to fit under the bridge at Blackwater Road. The next closest boat ramp is the Pungo Ferry Landing boat ramp, which is a 50-minute boat ride from the property. The applicant has worked to site the proposed boat ramp in a location that will not impact the bald cypress trees or vegetated wetlands. Staff supports the payment of an in-lieu fee for the non-vegetated wetlands impacts.

Accordingly, the Department of Planning and Community Development recommend that the application be **approved as submitted** as shown on the plans for Mark Keske at 5620 Blackwater Road sealed on December 27, 2021 and received by the Virginia Marines Resources Commission on December 28, 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 days 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

Tom Langley, PE, LS
 Langley & McDonald

Locations

1020 Witch Point Trail, 1016 Witch Point Trail
 and 4058 Schilling Point

GPINs

1488-04-1543, 1488-04-2675, 1488-05-1062

Staff Planner

Whitney McNamara

Proposal

To dredge involving wetlands

Staff Recommendation

Approval as Modified

Waterway

Western Branch Lynnhaven River

Subdivision

Saw Pen Point

Impacts

Non-Vegetated: 575 square feet

Subaqueous: 22,320 square feet

Proposed Mitigation and/or Compensation

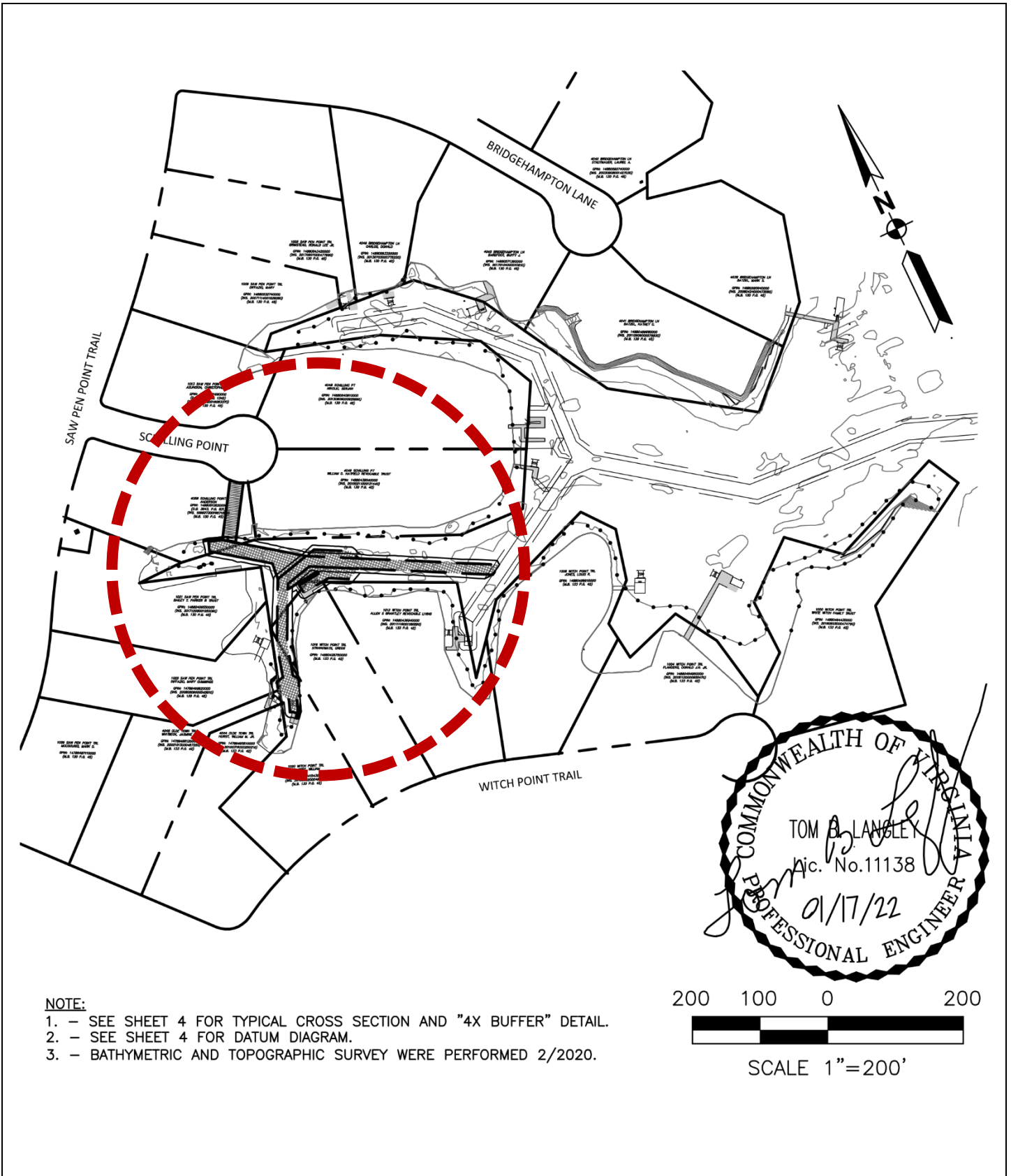
Payment of an in-lieu fee – reduced fee request



Site Aerial Map

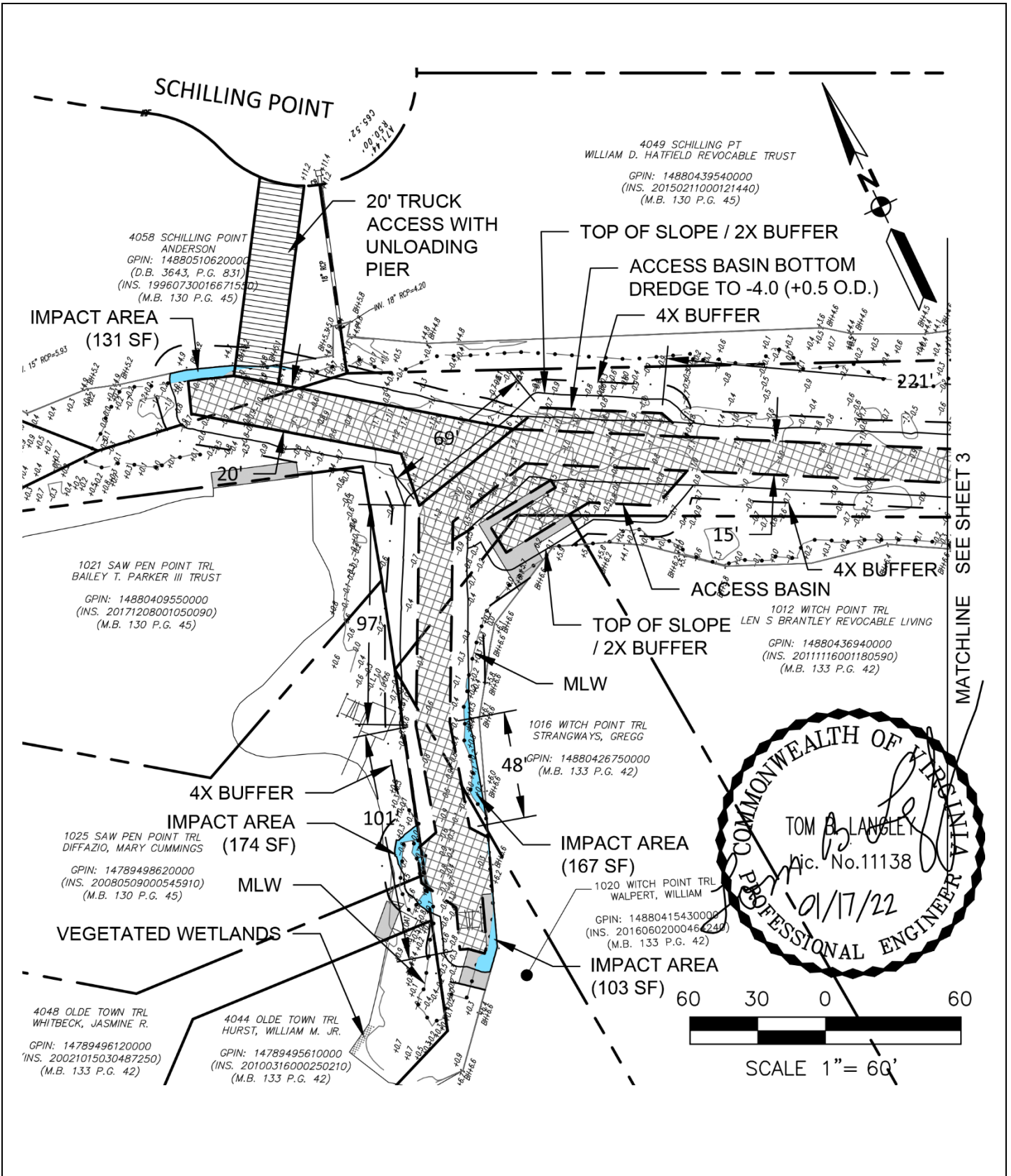


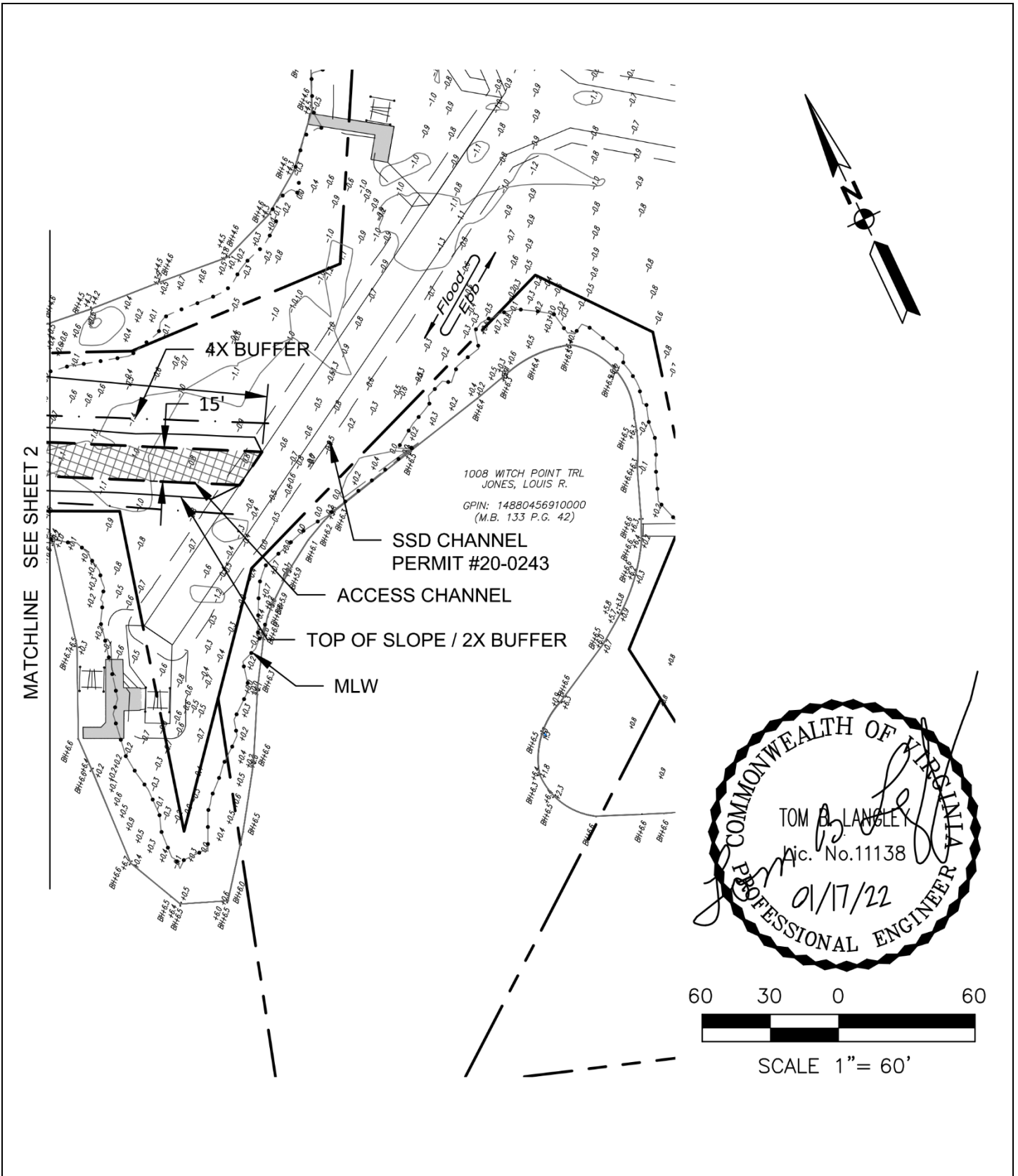
Overall Project Location and Site Plan Layout



NOTE:

1. - SEE SHEET 4 FOR TYPICAL CROSS SECTION AND "4X BUFFER" DETAIL.
2. - SEE SHEET 4 FOR DATUM DIAGRAM.
3. - BATHYMETRIC AND TOPOGRAPHIC SURVEY WERE PERFORMED 2/2020.





Site Photos



Site Photos



CBPA Variances & Wetlands Board Permit History

These properties are located in the Chesapeake Bay Watershed. A Chesapeake Bay Preservation Area (CBPA) Board Variance was found for the following properties.

- 1016 Witch Point Trail to construct a single-family residence, pool, pool house, and concrete deck – granted October 1995.
- 1020 Witch Point Trail to construct a single-family residence, driveway, pool, and retaining wall – granted September 2001.

A similar Wetlands Board application was approved by the Board in February 2021, but the permit was not issued, and the approval has expired.

Summary of Proposal

The applicants are proposing new dredging to form a channel for access to the Saw Pen Point neighborhood Special Dredge District (SSD) project. The applicants were not included on the neighborhood SSD project because they purchased their property after the SSD was established and there is no way to add properties to the SSD. The SSD is fully aware of and supports the proposed channel to connect to the SSD. The proposed dredge channel will be fifteen feet wide by four feet deep and will provide boat access from existing piers/docks. The proposed project will impact 575 square feet of non-vegetated wetlands, inclusive of impacts from the two-by buffer. The four-by buffer is shown on the plans, but there are no additional vegetated wetlands impacts in the four-by buffer for this project. The applicants are requesting to pay Board's approved reduced dredging rate of \$5.50 per square foot of non-vegetated wetlands impacts to compensate for the non-vegetated wetlands impacts.

Since the application was approved by the Wetlands Board in February 2021, the applicants have modified the plans to include a dredge transfer pier on 4058 Schilling Point (Anderson property) and a boat turning basin for 1020 Witch Point Trail (Walpert property). These modifications increased the non-vegetated wetlands impacts by 174 square feet.

Evaluation & Staff Recommendations

The applicant's agent has designed a project with a similar dredge channel width and depth as the neighborhood SSD projects. In addition, efforts were made to minimize wetlands impacts to the extent possible. The applicant's agent will need to provide a Dredge Materials Management Plan and obtain a hauling permit prior to issuance of the Wetlands Board permit and start of work. Staff supports the applicant's request to pay the reduced non-vegetated wetlands in-lieu fee because this is a dredge project.

Accordingly, the Department of Planning and Community Development recommend that the application be **approved as modified** by the following conditions:

1. A Dredge Materials Management Plan 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 Wetlands Permit.
2. A hauling permit shall be applied for and approved by the Development Services Center prior to the issuance of a Wetlands Board 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.

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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

1644 Cutty Sark Road

GPIN

2409-43-3691

Staff Planner

Whitney McNamara

Proposal

To construct a bulkhead, rip rap revetment, and groin involving wetlands

Staff Recommendation

Approval as Submitted

Waterway

Broad Bay

Subdivision

Baycliff Waterfront

Impacts

Non-Vegetated: 240 square feet

Subaqueous: 858 square feet

Overall length of proposed structure: 72 linear feet of bulkhead; 73 linear feet of rip rap; 54 linear foot groin

Volume of Backfill: 50 cubic yards

Proposed Mitigation and/or Compensation

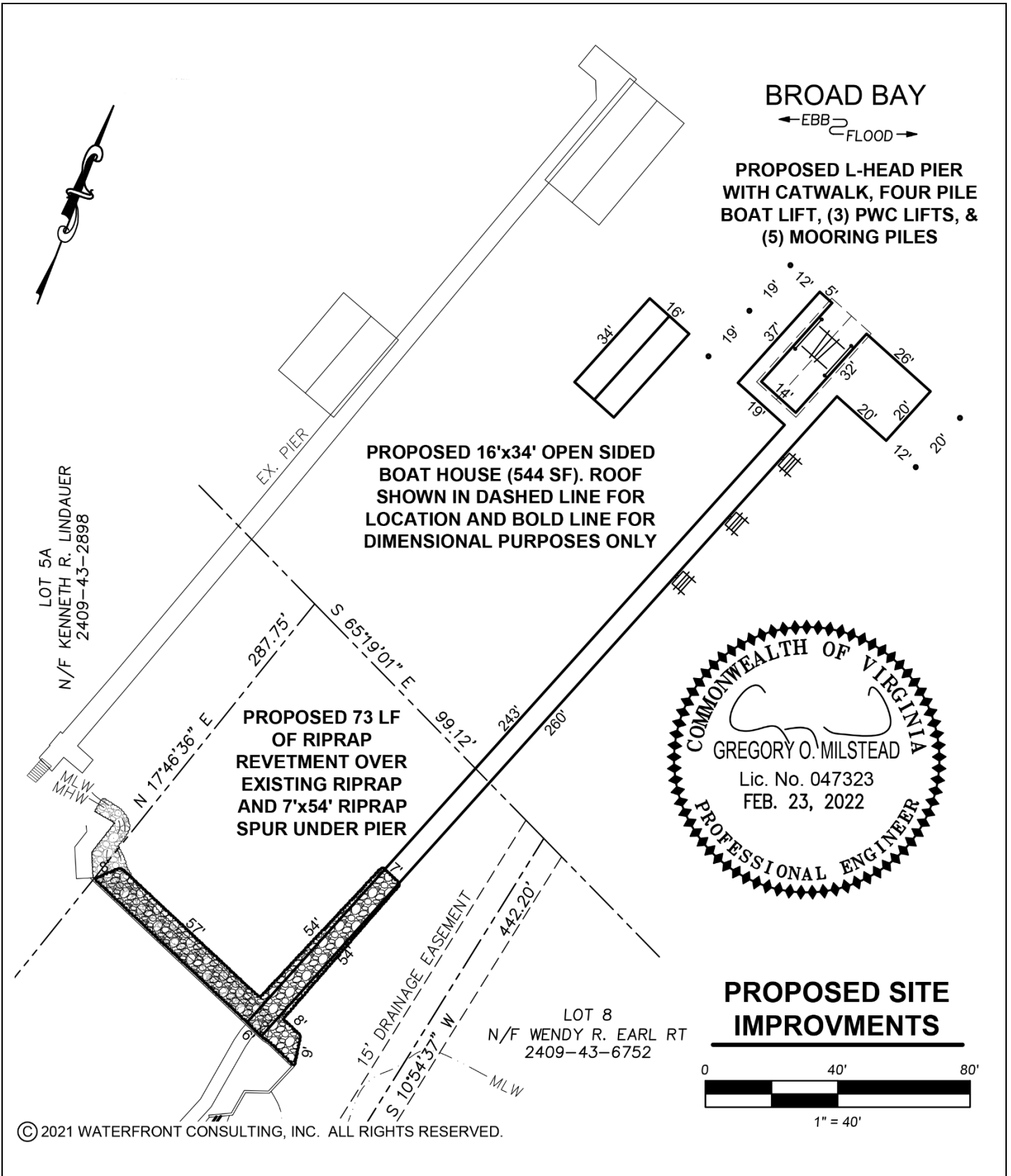
On-site



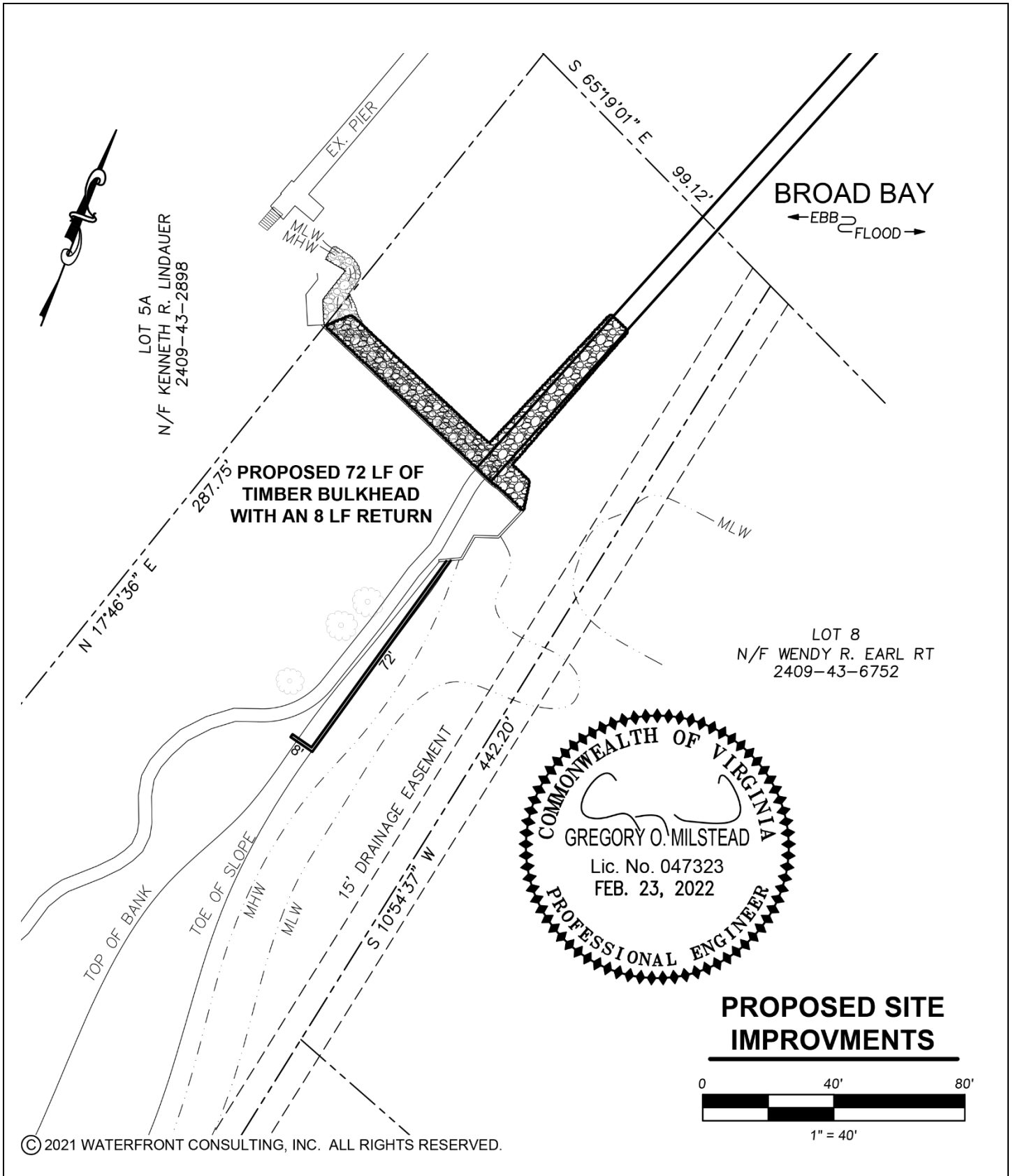
Site Aerial Map



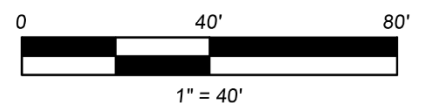
Proposed Site Plan – Rip Rap and Groin



Proposed Site Plan – Bulkhead



PROPOSED SITE IMPROVEMENTS



Site Photos – Rip Rap Area



Site Photos – Bulkhead Area



CBPA Variances & Wetlands Board Permit History

This property is located in the Chesapeake Bay Watershed. No known Chesapeake Bay Preservation Area (CBPA) Board variances were found for this property. A Wetlands permit was approved in 2002 for a bulkhead.

Summary of Proposal

The applicant is proposing to construct 73 linear feet of rip rap in front of the existing bulkhead, over top of the existing rip rap. Class I and II rip rap will be used due to the wave action and fetch along the shoreline. The proposed rip rap will impact 240 square feet of non-vegetated rock habitat that will be mitigated on-site by the placement of new rock, creating non-vegetated rock habitat. The applicant is also proposing to construct a seven-foot wide by 54-foot-long groin. While the proposed groin will tie into the proposed rip rap, it only impacts subaqueous bottom, and, therefore, is outside the Wetlands Board's jurisdiction. The proposed bulkhead is located landward of Mean High Water and above Wetlands Board Jurisdiction and will require the removal of six trees. Staff is of the opinion that the existing trees are compromised due to the natural erosion of the bank and are declining in health.

Evaluation & Staff Recommendations

The shoreline is located along Broad Bay; similar to other properties along Broad Bay it is characterized by a steep bank and experiences 3,300 to 4,500 feet of fetch from north and northeast winds. The height of the existing bulkhead is seven to eight feet tall and has already been stabilized by rip rap in front of the bulkhead; however, not enough rock was placed to adequately protect the shoreline. Staff agrees with the applicant's agent that based on the existing shoreline characteristics and the large amount of grading needed for a living shoreline, rip rap is the best solution to prevent bulkhead failure and further erosion.

Staff supports the conversion of non-vegetated rock habitat to non-vegetated rock habitat as on-site compensation for the non-vegetated wetlands impacts. Both the proposed groin and bulkhead along the east side of the property are outside the Board's jurisdiction. Accordingly, the Department of Planning and Community Development Staff recommends **approval as submitted** as shown on the plans for Brady K. Behrman RT at 1644 Cutty Sark Road, sealed on February 23, 2022 and received by the VMRC on February 23, 2022.

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 days of the hearing. Accordingly, no approvals can be issued until at least 10 days after the hearing.

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Agent

Robert Simon
 Waterfront Consulting, Inc.

Location

161 Princess Anne Road

GPIN

2317-41-2793

Staff Planner

Whitney McNamara

Proposal

To construct a bulkhead and groin, dredge, and place sand fill involving wetlands

Staff Recommendation

Approval as Submitted

Waterway

North Landing River

Subdivision

Campground

Impacts

Vegetated: 827 square feet

Non-Vegetated: 24,975 square feet

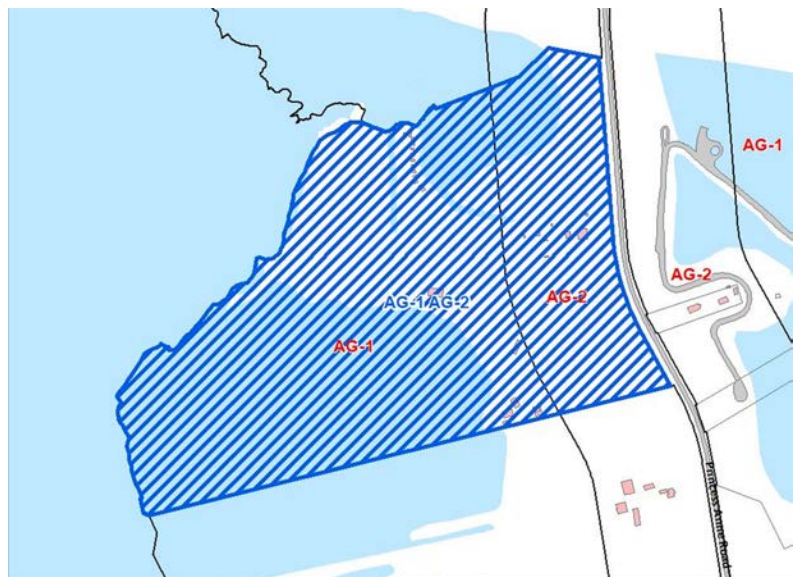
Subaqueous: 19,867 square feet

Overall length of proposed structure: 3,161 linear feet of bulkhead; 231 linear foot groin wall

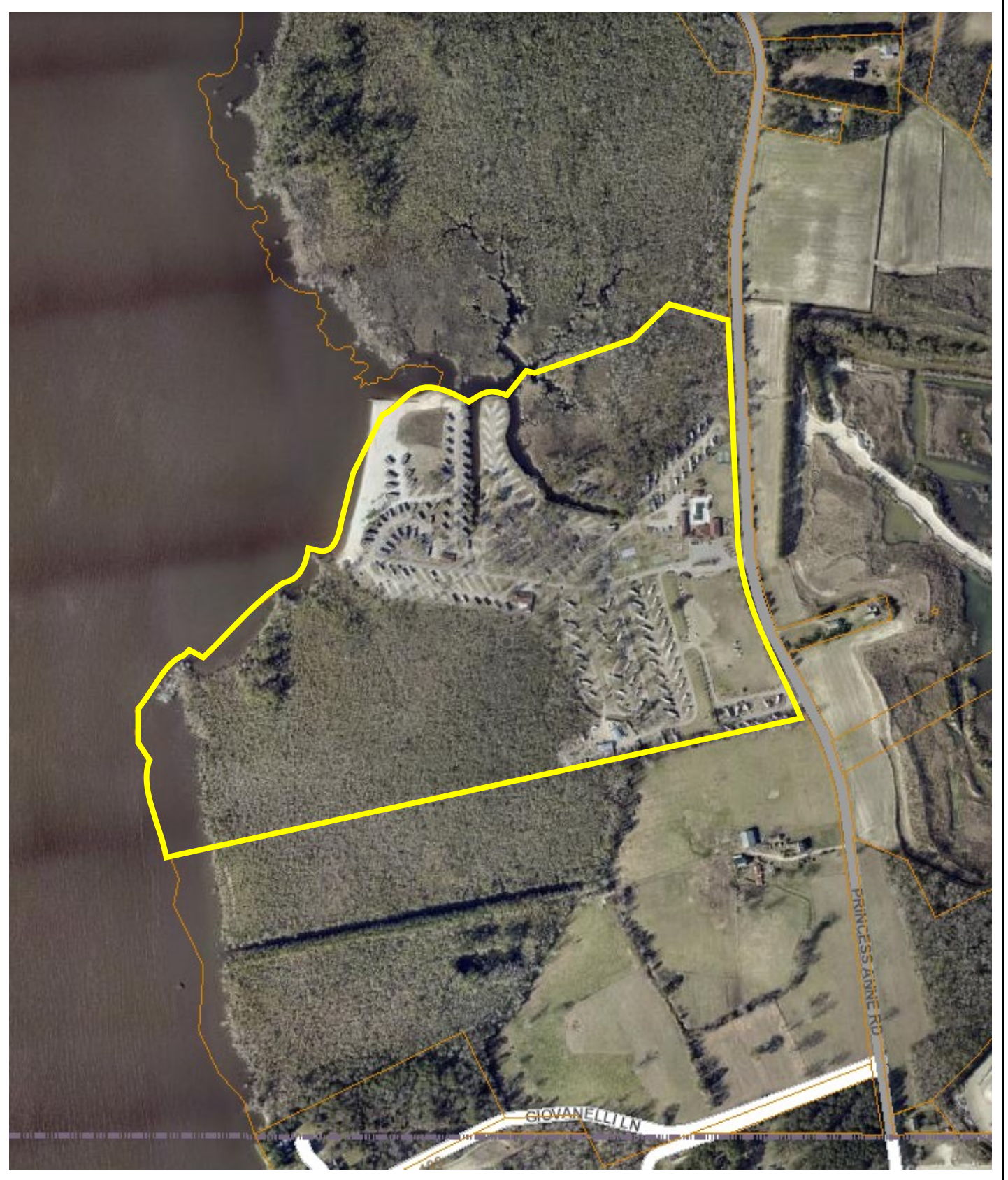
Volume of Backfill: 2,000 cubic yards beach nourishment

Proposed Mitigation and/or Compensation

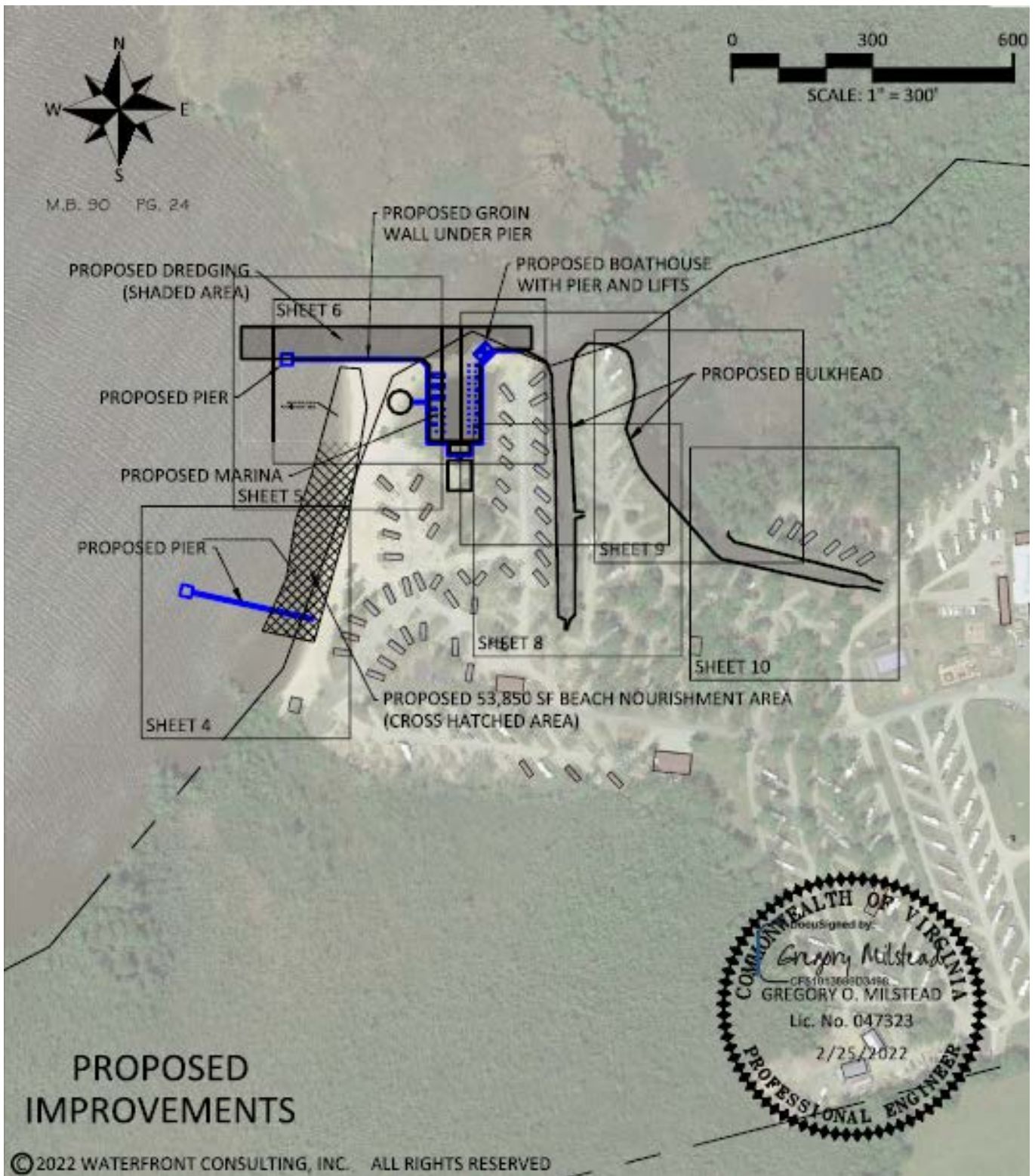
Purchase credits in a wetlands bank



Site Aerial Map



Proposed Site Plan



Site Photos



Site Photos



Wetlands Board Permit History

The property is located in the Southern Rivers Watershed. Gabion baskets were placed without a permit to act as a groin to trap sand along the northern end of the beach sometime between 2009 and 2010. The current owner submitted a plan to the Wetlands Board in December 2018 to remove the unauthorized gabion baskets and install a timber groin, flex-a-mat, and dredging. This project was approved; however, a permit was never issued. A modification to the campground's Conditional Use Permit was approved by City Council on May 18, 2021 to construct a non-commercial marina, marina store and comfort station, screened gazebo, event space, and addition to the arts and crafts building.

Summary of Proposal

With consultation with the US Army Corps of Engineers, the applicant modified and expanded their original proposal to remove the gabion baskets to add construction of a marina in an area of non-tidal wetlands populated with phragmites. This area is located outside of the Wetlands Board's jurisdictional limits; however, this has required a major revision of the original plan.

The applicant is proposing to remove 1,244 square feet of unauthorized gabion baskets and construct a 274 linear foot open pile pier with a 231 linear foot timber groin under the pier to replace the gabion baskets and prevent further erosion of the beach. In addition, 18,300 square feet of non-vegetated wetlands and 19,867 square feet of subaqueous bottom will be dredged to restore navigation to the canals. Sand removed during dredging will be spread flat on the beach to restore the eroding beach area. To prevent further erosion in the canals, the applicant is proposing to construct 3,161 linear feet of timber bulkhead.

The proposed project will impact 827 square feet of vegetated wetlands associated with construction of the bulkhead in the canals, 24,975 square feet of non-vegetated wetlands, and 19,867 square feet of subaqueous bottom. The applicant is proposing to purchase credits in the Davis Wetlands Mitigation Bank as compensation for these impacts. In addition, the proposed dredging will result in 2,000 cubic yards of sand that will be placed flat on the beach.

Evaluation & Staff Recommendations

The property has been used as a recreational vehicle campground since the 1970's. The current owner purchased the campground in 2015 and has made many modifications and upgrades. Staff originally visited the site in June 2018 in response to a complaint that the property owner was filling in the wetlands. Upon visiting the site, it was discovered that sometime prior to the new owner purchasing the property, most likely around 2010, extensive, unauthorized fill had been placed on the site to widen and enhance the existing beach and gabion baskets had been placed along the northern canal in an attempt to stabilize the beach and adjacent upland. The campground is experiencing ongoing erosion along the beach and the gabion baskets are currently failing, causing the canal on the north side of the campground to fill in with sand. The applicant proposes to remove the unauthorized gabion baskets and replace them with a timber groin to halt the continued erosion of the beach. Since 2018, the applicant has reduced the proposed length of the groin from 274 linear feet to 231 linear feet, coinciding with a reduction in length to the proposed pier.

In addition, the applicant proposes to dredge the canal to restore navigation. Due to ongoing sand loss from the beach and failure of the gabion baskets, the entrance to the canals has continued to fill in, resulting in a larger dredge footprint than proposed in 2018. In addition, the applicant has increased the proposed dredge footprint to include creation of a marina that is located outside the Wetlands Board's jurisdiction.

While the applicant originally proposed to use flex-a-mat to stabilize a small portion of the canals, this proposal has been modified to use a bulkhead to stabilize all the canals in the campground. There is obvious erosion to these canals, and they are very deep with a steep drop off from the shoreline. Several of the Park Model RV cabins are located less than 5

feet from the canal, so some upland fill is proposed behind the bulkheads to provide enough room to allow a lawnmower between the bulkhead and the canals. Staff supports this request due to the steep nature of the shoreline and narrow width of the canal. There simply is not enough room to grade the shoreline back for a living shoreline or rip rap.

The applicant is proposing to compensate for all of the wetlands impacts by purchasing credits in the Davis Wetland Mitigation Bank. This is the same mitigation bank the Board approved as wetlands compensation for Alpha Omega Farm, Inc. That project is located along West Neck Creek, a tributary to the North Landing River where this project is located. The applicant is proposing to compensate for the vegetated wetlands impacts at a 2:1 ratio and for the non-vegetated wetlands impacts at a 1:1 ratio. Staff recommends that the Board accept the use of a Wetlands Bank for mitigation.

Accordingly, the Department of Planning and Community Development recommends that the application be **approved as submitted** as shown on the plans for 161 Princess Anne Road for dredging, bulkhead, and piers sealed on February 25, 2022 and received by the VMRC on February 25, 2022.

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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