

Wetlands Board Staff Report

January 17, 2024



VIRGINIA BEACH WETLANDS BOARD

PUBLIC HEARING PROCEDURES & AGENDA

A Public Hearing of the Virginia Beach Wetlands Board will be held on **Wednesday, January 17, 2024** at 10:00 a.m. in the 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 Wetlands 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/wetlands or visit the Department of Planning and Community Development, 2875 Sabre Street, Suite 500, Virginia Beach, Virginia by appointment. Citizens may also 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.

The Staff reviews some or all the items on the agenda and suggests that certain conditions be attached for deliberation 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. The administrative comments contained in the attached Staff reports constitutes 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

(If you have any questions, please contact Staff via email at waterfront@vb.gov or call The Department of Planning & Community Development at 757-385-4621)

- 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 PLEASE NOTE THE REQUESTS THAT ARE MADE, AS ONE OF THE ITEMS BEING WITHDRAWN OR DEFERRED MAY BE THE ITEM THAT YOU HAVE AN INTEREST IN.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' 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:
- 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.

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.

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.



WETLANDS BOARD AGENDA

Public Hearing Date **January 17, 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/wetlands. For information call (757) 385-4621.

NEW BUSINESS WETLANDS

1. 2023-WTRA-00253

G. Randall & Donna E. Stickley

[Applicants & Owners]

1698 S Woodside Ln

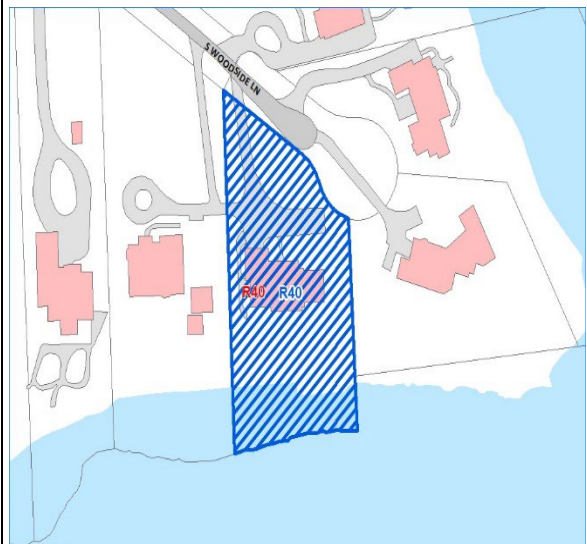
GPIN 1499-33-2431

City Council District: District 8

Waterway – Eastern Branch Lynnhaven River

Subdivision – Great Neck Point

Request: To construct a bulkhead involving wetlands.



2. 2023-WTRA-00255

Robert A. & Rita S. Bellitto

[Applicants & Owners]

2909 Sand Bend Rd

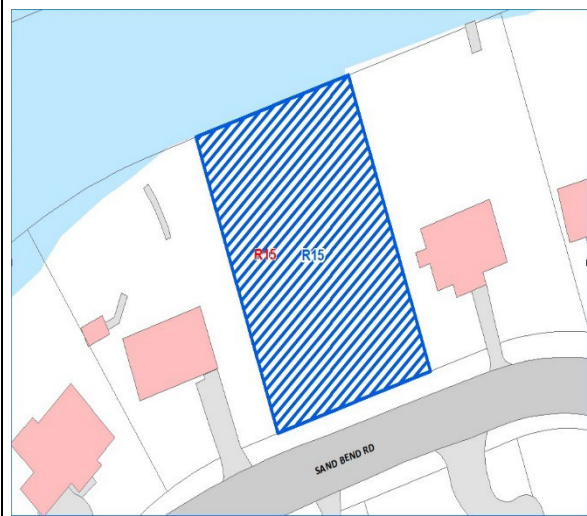
GPIN 2433-34-3152

City Council District: District 2

Waterway – Bass Inlet

Subdivision – Back Bay Meadows

Request: To construct a bulkhead and return walls involving wetlands.



NEW BUSINESS WETLANDS (CONTINUED)

3. 2023-WTRA-00256

Richard T. Jeffries, III [Applicant]

Richard T. Jeffries III Trust & Tanya

A. Brown Trust [Owners]

1344 Starling Ct

GPIN 2418-13-5740

City Council District: District 6

Waterway – Linkhorn Bay

Subdivision – Birdneck Point

Request: To construct a rip rap revetment involving wetlands.



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Agent

Richard Calvert
 Calvert Marine

Location

1698 S Woodside Lane

GPIN

1499-33-2431

Staff Planner

Heaven Manning

Proposal

To construct a bulkhead involving wetlands.

Staff Recommendation

Approval as Submitted

Waterway

Eastern Branch Lynnhaven River

Subdivision

Great Neck Point

Impacts

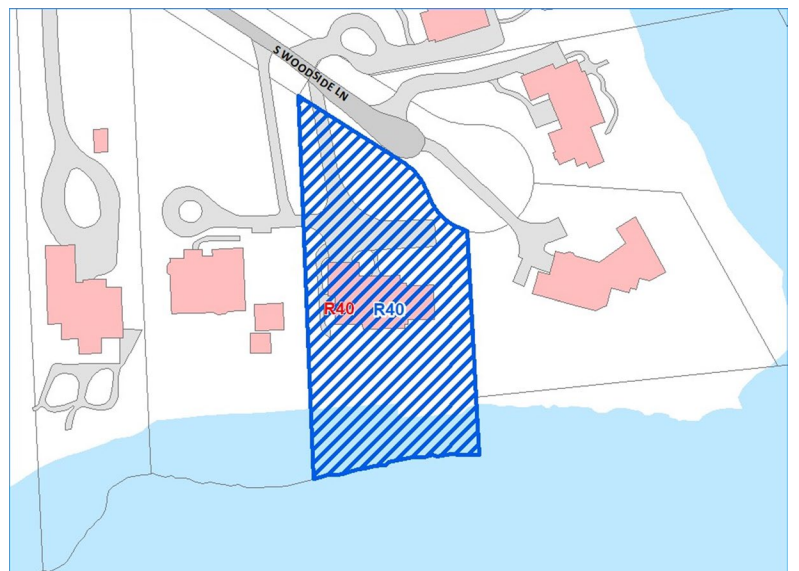
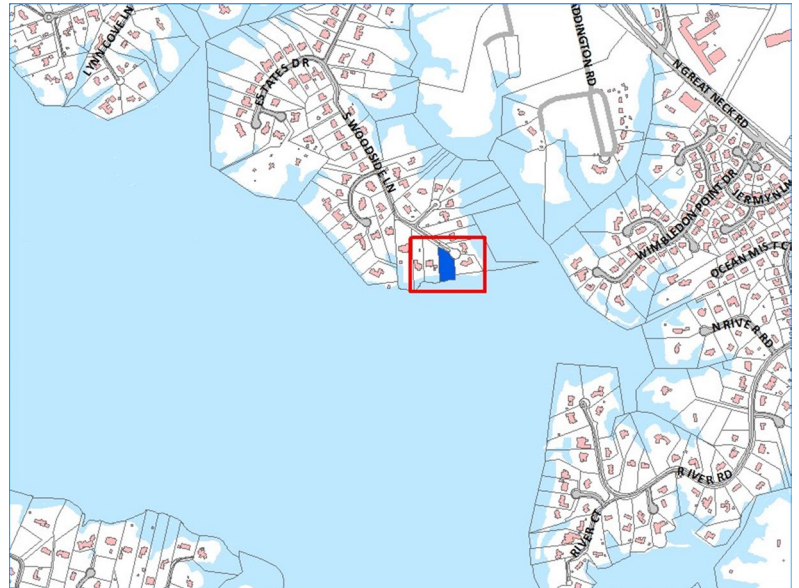
Non-Vegetated: 20 square feet

Subaqueous: 18 square feet

Overall length of proposed structure: 20 linear feet of bulkhead

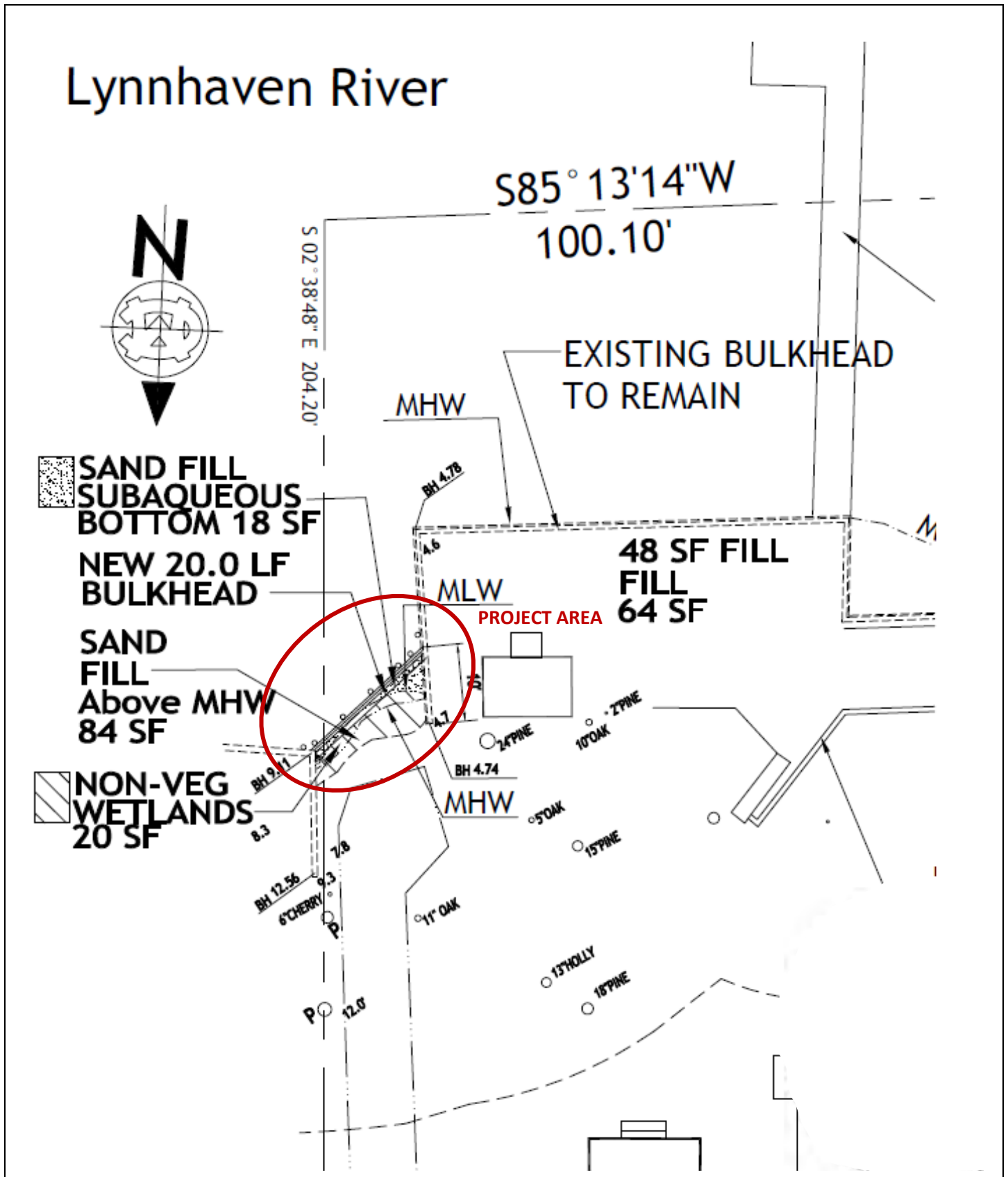
Proposed Mitigation and/or Compensation

Payment of an in-lieu fee



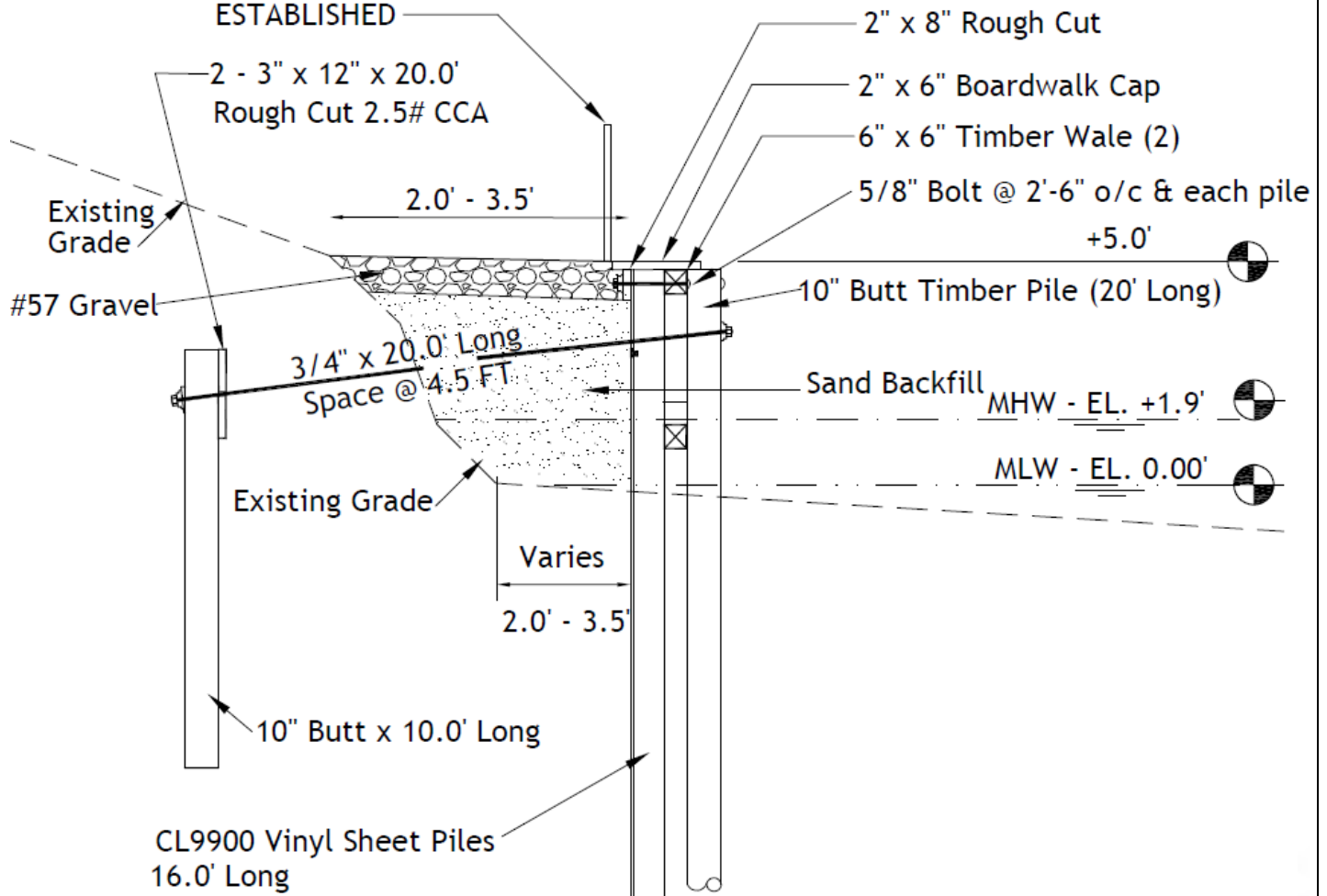
Site Aerial Map





Section View

A 36" WIRE REINFORCED SILT FENCE SHALL BE PROPERLY INSTALLED AS SHOWN. IT SHALL BE INSTALLED PRIOR TO BACKFILLING AND SHALL BE MAINTAINED DAILY UNTIL A PERMANENT VEGETATIVE COVER IS ESTABLISHED



Site Photos



CBPA Variances & Wetlands Board Permit History

The property is in the Chesapeake Bay Watershed. A Chesapeake Bay Preservation Area (CBPA) variance request to construct a building addition with deck, boat shed, walkway, and driveway expansion was granted on June 26, 2023.

There are no known recent Wetlands Board actions or waterfront permits found for this property.

Summary of Proposal

Much of the shoreline along this property is protected by a bulkhead. The easternmost edge of the shoreline is unprotected and experiencing erosion with a pronounced bank that ranges from 4 to 5 feet in elevation. A previous adjacent property owner erroneously removed a tree which they mistook to be on their property. Erosion has significantly increased since the tree was removed. The applicant proposes to construct 20 linear feet of vinyl bulkhead. The proposed project will impact 20 square feet of non-vegetated wetlands. The applicant is proposing to mitigate the wetlands impacts by payment of an in-lieu fee.

The applicant's agent indicated that a living shoreline is not feasible for this site due to the topography of the site, depth of the channel, boat wake from heavy boat traffic, and shoreline conditions of the adjacent property.

Evaluation & Staff Recommendations

Staff concurs with the applicant that the proposed bulkhead is warranted for this property, as this portion of the shoreline is unprotected and exhibiting signs of erosion. Staff acknowledges the position of the applicant's agent that a living shoreline is not appropriate for this property due to the topography of the site, heavy boat traffic and associated wake, and shoreline conditions of the adjacent property. The request to construct the new bulkhead will not create additional non-vegetated wetlands. Therefore, to address compensation Staff supports payment of an in-lieu fee for the 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 titled "Proposed bulkhead and associated fill" sealed November 21, 2023 and received by the VMRC on November 28, 2023.

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

Robert Simon
 Waterfront Consulting, Inc.

Location

2909 Sand Bend Road

GPIN

2433-34-3152

Staff Planner

Heaven Manning

Proposal

To construct a bulkhead and return walls involving wetlands.

Staff Recommendation

Approval as Modified

Waterway

Bass Inlet

Subdivision

Back Bay Meadows

Impacts

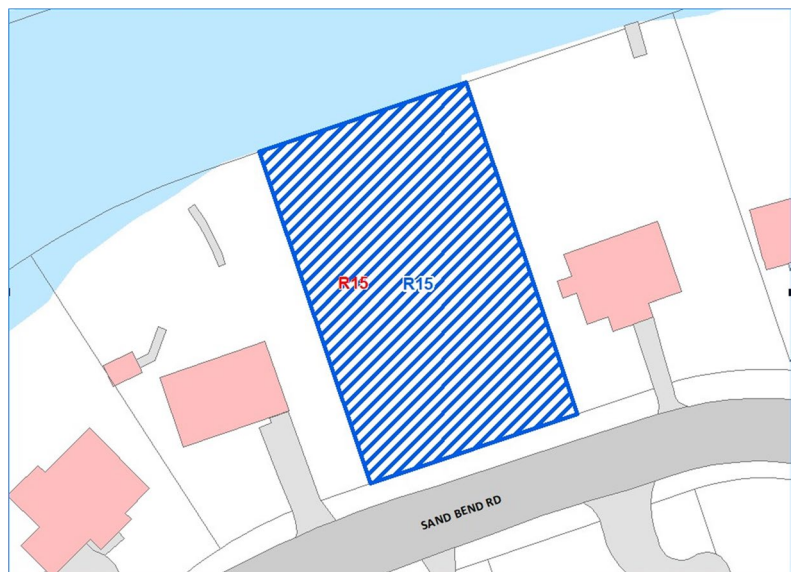
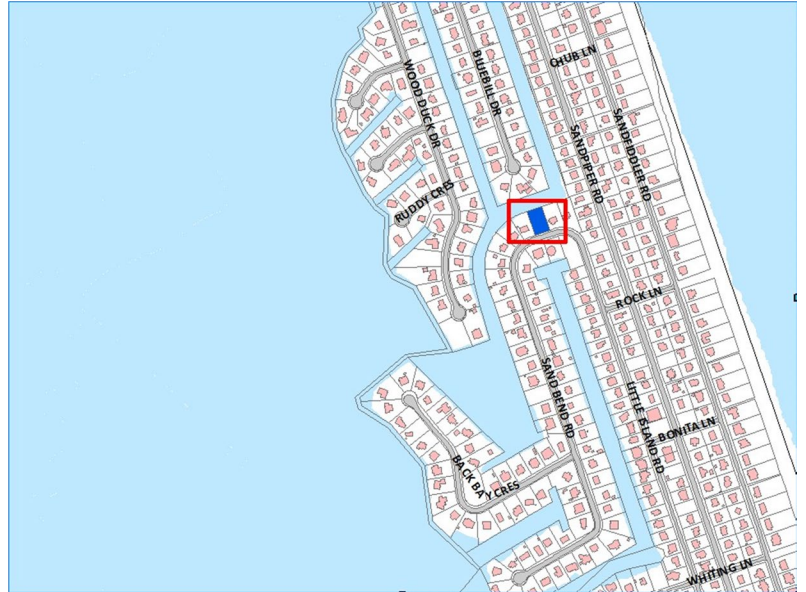
Vegetated: 33 square feet

Overall length of proposed structure: 100 linear feet of bulkhead, 10 linear feet of return wall, 6 linear feet of return wall

Volume of Backfill: 15 cubic yards

Proposed Mitigation and/or Compensation

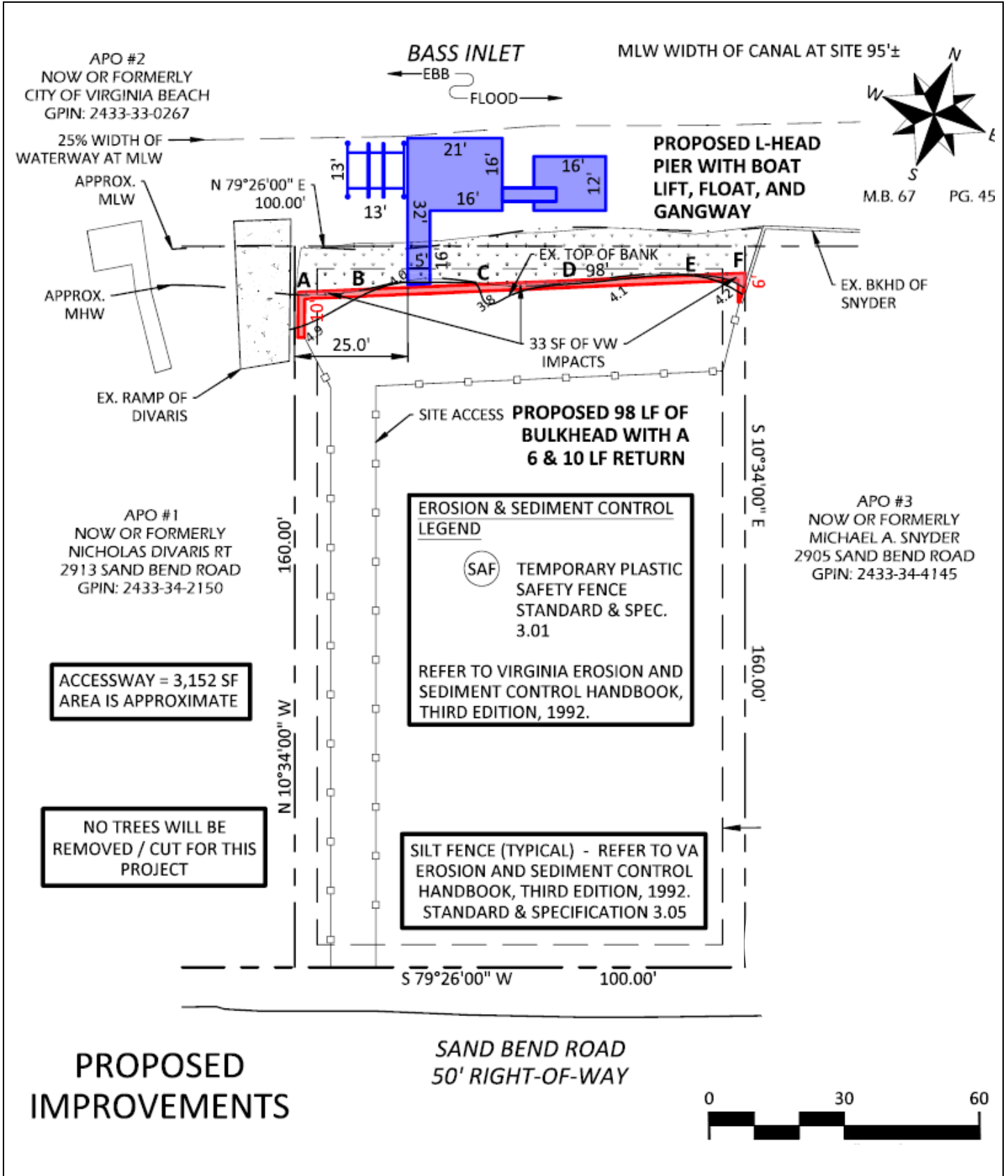
Payment of an in-lieu fee



Site Aerial Map

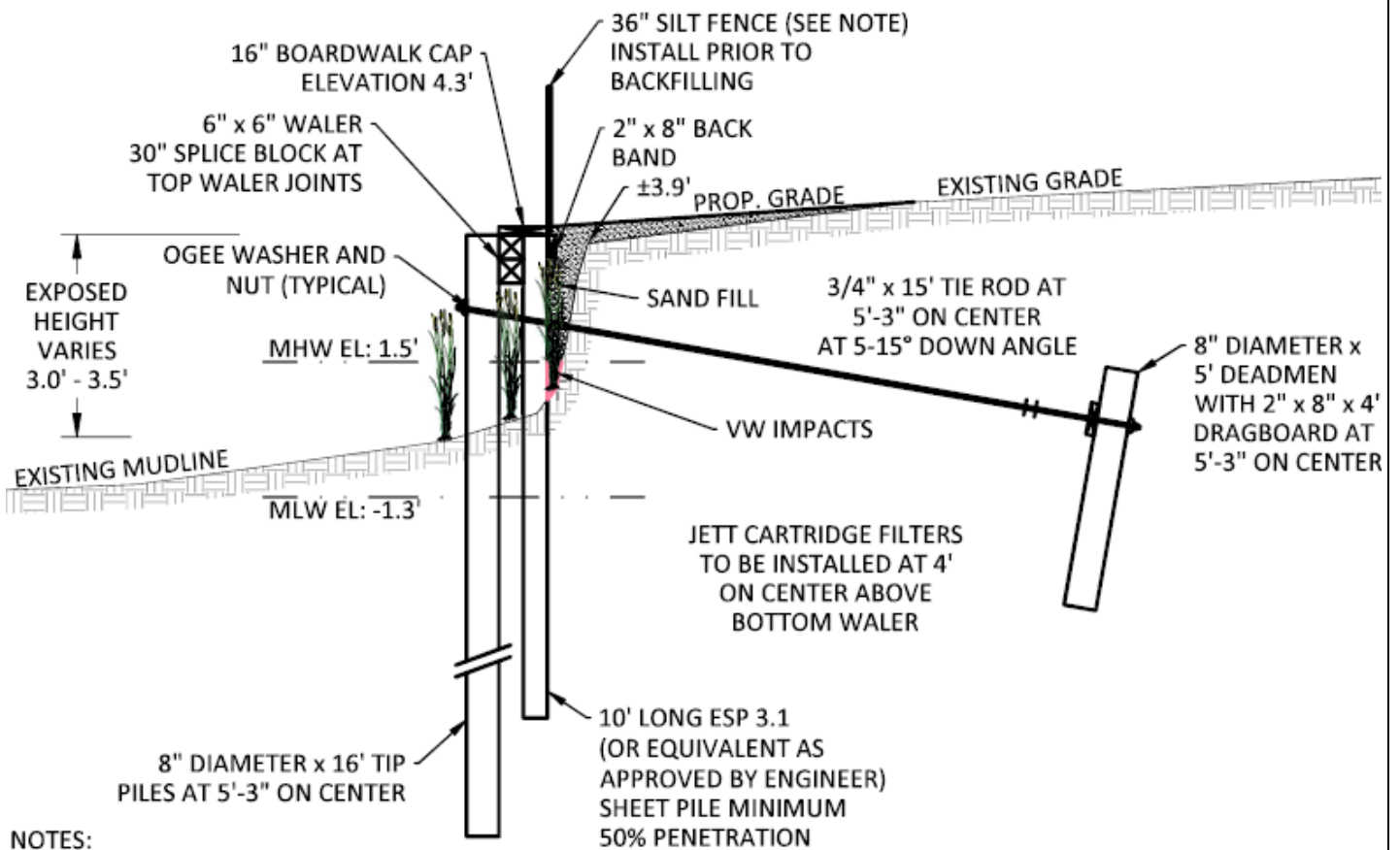


Proposed Improvements



Bulkhead Cross Section: A-B, C-D, E-F

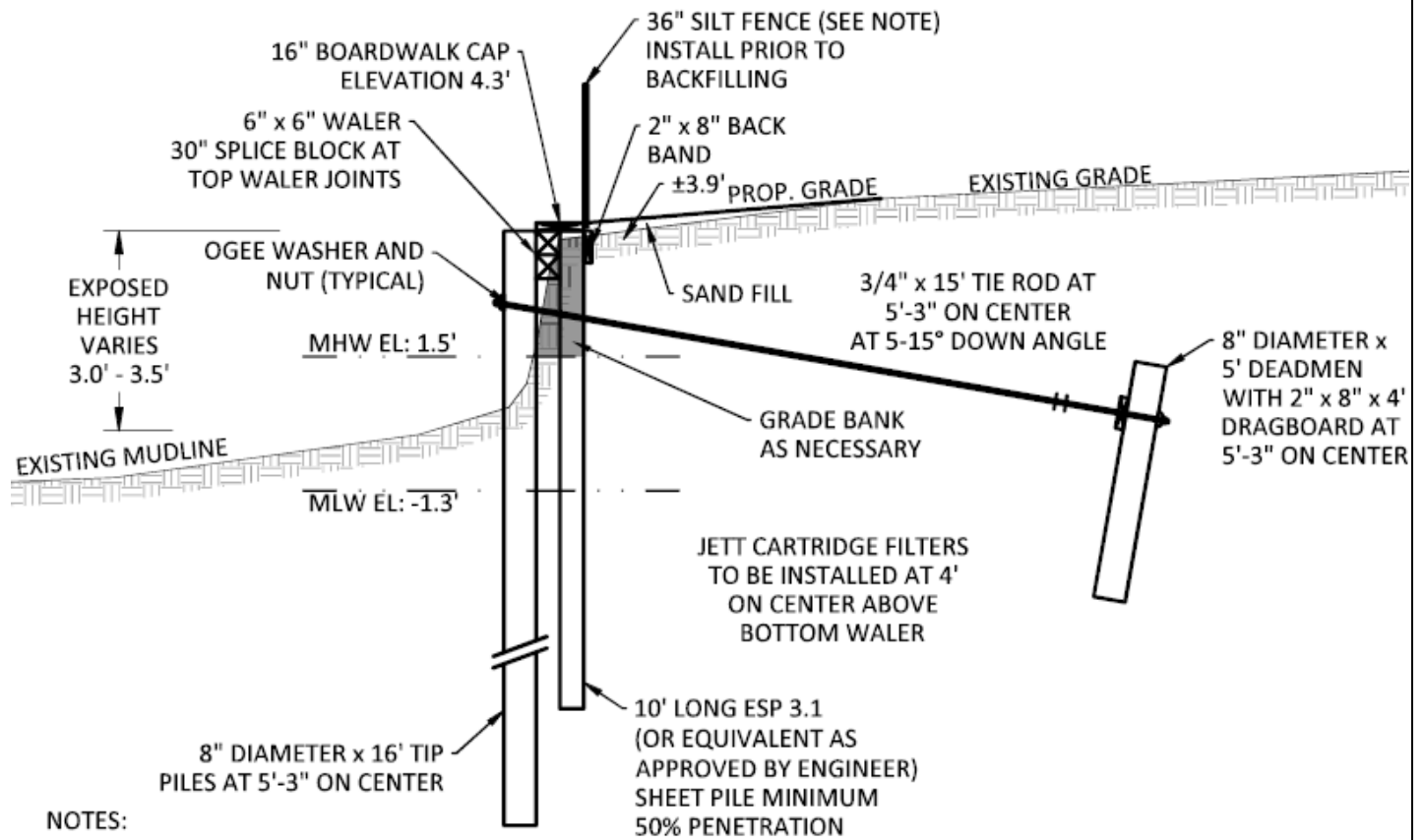
PROPOSED BULKHEAD CROSS SECTION A-B, C-D, E-F



NOTES:

Bulkhead Cross Section: B-C, D-E

PROPOSED BULKHEAD CROSS SECTION B-C, D-E



Site Photos



Site Photos



Wetlands Board Permit History

This property is located in the Southern Rivers Watershed. The applicant plans to develop the site and will submit a site plan for construction of a single-family home to the Development Services Center for review. There are no known recent Wetlands Board actions or waterfront permits found for this property.

Summary of Proposal

The applicant proposes to construct 100 linear feet of vinyl bulkhead and two return walls. The return wall on the western side of the bulkhead will be 10 linear feet long, and the return wall along the eastern end of the bulkhead will be 6 linear feet long. Approximately 15 cubic yards of material will be used for the proposed project. The proposed project will impact 33 square feet of vegetated wetlands. The applicant is proposing to mitigate the wetlands impacts by payment of an in-lieu fee.

Evaluation & Staff Recommendations

The project is in Sandbridge within a man-made canal that connects to North Bay. Staff concurs that the proposed bulkhead is warranted for this property as the shoreline is currently unprotected and exhibiting signs of erosion due to vertical and horizontal instability of a highly compressible organic layer found in the uplands of the shoreline. The applicant's agent indicated that a living shoreline was not feasible for this property due to the topography landward of the shoreline and the shoreline conditions of the adjacent properties.

This property is located in the Floodplain Subject to Special Restrictions (City of Virginia Beach Floodplain Ordinance, Appendix K, Section 4.10). Filling in the Floodplain Subject to Special Restrictions may be allowed, provided that the fill is for a shoreline stabilization project and the following three criteria are met:

1. A Joint Permit Application is submitted.
2. The alignment of the stabilization structure is along the escarpment or in line with adjacent stabilization structures.
3. Fill must be the minimum necessary to support the stabilization project.

The height of the proposed bulkhead is proposed at elevation 4.3 feet (NAVD 88), which is similar to many bulkheads in Sandbridge and does not significantly increase the elevation of the property. Staff is of the opinion that the proposed project meets the criteria of Appendix K, Section 4.10 as the project has been aligned along the escarpment and the proposed fill is limited to the area to allow for a straight alignment of the bulkhead, which is the minimum necessary to support the project. The request to construct the new bulkhead and return walls will not create additional vegetated wetlands. Therefore, to address compensation, Staff supports payment of an in-lieu fee for the vegetated wetlands impacts.

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

1. The proposed project requires an encroachment agreement with the City of Virginia Beach. Such an agreement shall be obtained prior to issuance of a building permit.
2. The L-head platform and appurtenant floating docking platform shall not exceed, in the aggregate, 400 square feet.

3. 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 building permit.

Please be advised that a building permit for the proposed pier and floating dock cannot be obtained until the single-family site plan is approved by the Development Services Center and a building permit is obtained to construct the residence.

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

Richard Calvert
Calvert Marine

Location

1344 Starling Court

GPIN

2418-13-5740

Staff Planner

Heaven Manning

Proposal

To construct a rip rap revetment involving wetlands.

Staff Recommendation

Approval as Submitted

Waterway

Linkhorn Bay

Subdivision

Birdneck Point

Impacts

Vegetated: 115 square feet

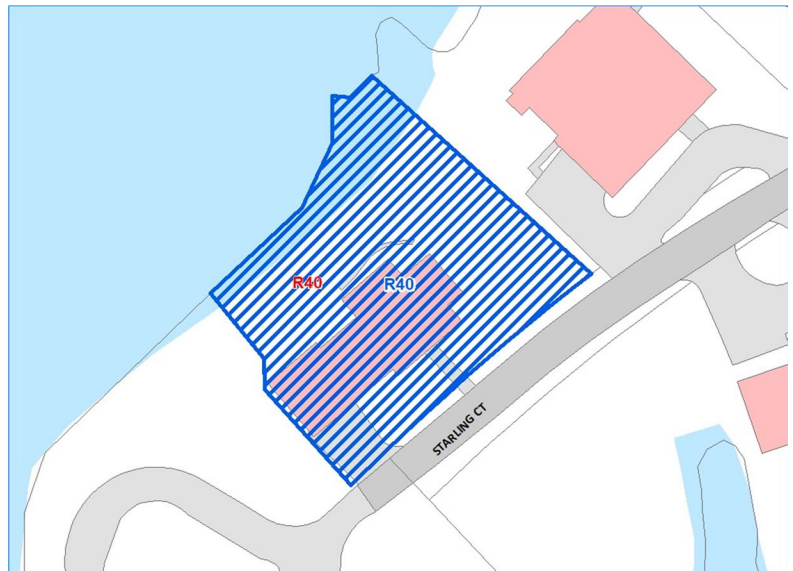
Non-Vegetated: 85 square feet

Subaqueous: 768 square feet

Overall length of proposed structure: 129 linear feet of rip rap

Proposed Mitigation and/or Compensation

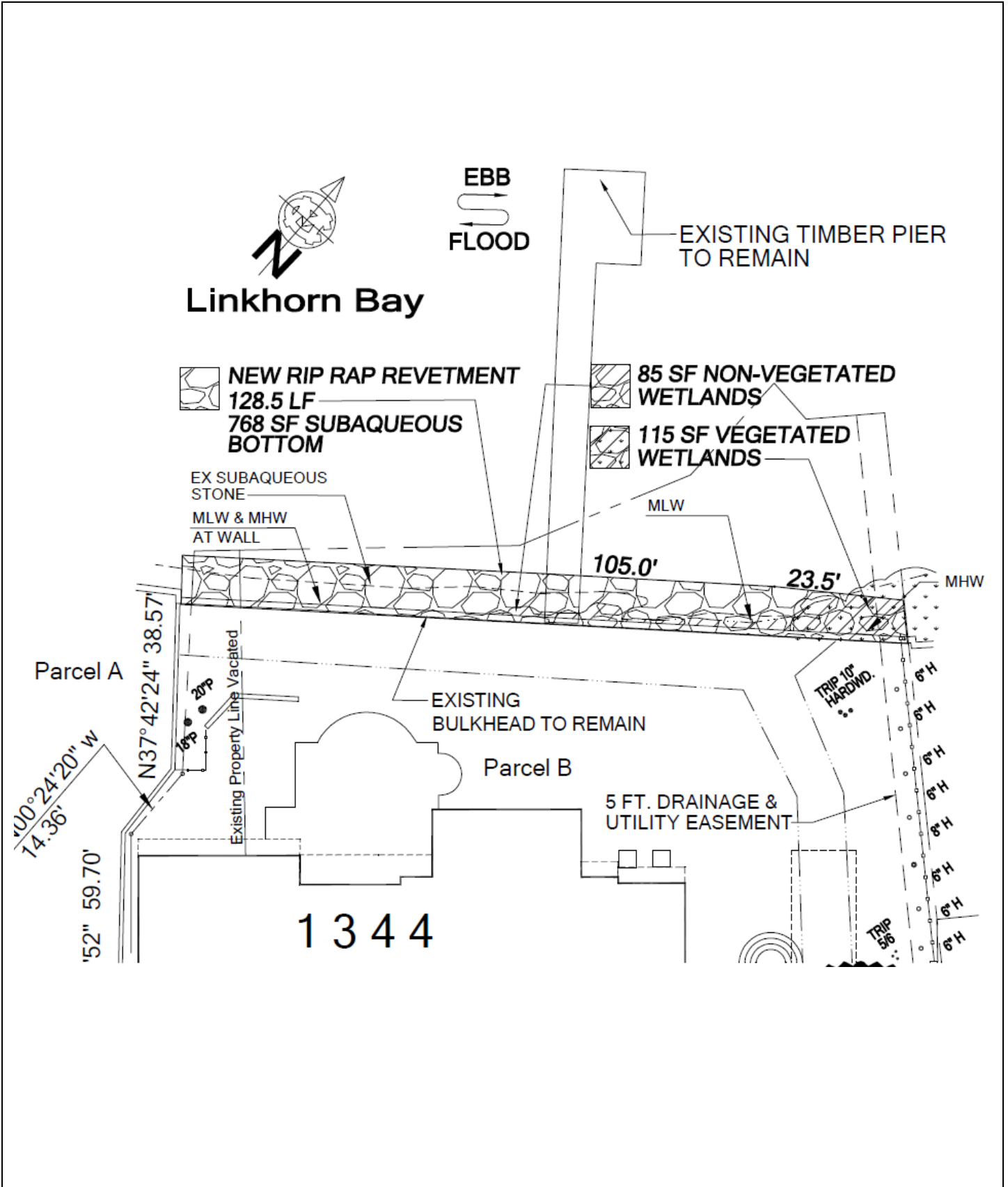
Payment of an in-lieu fee



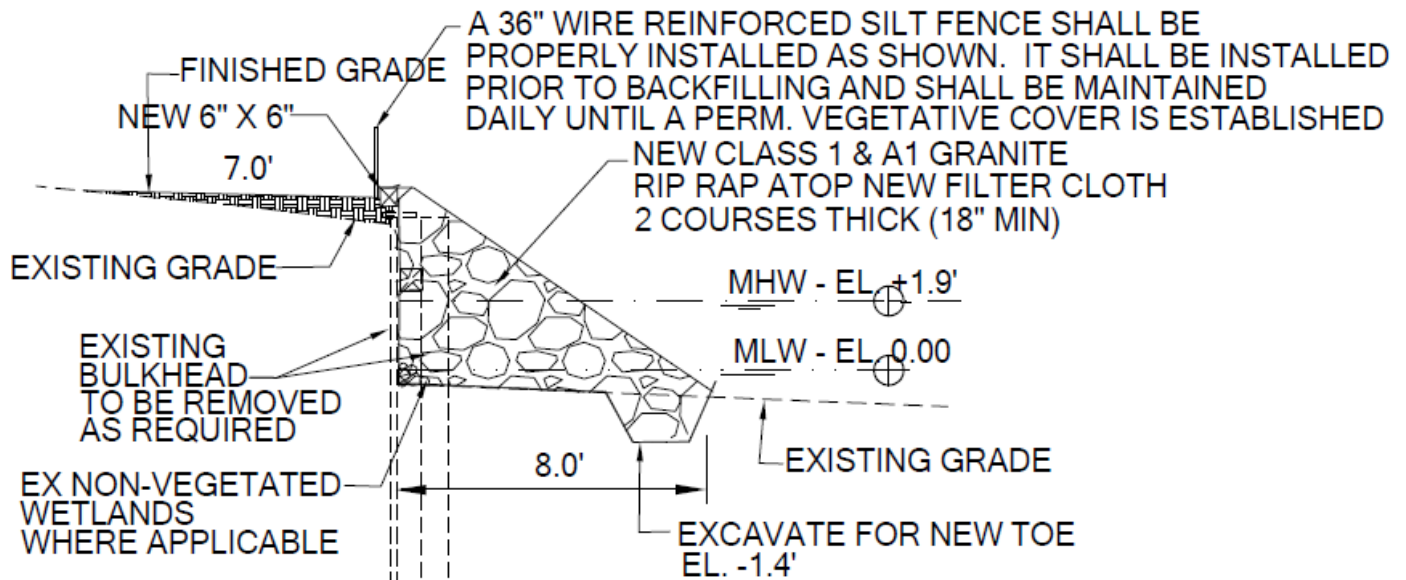
Site Aerial Map



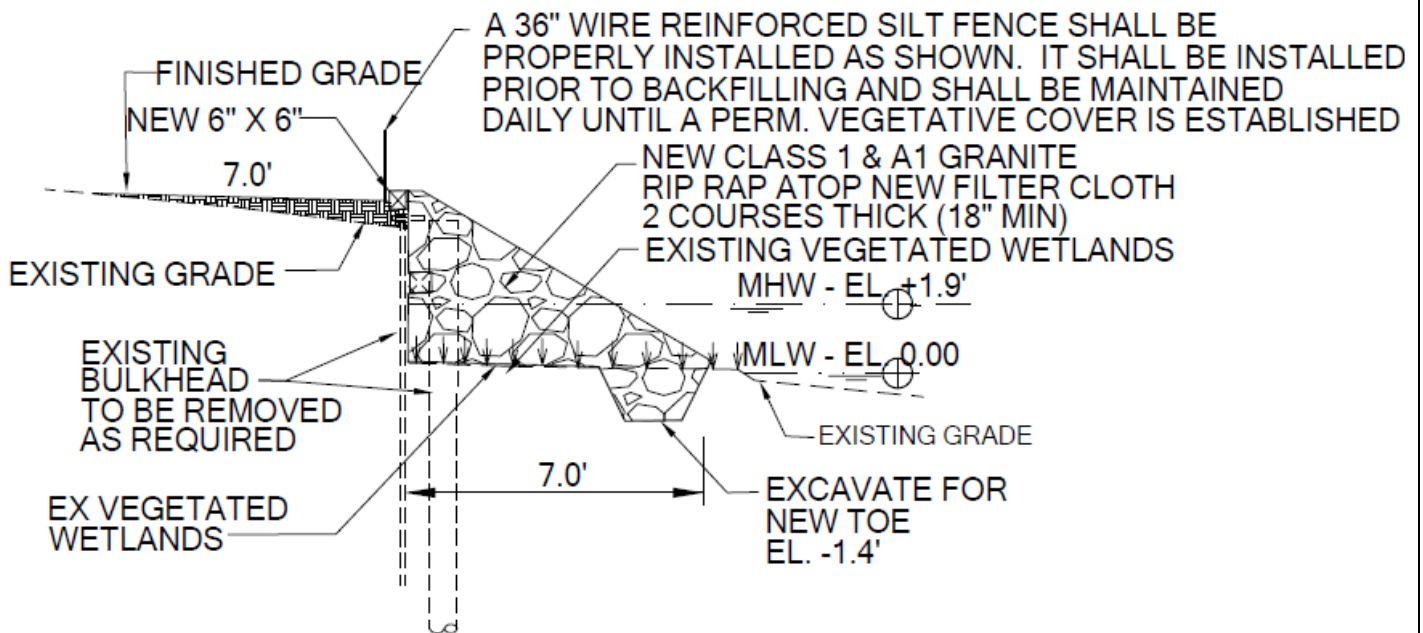
Proposed Improvements



Section Views



TYPICAL SECTION



SECTION AT VEGETATED WETLANDS

Site Photos



Site Photos



Site Photos



CBPA Variances & Wetlands Board Permit History

The property is in the Chesapeake Bay Watershed. The following Chesapeake Bay Preservation Area (CBPA) Ordinance variances were granted to this property.

- A variance to construct a two-story addition, patio and spa, retaining wall and tree removal was granted on November 26, 2007.
- A variance to demolish the existing residence, driveway, walkway and steps and to construct a two-story residence, concrete driveway with parking area, brick patio, walkway and steps was granted on July 25, 2005.
- A variance to construct an addition to the residence and concrete pad for a generator was granted on June 28, 2004.

The following condition was included as part of the 2007 variance request:

- *“If and when the shoreline is hardened, a rip-rap revetment shall be constructed in-lieu of a vertical retaining structure (vinyl, timber or steel bulkhead). The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands. Said condition shall be so noted on the site plan.”*

There are no known recent Wetlands Board actions or waterfront permits found for this property.

Summary of Proposal

The existing bulkhead is starting to show signs of deterioration along the seaward face of the structure. As such, the applicant proposes to install 129 linear feet of rip rap revetment in front of the existing timber bulkhead. The rip rap will consist of Class I and A1 quarry stone. The primary purpose of the rip rap revetment is to reduce erosion along the shoreline while allowing for boating access to the waterway.

As designed, the proposed project will impact 85 square feet of non-vegetated wetlands and 115 square feet of vegetated wetlands. The applicant is proposing to mitigate on-site with 85 square feet of non-vegetated wetlands that will be converted to non-vegetated rock habitat and provide an in-lieu fee payment for mitigation of impacts to vegetated wetlands.

Evaluation & Staff Recommendations

The applicant desires to reinforce the existing timber bulkhead that is currently protecting the property's shoreline by installing 129 linear feet of rip rap channelward of the existing bulkhead. The proposed rip rap will serve to reinforce and prolong the life of the existing bulkhead. In response to the 2007 CBPA variance condition, the applicant's agent indicated that locating the rip rap landward of mean high water would require complete removal of the existing bulkhead. In addition, the excavation required for placing the rip rap behind the bulkhead would encroach on the existing improvements and have a greater impact on the adjacent properties. Therefore, the current location of the rip rap is the preferred alternative.

The applicant's agent indicated that a living shoreline is not feasible for this site due to the topography of the site, the existing improvements on the lot, and shoreline conditions of the adjacent properties. In addition, the property experiences significant fetch and wave action. Staff agrees with the on-site compensation method for the 85 square feet of non-vegetated wetlands impacts conversion to non-vegetated rock habitat and payment of an in-lieu fee for the impacts to vegetated wetlands given the environmental conditions present.

Accordingly, the Department of Planning and Community Development Staff recommends that the application be **approved as submitted**, as shown on the plans titled "Proposed new rip rap revetment" sealed November 29, 2023 and received by the VMRC on November 30, 2023.

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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