

Chesapeake Bay Board

Dec. 11, 2013

7 p.m. Building F

A. Roll Call

B. Minutes

From November 13, 2013 – Board Meeting

C. Public Hearings

1. CBE-14-022 – Trickey/Delightful Gardens – 1592 Harbor Rd – deck or patio
2. CBE-14-045 – Seaworld Parks & Entertainment/VHB – Busch Gardens Italy – concrete deck
3. CBE-14-047 – Carter/Seelmann – 4123 S Riverside – deck and covered porch
4. CBE-14-051 – GS Stonehouse Green Land Sub LLC/Kerr Environmental – Stonehouse Landbay 3 – gravity sewer installation and maintenance easement
5. CBE-14-052 – Nuzzo/Mid-Atlantic Resource Consulting – 7600 Uncles Neck Rd – grading and bank stabilization
6. CBE-14-059 – Hartney/Olsen Fine Homebuilding – 160 Broadmoor – relocation of retaining wall

D. Board Considerations - None

E. Matters of Special Privilege

F. Adjournment

Chesapeake Bay Exception CBE-14-022: 1592 Harbor Road - Trickey

Staff report for the December 11, 2013 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: David Trickey

Location: 1592 Harbor Road, The Governor's Land at Two Rivers
Lot 22, Governor's Land the Harbor
PIN: 4310200022

Lot Size/Zoning: 0.303 ac +/-; R4 Residential Planned Community

Area of Lot in RPA: 0.18 ac +/- (60%)

Watershed: James River, HUC Code JL29

Proposed Activity: Deck or patio

Impervious Cover: Approximately 216 square feet

RPA Encroachment: 216 square feet (seaward 50 ft.)

Brief Summary and Description of Activities

Mr. Don Newsom of Delightful Gardens, on behalf of Mr. David Trickey, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the installation of a deck or patio. The lot was platted in 1994 and the house was constructed soon thereafter. It should be noted that the RPA line and the rear building setback line coincide.

The project entails the construction of a deck or patio, adding 216 sq. ft. of impervious cover. The project also will install a paver walkway, lighting, and fencing. The deck or patio requires Board action for approval, while the remainder of the project is an administrative review. As all of the improvements are within a conservation easement dedicated to the County, written approval will also be required to meet the terms of the easement.

The new deck/patio will extend from an existing deck and be at-grade. The paver walkway will be semi-circular in shape and connect the two sides of the house, then connect to the existing marina dock. Approximately 1/2 of the rear yard will be converted from maintained yard to a more

naturalized, landscaped environment. The required mitigation for the impervious cover is 1 planting unit. The proposed mitigation includes over 30 shrubs, 10 understory trees, and various amounts of groundcover and exceeds the requirements. There is an area of proposed managed turf to remain.

Staff Evaluation

Staff has evaluated the application and exception request for the deck/patio. Staff finds that the application has met the conditions in the Chesapeake Bay Preservation Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board because the deck/patio is considered an accessory structure and is more than the minimum necessary to afford relief. Therefore, the exception request must be considered by the Board following public hearing under the formal exception process. The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for the construction of the above stated improvements.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a *County Sensitive Area Activity Application* and a mitigation planting plan, which are included in the case report packet.

Consideration by the Chesapeake Bay Board

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-14-022 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-14-022 are included for the Board's use and decision.

Staff Recommendations

Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be **slight** for the proposed development and that the proposed mitigation measures meet standard mitigation requirements. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and
2. County must receive from the Applicant a written copy of any approvals from the Governor's Land Foundation prior to starting construction; and
3. Applicant shall follow the County's Pervious Paver Block System Guidelines for installation of the walkway paver system; and
4. Surety of \$1000.00 will be required in a form acceptable to the County Attorney's office to guarantee the mitigation plantings; and
5. The applicant shall implement the Turf Love (or similar nutrient management plan) program for the remaining turf in the RPA and give a copy of all recommendations to the County; and
6. This exception request approval shall become null and void if construction has not begun by December 11, 2014; and
7. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

Staff Report prepared by:



Michael D. Woolson
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package

Chesapeake Bay Exception CBE-14-045: Busch Gardens, Italy Deck

Staff report for the December 11, 2013 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Mrs. Suzy Cheely, SeaWorld Parks & Entertainment, Busch Gardens Williamsburg

Location: 1 Busch Gardens Boulevard

PIN: 5140100009

Lot Size/Zoning: 328 acres; M-1 Limited Business/Industrial

Area of Lot in RPA: 130 ac +/- (39%)

Watershed: James River, HUC Code JL35

Proposed Activity: At grade concrete deck

Proposed Impacts

Impervious Cover: Approximately 1,580 square feet

RPA Encroachment: Approximately 1,580 square feet (landward 50ft. RPA buffer)

Brief Summary and Description of Activities

Mr. Piotr Swietuchowski of VHB, Inc., on behalf of Mrs. Suzy Cheely and Busch Gardens Williamsburg, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the installation of an at-grade concrete deck and associated perimeter wall. The majority of the park was built prior to the adoption of the original Ordinance (1990) and has had several administrative and formal Board exceptions approved.

The two most recent administrative approvals were for the replacement of the floating bridge crossing the Rhine River (CBE-14-005) and upgrading parking lot drainage outfalls in the England

parking lot (CBE-13-107). The most recent Board approval was for the ride Verbolten (CBE-11-078).

This project provide additional outdoor seating near the Festa Italia section of Busch Gardens in an area that can get very congested due to narrow walkways. This area will be accessed by the removal of a section of concrete wall and metal railings. The project is located on top of a knoll and will not disturb the steep slopes adjacent to the Rhine River. All additional stormwater that is generated from the new deck will be tied into the existing stormwater drainage system and will discharge into the Rhine River BMP (County BMP # JR-004). The mitigation required for this impact is 4 units (4 canopy trees, 8 understory trees, 12 shrubs). The mitigation proposal is for 4 planting units and will be planted along the perimeter of the project.

Staff Evaluation

Staff has evaluated the application and exception request for the at-grade concrete deck and associated perimeter wall. Staff finds that the application has met the conditions in the Chesapeake Bay Preservation Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board because these items are accessory structures. Therefore, the exception request must be considered by the Board following public hearing under the formal exception process. The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for the construction of the above stated improvements.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a *County Sensitive Area Activity Application* and has explained the project in great detail in the various attachments.

Consideration by the Chesapeake Bay Board

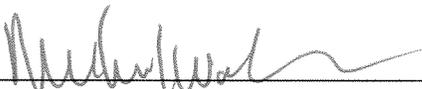
The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-14-045 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-14-045 are included for the Board's use and decision.

Staff Recommendations

Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be **moderate** for the proposed development. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions applied:

1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and
2. Surety of \$2000 will be required in a form acceptable to the County Attorney's office; and
3. This exception request approval shall become null and void if construction has not begun by December 11, 2014; and
4. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

Staff Report prepared by:



Michael Woolson
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package

Chesapeake Bay Exception CBE-14-047: 4123 South Riverside Drive

Staff report for the December 11, 2013 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Wayne and Sharon Carter

Location: 4123 South Riverside Drive, Lot 11, Section 8, Chickahominy Haven

PIN: 1910900011

Lot Size/Zoning: 0.36 ac +/-; R2 General Residential

Area of Lot in RPA: 0.23 ac +/- (64%)

Watershed: Chickahominy River, HUC Code JL28

Proposed Activity: Covered Porch

Proposed Impacts

Impervious Cover: Approximately 400 square feet

RPA Encroachment: Approximately 400 square feet (landward 50ft. RPA buffer)

Brief Summary and Description of Activities

Mr. and Mrs. Carter have applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the installation of a covered porch. The lot was platted prior to the adoption of the Ordinance (1990). The house was built in 2001 with the RPA shown on the building plan. An administrative waiver was granted to build the house in the RPA. The Carter's also received a wetlands permit to build bulkhead and riprap revetment on May 9, 2001 (W-04-01, VMRC 01-0356).

This project will construct a covered porch in the RPA, centered on the rear of the home. The covered porch will extend 12 feet closer to the Chickahominy River and will be 32 feet wide. The new construction is proposed to be built in a FEMA floodplain. Although the Carter's do not plan on making the covered porch part of the livable space of the home, a future homeowner may convert to this use. In order to prevent future conversion problems, staff recommends that the new

construction be built two feet above the base flood elevation and a revised Flood Elevation Certificate prepared. The base flood elevation in this area is 7.5 ft. MSL. The required planting mitigation for the proposed impervious cover is 1 planting unit. The Carter's are proposing 1 canopy tree and 3 shrubs, which meets the mitigation requirements.

Staff Evaluation

Staff has evaluated the application and exception request for the covered porch as described above. Staff finds that the application has met the conditions in the Chesapeake Bay Preservation Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board because this item increases impacts further into the RPA buffer. Therefore, the exception request must be considered by the Board following public hearing under the formal exception process. The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for the construction of the covered porch and mitigation.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a *County Sensitive Area Activity Application* and has explained the project in great detail in the various attachments.

Consideration by the Chesapeake Bay Board

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-14-047 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-14-047 are included for the Board's use and decision.

Staff Recommendations

Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be **moderate** for the proposed development. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions applied:

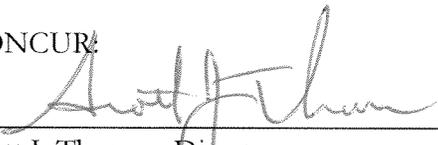
1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and

2. Surety of \$250 will be required in a form acceptable to the County Attorney's office to guarantee the mitigation plantings and Condition #3 and #4 below; and
3. The applicant shall build the new structure at an elevation of 9.5 ft MSL; and
4. The applicant have a revised/updated Flood Elevation Certificate prepared and submitted to staff; and
5. This exception request approval shall become null and void if construction has not begun by December 11, 2014; and
6. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

Staff Report prepared by:



Michael Woolson
Senior Watershed Planner

CONCUR


Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package

Chesapeake Bay Exception CBE-14-051: Stonehouse - Land Bay 3

Staff report for the December 11, 2013 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Mr. Mike Etchemendy, Greenfield Partners, LLC

Location: 9235 Fieldstone Parkway, Toano, Virginia 23168
Pin: 0440100029: GS Stonehouse owner

9340 Fieldstone Parkway, Toano, Virginia 23168
Pin: 0440200002: 2J Investments LLC, owner

9315 Fieldstone Parkway, Toano, Virginia 23168
Pin: 0440100033: 2J Investments, LLC owner

9683 Mill Pond Run, Toano, Virginia 23168
Pin: 0530100017: The Association at Stonehouse, Inc. owner
(Homeowners Association)

Parcel Size/Zoning: 41 +/- acres, PUD Residential and PUD Commercial

Percent of Parcels in RPA: 34% (14 +/- acres)

Watershed: Ware Creek, HUC Code YO62

Proposed Activity: Gravity sanitary sewer trunk line and permanent maintenance easement

Proposed Impacts

Sanitary Sewer RPA Encroachments:

Permanent encroachment:	24,004 square feet (0.55 ac.)
Temporary encroachment:	16,266 square feet (0.37 ac.)
Total:	40,270 square feet (0.92 ac.)

Brief Summary and Description of Activities

Kerr Environmental, on behalf of Greenfield Partners, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the installation of a gravity sanitary sewer and permanent maintenance easement. The submitted Water Quality Impact Assessment contains information pertaining to both administrative and Board action. The impacts associated with the BMPs, specifically sections 3.1.2, 3.1.3, and 3.1.4, require administrative approval due to the fact that they are either water dependent features, routine maintenance of BMPs, and/or alterations or improvements to an existing BMP structure that does not degrade the quality of surface water discharge. The impacts associated with the sanitary sewer require Board approval as they are not built by a public service authority. The remainder of this staff report will discuss the proposed sanitary sewer impacts.

The Stonehouse development received a US Army Corps of Engineers permit to construct a sanitary sewer pump station and associated sewer lines (2,300 linear feet) in 1997. The pump station and approximately 1,030 lf of sewer lines have been constructed to date and the original permit has expired. Furthermore, the Stonehouse development has undergone several changes in ownership during this time as well. Several options have been pursued in the design of this land bay and the current layout is the one chosen by the owner to present to the various agencies for their respective permits. The subdivision plan for Land Bay 3 has been approved by the County under plan number S-048-08.

On December 9, 2009, the Chesapeake Bay Board approved an exception (CBE-10-032) for encroachment into (and) the use of the RPA for impacts associated with the installation of a gravity sewer line and permanent maintenance easement. On or about February 25, 2010, it was discovered by the applicant that there was an error in the approved WQIA between what was shown on the plan sheet for mitigation area and what was transferred to a table (Table 3 – Table of Mitigation Offered). The Board approved changes to the original approval at the April 14, 2010 meeting. In addition, the Chesapeake Bay Board has granted two one-year extensions to CBE-10-032 with the latest extension expiring April 11, 2013.

In both approvals and associated extensions, there was an offsite mitigation component proposed by the applicant to revegetate an area near an existing BMP that was impacted during the construction of the BMP. In the intervening six years since the original proposal, the area has revegetated nicely through natural succession. It is staff's opinion that it no longer makes sense to remove the existing woody vegetation only to replant with other plant material for mitigation purposes. Therefore the offsite mitigation component of the proposal is not acceptable. The offsite area to be replanted was 3,480 sq. ft. and staff suggests that an additional payment of \$2,000 be made into the County established Chesapeake Bay Mitigation Fund to offset the loss of this mitigation. This will bring the total payment into the Fund to \$8,734.70.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is a gravity sewer line and permanent maintenance easement that will provide service to this land bay, serve as a future connection for an adjacent, undeveloped parcel, and will connect to an existing gravity sewer offsite and pump station. Staff finds that the application has met the

conditions in the Chesapeake Bay Preservation Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. A WQIA was provided on October 29, 2013 and is the same WQIA as the original one submitted on October 1, 2009, as the project has not changed since approved by the county. Based on staff review and the previous discussion, the applicant proposes to mitigate for RPA impacts by:

- Replanting the temporary construction easement (16,266 sf), and
- Preserve 14,810 sf of non-RPA area, adjacent to the RPA within Land Bay 3, and
- Payment of \$8,734.70 into the Chesapeake Bay Mitigation Fund as mitigation for the remaining RPA impact.

Consideration by the Chesapeake Bay Board

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-14-051 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-14-051 are included for the Board's use and decision.

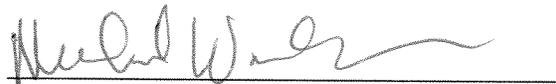
Staff Recommendations

Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be **moderate** for the proposed development. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions applied:

1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and
2. Full implementation of the approved plan of development County Plan No. S-048-08; and
3. Replant the temporary construction easement (16,266 sf); and
4. Surety of \$5000 will be required in a form acceptable to the County Attorney's office to guarantee the replanting; and
5. Preserve 14,810 sf of non-RPA in Land Bay 3. This area shall be placed within a conservation easement and dedicated to James City County; and

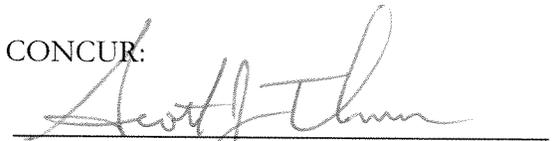
6. Payment of \$8,734.70 into the County established Chesapeake Bay Mitigation Fund; and
7. Signed letters of permission shall be submitted to the Engineering and Resource Protection Division for all offsite property owners affected by this proposal prior to work commencing. This includes 2J Investments and Stonehouse HOA; and
8. All improvements on the Stonehouse HOA property that are damaged by the installation of the sanitary sewer line shall be replaced, including landscape materials, fencing, and sidewalk/trail; and
9. This exception request approval shall become null and void if construction has not begun by December 11, 2014.
10. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

Staff Report prepared by:



Michael Woolson
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package

Chesapeake Bay Exception CBE-14-052: 7600 Uncle's Neck Road

Staff report for the December 11, 2013 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Richard and Myra Nuzzo

Location: 7600 Uncle's Neck Road, Lot 25, River's Bend at Uncle's Neck

PIN: 2010200025

Lot Size/Zoning: 3.7 ac +/-; A1 General Agricultural

Area of Lot in RPA: 0.83 ac +/- (22%)

Watershed: Chickahominy River, HUC Code JL28

Proposed Activity: Grading and bank stabilization

Proposed Impacts

Impervious Cover: Zero

RPA Encroachment: Approximately 3,000 square feet

Brief Summary and Description of Activities

Richard and Myra Nuzzo have applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer to stabilize a severely eroding bank. The lot was platted in 2008, after the adoption of the revised Ordinance (2004). The Nuzzo's have plans to build a house on the property and want to complete the bank stabilization activities before the house and associated structures restrict heavy equipment on the property.

This project will eliminate a steep, eroding and unstable slope which is adjacent to the Chickahominy River by regrading the slope to a more stable 3H:1V slope. The toe of the new slope will begin at the mean high water elevation, create a bench approximately 4 feet in width, and then continue from that elevation at a 3H:1V slope upward until existing grade is reached. The Nuzzo's are proposing to revegetate the disturbance in the RPA with native shrubs. The required mitigation is 7 planting units (7 canopy trees, 14 understory trees, and 21 shrubs). The mitigation proposal is

150 shrubs planted on the 3H:1V slope plus approximately 600 spartina patens planted on the 4 foot wide bench at the bottom toe of the slope. The entire disturbed area will be mulched with hardwood mulch. The mitigation proposal exceeds requirements.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for bank stabilization. Staff finds that the application has met the conditions in the Chesapeake Bay Preservation Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board because of the excessive disturbance of the RPA. Therefore, the exception request must be considered by the Board following public hearing under the formal exception process. The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for the construction of the above stated improvements.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a *County Sensitive Area Activity Application* and has explained the project in great detail in the various attachments.

Consideration by the Chesapeake Bay Board

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-14-052 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-14-052 are included for the Board's use and decision.

Staff Recommendations

Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be **severe** for the proposed development. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions applied:

1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and

2. Surety of \$5000 will be required in a form acceptable to the County Attorney's office to guarantee planting mitigation; and
3. A land disturbing permit and Virginia Stormwater Management Permit (VSMP) are required and proof of VSMP must be submitted to the Engineering and Resource Protection Division prior to construction; and
4. A pre-construction meeting shall be held on-site with the contractor prior to construction; and
5. This exception request approval shall become null and void if construction has not begun by December 11, 2014; and
6. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

Staff Report prepared by:



Michael Woolson
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package

Chesapeake Bay Exception CBE-14-059: 160 Broadmoor - Hartney

Staff report for the December 11, 2013 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Ardis and James Hartney

Agent: Olsen Fine Home Building LLC – Beverly Olsen

Location: 160 Broadmoor, Ford's Colony
Lot 57, Section 9B Ford's Colony
PIN: 3720700057

Lot Size / Zoning: 0.56 ac +/-; R4

Area of Lot in RPA: 0.34 ac +/- (70%)

Watershed: Powhatan Creek, subwatershed 209 (HUC Code JL31)

Proposed Activity: Construction of retaining walls

Impervious Area: Approximately 150 square feet

RPA Encroachment: 150 sq. ft. +/- seaward

Brief Summary and Description of Activities

Ms. Beverly Olsen, on behalf of Ardis and James Hartney, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for construction of a three retaining walls on their property. The project is located at 160 Broadmoor within the Fords Colony subdivision. The lot was platted following the 1990 adoption of the Chesapeake Bay Preservation Ordinance but prior to the 2004 revisions to the Ordinance. The proposed improvements are within the seaward 50 foot RPA buffer.

Previously, this case was before the Board (CBE-13-037) for the construction of the home within the RPA buffer. At that time, a retaining wall was shown and approved. However, in the course of construction and grading for that construction, the location of the retaining wall was deemed not necessary in the location shown and approved. The applicant wishes to move the wall, but move it further into the seaward RPA buffer. It is staff's policy that approved impacts may be field adjusted slightly. If those field changes result in less impact to the RPA buffer than what was approved by

the Board, then staff could process the revision administratively. However, as in this case, if the changes result in more impacts or impacts further into the RPA buffer, than those changes must be reviewed and approved by the Board again.

Based on staff review of County records, the lot was recorded following the adoption of the Chesapeake Bay Preservation Ordinance. As the retaining walls are located within the RPA buffer and are accessory structures, this application cannot be administratively reviewed. Therefore in accordance with Section 23-14 of the Ordinance an exception request must be considered by the Board following public hearing under the formal exception process. The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for construction of retaining walls. The proposed mitigation plan includes all of the planting requirements of CBE-13-037 plus an additional planting unit.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a *County Sensitive Area Activity Application*.

Consideration by the Chesapeake Bay Board

The issue before the Board is the construction of retaining walls that will create approximately 150 square feet of additional impervious area within the seaward RPA buffer. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the five (5) criteria outlined in Section 23-14 (c) of the Ordinance.

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-14-059 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-14-059 are included for the Board's use and decision.

Staff Recommendations

Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be **slight** for the proposed development and that the proposed mitigation measures meet standard mitigation requirements. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

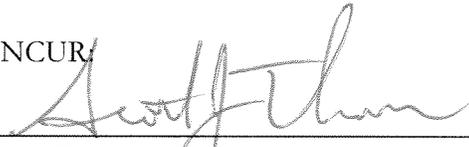
1. The applicant must obtain all other necessary federal, state, and local permits as required for the project; and
2. County must receive from the Applicant a written copy of any approvals from the Ford's Colony HOA and/or ECC; and
3. This exception request approval shall become null and void if construction has not begun by December 11, 2014; and
4. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

Staff Report prepared by:



Michael Woolson
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package