

Chesapeake Bay Board Building F

Feb. 11, 2015 - 7 p.m.

A. Roll Call

B. Minutes

From January 14, 2015 – Board Meeting

C. Public Hearings

1. CBE-15-028. Continued from 12/10/14 and 1/14/15: Husslein – 153 Thomas Dale
2. CBE-15-052. : Xanterra Kingsmill – retaining wall for River Course 13th hole tee box repair
3. CBE-15-051. Allen Parker Builders, Inc – 129 Montrose - Single family dwelling

D. Board Considerations

E. Matters of Special Privilege

F. Adjournment

Chesapeake Bay Exception CBE-15-028: 153 Thomas Dale – Husslein Deferral

Staff report for the February 11, 2015 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: Klaus Husslein

Location: 153 Thomas Dale, Kingsmill
Fairfax woods, Lot 29
PIN: 5030700029

Lot Size/Zoning: 0.73 ac +/-; R4 -Residential Planned Community

Area of Lot in RPA: 0.38 ac +/- (52%)

Watershed: College Creek, HUC Code JL34

Proposed Activity: Deck addition, gazebo, ~~retaining wall~~

Impervious Cover: Approximately ~~680~~ 502 square feet

RPA Encroachment: ~~680~~ 502 square feet (landward 50 ft)

Brief Summary and Description of Activities

For the December 10, 2014 Chesapeake Bay board meeting, Mr. Klaus Husslein applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for 680 square feet of encroachment into the RPA buffer for the installation of a deck, gazebo, and a retaining wall. The lot was platted prior to the adoption of the Ordinance and the house built in 1986.

The original proposal was for the construction of a 29ft x 20ft deck addition, a 12ft hexagonal gazebo and a retaining wall approximately 30ft in length. Approximately 18” of fill was proposed to be placed behind the retaining wall. The combination of all these features added an additional 680 sq. ft. of impervious cover to the lot. The existing gazebo has structural issues and will be demolished. A new one was proposed to be built further away from the RPA.

The new proposal is for the construction of a 29ft x 16ft deck addition that ties the two existing decks together. A new 10ft hexagonal gazebo will replace the existing 7ft hexagonal gazebo, which

has structural issues. The new proposal reduces the overall impervious cover from the original proposal by 178 sq. ft.

Required mitigation for the total impervious cover includes 3 inches of gravel under the existing and proposed decks plus one (1) standard mitigation planting unit. A planting unit consists of 1 canopy tree, 2 understory trees, and 3 shrubs. Mr. Husslein proposes to install 8 shrubs as mitigation plantings adjacent to the deck expansion and gazebo.

Staff Evaluation

Staff has evaluated the application and exception request. Staff finds that the applicant did reduce the size of the proposed deck and provided a mitigation plan, both items which were discussed at the December 10, 2014 Board meeting. Staff also 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 and gazebo are accessory structures within 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* which is included in the case report packet and a mitigation plan.

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-15-028 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-15-028 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 **moderate** for the proposed development and that the proposed mitigation measures exceed standard mitigation requirements. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

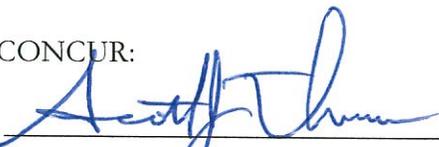
1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and
2. Surety of \$10,00.00 will be required in a form acceptable to the County Attorney's office to guarantee the mitigation (plants and gravel); and
3. This exception request approval shall become null and void if construction has not begun by February 11, 2016; 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-15-052: Kingsmill Resort
13th Hole, Kingsmill River Course**

Staff report for the February 11, 2015 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 them 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. Kevin Kolda – Xanterra, Kingsmill Resort

Land Owner: Xanterra Kingsmill LLC

Location: 1010 Kingsmill Road, behind 23 Yeardley’s Grant
adjacent to Kingsmill Pond

Parcel: Kingsmill River Course, 13th hole

PIN: 5030100001

Lot Size: 188 acres +/-

RPA Area on Lot: 100 % of project

Watershed: College Creek (HUC Code JL34)

Proposed Activity: Repair of an existing tee box structure that has experienced catastrophic failure by replacing deck structure with retaining wall and fill.

Proposed Impacts

Impervious Area: 60 square feet (approximate), retaining wall

RPA Encroachment: No further RPA encroachment from existing condition. Original golf course hole predates Chesapeake Bay Preservation Ordinance and is considered a non-conforming use.

Description of Activities

Mr. Kevin Kolda of Xanterra/Kingsmill Resort has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the removal of a

failed deck structure that the 13th hole tee box was built upon and replacing it with a retaining wall structure and associated fill. The retaining wall height ranges from 5 to 8 feet and has a parallel split rail fence along the top of the wall as a protective safety feature. The retaining wall will create approximately 60 square feet of impervious cover. The standard mitigation rate for this impact would be 3 shrubs. At the base of the wall, there will be between 12 and 15 native shrubs planted as mitigation for the impact from the retaining wall. The retaining wall detail shows a drainage system behind the face of the wall and an underdrain that will daylight near the pond. It is proposed that the mitigation planting be planted near, adjacent to and downhill of the underdrain outfall.

Background of Parcel

The original deck structure and golf course in general are classified as noncomplying structures and when there are modifications or alterations, they are handled under Section 23-12 of the Chesapeake Bay Preservation Ordinance, Waivers for noncomplying structure. Typically this is an administrative process. In this particular case, the noncomplying structure is being removed and replaced with a different structure and must be approved by the Chesapeake Bay Board because the proposed construction is located within the RPA buffer.

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 the construction of a retaining wall for the Kingsmill River Course 13th hole tee box.

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 a retaining wall at the 13th hole tee box on the Kingsmill River Course that creates approximately 60 square feet of 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 board 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 Board is to fully consider Chesapeake Bay Exception CBE-15-052 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 denial of Chesapeake Bay Exception CBE-15-052 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 minimal for the proposed development and that the proposed mitigation measures exceed the standard mitigation requirements by a factor of 4. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

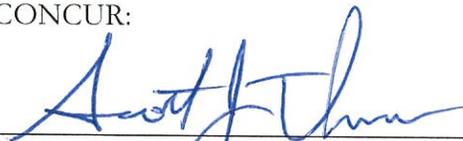
1. The applicant must obtain all other necessary local permits as required for the project, including a building permit from the County Building Safety and Permits Division for the construction of the retaining wall; and
2. Surety of \$500.00 will be required in a form acceptable to the County Attorney's office, to guarantee the mitigation plantings; and
3. This exception request approval shall become null and void if construction has not begun by February 11, 2016; 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: Sensitive Area Activity Application w/plan

FEB 11 2015

**Chesapeake Bay Exception CBE-15-051: 129 Montrose
Allen Parker Builder**

Staff report for the February 11, 2015 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 them 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: Allen Parker, Allen Parker Builder
Land Owner: Allen Parker
Location: 129 Montrose
Parcel: Section 2, Lot 166, Ford's Colony
PIN: 3720200166
Lot Size: 0.487 acres
RPA Area on Lot: 0.29 acres/ 60% of the lot
Watershed: Powhatan Creek, nontidal mainstem subwatershed (HUC Code JL31)
Proposed Activity: Construction of single family home with attached deck

Proposed Impacts

Impervious Area: 2,715 square feet (approximate)
RPA Encroachment: 400 square feet (approximate) to the seaward 50 foot RPA buffer
2,315 square feet (approximate) landward 50 foot RPA buffer

Description of Activities

Mr. Allen Parker, the property owner, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the construction of a single family home and attached deck. The project is located at 129 Montrose within the Ford's Colony subdivision. The lot was platted in 1985 prior to the adoption of the Chesapeake Bay Preservation Ordinance. The proposed improvements are within both the seaward and landward 50 foot RPA buffer zones. The required mitigation for this project is seven (7) County standard

mitigation planting units (1 unit = 1 canopy tree, 2 understory trees, and 3 shrubs per every 400 sq. ft. of impervious cover) plus 3" of gravel underlain with filter fabric under the deck. A mitigation plan that fully complies with the mitigation requirements will be submitted at a later date to be reviewed and approved by staff.

Background of Parcel

Based on staff review of County records, the lot was recorded before the 1990 Chesapeake Bay Preservation Ordinance. As the proposed construction is located within the seaward 50 foot RPA buffer, it 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 the construction of the single family home and attached deck.

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 the single family home and attached deck that will create approximately 2,715 square feet of impervious area within the landward and 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 board 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 Board is to fully consider Chesapeake Bay Exception CBE-15-051 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 denial of Chesapeake Bay Exception CBE-15-051 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 moderate 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 local permits as required for the project; and
2. Surety of \$7,000 will be required in a form acceptable to the County Attorney's office to guarantee the mitigation plan and plantings prior to a clearing permit being issued by the County; and
3. This exception request approval shall become null and void if construction has not begun by February 11, 2016; 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: Sensitive Area Activity Application