

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD
MINUTES
January 11, 2012**

A. ROLL CALL

ABSENT

David Gussman – Chair
William Apperson
John Hughes
Larry Waltrip
Charles Roadley

OTHERS PRESENT

County Staff (Staff)

The responsibility of this Board is to carry out locally the Commonwealth policy to protect against and minimize pollution and deposition of sediment in wetlands, streams, and lakes in James City County, which are tributaries of the Chesapeake Bay.

B. MINUTES

The December 14, 2011 Board Meeting minutes were approved as written.

C. PUBLIC HEARINGS

1. CBE-12-055: AES/JCC Housing – Forest Heights Neighborhood Improvements

Michael Majdeski, Senior Inspector presented the following case information:

Existing Site Data & Information

Applicant:	AES Consulting Engineers – Aaron Small
Project Developer:	James City County Office of Housing and Community Development
Impact Location:	6001 Richmond Road Williamsburg, VA 23188 PIN: 3220100085: James City County, owner 140 Neighbors Drive Williamsburg, VA 23188 PIN: 3220100116: Mr. Levi Wallace, owner 138 Neighbors Drive, Williamsburg, VA 23188 PIN: 3220100086: G. Gilley Investments, LLC, owner
Project Size/Zoning:	22.6 ac +/- (Phase 1); 47.1 ac +/- (complete project), MU Mixed Use
Area of Project in RPA:	3.4 ac +/- (15% of Phase 1); 15.1 ac +/- (32% of complete project)
Watershed:	Powhatan Creek, subwatershed 206 (HUC Code JL31)
Proposed Activity:	Wet pond BMP and sanitary sewer construction
County Plan No:	subdivision S-57-11; rezoning Z-01-2011

Proposed RPA Impacts

Chesapeake Bay Board action (Board Approval):

Wet pond BMP and sanitary sewer encroachments: 24,892 square feet (0.57 ac.)

Chesapeake Bay Preservation Ordinance Administrator Action (Administrative Approval)

BMP outfall encroachments: 1,742 square feet (0.04 ac)

Brief Summary and Description of Activities

Mr. Aaron Small of AES Consulting Engineers, on behalf of the James City County Office of Housing and Community Development (OHCD), applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the construction of a wet pond BMP and sanitary sewer infrastructure for the Forest Heights Neighborhood Improvement project in James City County.

Forest Heights is a portion of an overall revitalization project for the Forest Heights, Neighbors Drive and Richmond Road area as being pursued by the James City County OHCD under the provisions of a Community Development Block Planning Grant received from the Commonwealth of Virginia, Virginia Department of Housing and Community Development.

The proposed project falls under the regulations set forth within the Ordinance adopted in 1990 as well as the subsequent 2004 revisions to the Ordinance. The submitted Water Quality Impact Assessment (WQIA) contains information pertaining to both administrative and the James City County Chesapeake Bay Board (Board) actions. The impacts associated with proposed outfall for the BMP can be processed and approved administratively because it is considered a water dependent feature. Impacts associated with other construction related items for the newly proposed BMP and sanitary sewers require Board approval through the formal exception process. Other than for the outfall pipe, impacts for new BMP construction do not qualify for administrative approval under the provisions of Section 23-7(a)(4) of the Ordinance and 9VAC10-20-120(8)(a) of the Chesapeake Bay Preservation Area Designation and Management regulations.

The Board may recall that certain aspects of this project were presented in a preliminary manner under Matters of Special Privilege; agenda item E-1, at the Chesapeake Bay Board meeting on February 10, 2010. At that time, available conceptual plans and proposed BMP arrangements were presented, for information purposes only, in order to solicit comments, ideas and feedback. Informational sessions as such have been done on occasion in the past for other private or public plan of development projects of a large scale or unique nature and are done as a courtesy to the Board, staff and the applicant. At that time, it was relayed to the Board that the project was an initiative of the OHCD under the block grant award and the initial concept plan showed the presence of, and potential impact to, RPA on the site due to the proposed location of one of the two proposed wet pond BMPs.

Just recently, the County Board of Supervisors approved the rezoning, with proffers, for the Forest Heights, Neighbors Drive and Richmond Road Improvements project, County case no. Z-01-11, agenda item J-2, at their regular meeting on December 13, 2011. This re-zoned all the affected parcels to a mixed-use designation.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for a wet pond BMP and sanitary sewer line that will provide service to this revitalization project. Staff finds that the application has met the conditions in the Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board.

Water Quality Impact Assessment (WQIA)

In accordance with Bay Act requirements and the Ordinance, any development or redevelopment exceeding 2,500 square feet of land disturbance in the Chesapeake Bay Preservation Area (CBPA) requires a plan of development and stormwater management plan, if applicable. All land disturbance, development, or redevelopment within the RPA also requires a WQIA that identifies impacts of proposed development on water quality and land in RPAs and recommended measures for mitigation of these impacts. Localities must review a WQIA prior to action on the exception request. James City County has established guidelines for submission of minor/major WQIAs.

A WQIA was submitted with the plan of development for the project (County subdivision plan No. S-57-11) on November 28, 2011. Based on staff review, the WQIA proposes to mitigate for RPA impacts by:

- Establishment of 0.44 acres are acres of natural open space of currently wooded area to enhance the existing RPA buffer; and
- Removal of trash and debris from the RPA buffer to allow for proper buffer function; and
- Enhanced outlet protection (stilling basin) for the stormwater BMP outfall; and
- Additional riprap installation along the downstream channel through the wetlands to provide additional protection for the sanitary sewer mains; and
- Landscape plantings along the interior BMP and fringe wetlands areas to provide enhanced water quality treatment through nutrient uptake.

It is important to note that this project and impact areas are situated within subwatershed 206 of the Powhatan Creek watershed. The Powhatan Creek watershed management plan was adopted by resolution by the Board of Supervisors on February 26, 2002. Recommendations for subwatershed 206 include exploring opportunities for land conservation (open space), stream restoration, and stormwater management including retrofit of existing BMPs and regional ponds to address future medium density development. The portion of this application for a quasi-regional wet pond BMP for the revitalization project would be consistent with recommendations from the adopted Powhatan Creek watershed management plan and provide water quality and quantity control benefits for stormwater management in an area currently developed and uncontrolled.

During project development, County Engineering and Resource Protection Division (Division) staff was a participating member of the combined management team for the project and was involved with the review of the rezoning application, including concept master plans, proffers, and community impact statements. In addition to use of traditional stormwater management pond BMPs, the project will include improving drainage on lots and along new roadways, open space, and use of low impact development (LID) measures for stormwater management purposes as part of the County's Special Stormwater Criteria requirements. The Division continues with review of detailed plans and computations as submitted with the plan of development.

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 are acceptable. Staff recommends the 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. Evidence of permission, including signed drainage easements, is necessary for work on offsite parcels (138 and 140 Neighbors Drive) prior to issuance of a land-disturbing permit; and
3. Use of super silt fence for areas to be disturbed within the RPA; and
4. Use of EC-2 matting for slope stabilization on disturbed slopes that are 3H:1V or greater; and
5. Construction shall be in accordance with the provisions of approved County subdivision plan no. S-57-11; and
6. Recordation of Natural Open Space easement for area labeled "Proposed Natural Open Space Easement" in exhibit one of WQIA, dedicated to James City County as conservation easement. Natural Open Space easement shall also include the remainder of the undisturbed RPA; and
7. Removal of all trash and debris from the RPA buffer and/or wetlands per the WQIA exhibit; and
8. Installation of enhanced outlet protection at the BMP outfall; and
9. Installation of additional rip-rap protection for the JCSA sanitary sewer lines within the wetlands; and
10. Installation of BMP plantings proposed within the plan; and

11. Installation of a fence surrounding the BMP; and
12. This exception request approval shall become null and void if construction has not begun by January 11, 2013; and
13. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

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 Ordinance. The Board is to fully consider Chesapeake Bay Exception CBE-12-055 as outlined and presented above and review the request for exception and the WQIA. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the Ordinance. Resolutions for granting approval or granting denial are included for the Board's use and decision.

Mr. Gussman opened the public hearing.

A. Aaron Small, AES Consulting Engineers and applicant for OHCD, presented a history and explanation of the overall Forest Heights Project and specific reasons for the proposed location of the BMP and sewer crossing.

Mr. Roadley asked if the roads were being brought up to state standards. He also asked if they had considered having the offsite drainage bypass the BMP.

A. Mr. Small said the roads would be upgraded and VDOT would then take over the maintenance that was currently being handled by the area residents. Regarding the offsite drainage he said that given the size of the pond this was an opportunity to treat some currently untreated runoff and that bypassing the pond would require more expensive piping and would probably still impact the RPA.

Mr. Waltrip asked if VDOT had approved the current plan.

A. Mr. Small said the master plan was approved but the current plan of development was still in the review process. Because it was required that construction be in accordance with an approved County plan, it would have to be approved by VDOT.

Mr. Apperson complimented all who worked on the plan for their efforts.

Mr. Gussman closed the public hearing as no one else wished to speak.

Mr. Roadley also complimented Mr. Small and stated he felt all options had been considered.

Mr. Apperson made a motion to adopt the resolution granting the exception for Chesapeake Bay Board case #CBE-12-055 at 6001 Richmond Rd – Parcel ID #3220100085, 140 Neighbors Dr – Parcel ID #3220100116, and 138 Neighbors Dr – Parcel ID #3220100086.

The motion was approved by a 5-0 vote.

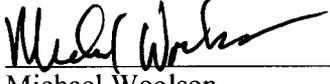
D. BOARD CONSIDERATIONS - None

E. MATTERS OF SPECIAL PRIVILEGE

F. ADJOURNMENT

The meeting adjourned at 7:25 PM.


David Gussman
Chair


Michael Woolson
Secretary to the Board