

Wetlands Board

August 12, 2015

A. Roll Call

B. Minutes

From July 8, 2015 Board Meeting

C. Public Hearings

1. W-21-15/VMRC15-0873: Reece-258 Sandy Bay Road
2. W-22-15/VMRC15-0891: Dively/Water's Edge – 175 West Landing
3. W-23-15/VMRC15-0911: Lyons/Mid-Atlantic – 120 Greenbrier

D. Board Considerations - None

E. Matters of Special Privilege

F. Adjournment

MEMORANDUM

DATE: August 12, 2015
TO: The Wetlands Board
FROM: Michael D. Woolson *MDW*
SUBJECT: Case NO. W-21-15; VMRC 15-0873, 258 Sandy Bay Road

Mr. John Reece, owner of 253 Sandy Bay Road, has requested a deferral of his wetland hearing while he revises his application. Should the Board grant this request, the public hearing must be opened and anyone wishing to speak on this case shall be heard because the case has been advertised for this meeting. The public hearing shall then be kept open until the September 9th Wetlands Board meeting, at which time the case will be heard. Staff concurs with Mr. Reece's request.

Wetland Board Case W-22-15/VMRC 15-0891: 175 West Landing

Staff report for the August 12, 2015 Wetland Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Wetland 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: Daniel Winall, Water's Edge Construction

Owner: Robert and Linda Dively and Xanterra Kingsmill LLC

Location: 175 West Landing and parcel immediately adjacent to the west

Parcel: Lot 13, The Landing, Kingsmill on the James (Dively)
Portion of Anheuser Busch Property (Xanterra)

PIN: 5031200013 (Dively)
5030100001 (Xanterra)

Watershed: James River (HUC JL 35)

Proposed Activity: Install a 65' offshore stone breakwater, extend an existing sill 25 feet and beach nourishment at 175 West Landing and on adjacent property owned by Xanterra Kingsmill LLC to protect existing shoreline along the James River.

Wetland Impacts: 4,000 sq. ft. non-vegetated impacts, Type XIII, Intertidal Beaches
5,125 sq. ft. subaqueous bottom

Project Discussion

Mr. Daniel Winall, on behalf of Robert and Linda Dively and the Xanterra Kingsmill LLC, has applied for a Wetlands Permit to construct a 65 linear foot offshore stone breakwater, extend an existing stone sill 25 feet and provide beach nourishment to create a living shoreline to protect the shoreline at 175 West Landing and a portion of the adjacent parcel owned by Xanterra. Wetland impacts for this project are 4,000 sq. ft. of non-vegetated, Type XIII, intertidal beach and 5,125 sq. ft. of subaqueous bottom.

The 25 foot stone sill extension is in a southwesterly direction towards the existing duck blind. All existing dimension are proposed to be meet and includes a crest elevation of 5.5 ft MSL, top width of 4 feet, a 2:1 side slope on the James River side of the sill, a 1.5:1 side slope on the beach side of the sill and the bottom width varying according to the depth of water. The sill will be comprised of Class I core stone overlaid with Class III armor stone, all placed on filter cloth.

The proposed breakwater will begin on the Xanterra property and proceed in a southeasterly direction for 65 feet. The dimensions of the breakwater are as follows: crest elevation of 6 ft. MSL, top width of 4 feet, a 2:1 side slope on the James River side of the structure, a 1.5:1 side slope on the beach side of the structure and the bottom width varies according to the depth of water. The breakwater will be comprised of Class I core stone overlain with Class III armor stone, all placed on filter cloth.

The corresponding area between the two new structures will have clean sand fill placed. No cypress knees will be removed during this placement. The access for this project will be through the existing driveway and resource protection area. All materials will be stockpiled near the end of the driveway and a machine will carry them to the project site from that point. The access through the RPA will be minimized to the greatest extent practicable and will be regraded and stabilized at the end of the project with native shrubs and wood mulch.

Mitigation Discussion

As published in the Virginia Register on July 11, 2005, the revised Wetland Mitigation Compensation Policy and Supplemental Guidelines, Regulation 4VAC 20-390-10 et seq., Virginia, as a Chesapeake Bay Program partner, is committed to “achieve a no-net loss of existing wetlands acreage and function in the signatories’ regulatory programs.” In order for a proposed project to be authorized to impact wetlands and compensate for the wetland loss in some prescribed manner, the following three criteria must be met:

1. All reasonable mitigative efforts, including alternative siting, which would eliminate or minimize wetland loss or disturbance must be incorporated in the proposal; and
2. The proposal must clearly be water dependent in nature; and
3. The proposal must demonstrate clearly its need to be in the wetlands and its overwhelming public and private benefits.

If the proposed project cannot meet one or more of the above criteria, the project must be denied or must occur in areas outside of wetlands. Should it satisfy all three criteria, however, compensation for the wetland loss is required. The sequence of acceptable mitigation options should be as follows: on-site, off-site within the same watershed, mitigation bank(s) in the same watershed, or a payment of an in-lieu fee. If compensation is required, it should be a condition of the permit.

Staff has fully reviewed this application and has determined that this project meets the three criteria outlined above. As there are zero vegetated wetland impacts, there is no need for the applicant to provide for vegetated wetland compensation. Further, no existing bald cypress will be removed and the sand fill will be placed in such a manner so as to not damage the existing knees of the cypress.

Staff Recommendations

Staff recommends **approval** of the application. Should the Board wish to approve the application, staff suggests the following conditions be incorporated into the approval:

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

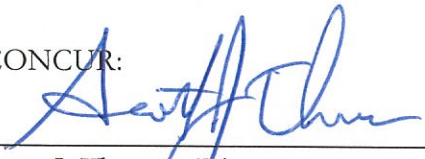
2. Prior to construction, the limits of the sill and revetment shall be restaked in the field if necessary; and
3. Prior to construction, a pre-construction meeting will be held on-site; and
4. Prior to construction, a \$2,000 surety for the restoration of the access road through the resource protection area shall be submitted in a form acceptable to the County Attorney's Office; and
5. The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures, including a turbidity curtain, for this project if field conditions warrant their use; and
6. The wetlands permit for this project shall expire on August 12, 2016 if construction has not begun. If an extension of the permit is needed, a written request shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

Staff Report prepared by:



Michael D. Woolson, LA
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Joint Permit Application

Wetland Board Case W-23-15/VMRC 15-0911: 120 Greenbrier

Staff report for the August 12, 2015 Wetland Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Wetland 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: Karla Havens, Mid-Atlantic Resource Consulting

Owner: Paul and Judy Lyons

Location: 120 Greenbrier

Parcel: Lot 99, Phase 7, Shellbank Woods

PIN: 4510400099

Watershed: James River (HUC JL 30)

Proposed Activity: Install a 60' stone revetment to protect shoreline from further erosion.

Wetland Impacts: 10 sq. ft. vegetated, Type VII, Arrow Arum – Pickerel Weed Community
50 sq. ft. non-vegetated, Type XVI, Mud Flat Community

Project Discussion

Ms. Karla Havens, on behalf of Paul and Judy Lyons, has applied for a Wetlands Permit to construct a 60 linear foot stone revetment at 120 Greenbrier to protect the existing shoreline from further erosion. Wetland impacts for this project are 10 sq. ft. of vegetated, Type VII, Arrow Arum-Pickerel Weed Community and 50 sq. ft. of Type XVI, Mud Flat Community.

The proposed revetment is located near the southern property line and starts approximately 13 feet south of an existing ramp on the property. The existing bank is nearly vertical but is only 4 feet tall. The proposal including grading the bank back at a 1H:1V slope for approximately 4 feet, installing Class I stone ovetop of filter cloth with the toe of the revetment dug in below mean low water. All excess soil material will be used to create the uniform 1H:1V slope. Encroachments into Shellbank Creek will not exceed 1 foot horizontal from the shoreline.

The access for this project will be through the existing driveway and resource protection area, currently turfgrass or has minimal ground vegetation. All materials will be stockpiled near the end of the driveway and a machine will carry them to the project site from that point. The access through the RPA will minimized to the greatest extent practicable. The access will be regraded and

stabilized at the end of the project. Portions that are existing turfgrass will be allowed to be returned to turfgrass, the other disturbed areas will need to be mulched and revegetated with native shrubs.

Mitigation Discussion

As published in the Virginia Register on July 11, 2005, the revised Wetland Mitigation Compensation Policy and Supplemental Guidelines, Regulation 4VAC 20-390-10 et seq., Virginia, as a Chesapeake Bay Program partner, is committed to “achieve a no-net loss of existing wetlands acreage and function in the signatories’ regulatory programs.” In order for a proposed project to be authorized to impact wetlands and compensate for the wetland loss in some prescribed manner, the following three criteria must be met:

1. All reasonable mitigative efforts, including alternative siting, which would eliminate or minimize wetland loss or disturbance must be incorporated in the proposal; and
2. The proposal must clearly be water dependent in nature; and
3. The proposal must demonstrate clearly its need to be in the wetlands and its overwhelming public and private benefits.

If the proposed project cannot meet one or more of the above criteria, the project must be denied or must occur in areas outside of wetlands. Should it satisfy all three criteria, however, compensation for the wetland loss is required. The sequence of acceptable mitigation options should be as follows: on-site, off-site within the same watershed, mitigation bank(s) in the same watershed, or a payment of an in-lieu fee. If compensation is required, it should be a condition of the permit.

In this case, because of unavoidable vegetated wetland impacts and with no viable alternative on-site to create wetlands, staff is recommending that the Lyons be required to purchase from an approved tidal wetland mitigation bank, credits to cover the 10 sq. ft. of vegetated wetland impact.

Staff Recommendations

Staff recommends **approval** of the application. Should the Board wish to approve the application, staff suggests the following conditions be incorporated into the approval:

1. The applicant must obtain all other necessary local, state, and/or federal permits required for the project; and
2. Prior to construction, the limits of the revetment shall be re-staked in the field if necessary; and
3. Prior to construction, a pre-construction meeting will be held on-site; and
4. Prior to construction, a \$1,000 surety for the restoration of the access road through the resource protection area shall be submitted in a form acceptable to the County Attorney’s Office; and
5. Prior to construction, 10 sq. ft. of tidal wetland credits must be purchased from an approved tidal wetland mitigation bank and proof of purchase submitted to our office; and
6. The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures, including a turbidity curtain, for this project if field conditions warrant their use; and
7. The wetlands permit for this project shall expire on August 12, 2016 if construction has not

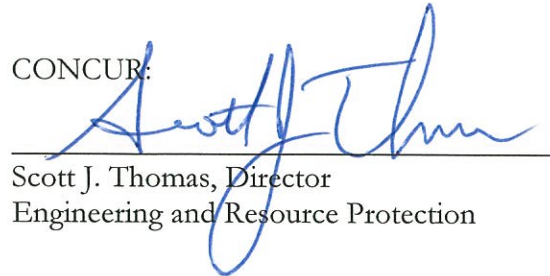
begun. If an extension of the permit is needed, a written request shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

Staff Report prepared by:



Michael D. Woolson, LA
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Joint Permit Application