

AT A REGULAR MEETING OF THE WETLANDS BOARD OF JAMES CITY COUNTY, VIRGINIA, IN THE BOARD ROOM, 101-C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA, ON THE NINETEENTH DAY OF JUNE, NINETEEN HUNDRED AND EIGHTY-SIX.

1. ROLL CALL

Members Present

Mr. William Apperson, Chairman
Mr. Henry Lindsey
Mr. John Hughes

Others Present

Mr. Bernard M. Farmer, Jr., Director of Code Compliance
Mr. Walter Priest, Virginia Institute of Marine Science

2. MINUTES

The May 15, 1986 minutes were approved as presented.

3. OLD BUSINESS

4. NEW BUSINESS

Case No. W-8-86. Busch Properties

Mr. Farmer gave the staff presentation and stated that Mr. Ken A. Dierks of Langley and McDonald, the agent, had applied on behalf of Busch Properties, Inc., the owner, for a wetlands permit for the installation of 185-foot armour stone groin to the west of the boat ramp at the Kingsmill Marina. It is further identified as Parcel (2-58); James City County Real Estate Tax Map No. (50-4). The wetlands are located adjacent to the James River.

A site visit was made by the staffs of VIMS, VMRC and the Code Compliance Office. Wetlands involved on the property consist of approximately 100 square feet of non-vegetated wetlands. Mr. Priest of VIMS has reviewed the project and has no objections to its location.

It is the staff recommendation that a wetlands permit be granted for the installation of 185-foot armour stone groin to the west of the boat ramp at the Kingsmill Marina subject to the following condition: The permit term shall expire June 19, 1987.

Mr. Apperson opened the public hearing and asked if anyone would like to speak in favor of the permit and there being none, closed the public hearing.

Mr. Lindsey moved to grant the wetlands permit. All members were in favor.

Case No. W-4-86. C. Lewis Waltrip

Mr. Farmer gave the staff presentation and stated that Mr. Gary L. Anderson of Espey, Huston and Associates, had applied on behalf of Mr. C. Lewis Waltrip for construction of a dam for water impoundment. The dam would be part of construction for the Pinedell Subdivision and would be located adjacent to Shellbank Creek. The property involved is parcel (1-5A) found on James City County Real Estate Tax Map No. (45-2).

The purpose of building a dam and creating this lake is to provide an amenity for lots in the Pinedell Subdivision. This subdivision consists of a total of 88 lots to be developed in five sections and borders Shellbank Creek and Shellbank Woods (Phase II) subdivision. Because a large portion of the subdivision would drain to the lake it would also serve a limited role as a runoff control device. However, its primary purpose is as an amenity.

On April 25, 1986, a staff visit was made by Mr. Huston, Mr. Priest of VIMS, and Mr. Farmer of the Code Compliance Office, to locate the boundary between the tidal wetlands area and upland marsh. This line was marked and surveyed by AES for inclusion in the Subdivision plan. Upstream of that line only the channel bottoms actually are wetlands within control of the local board. However, due to the location of the dam and its potential to impact the adjacent wetlands, staff felt it necessary to process this application for a local wetlands permit.

As a result of the site visit, the developer had agreed to shift the location of the dam so as not to disturb the area marked as wetlands. Only the rip rap protection for the spillways would actually cover tidal areas. The new alignment would still allow much of the subdivision to drain to the pond.

The tidal marsh inventory, prepared by the Virginia Institute of Marine Science classifies the Shellbank Creek area as Type VI marsh (Cattail Community). This area is very valuable in terms of wildlife habitat and capturing upland sediments. On the average, this marsh would be expected to produce 2-4/acre tons of plant material annually. As such, it is classified as highly valuable in environmental terms. The Wetlands guidelines state in part that "this type of marsh community should not be indiscriminately used as a development site. As far overall value is concerned, it compares with a saltmeadow marsh (Type II).

Dams and impoundments should not be located in tidal wetlands areas. The loss of marine environment in this case would be severe and generally irreplaceable. The relocation of the dam has placed the impoundment in an upland area. Since it is upland area, one set of habitat values in effect is being replaced by another. Primary importance is protection of the marine environment so that no loss of marine habitat occurs. No attempt has been made by staff to weigh the relative tradeoffs of replacing one uplands habitat area with another, as this is beyond the jurisdiction of the local wetlands board.

In construction of the dam, it is important that proper engineering be done to prevent adverse environmental effects. It is necessary that the following items be addressed:

1. Freshwater Flow - flows into the estuary which presently exist (other than runoff to be captured) should be maintained.
2. Dam Foundation Design - Proper design and engineering should prevent failure, mudwave creation, or other adverse consequences.
3. Precautions During Construction - Proper techniques must be employed to prevent construction damage to the marine environment.
4. Restoration of any Adversely Affected Marine Area - any damaged wetlands should be regraded and sprigged to restore it.

It is the staff recommendation that a wetlands permit be issued for construction of a dam for the Pinedell Subdivision subject to the following requirements:

1. That the toe of the dam and any outlet structure be located upstream of the line staked during the April 25th site visit.
2. That freshwater flows not be decreased at all and be maintained throughout the life of the dam.
3. That fully engineered construction plans, including soils data for foundation design be submitted for approval prior to commencement of construction. An examination must be made of the soil underlying the dam and pond to determine the effects of flows, consolidation, seepage and other phenomena.
4. That a surety instrument be required, sufficient to restore any wetlands area adversely affected, should the dam cause damage to wetlands.

Mr. Farmer stated that clay ran very deep and the soil was very soft. He also showed photographs of a dam that had been built and was concerned over the mudwaves that were created. Mr. Farmer stated that he wanted item number four under recommendation be changed to read "the developer enter into a surety agreement with the County, similar to those used for the reservoir protection zone.

Mr. Apperson asked if there were any questions.

Mr. Lindsey asked how much of the Cattail Community would be involved during the placement of the dam.

Mr. Farmer stated that hopefully, none would be destroyed.

Mr. Priest stated that the plant community would be affected for a year after the dam's construction.

Mr. Farmer stated that over a period of time the plant community could be affected. That was why he was concerned about construction and design.

Mr. Lindsey and Mr. Farmer discussed the inlet and its arrangement for controlling flow from the impoundment.

Mr. Hughes asked how long would it take to construct the dam.

Mr. Anderson stated that under ideal conditions the construction could be completed in about two months.

Mr. Hughes asked if the surety requested by the County was for the dam during its construction.

Mr. Farmer stated that the sediment control bond required by the County would be in effect at that time of the construction. His concern was after the dam was built, and the long term effects.

Mr. Apperson opened the public hearing.

Mr. Anderson stated that it was difficult to determine how much wetlands would be involved and that was why placement of the dam had changed. He stated that he had complete plans for construction of the dam and they would meet the requirements from the Corps of Engineers. The dam would be in stable soil. In reference to the mudwaves mentioned earlier, he stated that dam was very old. The problem was with not going down far enough and not excavating compressible soils. He did not want the dam to leak. He planned on going down 5 to 7 feet in very stable soil. Mr. Anderson had a question about number four under conditions by the Code Compliance Office (surety instrument be required). He asked if there were any examples issued for other ponds or dams.

Mr. Farmer stated that this was the first time a dam was being built near tidal wetlands. He said he did have examples of surety agreements used for other projects.

Mr. Lindsey asked Mr. Farmer how the developer would react to the surety agreement.

Mr. Farmer stated that the developer had responsibility for the surety until a homeowner's association took it over. The surety would remain in effect perpetually.

Mr. Lindsey asked would would happen if the homeowner's association disagreed to take over the surety.

Mr. Farmer stated that it would then remain responsibility of the developer.

Mr. Anderson stated that he would like to see examples of agreements made with the County before making any commitment on the part of his client.

Mr. Apperson closed the public hearing.

Mr. Lindsey stated that he had heard some differences of opinion and this would have a definite impact on the vote.

Mr. Hughes stated that his concern was with the dam construction and its impact ten years down the road.

Mr. Apperson asked what time limit the board had to act on a decision.

Mr. Priest stated that the Board would have 28 days in order to make a decision.

Mr. Farmer stated that he had a copy of the construction plans, which were included in the subdivision plans for Pindell.

Mr. Apperson stated that AES had determined that the dam could be built without making a mudwave.

Mr. Lindsey asked Mr. Farmer if there would be additional information available if the board tabled the meeting until the next meeting.

Mr. Farmer stated that he would have time to review the plans and get a soils report.

Mr. Lindsey moved to table the case until the next meeting. All members were in favor.

Case No. W-7-86. Stephen Martin

Mr. Farmer gave the staff presentation and stated that Steve and Gina Martin had applied for a wetlands permit to construct and backfill approximately 42 linear feet of timber bulkheading at 7230 Otey Drive in the Chickahominy Haven subdivision. The property is further identified as Parcel (6-11) on James City County Real Estate Tax Map No. (19-1).

A site visit was made by the staffs of VIMS, VMRC and the Code Compliance Office. The applicant proposes to construct the bulkhead approximately six feet channelward of mean high water. Wetlands involved on the property consist of approximately 252 square feet of vegetative wetlands. Mr. Kirk Havens of VIMS has reviewed the application and recommends constructing the bulkhead at mean high water to follow the curvature of the shoreline to minimize environmental impacts.

It is the staff recommendation that approval for 42 linear feet of timber bulkheading be granted subject to the following conditions:

1. The bulkhead be constructed at mean high water and follow the curvature of the shoreline.
2. The owner/contractor obtain a building permit prior to construction.
3. The owner/contractor contact the Code Compliance Office for an inspection of the filter cloth prior to backfilling.
4. The permit term shall expire on June 19, 1987.

Mr. Lindsey moved to grant the permit subject to the staff recommendations and all members were in favor.

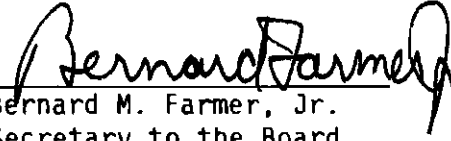
5. MATTERS OF SPECIAL PRIVILEGE

6. ADJOURNMENT

The meeting was adjourned at 8:30 p.m.



William Apperson, Chairman



Bernard M. Farmer, Jr.
Secretary to the Board

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