

**JAMES CITY COUNTY WETLANDS BOARD**  
**November 8, 2006 - 7:00PM**

**A. ROLL CALL**

**ABSENT**

William Apperson  
John Hughes  
David Gussman  
Henry Lindsey  
Larry Waltrip

**OTHERS PRESENT**

Elizabeth Gallup, VMRC  
County Staff

**B. MINUTES – August 9, 2006**

The August 9, 2006 minutes were approved as presented.

**C. PUBLIC HEARINGS**

1. W-25-06: Hartman/JTL Construction – 2262 Lake Powell Road

Mr. Pat Menichino presented the case stating JTL Construction, on behalf of the owners, Mr. and Mrs. Hartman, 2262 Lake Powell Road applied for a wetlands permit to install approximately 274 linear feet of timber bulkhead to prevent shoreline erosion. The application also includes a 30 ft long open-pile pier with a 10 ft by 25 ft T-head and an open sided boathouse that are outside the Board's jurisdiction. The property is further identified in the James City County Real Estate system as parcel 4830100039A. The project site is located on Mill Creek, a tributary to the James River.

Environmental Division staff (Staff) visited the site on October 13, and 18, 2006, along with representatives from VMRC and VIMS to discuss the project scope and potential impacts. Total proposed impacts to wetlands for this project have been determined to be 548 sqft, and are comprised of 400 sqft of impact to the Sand/Mud Mixed Flat Community and 148 sqft of impact to Fresh Water Mixed Community. The fill caused by this project is determined to be 400 sqft to the Sand/Mud Mixed Flat Community and 148 sqft to the Fresh water Mixed Community (vegetated wetlands).

At this time, Staff cannot support the installation of a proposed bulkhead at the proposed location along Mill Creek for the following reasons:

1. The property is located well upstream on Mill Creek with no significant fetch present; there is little opportunity for erosion caused by wave attack.
2. While there is some minor erosion present, any improvements to the property are located well upland of the shoreline.
3. The proposed installation of a timber bulkhead to "harden" the shoreline is an excessive approach to a minor shoreline erosion problem.
4. Properties immediately adjacent to the applicant's property do not have bulkheads but rather have "living shorelines".
5. Staff believes that a vegetative solution could be effective in controlling erosion and is a more appropriate response.

Staff recommends that the applicant be given an opportunity to revise their application from a bulkhead to a vegetative solution.

If following Board action the applicant's proposal for a timber bulkhead is approved then Staff requests the following conditions apply to the permit:

1. The limits of construction shall be flagged in the field prior to the preconstruction meeting.
2. All vegetation to be removed shall be clearly flagged or marked with spray paint prior to the preconstruction meeting.
3. The landward areas of the Resource Protection Area (RPA) buffer that are proposed to be cleared and disturbed through the placement of the construction access will require restoration with native vegetation consisting of trees, shrubs and ground cover. An RPA restoration plan with surety shall be submitted and approved by the Environmental Division prior to the preconstruction meeting.
4. A preconstruction meeting will be held on-site prior to construction.
5. A turbidity curtain will not be required for this project as proposed. The Environmental Director reserves the right to require a turbidity curtain if field conditions change.
6. The permit shall expire November 8, 2007.
7. If an extension of this permit is needed, a written request shall be submitted to the Environmental Division no later than two weeks prior to expiration date.

Mr. Hughes asked if a vegetative solution had been discussed with the applicant.

Mr. Waltrip asked if the vegetative solution included riprap.

Mr. Menichino stated the applicant was aware of the suggested vegetative solution and the application before the Board did not include riprap.

Mr. Apperson opened the public hearing.

A. Mr. Paul Hartman, property owner, referred to the VIMS report stating it was incorrect because there was significant erosion on his property. He displayed pictures of the existing shoreline to support his statement and to show other bulkheads in the area. He added he believed the vegetative solution would create more disturbance and release more sediment into the wetlands than the proposed bulkhead.

Mr. Hughes and Mr. Waltrip asked about the elevation of the proposed bulkhead and the fill impact.

Mr. Hartman stated it would be a maximum of 2 ft at low tide and there was no proposed backfill.

Mr. Waltrip asked if the applicant had considered using riprap along with the proposed bulkhead.

B. Mr. John Nixon, JTL Construction, contractor for the project, stated he advised against the use of riprap because it would require additional disturbance of the shoreline and additional cost to the owner.

As no one else wished to speak, Mr. Apperson closed the public hearing

Mr. Lindsey and Mr. Gussman stated they were concerned about the reflection of waves off the proposed bulkhead and the impact this would have on the wetlands across the narrow creek.

Mr. Waltrip stated he would recommend approval of the application if the Board could require the addition of riprap.

Mr. Menichino stated and Ms. Gallup, VMRC, agreed the Board could not make this a condition of the permit. The owner would have to submit a revised application for the addition of riprap.

Mr. Hughes asked Mr. Hartman if he wished to ask for a continuance so the application could be amended.

There was no response from the applicant or others present.

Mr. Hughes made a motion to deny the permit for case W-25-06.

The motion to deny the permit was approved by a 5-0 vote.

2. W-19-06: Huckaby/Water's Edge Construcion – 3 West Circle

Mr. Pat Menichino presented the case stating Williamsburg Environmental Group, on behalf of Mr. Frank Huckaby owner, and Palmer and Palmer LLC, 108 John Wickham, applied for a wetlands permit to install approximately 681 feet of riprap revetment by installing Class 2 and Class 3 riprap to prevent erosion. The application also includes an 80 ft long spur, installed using Class 3 riprap and extending into the James River at the southwest corner of the property. A portion of the proposed spur is outside the Board's jurisdiction as is a proposed open-pile bridge structure for access to the property. The property is identified as parcel 4540200080A the James City County Real Estate system. The project site is located on the James River main stem.

Environmental Division staff (Staff) visited the site on October 13, 18, and 19, 2006, along with representatives from VMRC and VIMS to discuss the project scope and potential impacts. Total proposed impacts to wetlands for this project have been determined to be 4130 sqft, and are comprised of 2275 sqft of impact to the Intertidal Rubble Community and 880 sqft of impact to subaqueous bottom. The fill caused by this project is determined to be 650 sqft to the Intertidal Rubble Community. The fill to vegetated wetlands is estimated to be 975 sqft to the saltbush community.

At the request of Staff the applicant has submitted an option "A" and option "B" plan, for the Boards consideration. The option "A" proposal is for the hard armoring of 681 feet of shoreline. The option "B" proposal is for the hard armoring of 541 feet of shoreline and the stabilization of 140 feet of shoreline using a vegetative solution.

Staff supports the option "B" plan for the following reasons:

1. The area proposed for the vegetative solution is not directly exposed to the James River and is not exposed to significant wave attack.
2. Areas immediately adjacent to, and across from the proposed vegetative solution are vegetated wetlands and are stable.
3. The proposed vegetative solution to the shoreline erosion problem on the N/W side of the property will result in the creation of 840 square feet. of new vegetated wetlands. The removal of existing road fill under the proposed open-pile bridge structure will re-establish approximately 1,602 square feet of vegetated tidal wetlands.

It is the staff's recommendation that the Board approve this application with the following conditions:

1. That option "B" be required and implemented with this proposal.
2. The limits of construction shall be flagged in the field prior to the preconstruction meeting.
3. All vegetation to be removed shall be clearly flagged or marked with spray paint prior to the preconstruction meeting.
4. The landward areas of the Resource Protection Area (RPA) buffer that are proposed to be cleared and disturbed through the placement of the construction access will require restoration with native vegetation consisting of trees, shrubs and ground cover. An RPA restoration plan with surety shall be submitted and approved by the Environmental Division prior to the preconstruction meeting.
5. A preconstruction meeting will be held on-site prior to construction.
6. A turbidity curtain will not be required for this project as proposed. The Environmental Director reserves the right to require a turbidity curtain if field conditions change.
7. The existing concrete and other riprap rubble will be collected and removed form the project site and appropriate sized core stone and filter fabric installed prior to the placement of the new armor stone.
8. All new armor stone used shall be Class 3. The riprap shall tie into existing grade at the top and a 2' deep buried toe shall be installed at the bottom of the slope.
9. The permit shall expire November 8, 2007.
10. If an extension of this permit is needed, a written request shall be submitted to the Environmental Division no later than two weeks prior to expiration date.

Mr. Waltrip stated it appeared the existing road would be used for the construction of the project, then removed and replaced with the proposed bridge. He asked if the road was serviceable for this project.

Mr. Menichino stated that it would probably need to be stabilized.

Mr. Gussman stated that removal of road fill needed to be a condition of the permit.

Mr. Lindsey added that surety should be required for the removal of the road fill and re-establishment of the 1,602 sqft of vegetated wetlands.

Mr. Apperson opened the public hearing.

A. Mr. Chuck Roadley, Williamsburg Environmental Group, representing the applicant Mr. Palmer, described the current erosion of the shoreline and the proposed restoration of the wetlands.

Mr. Lindsey asked if the proposed bridge would be substantial enough for emergency vehicles.

Mr. Roadley stated it was proposed to be a 20-ton bridge with a 10 ft clearance.

Mr. Apperson stated he believed the shade factor for a bridge of this size would have an impact on the re-growth of vegetation.

Mr. Roadley stated the applicant would agree to the surety requirement for the stabilization and re-vegetation of the 1,602 sqft of wetlands.

B. Mr. Darrell Rickman, 4 West Circle, spoke in opposition to the case because of the impact on the Greater First Colony Marina, and safety of the citizens using the marina due to the build up of sand and location of the proposed spur. He was also concerned with the removal of trees in the Wetlands and the proposed access to the property. In addition, he stated he did not believe the Greater First Colony Civic Association (GFCACA) had been notified of this meeting.

C. Mr. Noel Hume, 2 West Circle, spoke in opposition to the case because of the possible build up of sand, instability of the access road, and the impact to his property during construction of the proposed bridge.

D. Mr. Danny Winall, Waters Edge Construction, contractor for the project, spoke to the concerns of the adjacent property owners stating the proposed spur would be no more of a navigational hazard than the existing jetty next to the marina. He did not anticipate any additional build up of sand and believed the stabilization of this shoreline would have a favorable impact on the marina because there would be less erosion. He did state that the access to the property was a valid concern but they were proposing to use timber mats across the entire causeway before moving equipment across it.

Staff addressed the meeting notification of the GFCACA, stating it had been mailed to the address obtained from James City County Real Estate Information System. Mr. Rickman was asked to notify the County if the mailing address for GFCACA had changed. Mr. Menichino added that the meeting was also advertised in the Virginia Gazette.

As no one else wished to speak, Mr. Apperson closed the public hearing.

Mr. Lindsey stated because of the size and complexity of this project perhaps the Board needed more information to make a decision.

Mr. Hughes stated and Jennifer Lyttle, Assistant County Attorney agreed, the only item before this Board was the stabilization of the shoreline and the impact on the wetlands.

Mr. Gussman asked if there should be additional study on the sand transfers.

Mr. Roadley stated sand transfers were related to the spur, which was not an issue before the Board.

Mr. Hughes made a motion to approve case W-19-06 proposed option "B", with staff's recommendations amended to include removal of the previous road fill, establishment of 1,602 sqft of vegetated wetlands, surety to guarantee the plantings for 1 growing season and E&S controls as required by the Environmental Division.

The motion was approved by a vote of 5-0.

The meeting adjourned at 8:35 and reconvened at 8:50

**D. BOARD CONSIDERATIONS**

1. Calendar Year 2007 Meeting Schedule

The Board adopted the 2007 Wetlands Board meeting schedule by a voice vote, to be held on the 2<sup>nd</sup> Wednesday of each month at 7:00 PM, provided there are cases to be considered.

**E. MATTERS OF SPECIAL PRIVILEGE - none**

**F. ELECTION OF OFFICERS FOR YEAR 2007**

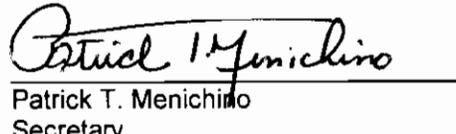
Mr. Apperson moved that John Hughes be appointed as Chairman. All members were in favor. Mr. Apperson moved that Henry Lindsey be appointed as Vice-Chairman. All members were in favor. It was the consensus of the Board to re-appoint Pat Menichino as Secretary.

**G. ADJOURNMENT**

The meeting adjourned at 8:55 PM.



William Apperson  
Chairman



Patrick T. Menichino  
Secretary