

Chesapeake Bay Board Building F - 7 p.m.

Feb. 8, 2012

A. Roll Call

B. Minutes

Jan. 11, 2012

C. Public Hearings

1. CBE-11-129. Drygala - 3649 Bridgewater - continued from 7/13, 10/12, and 12/14/11
2. CBE-12-032. AES/New Town Associates - New Town, Section 7, Phase 10
3. CBE-12-058. Williams Landscape/Davis - 2266 West Island
4. CBE-12-069. Pratt - 125 Mattaponi Trail

D. Board Considerations

1. CBE-11-079. WEB/HHHunt Communities - Whate Hall Offsite Sanitary Sewer Extension Request

E. Matters of Special Privilege

F. Adjournment

MEMORANDUM

DATE: February 8, 2012
TO: The Chesapeake Bay Board
FROM: Michael D. Woolson
SUBJECT: Case No. CBE-11-129, 3649 Bridgewater Drive

Mr. Marcin Drygala 3649 Bridgewater Drive is requesting another 60 day deferral. Mr. Drygala is changing the scope of work originally proposed and needs additional time to work on his proposal. Staff concurs with his request.

Chesapeake Bay Exception CBE-12-032: New Town Section 7, Phase 10 Pedestrian/Sewer Bridge and BMP Access

Staff report for the February 8, 2012 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: AES Consulting Engineers – Robert Cosby
Project Developer: Newtown Associates LLC
Impact Location: 4400 Casey Boulevard Williamsburg, VA 23188
PIN: 3840100056: Newtown Associates LLC, owner
Project Size/Zoning: 15.68 ac +/-, MU Mixed Use w/proffers
Area of Project in RPA: 4.3 ac +/- (27% of Phase 10)
Watershed: Powhatan Creek, subwatershed 208 (HUC Code JL31)
Proposed Activity: Pedestrian/Sewer Bridge Construction and BMP Access
County Plan No: S-25-11

Proposed RPA Impacts

Chesapeake Bay Preservation Ordinance - Board Consideration

Pedestrian/Sewer Bridge:	3,822 sq ft (.087 ac)
BMP Access Road:	0 sq ft - collocated within the JCSA easement

Chesapeake Bay Preservation Ordinance - Administrative Approval

BMP/SW outfalls encroachments:	1,624 square feet (0.037 ac)
--------------------------------	------------------------------

Chesapeake Bay Preservation Ordinance - Exempt

Passive Recreation Trail:	0 sq. ft. - collocated in JCSA Easement
---------------------------	---

Brief Summary and Description of Activities

Mr. Robert Cosby of AES Consulting Engineers, on behalf of Newtown Associates LLC, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the construction of a pedestrian/sewer bridge and BMP access road for Newtown Section 7, Phase 10 project in James City County.

The proposed project falls under the regulations set forth within the Chesapeake Bay Preservation 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 administrative, exempt, and Board actions. The impacts associated with the proposed outfall for the BMP and stilling basin can be processed and approved administratively as they are considered water dependent features. The gravel trail located in the JCSEA easement can be processed administratively as an exemption as it is utilized for passive recreation. Impacts associated with the pedestrian and sewer bridge requires Chesapeake Bay Board approval through the formal exception process since it does not qualify for administrative approval under the provisions of Section 23-7(a) of the County's ordinance and 9VAC10-20-130 of the Chesapeake Bay Preservation Area Designation and Management Regulations.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for a pedestrian/sewer bridge and BMP access road that will provide service to the New Town Section 7, Phase 10 project. Staff 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.

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 water quality impact assessment (WQIA). Water quality impact assessments shall identify 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-25-11). The WQIA was provided on January 18, 2012. Based on staff review, the WQIA proposes to mitigate for RPA impacts by:

- Use of conservation seed mixture for revegetating cleared areas within the buffer; and
- Use of enhanced outlet protection (stilling basin) for the stormwater BMP outfall; and
- Use of two low impact development (LID) features adjacent to the RPA to intercept and treat runoff from rear lots;

Staff Recommendations

Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be **low** for the proposed development and that the proposed mitigation measures are acceptable with conditions. 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. Use of silt fence for areas to be disturbed within the RPA; and
3. Construction shall be in accordance with the provisions of approved County subdivision plan no. S-25-11; and
4. Installation of enhanced outlet protection (stilling basin) for the stormwater BMP outfall; and
5. Written evidence from the James City Service Authority (JCSA) that the BMP access road and gravel trail are acceptable in their easement prior to land disturbance permit issuance; and
6. All natural open space and deed of easements for Phase 7 and 8, per the approved Stormwater Master Plan, must be recorded with the subdivision plan; and
7. Nutrient management plan requirements, per the approved proffers, shall be submitted and approved prior to subdivision recordation; and
8. The outfall pipe from low impact development (LID) #1 shall extend to the bottom of slope and have appropriately sized outlet protection; and
9. This exception request approval shall become null and void if construction has not begun by February 8, 2013.
10. 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 County’s Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-12-032 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-12-032 are included for the Board’s use and decision.

Staff Report prepared by:

Tina Creech
Senior Resource Protection Inspector

CONCUR:

Michael D. Woolson
Secretary to the Board

Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package
Draft letter of approval from JCSA
Nutrient Management Plan proffer language

Chesapeake Bay Exception CBE-12-058: 2266 West Island - Davis

Staff report for the February 8, 2012 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: Aaron Williams

Land Owner: Paul and Nancy Davis

Location: 2266 West Island

Parcel: Lot 36, Governor's Land Subdivision

Parcel Identification: 4410200036

Lot Size: 0.60 acres

RPA Area on Lot: 0.18 acres or 30% of the lot (RPA only)

Watershed: James River (HUC Code JL30)

Proposed Activity: Installation of raised paver patio, stone walkway, and associated walls.

Proposed Impacts

Impervious Area: 600 square feet (approximate)

RPA Encroachment: 600 square feet to the landward 50 foot RPA Buffer

Brief Summary and Description of Activities

Mr. Aaron Williams on behalf of Mr. Paul and Nancy Davis has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the construction of a raised paver patio, flagstone walkway, and three associated retaining walls at 2266 West Landing within the Governor's Land Subdivision. The lot was platted following the 1990 adoption of the Chesapeake Bay Preservation Ordinance but prior to the 2004 revisions to the Ordinance. The proposed improvements are within the landward 50 foot RPA buffer.

The proposed improvements will be located within the landward 50' RPA buffer in areas directly adjacent to the existing residence. The proposed flagstone walkway and its associated walls will be constructed along the rear side of the existing residence. The raised paver patio will be installed directly adjacent to the building itself and will connect the home to the stone walkways proposed to be installed. The stone that will be utilized for the patio consists of natural stone pavers set in a herring bone pattern that are to be dry-laid and not mortared. The proposed flagstone walkway is proposed to be constructed in the same fashion as the patio area. The applicant also provides an extensive planting plan to enhance the proposed improvements with both native and non-native species vegetation. The area that lies directly to the east of the proposed improvements will remain in its natural state.

Staff Recommendations

The issue before the Board is the installation of the paver patio, the stone walkways, and the associated stone walls creating 600 square feet of impervious area within the landward 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 criteria outlined in Section 23-14 (c) of the Ordinance. There are five review criteria within this section of the ordinance.

Staff recommends approval of the application with the incorporation of the following conditions into the approval:

1. The applicant must obtain all other necessary local permits as required for the project.
2. All proposed mitigation plantings shall meet James City County standards of 1" caliper for the canopy and understory trees and proposed shrubs shall be minimum three gallon size.
3. Full implementation of the approved RPA Mitigation Plan and any additional Board mitigation requirements shall be guaranteed through a form of surety satisfactory to the County Attorney and the provisions of the Ordinance contained in Sections 23-10(3) (d) and 23-17(c).
4. This exception request approval shall become null and void if construction has not begun by February 8, 2013.
5. 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.

Background

Based on staff review of County records, the lot was recorded following the adoption of the Chesapeake Bay Preservation Ordinance. As the proposed accessory structures are located within the RPA buffer, they cannot be administratively reviewed and therefore in accordance with section 23-14 of the Ordinance, an exception request must be considered by the Chesapeake Bay 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 paver patio, the retaining walls, and the stone paver walkways.

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* and a detailed mitigation plan, both of which are included in the case report packet.

The applicant proposes to provide three (3) native canopy and twenty-five (25) native shrubs to offset the impacts to the RPA. The proposed mitigation exceeds the mitigation standard requirements for the proposed impacts. The applicant also proposes to use pervious paver design techniques with the installation of the walkways and patio.

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-12-058 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-12-058 are included for the Board’s use and decision.

Staff Report prepared by:

Michael P. Majdeski
Senior Resource Protection Inspector

CONCUR:

Michael D. Woolson
Secretary to the Board

Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application
Landscape Plan

Chesapeake Bay Exception CBE-12-069: 125 Mattaponi Trail - Pratt

Staff report for the February 8, 2012 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: Norman J. Pratt

Land Owner: Norman J. Pratt

Location: 125 Mattaponi Trail

Parcel: Lot 17, Season's Trace Subdivision

Parcel Identification: 3232200017

Lot Size: 0.58 acres

RPA Area on Lot: 0.48 acres or 83% of the lot (RPA only)

Watershed: Powhatan Creek (HUC Code JL31)

Proposed Activity: Installation of wooden steps and landing to connect existing patio to backyard.

Proposed Impacts

Impervious Area: 72 square feet (approximate)

RPA Encroachment: 72 square feet to the landward 50 foot RPA Buffer

Brief Summary and Description of Activities

Mr. Norman J. Pratt has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the construction of a set of steps and an associated wooden landing to connect an existing deck and patio to the backyard of the property. The project is located at 125 Mattaponi Trail within the Season's Trace subdivision. The lot was platted following the 1990 adoption of the Chesapeake Bay Preservation Ordinance but prior to the 2004 revisions to the Ordinance. The proposed improvements are within the landward 50 foot RPA buffer.

The proposed improvements will be located within the landward 50' RPA buffer in areas directly adjacent to the existing residence. The proposed steps and wooden landing will be located directly adjacent to the existing patio and deck to provide a safe access to the backyard area.

Staff Recommendations

The issue before the Board is the installation of the steps and wooden landing that will create 72 square feet of impervious area within the landward 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 criteria outlined in Section 23-14 (c) of the Ordinance. There are five review criteria within this section of the ordinance.

Staff recommends approval of the application with the incorporation of the following conditions into the approval:

1. The applicant must obtain all other necessary local permits as required for the project.
2. All proposed mitigation plantings shall meet James City County standards of 1" caliper for the canopy and understory trees and proposed shrubs shall be minimum three gallon size.
3. Full implementation of the approved RPA Mitigation Plan and any additional Board mitigation requirements shall be guaranteed through a form of surety satisfactory to the County Attorney and the provisions of the Ordinance contained in Sections 23-10(3) (d) and 23-17(c).
4. This exception request approval shall become null and void if construction has not begun by February 8, 2013.
5. 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.

Background

Based on staff review of County records, the lot was recorded following the adoption of the Chesapeake Bay Preservation Ordinance. As the proposed accessory structures are located within the RPA buffer, they cannot be administratively reviewed and therefore in accordance with section 23-14 of the Ordinance, an exception request must be considered by the Chesapeake Bay 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 steps and wooden landing adjacent to the existing patio and 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* and a detailed mitigation plan, both of which are included in the case report packet.

The applicant provided mitigation for impacts from a previous administratively approved exception request (CBE-12-045) that consisted of six native shrubs or two native understory trees. The previously approved mitigation and surety is adequate to offset both project impacts and is acceptable to staff as proposed.

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-12-069 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-12-069 are included for the Board’s use and decision.

Staff Report prepared by:

Michael P. Majdeski
Senior Resource Protection Inspector

CONCUR:

Michael D. Woolson
Secretary to the Board

Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application

MEMORANDUM

DATE: February 8, 2012

TO: The Chesapeake Bay Board

FROM: Michael D. Woolson

SUBJECT: Case No. CBE-11-079, White Hall Offsite Sanitary Sewer

Mr. Hans Klinger of HHHunt Communities is requesting a one year extension to the approval of case # CBE-11-079 which authorized 9,040 sq of RPA encroachments for the installation of an offsite sanitary sewer. Due to the economic situation of the Country, the applicant did not build the sanitary sewer in the time frame originally anticipated. They plan on building it during the summer of 2012. Staff concurs with his request and suggests that the Board reauthorize CBE-11-079 until March 9, 2013.