

Chesapeake Bay Board

March 12, 2008

A. Roll Call

B. Minutes - from February 13, 2008

C. Public Hearings

1. CBE-08-003 – Skipper – 318 Hatton Crossing
2. CBE-08-009 – Colonial Penniman – Trusswood Waterline Extension
3. CBE-07-107 – Vanasse Hangen Brustlin, Inc/Busch Properties – Spencer’s Grant
Continued from 2/13/08

D. Board Considerations

1. CBE-07-009 – Small – 3000 N. Riverside Drive - Permit Extension

E. Matters of Special Privilege - None

F. Adjournment

WQIA for CBE-08-003- 7318 Hatton Cross

Staff report for the March 12, 2008, Chesapeake Bay Board public hearing.

This staff report is prepared by the James City County Environmental Division 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.

Summary Facts

Applicant	Charles H. Skipper	
Land Owner	(same)	
Location	7318 Hatton Cross, Longhill Gate, Williamsburg	
Parcel Identification	3232900042A	
Staff Contact	Patrick Menichino	Phone: 253-6675

Project Summary and Description

Charles H. Skipper, 7318 Hatton Cross, Longhill Gate, Williamsburg, VA, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for Resource Protection Area (RPA) impacts associated with the construction of 50 linear feet of steel sheet pile retaining wall resulting in 45 square feet of impervious area. The lot is located adjacent to perennial features that require a 100-foot RPA buffer. This buffer encompasses approximately 50% of the lot.

A mitigation plan has been provided along with the exception request for your review. The mitigation plan proposes to mitigate for the 45 square feet of impervious area by planting 3 native shrubs, in an area below the retaining wall. The mitigation plan is in accordance with the standard mitigation requirements of the County.

Staff offers the following guidance to the Board:

1. Staff supports approval of the RPA buffer encroachment for the proposed retaining wall with staff recommendations:
2. This approval shall become null and void if construction has not begun by March 12, 2009. An extension can be requested in writing at least 2 weeks prior to the expiration date.

Brief History

The lot was recorded after the 1990 adoption of the Chesapeake Bay Preservation Ordinance. There is a 100 foot RPA buffer located on the lot adjacent to the resource. This 100 foot RPA buffer encompasses approximately 50% of the lot.

Retaining walls are considered accessory structures and therefore are not eligible for administrative approval according to the Ordinance. Therefore this exception request for the construction of approximately 50 linear feet of retaining wall within the 100 RPA buffer must be reviewed by the Board.

Water Quality Impact Assessment

Under Section 23-14 of the amended Ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPA. The applicant has submitted a WQIA for this project. The WQIA proposes to mitigate for the impacts to the RPA by planting 3 native shrubs within RPA. This vegetation will be located to the rear of the proposed retaining wall on property under the control of the HOA. The mitigation plan meets the typical RPA mitigation requirements of the county.

The owners have submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The Board is to determine whether or not the proposed development is consistent with the spirit and intent of the Ordinance and make a finding based upon the following criteria, as outlined in Section 23-14(c) of the Chesapeake Bay Ordinance:

Recommendations

The Ordinance does not authorize staff to give administrative approval for the placement of principal structures within the seaward 50-foot RPA buffer.

Staff recommends approval of the exception request for the proposed retaining wall with the following conditions:

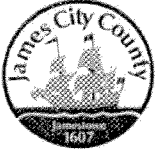
1. Full implementation of the mitigation landscape plan submitted with the WQIA.
2. The size of the shrubs planted shall be a minimum of 3-5 gallon container size (18” to 36” tall). All vegetation shall be native species approved by the Environmental Division.
3. The retaining wall design, specifications and location must meet the approval of all other regulatory agencies that may have jurisdiction.
4. Installation of the required plant material shall be completed immediately following the installation of the retaining wall.
5. The applicant must submit to the division authorization from the HOA, for the permanent installation of native planting material within the RPA buffer located on property under the control of the HOA.
6. This exception request approval shall become null and void if construction has not begun by March 12, 2009.

All recommendations adopted by the Board must be incorporated into the site plans for the project, which then must be approved by the Environmental Division before construction can begin. If the Board grants the exception, the proposed mitigation plan is in accordance with the standard mitigation requirements for impervious surfaces.

Staff Report prepared by: _____
Patrick Menichino

CONCUR: _____
Scott J. Thomas

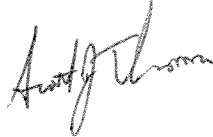
Attachments:



MEMORANDUM

Date: March 12, 2008

To: Chesapeake Bay Board

From: Scott J. Thomas, Director
Environmental Division 

Subject: Colonial Penniman LLC
Trusswood Waterline Extension CBE-07-039
County Plan No. SP-106-02 (amended SP-83-07)

Since the time of advertisement, it has been determined that this specific case can be reviewed administratively and is therefore being withdrawn from Board consideration. This memorandum provides additional information to support this determination.

A site plan (County Plan No. SP-106-02) was approved in 2003 for the extension of a waterline to the Trusswood Property, which is adjacent to the BASF property and the James River Commerce Park in the Grove area of the County. The waterline extension runs through both the Commerce Park and BASF property and is situated on property owned by the County's Economic Development Authority (EDA).

When the site plan was approved in 2003, there was no Resource Protection Area (RPA) associated with the property. However, after changes to the Chesapeake Bay Preservation Ordinance in 2004, the stream adjacent to the proposed waterline location was declared to be perennial and RPA has now been identified along the waterline alignment. A portion of the easement corridor is within RPA but these impacts (previously 15,048 square feet) are grandfathered in accordance with the vesting/grandfathering policy adopted by the Board of Supervisors when the Ordinance amendments were adopted in November 2003.

Most recently, the original Special Use Permit for the project (SUP-03-02) expired. The applicant had to go back to the Planning Commission and Board of Supervisor to obtain Special Use Permit approval (SUP-25-07). The site plan then had to be re-submitted for staff review under a site plan amendment (SP-83-07). The Water Quality Impact Assessment as submitted with the site plan amendment shows 11,089 square feet of RPA impact. As this total RPA impact is significantly below the original approved grandfathered impact amount, it can be deemed an administrative review.

Staff apologizes to the Board and public for any confusion; however, the grandfathered site plan expires shortly and it was imperative that the Chesapeake Bay Exception be processed for the project. Prior to receipt and full review of the current water quality impact assessment, it decided to put the case on the Chesapeake Bay Board agenda as Board submittal deadlines were looming. If impacts were more than the original grandfathered amount, it would have had to go to the Chesapeake Bay Board for consideration.

The Board can be assured that staff will continue to work with the applicant and the Economic Development Authority on this application. Staff has fully reviewed the site plan as currently proposed for the project and will apply conditions to the CBE request, consistent with if the case went to the Board. The County's Attorney Office concurs with this determination.

MEMORANDUM

DATE: March 12, 2008
TO: The Chesapeake Bay Board
FROM: Patrick T. Menichino, Environmental Compliance Specialist
SUBJECT: Deferral of CBE-07-107 - Busch Properties Inc, Spencer's Grant

Mr. Kevin Kolda on behalf of Bush Properties Inc. has requested a continuance of the above referenced Chesapeake Bay Board Exception request until April 9, 2008.

Staff recommends that the Board grant the applicant a continuance of CBE-07-107 as requested.

MEMORANDUM

DATE: March 12, 2008
TO: The Chesapeake Bay Board
FROM: Patrick Menichino, Environmental Compliance Specialist
SUBJECT: Case NO. CBE-07-009, 3000 N. Riverside Drive, Lanexa

Ms. Kathleen L. Small, of 3000 N. Riverside Drive, Lanexa, has requested an extension of the expiration date for CBE-07-009. Please be advised that Staff does support the granting of a one year extension for the above referenced exception. All conditions required within CBE-07-009 shall apply to the permit extension.