

Chesapeake Bay Board

December 9, 2009

A. Roll Call

B. Minutes

From November 18, 2009 – Board Meeting

C. Public Hearings

1. CBE-10-032 – Kerr Environmental/GS Stonehouse Green Land Sub LLC 9235
Fieldstone Parkway
2. CBE-10-045 - Williamsburg Environmental Group/Christine Payne 2689
Jockeys Neck Trail

D. Board Considerations

E. Matters of Special Privilege

F. Adjournment

Chesapeake Bay Exception CBE-10-032: Stonehouse Land Bay 3
Staff report for the December 9, 2009, 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.

Existing Site Data & Information

Applicant: Ms. Kristen Shacochis-Brown, Kerr Environmental Services Corp.

Land Owner(s): GS Stonehouse Green Land Sub, LLC

Location: 9235 Fieldstone Parkway, Toano, Virginia 23168
Pin: 0440100029: GS Stonehouse owner

9340 Fieldstone Parkway, Toano, Virginia 23168
Pin: 0440200002: 2J Investments LLC, owner

9315 Fieldstone Parkway, Toano, Virginia 23168
Pin: 0440100033: 2J Investments, LLC owner

9683 Mill Pond Run, Toano, Virginia 23168
Pin: 0530100017: The Association at Stonehouse, Inc owner
(Homeowners Association)

Parcel Size/Zoning: 41 +/- acres, PUD Residential and PUD Commercial

Percent of Parcels in RPA: 34% (14 +/- acres)

Watershed: Ware Creek

Proposed Impacts

Chesapeake Bay Board action (Board approval)

Sanitary Sewer RPA Encroachments:

Permanent encroachment:	24,004 square feet (0.55 ac.)
Temporary encroachment:	16,266 square feet (0.37 ac.)
Total:	40,270 square feet (0.92 ac.)

Chesapeake Bay Preservation Ordinance Administrator action (Administrative approval)

BMP RPA Encroachments: 10,463 square feet (0.24 ac.)

Brief Summary and Description of Activities

The submitted Water Quality Impact Assessment contains information pertaining to both administrative and Board action. The impacts associated with the BMPs, specifically sections 3.1.2, 3.1.3, and 3.1.4, require administrative approval due to the fact that they are either water dependant features, routine maintenance of BMPs, and/or alterations or improvements to an existing BMP structure that does not degrade the quality of surface water discharge. The impacts associated with the sanitary sewer require Board approval as they are not built by a public service authority. The remainder of this staff report will discuss the proposed sanitary sewer impacts.

The Stonehouse development received a US Army Corps of Engineers permit to construct a sanitary sewer pump station and associated sewer lines (2,300 linear feet) in 1997. The pump station and approximately 1,030 lf of sewer lines have been constructed to date and the original permit has expired. Furthermore, the Stonehouse development has undergone several changes in ownership during this time as well. Several options have been pursued in the design of this land bay and the current layout is the one chosen by the owner to present to the various agencies for their respective permits. The subdivision plan for land bay 3 is currently under review at the County under plan number S-048-08.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is a gravity sewer line that will provide service to this land bay, serve as a future connection for an adjacent, undeveloped parcel, and will connect to an existing gravity sewer offsite and pump station. 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 all land disturbance, development or redevelopment within the RPA 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 provided on October 1, 2009 and revised on November 30, 2009. Based on staff review, the WQIA proposes to mitigate for RPA impacts by:

- Replanting the temporary construction easement (16,266 sf), and
- Preserve 14,810 sf of non-RPA area, adjacent to the RPA within Land Bay 3, and
- Replant 5,480 sf of non-RPA area, adjacent to RPA and a BMP within Tract 12, and
- Payment of \$4,634.70 into the Chesapeake Bay Mitigation Fund as mitigation for the remaining 4,414 sf of RPA impact.

Staff Recommendation

Staff has fully reviewed the application and exception request, including the WQIA, and has determined impacts associated with the proposal to be minimal for the proposed development and that the proposed

mitigation measures are acceptable. 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.
2. Replant the temporary construction easement (16,266 sf).
3. Preserve 14,810 sf of non-RPA in Land Bay 3. This area shall be placed within a conservation easement and dedicated to the Williamsburg Land Conservancy and James City County.
4. Replant 5,480 sf of non-RPA adjacent to BMP 3A in Tract 12 of Stonehouse.
5. Payment of \$4,634.70 into the Chesapeake Bay Mitigation Fund.
6. Signed letters of permission shall be submitted to the Environmental Division for all offsite property owners affected by this proposal prior to work commencing. This includes 2J Investments and Stonehouse HOA.
7. All improvements on the Stonehouse HOA property that are damaged by the installation of the sanitary sewer line shall be replaced, including landscape materials, fencing, and sidewalk/trail.
8. This exception request approval shall become null and void if construction has not begun by December 9, 2010.
9. Written requests for an extension to an exception shall be submitted to the Environmental 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-10-032 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-10-032 are included for the Board's use and decision.

Staff Report prepared by:

Michael D. Woolson
Senior Watershed Planner

CONCUR:

Scott J. Thomas
Secretary to the Board

Attachments:

Water Quality Impact Assessment, date stamped November 30, 2009

Chesapeake Bay Exception CBE-10-045: 2689 Jockeys Neck Trail

Staff report for the December 9, 2009, 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.

Existing Site Data & Information

Applicant	Loel and Christine Payne
Land Owner	Loel and Christine Payne
Location	2689 Jockeys Neck Trail, Vineyards at Jockeys Neck, Williamsburg, Virginia
Parcel Identification	4840200021
Lot Size:	1.03 acres
RPA Area on Lot	.46 acres or 44 % of the lot.
Watershed	College Creek.
Proposed Activity:	Installation of a 16 ft X 40 ft swimming pool w/ 3 ft perimeter walkway

Proposed Impacts

Impervious Area	1,012 square feet
RPA Encroachment	Landward 50 foot RPA Buffer

Brief Description and Summary

Ms. Toni Small of Williamsburg Environmental Group on behalf of Loel and Christine Payne, of 2689 Jockeys Neck Trail, Williamsburg, Va. has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer, for the construction of a 16 ft. X 40 ft. inground swimming pool with a 3 ft. wide perimeter walkway within the landward 50 foot RPA buffer. The pool and walkway will create 1,012 square feet of impervious area within the RPA Buffer.

A detailed RPA Mitigation Planting Plan (Plan) has been provided along with the exception request for your review. The plan proposes to mitigate for the RPA impacts by planting (3) native canopy trees, (9) native understory trees and (16) native shrubs, in mulch planting beds to help filter runoff. The amount of plantings proposed exceeds the standard mitigation planting requirements of the County for impervious impacts. In addition the applicant has offered additional mitigation by installing a 40 ft long infiltration trench adjacent to the west side of the pool to help intercept and treat runoff from the impervious areas.

Background

The lot was recorded after the adoption of the Ordinance, and no RPA existed on the lot at that time. In 2004 the Ordinance requirements related to the determination of perennial flow were changed requiring that perennial water bodies be identified based on a field evaluation. A perennial feature at the rear of the lot was identified requiring that a 100 foot RPA buffer be established on the lot.

In this case, the exception request is for swimming pool and perimeter walkway, within the landward 50 foot buffer. This request does not qualify for an administrative waiver because it is for an accessory structure. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing.

Water Quality Impact Assessment (WQIA)

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 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 WQIA for this project and proposes to mitigate for the impacts to the RPA by planting. The plan proposes to mitigate for the RPA impacts by planting (3) native canopy trees, (9) native understory trees and (16) native shrubs, in mulch planting beds on the lot to help filter nonpoint source pollution. In addition the applicant has offered additional mitigation by installing a 40 ft long infiltration trench adjacent to the west side of the pool to help intercept and treat runoff from the impervious areas.

Staff Recommendations

The issue before the Board is the addition of the 1,012 square feet of impervious area within the 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.

Staff evaluated the potential adverse impacts of this proposal and determined them to be moderate. Those impacts may be offset by the proposed mitigation plan.

If the Board votes to approve the exception request, then staff recommends that the following conditions be incorporated into the approval:

1. The applicant must obtain all other permits required from agencies that may have regulatory authority over the proposed activities, including a James City County building permit if required.
2. An acceptable detailed plan for the proposed infiltration trench must be submitted to the County for review and approval.

3. The size of the trees planted shall be a minimum of 1-1/2 inch caliper (six to eight feet tall) and the shrubs shall be 3 gallon size. All vegetation shall be native species approved by the Environmental Division.
4. Full implementation of the RPA Mitigation Plan submitted with the WQIA and any additional Board mitigation requirements shall be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3) d. and 23-17(c), a form of surety satisfactory to the County Attorney.
5. This exception request approval shall become null and void if construction has not begun by December 9, 2010, or all improvements including the required mitigation plantings and infiltration trench are not completed by that expiration date.
6. Written requests for an extension to an exception shall be submitted to the Environmental Division no later than 2 weeks prior to the expiration date.

Staff Report prepared by: _____

Patrick T. Menichino
Compliance Specialist

CONCUR:

Scott J. Thomas
Secretary to the Board

Attachments: