

**Chesapeake Bay Board**  
**BUILDING F - 7:00 P.M.**  
**April 14, 2010**

- A. Roll Call**
- B. Minutes - From March 10, 2010 – Board Meeting**
- C. Public Hearings**
- D. Board Considerations**
- E. Matters of Special Privilege**
- F. Adjournment**

## Chesapeake Bay Exception CBE-10-032: Stonehouse Land Bay 3

Staff report for the April 14, 2010 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:	<b>40,270 square feet (0.92 ac.)</b>

Chesapeake Bay Preservation Ordinance Administrator action (Administrative approval)

BMP RPA Encroachments:	10,463 square feet (0.24 ac.)
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### **Brief Summary and Description of Activities**

On December 9, 2009, the Chesapeake Bay Board approved an exception to the use of the resource protection area for impacts associated with the installation of a gravity sewer line and permanent maintenance easement. On or about February 25, 2010, it was discovered by the applicant that there was an error in the approved WQIA between what was shown on the plan sheet for mitigation area and what was transferred to a table (Table 3 – Table of Mitigation Offered). The plan sheet has 3,480 square feet of area to be replanted and the table says 5,480 square feet. The additional 2,000 square feet of mitigation planting cannot be accommodated at the mitigation site therefore the applicant has requested a change in the approved conditions.

Under approved condition #6, fourth bullet, revise to read “3,480 square feet” instead of “5,480 square feet”. This modification will reflect the correct acreage of planting around BMP 3A as shown in Appendix F, figure LS-4 of the approved WQIA. There are no proposed revisions to the planting around this BMP.

Under approved condition #6, fifth bullet, revise to read “\$6,734.70” instead of “\$4,634.70” into the Chesapeake Bay Mitigation Fund. The applicant is requesting the CBB consider this additional payment into the Chesapeake Bay Mitigation Fund as adequate compensation for the 2,000 square foot planting shortfall from the approved exception.

### **Staff Recommendation**

Staff has reviewed the exception request and has determined that the proposed mitigation measures are acceptable. Staff recommends the Chesapeake Bay Board reapprove the Chesapeake Bay Exception CBE-10-032 dated December 9, 2009 with the following changes:

1. Condition 6, fourth bullet, “Replant 3,480 sq ft of non-RPA adjacent to BMP 3A in Tract 12 of Stonehouse. This area shall be placed within a conservation easement and dedicated to James City County.”
2. Condition 6, fifth bullet, “Payment of \$6,734.70 into the Chesapeake Bay Mitigation Fund.”
3. This exception request approval shall become null and void if construction has not begun by April 14, 2011.

### **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:

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Michael D. Woolson  
Senior Watershed Planner

CONCUR:

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Scott J. Thomas  
Secretary to the Board

Attachments:

Sheet LS-4 from approved WQIA  
Table 3 – Table of Mitigation Offered from approved WQIA  
Email from Kristen Shacochis, dated March 2, 2010  
Approved Resolution from December 9, 2009

## **Chesapeake Bay Exception CBE-10-066: 1270 Two Rivers Point**

Staff report for the April 14, 2010, 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: Mr. David Pulk

Land Owner: David K. & Carol S. Pulk

Location: 1270 Two Rivers Point, Williamsburg, Virginia 23185

Parcel: Lot 8, Two River's Point, The Governor's Land at Two Rivers

Parcel Identification 4310500008

Lot Size: 0.62 acres

RPA Area on Lot 0.25 acres or 41% of the lot

Watershed James River (HUC Code JL29)

Proposed Activity: Installation of a walk-out raised terrace with support wall and in-ground swimming pool

### **Proposed Impacts**

Impervious Area: 685 square feet

RPA Encroachment Landward 50 foot RPA Buffer

### **Brief Description and Summary**

Ms. Toni Small of Williamsburg Environmental Group on behalf of David and Carol Pulk, of 208 Brentwood Drive, Hudson, Ohio has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer, for the construction of a walkout raised terrace approximately 685 square feet in size. The terrace is inclusive with approximately 55 ft. length of support wall and an in-ground swimming pool approximately 20 ft. x 12 ft in size. Only a portion of the west part of the proposed swimming pool is situated within the landward RPA buffer. The terrace and inclusive structures will create 685 square feet of impervious area within the landward 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 six (6) native canopy trees, fifteen (15) native understory trees and twenty-seven (27) native shrubs.

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 25 ft. long infiltration area in the northeast corner of the parcel to help intercept and treat runoff from impervious areas along the east side of the proposed house and the entire terrace area.

### **Background**

The lot was recorded after the adoption of the Chesapeake Bay Ordinance in 1990. Bay Act requirements resulted in approval of the plat for the subdivision with a 100-foot RPA buffer around all water bodies with perennial flow. The James River was identified as a perennial water body feature and an RPA buffer was placed on the lot. There are some unique provisions to the approved plat which will be explained at the staff presentation.

According to provisions of Section 23-7(c)(2) the County's Chesapeake Bay Preservation ordinance, the manager may grant administrative approval for the construction of a principal structure on a lot or parcel recorded between August 6, 1990 and January 1, 2004. The administrative case - for construction of the principal structure and associated impact to RPA - was submitted concurrently (CBE-10-065) with the case scheduled before the board (CBE-10-066).

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 a walkout raised terrace, associated support wall, and that portion of in-ground swimming pool within the RPA buffer. Impacts are on the landward side of the RPA 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 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 WQIA for this project which consists of a cover letter dated March 3<sup>rd</sup> 2010, the standard County *Sensitive Area Activity Application*, a supplemental narrative attachment, and a WQIA map. The WQIA map shows features of the proposal along with a mitigation plan for planting six (6) native canopy trees, fifteen (15) native understory trees and twenty-seven (27) native shrubs. The amount of plantings proposed exceeds the standard mitigation planting requirements of the County for impervious impacts. The mitigation plan includes plantings for both the board and administrative review cases (pending). In addition, the applicant has offered additional mitigation by installing a 25 ft. long infiltration area in the northeast corner of the parcel to help intercept and treat runoff from impervious areas along the east side of the proposed house and the entire terrace area.

The cover letter dated March 3<sup>rd</sup> 2010 gives very specific information about the applicant's request, environmental features of the site development, and reconfiguration of the house footprint to avoid and minimize impact to the RPA.

### **Staff Recommendations**

The issue before the Board is the addition of 685 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 (5) review criteria within this section 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 favors the resolution to grant approval, then staff recommends the incorporation of the following conditions into the approval:

1. The applicant must obtain all other applicable federal, state and local permits required for the project, including a building permit from James City County Codes Compliance.
2. An acceptable detailed plan for proposed yard drains and the proposed infiltration area, as situated in the northeast corner of the lot, must be submitted to the County for review and approval prior to their construction.
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), which is providing 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 April 14, 2011 or all improvements including the required mitigation plantings, including the infiltration area, 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:

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Scott J. Thomas  
Secretary to the Board

Attachments