

Chesapeake Bay Board

7:00 p.m. - Building F

November 10, 2010

A. Roll Call

B. Minutes

From October 13, 2010 – Board Meeting

C. Public Hearings

1. CBE-11-033. Switzer – 2697 Jockey's Neck Trail continued from 10/13/10

2. CBE-11-047. J Lloyd Bldr/RJGC Equipment Leasing – 104 Archer's Court

The following two cases are continued from 9/8/10 and will be heard concurrently with the related cases on the Wetlands Board Agenda.

3. CBE-11-041. Harssema – 2705 Jockey's Neck

4. CBE-11-042. Clark – 2035 Bush Neck

D. Board Considerations

1. Calendar Year 2011 Meeting Schedule

E. Election of Officers for 2011

F. Matters of Special Privilege

G. Adjournment

MEMORANDUM

DATE: November 10, 2010
TO: The Chesapeake Bay Board
FROM: Scott J. Thomas, Environmental Director
SUBJECT: Chesapeake Bay Exception CBE-11-033; Parcel ID: 4840200019
Address: 2697 Jockeys Neck Trail; Applicant: Daniel F. Switzer

On October 13, 2010 the County's Chesapeake Bay Board granted a motion, at the request of the applicant, to defer case CBE-11-033 until November 10, 2010. The applicant is requesting a Chesapeake Bay Exception for an encroachment into the RPA buffer for the construction of a paver patio addition 400 square feet in size. The paver patio addition is approximately 20 ft. x 20 ft. in size and is situated off of the existing deck and screened porch on the west portion of the existing home. Because of the lot's setting between two fingers of existing Lake Ajacan, the entire patio is situated within the seaward 50 ft. RPA buffer.

Following the previous Chesapeake Bay Board meeting, staff met with the applicant on two occasions. The first meeting was on October 14, 2010. The purpose of this meeting was to discuss the previous proposal, ideas for mitigation changes, and information needed by the County upon re-submittal. The second meeting was on October 27, 2010. The purpose of this meeting was for the owner to present decisions made on the proposed mitigation plan and to provide necessary re-submittal materials. It should be noted that the size, configuration, and construction methods proposed for the paver patio addition remains unchanged from the previous Board meeting. The patio remains proposed at 400 square feet, paver blocks are concrete with sand-filled joints, and it is not designed as a permeable system.

However, the following improvements were made to the application since the last Board meeting:

- The applicant authorized their contract lawn care company to perform soil analyses on their back (southwest) yard-lawn area in order to determine proper and optimal application of yard fertilizer. This is considered as nutrient management planning by staff and is considered a benefit to water quality. As of the date of this memorandum, the results or recommendations of the soil analyses are not available.
- The applicant retained the services of a landscape designer to aid with developing a revised mitigation planting plan. The revised proposal is double the native mitigation plantings compared to the previous proposal. The current proposal is for two (2) understory trees and six (6) shrubs in better strategically placed locations. Previously, native mitigation plantings were one (1) understory tree and three (3) shrubs and the three shrubs were co-located in the soil amendment/planting area (ie. the LID-IMP, low impact development/integrated management practice feature, adjacent to the proposed patio).
- The applicant revised the mitigation planting plan so that native mitigation plantings are not co-located within the soil amendment/planting area (ie. the LID-IMP feature). The soil amendment/planting area size, configuration and design remains unchanged from the previous proposal (20 ft. x 6 ft. wide; 120 square feet or 30 percent of the proposed impervious area).

- In the soil amendment/planting area (ie. LID-IMP feature), the applicant proposes an additional six (6) to ten (10) native perennial plants. The landscape designer will select perennials which adapt to soil and moisture conditions within the proposed soil amendment/planting area.
- The applicant revised the application to increase the application of mulch in the soil amendment/planting area (ie. LID-IMP feature) from 75 square feet to 120 square feet.
- The applicant will add a 50 gallon rain barrel at the existing downspout situated on the corner of the existing screen porch near the existing deck stairs and proposed patio.

Staff has fully reviewed the revised application and has determined, consistent with the previous recommendation, that impacts associated with the proposal are minimal and are adequately offset with implementation of the mitigation plan.

If the Board favors the resolution to grant approval, staff recommends 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 (3) gallon size.
3. The LID-IMP (low impact development – integrated management practice) feature, as shown and labeled on the mitigation plan as the “soil amendment/planting area, shall be constructed adjacent to the patio. This area shall be approximately 120 square feet in size and consist of a depressed (sunken) area with soil amendments, mulch and native perennial plantings as 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 November 10, 2011 or all proposed improvements, including those plants and features required for mitigation, 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.

Attachments: Revised Sensitive Area Activity Application
Revised Mitigation Plan

Chesapeake Bay Exception CBE-11-047: 104 Archers Court, Kingspoint

Staff report for the November 10, 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: Jeremy Findley

Land Owner: RJGC Equipment Leasing
1170 Tidwell Road
Alpharetta, Virginia 30004

Location: 104 Archer's Court, Kingspoint
PIN: 4930280017

Parcel Size/Zoning: 0.99 +/- acres, R1 Limited Residential

Percent of Parcel in RPA: 78% (0.78 +/- acres)

Watershed: College Creek (HUC – JL34)

Proposed Impacts

Impervious Area: approximately 28 square feet

RPA Encroachment: landward 50 foot RPA Buffer

Brief Summary and Description of Activities

Mr. Jeremy Findley, J. Lloyd Builder, has applied for an exception to the Chesapeake Bay Ordinance for the encroachment into the RPA buffer for a concrete landing. The proposed landing will provide a safe means of ingress/egress for a walkout basement and will create approximately 84 square feet of impervious cover in the RPA buffer. Approximately 56 square feet of the landing is under previously approved impervious cover from the main structure and is subtracted from the total. This leaves a total of 28 square feet of additional impervious cover. The mitigation measures proposed for the original house construction are adequate to cover this additional impervious cover. Therefore, staff has not imposed any additional mitigation requirements upon this applicant. The Code Compliance Department was consulted about any requirements for safe ingress/egress from a basement. It was stated that the requirements generally are a 3 ft by 3 ft landing for this type of construction.

The lot was originally recorded prior to the 1990 adoption of the Chesapeake Bay Preservation Ordinance. In this case, the exception request is for a concrete landing area at the ingress/egress area for a walkout basement, which encroaches into the RPA buffer. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing is

held. Furthermore, 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.

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 construction and that the mitigation measures proposed for the original single family house construction is adequate. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

1. The applicant must obtain all other necessary local permits as required for the project.

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-11-023 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-11-047 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: Sensitive Area Activity Application
Aerial photograph w/ RPA
Existing site pictures

Chesapeake Bay Exception CBE-11-041: 2705 Jockey's Neck Trail, Vineyards

Staff report for the November 10, 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: Fred and Suzanne Harsemma

Land Owner: Fred and Suzanne Harsemma
2705 Jockey's Neck Trail
Williamsburg, VA 23185

Location: 2705 Jockey's Neck Trail
PIN: 4840200010

Parcel Size/Zoning: 0.99 +/- acres, R1 Limited Residential

Percent of Parcel in RPA: 83% (0.82 +/- acres)

Watershed: College Creek (HUC - JL34)

Proposed Impacts

Impervious Area: approximately 950 square feet

RPA Encroachment: landward and seaward 50 foot RPA Buffer

Brief Summary and Description of Activities

Mr. and Mrs. Harsemma have applied for an exception to the Chesapeake Bay Ordinance for the encroachment into the RPA buffer for a paver patio and walkway to existing driveway. Concurrently with this application, the Harsemma's are applying for an administrative exception for a buffer modification and for expansion of the main structure.

The issue for the Chesapeake Bay Board is the addition of approximately 950 square feet of impervious cover (paver patio and walkway) in the RPA buffer. The mitigation rate would be three (3) units for this amount of impervious cover (3 canopy/6 understory/9 shrubs). The proposed mitigation plan calls out 3 understory trees (red bud) and 38 shrubs (18 inkberry and 20 clethra). The mitigation plan also calls out several areas of bunch grasses, ferns, and perennials. This proposed planting plan exceeds County requirements for mitigation.

The lot was recorded after the 1990 adoption of the Chesapeake Bay Preservation Ordinance but prior to the Ordinance revisions of 2004. In this case, the exception request is for the addition of a paver patio and walkway which will encroach into the 50' RPA buffer. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing.

Furthermore, 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.

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 construction and that the proposed mitigation measures exceed requirements. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

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 three gallon pots for the proposed shrubs.
3. A pre-construction meeting shall be held on-site prior to work commencing.
4. Full implementation of the RPA Mitigation Plan 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) by providing a form of surety satisfactory to the County Attorney. Surety in this case shall be \$1,000.00.
5. This exception request approval shall become null and void if construction has not been completed by November 10, 2011 including the required mitigation plantings.
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.

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-11-041 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-11-041 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: Sensitive Area Activity Application
GIS photo
Planting plan
Existing condition photos

Chesapeake Bay Exception CBE-11-042: 2035 Bush Neck Road

Staff report for the November 10, 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: Mary Lou Clark

Land Owner: Mary Lou Clark
2035 Bush Neck Road
Williamsburg, VA 23188

Location: 2035 Bush Neck Road
PIN: 3420100008

Parcel Size/Zoning: 10.9 +/- acres, A1 General Agriculture

Percent of Parcel in RPA: 39% (4.30 +/- acres)

Watershed: Chickahominy River (HUC – JL29)

Proposed Impacts

Impervious Area: approximately 2,146 square feet

RPA Encroachment: landward 50 foot RPA Buffer

Brief Summary and Description of Activities

Mary Lou Clark has applied for an exception to the Chesapeake Bay Ordinance for an encroachment into the RPA buffer for a 3 car garage with workshop and exercise room. The location of the new structure avoids existing septic system components and avoids impacting the 50 foot seaward buffer, while allowing for relative close access to the home. The mitigation rate would be five (5) units for this amount of impervious cover (5 canopy trees/10 understory trees/15 shrubs). The applicant has not yet provided a mitigation plan, but has been advised of the requirements.

The lot was recorded after the 1990 adoption of the Chesapeake Bay Preservation Ordinance but prior to the Ordinance revisions of 2004. In this case, the exception request is for the building of a new 3 car garage with a workshop and exercise room. This will encroach into the landward 50' RPA buffer. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing. Furthermore, 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.

Staff Recommendation

Staff has fully reviewed the application and exception request, including the WQIA, and has determined impacts associated with the proposal to be noteworthy for the proposed construction and that there is no proposed mitigation plan. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

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 three gallon pots for the proposed shrubs.
3. A pre-construction meeting shall be held on-site prior to work commencing.
4. A RPA Mitigation Plan shall be submitted to, and approved by, the Environmental Division prior to the pre-construction meeting. The mitigation plan shall include at least 5 units.
5. Full implementation of the RPA Mitigation Plan 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) by providing a form of surety satisfactory to the County Attorney. Surety in this case shall be \$2,000.00.
6. This exception request approval shall become null and void if construction has not been completed by November 10, 2011 including the required mitigation plantings.
7. 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-11-042 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-11-042 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: Sensitive Area Activity Application
GIS photos
Existing condition photos

Chesapeake Bay Exception CBE-11-009: 7604 Uncle's Neck Road; River's Bend at Uncle's Neck

Staff report for the November 10, 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: Karla Havens; Mid Atlantic Resource Consulting

Land Owner(s): Jeffrey Fisher
8740 Merry Oaks Lane
Toano, VA

Location: 7604 Uncle's Neck Road
Pin: 2030200026: Jeffrey Fisher, owner

Parcel Size/Zoning: 3.25 +/- acres, A1 Agricultural
Percent of Parcel in RPA: 14% (0.44 +/- acres)

Watershed: Chickahominy River (HUC Code JL 28)

Proposed Impacts

Disturbed Area: 10,000 square feet total disturbance
RPA Encroachment: Landward and Seaward 50 foot RPA Buffers

Brief Summary and Description of Activities

Ms. Karla Havens of Mid Atlantic Consulting, Inc. on behalf of Jeffrey Fisher has applied for an exception to the Chesapeake Bay Ordinance for the encroachment into the RPA buffer for the re-grading of an existing slope and the subsequent stabilization and re-planting associated with the installation of a 200' stone revetment.

The re-grading of the existing bank along with the construction of the revetment will create a total of approximately 10,000 square feet of RPA impacts in both the landward and seaward buffer areas. Additionally, the applicant also proposes to remove nineteen trees during the construction process.

The applicant has also proposed to install wire reinforced silt fence at the toe of bank and a turbidity curtain during construction to minimize any sediment run-off to off-site areas.

Additionally, if the associated Wetlands Case is denied by the Wetlands Board, this case should be deferred to a later date as the proposed plan would be unnecessary as the scope of the work will have changed.

Staff Recommendation

Staff has fully reviewed the application and exception request, including the WQIA, and has determined impacts associated with the proposal to be moderate for the proposed construction and that the proposed mitigation measures may offset the impacts to the RPA. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

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 with all proposed shrubs being of three gallon size.
3. A pre-construction meeting shall be held on-site prior to commencing work.
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) by 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 November 10, 2011 or all improvements including the required mitigation plantings 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.

Background

The lot was recorded following both the 1990 adoption and the subsequent 2004 revision of the Chesapeake Bay Preservation Ordinance. In this case, the exception request is for the re-grading and stabilization an existing bank which will encroach into both the landward and seaward RPA buffers. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for the re-grading and stabilization of an existing bank. 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.

A WQIA was provided on July 23, 2010. Based on staff review, the WQIA proposes to mitigate for RPA impacts by:

- Re-planting the RPA with 250 shrubs and the placement of 7,000 square feet of hardwood mulch over EC-2 erosion control matting.

Due to the proposed 2H:1V slope and the inherent danger that during storm events that any new planted trees could be felled and compromise the slope itself, it is not advisable to install canopy and understory trees. The applicant has proposed to plant 250 shrubs which meets the alternate mitigation requirements and is satisfactory to staff.

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-11-009 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-11-009 are included for the Board's use and decision.

Staff Report prepared by:

Michael P. Majdeski
Senior Environmental Inspector

CONCUR:

Scott J. Thomas
Secretary to the Board

Attachments: RPA Replanting Plan
Board Photos

Chesapeake Bay Exception CBE-11-010: 7596 and 7600 Uncle's Neck Road; River's Bend at Uncle's Neck

Staff report for the November 10, 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: Karla Havens; Mid Atlantic Resource Consulting

Land Owner(s): Uncle's Neck LLC
5300 Mercury Blvd
Newport News, VA 23605

Location: 7596 and 7600 Uncle's Neck Road
Lot 24; Pin: 2010200024: Uncle's Neck LLC, owner
Lot 25; Pin: 2010200025: Uncle's Neck LLC, owner

Parcel Size/Zoning: Lot 24; 3.88 +/- acres, A1 Agricultural
Lot 25; 3.60 +/- acres, A1 Agricultural

Percent of Parcel in RPA: Lot 24; 39% (1.54 +/- acres)
Lot 25; 24% (0.87 +/- acres)

Watershed: Chickahominy River (HUC Code JL 28)

Proposed Impacts

Total disturbed area: 6,000 square feet
RPA Encroachment: Landward and Seaward 50 foot RPA Buffers

Brief Summary and Description of Activities

Ms. Karla Havens of Mid Atlantic Consulting, Inc. on behalf of Uncle's Neck LLC has applied for an exception to the Chesapeake Bay Ordinance for the encroachment into the RPA buffer for the re-grading of an existing slope and the subsequent stabilization and re-planting associated with the installation of a 258' stone revetment.

The re-grading of the existing bank along with the construction of the proposed revetment will create a total of approximately 6,000 square feet of RPA impacts in both the landward and seaward buffer areas. Additionally, the applicant also proposes to remove sixteen (16) trees during the construction process.

The applicant has also proposed to install wire reinforced silt fence at the toe of bank and a turbidity curtain during construction to minimize any sediment run-off to off-site areas.

Additionally, if the associated Wetlands Case is denied by the Wetlands Board, this case should be deferred to a later date as the proposed plan would be unnecessary as the scope of the work will have changed.

Staff Recommendation

Staff has fully reviewed the application and exception request, including the WQIA, and has determined impacts associated with the proposal to be moderate for the proposed construction and that the proposed mitigation measures may offset the impacts to the RPA. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

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 with all proposed shrubs being of three gallon size.
3. A pre-construction meeting shall be held on-site prior to work commencing.
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) by 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 November 10, 2011 or all improvements including the required mitigation plantings 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.

Background

The lot was recorded following both the 1990 adoption and the subsequent 2004 revision of the Chesapeake Bay Preservation Ordinance. In this case, the exception request is for the re-grading and stabilization an existing bank which will encroach into both the landward and seaward RPA buffers. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for the re-grading and stabilization of an existing bank. 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.

A WQIA was provided on July 26, 2010. Based on staff review, the WQIA proposes to mitigate for RPA impacts by:

- Re-planting the RPA with 150 shrubs and 3,000 square feet of hardwood mulch over EC-2 erosion control matting.

Due to the proposed 2H:1V slope and the inherent danger that during storm events that any new planted trees could fall and compromise the graded slope, it is not advisable to install canopy and understory trees. The applicant has proposed to plant 150 shrubs which meets the alternate mitigation requirements and is satisfactory to staff.

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-11-010 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-11-010 are included for the Board’s use and decision.

Staff Report prepared by:

Michael P. Majdeski
Senior Environmental Inspector

CONCUR:

Scott J. Thomas
Secretary to the Board

Attachments: RPA Re-Planting Plan
Board Photos

Chesapeake Bay Exception CBE-11-042: 2035 Bush Neck Road

Staff report for the November 10, 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: Mary Lou Clark

Land Owner: Mary Lou Clark
2035 Bush Neck Road
Williamsburg, VA 23188

Location: 2035 Bush Neck Road
PIN: 3420100008

Parcel Size/Zoning: 10.9 +/- acres, A1 General Agriculture

Percent of Parcel in RPA: 39% (4.30 +/- acres)

Watershed: Chickahominy River (HUC – JL29)

Proposed Impacts

Impervious Area: approximately 2,146 square feet

RPA Encroachment: landward 50 foot RPA Buffer

Brief Summary and Description of Activities

Mary Lou Clark has applied for an exception to the Chesapeake Bay Ordinance for an encroachment into the RPA buffer for a 3 car garage with workshop and exercise room. The location of the new structure avoids existing septic system components and avoids impacting the 50 foot seaward buffer, while allowing for relative close access to the home. The mitigation rate would be five (5) units for this amount of impervious cover (5 canopy trees/10 understory trees/15 shrubs). The applicant has not yet provided a mitigation plan, but has been advised of the requirements.

The lot was recorded after the 1990 adoption of the Chesapeake Bay Preservation Ordinance but prior to the Ordinance revisions of 2004. In this case, the exception request is for the building of a new 3 car garage with a workshop and exercise room. This will encroach into the landward 50' RPA buffer. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing. Furthermore, 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.

Staff Recommendation

Staff has fully reviewed the application and exception request, including the WQIA, and has determined impacts associated with the proposal to be noteworthy for the proposed construction and that there is no proposed mitigation plan. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

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 three gallon pots for the proposed shrubs.
3. A pre-construction meeting shall be held on-site prior to work commencing.
4. A RPA Mitigation Plan shall be submitted to, and approved by, the Environmental Division prior to the pre-construction meeting. The mitigation plan shall include at least 5 units.
5. Full implementation of the RPA Mitigation Plan 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) by providing a form of surety satisfactory to the County Attorney. Surety in this case shall be \$2,000.00.
6. This exception request approval shall become null and void if construction has not been completed by November 10, 2011 including the required mitigation plantings.
7. 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-11-042 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-11-042 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: Sensitive Area Activity Application
GIS photos
Existing condition photos