

# Chesapeake Bay Board Building F

May 13, 2015 - 7 p.m.

**A. Roll Call**

**B. Minutes**

From April 8, 2015 – Board Meeting

**C. Public Hearings**

1. CBE-15-079. 6019 Tabiatha Lane – Eckenfels – patio
2. CBE-15-085. 5120 W Grace Court – James/American Lawn & Landscape – retaining wall
3. CBE-15-086. Liberty Crossing – Noland Properties/AES – drainage amendment SP-20-15
4. CBE-15-087. 18 Whittakers Mill – Cherry/Greenleaf Landscaping - deck

**D. Board Considerations**

**E. Matters of Special Privilege**

**F. Adjournment**

## Chesapeake Bay Exception CBE-15-079: 6019 Tabiatha Lane

Staff report for the May 13, 2015 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

Land Owner: Christopher Eckenfels  
Agent: Same  
Location: 6019 Tabiatha Lane  
PIN: 1910600023  
Parcel: Section 5, Lot 23, Chickahominy Haven  
Lot Size: 0.463 acres +/-  
RPA Area on Lot: 0.27 acres +/- (58%)  
Watershed: Chickahominy River (HUC Code JL 28)  
Proposed Activity: Patio

### Proposed Impacts

Impervious Area: Approximately 640 sq. ft.  
RPA Encroachment: Landward 50 foot RPA buffer

### Description of Activities

Christopher Eckenfels has applied for a Chesapeake Bay Preservation Ordinance exception to install a patio at 6019 Tabiatha Lane. Mr. Eckenfels has already removed a deck and patio that had approximately 800 sq. ft. on impervious cover within the RPA. The previous deck and patio were installed by a previous owner and never obtained Chesapeake Bay Board approval. Along with the reduction in impervious cover, he proposes to plant 2 understory trees and 6 shrubs. The mitigation proposed exceeds County minimum mitigation requirements. As there is existing grass within the RPA, staff recommends that the homeowner participate in a turf nutrient management program.

### **Background of Parcel**

The original lot was platted in 1975, prior to the adoption of the Chesapeake Bay Preservation Ordinance, and because the proposed patio is accessory in nature, it cannot be approved administratively. Therefore in accordance with Section 23-14 of the Ordinance, an exception request must be considered by the 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 the construction of a patio which will impact approximately 640 square feet of RPA buffer at 6019 Tabiatha Lane in the Chickahominy Haven subdivision.

### **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*.

### **Consideration by the Chesapeake Bay Board**

The issue before the Board is the construction of a patio and whether this activity is consistent with the spirit and intent of the Ordinance and make a finding based upon the five (5) criteria outlined in Section 23-14 (c) of the Ordinance.


The board 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 Board is to fully consider Chesapeake Bay Exception CBE-15-079 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 denial of Chesapeake Bay Exception CBE-15-079 are included for the Board's use and decision.

### **Staff Recommendations**


Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be minimal for the proposed development and that the proposed mitigation, along with a turf nutrient management plan implementation, are sufficient mitigation measures. 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; and
2. Prior to construction, a \$250 surety shall be submitted in a form acceptable to the County Attorney's office, to guarantee the mitigation; and
3. The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures for this project if field conditions warrant their use; and
4. This exception request approval shall become null and void if construction has not begun by May 13, 2016; and
5. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

Staff Report prepared by:

  
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Michael Woolson  
Senior Watershed Planner

CONCUR:

  
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Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application w/plan

# Chesapeake Bay Exception CBE-15-085: 5120 West Grace Court

Staff report for the May 13, 2015 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

Land Owner: David and Yvonne James  
Agent: Jay Eckstein, American Lawn  
Location: 5120 West Grace Court  
PIN: 3221200038  
Parcel: Section 1B, Lot 38, Scott's Pond  
Lot Size: 0.27 acres +/-  
RPA Area on Lot: 0.08 acres +/- (53%)  
Watershed: Powhatan Creek (HUC Code JL 31)  
Proposed Activity: Retaining wall and associated backfill

## Proposed Impacts

Impervious Area: 75 square feet  
RPA Encroachment: Landward 50 foot RPA buffer

## Description of Activities

David and Yvonne James have applied for a Chesapeake Bay Preservation Ordinance exception to install a retaining wall and associated backfill to help reduce the erosion issues they are experiencing at their home at 5120 West Grace Court. Although the application states that no trees will be removed, staff suggests that three trees be removed, as they may be severely impacted by the proposed construction activity. The proposed mitigation is 1 redbud and three shrubs, which does exceed the mitigation rate for the amount of impervious cover. As there is existing grass within the RPA, staff recommends that the homeowner participate in a nutrient management program for the turf.

### **Background of Parcel**

The original lot was platted in May 1999, prior to the adoption of the Chesapeake Bay Preservation Ordinance. Therefore in accordance with Section 23-14 of the Ordinance an exception request must be considered by the 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 the construction of a 75 foot long retaining wall and associated backfill which will impact approximately 75 square feet of RPA buffer at 5120 West Grace Court in the Scott's Pond Subdivision.

### **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*.

### **Consideration by the Chesapeake Bay Board**

The issue before the Board is the construction of a retaining wall and associated backfill and whether this activity is consistent with the spirit and intent of the Ordinance and make a finding based upon the five (5) criteria outlined in Section 23-14 (c) of the Ordinance.

The board 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 Board is to fully consider Chesapeake Bay Exception CBE-15-085 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 denial of Chesapeake Bay Exception CBE-15-085 are included for the Board's use and decision.

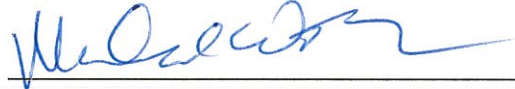
### **Staff Recommendations**

Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be minimal for the proposed development and that the proposed mitigation, along with a nutrient-turf management plan implementation, are sufficient mitigation measures. 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; and

2. Prior to construction, a \$250 surety shall be submitted in a form acceptable to the County Attorney's office, to guarantee the mitigation; and
3. The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures for this project if field conditions warrant their use; and
4. This exception request approval shall become null and void if construction has not begun by May 13, 2016; and
5. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

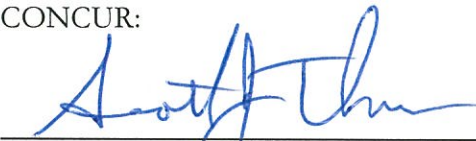
Staff Report prepared by:



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Michael Woolson  
Senior Watershed Planner

CONCUR:



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Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application w/plan

# Chesapeake Bay Exception CBE-15-086: Liberty Crossing

Staff report for the May 13, 2015 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

Land Owner: Noland Properties, Inc.  
Agent: Jason Grimes, P.E., AES Consulting Engineers  
Location: 6601 Richmond Road  
PIN: 2430100035  
Watershed: Yarmouth Creek, Subwatershed 105 (HUC Code JL 28)  
Proposed Activity: Deletion of a dry swale BMP

## Proposed Impacts

Impervious Area: none to the RPA  
RPA Encroachment: none

## Description of Activities

Jason Grimes, AES Consulting Engineers, has requested a modification to previously approved Chesapeake Bay Exception CBE-06-003 for the Liberty Crossing subdivision. The proposal is for installation of a new storm drainage conveyance system to collect stormwater runoff at the back of 24 lots (Lots 211-233) instead of allowing that runoff to be collected in a dry swale BMP with associated level spreader, as previously approved.

In the original proposal, there were 0.86 acres of RPA impacts for sanitary sewer and roadway construction. The original mitigation proposed and approved under CBE-06-003 was:

- Over-attenuation of stormwater runoff generated from all sites within the 63.77 acre watershed of the proposed stormwater basin;
- Stream channel stabilization will be provided should the channel not stabilize on its own (downstream of the basin);



- Two dry swale BMP facilities will provide additional water quality treatment for some of the project areas that do not drain to the primary stormwater BMP.

All of the mitigation requirements previously approved have been installed except for the one dry swale that is proposed to be removed as part of this consideration. A dry swale BMP is a County E-2 filtering BMP, a 10-point BMP with 60 percent phosphorus removal efficiency, and which has design water quality treatment volume for 1 inch rainfall per impervious acre. A typical dry swale BMP consists of a minimum of 30-inches of permeable soil media and a perforated underdrain in a gravel envelope – all beneath the bottom of the surface of the graded/stabilized stormwater conveyance channel (swale). A typical detail is attached to the staff report.

The collection of stormwater runoff from the rear of these lots is still ultimately piped to the primary stormwater management/BMP basin and treatment for this runoff will still be provided for while not voiding the previously approved condition of over-attenuation of stormwater runoff in the stormwater basin. Further, the area of the dry swale in question has been fallow for approximately eight years and has generated a substantial amount of woody vegetative growth that would need to be disturbed again requiring clearing, grubbing, grading, excavation for installation of the dry swale, and stabilization and replanting. The current state of vegetative growth at this location would meet the intent of a Natural Open Space as proposed. A Natural Open Space is a nonstructural BMP in accordance with the County 10-point BMP system for water quality; however, in order to qualify for stormwater compliance credit, it must be dedicated in perpetuity by a conservation easement or other enforceable instrument that ensures protection.

### **Background of Project**

The original project was approved under approved County Plan No. SP-149-05 and a land disturbing permit was issued in June 2006. A proposed amendment to that parent approved plan is currently under review under County Plan No. SP-020-15. Erosion and Sediment Control (Siltation) and Subdivision Bonds are still in place for the project to guarantee various improvements. The VSMP/VPDES construction general permit for the project and originally issued through DEQ has expired. Evidence of renewed state VPDES construction general permit coverage must be demonstrated to our Division (as local VSMP authority) prior to commencement of land disturbing activities associated with the proposed plan changes.

### **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 a request to amend the previously approved exception (CBE-06-003) along with all supporting documentation as outlined in the *James City County Water Quality Impact Assessment Guidelines*.

### **Consideration by the Chesapeake Bay Board**

The issue before the Board is the modification of the previously approved mitigation measures for the Liberty Crossing development and whether this activity is consistent with the spirit and intent of the Ordinance and make a finding based upon the five (5) criteria outlined in Section 23-14 (c) of the Ordinance.

The board is permitted to require reasonable and appropriate conditions in granting the modification request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Board is to fully consider Chesapeake Bay Exception CBE-15-086 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 denial of Chesapeake Bay Exception CBE-15-086 are included for the Board's use and decision.

### **Staff Recommendations**

Staff has fully reviewed the application and exception request and has determined that the modifications to the previously approved mitigation measures to be minimal and that the proposed storm drainage conveyance system and Natural Open Space easement provide the same (equivalent) water quality measures as originally proposed and are sufficient mitigation measures. 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; and
2. Prior to construction, evidence of coverage under a state VPDES Construction General Permit must be obtained; and
3. A Natural Open Space easement plat and deed for the former dry swale area be submitted for review and approval to the Engineering and Resource Protection Division, and once approved, be recorded at the James City County Courthouse; and
4. Full implementation of plans and specifications per approved plan of development amendment, County Plan No. SP-020-15; and
5. This exception request approval shall become null and void if construction for SP-020-15 has not begun by May 13, 2016; and
6. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

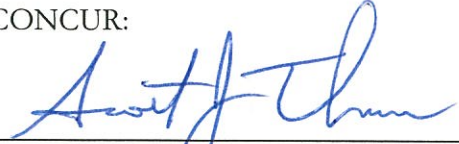
Staff Report prepared by:



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Michael Woolson  
Senior Watershed Planner

CONCUR:



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Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Addendum  
Typical Detail – Dry Swale BMP

## Chesapeake Bay Exception CBE-15-087: 18 Whittakers Mill Road

Staff report for the May 13, 2015 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

Land Owner: Tom and Amy Cherry

Agent: Daniel Greenleaf

Location: 18 Whittakers Mill

PIN: 5040300018

Parcel: Section 1, Lot 18, Whittakers Mill – Kingsmill

Lot Size: 1.056 acres +/-

RPA Area on Lot: 0.56 acres +/- (53%)

Watershed: College Creek (HUC Code JL 34)

Proposed Activity: 7 ft. x 22 ft. at-grade deck adjacent to bulkhead

### Proposed Impacts

Impervious Area: 154 square feet deck

RPA Encroachment: Seaward 50 foot RPA buffer - Approximately 200 square feet to install

### Description of Activities

Tom and Amy Cherry have applied for a Chesapeake Bay Preservation Ordinance exception to install an at-grade deck adjacent to a bulkhead on Kingsmill Pond. The original house was built in 1976 and predates the Chesapeake Bay Ordinance and the Cherry's recently purchased the home. The proposed deck would allow for portable seating and recreational enjoyment of nearby Kingsmill pond. The new deck will add 154 sq. ft. of impervious cover into the RPA. The Cherry's have proposed to remove an existing approximate 900 sq. ft. size bocce ball court that was installed by a previous owner within the RPA and restore that area to a pervious nature. This court is composed of consolidated stone dust/gravel and is considered impervious. The mitigation for this project is

the removal and restoration of the bocce ball court. This will be a 6:1 ratio of restored pervious to proposed impervious cover and, other than implementation of a nutrient-turf management plan, staff believes no further mitigation is required.

Adjacent Kingsmill Pond (County BMP ID Code CC019) is an existing, privately-owned stormwater management/Best Management Practice (BMP) facility which is part of the overall approved master stormwater management plan for Kingsmill. This stormwater management facility is assigned an 8-point value in accordance with the County's 10-point system for water quality under approved Division Plan No. SWM-01-12 (June 29, 2012). This master plan was submitted, reviewed, and approved prior to July 1, 2012 in order to secure grandfathering status from new technical criteria associated with the Virginia Stormwater Management Program (VSMP), which was implemented locally by the County on July 1, 2014. Section 8-28(c)(1) of the County Code outlines provisions for grandfathering consistent with state Chapter 870 Virginia Stormwater Management Program (VSMP) Regulation.

### **Background of Parcel**

The original lot was platted in 1973, prior to the adoption of the Chesapeake Bay Preservation Ordinance. Therefore in accordance with Section 23-14 of the Ordinance an exception request must be considered by the 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 the construction of a 7 ft. x 22 ft. at-grade deck which will impact approximately 154 square feet of RPA buffer at 18 Whittakers Mill in the Kingsmill Subdivision.

### **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*.

### **Consideration by the Chesapeake Bay Board**

The issue before the Board is the construction of an at-grade deck and whether this deck is consistent with the spirit and intent of the Ordinance and make a finding based upon the five (5) criteria outlined in Section 23-14 (c) of the Ordinance.

The board 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 Board is to fully consider Chesapeake Bay Exception CBE-15-087 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 denial of Chesapeake Bay Exception CBE-15-087 are included for the Board's use and decision.

**Staff Recommendations**

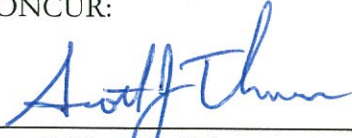
Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be minimal for the proposed development and that removal of existing impervious cover associated with the bocce ball court, along with a nutrient-turf management plan implementation, are sufficient mitigation measures. 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; and
2. Prior to construction, a \$250 surety shall be submitted in a form acceptable to the County Attorney's office, to guarantee the mitigation; and
3. The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures for this project if field conditions warrant their use; and
4. This exception request approval shall become null and void if construction has not begun by May 13, 2016; and
5. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

Staff Report prepared by:

  
Michael Woolson  
Senior Watershed Planner

CONCUR:

  
Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application w/plan  
Copy of approval letter – Kingsmill MSWMP (06/29/12)