

Chesapeake Bay Board Building F

October 14, 2015 - 7 p.m.

A. Roll Call

B. Minutes

From September 9, 2015 Board Meeting

C. Public Hearings

1. CBE-16-025: Siemietkowski/LandTech – 100 Southern Hills
2. CBE-16-029: Hopkins/WalkWright – 332 Mill Stream Way
3. CBE-16-031: Puryear & KCSA/Structure Group – 306 Rivers Edge and KCSA common area
4. CBE-16-033: Anton/Greg Beam Landscape – 19 Mile Course
5. CBE-16-036: SeaWorld Parks Busch Gardens/VHB
6. CBE-16-038: Miller/Hertzler&George – 104 Archers Court
7. CBE-16-039: Gero – 121 Mathews Grant

D. Board Considerations

E. Matters of Special Privilege

F. Adjournment

Chesapeake Bay Exception CBE-16-025: 100 Southern Hills

Staff report for the October 14, 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 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: Matt Connolly, LandTech Resources, Inc.
Owner: Susan Siemietkoski
Location: 100 Southern Hills
PIN: 3740500126
Parcel: Ford's Colony, Section 7, Lot 126
Lot Size: 0.40 acres
Area of Lot in RPA: .33 ac +/- (85%)
Watershed: Powhatan Creek, subwatershed 209, HUC Code JL31
Proposed Activity: Single Family House construction

Proposed Impacts

Impervious Cover: Approximately 4,623 square feet
RPA Encroachment: Approximately 2,130 square feet (seaward 50 ft. RPA buffer)
Approximately 2,500 square feet (landward 50 ft. RPA buffer)

Brief Summary and Description of Activities

Mr. Matt Connolly of LandTech Resource, Inc., on behalf of Susan Siemietkoski, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the building of a single family residence at 100 Southern Hills within the Ford's Colony subdivision. The lot was platted in 1988, before the adoption of the Chesapeake Bay Preservation Ordinance.

As part of the overall plan for this lot, Mr. Connolly hired Mr. Mathew Roth to delineate the wetlands and RPA boundary. This line is shown on the plan and the RPA encompasses approximately 85% of the lot. Mr. Connolly also went before the Ford's Colony Architectural Review Board to seek variances from the front setbacks. Ford's Colony granted a 2 foot variance to the setback off of Southern Hills Road and a 5 foot variance to the setback from Firestone.

The required mitigation for the amount of impervious cover is 11 planting units (11 canopy trees, 22 understory trees and 33 shrubs). The proposed mitigation is 4 canopy trees, 8 understory trees and 37 shrubs plus 2 infiltration BMPs that capture and treat the first .5 inch of rainfall on all of the impervious cover within the RPA.

Staff Evaluation

Staff has evaluated the application and exception request for the single family house construction. 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 because these items impact the seaward 50 foot RPA buffer. Therefore, the 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 encroachment into the RPA buffer for the construction of a single family residence.

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* and has provided a mitigation plan and details for the infiltration trench BMPs

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-16-025 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-16-025 are included for the Board's use and decision.

Staff Recommendations

Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be **severe** for the proposed development. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions applied:


1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and
2. Surety of \$3,000 will be required in a form acceptable to the County Attorney's office; and
3. The applicant should explore infilling the area between the silt fence and Firestone right-of-way with additional shrubs and understory trees or make a one-time payment to the Chesapeake Bay Mitigation Fund in the amount of \$1,000; and
4. This exception request approval shall become null and void if construction has not begun by October 14, 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: Water Quality Impact Assessment Package

Chesapeake Bay Exception CBE-16-029: 332 Mill Stream Way

Staff report for the October 14, 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 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: Larry Walk, Walk Wright Construction, LLC
Owner: Keith and Gretchen Hopkins
Location: 332 Mill Stream Way
PIN: 4711900017
Parcel: Settlers Mill at Jamestown, Section 6, Lot 17
Lot Size: 0.651 acres
Area of Lot in RPA: 0.37 ac +/- (58%)
Watershed: Mill Creek mainstem, HUC Code JL33
Proposed Activity: New single family residence and retaining walls

Proposed Impacts

Impervious Cover: Approximately 2, 550 square feet
RPA Encroachment: Approximately 2,550 square feet (landward 50 ft. RPA buffer)

Brief Summary and Description of Activities

Mr. Larry Walk of Walk Wright Construction, LLC, on behalf of Keith and Gretchen Hopkins, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the building of a single family house and retaining walls at 332 Mill Stream Way within the Settlers Mill at Jamestown subdivision. The lot was platted in 1999, after the adoption of the Chesapeake Bay Preservation Ordinance.

The house location has been adjusted several times to avoid impacts to both the seaward 50 foot RPA buffer and the existing conservation easement. Due to the slope of the lot, retaining walls are needed to allow for side pedestrian access for the east garage and vehicular access to the west garage. The required mitigation for the impervious cover impact is 6 planting units (6 canopy trees, 12 understory trees and 18 shrubs). The proposed mitigation falls short of the requirements but the applicant has also provided for two infiltration trench BMP's designed to handle all of the impervious cover and a majority of turf proposed for this lot. With the amount of plantings and the two infiltration BMPs, it is staff opinion that the water quality post construction will be less quantity and better quality than surrounding developed lots.

Staff Evaluation

Staff has evaluated the application and exception request for the house construction and retaining walls. 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 because the retaining walls for the two garages are accessory in nature. Therefore, the 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 encroachment into the RPA buffer for the construction of the single family house and retaining walls.

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* and has provided a mitigation plan and details for the infiltration trench BMP's.

Consideration by the Chesapeake Bay Board

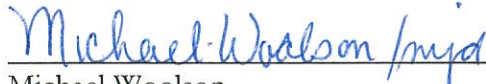
The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-16-029 as outlined 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-16-029 are included for the Board's use and decision.

Staff Recommendations

Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be **moderate** for the proposed development. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions applied:

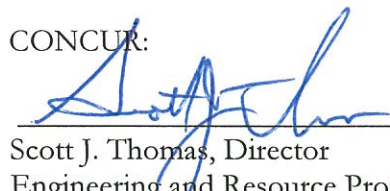
1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and
2. Surety of \$3,000 will be required in a form acceptable to the County Attorney's office; and
3. Design and construction of the on-lot runoff reduction/pollutant removal practices as proposed (infiltration facility) shall generally follow micro-scale specifications found in Virginia DEQ Stormwater Design Specification No. 8 (Infiltration); or alternatively, an equivalent and acceptable published and agreed upon standard for on-lot residential practices. Final design/construction information for the practices shall be submitted to the Engineering and Resource Protection Division for review and approval prior to installation; and
4. This exception request approval shall become null and void if construction has not begun by October 14, 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: Water Quality Impact Assessment Package

Chesapeake Bay Exception CBE-16-031: 306 River's Edge

Staff report for the October 14, 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 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: Michael Matthews, The Structures Group, Inc.

Owner: Alvin Puryear – 306 River's Edge
Kingsmill Community Service Association – adjacent common area

Location: 306 River's Edge

PIN: 5130800014A

Parcel: Kingsmill on the James, River's Edge, Phase 3, Lot 14A

Lot Size: 0.173 acres

Area of Lot in RPA: 0.09 ac +/- (53%)

Watershed: James River watershed, HUC Code JL35

Proposed Activity: Retaining wall

Proposed Impacts

Impervious Cover: Approximately 120 square feet

RPA Encroachment: Approximately 120 square feet (landward 50 ft. RPA buffer)

Brief Summary and Description of Activities

Mr. Michael Matthews of The Structures Group, on behalf of Alvin Puryear and the KCSA, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the building of a retaining wall at 306 River's Edge and the adjacent common area within the Kingsmill on the James subdivision. The lot was platted in 2001, after the adoption of the Chesapeake Bay Preservation Ordinance. The RPA affected this lot after the 2004 Ordinance revision.

The grading around the house is excessively steep and is causing an erosion issue as well as not being safe to walk on when the grass is wet. The retaining wall is proposed to allow for a more level walking area. The location is approximately 10 feet from the house, encroaching upon the KCSA parcel by about 4 feet. The existing foundation plantings may have to be removed to facilitate the construction. These would all be replaced. The required mitigation for this impact would be 1 understory tree and 3 shrubs, which are proposed near the northern end of the wall.

Staff Evaluation

Staff has evaluated the application and exception request for the retaining wall. 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 because the retaining wall is accessory in nature. Therefore, the 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 encroachment into the RPA buffer for the construction of the retaining wall.

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* and has provided a mitigation plan and wall details.

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-16-031 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-16-031 are included for the Board's use and decision.

Staff Recommendations

Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be **minor** for the proposed development. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions applied:

1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and
2. Surety of \$500 will be required in a form acceptable to the County Attorney's office; and
3. Project location staked in the field and approved by the Engineering and Resource Protection Division prior to construction; and
4. This exception request approval shall become null and void if construction has not begun by October 14, 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: Water Quality Impact Assessment Package

Chesapeake Bay Exception CBE-16-033: 19 Mile Course

Staff report for the October 14, 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 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: Gregg Bleam, Gregg Bleam Landscape Architect
Owner: Susan Anton
Location: 19 Mile Course
PIN: 5040200019
Parcel: Kingsmill on the James, Mile Course, Section 1, Lot 19
Lot Size: 1.617 acres
Area of Lot in RPA: 1.15 ac +/- (72%)
Watershed: College Creek, HUC Code JL34
Proposed Activity: New single family residence, associated terraces and pools

Proposed Impacts

Impervious Cover: Approximately 6,400 square feet
RPA Encroachment: Approximately 5,600 square feet (landward 50 ft. RPA buffer)
Approximately 800 square feet (seaward 50 ft. RPA buffer)

Brief Summary and Description of Activities

Mr. Gregg Bleam of Gregg Bleam Landscape Architect, on behalf of Susan Anton, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the building of a single family house, associated terraces and pools at 19 Mile Course within the Kingsmill subdivision. The lot was platted in 1974, before the adoption of the Chesapeake Bay Preservation Ordinance.

The Anton's request to demolish the existing residence and the majority of the accessory structures. The existing residence and pool were built prior to the 1990 adoption of the Ordinance and would be considered non-conforming structures that would be allowed to be modified to some extent administratively. The existing impervious cover within the RPA is 7,231 sf. The proposed impervious cover is 6,354 sf, a 14% net reduction in impervious cover.

If the application was only for a new house, redevelopment criteria could have been used and the application processed administratively because they meet the criteria of a 10% net reduction in impervious cover. However, the Anton's have also requested several pools and terraces. While integral to the house design, they are considered accessory in nature and must be approved by the Board.

The required mitigation for the amount of impervious cover is 16 planting units (16 canopy trees, 32 understory trees and 48 shrubs). The proposed mitigation includes 25 canopy trees, 34 shrubs and 107 shrubs of which 11 canopy trees, 14 understory tree and 52 shrubs are within the RPA. The proposal also includes over 2,100 sf of green roof of which 740 sf is within the RPA. The Anton's also wish to not have turf grass within the RPA and are proposing to reestablish the groundcover layer with 16,270 sf of native ground covers.

It is staff opinion that the water quality post construction will be less quantity and better quality than current conditions. There is a 14% net reduction in impervious cover; 2,100 sf green roof, infiltration trenches/dry wells; and the reestablishment of over 16,000 sf of groundcovers in addition to the woody plantings.

Staff Evaluation

Staff has evaluated the application and exception request for the house construction and associated terraces and pools. 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 because these terraces and pools are accessory in nature. Therefore, the 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 encroachment into the RPA buffer for the construction of the single family house, associated terraces and pools.

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* and has provided a mitigation plan and details for the green roof. The entire package of mitigation components exceeds standard county planting requirements.

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-16-033 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-16-033 are included for the Board's use and decision.

Staff Recommendations

Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be **major** for the proposed development. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions applied:

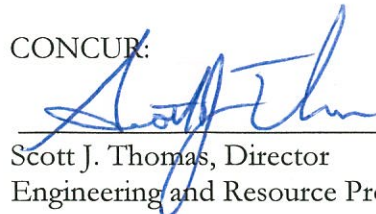
1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and
2. Design and installation of the green vegetated roof system shall follow an appropriate industry accepted standard such as Virginia DEQ Stormwater Design Specification No. 5 (Vegetated Roof) or similar ASTM, AIA, or equivalent standard; and
3. Surety of \$8,000 will be required in a form acceptable to the County Attorney's office; and
4. A land disturbing/stormwater construction permit application and associated erosion and sediment control plan be submitted to the Engineering and Resource Protection Division for review and approval; and
5. This exception request approval shall become null and void if construction has not begun by October 14, 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:



Michael Woolson
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package

Chesapeake Bay Exception CBE-16-036: Busch Gardens, Italy Restaurant

Staff report for the October 14, 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 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: Mrs. Suzy Cheely, SeaWorld Parks & Entertainment, Busch Gardens
Williamsburg

Location: 1 Busch Gardens Boulevard

PIN: 5140100009

Lot Size/Zoning: 328 acres; M-1 Limited Business/Industrial

Area of Lot in RPA: 130 ac +/- (39%)

Watershed: James River, HUC Code JL35

Proposed Activity: Redevelopment of the Italy Restaurant with new elevated decks

Proposed Impacts

Impervious Cover: Approximately 4,523 square feet after the project (4,132 sq. ft. existing)

RPA Encroachment: Approximately 223 square feet new within the seaward 50 ft. RPA buffer
Approximately 168 square feet new within the landward 50 ft. RPA buffer

Brief Summary and Description of Activities

Mr. Piotr Swietuchowski of VHB, Inc., on behalf of Mrs. Suzy Cheely and Busch Gardens Williamsburg, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the renovation of the Italy restaurant and new elevated decks. The majority of the park was built prior to the adoption of the original Ordinance (1990) and has had several administrative and formal Board exceptions approved.

This project renovates the existing Italy restaurant and involves sidewalk demolition, a new building façade, new gas line service, minor storm sewer additions and two new decks for HVAC units. The total new impervious cover for this project is 502 sq. ft. The proposed mitigation for this amount of

impervious cover is 2 planting units (2 canopy trees, 4 understory trees and 6 shrubs). The proposed mitigation plan provides for 2 planting units, split between two separate areas, behind the Asian Kiosk (SP-014-15) and the concrete Italy deck (CBE-14-045). Additional mitigation in the form of a heavy C-900 coconut fiber blanket matting and wood mulch will be used in areas of steep slope disturbance.

Staff Evaluation

Staff has evaluated the application and exception request for the renovations and new decks. 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 because the decks are accessory structures. Therefore, the 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 encroachment into the RPA buffer for the renovation of the Italy restaurant and two new decks.

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*.

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-16-036 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-16-036 are included for the Board's use and decision.

Staff Recommendations

Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be **minimal** for the proposed development. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions applied:

1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and


2. Surety of \$750 will be required in a form acceptable to the County Attorney's office; and
3. This exception request approval shall become null and void if construction has not begun by October 14, 2016; and
4. 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: Water Quality Impact Assessment Package

Chesapeake Bay Exception CBE-16-038: 104 Archers Court

Staff report for the October 14, 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 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: Phillip Merritt, Hertzler & George
Owner: Brink and Sandra Miller
Location: 104 Archers Court
PIN: 4920380017
Parcel: Kingspoint, Section 8, Lot 17
Lot Size: 0.99 acres
Area of Lot in RPA: .79 ac +/- (80%)
Watershed: College Creek, HUC Code JL34
Proposed Activity: Patio

Proposed Impacts

Impervious Cover: Approximately 500 square feet
RPA Encroachment: Approximately 500 square feet (landward 50 ft. RPA buffer)

Brief Summary and Description of Activities

Mr. Phillip Merritt of Hertzler & George, on behalf of Brink and Sandra Miller, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the building of a patio at 104 Archers Court within the Kingspoint subdivision. The lot was replatted in 2009 with the RPA shown as defined in the 2004 Ordinance revision.

The Millers have experienced some erosion in the back yard and wish to install a patio to help alleviate this problem. The required mitigation for this project is 1 planting unit (1 canopy tree, 2

understory trees and 3 shrubs). As part of the overall mitigation plan, they plan on providing for several areas of infiltration and protecting other areas susceptible to erosion. The proposed mitigation for the additional impervious cover is as follows: a 160 s.f. infiltration basin, three stone detention basins from roof leaders, 2 rain barrels, 3 inches gravel overtop of filter fabric under the existing deck, 2 understory trees, 18 shrubs, and 200 perennials. By directing the roof leaders into stone basins and placing the gravel under the deck, the Millers are helping prevent future erosion problems in those locations. In addition, they are improving water quality by capturing the runoff from the patio and some additional rooftop area and treating it through the use of an infiltration BMP and through reestablishing an understory/groundcover layer.

Staff Evaluation

Staff has evaluated the application and exception request for the patio. 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 because this item is accessory in nature. Therefore, the 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 encroachment into the RPA buffer for the construction of a patio.

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* and has provided a mitigation plan and details for the infiltration trench BMP.

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-16-038 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-16-038 are included for the Board's use and decision.

Staff Recommendations


Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be **minor** for the proposed development. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions applied:

1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and
2. Design and construction of the onlot runoff reduction/pollutant removal practices as proposed (infiltration facility) shall generally follow micro-scale specifications found in Virginia DEQ Stormwater Design Specification No. 8 (Infiltration); or alternatively, an equivalent and acceptable published and agreed upon standard for onlot residential practices. Final design/construction information for the practices shall be submitted to the Engineering and Resource Protection Division for review and approval prior to installation; and
3. A \$2,500 surety to guarantee the mitigation plan, including native plantings and the proposed onlot runoff and pollutant reduction practice, in a form acceptable to the County Attorney's Office; and
4. This exception request approval shall become null and void if construction has not begun by October 14, 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: Water Quality Impact Assessment Package

Chesapeake Bay Exception CBE-16-039: 121 Mathews Grant

Staff report for the October 14, 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: Mark and Lisa Gero

Location: 121 Mathews Grant

PIN: 4940200057

Parcel: Tutter's Neck, Lot 57

Lot Size: 0.923 acres +/-

RPA Area on Lot: 0.82 acres +/- (89%)

Watershed: College Creek (HUC Code JL 34)

Proposed Activity: Installed dry-stacked retaining walls to prevent erosion.

Proposed Impacts

Impervious Area: Approximately 400 sq. ft.

RPA Encroachment: Seaward 50 foot RPA buffer

Description of Activities

Mark and Lisa Gero have applied for a Chesapeake Bay Preservation Ordinance exception to allow for the previously installed dry-stacked retaining walls and associated plantings. The Gero's performed the work without realizing at the time that they needed to obtain the Chesapeake Bay Board approval for such work and they have come forward on their own accord to seek the necessary approvals for the work. The work was done to prevent soil erosion that they were experiencing after heavy rainfall events. They have planted the majority of the areas behind the retaining walls and these plantings exceed the standard mitigation requirements that would have been required.

Background of Parcel

The original house was built in 1984, prior to the adoption of the Chesapeake Bay Preservation Ordinance. In 2010, the Tutter's Neck area was replatted as part of the sale of Kingsmill and the 2004 RPA revisions were applied at that time. Staff cannot confirm if all affected property owners were notified of the change by the engineering group responsible for the new plat. The Gero's bought the property in 2011.

However, due to the nature of the improvements and 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 to allow for the previously installed dry-stack retaining walls and plantings to remain which has impacted approximately 400 square feet of RPA buffer at 121 Mathews Grant in the Kingsmill on the James 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* and has also submitted the original planting plan, which exceeds the required mitigation rates.

Consideration by the Chesapeake Bay Board

The issue before the Board is allowing the dry-stack retaining walls and plantings to remain in the RPA through formal approval of the work. 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 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-16-039 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-16-039 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 mitigation plantings exceeding County mitigation requirements has already been completed. Staff recommends the Chesapeake Bay Board **approve** this Chesapeake Bay Exception with the following conditions:

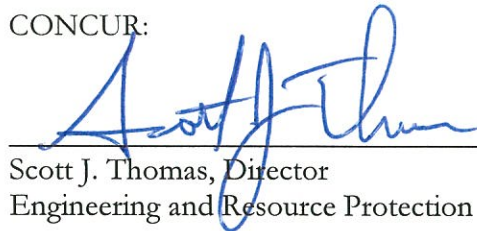
1. The applicant must obtain all other necessary local permits as required for the project.

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