A G E N D A JAMES CITY COUNTY CHESAPEAKE BAY BOARD REGULAR MEETING

County Government Center, Building D 101 Mounts Bay Road, Williamsburg, Virginia 23188 September 8, 2021 5:00 PM

- A. CALL TO ORDER
- B. ROLL CALL
- C. MINUTES
 - 1. Minutes from August 11, 2021, Regular Meeting
- D. PUBLIC HEARINGS
 - 1. CBPA-21-0128 : 155 Wareham's Point
 - 2. CBPA-21-0079: 6015 Richmond Road
- E. BOARD CONSIDERATIONS
 - 1. Emergency Permit Temporary Repairs at 5030 River Drive
- F. MATTERS OF SPECIAL PRIVILEGE
 - 1. Appeal 5032 River Drive
- G. ADJOURNMENT

AGENDA ITEM NO. C.1.

ITEM SUMMARY

DATE: 9/8/2021

TO: Chesapeake Bay Board

FROM: Michael Woolson, Chesapeake Bay Board Secretary

SUBJECT: Minutes from August 11, 2021, Regular Meeting

ATTACHMENTS:

Description Type
Minutes Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Woolson, Michael	Approved	9/1/2021 - 4:54 PM
Chesapeake Bay Group	Small, Toni	Approved	9/1/2021 - 5:11 PM
Publication Management	Pobiak, Amanda	Approved	9/2/2021 - 9:14 AM
Chesapeake Bay Group	Secretary, ChesBay	Approved	9/2/2021 - 1:01 PM

M I N U T E S JAMES CITY COUNTY CHESAPEAKE BAY BOARD REGULAR MEETING

County Government Center, Building F 101 Mounts Bay Road, Williamsburg, Virginia 23188 July 14, 2021 5:00 PM

A. CALL TO ORDER

The Chesapeake Bay Board meeting for July 14, 2021, was called to order.

The responsibility of this Board is to carry out locally the Commonwealth policy to protect against and minimize pollution and deposition of sediment in wetlands, streams, and lakes in James City County, which are tributaries of the Chesapeake Bay.

B. ROLL CALL

Board Members Present:

Halle Dunn, Acting Chairperson William Apperson Charles Roadley Larry Waltrip Michael O'Brien

Board Members Absent:

David Gussman

Other Staff Present:

Toni Small, Director, Stormwater and Resource Protection
Liz Parman, Assistant County Attorney
Michael Woolson, Resource Protection Section Chief, Stormwater and Resource Protection
Trevor Long, Watershed Planner, Stormwater and Resource Protection
Robin Benedict, Watershed Planner, Stormwater and Resource Protection
Janice Petty, Stormwater Assistant, Stormwater and Resource Protection

C. MINUTES

1. Minutes from June 9, 2021 Regular Meeting

A motion to Approve the minutes was made by Mr. Dunn.

The minutes were approved on a voice vote.

D. PUBLIC HEARINGS

1. Case No. CBPA 21-0064 : 101 Abigail Lane

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Ms. Susan Maida for encroachments into the Resource Protection Area (RPA) buffer for the construction of a retaining wall located at 101 Abigail Lane, within Tazewell's Hundred Phase 2, Kingsmill Subdivision and the College Creek watershed. This case was deferred from the

June 9, 2021 meeting. The property is further identified as James City County Tax Map Parcel No. 5030400082. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

The Board deliberated the pros and cons of this application.

Mr. Gussman previously opened the Public Hearing at the June 9, 2021 meeting.

Mr. Dunn closed the Public Hearing, as no one wished to speak.

Mr. Roadley made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA-21-0064 at 101 Abigail Lane.

A motion to Approve with Conditions was made by Mr. Roadley, the motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

AYES: Dunn, Apperson, Roadley, Waltrip, O'Brien

NAYS: None ABSENT: Gussman

2. Case No. CBPA 21-0083: 114 Constance Avenue

The Applicant requested that the case be deferred until the August 11, 2021, meeting.

Mr. Dunn opened the Public Hearing.

3. Case No. CBPA 21-0087: 10007 Sycamore Landing Road

Mr. Trevor Long, Watershed Planner, presented the exception request submitted by Mr. Harold Breeden for encroachments into the RPA buffer for the addition of fill material located at 10007 Sycamore Landing Road within the Stephens Tract No. 2 Subdivision and the Ware Creek watershed. The property is further identified as James City County Tax Map Parcel No. 0720400011. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

The Board deliberated the pros and cons of this application.

Mr. Apperson inquired if Stormwater and Resource Protection staff managed the Erosion and Sediment and Control Plan.

Mr. Long affirmatively replied and added that staff would review that plan along with the Land Disturbing Permit and ensure if this plan were to be approved, that the appropriate erosion and sediment control measures were in place.

Mr. Roadley stated that staff does not have a well-defined site plan. He stated it would be nice to see a site plan that would show where the plantings were going to go so once the permit is issued and the work undertaken, the end result could be matched up to what was approved by the Board.

Mr. Long stated that staff could obtain that and share with the Board as well.

Mr. Dunn opened the Public Hearing.

Mr. Dunn closed the Public Hearing, as no one wished to speak.

Mr. Roadley stated that he would be willing to approve if staff would be provided the mitigation plans so the Board can judge compliance.

Mr. Waltrip and Mr. Dunn concurred.

Mr. Roadley made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA-21-0087 at 10007 Sycamore Landing Road subject to the condition that the applicant submit a mitigation plan acceptable to staff.

A motion to Approve with Conditions was made by Mr. Roadley, the motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

AYES: Dunn, Apperson, Roadley, Waltrip, O'Brien

NAYS: None ABSENT: Gussman

4. Case No. CBPA 21-0075: 10006 Sycamore Landing Road

Mr. Trevor Long, Watershed Planner, presented the exception request submitted by Mr. Daniel Winall, Waters Edge Construction on behalf of Mr. David Lambey and Mrs. Kim Lambey, for encroachments into the RPA buffer for bank grading located at 10006 Sycamore Landing Road within the York River and Ware Creek watersheds. The property is further identified as James City County Tax Map Parcel No. 0720100002. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

The Board deliberated the pros and cons of this application.

Mr. Roadley inquired of provision in the Chesapeake Bay Ordinance for shoreline projects that have already been duly authorized.

Mr. Long replied, he was not aware of one but that could be looked into.

Mr. Dunn opened the Public Hearing.

A. Mr. Daniel Winall, Waters Edge Construction, outlined the project for the Board.

Mr. Dunn closed the Public Hearing.

Mr. Apperson made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA-21- 0075 at 10006 Sycamore Landing Road.

A motion to Approve with Conditions was made by Mr. Apperson, the motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

AYES: Dunn, Apperson, Roadley, Waltrip, O'Brien

NAYS: None ABSENT: Gussman

E. BOARD CONSIDERATIONS

Wetlands and Chesapeake Bay Board Meetings will be held in Building D for August 11, 2021.

F. MATTERS OF SPECIAL PRIVILEGE

None.

G. ADJOURNMENT

A motion to Adjourn was made by Mr. Roadley and approved on a voice vote.

The meeting adjourned at 5:50 p.m.

AGENDA ITEM NO. D.1.

ITEM SUMMARY

DATE: 9/8/2021

TO: Chesapeake Bay Board

FROM: Trevor Long, Watershed Planner

SUBJECT: CBPA-21-0128: 155 Wareham's Point

CBPA-21-0128: The Structures Group, Inc., on behalf of Kingsmill Community Services Association has filed an exception request for encroachments into the RPA buffer for construction of a retaining wall at 155 Wareham's Point, JCC Parcel ID No. 5041900001B.

ATTACHMENTS:

	Description	Type
ם	Staff Report	Staff Report
ם	Resolution	Resolution
ם	APO Letter	Backup Material
ם	APO Mailing List	Backup Material
ם	Public Advertising	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Woolson, Michael	Approved	9/1/2021 - 4:55 PM
Chesapeake Bay Group	Small, Toni	Approved	9/1/2021 - 5:10 PM
Publication Management	Pobiak, Amanda	Approved	9/2/2021 - 9:20 AM
Chesapeake Bay Group	Secretary, ChesBay	Approved	9/2/2021 - 1:00 PM

CHESAPEAKE BAY BOARD EXCEPTION No. CBPA 21-0128. 155 Wareham's Point Staff Report for the September 8, 2021, Chesapeake Bay Board Public Hearing

This staff report is prepared by the James City County Stormwater 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 AND INFORMATION

Applicant: Kingsmill Community Services Association

Agent: Mr. Kyle Polk, The Structures Group, Inc.

Location: 155 Wareham's Point

Parcel Identification No.: 5041900001B

Parcel: R/W P-2 Wareham's Point

Lot Size: 1.05 acres

Area of Lot in Resource

Protection Area (RPA): 0.58 acres +/- (55%)

Watershed: Skiffes Creek (HUC JL 35)

Floodplain: Zone A

Proposed Activity: Construction of a retaining wall

Impervious Cover: 120 square feet

RPA Encroachment: 120 square feet, landward 50-foot RPA

Staff Contact: Trevor A. Long, Watershed Planner Phone: 253-6789

BRIEF SUMMARY AND DESCRIPTION OF ACTIVITIES

Mr. Kyle Polk, The Structures Group, Inc., has applied for a Chesapeake Bay Exception on behalf of Kingsmill Community Services Association for encroachments into the RPA buffer for the construction of a retaining wall on property located at 155 Wareham's Point within the Wareham's Point subdivision and the College Creek watershed. The property is further identified as James City County Tax Map Parcel No. 5041900001B. The parcel was platted in 1993, after the adoption of the Chesapeake Bay Preservation Ordinance in 1990.

The total lot size of this property is 1.05 acres, of which 55% is located within the RPA. The applicant is proposing to construct a retaining wall behind two existing lots located at 164 and 166 Wareham's Point equating to approximately 120 square feet of impacts in the landward 50-foot RPA. The applicant is concerned with erosion on the property and has proposed the retaining wall to stabilize the slope. Required mitigation of this amount of impervious impacts to the RPA equals the planting of three shrubs.

STAFF EVALUATION

Staff has evaluated the application and exception request for the construction of a retaining wall. This application meets the Ordinance conditions in Sections 23-11 and 23-14 and should be heard by the Board because the construction of a retaining wall is considered accessory in nature.

CONSIDERATION BY THE CHESAPEAKE BAY BOARD

The Board may grant exceptions to Section 23-7 if the application meets the following five conditions:

- 1. The exception request is the minimum necessary to afford relief; and
- 2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity; and
- 3. The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code and is not of substantial detriment to water quality; and
- 4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances, either permitted or non-conforming that are related to adjacent parcels; and
- 5. Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

STAFF RECOMMENDATIONS

Staff has reviewed the application and exception request and has determined the impacts associated with the proposal to be minor for the proposed development. Staff recommends approval for this exception request and if the Board wishes to approve this request, staff recommends the following conditions be incorporated into the approval:

- 1. The applicant must obtain all other necessary federal, state, and local permits as required for the project, including a building permit if necessary; and
- 2. The submittal of a mitigation plan equating to three shrubs be submitted to the Stormwater and Resource Protection Division; and
- 3. A surety of \$250 be submitted in a form acceptable to the James City County Attorney's Office to guarantee the mitigation plantings; and
- 4. This exception request approval shall become null and void if construction has not begun by September 8, 2022; and
- 5. Written requests for an extension to an exception shall be submitted to the Stormwater and Resource Protection Division no later than July 28, 2022, six weeks prior to the expiration date.

TAL/md CBPA21-128_155WrhmPt

Attachments:

- 1. Resolution
- 2. Site Plan

RESOLUTION

CASE NO. CBPA 21-0128. 155 WAREHAM'S POINT

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

- WHEREAS, Mr. Kyle Polk, The Structures Group, Inc., on behalf of Kingsmill Community Services Association (the "Applicant"), has applied to the Chesapeake Bay Board of James City County (the "Board") on September 8, 2021, to request an exception to use the Resource Protection Area (the "RPA") on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 5041900001B and further identified as 155 Wareham's Point (the "Property") as set forth in the application CBPA 21-0128 for the purpose of construction of a retaining wall; and
- WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.
- NOW, THEREFORE, BE IT RESOLVED that the Chesapeake Bay Board of James City County, Virginia, following a public hearing, by a majority vote of its members FINDS that:
 - 1. The exception request is the minimum necessary to afford relief.
 - 2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
 - 3. The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code and is not of substantial detriment to water quality.
 - 4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
 - 5. Reasonable and appropriate conditions are hereby imposed, as set forth below, which will prevent the exception request from causing a degradation of water quality.
 - 6. In granting this exception, the following conditions are hereby imposed to prevent this exception request from causing degradation of water quality:
 - a. The applicant must obtain all other necessary federal, state, and local permits as required for the project, including a building permit if necessary; and
 - b. The submittal of a mitigation plan equaling three shrubs be submitted to the Stormwater and Resource Protection Division; and
 - c. A surety of \$250 be submitted in a form acceptable to the James City County Attorney's Office to guarantee the mitigation plantings; and

- d. This exception request approval shall become null and void if construction has not begun by September 8, 2022; and
- e. Written requests for an extension to an exception shall be submitted to the Stormwater and Resource Protection Division no later than July 28, 2022, six weeks prior to the expiration date.

David Gussman	Michael D. Woolson	
Chair, Chesapeake Bay Board	Secretary to the Board	

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of September, 2021.

CBPA21-128_155WrhmPt-res



General Services 107 Tewning Road Williamsburg, VA 23188 P: 757-259-4080 General.Services@jamescitycountyva.gov

jamescitycountyva.gov

Capital Projects 107 Tewning Road 757-259-4080

Fleet 103 Tewning Road Williamsburg, VA 23188 Williamsburg, VA 23188 757-259-4122

Stormwater and **Resource Protection** 101-E Mounts Bay Road Williamsburg, VA 23185 757-253-6670

Facilities & Grounds 113 Tewning Road Williamsburg, VA 23188 757-259-4080

Solid Waste 1204 Jolly Pond Road Williamsburg, VA 23188 757-565-0971

August 18, 2021

RE: CBPA 21-0128

> 155 Wareham's Point Retaining Wall

Dear Adjacent Property Owner:

In accordance with State and County Codes, this letter is to notify you that a request has been filed with the James City County Chesapeake Bay Board by Mr. Kyle J. Polk, The Structures Group, Inc. on behalf of Kingsmill Community Services Association for encroachment into the Resource Protection Area (RPA) buffer for the construction of a retaining wall. The project is located at 155 Wareham's Point and further identified as JCC Parcel No. 5041900001B.

A complete description, plan and other information are on file in the Stormwater and Resource Protection Division and are available for inspection during normal business hours, should anyone desire to review them.

The Chesapeake Bay Board will hold an advertised public hearing on Wednesday, September 8, 2021 at 5:00 p.m., in the Board Room of Building D, 101 Mounts Bay Road, James City County, Virginia, at which time you may request to speak on the above referenced project.

Sincerely,

Michael D. Woolson

Michael D. Woolson Chesapeake Bay Board Secretary 757-253-6823 michael.woolson@jamescitycountyva.gov

cc: The Structures Group, Inc. Attn: Mr. Kyle J. Polk

MDW: jep

Mailing List for: CBPA-21-0128-155 Wareham's Point:- Retaining Wall

Owner: 5041900001B- 155 Wareham's Point

Kingsmill Community Services Association

P.O. Box 348

Williamsburg, VA 23187-0348

5041900166

Mokey, Wolodymyr J, Trustee & Constance

A. Trustee

166 Wareham's Point

Williamsburg, VA 23185-8926

5041900164

Ritchie, Joseph C & Kathleen H

164 Wareham's Point

Williamsburg, VA 23185-8926

5041900163

Eckert, Dane R & Roberta S

163 Wareham's Point

Williamsburg, VA 23185-8926

5040100006-120 Wareham's Pond Road

Escalante Kingsmill Resort, LLC

2930 Bledsoe Street, Suite 124

Fort Worth, TX 76107-2942

Contractor:

The Structures Group, Inc.

Attn: Mr. Kyle J. Polk

1200 Old Colony Lane

Williamsburg, VA 23185-3800

5041900168

Delk, Rodham T, Jr. & Elizabeth W

168 Wareham's Point

Williamsburg, VA 23185-8927

5041900162- 162 Wareham's Point

Fetrow Family LP

5016 Woodbox Lane

Mechanicsburg, PA 17055-4808

5041900161

Smith, Howard P, Trustee

161 Wareham's Point

Williamsburg, VA 23185-8926



PUBLIC HEARING NOTICE

THE WETLANDS BOARD AND THE CHESAPEAKE BAY BOARD OF JAMES CITY COUNTY, VIRGINIA, WILL HOLD PUBLIC HEARINGS ON **WEDNESDAY, SEPTEMBER 8, 2021 AT 5 P.M.** IN THE COUNTY GOVERNMENT CONFERENCE ROOM OF BUILDING D, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

THE WETLANDS BOARD WILL CONSIDER THE FOLLOWING CASES:

WJPA-21-0043/VMRC-2021-1556: Roth Environmental, LLC, on behalf of Westport Neighborhood Association, Inc., has applied for a wetlands permit for the construction of a kayak and canoe launch and community pier at 3475 Westport, JCC Parcel ID No. 3620500001A.

WJPA-21-0045/VMRC-2021-1575: Vanasse Hangen Brustlin, Inc., on behalf of James River Association, has applied for a wetlands permit for the construction of a dock, kayak and canoe launch, landing and gangway at 541 Neck-O-Land, JCC Parcel ID No. 5610100001.

WJPA-21-0047/VMRC-2021-1609: Mid-Atlantic Resource Consulting, on behalf of Mr. Jeffrey and Ms. Amy VandeSand, has applied for a wetlands permit for the construction of a sill, beach nourishment and bank grading at 1489 John Tyler Highway, JCC Parcel ID No. 3430300004.

THE CHESAPEAKE BAY BOARD WILL CONSIDER THE FOLLOWING CASE:

CBPA-21-0128: The Structures Group, Inc., on behalf of Kingsmill Community Services Association has filed an exception request for encroachments into the RPA buffer for construction of a retaining wall at 155 Wareham's Point, JCC Parcel ID No. 5041900001B.

Appeals from decisions under the Chesapeake Bay Preservation Ordinance may also be heard.

The applications and plans are on file and may be viewed during normal office hours in the Stormwater and Resource Protection Division, 101-E Mounts Bay Road, James City County, Virginia.

NOT FOR PUBLICATION

DISPLAY: WEDNESDAY – AUGUST 25, 2021 and SEPTEMBER 1, 2021. ACCOUNT NO. CU00015112 VIRGINIA GAZETTE 1/8 PAGE, VERTICAL, B/W CARD # x9941 COPIES: PLANNING

ASSISTANT COUNTY ATTORNEY

WETLANDS/CHESAPEAKE BAY BOARD MEMBERS

AGENDA ITEM NO. D.2.

ITEM SUMMARY

DATE: 9/8/2021

TO: Chesapeake Bay Board

FROM: Trevor Long, Watershed Planner

SUBJECT: CBPA-21-0079: 6015 Richmond Road

CBPA 21-0079: Wayne Harbin Builder, Inc., has filed an exception request for encroachments into the RPA buffer for sanitary sewer installation and Stormwater Management BMP construction at 6015 Richmond Road, JCC Parcel ID No. 3220100081.

ATTACHMENTS:

Description Type
Cover Memorandum Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Woolson, Michael	Approved	9/1/2021 - 4:55 PM
Chesapeake Bay Group	Small, Toni	Approved	9/1/2021 - 5:10 PM
Publication Management	Pobiak, Amanda	Approved	9/2/2021 - 11:27 AM
Chesapeake Bay Group	Secretary, ChesBay	Approved	9/2/2021 - 1:00 PM

MEMORANDUM

DATE: September 8, 2021

TO: The Chesapeake Bay Board

FROM: Robin Benedict, Watershed Planner

SUBJECT: Chesapeake Bay Exception No. CBPA-21-0079. 6015 Richmond Road

The Applicant has requested to withdraw their application for exception to the Chesapeake Bay Preservation Ordinance.

As this case has been public noticed, staff recommends the public hearing be closed.

RB/md CBExcptCBPA21-79-mem

AGENDA ITEM NO. E.1.

ITEM SUMMARY

DATE: 9/8/2021

TO: Chesapeake Bay Board

FROM: Michael Woolson, Section Chief - Resource Protection

SUBJECT: Emergency Permit - Temporary Repairs at 5030 River Drive

ATTACHMENTS:

Description Type

Staff Memo Cover Memo
Resolution Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Woolson, Michael	Approved	9/1/2021 - 4:56 PM
Chesapeake Bay Group	Small, Toni	Approved	9/1/2021 - 5:10 PM
Publication Management	Daniel, Martha	Approved	9/2/2021 - 11:57 AM
Chesapeake Bay Group	Secretary, ChesBay	Approved	9/2/2021 - 1:01 PM

MEMORANDUM

DATE: September 8, 2021

TO: The Chesapeake Bay Board

FROM: Michael D. Woolson, Section Chief, Resource Protection

SUBJECT: Emergency Exception for 5030 River Drive, CBPA-21-0144

Mr. Gary McSherry requested an emergency exception request to repair and temporarily stabilize a bank that was impacted by the recent slope failure that occurred at 5032 River Drive on June 21, 2021 as depicted on the submitted plan by Collins Engineers. He also requested to remove a large white oak tree that had been impacted. The oak tree, if left standing, would provide additional opportunity to destabilize the slope and potentially impact the structural integrity of his home. On August 20, 2021, staff granted the request with the following conditions:

- 1. The entirety of the project must be on 5030 River Drive unless permission is obtained from the 5032 River Drive property owner.
- 2. All applicable Erosion and Sediment Control measures shall be in place prior to the start of the project.
- 3. No fees will be required for this phase of the project.
- 4. A permanent repair plan must be submitted to our office for review and approval no later than December 31, 2021.
- 5. Failure to provide a plan per Condition No. 4 above will result in double permit fees for Erosion and Sediment Control and double land disturbing permit fees.
- 6. No surety will be required for this temporary repair.

Staff is requesting that the Chesapeake Bay Board formally approve this emergency exception request.

MDW/md EmergExcCBPA21-144-mem

Attachment

RESOLUTION

CASE NO. CBPA-21-0144. 5030 RIVER DRIVE

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

- WHEREAS, Mr. Gary McSherry (the "Applicant"), has applied to the Chesapeake Bay Board of James City County (the "Board") on September 8, 2021, to request an emergency exception to use the Resource Protection Area (the "RPA") on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 093030006 and further identified as 5030 River Drive (the "Property") as set forth in the application CBPA-21-0144 for the purpose of temporarily stabilizing a slope; and
- WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.
- NOW, THEREFORE, BE IT RESOLVED that the Chesapeake Bay Board of James City County, Virginia, following a public hearing, by a majority vote of its members FINDS that:
 - 1. The exception request is the minimum necessary to afford relief.
 - 2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
 - 3. The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code and is not of substantial detriment to water quality.
 - 4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
 - 5. Reasonable and appropriate conditions are hereby imposed, as set forth below, which will prevent the exception request from causing a degradation of water quality.
 - 6. In granting this exception, the following conditions are hereby imposed to prevent this exception request from causing degradation of water quality:
 - a. The entirety of the project must be on 5030 River Drive unless you can obtain permission from the 5032 River Drive property owner; and
 - b. All applicable Erosion and Sediment Control (E&SC) measures shall be in place prior to the start of the project; and
 - c. No fees will be required for this phase of the project; and

- d. A permanent repair plan must be submitted to our office for review and approval no later than December 31, 2021; and
- e. Failure to provide a plan per Condition No. 4 above will result in double permit fees for E&SC and double land disturbing permit fees; and
- f. No surety will be required for this temporary repair.

David Gussman Chair, Chesapeake Bay Board Michael D. Woolson Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of September, 2021.

EmergExcCBPA21-144-res

AGENDA ITEM NO. F.1.

ITEM SUMMARY

DATE: 9/8/2021

TO: Chesapeake Bay Board

FROM: Michael Woolson, Section Chief - Resource Protection

SUBJECT: Appeal - 5032 River Drive

ATTACHMENTS:

	Description	Type
۵	Resolution to Affirm CBPA Violation	Resolution
D	Staff Report	Staff Report
D	Resolution to Deny	Resolution
D	Figure 1. June 23, 2017	Backup Material
D	Figure 2. July 2, 2017	Backup Material
D	Figure 3. September 15, 2017	Backup Material
ם	Figure 4. September 15, 2017	Backup Material
D	Figure 5. October 17, 2020	Backup Material
ם	Figure 6. May 31, 2021	Backup Material
D	Figure 7. June 18, 2021	Backup Material
D	Figure 8. June 21, 2021	Backup Material
ם	Figure 9. June 23, 2021	Backup Material
D	Figure 10. July 1, 2021	Backup Material
D	Figure 11. July 1, 2021	Backup Material
ם	Exhibit A. Notice of Violation	Backup Material
D	Exhibit B. Sensitive Area Activity Application, June 28, 2017	Backup Material
D	Exhibit C. The Structures Group, forensic review and structural design of retaining wall, June 19, 2017	Backup Material
D	Exhibit D. ECS slope evaluation, August 3, 2001	Backup Material
D	Exhibit E: Building Permit application, June 21, 2017	Backup Material
D	Exhibit F: Building Permit Final, December 8, 2017	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Woolson, Michael	Approved	9/1/2021 - 5:07 PM
Chesapeake Bay Group	Small, Toni	Approved	9/1/2021 - 5:10 PM

Publication Management Pobiak, Amanda Approved 9/2/2021 - 12:00 PM Chesapeake Bay Group Secretary, ChesBay Approved 9/2/2021 - 1:00 PM

RESOLUTION

AFFIRMING THE CHESAPEAKE BAY PRESERVATION VIOLATION AT 5032 RIVER DRIVE

- WHEREAS, Mr. Gregory Bean, Esq., on behalf of Mr. Danny Patterson ("Appellant"), has appeared before the Chesapeake Bay Board of James City County (the "Board") on September 8, 2021, to appeal a Notice of Violation issued on June 28, 2021, to the Appellant for violations of County Code Chapter 23, Chesapeake Bay Preservation Ordinance on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 0930300007 and further identified as 5032 River Drive (the "Property"); and
- WHEREAS, the Board, pursuant to County Code Section 23-17, has listened to the arguments presented by the Appellant and by the County agent and has carefully considered all evidence entered into the record.
- NOW, THEREFORE, BE IT RESOLVED that the Chesapeake Bay Board of James City County, Virginia, by a majority vote of its members affirms the Notice of Violation issued to Mr. Danny Patterson on June 28, 2021, and finds that Mr. Danny Patterson is in violation of County Code, Chapter 23, Chesapeake Bay Preservation, Sections 23-7 and 23-10.
- NOW, THEREFORE, BE IT FURTHER RESOLVED that the Chesapeake Bay Board of James City County, Virginia, encourages the parties to reach a settlement agreement to abate the violation and for a one-time civil charge in the amount of \$10,000.
- NOW, THEREFORE, BE IT FINALLY RESOLVED that the Chesapeake Bay Board of James City County, Virginia, urges the County Attorney's Office to seek the maximum penalties allowed by the County Code if this matter is brought before the Circuit Court.

David Gussman Chair, Chesapeake Bay Board Michael D. Woolson Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of September, 2021.

AffCBBViol5032RvrDr-res

MEMORANDUM

DATE: September 8, 2021

TO: The Chesapeake Bay Board

FROM: Michael D. Woolson, Section Chief, Resource Protection

Elizabeth Parman, Assistant County Attorney

SUBJECT: Appeal of Notice of Violation for Chesapeake Bay Preservation Ordinance Violations,

dated June 28, 2021 - 5032 River Drive

Mr. Gregory S. Bean filed an appeal to the James City County Chesapeake Bay Board (the "Board") on July 28, 2021, on behalf of Mr. Danny Patterson (the "Owner"). The Owner is appealing the administrative decision that there are violations of County Code Chapter 23 - Chesapeake Bay Preservation Ordinance ("Ordinance") at 5032 River Drive (the "Property") because the requirements outlined in Sections 23-7 and 23-10 of the James City County Code have not been met.

Pursuant to James City County Code Section 23-17, the Chesapeake Bay Board shall hear appeals of administrative decisions under the Ordinance. In rendering its decision, the Board shall balance the hardship to the property owner with the purpose, intent and objectives of this chapter. The Board shall not decide in favor of the appellant unless it finds: (1) the hardship is not generally shared by other properties in the vicinity; (2) the Chesapeake Bay, its tributaries, and other properties in the vicinity will not be adversely affected; and (3) the appellant acquired the property in good faith and the hardship is not self-inflicted. After considering the evidence and opinions, the Board may affirm, reverse, or modify the decision of the County agent. The Board's decision is subject to review by the circuit court of James City County if appealed.

Background Information

On June 21, 2021, staff received a phone call from the Virginia Marine Resources Commission (VMRC) about a potential navigation hazard in Diascund Creek due to some trees in the water. Staff conducted a field investigation on June 21, 2021, and discovered that the hillside between the existing house located at 5032 River Drive and Diascund Creek had collapsed, sending debris into the creek. The hillside collapse appeared to affect 5030, 5032, and 5034 River Drive, an area of approximately 6,000 square feet. In the ensuing office investigation, staff was not able to locate the submittal of any Chesapeake Bay Exception request showing the work to be done at 5032 River Drive. After talking to neighbors, it was determined that approximately 30 to 50 dump truck loads of dirt were delivered and spread out in the rear yard with the understanding that it was intended to fill in holes from a recently removed deck.

On June 28, 2021, staff sent a Notice of Violation to Mr. Patterson that outlined the nature of the violations on the property. Specifically, the work caused a global rotational slope failure in the Resource Protection Area (RPA). Neither Mr. Patterson nor his contractor submitted a plan of development as required by County Code Chapter 23, an erosion and sediment control plan or applied for a land disturbing permit as required by County Code Chapter 8.

History

In 2017, Mr. Patterson applied for a Chesapeake Bay Preservation Waiver (CBE-17-095) to allow for the construction of a retaining wall to help stabilize the structural integrity of the existing home and submitted

Appeal of Notice of Violation for Chesapeake Bay Preservation Violations, dated June 28, 2021 - 5032 River Drive September 8, 2021 Page 2

an erosion and sediment control plan (E&S-028-17). He received both approvals and a building permit (B17-2037) to build the retaining wall. The retaining wall received final building approval on December 8, 2017. When E&S-028-17 was approved, it was determined that a land disturbing permit was not required because the extent to the work was less than 2,500 square feet.

In 2001, Mr. Patterson commissioned ECS Consulting Engineers to do a slope stability analysis. The report was supplied to the County on June 28, 2017 as supporting documentation for the justification of a retaining wall in the Chesapeake Bay Preservation Ordinance Sensitive Area Activity Application. The results of this slope stability analysis showed that a rotational slope failure was possible.

The retaining wall built in 2017 was removed at some point in time prior to the slope failure of June 21, 2021. There are no records that Mr. Patterson applied for a demolition permit to remove the retaining wall or the deck on the back of the house.

Staff Findings

Staff has reviewed the appeal and associated documents and offers the following information for the Board's consideration.

- 1. Mr. Danny Patterson is the current owner of the Property located at 5032 River Drive.
- 2. On June 21, 2021, Mr. Patterson hired a contractor to fill in a portion of his rear yard, the entirety of which is in the RPA.
- 3. At approximately 3:30 p.m. on June 21, 2021, the slope collapsed due to the extra weight that had been placed on it over the course of the day. The slope failure affected neighboring properties and resulted in land disturbance of approximately 6,000 square feet. Staff received a call from the VMRC at approximately 4:30 p.m. relaying concerns about navigation hazards in Diascund Creek.
- 4. Neither Mr. Patterson nor his contractor applied for or received any County approvals for the work that was done. He did not submit a plan of development nor seek approval to work in the RPA as required by County Code Section 23-10, he did not submit an erosion and sediment control plan as required by County Code Section 8-4, and he did not apply for a land disturbing permit as required by County Code Section 8-22. Mr. Patterson previously applied for these plans and permits for a retaining wall completed in 2017.

Issues to be Decided by the Board

1. Whether Mr. Patterson violated County Code Section 23-10 for failing to submit a plan of development for land disturbing activity.

MDW/EP/md AppCBBViol5032RvrDr-mem

Attachments:

1. Figures

Figure 1. Picture, June 23, 2017

Figure 2. Picture, July 2, 2017

Appeal of Notice of Violation for Chesapeake Bay Preservation Violations, dated June 28, 2021 -

5032 River Drive September 8, 2021

Page 3

Figure 3. Picture, September 15, 2017

Figure 4. Picture, September 15, 2017

Figure 5. Picture, October 17, 2020

Figure 6. Picture, May 31, 2021

Figure 7. Picture, June 18, 2021

Figure 8. Picture, June 21, 2021

Figure 9. Picture, June 23, 2021

Figure 10. Picture, July 1, 2021

Figure 11. Picture, July 1, 2021

2. Exhibits

Exhibit A: Notice of Violation, June 28, 2021

Exhibit B: Sensitive Area Activity Application, June 28, 2017

Exhibit C: The Structures Group, forensic review and structural design of retaining wall, June 19, 2017

Exhibit D: ECS slope evaluation, August 3, 2001

Exhibit E: Building Permit application, June 21, 2017

Exhibit F: Building Permit Final, December 8, 2017

RESOLUTION

REVERSING THE CHESAPEAKE BAY PRESERVATION VIOLATION AT 5032 RIVER DRIVE

- WHEREAS, Mr. Gregory Bean, Esq., on behalf of Mr. Danny Patterson ("Appellant"), has appeared before the Chesapeake Bay Board of James City County (the "Board") on September 8, 2021, to appeal a Notice of Violation issued on June 28, 2021, to the Appellant for violations of County Code Chapter 23, Chesapeake Bay Preservation Ordinance on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 0930300007 and further identified as 5032 River Drive (the "Property"); and
- WHEREAS, the Board, pursuant to County Code Section 23-17, has listened to the arguments presented by the Appellant and by the County agent and has carefully considered all evidence entered into the record.
- NOW, THEREFORE, BE IT RESOLVED that the Chesapeake Bay Board of James City County, Virginia, following a public hearing, by a majority vote of its members reverses the Notice of Violation issued to Mr. Danny Patterson on June 28, 2021, and FINDS that Mr. Danny Patterson is not in violation of County Code, Chapter 23, Chesapeake Bay Preservation.

David Gussman Chair, Chesapeake Bay Board Michael D. Woolson Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of September, 2021.

RevCBBViol5032RvrDr-res

























General Services

107 Tewning Road Williamsburg, VA 23188 P: 757-259-4080 General.Services@jamescitycountyva.gov

jamescitycountyva.gov

Capital Projects 107 Tewning Road 757-259-4080

Fleet 103 Tewning Road Williamsburg, VA 23188 Williamsburg, VA 23188 757-259-4122

Stormwater and **Resource Protection** 101-E Mounts Bay Road Williamsburg, VA 23185 757-253-6670

Facilities & Grounds 113 Tewning Road Williamsburg, VA 23188 757-259-4080

Solid Waste 1204 Jolly Pond Road Williamsburg, VA 23188 757-565-0971

NOTICE OF VIOLATION

of James City County's Environmental Regulations

June 28, 2021

Re:

Mr. Danny Patterson 5032 River Drive

Lanexa, VA 23089

Chesapeake Bay Preservation Ordinance Violation, Land Disturbing Violation, Erosion and Sediment Control Ordinance Violation, Stormwater Management Ordinance Violation and an Erosion Impact Area. 5032 River Drive, James City County PIN 0930300007 SRP-21-0005

Dear Mr. Patterson:

On June 21, 2021, representatives of the James City County Stormwater and Resource Protection Division inspected the properties adjacent to 5032 River Drive after a complaint was received at the County for work occurring within the resource protection area. This work caused a global rotational slope failure to occur affecting property at 5030 River Drive, 5032 River Drive and 5034 River Drive. This work also caused fill and debris to impact a portion of Diascund Creek. The County does not have any active Chesapeake Bay Preservation Exception requests, Wetland Permit applications, Erosion and Sediment Control Plans, or Land Disturbing Permit applications on file for any of these properties.

This activity is a violation of: (1) James City County Code ("County Code") Chapter 23 Chesapeake Bay Preservation Ordinance, (2) County Code Chapter 8, Article I Erosion and Sediment Control Ordinance, and (3) County Code Chapter 8, Article II Stormwater Management Ordinance. Civil penalties can range from \$1,000 to \$32,500 per day per violation. These civil penalties may be ordered by the James City County Circuit Court upon petition from the County. Civil charges may be agreed upon instead of the County initiating a lawsuit against you. Civil charges can range from \$1,000 to \$32,500 per violation.

Please be advised that this is an official notification that the filling of the resource protection area and resultant global slope failure of the hillside into Diascund Creek is a Chesapeake Bay Ordinance, Stormwater Management Ordinance and Erosion and Sediment Control Ordinance violation. In order to rectify these violations, please contact our office at your earliest convenience to arrange for a meeting with representatives of the Stormwater and Resource Protection Division staff to discuss

civil penalties, restoring the creek, and restoring the RPA by entering into a Chesapeake Bay Restoration Agreement.

Should you wish to appeal any of these violations, the appeals would be heard by the following entities:

- Chesapeake Bay Preservation Ordinance appeals are heard by the James City County Chesapeake Bay Board (County Code sec. 23-17);
- Stormwater Management Ordinance appeals are heard by the James City County Circuit Court (County Code sec. 8-32);
- Erosion and Sediment Control Ordinance appeals are heard by the James City County Board of Supervisors (County Code sec. 8-8).

Please contact our office at 757-253-6670 to discuss this matter within the next 30 days. If you wish to appeal this determination you must initiate an appeal within 30 days After 30 days from the date of this letter, the matter is no longer appealable.

Sincerely,

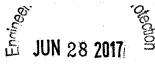
Michael Woolson

Section Chief, Resource Protection

Stormwater and Resource Protection Division

cc: Toni Small, Stormwater and Resource Protection Division Director, via email Liz Parman, Assistant County Attorney, via email Paul Holt, Community Development Director, via email

Christy Parrish, Zoning Administrator, via email





Chesapeake Bay Preservation Ordinance Sensitive Area Activity Application Elver

For Office Use Only CBE 17-095 CB Number <u>CBS 17-028</u>

Submission Requirements: (Check all app	olicable)		-	
A \$25 non-refundable processing fee part RPA - landward 50' - Complete Items 1 RPA - seaward 50' - Complete Items 1 payable to Treasurer, James City County Conservation Easement - Complete Item Steep Slopes ≥ 25 percent - Complete Item Attach plans as required (see instruction Applicable surety as required for mitigate	1-5, and sign on Page 3. 1-5, sign on Page 3 ay, for the Chesapeake Bayns 1, 2, 3, and 5, and sign ems 1, 2, 3, and 5, and sign on Page 4, Item 4).	and submit an act Board. on Page 3. gn on Page 3.		on-refundable fee
Upon completion, please return pages 1-3	3 to the JCC Engineering	and Resource 1	<u>Protection Division</u>	<u>on</u>
Property Owner Information:			Date: 6-19-	17
Name: Danny E. Patterson				
Address: 5032 River Drive; Lanexa, VA 230	089			
Phone: <u>757-897-2871</u> Fax:			rson@verizon.ne	<u> </u>
Contact (if different from above):				
Name: Michael A. Matthews		Phone: <u>757-22</u>	20-0465	
		Email: <u>mmattl</u>	hews@thestructur	esgroup.com
Project Information:	X/A 22000	· · · · · · · · · · · · · · · · · · ·		ě
Project Address: <u>5032 River Drive</u> ; <u>Lanexa</u> , Subdivision Name, Lot, and Section No.: <u>Cy</u>			· \	
Parcel Identification No. or Tax Map No.: 0	930300007		<u> </u>	
Date Lot was platted: 7-8-83	Line or Bldg Pe	rmit No.:	<u>4171119/1</u>	= 32-28-11
Activity Location and Impacts (Square Feet				
✓ Steep Slopes ≥ 25 percent 2,197	(SF)	▼ RPA - Landv	vard 50' <u>2,197</u> ard 50'	(SF)
Conservation Easement				
Trees to be Removed	(#)	✓ Proposed Imp	pervious Cover <u>+</u>	122 (SF)
Activity involves: (check all that apply)				
New principal structure construction Permitted buffer modifications:	Building addition Dead/diseased/dyi Invasive/noxious	ing tree removal	ture	Attached Deck Sightline Access path/trail
Accessory (Detached) Structure or Patio Other:	Redevelopment:			P.M.M. W.M.

For Office U	se Only CBE17-09
165	17 000
CB Number	11020

1. Description of requested sensitive area activity and reason for request:

(In the description, please indicate the reason for the proposed structure or activity, the location, sizes and dimensions of feature. For decks or expansions, indicate if ground floor, first floor or other levels)

A timber retaining wall is proposed to be installed approximately 20'-0" down slope from the existing residence to prevent additional erosion and distress to the residence. The retaining wall is proposed to be 122' long and up to 8-0" tall.

- 2. As per Section 23-9 of the Chesapeake Bay Preservation Ordinance, if there is an on-site sewage disposal system on this property, has it been inspected and/or pumped out is the past five years? Yes No
- 3. Are permits from other local, State or Federal agencies required for any portion of this project? Yes No (If yes, please explain) James City County Building Permit

4. Water Quality Impact Assessment

The purpose of a water quality impact assessment is to demonstrate that the project will result in the removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater run-off and that it will retard runoff, prevent accelerated erosion, promote infiltration, and filter non-point source pollution equivalent to the full undisturbed 100-foot buffer.

A. Why is this encroachment necessary? Can it be relocated to avoid RPA impacts?

The existing slope has failed. No, The entire rear portion of the property is completely within the RPA boundary.

B. What measures will be used to minimize impervious area? Examples: pervious pavers, removal of existing impervious surfaces (concrete, pavement, etc.) in the RPA not needed for the project

The proposed retaining wall will be filled and graded with topsoil to minimize the impact of the impervious cover.

5. Proposed mitigation measures:

Note: All mitigation measures must be shown in detail on a mitigation plan. Show both location of mitigation measures and plant species if applicable. All mitigation plants must be native species and be located in the sensitive area (RPA or Conservation Easement).

Mitigation Rates Table

Impervious Area (SF)	Mitigation Required	Surety
<400	1 tree and 3 shrubs	\$250
400-1,000	1 canopy tree, 2 understory trees and 3 shrubs per 400 SF (or fraction thereof)	\$1,000
>1,000	Plant at same rate as 400 – 1,000; or may be determined by Director of Engineering and Resource Protection Division	To be determined

Chesapeake Bay Preservation Ordinance Sensitive Area Activity Application

Page 3

	CB Number 17-028
A. Vegetation/ground cover enhancement of buffer (see Mitigation Rates Ta	ble on previous page).
Number of native canopy trees Number of native understory trees Number of native shrubs Square feet of native ground cover Square feet of mulch	
B. Best Management Practices (BMPs)	
□ Dry Swale □ Silt fence	Bioretention or rain garden practice Infiltration Area/Trench/Drywell Structural BMP (Wet or Dry Pond) Rain Barrel entire deck area)
I understand that the following are approval conditions:	
 Mitigation for the above activity shall follow the approved mitigat form of surety acceptable to the County Attorney. Limits of disturbance as shown on the approved plan shall not be executed as a shall become null and void if construction has not approval date. Surety will be released following the completion and inspection of mit approval date. Property owner signature Program Administrator Authorized Signature	ceeded. of begun within 12 months of the itigation plantings. Date 6/16/17 Date 7/16/17
For Office Use Only	Surety Amount:
Approval of retaining wall and drainage Structures to granentes the structural entegents of the existing home.	Date/Rec No.: Fee Paid? Yes No Amount: 25,0 Date/Rec No.: 62317#3158
Aproval expires 7/6/18	



Building Safety & Permits Copy

The Structures Group, Inc.

Consulting Engineers

June 19, 2017

Danny E. Patterson 5032 River Drive Lanexa, Virginia 23089

Re:

Patterson/5032 River Drive TSG No. VA17083.FOR

Dear Mr. Patterson:

With your authorization, we performed a cursory forensic review and structural design for the retaining wall structure to resolve the slope failure at the rear of the single family residence located at 5032 River Drive within the Cypress Point section of James City County, Virginia. The purpose of our review was to determine the nature and extent of distress exhibited in the slope.

Our site visit was conducted on Friday, May 26, 2017, in your company as well as Michael Woolson and Ashely Tatge with the James City County Engineering and Resource Protection Division. During our site visit, we reviewed the existing slope failure as well as the foundation of the residence, cataloging areas of distress noted.

The single family residence is a two (2) story timber framed structure, with an attached one (1) car garage located on the front elevation. The exterior of the main residence consists of wood siding. The residence is partially constructed over a slab on grade and partially over a masonry foundation enclosing a vented crawl space. The roof consists of gable framed roofs over the main portion of the residence as well as the garage, with all roof surfaces covered with asphalt shingles. A timber framed deck is located along the rear elevation of the residence. Closer review revealed the exterior finish grade of the property sloped from front to rear.

During our site visit, we noted a global slope failure of the soil approximately 20' behind the rear elevation of the residence resulting in an approximate 5' to 6' vertical drop off. It was noted that the slope failure also led to the collapse of both the dock and the stairwell leading to the dock. Further, it was also noted that the slope failure led to the collapse of the existing timber bulkhead located approximately 10' from the shore of Diascund Creek. Closer inspection of the shoreline revealed that the rip-rap had also been pushed out towards the creek.

Along the foundation of the deck attached to the residence, it was noted that the lattice had been pushed out away from the residence and towards the creek. Further inspection of the foundation of the residence revealed minor cracks in the parged surface of the rear corner of the left and right elevation masonry foundation walls.

Danny E. Patterson TSG No. VA17083.FOR June 19, 2017 Page 2

SOIL SURVEY AND RESEARCH

Our research included a review of the Soil Survey of James City and York Counties and the City of Williamsburg Virginia, produced in 2014 by the United States Department of Agriculture. This soil survey revealed that the residence was constructed in an area consisting of primarily Emporia complex soil series with 15 to 25 percent slopes. This soil has a moderate shrink-swell potential.

Based on our research, it seems the residence, while constructed circa 1960, lies within the Chesapeake Bay Resource Preservation Area (RPA) of James City County. It should be noted that James City County, Virginia is one of 84 localities in Virginia subject to the requirements of the Bay Act program because of the County's geographic location in the Tidewater region of Virginia. The Bay Act program is mandated by the Commonwealth of Virginia by Title 62.1, Chapter 3.1, Article 2.5 of the Code of Virginia and Chapter 830, Chesapeake Bay Preservation Designation and Management Regulations, 9VAC25-830-10 et. seq. of Virginia Administrative Code. Construction within the RPA of James City County is governed by an ordinance that controls and regulates runoff towards wetlands, streams, and tributaries to the Chesapeake Bay. Most land use activities in the RPA are generally prohibited or restricted unless an exception or waiver is granted by the Chesapeake Bay Preservation Board.

Upon research of past geotechnical work performed on the property, it was noted that a geotechnical report was prepared by ECS dated August 3, 2001. According to the report, bulkheads were constructed between the house and the creek in 1987 and 1994 and failed along with a significant portion of the slope in August of 2000. While repairs to the rip-rap toe support and slope were performed in October 2000, further settlement and movement of the slope was detected in March/April of 2001. Therefore, in order to stabilize the slope, ECS recommended the installation of a retaining wall along the toe of the slope, just beyond the edge of the rip-rap. ECS recommended piles spaced 5' on center with a minimum embedment depth of at least 15' below the mean low water. This retaining wall system was constructed; however, it has recently failed due to a global slope failure and has overturned towards the creek damaging the adjacent boat dock.

The report by ECS also included soil boring logs from two (2) locations on the property and included an analysis of the existing slope in 2001. The 2001 ECS report and boring logs have been attached to this report.

CONCLUSIONS

Our analysis of the existing slope failure and the existing distress to the foundation of the residence revealed that the existing earth on the steep slope of the lot is unstable and has experienced a global failure. It is our opinion that the slope failure, if left unmitigated, will result in future distress and possible failure of the foundation of the residence.

Following our meeting, it was determined that some form of a retaining wall system would be needed to stabilize the slope and protect the foundation and deck of the existing residence. It was determined that due to the severity of the existing global slope failure and its location within the Resource Protection Area, the review of such remedial repair plans will go through the James City County Environmental Department as well as the Building Safety and Permits Division.

A retaining wall site plan has been prepared and two (2) copies of this plan have been submitted to the James City County Engineering and Resource Protection Division with a copy of this letter. It is our

Danny E. Patterson TSG No. VA17083.FOR June 19, 2017 Page 3

recommendation that the proposed retaining wall site plan be submitted as part of the application to the Chesapeake Bay Board. Based on our discussions at the site, we feel that this project may go through a brief administrative review process.

Likewise, to facilitate a simultaneous review process, we have submitted the James City County Building Permit Application to the James City County Building Safety and Permits Division along with an additional two (2) copies of the plan. For your reference, we have attached one (1) copy of the drawings and copies of the Chesapeake Bay Board Application and James City County Permit Application which have been submitted.

We appreciate the opportunity to be of service in this matter. If you have any questions, please feel free to contact our office.

Sincerely,

The Structures Group, Inc.

Joseph W. Krallinger, E.I.T.

Staff Engineer

Michael A. Matthews, P.E.

President

MAM/msv

attachments



ENGINEERING CONSULTING SERVICES, LTD.

Geotechnical · Construction Materials · Environmental

August 3, 2001

Mr. Danny Patterson 5032 River Drive Lanexa, VA 23089

ECS Project No. 6521

Reference:

Slope Evaluation

Patterson Residence - 5032 River Drive

Lanexa, Virginia

Dear Mr. Patterson:

Engineering Consulting Services, Ltd. is pleased to present the results of the subsurface exploration and geotechnical engineering analysis for the above referenced project.

Overview:

It is our understanding that the existing residence was built on a relatively level plateau in 1980. The north side of the property slopes down about 20 feet to Diascund Creek, a tributary of the Chickahominy River that is located about 1,500 feet to the south. Bulkheads were constructed between the house and the creek in 1987 and 1994. These bulkheads (retaining walls) failed, along with a significant portion of the slope in August 2000. Repairs to the slope ("rip-rip" toe support and slope reconstruction) was performed in October 2000; however, settlement/movement of the "rip-rap" and slope cracks were detected in March/April 2001.

Scope of Work:

Two (2) soil test borings (extended to depths of 20 and 30 feet) were performed by Scott Drilling on May 11, 2001. The 20 foot boring (B-2) was performed within the front yard of the house and the 30 foot boring (B-1) was performed near the top of the slope at the rear of the house. A slotted PVC-Pipe was installed at each borehole location for groundwater readings. The purpose of the borings was to ascertain the general subsurface conditions (soil type and groundwater), to aid in evaluating the stability of the existing slope. A location diagram and the boring logs are attached with this report.

2119-D North Hamilton Street, Richmond Virginia 23230 • (804) 353-6333 • Fax (804) 353-9478

Offices: Richmond, VA • Washington, D.C. • Norfolk, VA • Williamsburg, VA • Roanoke, VA • Fredericksburg, VA • Danville, VA

Baltimore, MD • Frederick, MD • Research Triangle Park, NC • Wilmington, NC • Charlotte, NC • Greensboro, NC • Greenville, SC • Atlanta, GA

The test borings were performed with an ATV-mounted drill rig, which utilized continuous flight augers to advance the boreholes. Representative soil samples were obtained from the borings by means of the split-barrel sampling procedure in accordance with ASTM Specification D-1586. In this procedure, a 2 inch O.D., split barrel sampler is driven into a soil a distance of 24 inches by a 140-pound hammer falling 30 inches. The first 6 inches is considered the seating interval. The number of blows required to drive the sampler through the next two 6-inch intervals is termed the Standard Penetration Test (SPT) value, and is indicated for each sample on the boring logs. A reference notes sheet for the boring logs is attached with this letter.

ECS engineering personnel visually classified representative soil samples that were collected from the borings and returned to our ECS office. The engineering properties of the soil, along with groundwater data collected on various dates (5/13, 5/14, and 6/1/01), were utilized for slope stability analysis.

Conclusions and Recommendations:

Based on visual inspection of the existing slope, in it's current condition, it is obvious that the "Rip-Rap" toe reinforcement and slope reconstruction that was performed in or about October 2000 wasn't effective in stabilizing the already weakened slope. Although the concept of reinforcing the toe of the previously failed slope with "Rip-Rap" is considered an acceptable stabilization method (alternative), it is my opinion that prudent engineering design wasn't employed. In this respect, if the base of the slope was mucked-out (including the excavation at the toe), and if a heavy duty geosynthetic fabric and/or geogrid had been used to retain the "Rip-Rap", the additional slope movement may have been prevented. Furthermore, the depth of the excavation and "Rip-Rap" placement should have been extended below the potential failure plane for maximum effectiveness. It should be noted, however, that the actual conditions at the time of "Rip-Rap" placement are not fully known at this time. Reportedly, the base area was very wet and soft, which made construction difficult. Typically under these working conditions, the quality of the work is greatly reduced, and some form of additional failure occurs regardless of the design.

ECS has performed a limited evaluation of the existing slope using PCSTABL software. This evaluation is considered limited since a detailed survey of the slope isn't available. The evaluation was performed based on linear measurements and slope angle approximation. Based on this evaluation the existing slope is approximately 2H (horizontal) to 1V (vertical), and has a calculated Safety Factor of 1.33 against failure. Most slopes are designed with a maximum slope of 2H:1V and a minimum Safety Factor of 1.5. A plot of the slope configuration is included with this report.

Since the calculated Safety Factor of the existing slope is less than 1.5, consideration should be given to improving the stability of the slope. Typically, flattening the slope is the most common and inexpensive method for slope stability improvement; however, this alternative is not practical due to space restrictions. Reinforcing the toe is also a common alternative; however, the presence of surface water (in this case a tidal condition) and the presence of existing "Rip-Rap" stone makes standard excavation impractical. Installation of a retaining wall supported by a piling system could possibly be the most practical and cost effective alternative. Generally speaking, the pilings could consist of driven timber or concrete piles, or cast-in-place concrete piles. The piles should be installed in a row along the face of the slope, just beyond the edge of the "Rip-Rap" or at the approximate mid-point of the slope (where the current fault line exists). The tip of the piles should extend at least 15 feet below the MLW elevation. Piles should be installed on approximate 5 foot center-to-center spacing. The top of the piles should be extended above the surface as required for pile cap (bracing) or retaining wall construction.

Closing:

We have enjoyed being of service to you on this project. If you should have any questions regarding the information and recommendations contained herein or if we can be of further assistance, please do not hesitate to contact us.

DAVID E. STINNETT

NO. 028419

Respectfully,

ENGINEERING CONSULTING SERVICES, LTD.

David E. Stinnette, P.E.

Engineering Services Manager

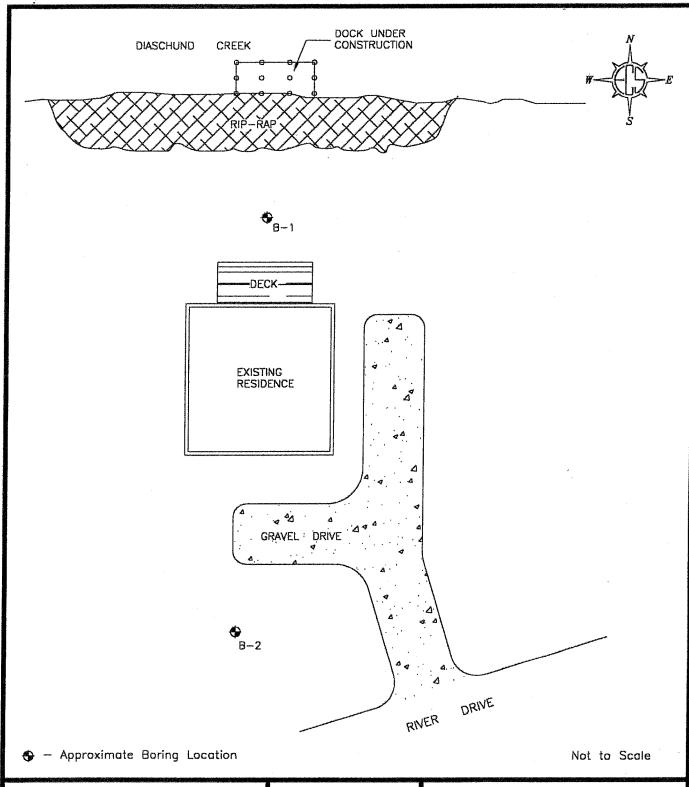
Attachments: Boring Location Diagram

Boring Logs

PCSTABL Plot (with comments/notes)

Reference Notes Sheet For Boring Logs and USCS Sheet

GEOTECH/REPORTS/6521.doc



PREPARED FOR:

DANNY E. PATTERSON



BORING LOCATION DIAGRAM

PATTERSON RESIDENCE SLOPE FAILURE EVALUATION JAMES CITY CO., VIRGINIA

ECS, LTD. PROJECT NO. 6521

CLIEN	T						JOB #	BORING	3 #	SHEET			
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PROJE	CT I	VAME					ARCHITECT-I	ENGINEER				33 17	D
PAT	TERS	ON I	RESI	DENC	E-SLOPE FAIL	LURE EVAL.			,				
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ŽMT 18	3.0		-		WS OR @	BORING STARTE	□ 5-1	1-01	TOPSO	OIL DEPTH 2"			
∰ MT(VB)			Ž ₩L	(AC)		BORING COMPLE	TED 5-1	1-01	CAVE	IN DEPTH • N	I/A		
煮 Mr 15	5.9	0	6-	1-(01	RIG ATV	FOREMAN SC	······································	DRILLI	NG METHOD H	OLLOW S	EM AGUER	

BORING # SHEET JOB # CLIENT OF B-2DANNY E. PATTERSON 6521 ARCHITECT-ENGINEER PROJECT NAME PATTERSON RESIDENCE-SLOPE FAILURE EVAL. -O- CALIBRATED PENETROMETER TONS/FT. 5032 RIVER DRIVE, JAMES CITY COUNTY, VA LIOUID DESCRIPTION OF MATERIAL WATER E LIMIT X CONTENT % LIMIT % -Δ DISTANCE WATER LEVELS E 50+ ELEVATION NO. DEPTH ENGLISH UNITS STANDARD PENETRATION SURFACE ELEVATION 8 BLOWS/FT. 10 50+ 0 Topsoil (X) 12 1 22 24 24 Lean CLAY, Light Brown, Dry, Stiff, (CL) **Ø**12 24 2 22 24 Lean CLAY With Silt, Orange, 3 22 24 24 Light Gray, and White, Moist, Very Stiff, (CL) 24 22 24 22 24 24 10-Fat CLAY, Orange, Gray, and 24 6 22 24 Dark Red, Dry to Moist, Medium Stiff to Soft, (CH) SS 24 24 15- \otimes 24 SS 24 20-END OF BORING @ 20.0' 25_ 30 THE STRATIFICATION LINES REPRESENT THE APPROXIMATE BOUNDARY LINES BETWEEN SOIL TYPES IN-SITU THE TRANSITION MAY BE GRADUAL WS OR 1 BORING STARTED 5-11-01 TOPSOIL DEPTH 4" ZMT DRY CAVE IN DEPTH . N/A ₩L(AC) BORING COMPLETED ¥ WL(AB) 5-11-01 ¥w18.2' @ 6-1-01 RIG ATV FOREMAN SCOTT DRILLING METHOD HOLLOW STEM AGUER

PCSTABL5Misi FSmin=1.33 Safety Factors Are Calculated By The Modified Bishop Method



STED

PCSTABL5M/si FSmin=1.33 Safety Factors Are Calculated By The Modified Bishop Method



STED

REFERENCE NOTES FOR BORING LOGS

I. Drilling and Sampling Symbols:

SS - Split Spoon Sampler

DC - Dutch Cone Penetrometer

PM - Pressuremeter

BS - Bulk Sample of Cuttings

ST - Shelby Tube Sampler

PA - Power Auger (no sample)

WS - Wash Sample RB - Rock Bit Drilling

RC - Rock Core; NX, BX, AX

HSA - Hollow Stem Auger

Standard Penetration Test (SPT) refers to the blows per foot of a 140 lb hammer free falling 30 inches on a 2 in. O.D. split-spoon sampler, as specified in ASTM D-1586. The SPT blow count is commonly referred to as the N-value. Typically the split-spoon sampler is driven to depths of 18 to 24 inches. The SPT result, N-value, is commonly determined by summing the second and third 6-inch increments.

II. Correlation of Penetration Resistances to Soil Properties:

COHESIVE SOILS (CLAY, SILT and COMBINATIONS)

NON-COHESIVE SOILS (SAND, GRAVEL, SILT and COMBINATIONS)

CONSISTENCY	SPT, N (Blows/Foot)	UNDRAINED SHEAR STRENGTH C, (PSF)
VERY SOFT	< 2	<250
SOFT	3-5	250 - 500
MEDIUM STIFF	6 - 10	500 - 1000
STIFF	11 - 15	1000 - 2000
VERY STIFF	16- 30	2000 - 4000
HARD	> 31	> 4000

		
DENSITY	SPT, N (Blows/Foot)	RELATIVE DENSITY (%)
VERY LOOSE	< 5	0 – 15
LOOSE	6 - 10	16 – 3 5
MEDIUM DENSE	11 – 30	36 – 65
DENSE	31 – 50	. 66 – 85
VERY DENSE	51 – 80	86 98 .
EXTREMELY DENSE	> 81	99 - 100

[Particle Size Identification]:

Boulders:

8 inch diameter or more

• Cobbles:

3 to 8 inch diameter

• Gravel:

Coarse

I to 3 inch

Medium

1/2 to 1 inch

Fine

1/4 to 1/2 inch

Sand:

Coarse

2.00 mm to 1/4 inch (diameter of pencil lead)

Medium

.42 mm to 2.00 mm (diameter of broom straw)

Fine

.074 mm to .42 mm (diameter of human hair)

III. Water Level Measurement Symbols:

WL - Water Level

WS - While Sampling

WD - While Drilling

ACR - After Casing Removal

WCI - Wet Cave In

DCI - Dry Cave In

BCR - Before Casing Removal

The water levels are those water levels actually measured in the borehole at the times indicated by the symbol. The measurements are relatively reliable when augering, without adding drilling fluids in a granular soil. In clays and plastic silts, the accurate determination of water levels may require several days for the water level to stabilize. In such cases additional methods of measurement are generally applied.

Engineering Consulting Services, Ltd.

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SOIL CLA
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Typical names Tolays	
Tolays Tolays	Cheshication criteria
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ns si biupi,	(I) (MI) (MI) (MI) (MI) (MI) (MI) (MI) (
T	0 10 20 40 50 60 70 80 90 100 Liquid limit
Highly Organic Soils PT Peat, muck, and other lightly organic soils	Visual-manual identification, see ASTM Designation D2488.



Contractor Information		Owner Information	ı	
License No.: 2705156	333	Name: Danny Patte	rson	
Company Name: PA Colomon	INC	Address: 5032 River	Drive	
Address: 4626 Krokory Stank	Post Rs	City: Lanexa	State: <u>VA</u>	Zip: <u>23089</u>
City: Whumspore State: VA	Zip: 23185	Phone No.: (757) 89	97-2871 Fax No. ()
Phone No.: (757) 903-4855 Fax No. (_)		tterson@verizon.net	
Email Address: RANGE @ RAGIO	had thc. com	Signature: hoa	S. Potts	
Signature: Zul Cuc	-pu	Print name: Danny P	Patterson	· · · · · · · · · · · · · · · · · · ·
Print Name: Zway A Colon 5	IR PRUSIALL	Agent: The Structur	es Group, Inc.	
	e 2	Print Name: Michael	A. Matthews, P.E.	<u>~~~°°°°°°°°°°°°°°°°°°°°°°°°°°°°°°°°°°</u>
Description of Work: _Construction of no	ew timber retaining	to be installed to pre	vent additional slope f	ailare Foce/ve
The retaining wall is approximately 122'-		OII / 11		•
Location of Work		(For Commercial I		JUN 2 1 2017
Tax Map No.: <u>0930300007</u>	NO 10	Site Plan No.	Date Appro	Veed: 2017
Street Address: 5032 River Drive	,	Markaniala Lian A		Me
City: Lanexa State: VA		Mechanic's Lien A	geni	"City County
Zone: A1 Subdivision:				
Ziono.111 Suodivision				
			State:	
Building Information		Phone No.: ()	Fax No. (_)
Stories No. Rooms No. Baths	No. Bath Fix	Floor Area (sq.ft.):		
No. Fireplaces Type:			ment, Garage, and Deck/	Porch)
Exterior Finish: vinyl brick wood		Deck (sq.ft.):		
Interior Finish: Gypsum wallboard woo		Porch (sq.ft.):		
Flooring: carpet wood vinyl other		Basement Area (sq.ft	.):	
Roofing: asphalt fiberglass wood		Garage Area (sq.ft.):		
Heat Type: gas heat pump electric		Total Area (sq.ft.):		
Air Conditioning Type: central window		Public Sewer S	Septic Well Grind	er Pump
Estimated Construction Value: \$50	DOCT -	Public H ₂ O		_
(Do not include Lot \$)		Joent email	il to Mr. Patt	eism
OFFICE USE ONLY			l Area: Yes 🗹 No 🔲 Z	one AE
	Improvement Code: _	<u>KW</u>	Note	25:
• • • • • • • • • • • • • • • • • • • •	Structure Used As: _	Retaining RS	Wall 20	12 USBC.
- · · · · · · · · · · · · · · · · · · ·	Occupancy Class: Occupancy Load:	<u> </u>	YAXEL A	re current
• • •	Type Construction:	VB	10000	
· · · · · · · · · · · · · · · · · · ·	Zoning Approved:		ELO	
PERMIT NO. 2037	Plan Approved: 30	m	FLU	UU_
	PLAN REVIEW FE	15.00		
	PERMIT FEE: 5	$\frac{\partial}{\partial \mathcal{O}} \cdot \frac{\partial}{\partial \mathcal{O}} = 0$	70 1	HE
Date Plan Reviewed: 8 9 17	FRAFIE:	F 26.8	_40	VL.
	TOTAL:	525		

James City County VIRBINIA

Building Safety and Permits Inspection Request/Report

Permit No:

B17-2037

08-Dec-2017

Address:

5032 RIVER DRIVE

Ticket 439903

Soil:

MODERAT

Tax Map #:

0930300007

SubDivision: CYPRESS POINT

Time Preference (Not Guaranteed)

Owner:

DANNY F PATTERSON

	1111101	reference (NOC Guaranteeu)	Owner: DANN	I E PATTERSON
Permit Type	Improvemen	t Type of Inspection	Contrac	tor
Building	RW	Final	R A COLEMAN LAN	(757) 903-4855
Last Inspection	(if not approved)		
9/20/2017	Building		COLEMAN 757-342-9316	Final
		RESULET	191	
	/ 1		121	
	(
				·
Appro	ved	Rejected Co	ode Kirkpatrick _{Inspector}	Verified