

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD
MINUTES
July 14, 2004 - 7:12 PM**

A. ROLL CALL ABSENT

Henry Lindsey None
William Apperson
Philip Duffy
Larry Waltrip
David Gussman

OTHERS PRESENT

Environmental Staff

B. MINUTES – May 12, 2004

The May 12, 2004 minutes were approved as presented.

C. OLD BUSINESS – None

D. PUBLIC HEARINGS

1. WQIA-005-04: Norge Neighborhood

Mr. Michael Woolson presented the case as follows:

Summary Facts

Applicant Mr. V. Marc Bennett, P.E. of AES Consulting Engineers, Inc.
Land Owner Norge Neighborhood, LLC
Location 7145 Richmond Road
Tax Map (23-2)(01-0-0050)
Staff Contact Michael Woolson - Phone: 253-6823

Project Description

Mr. Marc Bennett of AES Consulting Engineers had applied on behalf on Norge Neighborhood, LLC, for an exception to the Chesapeake Bay Preservation ordinance for impacts associated with the Norge Neighborhood project. The project is generally located north of the Williamsburg Dodge dealership and Colonial Heritage development; south of the Kristiansand subdivision; and west of Route 60.

Norge Neighborhood proposed to encroach into the Resource Protection Area by approximately 0.50 acres for the construction of a stream restoration, clearing and grading, stormwater management facility and sanitary sewer construction.

History

Norge Neighborhood, LLC submitted a master plan and rezoning request to the Planning Division in September 2003. County staff, including the Environmental Division, approved the rezoning request in early January 2004 and the Board of Supervisors approved the project on January 20th, 2004. One of the conditions for approval was to repair the segment of stream that had been severely croding. Another was that the project would look into the feasibility of sharing the neighboring stormwater management facility located on the Williamsburg Dodge property.

As the site plan for this project was not submitted prior January 1, 2004, the project is not grandfathered from the revised Chesapeake Bay Preservation Ordinance. The Ordinance revisions have now imposed a Resource Protection Area (RPA) buffer of 100 feet on either side of the streams that border the property to the south and west.

Under Section 23-11 of the new Ordinance, it states that a water quality impact assessment shall be required for any proposed land disturbance resulting from development or redevelopment within RPAs. Norge Neighborhood, LLC has submitted this assessment for their project. The issue before the Chesapeake Bay Board is the impacts (clearing and grading) associated with the construction of sanitary sewer and a stormwater management facility. The impacts associated with the stream restoration, while included in this assessment, will be handled administratively.

Water Quality Impact Assessment

The total impacts to the RPA for this project are approximately 0.55 acres and encompass the construction of a stream restoration, sanitary sewer connection and stormwater management facility. Impact 1 (0.10 acre) will be an administrative review and is not covered under the Board exception approval. Impact 2 will cover 0.20 acre; impact 3 will cover 0.25 acre; so the total RPA impact before the Board for approval is 0.45 acre. To mitigate for environmental impacts, the project will use erosion control type 3 blanket to stabilize all slopes facing the RPA, a timber wall BMP structure, 2 bioretention filter BMPs, additional Natural Open Space dedications, a shared BMP with the Williamsburg Dodge dealership, additional RPA plantings, the use of a conservation seed mix within the disturbed portion of the RPA, and stream restoration of a severely eroded stream channel.

AES Consulting Engineers, Inc. has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The Board is to determine whether or not the proposed development is consistent with the spirit and intent of the Ordinance and make a finding based upon the following criteria, as outlined in Section 23-14(c):

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 this chapter to other property owners similarly situated in the vicinity;
3. The exception request will be in harmony with the purpose and intent of this chapter, 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; and
5. Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

Recommendations

Staff finds that the WQIA and the project are consistent with the spirit and intent of the Ordinance and the criteria as outlined in section 23-14(c). Staff recommends that the Chesapeake Bay Board approve the WQIA as it pertains to this project only, except that the area to be replanted downstream of impact 2 be increased from 0.18 acres to a maximum of 0.20 acres. Furthermore, all other recommendations listed therein are to be incorporated into the site plans for the project, which must then be approved by the Environmental Division. This exception request approval shall become null and void if construction has not begun by July 14, 2005.

The Board held a short discussion relating to species of acceptable plantings to be re-planted in RPA areas.

Mr. Lindsey opened the public hearing.

A. Mr. Marc Bennett, AES Consulting Engineers, gave a brief history on the type of vegetation growing on the parcel of land involved. He also stated that two community meetings were held and all of the residents of Kristiansand subdivision and adjacent property owners were invited to attend and provide input into the design of the project.

As no one else wished to speak, Mr. Lindsey closed the public hearing.

Mr. Apperson made a motion to approve case WQIA-005-04 with staff's recommendations.

The motion was approved by a 5-0 vote.

2. WQIA-006-04: Jamestown Archaearium Building

(A staff presentation was not given.)

Mr. Lindsey opened and closed the public hearing as no one present wished to speak.

As there was no one in the audience to speak on behalf of the owners, Mr. Duffy stated he felt the case should be deferred until such time as a representative of the owners appeared before the Board to answer Board questions. He stated there were too many unanswered questions that needed to be addressed in order for the Board to make a decision on this case.

Mr. Lindsey stated it was important that applicants be available to answer questions to help the Board make decisions on their cases.

Mr. Apperson stated that he felt staff had adequately addressed issues and he did not have a problem with the application as presented. He stated he did not feel the Board had the right to demand people be present at hearings.

Mr. Duffy made a motion to defer case WQIA-006-04 until such time as a representative from the National Park Service or the Association for the Preservation of Virginia Antiquities was present to answer questions from the Board.

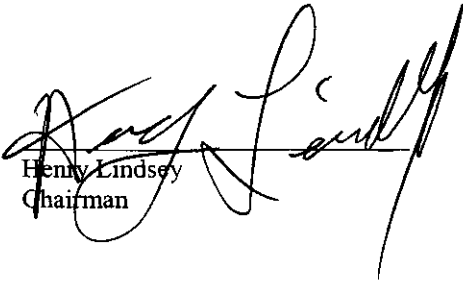
The motion was approved by a 4-1 vote. AYE: Mr. Lindsey, Mr. Duffy, Mr. Gussman, Mr. Waltrip. NAY: Mr. Apperson.

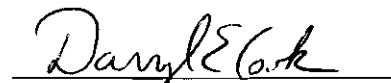
E. BOARD CONSIDERATIONS - None

F. MATTERS OF SPECIAL PRIVILEGE - None

G. ADJOURNMENT

The meeting was adjourned at 7:45 PM.


Henry Lindsey
Chairman


Darryl E. Cook
Secretary