

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD
MINUTES
March 9, 2011**

A. ROLL CALL

David Gussman – Chair
William Apperson
Larry Waltrip
Charles Roadley

ABSENT

John Hughes

OTHERS PRESENT

County Staff (Staff)

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. MINUTES

The January 12, 2011 Work Session minutes were approved as written.

The January 12, 2011 Board Meeting minutes were approved with one minor change requested by David Gussman.

C. PUBLIC HEARINGS

1. CBE-11-078 – SeaWorld Parks & Entertainment and VHB – Busch Gardens Oktoberfest Attraction Expansion

Michael Woolson, Senior Watershed Planner, presented the following case information:

Existing Site Data & Information

Applicant: Mr. Ronnie Orsborne; Vanasse Hangen Brustlin, Inc.
Land Owner(s): SeaWorld Parks and Entertainment
Attn: Mr. Larry Giles
Location: 7851 Pocahontas Trail.
Williamsburg, VA 23185
Pin: 5140100009
Parcel Size/Zoning: 328 acres, M-1 Limited Business/Industrial
Percent of Parcel in RPA: 39% (130 +/- acres)
Watershed: James River (HUC Code JL 35)

Proposed Impacts

Disturbed Area: 9,040 square feet total RPA encroachment
RPA Encroachment: Landward (4,840 sf) and Seaward (4,200 sf) 50 foot RPA Buffers

Brief Summary and Description of Activities

Mr. Ronnie Orsborne of Vanasse Hangen Brustlin, Inc. (VHB) on behalf of Mr. Larry Giles of SeaWorld Parks and Entertainment (Busch Gardens) has applied for an exception to the Chesapeake Bay Ordinance for the encroachment into the RPA buffer for a replacement ride for the former Big Bad Wolf coaster. The site plan is under concurrent review by the County under plan number SP-0014-2011.

The new ride will utilize a major portion of the footprint of the Big Bad Wolf, which was originally constructed in the mid 1980's adjacent to the Rhine River prior to the adoption of the Chesapeake Bay Preservation Ordinance. Where possible, the foundations from the Big Bad Wolf will be re-used for the new

ride. For the purposes of this report, Busch Gardens has elected to assume all new foundations within the RPA buffer as a worst-case scenario when calculating impervious cover within the RPA.

The applicant has proposed that the elevated track portion of the ride not count as impervious cover for purposes of this report, only the support foundations. Staff concurs with this.

Busch Gardens is proposing the following as mitigation for the new ride RPA impacts: removal of 2,290 sf of impervious cover and replanting of 3,725 sf, a 1:1 ratio.

Staff Recommendation

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

1. The applicant must obtain all other necessary local permits as required for the project.
2. All proposed mitigation plantings shall meet James City County Standards with all proposed trees being a minimum of 1 ½ inch caliper and shrubs being a minimum of three gallon size.
3. A pre-construction meeting shall be held on-site prior to commencing work.
4. Full implementation of the RPA Mitigation Plan submitted with the WQIA (Table 3, page 4) and any additional Board mitigation requirements shall be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3) d. and 23-17(c) by providing a form of surety satisfactory to the County Attorney.
5. This exception request approval shall become null and void if construction has not begun by March 9, 2012 or all improvements including the required mitigation plantings are not completed by that expiration date.
6. Written requests for an extension to an exception shall be submitted to the Environmental Division no later than 2 weeks prior to the expiration date.

Background

The park was originally built prior to the adoption of the Chesapeake Bay Preservation Ordinance. The Big Bad Wolf coaster was decommissioned in 2009. The new ride will use the Big Bad Wolf footprint to the greatest extent practicable. However, some deviations will be necessary for track alignment variations to provide for the safe entry and exit from the new event building. Total construction encroachment into the RPA will be 9,040 sf.

There is 9,040 sf of encroachment in to the RPA; 3,725 sf is permanent vegetation clearing for the ride; 2,111 sf is temporary construction to remain as grass pavers for future maintenance access; and 832 sf of new impervious cover. The remaining area (3,204 sf) is current RPA from the Big Bad Wolf ride and proposed to remain. The existing impervious cover in the RPA is 2,290 sf. Included within the encroachment totals is temporary erosion and sediment control features that will be removed and the area stabilized once construction is completed.

Proposed mitigation for the new ride is as follows: a net reduction in the impervious cover (2,290 existing to be removed plus 832 sf to be added) of -1,458 sf and restoration of RPA area previously impacted from the Big Bad Wolf at a 1:1 ratio of 3,725 sf for the new vegetation clearing. In addition, Busch Gardens is proposing to revegetate an additional 18,191 sf of previously impacted RPA from the Big Bad Wolf to offset future mitigation requirements.

There is an area of wetland impact proposed for this project for the construction of a sediment forebay within the Rhine River, which will provide pre-treatment of stormwater generated from this project before it reaches the Rhine River (on-site BMP). The existing RPA area near the new ride is approximately 44% cleared and the new ride will clear approximately 4% more. Busch Gardens is proposing to restore 21,916 sf of RPA with woody vegetation, to bring the cleared RPA near the new ride to approximately 25%, for a net gain of vegetated RPA.

This exception request is for a replacement ride which will encroach into both the landward and seaward RPA buffers and is not considered water dependent. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for a new amusement park ride in the area of the former Big Bad Wolf coaster. Staff finds that the application has met the conditions in the Chesapeake Bay Preservation Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board.

Water Quality Impact Assessment (WQIA)

In accordance with Bay Act requirements and the Ordinance all land disturbance, development, or redevelopment within the RPA requires a water quality impact assessment (WQIA). Water quality impact assessments shall identify impacts of proposed development on water quality and land in RPAs and recommended measures for mitigation of these impacts. Localities must review a WQIA prior to action on the exception request.

A WQIA was provided on February 9, 2011. Based on staff review, the WQIA proposes to mitigate for RPA impacts by:

- Removing 2,290 sf of impervious cover; and
- Re-planting 3,725 sf of the RPA as compensation for vegetation clearing for this project; and
- The placement of EC-3 matting on disturbed slopes equal to or greater than 3:1; and
- A sediment forebay at the exit of the stormwater conveyance system, prior to stormwater entering the Rhine River, which is the stormwater BMP for Busch Gardens Williamsburg.

Consideration by the Chesapeake Bay Board

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-11-078 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-11-078 are included for the Board's use and decision.

Mr. Roadley asked why the aerial portions of the ride were not considered impervious and what currently forested areas would not be permitted to re-grow.

Mr. Woolson stated portions of the ride were not considered impervious because of their elevation. He pointed out specific areas along the ride that would be converted to grass and stated most of the remaining areas would be reforested.

Mr. Gussman opened the public hearing.

Mr. Larry Giles, SeaWorld Parks and Recreation Busch Gardens, stated he was in agreement with staff's presentation.

Mr. Gussman closed the public hearing as no one else wished to speak.

Mr. Gussman also remarked that the work session prior to submission of the exception request was useful.

Mr. Waltrip commented on the thorough engineering of the project.

Mr. Apperson made a motion to adopt the resolution to grant the exception on case CBE-11-078 at 7851 Pocahontas Trail, Parcel ID #5140100009.

The motion was approved by a 4-0 vote.

2. CBE-11-079 – HHHunt Communities/WEG – White Hall Offsite Sanitary Sewer

Mr. Roadley recused himself from consideration of this case due to his association with Williamsburg Environmental Group, Inc.

Michael Woolson, Senior Watershed Planner, presented the following case information:

Existing Site Data & Information

Applicant: Ms. Toni Small; Williamsburg Environmental Group
Land Owner(s): HHHunt Communities
Attn: Mr. Hans Klinger
Location: 3611 Rochambeau Drive, PIN 1220100022; and
101 School House Lane, PIN 1310100003; and
8290 Richmond Road, PIN 1240100011
Williamsburg, VA 23185
Project Size/Zoning: 2.75 acres, A-1 Agricultural, B-1 General Business
Percent of Project in RPA: 44% (1.2 +/- acres)
Watershed: James River (HUC Code YO 62)

Proposed Impacts

Disturbed Area: .4 acres total RPA encroachment
RPA Encroachment: Landward and Seaward RPA Buffers

Brief Summary and Description of Activities

Ms. Toni Small of Williamsburg Environmental Group, Inc. (WEG), on behalf of Mr. Hans Klinger of HHHunt Communities has applied for an exception to the Chesapeake Bay Ordinance for the encroachment into the RPA buffer for a gravity sanitary sewer. The site plan for this project is under concurrent review by the County under plan number SP-0007-2011.

The new gravity sanitary sewer will permanently impact approximately .4 acres of the RPA. This impact is necessary for the sanitary sewer from a portion of the White Hall Development to connect to the existing sanitary sewer system near the Wellington Subdivision. James City Service Authority (JCSA) recently approved a proposal to reduce the maintained easement in the wetlands to a 10-foot permanent JCSA easement centered on the sanitary line and replanting the remainder of the disturbed easement area within the RPA per County guidelines.

HHHunt also proposed EC-3 matting on steep slope areas.

Staff Recommendation

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

1. The applicant must obtain all other necessary local permits as required for the project.
2. All proposed mitigation plantings shall meet James City County Standards with all proposed trees being a minimum of 1 ½ inch caliper and shrubs being a minimum of three gallon size.
3. A pre-construction meeting shall be held on-site prior to commencing work.

4. Full implementation of the RPA Mitigation Plan submitted with the WQIA and any additional Board mitigation requirements shall be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3) d. and 23-17(c) by providing a form of surety satisfactory to the County Attorney.
5. This exception request approval shall become null and void if construction has not begun by March 9, 2012 or all improvements including the required mitigation plantings are not completed by that expiration date.
6. Written requests for an extension to an exception shall be submitted to the Environmental Division no later than 2 weeks prior to the expiration date.

Background

The project area encompasses approximately 2.75 acres, of which approximately 1.2 acres is within the RPA and approximately .4 acres of RPA will be permanently impacted. The project starts on the White Hall property at 3611 Rochambeau Drive, goes behind the Williamsburg Christian Academy at 101 School House Lane, and follows a natural ravine to a sanitary manhole on 8290 Richmond Road.

The required RPA planting, based upon DCR guidelines and the same as JCC (1 canopy, 2 understory and 3 shrubs per 400 sf disturbance) are 20 canopy trees, 39 understory trees, and 59 shrubs. A planting plan with the required plantings has been submitted.

This exception request is for a gravity sanitary sewer line which will encroach into both the landward and seaward RPA buffers. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for a new gravity sanitary sewer line. Staff finds that the application has met the conditions in the Chesapeake Bay Preservation Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board.

Water Quality Impact Assessment (WQIA)

In accordance with Bay Act requirements and the Ordinance all land disturbance, development or redevelopment within the RPA requires a water quality impact assessment (WQIA). Water quality impact assessments shall identify impacts of proposed development on water quality and land in RPAs and recommended measures for mitigation of these impacts. Localities must review a WQIA prior to action on the exception request.

A WQIA was provided on January 26, 2011. Based on staff review, the WQIA proposes to mitigate for RPA impacts by:

- Re-planting 20 canopy trees, 39 understory trees, and 59 shrubs; and
- The placement of EC-3 matting on disturbed slopes equal to or greater than 3:1; and
- Stabilization of all disturbed areas within the RPA with a conservation seed mix.

Consideration by the Chesapeake Bay Board

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-11-079 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-11-079 are included for the Board's use and decision.

Mr. Gussman opened the public hearing.

A. Mr. Hans Klinger, HHHunt Communities stated this proposal was a revision to the original plan for the sewer crossing. It was originally proposed to cross in front of the Williamsburg Christian Academy at 101 School House Lane. At their request it was being relocated behind the Academy.

Mr. Gussman closed the public hearing as no one else wished to speak.

Mr. Apperson and Mr. Waltrip both agreed the plan was well engineered.

Mr. Scott J. Thomas, Board Secretary, advised the Board that condition 1 of the Resolution would be changed to read "1. The applicant must obtain all other necessary federal, state, and local permits as required for the project."

Mr. Apperson made a motion to adopt the resolution to grant the exception on case CBE-11-079 at 3611 Rochambeau Drive, Parcel ID #1220100022, 101 School House Lane, Parcel ID #1310100003, and 8290 Richmond Road, Parcel ID #1240100011.

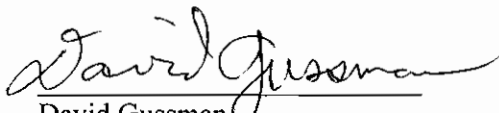
The motion was approved by a 3-0 vote.

D. BOARD CONSIDERATIONS - None

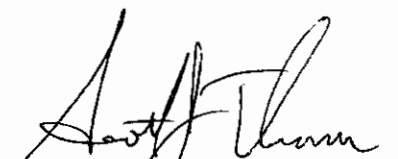
E. MATTERS OF SPECIAL PRIVILEGE - None

F. ADJOURNMENT

The meeting adjourned at 7:30 PM.



David Gussman
Chair



Scott J. Thomas
Secretary to the Board