

Wetlands Board

february 13, 2008

A. Roll Call

B. Minutes - from January 9, 2008

C. Public Hearing

1. W-25-07/VMRC 07-1662. Vanasse Hangen Brustlin, Inc.–
Spencer's Grant – shoreline stabilization - Continued from
1/09/08

D. Board Considerations

E. Matters of Special Privilege

F. Adjournment

MEMORANDUM

DATE: February 13, 2008
TO: JCC Chesapeake Bay Board & **Wetlands Board**
FROM: Patrick T. Menichino, Environmental Compliance Specialist
SUBJECT: CBE 07-107 & **W-25-07** - Busch Properties, Inc. – Spencer's Grant

On November 14, 2007 the Chesapeake Bay and Wetlands Boards were presented with an exception request and Wetlands case by Staff. The exception (CBE 07-107) requested Board approval for 42,000 square feet of RPA buffer grading impacts, and the installation of 1300 linear feet of armor stone revetment, located within the backshore beach area, along the James River. The Wetlands case requested approval for the expansion to offensive armor stone breakwaters, and 4,000 cubic yards of sand fill for beach nourishment.

Following the Boards discussions, the applicants requested continuances to provide additional time to respond to specific issues and concerns raised by the Boards. A motion for a continuance of these cases until February 13, 2008 was voted on and approved by the Boards.

On December 11, 2007, a special meeting of the Boards was held to review additional information regarding CBE 07-107 & **W-25-07**.

Following that December 11, 2007 meeting, staff met with the applicant's consultants, and community representatives, and contacted other agencies to discuss the issues of specific concern to the Boards.

Staff has met with representatives of the Division of Chesapeake Bay Local Assistance (CBLA) to review this case, and discuss options and receive guidance. CBLA has submitted separate comments to Board (attached). CBLA representatives recommended that staff contact the Department of Historic Resources and Preservation for information on the exposed Yorktown Formation. Staff contacted Joanna Wilson with the Department of Historic Resources and Preservation. Ms. Wilson indicated that her department would not regulate the area of exposed Yorktown Formation located along the Spencer's Grant shoreline.

It should be noted that the applicant has throughout this process displayed willingness to work with staff and other groups in a cooperative manner to develop a revised proposal that would minimize impacts.

Staff believes that the revised application before the Board significantly reduces the proposed RPA buffer impacts, increases the area of undisturbed RPA buffer, provides RPA mitigation, and addresses the water quality issues.

This revised proposal before you this evening:

1. Eliminates 3,000 square feet of impacts caused by the proposed armor stone revetment installation, within the backshore RPA area.
2. Eliminates 13,000 square feet of proposed slope grading impacts within the RPA buffer.
3. Increases by 30%, the amount of RPA buffer area to remain undisturbed and protected.

4. Provides for offsite RPA buffer planting that is not required, but is proposed by the applicant's to additionally enhance an existing buffer located at the adjacent River's Bluff project.
5. Addresses stormwater runoff and water quality by redirecting surface flows away from steep river bank slopes and to an approved Best Management Practice (BMP).

The issue before the Chesapeake Bay Board this evening is a revised application, requesting Board approval for 29,000 square feet of RPA buffer impacts and 1300 linear feet of armor stone revetment (19,000 square feet) in the backshore area. These impacts will be necessary to grade and stabilize areas of the steep RPA slopes that are currently unstable, and to install an armor stone revetment at the toe, to prevent potential undercutting caused by storm surge.

Recommendations

Staff recommends that the Wetlands Board approve W-25-07 for the following reasons.

Staff believes that the proposed shoreline stabilization phase of this project (breakwaters and beach nourishment) is an appropriate method of shoreline stabilization and is consistent with other shoreline projects approved by the Board.

A net increase of 450 square feet to the Intertidal Beach Community will result from the beach nourishment.

Mitigation planting with Wetlands type grasses and other upland type plantings are proposed.

Staff also recommends approval of CBE-07-107 as revised for the following reasons.

The proposed backshore armor stone revetment is designed to protect a steep, unstable wooded slope from damage caused by wave attack, and storm surge generated by future storm events along the James River.

The applicant and their consultants have worked with staff to eliminate, minimize, and mitigate for proposed RPA impacts on this project. Although slope grading activity is still proposed, it has been significantly reduced to the minimum necessary and includes only those unstable areas of the slope, most at risk of failure.

The proposed grading of slopes within the RPA buffer is an approved method of stabilization and is consistent with other shoreline projects similarly situated, that have been reviewed and approved by the Board.

The proposed project will not be a substantial detriment to water quality. The applicant has at the recommendation of staff reduced overall impacts to the RPA buffer. The applicant has provided for RPA mitigation plantings.

In addition, the proposed plan will permanently divert all stormwater runoff away from the steep slopes along the shoreline and convey the runoff to an approved Best Management Practice (BMP) pond, where the stormwater can be effectively treated and released

Staff recommends that the following plan revisions and conditions be included should the Board vote to approve this Chesapeake Bay Exception and Wetlands Permit:

1. The RPA Buffer Mitigation Planting Plan shall be revised to include the following plantings:

Zone III A - lower bank - (37) Trees, (74) Understory Trees, (111) Shrubs (total 222)

Zone III – upper bank - (60) Trees, (120) understory Trees, (180) Shrubs (total 360)

River's Bluff offsite mitigation plantings, beach plantings and all other plantings shall remain in the same quantities as previously proposed.

2. The applicant must obtain all other permits necessary and required by other agencies, including a James City County Land Disturbance Permit prior to the required preconstruction meeting.
3. A preconstruction meeting shall be held onsite prior to land disturbance.
4. Surety for the implementation of the RPA Mitigation Plan shall be provided in a form satisfactory to the County Attorney, pursuant to sections 23-10(3)(d) and 23-17(c) of the James City County Code prior to the pre-construction meeting. The surety shall be held for one full year following the initial installation and inspection if the plant material. All plant material must be alive and thriving as determined by the Division at the time of the one year anniversary inspection. If during the anniversary inspection plant material is determined to be dead, diseased or missing then the surety will be held until all planting material required by the plan is installed and thriving.
5. All trees and understory trees proposed for installation shall at a minimum be 6'-7' in height or 1" caliper. All shrubs to be 3-5 gallon container size.
6. The entire re-graded slope shall be first stabilized using 4-6" of new topsoil, and conservation seed mix of native grasses, and covered with EC-2 type blanket matting.
7. The applicant shall arrange for weekly project inspections to be performed by a qualified independent professional. The weekly inspection reports generated shall be submitted to the Division, to insure that the project is being constructed in accordance with the approved plan, project specifications, and requirements, along with the permit conditions of the Chesapeake Bay Board and Wetlands Board. The applicant must provide the name of the person or firm, who will perform said inspections, prior to the preconstruction meeting.
8. The applicant must receive approval from the County Engineer for any proposed activity within conservation easements located on the property. The applicant must also resolve any property line and conservation easement conflicts or issues with the County Engineer.
9. The exception shall not conflict with the provisions of the approved plan for development or Kingsmill-Spencer's Grant, County Plan No. SP-53-05.
10. All additional conditions stipulated within the previous staff report for W-25-07 shall be incorporated into these conditions.

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