

# **Wetlands Board**

**April 9, 2008**

**A. Roll Call**

**B. Minutes - from March 12, 2008**

**C. Public Hearings**

1. W-31-07/VMRC 07-1888: John and Judith Anton - 7511 & 7513 Oak Cove Road

Continued from 12/12/07 and 1/9/08

2. W-25-07/VMRC 07-1662: Vanasse Hangen Brustlin, Inc – Spencer's Grant –

shoreline stabilization - Continued from 11/14/07, 1/9/08, 2/13/08 and 3/12/08

**D. Board Considerations**

**E. Matters of Special Privilege**

**F. Adjournment**

## MEMORANDUM

**DATE:** April 9, 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 February 13, 2008 the Chesapeake Bay and Wetlands Boards continued the above referenced Chesapeake Bay Exception request and Wetlands case and received additional public comment. Following that meeting, another continuance to the April 9, 2008 Board meeting was subsequently granted to the applicant.

On March 14, 2008 an onsite meeting was arranged by the applicant and representatives from Chesapeake Bay Local Assistance (CBLA), Department of Conservation and Recreation (DCR) Shoreline Erosion Advisory Service (SEAS), Virginia Institute of Marine Science (VIMS), and County Staff was invited to attend.

As a result of that meeting the applicant has made the following revisions to the proposed project.

1. The proposed backshore armor stone revetment was decreased in length by approximately 83 linear feet.
2. The entire length of the armor stone revetment (1213 LF) will be in-filled with sand and then covered with approximately 1 foot of sand fill.
3. The entire revetment area (12,500 SF) will be then be planted with beach grasses.

### **Summary**

The exception (CBE 07-107) is requesting Board approval for 29,000 square feet of RPA buffer grading impacts, along with the installation of 1213 linear feet of armor stone revetment, located within the backshore beach area, resulting in another 17,750 square feet of impacts. The Wetlands case is requesting approval for the expansion to offensive armor stone breakwaters, and 4,000 cubic yards of sand fill for beach nourishment.

The proposals before the Board have been revised and refined several times in an effort to reduce impacts to the minimum necessary. In keeping with that intent preservation areas within the RPA buffer and within the beach area have been maximized to reduce overall impacts.

Mitigation for the proposed RPA impacts, include the installation of native plant material within the buffer in the following areas and quantities:

1. Zone III A - lower bank - (37) Trees, (74) Understory Trees, (111) Shrubs (total 222)
2. Zone III – upper bank - (60) Trees, (120) understory Trees, (180) Shrubs (total 360)
3. Armor stone revetment planting with beach grasses totaling 12,500 square feet.
4. Additional offsite RPA native plantings located at the adjacent River's Bluff project totaling (185) trees and understory trees.

Mitigation proposed for the Wetlands phase includes:

1. The installation of approximately (80) native trees and shrubs within the back shore area of the beach.
2. The installation of approximately 51,500 square feet of herbaceous plantings (beach grasses) along the entire beach length.

The shoreline stabilization phase of this project has now been reviewed by staff from VIMS and SEAS. The SEAS engineer has provided a letter indicating that the project as designed will protect the shoreline and upland bank, and minimizes environmental impacts to the greatest extent possible.

## **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.

The proposed project has been thoroughly reviewed and has had input from the best technical people available.

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 to offset any impacts.

**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 conditions be included should the Board vote to approve this Chesapeake Bay Exception and Wetlands Permit:

1. 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.
2. A preconstruction meeting shall be held onsite prior to land disturbance.
3. 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 Environmental 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, the surety will be held until all planting material required by the plan is installed and thriving.
4. All mitigation plantings proposed shall be reviewed by County staff prior to installation and may be modified by staff, as deemed necessary to achieve a satisfactory result.
5. All trees and understory trees proposed for installation shall be a minimum 6'-7' in height or 1" caliper. All shrubs shall be 3-5 gallon container size, and 18" to 36" in size.
6. The entire re-graded slope shall first be 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 Environmental 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. Prior to the preconstruction meeting, the applicant must provide the name of the person or firm, who will perform said inspections.
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 for Kingsmill-Spencer's Grant, County Plan No. SP-53-05.
10. All additional conditions stipulated within the previous staff reports for W-25-07 and CBE -07-107 and not addressed in this memo, shall be incorporated into these conditions.
11. RPA signs shall be installed by the applicant along the landward extent of the RPA buffer as directed by staff.

## MEMORANDUM

**DATE:** April 9, 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 February 13, 2008 the Chesapeake Bay and Wetlands Boards continued the above referenced Chesapeake Bay Exception request and Wetlands case and received additional public comment. Following that meeting, another continuance to the April 9, 2008 Board meeting was subsequently granted to the applicant.

On March 14, 2008 an onsite meeting was arranged by the applicant and representatives from Chesapeake Bay Local Assistance (CBLA), Department of Conservation and Recreation (DCR) Shoreline Erosion Advisory Service (SEAS), Virginia Institute of Marine Science (VIMS), and County Staff was invited to attend.

As a result of that meeting the applicant has made the following revisions to the proposed project.

1. The proposed backshore armor stone revetment was decreased in length by approximately 83 linear feet.
2. The entire length of the armor stone revetment (1213 LF) will be in-filled with sand and then covered with approximately 1 foot of sand fill.
3. The entire revetment area (12,500 SF) will be then be planted with beach grasses.

### **Summary**

The exception (CBE 07-107) is requesting Board approval for 29,000 square feet of RPA buffer grading impacts, along with the installation of 1213 linear feet of armor stone revetment, located within the backshore beach area, resulting in another 17,750 square feet of impacts. The Wetlands case is requesting approval for the expansion to offensive armor stone breakwaters, and 4,000 cubic yards of sand fill for beach nourishment.

The proposals before the Board have been revised and refined several times in an effort to reduce impacts to the minimum necessary. In keeping with that intent preservation areas within the RPA buffer and within the beach area have been maximized to reduce overall impacts.

Mitigation for the proposed RPA impacts, include the installation of native plant material within the buffer in the following areas and quantities:

1. Zone III A - lower bank - (37) Trees, (74) Understory Trees, (111) Shrubs (total 222)
2. Zone III – upper bank - (60) Trees, (120) understory Trees, (180) Shrubs (total 360)
3. Armor stone revetment planting with beach grasses totaling 12,500 square feet.
4. Additional offsite RPA native plantings located at the adjacent River's Bluff project totaling (185) trees and understory trees.

Mitigation proposed for the Wetlands phase includes:

1. The installation of approximately (80) native trees and shrubs within the back shore area of the beach.
2. The installation of approximately 51,500 square feet of herbaceous plantings (beach grasses) along the entire beach length.

The shoreline stabilization phase of this project has now been reviewed by staff from VIMS and SEAS. The SEAS engineer has provided a letter indicating that the project as designed will protect the shoreline and upland bank, and minimizes environmental impacts to the greatest extent possible.

## **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.

The proposed project has been thoroughly reviewed and has had input from the best technical people available.

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 to offset any impacts.

**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 conditions be included should the Board vote to approve this Chesapeake Bay Exception and Wetlands Permit:

1. 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.
2. A preconstruction meeting shall be held onsite prior to land disturbance.
3. 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 Environmental 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, the surety will be held until all planting material required by the plan is installed and thriving.
4. All mitigation plantings proposed shall be reviewed by County staff prior to installation and may be modified by staff, as deemed necessary to achieve a satisfactory result.
5. All trees and understory trees proposed for installation shall be a minimum 6'-7' in height or 1" caliper. All shrubs shall be 3-5 gallon container size, and 18" to 36" in size.
6. The entire re-graded slope shall first be 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 Environmental 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. Prior to the preconstruction meeting, the applicant must provide the name of the person or firm, who will perform said inspections.
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 for Kingsmill-Spencer's Grant, County Plan No. SP-53-05.
10. All additional conditions stipulated within the previous staff reports for W-25-07 and CBE -07-107 and not addressed in this memo, shall be incorporated into these conditions.
11. RPA signs shall be installed by the applicant along the landward extent of the RPA buffer as directed by staff.

## MEMORANDUM

**DATE:** April 9, 2008  
**TO:** The Wetlands Board  
**FROM:** Patrick T. Menichino, Wetlands Board Secretary  
**SUBJECT:** Case No. W-31-07/VMRC 07-1888; 7511& 7513 Oak Cove Road

-----  
John A. & Judith D. Anton of Miami FL., have applied for a wetlands permit to install approximately 122 feet of vinyl bulkhead with two 5 foot return walls. The applicant also proposes two piers with boatlifts, a 6 foot by 146 foot pier and a 6 foot by 176 foot pier. The proposed piers and boatlifts are open pile structures and therefore not within the Wetlands Board's jurisdiction. The proposed bulkhead and piers will be installed behind the respective properties on the Chickahominy River. The properties are further identified as parcel identification #s 1910100015 & 191000014. Mr. Wilbur Jordan of Jordan Marine is the authorized agent for this project and both he and the applicants have been advised that their attendance at the Wetlands Board meeting on April 9, 2008 is highly recommended.

This project will involve the construction of approximately 122 feet of 6 foot high vinyl bulkhead, with two 5 foot return walls. Approximately 100 feet of the bulkhead is proposed to replace an existing bulkhead located at 7513 Oak Cove Road. The remaining 22 feet is new bulkhead proposed to tie into to a proposed upslope retaining wall that is above the Wetlands Board jurisdiction. The bulkhead will be constructed using vinyl sheeting, a 6 x 6 CCA continuous wale, and galvanized tie rods connected to a 2' x 3' concrete deadman. The bulkhead will be installed and aligned to tie into the existing bulkhead on the north side of the property and is proposed to follow the existing toe of slope to the southern property line. Filter fabric will be installed behind the bulkhead to eliminate the potential of sediment transport.

Environmental Division staff visited the site on November 6, 2007, along with representatives of VMRC and VIMS, to review the project scope and potential impacts. Proposed impacts for this project are determined to be 200 square feet to the Type XV Sand/Mud Mixed Flat Community. The total fill impacts to the non-vegetated Wetlands located on this project are determined to be 200 square feet.

### Staff Comments:

Staff's field review of the project site located at 7511 Oak Cove Road revealed only minor shoreline erosion confined to a small area located adjacent to the southern property line. The minor erosion problem observed on this property does not warrant the installation of a continuous bulkhead along the shoreline. The principal dwelling on this lot is located significantly upland, therefore there is no potential threat of property damage from shoreline erosion. The applicant has revised their plan and excluded approximately 94 feet of bulkhead from their original proposal.

Within this application is a proposal for installation of 94 linear feet of retaining wall, located slightly upslope from the wetlands. This retaining wall will be connected to the proposed bulkhead on each end. Staff believes this proposed upslope retaining wall is desired by the applicants for aesthetic reasons.

Staff's field review of the existing bulkhead located at 7513 Oak Cove Road revealed moderate erosion resulting from the partial failure of the bulkhead. If this bulkhead is not replaced the potential for significant shoreline erosion and bulkhead failure is high.



Staff Recommendations:

If the Board approves this application as requested with the optional retaining wall, staff recommends that the following conditions be included:

1. Prior to any land disturbing activities, a preconstruction meeting will be held on-site.
2. The limits of construction shall be flagged in the field prior to the preconstruction meeting.
3. Any vegetation to be removed shall be clearly flagged or marked with spray paint prior to the preconstruction meeting and shall be approved by the Environmental Division prior to any land disturbance.
4. Any landward areas of the Resource Protection Area (RPA) buffer that are proposed to be graded and disturbed during the construction process will require stabilization with a grass cover. If RPA vegetation is to be removed for construction access, or grading activity, then an RPA restoration plan with surety shall be submitted and approved by the Environmental Division prior to the preconstruction meeting.
5. A turbidity curtain shall be required prior to commencement of any construction activity unless waived by the Environmental Division Director.
6. The bulkhead tie-backs and the filter fabric shall be inspected by the Environmental Division prior to the placement of backfill.
7. This permit shall expire April 9, 2009.
8. If an extension of this permit is needed, a written request shall be submitted to the Environmental Division no later than two weeks prior to expiration date.

## MEMORANDUM

**DATE:** April 9, 2008  
**TO:** The Wetlands Board  
**FROM:** Patrick T. Menichino, Wetlands Board Secretary  
**SUBJECT:** Case No. W-31-07/VMRC 07-1888; 7511& 7513 Oak Cove Road

-----  
John A. & Judith D. Anton of Miami FL., have applied for a wetlands permit to install approximately 122 feet of vinyl bulkhead with two 5 foot return walls. The applicant also proposes two piers with boatlifts, a 6 foot by 146 foot pier and a 6 foot by 176 foot pier. The proposed piers and boatlifts are open pile structures and therefore not within the Wetlands Board's jurisdiction. The proposed bulkhead and piers will be installed behind the respective properties on the Chickahominy River. The properties are further identified as parcel identification #s 1910100015 & 191000014. Mr. Wilbur Jordan of Jordan Marine is the authorized agent for this project and both he and the applicants have been advised that their attendance at the Wetlands Board meeting on April 9, 2008 is highly recommended.

This project will involve the construction of approximately 122 feet of 6 foot high vinyl bulkhead, with two 5 foot return walls. Approximately 100 feet of the bulkhead is proposed to replace an existing bulkhead located at 7513 Oak Cove Road. The remaining 22 feet is new bulkhead proposed to tie into to a proposed upslope retaining wall that is above the Wetlands Board jurisdiction. The bulkhead will be constructed using vinyl sheeting, a 6 x 6 CCA continuous wale, and galvanized tie rods connected to a 2' x 3' concrete deadman. The bulkhead will be installed and aligned to tie into the existing bulkhead on the north side of the property and is proposed to follow the existing toe of slope to the southern property line. Filter fabric will be installed behind the bulkhead to eliminate the potential of sediment transport.

Environmental Division staff visited the site on November 6, 2007, along with representatives of VMRC and VIMS, to review the project scope and potential impacts. Proposed impacts for this project are determined to be 200 square feet to the Type XV Sand/Mud Mixed Flat Community. The total fill impacts to the non-vegetated Wetlands located on this project are determined to be 200 square feet.

### Staff Comments:

Staff's field review of the project site located at 7511 Oak Cove Road revealed only minor shoreline erosion confined to a small area located adjacent to the southern property line. The minor erosion problem observed on this property does not warrant the installation of a continuous bulkhead along the shoreline. The principal dwelling on this lot is located significantly upland, therefore there is no potential threat of property damage from shoreline erosion. The applicant has revised their plan and excluded approximately 94 feet of bulkhead from their original proposal.

Within this application is a proposal for installation of 94 linear feet of retaining wall, located slightly upslope from the wetlands. This retaining wall will be connected to the proposed bulkhead on each end. Staff believes this proposed upslope retaining wall is desired by the applicants for aesthetic reasons.

Staff's field review of the existing bulkhead located at 7513 Oak Cove Road revealed moderate erosion resulting from the partial failure of the bulkhead. If this bulkhead is not replaced the potential for significant shoreline erosion and bulkhead failure is high.

Staff Recommendations:

If the Board approves this application as requested with the optional retaining wall, staff recommends that the following conditions be included:

1. Prior to any land disturbing activities, a preconstruction meeting will be held on-site.
2. The limits of construction shall be flagged in the field prior to the preconstruction meeting.
3. Any vegetation to be removed shall be clearly flagged or marked with spray paint prior to the preconstruction meeting and shall be approved by the Environmental Division prior to any land disturbance.
4. Any landward areas of the Resource Protection Area (RPA) buffer that are proposed to be graded and disturbed during the construction process will require stabilization with a grass cover. If RPA vegetation is to be removed for construction access, or grading activity, then an RPA restoration plan with surety shall be submitted and approved by the Environmental Division prior to the preconstruction meeting.
5. A turbidity curtain shall be required prior to commencement of any construction activity unless waived by the Environmental Division Director.
6. The bulkhead tie-backs and the filter fabric shall be inspected by the Environmental Division prior to the placement of backfill.
7. This permit shall expire April 9, 2009.
8. If an extension of this permit is needed, a written request shall be submitted to the Environmental Division no later than two weeks prior to expiration date.