

# **Wetlands Board**

**May 12, 2004 - 7 p.m.**

**A. Roll Call**

**B. Minutes - April 14, 2004**

**C. Old Business - None**

**D. Public Hearings**

1. Case No. W-16-04 - Walter S. Mowry - 10210 Sycamore  
Landing Road

**E. Board Considerations - None**

**F. Matters of Special Privilege**

**G. Adjournment**

**WQIA-001-04. New Town Section 4, Block 8.**

Staff report for the May 12, 2004 Chesapeake Bay Board public hearing.

This staff report is prepared by the James City County Environmental Division 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.

**Summary Facts**

Applicant	Mrs. Toni Small, P.E. of Williamsburg Environmental Group, Inc.
Land Owner	New Town Associates, LLC
Location	5206 Monticello Avenue
Tax Map	Parcel 2, portion of former (38-4)(01-0-0050)
Staff Contact	Michael Woolson      Phone: 253-6823

**Project Description**

Mrs. Toni Small of Williamsburg Environmental Group has applied on behalf on New Town Associates, LLC, for an exception to the Chesapeake Bay Preservation ordinance for impacts associated with the New Town Section 4, Block 8 project. The New Town project is generally located northwest of the intersection of Monticello Avenue and Ironbound Road, south of Eastern State Hospital and east of Route 199. Section 4, Block 8 encompasses 15.89 acres within the New Town development.

New Town Associates proposes to encroach into the newly determined Resource Protection Area by approximately 1.65 acres for the construction of roads, residential structures, stormwater management facilities and sanitary sewer construction.

**History**

The owners of a tract of land formerly known as the Casey Tract, submitted a master plan and rezoning request over 7 years ago. Part of this submittal was a master stormwater plan and environmental inventory. When the original rezoning request was made, no Resource Protection Areas (RPAs) as defined by the ordinance in effect at the time were present on site. An RPA was required along a tributary stream, a solid blue line stream on the United State Geological Survey (USGS) 7.5 minute quadrangle map. Plans were developed based upon this definition. Gradually, development took place within the New Town project site, starting with the Williamsburg-James City County Courthouse and associated stormwater management facility (BMP). The other development fronting Monticello Avenue down to the United States Post Office is being developed in accordance with the New Town design standards.

On January 1, 2004, the Chesapeake Bay Preservation Ordinance of James City County was updated to meet the new guidance and regulations adopted by State statute and the State's Chesapeake Bay Local Assistance Department. The new ordinance changes how a RPA is to be defined, which is by using a field determination of perennality instead of

a solid blue line stream on a USGS map. In order to comply with the new ordinance, New Town Associates hired Williamsburg Environmental Group to perform a stream perenniality assessment for the entire project site. The perenniality assessment was accepted by the County by letter dated March 15, 2004, to Mrs. Toni Small, of Williamsburg Environmental Group.

The new definition of RPA now affects approximately ½ of the streams that are present on site, including the entire western stream, downstream of the previously mentioned Courthouse BMP. Prior to January 1, 2004, plans were submitted for Section 4, Block 8, Phase 1 for the construction of residential units, a temporary sediment basin and associated erosion and sediment control structures. After January 1, 2004, plans were submitted for Section 4, Block 8, Phase 2.

Under the *Chesapeake Bay Preservation Ordinance Transition – Amendments and Grandfathering/Vesting Rules* resolution passed by the Board of Supervisors on November 25, 2003; Phase 1 of this project is grandfathered and Phase 2 is not grandfathered. Paragraph 3 states “Plans already in the development review process and those accepted for review prior to the effective date of the Ordinance will not be subject to the new ordinance.” However in paragraph 5, Rezoning and Special Use Permits, it states “Approved rezoning and special use permits will have to comply with the provisions of the revised Ordinance unless the property cannot be legally developed to the proffered density, use, or square footage because of the new rules, or there is a specific feature . . . shown on the proffered zoning plan that is located within the RPA, in which case the landowner may develop . . . (while) minimizing any intrusion into the RPA to the extent possible.”

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. New Town Associates has submitted this assessment for both phases of Section 4, Block 8, even though they are technically grandfathered for a portion of the project. The issue before the Chesapeake Bay Board is the impacts associated with the construction of roads, residential structures, stormwater management facilities and sanitary sewer construction.

### **Water Quality Impact Assessment**

The total impacts to the RPA for this project are approximately 1.65 acres and encompass the building of residential structures, roads, one temporary sediment basin and sanitary sewer connections. New Town Associates proposes to develop the sediment basin into a stormwater management BMP facility after the upslope disturbed drainage area is stabilized. They have proposed two bioretention facilities up in the site along with use of two tree box biofilters, a relatively new technology. Furthermore, they propose to enhance the remaining RPA buffer with additional native plantings.

Williamsburg Environmental Group, 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). Given all the prior planning and design development that has occurred prior to the effective date of the revised ordinance, staff recommends that the Chesapeake Bay Board approve the WQIA as it pertains to only this project. Furthermore, all recommendations listed therein are to be incorporated into the site plans for the project, which then must be approved by the Environmental Division. The exception shall become null and void if construction has not begun by May 12, 2005.

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Michael Woolson

CONCUR:

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Darryl Cook

APPROVED:

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Chairman,  
Chesapeake Bay Board

Attachment:

1. New Town Section 4, block 8 Water Quality Impact Assessment

## **WQIA-002-04. The Settlement at Monticello, Phase 1**

Staff report for the May 12, 2004 Chesapeake Bay Board public hearing.

This staff report is prepared by the James City County Environmental Division 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.

### **Summary Facts**

Applicant	Mr. James H. Bennett of AES Consulting Engineers
Land Owner	Monticello Woods Active Adult, LLC
Location	4101 Monticello Avenue
Tax Map	Parcel 3A, Hiden Tract Subdivision (37-4)(01-0-0010)
Staff Contact	Michael Woolson      Phone: 253-6823

### **Project Description**

Mr. James Bennett of AES Consulting Engineers has applied on behalf on Monticello Woods Active Adult, LLC, for an exception to the Chesapeake Bay Preservation ordinance for impacts associated with The Settlement at Monticello project. This project is generally located south on Monticello Avenue (across from Monticello Woods), east of Powhatan Creek, west of Powhatan Plantation, and northwest of Powhatan Crossing. Phase 1 of The Settlement at Monticello encompasses 67.7 acres and 137 residential building lots.

This project proposes to encroach into the existing Resource Protection Area by approximately 0.95 acres for the construction of roads, stormwater management facility outfalls and sanitary sewer construction.

### **History**

Since this project was first conceived over six years ago, there were Resource Protection Areas associated with Powhatan Creek and the major wetland system that traverses the site east to west.

Under the *Chesapeake Bay Preservation Ordinance Transition – Amendments and Grandfathering/Vesting Rules* resolution passed by the Board of Supervisors on November 25, 2003; this project is grandfathered under paragraph 5 which states “Approved rezoning and special use permits will have to comply with the provisions of the revised Ordinance unless the property cannot be legally developed to the proffered density, use, or square footage because of the new rules, or there is a specific feature . . . shown on the proffered zoning plan that is located within the RPA, in which case the landowner may develop . . . (while) minimizing any intrusion into the RPA to the extent possible.”

Under Section 23-11 of the new Ordinance, it states that a water quality impact assessment shall be required for any proposed land disturbance development of redevelopment within RPAs. Monticello Woods Active Adult has submitted this assessment for this project. This assessment containing two types of exceptions: an administrative exception and a Board exception. The issue before the Chesapeake Bay Board is the impacts associated with the sanitary sewer connections through the RPA, impacting 0.20 acres of RPA.

### **Water Quality Impact Assessment**

The total impacts to the RPA for this project are approximately 0.95 acres and encompass the building of a road crossing, stormwater management facility outfalls, and sanitary sewer connections. The Board is considering only the impacts to the RPA resulting from the sewer construction, 0.2 acres of encroachment. As part of the mitigation for the total impacts, Monticello Woods Active Adult proposes to expand the RPA buffer in certain areas so that it exceeds 100-feet in width. They are also looking into providing additional RPA planting in consultation with the Environmental Division in areas that were logged six years ago and are proposing to stabilize all disturbed areas accordingly. Disturbed area for construction activities associated with the sewer extensions will be stabilized with native grasses and possibly native shrubs if allowed by the James City Service Authority.

AES Consulting Engineers 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 all sanitary sewer easements be stabilized with a native conservation grass seed mix and that the Chesapeake Bay Board approve the WQIA as it pertains to this project only. Furthermore, all recommendations listed within the WQIA are to be incorporated into the site plans for the project, which then must be approved by the Environmental Division. The exception shall become null and void if sewer construction has not begun by May 12, 2005.

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Michael Woolson

CONCUR:

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Darryl Cook

APPROVED:

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Chairman,  
Chesapeake Bay Board

Attachment:

1. The Settlement at Monticello, Water Quality Impact Assessment.

## MEMORANDUM

**DATE:** May 12, 2004  
**TO:** The Wetlands Board  
**FROM:** Darryl E. Cook, Environmental Director  
**SUBJECT:** Case NO. W-16-04/ VMRC # 04-0501; 10210 Sycamore Landing  
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Mr. W. Scott Mowry has applied for a wetland permit to construct a 112-foot sill and riprap revetment, along with approximately 122 feet of marsh toe stabilization to prevent future erosion. The property is further identified as parcel (3-11) found on the James City County Real Estate Tax Map (7-2). The project site in question is located on the York River. Mr. Mowry has contracted with Mr. Jeff Watkins of Riverworks, Inc., to design and construct the structures. Mr. Mowry and Mr. Watkins have been advised that their attendance at the Wetland Board meeting on May 12, 2004 is highly recommended.

This project is located on a lot that has an eroding bank that is about 50-feet tall. Hurricane Isabel damaged the bank resulting in increased erosion. This project is designed to stabilize the bank by installing a riprap revetment and marsh toe stabilization. The revetment will be constructed using class 3 stone, 500 to 1500 pounds per piece, with filter fabric between the stone and soil. The revetment will be placed on a constructed sill. The marsh toe stabilization will be constructed with 25 pound core and 150 pound armor stone over filter fabric. Work at the top of the bank is located in an area outside of the Wetland's Board jurisdiction and is covered by an existing Land Disturbing Permit. Access to the site will be either through Mr. Mowry's property or via barge. No activity will occur on adjacent properties.

Environmental Division staff visited the site on March 18, 2004, along with representatives from VMRC and VIMS to discuss the project scope and potential impacts. It has been determined that there will be a total impact of 2228 sq. ft. (1008 sq. ft. of impact for the revetment and 1220 sq. ft. of impact for the marsh toe). A total of 1618 sq. ft. of fill will be placed in the Type XV Sand/Mud Mixed Flat Community.

It is the staff's recommendation that the Board approve this application, with the following conditions:

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. All vegetation to be removed shall be clearly flagged or marked with spray paint prior to the preconstruction meeting.
4. Any additional erosion control measures deemed necessary by county staff shall be installed by the contractor.
5. Any landward areas of the Resource Protection Area (RPA) buffer that are proposed to be cleared and disturbed during the construction process will require stabilization with native vegetation. A Wetlands mitigation planting plan for 1,236 sq. ft. shall be submitted and approved by the Environmental Division prior to the preconstruction meeting. Surety shall be provided to guarantee the mitigation plantings. This is consistent with what has occurred on past permits W-23-97, W-08-01 and W-16-01.
6. All vegetation to be removed for this project shall be approved by the Environmental Division prior to any land disturbance.
7. A turbidity curtain shall be required prior to commencement of any construction activity unless waived by the Environmental Division Director.
8. All revetment core stone will be class 1 and armor stone will be class 3.
9. Filter fabric shall be inspected by the Environmental Division prior to the placement of riprap.
10. The permit shall expire May 12, 2005.
11. 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.