

# **Wetlands Board**

**June 10, 2009**

**A. Roll Call**

**B. Minutes**

May 13, 2009 – Board Meeting

**C. Public Hearings**

1. W-20-09/VMRC09-0413 DeSantis – 7270 Osprey Drive –  
riprap

**D. Board Consideration**

**E. Matters of Special Privilege**

**F. Adjournment**

## MEMORANDUM

**DATE:** June 10, 2009  
**TO:** The Wetlands Board  
**FROM:** Patrick T. Menichino, Wetlands Board Secretary  
**SUBJECT:** Case NO. W-20-09/VMRC 09-0413; 7270 Osprey Drive, Lanexa

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Southern Landscaping and Construction, Inc. has applied for a Wetlands permit on behalf of John and Holly DeSantis of 7270 Osprey Drive, Lanexa, to install approximately 175 linear feet of class 1 riprap revetment along the shoreline adjacent to the rear of this property. This proposal will require the re-grading of the existing shoreline. The property is further identified by James City County Real Estate as PIN # 1910800006. The project site in question is located on a canal with immediate access to the Chickahominy River. Representatives from Southern Landscaping have been advised that their attendance at the Wetlands Board meeting on June 10, 2009, is highly recommended.

This project will involve the re-grading of 175 linear feet of shoreline and the installation of a class 1 riprap revetment. The project will involve impacts to jurisdictional wetlands and it will also include impacts to upland areas not within the Wetlands Board's jurisdiction.

Environmental Division (Division) staff visited the site on April 9, 2009 and again on May 14, 2009, along with a representative from Southern Landscaping to discuss the proposed project and possible alternate methods of stabilizing the minor shoreline erosion problem. Proposed impacts for this project were estimated by The Virginia Institute of Marine Science (VIMS) to be 350 square feet. Total fill impacts (permanent loss / fill area) from the proposed rip rap structure is estimated to be 180 square feet. Although the VIMS report does not report a specific amount of impacts to Type XI Fresh Water Mixed Community, staff estimates that approximately 60 square feet of vegetated wetlands will be impacted.

The installation of the proposed rip rap revetment structure will require land disturbing activities within the RPA buffer which are not identified or addressed in the application.

Staff has recommended to the applicant that a vegetative solution to the minor shoreline erosion problem should be explored and proposed in lieu of a riprap revetment structure.

Staff and VIMS do not support the applicant's proposal for the following reasons:

1. VIMS provides guidance and recommendations to staff on proposed shoreline projects. VIMS guidance documents and recommendations for stabilizing low energy shorelines is through the establishment of adequate wetland and riparian vegetation. Hard armoring of shorelines is only recommended in cases that are experiencing significant erosion do to wave climate and/or boat wakes.
2. The existing shoreline is located along a freshwater canal approximately 60 feet in width. The limited fetch that exists precludes the possibility of wave energy. In addition the potential for boat wakes has been eliminated through the establishment of no-wake regulations. This shoreline has been evaluated to be a low energy shoreline with a low potential for erosion. The existing bank top is stable with only minor erosion scour located below mean high tide.

3. The Virginia Marine Resources Commission's Wetlands Guidelines Manual states on page 44:
  - A: Shoreline protection strategies:
    1. Shoreline protection structures are justified only if there is active, detrimental shoreline erosion which cannot be otherwise controlled; if there is rapid sedimentation adversely affecting marine life or impairing navigation which cannot be corrected by upland modifications; or if there is a clear and definite need to accrete beaches.
4. The bank along this shoreline has been subjected to routine mowing and the removal of riparian plant material down to mean high water. This type of vegetative maintenance is detrimental to establishing a stable shoreline. Despite the ongoing vegetative maintenance, wetlands vegetation is colonizing within the tidal range along this shoreline, in an attempt to create a stable and environmentally functional shoreline.
5. The proposed shoreline structure will impact vegetated wetlands and the JPA does not address the issue of wetlands mitigation or compensation, as required by the Board.

The Board should offer the applicant the opportunity to defer this case until the deficiencies in the application can be resolved. Should the applicant not request a deferral, staff recommends that the Board vote to deny the permit.

Should the Board vote to approve the permit staff recommends that the following conditions be imposed and be made part of the permit:

1. A revised plan shall be submitted to VMRC, VIMS, and James City County for review and approval, showing all proposed upland impacts within the RPA components.
2. An RPA restoration plan shall be submitted to James City County for review and approval, prior to the required preconstruction meeting which must be held on-site. This restoration plan shall show the locations and species of native trees and shrubs and grasses that shall be installed within the RPA buffer area, landward of the proposed riprap structure.
3. The implementation of the RPA restoration plan shall be guaranteed by surety in a form acceptable to the Division prior to the preconstruction meeting.
4. Wetlands Compensation shall be required to be paid by the applicant for the proposed 60 sq. ft. of impacts to vegetated Wetlands. The applicant shall pay a Wetlands Compensation fee of approximately \$10.00 – \$12.00 per sq. ft. (x 150 sq. ft.), directly into a Tidal Wetlands fund or Wetlands Bank, approved by the Division. All surety required by the Division shall be held until proof of the Wetlands Compensation payment is submitted and approved by the Division.
5. The limits of clearing and construction shall be flagged in the field prior to the preconstruction meeting.
6. The Environmental Director reserves the right to require a turbidity curtain for this project if field conditions warrant its use.
7. The permit shall expire June 10, 2010. 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 the expiration date.