

# **Wetlands Board**

**October 14, 2009 - 7:00 p.m.**

**A. Roll Call**

**B. Minutes**

1. August 12, 2009 – Board Meeting

**C. Public Hearing**

1. W-01-10/VMRC 09-1044 – Kittelberger – 1812 Cypress Isle

**D. Board Considerations**

**E. Matters of Special Privilege**

**F. Adjournment**

## MEMORANDUM

**DATE:** October 14, 2009  
**TO:** The Wetlands Board  
**FROM:** Patrick T. Menichino, Wetlands Board Secretary  
**SUBJECT:** Case NO. W-01-10/VMRC 09-1044; 1812 Cypress Isle

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Mr. Daniel R. Winall of Water's Edge Construction, Inc. has applied for a Wetlands permit on behalf of Larry Kittelberger, of 4 McVickers Lane, Mendham NJ, to add approximately 50 linear feet of class 3 riprap to an existing breakwater, install approximately 60 linear feet of class 3 riprap to a second existing breakwater, and install 13,680 square feet of sand fill beach nourishment along the existing shoreline.

The property and project site, is located adjacent to the James River at 1812 Cypress Isle, Governor's Land and is further identified by James City County Real Estate as PIN # 4321400010. Mr. Winall and Mr. Kittelberger have been advised that their attendance at the Wetlands Board meeting on October 14, 2009, is highly recommended.

This project will involve the installation of 50 linear feet of class 3 riprap over top of an existing breakwater to raise its elevation, and installation of approximately 60 linear feet of class 3 riprap to realign and extend an existing breakwater located on the east side of the project. The plan also proposes the installation of 13,680 square feet of sand fill as beach nourishment to enhance the existing sand beach. The project will involve impacts to vegetated jurisdictional wetlands, subaqueous bottom, and it non-vegetated wetlands as well as upland areas not within the Wetlands Board's jurisdiction.

Environmental Division Staff (Staff) along with the VMRC representative visited the site on August 9, 2009 and August 24, 2009 to review the proposed project scope and potential impacts. Proposed impacts for the beach nourishment phase are determined to be 2348 square feet to vegetated Brackish Water Mixed Community Type XII and 11,332 square feet to non-vegetated Type XIII Intertidal Beach Community. Proposed impacts for the breakwaters are determined to be 375 square feet to the Type XIII Intertidal Beach Community, and 1,125 square feet to subaqueous bottom.

The applicant proposes onsite mitigation for the proposed 2,348 square feet of impacts to vegetated Brackish Water Mixed Community Type XII. The mitigation proposal offers the reestablishment of 750 square feet of *Spartina alterniflora* and 1798 square feet of *Spartina patens*, (2) – Marsh Hibiscus, and (2) – High Tide Bush.

It is the Staff's recommendation the Board approve this application, with the following conditions imposed:

1. The Wetlands Mitigation Plan shall be revised to show, 750 square feet of *Spartina alterniflora* planted on 1.5' centers and 1,798 square feet of *Spartina patens* planted on 1.5' centers, and planting of 550 square feet of *Spartina alterniflora* planted on 1.5' centers in the area of the *Phragmites* removal. The quantity of Hibiscus and High Tide Bush plantings required will be determined by the amount impacted during the beach nourishment phase.
2. The implementation of the Wetlands Mitigation Plan requiring the installation of *Spartina patens*, *Spartina alterniflora*, and other plant material, shall be guaranteed by a surety in the amount of \$10,000.00, in a form acceptable to the Environmental Division and County Attorney. All surety must be submitted and approved prior to the preconstruction meeting. The surety will be held for 1 complete growing season following the mitigation, planting, to guarantee the plant survivability.

3. An RPA Buffer Restoration Plan may be required if impacts to the RPA buffer occur during construction. If restoration is required any surety posted shall be held until the RPA buffer is satisfactorily restored as per County requirements.
4. The limits of clearing and construction shall be flagged and all safety and tree protection fencing installed in the field prior to the preconstruction meeting.
5. A turbidity curtain for this project is required and shall be installed prior to the onset of the beach nourishment phase.
6. The permit shall expire October 14, 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.