

# Wetlands Board

July 8, 2015

**A. Roll Call**

**B. Minutes**

From June 10, 2015 Board Meeting

**C. Public Hearings**

1. W-16-15/VMRC15-0711-Xanterra Kingsmill – Kingsmill Marina floating dock
2. W-15-15/VMRC15-0684-Reilly/Water's Edge – 132 & 134 Shellbank Dr.
3. W-14-15/VMRC 15-0679-O'Brien/Mid-Atlantic - 7588 Uncles Neck

**D. Board Considerations - None**

**E. Matters of Special Privilege**

**F. Adjournment**

## Wetland Board Case W-16-15/VMRC 15-0711: Kingsmill Marina

Staff report for the July 8, 2015 Wetland Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Wetland 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.

### Existing Site Data & Information

Applicant: Kevin Kolda, VP Maintenance & Engineering, Kingsmill Resort

Owner: Xanterra Kingsmill LLC

Location: 1010 Kingsmill Road

Parcel: Parcel R-2C, Kingsmill Resort (Kingsmill Marina)

PIN: 5040100002C

Watershed: James River (HUC JL 35)

Proposed Activity: Relocate an existing floating dock from Wareham's Pond to the Kingsmill Marina.

Wetland Impacts: zero vegetated or non-vegetated wetlands subject to the Local Wetlands Board jurisdiction

### Project Discussion

Mr. Kevin Kolda, on behalf of Xanterra Kingsmill LLC, has applied for a Wetlands Permit to relocate an existing floating dock from Wareham's Pond to the Kingsmill Marina. The relocated structure will provide a storage area for small watercraft when not in use within the safety of the existing Kingsmill Marina. Wareham's Pond is a non-tidal, open water system and the marina is located within the James River and subject to tidal influences. The work will be performed by the Kingsmill Resort maintenance personnel and no new construction is proposed.

Even though there are no wetland impacts within this Board's jurisdiction, the commercial nature of the application is not a permitted use. Therefore, an application for a permit must be submitted through the Virginia Marine Resources Commission and processed by the local wetlands board.

### Mitigation Discussion

As published in the Virginia Register on July 11, 2005, the revised Wetland Mitigation Compensation

W-16-15/VMRC 15-0711

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Policy and Supplemental Guidelines, Regulation 4VAC 20-390-10 et seq., Virginia, as a Chesapeake Bay Program partner, is committed to “achieve a no-net loss of existing wetlands acreage and function in the signatories’ regulatory programs.” In order for a proposed project to be authorized to impact wetlands and compensate for the wetland loss in some prescribed manner, the following three criteria must be met:

1. All reasonable mitigative efforts, including alternative siting, which would eliminate or minimize wetland loss or disturbance must be incorporated in the proposal; and
2. The proposal must clearly be water dependent in nature; and
3. The proposal must demonstrate clearly its need to be in the wetlands and its overwhelming public and private benefits.

If the proposed project cannot meet one or more of the above criteria, the project must be denied or must occur in areas outside of wetlands. Should it satisfy all three criteria, however, compensation for the wetland loss is required. The sequence of acceptable mitigation options should be as follows: on-site, off-site within the same watershed, mitigation bank(s) in the same watershed, or a payment of an in-lieu fee. If compensation is required, it should be a condition of the permit.

Staff has fully reviewed this application and declares that this project meets the three criteria outlined above and that no vegetated wetland mitigation is required.

### Staff Recommendations

Staff recommends **approval** of the application. Should the Board wish to approve the application, staff suggests the following conditions be incorporated into the approval:

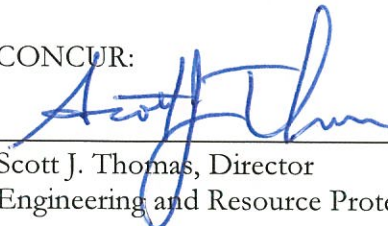
1. The applicant must obtain all other necessary local, state, and/or federal permits required for the project; and
2. The wetlands permit for this project shall expire on July 8, 2016 if the relocation has not begun. If an extension of the permit is needed, a written request shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

Staff Report prepared by:



Michael D. Woolson, LA  
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Joint Permit Application

## Wetland Board Case W-15-15/VMRC 15-0684: 132 & 134 Shellbank Drive

Staff report for the July 8, 2015 Wetland Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Wetland 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.

### Existing Site Data & Information

Applicant: Daniel Winall, Water's Edge Construction

Owner: Paul and Karen Reilly

Location: 132 and 134 Shellbank Drive

Parcel: Lot 1, Section A, Shellbank; Parcel A, Section A Shellbank; Greenspring PT Pine

PIN: 4510200001, 4510200001A, 4510100011

Watershed: James River (HUC JL 30)

Proposed Activity: Install 160' stone breakwater, 160' low profile stone sill and sand beach fill, creating a living shoreline to protect existing shoreline along the James River and tidal march along Shellbank Creek.

Wetland Impacts: 300 sq. ft. vegetated impacts, Type IV, Saltbush Community  
750 sq. ft. non-vegetated impacts, Type XIII, Intertidal Beaches  
18,050 sq. ft. subaqueous bottom

### Project Discussion

Mr. Daniel Winall, on behalf of Paul and Karen Reilly, has applied for a Wetlands Permit to construct a 160 linear foot breakwater, 160 linear foot low-profile stone sill, and sand beach fill and plantings to create a living shoreline to protect the owner's shoreline and the tidal marsh directly behind the project. This project is located at 132 and 134 Shellbank Drive and is also at the mouth of Shellbank Creek. The tidal marsh, at the mouth of Shellbank Creek and immediately behind this project is a Type VII, Arrow Arum – Pickerel Weed Community and is considered a highly productive wetland system.

The breakwater extends out from the corner of the existing bulkhead, 160 linear feet in a south-southwest direction. The low profile stone sill is located approximately 175 feet west of the breakwater and 30 feet east of the existing cypress point, which is protecting the mouth of Shellbank Creek. This point is vegetated with bald cypress, salt bush, and a mix of herbaceous tidal wetland

plants. The area between the low profile sill and cypress will be backfilled clean beach sand and planted with *Spartina patens* and *Spartina alterniflora* on 24 inch centers. Approximately 700 *S. alterniflora* will be planted along the lower created beach and approximately 300 *S. patens* will be planted in the upper created beach area. In the area in front of, or seaward of the existing riprap revetement, clean beach sand will be brought in to nourish this portion of the project between the two newly created structures. There are no plantings proposed in this area.

The breakwater is comprised of #1 bedding stone on top of filter cloth, overlain with Class I core stone, then Class III armor stone. The height of this structure above MLW is 4.5 feet, or 2.5 feet above MHW. The stone sill is also comprised of bedding stone on top of filter cloth, overlain with Class I core stone and Class III armor stone. The height of this structure is 3.0 feet above MLW or 1.0 feet above MHW. The side slope of both structures is 2:1 and the bottom width varies due to changing bottom depth.

### Mitigation Discussion

As published in the Virginia Register on July 11, 2005, the revised Wetland Mitigation Compensation Policy and Supplemental Guidelines, Regulation 4VAC 20-390-10 et seq., Virginia, as a Chesapeake Bay Program partner, is committed to “achieve a no-net loss of existing wetlands acreage and function in the signatories’ regulatory programs.” In order for a proposed project to be authorized to impact wetlands and compensate for the wetland loss in some prescribed manner, the following three criteria must be met:

1. All reasonable mitigative efforts, including alternative siting, which would eliminate or minimize wetland loss or disturbance must be incorporated in the proposal; and
2. The proposal must clearly be water dependent in nature; and
3. The proposal must demonstrate clearly its need to be in the wetlands and its overwhelming public and private benefits.

If the proposed project cannot meet one or more of the above criteria, the project must be denied or must occur in areas outside of wetlands. Should it satisfy all three criteria, however, compensation for the wetland loss is required. The sequence of acceptable mitigation options should be as follows: on-site, off-site within the same watershed, mitigation bank(s) in the same watershed, or a payment of an in-lieu fee. If compensation is required, it should be a condition of the permit.

Staff has fully reviewed this application and declares that this project meets the three criteria outlined above. The applicant is proposing to replant approximately 4,800 sq. ft. of newly created intertidal area with a combination of *Spartina alterniflora* and *S. patens* to address the 300 sq. ft. of vegetated impacts. Further, no existing bald cypress will be removed and the sand fill will be placed in such a manner so as to not damage the existing knees of the cypress.

### Staff Recommendations

Staff recommends **approval** of the application. Should the Board wish to approve the application, staff suggests the following conditions be incorporated into the approval:

1. The applicant must obtain all other necessary local, state, and/or federal permits required for the project; and
2. Prior to construction, the limits of the sill and revetment shall be restaked in the field if necessary; and
3. Prior to construction, a pre-construction meeting will be held on-site; and
4. Prior to construction, a \$1,500 surety for the wetland plantings shall be submitted in a form acceptable to the County Attorney's Office; and
5. The surety will be held for a minimum of one growing season after planting; and
6. There shall be a 90% survival rate of the planted material after one growing season or additional plantings completed to reach 90% of original quantity prior to surety release; and
7. The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures, including a turbidity curtain, for this project if field conditions warrant their use; and
8. The wetlands permit for this project shall expire on July 8, 2016 if construction has not begun. If an extension of the permit is needed, a written request shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

Staff Report prepared by:



Michael D. Woolson, LA  
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Joint Permit Application

# Wetland Board Case W-14-15/VMRC 15-0679: 7588 Uncle's Neck

Staff report for the July 8, 2015 Wetland Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Wetland 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.

## Existing Site Data & Information

Applicant: Michael and Maureen O'Brien

Agent: Karla Havens, Mid-Atlantic Resource Consulting

Location: 7588 Uncle's Neck

Parcel: Lot 22, River's Bend at Uncle's Neck subdivision

PIN: 2010200022

Watershed: Chickahominy River (HUC JL 28)

Proposed Activity: Create an approximate 445 foot offshore sill and associated beach nourishment for a living shoreline to protect the existing shoreline along the Chickahominy River. Bank grading is part of this project, but is outside the jurisdiction of the wetlands board.

Wetland Impacts: 0 sq. ft. vegetated wetlands  
6,675 sq. ft. non-vegetated wetlands, Type XV sand/mud fixed flats  
4,450 sq. ft. subaqueous bottom

## Project Discussion

Mrs. Karla Havens, on behalf of Michael and Maureen O'Brien, has applied for a Wetlands Permit to construct a 445 foot offshore stone sill and associated sand beach nourishment with plantings to create a living shoreline to protect the owner's shoreline at 7588 Uncle's Neck. There is also bank grading associated with this project which is outside of this board's jurisdiction.

The sill structure is located just seaward of mean low water and seaward of all existing bald cypress along the property. At the southern property line, the proposed sill structure will tie into the recently approved revetment on the adjacent property with a continuation of the stone sill at 90 degree angles. The area between the sill and mean high water will be backfilled with clean beach sand and planted with appropriate tidal wetland vegetation on 24 inch centers. Approximately 2000 plants will be installed, including *Spartina patens* and *Spartina alterniflora*.

The stone sill is comprised of Class II core stone and then Class III armor stone. The height of the sill is 3 feet above MLW or 0.5 feet above MHW. The side slope of the structure is 2:1 on the seaward side and 1:1 on the landward side with the bottom width of the structure equaling 10 feet.

### Mitigation Discussion

As published in the Virginia Register on July 11, 2005, the revised Wetland Mitigation Compensation Policy and Supplemental Guidelines, Regulation 4VAC 20-390-10 et seq., Virginia, as a Chesapeake Bay Program partner, is committed to “achieve a no-net loss of existing wetlands acreage and function in the signatories’ regulatory programs.” In order for a proposed project to be authorized to impact wetlands and compensate for the wetland loss in some prescribed manner, the following three criteria must be met:

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If the proposed project cannot meet one or more of the above criteria, the project must be denied or must occur in areas outside of wetlands. Should it satisfy all three criteria, however, compensation for the wetland loss is required. The sequence of acceptable mitigation options should be as follows: on-site, off-site within the same watershed, mitigation bank(s) in the same watershed, or a payment of an in-lieu fee. If compensation is required, it should be a condition of the permit.

Staff has fully reviewed this application and declares that this project meets the three criteria outlined above. The applicant is proposing to plant approximately 8,000 sq. ft. of newly created intertidal area with appropriate tidal wetlands plants. Further, no existing bald cypress will be removed and the stone sill and sand fill will be placed in such a manner so as to not damage the existing knees of the cypress.

### Staff Recommendations

Staff recommends **approval** of the application. Should the Board wish to approve the application, staff suggests the following conditions be incorporated into the approval:

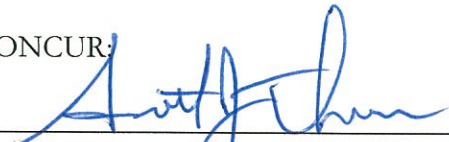
1. The applicant must obtain all other necessary local, state, and/or federal permits required for the project; and
2. Prior to construction, the limits of the sill shall be re-staked in the field if necessary; and
3. Prior to construction, a pre-construction meeting will be held on-site; and
4. Prior to construction, a \$3,000 surety for the wetland plantings shall be submitted in a form acceptable to the County Attorney’s Office; and
5. The surety will be held for a minimum of one growing season after planting; and
6. There shall be a 90% survival rate of the planted material after one growing season or additional plantings completed to reach 90% of original quantity prior to surety release; and
7. The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures, including a turbidity curtain, for this



- project if field conditions warrant their use; and
8. The wetlands permit for this project shall expire on July 8, 2016 if construction has not begun. If an extension of the permit is needed, a written request shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

Staff Report prepared by:

  
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Michael D. Woolson, LA  
Senior Watershed Planner

CONCUR:   
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Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Joint Permit Application