

**WETLANDS BOARD
MINUTES
NOVEMBER 8, 1995**

A. ROLL CALL ABSENT

Mr. Hughes
Mr. Jones
Mr. Lindsey
Mr. Gussman
Mr. Waltrip

OTHERS PRESENT

Bernard Farmer, Zoning Administrator
Jay Lipscomb, VMRC

B. MINUTES

Minutes of October 11, 1995 were approved.

C. OLD BUSINESS

None.

D. NEW BUSINESS

ZA-23-95/VMRC 95-1487; Governor's Land Associates

Mr. Farmer presented the staff report stating that Williamsburg Environmental Group, Inc., on behalf of Governor's Land Associates has applied for a wetlands permit to construct two private access roads across wetlands at 2700 Two Rivers Road in the Governor's Land subdivision. The property is further identified as parcel (1-23) found on James City County Real Estate Tax Map (44-2). For purposes of discussion and the application the crossings have been designated as Road "A" (Proposed bridge) and Road "B" (Proposed causeway).

ROAD CROSSING A

Mr. Farmer stated that the applicants have proposed construction of a 150 foot long, 18 foot wide vehicular bridge on timber piles. The bridge would extend from the vicinity of the open field near the 18th green across the tidal wetlands area to some higher ground adjacent to the point along the Chickahominy River. The upland area to which this road would connect is almost entirely encumbered Chesapeake Bay Resource Preservation Area buffer, since buffer would be required adjacent to both the Chickahominy River and the wetlands to be crossed. The applicant has stated a desire to develop one or two single family dwellings in the upland area, and if granted the wetlands permit would still require exceptions to the Chesapeake Bay Preservation Area Regulations to have a suitable buildable area.

Construction of a bridge itself through the wetlands would result in a minimal impact. In examining the proposal staff has looked at avoidance first, mitigation second, and then replacement as a final alternative if avoidance is impossible. In this instance, staff believes other alternatives exist, such as access around the 18th green, which could avoid the direct impact associated with building a bridge. In addition to this avoidance strategy, a choice could be made to simply develop elsewhere on the property. The maximum development density allowed under zoning can be easily reached without the lots yielded by development in this sensitive area.

More significant than the initial impact of the bridge construction is the placement of homes within close proximity to the wetlands and shore. The additional clearing and impacts to the area would likely cause significant change to the wetlands area and result in degradation of its habitat and productivity. Nutrient loadings (essentially uncontrolled) from home sites, conversion of forested area to lawn, establishment of impervious drives and roof, and the additional impacts from the construction period itself (sediment, debris, etc.) would all have a detrimental effect of this wetlands regime. This combined and cumulative impact would likely cause a permanent and significant negative impact far beyond the area considered under the permit application. Staff feels the detrimental effect of loss or change of this natural area outweighs the benefit of two additional homes sites developed within this 1400 acre planned residential community. Staff recommends that the permit for Crossing "A" be denied.

Mr. Gussman stated that the master plan that was approved originally called for that area not to have any building, and asked if the plan had been amended.

Mr. Farmer stated that the master plan had not been amended.

Mr. Lindsey stated that the Chesapeake Bay as well as other areas that need approval as well.

Mr. Jones asked if staff had received an application for the building of a home in this area. Mr. Farmer replied no.

A review of the map for Road Crossing A took place, highlighting buildable areas outside of the RPA.

Mr. Waltrip stated that he had a problem with the way the application is heading. He stated that if you check back through records you will see that a road went through the middle of the property to the "old ferry" dock and now we are saying the public cannot build a roadway.

A discussion and examples of mudwaves took place.

Mr. Lindsey opened the public hearing.

Mike Kelly of Williamsburg Environmental Group, Inc. and Jim Bennett of Governor's Land Associates, Inc. introduced themselves.

Mr. Kelly presented pictures to the Board showing other wetland areas where the proposed type of crossings have worked and have created some tidal and nontidal wetlands. He further commented that the Virginia Association of Counties has used Governor's Land as a model of how to do environmentally sensitive development and how to make it still profitable.

Mike Kelly presented his case as well as alternative routes and why they disregarded those alternatives.

Mr. Kelly noted that the master plan originally had the marina located in a different area from where it is today and that it was not unusual to change a master plan.

Mr. Gussman asked how big was the proposed building site on the island.

Mr. Jim Bennett of Governor's Land stated that the potential buyer wants to place conditions on the contract that include this variance, RPA buffer reduction, etc. To date, all Mr. Bennett's office has is a footprint of a house of approximately 4-5,000 square feet (8-9,000 as a two story home).

Mr. Gussman asked what the house would do for sewage treatment and would it be tied into a sewer line.

Mr. Bennett stated that it would be a forced main that would be piped back over to the primary sewer line.

Further discussion took place as to what other approvals and permits may or may not be required to proceed with the development of the island.

Mr. Bennett suggested that any decision could have the condition that all other approvals or variances be obtained prior to issuance of a building permit (i.e., Chesapeake Bay, Zoning, etc.).

Mr. Lindsey closed the public hearing.

Mr. Hughes stated that he did not have a problem with the open pile bridge, but he did with the Chesapeake Bay requirements, but understood that was a different issue. He stated further that he did have a problem with developing the area because originally it was not going to be developed under the master plan.

Mr. Gussman stated that he had a problem with this request all together. He felt that a bridge should not be placed there and that the Board should go along with the staff recommendation to deny the variance.

Mr. Hughes wanted to know what happens if the decision of the Board went to appeal and what would occur.

Mr. Farmer commented that if an appeal was a concern the Board should clearly state their reasoning and if appropriate we can defend that decision with VMRC on any review or appeal that would go forward.

Mr. Jones stated that he did not had enough time to review and prepare for this hearing, since the packet was delivered late. He further commented he would like to review what was stated in 1989 reference the history of the master plan. He stated that he has a problem with the word "might" be impacted and should this be done for one house.

Mr. Lindsey stated that he agreed with Mr. Bennett that they are not going to build a bridge to no where. In that respect the Board would have to consider the disruption of the house as well as the bridge. He further stated that there are so many unknowns that he could not vote for the permit.

Further discussion took place on the placement of the bridge and what the bridge was leading to.

Mr. Hughes moved to issue the prmit with the condition that Governor's Land meet the requirement of the Chesapeake Bay Act and the County requirements for open space.

Mr. Jones suggested amending the motion by adding that a building permit must be issued as well, prior to cnstruction commencing in the wetlands.

Mr. Hughes agreed to the amendment to the motion.

The motion was approved with Mr. Gussman and Mr. Lindsey dissenting.

ROAD CROSSING "B"

Mr. Farmer gave a staff report on the second crossing. The second road crossing proposes a 200 foot long, 49 foot wide filled causeway structure to gain access to an island of high ground. This high ground is bounded on the south by the James River and is surrounded elsewhere by tidal marsh area. As designed the structure would directly impact approximately 17000 square feet of tidal vegetated (Type XI, Freshwater Mixed) wetlands. Beyond the initial construction there might be other impacts to the wetlands area associated with placement of the proposed fill. The applicant has proposed construction of replacement wetlands adjacent to the causeway to compensate for lost wetlands.

Staff does not question the general commitment the developers have made within this community to preserve the natural environment, while reasonably accommodating their land development. However, the choice of design of crossing "B" appears to be motivated primarily by cost considerations rather than the worth of and potential damage to valued wetlands. The applicant has not demonstrated that the open pile bridge alternative is inadequate or could not be designed to effectively accomplish the goal of providing access to the upland area while minimizing wetland impacts. While the maintenance costs may differ from that of a causeway design, a timber pile structure could be designed to handle the traffic, and design considerations could be made to substantially lessen the construction costs.

Staff recommends granting a modified permit to construct an open pile structure for Crossing "B". Construction should be from the deck of the open pile structure, and the width should be limited to that necessary for a single 16 foot travel lane. Pedestrian crossings should be cantilevered from the bridge structure or placed in alternative locations so as not to require any additional clearing of trees.

Mr. Jones asked Mr. Farmer to list his concerns of a filled causeway in relation to the mudwave and the total loss of wetlands.

Mr. Farmer stated that he felt that there had not been sufficient geotechnical investigation or adequate reporting done as to either the construction method or the appropriate technology to use to prevent a mudwave. This is based on Mr. Farmer's personal knowledge and discussions with the geotechnical engineer. Mr. Farmer stated that he understood the proposal that has been made and that differs from both of the proposals that have been outlined in the geotechnical report. He further stated that he had concerns about the total loss of the wetland area as well as the hydrology of the area.

A discussion on the proposed culverts and tide flows took place.

Mr. Lindsey opened the public hearing.

Mike Kelly stated that his organization spent time evaluating alternative locations for crossings and we have proposed this area for the location due to it having the least impact regardless of the type of crossing.

Jim Bennett stated that Governor's Land met with the fire department to find out what their desired width of a roadway would be for access to the parcel of land in question. Based on the number of lots that will be placed on the parcel, the fire department wanted a road that two way traffic would be accommodated (approximately 20 feet wide).

Jim Bennett and Jim Kelly gave further explanation as to the type and impact of the proposed bridge and how Governor's Land would compensate for the disturbance of the wetlands.

Mr. Lindsey asked how long Governor's Land would monitor the man made wetlands they will be providing for the damaged wetlands.

Mr. Kelly stated until 85-95% success of the wetlands has taken hold or approximately five years or longer if necessary.

Mr. Farmer stated that his interpretation of the geotechnical report differs from that of Mr. Bennett's. He stated that there were three borings (B1, B2, B3, B2 located in the center and B1 & B3 located at the near and far shore). The center showed a medium dense stratum at about 9-11 feet where a silty sandy material was found, however the other two very clearly showed down to a depth of about 19 feet a loose, silty sand material. Mr. Farmer stated that he views this report as extremely preliminary.

Mr. Lindsey closed the public hearing.

Mr. Hughes stated that he did not like the idea of a causeway and had concerns of what they were going to do when they start removing wetlands. He stated that he had no problem with an access to the property, but felt that the causeway was not the proper method.

Mr. Gussman stated that he agreed with the staff recommendation.

Mr. Jones stated that since one bridge was already approved, he felt a bridge would be better than a filled causeway.

Mr. Waltrip stated that if the causeway was done right it would hold. He further commented that the soil borings bother him. He stated that he would support a bridge, but would prefer a causeway.

Mr. Hughes moved that the Board accept the staff's recommendation with a change that the road crossing be a 20 foot wide bridge and provisions to allow pedestrian passage be allowed.

The motion was approved unanimously.

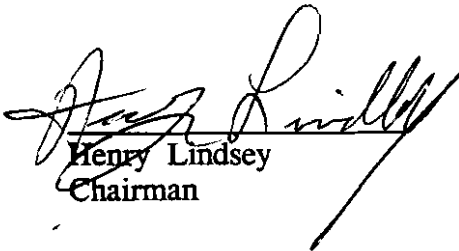
E. MATTERS OF SPECIAL PRIVILEGE

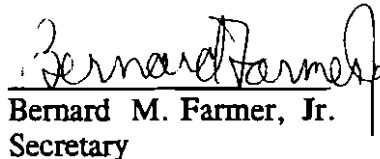
Mr. Lindsey asked the Board to review the 1996 calendar and advise staff if there are any conflicts.

Mr. Lindsey reminded that at the October meeting that the Board wanted to know when the next visit to Cypress Point was to take place. He advised that it will take place on Monday, November 13, 1995. Mr. Lindsey and Mr. Hughes stated that they would like to go. Mr. Waltrip stated that he might be able to attend.

F. ADJOURNMENT

The meeting was adjourned at 9:45 P.M.


Henry Lindsey
Chairman


Bernard M. Farmer, Jr.
Secretary