

**WETLANDS BOARD
MINUTES**

SPECIAL MEETING HELD APRIL 23, 2001 - 7:00PM

A. ROLL CALL ABSENT

Henry Lindsey	None
David Gussman	
John Hughes	
Larry Waltrip	
Philip Duffy	

OTHERS PRESENT

Darryl E. Cook, Secretary to the Board
Ben Stagg, VMRC
Leo Rogers, Deputy County Attorney
Environmental Staff

B. MINUTES

Approval of the March 14, 2001 minutes were approved as presented.

C. OLD BUSINESS

1. W-36-00: Edward Lucas - 201 Sherwood Forest

Mr. Cook presented the case stating that the case had been deferred at the March 14, 2001 Board meeting at the request of the applicant, Alor Grantham-Traywick. The deferral was granted in order for the applicant to obtain additional information for the case. Staff has received the attached additional information and at the request of the applicant is now bringing the case back to the first available Board meeting.

Mr. Cook stated the application was for a permit to install 190 linear feet of riprap in front of an existing bulkhead. The installation of the riprap would be toward the river. The property is further identified as parcels (17-3) found on the James City County Real Estate Tax Map (2-4).

The property in question is along the York River. Environmental Division staff visited the site along with representatives from VMRC and VIMS on February 28, 2001. The riprap would be installed to reinforce the existing bulkhead. It is estimated that approximately 80 square feet of inter-tidal wetlands would be impacted and 40 square feet would be permanently filled by this application request.

It is the staff's recommendation that this application be approved with the following conditions:

1. Prior to any land disturbing activities, a pre-construction meeting will be held on-site.
2. All filter fabric used shall be inspected by the Environmental Division prior to placement of riprap.
3. A JCC Land Disturbance permit will not be required for this work.
4. The permit shall expire April 23, 2002.
5. 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.

Mr. Duffy noted that Mr. Pearce's name was mis-spelled on the Adjacent Property Owner Notification page. Mr. Duffy stated that he had telephoned the Pearce residence and had spoken to Mrs. Pearce. She told him that she was not aware of the project or any possible encroachment by Mr. Lucas; therefore, he was not convinced that Mr. Pearce did know of the possible encroachment onto his property. He further stated that he was concerned about the liability being placed onto adjacent property owners. He felt the rights of the adjacent owners were not being protected.

Mr. Lindsey stated that he felt the adjacent owners had been notified and given the opportunity to comment. He further stated that the Board makes their decision based on the work proposed, not on ownership.

Mr. Hughes stated that he felt the County had met all notification requirements to adjacent property owners. He stated the agent had signed documents verifying that Mr. Pearce had received notification of the potential encroachment.

Mr. Leo Rogers advised the Board that their role is to evaluate the detriments vs. the benefits of projects, and not ownership issues. He suggested that in future cases where additional information is required on the adjacent property acknowledgement, the form be revised to have all information entered above the signature. This would eliminate the question if the information were seen. Mr. Rogers clarified that this form is a notification and not a contract. Mr. Rogers informed the Board that the County has met all property owner notification requirements for this case.

Mr. Lindsey opened the floor for public comment.

A. Ms. Alor Grantham-Traywick, The Salt & The Earth, Inc. and agent, addressed the Board. She informed the Board that she had sent the acknowledgement form four times to Mr. Pearce. On the fourth time she had sent it return receipt mail and that is when he returned it to her. She stated she had the return receipt with her if the Board wanted to see it. She then provided the Board with a copy of the plat in which she modeled her drawings on. She said for future cases she would revise the adjacent property form to include all information above the signature.

Mr. Duffy inquired if Ms. Grantham-Traywick had a contractor's license.

She responded that she did not have a contractor's license, however she was not the contractor, Earth Resources was the contractor. She stated that she was the agent for the owner, Mr. Lucas.

Mr. Lindsey closed the public hearing.

Mr. Waltrip and Mr. Hughes stated that they would vote in favor of the permit. If the adjacent owners had a problem with the encroachment onto their property, then they could pursue legal action through civil court. The Board is to evaluate the scope of the project, not property owner rights.

Mr. Duffy stated he felt there were too many unanswered questions relating to the application. He said he did not understand the complete lack of knowledge on the part of the adjacent property owners about the project and that he still was not sure that the adjacent owners had been contacted about the project.

Mr. Rogers stated that if the Board chose to, a notice could be sent to the adjacent owners notifying them that the permit was approved, along with the scope of the project.

Mr. Cook informed the Board that the County also sends a letter to all adjacent property owners and other agencies notifying them that an application has been submitted. This is done on all applications received that go before the Board. It is the norm that comments are not received back from these people.

Mr. Rogers informed the Board that they cannot be taken to court relating to property ownership rights, but they could based on the issuance or non-issuance of a permit. The liability for workers on the project is covered either by property owner insurance or workers compensation.

Mr. Hughes made a motion to approve case W-36-00 with staff's recommendations.

The motion was approved by a 4-1 vote: AYES: Mr. Lindsey, Mr. Hughes, Mr. Waltrip, Mr. Gussman (4). NAYS: Mr. Duffy (1).

E. BOARD CONSIDERATIONS - None

F. MATTERS OF SPECIAL PRIVILEGE

The Board entered into a Work Session at 7:35 to discuss the James City County Wetlands Mitigation-Compensation Policy.

After a general discussion relating to possible revisions to the policy, it was decided by the Board not to pursue any policy revisions at this time.

The Board ended the Work Session at 8:45 pm.

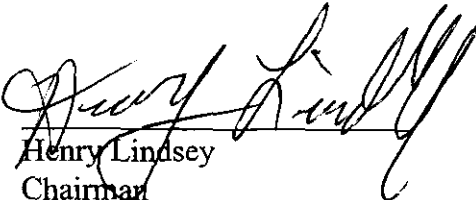
Mr. Lindsey reconvened the Board into open session at 8:45 pm.


G. ADJOURNMENT

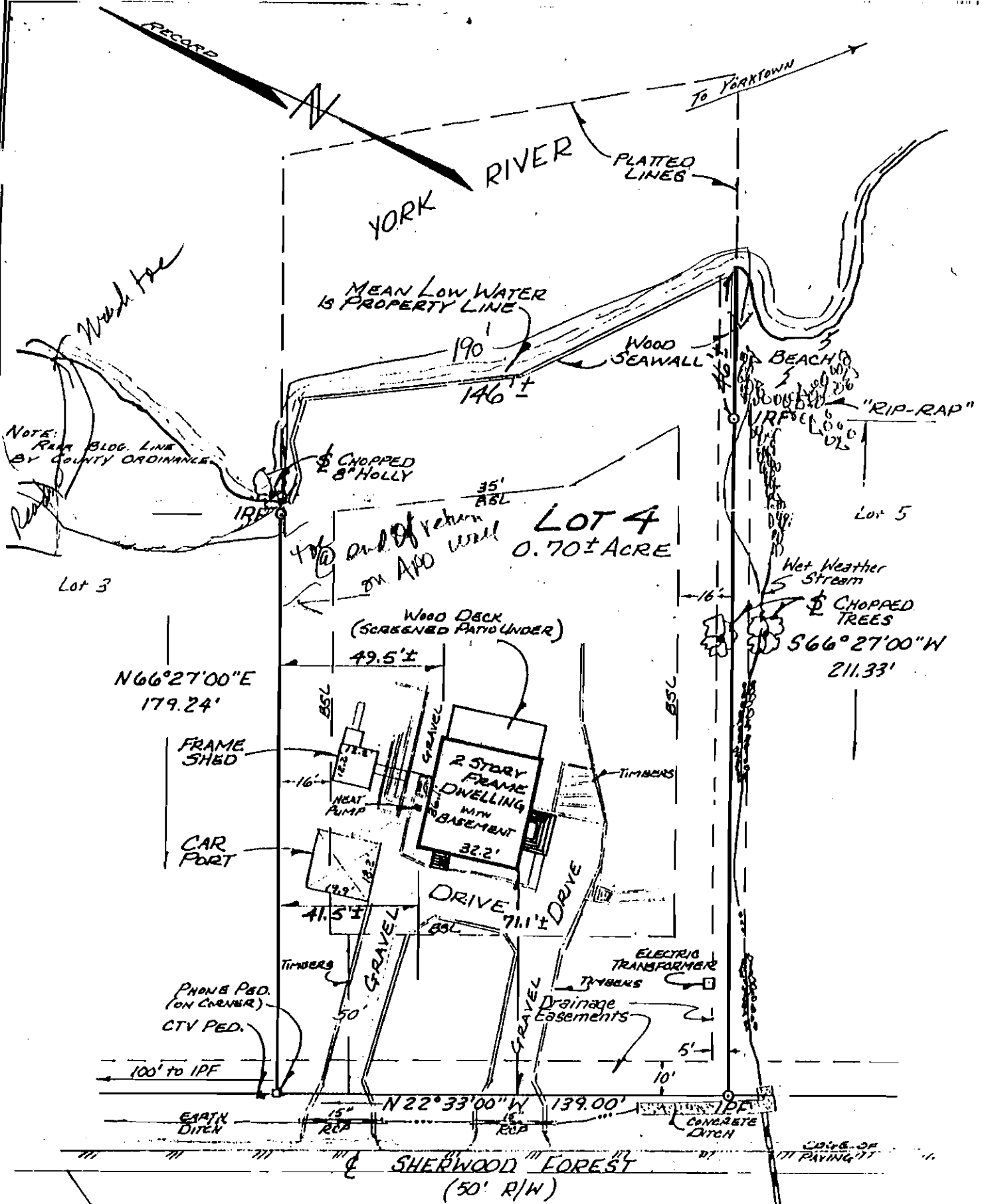
Mr. Hughes made a motion to adjourn.

The motion was approved by a 5-0 vote.

The meeting was adjourned at 8:45 PM.

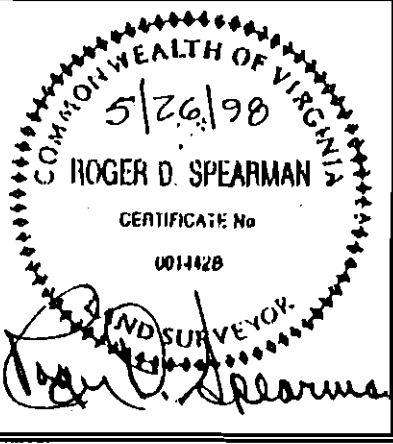

Henry Lindsey
Chairman


Darryl E. Cook
Secretary



FLOOD CERTIFICATION:
 IMPROVEMENTS SHOWN HEREON APPEAR TO BE IN FLOOD ZONE "X". (AREAS OUTSIDE OF THE 500 YEAR FLOOD PLAIN) AS SHOWN ON COMMUNITY PANEL # 510 201 0010B, WHICH WAS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. SAID PANEL HAS AN EFFECTIVE DATE OF FEBRUARY 6, 1991.

NOTE:
 UNLESS SHOWN, ALL UTILITIES ARE UNDERGROUND.
ADDRESS:
 # 201 SHERWOOD FOREST



REFERENCES :	
DB 92, P 632	
DB 107, P 123	
DB 89, P 485	
PB 20, P 37	
IPF - IRON PIPE FOUND	
IPB - IRON PIPE SET	
IRS - IRON ROD SET	
IRF - IRON ROD FOUND	
BSL - BLDG. SETBK. LINE	
DATE: MAY 26, 1998	
SCALE: 1" = 40'	
JO #8146--FB "F"	

PHYSICAL SURVEY
 OF PROPERTY TO BE CONVEYED TO
EDWARD S. LUCAS & LINDA A. LUCAS
 BEING
LOT 4, SECTION 3, BLOCK E,
RIVERVIEW PLANTATION
 JAMES CITY COUNTY VIRGINIA
SPEARMAN & ASSOCIATES, P.C.
 SURVEYORS AND PLANNERS
 5582-A MOORETOWN RD -- WILLIAMSBURG, VA.
 (757) 253-8720

