# Wetlands and Coastal Dune Board

## Public Hearing & Regular Meeting Agenda

## May 26, 2022

### Cape Charles Civic Center– 500 Tazewell Avenue

### 10:00 A.M.

1. Call to Order; Roll Call

2. Invocation and Pledge of Allegiance

3. Reorganization of Board and Election of Officers: Chairman and Vice Chairman

4. Consent Agenda
    a. Approval of Agenda Format
    b. Approval of Minutes:
        i. February 25, 2020
        ii. October 7, 2020
        iii. September 8, 2021

5. Public Hearings:
    a. 608 Carousel Place – Beach access walkway
    b. 107 Creekside Lane – Observation Deck and Kayak launch pier

6. Other Matters
    a. Annual Report for 2020 and 2021.
    b. Distribution of new Tidal Wetlands Guidelines from Virginia Marine Resources Commission (VMRC)

7. Adjourn

# Wetlands/Coastal Dune Board

## Public Hearing and Regular Meeting Agenda

### Cape Charles Civic Center – 500 Tazewell Avenue

### February 25, 2020

### 3:00 p.m.

At approximately 3:00 p.m., Chairwoman Ann Hayward Walker, having established a quorum, called to order the Public Hearing and Regular Meeting of the Wetlands/Coastal Dune Board (WCDB). In addition to Ann Hayward Walker, board members present were Russ Dunton, Bill Prickett, and Bob Roche. Joe Fehrer was not in attendance. Also, in attendance were, Deputy Clerk Tracy Outten, Hank Badger, Virginia Marine Resources Commission (VMRC), Dot Field, Virginia Department of Conservation and Recreation (VDCR), and the applicants. There were two members of the public in attendance.

Chairwoman Ann Hayward Walker welcomed the Board and all others in attendance which was followed by the Pledge of Allegiance.

**PUBLIC COMMENTS:**
There were no public comments nor written comments to be heard.

**CONSENT AGENDA**

**Motion made by Bob Roche, seconded by Bill Prickett, to approve the agenda as presented. The motion was approved by unanimous vote.**

The WCDB reviewed the minutes from the December 10, 2018 Work Session and Public Input Meeting.

**Motion made by Bill Prickett, seconded by Bob Roche, to approve the minutes from the June 6, 2018 Work Session as presented. The motion was approved by unanimous vote.**

The WCDB reviewed the 2019 Annual Report.

**Motion made by Bill Prickett, seconded by Bob Roche, to approve the Wetlands and Coastal Dune Board 2019 Annual Reports presented. The motion was approved by unanimous vote.**

**ORDER OF BUSINESS:**

A. *JPA 20-0143 – Bay Creek (tax map #90-2-1A) – revetment of an eroding dune contiguous to the beach.*
Ann Hayward Walker read the application and asked if there were any comments.

Dot Field, VDCR Division of Natural Heritage, had some concerns on disturbance of the northeastern beach tiger beetle because the state natural reserve to the north of the project was noted as the construction entrance. The trucks would be driving across the beach and that would create unstable habitat for the beetles. She suggested the applicants work with the Department of Fish and Wildlife Services to come up with a solution that would have the least impact on the tiger beetles and added that they were on the endangered species list. Jim Gunn, contractor, informed Dot Field and the board that the access in question was not going to be used. There was much discussion on the research that had been done on tiger beetles.

Hank Badger, VMRC, stated that part of the board's purview was to find out if the project would impact any dunes, which should be avoided, and they should look at the southern

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quarter of this dune. Neville Reynolds, engineer, said the spur started at the dune and that some overlap may occur. After some discussion on the need to protect the dune, Jim Gunn would change the revetments. Neville Reynolds added that the structure could be modified so the spur moved to the north pointing away from the dune.

**Motion made by Bill Prickett, seconded by Bob Roche, to approve the application for JPA 20-0143 Bay Creek (tax map #90-2-1A) for revetment of an eroding dune contiguous to the beach with the modification to the spur not to impact the dune. The motion was approved by unanimous vote.**

*B. Election of Officers.*

Ann Hayward Walker accepted the nomination for Chair.

**Motion made by Russ Dunton, seconded by Bill Prickett, to accept the nomination for Chair for the Wetlands/Coastal Dune Board. The motion was approved by unanimous vote.**

Russ Dunton accepted the nomination for Vice Chair.

**Motion made by Ann Hayward, seconded by Bill Prickett, to accept the nomination for Vice Chair for the Wetlands/Coastal Dune Board. The motion was approved by unanimous vote.**

**OTHER BUSINESS:**

- Bill Prickett has contacted the town expressing his concerns about the conditions and abuse of the public beach and the shallow water. He said the mayor was very responsive and a plan was being worked out to transport the sand from the spoil area to the beach including grating and scooping.
- Ann Hayward Walker said the beach was a gray area for the board, but it was non-vegetative wetlands. Hank Badger said town projects on town property were exempt from the board.
- Some discussion ensued on replenishing the beach.

**ANNOUNCEMENTS**

There were no announcements.

**Motion made by Russ Dutton, seconded by Bob Roche, to adjourn the February 25, 2020 Wetlands/Coastal Dune Board Public Hearing and Regular Meeting. The motion was approved by unanimous vote.**

Chairwoman Ann Hayward Walker

Deputy Clerk

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# Wetlands/Coastal Dune Board

## Public Hearing and Regular Meeting Agenda

### Cape Charles Civic Center – 500 Tazewell Avenue

### October 7, 2020

### 6:00 p.m.

At approximately 6:00 p.m., Chairwoman Ann Hayward Walker, having established a quorum, called to order the Public Hearing and Regular Meeting of the Wetlands/Coastal Dune Board (WCDB). In addition to Ann Hayward Walker, board members present were Russ Dunton. Bill Prickett and Bob Roche were in attendance via telephone. Joe Fehrer was not in attendance. Also, in attendance were, Town Planner Allyson Finchum, Planning Technician Tracy Outten, Allison Lay, Virginia Marine Resources Commission (VMRC), and the applicants. There was one member of the public in attendance.

Chairwoman Ann Hayward Walker welcomed the Board and all others in attendance which was followed by the Pledge of Allegiance.

**CONSENT AGENDA**

**Motion made by Bill Prickett, seconded by Russ Dunton, to approve the agenda as presented. The motion was approved by unanimous vote.**

Ann Hayward Walker read the public hearing notice.

**HEARINGS ON THE MATTERS OF:**

A. *JPA 20-1191 – Lot 31 the Colony Phase IV Bay Creek (tax map #83A1-11-31) – for riprap revetment and construction of access stairs*

- *Overview of application*
  Brian Magee, applicant representative, gave an overview of the application for the proposed revetment and the installation of access stairs.

  Ann Hayward Walker asked if a letter from the Virginia Institute of Marine Science (VIMS) had been reviewed. Brian Magee answered yes, the project had been modified and work would be done from the back end of the dune on a slope and at an angle.

- *Applicant's presentation*
  Brian Magee did not have any additional information to present.

- *Public comments*
  There were no public comments nor written comments to be heard.

- *Board discussion\deliberation*
  Discussion and questions were as follows: (i) Russ Dunton said there was erosion happening because the riprap stopped and agreed with VIMS that there was an existing dune system and vegetation. He added that the board approves crossing the dunes not damaging them. Brian Magee explained that the revetment was going behind the dune and it would be back filled. (ii) Russ Dutton asked if there were any plans for beach replenishment; yes, if necessary. (iii) Bob Roche had trouble picturing what this would look like. Brian Magee explained that the south side would look what was existing on other adjacent properties, and the north side would look like a dune. and (iv) Bill Prickett commented that the VIMS opinion noted that there were signs of erosion on the neighboring lot.

**Motion made by Russ Dunton, seconded by Bill Prickett, to approve the Wetlands and Coastal Dune Permit application on lot 31 on Sunset Boulevard in the Colony Phase IV Bay Creek (tax map #83A1-11-31) for riprap revetment and the construction of beach access stairs as presented. The motion was approved by unanimous vote.**

*B. JPA 20-1281 – 4 Bay Vista (tax map #83A1-18-BV3) – for riprap revetment and construction of access stairs.*

- *Overview of application*
  Brian Magee, applicant representative, gave an overview of the proposed riprap revetment and construction of the access stairs.

- *Applicant's presentation*
  Brian Magee did not have any additional information to present.

- *Public comments*
  There were no public comments nor written comments to be heard.

- *Board discussion\deliberation*

**Motion made by Russ Dunton, seconded by Bill Prickett, to approve the Wetlands and Coastal Dune Permit application at 4 Vistas Way (tax map #83A1-18-BV3) for riprap revetment and the construction of beach access stairs as presented. The motion was approved by unanimous vote.**

**OTHER BUSINESS:**
There was no other business.

**ANNOUNCEMENTS**
There were no announcements.

**Chairwoman Ann Hayward Walker adjourned the October 7, 2020 Wetlands/Coastal Dune Board Public Hearing and Regular Meeting at 6:33 p.m. The motion was approved by unanimous vote.**

_____
Chairwoman Ann Hayward Walker

_____
Planning Technician

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# Wetlands and Coastal Dune Board
## Public Hearing and Regular Meeting Agenda
### Cape Charles Civic Center – 500 Tazewell Avenue
### September 8, 2021
### 3:00 p.m.

At approximately 3:00 p.m., Chairwoman Ann Hayward Walker, having established a quorum, called to order the Public Hearing and Regular Meeting of the Wetlands/Coastal Dune Board (WCDB). In addition to Ann Hayward Walker, board members present were Russ Dunton. Joe Fehrer, and Bob Roche were in attendance. Bill Prickett was not in attendance. Also, in attendance were, Town Manager John Hozey, Interim Zoning Administrator/Town Planner Katie Nunez, Planning Technician Tracy Outten, and Ben Nettleton, Virginia Marine Resources Commission (VMRC). There was one member of the public in attendance.

Katie Nunez introduced Town Manager John Hozey to the board.

Chairwoman Ann Hayward Walker welcomed the Board and all others in attendance which was followed by the Pledge of Allegiance.

**CONSENT AGENDA**

Katie Nunez informed the board that the application scheduled for public hearing had been withdrawn.

**Motion made by Russ Dunton, seconded by Bob Roche, to approve the agenda as amended to reflect the withdrawal of the application numbered VMRC JPA 2021-1510 and Agenda Item 4.A. The motion was approved by unanimous vote.**

**HEARINGS ON THE MATTERS OF:**

A. *VMRC JPA 2021-1510 – Robert M. Smith, Property Owner on behalf of Bay Creek Resorts – end of Palmers Landing Cul-de-Sac (Tax Map #90-30-CA3) – for the proposed installation of a 30 feet by 40 feet gangplank and 4 modular 120 feet by 80 feet by 8 feet ramp/floating dock with a T-Section of 2 modular120 feet by 80 feet by 8 feet with attached kayak sluice way as a community kayak launch and return; pursuant to Cape Charles Zoning Ordinance Section 74.31 this portion of the project was under the jurisdiction of the Wetlands and Coastal Dune Board.*
   Katie Nunez explained that Robert Smith, the applicant, withdrew due to the struggle to find a contractor. (Please see the attached email.)

**OTHER BUSINESS:**

A. *111 Creekside Lane: Possible Violation of clearcutting in Wetlands and Resource Protection Area (RPA) of the Chesapeake Bay Preservation Act (CBPA).*
B. *103 Creekside Lane: Possible Violation of clearcutting in Wetlands and Resource Protection Area (RPA) of the Chesapeake Bay Preservation Act (CBPA).*
   Katie Nunez summarized the staff report.

   Discussion and questions were as follows: (i) Ann Hayward Walker thought this was outside the board's jurisdiction as it seemed to be higher than 1.5 times mean high tide line. Russ Dutton agreed but the clearcutting was in the Resource Protection Area and was a violation of the Chesapeake Bay Preservation Act CBPA). (ii) Katie Nunez said after the complaint was received, staff did a site visit and took pictures. (iii) Ann Hayward Walker asked if this could be unvegetated wetlands; yes. Joe Fehrer said only grass would be vegetated. (iv) Ann Hayward Walker said a permit should have been applied for and obtained. Russ Dutton added that the vacant lots were heavily wooded. (v) Joe Fehrer said the break in the tree line was not natural. He said 111 Creekside Lane was more concerning because it was cleared down to the marsh edge. Joe Fehrer thought the owners needed to be held accountable or this would happen again. Katie Nunez

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said procedures needed to be followed. and (vi) Joe Fehrer said that methods could be followed to clean up areas without being invasive.

Katie Nunez thanked the board for their assistance and input. She has been in contact with the owners and the Bay Creek management company.

Ben Nettleton from the Virginia Marine Resources Commission introduced himself.

**ANNOUNCEMENTS**

There were no announcements.

**Motion made by Joe Fehrer, seconded by Bob Roche, to adjourn the September 8, 2021 Wetlands and Coastal Dune Board Public Hearing and Regular Meeting at 3:30 p.m. The motion was approved by unanimous vote.**

_____

Chairwoman Ann Hayward Walker

_____

Planning Technician

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## Robert Smith Withdrawal Email

**From:** rowingsmit1@aol.com <rowingsmit1@aol.com>
**Sent:** Saturday, August 21, 2021 6:56 AM
**To:** Tracy Outten <tracy.outten@capecharles.org>
**Subject:** Re: Town of Cape Charles Wetlands & Coastal Dune Board Application

Tracy: Until the selection of a contractor has been finalized, we are not yet prepared to proceed with the above project. I have notified concerned parties of the delay.
All the best, Robert Smith

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**CAPE CHARLES**
**WETLANDS AND COASTAL DUNE BOARD**
**NOTICE OF PUBLIC HEARINGS**

The Cape Charles Town Wetlands and Coastal Dune Board will hold public hearings on Thursday, May 26, 2022 at 10:00 a.m. in the Cape Charles Civic Center at 500 Tazewell Avenue, on the following:

A) **Wetlands Application from Kathy M. Hughes to construct a beach access walkway at 608 Carousel Place – VMRC #2022-0642**
The portion of the project that is within the Wetlands and Coastal Dune Board's jurisdiction, pursuant to Cape Charles Zoning Ordinance Appendix C, Section 3.1, is the proposed construction of a 4' x 180' beach access walkway over and across the dune adjacent to lot 132 in Bayside Village, Bay Creek.

B) **Wetlands Application from Brent W. Geissinger to construct a pier with a floating kayak launch on lot 29 in Plantation Pointe, Bay Creek – VMRC #2022-0717**
The portion of the project that is within the Wetlands and Coastal Dune Board's jurisdiction, pursuant to Cape Charles Zoning Ordinance Section 7.7 (A), is the proposed construction of a 10' x 20' observation deck that will be connected to a 50' x 5' pier. A floating kayak launch platform via EZ dock 8' x 5' aluminum gangway will also be connected to the pier located at Tax Map # 90-9-29 in Plantation Pointe, Bay Creek.

The application is available for public review on www.capecharles.org, under Agendas and Minutes/Wetlands/Coastal Dune Board. Please contact the Zoning Administrator, at 757-331-2036, or by email at planner@capecharles.org if you have any questions or require additional information. Anyone interested in attending and needing special assistance please contact the Town at least forty-eight hours before the hearing.

***AD PLACED: Eastern Shore Post – Monday, May 2, 2022***
***AD TO RUN: Friday, May 6, 2022 & May 13, 2022***

# WETLANDS & COASTAL DUNE BOARD STAFF REPORT

Meeting Date: May 26, 2022
Item #: 5A – 608 Carousel Place
Beach Access Walkway

**Prepared By:** Katie Nunez, Interim Planner/Zoning Administrator
**Site Address:** 608 Carousel Place (Tax Map #90-16-132)
**Applicant:** Kathy M. Hughes
**Owner:** Kathy M. Hughes
**JPA Number** 2022-0642
**Proposed Project:** Beach access walkway

## BACKGROUND

The Cape Charles Wetlands and Dune Board meets on an as-needed basis to review permit applications. This application is filed by a property owner in Bay Creek, specifically in the Bayside Village subdivision, for a 4' x 180x beach access walkway. The applicant has filed a JPA thru VMRC and VMRC have already indicated that no permit will be required from them or the State.

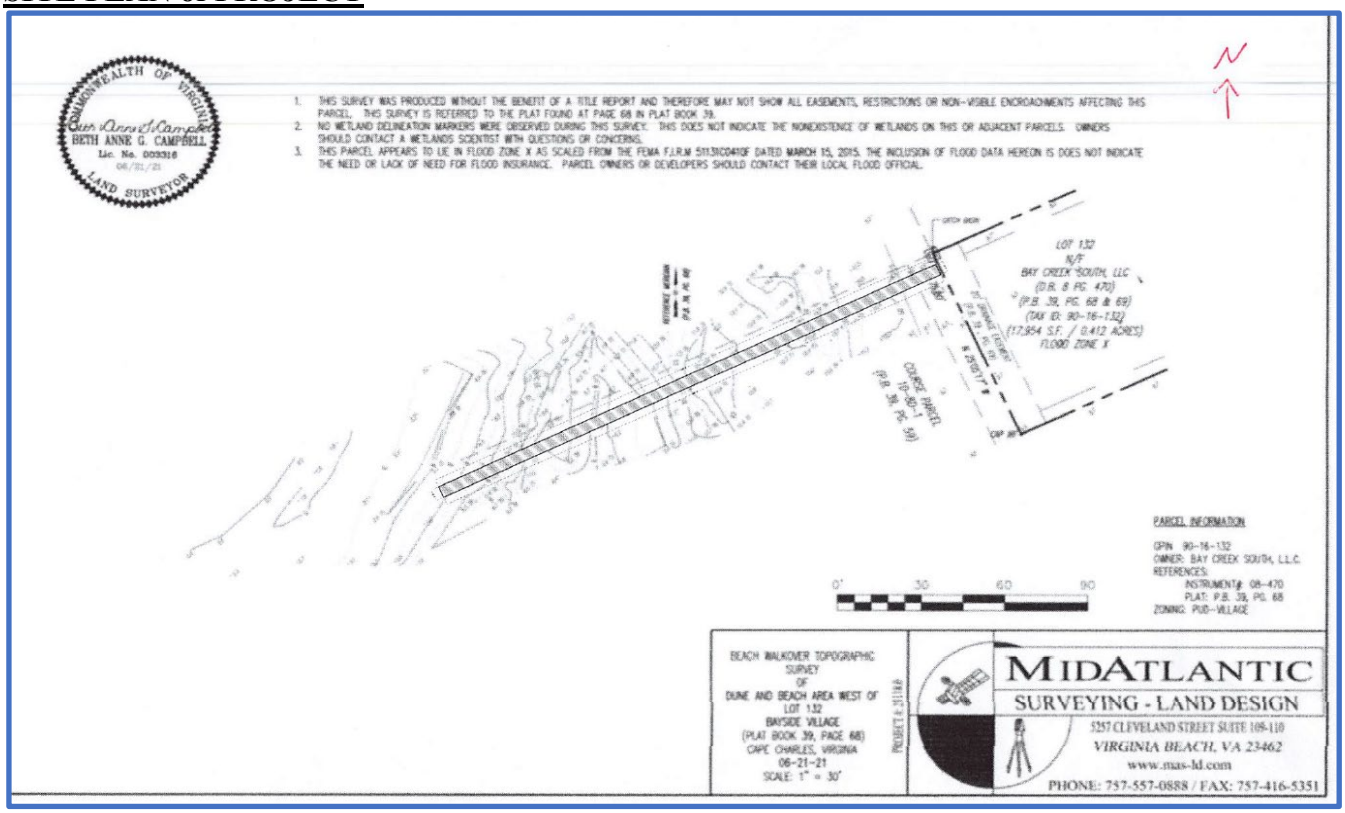
## AERIAL MAP



**Item Specifics:**
A Joint Permit Application for a 4' x 180' beach access walkway over and across the dunes has been received. The project will include construction of a Timber Tech beach access walkway through deeded easement over and across dune, adjacent to lot 132 in Bayside Village. The walkway will be constructed with 8" x 12' 2.5 CCA Timber pile (45) with galvanized hardware driven @ 8' into existing grade utilizing water jet. Project will include 40' handrail sections between depressed area of dune. Surface will be constructed with 1.5" x 7.25" Timber Tech Decking and framed with 2' x 8' stringers to be on 12" centers. All framing thru bolted with 5/8" galvanized.

The applicant notified the adjacent property owners and have received returns from Brent Geissinger and Victor Kelly indicating no objections to this project.

**SITE PLAN of PROJECT**




**ZONING REQUIREMENTS**
Town of Cape Charles Appendix C (Coastal Primary Sand Dune Zoning Ordinance) Section 3 stated that the following uses are authorized, if otherwise permitted by law:

1. *the construction and maintenance of noncommercial walkways which do not alter the contour of the coastal primary sand dune;*
2. *the construction and maintenance of observation platforms which are not an integral part of any dwelling and which do not alter the contour of the coastal primary sand dune;*
3. *the planting of beach grasses or other vegetation for the purpose of stabilizing coastal primary sand dunes;*

4. *the placement of sand fences or other material on or adjacent to coastal primary sand dunes for the purpose of stabilizing such features, except that this provision shall not be interpreted to authorize the placement of any material which represents a public health or safety hazard;*
5. *sand replenishment activities of any private or public concern, provided no sand shall be removed from any coastal primary sand dune unless authorized by lawful permit;*
6. *the normal maintenance of any groin, jetty, riprap, bulkhead, or other structure designed to control beach erosion which may abut a coastal primary sand dune;*
7. *the normal maintenance or repair of existing roads, highways, railroad beds, and facilities of the United States, this Commonwealth or any of its counties, cities, or towns, or of any person provided no coastal primary sand dunes are altered;*
8. *outdoor recreational activities provided the activities do not alter the natural contour of the coastal primary sand dune or destroy the vegetation growing thereon;*
9. *the conservation and research activities of the Commission, Virginia Institute of Marine Science, Department of Game and Inland Fisheries, and other conservation-related agencies;*
10. *the construction and maintenance of aids to navigation which are authorized by governmental authority;*
11. *activities pursuant to any emergency declaration by the governing body of any local government or the Governor of the Commonwealth or any public health officer for the purposes of protecting the public health and safety; and*
12. *governmental activity in coastal primary sand dunes owned or leased by the Commonwealth or a political subdivision thereof.*

I have also attached the Covenants for the Bayside Village Subdivsion as it relates to the Beach Access and Common Lots for that purpose and have highlighted the sections of that document that relate to dune walkways.

**Recommendation:**
Review the application materials and public comment. After discussion, determine whether issuance of a permit would be appropriate. It should be noted that approval by this Board is valid only for the local Wetlands Board, and authorization from all other jurisdictions and agencies is required prior to any work being done.

**Attachments:**
Attachment 1 – Application and Documents
Attachment 2 – Bayside Village Covenants

# WETLANDS BOARD APPLICATION

Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
757-331-2036 Fax: 757-331-4820
planningtech@capecharles.org

## PROJECT INFORMATION

Name of Project: Hughes, Kathy / Beach Access Walkway

Property Address: 608 Carousel Place Cape Charles, VA

Brief Description of Project: Walkway over the dunes to beach

Zoning District: ? Bayview Planned Community Current Use: none Proposed Use: Beach access private

## OWNER INFORMATION

Name and Company: Samuel and Kathy Hughes

Mailing Address: 3745 Bobbin Mill Rd, Tallahassee, FL 32312

Phone Number: 818.312.2024 Email: klovepig@gmail.com

## APPLICANT INFORMATION

☒ Check here if applicant is owner (If applicant is not owner an Owner Affidavit will need to be completed.)

Name: Kathy Hughes

Mailing Address: 3745 Bobbin Mill Rd, Tallahassee, FL 32312 ~~3278~~

Phone Number: 818.312.2024 Email: klovepig@gmail.com

**********

### CERTIFICATION OF APPLICANT

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed. Furthermore, I certify that the changes to the improvement before or during construction will be provided to the Zoning Administrator and Building Official before such changes are constructed.

Signature of Applicant: Kathy M Hughes Date: 5-3-2022

**From:** Kathy Hughes
**To:** JPA.permits@mrc.virginia.gov
**Cc:** permittech@capecharles.org; Bryan Fisher
**Subject:** Kathy Hughes Beach Access Permit Application
**Date:** Monday, March 21, 2022 11:25:05 AM
**Attachments:** VMRC KHughes Beach Access Application.pdf

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The Town of Cape Charles advised me that I needed to submit this joint permit application to you for a project for a beach access walkway in Bay Creek.

Please contact me if you have any questions regarding the paperwork or this project.

Thank you!
Kathy Hughes
M: 818-312-2024

Received by VMRC March 21, 2022 /blh

- ❖ DEQ: Permit application fees required for Virginia Water Protection permits – while detailed in 9VAC25-20 – are conveyed to the applicant by the applicable DEQ office (http://www.deq.virginia.gov/Locations.aspx). Complete the Permit Application Fee Form and submit it per the instructions to the address listed on the form. Instructions for submitting any other fees will be provided to the applicant by DEQ staff.
- ❖ VMRC: An application fee of $300 may be required for projects impacting tidal wetlands, beaches and/or dunes when VMRC acts as the LWB. VMRC will notify the applicant in writing if the fee is required. Permit fees involving subaqueous lands are $25.00 for projects costing $10,000 or less and $100 for projects costing more than $10,000. Royalties may also be required for some projects. The proper permit fee and any required royalty is paid at the time of permit issuance by VMRC. VMRC staff will send the permittee a letter notifying him/her of the proper permit fees and submittal requirements.
- ❖ LWB: Permit fees vary by locality. Contact the LWB for your project area or their website for fee information and submittal requirements. Contact information for LWBs may be found at http://ccrm.vims.edu/permits_web/guidance/local_wetlands_boards.html.

| FOR AGENCY USE ONLY | |
|---|---|
| | Notes: |
| | JPA # 22-0642 |

# APPLICANTS
## Part 1 – General Information

**PLEASE PRINT OR TYPE ALL ANSWERS:** If a question does not apply to your project, please print N/A (not applicable) in the space provided. If additional space is needed, attach 8-1/2 x 11 inch sheets of paper.

| ***Check all that apply*** | | |
|---|---|---|
| Pre-Construction Notification (PCN) ☐<br>NWP # _____<br>(*For Nationwide Permits ONLY - No DEQ-VWP permit writer will be assigned*) | Regional Permit 17 (RP-17) ☐ | |

**County or City in which the project is located:** _____

**Waterway at project site:** _____

***PREVIOUS ACTIONS RELATED TO THE PROPOSED WORK (Include all federal, state, and local pre application coordination, site visits, previous permits, or applications whether issued, withdrawn, or denied)***

Historical information for past permit submittals can be found online with VMRC - https://webapps.mrc.virginia.gov/public/habitat/ - or VIMS - http://ccrm.vims.edu/perms/newpermits.html

| Agency | Action / Activity | Permit/Project number, including any non-reporting Nationwide permits previously used (e.g., NWP 13) | Date of Action | If denied, give reason for denial |
|---|---|---|---|---|
| | | | | |
| | | | | |

K Hughes (KH)
Beach Access Walkway
Cape Charles, VA
Bay Creek



Received by VMRC March 21, 2022 /blh

# Part 1 - General Information (continued)

1. Applicant's legal name* and complete mailing address: Contact Information:
   Kathy M Hughes
   3745 Bobbin Mill Rd
   Tallahassee, FL 32312-1201
   Home (___)_____
   Work (___)_____
   Fax (___)_____
   Cell (818 )312-2024
   e-mail klovepig@gmail.com
   State Corporation Commission Name and ID Number (if applicable) _____

2. Property owner(s) legal name* and complete address, if different from applicant: Contact Information:
   Kathy and Samuel Hughes
   3745 Bobbin Mill Rd
   Tallahassee, FL 32312
   Home (___)_____
   Work (___)_____
   Fax (___)_____
   Cell (818 )312-2024
   e-mail klovepig@gmail.com
   State Corporation Commission Name and ID Number (if applicable) _____

3. Authorized agent name* and complete mailing address (if applicable): Contact Information:
   Home (___)_____
   Work (___)_____
   Fax (___)_____
   Cell (___)_____
   e-mail _____
   State Corporation Commission Name and ID Number (if applicable) _____

*** If multiple applicants, property owners, and/or agents, each must be listed and each must sign the applicant signature page.**

4. Provide a detailed description of the project in the space below, including the type of project, its dimensions, materials, and method of construction. Be sure to include how the construction site will be accessed and whether tree clearing and/or grading will be required, including the total acreage. If the project requires pilings, please be sure to include the total number, type (e.g. wood, steel, etc), diameter, and method of installation (e.g. hammer, vibratory, jetted, etc). If additional space is needed, provide a separate sheet of paper with the project description.

   The project will include construction of a Timber Tech beach access walkway through deeded easement over and across dune adjacent to lot 132 in Bayside Village, Bay Creek, Cape Charles, VA. Walkway will measure 4' x 180' and will be constructed with 8" x 12' 2.5 CCA Timber pile (45) with galvanized hardware driven @ 8' into existing grade utilizing water jet. Project will include 40' handrail section between depressed area of dune. Surface will be constructed with 1.5" x 7.25" TimberTech Decking. Framed with 2 x 8 stringers to be on 12" centers. All framing thru bolted with 5/8" galvanized .



Received by VMRC March 21, 2022 /blh

# Part 1 - General Information (continued)

1. Applicant's legal name* and complete mailing address: Contact Information:
   Kathy M Hughes
   3745 Bobbin Mill Rd
   Tallahassee, FL 32312-1201
   Home (___)_____
   Work (___)_____
   Fax (___)_____
   Cell (818 )312-2024
   e-mail klovepig@gmail.com
   State Corporation Commission Name and ID Number (if applicable) _____

2. Property owner(s) legal name* and complete address, if different from applicant: Contact Information:
   Kathy and Samuel Hughes
   3745 Bobbin Mill Rd
   Tallahassee, FL 32312
   Home (___)_____
   Work (___)_____
   Fax (___)_____
   Cell (818 )312-2024
   e-mail klovepig@gmail.com
   State Corporation Commission Name and ID Number (if applicable) _____

3. Authorized agent name* and complete mailing address (if applicable):
   Contact Information:
   Home (___)_____
   Work (___)_____
   Fax (___)_____
   Cell (___)_____
   e-mail _____
   State Corporation Commission Name and ID Number (if applicable) _____

*** If multiple applicants, property owners, and/or agents, each must be listed and each must sign the applicant signature page.**

4. Provide a detailed description of the project in the space below, including the type of project, its dimensions, materials, and method of construction. Be sure to include how the construction site will be accessed and whether tree clearing and/or grading will be required, including the total acreage. If the project requires pilings, please be sure to include the total number, type (e.g. wood, steel, etc), diameter, and method of installation (e.g. hammer, vibratory, jetted, etc). If additional space is needed, provide a separate sheet of paper with the project description.

   The project will include construction of a Timber Tech beach access walkway through deeded easement over and across dune adjacent to lot 132 in Bayside Village, Bay Creek, Cape Charles, VA. Walkway will measure 4' x 180' and will be constructed with 8" x 12' 2.5 CCA Timber pile (45) with galvanized hardware driven @ 8' into existing grade utilizing water jet. Project will include 40' handrail section between depressed area of dune. Surface will be constructed with 1.5" x 7.25" TimberTech Decking. Framed with 2 x 8 stringers to be on 12" centers. All framing thru bolted with 5/8" galvanized .



KH

Received by VMRC March 21, 2022 /blh

# Part 1 - General Information (continued)

5. Have you obtained a contractor for the project? X Yes* ___ No. *If your answer is "Yes" complete the remainder of this question and submit the Applicant's and Contractor's Acknowledgment Form (enclosed)

Contractor's name* and complete mailing address:
Kestral Marine Construction, LLC
12165 Mapp Ave
Exmore, VA 23350

Contact Information:
Home (___)_____
Work (757 )710-4806
Fax (___)_____
Cell (___)_____
email _____

State Corporation Commission Name and ID Number (if applicable) _____

*** If multiple contractors, each must be listed and each must sign the applicant signature page.**

6. List the name, address and telephone number of the newspaper having general circulation in the area of the project. Failure to complete this question may delay local and State processing.

Name and complete mailing address:
Virginia Pilot
150 W Brambleton Ave
Norfolk, VA 23510

Telephone number
(757 ) 622-1455

7. Give the following project location information:
Street Address (911 address if available) 608 Carousel Place
Lot/Block/Parcel# Lot 132
Subdivision Bayside Village / Bay Creek
City / County Cape Charles, Northampton County ZIP Code 23310
Latitude and Longitude at Center Point of Project Site (Decimal Degrees):
37.14775 / -76.1212 (Example: 36.41600/-76.30733)

If the project is located in a rural area, please provide driving directions giving distances from the best and nearest visible landmarks or major intersections. *Note: if the project is in an undeveloped subdivision or property, clearly stake and identify property lines and location of the proposed project. A supplemental map showing how the property is to be subdivided should also be provided.*

8. What are the *primary and secondary purposes of and the need for* the project? For example, the primary purpose may be "to protect property from erosion due to boat wakes" and the secondary purpose may be "to provide safer access to a pier."

1. To provide safe access to beach while allowing dune and natural flora and fauna to remain undisturbed.
2. To provide safe path to transport SUP boards and kayaks to Chesapeake Bay.



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# Part 1 - General Information (continued)

9. Proposed use (check one):
   X Single user (private, non-commercial, residential)
   ___ Multi-user (community, commercial, industrial, government)

10. Describe alternatives considered and the measures that will be taken to avoid and minimize impacts, to the maximum extent practicable, to wetlands, surface waters, submerged lands, and buffer areas associated with any disturbance (clearing, grading, excavating) during and after project construction. *Please be advised that unavoidable losses of tidal wetlands and/or aquatic resources may require compensatory mitigation.*

    There are no wetlands impacts associated with this project. No clearing, grading, or excavating required. Work area will be accessed via side/back yard of Lot 132 / aka 608 Carousel Place, Cape Charles, VA. 23310

11. Is this application being submitted for after-the-fact authorization for work which has already begun or been completed? ___Yes X No. If yes, be sure to clearly depict the portions of the project which are already complete in the project drawings.

12. Approximate cost of the entire project (materials, labor, etc.): $ ~~$64,000.00~~ #64,726.22
    Approximate cost of that portion of the project that is channelward of mean low water:
    $ 0.00

13. Completion date of the proposed work: April/May - 2022

14. Adjacent Property Owner Information: List the name and complete **mailing address**, including zip code, of each adjacent property owner to the project. (NOTE: If you own the adjacent lot, provide the requested information for the first adjacent parcel beyond your property line.) Failure to provide this information may result in a delay in the processing of your application by VMRC.

    Brent Geissinger
    606 Carousel Place
    Cape Charles, VA 23310

    Victor Kelly
    610 Carousel Place
    Cape Charles, VA 23310

    mailing address
    875 Shenton Rd
    West Chester, PA 19380



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# Part 1 - General Information (continued)

9. Proposed use (check one):
   X Single user (private, non-commercial, residential)
   ___ Multi-user (community, commercial, industrial, government)

10. Describe alternatives considered and the measures that will be taken to avoid and minimize impacts, to the maximum extent practicable, to wetlands, surface waters, submerged lands, and buffer areas associated with any disturbance (clearing, grading, excavating) during and after project construction. *Please be advised that unavoidable losses of tidal wetlands and/or aquatic resources may require compensatory mitigation.*

    There are no wetland impacts associated with this project. No clearing, grading, or excavating required. Work area will be accessed via side/back yard Lot 132 / aka 608 Carousel Pl, Cape Charles, VA 23310.

11. Is this application being submitted for after-the-fact authorization for work which has already begun or been completed? ___Yes X No. If yes, be sure to clearly depict the portions of the project which are already complete in the project drawings.

12. Approximate cost of the entire project (materials, labor, etc.): $ 64,706.22
    Approximate cost of that portion of the project that is channelward of mean low water:
    $ 0.00

13. Completion date of the proposed work: May - 2022

14. Adjacent Property Owner Information: List the name and complete **mailing address**, including zip code, of each adjacent property owner to the project. (NOTE: If you own the adjacent lot, provide the requested information for the first adjacent parcel beyond your property line.) Failure to provide this information may result in a delay in the processing of your application by VMRC.

    North Neighbor:
    Brent and Kim Geissinger
    606 Carousel Pl
    Cape Charles, VA 23310

    South Neighbor (610 Carousel Pl Cape Charles, VA):
    Victor and Chris Kelly
    875 Shenton Rd
    West Chester, PA 19380



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# Part 2 - Signatures

**1. Applicants and property owners (if different from applicant).**
**NOTE: REQUIRED FOR ALL PROJECTS**

**PRIVACY ACT STATEMENT: The Department of the Army permit program is authorized by Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and Section 103 of the Marine Protection Research and Sanctuaries Act of 1972. These laws require that individuals obtain permits that authorize structures and work in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters prior to undertaking the activity. Information provided in the Joint Permit Application will be used in the permit review process and is a matter of public record once the application is filed. Disclosure of the requested information is voluntary, but it may not be possible to evaluate the permit application or to issue a permit if the information requested is not provided.**

**CERTIFICATION: I am hereby applying for all permits typically issued by the DEQ, VMRC, USACE, and/or Local Wetlands Boards for the activities I have described herein. I agree to allow the duly authorized representatives of any regulatory or advisory agency to enter upon the premises of the project site at reasonable times to inspect and photograph site conditions, both in reviewing a proposal to issue a permit and after permit issuance to determine compliance with the permit.**
**In addition, I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.**

Kathy M Hughes

Applicant's Legal Name (printed/typed)

(Use if more than one applicant)

Kathy M Hughes

Applicant's Signature

(Use if more than one applicant)

3-18-2022

Date

Kathy M Hughes

Property Owner's Legal Name (printed/typed)
(If different from Applicant)

Samuel B Hughes

(Use if more than one owner)

Kathy M Hughes

Property Owner's Signature

Samuel B Hughes

(Use if more than one owner)

3-18-2022

Date



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## Part 2 – Signatures (continued)

*2. Applicants having agents (if applicable)*

**CERTIFICATION OF AUTHORIZATION**

I (we), _____, hereby certify that I (we) have authorized _____
(Applicant's legal name(s)) (Agent's name(s))
to act on my behalf and take all actions necessary to the processing, issuance and acceptance of this permit and any and all standard and special conditions attached.

We hereby certify that the information submitted in this application is true and accurate to the best of our knowledge.

_____ _____
(Agent's Signature) (Use if more than one agent)

_____
(Date)

_____ _____
(Applicant's Signature) (Use if more than one applicant)

_____
(Date)

*3. Applicant's having contractors (if applicable)*

**CONTRACTOR ACKNOWLEDGEMENT**

I (we), Kathy M Hughes, have contracted Kestral Marine Construction, LLC
(Applicant's legal name(s)) (Contractor's name(s))
to perform the work described in this Joint Permit Application, signed and dated 8/13/2021.

We will read and abide by all conditions set forth in all Federal, State and Local permits as required for this project. We understand that failure to follow the conditions of the permits may constitute a violation of applicable Federal, state and local statutes and that we will be liable for any civil and/or criminal penalties imposed by these statutes. In addition, we agree to make available a copy of any permit to any regulatory representative visiting the project to ensure permit compliance. If we fail to provide the applicable permit upon request, we understand that the representative will have the option of stopping our operation until it has been determined that we have a properly signed and executed permit and are in full compliance with all terms and conditions.

Bryan Fisher, Kestral Marine Construction, LLC

Kestral Marine Const. LLC
Contractor's name or name of firm

12165 Mapp Ave, Exmore, VA 23350
Contractor's or firms address

X Bryan Fisher managing member
Contractor's signature and title

2705073168
Contractor's License Number

Kathy M. Hughes
Applicant's signature

(use if more than one applicant)

3-21-2022
Date



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## Part 2 – Signatures (continued)

### ADJACENT PROPERTY OWNER'S ACKNOWLEDGEMENT FORM

I (we), Brent Geissinger, own land next to (across the water
(Print adjacent/nearby property owner's name)

from/on the same cove as) the land of Kathy M Hughes.
(Print applicant's name(s))

I have reviewed the applicant's project drawings dated 02/08/2022
(Date)

to be submitted for all necessary federal, state and local permits.

I HAVE NO COMMENT X ABOUT THE PROJECT.

I DO NOT OBJECT _____ TO THE PROJECT.

I OBJECT _____ TO THE PROJECT.

**The applicant has agreed to contact me for additional comments if the proposal changes prior to construction of the project.**

(Before signing this form be sure you have checked the appropriate option above).

[signature]
Adjacent/nearby property owner's signature(s)

3/18/22
Date

**Note: If you object to the proposal, the reason(s) you oppose the project must be submitted in writing to VMRC. An objection will not necessarily result in denial of the project; however, valid complaints will be given full consideration during the permit review process.**



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## Part 2 – Signatures (continued)

### ADJACENT PROPERTY OWNER'S ACKNOWLEDGEMENT FORM

I (we), Victor Kelly, own land next to (across the water from/on the same cove as) the land of Kathy M Hughes.

(Print adjacent/nearby property owner's name)

(Print applicant's name(s))

I have reviewed the applicant's project drawings dated 02/08/2022

(Date)

to be submitted for all necessary federal, state and local permits.

I HAVE NO COMMENT _____ ABOUT THE PROJECT.

I DO NOT OBJECT X TO THE PROJECT.

I OBJECT _____ TO THE PROJECT.

**The applicant has agreed to contact me for additional comments if the proposal changes prior to construction of the project.**

(Before signing this form, be sure you have checked the appropriate option above).

Victor Kelly

Adjacent/nearby property owner's signature(s)

3/18/22

Date

**Note: If you object to the proposal, the reason(s) you oppose the project must be submitted in writing to VMRC. An objection will not necessarily result in denial of the project; however, valid complaints will be given full consideration during the permit review process.**



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APPENDIX B

U.S. Army Corps
Of Engineers
Norfolk District

**REGIONAL PERMIT 17 CHECKLIST**
Expires: September 5, 2023

**Please review the 18-RP-17 enclosure before completing this form and note 18-RP-17 can only be used for proposed PRIVATE USE structure(s) that comply with the terms and conditions of 18-RP-17. Copies can be obtained online at http://www.nao.usace.army.mil/Missions/Regulatory/RBregional/.**

YES☒ NO☐ **(1)** Has the permittee reviewed the 18-RP-17 enclosure and verified that the proposed structure(s) is in compliance with all the terms, conditions, and limitations of 18-RP-17?

YES☒ NO☐ **(2)** Does the proposed structure(s) extend no more than one-fourth of the distance across the waterway measured from either mean high water (MHW) to MHW (including all channelward wetlands) or ordinary high water (OHW) to OHW (including all channelward wetlands)?

YES☒ NO☐ **(3)** Does the proposed structure(s) extend no more than 300 feet from MHW or OHW (including all channelward wetlands)?

YES☒ NO☐ N/A☐ **(4)** Does the proposed structure(s) attach to the upland at a point landward of MHW or OHW (including all channelward wetlands)?

YES☒ NO☐ N/A☐ **(5)** If the proposed structure(s) crosses wetland vegetation, is it an open-pile design that has a maximum width of five (5) feet and a minimum height of four (4) feet between the decking and the wetland substrate?

YES☐ NO☐ N/A☒ **(6)** Does the proposed structure(s) include no more than two (2) boatlifts and no more than two (2) boat slips?

YES☐ NO☐ N/A☒ **(7)** Is the open-sided roof structure designed to shelter a boat ≤ 700 square feet and/or is the open sided roof structure or gazebo structure designed to shelter a pier ≤ 400 square feet?

YES☒ NO☐ N/A☐ **(8)** Are all piles associated with the proposed structure(s) non-steel, less than or equal to 12" in diameter, and will less than or equal to 25 piles be installed channelward of MHW?

YES☐ NO☐ N/A☒ **(9)** Is all work occurring behind cofferdams, turbidity curtains, or other methods to control turbidity being utilized when operationally feasible and federally listed threatened or endangered species may be present?

YES☐ NO☐ N/A☒ **(10)** If the proposed structure(s) is to be located within an anadromous fish use area, the prospective permittee will adhere to the anadromous fish use area time of year restriction (TOYR) prohibiting in-water work from occurring between February 15 through June 30 of any given year if (1) piles are to be installed with a cushioned impact hammer and there is less than 492 feet between the most channelward pile and mean low water (MLW) on the opposite shoreline or (2) piles are to be installed with a vibratory hammer and there is less than 384 feet between the most channelward pile and MLW on the opposite shoreline.

YES☒ NO☐ **(11)** Is all work occurring outside of submerged aquatic vegetation (SAV) mapped by the Virginia Institute of Marine Sciences' (VIMS) most recent survey year and 5 year composite?

YES☒ NO☐ **(12)** Has the permittee ensured the construction and/or installation of the proposed structure(s) will not affect federally listed threatened or endangered species or designated critical habitat?

YES☒ NO☐ **(13)** Will the proposed structure be located outside of Broad Creek in Middlesex County, Fisherman's Cove in Norfolk, or the Salt Ponds in Hampton?

YES☒ NO☐ **(14)** Will the proposed structure(s) be located outside of the waterways containing a Federal Navigation Project listed in Permit Specific Condition 12 of 18-RP-17 and/or will all portions of the proposed structure(s) be located more than 85 feet from the Federal Navigation Project?



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YES☒ NO☐ **(15)** Will the proposed structure(s) be located outside a USACE Navigation and Flood Risk Management project area?

YES☒ NO☐ **(16)** Will the proposed structure(s) be located outside of any Designated Trout Waters?

YES☐ NO☐ N/A☒ **(17)** If the proposed structure(s) includes flotation units, will the units be made of materials that will not become waterlogged or sink if punctured?

YES☐ NO☐ N/A☒ **(18)** If the proposed structure(s) includes flotation units, will the floating sections be braced so they will not rest on the bottom during periods of low water?

YES☒ NO☐ **(19)** Is the proposed structure(s) made of suitable materials and practical design so as to reasonably ensure a safe and sound structure?

YES☒ NO☐ **(20)** Will the proposed structure(s) be located on the property in accordance with the local zoning requirements?

YES☐ NO☐ N/A☒ **(21)** If the proposed structure(s) includes a device used for shellfish gardening, will the device be attached directly to a pier and limited to a total of 160 square feet?

YES☐ NO☐ N/A☒ **(22)** If the proposed structure(s) includes a device used for shellfish gardening, does the permittee recognize this RP does not negate their responsibility to obtain an oyster gardening permit (General Permit #3) from Virginia Marina Resources Commission's Habitat Management Division?

YES☒ NO☐ **(23)** Does the permittee recognize this RP does not authorize any dredging or filling of waters of the United States (including wetlands) and does not imply that future dredging proposals will be approved by the Corps?

YES☒ NO☐ **(24)** Does the permittee understand that by accepting 18-RP-17, the permittee accepts all of the terms and conditions of the permit, including the limits of Federal liability contained in the 18-RP-17 enclosure? Does the permittee acknowledge that the structures permitted under 18-RP-17 may be exposed to waves caused by passing vessels and that the permittee is solely responsible for the integrity of the structures permitted under 18-RP-17 and the exposure of such structures and vessels moored to such structures to damage from waves? Does the permittee accept that the United States is not liable in any way for such damage and that it shall not seek to involve the United States in any actions or claims regarding such damage?

**IF YOU HAVE ANSWERED "NO" TO ANY OF THE QUESTIONS ABOVE, REGIONAL PERMIT 17 (18-RP-17) DOES NOT APPLY AND YOU ARE REQUIRED TO OBTAIN WRITTEN AUTHORIZATION FROM THE CORPS PRIOR TO PERFORMING THE WORK.**

**IF YOU HAVE ANSWERED "YES" (OR "N/A", WHERE APPLICABLE) TO ALL OF THE QUESTIONS ABOVE, YOU ARE IN COMPLIANCE WITH REGIONAL PERMIT 17 (18-RP-17). PLEASE SIGN BELOW, ATTACH, AND SUBMIT THIS CHECKLIST WITH YOUR COMPLETED JOINT PERMIT APPLICATION (JPA). THIS SIGNED CERTIFICATE SERVES AS YOUR LETTER OF AUTHORIZATION FROM THE CORPS. YOU WILL NOT RECEIVE ANY OTHER WRITTEN AUTHORIZATION FROM THE CORPS; HOWEVER, YOU MAY NOT PROCEED WITH CONSTRUCTION UNTIL YOU HAVE OBTAINED ALL OTHER NECESSARY STATE AND LOCAL PERMITS.**

**I CERTIFY THAT I HAVE READ AND UNDERSTAND ALL CONDITIONS OF THE REGIONAL PERMIT 17 (18-RP-17), DATED SEPTEMBER 2018, ISSUED BY THE US ARMY CORPS OF ENGINEERS, NORFOLK DISTRICT REGULATORY BRANCH (CENAO-WRR), NORFOLK, VIRGINIA.**

Kathy M Hayes

**Signature of Property Owner(s) or Agent**

3/18/2022

**Date**

**Proposed work to be located at:**
608 Carousel Place

Cape Charles, VA 23310

**VMRC Number:** Kathy and Samuel



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YES☒ NO☐ **(15)** Will the proposed structure(s) be located outside a USACE Navigation and Flood Risk Management project area?

YES☒ NO☐ **(16)** Will the proposed structure(s) be located outside of any Designated Trout Waters?

YES☐ NO☐ N/A☒ **(17)** If the proposed structure(s) includes flotation units, will the units be made of materials that will not become waterlogged or sink if punctured?

YES☐ NO☐ N/A☒ **(18)** If the proposed structure(s) includes flotation units, will the floating sections be braced so they will not rest on the bottom during periods of low water?

YES☒ NO☐ **(19)** Is the proposed structure(s) made of suitable materials and practical design so as to reasonably ensure a safe and sound structure?

YES☒ NO☐ **(20)** Will the proposed structure(s) be located on the property in accordance with the local zoning requirements?

YES☐ NO☐ N/A☒ **(21)** If the proposed structure(s) includes a device used for shellfish gardening, will the device be attached directly to a pier and limited to a total of 160 square feet?

YES☐ NO☐ N/A☒ **(22)** If the proposed structure(s) includes a device used for shellfish gardening, does the permittee recognize this RP does not negate their responsibility to obtain an oyster gardening permit (General Permit #3) from Virginia Marina Resources Commission's Habitat Management Division?

YES☒ NO☐ **(23)** Does the permittee recognize this RP does not authorize any dredging or filling of waters of the United States (including wetlands) and does not imply that future dredging proposals will be approved by the Corps?

YES☒ NO☐ **(24)** Does the permittee understand that by accepting 18-RP-17, the permittee accepts all of the terms and conditions of the permit, including the limits of Federal liability contained in the 18-RP-17 enclosure? Does the permittee acknowledge that the structures permitted under 18-RP-17 may be exposed to waves caused by passing vessels and that the permittee is solely responsible for the integrity of the structures permitted under 18-RP-17 and the exposure of such structures and vessels moored to such structures to damage from waves? Does the permittee accept that the United States is not liable in any way for such damage and that it shall not seek to involve the United States in any actions or claims regarding such damage?

**IF YOU HAVE ANSWERED "NO" TO ANY OF THE QUESTIONS ABOVE, REGIONAL PERMIT 17 (18-RP-17) DOES NOT APPLY AND YOU ARE REQUIRED TO OBTAIN WRITTEN AUTHORIZATION FROM THE CORPS PRIOR TO PERFORMING THE WORK.**

**IF YOU HAVE ANSWERED "YES" (OR "N/A", WHERE APPLICABLE) TO ALL OF THE QUESTIONS ABOVE, YOU ARE IN COMPLIANCE WITH REGIONAL PERMIT 17 (18-RP-17). PLEASE SIGN BELOW, ATTACH, AND SUBMIT THIS CHECKLIST WITH YOUR COMPLETED JOINT PERMIT APPLICATION (JPA). THIS SIGNED CERTIFICATE SERVES AS YOUR LETTER OF AUTHORIZATION FROM THE CORPS. YOU WILL NOT RECEIVE ANY OTHER WRITTEN AUTHORIZATION FROM THE CORPS; HOWEVER, YOU MAY NOT PROCEED WITH CONSTRUCTION UNTIL YOU HAVE OBTAINED ALL OTHER NECESSARY STATE AND LOCAL PERMITS.**

**I CERTIFY THAT I HAVE READ AND UNDERSTAND ALL CONDITIONS OF THE REGIONAL PERMIT 17 (18-RP-17), DATED SEPTEMBER 2018, ISSUED BY THE US ARMY CORPS OF ENGINEERS, NORFOLK DISTRICT REGULATORY BRANCH (CENAO-WRR), NORFOLK, VIRGINIA.**

Signature of Property Owner(s) or Agent

3/18/2022
Date

**Proposed work to be located at:**
608 Carousel Place
Cape Charles, VA 23310

**VMRC Number:**



RH

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# Part 3 – Appendices

Please complete and submit the appendix questions applicable to your project, and attach the required vicinity map(s) and drawings to your application. If an item does not apply to your project, please write "N/A" in the space provided.

---

**Appendix A: (TWO PAGES) Projects for Access** to the water such as private and community piers, boathouses, marinas, moorings, and boat ramps. Answer all questions that apply.

1. **Briefly describe your proposed project.**

   This project is a Timber Tech walkway over the dune to gain access to a private community beach extending from my property. There is optional access to the water for SUP boards and kayaks, but there are no piers, boathouses, marinas, moorings, or boat ramps at this beach.

2. **For private, noncommercial piers:**

   Do you have an existing pier on your property? ____Yes N/A No
   If yes, will it be removed? ____Yes ____No
   Is your lot platted to the mean low water shoreline? ____Yes N/A No
   What is the overall length of the proposed structure? _____feet.
   Channelward of Mean High Water? _____feet.
   Channelward of Mean Low Water? _____feet.
   What is the area of the piers and platforms that will be constructed over
   Tidal non-vegetated wetlands N/A square feet.
   Tidal vegetated wetlands N/A square feet.
   Submerged lands N/A square feet.
   What is the total size of any and all L- or T-head platforms? N/A sq. ft.
   For boathouses, what is the overall size of the roof structure? N/A sq. ft.
   Will your boathouse have sides? ____Yes N/A No.

   N/A

   NOTE: All proposals for piers, boathouses and shelter roofs must be reviewed by the Virginia Marine Resources Commission (Commission or VMRC), however, pursuant to § 28.2-1203 A 5 of the Code of Virginia a VMRC permit may not be required for such structures (except as required by subsection D of § 28.2-1205 for piers greater than 100 feet in length involving commercially productive leased oyster or clam grounds), provided that (i) the piers do not extend beyond the navigation line or private pier lines established by the Commission or the United States Army Corps of Engineers (USACE), (ii) the piers do not exceed six feet in width and finger piers do not exceed five feet in width, (iii) any L or T head platforms and appurtenant floating docking platforms do not exceed, in the aggregate, 400 square feet, (iv) if prohibited by local ordinance open-sided shelter roofs or gazebo-type structures shall not be placed on platforms as described in clause (iii), but may be placed on such platforms if not prohibited by local ordinance, and (v) the piers are determined not to be a navigational hazard by the Commission. Subject to any applicable local ordinances, such piers may include an attached boat lift and an open-sided roof designed to shelter a single boat slip or boat lift. In cases in which open-sided roofs designed to shelter a single boat, boat slip or boat lift will exceed 700 square feet in coverage or the open-sided shelter roofs or gazebo structures exceed 400 square feet, and in cases in which an adjoining property owner objects to a proposed roof structure, permits shall be required as provided in § 28.2-1204.



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## Part 3 – Appendices (continued)

3. **For USACE permits**, in cases where the proposed pier will encroach beyond one fourth the waterway width (as determined by measuring mean high water to mean high water or ordinary high water mark to ordinary high water mark), the following information must be included before the application will be considered complete. For an application to be considered complete:

   a. The USACE MAY require depth soundings across the waterway at increments designated by the USACE project manager. Typically 10-foot increments for waterways less than 200 feet wide and 20-foot increments for waterways greater than 200 feet wide with the date and time the measurements were taken and how they were taken (e.g., tape, range finder, etc.).
   b. The applicant MUST provide a justification as to purpose if the proposed work would extend a pier greater than one-fourth of the distance across the open water measured from mean high water or the channelward edge of the wetlands.
   c. The applicant MUST provide justification if the proposed work would involve the construction of a pier greater than five feet wide or less than four feet above any wetland substrate.

4. Provide the type, size, and registration number of the vessel(s) to be moored at the pier or mooring buoy.

| Type | Length | Width | Draft | Registration # |
|---|---|---|---|---|
| N/A | | | | |

5. For **Marinas, Commercial Piers, Governmental Piers, Community Piers and other non-private piers**, provide the following information:
   A) Have you obtained approval for sanitary facilities from the Virginia Department of Health?_____ (required pursuant to Section 28.2-1205 C of the Code of Virginia).
   B) Will petroleum products or other hazardous materials be stored or handled at your facility?_____.
   C) Will the facility be equipped to off-load sewage from boats?_____.
   D) How many wet slips are proposed?_____. How many are existing?_____.
   E) What is the area of the piers and platforms that will be constructed over
      Tidal non-vegetated wetlands _____ square feet
      Tidal vegetated wetlands _____ square feet
      Submerged lands _____square feet

N/A

6. For **boat ramps**, what is the overall length of the structure?_____feet.
   From Mean High Water?_____feet.
   From Mean Low Water?_____feet.

N/A

Note: drawings must include the construction materials, method of installation, and all dimensions. If tending piers are proposed, complete the pier portion.
**Note: If dredging or excavation is required, you must complete the Standard Joint Point Permit application.**



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## Part 3 – Appendices (continued)

3. **For USACE permits,** in cases where the proposed pier will encroach beyond one fourth the waterway width (as determined by measuring mean high water to mean high water or ordinary high water mark to ordinary high water mark), the following information must be included before the application will be considered complete. For an application to be considered complete:

   a. The USACE MAY require depth soundings across the waterway at increments designated by the USACE project manager. Typically 10-foot increments for waterways less than 200 feet wide and 20-foot increments for waterways greater than 200 feet wide with the date and time the measurements were taken and how they were taken (e.g., tape, range finder, etc.).
   b. The applicant MUST provide a justification as to purpose if the proposed work would extend a pier greater than one-fourth of the distance across the open water measured from mean high water or the channelward edge of the wetlands.
   c. The applicant MUST provide justification if the proposed work would involve the construction of a pier greater than five feet wide or less than four feet above any wetland substrate.

4. Provide the type, size, and registration number of the vessel(s) to be moored at the pier or mooring buoy.

| Type | Length | Width | Draft | Registration # |
|---|---|---|---|---|
| N/A | | | | |

5. For **Marinas, Commercial Piers, Governmental Piers, Community Piers and other non-private piers,** provide the following information:
   A) Have you obtained approval for sanitary facilities from the Virginia Department of Health?_____ (required pursuant to Section 28.2-1205 C of the Code of Virginia).
   B) Will petroleum products or other hazardous materials be stored or handled at your facility?_____.
   C) Will the facility be equipped to off-load sewage from boats?_____.
   D) How many wet slips are proposed?_____. How many are existing?_____.
   E) What is the area of the piers and platforms that will be constructed over
      Tidal non-vegetated wetlands _____ square feet
      Tidal vegetated wetlands _____ square feet
      Submerged lands _____square feet

   N/A

6. For **boat ramps**, what is the overall length of the structure?_____feet.
   From Mean High Water?_____feet.
   From Mean Low Water?_____feet.

   N/A

   Note: drawings must include the construction materials, method of installation, and all dimensions. If tending piers are proposed, complete the pier portion.
   **Note: If dredging or excavation is required, you must complete the Standard Joint Point Permit application.**



KH

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# Part 3 – Appendices (continued)

**Appendix B: Projects for Shoreline Stabilization** in tidal wetlands, tidal waters and dunes/beaches including riprap revetments and associated backfill, marsh toe stabilization, bulkheads and associated backfill, breakwaters, beach nourishment, groins, jetties, and living shoreline projects. Answer all questions that apply. Please provide any reports provided from the Shoreline Erosion Advisory Service or VIMS.

**NOTE:** It is the policy of the Commonwealth that living shorelines are the preferred alternative for stabilizing tidal shorelines (Va. Code § 28.2-104.1). **Information on non-structural, vegetative alternatives (i.e., Living Shoreline) for shoreline stabilization is available at http://ccrm.vims.edu/coastal_zone/living_shorelines/index.html.**

1. Describe each **revetment, bulkhead, marsh toe, breakwater, groin, jetty, other structure, or living shoreline project** separately in the space below. Include the overall length in linear feet, the amount of impacts in acres, and volume of associated backfill below mean high water and/or ordinary high water in cubic yards, as applicable:
   N/A

   N/A

2. What is the maximum encroachment channelward of mean high water? N/A feet.
   Channelward of mean low water?_____feet.
   Channelward of the back edge of the dune or beach?_____feet.

   N/A

3. Please calculate the square footage of encroachment over:
   - Vegetated wetlands _____square feet
   - Non-vegetated wetlands _____square feet
   - Subaqueous bottom _____square feet
   - Dune and/or beach _____square feet

   N/A

4. For bulkheads, is any part of the project maintenance or replacement of a previously authorized, currently serviceable, existing structure? ____ Yes____ No.

   N/A

   If yes, will the construction of the new bulkhead be no further than two (2) feet channelward of the existing bulkhead? _____Yes ____No.

   If no, please provide an explanation for the purpose and need for the additional encroachment.



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## Part 3 – Appendices (continued)

5. Describe the type of construction and **all** materials to be used, including source of backfill material, if applicable (e.g., vinyl sheet-pile bulkhead, timber stringers and butt piles, 100% sand backfill from upland source; broken concrete core material with Class II quarry stone armor over filter cloth).
**NOTE: Drawings must include construction details, including dimensions, design and all materials, including fittings if used.**
N/A

~~N/A~~ See proposal description

6. If using stone, broken concrete, etc. for your structure(s), what is the average weight of the:
Core (inner layer) material_____ pounds per stone Class size _____
Armor (outer layer) material _____ pounds per stone Class size _____ N/A

7. For **beach nourishment**, including that associated with breakwaters, groins or other structures, provide the following:

- Volume of material N/A
  _____ cubic yards channelward of mean low water
  _____ cubic yards landward of mean low water
  _____ cubic yards channelward of mean high water
  _____ cubic yards landward of mean high water

- Area to be covered
  _____ square feet channelward of mean low water
  _____ square feet landward of mean low water
  _____ cubic yards channelward of mean high water
  _____ cubic yards landward of mean high water

- Source of material, composition (e.g. 90% sand, 10% clay):_____
- Method of transportation and placement:

  _____

- Describe any proposed vegetative stabilization measures to be used, including planting schedule, spacing, monitoring, etc. Additional guidance is available at http://www.vims.edu/about/search/index.php?q=planting+guidelines:



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# Part 3 – Appendices (continued)

5. Describe the type of construction and **all** materials to be used, including source of backfill material, if applicable (e.g., vinyl sheet-pile bulkhead, timber stringers and butt piles, 100% sand backfill from upland source; broken concrete core material with Class II quarry stone armor over filter cloth).
**NOTE: Drawings must include construction details, including dimensions, design and all materials, including fittings if used.**
N/A



See proposal description

6. If using stone, broken concrete, etc. for your structure(s), what is the average weight of the:
Core (inner layer) material_____ pounds per stone Class size _____
Armor (outer layer) material _____ pounds per stone Class size _____ N/A

7. For **beach nourishment**, including that associated with breakwaters, groins or other structures, provide the following:

- Volume of material N/A
  _____ cubic yards channelward of mean low water
  _____ cubic yards landward of mean low water
  _____ cubic yards channelward of mean high water
  _____ cubic yards landward of mean high water
- Area to be covered
  _____ square feet channelward of mean low water
  _____ square feet landward of mean low water
  _____ cubic yards channelward of mean high water
  _____ cubic yards landward of mean high water
- Source of material, composition (e.g. 90% sand, 10% clay):_____
- Method of transportation and placement:
  _____
- Describe any proposed vegetative stabilization measures to be used, including planting schedule, spacing, monitoring, etc. Additional guidance is available at http://www.vims.edu/about/search/index.php?q=planting+guidelines:



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## Part 3 – Appendices (continued)

**Appendix C: Crossings** in, on, over, or under, waters, submerged lands, tidal wetlands and/or dunes and beaches, including but not limited to, bridges, walkways, pipelines and utility lines.

1. What is the purpose and method of installation of the crossing?
   1. To provide an elevated, safe access to beach without disturbing existing dune. ⚠ See proposal next page
   2. To provide path to transport SUP boards and kayaks to Chesapeake Bay.
2. What is the width of the waterway and/or wetlands to be crossed
   from mean high water to mean high water (tidal waters)? N/A feet.
   from mean low water to mean low water (tidal waters)? _____ feet.
   from ordinary high water to ordinary high water (non-tidal waters)? _____ feet.

   N/A
3. For bridges (footbridges, golf cart bridges, roadway bridges, etc.), what is the width of the structure over the tidal wetlands, dunes/beaches and/or submerged lands? 4 feet square feet.
4. For overhead crossings:
   a. What will be the height above mean high water? N/A feet.
   b. If there are other overhead crossings in the area, what is the minimum height? _____feet.
   c. If the proposed crossing is an electrical line, please confirm the total number of electrical circuits: N A
5. For buried crossings, what will be the depth below the substrate? N/A feet. Will the proposed utility provide empty conduits for any additional utilities that may propose to co-locate at a later date? _____Yes _____No.
6. Will there be any excavation or fill required for placement of abutments, piers, towers, or other permanent structures on State-owned submerged lands, tidal wetlands, and dunes/beaches? ____Yes X No.

   If yes, please provide the following:

   a. Amount of excavation in wetlands — N/A cubic yards; N/A square feet
   b. Amount of excavation in submerged land — _____ cubic yards; NA square feet
   c. Amount of excavation in dune/beach — 0 cubic yards; 0 square feet
   d. Amount of fill in wetlands — _____ cubic yards; N/A square feet
   e. Amount of fill in submerged lands — _____ cubic yards; N/A square feet
   f. Amount of fill in dune/beach — 0 cubic yards; N/A 0 square feet



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## Part 3 – Appendices (continued)

**Appendix D: Aquaculture Related Structures** such as cages and floats. Before completing this appendix, please review the aquaculture requirements summary at: http://mrc.virginia.gov/Shellfish_Aquaculture.shtm.

1. Will the activity be for commercial purposes? _____Yes N/A X No.

   If Yes and structures will be placed upon an oyster ground lease, you may qualify for the VMRC General Permit #4 for Temporary Protective Enclosures for Shellfish. For more info see: http://www.mrc.virginia.gov/regulations/MRC_Scanned_Regs/Shellfish_Mix/fr1130_12-0107.pdf. If you qualify for the General Permit #4, or if such structures are proposed that are not on an oyster planting ground lease, or for floating structures of any kind, complete this Joint Permit Application and include the necessary information requested below in question 2 through 11.

   If No, you may qualify for the VMRC General Permit #3, for Noncommercial Riparian Shellfish Growing (i.e. "Gardening") For more information see: http://www.mrc.virginia.gov/forms/VGP3_Aquaculture.doc.pdf. If you qualify for this general permit use the Abbreviated Joint Permit Application For Noncommercial Riparian Shellfish Aquaculture Structures available at https://mrc.virginia.gov/forms/2019/VGP3_Aquaculture_form_2019.pdf ***do not use this Joint Permit Application***.

2. Will aquaculture structures be attached to an existing pier or other structure? ____ Yes ____ No.
3. The plat file # if proposed upon oyster planting ground lease(s).N/A
4. The maximum area where enclosures are proposed. _____ square feet
5. The maximum number of enclosures being proposed to be deployed. _____
6. The species of shellfish to be cultured. _____
7. A detailed description of the enclosures to include width, length and height.

8. In addition to the requirements itemized in Part 4 Project Drawings, the following additional information must be included on your project drawings: A general description of the area within 500 feet of deployment area. Provide a drawing that depicts existing marine resources such as SAV, shellfish beds, fixed fishing devices, public grounds, piers, water depths at mean low water, tide range, and the minimum clearance at mean low tide over the enclosures.
9. Provide the date enclosures are proposed to be deployed N/A. How will the structures be secured? _____.



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Proposal

----------PROPOSAL----------

# KESTRAL MARINE CONSTRUCTION LLC

12450 Fairview Road, Painter, VA 23420

**757-710-4806**

Kestralmarine1@verizon.net www.kestralmarine.com

Kathy Hughes/~~Brent Geissinger~~ | 757 647 6404 | 7/19/21

PROPOSAL SUBMITTED TO | PHONE | DATE

608 Carousel Pl Beach Access

STREET | JOB NAME

Cape Charles | b.geissinger@gmail.com

CITY, STATE and ZIPCODE | JOB LOCATION | JOB PHONE

We hereby submit specification and estimates for:

Walkway 180 ft x 4 ft Build level from highest elevation

Use 8" poles - under deck 8ft centers, Frame with 2x8 - stringer's to be on 12" centers

For use of synthetic decking (Timbertec Coastline) fastened using stainless screws

Camo system (screwed from side of board)

All framing thru bolted 5/8" galvanized

Tallest section 50ft. Build wood handrail both sides 2x6 material

We propose hereby to furnish material and labor complete in accordance with above specifications, for the sum of:

Job paid 3 draws dollars $ 64,706.22

Payment to be made as follows:

1 at start, 1 at half complete, 1 at Final

All material is guaranteed to be a specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become An extra charge over and above the estimate. **ALL agreements contingent upon strikes, accidents, pandemics or delays beyond our control including material price increases.** Owner to carry fire, tornado and other necessary insurance. Kestral Marine Construction LLC is licensed and insured. **VA# 2705073168**

Authorized Signature Bryan Fisher member

Acceptance of Proposal – The above prices, specifications And conditions are satisfactory and are hereby accepted. You are authorized To do the work as specified. Payment will be made as outlined above.

Date of Acceptance: 8-13-2021 Signature Kathy M Hughes

19A

KH

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## Part 3 – Appendices (continued)

**Appendix D: Aquaculture Related Structures** such as cages and floats. Before completing this appendix, please review the aquaculture requirements summary at: http://mrc.virginia.gov/Shellfish_Aquaculture.shtm.

1. Will the activity be for commercial purposes? N/A _____Yes _X_ No.

   If Yes and structures will be placed upon an oyster ground lease, you may qualify for the VMRC General Permit #4 for Temporary Protective Enclosures for Shellfish. For more info see: http://www.mrc.virginia.gov/regulations/MRC_Scanned_Regs/Shellfish_Mix/fr1130_12-0107.pdf. If you qualify for the General Permit #4, or if such structures are proposed that are not on an oyster planting ground lease, or for floating structures of any kind, complete this Joint Permit Application and include the necessary information requested below in question 2 through 11.

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3. The plat file # if proposed upon oyster planting ground lease(s)._____
4. The maximum area where enclosures are proposed. N/A _____ square feet
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9. Provide the date enclosures are proposed to be deployed N/A. How will the structures be secured? _____.



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## Part 3 – Appendices (continued)

10. List of all riparian land owners within 500 feet of the area where enclosures are proposed along with a map (tax map or other suitable map) depicting the locations of such parcels or riparian property owner acknowledgement forms signed by the riparian land owner with any comments concerning the enclosures deployment request.

N/A

11. Proof that the applicant holds a current oyster or clam aquaculture product owners permit, and verification that the applicant is in compliance with Mandatory Harvest Reporting requirements, and verification that the current years oyster ground rent is paid, if structures are proposed on an oyster ground lease.

N/A



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## Part 4 - Project Drawings

**Plan view and cross-sectional view drawings are required for all projects.** Application drawings do not need to be prepared by a professional draftsman, but they must be clear, accurate, and should be to an appropriate scale. If a scale is not used, all dimensions must be clearly depicted in the drawings. If available, a plat of the property should be included, with the existing and proposed structures clearly indicated. Distances from the proposed structure(s) to fixed points of reference (benchmarks) and to the adjacent property lines must be shown. A vicinity map (County road map, USGS Topographic map, etc.) must also be provided to show the location of the property. **NOTE:** The sample drawings have been included at the end of this section to provide guidance on the information required for different types of projects. Clear and accurate drawings are essential for project review and compliance determination. Incomplete or unclear drawings may cause delays in the processing of your application.

**The following items must be included on <u>ALL</u> project drawings: (plan and cross-sectional, as appropriate)**

- **name of project** ✓
- **north arrow** ✓
- **scale** ✓
- **waterway name** ✓
- **existing and proposed structures, labeled as such** ✓
- **dimensions of proposed structures** ✓
- **mean high water and mean low water lines** N/A
- **all delineated wetlands and all surface waters on the site, including the Cowardin classification (i.e., emergent, scrub-shrub, or forested) for those surface waters (if applicable)** N/A
- **limits of proposed impacts to surface waters, such as fill areas, riprap scour protection placement, and dredged areas, and the amount of such impacts in square feet and acres** N/A
- **ebb/flood direction** N/A
- **adjacent property lines and owner's name** ✓
- **distances from proposed structures to fixed points of reference (benchmarks) and adjacent property lines** ✓



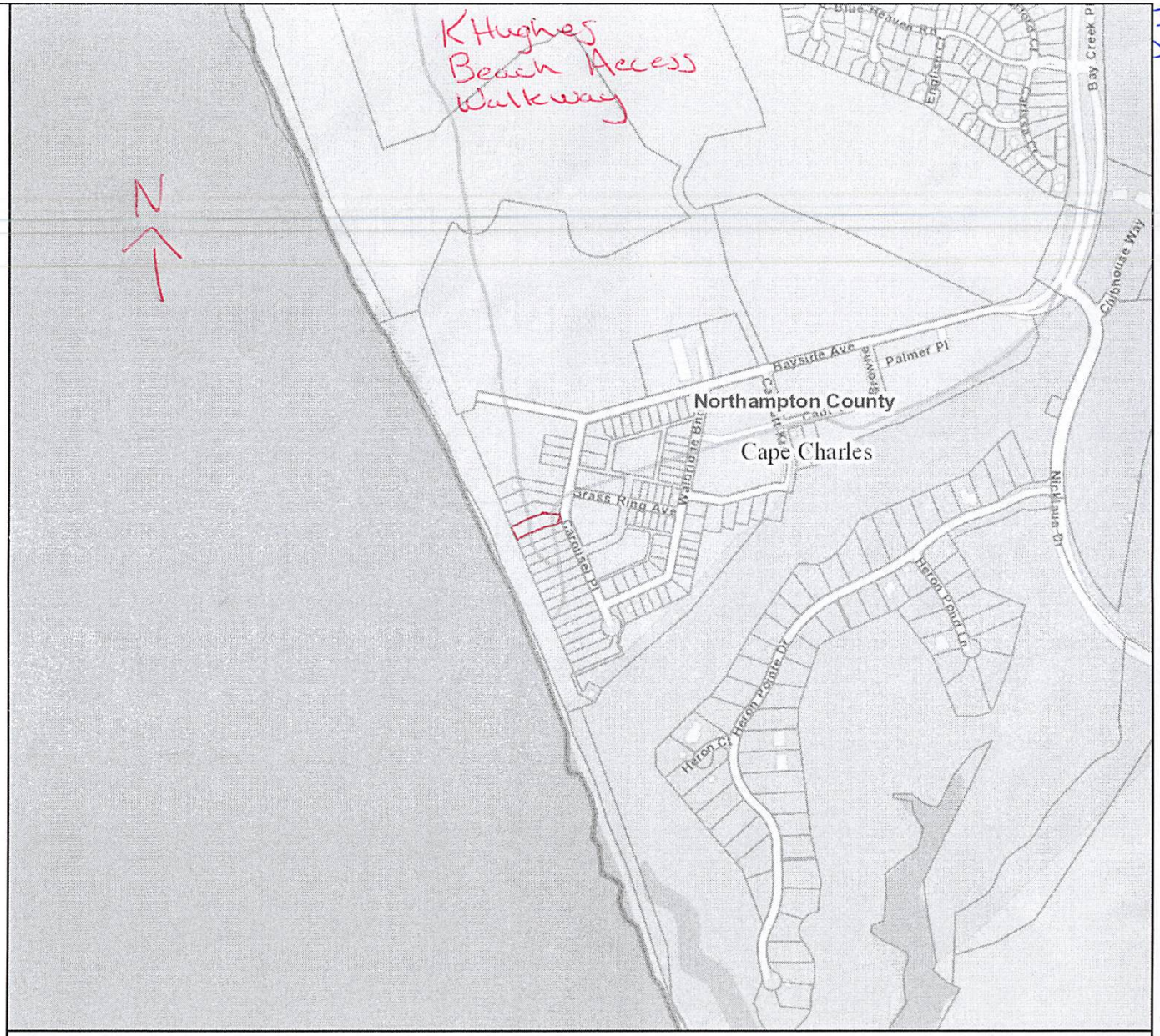
KH

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# Northampton County, Virginia

## Legend

- County Boundaries
- Town Names
- Route Numbers
- Road Labels
- Parcels
- Driveways



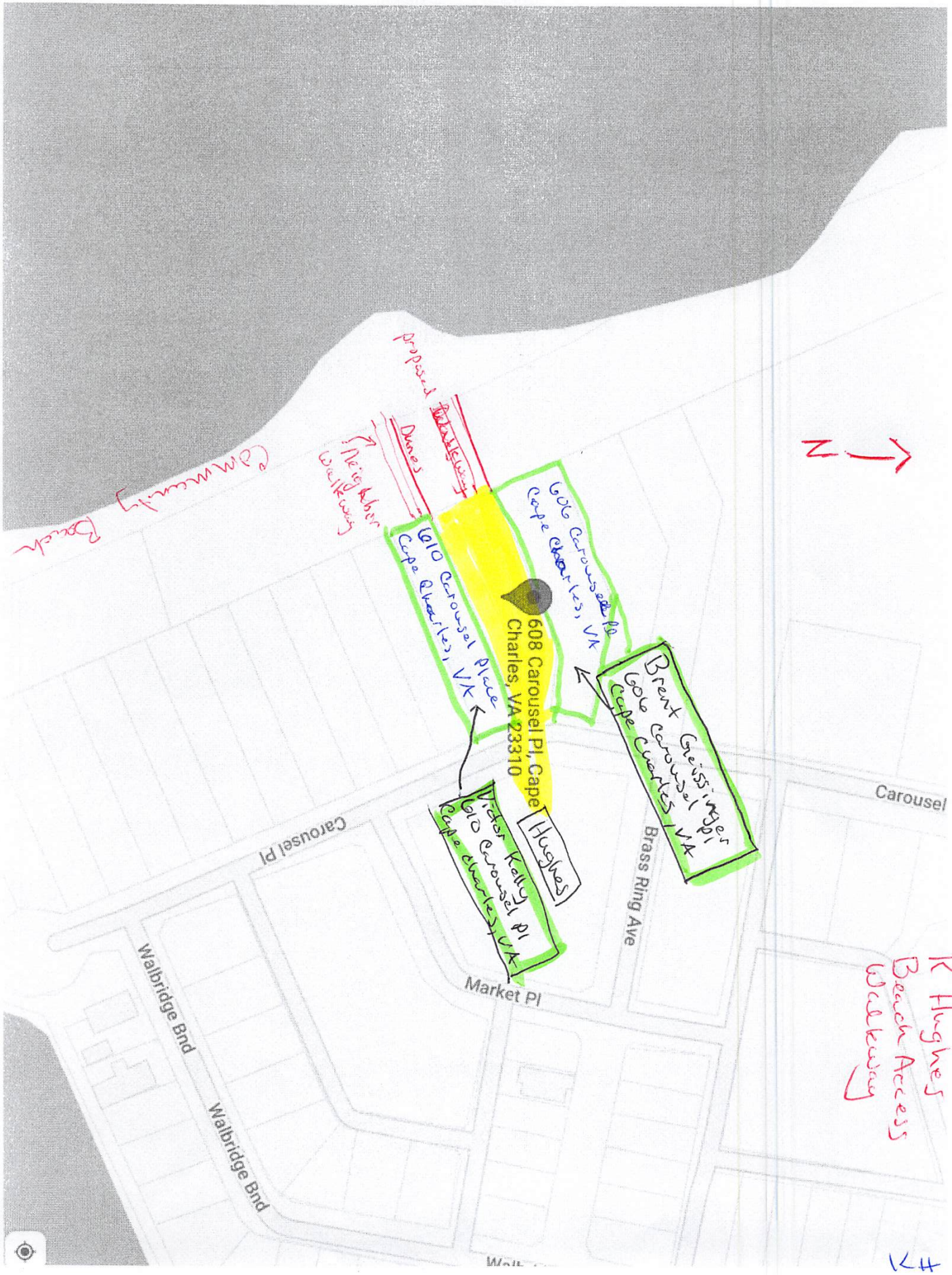

Map Printed from Northampton
https://parcelviewer.geodecisions.com/Northampton/

Feet
0 200 400 600 800
1:9,028 / 1"=752 Feet

**Title: Hughes Beach Access** **Date: 2/8/2022**

*DISCLAIMER:This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records,information, and data obtained from various sources, and Northampton County is not responsible for its accuracy or how current it may be.*

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K Hughes
Beach Access
Walkway

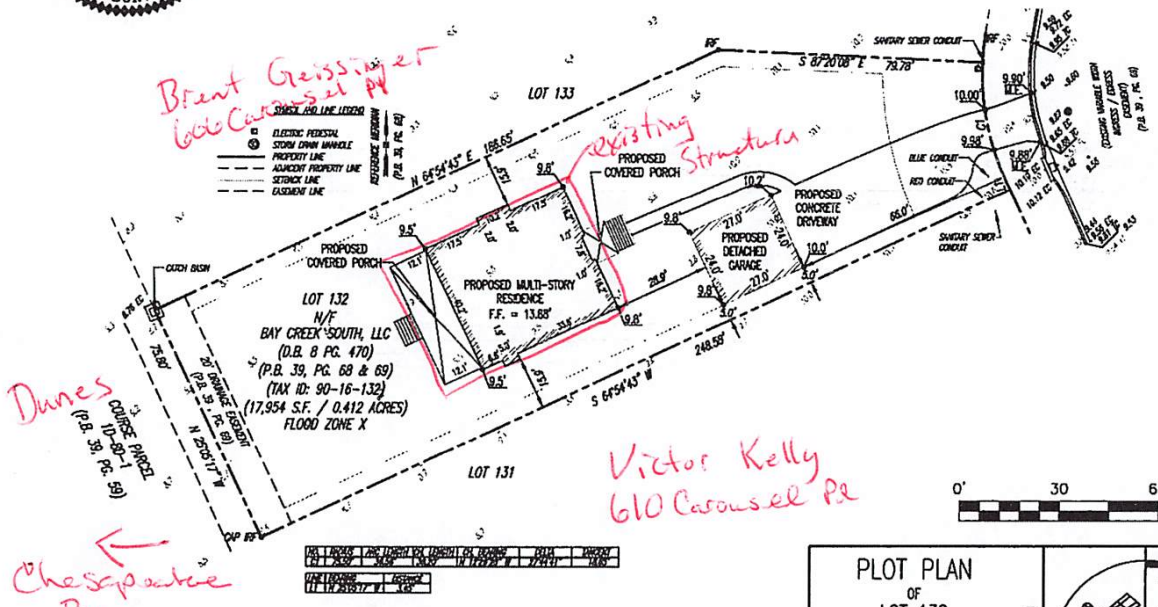
K+

1. THIS SURVEY WAS PRODUCED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE MAY NOT SHOW ALL EASEMENTS, RESTRICTIONS OR NON-VISIBLE ENCROACHMENTS AFFECTING THIS PARCEL. THIS SURVEY IS REFERRED TO THE PLAT FOUND AT PAGE 68 IN PLAT BOOK 39.
2. NO WETLAND DELINEATION MARKERS WERE OBSERVED DURING THIS SURVEY. THIS DOES NOT INDICATE THE NONEXISTENCE OF WETLANDS ON THIS OR ADJACENT PARCELS. OWNERS SHOULD CONTACT A WETLANDS SCIENTIST WITH QUESTIONS OR CONCERNS.
3. THIS PARCEL APPEARS TO LIE IN FLOOD ZONE X AS SCALED FROM THE FEMA F.I.R.M 51131C0410F DATED MARCH 15, 2015. THE INCLUSION OF FLOOD DATA HEREON IS DOES NOT INDICATE THE NEED OR LACK OF NEED FOR FLOOD INSURANCE. PARCEL OWNERS OR DEVELOPERS SHOULD CONTACT THEIR LOCAL FLOOD OFFICIAL.

COMMONWEALTH OF VIRGINIA
BETH ANNE G. CAMPBELL
Lic. No. 003316
06/24/15
LAND SURVEYOR

Brent Greissinger
608 Carousel Pl

Kathy Hughes
608 Carousel Pl




Victor Kelly
610 Carousel Pl

Dunes

Chesapeake Bay

0' 30 60 90

PARCEL INFORMATION

GPIN 90-16-132
OWNER: BAY CREEK SOUTH, L.L.C.
REFERENCES:
INSTRUMENT#: 08-470
PLAT: P.B. 39, PG. 68
ZONING: PUD-VILLAGE
SET BACKS:
FRONT 30'
REAR 5'
INTERIOR SIDES 5'
AREA: 17,954 S.F./ 0.412 ACRES

PLOT PLAN
OF
LOT 132
BAYSIDE VILLAGE
(PLAT BOOK 39, PAGE 68)
CAPE CHARLES, VIRGINIA
06-24-15
SCALE: 1" = 30'
PROJECT #: 15047.0

MIDATLANTIC
SURVEYING - LAND DESIGN
5305 CLEVELAND STREET SUITE 102
VIRGINIA BEACH, VA 23462
www.mas-ld.com
PHONE: 757-557-0888 / FAX: 757-416-5351

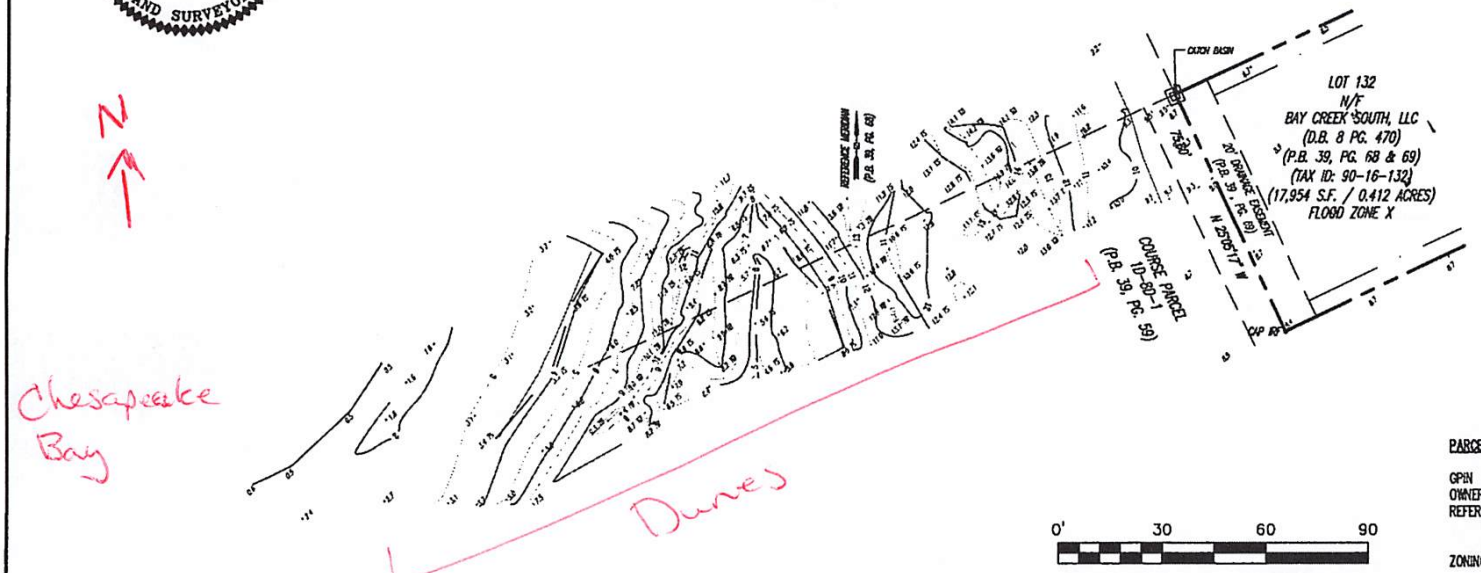
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K Hughes
Beach Access
Walkway

KH

COMMONWEALTH OF VIRGINIA
Beth Anne G. Campbell
BETH ANNE G. CAMPBELL
Lic. No. 003316
06/21/21
LAND SURVEYOR

1. THIS SURVEY WAS PRODUCED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE MAY NOT SHOW ALL EASEMENTS, RESTRICTIONS OR NON-VISIBLE ENCROACHMENTS AFFECTING THIS PARCEL. THIS SURVEY IS REFERRED TO THE PLAT FOUND AT PAGE 68 IN PLAT BOOK 39.
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3. THIS PARCEL APPEARS TO LIE IN FLOOD ZONE X AS SCALED FROM THE FEMA F.I.R.M 51131C0410F DATED MARCH 15, 2015. THE INCLUSION OF FLOOD DATA HEREON IS DOES NOT INDICATE THE NEED OR LACK OF NEED FOR FLOOD INSURANCE. PARCEL OWNERS OR DEVELOPERS SHOULD CONTACT THEIR LOCAL FLOOD OFFICIAL.




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OWNER: BAY CREEK SOUTH, L.L.C.
REFERENCES:
INSTRUMENT#: 08-470
PLAT: P.B. 39, PG. 68
ZONING: PUD-VILLAGE

BEACH WALKOVER TOPOGRAPHIC SURVEY
OF
DUNE AND BEACH AREA WEST OF
LOT 132
BAYSIDE VILLAGE
(PLAT BOOK 39, PAGE 68)
CAPE CHARLES, VIRGINIA
06-21-21
SCALE: 1" = 30'

PROJECT #: 21118.0


MIDATLANTIC
SURVEYING - LAND DESIGN
5257 CLEVELAND STREET SUITE 109-110
VIRGINIA BEACH, VA 23462
www.mas-ld.com
PHONE: 757-557-0888 / FAX: 757-416-5351


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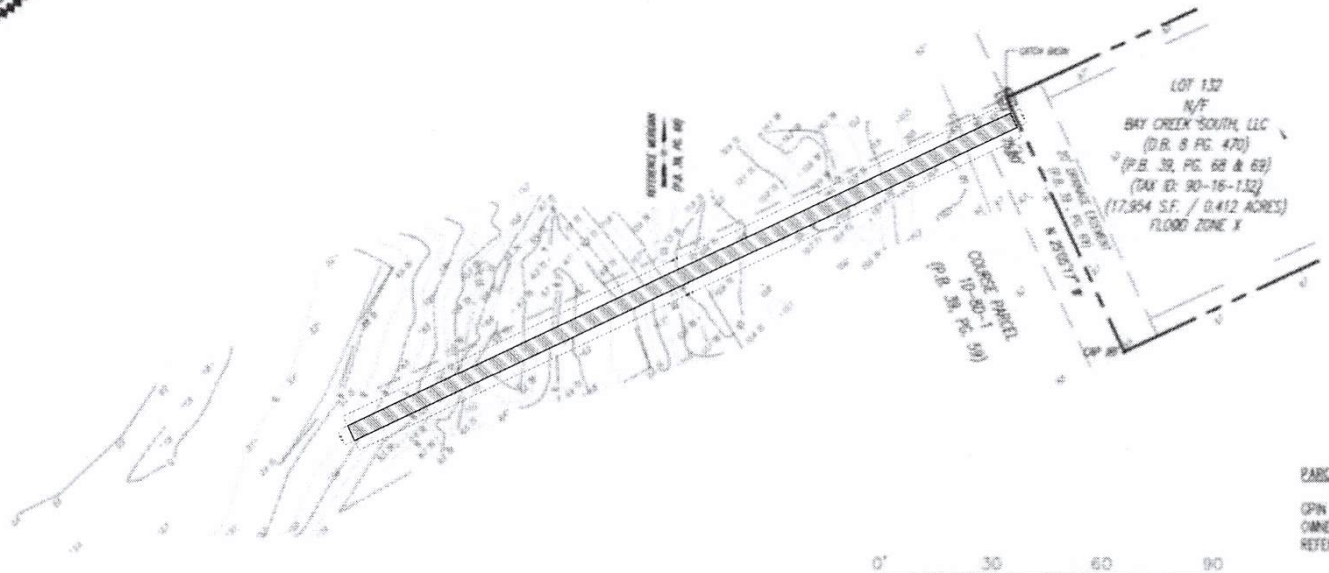
K Hughes
Beach Access
Walkway

IC4

COMMONWEALTH OF VIRGINIA
Beth Anne G. Campbell
BETH ANNE G. CAMPBELL
Lic. No. 003316
06/21/21
LAND SURVEYOR

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N




PARCEL INFORMATION

GPIN 90-16-132
OWNER: BAY CREEK SOUTH, L.L.C.
REFERENCES:
INSTRUMENT# 08-470
PLAT: P.B. 39, PG. 68
ZONING: PUD-VILLAGE

BEACH WALKOVER TOPOGRAPHIC SURVEY
OF
DUNE AND BEACH AREA WEST OF
LOT 132
BAYSIDE VILLAGE
(PLAT BOOK 39, PAGE 68)
CAPE CHARLES, VIRGINIA
06-21-21
SCALE: 1" = 30'

PROJECT # 211149


MIDATLANTIC
SURVEYING - LAND DESIGN
5257 CLEVELAND STREET SUITE 109-110
VIRGINIA BEACH, VA 23462
www.mas-ld.com
PHONE: 757-557-0888 / FAX: 757-416-5351



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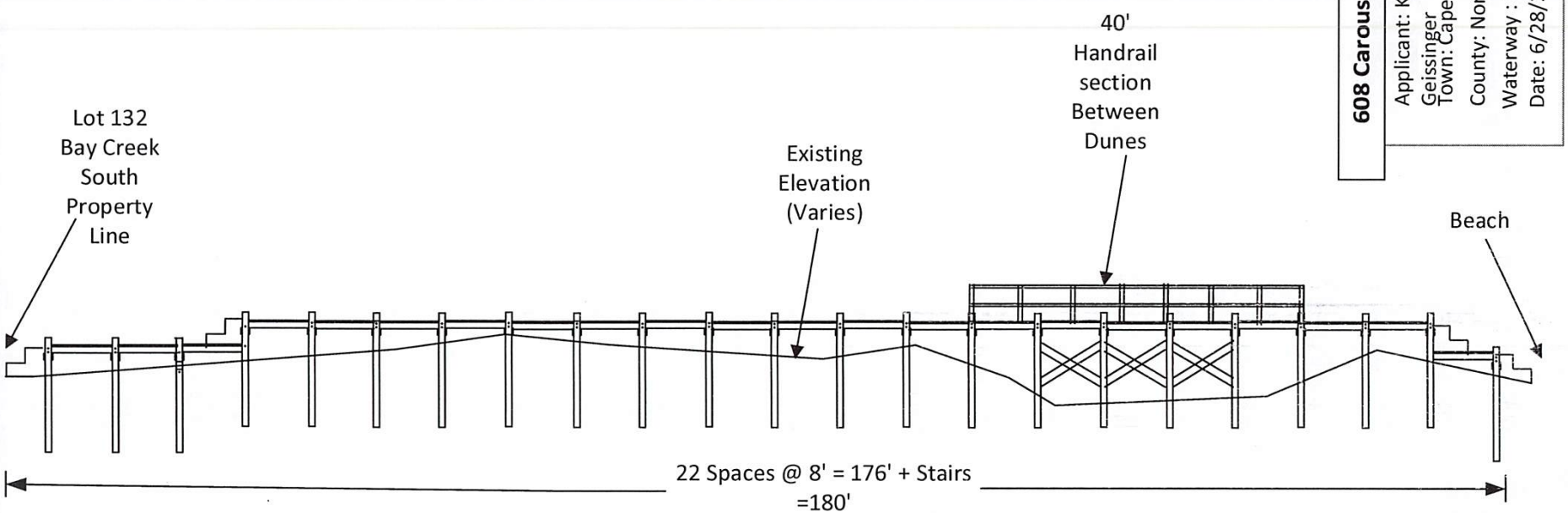
K Hughes
Beach Access
Walkway

KH

**608 Carousel Pl Beach Access**

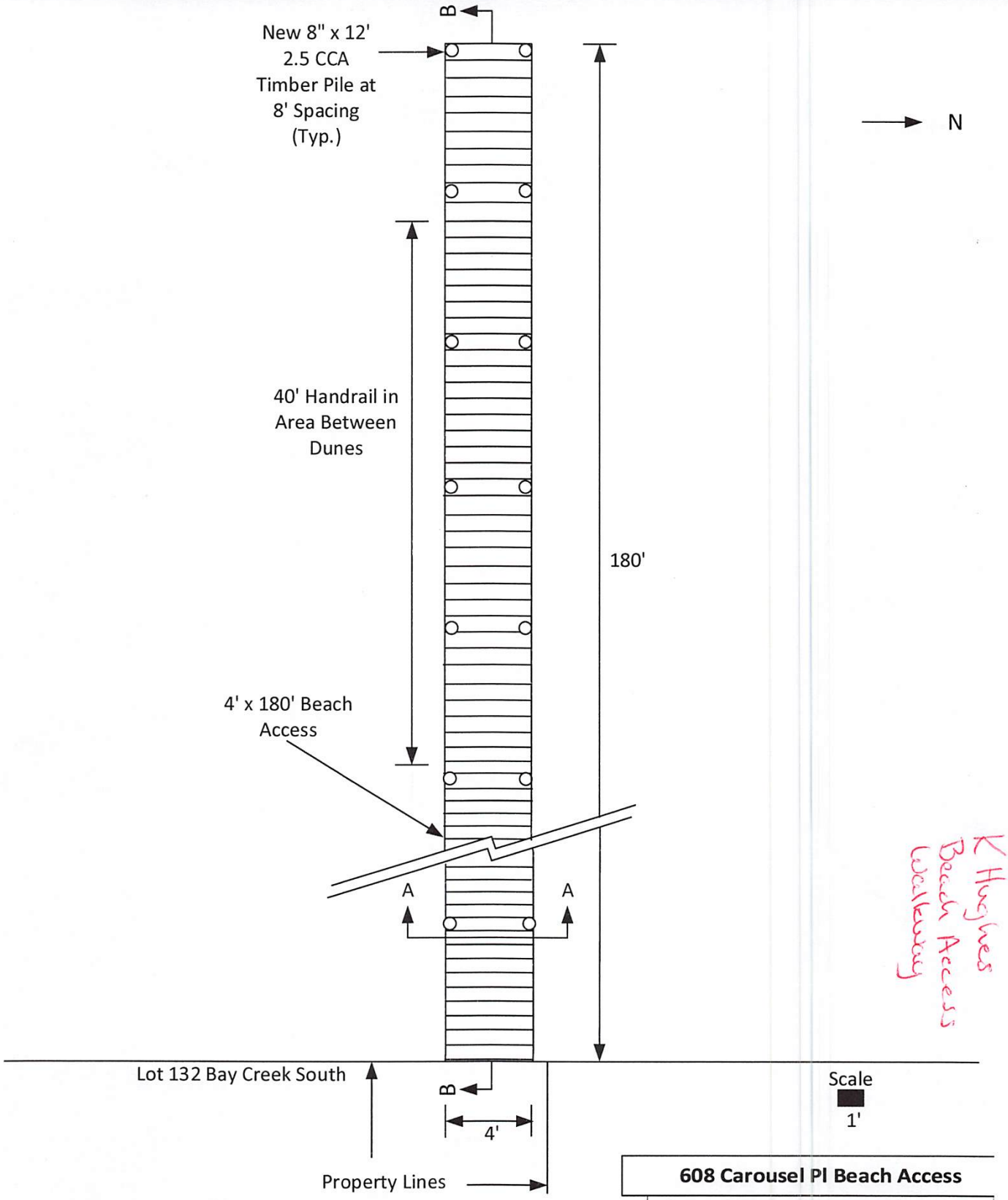
Applicant: Kathy Hughes/Brent Geissinger
Town: Cape Charles, VA
County: Northampton
Waterway : Chesapeake Bay
Date: 6/28/2021

Scale 10'




**SECTION B-B**

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K Hughes
Beach Access
Walkway

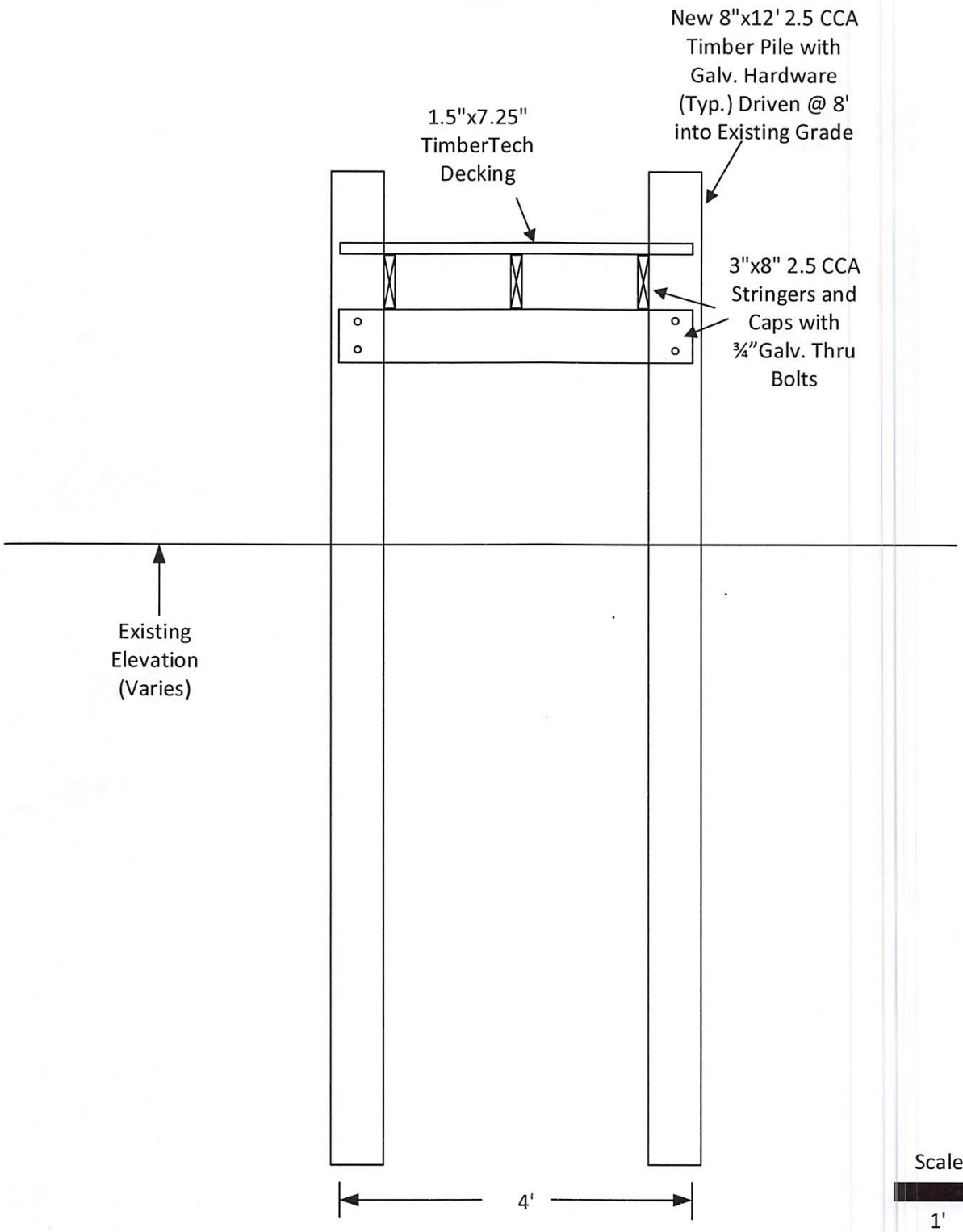
**608 Carousel Pl Beach Access**

Applicant: Kathy Hughes/Brent Geissinger
Town: Cape Charles, VA
County: Northampton
Waterway: Chesapeake Bay
Date: 6/28/2021

KH

**PLAN VIEW**

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K Hughes Beach Access Walkway

**SECTION A-A**

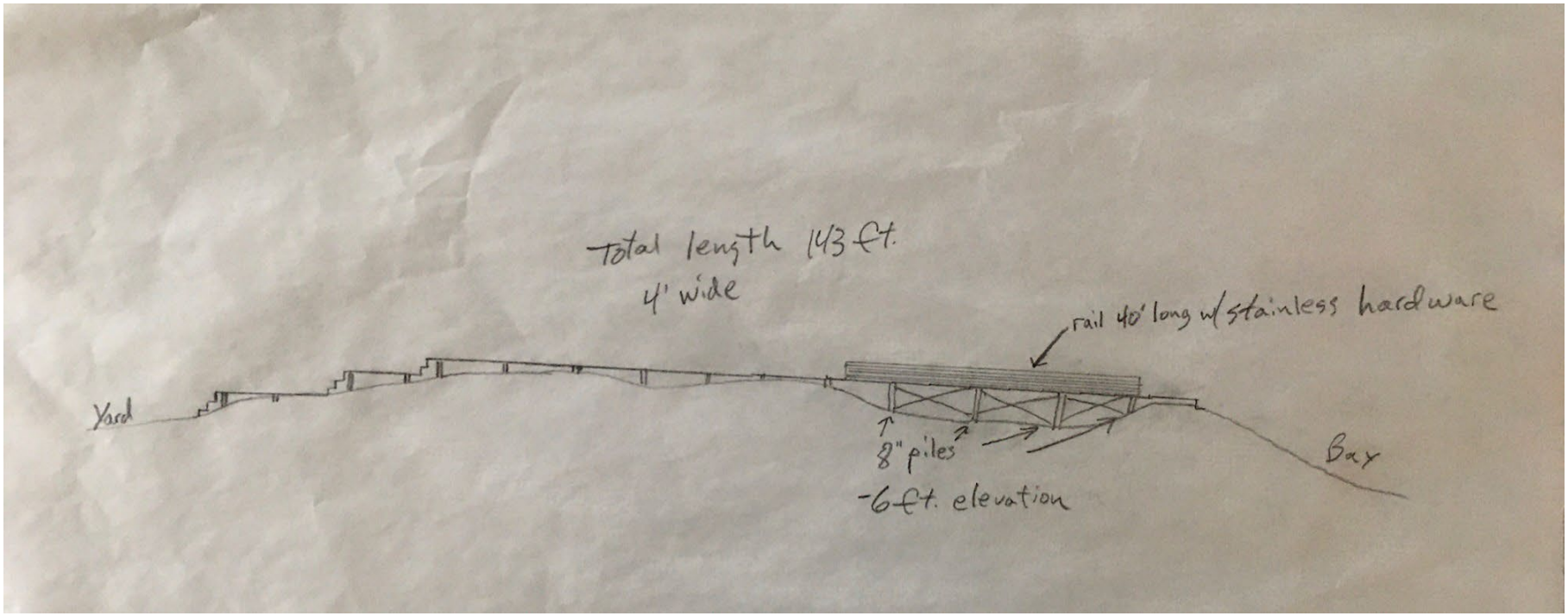
**608 Carousel Pl Beach Access**

Applicant: Kathy Hughes/ Brent Geissinger
Town: Cape Charles, VA
County: Northampton
Waterway : Chesapeake Bay
Date: 6/28/2021

KH

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Total length 143 ft.
4' wide
rail 40' long w/ stainless hardware
Yard
8" piles
-6 ft. elevation
Bay

Gmail

Additional Information

Kathy Hughes <klovepig@gmail.com>

# Re: All construction to take place above the High Tide Line, no wetlands impacted in crossing dunes, no 408 Fwd: NAO-2022-00793-JLJ (22-V0642) (Hughes, Kathy / Beach Access Walkway / 608 Carousel Place / Northampton )

1 message

**Nettleton, Benjamin** <ben.nettleton@mrc.virginia.gov> Tue, May 3, 2022 at 12:13 PM
To: Kathy Hughes <klovepig@gmail.com>

Good afternoon Kathy,

Yes, the permit will be decided on by the Cape Charles Dune and Beach Board at the May 26th hearing. You won't need any separate permit from VMRC or the State. I will work to get an official "no permit necessary" letter from our agency out to you soon.

Please reach out to the Town if you have any specific questions regarding the upcoming hearing.

Best,

Ben Nettleton

Environmental Engineer, Habitat Management

Virginia Marine Resources Commission

380 Fenwick Rd

Fort Monroe, VA 23651

757-951-3740

Upcoming Out of Office Days: MAY 6th to MAY 16th

VMRC office hours:

Monday-Thursday 8:00 am - 5:00 pm

Friday 8:00 am - 2:30 pm

On Mon, May 2, 2022 at 4:10 PM Kathy Hughes <klovepig@gmail.com> wrote:

> Thank you, Lou and Ben,
> Also, Cape Charles has scheduled their public hearing for this project on May 26th at 10am.
> Please advise if there are any questions.
> Thanks for help in this project!
> Kathy Hughes
> M: 818.312.2024

On May 2, 2022, at 3:53 PM, JPA.permits@mrc.virginia.gov wrote:

Ben –

Please see Ms. Hughes' email below.

Thank you,

Lou Atkins

Virginia Marine Resources Commission

Habitat Management Division

380 Fenwick Road, Bldg. 96

Fort Monroe, VA 23651

**From:** Kathy Hughes <klovepig@gmail.com>
**Sent:** Friday, April 22, 2022 10:09 AM
**To:** JPA.permits@mrc.virginia.gov
**Subject:** Fwd: All construction to take place above the High Tide Line, no wetlands impacted in crossing dunes, no 408 Fwd: NAO-2022-00793-JLJ (22-V0642) (Hughes, Kathy / Beach Access Walkway / 608 Carousel Place / Northampton )

Hi Beth:

I would like to inquire about the status of the permitting process for ***Application #22-0642.***

Please see the forwarded email below from USACE decision they do not have objections with the project.

I have forwarded this email to the Cape Charles WLB and they are in the process of setting up a public hearing.

Will this be the step in acquiring the permit for this Beach Access Walkway?

Thank you!!

Kathy Hughes

M: 818.312.2024

---------- Forwarded message ---------
From: **Gibson, Steven W CIV USARMY CENAO (USA)** <Steven.W.Gibson@usace.army.mil>
Date: Thu, Apr 21, 2022 at 2:21 PM
**Subject: All construction to take place above the High Tide Line, no wetlands impacted in crossing dunes, no 408**

Fwd: NAO-2022-00793-JLJ (22-V0642) (Hughes, Kathy / Beach Access Walkway / 608 Carousel Place / Northampton )
To: Kathy Hughes <klovepig@gmail.com>

Just getting back from training Kathy. We have a ton of volume here. Given the facts that all construction & installation is proposed above the High Tide Line, no wetlands will be impacted in crossing dunes and no 408 will be required,

as proposed this dune walkway crossing to the beach will not require authorization from the United States Army Corps of Engineers.

The Local VMRC Board will process the dune crossing.

Steve Gibson

USACE

Norfolk District

Regulatory

**From:** Kathy Hughes <klovepig@gmail.com>
**Sent:** Thursday, April 21, 2022 1:07 PM
**To:** Gibson, Steven W CIV USARMY CENAO (USA) <Steven.W.Gibson@usace.army.mil>
**Subject:** Re: [Non-DoD Source] Fwd: NAO-2022-00793-JLJ (22-V0642) (Hughes, Kathy / Beach Access Walkway / 608 Carousel Place / Northampton )

REGARDING [Non-DoD Source] Fwd: NAO-2022-00793-JLJ (22-V0642) (Hughes, Kathy / Beach Access Walkway / 608 Carousel Place / Northampton )

Good afternoon Mr Gibson:

I was wondering if you have reviewed the above referenced project for a beach access walkway JPA application in Cape Charles.

Please advise if you have any questions I can answer.

Thanks so much for your help through this process.

Kathy Hughes

M: 818.312.2024

On Thu, Apr 14, 2022 at 5:15 PM Kathy Hughes <klovepig@gmail.com> wrote:

> Regarding: [Non-DoD Source] Fwd: NAO-2022-00793-JLJ (22-V0642) (Hughes, Kathy / Beach Access Walkway / 608 Carousel Place / Northampton )
>
> Good afternoon Mr Gibson:
>
> I was wondering if there is a status on the above referenced project for a beach access walkway JPA application in Cape Charles.
>
> This is my first experience with this process and I am a fish out of water for a JPA and timing.
>
> Please advise if you have any questions I can answer.
>
> Thanks so much for your help through this process.

# Kathy Hughes

# M: 818.312.2024

---------- Forwarded message ---------
From: **Kube, Peter R CIV USARMY CENAO (USA)** <Peter.R.Kube@usace.army.mil>
Date: Wed, Apr 13, 2022 at 10:09 AM
Subject: RE: [Non-DoD Source] Fwd: NAO-2022-00793-JLJ (22-V0642) (Hughes, Kathy / Beach Access Walkway / 608 Carousel Place / Northampton )
To: Kathy Hughes <klovepig@gmail.com>
Cc: Gibson, Steven W CIV USARMY CENAO (USA) <Steven.W.Gibson@usace.army.mil>

Ms. Hughes,

Your project has been assigned to Steve Gibson, copied here.

Steve,

Please provide a status of your review.

Thanks all.

Peter Kube, Chief

Eastern Virginia Regulatory Section

US Army Corps of Engineers

803 Front Street

Norfolk, VA 23510

Phone (757) 201-7504

The Norfolk District is committed to providing the highest level of support to the public. In order for us to better serve you, we would appreciate you completing our Customer Satisfaction Survey located at http://per2.nwp.usace.army.mil/survey.html. We value your comments and appreciate your taking the time to complete the survey.

**From:** Kathy Hughes <klovepig@gmail.com>
**Sent:** Wednesday, April 13, 2022 9:32 AM
**To:** Kube, Peter R CIV USARMY CENAO (USA) <Peter.R.Kube@usace.army.mil>
**Subject:** [Non-DoD Source] Fwd: NAO-2022-00793-JLJ (22-V0642) (Hughes, Kathy / Beach Access Walkway / 608 Carousel Place / Northampton )

Mr Kube:

I know I am jumping the timeline by 2 days, but I haven't heard back about **NAO-2022-00793-JLJ (22-V0642) (Hughes, Kathy / Beach Access Walkway / 608 Carousel Place / Northampton).** This is my first time going through this process and I am unsure of the process and timing. I have already had one Dune and Wetlands hearing scheduled for Apr 20th (which has been postponed), but wanted to see if there is any news on my JPA #22-0642 Beach access walkway permit.

Thanks!

Kathy Hughes

M: 818.312.224

---------- Forwarded message ---------
From: **Ludwig-Jones, Joann NAO** <Joann.Ludwig-Jones@usace.army.mil>
Date: Thu, Mar 31, 2022 at 1:26 PM
Subject: NAO-2022-00793-JLJ (22-V0642) (Hughes, Kathy / Beach Access Walkway / 608 Carousel Place / Northampton )
To: klovepig@gmail.com <klovepig@gmail.com>

Dear Applicant/Agent:

We have received your request and it has been assigned NAO project number referenced in the subject line above. Please reference this project number in all future communications.

Your project manager will reach out to you within 15 days confirming assignment of your request. If you do not hear from your PM within 15 days, please contact Mr. Peter Kube at Peter.R.Kube@usace.army.mil.

*NOTE: If you have submitted an RP-17 checklist, we will only contact you if we have concerns.*

Thank you!

- Regulatory Branch, Norfolk District, US Army Corps of Engineers

Inst # 080000265

DECLARATION OF
BEACH ACCESS EASEMENT AND RESTRICTIVE COVENANTS
FOR
PORTION OF PARCEL M
BAY CREEK AT CAPE CHARLES

THIS DECLARATION OF BEACH ACCESS EASEMENT AND RESTRICTIVE COVENANTS, Made this 1st day of February, 2008, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as "Bay Creek" and as "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes. Also index in the name of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia non-stock, non-profit corporation, (the "Association"), GRANTOR for the purposes of indexing.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES" (the "Subdivision"); and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Bay Creek is the owner in fee simple of certain real property (hereinafter the "Lots") situate in the Town of Cape Charles, Northampton County, Virginia, now constituting a portion of the Subdivision and more particularly described as follows:

Parcel Number: Part of 00090-A-1E

PREPARATION BY:
RETURN TO:
Consolo, Markowitz & Webb, PLC
LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

FEB 5 '08 PM 1:1

ALL THOSE CERTAIN lots, pieces or parcels of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the Town of Cape Charles, Capeville District, Northampton County, Virginia, and being known, numbered and designated as Lots 117 through 135, both inclusive, as shown on that certain plat entitled "RESUBDIVISION OF PARCEL M - PHASE 1A AND PARCEL M - PHASE 2A FOR BAY CREEK, L.L.C., TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON, CO., VIRGINIA", DECEMBER 18, 2007", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia as Instrument Number 080000010, in Plat Book 39, at Pages 68 and 69.

WHEREAS, Bay Creek also owns the real property situate between the rear, or westernmost, boundary line of the Lots and the waters of the Chesapeake Bay, a majority of which is comprised of a sandy beach (hereinafter the "Beach"), including natural sand dunes therein (hereinafter the "Dunes") and the grasses and other vegetation naturally growing within the Beach and upon the Dunes;

WHEREAS, the Declarant wishes to (i) create perpetual, exclusive, pedestrian ingress/egress easements for the benefit of the future owner(s) of each of the Lots (the "Owners") over and across a portion of the Beach, and Dunes therein, as herein established and set forth; (ii) provide for the use and maintenance of said easements; and (iii) set forth the rights of Bay Creek and/or the Association to restrict, regulate and govern the use of said easements, as their successors and/or assigns shall determine.

NOW, THEREFORE, for and in consideration of the mutual benefits accruing to (i) Bay Creek, as Successor Declarant and as the owner of the Beach and the Dunes, (ii) the Association, and (iii) the future Owners of the Lots, Bay Creek does hereby declare, create and establish a perpetual, exclusive pedestrian ingress/egress easement use over and across the Beach and the Dunes, for the benefit of each Lot, that shall be fifteen (15) feet in width and, as to each Lot, shall be bounded on the east by the rear, or westernmost, boundary line of each Lot, bounded on the north by the westerly extension of the northern boundary line of each Lot, and bounded on the west by a line that constitutes the western toe of the Dune (i.e. the seaward side line of the Dune behind each respective Lot), as the said toe of the Dune naturally varies from time to time, and bounded on the south by a line that is fifteen (15) feet south of, and parallel to, the said westerly extension of the northern boundary line of each Lot. No Lot Owner shall take any action or permit or suffer any activity within the easement area at any time that disturbs the natural variation of the Dunes in any manner whatsoever. No Lot Owner shall remove any sand from the Beach or disturb the grasses and/or other vegetation growing in the sand or upon the Dunes.

(1) Bay Creek and all future Owners of the Lots shall use the rights granted by this instrument with due regard for the rights of the other Lot Owners and their use thereof. Nothing contained herein shall be construed to entitle the Owner of any Lot to enter upon any portion of any of the other Lots.

PREPARATION BY:
RETURN TO:
Consolvo, Markowitz & Webb, PLLC
LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

(2) No buildings or structures of any kind shall be constructed, erected or permitted within or upon the easement areas except wooden (or other approval construction material) walkways (together with appurtenant structures such as benches or gazebos) solely for access over the Dunes to the Beach, constructed by a Lot Owner, provided that such walkways (and appurtenant structures) shall (i) comply with all applicable Town of Cape Charles ordinance(s) relating to location, construction, design and height thereof, (ii) comply with all requirements of any other governmental agency having jurisdiction thereover, and (iii) be approved by Bay Creek and the Association. All of the costs of obtaining such approvals

shall be borne by the respective Lot Owner seeking to construct a walkway within the easement area appurtenant such Owner's Lot, including, but not limited to, such reasonable fees as Bay Creek and the Association may impose to defray the cost of reviewing the plans and specifications thereof. After construction thereof, Owners of the respective Lots shall maintain the approved walkways and appurtenant structures so approved in a manner satisfactory to the Association, and any governmental agency having authority thereover, and shall be solely responsible for maintaining same and keeping the easement area free from debris and rubbish, to the satisfaction of the Association. Bay Creek and/or the Association unconditionally reserve the right to enter upon the easement areas to maintain the areas at the expense of the respective Lot Owners.

(3) The easements hereby established shall be subject to such other restrictions and limitation(s) thereupon that may be imposed by Bay Creek and/or the Association.

(4) The Association joins in this instrument to evidence its consent to the establishment of the easements contained herein. It is the intent of Bay Creek and the Association that the Association will continue to promulgate and enforce such rules and regulations to governance of the use of the Beach in consultation with Bay Creek as the owner of the Beach, all in the exercise of its power and authority.

Notwithstanding anything in this Declaration to the contrary, each future Owner of a Lot shall be deemed to acknowledge that use of the Beach and rights to traverse the Dunes and thereby enter upon the Beach may be subject to restrictions imposed thereon by the United States of America, the Commonwealth of Virginia, Northampton County and/or the Town of Cape Charles. Furthermore, Bay Creek, L.L.C., by the establishment of this easement, does not relinquish any right of title in and to the Beach and/or the Dunes, including, but not limited to, its riparian rights, rights of accretion, and/or its rights in and to the waters of the Chesapeake Bay, if any. Each such Owner, for said Owner and on behalf of said Owner's heirs, successors, assigns, guests, and invitees, shall be deemed, by such Owner acquiring title to a Lot, to acknowledge hereby that the right to enter upon the Beach, including the area comprised by the Dunes, is a right of usage granted solely by this instrument and that the title to said real property remains the sole and exclusive property of Bay Creek, L.L.C., and/or its successors and assigns.

PREPARATION BY:
RETURN TO:
Consolvo, Markowitz & Webb, PLLC
LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK

SIGNATURE PAGE FOLLOWS THIS PAGE

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, and BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia corporation, have caused this instrument to be executed in the respective names of the companies by duly authorized persons.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: _____
Richard S. Foster, Manager

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.,
a Virginia corporation

By: _____
Richard S. Foster, President

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 1st day of ~~January~~ February, 2008.

_____
Notary Public

My Commission Expires: Oct 31, 2010

Notary Registration Number: 193652

CARL S. MARKOWITZ NOTARY My Comm. Expires Oct. 31, 2010 193652 PUBLIC COMMONWEALTH OF VIRGINIA

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as President of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia corporation, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 1st day of ~~January~~ February, 2008.

_____
Notary Public

My Commission Expires: Oct 31, 2010

Notary Registration Number: 193652

CARL S. MARKOWITZ NOTARY My Comm. Expires Oct. 31, 2010 193652 PUBLIC COMMONWEALTH OF VIRGINIA

Preparation by:
Return to:
Consolvo, Markowitz & Webb, PLC
Lynnhaven Corporate Center II - Suite 101
760 Lynnhaven Parkway
Virginia Beach, Virginia 23452-7325

INSTRUMENT #080000265
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
FEBRUARY 5, 2008 AT 02:44PM

TRACI L. JOHNSON, CLERK
RECORDED BY: SBS

# WETLANDS & COASTAL DUNE BOARD STAFF REPORT

Meeting Date: May 26, 2022
Item #: 5B – 107 Creekside Lane

**Prepared By:** Katie Nunez, Interim Planner/Zoning Administrator
**Site Address:** 107 Creekside Lane (Tax Map #90-9-29)
**Applicant:** Brent W. Geissinger
**Owner:** Brent W. Geissinger
**JPA Number** 2022-0717
**Proposed Project:** Construct a pier with a floating kayak launch

## ITEM SPECIFICS:

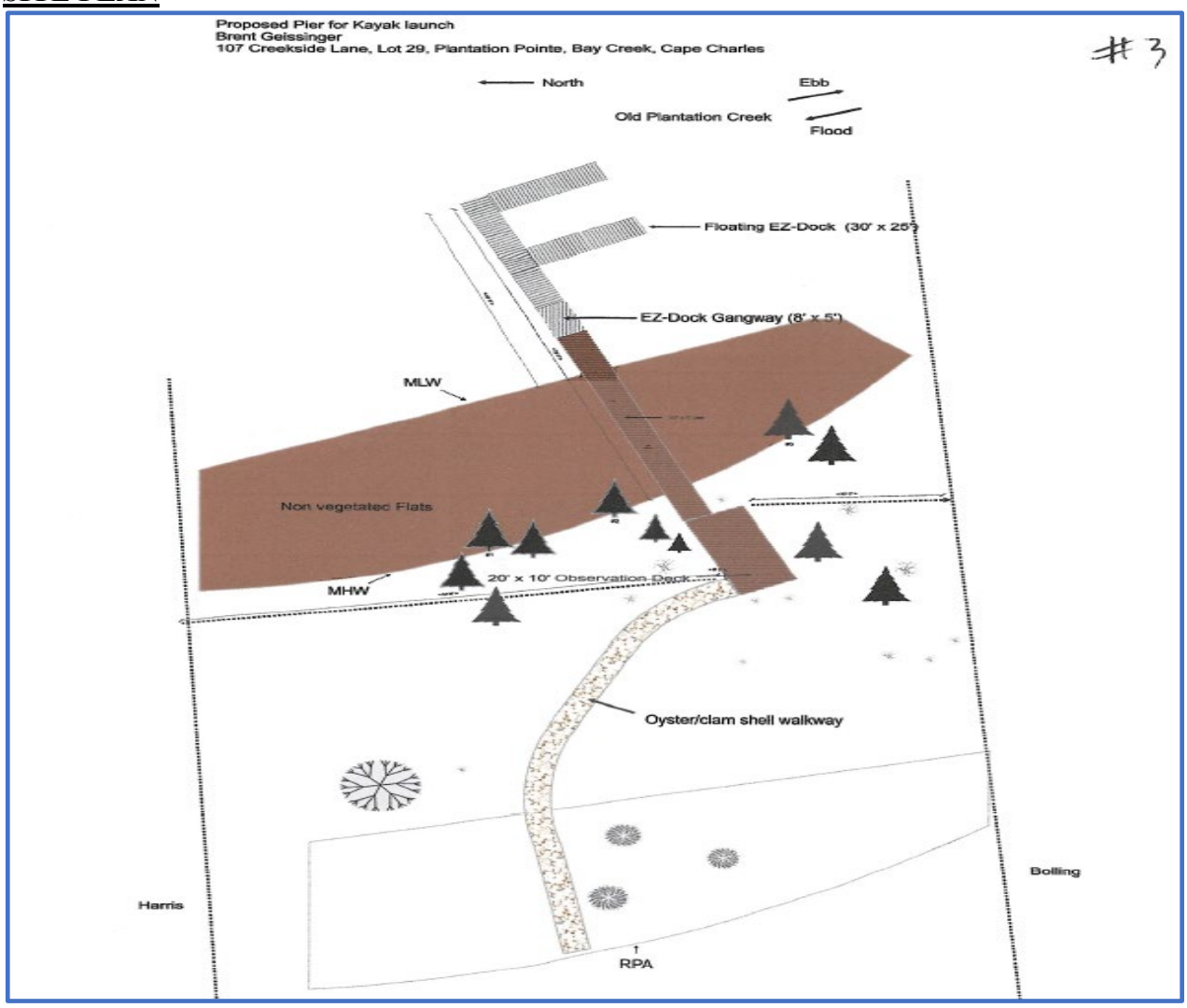
A joint permit application for the construction of a 10' x 20' observation deck connected to a 50' x 5' pier has been received. An 8' x 5' aluminum gangway will connect the floating kayak launch platform to the pier.

They are also proposing to remove 3 existing pines at MHW line. The pine trees have significant lean and pose rise of property damage/personal injury. The loss of root tap would result in significant shore line erosion and the shade from the trees is also preventing growth of beneficial vegetated wetlands.

## AERIAL MAP



**SITE PLAN**




The applicant has provided notification to the 2 adjacent property owners and has received one return notice from Ray & Mary Jo Bolling indicating no objection to the project.

**ZONING REQUIREMENTS**

The portion of the project that is within the Wetlands and Coastal Dune Board's jurisdiction, pursuant to Cape Charles Zoning Ordinance Section 7.7 (A), is the proposed construction of a 10' x 20' observation deck that will be connected to a 50' x 5' pier.

CCZO Section 7.7 – Development Criteria for Resource Protection Areas of the Chesapeake Bay Act states the following:

A. *Development in RPAs may be allowed only if it: (1) is water dependent (2) constitutes redevelopment or development within IDAs, or (3) constitutes redevelopment*

1. *A new or expanded water dependent facility may be allowed provided that the following criteria are met:*
   *a. It does not conflict with the comprehensive plan;*
   *b. It complies with the performance criteria set forth in Section 7.10 of this Article;*
   *c. Any non water dependent component is located outside of the RPA; and*
   *d. Access to the water dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.*

**Recommendation:**
Review the application materials and public comment. After discussion, determine whether issuance of a permit would be appropriate. It should be noted that approval by this Board is valid only for the local Wetlands Board, and authorization from all other jurisdictions and agencies is required prior to any work being done.

**Attachments:**
Attachment 1 – Application and Documents

# WETLANDS BOARD APPLICATION

Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
757-331-2036 Fax: 757-331-4820
planningtech@capecharles.org

## PROJECT INFORMATION

Name of Project: JPA # 22-0717

Property Address: 107 Creekside Ln, Cape Charles, VA 23310

Brief Description of Project: Observation Deck + Kayak launch Pier

Zoning District: ____ Current Use: N/A Proposed Use: Recreational

## OWNER INFORMATION

Name and Company: Brent W. Geissinger

Mailing Address: 606 Carousel Pl

Phone Number: 757-647-6404 Email: b.geissinger@gmail.com

## APPLICANT INFORMATION

☑ check here if applicant is owner (If applicant is not owner an Owner Affidavit will need to be completed.)

Name: ____

Mailing Address: ____

Phone Number: ____ Email: ____

**********

### CERTIFICATION OF APPLICANT

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed. Furthermore, I certify that the changes to the improvement before or during construction will be provided to the Zoning Administrator and Building Official before such changes are constructed.

Signature of Applicant: ____ Date: 4/30/22

**From:** brent geissinger
**To:** JPA.permits@mrc.virginia.gov
**Subject:** Geissinger Private Pier Lot 29, Plantation Pointe, Bay Creek
**Date:** Sunday, March 27, 2022 8:46:31 PM
**Attachments:** Geissinger Pier, lot 29, Plantation Pointe.pdf

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To whom it may Concern,
Attached please find a Tidewater Joint Permit Application for a Private Pier on Old Plantation Creek for Kayak launch. Please contact me if you require any additional info. I will forward the Adjacent Property Owner's Acknowledgement Forms to my neighbors for signature. Thank you.
Brent Geissinger
757-647-6404

Received by VMRC March 28, 2022 /blh

- DEQ: Permit application fees required for Virginia Water Protection permits – while detailed in 9VAC25-20 – are conveyed to the applicant by the applicable DEQ office (http://www.deq.virginia.gov/Locations.aspx). Complete the Permit Application Fee Form and submit it per the instructions to the address listed on the form. Instructions for submitting any other fees will be provided to the applicant by DEQ staff.
- VMRC: An application fee of $300 may be required for projects impacting tidal wetlands, beaches and/or dunes when VMRC acts as the LWB. VMRC will notify the applicant in writing if the fee is required. Permit fees involving subaqueous lands are $25.00 for projects costing $10,000 or less and $100 for projects costing more than $10,000. Royalties may also be required for some projects. The proper permit fee and any required royalty is paid at the time of permit issuance by VMRC. VMRC staff will send the permittee a letter notifying him/her of the proper permit fees and submittal requirements.
- LWB: Permit fees vary by locality. Contact the LWB for your project area or their website for fee information and submittal requirements. Contact information for LWBs may be found at http://ccrm.vims.edu/permits_web/guidance/local_wetlands_boards.html.

| FOR AGENCY USE ONLY | |
|---|---|
| | Notes: |
| | JPA # 22-0717 |

# APPLICANTS
## Part 1 – General Information

**PLEASE PRINT OR TYPE ALL ANSWERS:** If a question does not apply to your project, please print N/A (not applicable) in the space provided. If additional space is needed, attach 8-1/2 x 11 inch sheets of paper.

| ***Check all that apply*** | | |
|---|---|---|
| Pre-Construction Notification (PCN) ☐<br>NWP # _____<br>*(For Nationwide Permits ONLY - No DEQ-VWP permit writer will be assigned)* | Regional Permit 17 (RP-17) ☐ | |
| **County or City in which the project is located:** Cape Charles<br>**Waterway at project site:** Old Plantation Creek | | |

*PREVIOUS ACTIONS RELATED TO THE PROPOSED WORK (Include all federal, state, and local pre application coordination, site visits, previous permits, or applications whether issued, withdrawn, or denied)*

Historical information for past permit submittals can be found online with VMRC - https://webapps.mrc.virginia.gov/public/habitat/ - or VIMS - http://ccrm.vims.edu/perms/newpermits.html

| Agency | Action / Activity | Permit/Project number, including any non-reporting Nationwide permits previously used (e.g., NWP 13) | Date of Action | If denied, give reason for denial |
|---|---|---|---|---|
| | | | | |
| | | | | |



Received by VMRC March 28, 2022 /blh

# Part 1 - General Information (continued)

1. Applicant's legal name* and complete mailing address: Contact Information:

   Brent W Geissinger
   606 Carousel pl
   Cape Charles, VA 23310

   Home (____)_____
   Work (____)_____
   Fax (____)_____
   Cell (757 )647-6404
   e-mail b.geissinger@gmail.com

   State Corporation Commission Name and ID Number (if applicable) _____

2. Property owner(s) legal name* and complete address, if different from applicant: Contact Information:

   Home (____)_____
   Work (____)_____
   Fax (____)_____
   Cell (____)_____
   e-mail _____

   State Corporation Commission Name and ID Number (if applicable) _____

3. Authorized agent name* and complete mailing address (if applicable):

   Contact Information:
   Home (____)_____
   Work (____)_____
   Fax (____)_____
   Cell (____)_____
   e-mail _____

   State Corporation Commission Name and ID Number (if applicable) _____

*** If multiple applicants, property owners, and/or agents, each must be listed and each must sign the applicant signature page.**

4. Provide a detailed description of the project in the space below, including the type of project, its dimensions, materials, and method of construction. Be sure to include how the construction site will be accessed and whether tree clearing and/or grading will be required, including the total acreage. If the project requires pilings, please be sure to include the total number, type (e.g. wood, steel, etc), diameter, and method of installation (e.g. hammer, vibratory, jetted, etc). If additional space is needed, provide a separate sheet of paper with the project description.

   The project will include construction of an observation deck measuring 10' x 20' connected to a 50' x 5' pier to reach MLW. Pier will be connected to floating kayak launch pratform via EZ dock 8' x 5' aluminum gangway. Floating dock will be comprised of EZ Dock part number 2066010, 60" x 10' dock sections (7), part number 300501, corner gusset (4). Pier will require (14) 8" diameter timber piles that will be driven using water jet. Project will also require removal of three existing pines (numbered 1-3 on plan) at MHW line. Pines have significant lean and pose risk of property damage/personal injury. In addition, loss of root tap would result in significant shore line erosion. Shade from trees is also preventing growth of benficial vegetated wetlands.



Received by VMRC March 28, 2022 /blh

## Part 1 - General Information (continued)

5. Have you obtained a contractor for the project? ___ Yes* __X__ No. *If your answer is "Yes" complete the remainder of this question and submit the Applicant's and Contractor's Acknowledgment Form (enclosed)
   Contractor's name* and complete mailing address:

   Contact Information:
   Home (___)_____
   Work (___)_____
   Fax (___)_____
   Cell (___)_____
   email _____

   State Corporation Commission Name and ID Number (if applicable) _____

*** If multiple contractors, each must be listed and each must sign the applicant signature page.**

6. List the name, address and telephone number of the newspaper having general circulation in the area of the project. Failure to complete this question may delay local and State processing.

   Name and complete mailing address:
   Virginia Pilot
   150 W Brambleton Ave
   Norffolk, VA 23510

   Telephone number
   (757 ) 622-1455

7. Give the following project location information:
   Street Address (911 address if available) 107 Creekside Ln, Cape Charles, VA 23310
   Lot/Block/Parcel# Lot 29
   Subdivision Bay Creek
   City / County Cape Charles, VA ZIP Code 23310
   Latitude and Longitude at Center Point of Project Site (Decimal Degrees):
   37.2548475 / -75.9933644 (Example: 36.41600/-76.30733)

   If the project is located in a rural area, please provide driving directions giving distances from the best and nearest visible landmarks or major intersections. *Note: if the project is in an undeveloped subdivision or property, clearly stake and identify property lines and location of the proposed project. A supplemental map showing how the property is to be subdivided should also be provided.*

8. What are the *primary and secondary purposes of and the need for* the project? For example, the primary purpose may be "to protect property from erosion due to boat wakes" and the secondary purpose may be "to provide safer access to a pier."

   1. To provide safe access to Old plantation creek for kayaking and SUP activities. Current access requires crossing mud flats at low tide.
   2. Observation deck to provide views of water and to provide staging area for kayak and SUP launch.



Received by VMRC March 28, 2022 /blh

## Part 1 - General Information (continued)

9. Proposed use (check one):
   x Single user (private, non-commercial, residential)
   ___ Multi-user (community, commercial, industrial, government)

10. Describe alternatives considered and the measures that will be taken to avoid and minimize impacts, to the maximum extent practicable, to wetlands, surface waters, submerged lands, and buffer areas associated with any disturbance (clearing, grading, excavating) during and after project construction. *Please be advised that unavoidable losses of tidal wetlands and/or aquatic resources may require compensatory mitigation.*

    There are no wetlands impacts associated with this project. No clearing,grading or excavating required.

11. Is this application being submitted for after-the-fact authorization for work which has already begun or been completed? ___Yes X No. If yes, be sure to clearly depict the portions of the project which are already complete in the project drawings.

12. Approximate cost of the entire project (materials, labor, etc.): $50,000
    Approximate cost of that portion of the project that is channelward of mean low water: $10,000

13. Completion date of the proposed work: June -2022

14. Adjacent Property Owner Information: List the name and complete **mailing address**, including zip code, of each adjacent property owner to the project. (NOTE: If you own the adjacent lot, provide the requested information for the first adjacent parcel beyond your property line.) Failure to provide this information may result in a delay in the processing of your application by VMRC.

    Harris Family Trust
    103 Creekside Ln
    Cape Charles, VA 23310

    Bolling, Raymond L III & Mary Jo
    13 Plum Ridge Dr
    New Egypt, NJ 08533



Received by VMRC March 28, 2022 /blh

# Part 2 - Signatures

1. **Applicants and property owners (if different from applicant).**
   **NOTE: REQUIRED FOR ALL PROJECTS**

| |
|---|
| **PRIVACY ACT STATEMENT: The Department of the Army permit program is authorized by Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and Section 103 of the Marine Protection Research and Sanctuaries Act of 1972. These laws require that individuals obtain permits that authorize structures and work in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters prior to undertaking the activity. Information provided in the Joint Permit Application will be used in the permit review process and is a matter of public record once the application is filed. Disclosure of the requested information is voluntary, but it may not be possible to evaluate the permit application or to issue a permit if the information requested is not provided.** |
| **CERTIFICATION: I am hereby applying for all permits typically issued by the DEQ, VMRC, USACE, and/or Local Wetlands Boards for the activities I have described herein. I agree to allow the duly authorized representatives of any regulatory or advisory agency to enter upon the premises of the project site at reasonable times to inspect and photograph site conditions, both in reviewing a proposal to issue a permit and after permit issuance to determine compliance with the permit.**<br>**In addition, I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.** |

Brent W Geissinger

Applicant's Legal Name (printed/typed)

(Use if more than one applicant)

Applicant's Signature

(Use if more than one applicant)

3/27/2022

Date

Property Owner's Legal Name (printed/typed)
(If different from Applicant)

(Use if more than one owner)

Property Owner's Signature

(Use if more than one owner)

Date



Received by VMRC March 28, 2022 /blh

## Part 2 – Signatures (continued)

### ADJACENT PROPERTY OWNER'S ACKNOWLEDGEMENT FORM

I (we), Harris Family Trust, own land next to (across the water
(Print adjacent/nearby property owner's name)

from/on the same cove as) the land of Brent W. Geissinger.
(Print applicant's name(s))

I have reviewed the applicant's project drawings dated 12/18/2021
(Date)

to be submitted for all necessary federal, state and local permits.

I HAVE NO COMMENT_____ ABOUT THE PROJECT.

I DO NOT OBJECT _____ TO THE PROJECT.

I OBJECT _____ TO THE PROJECT.

**The applicant has agreed to contact me for additional comments if the proposal changes prior to construction of the project.**

(Before signing this form be sure you have checked the appropriate option above).

_____
Adjacent/nearby property owner's signature(s)

_____
Date

**Note: If you object to the proposal, the reason(s) you oppose the project must be submitted in writing to VMRC. An objection will not necessarily result in denial of the project; however, valid complaints will be given full consideration during the permit review process.**



Received by VMRC March 28, 2022 /blh

## Part 2 – Signatures (continued)

### ADJACENT PROPERTY OWNER'S ACKNOWLEDGEMENT FORM

I (we), BOLLING, RAYMOND L III & MARY JO, own land next to (across the water
(Print adjacent/nearby property owner's name)

from/on the same cove as) the land of Brent W. Geissinger.
(Print applicant's name(s))

I have reviewed the applicant's project drawings dated 12/18/2021
(Date)

to be submitted for all necessary federal, state and local permits.

I HAVE NO COMMENT_____ ABOUT THE PROJECT.

I DO NOT OBJECT _____ TO THE PROJECT.

I OBJECT _____ TO THE PROJECT.

**The applicant has agreed to contact me for additional comments if the proposal changes prior to construction of the project.**

(Before signing this form, be sure you have checked the appropriate option above).

_____
Adjacent/nearby property owner's signature(s)

_____
Date

**Note: If you object to the proposal, the reason(s) you oppose the project must be submitted in writing to VMRC. An objection will not necessarily result in denial of the project; however, valid complaints will be given full consideration during the permit review process.**



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**APPENDIX B**

**U.S. Army Corps Of Engineers**
Norfolk District

**REGIONAL PERMIT 17 CHECKLIST**
Expires: September 5, 2023

**Please review the 18-RP-17 enclosure before completing this form and note 18-RP-17 can only be used for proposed PRIVATE USE structure(s) that comply with the terms and conditions of 18-RP-17. Copies can be obtained online at http://www.nao.usace.army.mil/Missions/Regulatory/RBregional/.**

YES☒ NO☐ **(1)** Has the permittee reviewed the 18-RP-17 enclosure and verified that the proposed structure(s) is in compliance with all the terms, conditions, and limitations of 18-RP-17?

YES☒ NO☐ **(2)** Does the proposed structure(s) extend no more than one-fourth of the distance across the waterway measured from either mean high water (MHW) to MHW (including all channelward wetlands) or ordinary high water (OHW) to OHW (including all channelward wetlands)?

YES☒ NO☐ **(3)** Does the proposed structure(s) extend no more than 300 feet from MHW or OHW (including all channelward wetlands)?

YES☒ NO☐ N/A☐ **(4)** Does the proposed structure(s) attach to the upland at a point landward of MHW or OHW (including all channelward wetlands)?

YES☒ NO☐ N/A☐ **(5)** If the proposed structure(s) crosses wetland vegetation, is it an open-pile design that has a maximum width of five (5) feet and a minimum height of four (4) feet between the decking and the wetland substrate?

YES☒ NO☐ N/A☐ **(6)** Does the proposed structure(s) include no more than two (2) boatlifts and no more than two (2) boat slips?

YES☐ NO☐ N/A☒ **(7)** Is the open-sided roof structure designed to shelter a boat ≤ 700 square feet and/or is the open sided roof structure or gazebo structure designed to shelter a pier ≤ 400 square feet?

YES☒ NO☐ N/A☐ **(8)** Are all piles associated with the proposed structure(s) non-steel, less than or equal to 12" in diameter, and will less than or equal to 25 piles be installed channelward of MHW?

YES☒ NO☐ N/A☐ **(9)** Is all work occurring behind cofferdams, turbidity curtains, or other methods to control turbidity being utilized when operationally feasible and federally listed threatened or endangered species may be present?

YES☒ NO☐ N/A☐ **(10)** If the proposed structure(s) is to be located within an anadromous fish use area, the prospective permittee will adhere to the anadromous fish use area time of year restriction (TOYR) prohibiting in-water work from occurring between February 15 through June 30 of any given year if (1) piles are to be installed with a cushioned impact hammer and there is less than 492 feet between the most channelward pile and mean low water (MLW) on the opposite shoreline or (2) piles are to be installed with a vibratory hammer and there is less than 384 feet between the most channelward pile and MLW on the opposite shoreline.

YES☒ NO☐ **(11)** Is all work occurring outside of submerged aquatic vegetation (SAV) mapped by the Virginia Institute of Marine Sciences' (VIMS) most recent survey year and 5 year composite?

YES☒ NO☐ **(12)** Has the permittee ensured the construction and/or installation of the proposed structure(s) will not affect federally listed threatened or endangered species or designated critical habitat?

YES☒ NO☐ **(13)** Will the proposed structure be located outside of Broad Creek in Middlesex County, Fisherman's Cove in Norfolk, or the Salt Ponds in Hampton?

YES☒ NO☐ **(14)** Will the proposed structure(s) be located outside of the waterways containing a Federal Navigation Project listed in Permit Specific Condition 12 of 18-RP-17 and/or will all portions of the proposed structure(s) be located more than 85 feet from the Federal Navigation Project?



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YES☒ NO☐ **(15)** Will the proposed structure(s) be located outside a USACE Navigation and Flood Risk Management project area?

YES☒ NO☐ **(16)** Will the proposed structure(s) be located outside of any Designated Trout Waters?

YES☒ NO☐ N/A☐ **(17)** If the proposed structure(s) includes flotation units, will the units be made of materials that will not become waterlogged or sink if punctured?

YES☒ NO☐ N/A☐ **(18)** If the proposed structure(s) includes flotation units, will the floating sections be braced so they will not rest on the bottom during periods of low water?

YES☒ NO☐ **(19)** Is the proposed structure(s) made of suitable materials and practical design so as to reasonably ensure a safe and sound structure?

YES☒ NO☐ **(20)** Will the proposed structure(s) be located on the property in accordance with the local zoning requirements?

YES☐ NO☐ N/A☒ **(21)** If the proposed structure(s) includes a device used for shellfish gardening, will the device be attached directly to a pier and limited to a total of 160 square feet?

YES☐ NO☐ N/A☒ **(22)** If the proposed structure(s) includes a device used for shellfish gardening, does the permittee recognize this RP does not negate their responsibility to obtain an oyster gardening permit (General Permit #3) from Virginia Marina Resources Commission's Habitat Management Division?

YES☒ NO☐ **(23)** Does the permittee recognize this RP does not authorize any dredging or filling of waters of the United States (including wetlands) and does not imply that future dredging proposals will be approved by the Corps?

YES☒ NO☐ **(24)** Does the permittee understand that by accepting 18-RP-17, the permittee accepts all of the terms and conditions of the permit, including the limits of Federal liability contained in the 18-RP-17 enclosure? Does the permittee acknowledge that the structures permitted under 18-RP-17 may be exposed to waves caused by passing vessels and that the permittee is solely responsible for the integrity of the structures permitted under 18-RP-17 and the exposure of such structures and vessels moored to such structures to damage from waves? Does the permittee accept that the United States is not liable in any way for such damage and that it shall not seek to involve the United States in any actions or claims regarding such damage?

**IF YOU HAVE ANSWERED "NO" TO ANY OF THE QUESTIONS ABOVE, REGIONAL PERMIT 17 (18-RP-17) DOES NOT APPLY AND YOU ARE REQUIRED TO OBTAIN WRITTEN AUTHORIZATION FROM THE CORPS PRIOR TO PERFORMING THE WORK.**

**IF YOU HAVE ANSWERED "YES" (OR "N/A", WHERE APPLICABLE) TO ALL OF THE QUESTIONS ABOVE, YOU ARE IN COMPLIANCE WITH REGIONAL PERMIT 17 (18-RP-17). PLEASE SIGN BELOW, ATTACH, AND SUBMIT THIS CHECKLIST WITH YOUR COMPLETED JOINT PERMIT APPLICATION (JPA). THIS SIGNED CERTIFICATE SERVES AS YOUR LETTER OF AUTHORIZATION FROM THE CORPS. YOU WILL NOT RECEIVE ANY OTHER WRITTEN AUTHORIZATION FROM THE CORPS; HOWEVER, YOU MAY NOT PROCEED WITH CONSTRUCTION UNTIL YOU HAVE OBTAINED ALL OTHER NECESSARY STATE AND LOCAL PERMITS.**

**I CERTIFY THAT I HAVE READ AND UNDERSTAND ALL CONDITIONS OF THE REGIONAL PERMIT 17 (18-RP-17), DATED SEPTEMBER 2018, ISSUED BY THE US ARMY CORPS OF ENGINEERS, NORFOLK DISTRICT REGULATORY BRANCH (CENAO-WRR), NORFOLK, VIRGINIA.**

**Signature of Property Owner(s) or Agent**

**Date** 12/18/2021

**Proposed work to be located at:**

107 Creekside Ln

Cape Charles, VA 23310

**VMRC Number:** _____



Received by VMRC March 28, 2022 /blh

# Part 3 – Appendices

Please complete and submit the appendix questions applicable to your project, and attach the required vicinity map(s) and drawings to your application. If an item does not apply to your project, please write "N/A" in the space provided.

---

**Appendix A: (TWO PAGES) Projects for Access** to the water such as private and community piers, boathouses, marinas, moorings, and boat ramps. Answer all questions that apply.

1. **Briefly describe your proposed project.**

   The project is to construct an observation platform and private open-pile pier as shown in the permit drawings.

2. **For private, noncommercial piers:**

   Do you have an existing pier on your property? ____Yes X ____ No
   If yes, will it be removed? ____Yes ____No
   Is your lot platted to the mean low water shoreline? X ____Yes ____No
   What is the overall length of the proposed structure? 108' ____feet.
   Channelward of Mean High Water? 78' ____feet.
   Channelward of Mean Low Water? 46' ____feet.
   What is the area of the piers and platforms that will be constructed over
   Tidal non-vegetated wetlands 150 ____ square feet.
   Tidal vegetated wetlands 50 ____ square feet.
   Submerged lands 450 ____square feet.
   What is the total size of any and all L- or T-head platforms? 350 ____sq. ft.
   For boathouses, what is the overall size of the roof structure? ____sq. ft.
   Will your boathouse have sides? ____Yes____ No.

   NOTE: All proposals for piers, boathouses and shelter roofs must be reviewed by the Virginia Marine Resources Commission (Commission or VMRC), however, pursuant to § 28.2-1203 A 5 of the Code of Virginia a VMRC permit may not be required for such structures (except as required by subsection D of § 28.2-1205 for piers greater than 100 feet in length involving commercially productive leased oyster or clam grounds), provided that (i) the piers do not extend beyond the navigation line or private pier lines established by the Commission or the United States Army Corps of Engineers (USACE), (ii) the piers do not exceed six feet in width and finger piers do not exceed five feet in width, (iii) any L or T head platforms and appurtenant floating docking platforms do not exceed, in the aggregate, 400 square feet, (iv) if prohibited by local ordinance open-sided shelter roofs or gazebo-type structures shall not be placed on platforms as described in clause (iii), but may be placed on such platforms if not prohibited by local ordinance, and (v) the piers are determined not to be a navigational hazard by the Commission. Subject to any applicable local ordinances, such piers may include an attached boat lift and an open-sided roof designed to shelter a single boat slip or boat lift. In cases in which open-sided roofs designed to shelter a single boat, boat slip or boat lift will exceed 700 square feet in coverage or the open-sided shelter roofs or gazebo structures exceed 400 square feet, and in cases in which an adjoining property owner objects to a proposed roof structure, permits shall be required as provided in § 28.2-1204.



Received by VMRC March 28, 2022 /blh

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# Northampton County, Virginia

**Legend**

- County Boundaries
- Town Names
- Route Numbers
- Road Labels
- Parcels
- Driveways

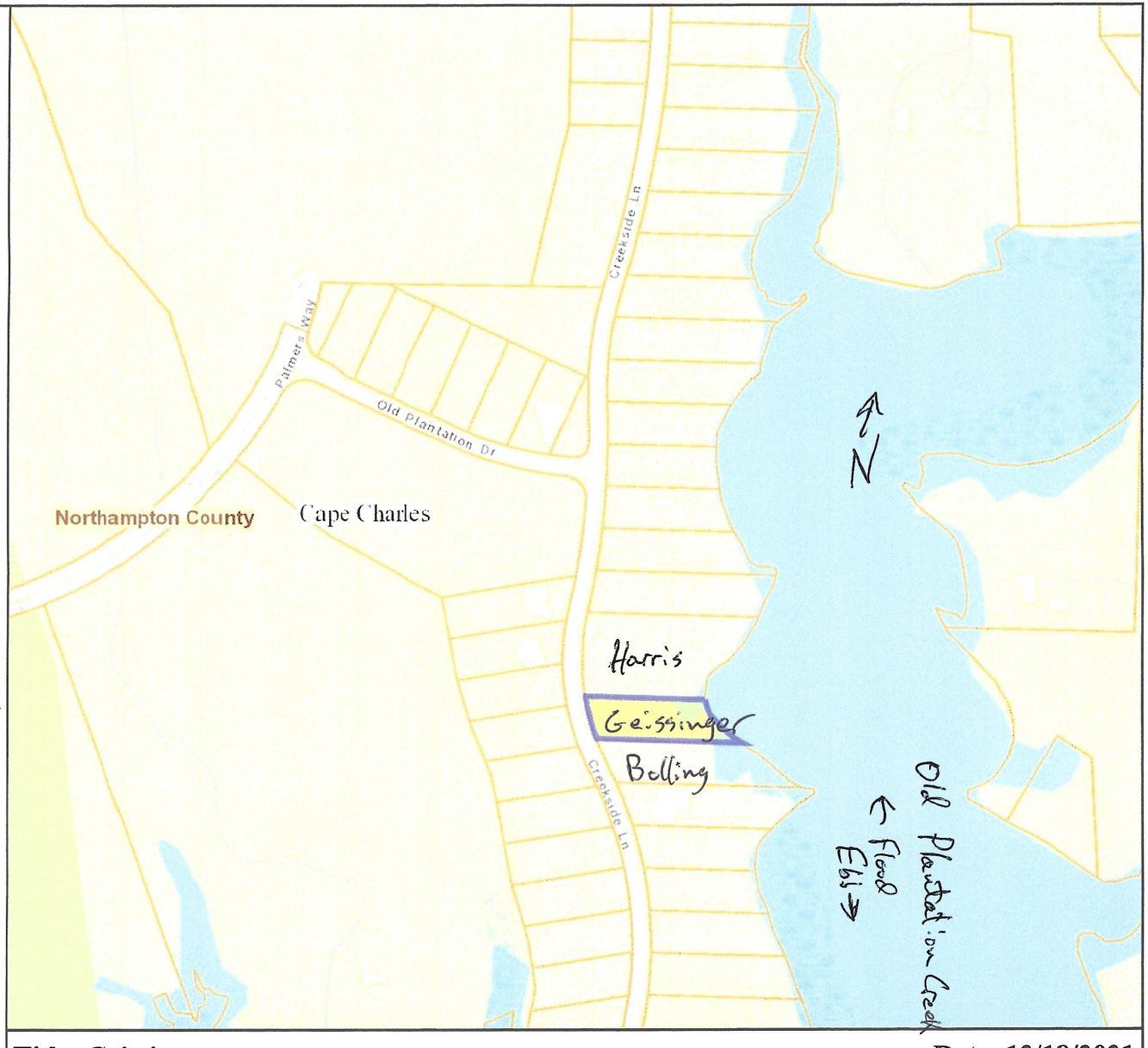
Brent Geissinger

Proposed Pier (Private)

Lot 29 Plantation Pointe

107 Creekside Ln

#1




Map Printed from Northampton
https://parcelviewer.geodecisions.com/Northampton/

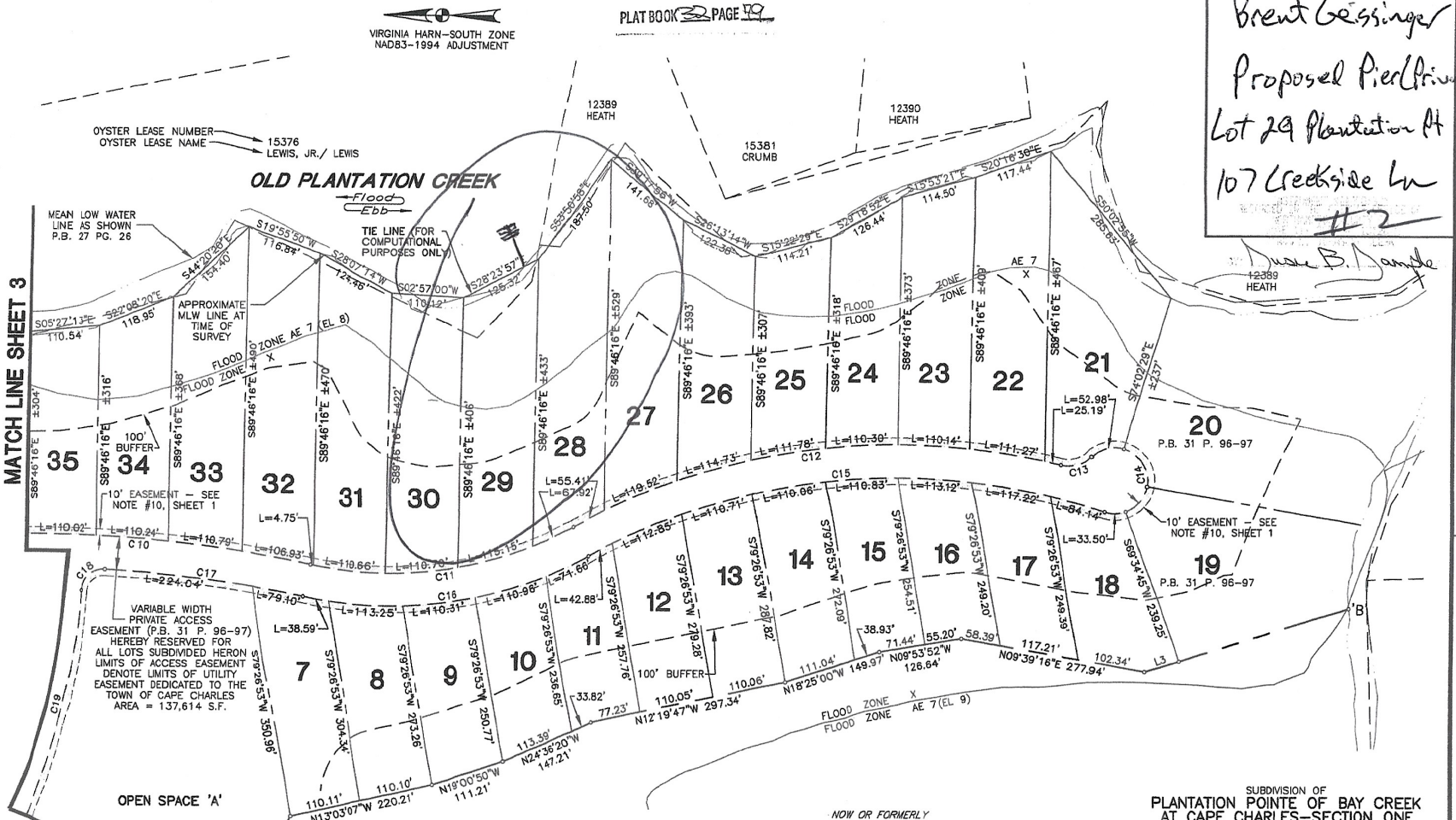
Feet
0 100 200 300 400
1 4.514 / 1"=376 Feet

**Title: Geissinger** **Date: 12/18/2021**

*DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Northampton County is not responsible for its accuracy or how current it may be.*

Received by VMRC March 28, 2022 /blh

Brent Gessinger
Proposed Pier (Private)
Lot 29 Plantation Pt
107 Creekside Ln
#2




SUBDIVISION OF
PLANTATION POINTE OF BAY CREEK AT CAPE CHARLES–SECTION ONE
PARCEL F–2 AND LOTS 19 & 20
PHASE TWO
(PLAT BOOK 31, PAGES 96–97)
(PLAT BOOK 27, PAGE 26)
FOR
BAY CREEK, L.L.C.
TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, CAPEVILLE DISTRICT, VIRGINIA

COMMONWEALTH OF VIRGINIA
TIM B. LANGLEY
No. 1604
6/6/04
LAND SURVEYOR

Langley & McDonald, Inc
Engineering • Planning • Surveying
309 Lynnhaven Parkway
Virginia Beach, VA 23452
PH: (757) 463-4306 FAX: (757) 463-3563

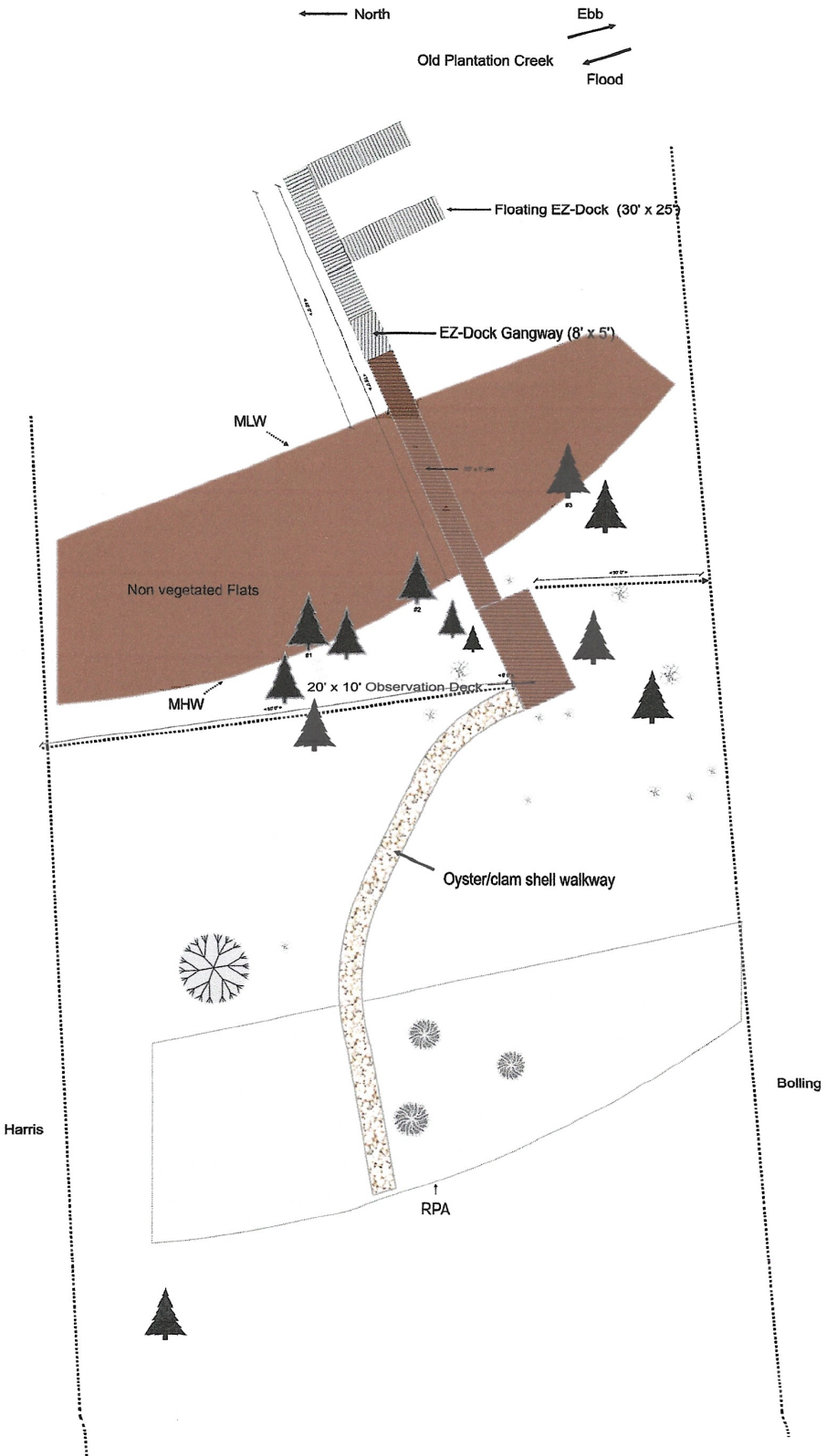
100' 50' 0 100' 200' 300'
SCALE 1"=100'

| | | | |
|---|---|---|---|
| PROJECT #: | 2001-015-11 | DRAWN BY: | WAL |
| FILE NAME: | plot.dwg | CHECKED BY: | TBL |
| SHEET 2 OF 3 | | DATE: | 9/25/03 |

° IP(S) = IRON PIN SET

Proposed Pier for Kayak launch
Brent Geissinger
107 Creekside Lane, Lot 29, Plantation Pointe, Bay Creek, Cape Charles

#3



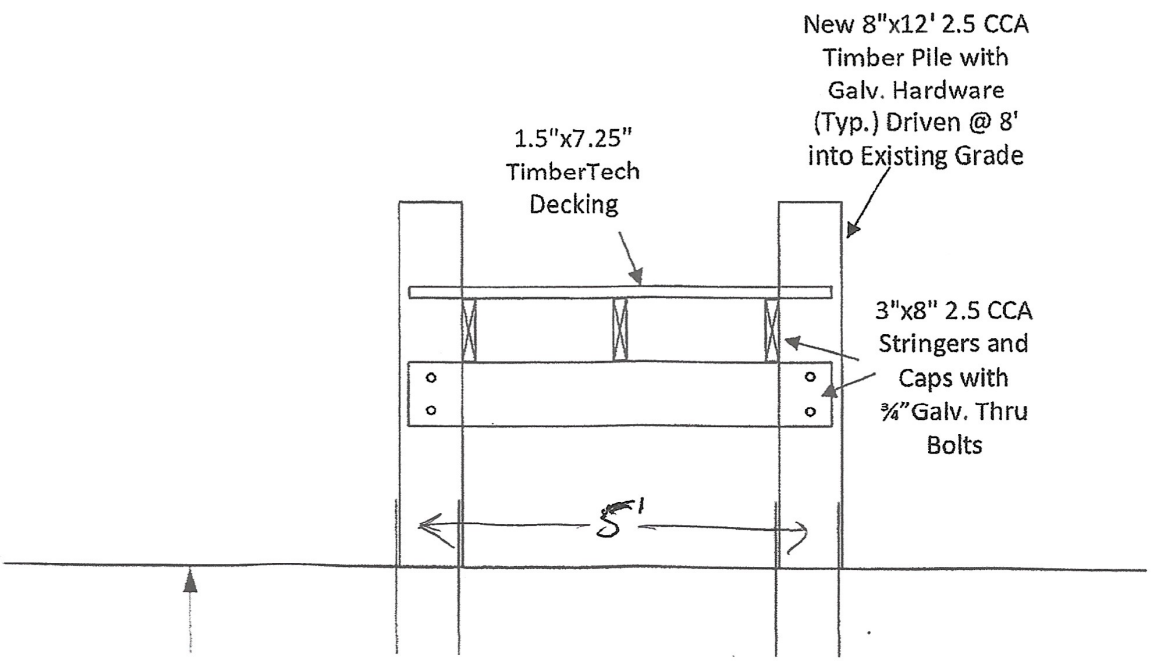

Received by VMRC March 28, 2022 /blh

Proposed Pier Details

Brent Geissinger

Lot 29 Plantation Point

#4




Received by VMRC March 28, 2022 /blh

| | |
|---|---|
| **From:** | Raymond Bolling |
| **To:** | brent geissinger |
| **Cc:** | JPA.permits@mrc.virginia.gov; ray@eyemetric.com |
| **Subject:** | Re: Plantation Pointe |
| **Date:** | Wednesday, April 13, 2022 9:02:55 AM |
| **Attachments:** | Bolling Signed Adjacent Property Owners Acknowledgement Form.pdf |

Good morning Brent,

Please find attached a copy of our signed Signed Adjacent Property Owners Acknowledgement Form. I have also CC'd JPA Permits and added my work email address, best way to reach me.

Mary Jo and I will be in town this weekend, if you are, maybe we can meet up.

Best regards,

Ray & Mary Jo Bolling

> On 04/09/2022 11:24 AM brent geissinger <b.geissinger@gmail.com> wrote:
>
> Ray and Mary Jo,
> We purchased the lot next to you in Plantation Point; Lot 29. We are applying to VMRC to install a pier for Kayak and SUP launching. They require an adjacent neighbor acknowledgement form be signed. I've attached the form and the proposed plan. You can return it to JPA.permits@mrc.virginia.gov Subject Application #22-0717. Let us know if you have any questions. When do you plan to build? Also, who are you using to cut the grass on the lot? We'd like to hire the same company. Maybe we could get a discount to do both lots...how much are they charging? Looking forward to meeting you both soon.
> Brent and Kim Geissinger
> 757-647-6404

Received by VMRC April 13, 2022 / lra

## Part 2 – Signatures (continued)

### ADJACENT PROPERTY OWNER'S ACKNOWLEDGEMENT FORM

I (we), BOLLING, RAYMOND L III & MARY JO, own land next to (across the water
(Print adjacent/nearby property owner's name)

from/on the same cove as) the land of Brent W. Geissinger.
(Print applicant's name(s))

I have reviewed the applicant's project drawings dated 12/18/2021
(Date)

to be submitted for all necessary federal, state and local permits.

I HAVE NO COMMENT_____ ABOUT THE PROJECT.

I DO NOT OBJECT X TO THE PROJECT.

I OBJECT _____ TO THE PROJECT.

**The applicant has agreed to contact me for additional comments if the proposal changes prior to construction of the project.**

(Before signing this form, be sure you have checked the appropriate option above).

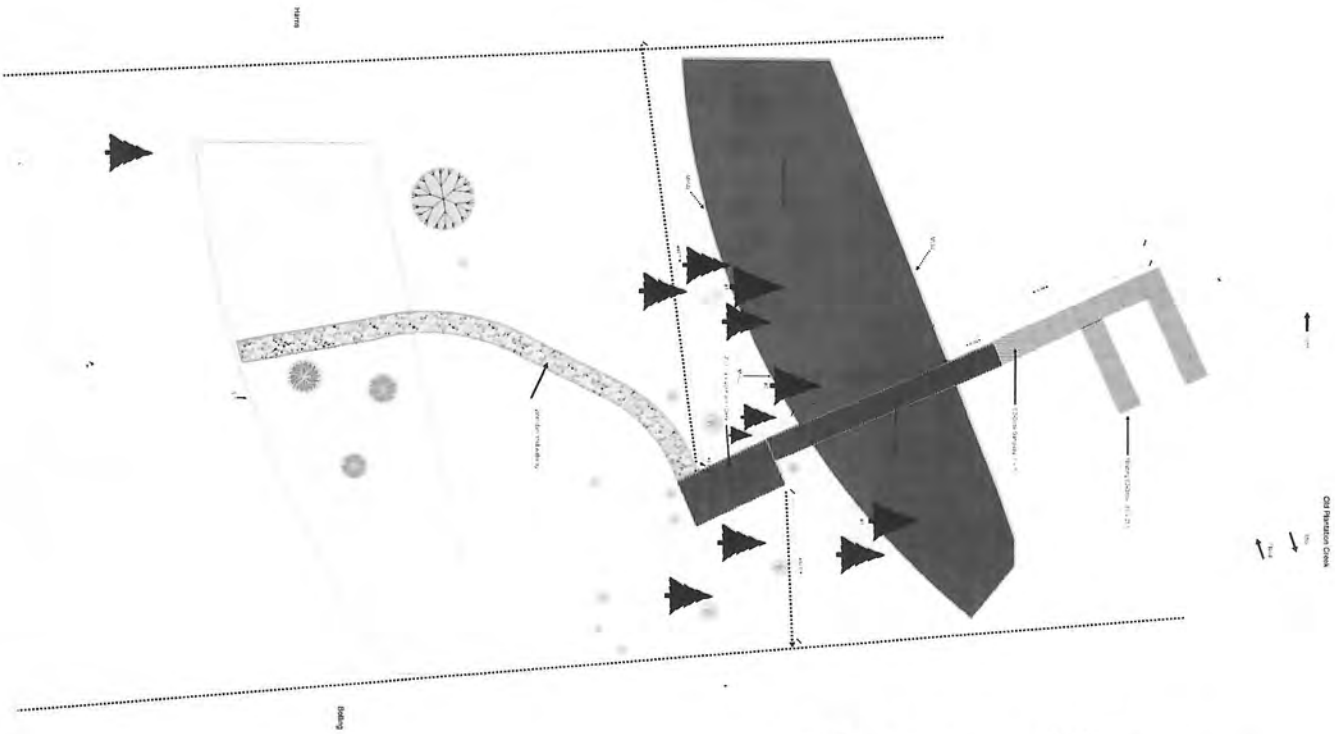
Raul & Bolling III
Adjacent/nearby property owner's signature(s)

4/11/2022
Date

**Note: If you object to the proposal, the reason(s) you oppose the project must be submitted in writing to VMRC. An objection will not necessarily result in denial of the project; however, valid complaints will be given full consideration during the permit review process.**

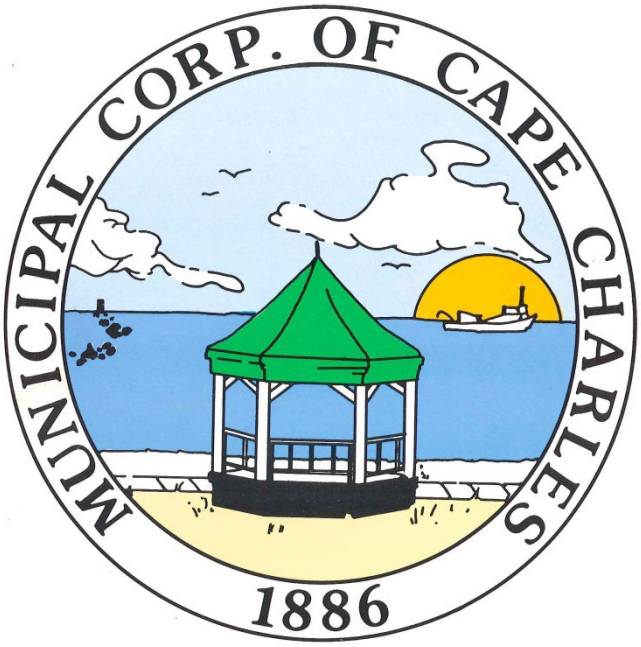


Received by VMRC April 13, 2022 / lra




Raylf Ball III
4/11/2022

Received by VMRC April 13, 2022 / lra




# Town of Cape Charles
# Wetlands and Coastal Dunes Board

2020 and 2021 Annual Report
(January 1, 2020 - December 31, 2021)

Chair
Ann Hayward Walker

**Wetlands and Coastal Dunes Board Members**

Ann Hayward Walker, Chair
Russ Dunton, Vice Chair
Bob Roche
Joe Fehrer
Bill Prickett

**2020 Planning and Zoning Staff**

Zach Ponds, Town Planner (resigned February 2020)
Allyson Finchum, Town Planner (hired July 2020)
Tracy Outten, Deputy Clerk (January – September 2020)
Tracy Outten, Planning Technician (October – December 2020)

**2021 Planning and Zoning Staff**

Allyson Finchum, Town Planner (resigned February 2021)
Katie Nunez, Interim Planning/Zoning Administrator (February 2021)
Ben Sullivan, Town Planner (hired May 2021; resigned June 2021)
Tracy Outten, Planning Technician

## Introduction

Section 28.2-1304 of the Code of Virginia states the following, "*The board shall keep a full public record of its proceedings and shall submit a report of its activities to the local governing body at least once each year.*"

## Permit Applications

### APPROVED

#### 2020

JPA 2020-0143 – Tax Map #90-2-1A - An application from Bay Creek Resort, LLC for revetment of an eroding dune contiguous to the beach with the condition that the spur would be modified not impact the dune.

#### 2021

JPA 2021-1191 – lot 31 on Sunset Boulevard (Tax Map #83A1-11-31) – An application from Magee and Associates, LLC for revetment along the bayfront property and the installation of access stairs.

JPA 2021-1281 – 4 Bay Vista (Tax Map #83A1-18-BV3) – An application from Magee and Associates, LLC for riprap revetment and the construction of beach access stairs.

### Denied

None.

## Other Assigned Duties

None.

# COMMONWEALTH of VIRGINIA

*Marine Resources Commission*
*380 Fenwick Road*
*Building 96*
*Fort Monroe, VA 23651*

Ann F. Jennings
Secretary of Natural and Historic Resources

Steven G. Bowman
Commissioner


December 16, 2021

**MEMORANDUM**

**TO:** Local Wetlands Boards

**FROM:** Randy Owen
Chief, Habitat Management Division

**SUBJECT:** Updates to Virginia's Tidal Wetlands Guidelines

The purpose of this memo is to summarize the recent updates to the Tidal Wetlands Guidelines, approved by the Commission in May of 2021.

In compliance with Senate Bill 776 from the 2020 General Assembly session, the Commission initiated a public process for updating our Tidal Wetlands Guidelines with a series of stakeholder workshops starting in August of 2020. From August 2020 through May 2021 Habitat Management staff collected public comments and worked with an interdisciplinary team at the Virginia Institute of Marine Science to produce the updated Tidal Wetlands Guidelines. The intent of the updated Guidelines is to assist local Wetlands Boards in making on-site jurisdictional determinations, and identify living shorelines as the preferred solution to shoreline stabilization unless the best available science indicates otherwise.

In its May 25, 2021 Press Release, VMRC's Commissioner Steven G. Bowman stated "The updated Guidelines are key to applying the latest science to the Commonwealth's Tidal Wetlands program, which aims to effectively balance wetlands preservation with protection and use of private property." Local Wetlands Boards, who have enacted the Wetlands Ordinance, administer the Guidelines on behalf of the Commission and are a critical partner in protecting the Commonwealth's tidal wetlands. The Commonwealth's tidal wetlands support our recreational and commercial fisheries by providing critical habitat and vital ecological services required for a healthy Chesapeake Bay.

Specifically, the guideline updates accomplish the following directives:

1. Update the wetland descriptions of nonvegetated and vegetated wetlands based on best available science as communicated by the Virginia Institute of Marine Science, as directed in § 28.2-1301.

2. Communicate that living shorelines are the default approach to shoreline stabilization, as directed in §28.2-104.1, unless the best available science shows otherwise.

3. Recognize the importance of protecting shoreline resources and sensitive coastal habitats from sea level rise.

Local Wetlands Boards have served the Commonwealth well since they were established in 1972 with the passage of the Wetlands Act. The intent of the wetlands zoning ordinance is to provide a public hearing process for an applicant to be heard by a Wetlands Board, at a town hall location with locally appointed members. This citizen-based administration of the program effectively balance tidal wetlands preservation with the necessary protection and use of private property. You are to be commended for your hard work and commitment to the Commonwealth's marine resources.

Should you have any questions regarding administration of the updated guidelines, please contact me, Justin Worrell, or the Environmental Engineer assigned to your locality. As usual, the Environmental Engineer assigned to your locality remains available to assist you in the ongoing administration of the wetlands zoning ordinance. The VIMS Office of Research and Advisory Services and the Department of Conservation's Shoreline Erosion and Advisory Service are available for site-specific advice. Additional online tools include the VIMS Shoreline Studies Program tools and information, and the Center for Coastal Resource Management (CCRM) Locality Portals, GIS tools and Decision Tree.

RDO:blh
HM
cc: Ann F. Jennings, Secretary of Natural and Historic Resources
Steven G. Bowman, Commissioner

# TIDAL WETLANDS GUIDELINES

Promulgated by the
Virginia Marine Resources Commission

Prepared by the
Habitat Management Division

with
contributions from the
Virginia Institute of Marine Science

Developed Pursuant to Chapter 13 Title 28.2, Code of Virginia

May 2021 Update

# Section I

## Introduction

The purpose of this document is to revise the existing Wetlands Guidelines to provide "minimum standards for the protection and conservation of wetlands," and "ensure protection of shorelines and sensitive coastal habitat from sea level rise and coastal hazards" as directed in §28.2-1301 of the Code of Virginia. Minimum standards for protection from sea level rise and coastal hazards shall require that permitted activities be designed to survive the impacts of sea level rise, using a model or forecast that incorporates or utilizes the 2017 National Oceanographic and Atmospheric Administration's (NOAA) Intermediate-High scenario projection curve or, in the future, any updated projection based on the best available science and selected through the Coastal Master Plan process. As directed under the 2020 amendments to § 28.2-104.1 of the Code of Virginia, the Virginia Marine Resources Commission (VMRC) "shall permit only living shorelines approaches to shoreline management unless the best available science shows that such approaches are not suitable. If the best available science shows that a living shoreline approach is not suitable, the Commission shall require the applicant to incorporate, to the maximum extent possible, elements of living shoreline approaches into permitted projects." This document will aid citizens and local decision makers in making on-site jurisdictional determinations, explain the risks and benefits provided by various shoreline treatments, establish performance criteria for permitted shoreline activities including wetland mitigation, ensure wetlands protection from sea level rise and coastal hazards, identify criteria relating to living shorelines, and identify preferred shoreline management options in the event the best available science shows that a living shoreline approach is not suitable.

Issuing a wetlands permit does not negate the need for permittee compliance with the Chesapeake Bay Preservation Act (CBPA), § 62.1-44.15:72, as amended in 2020, and any regulations adopted thereunder required to promote coastal resilience and adaptation to sea level rise and climate change. All proposed development, redevelopment, land disturbance, clearing or grading, independent of any proposed tidal wetland impacts, must comply with the aforementioned CBPA, which is enforced through locally adopted ordinances. Compliance with state and local CBPA requirements mandates the submission of a Water Quality Impact Assessment (WQIA) for the review and approval of the local government. Wetlands boards should advise applicants to contact the appropriate local government office to determine if a WQIA is required for the proposed activity(ies).

Further, implementation of the guidelines must be consistent with the Virginia Coastal Master Plan and Planning Framework authorized by Executive Order 24 (November 2018), including by requiring the use of the 2017 NOAA Intermediate-High scenario projection curve or, in the future, any updated projection based on the best available science and selected through the Coastal Master Plan process, in evaluation of all permit applications.

The Local Wetlands Boards have served the Commonwealth well since they were established in 1972 with the passage of the Wetlands Act. The public hearing process provided by the Wetlands Ordinance allows each applicant the opportunity to present their facts to the board for

consideration and for the board to evaluate any public comment. These are essential elements of any permit decision along with the requirements of the ordinance, the Code of Virginia, and the guidelines and standards that are provided in the following document. These guidelines are a key tool in performing this citizen-based administration of the program, which aims to effectively balance wetlands preservation with protection and use of private property.

Originally adopted in 1974, the Wetlands Guidelines were formally amended to include nonvegetated wetlands in 1982. The Wetlands Mitigation-Compensation Policy was added to the Guidelines when they were reprinted in 1993, following their adoption in 1989. The last amendment to Virginia's tidal wetlands guidance was an update to the Mitigation-Compensation Policy in 2005. Through this policy, the Commission requires the compensation of all permitted tidal wetland losses provided all mitigative measures have been considered to avoid any impact. The need to compensate for all permitted wetland losses is emphasized by the Commonwealth's commitment to the restoration of the Chesapeake Bay. In 2000, Virginia, as a Chesapeake Bay Program partner, committed to "achieve a no-net loss of existing wetlands acreage and function in the signatories regulatory programs."

In addition to tidal wetlands, Virginia's coastal zone is composed of many different but highly interrelated ecological systems. These include the Commonwealth's State-owned submerged lands, which are vitally important as fish and shellfish feeding, spawning and nursery habitat, non-tidal wetlands, and the adjacent riparian buffer. The latter two provide key roles in the filtering of storm water runoff, nutrient uptake and maintenance of water quality in the Chesapeake Bay. Tidal wetlands equally provide critical habitat in support of the Commonwealth's recreational and commercial fisheries and vital ecological services required for a healthy Chesapeake Bay. Preservation of existing tidal wetlands and the management strategies necessary to ensure their continued existence, therefore, is paramount given the daily stressors associated with the use or development of wetlands coupled with the added risks associated with sea level rise and climate change.

The need to incorporate additional standards necessary for the protection and coastal resilience of Virginia's tidal wetland acreages was addressed by the General Assembly with the passage of living shorelines legislation in 2011 and 2020. Senate Bill 964 (2011) established living shorelines as the preferred alternative; Senate Bill 776 (2020) took the further step of requiring the Virginia Marine Resources Commission and local wetlands boards to approve only living shoreline approaches to shoreline management unless the best available science shows that such approaches are not suitable. If the best available science shows that a living shoreline approach is not suitable, the Commission must require the applicant to incorporate, to the maximum extent possible, elements of living shoreline approaches into permitted projects.

The resulting 2021 revision of the Wetlands Guidelines, therefore, incorporates advances in tidal wetlands scientific principles emerging since the 1993 revision. In passing the Wetlands Act in 1972, the legislature stated the policy of that legislation as follows:

> *"Therefore, in order to protect the public interest, promote the public health, safety and the economic and general welfare of the Commonwealth, and to protect public and private property, wildlife, marine fisheries and the natural environment,*

> *it is declared to be the public policy of this Commonwealth to preserve the wetlands, and to prevent their despoliation and destruction and to accommodate necessary economic development in a manner consistent with wetlands preservation."*

The 2020 amendments to §28.2-1301 added the language below, following the phrase "in a manner consistent with wetlands preservation," to state:

> *"...and any standards set by the Commonwealth in addition to those identified in §28.2-1308 to ensure protection of shorelines and sensitive coastal habitats from sea level rise and coastal hazards, including guidelines and minimum standards promulgated by the Commission pursuant to subsection C."*

The 1972 policy, stated above, coupled with the language added in the 2020 legislation, provide the guiding principles set forth in these guidelines.

# Section II

## Wetland Types and Properties

In the pages that follow, wetlands are re-described by type as required in the Virginia Code, §28.2-1301. The original Wetlands Guidelines recognized twelve types of vegetated wetlands (marshes) and five types of nonvegetated wetlands (tidal flats and beaches). The revised Guidelines now recognize two tidal wetland types, nonvegetated and vegetated wetlands.

Tidal wetland types are often defined by the vegetation species present, which are primarily determined by salinity and the frequency and duration of inundation. While such approaches have merit in aiding in understanding some aspects of the ecology of a tidal wetland, within the context of the current regulatory framework in Virginia, a simpler approach based upon the presence or absence of vegetation and the hydroperiod (frequency and duration of inundation) provides adequate descriptors to support management decisions. Though defined below as wetland types, as prescribed by statute in Virginia, each of these, including nonvegetated and vegetated, are generally found as zones within a wetland and all are integral to the ecological function of the system.

### *Nonvegetated Tidal Wetlands*

Jurisdictional intertidal nonvegetated wetlands in Virginia are defined as those unvegetated lands that lie between mean low water and mean high water. They can consist of a continuum of grain sizes from fine silts and clays to coarser grains that include sand, gravels, cobbles, and shell. For practical reasons these are divided below into Soft Sediment and Hard Substrate categories that reflect some of the variations that they provide in terms of ecological functions and coastal resilience.

> A. Soft Sediment Habitats - These intertidal habitats consist of silts, clays, and sands, sometimes with disaggregated shell fragments. Though often further distinguished as fine-grained (mostly, silts and clays) and coarse-grained (mostly sand and fine gravels), they in fact represent a continuum of grain size mixtures that provide ecological

functions—supporting micro- and macroalgae, communities of invertebrates that serve as food for fish, shrimp, crabs, and birds, and nutrient cycling. They also provide some attenuation of waves. Importantly, many of these functions do not vary uniformly with grain size. For instance, the abundance and diversity of invertebrate communities are often greatest in intermediate and mixed grain-size habitats, as is nutrient cycling, while the ability to attenuate wave energy will generally increase with grain size, steepness of slope, and distance from the upland.

B. Hard Substrate - Natural hard substrates in intertidal nonvegetated wetlands in Virginia can include coarse gravels, cobbles, and intertidal oyster reefs. Natural rock habitats are not common, but natural intertidal oyster reefs were historically abundant in some areas of the lower Chesapeake Bay and are currently widespread in the coastal bays along the seaside of the Eastern Shore. Intertidal oyster reefs have been shown to support abundant infaunal and epifaunal benthic organisms and serve as refuge and foraging areas for juvenile crabs and fishes. Intertidal oyster reefs have also been shown to attenuate wind waves and boat wakes, and to reduce erosion of adjacent vegetated wetlands. Placement of hard substrate such as stone riprap and concrete on nonvegetated wetlands to provide erosion control has been a common practice in Virginia. These features negatively affect the ecological functions of nonvegetated wetlands within the footprint of, and adjacent to the hard substrate, while also providing a hard substrate habitat for a different suite of organisms and further attenuating wave energy.

***Vegetated Tidal Wetlands***

Jurisdictional vegetated wetlands in Virginia are defined as those lands containing vegetation that lie between mean low water and 1.5 times the local mean tide range. Vegetation types are largely determined by salinity regime (saltwater/brackish or freshwater) and the degree of saturation, which is determined by the hydroperiod and drainage. Vegetation species that typify these zones are listed in the Code of Virginia (§ 28.2-1300).

A. Regularly Flooded - These tidal wetland types are located between mean low water and mean high water. This zone encompasses the region commonly referred to as the low marsh and dominant plants vary by salinity regime. These wetlands have high exchange rates of carbon, nutrients, and refractory plant matter with the adjacent waterway; provide regular shallow water refuge for aquatic fauna of all life stages; attenuate small waves; and effectively trap waterborne sediment and upland runoff.

B. Irregularly Flooded - Located between mean high water and spring tide high water levels, this wetland type encompasses the high marsh and salt bush zones. It supports a diverse mixture of vegetation and is most often characterized by species less tolerant of regular inundation that vary by salinity regime. Irregularly flooded tidal wetlands provide similar functions to regularly flooded tidal wetlands during inundation, but also provide unique bird and mammal habitat, water quality enhancement, and resilience functions during storm events and astronomical high tide events. Oligohaline/freshwater tidal marshes in this zone undergo seasonal changes in species composition and biomass (with the exception of tidal freshwater forests) that can alter ecological and resilience functions.

These newly recognized wetland types incorporate state-of-the-science understanding of wetland communities based on tidal hydrology and their ability to provide ecological and resilience functions within the shorescape. Science has shown the multifaceted importance of tidal wetlands, regardless of landscape position, to natural ecosystems and humankind. Although distinct wetland communities exhibit varied levels of select functions, tidal wetlands all contribute to estuarine and riparian ecological health. Vegetated and nonvegetated wetlands are known to function synergistically to provide the full suite of ecosystem services necessary to sustain habitat, primary production, water quality, and coastal resilience. Wetlands types, therefore, should not be viewed as a method of grading importance, but only as functional categories.

It is an accepted scientific principle that each tidal wetland type is important to maintain comprehensive functional integrity. Nonvegetated and vegetated wetlands serve as a buffer between the estuary and the upland, interacting with both. Therefore, all tidal wetlands should be managed holistically within the subaqueous to riparian buffer continuum.

# Section III

**Criteria for Determining Wetlands Jurisdiction and Evaluating Alterations of Wetlands**

This section addresses the methods for determining tidal wetlands jurisdiction, followed by a description of activities that can adversely affect tidal wetland functions. General and specific criteria that can assist in evaluating these activities against tidal wetland alterations are included.

As previously stated, wetlands managers are charged by Code with the preservation of tidal wetlands, while accommodating necessary economic development in a manner consistent with wetlands preservation and consistent with any standards set by the Commonwealth to ensure protection of shorelines and sensitive coastal habitats from sea level rise and coastal hazards. These requirements, coupled with the 2020 legislative mandate to permit only living shoreline approaches to shoreline management unless the best available science shows that a living shoreline is not suitable, mean(s) that definitive guidance cannot be provided in a single document for every shoreline treatment scenario likely to arise in Tidewater Virginia. The suitability of a living shoreline for a stabilization project will depend upon a number of factors that include, but are not limited to, hydrodynamic setting, local bathymetry, sediment composition at the location of any structures, conditions in the adjoining riparian zone, potential impacts on adjacent properties, and potential impacts on adjacent habitats, such as riparian vegetation, submerged aquatic vegetation (SAV) and oyster reefs. When needed, jurisdictional-specific and project-specific assistance is available upon request from the Virginia Marine Resources Commission's Habitat Management Division and the Virginia Institute of Marine Science's Office of Research and Advisory Services. Localities may also utilize the Department of Conservation and Recreation's Shoreline Erosion and Advisory Service (SEAS) site-specific advice, if provided, and rely on the additional online tools and information provided by the VIMS Shoreline Studies Program and the Center for Coastal Resource Management (CCRM) as

an initial guide, that may require on-site inspection for verification and alternatives analyses. When considering the suitability of a living shoreline design or treatment, the Commission or the local wetlands board shall look to the Virginia Institute of Marine Science Office of Research and Advisory Services in instances in which there is a question as to what constitutes the "best available science."

**Determining Tidal Wetlands Jurisdiction**

Determining accurate tidal wetland jurisdictional boundaries is critical for fair and proper management, and must be clearly delineated and understood prior to evaluating the proposed use and development of tidal wetlands. Section 28.2-1302 of the Virginia Code defines the jurisdictional boundaries of both nonvegetated and vegetated tidal wetlands. Jurisdictional nonvegetated wetlands must be contiguous to mean low water and are located between mean low water and mean high water. Vegetated wetlands must be contiguous to mean low water, support one or more of the plant species named in §28.2-1302, and extend "from mean low water to an elevation equal to the factor one and one-half times the mean tide range at the site of the proposed project." Jurisdictional vegetated wetlands include those that are regularly flooded and some or all of those that are irregularly flooded as described in § 28.2-1302 of the Code of Virginia. Jurisdictional boundaries can be determined or estimated by conducting onsite elevation surveys with reference to the predicted normal low and high tide lines, using natural shoreline features and indicators, using the saltbush community location (if present) for vegetated, or by state regulatory and academic personnel. Often the applicants/agents will provide jurisdictional boundaries using the methods just described. Regardless of method, the Commission recommends that jurisdictional boundaries be determined prior to application development and/or processing.

**General Criteria**

The primary objective in the application of the following criteria is to minimize the loss of wetlands and the adverse ecological effects of all permitted activities with any proposed uses of the shoreline.

**A.** Alteration of the shoreline or construction of shoreline facilities may be permitted in the circumstances described in 1 and 2 below, provided that marine fisheries, valuable fish habitat, wetlands and wildlife resources, flood protection, and water quality are not detrimentally affected, and the proposed use does not contribute to cumulative net losses of tidal wetlands. Alteration of the shoreline or construction of shoreline facilities may be justified in order to:

1. Gain access to navigable waters by:
    a. Commercial, industrial, and recreational interests for which it has been clearly justified that waterfront facilities are required and the interest is water dependent;

    b. Owners of land adjacent to waters of navigable depth or waters which can be made navigable with only minimal adverse impact on the environment.

2. Protect property from significant damage or loss due to erosion or other natural causes, provided that only living shoreline approaches are used unless the best available science shows that such approaches are not suitable.

VMRC, in cooperation with other interested state agencies and local wetlands boards, established a general permit regulation that authorizes and encourages the use of living shorelines as the preferred alternative for stabilizing tidal shorelines in the Commonwealth as authorized by Virginia Code § 28.2-104.1. The streamlined process offers two permit options that negate the need for the local wetlands board public hearing and permit, provided the locality has not opted out of the general permit provision. To take advantage of this expedited permit process and learn more about designing living shorelines, visit https://www.vims.edu/research/departments/physical/programs/ssp/shoreline_management/living_shorelines/index.php for advice on how to complete the application and meet the qualifications for a living shorelines general permit. You may also contact the VMRC Environmental Engineer assigned to your project location, viewable at https://mrc.virginia.gov/Territory_Assignments.pdf

**B.** Alteration of the shoreline is **not permitted**:

1. For purposes or activities that are non-water dependent.

2. For purposes of creating waterfront property from lands not naturally contiguous to tidal waters or for purposes of accessing waterfront property by the placement of fill material not justified by A.1 above.

3. When damage to properties owned by others is a likely result of the proposed activity.

4. When the alteration will result in the drainage or discharge of effluents or storm water which impair wetlands, water quality or other marine resources.

5. When there are alternatives which can achieve the given purpose without adversely affecting water quality, marine fisheries, wildlife, marshes, oyster grounds, submerged aquatic vegetation (SAV) or other natural resources.

6. If the local government has determined that the proposed alteration does not comply with the Chesapeake Bay Preservation Act (CBPA), § 62.1-44.15:72, as amended in 2020; and any regulations adopted thereunder required to promote coastal resilience and adaptation to sea level rise and climate change.

**Rationale:** These criteria recognize riparian rights and reserve the shoreline for those uses or activities which require water access. These criteria also point out that even some water dependent activities often have a significant and long term adverse impact on the marine environment through such effects as changed upland hydrology, sedimentation, changes in water current patterns near the shoreline, and the introduction of pollutant discharges which frequently

lead to closure of shellfish grounds. For example, the dredging of channels into fastlands may also lead to deterioration of ground water by saltwater intrusion into aquifers.

**C.** Utilization of open-pile type structures for gaining access to adequate water depths is required unless the construction of solid structure, dredging or filling is shown to be necessary.

**Rationale:** The construction of solid structures, or the conduct of dredging and filling operations, often causes irretrievable loss of wetlands through their direct displacement or by indirect effects of sedimentation or altered water currents. Open-pile type structures permit continued tidal flow over existing wetlands and subtidal areas, avoid potential sedimentation problems, future maintenance dredging, and have less effect on existing water current patterns.

**D.** As directed by Virginia Code §28.2-104.1, only living shoreline approaches to shoreline management are allowed unless the best available science shows that such approaches are not suitable. If the best available science shows that a living shoreline approach is not suitable, the project must incorporate, to the maximum extent possible, elements of living shoreline approaches. All shoreline alterations should, 1) be designed and constructed to mitigate coastal hazards including storm-level hydrological energy that may reasonably be expected over the useful life of the project, and 2) be functionally resilient and structurally designed to endure the impacts of sea level rise using the 2017 NOAA Intermediate-High scenario projection curve or, in the future, any updated projection based on the best available science and selected through the Coastal Master Plan process.

**Rationale:** High intensity storms of marine origin are frequent in the mid-Atlantic region and Chesapeake Bay. The useful life of the project is defined as the average amount of time in years that the project is estimated to function when installed properly and routine maintenance is practiced. Shoreline alterations that are generally proposed to address coastal resiliency and control active erosion should ensure that the stabilizing objectives address the most erosive conditions predictable to the project site. This will reduce the likelihood of future adverse environmental impacts from storm events associated with structural failure, reduce maintenance and repair costs, and decrease or eliminate added shoreline disturbances. It is critical to maintain tidal wetland resources and thus, their important functions as sea level rises.

**Specific Criteria – Shoreline Protection Strategies**

The following specific criteria are established for use in the design, evaluation or modification of individual projects. Specific strategies should attempt to incorporate environmental protection and resiliency as elements of the landowner's desired project objectives.

1. Properly designed and constructed living shorelines are vital to address coastal resiliency, shoreline stabilization, and tidal wetlands sustainability in response to sea level rise. As stated above, by statute, only living shoreline approaches to shoreline management may be approved unless the best available science shows that such approaches are not suitable. Numerous hydrological and geological factors, and shoreline energy potential need to be assessed when developing a living shoreline approach.

Site-specific conditions also need to be addressed that include, but are not limited to: fetch exposure, bank height and condition, upland structure proximity and vulnerability, offshore water depth and sediment consistency, presence and proximity of submerged aquatic vegetation, potential maximum storm wave conditions, conditions of adjacent shorelines, and sunlight availability.

**Rationale:** When properly located, designed, and constructed, living shorelines can address shoreline stabilization objectives while providing an opportunity for resource sustainability. Not only should there be considerations specifically for tidal wetlands vegetation, but submerged aquatic vegetation and riparian communities, which need room to migrate with rising sea levels, also play important roles in estuarine water quality, habitat, and wave attenuation, and thus require integration with living shoreline strategies.

2. The placement of either offshore breakwaters or submerged nearshore sills parallel to a portion of shoreline, that elevate the height of an existing beach and retain the sand nourishment or create a protected living shoreline between the structures and the shoreline, is a reasonable strategy consideration in higher hydrological energy shoreline situations. Both breakwaters and sills must be specifically designed for the shoreline segment in question and must be shown to function under future sea level rise conditions.

**Rationale:** Properly located, designed, and constructed breakwaters and sills can be effective at attenuating wave energy, and they support the sustainability of the landward beach or living shoreline. Depending on the dimensions of the beach and living shoreline, they can also function to dampen storm waves.

3. Shoreline protection structures can be permitted only if there is active, detrimental shoreline erosion which cannot be otherwise controlled by use of a living shoreline. If the Commission or local wetlands board deems that hardening the shoreline is necessary, then living shoreline elements shall be incorporated into the project design, to the maximum extent possible. Shoreline protection structures must be specifically designed for the shoreline segment in question and must be shown to function under future sea level rise conditions.

**Rationale:** Hardened shorelines typically result in unacceptable direct and/or indirect adverse impacts to tidal wetlands and adjacent subaqueous bottomlands. They also create barriers to tidal wetland migration with sea level rise. The unnecessary use of revetments and bulkheading is not permitted and shoreline hardening may be allowed as an alternative only when absolutely necessary and where the best available science shows that a living shoreline approach is not suitable. A structural approach to shoreline stabilization may be necessary in certain limited instances in response to hydrological and geological shoreline factors, and/or to sufficiently address erosion control. Shoreline modification to address upland and landscape issues other than storm water runoff is not permitted.

4. Rock revetments are the preferred alternative if the best available science demonstrates that a living shoreline is not suitable. Rock revetments must be specifically designed for the

shoreline segment in question and must be shown to function under future sea level rise conditions.

**Rationale:** Vertical retaining structures tend to reflect wave energy that negatively impacts adjacent wetland and/or subaqueous natural resources. They can also create negative effects upon neighboring properties. Waves, whether from natural causes or from boat wakes, are better absorbed or dissipated by riprap revetments. In addition, the slope and open spaces in riprap structures provides acceptable, but not optimal, habitat for crabs and small fish.

5. Erosion control structures, such as a bulkhead or seawall, are not allowed unless the Commission or the board determines that such approach is necessary and that no other alternative approach is suitable. If a structure is deemed necessary, it should ordinarily be placed as far landward as possible as long as the local government determines it is consistent with the Chesapeake Bay Preservation Act (CBPA), § 62.1-44.15:72, as amended in 2020, and any regulations adopted thereunder required to promote coastal resilience and adaptation to sea level rise and climate change.

**Rationale:** Landward placement reduces or eliminates direct impacts to tidal resources, but can promote secondary impacts from reflected wave energy and riparian hydrological exchange. Vertical structures also eliminate the ability of tidal wetlands to migrate landward in response to sea level rise.

6. The placement of a groin on eroding shorelines in an effort to trap sand and build up a beach may be permitted when there is sufficient sand in the littoral drift system. If a groin is considered justified, it should be low profile in design and only as long as is necessary to trap sand drifting in the littoral zone. Ideal groin length can be determined by examining the sand fillets in any existing groins along the same shoreline reach or can be based on the width of the local beach. Groins must be required to function under future sea level rise conditions.

**Rationale:** Groins are designed to trap sand and build beaches. When groins and groin fields function properly, they can provide a functional level of erosion control but can also deprive downdrift shorelines of sand and thus may accelerate erosion to adjacent properties. This is highly dependent on the amount of sand available in the system. The low-profile groin is designed to resemble the natural beach slope and allow sand to by-pass and thus nourish downstream properties once the groin has filled. Groins which are too long for the existing beach may shunt sand out to deeper water thus making it unavailable to downdrift properties. Where sand availability is limited, the use of groin cells could require continued placement of sand to maintain erosion control function and thus the use of groins ordinarily should not be allowed.

7. The use of jetties at the entrance of a channel in order to maintain navigable depths or protect the entrance from wave attack is justified only when there is a clear and demonstrated need for such a structure and adjacent properties will not be significantly adversely affected.

**Rationale:** Jetties attempt to prevent the littoral drift from entering the channel by trapping sediment moving along the shoreline. Sand tends to accumulate on the updrift side of a jetty and

sediments are transported away from the jetty on the downdrift side. This can often result in accelerated erosion of the downdrift shoreline.

# Section IV

**Minimum Standards – Protection and Conservation of Tidal Wetlands**

Pursuant to § 28.2-1308 of the Code of Virginia, the Commonwealth's existing standards below originally applied to the use and development of wetlands by type and class and shall continue to be considered by the Commission and any local wetlands board in the determination of whether any permit should be granted or denied:

1. Wetlands of primary ecological significance shall not be altered so that the ecological systems in the wetlands are unreasonably disturbed; and

2. Development in Tidewater Virginia, to the maximum extent practical, shall be concentrated in wetlands of lesser ecological significance, in vegetated wetlands which have been irreversibly disturbed before July 1, 1972, in nonvegetated wetlands which have been irreversibly disturbed prior to January 1, 1983, and in areas of Tidewater Virginia outside of wetlands.

As evidenced in the updated tidal wetlands types outlined in Section II, advances in scientific understanding highlight the significance of ecological functions across all vegetated and nonvegetated natural tidal wetland communities. Disturbances to any natural tidal wetland must now be critically reviewed within a comprehensive framework that recognizes their intrinsic ecological value. In deciding whether to grant, grant in modified form or deny a permit, to ensure protection of tidal wetlands, shorelines and sensitive coastal habitats from sea level rise and coastal hazards, the following four additional minimum standards shall also be considered by the Commission and all local wetland boards as directed by §28.2-1301B, §28.2-1302.9 and §28.2-1302.10A3:

1. Any application for a project including erosion control projects, removal of vegetation, construction access or land disturbance, that will impact the Resource Protection Area must also be independently approved by the local government as consistent with the Chesapeake Bay Preservation Act (CBPA), § 62.1-44.15:72, as amended in 2020, and any regulations adopted thereunder required to promote coastal resilience and adaptation to sea level rise and climate change, including where applicable, the requirement of an approved Water Quality Impact Assessment and any required mitigation measures.

2. If a General Permit is not suitable given onsite conditions, project review of any proposed uses or development of tidal wetlands shall include data derived from an onsite analysis and provided on scaled drawings that minimally includes the square footage of existing and resulting tidal wetland types, existing and proposed grade elevations and slope, mean high, mean low and the 10-year storm event water levels as calculated by NOAA and the Federal Emergency Management Agency (FEMA), existing and projected bathymetric elevations to the minus 1-foot mean low water elevation and the current shoreline condition of adjacent

properties to include any existing treatments. Additional consideration of shoreline variables shall also be given to fetch exposure, fastland bank condition, bank height, bank composition, nearshore stability, upland use/proximity to infrastructure/cover, width and elevation of backshore region, and boat wakes. Access pathway(s) for land-based construction should be included on the drawings and their impacts considered, as well as all other requirements in § 28.2-1302 of the Code of Virginia.

3. Proposed uses or development of tidal wetlands must allow, to the maximum extent possible when considering existing structures and infrastructure (including but not limited to roads, houses, and outbuildings), and natural impediments (including but not limited to steep banks and bluffs), the landward migration of existing vegetation over the useful life of the project, using the 2017 NOAA Intermediate-High scenario projection curve outlined in Section III-D of these Guidelines or, in the future, any updated projection based on the best available science and selected through the Coastal Master Plan process.

4. Proposed uses or development of tidal wetlands shall only be approved if the uses or development proposed meets the criteria outlined in Section III of these Guidelines. Project review shall include the use of data derived from existing online advisory tools, engineering analyses or other online tools that facilitate the measurements of fetch, depth offshore, shoreline morphology, shoreline orientation, nearshore morphology, oyster leases, submerged aquatic vegetation, tide range, storm surge frequency, erosion rate, design wave determination, and sea level rise. Project review shall determine whether the submitted proposal satisfies the statement required by § 28.2-1302B of the Code of Virginia that thoroughly reflects and documents the analysis undertaken by the applicant *indicating whether use of a living shoreline as defined in § 28.2-104.1 for a shoreline management practice is not suitable, including reasons for the determination,* which must be provided with any proposal. The public hearing may not be scheduled prior to the receipt of this information. Applications shall be considered incomplete until this statutory requirement is met and the information supporting the required statement is provided as part of the application to the Commission or local wetlands board staff.

In addition to the consideration of the aforementioned minimum standards deemed necessary to ensure the conservation and protection of tidal wetlands, the Commission or board shall evaluate all proposed shoreline treatments utilizing the best available science provided in the record, as previously defined in Section III of the Guidelines. In evaluating the suitability of a living shoreline, the Commission or local wetlands board must incorporate consideration of long-term sustainability and coastal resilience, and local geological and hydrological factors and other environmental factors contributing to erosion. To further guide the Commission and local wetland boards, a site shall be deemed suitable for a living shoreline treatment unless the best available science demonstrates that such approach is not suitable.

# Section V

**Best Available Science Resources**

Habitat Engineers within VMRC's Habitat Management Division provide an experienced conduit through which the best available science and the suitability of a site for a living shoreline can be relayed to an applicant. The Virginia Institute of Marine Science (VIMS) is designated as the Commonwealth's science advisor on coastal and marine natural resource-related issues. As such, VIMS will be the arbiter in situations in which the *best available science* is in question.

# Glossary

In the course of considering applications for permits pursuant to the Wetlands Zoning Ordinance, various terminology may be used. As such, the following definitions apply:

***Armor***
Larger stone used as the outer layers of a revetment directly exposed to wave action (see also ***Stone size***).

***Bank height***
The approximate height of the upland bank above mean low water.

***Bathymetry***
The topography, or contours, of a waterway correlated to water depths.

***Beach***
The shoreline zone comprised of unconsolidated sandy material upon which there is mutual interaction of the forces of erosion, sediment transport and deposition extending from the low water line landward to where there is a marked change in either material composition or physiographic form such as a dune, bluff, or marsh, or where no such change can be identified, to the line of woody vegetation (usually the effective limit of storm waves), or the nearest impermeable man-made structure, such as a bulkhead, revetment or paved road.

***Best Management Practice (BMP)***
Measures that have the combined effect of ensuring project integrity for the design life of the project while minimizing the potential adverse impacts associated with construction and maintenance.

***Beach nourishment***
The placement of good quality sand along a beach shoreline to raise the elevation of the nearshore area.

***Breakwater***
A structure usually built of rock positioned a short distance from the shore. The purpose is to deflect the force of incoming waves to protect a shoreline.

***Bulkhead***
A vertical structure that acts as a retaining wall usually constructed parallel to a shoreline.

***Buried toe***
The trenched seaward toe of a revetment to help prevent scour and shifting of the structure.

***Core stone***
Smaller stone used as the base of a revetment to provide a stable base for armor stone.

***Downdrift***
The resulting direction material is carried as waves strike a shore and move "down" along a shoreline.

***Ecosystem Services***
Components of nature, directly enjoyed, consumed, or used to yield human well-being.

***Fastland***
Land that is high and dry near water, upland.

***Fetch***
The distance along open water over which wind blows. For any given shore, there may be several fetch distances depending on predominant wind directions, but there is generally one fetch which is longest for any given shoreline exposure.

***Filter cloth***
Synthetic textile placed between bulkhead sheeting and backfill or underneath a revetment to prevent soil loss yet provide permeability.

***Gabion***
A basket or cage filled with stone, brick or other material to give it a weight suitable for use in revetments or breakwaters. In the marine environment, usually made with galvanized steel wire mesh with a PVC coating.

***Groin***
A rigid, vertical structure extending perpendicular to shore to trap transporting sand or other material down a shoreline.

***Groin field***
A series of several groins built parallel to each other along a shoreline.

***Headland***
A point of land jutting out into a body of water or a shoreline section less resistant to erosion process than adjacent shorelines.

***Halophyte***
A plant that naturally grows where it is affected by salinity in the root area or by salt spray.

***Hydrophyte***
A plant that has adapted to living in or on aquatic environments

***Jetty***
A structure similar to a groin, but typically designed to prevent shoaling of a navigation channel.

***Joint Permit Application*** or ***JPA***
The standard Joint Permit Application for shoreline stabilization structures and other activities conducted in wetlands and the marine environment. The applicant completes one form and submits to either local agency or VMRC, which is responsible for distributing to local, state and federal permitting and advisory agencies (e.g. VIMS, Dept. of Wildlife Resources, Dept. of Conservation & Recreation, Dept. of Environmental Quality, US Army Corps of Engineers).

***Incidental effects***
Indirect impacts of an activity or structure, such as those resulting from redirected wave energy, trapped sand or sedimentation.

***Littoral transport***
The movement of sand and other materials along the shoreline in the littoral zone, or the area between high and low watermarks during non-storm periods.

***Low profile***
The recommended design for groins with a channelward elevation no greater than mean low water to allow sand bypass to continue once the groin cell is filled, reducing the potential for adverse downdrift effects.

***Marsh fringe***
A band of marsh plants which runs parallel to a shoreline.

***Marsh toe revetment***
A low revetment built to protect an eroding marsh shoreline.

***Mean low water***
The average height of low waters over a nineteen year period. Virginia is a low water state, meaning private property extends to the mean low water line.

***Mean tide range***
The vertical distance between mean high water and mean low water.

***Nearshore***
The area close to the shore but still partly submerged. This area is where sand bars and shoals often form.

***Nonvegetated Wetlands***
Unvegetated lands lying contiguous to mean low water and between mean low water and mean high water, including those unvegetated areas of Back Bay and its tributaries and the North

Landing River and its tributaries subject to flooding by normal and wind tides but not hurricane or tropical storm tides.

***Oligohaline***
Brackish water with a salinity of 0.5 to 5.0 parts per thousand from ocean-derived salts.

***Pressure treated***
The process of preserving wood by impregnating it with chemicals to reduce or retard invasion by wood destroying organisms.

***Reach***
A discrete portion of a shoreline somewhat homogeneous in its physical characteristics and upon which there are mutual interaction of the forces of erosion, sediment transport, and accretion.

***Resilience***
The capability to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the environment. Similarly, we define adaptation as adjustment in natural or human systems to a new or changing environment that exploits beneficial opportunities or moderates negative effects.

***Return walls***
Bulkhead end sections perpendicular to the shoreline to tie the bulkhead into the upland and prevent the bulkhead from being flanked as the shoreline continues to retreat on either side of the structure.

***Revetment***
A sloped structure constructed with large, heavy stone, often in two layers, used to anchor the base of the upland bank. The size of a revetment is dictated by the energy of the shoreline environment where it is proposed.

***Riprap***
Stone that is hard and angular that will not disintegrate from exposure to water or weathering.

***Scarp***
A low steep slope caused by wave erosion.

***Seawall***
A vertical wall or embankment, usually taller and larger than a bulkhead.

***Shoal***
A shallow area in a waterway, often created by nearby sandbars or sandbanks.

***Shore orientation***
The compass direction the shoreline faces. Some directions are more prone than others to the erosive forces of storm events.

***Sill***
An erosion protection measure that combines elements of both revetments and offshore breakwaters. Sills are usually built of stone, low in profile and built close to shore.

***Sediment barrier*** or ***Silt screen***
Structures placed at the toe of a slope or in a drainage way to intercept and detain sediment and decrease flow velocities. Barriers may be constructed of posts and filter fabric properly anchored at the base or hay bales staked in place end to end.

***Sheet pile***
A wooden plank or steel sheet used in the construction of bulkheads and groins.

***Slope***
The degree of deviation of a surface from the horizontal measured as a numeric ratio, percentage or in degrees. When expressed as ratio, the first number is the horizontal distance and the second is the vertical distance.

***Splash apron***
A structural component, often of rock, used to prevent forceful waves from scouring out material from the top of a revetment or bulkhead.

***Spur***
A vertical structure normally used perpendicular to groins to redirect incoming waves to allow a sheltered area in the lee and promote the accumulation of sand.

***Stone size***
Classes of riprap stone based on weight per VDOT specifications

| | |
|---|---|
| ***Class A1*** | 25-75 pounds, ≤ 10% weighing more than 75 lbs, "man-sized" |
| ***Class 1*** | 50-150 pounds, 60% weighing more than 100 lbs |
| ***Class 2*** | 150-500 pounds, 50% weighing more than 300 lbs |
| ***Class 3*** | 500-1,500 pounds, 50% weighing more than 900 lbs |
| ***Type 1*** | 1,500-4,000 pounds, average weight 2,000 lbs |
| ***Type 2*** | 6,000 – 20,000 pounds, average weight 8,000 lbs |

***Storm surge***
The resulting temporary rise in sea level due to large waves and low atmospheric pressure created during storms.

***Subaqueous*** or ***Submerged lands***
The ungranted lands beneath the tidal waters of the Commonwealth extending seaward from the mean low water mark to the 3 mile limit.

***Submerged aquatic vegetation (SAV)***
Rooted plants found in shoal areas of Chesapeake Bay, which provide important ecological roles, such as providing food, shelter and oxygen as well as trap sediment and dissipate wave energy.

***Submerged aquatic vegetation (SAV) bed***
SAV observed on site or mapped at any density class in at least one of the previous five years by the Virginia Institute of Marine Science.

***Time-of-year restrictions***
Restrictions that limit construction projects during periods of heightened sensitivity for species of concern, such as anadromous fish, nesting shorebirds, shellfish, submerged aquatic vegetation, and threatened and endangered species, such as the bald eagle and northeastern beach tiger beetle.

***Tombolo***
The area of accumulated beach material in the lee of a breakwater structure.

***Useful life of the project***
The average amount of time in years that the project is estimated to function when installed properly and routine maintenance is practiced.

***Wave climate***
The average wave conditions as they impact a shoreline, including waves, fetch, dominant seasonal winds and bathymetry.

***Wave energy***
The force a wave is likely to have on a shoreline depending on environmental factors, such as shore orientation, wind, channel width, and bathymetry.

***Wave height***
The vertical measurement of a single wave from its base or trough to its top or crest.

***Wetland type***
A class of wetland distinguished based on the presence or absence of vegetation, substrate type (for nonvegetated) and degree of inundation (for vegetated).

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