M I N U T E S
JAMES CITY COUNTY CHESAPEAKE BAY BOARD
REGULAR MEETING
County Government Center, Building F
101 Mounts Bay Road, Williamsburg, VA 23185
August 9, 2017
5:00 PM

A. CALL TO ORDER

The Chesapeake Bay Board meeting for August 9, 2017, was Called to Order.

The responsibility of this Board is to carry out locally the Commonwealth policy to protect against and minimize pollution and deposition of sediment in wetlands, streams and lakes in James City County which are tributaries of the Chesapeake Bay.

B. ROLL CALL

Board Members Present: **Absent:**
David Gussman - Chair
William Apperson
Charles Roadley
John Hughes
Larry Waltrip

Others Present: County Staff (Staff):
Michael Woolson, Senior Watershed Planner
Frances Geissler, Director, Stormwater and Resource Protection
Liz Parman, Assistant County Attorney
Melanie Davis, Secretary to the Board

C. MINUTES

1. June 14, 2017 Regular Meeting Minutes

The minutes were approved as written.

D. PUBLIC HEARINGS

1. CBE-17-094 : 4680 Fenton Mill Road

Mr. Michael Woolson presented the exception request submitted by Mr. Matt Roth, with Roth Environmental, on behalf of Mr. Thomas Napier, owner of Top Notch Tree Service. The request was for encroachment into the Resource Protection Area (RPA) buffer to construct a gravel parking area, fencing, stormwater management facility and stormwater outfall associated with the business use of the property at 4680 Fenton Mill Road, within the York River watershed. The property is further identified as James City County Real Estate Tax Map Parcel No. 1430300012. Mr. Woolson explained the history of the property under the previous and current owners. Mr. Woolson advised the Board that the site plan for the project was currently under review and will require

stormwater and erosion control permits like any plan of development. In the case presentation he described the current site conditions and the proposed improvements. Staff determined the impacts associated with the proposal to be major and recommended the conditions outlined in the Resolution be required for approval.

Mr. Roadley asked if all the site conditions pre-dated Mr. Napier's ownership.

Mr. Woolson stated the old vehicles and rusty equipment were from previous owners, but the woody debris was placed there during Mr. Napier's ownership.

Mr. Gussman opened the Public Hearing.

A. Mr. Matt Roth, with Roth Environmental, further explained the history of the parcel, the current site conditions, the proposed improvements and the proposed mitigation.

Mr. Gussman closed the Public Hearing as no one else wished to speak.

The Board members agreed the proposed project would improve the current site conditions.

Mr. Apperson made a motion to adopt the Resolution to grant the exception request for Chesapeake Bay Board Case No. CBE-17-094 at 4680 Fenton Mill.

The motion was approved: 5-0

Ayes: Roadley, Waltrip, Hughes, Apperson, Gussman

E. BOARD CONSIDERATIONS

None

F. MATTERS OF SPECIAL PRIVILEGE

None

G. ADJOURNMENT

The meeting adjourned at 5:35 p.m.

AGENDA ITEM NO. C.1.

ITEM SUMMARY

DATE: 8/9/2017

TO: Chesapeake Bay Board

FROM: Chesapeake Bay Board Secretary

SUBJECT: June 14, 2017 Regular Meeting Minutes

ATTACHMENTS:

	Description	Type
🗋	June 14, 2017 Regular Meeting Minutese	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Secretary, ChesBay	Approved	7/25/2017 - 2:52 PM

M I N U T E S
JAMES CITY COUNTY CHESAPEAKE BAY BOARD
REGULAR MEETING
County Government Center, Building F
101 Mounts Bay Road, Williamsburg, VA 23185
June 14, 2017
7:00 PM

A. CALL TO ORDER

The Chesapeake Bay Board meeting for June 14, 2017, was Called to Order.

The responsibility of this Board is to carry out locally the Commonwealth policy to protect against and minimize pollution and deposition of sediment in wetlands, streams and lakes in James City County which are tributaries of the Chesapeake Bay.

B. ROLL CALL

Board Members Present:
David Gussman - Chair
Charles Roadley
John Hughes
Larry Waltrip

Absent:
William Apperson

Others Present:
County Staff (Staff):
Michael Woolson, Senior Watershed Planner
Ashley Tatge, Inspector, Engineering and Resource Protection
Liz Parman, Assistant County Attorney
Melanie Davis, Secretary to the Board

C. MINUTES

1. May 10, 2017 Regular Meeting Minutes

The minutes from the May 10, 2017 regular meeting were approved as written.

D. PUBLIC HEARINGS

1. CBE-17-084 : 102 Walton Heath

Mr. Michael Woolson presented the exception request submitted by Mr. Matt Roth, with Roth Environmental, on behalf of Mr. Martin Mather. The request was for encroachment into the Resource Protection Area (RPA) buffer to construct a single-family dwelling and deck at 102 Walton Heath in the Ford's Colony subdivision, within the Powhatan Creek watershed. The property is further identified as James City County Real Estate Tax Map Parcel No. 3810300019. The presentation described the current site conditions stating the entire lot was in the RPA. Mr. Woolson explained that the proposed house would therefore be located entirely in the Seaward RPA and would also impact non-tidal wetlands. He advised the Board that this wetland impact

would require some action from the United States Army Corps of Engineers. Mr. Woolson also described the proposed mitigation plan revised to meet the County's requirements. Staff determined the impacts associated with this proposal to be major but recommended approval with the conditions outlined in the Resolution.

Mr. Hughes asked how the required nine canopy trees in the mitigation plan would fit on the lot, which was already heavily forested.

Mr. Woolson explained that once the permitted clearing was done for construction of the home, the canopy would open up to allow for the additional trees.

Mr. Gussman opened the Public Hearing.

A. Mr. Matt Roth, with Roth Environmental, stated the lot was platted prior to adoption of the Chesapeake Bay Act and the wetland delineation at that time was also less restrictive. He explained why alternative designs would not lessen the impacts and also stated Ford's Colony had not permitted a front setback reduction. He described the various methods incorporated to handle the stormwater runoff and the proposed mitigation plan. He informed the Board that the United States Army Corps of Engineers permit was ready to be submitted pending the result of this public hearing.

B. Mr. Martin Mather, the property owner, said he and Mr. Roth had worked to address the environmental impact. He felt the condition of the lot would be improved by this proposal and asked the Board for their consideration.

Mr. Gussman closed the Public Hearing as no one else wished to speak.

Mr. Roadley said he appreciated the extensive work that was done in developing the proposed design.

Mr. Gussman stated there were considerable water quality issues on this lot and felt a home owner would need to be very vigilant by constantly monitoring the flow of stormwater around their house and the potential impacts to the wetlands.

Mr. Hughes said he visited this lot and could tell it was definitely wetlands. He thought this might be the reason this lot had not been previously developed and he had real concerns with the proposed development and the potential impacts to the wetlands.

Mr. Waltrip felt it would be a challenge, but believed Mr. Roth had developed a plan that could work.

Mr. Roadley said the purpose of the Board was regulation of the RPA buffer to protect the wetlands. He felt the Board often struggled with cases that just impacted the seaward RPA buffer and because this case proposed impacts to the wetlands as well as the seaward RPA buffer, their position was more difficult. He referenced sections of the Chesapeake Bay Preservation ordinance that the Board was required to consider in making their decision and stated he could not support this exception request because the proposed development could not be mitigated to prevent the degradation of water quality. He agreed with Mr. Hughes that there was a reason this lot had not previously been developed.

Mr. Hughes made a motion to deny exception request for Chesapeake Bay Board

Case No. Case CBE-17-084 at 102 Walton Heath.

The motion to Deny was approved: 3-1

Ayes: Roadley, Hughes, Gussman
Nays: Waltrip.

2. CBE-17-080 : 200 Riverview Plantation Road

Ms. Ashley Tatge presented the exception request submitted by Mr. Richard Pinard for encroachment into the Resource Protection Area (RPA) buffer to construct a single-family dwelling and deck at 200 Riverview Plantation Drive in the Riverview Plantation subdivision, within the York River watershed. The property is further identified as James City County Real Estate Tax Map Parcel No. 1640600031. The presentation described the current site conditions, the proposed house and the submitted mitigation plan, which did not meet the County's minimum standards. In addition, because of the proposed lawn in the seaward RPA buffer, a nutrient management plan was included in the mitigation requirements. Staff determined the impacts associated with this proposal to be major, but recommended approval with the conditions outlined in the Resolution.

Mr. Gussman opened the Public Hearing

A. Mr. Richard Pinard, the property owner and builder, said he had revised the house and garage as much as possible to meet the required setbacks and RPA limitations. He stated he would include any additional plantings and requirements that were needed.

Mr. Hughes asked what he intended to do in the rear yard and if he would be removing all the brush in this area.

A. Mr. Pinard said he wanted to grade it slightly to reduce the flow of water and he would remove the brush and plant grass.

Mr. Woolson pointed out the limits of clearing on the proposed plan, explaining it was just beyond the building setback but not into the steep hillside. He also pointed out the area for the septic drain fields that could not be disturbed. He stated that staff would work with Mr. Pinard to develop an acceptable mitigation plan with native plantings.

Mr. Roadley appreciated the work Mr. Pinard had done positioning the house for minimal impact, but advised him the Board did not favor grass due to the required fertilizer and maintenance.

A. Mr. Pinard said he would remove some of the grass if that was required.

Mr. Gussman closed the Public Hearing as no one else wished to speak.

Mr. Roadley said he would not make removal of grass a condition for approval and felt staff would work with Mr. Pinard to develop the necessary mitigation.

Mr. Waltrip made a motion to adopt the Resolution to grant exception request for Chesapeake Bay Board Case No. Case CBE-17-080 at 200 Riverview Plantation

Drive.

The motion was approved: 4-0

Ayes: Roadley, Waltrip, Hughes, Gussman

3. CBE-17-087 : Stonehouse Tract 3

Mr. Michael Woolson presented the exception request submitted by Mr. Curtis Hickman of Kerr Environmental Services Corp., on behalf of SCP-JTL Stonehouse Owner 2, LLC. The exception request was for encroachment into the Resource Protection Area (RPA) buffer for the construction of sanitary sewer connections and permanent easements associated with the development of the Stonehouse Tract 3 project on property known as 9351 Six Mount Zion Road in the Stonehouse subdivision and within the Ware Creek watershed. The property is further identified as James City County Real Estate Tax Map Parcel No. 0540100015. The presentation described the current site conditions, the proposed RPA impacts and the proposed mitigation with Natural Open Space easements adjacent to the impacts. Staff determined the impacts associated with this proposal to be moderate and recommended approval with the conditions outlined in the Resolution.

Mr. Roadley asked if they were aerial sewer crossings and how the James City Service Authority (JCSA) required these easements to be maintained.

Mr. Woolson said the easements through the RPA and wetlands were 30 feet wide and would contain no major trees. He said the area under the aerial crossings would be allowed to re-vegetate with natural underbrush. He believed JCSA would control the growth in the easements on a 3-5-year cycle as it is for all major utilities.

Mr. Gussman asked how this development would impact Richardson Mill Pond and the failing dam.

Mr. Woolson deferred to the applicant.

Mr. Gussman opened the Public Hearing.

A. Mr. Curtis Hickman, with Kerr Environmental, said they spent a lot of time developing this plan to reduce the impact to wetlands and RPA as much as possible, specifically in the design and location of the pump station. He responded to Mr. Gussman's concerns, stating that stormwater would be controlled on-site, reducing the runoff into Richardson Mill Pond.

Mr. Roadley asked if specific areas marked on the plan were stormwater treatment (BMP) areas.

Mr. Woolson stated the only impacts to the RPA were from the stormwater outfall channels and there were no stormwater structures proposed in the RPA.

B. Mr. Mark Richardson, with Timmons Group, stated that Richardson Mill Pond would not be used as a BMP or for water quality and all the stormwater runoff for this project would be handled by on-site BMPs.

Mr. Gussman asked it the BMPs wouldn't then flow into Richardson Mill Pond

A. Mr. Richardson said Richardson Mill Pond would be attenuated to pre-development levels so there would be no increase from the runoff.

Mr. Hughes and Mr. Gussman both stated their reason for concern with a failing dam.

Mr. Gussman closed the Public Hearing as no one else wished to speak.

Mr. Roadley stated the aerial crossings did not create any long-term impacts to the RPA and he would support this application.

Mr. Hughes made a motion to adopt the Resolution to grant exception request for Chesapeake Bay Board Case No. Case CBE-17-087 at 9351 Six Mount Zion Road for the Stonehouse Tract 3 project.

The motion was approved: 4-0

Ayes: Roadley, Waltrip, Hughes, Gussman

4. CBE-17-065 : Colonial Heritage Phase 3, Section 2

Mr. Michael Woolson presented the exception request submitted by Mr. Ryan Stephenson Hickman of AES Consulting Engineers, on behalf of Colonial Heritage, LLC. The exception request was for encroachment into the Resource Protection Area (RPA) buffer for the construction of sanitary sewer connections associated with the development of the Colonial Heritage Phase 3, Section 2 project on property known as 6799 Richmond Road within the Yarmouth Creek watershed. The property is further identified as James City County Real Estate Tax Map Parcel No. 2430100032. The presentation described the current site conditions, the proposed RPA impacts and the proposed mitigation with a Natural Open Space easement. Staff determined the impacts associated with this proposal to be moderate and recommended approval with the conditions outlined in the Resolution.

Mr. Gussman opened the Public Hearing.

Mr. Roadley asked the applicant what methods would be used for working on the connections to the main trunk lines in the wetlands.

A. Mr. Ryan Stephenson, with AES Consulting Engineers, said he understood the contractor would be working on mats.

Mr. Gussman closed the Public Hearing as no one else wished to speak.

Mr. Roadley again stated that this type of project had no long-term impact to the RPA, provided the contractor was diligent when working in these areas.

Mr. Roadley made a motion to adopt the Resolution to grant exception request for Chesapeake Bay Board Case No. Case CBE-17-065 at 6799 Richmond Road for the Colonial Heritage Phase 3, Section 2 project.

The motion was approved: 4-0

Ayes: Roadley, Waltrip, Hughes, Gussman

E. BOARD CONSIDERATIONS

1. CBE-15-105 : 108 Seven Oaks

Mr. Michael Woolson presented the exception request submitted by Mr. Ronald Nervitt for a two-year extension of the exception request originally granted on August 12, 2014 and extended for one year on July 13, 2016. The exception request was for construction of a single-family dwelling and terrace pool at 108 Seven Oaks in the Ford's Colony subdivision. Staff concurred with this request and all other conditions of the approving Resolution would still apply.

Mr. Gussman asked if the Board had previously granted two-year extensions.

Mr. Woolson stated that they had. He stated the Board had the authority to grant extension for any period they deem acceptable.

Mr. Gussman stated he would support this extension but did not feel any additional extensions should be granted on this case.

Mr. Hughes made a motion to adopt the Resolution granting the two-year extension for Chesapeake Bay Board Case CBE-15-105 at 108 Seven Oaks.

The motion was approved: 4-0

Ayes: Roadley, Waltrip, Hughes, Gussman

F. MATTERS OF SPECIAL PRIVILEGE

None

G. ADJOURNMENT

The meeting adjourned at 8:55 p.m.

AGENDA ITEM NO. D.1.

ITEM SUMMARY

DATE: 8/9/2017

TO: Chesapeake Bay Board

FROM: Michael Woolson, Senior Watershed Planner

SUBJECT: CBE-17-094 : 4680 Fenton Mill Road

Thomas Napier has filed an exception request to encroach into the RPA buffer to install a gravel parking area at 4680 Fenton Mill Rd, in the Banks Estate subdivision, JCC Parcel No 14303000012.

ATTACHMENTS:

	Description	Type
🗋	Staff Report	Staff Report
🗋	Resolution	Staff Report
🗋	Water Quality Impact Assessment	Backup Material
🗋	Site Plan - Existing Conditions	Backup Material
🗋	Site Plan - Proposed Conditions	Backup Material
🗋	Mitigation Plan	Backup Material
🗋	2015 SUP conditions	Backup Material
🗋	2017 SUP Conditions	Backup Material
🗋	APO Notification Letter	Backup Material
🗋	APO Notification List	Backup Material
🗋	Public Hearing Notice	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Woolson, Michael	Approved	8/2/2017 - 10:47 AM
Chesapeake Bay Group	Geissler, Fran	Approved	8/2/2017 - 3:19 PM
Publication Management	Trautman, Gayle	Approved	8/2/2017 - 3:39 PM
Chesapeake Bay Group	Secretary, ChesBay	Approved	8/3/2017 - 8:47 AM

CHESAPEAKE BAY BOARD EXCEPTION No. CBE-17-094. 4680 Fenton Mill Road
Staff Report for the August 9, 2017, Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

EXISTING SITE DATA AND INFORMATION

Applicant:	Thomas Napier
Agent:	Matthew Roth, Roth Environmental, LLC
Location:	4680 Fenton Mill Road
Tax Map/Parcel No.:	1430300012
Legal Description:	Lot 12, Banks Estate
Parcel Size:	3.01 Acres
Area of parcel in Resource Protection Area (RPA):	1.43 Acres (48%)
Watershed:	York River (HUC YO 65)
Floodplain:	Panel 0044D Zone X, outside the 0.2% annual chance floodplain
Proposed Activity:	To create adequate parking and storage area on the property to accommodate an existing landscape and tree service business. To restore previously impacted RPA. To mitigate stormwater from the proposed improvements.
Impervious Cover:	Approximately 0.55 acres impervious (existing) Approximately 0.16 acres woody debris (existing) Approximately 0.30 acres miscellaneous debris (existing) Approximately 0.08 acres impervious (proposed)
RPA Encroachment:	Approximately 0.20 acres proposed, including stormwater management facility and outfall
Staff Contact:	Michael D. Woolson, Senior Watershed Planner Phone: 253-6823

BRIEF SUMMARY AND DESCRIPTION OF ACTIVITIES

Mr. Matthew Roth of Roth Environmental, LLC, on behalf of Thomas Napier, owner of Top Notch Tree Service, has applied for a Chesapeake Bay Exception for encroachments into the RPA buffer for the construction of a gravel parking area, fencing, stormwater management facility and stormwater outfall associated with the business use of the property at 4680 Fenton Mill Road within the York River watershed. The property is identified as James City County Real Estate Tax Map Parcel No. 1430300012 and was last subdivided in 1985. Mr. Napier purchased the property in November 2006.

In 2013, James City County Zoning personnel approached Mr. Napier about the need to have a Special Use Permit (SUP) so that he could continue to use his property the way he intends legally. He went through the

SUP process and was granted approval by the Board of Supervisors on February 10, 2015. An extension of the SUP was granted on February 14, 2017. One of the conditions approved was that Mr. Napier must receive approval to use the RPA area as depicted in the Master Plan, including a Chesapeake Bay Restoration Agreement.

A previous owner had used the property to dispose of vehicles, equipment and other debris. Not only was this material placed in what is considered a non-RPA area, but a great majority of the debris was placed in wetlands and the RPA as now defined. Mr. Napier had removed much of the historic debris when staff visited the site in 2013. In addition, Mr. Napier had placed some woody debris material in the RPA adjacent to the wetlands. When staff visited the site in 2013, there was approximately 0.30 acres of miscellaneous debris still in the RPA and wetlands, 0.55 acres of gravel impervious cover within the RPA and 0.16 acres of woody debris fill. The miscellaneous debris consisted of old vehicles, rusty equipment, railroad ties and tires. The woody debris consisted of shredded wood material and stumps.

In order to comply with the SUP, Mr. Napier must submit a site plan that complies with all current regulations. The current site plan shows a reduction in impervious cover of 0.47 acres. As mitigation for the continued use of the property for his tree service, Mr. Napier will remove the remaining miscellaneous debris from the RPA and wetlands, the woody debris that was placed in the RPA, install an infiltration-type stormwater BMP, install a chain link fence to protect the remaining RPA and replant a portion of the RPA that has been denuded from all of the miscellaneous debris.

STAFF EVALUATION

Staff has evaluated the application and exception request for the construction of the gravel parking lot and finds that the application meets the conditions in Sections 23-11 and 23-14. The application should be heard by the Board because the gravel parking lot and stormwater BMP are within the RPA. Further, it was a condition of the SUP that the Chesapeake Bay Board approve all RPA impacts for this project.

WATER QUALITY IMPACT ASSESSMENT (WQIA)

A WQIA was submitted, per Sections 23-11 and 23-14 of the County Ordinance, for the proposed development or redevelopment within RPAs. The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines* and has submitted a mitigation proposal. The mitigation proposal consists of removing all remaining miscellaneous debris, installing a stormwater BMP, reduction of impervious cover down to 0.08 acres and replanting the denuded portion of the RPA. This proposal exceeds the County mitigation requirements.

CONSIDERATION BY THE CHESAPEAKE BAY BOARD

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14. The Chesapeake Bay Board should fully consider Chesapeake Bay Exception CBE-17-094 as outlined and presented above and review the request for exception along with the WQIA. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chesapeake Bay Preservation Ordinance.

STAFF RECOMMENDATIONS

Staff has reviewed the application and exception request and has determined impacts associated with the property and the proposal to be major for the proposed development. Staff recommends approval of this exception request. Should the Board wish to approve, staff recommends that the following conditions be incorporated into the approval:

1. The applicant must obtain all other necessary federal, state and local permits and permissions as required for the project; and

2. Surety of $4,000 will be required in a form acceptable to the County Attorney's office to guarantee the mitigation plantings; and

3. The mitigation plantings shall have a survivability of at least 90% at one year post planting prior to final surety release. Up to 50% of the surety may be released once mitigation has been planted; and

4. This exception request approval shall become null and void if construction has not begun by August 9, 2018; and

5. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

MDW/gt
CBE-17-094FentonMill

Attachments:
1. Resolution
2. Water Quality Impact Assessment Package
3. Site Plan – Existing Conditions
4. Site Plan – Proposed Conditions
5. Mitigation Plan
6. 2015 SUP Conditions
7. 2017 SUP Conditions

R E S O L U T I O N

CASE NO. CBE-17-094. 4680 FENTON MILL ROAD

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

WHEREAS, Mr. Matthew Roth of Roth Environmental, LLC, on behalf of Thomas Napier (the "Applicant"), has applied to the Chesapeake Bay Board of James City County (the "Board") to request an exception to use the Resource Protection Area (the "RPA") on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 1430300012 and further identified as 4680 Fenton Mill Road (the "Property") as set forth in the application CBE-17-094 for the purpose of installing a gravel parking lot; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, BE IT RESOLVED that the Chesapeake Bay Board of James City County, Virginia, following a public hearing, by a majority vote of its members FINDS that:

1. The exception request is the minimum necessary to afford relief.

2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.

3. The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code and is not of substantial detriment to water quality.

4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.

5. Reasonable and appropriate conditions are hereby imposed, as set forth below, which will prevent the exception request from causing a degradation of water quality.

6. In granting this exception, the following conditions are hereby imposed to prevent this exception request from causing degradation of water quality:

    a. The applicant must obtain all other necessary federal, state and local permits and permissions as required for the project; and

    b. Surety of $4,000 will be required in a form acceptable to the County Attorney's office to guarantee the mitigation plantings; and

    c. The mitigation plantings shall have a survivability of at least 90% at one year post planting prior to final surety release. Up to 50% of the surety may be released once mitigation has been planted; and

d. This exception request approval shall become null and void if construction has not begun by August 9, 2018; and

e. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

_____	_____
David Gussman	Michael Woolson
Chair, Chesapeake Bay Board	Senior Watershed Planner

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 9th day of August, 2017.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 20___ IN THE COMMONWEALTH OF VIRGINIA, IN THE COUNTY OF JAMES CITY.

_____
NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

CBE-17-094FentonMill-res

ROTH ENVIRONMENTAL, LLC

PROJECT SUMMARY AND RESTORATION/MITIGATION PLAN
4680 FENTON MILL ROAD
TOP NOTCH TREE SERVICE
JUNE 27, 2017

Mr. and Mrs. Napier have lived and operated their landscape and tree service business in James City County since 1989. They purchased the property located at 4680 Fenton Mill Road and have operated Top Notch Tree Service from this site for approximately ten years. They desire to continue operating their landscape and tree service business from their home. They are proposing to reduce their footprint on the site and restore a significant portion of the RPA buffer that had been impacted and used for abandoned vehicle disposal prior to their purchase of the site. The Napiers understand the sensitive nature of the environmental resources on their property. They would like to rectify the current environmental issues with their site in combination with a plan that allows them adequate resources to continue to operate their business from their home.

In 2015, the Napiers were approached by the James City County Zoning Department regarding a rezoning requirement to continue to operate their business from their home. Due to the zoning of the property, they were required to submit an application for a Special Use Permit (SUP). They have since received the SUP. As part of the conditions of the SUP, the Napiers are required to submit an exemption request, a mitigation plan, and execute a Chesapeake Bay Restoration Agreement to remove materials that were placed in the Resource Protection Area (RPA). The Napiers were using the rear portion of their property to store split logs and to park work vehicles associated with their tree service business. This area is within the RPA buffer and will be discussed in greater detail below.

Site Conditions

The subject site is a 3.0-acre parcel that is located east of Fenton Mill Road. The property was platted in 1964 as part of the Banks Estate subdivision.

The property currently contains a house, pole barn, driveway, sheds, gravel parking areas, and a firewood splitting area. A stream and wetland system border the property to the north. A wetland delineation and RPA Assessment was performed on the site in 2015. James City County confirmed the RPA Assessment and has been working with Roth Environmental on the restoration plan and exemption request since this time.

The RPA feature on the northern portion of the site is a perennial stream and connected and contiguous nontidal wetlands. These features are depicted on the Site Plan. The environmental resources located upstream of the point designated as the "Limit of the Perennial Stream" are intermittent channels that do not have connected or contiguous nontidal wetlands associated with them. The confluence of the two intermittent channels is the upper limit of the RPA Feature. It is at this location that the stream becomes a perennial feature.

700 PRESCOTT CIRCLE ● NEWPORT NEWS, VIRGINIA 23602
PHONE (757) 814-1048 ● FAX (757) 249-2257
EMAIL: rothenv@cox.net

One of the prior owners of this property used the rear portion of the site (located north of the pole barn) to discard vehicles, trash, and equipment. According to Mr. Napier, the volume of materials in this location was quite extensive. Mr. Napier was concerned with the environmental issues/consequences that accompany discarded vehicles and equipment. Through the early years of owning the property, he worked to remove these items and dispose of them at landfills. His cleanup efforts kept batteries, fuel tanks, and metals from continuing to release toxic elements into the environment.

While working to remove the vehicles and equipment, Mr. Napier expanded the disturbed area behind the pole barn in an effort to access the abandoned vehicles. He also stored them in this area while waiting to transport them to landfills. In working in this area, his equipment caused rutting. In order to continue to work in this area, the applicant graded the area and spread gravel and mulch on the ground. Once the abandoned vehicles were removed, the area became an ideal location to park his tree service vehicles. The parking area is convenient as it keeps the vehicles out of view of the neighboring properties and Fenton Mill Road.

Approximately three years ago, while the area was being used for the tree service vehicle parking and storage, one of Mr. Napier's employees discarded several logs and mulch on the hillside in the RPA buffer. This material was discovered as part of the SUP site inspection. Mr. Napier was unaware that this had occurred as he is physically limited as to where he can walk. These materials will be addressed in the mitigation portion of this narrative.

Mr. Napier is submitting an exemption request to continue to use a portion of his property north of the pole barn for parking of vehicles and storing split fire wood. As part of the exemption request he proposes to restore the remaining RPA buffer (finalize the cleanup of the former dumping), install a BMP, plant mitigative vegetation, and install a chain link fence in order to protect the remaining buffer.

The Napiers have received their Special Use Permit from the James City County Board of Supervisors and are permitted to operate their business in this location. A condition of this approval was the approval of the RPA Exemption Request and Restoration Plan.

Surrounding Property Uses

The area surrounding the subject site has many properties used for business/industrial uses. The property to the south is a building contractor's office and storage yard. The large gravel area behind this business is used to store vehicles, materials, and construction equipment in this location.

There is also a large construction materials operation situated on the property to the northeast of the subject site. This facility grinds mulch, crushes concrete, and has large soil/sand import/export areas.

Both of these properties are within the same drainage area as the subject site and have far greater consequences to erosion and sediment control into the nearby streams and wetlands than the proposed improvements at the subject site.

The subject site is adequately screened from neighboring residential properties by densely vegetated forested areas. The revegetation of the RPA buffer on the northern edge of the gravel parking area will enhance the screening in this direction.

Project Purpose/Proposed Plan

The purpose of the project is to create an adequate parking and storage area on the subject site to accommodate Mr. Napier's ongoing landscape and tree service business. It is also to restore areas historically and recently impacted within the RPA buffer and mitigate any stormwater runoff that will accompany the proposed improvements.

As the zoning restrictions and physical limitations on the site affect the majority of the property, the only remaining area to create a vehicle and materials storage area is behind (to the north of) the pole barn. This area has direct access to the existing graveled slope behind the residence, is relatively flat (this is necessary for the larger vehicles to park), was previously impacted, provides access through the pole barn to turn vehicles around, and is completely out of view of Fenton Mill Road and the neighboring properties.

The proposed encroachment into the RPA buffer is within the area north of the pole barn that has been used for years (prior to the Napiers owing the property) for vehicle, equipment, and materials storage. Being that this area has already been impacted, there would be no need for clearing, there would be minimal grading, and a significant portion of the currently impacted RPA buffer will be restored.

The proposed impervious parking and storage area has been reduced from the original plan. The design team has worked with the Napiers to reduce the total parking and storage area to the minimum necessary for this use. This reduces the impacts in the RPA buffer and increases the area that is proposed to be restored.

Total Impervious Area within the Landward 50' RPA Buffer – 3,408 square feet

The original plan, proposed by the Napiers impacted 4,402 square feet within the Landward 50' RPA Buffer. By modifying the plans to restrict the footprint of the gravel areas, the total footprint of the gravel area was reduced 30%. The majority of this area was in the RPA buffer.

The revised encroachment into the Landward 50' RPA Buffer was reduced to 3,408 square feet. This is a 23% reduction of impacted RPA buffer area from the original design plan.

Mitigation

Mitigation for the impervious surface created by the proposed plan includes several elements.

Materials Removal

To begin, it should be recognized that the applicants have performed a significant cleanup of a former auto/vehicle disposal area that was left by the previous owner of the property. At their own effort and expense, the applicants have removed a large number of vehicles from the ravine, slope, and RPA buffer. The cleanup of this area has dramatically reduced pollutants that would have continuously been released into the stream and downstream environmental resources.

The James City County Planning Commission praised Mr. Napier for his cleanup efforts of the abandoned vehicles. It was specifically addressed that not many citizens would have undertaken such an effort without direction from an outside agency.

The applicant is proposing to further restore the RPA buffer surrounding the proposed gravel lot and the hillside that slopes to the stream. Specifically, the applicant will perform the following:

- Remove all remaining vehicles in the RPA buffer
- Remove all trash (green pipe, domestic trash, etc.) in the RPA buffer
- Remove all discarded tires along the slope
- Remove all railroad ties within the RPA buffer
- Remove pile of discarded shingles within RPA buffer

Planting

During the initial site inspections of the property, the mulched hillside was relatively unvegetated. Since this time, Mr. Napier has not worked in this area and allowed it to revegetate naturally. During a recent site inspection, Roth Environmental and JCC staff counted a significant number of woody stemmed plants colonizing the area. This vegetation ranges in size from 2' to 8' tall. The specific species and numbers are:

> 35 tulip tree saplings, 18 sycamore saplings, 6 sweet gum saplings, 6 redbud saplings, 2 winged sumac saplings, 1 hawthorn sapling, 7 waxmyrtle shrubs, and numerous princess tree (invasive) saplings

The area has also colonized in thick areas of microstegium and other early successional herbaceous species that are stabilizing the ground surface on the hillside.

As numerous canopy and understory species are colonizing the area, we propose to allow the non-invasive species to continue to grow and supplement the thinner areas of vegetation with the proposed plantings. This would aid in the stabilization of the slope without installing too many large trees that could potentially blow over on such a steep slope and create an erosion/stability problem.

As the hillside has begun to naturally revegetated itself, it is proposed to leave the discarded cut logs where they are. The reasoning for this is that if the logs were to be removed, the removal process would cause a significant impact to the slope. The cut logs are so large that

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they would either need to be extracted with a large machine or they would need to be dragged up the hillside with a large wench. Either option on removing the logs would cause substantial areas of impact on the steep slope. These areas would then need to be restabilized. The logs are not of a significant biomass that they will negatively affect the stream, wetlands, or hillside. They have already begun their natural decomposition process.

The proposed plantings will consist of 9 mitigation planting units. Traditional vegetative mitigation accounts for 9 canopy trees, 18 understory trees, and 27 shrubs. Due to the existing volunteer native trees, understory trees, and shrubs that have grown on the site, we are proposing to replace one of the mitigation units with eleven shrubs. The added shrubs will be planted along the northwestern hillside in order to further enhance the restoration area.

The total amount of plantings are listed in the table below:

Plant Type	Standard Mitigation Plantings for the Impervious Area of the Development (9 Units Required)	**Proposed Mitigation Units to be Planted (9 Units Required)**
Canopy Tree	9	**8**
Understory Tree	18	**16**
Shrub	27	**35**
Total	54	**59**

All plantings will be located within the RPA buffer. They will be positioned immediately northwest of the proposed parking area and on the northern unvegetated area. In no case will the vegetation be clumped together or planted to one side of the site. An exhibit showing the proposed planting area shaded in green has been attached to this narrative.

The native species have been selected from the Native Plant List found on the James City County website. They will include the following:

Canopy Trees

- Red maple (*Acer rubrum*)
- Black willow (*Salix nigra*)

Understory Trees:

- Flowering dogwood (*Cornus florida*),
- Eastern redbud (*Cercis canadensis*),
- American holly (*Ilex opaca*)
- Canada serviceberry (*Amelanchier canadensis*)

Shrubs

- American beautyberry (*Callicarpa americana*)
- Inkberry holly (*Ilex glabra*),

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- Winterberry (*Ilex verticillata*),
- Sweetspire (*Itea virginica*),
- New Jersey tea (*Ceanothus americanus*),
- Waxmyrtle (*Morella cerifera*)
- Red chokeberry (*Aronia arbitufolia*).

Canopy trees will be a minimum of 1.5" caliper or six feet tall. Understory trees will be a minimum of 0.75" caliper or five feet tall. Shrubs will be a minimum of 3 gallons in size or 18" tall. The goal of the landscape plan is to achieve a minimum of 80% native species planted for the mitigation effort. The remainder of the species may be non-native ornamental species. It is recommended that all plantings be installed in the fall or early winter.

Once the applicants have determined the specific species that are available from local nursery stock, they will coordinate the final landscape listing with the CBPA Board's Staff Liaison, Michael Woolson, for review and approval.

Should specified native species not be available from local nursery stock, the applicants will identify appropriate native substitutions and coordinate with Mr. Woolson for his approval prior to the purchase of the plant materials.

In the unvegetated portions of the parcel that are proposed to be restored, the areas surrounding the proposed plantings will be stabilized with mulch. This area is approximately 2,000 square feet. The mulch will act to reduce erosion and runoff.

As part of the typical CBPA encroachment requirements, the applicant will post a surety for the proposed plantings. This surety will be determined by county staff and be returned to the applicant once the mitigative plantings are installed and the county verifies their installation. Additionally, the applicant will enter into the standard county agreement to maintain the mitigative plantings.

Infiltration

The applicant will also be installing an infiltration trench on the northwestern side of the proposed gravel lot. The infiltration trench has been designed to catch and infiltrate the stormwater that is directed into it. The volume calculated to capture the first inch of stormwater from the gravel area is 750 cubic feet. The provided volume of the proposed infiltration trench is 1,032 cubic feet. This is approximately forty percent more volume than is required to capture and infiltrate the first inch of stormwater from the gravel lot. This translates into the trench being able to capture and infiltrate a 1.4 inch rainfall event. As a result, the infiltration trench will be able to capture much larger storm events than what is traditionally required.

The benefits of the infiltration trench are water quality treatment (reduction in the pollutant loads), reduction of peak flows, and groundwater recharge. Specifically, the infiltration trench will reduce/trap sediments, reduce nutrients, not cause oxygen depletion, filter hydrocarbons

and toxic metals, and ensure that there are no increases in water temperatures into the nearby surface waters. The infiltration trench will provide all these benefits to the stormwater flowing off the gravel parking area.

The infiltration trench is positioned approximately three to four feet downslope of the gravel parking/storage area. The area between the gravel parking area and the infiltration trench will be maintained grass. This will allow for the stormwater to filter through the grass prior to entering the trench and allow for a small buffer between the gravel drive and the trench. This is important as heavy vehicles will be in near proximity of the trench. Compaction of the trench by a heavy vehicle would be detrimental to the function of the infiltration feature.

The applicant will also install concrete parking stops or wooden timbers between the graveled area and the infiltration trench. These parking stops/timbers will provide a physical barrier and protect the infiltration area. The parking stops/timbers will be evenly spaced to allow stormwater to flow unrestricted into the infiltration trench.

An outfall area from the infiltration trench will be extended down the slope to a very small riprapped outfall stabilization area. This outfall will allow for excessive volumes of stormwater to be released from the infiltration trench in the event that a storm overwhelms the trench. The outfall will be positioned along the slope in an area that does not involve the removal of any of the mature trees.

Alternatives

The Napiers have explored several alternatives to the proposed plan.

1. This alternative explored parking the vehicles on the southern portion of the site near Fenton Mill Road. This alternative was found incompatible by the zoning department during the SUP process. The zoning department stated that the vehicles need to be out of view of Fenton Mill Road. Originally, the county asked Mr. Napier to erect a fence along Fenton Mill Road in order to screen the business from the road. Mr. Napier constructed a privacy fence and planted the requested landscaping in this location. This will help screen the wood burning furnace that services their residence that is located to the south of the house.

2. Locating the parking/storage area to the north of the house was also explored. This is not practicable from several standpoints. The area to the north of the house is moderately to steeply sloping. The applicant would need to severely manipulate this area in order to accomplish the project goals. Based on the topography and site engineering, a substantial area would need to be filled in order to create an area suitable for access by the equipment. In filling this area, the design would create even steeper slopes to the north or a retaining wall would need to be installed. In either of these options, unimpacted areas within the RPA buffer would be required to be cleared/impacted and built upon. While the retaining wall may impact less square footage in the RPA than a sloped alternative, it would create a very steep drop that

would be a serious safety concern in operating large equipment near it. Additionally, the design of a retaining wall that would support the weight of such large equipment would be financially impracticable.

3. Another alternative would be to reduce the parking areas to only areas that do not encroach into the RPA buffer. This alternative is not practicable or possible. The remaining area outside the RPA buffer is oddly shaped and too small to accommodate the large vehicles necessary to perform work on trees. In addition, the area proposed to the northeast of the pole barn is the most level area on the entire site. This is desirable as parking large vehicles on slopes presents a safety concern.

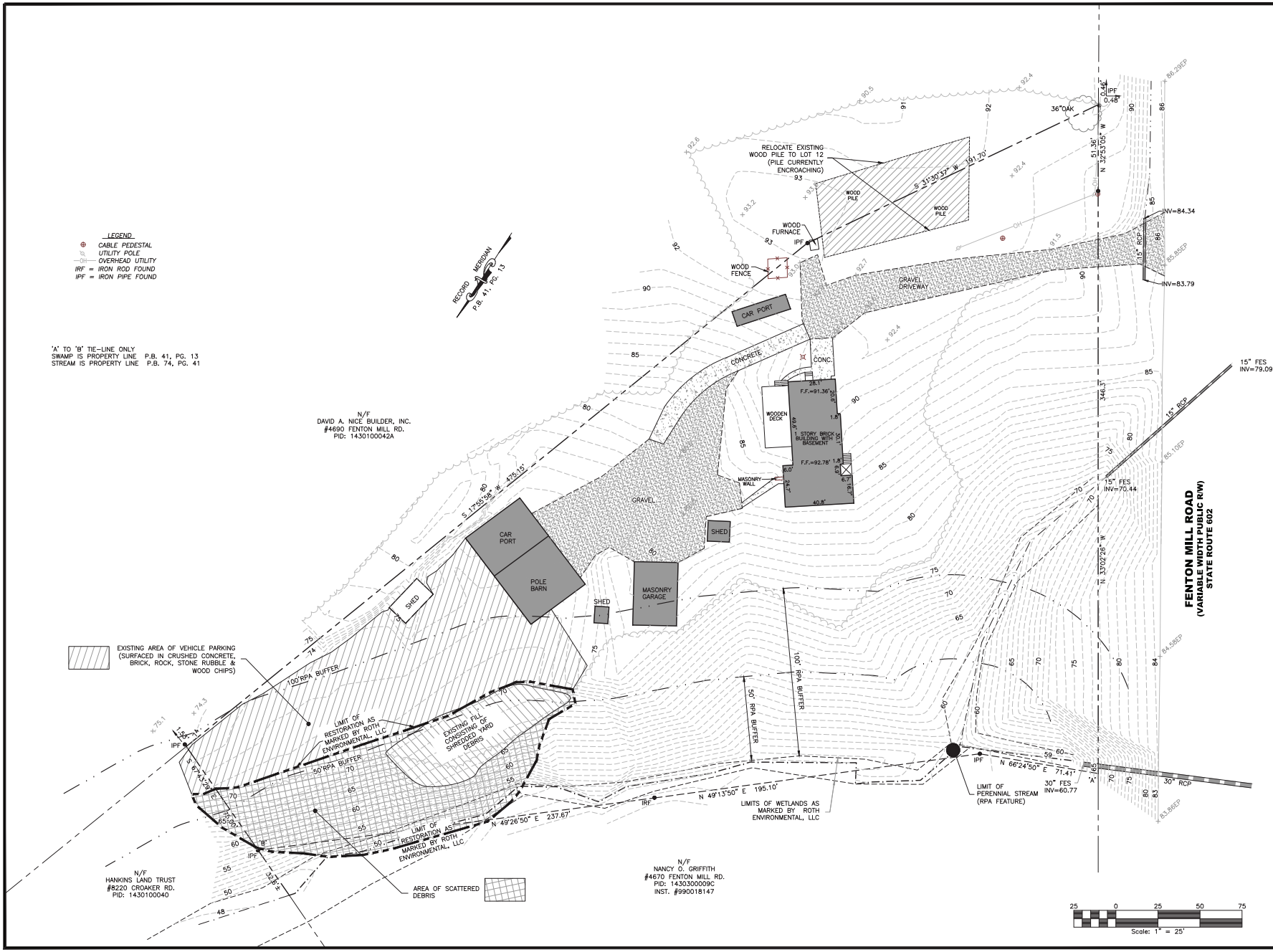
4. The Napiers explored moving. In order to accommodate a home based business such as this, a rural property such as the subject site is necessary.

   Moving is undesirable, as the main area in which they work is James City County. The majority of rural properties in James City County are much farther from the interstate.

   When the Napiers moved to this location, they found high value in the proximity to the interstate which allows them to be much more efficient in their transport of large equipment to and from jobsites. By moving their house/business, they lose this efficiency, which could decrease the number of jobs they could perform in a day. As this has significant financial implications to their business, this is not a practicable alternative.

   Additionally, the Napiers would find moving a financial hardship. The costs and efforts involved in moving would not be affordable.

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PRELIMINARY SITE PLAN OF

TOP NOTCH TREE SERVICE PARKING LOT AND RPA RESTORATION PROJECT

JAMES CITY COUNTY — STONEHOUSE DISTRICT — VIRGINIA

NO.	DATE	REVISION / COMMENT / NOTE

LRJ LANDTECH RESOURCES, INC.
ENGINEERING · SURVEYING · GIS
3325 Millenia Road Williamsburg, VA 23188
Ph: (757) 565-0101 Fax: (757) 565-0782
www.landtechresources.com

SCALE: N/A

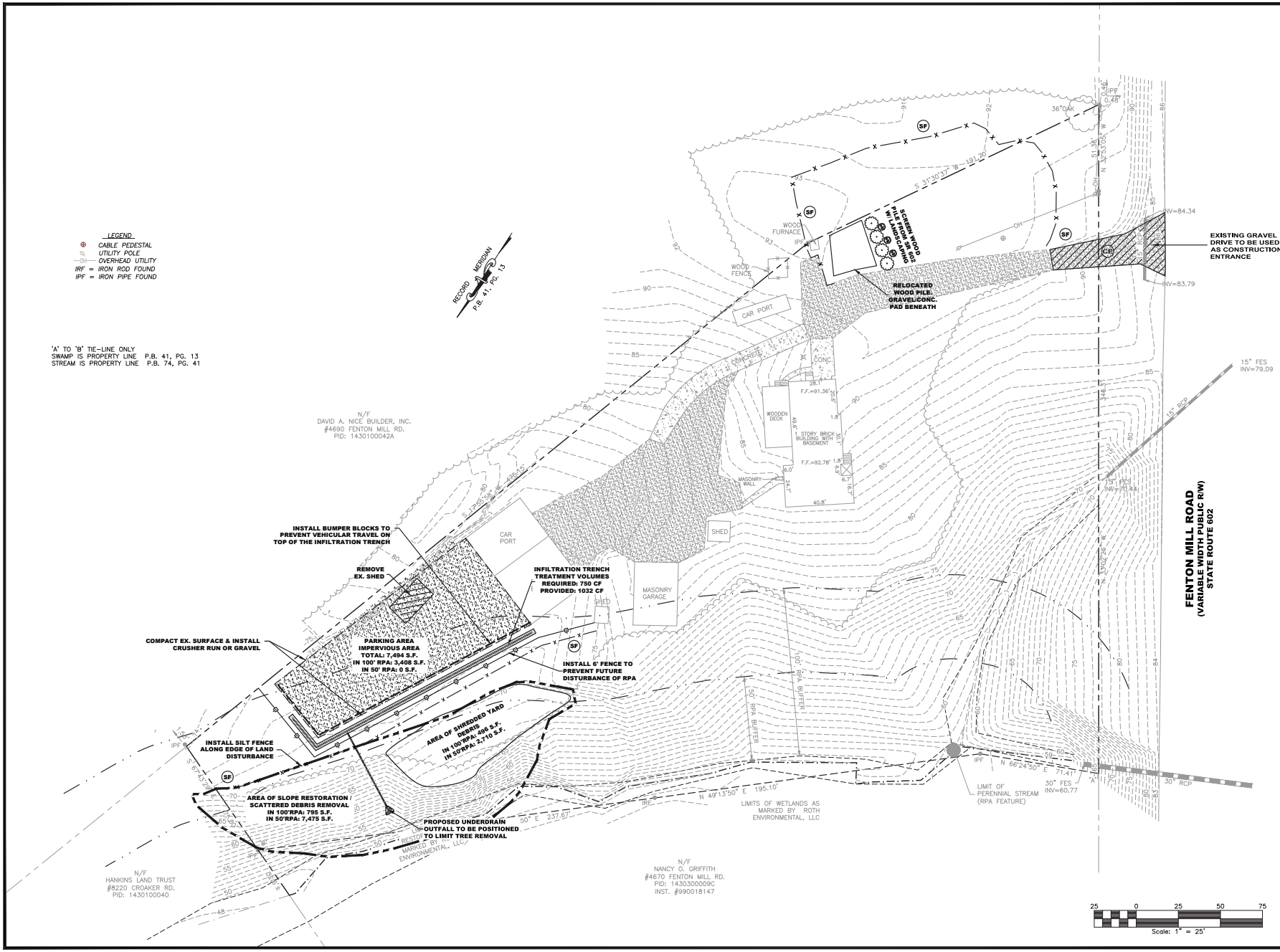
DATE: 06-28-2017

JOB: 14-540

DRAWN BY: CMH/SG

C100

EXISTING SITE CONDITIONS



PRELIMINARY SITE PLAN OF

TOP NOTCH TREE SERVICE PARKING LOT AND RPA RESTORATION PROJECT

JAMES CITY COUNTY — STONEHOUSE DISTRICT — VIRGINIA

NO.	DATE	REVISION / COMMENT / NOTE

LRJ LANDTECH RESOURCES, INC.
ENGINEERING · SURVEYING · GIPS
3325 Millenia Road Williamsburg, VA 23188
PH: (757) 565-0101 FAX: (757) 565-0782
www.landtechresources.com

SCALE: N/A

DATE: 06-28-2017

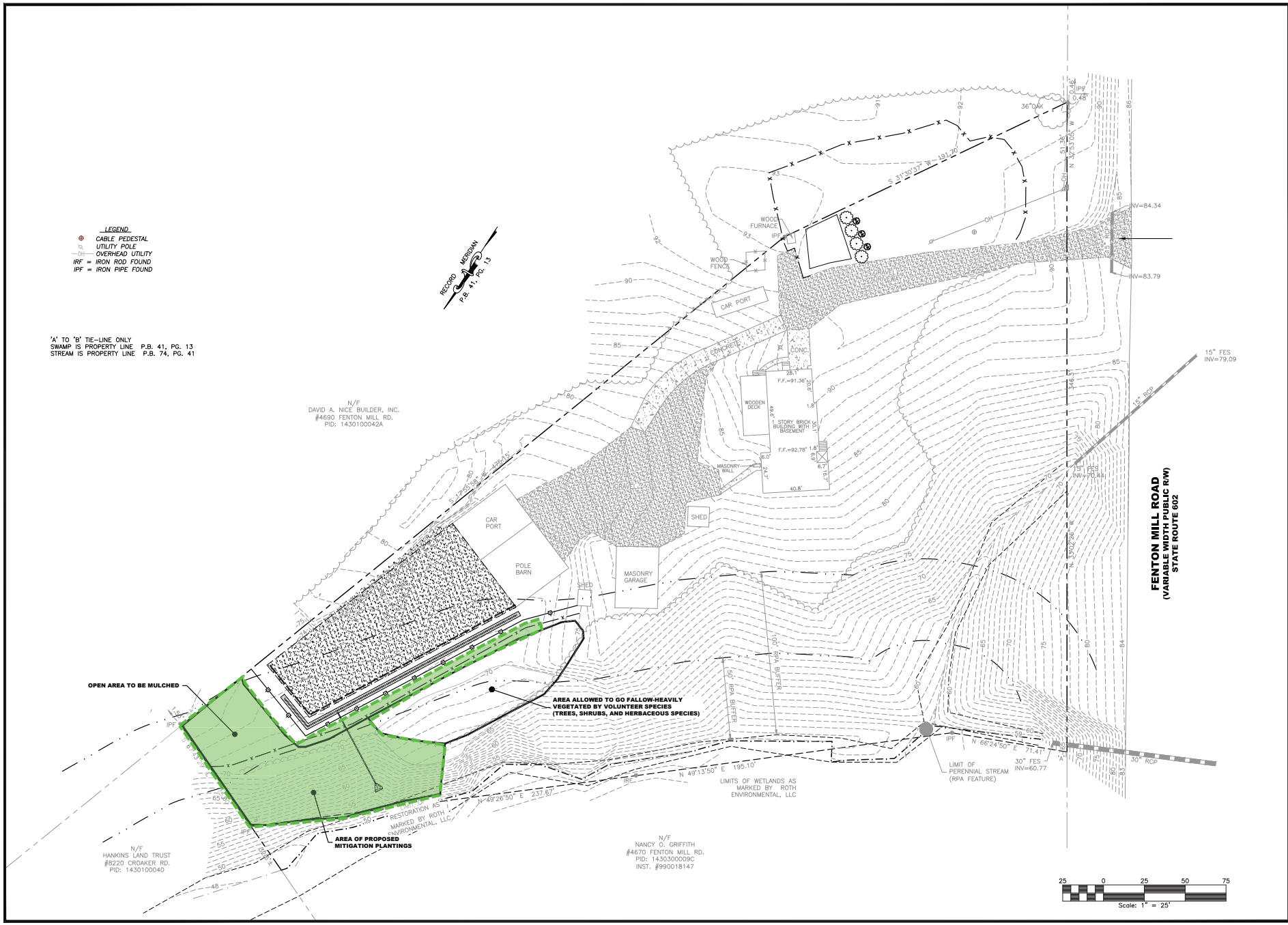
JOB: 14-540

DRAWN BY: CMH/SG

C200

LAYOUT & E&S CONTROL PLAN

3 OF 5



PRELIMINARY SITE PLAN OF

TOP NOTCH TREE SERVICE PARKING LOT AND RPA RESTORATION PROJECT

JAMES CITY COUNTY — STONEHOUSE DISTRICT — VIRGINIA

NO.	DATE	REVISION / COMMENT / NOTE

LRI LANDTECH RESOURCES, INC.
ENGINEERING - SURVEYING - GPS
3925 Midlands Road Williamsburg, VA 23188
Phone (757) 565-0191 Fax (757) 565-0192
Web: landtechresources.com

SCALE: N/A

DATE: 06-28-2017

JOB: 14-540

DRAWN BY: CMH/SG

C300

MITIGATIVE VEGETATION PLANTING

RESOLUTION

CASE NO. SUP-0016-2014. TOP NOTCH TREE SERVICE

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit ("SUP") process; and

WHEREAS, Mr. Thomas Napier has applied for an SUP to allow a contractor's warehouse, sheds and office and storage and repair of heavy equipment located at 4680 Fenton Mill Road; and

WHEREAS, the proposed Development is depicted on the plan prepared by Dean Raynes, Land Surveyor, dated October 31, 2006, and entitled "Master Plan for Top Notch Tree Service"; and

WHEREAS, the proposed development is located in its entirety on property zoned A-1, General Agricultural, further identified as James City County Real Estate Tax Map Parcel No. 1430300012; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-0016-2014; and

WHEREAS, the Planning Commission, following its public hearing on January 7, 2015, voted 7-0 to recommend approval of Case No. SUP-0016-2014.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. SUP-0016-2014, as described herein, subject to the following conditions:

1. **Master Plan:** SUP shall be valid for a contractor's office and the storage of vehicles, equipment and materials associated with the use (the "Proposal") on property located at 4680 Fenton Mill Road and further identified as James City County Real Eestate Tax Map No. 1430300012 (the "Property"). The location of the storage and parking of vehicles, equipment, and associated materials shall be generally as shown on the master plan titled "Master Plan for Top Notch Tree Service" dated October 31, 2006 (the "Master Plan"), with such minor changes as the Director of Planning determines does not change the basic concept or character of the development.

2. **Limitations:** No work associated with the Proposal, except for administrative/office work, maintenance of equipment and vehicles, storage, and loading of materials on trucks and trailers shall be conducted at the Property. No retail sales including the sale of wood or wood-related products shall occur at the Property. No manufacturing including the manufacture of wood or wood-related products except firewood shall occur at the Property. No mulching or stump grinding shall occur at the Property.

3. **Hours of Operation:** Transportation of equipment to and from the property shall be limited to 7:00 a.m.-7:30 p.m., Monday through Saturday, except for occasional after-hours and Sunday transportation related to storm cleanup work.

4. **Vehicle Storage:** Storage of vehicles, equipment, and landscape materials shall be as follows:

   a) Vehicles and equipment, including but not limited to, trucks and trailers, shall be contained within the 6,000 square foot area as shown on the Master Plan.

   b) Tree care and landscape materials associated with the Proposal, including but not limited to, sod and firewood shall be stored within the 3,000 square foot area as shown on the Master Plan. These materials shall not be located within any required building setback and shall not have a vertical height of more than eight feet from the ground.

   c) Equipment associated with the Proposal, including but not limited to, power saws, ropes, pole saws, blowers, weed eaters, and various hand tools shall be stored within the existing 120-square-foot shed as shown on the Master Plan.

5. **Perimeter Buffer:** The existing vegetation surrounding the Property and surrounding the storage of vehicle/equipment areas as shown on the Master Plan shall remain undisturbed.

6. **Signage:** No outdoor signage shall be allowed on the Property.

7. **Lighting:** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Director of Planning or his designee, which indicates no glare outside the Property lines. All light poles shall not exceed 16 feet in height unless otherwise approved by the Director of Planning prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.

8. **Site Plan:** A site plan shall be required for this Proposal. Final approval of the site plan shall be obtained within 24 months of issuance of this SUP, or the SUP shall become void.

9. **Material Removal and Resource Protection Area Restoration:** The applicant shall submit a mitigation plan and execute a Chesapeake Bay Restoration Agreement with the County to remove all materials that have been placed within the Resource Protection Area (RPA) and stabilization of these areas, prior to final site plan approval by the Engineering and Resource Protection Director. Some materials outside the RPA also need to be removed. "Materials" shall mean any wood chips, stumps, junk vehicles, mechanical parts, unused sheds, or other materials brought in from off-site that were placed on-site or in the RPA. The James City County Engineering and Resource Protection Director, or his designee, shall verify, in writing, that all materials have been properly removed or stabilized on-site within six months from approval of the site plan.

10. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	AYE	NAY	ABSTAIN
JONES	X	—	—
MCGLENNON	X	—	—
ONIZUK	X	—	—
KENNEDY	X	—	—
HIPPLE	X	—	—

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of February, 2015.

SUP-16-14TreeSrv-res

RESOLUTION

CASE NO. SUP-0027-2016. TOP NOTCH TREE SERVICE

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit ("SUP") process; and

WHEREAS, Mr. Thomas Napier has applied for an SUP to allow a contractor's warehouse, sheds, office, storage and repair of heavy equipment located at 4680 Fenton Mill Road; and

WHEREAS, the proposed Development is depicted on the plan prepared by Dean Raynes, Land Surveyor, dated October 31, 2006, and entitled "Master Plan for Top Notch Tree Service;" and

WHEREAS, the proposed development is located in its entirety on property zoned A-1, General Agricultural, further identified as James City County Real Estate Tax Map Parcel No. 1430300012; and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing conducted on Case No. SUP-0027-2016; and

WHEREAS, the Planning Commission, following its public hearing on February 1, 2017, voted 7-0 to recommend approval of Case No. SUP-0027-2016.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. SUP-0027-2016, as described herein, subject to the following conditions:

1. Master Plan: SUP shall be valid for a contractor's office and the storage of vehicles, equipment and materials associated with the use (the "Proposal") on property located at 4680 Fenton Mill Road and further identified as James City County Real Estate Tax Map No. 1430300012 (the "Property"). The location of the storage and parking of vehicles, equipment and associated materials shall be generally as shown on the master plan titled "Master Plan for Top Notch Tree Service" dated October 31, 2006 (the "Master Plan"), with such minor changes as the Director of Planning determines does not change the basic concept or character of the development.

2. Limitations: No work associated with the Proposal, except for administrative/office work, maintenance of equipment and vehicles, storage and loading of materials on trucks and trailers shall be conducted at the Property. No retail sales including the sale of wood or wood-related products shall occur at the Property. No manufacturing including the manufacture of wood or wood-related products except firewood shall occur at the Property. No mulching or stump grinding shall occur at the Property.

3. Hours of Operation: Transportation of equipment to and from the Property shall be limited to 7:00 a.m.-7:30 p.m., Monday through Saturday, except for occasional afterhours and Sunday transportation related to storm cleanup work.

4. Vehicle Storage: Storage of vehicles, equipment and landscape materials shall be as follows:
   a) All vehicles and equipment associated with the Proposal, including but not limited to trucks and trailers, shall not be located in any required perimeter buffers or Resource Protection Areas (RPA), and shall be contained behind the residence unless an alternative location is approved by the Director of Planning. Any alternative location shall be shown on the approved site plan and shall not be located within 100 feet of Fenton Mill Road and must provide additional screening such as landscaping and/or fencing as approved by the Director of Planning.
   b) Tree care and landscape materials associated with the Proposal, including but not limited to, sod and firewood shall be stored within the 3,000-square-foot area as shown on the Master Plan. These materials shall not be located within any required building setback and shall not have a vertical height of more than eight feet from the ground.
   c) Equipment associated with the Proposal, including but not limited to, power saws, ropes, pole saws, blowers, weed eaters and various hand tools shall be stored within the existing 120-square-foot shed as shown on the Master Plan.

5. Perimeter Buffer: The existing vegetation surrounding the Property and surrounding the storage of vehicle/equipment areas as shown on the Master Plan shall remain undisturbed.

6. Signage: No outdoor signage shall be allowed on the Property.

7. Lighting: All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Director of Planning or his designee, which indicates no glare outside the Property lines. No light poles shall exceed 16 feet in height unless otherwise approved by the Director of Planning prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.

8. Site Plan: A site plan shall be required for this Proposal. Final approval of the site plan shall be obtained within 12 months of issuance of this SUP, or the SUP shall become void.

9. Material Removal and RPA Restoration: Prior to final site plan approval by the Engineering & Resource Protection Director, a Chesapeake Bay Restoration Agreement shall be executed with the County, which shall include a mitigation plan to remove all materials that have been placed within the RPA and stabilization of these areas. Materials outside the RPA that are in violation of the zoning ordinance also need to be removed. The James City County Engineering & Resource Protection Director, or his designee, shall verify, in writing, that all violating materials have been properly removed or stabilized on-site within six months from approval of the site plan. "Materials" shall mean any wood chips, stumps, junk vehicles, mechanical parts, unused sheds or other materials brought in from off-site that were placed on-site or in the RPA.

10. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

Kevin D. Onizuk
Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	AYE	NAY	ABSTAIN
MCGLENNON	✓		
SADLER	✓		
HIPPLE	✓		
LARSON	✓		
ONIZUK	✓		

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of February, 2017.

SUP27-16TreeSrv-res

Community Development
Engineering and Resource
Protection Division
P O Box 8784
Williamsburg, VA 23187
Resource.Protection@jamescitycountyva.gov

Building Safety and Permits 757-253-6620
Engineering and Resource Protection 757-253-6670
Planning 757-253-6685
Zoning Enforcement 757-253-6671

July 19, 2017

RE: CBE-17-094 – 4680 Fenton Mill Road
Gravel Parking Area

Dear Adjacent Property Owner:

In accordance with State and County Codes, this letter is to notify you that a request has been filed with the James City County Chesapeake Bay Board by Mr. Thomas Napier, for encroachment into the Resource Protection Area (RPA) associated with installation of a gravel parking area, on his property at 4680 Fenton Mill Road in the Westbank Farms subdivision. The property is further identified by James City County Real Estate as Parcel No.14303000012.

A complete description, plan, and other information are on file in the Engineering and Resource Protection Division and are available for inspection during normal business hours, should anyone desire to review them.

The Chesapeake Bay Board will hold an advertised public hearing on **Wednesday**, **August 9, 2017 at 5 p.m.** in the Board Room of Building F, 101 Mounts Bay Road, James City County, Virginia, at which time you may request to speak on the above referenced project.

Sincerely,

Melanie Davis

Melanie Davis
Chesapeake Bay Board Secretary
757-253-6866

cc: Thomas Napier
Roth Environmental, LLC

Mailing List for: CBE-17-094 – 4680 Fenton Mill Rd – Napier/Roth - gravel parking area

Owner - 14303000012
Thomas Napier
4680 Fenton Mill Rd
Williamsburg, VA 23188-6916

Matt Roth
Roth Environmental, LLC
rothenv@cox.net

1430100042A- 4690 Fenton Mill Rd
David Nice Builder, Inc
4571 Ware Creek Rd
Williamsburg, VA 23188-1125

1430300009C
Nancy O Griffith
4670 Fenton Mill Rd
Williamsburg, VA 23188-6916

1430100040 - 8220 Croaker Rd
Hankins Land Trust 1,2,3
Patten & Watkins Trustees
403 Holly Pt Road
Yorktown, VA 23692-3636

PUBLIC HEARING NOTICE

THE CHESAPEAKE BAY BOARD OF JAMES CITY COUNTY, VIRGINIA WILL HOLD A PUBLIC HEARING **WEDNESDAY AUGUST 9, 2017 AT 5 P.M.** IN THE BOARD ROOM OF BUILDING F, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA TO CONSIDER THE FOLLOWING CASE:

CBE-17-094: Thomas Napier has filed an exception request to encroach into the RPA buffer to install a gravel parking area at4680 Fenton Mill Rd, in the Westbank Farms subdivision, JCC Parcel No 14303000012.

Appeals from decisions under the Chesapeake Bay Preservation Ordinance may also be heard.

All interested parties are invited to attend the meetings. The applications and plans are on file and may be viewed during normal office hours in the Engineering and Resource Protection Division, 101 Mounts Bay Road, Building E, James City County, Virginia.

NOT FOR PUBLICATION

DISPLAY: WEDNESDAY –July 26 and August 2, 2017.
ACCOUNT NO.: 0011040200 - VIRGINIA GAZETTE

COPIES: PLANNING
ASSISTANT COUNTY ATTORNEY
CHESAPEAKE BAY BOARD MEMBERS