DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES

STAFF REPORT

- [x] PROPOSED COUNTY CODE AMENDMENT
- [ ] PROPOSED PFM AMENDMENT
- [ ] APPEAL OF DECISION
- [ ] WAIVER REQUEST

Proposed amendments to the map of Chesapeake Bay Preservation Areas, Chapter 118 (Chesapeake Bay Preservation Ordinance) of The Code of the County of Fairfax, Virginia RE: Resource Protection Area Boundaries and Board Policy for the Treatment of Approved and Pending Plans of Development.

Authorization to Advertise	March 19, 2013
Planning Commission Hearing	April 25, 2013
Board of Supervisors Hearing	May 14, 2013
Prepared by:	Site Code Research and Development Division JBS 703-324-1780 Stormwater Planning Division SC 703-324-5811

February 27, 2013

STAFF REPORT

A. Issue:

Proposed amendment to the map of Chesapeake Bay Preservation Areas, Chapter 118 (Chesapeake Bay Preservation Ordinance) of *The Code of the County of Fairfax, Virginia* and Board Policy for the Treatment of Approved and Pending Plans of Development. The proposed amendments revise the Resource Protection Area (RPA) boundaries on the adopted Chesapeake Bay Preservation Areas Map on Map Page No. 30-2 (Dranesville District). The proposed Board Policy for the Treatment of Approved and Pending Plans of Development (Board Policy) mitigates the impact of the amendments on approved or pending plans of development. There are no proposed amendments to the text of the Chesapeake Bay Preservation Ordinance.

B. Recommended Action:

Staff recommends that the Board of Supervisors adopt the proposed amendment to the Chesapeake Bay Preservation Areas Map. Staff further recommends that the Board adopt by separate resolution the Board Policy for plans impacted by the amendments.

C. Timing:

Board of Supervisors authorization to advertise – March 19, 2013

Planning Commission Public Hearing – April 25, 2013

Board of Supervisors Public Hearing – May 14, 2013

Effective Date – 12:01 a.m. May 15, 2013

D. Source:

Department of Public Works and Environmental Services

E. Coordination:

The proposed amendments have been prepared by the Department of Public Works and Environmental Services (DPWES) and coordinated with the Office of the County Attorney.

F. Background:

Section 118-1-9(a) of the Chesapeake Bay Preservation Ordinance requires that there be a map of Chesapeake Bay Preservation Areas adopted by the Board.

Chesapeake Bay Preservation Areas include RPAs and Resource Management Areas (RMAs). RPAs are required to be designated around all water bodies with perennial flow. Under Section 118-1-7(b) of the Chesapeake Bay Preservation Ordinance a stream must be perennial and depicted on the map as perennial to be subject to regulation as a water body with perennial flow. Therefore, newly identified perennial streams are subject to protection under the Chesapeake Bay Preservation Ordinance only after being added, by amendment, to the Chesapeake Bay Preservation Areas Map.

The Salona property is a historically significant property located at 1235 Dolley Madison Boulevard in McLean (Tax Map No. 30-2((01)) parcels 0065A, 0066A, 0067A, 0068A and 0069A). Although the property is privately owned, the Fairfax County Park Authority (FCPA) holds a perpetual open space and conservation easement, which allows for a variety of park uses on approximately 41 acres of the site (Salona Park). During the FCPA master planning process, a citizen task force was appointed to identify, evaluate, and recommend potential uses for inclusion in Salona Park. In response to a recommendation from the task force, the Dranesville District Supervisor's Office requested that staff verify the existence and locations of all perennial water bodies on the Salona property.

In 2012, staff from the Department of Public Works and Environmental Services (DPWES) conducted a field investigation of the streams and water features on the property. The study consisted of repeated observations of stream flow conditions and evaluations of the prevailing weather and hydrologic conditions using rainfall data and published U.S. Drought Monitor reports. Staff determined that the conditions during the spring and summer were ideal for the evaluation of the extent of perennial stream flow – well below average rainfall and extended periods of drought. Staff found a very strong presence of groundwater influence on the property and identified streams that are spring-fed. During multiple visits, staff observed water flowing in segments of the streams at times the U.S. Drought Monitor reported the area was experiencing a moderate drought. Sustained stream flow during drought conditions is conclusive evidence that the stream segments are perennial. The field investigation report summarizes the findings and is included herein as Attachment A. This proposed amendment to the Chesapeake Bay Preservation Areas Map is the result of the field investigation, and is included herein as Attachment B.

G. Proposed Amendment:
Chesapeake Bay Preservation Areas Map Page No. 30-2:

Three stream segments on the Salona property are proposed for designation as perennial streams on map page no. 30-2. The longest stream segment proposed for reclassification as a perennial stream is located west of and generally parallel to Buchanan Street, south of Dolley Madison Boulevard, north of the private driveway serving the Salona house. The second stream segment begins as a spring (with a stone spring house over it) located generally in the middle of the property, and flows

southeasterly to the endpoint of the perennial stream on the adopted map. The third segment begins as a hillside spring, and flows east a short distance to its confluence with the second segment. The Chesapeake Bay Preservation Areas Map is being amended to add these stream segments with their associated RPAs.

H. Regulatory Issues:

The proposed amendments will facilitate administration of the Chesapeake Bay Preservation Ordinance by providing a more complete depiction of the RPAs in Fairfax County. Properties along a stream that has been reclassified as perennial will be subject to additional regulatory requirements associated with RPA areas that may limit development opportunities on affected properties. Concurrent with past amendments to the Chesapeake Bay Preservation Areas Map, the Board has adopted policies, to be administered by the Director of DPWES, for the treatment of approved and pending plans of development impacted by such amendments. Similarly, Staff recommends that the Board adopt the Board Policy, which is included herein as Attachment C. The affected properties are zoned residential and are not subject to any approved rezoning, special exception, special permit, or variance, but portions are subject to an open-space and conservation easement held by the FCPA. The proposed Board Policy has been prepared to address the general conditions applicable to the affected properties and will mitigate the impact of the amendments on any by-right plans of development that have been approved or are pending approval. In addition to the standard legal advertisements, a separate notice of the public hearings will be mailed to the owners of property on which the herein described RPAs will be designated.

I. Attached Documents:

Attachment A - Field Investigation Report, dated December 13, 2012
Attachment B - Chesapeake Bay Preservation Areas Map – map no. 30-2
Attachment C - Board Policy for Treatment of Approved and Pending Plans of Development Affected by the May 14, 2013, Revisions to the Map of Chesapeake Bay Preservation Areas.

Field Investigation Report: 2012 perennial stream evaluations on the Salona property and proposed changes to the Fairfax County Chesapeake Bay Preservation Area Map

December13, 2012

Introduction and Background:

Salona is a historically significant property located at 1235 Dolley Madison Boulevard in McLean within the Dranesville supervisory district. The property consists of multiple parcels; PIN: 0302 01 0065A, 66A, 67A, 68A, 69A. Although the 51 acre property is privately owned, the Fairfax County Park Authority (FCPA) holds a perpetual conservation easement on 41 acres of the property, which allows for a variety of park uses (see Figure 1). A master planning process for the property was established which generated a cultural landscape report and a draft Master Plan. These and other documents, as well as public meeting minutes can be found at the Salona Park Master Plan website at http://www.fairfaxcounty.gov/parks/plandev/salona.htm .

As part of the Salona Park master planning process, the FCPA initiated extensive community outreach which culminated in the appointment of a task force in 2011. The Salona Task Force provides recommendations which "…seek to reflect the consensus of the community and be consistent with the conservation easement as well as the financial investment made by the Fairfax County Board of Supervisors and FCPA."[1] In early 2011 task force members requested the Dranesville district supervisor's office to direct a staff re-evaluation of the streams and surface hydrology of the property - specifically with respect to current perennial designations and the locations of Resource Protection Areas (RPAs). It was suspected that there may be some perennial water bodies on the property that are not accurately depicted on the current RPA map.

According to Chapter 118 of the Code of Fairfax County, water bodies with perennial flow and any wetlands that are connected to and contiguous with them are considered "core components" of an RPA and are afforded certain protections from development. Included in these protections is any land within 100 feet of these perennial core components. The County's Chesapeake Bay Preservation Area (CBPA) map depicts all perennial water bodies and associated RPAs countywide. The most recent large-scale revision of this map occurred in 2005, subsequent to the County's 2-year (2002-2003) Perennial Stream Identification and Mapping project[2]. These revisions greatly expanded RPAs throughout the County as a result of new requirements in the Chesapeake Bay Act. The streams and water features on the Salona property were field surveyed and mapped during this effort.

This staff report summarizes the findings of the re-evaluation of these streams in 2012 after multiple observations and recommends CBPA map amendments accordingly.

[1] Salona Park Master Plan website: http://www.fairfaxcounty.gov/parks/plandev/salona.htm
[2] http://www.fairfaxcounty.gov/dpwes/watersheds/perennial.htm

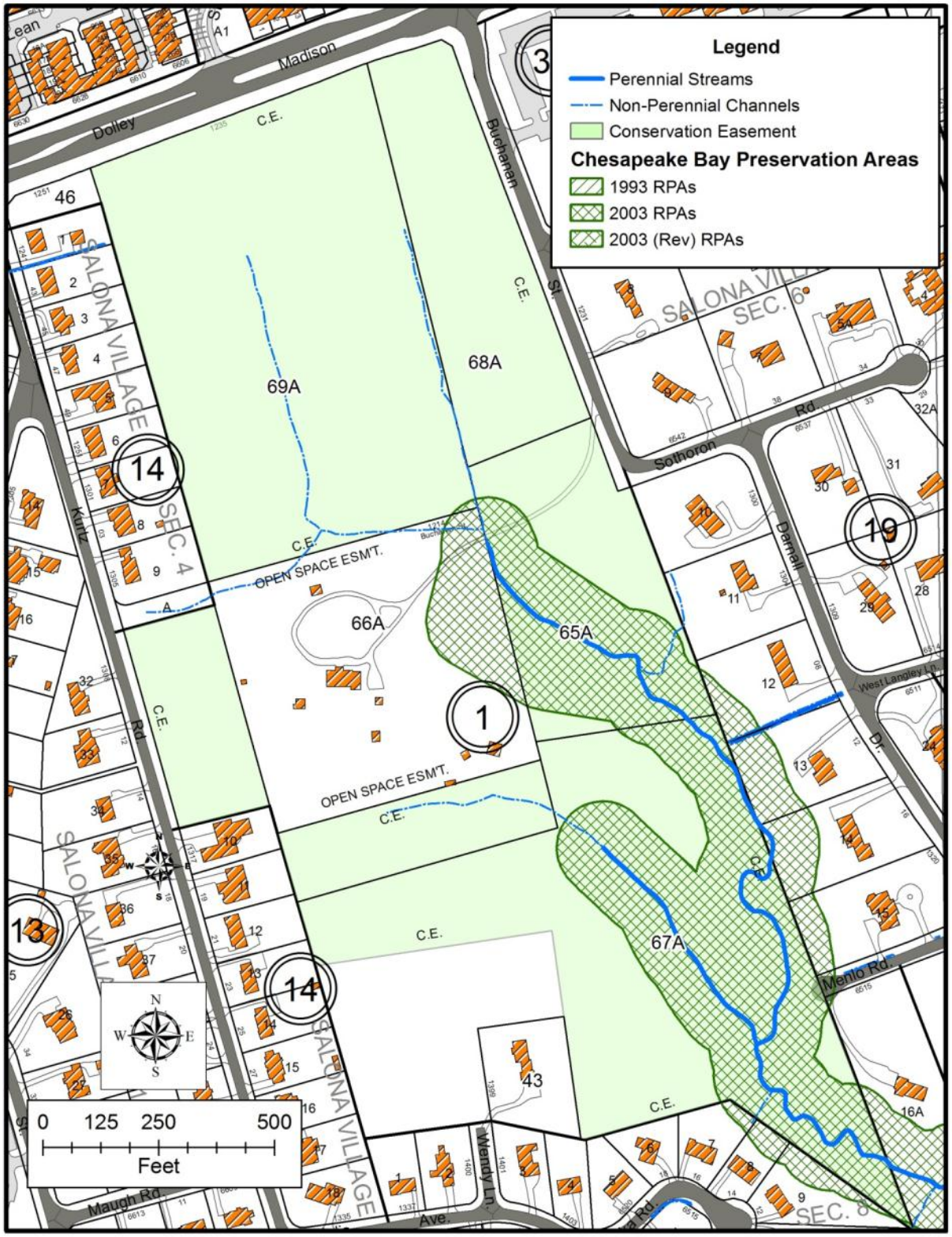

Figure 1: Area map of the Salona property.

Surface Water Evaluations:

As with previous perennial stream assessments, staff from the Department of Public Works and Environmental Services (DPWES) conducted the stream evaluations described in this report. The 2012 field study of the streams and water features on the Salona property consisted of repeated observations of stream flow in concert with evaluations of antecedent weather conditions. It is recognized that perennial streams flow throughout the year except in periods of drought and their channel bottoms generally lie at or below the water table. Intermittent streams flow only during the wetter portions of the year and their channel bottoms are at or above the groundwater table. Ephemeral streams flow only immediately after rainfall and can include drainage swales and ditches. The absence of flow in a stream channel during normal weather conditions generally indicates a non-perennial stream condition. Conversely, observation of sustained stream flow in a channel during a drought period is considered very strong evidence of a perennial stream.[3,4] The spring and summer of 2012 produced the ideal weather conditions under which to evaluate extents of perennial stream flow – well below average rainfall and extended periods of drought. This allows for confident determinations of the existence and locations of perennial water bodies when they are found to be flowing in these conditions.

A perennial stream field identification protocol was developed by DPWES for use in the countywide mapping effort mentioned previously. This protocol uses a visual evaluation and scoring methodology which incorporates hydrologic, soils, vegetative, and faunal characterizations. The final scores were used to determine the perenniality of stream reaches. Typically a score of 25 or higher indicated a perennial stream, although certain streams may be perennial but not score 25 (typically spring fed systems). For the two-year countywide identification and mapping project, this rapid assessment scoring protocol was used in lieu of repeated flow observations. However, on site specific evaluations where multiple visits can be made, repeated observations should supersede the rapid assessment scoring protocol while providing a much higher level of confidence in the determination. Therefore, use of the rapid assessment protocol was omitted in favor of repeated observations of actual stream flow conditions in the streams on the Salona property.

All sections depicted as perennial on the current CBPA map (Figure 1) were observed to be flowing throughout the entirety of this very dry observation period and thus determined to be mapped properly. Two sections of stream on the Salona property (segments A and B on Figure 2) exhibited obvious flowing water through most of the observation period (March through August 2012), in spite of the fact that they are not depicted as perennial on the CBPA map. These two sections are the only areas that differ from what is shown on the current CBPA map.

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[3] *Determination of Water Bodies with Perennial Flow:* http://dcr.cache.vi.virginia.gov/stormwater_management/documents/perflowwatbod2010.pdf

[4] Fairfax County Perennial Stream Identification Protocol: http://www.fairfaxcounty.gov/dpwes/watersheds/ps_protocols.pdf

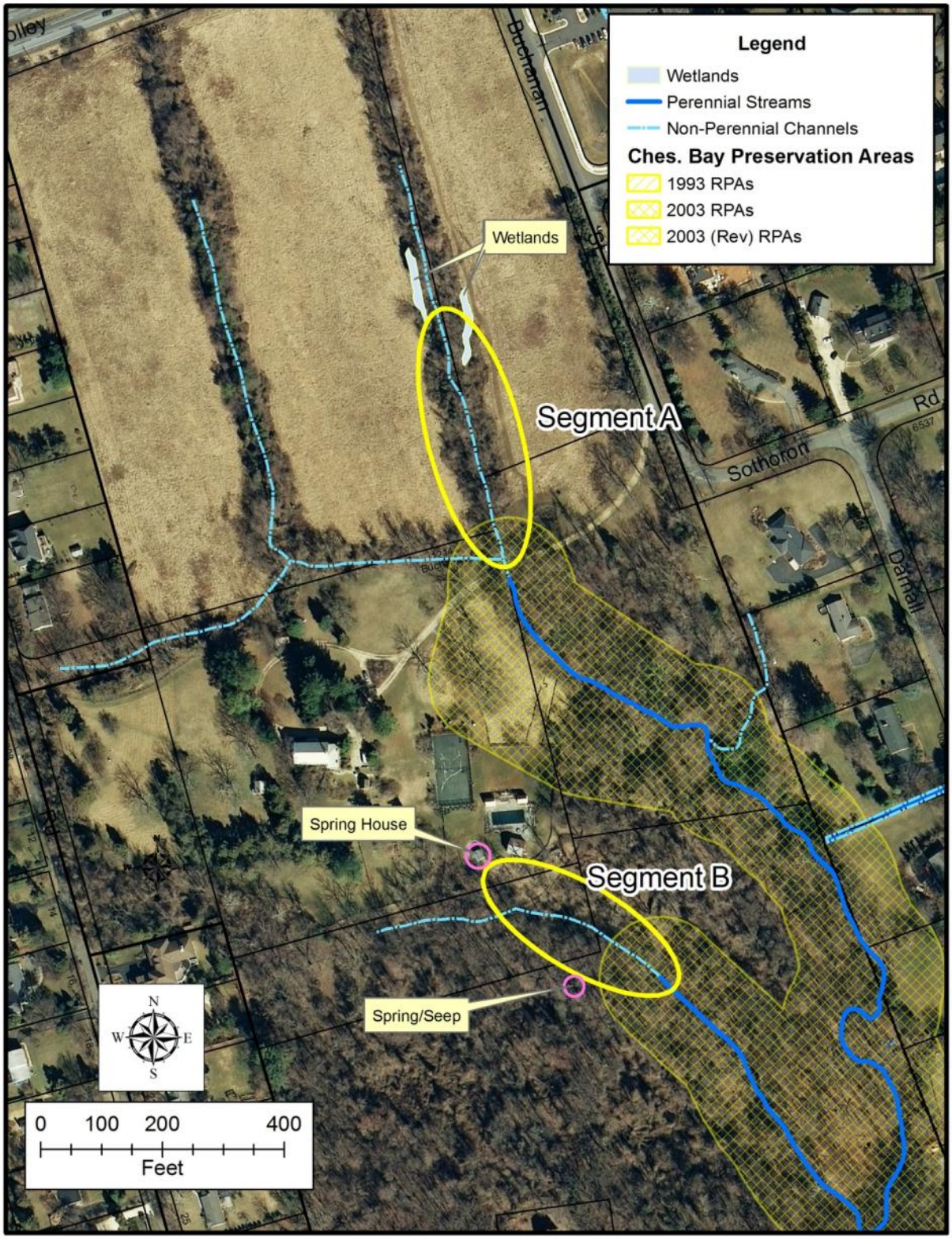


Figure 2: Areas of primary interest in the stream perenniality study/observations

There are two basic reasons why these two areas were not originally classified as perennial in the 2003 survey. First, it can be very difficult to quickly field-determine perenniality in small, spring-fed channels. Many times these small channels will not achieve the minimum protocol score of 25, even though they may be carrying water year-round. This is due to the fact that groundwater and spring seeps generate much lower stream velocities which result in much smaller and less-pronounced conveyance channels. The perennial stream field identification protocol recognizes this phenomenon and provides for channels scoring less than 25 to still be considered perennial based on these and other factors. The two sections of stream currently mapped as intermittent but found to be flowing through the 2012 drought both scored less than 25 when evaluated in 2003. To compound this, the evaluations in 2003 were conducted during one of the wettest periods on record. Since all channels were flowing everywhere during this very wet period, strength of stream flow was less dependable of an indicator than other features evaluated by the protocol. Staff took a conservative approach during this period and relied more on the total score to make final determinations. So, although these streams were carrying water at the time of the original evaluations, it was assumed this was due to the abnormally wet weather conditions and since these channels scored below 25, they were determined to be intermittent or transitional. As it turns out, there is a very strong presence of groundwater influence on the streams on this property. These streams are spring-fed and they do, in fact, flow all year. The source of flow on segment A appears to be associated with a small, linear wetland nearby and the source of flow for segment B is an artesian spring that actually has a historic spring house structure situated over it. There is also a hillside spring (and associated wetlands) feeding into this segment from the west that exhibited perennial flow and thus is included in the proposed perennial stream designations and RPA buffer additions. These features are all shown on Figure 2.

Table 1 summarizes the antecedent rainfall data and US Drought Monitor (USDM) conditions for the period of observation during 2012. Rainfall data is from the closest National Weather Service (NWS) weather station to the Salona property, Ronald Reagan National Airport (DCA), which is located 8.6 miles southeast of the property. The USDM is a synthesis of multiple drought indices and impacts that represents a consensus of federal and academic scientists and is the primary index used when making stream flow determinations in Fairfax County. As such, the Fairfax County Public Facilities Manual (PFM Section 6-1704.4B) requires use of the weekly USDM "to determine the general hydrologic conditions at the time of observation(s)." Table 1 also shows when stream flow observations were made at the Salona property streams within the context of the prevailing weather and hydrologic conditions. As you can see, 2012 was a drought year and annual rainfall totals consistently were below average for every week of the year (through August). Dry conditions persisted through the entire spring, and eventually drought conditions prevailed by the mid-summer.

US Drought Monitor Date (week ending)	USDM Value	Drought Severity	Stream Flow Observation	Observation Date	DCA Year to Date Total Rainfall[2] (in.)	DCA Year to date Average Total Rainfall[2] (in.)	Departure from Average (in.)
1/3/2012	-	No Drought Condition			0.00	0.26	-0.26
1/10/2012	-	No Drought Condition			0.16	0.88	-0.72
1/17/2012	-	No Drought Condition			1.25	1.53	-0.28
1/24/2012	-	No Drought Condition			1.56	2.17	-0.61
1/31/2012	-	No Drought Condition			2.19	2.81	-0.62
2/7/2012	-	No Drought Condition			2.38	3.47	-1.09
2/14/2012	-	No Drought Condition	X	2/14	2.60	4.13	-1.53
2/21/2012	-	No Drought Condition			2.77	4.78	-2.01
2/28/2012	-	No Drought Condition			3.08	5.43	-2.35
3/6/2012	-	No Drought Condition			5.07	6.00	-0.93
3/13/2012	-	No Drought Condition			5.09	6.73	-1.64
3/20/2012	D0	Abnormally Dry	X	3/14	5.23	7.57	-2.34
3/27/2012	D0	Abnormally Dry			5.53	8.42	-2.89
4/3/2012	D0	Abnormally Dry			5.69	9.25	-3.56
4/10/2012	D0	Abnormally Dry			5.69	10.00	-4.31
4/17/2012	D0	Abnormally Dry			5.70	10.67	-4.97
4/24/2012	D0	Abnormally Dry			7.28	11.35	-4.07
5/1/2012	D0	Abnormally Dry			7.61	12.08	-4.47
5/8/2012	D0	Abnormally Dry			7.78	12.93	-5.15
5/15/2012	D0	Abnormally Dry	X	5/11	9.82	13.84	-4.02
5/22/2012	D0	Abnormally Dry			9.87	14.77	-4.90
5/29/2012	D0	Abnormally Dry			10.74	15.70	-4.96
6/5/2012	-	No Drought Condition			11.96	16.59	-4.63
6/12/2012	-	No Drought Condition			12.25	17.47	-5.22
6/19/2012	-	No Drought Condition			12.53	18.36	-5.83
6/26/2012	D0	Abnormally Dry			12.53	19.24	-6.71
7/3/2012	D1	Moderate Drought	X	6/29	13.14	20.12	-6.98
7/10/2012	D1	Moderate Drought			14.69	20.97	-6.28
7/17/2012	D1	Moderate Drought			14.81	21.84	-7.03
7/24/2012	D1	Moderate Drought			15.63	22.66	-7.03
7/31/2012	D1	Moderate Drought	X	7/26	15.93	23.47	-7.54
8/7/2012	D1	Moderate Drought			15.98	24.24	-8.26
8/14/2012	D1	Moderate Drought			16.87	24.87	-8.00
8/21/2012	D1	Moderate Drought			17.99	25.51	-7.52
8/28/2012	D1	Moderate Drought			18.71	26.13	-7.42
9/4/2012	D1	Moderate Drought	X	8/30	20.40	26.84	-6.44

[1] Source: US Drought Monitor - http://droughtmonitor.unl.edu/monitor.html

[2] Source: National Weather Service daily summary - via http://www.wunderground.com/history/airport/

Table 1: Rainfall and drought conditions for the observation period.

Additionally, Figure 3 shows the 2012 average monthly rainfall collected at the Fairfax County rain gage network (through September). The Fairfax County Wastewater Collection Division has been operating this countywide, 10-site rain gage network since 1971. The 42-year monthly averages are displayed on the chart for comparison purposes. This additional rainfall dataset fully supports the NWS data in the confirmation of well below average rainfall through September of 2012.

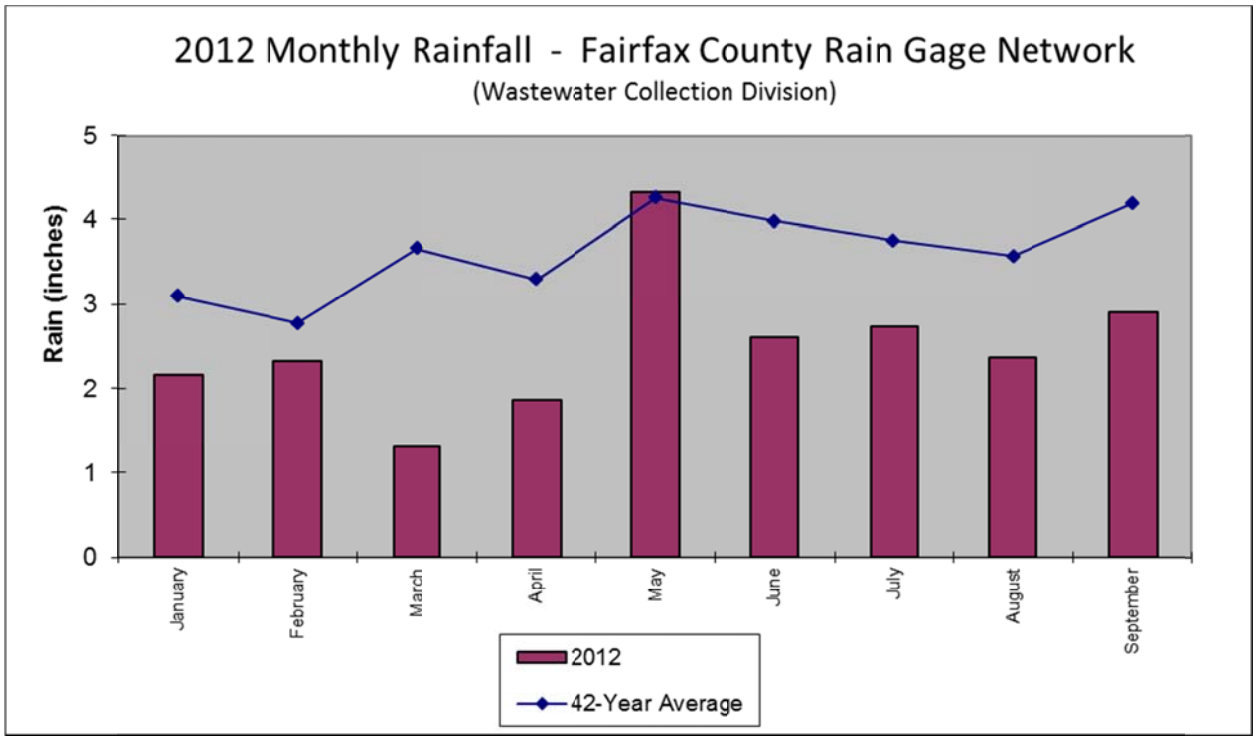


Figure 3: 2012 monthly rainfall averages from the Fairfax County Wastewater Collection Division's rain gage network

With such a large deficit in annual total rainfall, any streams found to be flowing toward the end of summer 2012 must certainly be perennial in the presence of such prolonged dry conditions. This was found to be the case for the two segments of stream previously identified.

Conclusion:

From this information, the current Fairfax County CPBA Map is proposed to be amended through the addition of these two segments of perennial stream and their accompanying RPAs. The proposed map amendments are depicted in Figure 4. Because site-specific wetland delineations were not part of this stream perenniality study, future onsite wetland delineations may be necessary to further refine the lateral width of the RPA prior to the submission of any plans of development.

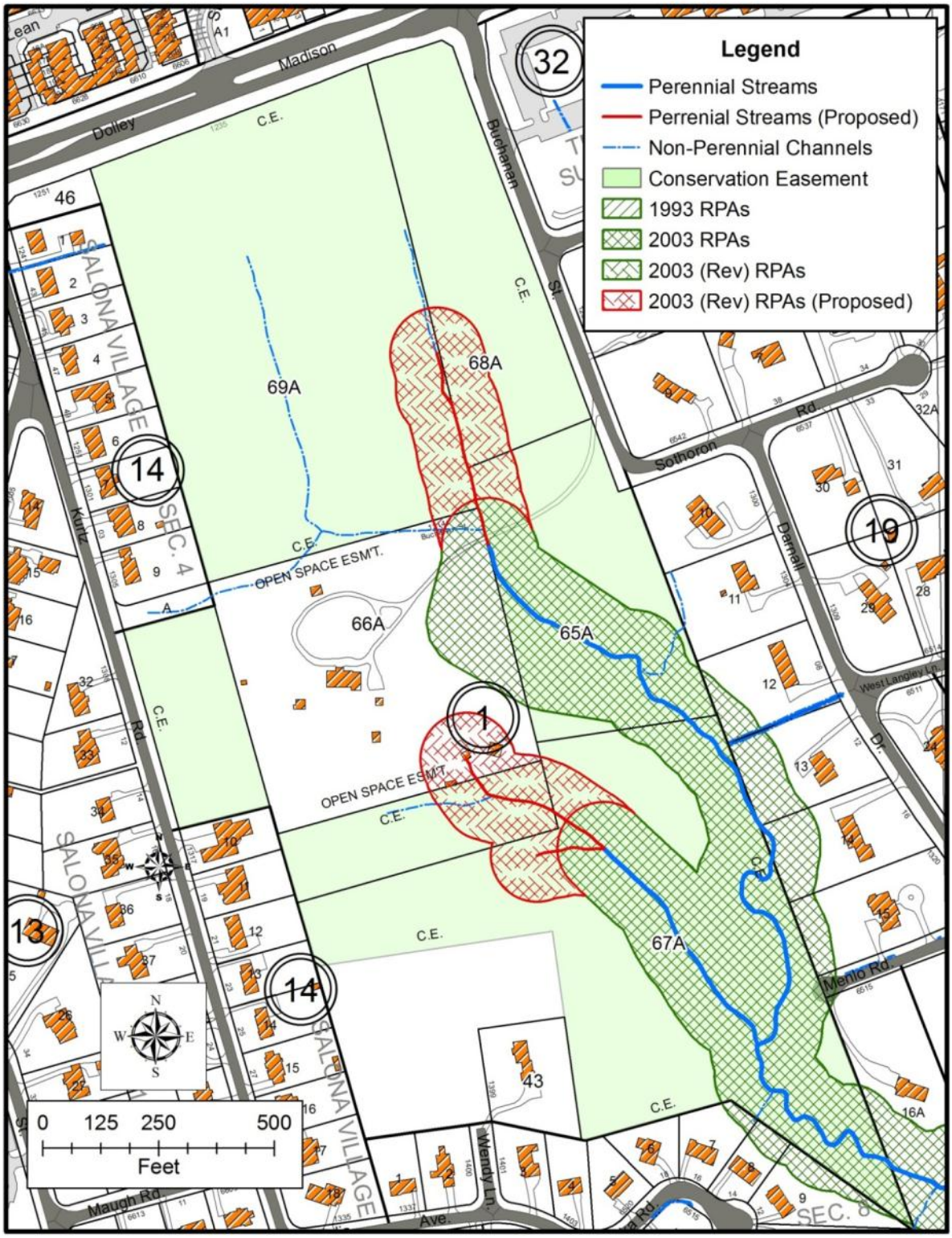
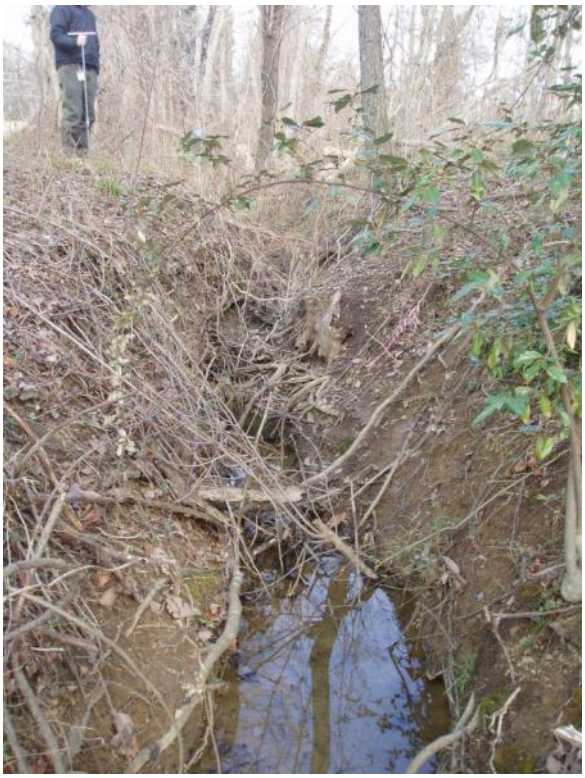


Figure 4: Proposed amendments to the Fairfax County Chesapeake Bay Preservation Area Map. (Note: wetlands depicted in Figure 2 are not buffered with the RPA because they are not "connected and contiguous" to the perennial stream. See 118-1-7-(b)(4))

The following pages provide photographic documentation of the flow conditions at key observation points within the study area.



2/14/2012: Segment A, looking upstream just below (left) and at (right) upper terminus. No drought condition.

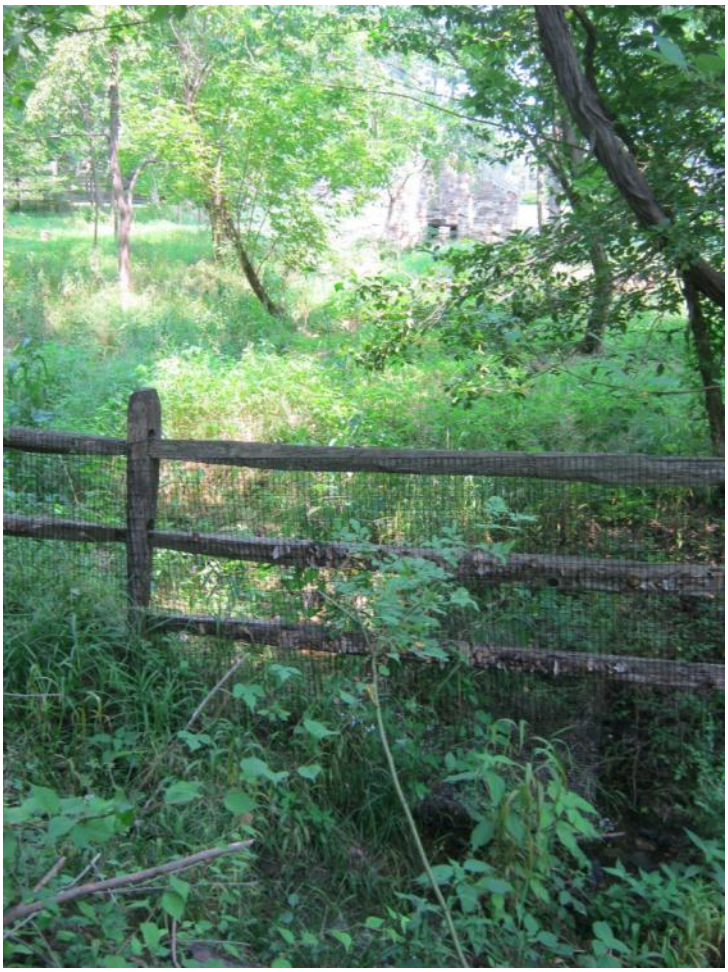
3/14/2012: Segment A, looking upstream just below (left) and at (right) upper terminus. Abnormally dry condition.

6/29/2012: Segment A, looking upstream at upper terminus (Left). 7/26/2012: Segment A, looking upstream just below upper terminus (Right). Both in moderate drought condition.

7/26/2012: Segment A, looking upstream just below upper terminus. Channel still wet, but flow has ceased at the very upper end of the reach at the peak of the 2012 drought.

2/14/2012: Segment B, looking upstream at springhouse and groundwater seep at upper terminus. No drought condition.

3/14/2012: Segment B, looking upstream at springhouse and groundwater seep at upper terminus. Abnormally dry condition.



6/29/2012: Segment B, looking upstream at springhouse and stream at upper terminus. Moderate drought condition.

7/26/2012: Segment B, looking upstream at springhouse and wetland vegetation (left) and stream (right) at upper terminus. Moderate drought condition.

8/30/2012: Segment B, looking upstream at springhouse and wetland vegetation (top) and stream (bottom) at upper terminus. Moderate drought condition.

8/30/12: Spring seep with perennial flow located on west bank of Segment B below upper terminus. Peak of 2012 drought condition.

Proposed Amendments

Chesapeake Bay Preservation Areas Fairfax County, Virginia

February 26, 2013

Attachment B

MAP OF PROPOSED AMENDMENTS TO CHESAPEAKE BAY PRESERVATION AREAS

REVISIONS TO RPAs and RMAs ARE SHOWN IN RED

September 26, 2006

This set of maps provides a delineation of Chesapeake Bay Preservation Areas (Resource Protection Areas and Resource Management areas) as set forth in Section 118-1-7 of Chapter 118 (Chesapeake Bay Preservation Ordinance) of the *Code of the County of Fairfax, Virginia* adopted by the Board of Supervisors on July 7, 2003 (effective November 18, 2003). Where RPA and RMA boundaries on the adopted map differ from boundaries as determined from the text of the Ordinance, the text shall govern.

LEGEND

Resource Protection Areas (RPAs)

1993 RPAs – RPAs mapped pursuant to the Chesapeake Bay Preservation Ordinance adopted March 22, 1993 (1)

2003 RPAs – Additional RPAs mapped pursuant to the Chesapeake Bay Preservation Ordinance adopted July 7, 2003 (2)

2003 RPAs –Additional RPAs mapped pursuant to the (Revised Chesapeake Bay Preservation Ordinance adopted July 7, 2003, for perennial streams added to the map in 2005 (3) or later (7)

Resource Management Areas (RMAs) (4)

Detailed RPA field delineation approved for this site (6) 007569-RPA

Date RPA added to the map after 2005 (7) **09-26-2006**

Water bodies with perennial flow (5)

Streams, Rivers
Manmade Channels

Lakes, Ponds

Non-perennial water bodies

Streams, Rivers

Lakes, Ponds

Stormwater Sewer System

Pipes, Culverts

Notes:

(1) RPAs originally mapped pursuant to the Chesapeake Bay Preservation Ordinance adopted by the Fairfax County Board of Supervisors on March 22, 1993 (effective July 1, 1993) and revised on March 21, 1994.

(2) Additional RPAs mapped pursuant to the Chesapeake Bay Preservation Ordinance adopted by the Fairfax County Board of Supervisors on July 7, 2003 (effective November 18, 2003).

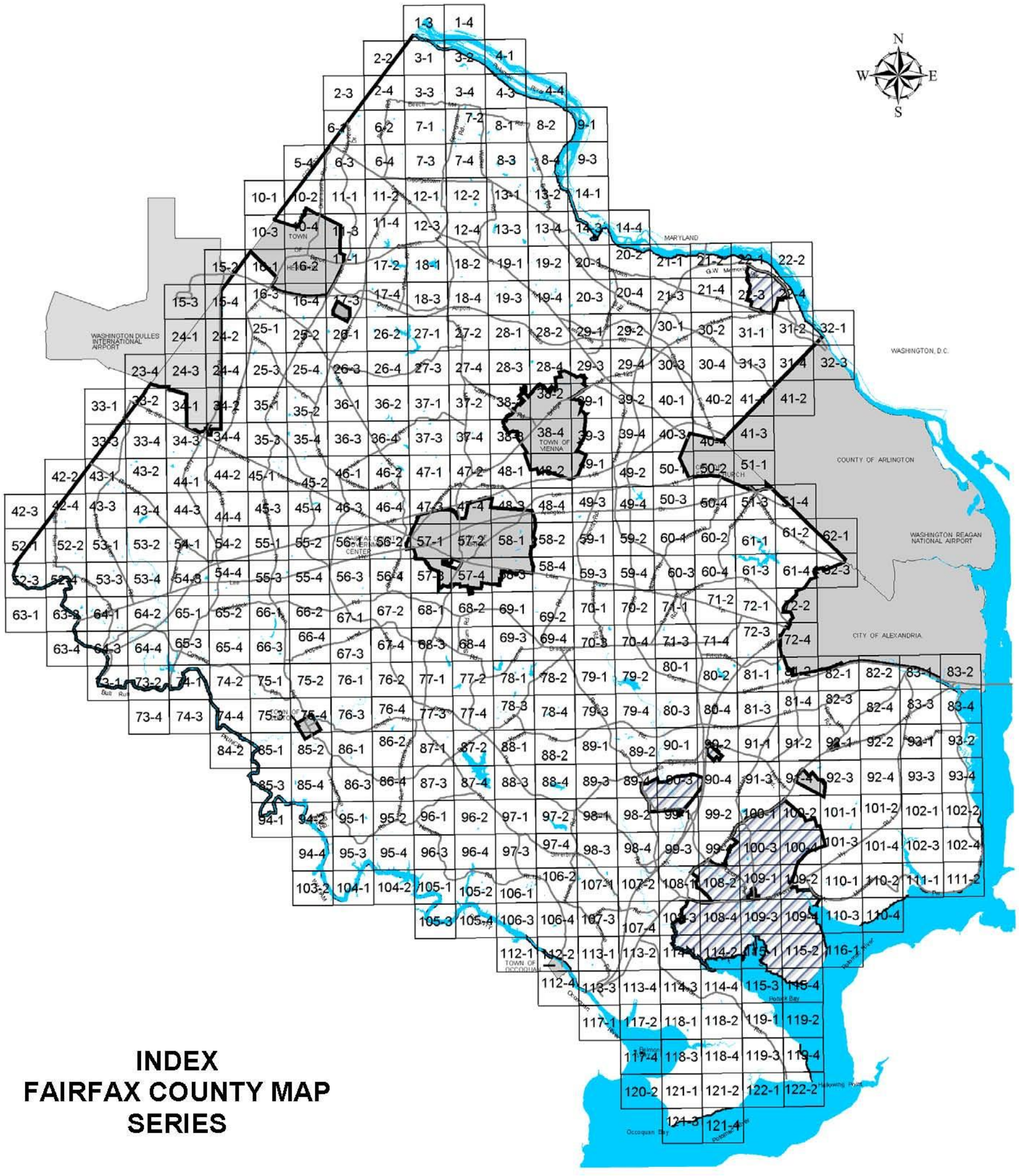
(3) Additional RPAs mapped pursuant to the Chesapeake Bay Preservation Ordinance adopted by the Fairfax County Board of Supervisors on July 7, 2003 (effective November 18, 2003) for perennial streams added to the map on July 11, 2005 (effective July 12, 2005).

(4) RMAs include any area that is not designated as an RPA.

(5) Upstream limits of perennial streams were identified during stream mapping field surveys conducted by the Department of Public Works and Environmental Services from 2002 through 2003. Additional field surveys were conducted in 2004 that resulted in revisions to the upstream limits of some streams. Perennial streams added to the map after the last general update of the map in 2005 are notated with the date the streams and their associated RPAs were added to the map (effective date).

(6) The approved RPA boundary delineation should be consulted for the location of the RPA boundary on these sites. Approved RPA boundary delineations are on file with the Department of Public Works and Environmental Services. They are available for review at the Plan and Document Control Counter located on the 5th floor of the Herrity Building at 12055 Government Center Parkway, Fairfax, Virginia 22035

(7) RPAs added to the map after the last general update of the map in 2005 are depicted on the map with the symbol for 2003 RPAs (revised) and further notated with the date the RPAs were added to the map (effective date).



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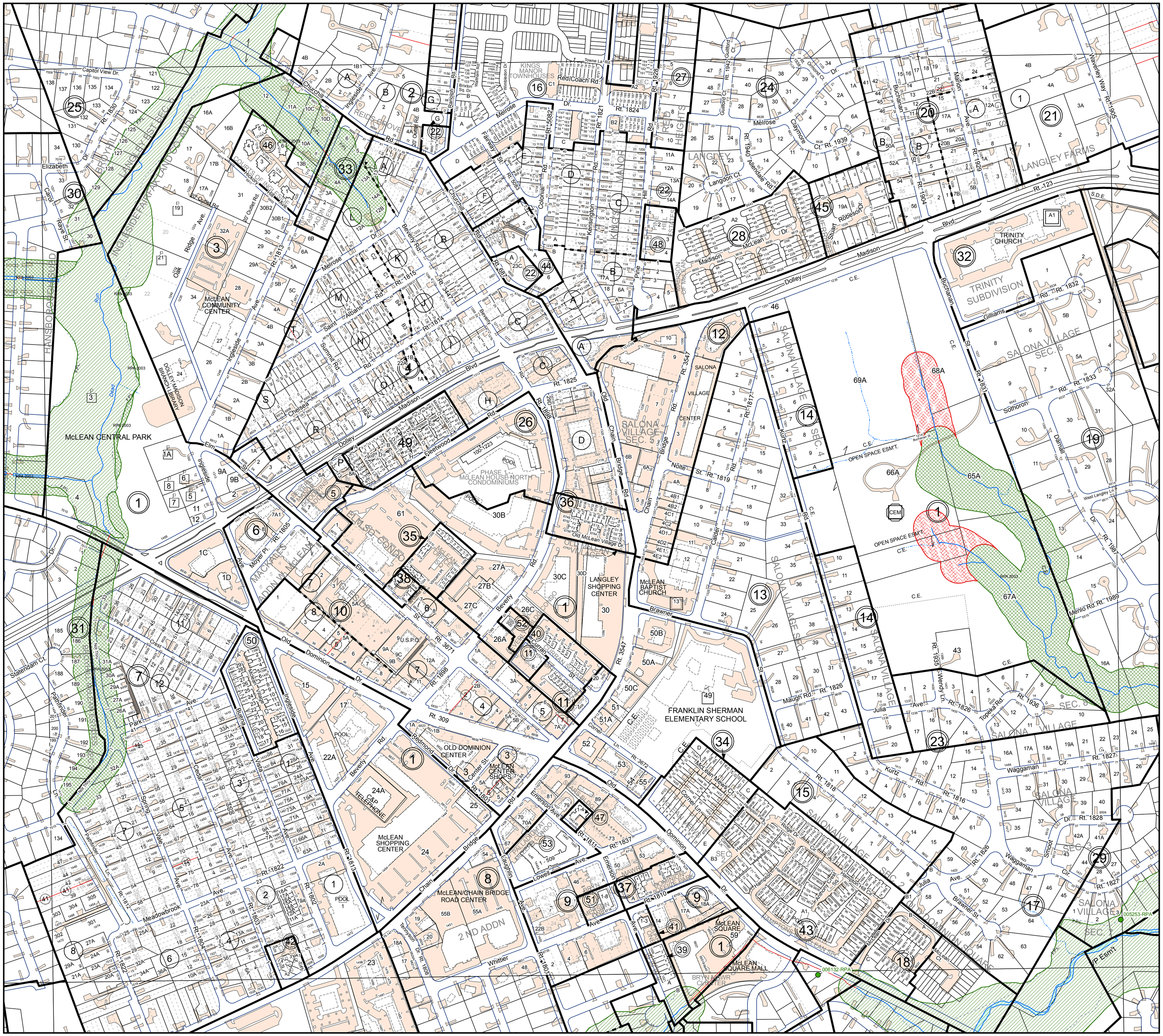
FAIRFAX COUNTY MAP
SERIES



COUNTY OF FAIRFAX
1742
VIRGINIA

N

200 100 0 200 400
FEET

Map file is 50" X 75" based on USGS 1:24,000 scale 7 1/2 minute Quad. Virginia Coordinate System values are of 1983 North Zone in U.S. feet based on NAD 83/93 High Precision GPS Network adjustment.

National Geodetic Verticle Datum 1929

GENERAL NOTES

CHESAPEAKE BAY PRESERVATION AREAS

LEGEND

Resource Protection Areas (RPAs)

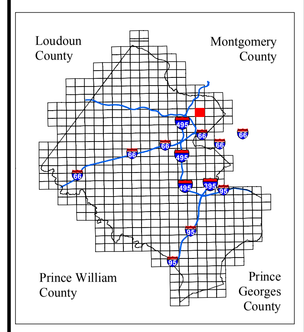
1993 RPAs

2003 RPAs

2003 (Rev) RPAs

Resource Management Areas (RMAs)

The information contained on this page is NOT to be construed or used as a "legal description". It is not a survey product and not to be used for the design, modification or construction of improvements to real property or for flood plain determination. Fairfax County does not provide any guaranty of accuracy or completeness regarding the map information. Any errors or omissions should be reported to the Fairfax County Geographic Information Services Branch of the Department of Information Technology. In no event will Fairfax County be liable for any damages, including but not limited to loss of data, lost profits, business interruption, loss of business information or any other pecuniary loss that might arise from the use of this map or information it contains.



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SHEET INDEX

CHESAPEAKE BAY MAP 30-2

Revised to : 01 - 28 - 2013

Prepared by:

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Print Date 28 Jan 2013

Attachment C

BOARD POLICY
FOR
TREATMENT OF APPROVED AND PENDING PLANS OF DEVELOPMENT AFFECTED BY THE MAY 14, 2013, REVISIONS TO THE MAP OF CHESAPEAKE BAY PRESERVATION AREAS

A revision to the map of Chesapeake Bay Preservation Areas was adopted by the Board of Supervisors on May 14, 2013, with an effective time and date of 12:01 a.m. May 15, 2013. This revision designates a Resource Protection Area (RPA) along a newly identified perennial stream segment on Tax Map No. 30-2. The three newly identified perennial stream segments are south of Dolley Madison Boulevard, west of Buchanan Street, east of Kurtz Road and north of Julia Avenue. The Board separately adopted the following policy for the treatment of approved and pending plans of development with respect to said revision which resulted in the designation of an RPA along the newly identified perennial stream.

Policy for Treatment of Approved and Pending Plans of Development

This policy shall be administered by the Director of the Department of Public Works and Environmental Services (DPWES).

Plans of development which are approved or pending as of the effective date of the revision to the map of Chesapeake Bay Preservation Areas, May 15, 2013, and which do not fully comply with the Chesapeake Bay Preservation Ordinance and associated provisions of the Subdivision Ordinance, Erosion and Sedimentation Control Ordinance, Zoning Ordinance, and Public Facilities Manual (PFM) because of encroachments in the RPA designated along the newly identified perennial stream on Tax Map 30-2 will not be subject to the exceptions review process. In administering the ordinances and PFM (collectively referred to as the "Ordinance"), such plans will be treated as follows:

- Construction may proceed for all work shown on lot grading plans for non-bonded lots (INF plans) approved prior to May 15, 2013, without further action by the permittee provided the associated Building Permit is approved within six (6) months of May 15, 2013. Revisions to such plans may be approved provided they do not aggravate conflicts with the Ordinance.

- Construction may proceed for all structures for which Building Permits have been approved prior to May 15, 2013, without further action by the permittee, provided the structure is constructed under the approved Building Permit. New Building Permits for replacement house types or minor changes to building footprints for previously approved Building Permits may be approved provided they do not aggravate conflicts with the Ordinance.

- To "Aggravate conflicts" shall mean to create any new or additional noncompliance with the Ordinance such as increasing the impervious area or disturbance in the RPA.

- As determined by the Director, all plans that qualify as pending plans of development except for approved construction plans and Building Permits noted above shall comply with the provisions of the Ordinance as follows:

  (A) All development shall comply with the provisions of the Ordinance to the extent possible, provided such compliance does not result in the reduction of density, floor area ratio, or the relocation of structures or facilities all as shown on the plan of development submitted or approved prior to May 15, 2013, that resulted in the current plan under review qualifying for pending plan status.

(B) Where possible, an area equal to the area encroaching into the RPA buffer area shall be established elsewhere on the lot or parcel in a way to maximize water quality protection.

(C) All plans that are not approved as of the effective date shall show the Resource Protection Area (RPA) boundary in accordance with the requirements of the Ordinance regardless of whether or not an encroachment into the RPA has been authorized by an exception or through application of (A).

(D) All plans that are not approved as of the effective date shall include a statement saying that the plan complies fully with the Ordinance; or, that the plan qualifies as a pending plan of development, stating the basis for that determination, identifying any conflicts with the Ordinance, and stating how the requirements of (A) and (B) have been met.

Pending Plans of Development are designated as follows:

(1) Lot grading plans for non-bonded lots and Building Permit applications, accepted for review as containing all the required information, filed with DPWES prior to close-of-business May 14, 2013, so long as due diligence is maintained. For the purpose of this paragraph due diligence shall mean the following:

(i) If corrections to a properly submitted and accepted lot grading plan or Building Permit application are deemed necessary by the reviewing authority, a plan or application containing the revisions shall be resubmitted within sixty (60) days of its return by DPWES. Resubmission of such filed plans and applications may be approved as long as such resubmission does not result in a net increase in impervious surface.

(ii) The Building Permit must be approved within six (6) months of May 15, 2013.

(2) Subdivision construction plans, rough grading plans, lot grading plans, final subdivision plats, and Building Permits, accepted for review as containing all the required information, filed pursuant to a preliminary or final subdivision plat approved prior to May 15, 2013, so long as due diligence is maintained. For the purpose of this paragraph due diligence shall mean the following:

(i) If corrections to a properly submitted and accepted subdivision construction plan are deemed necessary by the reviewing authority, a plan containing the revisions shall be resubmitted within six (6) months of its return by DPWES. Resubmission of such filed plans may be approved as long as such resubmission does not result in a net increase in impervious surface.

(ii) If corrections to a properly submitted rough grading plan, lot grading plan, final subdivision plat, or Building Permit are deemed necessary by the reviewing authority, a plan containing the revisions shall be resubmitted within sixty (60) days of its return by DPWES. Resubmission of such filed plans may be approved as long as such resubmission does not result in a net increase in impervious surface.

(iii) If applicable, all required executed agreements and bonds, deposits, easements and fees shall be submitted within twelve (12) months of the date of transmission of the permit package by DPWES, within six (6) months of the date the construction plan is marked recommended for approval, or within twelve (12) months of May 15, 2013, whichever is

later.

(iv) Rough grading plans, lot grading plans, and Building Permits filed pursuant to a preliminary or final subdivision plat must be filed within two (2) years of the recordation of the final subdivision plat.

(v) The above limitations may be extended only by the Board of Supervisors and only where the developer can demonstrate that the timeframes contained herein cannot be met due to the acts or omissions of Fairfax County or the Commonwealth of Virginia beyond his control. Such extensions may be considered only when the developer notifies the Director of DPWES in writing of the acts or omissions causing his inability to meet such time limitations before the time limitation expires.

(3) Lot grading plans for non-bonded lots provided the associated Building Permit is approved within one (1) year of May 15, 2013, subdivision construction plans, rough grading plans, lot grading plans, and final subdivision plats approved within one (1) year of May 15, 2013, for a property that has a Resource Protection Area (RPA) boundary delineation plan, approved between November 18, 2003, and close-of-business on May 14, 2013. Plats, plans, and Building Permits shall comply fully with the provisions of the Ordinance for RPA areas shown on the approved RPA boundary delineation plan unless an exception is approved. Plats, plans, and Building Permits shall comply to the extent possible with the provisions of the Ordinance for RPA areas not shown on the approved RPA boundary delineation plan unless the proposed development is otherwise eligible for treatment under the provisions of paragraphs (1) and (2) above.