

APPENDIX A

EQAC RESOLUTIONS AND POSITIONS DECEMBER 2005 THROUGH NOVEMBER 2006

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County of Fairfax, Virginia

MEMORANDUM

DATE: January 18, 2006

TO: Board of Supervisors
Planning Commission
Engineering Standards Review Committee
Jimmie D. Jenkins, Director, Department of Public Works and Environmental Services

FROM: Stella Koch, Chairman *Stella M. Koch*
Environmental Quality Advisory Council

SUBJECT: Proposed amendment language regarding perennial stream reclassifications

You have recently received an EQAC resolution regarding amendments to the Chesapeake Bay Preservation Ordinance proposed by the county staff that relate to reclassification of perennial streams to intermittent. The county staff has also proposed amendments to the Public Facilities Manual that relate to such reclassifications. The county staff has briefed EQAC on these proposed amendments and joined us on several occasions to discuss the various details of these proposals. EQAC is in general agreement with the measures proposed by the staff, since they address major concerns identified by EQAC during the initial two years experience with the 2003 ordinance revisions. However, the initial drafts developed by the staff had not addressed certain issues of perenniality and how it should be measured and determined. During the discussions with the staff that led to the EQAC resolution of November 9, 2005, these issues were clarified and substantial agreement reached on suitable measurement methodology. EQAC has since developed additional proposed amendment language that would codify these areas in both the ordinance and the PFM and would extend the revisions developed by the county staff. The EQAC proposed amendments were approved by unanimous vote of the council at its January 11, 2006, meeting and are appended below. The two essential features of these amendments are: 1) determinations are made at the bottom of the sediment bed or of dynamic pools within the sediment bed; and 2) the final determination (or verification), after the required studies are submitted by the owner/developer, will be made by the county staff. This latter requirement will have negligible impact on staff time given what is anticipated to be an exceptionally low frequency of such proposed reclassifications, but will serve to assure consistency of methodology and provide a high degree of reassurance to the public.

SMK:FBC:nhk

Environmental Quality Advisory Council (EQAC)
c/o Department of Planning and Zoning

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Attachments:

1. EQAC's November 9, 2005 resolution.
2. County staff October 7, 2005 Chesapeake Bay Preservation Ordinance draft amendment language.
3. EQAC's January 11, 2006 Chesapeake Bay Preservation Ordinance additional amendment language.
4. County staff October 7, 2005, PFM draft amendment language with EQAC modifications and additions highlighted

cc: Anthony H. Griffin, County Executive
Robert A. Stalzer, Deputy County Executive
Kambiz Agazi, Fairfax County Environmental Coordinator
James Patteson, Director, Land Development Services, DPWES
Michelle Brickner, Assistant Director, Land Development Services, DPWES
Environmental Quality Advisory Council file: January, 2006

Environmental Quality Advisory Council

Resolution regarding Reclassification of Perennial Streams

November 9, 2005

Whereas, practically all streams in Fairfax County have streambeds consisting of a sediment layer comprised of particles ranging in size from silt to coarse gravel and small stones; and

Whereas, these sedimentary streambeds may range from an inch or two up to several feet in thickness, except for those few short stretches where the sediment layer may have been scoured down to a stone bench or the channel armoring layer; and

Whereas, scientific research and engineering studies have shown conclusively that, in addition to the flow of water above the bed, there is continuous flow through these sedimentary streambed layers; and

Whereas, many of these studies have shown that such “through-the-bed flow” persists even when the “above-the-bed flow” is diminished to the point of absence during seasonally dry periods or during drought conditions; and

Whereas, such sediment layers form an important habitat for many invertebrate species and insect larvae and play a much more important role chemically than the “above surface” waters; and

Whereas, it has become apparent that the mere absence of “above-the-bed” water for some portion of the length a stream often gives an erroneous and misleading result if relied upon for classification or reclassification of the stream; and

Whereas, if a stream is perennial above a certain reach and perennial below that same reach, it is a logical impossibility that the reach in question should be deemed intermittent; and

Whereas, in addition to measurements taken in the particular stream reach being considered for reclassification it is essential to check in both the upstream and downstream directions to determine the presence of “above-the-bed flow”, the presence of “through-the-bed flow”, and the flow rates; and

Whereas, federal agencies such as the U.S. Geological Survey, Bureau of Land Management, Corps of Engineers, and Environmental Protection Agency, as well as numerous state and local agencies, use a variety of proven techniques, such as dye injection tests, isotope tests, bore holes, and piezometry (a testing procedure) to determine flow through sedimentary streambeds; and

Whereas, Fairfax County has developed a generally excellent protocol, which utilizes 26 factors in order to determine an initial classification for a stream, but which contains no criterion for evaluation of “through-the-bed flow” in the streambed; and

Whereas, the Chesapeake Bay Preservation Ordinance (CBPO) and Public Facilities Manual (PFM) presently rely only on a visual observation of absence of “above-the-bed flow” as the basis for changing the stream classification from perennial to intermittent; and

Whereas, the County staff has drafted language that would correct this deficiency in the procedures for reclassification of streams; and

Whereas, the County staff has proposed detailed requirements for notifying nearby neighbors of any proposed reclassification study; now therefore

Be it resolved, that the CBPO and the PFM be modified to include a provision that reclassification of a stream or any portion thereof, where “above-the-bed flow” is not apparent, shall require determination by County staff of the presence or absence of dynamic pools of water in the sedimentary bed, or the presence of water at the true channel bottom which is located below the moveable bed load at the top of the channel armoring layer, and where either determination finds water present, that shall be regarded as conclusive proof of perenniality; and

Be it further resolved, that the above determination may include, if required, physical tests such as dye injection, isotope migration, bore holes, piezometry or other standard methods to determine “through-the-bed flow/flow rate;” and

Be it further resolved, that any stream reach being considered for reclassification shall have the “above-the-bed flows,” “through-the-bed flows,” presence of dynamic pools, and presence of water at channel bottom determined upstream to the beginning of perenniality as shown on the adopted maps and downstream for 150 feet from the reach in question; and

Be it finally resolved, that the notification of nearby neighbors of the proposed reclassification, as has been proposed by the County staff, be incorporated in the CBPO and the PFM, as appropriate.

Proposed Amendments to Chapter 118 (Chesapeake Bay Preservation Ordinance)
of
The Code of the County of Fairfax, Virginia

Amend the Chesapeake Bay Preservation Ordinance, Section 118-1-6 (Definitions.), by revising Paragraph (dd) to read as follows:

(dd) "Water body with perennial flow" means a body of water flowing continuously in a natural or man-made channel year-round under normal or wetter than normal hydrologic conditions, ~~except during periods of drought~~. The term "water body with perennial flow" includes perennial streams, estuaries, and tidal embayments. A perennial stream means any stream that is both perennial and so depicted on the map of Chesapeake Bay Preservation Areas adopted by the Board of Supervisors pursuant to Section 118-1-9(a). Streams identified as perennial on the adopted map are based on field studies conducted by the Department of Public Works and Environmental Services. Lakes and ponds that form the source of a perennial stream, or through which the perennial stream flows, are a part of the perennial stream. The width of a perennial stream may be measured from top-of-bank to top-of-bank or at the Ordinary High Water Mark (OHWM) as defined by 33 CFR Part 328.3(e). The aerial extent of a pond or lake is measured at the OHWM. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow. In the absence of pollution or other manmade disturbances, a perennial stream is capable of supporting aquatic life.

Amend the Chesapeake Bay Preservation Ordinance, Section 118-1-9 (Chesapeake Bay Preservation Area Boundaries.), by revising Paragraph (d) to read as follows:

(d) Any landowner or agent of the landowner may submit a site-specific determination of the location of RPA boundaries (RPA boundary delineation study) certified by a professional engineer, land surveyor, landscape architect, soil scientist, or wetland delineator certified or licensed to practice in the Commonwealth of Virginia for review and approval by the Director. For land in agricultural use, such site-specific determination of the location of RPA boundaries may be made by an agricultural water quality specialist designated by the Northern Virginia Soil and Water Conservation District. Such site-specific determinations of RPA boundaries shall be performed in accordance with the requirements of this Chapter and the Public Facilities Manual.

(1) Any person who submits an RPA boundary delineation study for the purpose of reclassifying a water body from perennial to intermittent shall submit written proof of notification of all owners of property abutting and immediately across the street from the parcel containing the water body being studied and one (1) homeowner association or civic association within the immediate area as approved by the Department of Public Works and Environmental Services. Such notice shall include notice to owners of properties abutting and immediately across the street which lie in an adjoining county or municipality. This notification must be to a minimum of ten (10) property owners other than the owner of the parcel for which the study is prepared. If there are fewer than ten (10) different owners of property abutting and immediately across the street from the subject property, then additional notices shall be sent to other property owners in the immediate vicinity so that notices are sent to different owners of not less than ten (10) properties. Notice shall be sent to the last known address of the owner(s) as shown in the current Real Estate Assessment files. Notice to homeowner associations or civic associations shall be sent to the registered office address kept on file with the State Corporation Commission. All written notice shall be sent by

Proposed Amendments to Chapter 118 (Chesapeake Bay Preservation Ordinance)
of
The Code of the County of Fairfax, Virginia

1 certified mail, return receipt requested.

2
3 (2) The written notification required in Paragraph (d)(1) above shall include the
4 following information:

5 (i) The tax map reference number;

6 (ii) The street address of the parcel;

7 (iii) The plan name and County identification number;

8 (iv) The address and telephone number of the County Office where a copy of the
9 study may be reviewed;

10 (v) The name, address, and telephone number of a representative of the applicant;

11 and

12 (vi) A reproduction of the portion of the map of Chesapeake Bay Preservation
13 Areas adopted by the Board of Supervisors showing the segment of the stream proposed for
14 reclassification and surrounding properties on an 8½ inch by 11 inch sheet.

15
16 (3) The written notification required in Paragraph (d)(1) above shall state that:

17 (i) A request for a reclassification of a water body depicted on the County's map of
18 Chesapeake Bay Preservation Areas from perennial to intermittent has been submitted to the
19 Department of Public Works and Environmental Services;

20 (ii) Approval of the study will result in the removal of the Resource Protection Area
21 (RPA) designation along the water body being studied;

22 (iii) RPAs are the environmentally sensitive lands along water bodies with perennial
23 flow and are protected from most development;

24 (iv) Persons wishing to be notified of the approval of the study should submit a
25 written request to that effect to the County Office identified in the notice;

26 (v) The study is subject to approval after the expiration of thirty (30) days after the
27 postmark date of the notice unless releases are executed by all property owners required to be
28 notified; and

29 (vi) If releases are executed by all property owners required to be notified, the study
30 may be approved sooner than thirty (30) days after the postmark date of the notice.

31
32 (4) The person submitting the study shall send a copy of the written notification letter to
33 the Board Member in whose district the subdivision is located and the Chairman of the Board
34 on the same date the abutting property owners specified in Paragraph (d)(1) above are
35 notified.

36
37 (5) No study shall be approved within thirty (30) days following the postmark date on
38 the white receipts for the certified mailings unless releases are executed by all property
39 owners required to be notified. If releases are executed by all property owners, the study
40 may be approved sooner than thirty (30) days after the postmark date on the white receipts
41 for the certified mailings. The original executed releases shall be submitted to the Director
42 on a standard form available from the Director.

You will recall the resolution EQAC recently passed regarding testing of the perennality of streams proposed for reclassification to intermittent. In the “be it resolved” paragraphs certain principles were enumerated. However, it now seems appropriate to recommend specific language incorporating those principles for insertion as an amendment to the Chesapeake Bay Preservation Ordinance (Chapter 118) beyond those amendments recently proposed by the County Staff. This proposed amendment would codify a well-defined set of procedures to accomplish this determination as indicated below.

Environmental Quality Advisory Council Proposed Additional Amendment Language for CBPO.

Amend the Chesapeake Bay Preservation Ordinance, Section 118-1-9 by inserting the following new language as Paragraph (c) and renumbering Paragraphs (c) through (e) as contained in the Count Staff proposed amendment to Paragraphs (d) through (f).

(c) Any water body, or portion thereof, shown as perennial on the adopted maps, for which reclassification to intermittent is proposed because of the lack of apparent “above-the-sediment-bed” flow shall require determination by the County staff of 1) the presence or absence of dynamic pools of water in the sediment bed, 2) the presence or absence of water at the true channel bottom, which is below the moveable bed load at the top of the channel armoring layer, and where either determination finds water present that shall be regarded as conclusive proof of perennality.

(1) The above determination may include, if required, physical tests such as dye injection, isotope migration, bore holes, piezometry or other standard methods to evaluate “through-the-bed” flow/flow rate.

(2) Any stream proposed for reclassification shall have the “above-the-sediment-bed” flows, “through the-sediment-bed” flows, presence of dynamic pools, and presence of water at the true channel bottom determined upstream to the beginning of perennality as shown on the adopted maps and downstream for 150 feet below the stream reach in question.

(3) All owners of property abutting and immediately across the street from the parcel(s) containing the water body being studied shall be notified in accordance with 118-1-9 (d) (1) below.

Renumber old Paragraph (c) to new Paragraph (d).

Renumber old Paragraph (d) to new Paragraph (e).

Renumber old Paragraph (e) to new Paragraph (f).

PROPOSED
AMENDMENT TO THE PUBLIC FACILITIES MANUAL
OF THE COUNTY OF FAIRFAX, VIRGINIA

Amend PFM 6-1700 (POLICY ON WHAT MAY BE DONE IN CHESAPEAKE BAY PRESERVATION AREAS) Section 6-1701 (General Information) to read as follows:

6-1701 General Information

6-1701.1 Certain areas of the County have been designated Chesapeake Bay Preservation Areas (CBPAs) and divided into Resource Protection Areas (RPAs) and Resource Management Areas (RMAs) that are subject to the criteria and requirements contained in Chapter 118 (Chesapeake Bay Preservation Ordinance) of the Code. RPAs are protected from most development because, left intact, they function to improve and protect water quality. RMAs are regulated to protect RPAs and water resources from degradation resulting from development and land disturbing activity.

6-1701.2 A map of CBPAs has been adopted by the Board. Where RPA and RMA boundaries on the adopted map differ from boundaries as determined on a site-specific basis from the text of Chapter 118 (Chesapeake Bay Preservation Ordinance) of the Code, the text shall govern.

6-1701.3 The site-specific boundaries of the RPA shall be delineated on all preliminary plans, site plans, subdivision plans, grading plans, public improvement plans, record plats, and all other plans of development in accordance with Chapter 118 (Chesapeake Bay Preservation Ordinance) of the Code and subject to the approval of the Director.

6-1701.4 Chapter 118 (Chesapeake Bay Preservation Ordinance) of the Code requires that a~~A~~ reliable, site-specific evaluation shall be conducted to determine whether water bodies on or adjacent to development sites have perennial flow and that RPA boundaries shall be adjusted, as deemed necessary by the Director, on the site, based on this evaluation of the site. Site-specific The evaluations performed by the Department of Public Works and Environmental Services (DPWES) that are the basis for the perennial streams depicted on the adopted map of CBPAs satisfy this requirement. Water bodies identified as perennial on the adopted map of CBPAs are presumed to be perennial and may only be reclassified as intermittent based on additional studies performed ~~It is the responsibility of the developer to have a site specific evaluation performed for those sites where an evaluation has not been performed by DPWES. The site specific evaluation shall be conducted~~ in accordance with this Article and Chapter 118 (Chesapeake Bay Preservation Ordinance) of the Code.

Amend PFM 6-1700 (POLICY ON WHAT MAY BE DONE IN CHESAPEAKE BAY PRESERVATION AREAS) Section 6-1704 (Guidelines for Determining Locations of Resource Protection Areas and Identifying Water Bodies with Perennial Flow) to read as follows:

6-1704 Guidelines for Determining Locations of Resource Protection Areas and Identifying Water Bodies with Perennial Flow.

6-1704.1 ~~Where required,~~ Resource Protection Area (RPA) boundary delineation studies and the identification of water bodies with perennial flow shall be performed by the methods described herein or other acceptable methods as determined by the Director.

6-1704.2 The RPA shall include any land characterized by one or more of the following features:

6-1704.2A A tidal wetland;

6-1704.2B A tidal shore;

6-1704.2C A water body with perennial flow;

6-1704.2D A nontidal wetland connected by surface flow and contiguous to a tidal wetland or water body with perennial flow;

6-1704.2E A buffer area as follows:

6-1704.2F(1) Any land within a major floodplain ["Major floodplain" means those land areas in and adjacent to streams and watercourses subject to continuous or periodic inundation from flood events with a one (1) percent chance of occurrence in any given year (i.e., the 100-year flood frequency event) and having a drainage area equal to or greater than three hundred and sixty (360) acres.];

6-1704.2F(2) Any land within 100 feet of a feature listed in § 6-1704.2A through § 6-1704.2D. The full buffer area shall be designated as the landward component of the RPA not withstanding the presence of permitted uses, encroachments, and permitted vegetation clearing.

6-1704.3 Designation of the RPA components listed in § 6-1704.2A through § 6-1704.2D shall not be subject to modification unless based on reliable, site-specific information.

6-1704.4 Water bodies with perennial flow shall be identified using a scientifically valid system of in-field indicators of perennial flow as determined by the Director. Acceptable methods include but are not limited to the perennial stream mapping protocol developed by the Department of Public Works and Environmental Services and methods determined by the Chesapeake Bay Local Assistance Department to be scientifically valid that are acceptable to the Director.

EQAC's proposed modifications to staff's 10/7/05 draft (continued)
(Proposed EQAC modifications highlighted)

6-1704.4A Water bodies identified as perennial on the adopted map of Chesapeake Bay Preservation Areas are based on field studies conducted by the Department of Public Works and Environmental Services using established protocols and shall only be ~~reclassified~~ proposed for reclassification as intermittent based on observational data of the absence of stream flow during normal or wetter than normal hydrologic conditions ~~non-drought periods~~.

6-1704.4B The weekly drought assessment under the U.S. Drought Monitor (NOAA et al) shall be used to determine the general hydrologic conditions at the time observational data is collected. Observational data of the absence of stream flow collected during a period when the assessment under the U.S. Drought Monitor is D0 (abnormally dry) or drier will not be accepted as definitive proof that a stream is intermittent.

6-1704.4C Water bodies not identified as perennial on the adopted map of Chesapeake Bay Preservation Areas may only be reclassified as perennial in conjunction with an amendment to the map by the Board of Supervisors.¹

6-1704.4D ~~Observations~~ Observational studies of stream flow shall be made in accordance with the following:

6-1704.4D(1) Unless modified by the Director, observations of stream flow or lack thereof shall be made at intervals of 50 feet or less along the stream channel beginning a minimum of 150 feet downstream from the property line to a point 150 feet above the terminus of the perennial stream as depicted on the adopted map of Chesapeake Bay Preservation Areas, at all control sections within the study reach, and at the nearest control section upstream and downstream from the property boundary. A control section is a culvert or other section with a hard bottom where flow would be readily visible.

6-1704.4D(2) Two sets of observations at the above locations must be made a minimum of seven but no longer than thirty days apart.

6-1704.4D(3) Observations shall be made at the true channel bottom which is located below the movable bed load and channel armoring materials.

6-1704.4D(4) The Department of Public Works and Environmental Services (DPWES) shall be advised prior to or within three days of completion of the first set of observations of the property owner's intent to submit ~~an RPA boundary delineation study~~ a proposal to reclassify to reclassify the stream from perennial to intermittent.²

¹ Any request to re-evaluate a stream segment for possible reclassification from intermittent to perennial should be made through the Board member in whose district the stream segment is located. The Department of Public Works and Environmental Services will re-evaluate the stream segment and provide a recommendation to the Board member.

² DPWES will perform a field review as part of the evaluation of the reclassification study. DPWES will coordinate the field review with the 2nd visit to the site by the agent of the landowner whenever possible. Where the channel is not completely dry and there are visible pools of water that do not appear to be moving, dye tracing and tracing techniques in

6-1704.4E Any water body, or portion thereof, shown as perennial on the adopted maps, for which reclassification to intermittent is proposed because of the lack of apparent "above-the-sediment-bed" flow shall require determination by the County staff of 1) the presence or absence of dynamic pools of water in the sediment bed, 2) the presence or absence of water at the true channel bottom, which is below the moveable bed load at the top of the channel armor layer, and where either determination finds water present that shall be regarded as conclusive proof of perennality.

6-1704.4E(1) The above determination may include, if required, physical tests such as dye injection, isotope migration, bore holes, piezometry or other standard methods to evaluate "through-the-bed" flow/flow rate.

6-1704.4E(2) Any stream proposed for reclassification shall have the "above-the-sediment-bed" flows, "through the-sediment-bed" flows, presence of dynamic pools, and presence of water at the true channel bottom determined upstream 150 feet beyond the beginning of perennality as shown on the adopted maps and downstream for 150 feet below the stream reach in question.

6-1704.4E(3) At the time of submission of the observational study and proposal for reclassification all owners of property abutting and immediately across the street from the parcel(s) containing the water body being studied shall be notified in accordance with 118-1-9 (e) (1).

6-1704.5 Wetland determinations shall be performed using methods specified by the United States Army Corps of Engineers (USACE).

6-1704.6 RPA boundary delineation studies shall be sealed by a professional engineer, land surveyor, landscape architect, soil scientist, or wetland delineator certified or licensed to practice in the Commonwealth of Virginia. Any work performed by other firms or individuals not under the responsible charge of the licensed professional sealing the study shall be identified and sealed by that individual as appropriate.

6-1704.7 RPA boundary delineation studies shall be submitted on standard-size sheets of 24" x 36" or the metric equivalent at a scale of 1"=50' (1:500) or larger meeting the requirements of § 2-0201.2.

6-1704.8 RPA boundary delineation studies to determine site-specific RPA boundaries shall include the following:

accordance with ASTM or USGS methods, or other methods and techniques may be utilized by DPWES to determine if water is flowing from pool to pool.

EQAC's proposed modifications to staff's 10/7/05 draft (continued)
(Proposed EQAC modifications highlighted)

6-1704.8A Cover sheet with project name, County plan identification number, vicinity map, tax map reference, and fee computation;

6-1704.8B A narrative describing how the RPA boundary was established including a discussion of which components listed in § 6-1704.2 determine the RPA boundary and any wetlands shown on the plan that were determined not to be a component of the RPA (i.e. did not meet the requirement of 6-1704.2D).

6-1704.8C Plan sheet(s) with 2 foot (0.5m) contour interval topography showing each individual component of the RPA overlain to create the final RPA boundary, the RPA boundary from the adopted Chesapeake Bay Preservation Area maps, locations of horizontal and vertical control points, and locations of points and transects used in the wetland determination. Field run and aerial topography shall be correlated to a USGS or County benchmark(s), based on NGVD29, which shall be referenced in the plan. Plan sheets shall include a north arrow in accordance with § 2-0212.3.

6-1704.8D Standard USACE data forms used in the wetland determination and any relevant correspondence from the USACE.

~~6-1704.8E A description of the methodology and data collected, including standard data sheets, used to identify water bodies with perennial flow. This is only required when the water body is not identified as perennial on the adopted map of Chesapeake Bay Preservation Areas or when the water body is being reclassified as intermittent.~~

6-1704.8E~~F~~ Source of the major floodplain boundary.

6-1704.9 RPA boundary delineation studies and proposals to reclassify streams from perennial to intermittent shall include the following:

6-1704.9A Cover sheet with project name, County plan identification number, vicinity map, tax map reference, and fee computation;

6-1704.9B A narrative describing how, when, and where the observations were made, the weather conditions at the time the observations were made, and the study's final conclusion on whether the stream is perennial or intermittent.

6-1704.9C Plan sheet(s) with 2 foot (0.5m) or 5 foot (1.25 m) contour interval topography showing the RPA boundary from the adopted Chesapeake Bay Preservation Area maps, locations of points where observations were made with a key to the photographic documentation provided, the point at which the stream transitions from perennial to intermittent and the revised RPA boundary. Field run and aerial topography shall be correlated to a USGS or County benchmark(s), based on NGVD29, which shall be referenced in the plan. Alternatively, property and topographic information from the County's Geographic Information System may be used. Plan sheets shall include a north arrow in accordance with § 2-0212.3.

6-1704.9E Meteorologic data. Daily precipitation, max. & min. temperature, and cloud cover from the nearest NWS weather station for a period of three weeks preceding the date that the first set of observations were made through the date when the second set of observations were made. The weekly U.S. Drought Monitor classification for a period of two months preceding the date that the first set of observations were made through the date when the second set of observations were made. If available at the time of plan submission, the weekly U.S. Drought Monitor classification for a period of one month following the date that the second set of observations were made. The County may use meteorologic data from local rain gage stations closer to the site in evaluating the reclassification request.

6-1704.8F Observations of streamflow. The date, time, name of the observer, weather conditions at the time of observation, and photographs looking upstream and downstream documenting each observation. Photographs shall capture the various stream features (pools, riffles, runs) along the stream.

ENVIRONMENTAL QUALITY ADVISORY COUNCIL

Resolution Proposing Amendment of the Outdoor Lighting Ordinance

February 8, 2006

Whereas, in order to meet the need for increased hours of usability of our sports and athletic fields it has been found necessary to provide lights for these fields; and

Whereas, our generally excellent Outdoor Lighting Ordinance adopted in July 2003 did not incorporate specific provisions for limitations on glare and “light spillover” from such lights into adjacent properties; and

Whereas, such “light pollution” has previously been cited by the Environmental Quality Advisory Council (EQAC) in its annual reports as a major source of environmental degradation, especially where it affects residential neighborhoods; and

Whereas, adjacent jurisdictions (notably Loudoun County and Montgomery County) have in place specific restrictions, particularly with respect to glare, that are quite effective; and

Whereas, similar provisions are now essential in Fairfax County to promote peace and harmony between our parks and schools and their surrounding residential neighborhoods; now therefore

Be it resolved, that the Environmental Quality Advisory Council strongly recommends amendment of the Outdoor Lighting Ordinance (Code of Fairfax County, Article 14-900 et seq) to incorporate specific provisions to limit both glare and light spillover from sports and athletic facilities onto adjacent properties and proposes the attached amendment language to accomplish this; and

Be it further resolved, that the Board of Supervisors should act without delay to instruct the Department of Planning and Zoning to give this amendment high priority in its annual work plan.

EQAC Proposed Amendments to the Outdoor Lighting Ordinance

The purpose of this amendment is to make the revised glare provisions applicable to playing fields/courts of all sizes.

14-904 Outdoor Recreation/Sports Facility Lighting Requirements

When an outdoor recreation/sports facility has illuminated playing fields/courts that, individually or cumulatively, exceed 10,000 square feet in area, and/or associated light poles that exceed 20 feet in height, the playing fields/courts shall be subject to the provisions of this Section. Other components of such facilities, to include, but not limited to, parking lots, administrative offices, restrooms, ticket sales, concession stands and bleachers or other spectator viewing areas, shall not be subject to this section, but shall be subject to Sect. 902 above.

An outdoor recreation/sports facility that has illuminated playing fields/courts, either individually or cumulatively, that are 10,000 square feet or less in area and/or contain associated light poles 20 feet or less in height, shall ~~not~~ be subject only to Paragraph 4 of this Section. Other components of such facilities, to include, but not limited to, parking lots, administrative offices, restrooms, ticket sales, concession stands and bleachers or other spectator viewing areas, shall not be subject to this section, but shall be subject to Sect. 902 above.

For the purposes of this Section, the perimeter area defined in Par. 2B below shall be included in the area of the playing field/court.

The following amendment adds language to eliminate glare and light spillover into adjacent neighborhoods.

14-904 (4)

All playing field/court lighting fixtures shall use full cut-off or directionally shielded lighting fixtures, aimed toward the playing field/court and shielded in directions away from and beyond the playing field/court so as to minimize glare and light trespass onto adjacent properties.

A. All fixtures shall be of a design or have supplementary shielding such that the lamp or light bulb, including any reflector within which it is mounted, shall not be directly visible at any point 5 feet or higher above the property boundary.

B. Illumination of the ground surface at and beyond the property line shall be limited to 0.5 foot-candles measured with the sensor positioned horizontally at grade level.

Environmental Quality Advisory Council

Resolution to Address Residential Infill Development

March 8, 2006

WHEREAS, Fairfax County is approaching build-out, meaning that most land that is planned for residential development has been developed; and

WHEREAS, Residential development in existing neighborhoods is therefore being realized as infill development, and;

WHEREAS, Unmanaged infill development can have detrimental effects on a neighborhood, including loss of trees and habitat due to new construction as well as increased impervious surfaces that result in increased stormwater runoff and related water resource degradation, and;

WHEREAS, The Board of Supervisors' plan for Environmental Excellence in Fairfax County identifies infill development as an issue and specifically calls out the following action:

Pursue state enabling legislation to ensure adequate infrastructure is in place for new developments and to provide more flexibility to ensure harmonious and compatible development. Work toward ensuring that new and renovated homes are compatible with established neighborhoods. and;

WHEREAS, Arlington County recently adopted a Zoning Coverage Amendment (attached) that strengthens its ability to manage infill development by limiting the percentage of a lot that may be redeveloped based on the zoning district, and;

WHEREAS, The county's Zoning Ordinance Amendment Work Program for 2005 identified specific actions that included 23 "Priority 1" Actions and 84 "Priority 2" Actions, of which two Priority 2 actions address restrictions that would improve the county's ability to regulate and manage infill development, in particular items:

31. *Consider incorporating methods, such as maximum lot coverage or floor area ratio requirements, that address compatibility issues associated with new residential development in existing residential areas.*
52. *Consider the initiation of a Neighborhood Conservation Overlay District model study program to determine the appropriateness of such districts and, if appropriate, establish a new Neighborhood Conservation District to address compatibility of new residential construction in developed communities.*

BE IT RESOLVED, That EQAC recommends both of the 2005 infill development actions be moved to Priority 1 for 2006; and

BE IT FURTHER RESOLVED, That EQAC recommends that the County study amendments and policies from other counties, adopt such amendments where applicable, and coordinate with them to get support from the state where necessary.

Lot Coverage Zoning Ordinance Amendment
Adopted by the County Board on 11/15/05
(Arlington County, Virginia)

- The following table shows the maximum lot coverage percentage for any one-family dwelling lot in an “R” District (“R” Districts to include “R-20,” “R-10,” “R-8,” “R-6,” and “R-5, but not “R2-7”), if your lot is larger than 5,000 square feet in the “R-5” District, 6,000 square feet in the “R-6” District, 8,000 square feet in the “R-8” District, 10,000 square feet in the “R-10” District, and 20,000 square feet in the “R-20” District.
- Maximum main building footprint coverage on undersized lots in a zoning district (a lot which is smaller than 5,000 square feet in the “R-5” District, 6,000 square feet in the “R-6” District, 8,000 square feet in the “R-8” District, 10,000 square feet in the “R-10” District, and 20,000 square feet in the “R-20” District) shall be the same square footage as permitted on a standard sized lot (e.g., 6000 square feet in R-6) in the zoning district, subject to all applicable setback, side and rear yards and other building placement requirements.
- When a detached garage is provided in the rear yard, the maximum lot coverage may be increased as shown in the table below (in compliance with the requirements of 32.D.2.e.);
- Maximum main building footprint coverage shall be as shown in the table below.
- When a porch is attached to the front elevation of a one-family dwelling and has an area of at least sixty (60) square feet on the front of the building (exclusive of any wrap-around or side portion), the maximum coverage may be increased as shown in the table below.

<i>Categories</i>	<i>R-5</i>	<i>R-6</i>	<i>R-8</i>	<i>R-10</i>	<i>R-20</i>
Maximum Lot Coverage	45%	40%	35%	32%	25%
Maximum Lot Coverage with front porch	48%	43%	38%	35%	28%
Maximum Lot Coverage with rear detached garage	50%	45%	40%	37%	30%
Maximum Lot Coverage with rear garage and front porch	53%	48%	43%	40%	33%
Maximum Main Building Footprint Coverage	34%	30%	25%	25%	16%
Maximum Main Building Footprint Coverage with a front porch	37%	33%	28%	28%	19%
Main Buildings Footprint Cap	2380 sf	2520 sf	2800 sf	3500 sf	4480 sf
Main Buildings Footprint Cap with a front porch	2590 sf	2772 sf	3136 sf	3920 sf	5320 sf

- Existing main and accessory buildings or structures that, as of November 15, 2005, are not in conformance with the coverage requirements adopted on November 15, 2005, may be rebuilt within the building footprint and height and stories as they existed on November 15, 2005 if such structures are damaged or destroyed by fire, wind, earthquake, or other force majeure. Such rebuilding shall only be permitted if commenced within two (2) years after such damage or destruction.

- The definition of the lot coverage, main building footprint and main building footprint coverage are as follows:

Lot Coverage: The percentage determined by dividing (a) the area of a lot covered by the total (in square feet) of: (1) the footprint of the main building; and (2) the total footprints of accessory buildings [counting only buildings with footprints larger than one hundred fifty (150) square feet, or with a height of two stories or more]; and (3) parking pads and driveways; by (b) the gross area of that lot.

Main Building Footprint: The main building footprint shall include all parts of a main building that rest, directly or indirectly, on the ground, including, by way of illustration and not by limitation, attached garages, bay-windows with floor space, chimneys, porches, decks supported by posts and with floor heights that are four (4) feet or higher above grade, cantilevered decks with horizontal projections that are four (4) feet or more, and covered breezeways connected to a main building.

Main Building Footprint Coverage: The percentage determined by dividing that area covered by a main building footprint in square feet by the gross area of the lot in square feet on which the main building is located.

Environmental Quality Advisory Council

Resolution Regarding the Fairfax County Residential Parking Study

March 8, 2006

WHEREAS, In response to the Board of Supervisors' request, a multi-agency team of Fairfax County staff conducted a parking study to review minimum residential parking requirements and make recommendations regarding their appropriateness; and

WHEREAS, The staff will likely recommend that the residential parking requirements be increased; and

WHEREAS, Parking surfaces, which are constructed from materials such as asphalt and concrete, increase the amount of impervious surface; and

WHEREAS, Impervious surfaces lead to environmental degradation including a large accumulation of runoff that contributes to nonpoint source water pollution; and

WHEREAS, Rather than facilitating the ownership of more vehicles by increasing parking requirements, the county should consider expanding and improving alternatives to private, motorized transportation; and

WHEREAS, Increasing density and creating transit-oriented developments reduces the need for parking; now therefore

BE IT RESOLVED, that the Environmental Quality Advisory Council recommends that the Residential Parking Study Recommendations be revised to:

- a. balance environmental protection with the increased parking to achieve a net zero gain in impervious surface;
- b. provide flexibility for parking requirements appropriate to different communities across the county;
- c. consider reductions in parking requirements or specific maximum parking limits in areas where transit-oriented development is anticipated;
- d. approach increases in parking as a part of a comprehensive transportation improvement that provides better pedestrian access, alternative transit opportunities, and community outreach to maximize the existing transportation infrastructure; and
- e. include the improvement in Transportation Demand Management (TDM) as a factor in the required parking levels for new developments; and

BE IT FURTHER RESOLVED, that EQAC does not support the recommendations for increased parking requirements that are being considered by staff, particularly in areas where transit-oriented development is anticipated.



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Board of Supervisors
County of Fairfax
12000 Government Center Parkway
Fairfax, VA 22035

March 31, 2006

Chairman Connolly and Members of the Board:

On March 8, 2006, the Environmental Quality Advisory Council met with the Fairfax County Park Authority Board to discuss issues of mutual interest. Subsequent to the joint meeting, EQAC held a business meeting during which the Council authorized me, by a unanimous vote of members present, to prepare this letter to the Board supporting the following Park Authority needs:

- An interim bond referendum in 2006 to support a number of Park Authority initiatives. On January 25, 2006, the Chairman of the Park Authority Board sent a letter to Chairman Connolly requesting such a referendum (for \$28,000,000) in support of several initiatives.
- An additional \$550,000 to support the Park Authority's stewardship initiative, including efforts to inventory and manage natural resources on parkland, to provide a countywide assessment of the problem of invasive plants in parks and to initiate new invasives control efforts, and to pursue other stewardship management activities. While Park Authority staff has identified the need for this funding as part of a much greater effort to implement the Park Authority's Natural Resource Management Plan, this funding has not been incorporated into staff's proposed FY 2007 budget.

EQAC thanks the Board for its continued commitment to environmental protection and restoration efforts in Fairfax County and for its consideration of these Park Authority needs.

Respectfully submitted,

Stella M. Koch, Chairman
Environmental Quality Advisory Council

Environmental Quality Advisory Council
c/o Department of Planning and Zoning
12055 Government Center Parkway, Suite 730
Fairfax, Virginia 22035-5509
Phone 703 324-1380
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Board of Supervisors
Continued

cc: Fairfax County Park Authority Board
Michael A. Kane, Director, Fairfax County Park Authority
EQAC file: March, 2006

ENVIRONMENTAL QUALITY ADVISORY COUNCIL

RESOLUTION SUPPORTING THE PARK AUTHORITY'S ENVIRONMENTALLY PREFERABLE PRODUCTS LEGISLATIVE PROPOSAL

August 9, 2006

WHEREAS, the Fairfax County Park Authority has proposed legislation that would encourage the purchase of environmentally friendly products for inclusion in the Board of Supervisors' legislative package for the 2007 Virginia legislative session; and,

WHEREAS, current legislation addresses purchasing recycled materials but does not address packaging and containers or other toxic goods and services; and,

WHEREAS, the proposed legislation would amend Virginia Code Sections 2.2-4301 and 2.2-4313 to permit comparisons of environmentally friendly products to include raw materials acquisition, production, manufacturing, packaging, distribution, operation, maintenance, reuse and disposal of the product; and,

WHEREAS, environmentally friendly products protect natural resources and have a reduced adverse effect on human health and the environment when compared to competing products; and,

WHEREAS, environmentally friendly products minimize waste, conserve energy, raw materials and water, and reduce the need for land fill space; and,

WHEREAS, the Board of Supervisors' Environmental Subcommittee has expressed a desire for greater recycling efforts by county agencies; and,

WHEREAS, the legislative initiative proposed by the Park Authority is consistent with the policies and objectives set forth in the Board of Supervisors' Environmental Agenda, including the objective of protecting and enhancing the environment.

NOW, THEREFORE, BE IT RESOLVED, That EQAC recommends that the environmentally friendly products legislation proposed by the Park Authority be included in the Fairfax County 2007 Virginia General Assembly Legislative Program.

POSITION STATEMENT FORM

GENERAL SUBJECT AREA -- TITLE OF PROPOSAL

ZONING- ADEQUATE PUBLIC FACILITIES ORDINANCE

PROPOSAL:

Support legislation to give localities authority to adopt an adequate public facilities ordinance. Legislation should permit localities to adopt provisions in their subdivision ordinances for deferring the approval of subdivision plats or site plans when they determine that existing schools, roads, public safety, sewer or water facilities are inadequate to support the proposed development. The legislation should also provide that an expressed purpose of zoning ordinances is to protect against an undue rate of development in relation to existing or available public facilities. Such legislation should not require the localities to construct the necessary infrastructure within a time frame established by the General Assembly.

SOURCE:

Environmental Quality Advisory Council, August 9, 2006

BACKGROUND:

In Virginia, local government lacks authority to manage the pace and timing of development that has been approved, even when there are inadequate public facilities to serve the new development. In recent legislative sessions, numerous attempts to authorize adequate public facilities ordinances have not been successful.

The Board of Supervisors' recently enacted Environmental Agenda commits to pursuing "state enabling legislation to ensure adequate infrastructure is in place for new development".

EQAC recommends that Fairfax County support enabling legislation to authorize localities to adopt adequate public facilities ordinances.

RECOMMENDATION:

POSSIBLE SUPPORT OR OPPOSITION BY ORGANIZATIONS:

Members of the Virginia legislature who have sponsored or co-patroned adequate public facilities ordinance authorizing legislation include Senators Chichester, Norment, and Houck and Delegates Sickles, Marshall, William Howell and Orrock.

The Virginia Coalition of High Growth Communities (an organization comprised of at least 25 jurisdictions within Virginia, including Fairfax County) supports authorization for an adequate public facilities ordinance.

Numerous civic and environmental associations are on record supporting adequate public facilities legislation. Some of these organizations include the Virginia Conservation Network, The Virginia Chapter of the Sierra Club, the Virginia Municipal League, and the Virginia Association of Counties.

Opposition will probably come from certain segments of the business community, especially developers. The Fairfax Chamber of Commerce and the Northern Virginia Association of Realtors are on record as opposing adequate public facilities legislation.

STAFF CONTACT PERSON(S):

Noel Kaplan (EQAC staff liaison)
Environment and Development Review Branch
Fairfax County Department of Planning and Zoning
12055 Government Center Parkway, Suite 730
Fairfax VA 22035

Phone: 703-324-1380

Fax: [REDACTED]

Email: [REDACTED]

POSITION STATEMENT FORM

GENERAL SUBJECT AREA -- TITLE OF PROPOSAL

TREE PRESERVATION ENABLING LEGISLATION

PROPOSAL: *(Provide brief description of legislative or funding position)*

Support legislation which enables Fairfax County to require the preservation of trees on development sites to meet canopy requirements when these exist on sites prior to development.

SOURCE:

Environmental Quality Advisory Council, August 9, 2006

BACKGROUND:

The existing enabling Virginia State Code § 15.2-961 deals strictly with tree canopy replacement requirements and provides little incentive for tree preservation. While tree preservation areas can and are being used to meet the requirement, tree planting is the tool of choice of developers. Without enabling tree preservation language, the preservation of existing trees and their associated environmental benefits will continue to be overlooked in favor of planting new trees which can take many decades to provide the same level of air and water quality benefits that are provided by existing trees.

In the 2006 legislative session, SB 236 was introduced to add Virginia Code section 15.2-961.1. If adopted this proposed Code section would permit certain Northern Virginia localities, including Fairfax County, to require preservation of trees on development sites to meet tree canopy requirements in proportion to pre-development canopy. The bill would also allow those localities to increase the tree canopy required 20 years after development on residential sites.

Patrons for SB 236 included Senators Ticer and Howell and Delegates J.M. Scott, Sickles and Watts. The bill was passed by indefinitely in the Senate's Local Government Committee.

EQAC recommends that Fairfax County support enabling legislation similar to SB 236 to authorize localities to adopt tree preservation ordinances.

RECOMMENDATION:

POSSIBLE SUPPORT OR OPPOSITION BY ORGANIZATIONS:

Possible Support: The Fairfax County Tree Preservation Task Force, The Fairfax County Tree Commission, local non-profit conservation groups such as The Sierra Club, The Audubon Society, Fairfax ReLeaf, Inc., The Virginia Native Plant Society, And The Potomac Conservancy.

Possible Opposition: The Northern Virginia Builders Association. The Virginia Builders Association, and The National Association of Industrial Office Parks.

STAFF CONTACT PERSON(S):

(Provide name and phone number of County staff person(s) best able to provide any additional research or necessary information)

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County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Board of Supervisors
County of Fairfax
12000 Government Center Parkway
Fairfax, VA 22035

August 23, 2006

Chairman Connolly and Members of the Board:

On July 26, 2006, Harold L. Strickland, the Chairman of the Fairfax County Park Authority Board, transmitted a memorandum to me addressing two Carryover budget requests from the Park Authority. One request would support an Invasive Species Assessment Plan, while the other would support stewardship education efforts that would serve to strengthen and build upon current agency initiatives and abilities. Through a unanimous vote of members present at the August 9, 2006 meeting of the Environmental Quality Advisory Council, EQAC has asked me to convey its support for and endorsement of these Park Authority proposals.

I thank you for your consideration of the Park Authority's requests and for your continued commitment and dedication to environmental protection and restoration efforts in Fairfax County.

Respectfully submitted,

Stella M. Koch, Chairman
Environmental Quality Advisory Council

cc: Fairfax County Park Authority Board
Michael A. Kane, Director, Fairfax County Park Authority
EQAC file: August, 2006

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ENVIRONMENTAL QUALITY ADVISORY COUNCIL

Comments on the Park Authority Strategic Plan

The following comments deal only with portions of the plan that are seen as having direct environmental impact. The comments follow a top-down approach based on the strategy map (pg. 8) and the strategic objectives (pg. 9).

The first half of the FCPA Mission Statement is to protect and enhance the natural and cultural resources under its management, while the second half is to provide and maintain the facilities, etc. From the first half of the Mission Statement flows the major Process Component to Advance Stewardship (pg. 9). A derivative of this Process Component is the need to Ensure Workforce Readiness (pg. 43).

Some two years ago, the just-completed FCPA Natural Resource Management Plan was presented and reviewed at a joint meeting of EQAC and the FCPA Board. It is a well-conceived and comprehensive plan for stewardship of the extensive array of irreplaceable natural resources consigned to the FCPA. Yet this admirable plan remains largely unimplemented, and throughout the proposed Strategic Plan is mentioned mostly as a kind of noble philosophy but firm commitment for its implementation is somewhat lacking.

The current staffing levels are indicative of the minimal efforts to address the first half of the mission statement and the great preponderance of effort devoted to the second half. When you look at the fact that there are three staff directly devoted to natural resources, five staff directly devoted to cultural resources, and 50+ staff directly devoted to creating (exclusive of operating) the “built environment” it becomes obvious that the efforts applied to fulfillment of the Mission Statement are out of balance.

The importance of the first half of the mission statement was eloquently attested in the results of the recent Needs Assessment Survey which showed that the highest priority was given to acquisition and preservation of enclaves of natural environment and sufficient trails to afford access to and through them. The first and second paragraphs on page 28 are eloquent statements that show clear recognition by FCPA of what needs to be done. However, we know from talking with Tony Griffin and Ed Long that there is little likelihood of any discretionary money this year to beef up this area, so the FCPA will have to deal with it through internal readjustments or forego the opportunity to make the needed changes in emphasis. Thus, it is abundantly clear that some rebalancing and staffing adjustments are essential in order to properly address the stated mission.

The strategic initiatives enumerated under the section on Advance Stewardship form a sound plan but if unimplemented they are, in the words of T. S. Eliot, little more than “. . . paralyzed force, gesture without motion.” The section Ensure Workforce Readiness (pg. 43) needs an additional paragraph inserted between Background paragraphs 4 and 5 to read: “Workforce rebalancing will need to be undertaken to assure a balanced approach to fulfillment of the Mission Statement.” The Balanced Scorecard suggests that the natural resource protection has been only minimally addressed.

In short, EQAC believes that the FCPA has a sound Mission Statement but that the first half of it is currently being only minimally addressed. Several elements the proposed Strategic Plan would provide needed guidance for moving forward if, but only if, FCPA is willing to commit the necessary budgetary and human resources necessary to adequately fulfill the first half of the mission statement. How this is to be accomplished is the FCPA responsibility, but fulfillment of the full Mission is the goal for which the FCPA is held accountable. Any adjustments to the proposed Strategic Plan to better reflect this would definitely be in order.