



County of Fairfax, Virginia

MEMORANDUM

DATE: February 14, 2014

TO: Fairfax County Board of Supervisors

FROM: Megan Duca, Staff Coordinator

SUBJECT: SE 2013-MV-011, #5203-WRPA-010-2, & #5203-WQ-019-2

MEETING DATE: March 4, 2014

Please see the attached staff report for Resource Protection Area Encroachment Exception #5203-WRPA-010-2 and Water Quality Impact Assessment #5203-WQ-019-2. These two applications are associated with SE 2013-MV-011, which is a special exception request to retroactively permit the placement of fill in a floodplain and to permit additional fill. General RPA encroachment requests associated with a special exception application may be granted by the Board of Supervisors through a public hearing held in conjunction with the public hearing for the special exception application, pursuant to procedures within the Chesapeake Bay Preservation Ordinance (CBPO). The staff report for the Resource Protection Area Encroachment Exception (WRPA) and the Water Quality Impact Assessment (WQIA), which was produced by staff from the Department of Public Works and Environmental Services, was not available at the time of the publication of the special exception staff report due to delays in the submittal and review process. In addition, this report was not available prior to the Planning Commission hearing and, therefore, the Planning Commission did not make a recommendation on the WRPA or WQIA applications.

The attached staff report describes the applicants' request to construct features within the Resource Protection Area (RPA), including walls, a patio, wooden steps, and a rip rap bulkhead. Staff recommends denial of these applications for the reasons outlined in the attached staff report. In summary, staff finds that the required findings listed in Sections 118-6-6 and 118-6-9 of the CBPO have not been satisfied. Staff believes the proposed improvements are not the minimum necessary to avoid relief. In addition, the disturbance into the 2003 RPA in the rear yard of a house that was built in 2005 is not in harmony with the purpose and intent of the CBPO in staff's opinion. One of the required findings listed in the CBPO is that the exception request is not based upon conditions or circumstances that are self-created or self-imposed. Staff finds that the request is based upon conditions or circumstances that are self-created. As a result of these findings, staff recommends denial of these applications as further described in the staff report.

MBD

Enclosure



County of Fairfax, Virginia

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

February 11, 2013

DEPARTMENT OF PUBLIC WORKS & ENVIRONMENTAL SERVICES

SITE REVIEW AND INSPECTION DIVISION

STAFF REPORT

RESOURCE PROTECTION AREA ENCROACHMENT EXCEPTION #5203-WRPA-010-2 & WATER QUALITY IMPACT ASSESSMENT #5203-WQ-019-2

In conjunction with Rezoning Application # SE 2013-MV-011

APPLICANTS: Kimberly B. & Kelly P. Campbell

ZONING: R-E: Residential Estate District
(0.5 Dwellings Units/Acre)

PARCEL: 122-2 ((2)) 7

LOCATION: 11727 River Drive

SITE ACREAGE: 1.56 acres

PLAN MAP: Residential, 0.1 – 0.2 dwelling units/acre (du/ac)

PROPOSAL: To encroach into 2003 RPA for the installation of wall, patio and wooden steps.

PROPOSAL: Exception to allow encroachment into the 1993 RPA for construction of a wall, patio, wooden steps, install a new riprap bulkhead and to stabilize the existing slope.

Department of Public Works and Environmental Services
Land Development Services
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Fairfax, Virginia 22035-5503
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ENCROACHMENT EXCEPTION #5203-WRPA-010-2 &
WATER QUALITY IMPACT ASSESSMENT #5203-WQ-019-2

**SITE AREA OF PROPOSED
DEVELOPMENT:**

1.56 acres

**ENCROACHMENT AREA
REQUESTED:**

0.37 acres

PUBLIC HEARING:

General RPA Encroachment Requests under CBPO Section 118-6-9 associated with a Rezoning Application (RZ) require approval by the Board of Supervisors through a public hearing held conjunction with the public hearing for the RZ per procedures of CBPO Section 118-6-3(d).

DESCRIPTION:

The applicant proposes grading; construction of wall, patio, wooden steps and to install a new riprap bulkhead to stabilize the existing slope.

BACKGROUND:

The property is located in Hallowing Point River Estates Lot 7 section 1. The property address is 11727 River Drive Lorton VA, 22079. The lot has an existing single family house that was built in 2005. Please be noted that the house was built in 2005 after the establishment of 2003 RPA.

DOCUMENTS AND

In addition to Rezoning Application #RZ 2013-SP-011, following information is part of this application:

CORRESPONDENCE:

1. RPA Encroachment Exception Application and RPA Encroachment Exception Justification Statement dated December 13, 2013.
2. Water Quality Impact Assessment signed dated December 13, 2013.

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- d) The exception request is not based upon conditions or circumstances that are self-created or self-imposed.*

The exception request is based upon the conditions or circumstances that are self-created. The construction work performed by the applicant exceeded the scope of the approved grading plan, which required filing an exception request. If the applicant brings the site back to what was originally approved, no exception request would have been required.

- e) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality.*

The proposed Development Conditions are included in Attachment A that will prevent the allowed activity from causing a degradation of water quality.

- f) General RPA Encroachment Exception requests pursuant to CBPO 118-6-9 are subject to the additional finding that the water quality benefits resulting from the proposed facility or improvement exceed the associated water quality detriments.*

The application proposes to stabilize, and reseed the disturbed area within the RPA. Furthermore, the applicant intends to establish 6776 square feet of buffer area by planting 7 overstory trees, 12 under story trees, and 216 shrubs and groundcovers, which improves water quality. However, proposed buffer is not in consistent with the requirement of CBPO.

STAFF RECOMMENDATION: Staff recommends denial of RPA Exception (#5203-WRPA-010-2) and Water Quality Impact Assessment (#5203-WQ-019-2). However, if it is the intent of the Board of Supervisors to approve RPA Exception (#5203-WRPA-010-2) and Water Quality Impact Assessment (#5203-WQ-019-2), staff recommends that the approval be subject to the Development Conditions contained in that the approval be subject to the Development Conditions listed in Appendix A.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant from compliance with the provisions of any other applicable ordinances, regulations, or adopted standards.

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It should be further noted that the content of this report reflects the analysis and recommendations of the staff; it does not reflect the position of the Board of Supervisors. For further information, contact the Site Development and Inspections Division, Office of Land Development Services, Department of Public Works and Environmental Services, 12055 Government Center Parkway, Suite 535, Fairfax, Virginia 22035-5505, 703-324-1720.

Appendix A

PROPOSED DEVELOPMENT CONDITIONS

RPA Exception (#5203-WRPA-010-2) and Water Quality Impact Assessment (#5203-WQ-019-2).

If it is the intent of the Board of Supervisors to approve RPA Exception (#5203-WRPA-010-2) and Water Quality Impact Assessment (#5203-WQ-019-2) for the property located at Tax Map 122-2 ((2)) 7 to allow encroachment in the RPA pursuant to Section 118-6-9 of the Fairfax County Chesapeake Bay Preservation Ordinance (CBPO), staff recommends the following development conditions:

1. This RPA Encroachment Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This RPA Encroachment Exception is granted only for the purposes, structures or uses indicated on the plat approved with the application, as qualified by these development conditions.
3. Any plan submitted pursuant to this RPA Exception shall be in substantial conformance with the Hallowing point River Estates lot 7 Section 1 prepared by Harold A. Logan Associates P.C. dated 11/17/2013.
4. In order that the land disturbed within the RPA can be considered to be the minimum necessary to afford relief for the proposed construction, indigenous vegetation shall be preserved to the maximum extent possible, the limits of clearing and grading must be clearly shown on any development plan, and adequate access and areas for stockpiles must be included. Any development plan will be subject to approval by the Department of Public Works and Environmental Services (DPWES). The limits of clearing and grading must be strictly observed and enforced. Any encroachment into, and/or disturbance of, the RPA not shown on the approved plan will be considered a violation of the CBPO and is subject to the penalties of CBPO Article 9.
5. In order that the project is in harmony with the purpose and intent of the CBPO, does not have a substantial detriment to water quality, and meets the additional performance criteria for RPAs, vegetated buffer area(s) shall be established in the disturbed areas

within the RPA on the property and shall be of a total area of at least 16, 000 square feet (0.37 acre). The size, species, density and locations shall be consistent with the planting requirements of CBPO Section 118-3-3(f), or a vegetation plan that is equally effective in retarding runoff, preventing erosion, and filtering non-point source pollution from runoff, as determined by the Department of Public Works and Environmental Services (DPWES). The vegetation shall be randomly placed to achieve a relatively even spacing throughout the buffer. Notwithstanding any statements on the Plat and in the Water Quality Impact Assessment (WQIA), the size, species, density, and locations of the trees, shrubs, and groundcover will be subject to approval of the Director of the DPWES. In the absence of sufficient area required for the vegetative buffer within the RPA, the applicant may choose to place some buffer outside the RPA.

6. In order that the proposed construction activity does not degrade water quality, adequate erosion and sediment control measures, including, but not limited to, a super-silt fence shall be employed during construction within the RPA, and shall remain in place, and be properly maintained, for the duration of the land disturbing activity within the RPA until such time that the disturbed area is completely stabilized.

This approval, contingent on the above noted conditions, does not relieve the applicant from compliance with the provisions of any applicable Federal, State, or County ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the approval of any required plans and permits through established procedures, and this RPA Exception shall not be valid until this has been accomplished.