BOARD POLICY
FOR
TREATMENT OF APPROVED AND PENDING PLANS OF DEVELOPMENT
AFFECTED BY THE DECEMBER 5, 2005 REVISION 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 December 5, 2005, with an effective time and date of 12:01 a.m. December 6, 2005. This revision designates a Resource Protection Area (RPA) along a newly identified perennial stream on Tax Map No. 41-1. The newly identified perennial stream runs generally parallel to a portion of Overbrook Street. 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, December 6, 2005, 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 41-1 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 nonbonded lots (INF plans) approved prior to December 6, 2005, without further action by the permittee provided the associated Building Permit is approved within six (6) months of December 6, 2005. 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 December 6, 2005, 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 December 6, 2005, 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.

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(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 nonbonded lots and Building Permit applications, accepted for review as containing all the required information, filed with DPWES prior to close-of-business December 5, 2005, 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 December 6, 2005.

(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 December 6, 2005, 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 December 6, 2005, 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 nonbonded lots provided the associated Building Permit is approved within one (1) year of December 6, 2005, subdivision construction plans, rough grading plans, lot grading plans, and final subdivision plats approved within one (1) year of December 6, 2005, for a property that has a Resource Protection Area (RPA) boundary delineation plan, approved between November 18, 2003, and close-of-business on December 5, 2005. 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.