



# **Exception Review Committee Public Hearing**

October 6, 2021

**Resource Protection Area (RPA)**

**Encroachment Exception # 4135-WRPA-003-1 &  
Water Quality Impact Assessment # 4135-WQ-001-1**

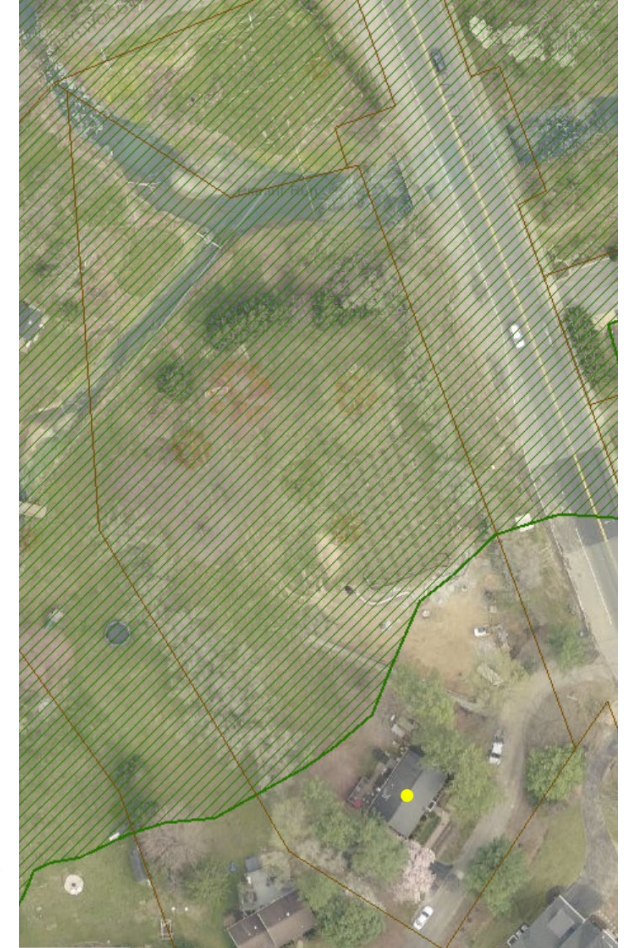
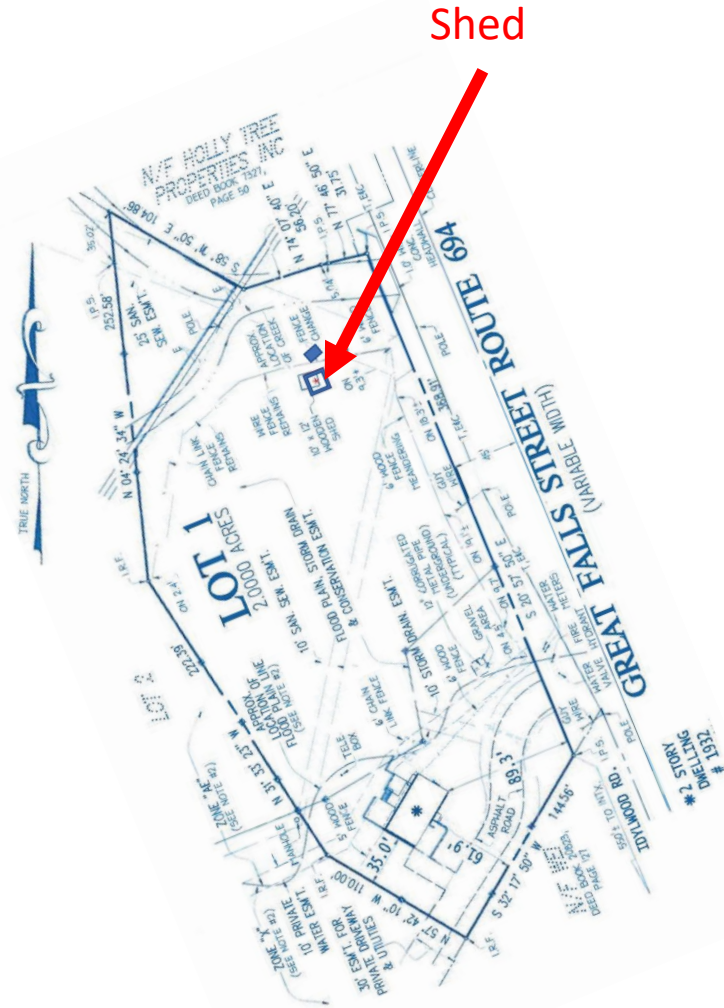
1932 Great Falls Street, McLean

# Summary

The lot was created in 1981.

The applicant is requesting to allow a slightly larger replacement shed to remain in the RPA.

The shed was re-built after flood water displaced the previous shed.



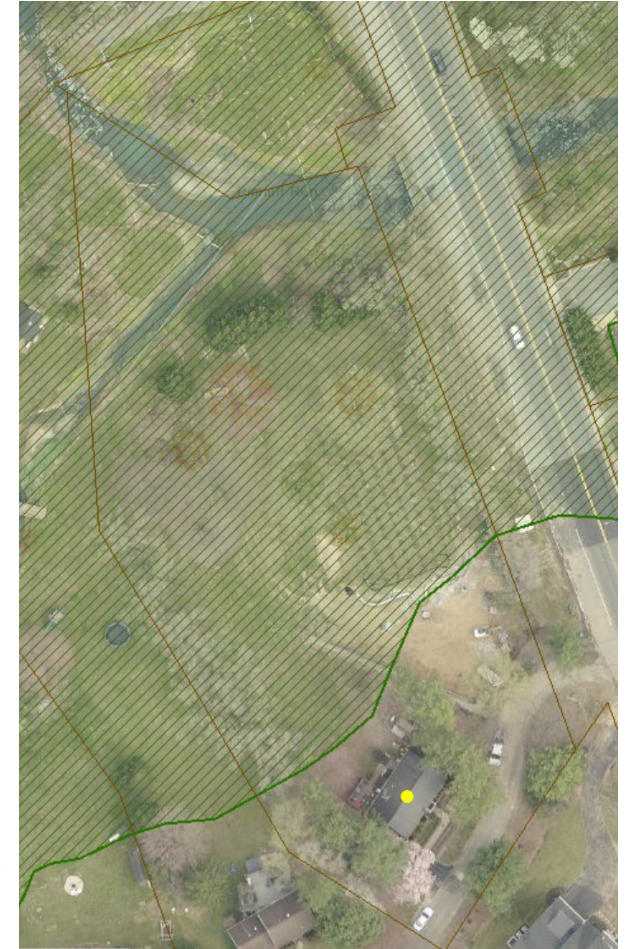
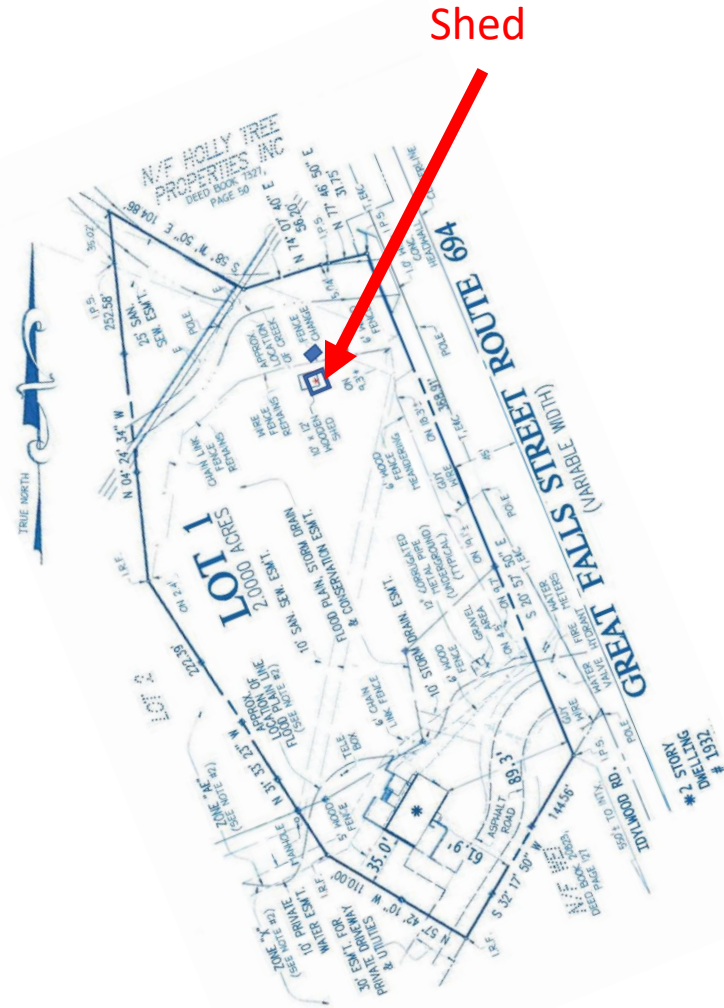


# Summary

An exception is required under Article 6, Section 118-6-8.

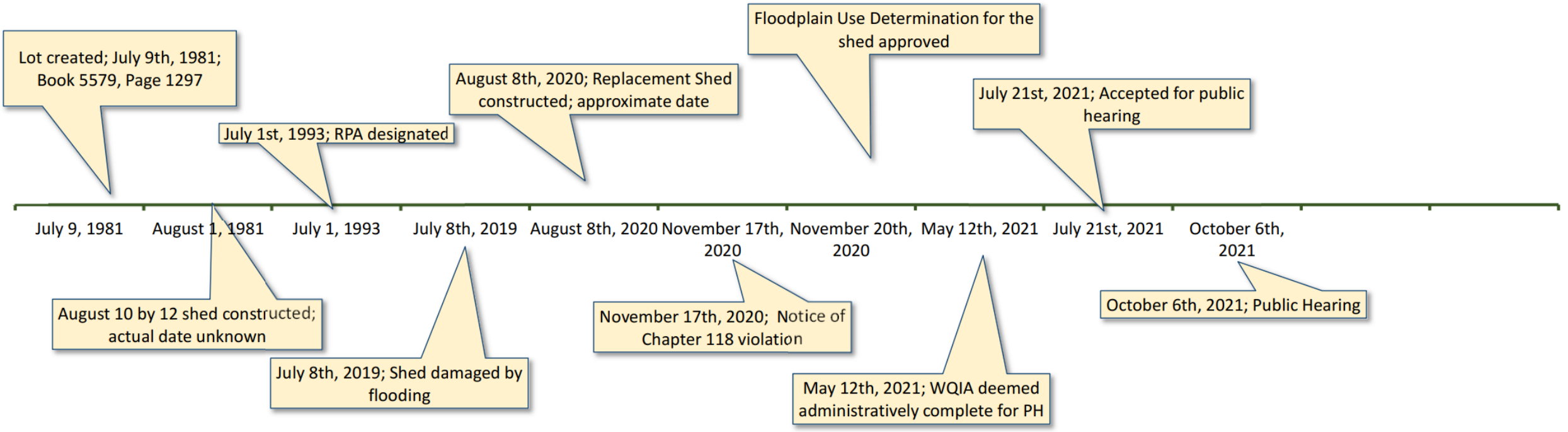
The request addresses:

- 756 sq. ft. of disturbance in the RPA
- 256 sq. ft. of total Impervious area (an increase of 136 sq. ft. from the footprint of the existing shed);
  - No impervious area in the seaward 50 feet.



# Timeline

## 1932 Great Falls Street



# Applicant – Statement in Support

- 5 Minutes

# Statements – Interested Parties

- Supporting Statements
- Opposing Statements

# Position of the Director (Staff)

Finding 118-6-6.a The requested exception to the criteria is the minimum necessary to afford relief.

- It is the opinion of staff that the 256 sq. ft. shed, which does not require a building permit, is a reasonable encroachment.

# Position of the Director (Staff)

Finding 118-6-6.b Granting the exception will not confer upon the applicant any special privileges that are denied by this part to other property owners who are subject to its provisions and who are similarly situated.

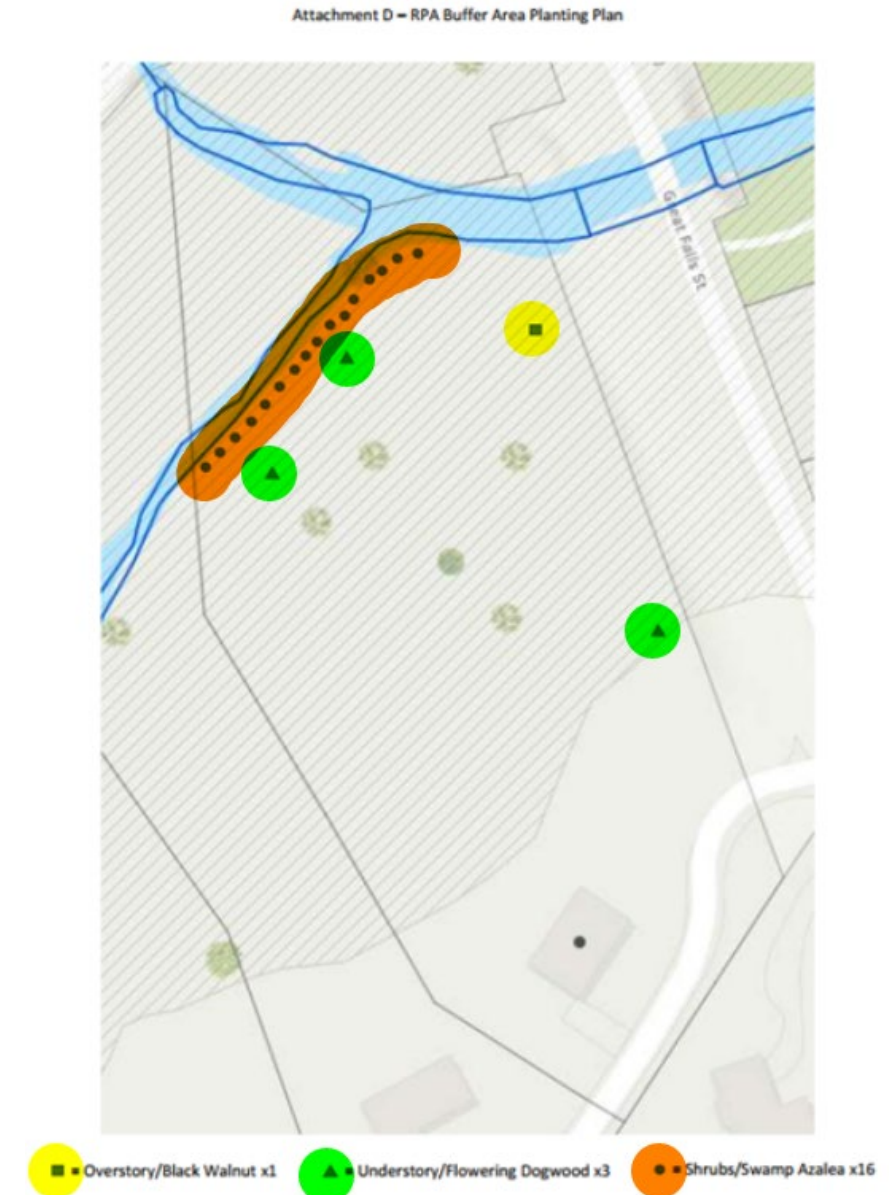
- It is the opinion of staff that permitting the shed to remain, would not give the applicant something that has been denied to others.



# Position of the Director (Staff)

Finding 118-6-6.c The exception is in harmony with the purpose and intent of this Chapter and is not of substantial detriment to water quality.

- It is staff's recommendation that **buffer mitigation be concentrated and planted in the lower portions of the site** where runoff would be more effectively captured from the shed.
- The applicant has planted : 1 black walnut, 3 dogwoods, and 16 swamp azaleas to mitigate the impact of the land disturbance.
- The plantings are taken from the recommended tree and shrub plant list for RPAs.



**Table 12.13B Planting Density Per Acre for RPA Establishment or Restoration**

**A. Trees<sup>1,8</sup>**

	1.5-in. Caliper <sup>2</sup>	3/4-in. Caliper <sup>2</sup>	Gallon Pot <sup>3</sup>	Tubelings <sup>4</sup>	Bareroot Seedlings <sup>5</sup>
<b>Overstory Trees</b>	109	164	218	400	1,210 <sup>7</sup>
<b>Understory Trees<sup>6</sup></b>	N/A	218	435	800	

**1.** Any overstory tree size may be paired with any understory tree size. Overstory trees and understory trees do not have to be the same size and more than one size of overstory tree and understory tree may be used. Using a 1-acre site as an example, a planting plan could specify 109 1.5-inch caliper overstory trees for the entire acre, 109 ¾-inch caliper understory trees for ½ acre and 218 1-gallon pot understory trees for ½ acre.

**2.** Tree caliper is measured at 6 inches above ground as specified in [ANSI Z60.1](#).

**3.** A gallon pot contains approximately 1 gallon of soil, equivalent to a #1 or #2 container size in accordance with [ANSI Z60.1](#).

**4.** A tubeling is a tree grown from seed and offered for sale in plastic "plug" containers. Plants can vary in age from 1 to 4 years. Tubelings must be at least 0.25-inch diameter where the stem joins the roots (root collar).

**5.** Bareroot seedlings may only be used with approval by the Director. A bareroot seedling is a tree grown from seed but sold without soil. Plants can vary in age from 1 to 4 years. Seedlings must be at least 0.25-inch diameter where the stem joins the roots (root collar).

**6.** Up to 25% of the understory trees may be composed of overstory species.

**7.** This number is the combined total of understory trees and overstory trees required. The proportion of understory trees to overstory trees is flexible and will be evaluated with the planting plan.

**8.** The recommended planting window is November 1st through April 15th when the ground is not frozen (after the first hard frost and before bud break).

**B. Shrubs**

	12-24 in. tall in a 1 gallon or larger pot <sup>1</sup>	1 quart or larger pot
<b>Shrubs<sup>3</sup></b>	654	N/A
<b>Shrub-Equivalents<sup>2,4</sup></b>	N/A	2,616

**1.** A gallon pot contains approximately 1 gallon of soil, equivalent to a #1 or #2 container size in accordance with [ANSI Z60.1](#).

**2.** Up to 25% of the shrub layer may be composed of other plant types that perform an ecological function equivalent to shrubs. These shrub-equivalents, as determined by the Director, include various species of forbs, herbs, graminoids and vines. Unlike shrubs, shrub-equivalents may die back to the ground during winter. Using a 1.2-acre site as an example, 589 (0.9-acre x 654/acre) shrubs and 785 (0.3-acre x 2,616/acre) shrub-equivalents would be required.

**3.** The recommended planting window for shrubs is November 1st through April 15th when the ground is not frozen (after the first hard frost and before bud break).

**4.** The recommended planting window for shrub-equivalents is September 1st through October 31st and March 1st through May 15th.

**C. Groundcover<sup>1</sup>**

	Pure Live Seed
<b>Perennial Herbaceous Seed Mix<sup>2,3</sup> (minimum of 12 species)</b>	30 lbs.
<b>Annual Herbaceous Cover Crop Seed Mix<sup>2,4</sup> (1-2 Species)</b>	60 lbs.
<p><b>1.</b> Other types of groundcover such as leaf litter or mulch may be approved by the Director.</p> <p><b>2.</b> An herbaceous seed mix is a seed mix of perennial and/or annual grasses and flowers. The perennial herbaceous seed mix must be composed of native species. The annual herbaceous cover crop seed mix may be composed of non-native species.</p> <p><b>3.</b> The recommended planting window for the perennial herbaceous seed mix is September 1st through October 31st and March 1st through May 15th.</p> <p><b>4.</b> Annual herbaceous cover crop seed mixes may be planted year-round.</p>	

## Position of the Director (Staff)

Finding 118-6-6.d The exception request is not based upon conditions or circumstances that are self-created or self-imposed.

- It is the opinion of staff that the size of the shed, 0.3% of the lot, is reasonable.



## Position of the Director (Staff)

Finding 118-6-6.e Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality.

- It is the opinion of Staff that the re-vegetated area should be concentrated and planted in the lower portions of the site.

# Position of the Director (Staff)

Staff recommends **approval** of the RPA encroachment exception request # 4135-WRPA-003-1 and the Water Quality Impact Assessment # 4135-WQ-001-1.

# Position of the Director (Staff)

- For proposed conditions, see **Attachment A** of the Staff Report.

# Proposed Water Quality Impact Assessment Conditions

1. The buffer plantings shall be planted in a focused area downslope of the proposed use to capture the runoff from the subject shed.
2. Table 3 of the WQIA makes specific commitments to buffer species and specimen sizes. Any other planting for the 636 square foot buffer area may be used; if alternate planting is used it must be in accordance with size and density requirements in PFM Table 12.13B. Plantings must be selected from the Recommended Tree and Shrub Species for Reforestation of Resource Protection Areas, June 4, 2008.

# Proposed Exception Conditions

3. This RPA Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
4. This RPA Exception is granted only for the purposes, structures and/or uses indicated on the plat approved with this application, as qualified by these development conditions.



# Proposed Exception Conditions

5. Any plan submitted pursuant to this RPA Exception must be in substantial conformance with the plat submitted with the subject application, which shows the proposed improvements.

# Proposed Exception Conditions

6. For this RPA Exception to meet the purpose and intent of the CBPO, to not create a substantial detriment to water quality, and to meet the performance criteria for RPAs, vegetated buffer area(s) must be established and preserved as required by the final water quality computations. Vegetation size, species, density and locations must be consistent with the planting requirements of CBPO Section 118-3-3(f) and Public Facilities Manual (PFM) Section 12-0316.4 or a vegetation plan that is equally effective in retarding runoff, preventing erosion, and filtering non-point source pollution from runoff, as determined by LDS. The Director of LDS may approve the use of a seed mixture as a supplement to or in lieu of individual plants for shrubs and groundcovers. Plants must be native to the degree practical and adaptable to site conditions. The vegetation should be randomly placed to achieve a relatively even spacing throughout the buffer. Notwithstanding any statements on the plat, the WQIA, or the final water quality computations, the size, species, density, and location of the trees, shrubs, and groundcover will be subject to approval of the Director of LDS.

# Proposed Exception Conditions

7. Understory vegetation in the existing forest/vegetated area must be established/re-established with a seed mixture as determined by LDS and Urban Forestry Management Division (UFMD). The Landowner must maintain the riparian buffer area plantings and any proposed BMP facilities as shown on the WQIA in good condition, acceptable to the county, and in accordance with the specific maintenance requirements noted on the WQIA Addendum.

# Proposed Exception Conditions

8. The Landowner hereby grants permission to the county, or its authorized agents and employees, to enter upon the Property at reasonable times and in a reasonable manner to inspect any stormwater management facilities or riparian buffer plantings whenever the county deems necessary. Whenever reasonably possible, the county will attempt to notify the Landowner before the inspection.
9. Indigenous vegetation should be preserved to the maximum extent possible. Any further encroachment into, and/or disturbance of, the RPA not shown on the plat submitted with this request, will be considered a violation of the CBPO and is subject to the penalties of CBPO Article 9.

# Proposed Exception Conditions

10. To prevent degradation of water quality during the remediation work, adequate erosion and sediment control measures and tree protection, such as a silt fence/tree protection, must be used during construction work within the RPA, and must remain in place, and be properly maintained, for the duration of the remediation work until such time that the work is deemed complete by LDS.



# Proposed Exception Conditions

11. This RPA exception will automatically expire, without notice, October 6th, 2022, unless the project is completed and approved by LDS, the vegetated buffers have been established, any required BMPs installed, and any required final water quality computations submitted to LDS.

# Applicant Rebuttal

- 3 Minutes

# Sub Rebuttal

- 2 Minutes

# Discussion of 1932 Great Falls Street

- Questions/Comments