



County of Fairfax, Virginia

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

Chesapeake Bay Exception Review Committee (ERC)

AGENDA

September 1, 2021

3:00 p.m.

Citrix WebEx Electronic Meeting Platform

Agenda Items:

Open the Meeting: Chairperson Elizabeth Martin at 3:00 p.m.

Topic 1:

ERC Business

1. Review of previous meeting minutes from August 4, 2021

Topic 2:

Proposed ERC Improvements.

- Action: Committee to vote on a standard template for generic draft motions to be posted to the ERC website. If agreed, staff would post templates to the ERC website.
- Question: Should we assign committee members in advance to investigate particular issues that arise with a case, and be prepared to report back to the committee in the hearing?
- Other?

Topic 3:

Requested Staff Improvements.

- Update: Staff has agreed to ensure the application includes tables containing comprehensible calculations about water quality impacts, i.e., no tables full of zeros.
- Question: For smaller projects, could applicants be asked to convert the calculations provided in the tables from acres to square feet?
- Other?

Topic 4:

Department of Environmental Quality (DEQ) Discussion: Serial Exceptions and Self-Created/Self-Imposed Criteria.

In the case of a serial exception, staff has recommended assessing water quality (WQ) impacts compared to pre-development conditions (before the first exception).

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- This might be an effective way to account for serial exceptions and ensure that WQ impacts are properly mitigated. Does it change the goalposts, unfairly holding property owners accountable for past encroachments when mitigation requirements may have changed? Does DEQ support this approach? If not, what does DEQ recommend in dealing with serial exceptions?
- What should be done if a previously approved water quality impact assessment (WQIA) is found to have errors so that WQ impacts were underestimated (and therefore mitigation was insufficient). Does DEQ support addressing past deficiencies when a subsequent exception request is submitted?
- Does granting serial exceptions confer a special privilege? Why, or why not?

Topic 5:

Discussion on Evaluating Riparian Buffers.

“Reasonable and appropriate conditions” are imposed to prevent a degradation in water quality.

Section 118-3-3 (c) of the Chesapeake Bay Preservation Ordinance (CBPO), incorporated by 118-6-7 (e), says that “...a buffer area that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained, if present, and established where it does not exist.” This is separate from and in addition to requirement 118-6-7 (d) that a vegetated area equal to the area of encroachment be established.

This suggests that we should be evaluating the effectiveness of the existing buffer area to retard runoff, prevent erosion, and filter nonpoint source pollution, and impose conditions to improve those functions as needed. The WQIA is one tool to help us do this.

Our ability to evaluate buffer conditions and impose “reasonable and appropriate conditions” to prevent water quality degradation would be improved if our site visits are more informed by knowledge of what a functioning riparian buffer looks like, that could help us interpret the situation on the ground when we visit a site. Here are two resources recommended to ERC members to review and understand what a functioning riparian buffer looks like and how to improve it:

- Resource 1: ["Riparian Buffers Modification and Mitigation Guidance Manual,"](#) (Chapter 2 and Preface).
- Resource 2: [Workshop on Riparian Buffer Stewardship](#), Sept. 23, 2021, by Fairfax County Stormwater and Fairfax County Park Authority staff.

Topic 6:

Next Meeting is Wednesday, October 6, 2021, at 2 p.m.

Adjourn: 5:00 p.m.