



# **Exception Review Committee Public Hearing**

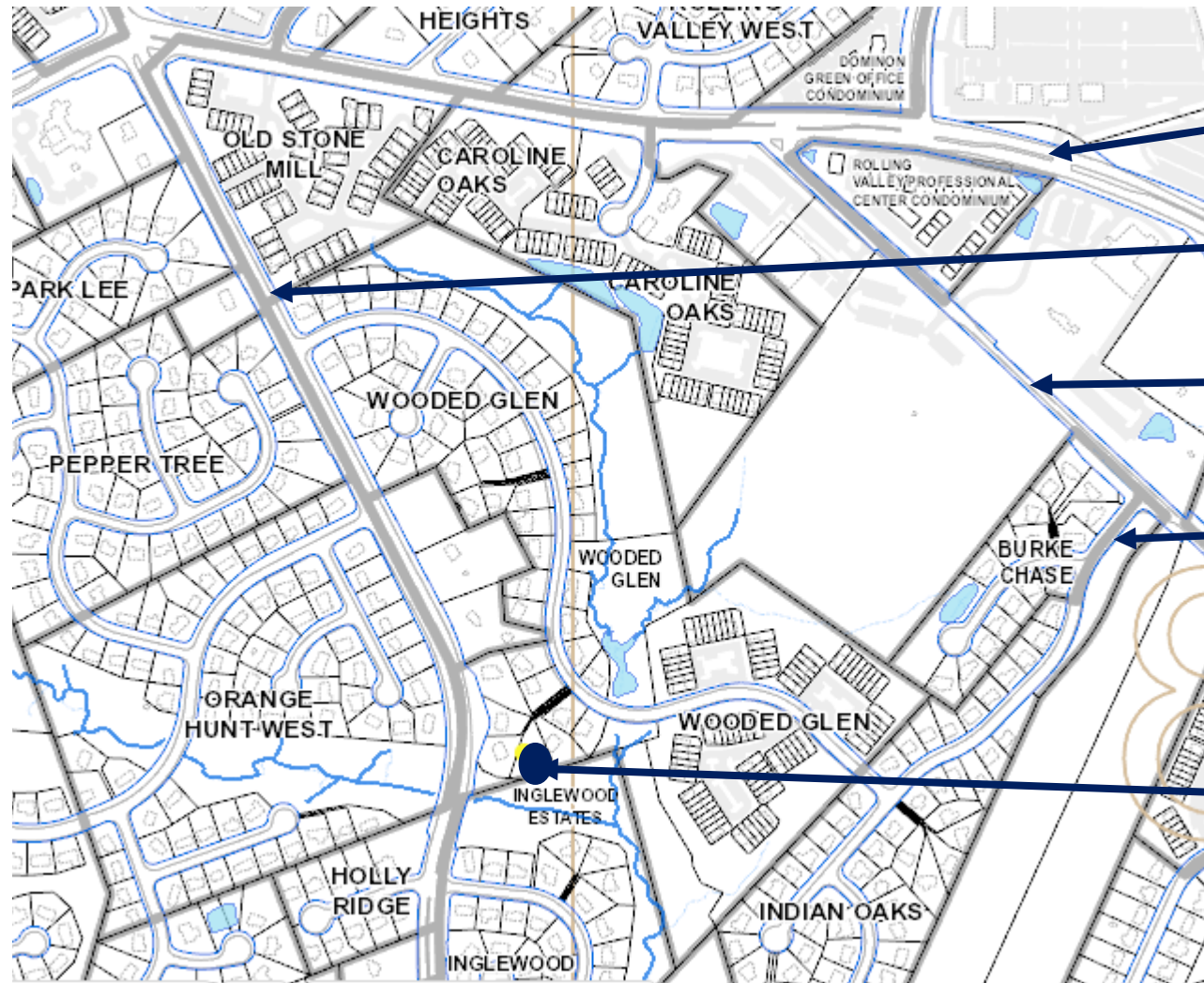
October 6, 2021

**Resource Protection Area (RPA)**

**Encroachment Exception # 5255-WRPA-003-1 &  
Water Quality Impact Assessment (WQIA) # 5255-WQ-001-3**

9407 Wooded Glen Avenue, Burke

# Site location – 9407 Wooded Glen Avenue



Old Keene Mill Road

Lee Chapel Road

Sydenstricker Road

Mainsail Drive

Site

# Staff- Summary

- Applicant requests a pool deck expansion (see slide 4; Attachment C1).
- Creates 2,317 sq. ft. land disturbance (see slide 7; Attachment C2).
- Creates 256 sq. ft. of additional impervious area (see slide 4; Attachment C3).
- Applicant proposes additional plantings (see slide 9).
- The impervious surfaces in the rear yard exceed 50% [Zoning Ordinance (ZO) 4102.7A(5)] (see slide 10; photos).
- Raising chickens for a lot size below 2 acres [ZO 4102.7J(3)(b)] (see slide 10; photos) and in the RPA.

# Timeline

- June 18, 1985: The lot was created (Deed Book 6187, Pages from 691 to 717).
- Before 1993: The pool was constructed.
- Before 2003: The access/driveway was extended to the rear yard some time between 2000-2005. Note: the county GIS imagery is several months behind the assigned date. The access was assumed to be constructed before 2003.
- The RPA was designated on the lot by Fairfax County in 2003.
- October/November 2018: Department of Code Compliance (DCC) issued the violations.
- March 30, 2021: The WQIA was deemed complete.
- June 24, 2021: 5255-WRPA-003-1 and 5255-WQ-001-3 accepted for ERC public hearing.
- October 6, 2021: Public Hearing.



# Disturbed Area (Existing vs Proposed Conditions)



2017 County GIS Imagery



(Latest) 2019 County GIS Imagery

Attachment C1

## Disturbed Area (Applicant's Assessment)

Staff rechecks the applicant's disturbance. The **2,713 sq. ft.** is verified with the County GIS tool.





# Disturbed Area (Staff's Assessment)




2005 County GIS Imagery



2017 County GIS Imagery

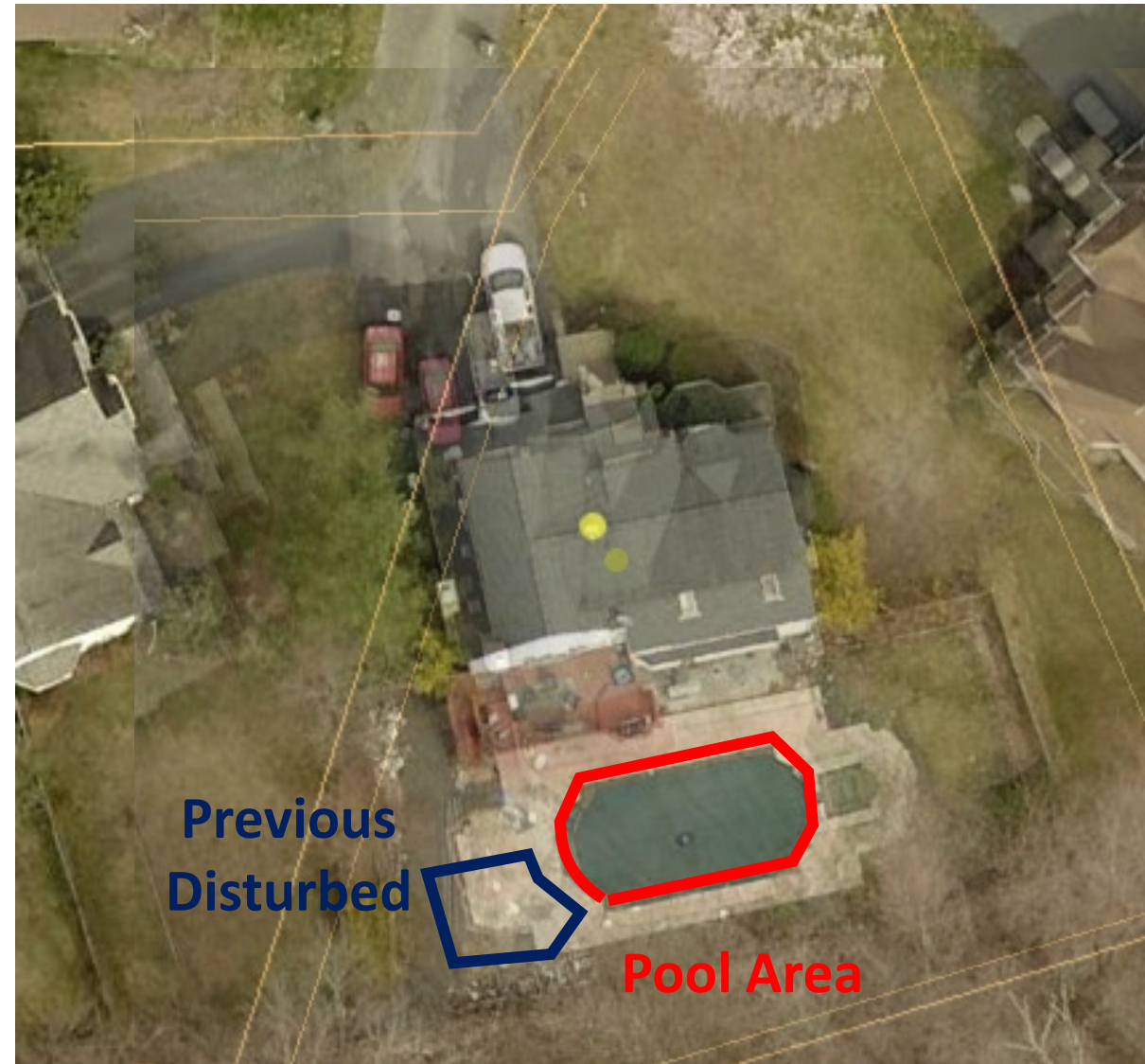
# Disturbed Area (Staff's Assessment) Cont.

Applicant's Disturbance:  
2,713 sq. ft.

Swimming Pool Area:  
600 sq. ft. 

Previously Disturbed:  
200 sq. ft. 

Total Disturbance:  
2,317 sq. ft.  
(2,713 – 600 + 200)



(Latest) 2019 County  
GIS Imagery Overlapping  
2005 and 2017)

Attachment C2



# Disturbed Area (Staff's Assessment) Cont.



2005 County GIS Imagery



2017 County GIS Imagery



(Latest) 2019 County  
GIS Imagery



## Attachment C3



# Photos (Existing vs Proposed Conditions)

Existing Condition (2016, as stated in WQIA report)



Proposed Condition (July 15, 2021)



Attachment C4



# Photos (Existing vs Proposed Conditions) Cont.

Existing Condition (2016, as stated in WQIA report)



Proposed Condition (July 15, 2021)



# Applicant – Statement in Support

- 5 Minutes

# Statements – Interested Parties

- Supporting Statements
- Opposing Statements



# Position of the Director (Staff)

## Finding 118-6-6.a

- The newly requested exception for the pool deck expansion is the minimum necessary to afford relief.

# Position of the Director (Staff)

## Finding 118-6-6.b

- It is staff's opinion that the exception for a pool deck expansion would not confer a special privilege.

# Position of the Director (Staff)

## Finding 118-6-6.c

- The Disturbance Area = 2,317 sq. ft.
- New Impervious Area in RPA = 256 sq. ft.
  - 30 sq. ft. of impervious area within the 50-foot seaward.
- Proposed Mitigation to Accommodate 2,317 sq. ft. of Disturbed Area
  - 7 overstory trees, 13 understory trees, and 68 shrubs (Applicant).
  - 5 overstory trees, 11 understory trees, and 59 shrubs (Staff).



# Position of the Director (Staff)

## Finding 118-6-6.d

- The proposed pool deck expansion is considered self-created. However, expansion is within the existing RPA encroachment.

# Position of the Director (Staff)

## Finding 118-6-6.e

- Proposed Mitigation to Accommodate the Disturbed Area.

# Position of the Director (Staff)

## Finding 118-6-6.f

- The known floodplain elevation (5255-FP-001; below 298 contour) is adjacent to the property but does not encroach into the property.
- Based on the staff's assessment, the impervious surface in the rear yard may exceed the 50% limit in the planned district. An approved Special Permit (SP) is required under the ZO 4102.7A(5).
- The applicant proposes to keep livestock (chickens) on the property. The Northern Virginia Soil & Water Conservation District does not recommend keeping chickens in the RPA. An approved SP is required under the ZO 4102.7J(3)(b). A separate Chesapeake Bay Preservation Ordinance (CBPO) Exception is required.

# Position of the Director (Staff)

Staff recommends **approval** of the RPA encroachment exception request #5255-WRPA-003-1 and the Water Quality Impact Assessment #5255-WQ-001-3.



# Position of the Director (Staff)

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

# Proposed Water Quality Impact Assessment Condition

- The vegetated buffer area to be planted as mitigation for the proposed RPA encroachment, as well as the associated planting schedule (**5 overstory trees, 11 understory trees, and 59 shrubs within the RPA boundary**), are depicted on the WQIA Exhibit. Plant materials and planting techniques shall be as specified in Public Facilities Manual (PFM) Section 12-0705, and in the “Reforestation of RPA’s” Letter-to-Industry (dated September 24, 2007). All planting work shall be done by hand or with the aid of hand-held tools. No heavy equipment shall be used to support this operation within the RPA.

# Proposed Exception Conditions

1. This RPA Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
2. 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

3. 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 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 Land Development Services (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

4. 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 riparian buffer plantings whenever the county deems necessary. Whenever reasonably possible, the county will attempt to notify the Landowner before the inspection.
5. Indigenous vegetation should be preserved to the maximum extent possible. Any further encroachment into, and/or disturbance of, the RPA not shown on the approved as-built plan will be considered a violation of the CBPO and is subject to the penalties of CBPO Article 9.

## Proposed Exception Conditions

6. 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.
7. This RPA exception will automatically expire, without notice, October 6th, 2022, unless the as-built plan is approved by LDS, the vegetated buffers have been established, and the final water quality computations submitted to LDS.

## Proposed Exception Conditions

8. The applicant must make application to and obtain approval of a Special Permit from the Board of Zoning Appeals within 12 months of this exception approval in order to allow the current rear yard coverage and comply with the provision of the Fairfax County Zoning Ordinance.
9. The applicant must remove the use of keeping livestock from the RPA or apply for a separate CBPO Exception for this accessory use and Special Permit from the Board of Zoning Appeals within 12 months of this exception.

# Applicant Rebuttal

- 3 Minutes



# Sub Rebuttal

- 2 Minutes

# Discussion of Wooded Glen

- Questions/Comments