**APPLICATION FILED**: September 30, 2005
**PLANNING COMMISION**: April 27, 2006
**BOARD OF SUPERVISORS**: May 1, 2006 @3:30 P.M.

# County of Fairfax, Virginia

**April 11, 2006**

**APPLICATION SEA 2002-MV-028 and**
**Resource Protection Area (RPA) Encroachment Request #15043-WRPA-002-1**

**MOUNT VERNON DISTRICT**

| | |
|---|---|
| **APPLICANTS:** | Scott A. and Phyllis P. Crabtree |
| **ZONING:** | R-2 |
| **PARCEL(S):** | 102-2 ((1)) 35A |
| **ACREAGE:** | 58,484 square feet (1.34 acres) |
| **PLAN MAP:** | Residential; 2-3 du/ac |
| **SE CATEGORY**: | Category 6; Uses in a Floodplain |
| **PROPOSAL:** | Amendment to SE 2002-MV-028 previously approved to permit construction of a single-family detached home on a residential lot within a 100 year floodplain to permit site modifications and changes to the development conditions. |

**STAFF RECOMMENDATIONS**:

Staff recommends approval of SEA 2002-MV-028 subject to the proposed development conditions contained in Appendix 1.

Staff also recommends approval of Resource Protection (RPA) Encroachment Request #15043-WRPA-002-1 subject to the approval of SEA 2002-MV-028 and the imposition of the proposed development conditions dated April 4, 2006 contained in the Resource Protection (RPA) Encroachment Staff Report included as Appendix 7.

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**Department of Planning and Zoning**
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703 324-1290
FAX 703 324-3924
www.fairfaxcounty.gov/dpz/

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

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Supervisors.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.

Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.
For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

**A GLOSSARY OF TERMS FREQUENTLY USED IN STAFF REPORTS WILL BE FOUND AT THE BACK OF THIS REPORT**

## DESCRIPTION OF THE APPLICATION

### Proposal:

To amend the previously approved SE 2002-MV-028 (see Appendix 10) which permitted construction of a single-family detached home on a 1.34 acre residential lot within a 100 year floodplain and Resource Protection Area (RPA). The application proposes to amend the approved Special Exception to clarify development condition number 8 accepted pursuant to the approval of the aforementioned special exception. The development condition allowed 11 cubic yards of fill required to support construction of an elevator platform. The proposed dwelling is under construction and is substantially complete. The SEA plat indicates that 241.5 cubic yards of fill was used for the construction of an existing elevator shaft, stairwell and 4,700+ square foot concrete slab. The 4,700+ square foot concrete slab was not shown on the approved special exception plat. The purpose of the application is to reflect this change in fill area and to acknowledge as built elevations of the structure.

This is a Category 6 Special Exception Use, and is subject to the provisions of the Zoning Ordinance General Standards of Section 9-006, and provisions for Uses in a Floodplain, Section 9-606, among others. No waivers or modifications of the Zoning Ordinance requirements are requested.

Copies of the applicable Zoning Ordinance provisions are attached as Appendix 8. A reduction of the Special Exception Amendment (SEA) Plat depicting the location of the residence is included in the front of this report.

### Other:

An exception to the provisions of Chapter 118 of the Chesapeake Bay Preservation Ordinance (CBPO) will be required prior to construction to allow the use within an RPA (see Appendix 9). That request has been filed and is being processed concurrently with this application. A previous RPA Exception (#4919A) was approved for the subject property which has since expired and is no longer valid.

The previously approved SEA Plat indicated 4,770 square feet of impervious area and 8,676 square feet of disturbed area in the RPA. The applicant has submitted a plat with calculations indicating 4,880 square feet of impervious area and 8,994 square feet of disturbed area in the RPA. Approval of a new RPA Exception is required, as the proposed Plat shows further encroachment of

buildable area into the RPA than that previously approved. A request for an RPA Exception was submitted, Resource Protection Area Encroachment Request #15043-WRPA-002-1, through DPWES to be processed concurrently with this Special Exception Amendment, by the Board of Supervisors. The DPWES produced report and recommendation regarding that request is included in this report as Appendix 7.

## LOCATION AND CHARACTER

### Site Description:

The property is located off an outlet road, approximately 600 feet east of East Boulevard. The property is bound to the east by the Potomac River. To the north and south are single family detached dwellings zoned R-2. To the west is a vacant parcel which is zoned R-2.

The site is currently being developed with a 7,000 square foot single family detached dwelling which is under construction and is substantially complete. The approximately 7,000 square foot residence is being constructed 16.0 feet above grade level, supported by 24 steel pilings. An approximately 550 square foot stone patio and the existing carport are proposed to remain. The slab from a 960 square foot dwelling and a 495 square foot carport, both of which are partially located within the RPA but outside the floodplain limits, as depicted on the plat, remain on the site. The foundation of the pre-existing dwelling that was on the property will remain during construction as a staging area and will be removed and restored to natural ground at the completion of the project. The carport and patio which are situated along the northern lot line of the property, immediately adjacent to a hillside with a twelve foot change in grade, are proposed to be retained. A gravel driveway extends from the outlet road to the existing dwelling and contains a turn around area near the western edge of the property. The turn around area will be removed and revegetated as part of the application. An oil tank located on the east side of the carport will also be removed.

The SEA plat also indicates revised elevations reflecting the as built elevations. The SEA plat indicates a finished elevation of the ground slab of 7.5 feet (ranging from approximately 8 feet to 6.5 feet as shown on the SEA Plat). This was not indicated on the approved SE Plat. The SEA plat also reflects revised as built elevations of the ingress and egress to the stair and the elevator. The finished elevation of the egress stair is shown as 8 feet on the SEA Plat. The approved SE Plat indicated a finished elevation of the egress stair as 11.5 feet. The finish elevation of the elevator is also shown as 8 feet on the SEA Plat.
The approved SE Plat indicated a finish elevation of the elevator as 7.3 feet.

The southern portion of the site is characterized by wetlands which extend approximately 65 to 80 feet from the southern lot line. The southern lot line is characterized by a steep hillside slope to the adjacent property. The remainder of the site is flat and is partially wooded. The majority of the site is located within the 100 year floodplain and RPA zones. The surrounding properties include single family detached homes and vacant parcels.

**Surrounding Area Description:**

| Direction | Use | Zoning | Plan |
|---|---|---|---|
| **North** | Single-Family Detached Residential | R-2 | Residential; 2-3 du/ac |
| **South** | Single-Family Detached Residential | R-2 | Residential; 2-3 du/ac |
| **East** | (Potomac River) | | |
| **West** | Vacant Land | R-2 | Residential; 2-3 du/ac |

## BACKGROUND

**Site History:**

SE 2002-MV-028 to permit construction of a single-family detached home on a residential lot within a 100 year floodplain and RPA Encroachment Exception #4919A was approved for encroachment into the by the Board of Supervisors on December 9, 2002. (see Appendix 10)

On November 5, 2004 the residential use permit for the subject property was revoked due to an error in permit application (failure to mention existence of SE). The RPA encroachment exception was extended on November 17, 2004 for six months.

Subsequent meetings with staff regarding the status of the building permit brought to light disparities in the amount of fill on the site relevant to the approved SE Plat and related development conditions. It was determined by staff that the discrepancy could not be addressed by interpretation and would require the approval of a Special Exception Amendment to address the changes. It was also determined that the additional encroachment into the RPA from that shown on the approved SE plat made the previously approved RPA Exception invalid and that approval of a new RPA Exception would be required.

**COMPREHENSIVE PLAN PROVISIONS** (See Appendix 4)

| | |
|---|---|
| **Plan Area:** | Mount Vernon Planning District; Area IV |
| **Planning Sector:** | Wellington Community Planning Section (MV4) |
| **Plan Map:** | Residential; 2-3 du/ac |

**ANALYSIS**

**Special Exception / Resource Protection Area Plat** (Copy at front of staff report)

| | |
|---|---|
| **Title of SEA/RPA Plat**: | Special Exception Plat and Resource Protection Area Plat on 8019, East Boulevard Drive |
| **Prepared By**: | Dominion Surveyors, Inc. |
| **Original and Revision Dates**: | August 19, 2005, revised to April 4, 2006 |

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**Plat Description**

The SE Plat consists of two sheets, the first of which contains the site layout, general notes, tree cover requirement calculations, existing vegetation information, wetlands certifications, RPA Exception calculations and soils information. A second sheet contains a Landscape Plan showing existing and proposed additional planting on the site.

The site is located almost entirely within the limits of the floodplain, with the exception of a portion of the site along the northern lot line where the previous dwelling was located, and on the southern lot line where a steep grade rises to the adjacent property. The plat shows that only a minimal amount of land area along the northern lot line, encompassing a portion of the former dwelling and an existing carport which is proposed to remain, is located outside the limits of the RPA.

The site layout depicts an extension of the existing driveway, extending from the outlet road on the western lot line, to an area just beyond the existing patio, where the asymmetrical footprint for the proposed dwelling extends to within 16.0 feet of the northern lot line and 128.4 feet from the Potomac River, to the east. A note on the plat indicates that the dwelling, which is oriented to the east, will contain two finished floors and a partial third floor; the first floor will have an elevation of 16.0 feet above grade. The dwelling is supported by 24 steel pilings, each having a 16 inch diameter, that are capped with concrete. A parking space is depicted under the dwelling, on the west side, at the terminus of the driveway.

An additional parking space is also shown in the area of the existing carport. An elevator is shown just south of the parking space, which is supported by a platform that required 11 cubic yards of fill of the total of 241.5 cubic yards of fill under the structure. A note on the plat indicates that the elevator will be designed to stop at the finished first floor in the event of a flood.

The landscaping plan indicates that the perimeter of the dwelling footprint will be planted with vegetation and ground cover extending three feet underneath the building deck and two feet outside the building footprint. Additional plantings are also proposed to augment existing vegetation along the northern, western and southern boundaries of the property. The applicant is requesting that the "maintained beach area" remain along the eastern boundary of the property which is adjacent to the Potomac River. It is noted that as part of the Chesapeake Bay Ordinance Exception, of which compliance will be required in order to construct the proposed dwelling, extensive replanting of the entire RPA will be required, in addition to the plantings proposed by the applicant.

The plat indicates that the development will create 5,280 square feet of impervious area and 9,536 feet of disturbed area, including a ten foot area around the dwelling that is labeled "disturbed area" which delineates the limits of clearing and grading. This included a 4,784 square foot concrete ground level slab below the house.

**Land Use Analysis** (See Appendix 4)

The Comprehensive Plan recommends the site for residential development at a density of 2-3 dwelling units per acre. The proposed construction of a single family detached dwelling on 1.34 acres (.75 du/ac) is well below the density recommendation set forth in the Comprehensive Plan.

**Environmental Analysis** (See Appendix 4)

The Environmental Analysis notes that the construction of the concrete foundation added impervious surface to the site and resulted in a loss of natural infiltration for overland stormwater runoff. The previously approved Special Exception indicated that 11 cubic yards of fill would be required to support construction of an elevator platform under the structure. The SEA plat indicates that 241.5 cubic yards of fill was used for the construction of an existing elevator shaft, stairwell and 4,700+ square foot concrete slab. The 4,700+ square foot concrete slab was not shown on the approved special exception plat.

The approved Special Exception indicated preservation of natural infiltration is particularly important given its location and function within RPA/floodplain/EQC and proximity to the Potomac River. To mitigate for the added impervious surface and the further intrusion into the RPA the existing carport shown to

remain should be removed and revegetated and the area shown as "the maintained beach area" should be vegetated with additional. This should offset the loss of natural infiltration, help prevent erosion and protect the quality of receiving water bodies. These mitigation measures are included as proposed development conditions in Appendix 1.

**Issue: Environmental Quality Corridor (EQC):**

The Comprehensive Plan recommends that wetlands and environmental quality corridors should be preserved. The EQC policy of the Comprehensive Plan works in concert with the County's Chesapeake Bay Preservation Ordinance (CBPO) and the floodplain regulations of the Zoning Ordinance to protect water quality and associated environmentally sensitive lands in the County. It is recommended that the property owner undertake the following measures in order to minimize impacts upon this environmental sensitive area:

- minimize the encroachment into the EQC,
- provide buffer restoration as mitigation for the encroachment,
- adhere strictly to the thresholds stipulated by the CBPO for the minimum amount of land disturbance and proposed new impervious surface coverage, and prohibit clearing between the proposed home and the river sight for lines and vistas.

**Resolution:**

Proposed development conditions which require the removal of the existing carport and additional plantings in the "lawn beach area", will provide satisfactory mitigation measures to offset the additional disturbance on the site and intrusion into the RPA caused by the additional fill not shown on the approved special exception plat. With the adoption of the proposed development conditions, this issue is addressed.

**Transportation Analysis** (See Appendix 5)

There are no transportation issues associated with this request.

**DPWES/Environmental and Facilities Review Division Analysis**
(See Appendix 6)

The SEA Plat shows an additional 7 to 10 feet of clearing, grading and RPA Encroachment along the approximately 90 linear feet of the front of the dwelling, beyond that previously approved under the original Special Exception. The Plat

also shows that the RPA in the rear yard of the dwelling along the Potomac River is to be a “Maintained Beach Lawn” area. To be consistent with the required findings and criteria of CBPO 118-3-3(f), Buffer Area Establishment., the clearing and grading limits as well as the area described as a maintained beach area must be vegetated. This vegetation in the RPA shall consist of a mixture of overstory trees, understory trees, scrubs and groundcovers.

The plat now indicates that 8,994 square feet of disturbance will occur due to the additional encroachment into the RPA by the additional fill from the concrete slab beneath the house. The encroachment of the slab under the house is beyond that shown on the previously approved plat associated with the approved special exception. The CBPO requires that the disturbance and impervious area within the RPA be minimized. In order to minimize and mitigate the impact of the additional impact of the increase of impervious surface over that of the approved Special Exception, DPWES staff recommends that the carport shown to remain be removed in order to mitigate the loss of impervious surface. The additional fill under the house provides a location for additional parking below the structure for a second vehicle to be parked eliminating the need for the existing carport to remain for parking purposes. In addition several errors and discrepancies on the Special Exception Plat were referred to in the DPWES/Environmental and Facilities Review Division Analysis. All these issues were either corrected subsequent to the publication of the analysis or have been addressed by proposed development conditions.

**DPWES/ Resource Protection Area Exception (RPAE) Request**
(See Appendix 7)

Under Section 118-6-2 (copy attached In Appendix 8) of the CBPO, a Resource Protection Area Exception (RPAE) may be approved when the strict application of the RPA criteria would result in the effective loss of a reasonable buildable area on a lot established prior to the effective date of the CBPO. The exception may be considered only if the proposed development does not exceed 10,000 square feet of land disturbance and does not create more than 5,000 square feet of impervious surface within the RPA and shall be the minimum necessary to afford relief to achieve a reasonable buildable area for a principal structure and necessary utilities.

A previous RPA Exception (#4919A) was approved for the subject property which has since expired and is no longer valid. RPA Encroachment Exception #4919A was approved for encroachment into the by the Board of Supervisors on December 9, 2002. The RPA encroachment exception was extended again on November 17, 2004 for six months. Subsequent meetings with staff regarding the status of the building permit brought to light disparities in the amount of fill on the site relevant to the approved SE Plat and related development conditions.

It was also determined that the additional encroachment into the RPA from that shown on the approved SE plat made the previously approved RPA Exception invalid and that approval of a new RPA Exception would be required.

The previously approved SEA Plat indicated 4,770 square feet of impervious area and 8,676 square feet of disturbed area in the RPA. The applicant has submitted a plat with calculations indicating 4,880 square feet of impervious area and 8,994 square feet of disturbed area in the RPA, which is an increase of 110 square feet of impervious area and 318 square feet of disturbed area in the RPA. Approval of a new RPA Exception is required, as the proposed Plat shows further encroachment into the RPA than that previously approved. A request for an RPA Exception was submitted, Resource Protection Area Encroachment Request #15043-WRPA-002-1, through DPWES to be processed concurrently with this Special Exception Amendment, by the Board of Supervisors. The DPWES produced report and recommendation regarding that request is included in this report as Appendix 9. In the report DPWES recommends approval of RPA Exception #15043-WRPA-002-1, subject to the proposed RPAE Exception conditions contained in Attachment A of the Staff Report.

**ZONING ORDINANCE PROVISIONS** (See Appendix 7)

| Standard | Required | Provided |
|---|---|---|
| **Bulk Standards (R-2)** | | |
| **Lot Size** | 15,000 sq. ft. min. | 58,484 sq. ft. |
| **Lot Width** | 100 ft. min. | 125 ft. |
| **Building Height** | 35 ft. max. | 35 ft. |
| **Front Yard** | 35 ft. min. | 99 ft. |
| **Side Yard** | 15 ft. min. | 15 ft. |
| **Rear Yard** | 25 ft. min. | 117 ft. |
| **Parking** | | |
| **Parking Spaces** | 2 spaces min. | 2 spaces |

**OTHER ZONING ORDINANCE REQUIREMENTS**:

**Special Exception Requirements** (See Appendix 8)

- General Special Exception Standards (Sect. 9-006)
- Use Limitations, Fill in the Floodplain (Sect. 2-906)

**General Special Exception Standards (Sect. 9-006)**

All special exception uses are required to meet general standards. In staff's judgment, the subject application has met all of the general special exception standards, as noted below.

General Special Exception Standard #1 states that the proposed use at the specified location shall be in harmony with the adopted comprehensive plan. Staff believes that the proposed dwelling is in harmony with the environmental policy recommendations of the Comprehensive Plan. Therefore, this standard has been met with the imposition of the proposed development conditions in Appendix 1.

Standard #2 requires that the proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations. The subject application is in harmony with the general purpose and intent of the applicable zoning district regulations that limit the density to a maximum of two dwelling units per acre and set forth minimum yard requirements. Staff believes that this standard has been met.

Staff believes that the remainder of the general standards have been adequately addressed; an elevation of a prototype for the dwelling has been provided; the application presents an appropriate level of screening and landscaping; vehicular access will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; adequate utility, drainage, parking, loading areas and other necessary facilities to serve the proposed use have been provided.

**Use Limitations – Sect. 2-906**

All permitted uses and all special exception uses in a floodplain shall be subject to the following provisions:

1. *Except as may be permitted by Par. 6 and 7 of Sect. 903 above, any new construction, substantial improvements, or other development, including fill, when combined with all other existing, anticipated and planned development, shall not increase the water surface elevation above the 100-year flood level upstream and downstream, calculated in accordance with the provisions of the Public Facilities Manual.*

A note on the SEA Plat indicates that the development will not increase the water surface elevation above the 100-year flood level upstream and downstream. This standard has been met.

2. *Except as may be permitted by Par. 8 of Sect. 903 above, the lowest elevation of the lowest floor of any proposed dwelling shall be eighteen (18) inches or greater above the water-surface elevation of the 100-year flood level calculated in accordance with the provisions of the Public Facilities Manual.*

   This standard will be met as noted on the SEA Plat the house elevation is approximately 7.5 feet.

3. *All uses shall be subject to the provisions of Par. 1 of Sect. 602 above.*

   Par. 1 of Sect. 2-602 states that there shall be no filling, change of contours, or establishment of any use in the floodplain except as may be permitted by the provisions of Par. 1 of Sect. 2-601 or by Part 9 of Article 2 Manual (PFM). Staff has proposed a development condition to reiterate that note and to ensure that the geotechnical study will be submitted prior to Site Plan approval if required by DPWES. Additionally a grading plan will be required at Site Plan review. With these provisions, this standard will be met.

4. *No structure or substantial improvement to any existing structure shall be allowed unless adequate floodproofing as defined in the Public Facilities Manual is provided.*

   A note on the SEA Plat states that the site will comply with all state and federal waterproofing requirements. With this commitment by the applicant, this standard has been met.

5. *To the extent possible, stable vegetation shall be protected and maintained in the floodplain.*

   The landscape plan included as page 2 of the SEA Plat indicates existing and supplemental plantings on the site to meet the landscaping requirements of the Zoning Ordinance and the Chesapeake Bay Ordinance. With these provisions, staff believes that this standard has been met.

6. *There shall be no storage of herbicides, pesticides, or toxic or hazardous substances as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 et seq., in a floodplain.*

Staff has proposed a development condition stating that there shall be no storage of herbicides, pesticides, or toxic or hazardous substances as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 et seq., within the floodplain. With implementation of this development condition, this standard will be met.

7. *For uses other than those enumerated in Par. 2 and 3 of Sect. 903 above, the applicant shall demonstrate to the satisfaction of the approving authority the extent to which:*

   A. *There are no other feasible options available to achieve the proposed use; and*

      As, stated previously, this lot was established in an area predating a number of regulatory and Policy Plan recommendations including guidance on the EQC and floodplain. Given theses circumstances, the development of a single family detached dwelling on the subject site may be deemed appropriate.

   B. *The proposal is the least disruptive option to the floodplain; and*

      As noted above, staff believes that the applicant's proposal subject to the proposed development conditions is the least disruptive option to the floodplain.

   C. *The proposal meets the environmental goals and objectives of the adopted comprehensive plan for the subject property.*

      To be consistent with the Comprehensive Plan's objectives to protect water quality through compliance with the CBPO and to reduce potential flood hazard impacts, the applicant proposes additional plantings on-site to augment existing vegetation. With these provisions, staff believes this standard has been met.

8. *Nothing herein shall be deemed to prohibit the refurbishing, refinishing, repair, reconstruction or other such improvements of the structure for an existing use provided such improvements are done in conformance with the Virginia Uniform Statewide Building Code and Article 15 of this Ordinance.*

   A development condition is proposed which requires conformance with the Virginia Uniform Statewide Building Code and all required codes and regulations; therefore, this standard would be satisfied.

9. *Nothing herein shall be deemed to preclude public uses and public improvements performed by or at the direction of the County.*

***This does not apply to the proposed application.***

10. *Notwithstanding the minimum yard requirements specified by Sect. 415 above, dwellings and additions thereto proposed for location in a floodplain may be permitted subject to the provisions of this Part and Chapter 118 of The Code.*

***This is not applicable as the subject site is located entirely within the 100-year floodplain.***

11. *All uses and activities shall be subject to the provisions of Chapter 118 of The Code.*

    The subject site is located partially within the Resource Protection Area (RPA) as defined by the County's Chesapeake Bay Preservation Ordinance (CBPO) and within the Environmental Quality Corridor (EQC) as designated by the Comprehensive Plan. As discussed previously in this report, the applicant has submitted a Loss of Buildable Area Exception, which is required for encroachment into the RPA. The applicant has also submitted a Water Quality Impact Assessment (WQIA) to demonstrate compliance with the performance criteria of the CBPO. Final action on these documents cannot occur until after the Board of Supervisors completes action on this SE application. DPWES has reviewed this request and recommended approval of the request subject to conditions contained in the RPA Exception staff report which is included as Appendix 6. Therefore staff believes that at the time of approval of the Loss of Buidable Area Exception and WQIA, this standard will be met.

12. *When as-built floor elevations are required by federal regulations or the Virginia Uniform Statewide Building Code for any structure, such elevations shall be submitted to the County on a standard Federal Emergency Management Agency (FEMA) Elevation Certificate prior to approval of the final inspection. If a non-residential building is being floodproofed, then a FEMA Floodproofing Certificate shall be completed in addition to the Elevation Certificate. In the case of special exception uses, the Elevation Certificate shall show compliance with the approved special exception elevations.*

    Staff has proposed development conditions, requiring elevations to be submitted on a FEMA Elevation Certificate prior to framing inspection, and conformance with the Virginia Uniform Statewide Building Code and all required codes, regulations, and floodproofing requirements. With the implementation of these conditions, this standard will be met.

### Summary of Zoning Ordinance Provisions

As noted above, staff believes that the applicable standards have been satisfied. Uses proposed in a floodplain are required to meet the Use Limitations of Part 9 of Article 2. In staff's judgment, the proposed development meets the requirements of these provisions with the imposition of the proposed development conditions in Appendix 1.

## WAIVERS AND MODIFICATIONS

An exception to the provisions of Chapter 118 of the Chesapeake Bay Preservation Ordinance (CBPO) Resource Protection Area Encroachment Request #15043-WRPA-002-1is requested to allow the use within an RPA (see Appendix 7). DPWES has recommended approval of this request.

## CONCLUSIONS AND RECOMMENDATIONS

### Staff Conclusions

The subject application proposes to amend the previously approved SE 2002-MV-028 which permitted construction of a single-family detached home on a 1.34 acre residential lot within a 100 year floodplain and Resource Protection Area (RPA). The application proposes to amend the approved Special Exception to clarify development condition number 8 accepted pursuant to the approval of the aforementioned special exception. The development condition allowed 11 cubic yards of fill required for to support an elevator platform. The revised plat indicates that 241.5 cubic yards of fill present for the construction of an elevator shaft, stairwell and 4,700+ square foot concrete slab not shown on the approved special exception plat. The purpose of the application is to reflect this change in fill area.

With the imposition of the proposed development conditions contained in Appendix 1, which includes conditions which require the removal of the existing carport and additional plantings in the "lawn beach area", the additional disturbance on the site and intrusion into the RPA caused by the additional fill will effectively be mitigated. With the imposition of the aforementioned development conditions, staff concludes that the subject application is in harmony with the Comprehensive Plan and is in conformance with the applicable Zoning Ordinance provisions.

**Staff Recommendations**

Staff recommends approval of SE 2002-MV-028 subject to the Proposed Development Conditions contained in Appendix 1.

Staff further recommends that the Board of Supervisors approve Resource Protection (RPA) Encroachment Request #15043-WRPA-002-1 subject to the approval of SEA 2002-MV-028 and the imposition of the proposed development conditions found as Attachment A contained in Appendix 7.

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

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Supervisors.

## APPENDICES

1. Proposed Development Conditions
2. Affidavit
3. Statement of Justification
4. Environmental Analysis
5. Transportation Analysis
6. Department of Public Works and Environmental Services Analysis
7. Staff Report on Resource Protection Area Encroachment Request
8. Applicable Zoning Ordinance Provisions Checklist
9. Excerpts from the Chesapeake Bay Preservation Ordinance
10. Approved Development Conditions and SE Plat for SE 2002-MV-028
11. Glossary of Terms

**APPENDIX 1**

## REVISED PROPOSED DEVELOPMENT CONDITIONS

## SEA 2002-MV-028

## April 11, 2006

If it is the intent of the Board of Supervisors to approve SEA 2002-MV-028 located at 8019 East Boulevard (Tax Map 102-2 ((1)) 35A) to allow uses in a floodplain pursuant to Sect. 2-904 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions. These development conditions incorporate and supersede all previous development conditions. Those conditions carried forward from the previous special permit and special exception are marked with an asterisk (*). Minor edits have been made to conform to current standards.

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

2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Special Exception Plat approved with the application, as qualified by these development conditions.*

3. Any plan submitted pursuant to this Special Exception shall be in substantial conformance with the approved Special Exception plat **entitled Special Exception Plat, and prepared by Dominion Surveys, Inc., which is dated August 19, 2005 and revised to April 4, 2006,** and these conditions.

4 A Hold Harmless agreement shall be executed with the County for all adverse effects which may arise as a result of the location of the house and appurtenant structures within a floodplain area. *

5. If not already done, prior to approval of any plan or permit, the applicant shall demonstrate to the satisfaction of DPWES the right to access the property through a recorded ingress egress easement across Tax Map 102-2 ((1)) 35. *

6. The limits of clearing and grading, as shown on the SEA Plat shall be strictly adhered to and no disturbance shall be permitted beyond those limits except for revegetation. *

7. The dwelling shall be constructed on pilings, as shown on the SEA Plat and shall be elevated eleven (11) feet above grade level. The amount of fill permitted shall not exceed a maximum of 241.5 cubic yards. Prior to issuance of a building permit, a grading plan shall be submitted to DPWES for approval. Trees and indigenous vegetation within the limits of clearing and grading shall be preserved on the site during the construction process to the maximum extent feasible as determined by the UFM, DPWES.

8. If deemed necessary by DPWES, a geotechnical report shall be submitted to DPWES for foundation design and earthwork engineering. Plans shall be implemented as required by DPWES.*

9. The applicant shall notify the US Army Corps of Engineers prior to the approval of a grading plan to ensure compliance with § 404 of the Clean Water Act. Any required wetlands permit shall be obtained prior to commencement of land disturbing activity. *

10. As-built floor elevations for the residence shall be submitted in accordance with Section 3107.12.1 of the Virginia Uniform Statewide Building Code (VUSBC 1977) on a standard FEMA Elevation Certificate prior to approval of the framing inspection. *

11. All construction shall be in conformance with Section 3107.0 Flood-Resistant Construction of the Virginia Uniform Statewide Building Code (VUSBC 1977). A statement certifying all floodproofing proposed, and indicating its compliance with all County, State, and Federal requirements shall be provided with the Building Permit application. This certification shall be signed, sealed, and indicate the address of the certifying professional and it shall cover all structural, electrical, mechanical, plumbing, water and sanitary facilities connected with the use. *

12. Erosion and sediment control measures shall be installed at all stages of construction. A "super silt fence" shall be installed and maintained along the clearing and grading limits and all tree preservation areas for the site and shall remain in place in an acceptable functional condition for the duration of land disturbing activity or until it is determined by DPWES that the area is stabilized. If deemed necessary by DPWES, controls shall be designed to achieve greater erosion and sediment control than that achieved by the minimum design standards set forth in the Public Facilities Manual and the current Virginia Erosion and Sediment Control Handbook. *

13. Stormwater drainage shall be directed to ditches through the use of pipes, swales, or other devices, as determined by DPWES. Any fill area shall be stabilized, graded, or have drains installed such that normal rainfall will not flow over unprotected fill area onto adjacent properties. *

14. Disclosure of potential flood hazards due to the location of the site within the 100-year floodplain shall be made in writing to any potential home buyers prior to entering into a contract of sale. *

15. All building supplies and construction equipment shall be located and stored only within the area designated as disturbed area on the SEA Plat. *

16. The existing gravel turnaround located south of the existing driveway shall be removed and restored to a vegetated state, as depicted on the SEA Plat and as determined by DPWES. *

17. The dwelling shall be limited to a maximum height of 35.0 feet. *

18. An area equal in size to the disturbed area within the RPA shall be restored between the dwelling and the Potomac River, as defined by UFM, DPWES, and such area shall be planted with native plant species as determined by the Urban Forest Management Branch. The applicant shall provide plantings under and around the dwelling, as shown on the SEA Plat. No clearing, other than for dead or dying plants, shall be permitted between the dwelling and the Potomac River.*

19. In the event the applicant is unable to obtain the necessary easements to extend sanitary sewer to the property, this Special Exception shall become null and void.*

20. The existing carport shown to remain on the SEA Plat shall be removed and the underlying ground shall be restored and planted with native plant species as determined by the UFM, DPWES.

21. The area shown on the SEA Plat as an"existing Lawn Beach Area" in the rear yard adjacent to the Potomac River shall be planted with a mixture of overstory trees, understory trees, scrubs and groundcovers in accordance with the Chesapeake Bay Protection Ordinance to provide mitigation for the increase in impervious surface and additional intrusion into the RPA .

22. To the extent possible, stable vegetation in the floodplain shall be protected and maintained as determined by UFM, DPWES.

23. There shall be no storage of herbicides, pesticides, or toxic or hazardous substances as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 et seq., within the floodplain.

24. All mechanical, electrical, and utility equipment shall be at or above the flood level.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Sect. 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.