



APPLICATION ACCEPTED: October 19, 2007  
PLANNING COMMISSION: February 20, 2008  
BOARD OF SUPERVISORS: Not yet scheduled.

# County of Fairfax, Virginia

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February 6, 2008

## STAFF REPORT

APPLICATION SEA 88-V-006

MOUNT VERNON DISTRICT

**APPLICANT:** Michael MacNair

**ZONING:** R-2

**PARCEL:** 110-3 ((4)) (H) 11

**ACREAGE:** 22,266 square feet (SF)

**OPEN SPACE:** 88%

**PLAN MAP:** Residential, 2-3 du/ac

**SE CATEGORY:** Category 6; Use in the Floodplain

**SEA PROPOSAL:** The applicant seeks to amend the previously approved special exception for uses in a floodplain in order to permit the construction of two (2) decks and a patio to the existing dwelling.

### STAFF RECOMMENDATIONS:

Staff recommends approval of SEA 88-V-006, subject to the proposed development conditions contained in Attachment 1.

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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/](http://www.fairfaxcounty.gov/dpz/)

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It should be noted that it is not the intent of the 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 recommendation of staff; it does not reflect the position of the Board of Supervisors.

The approval of this special exception amendment does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

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.

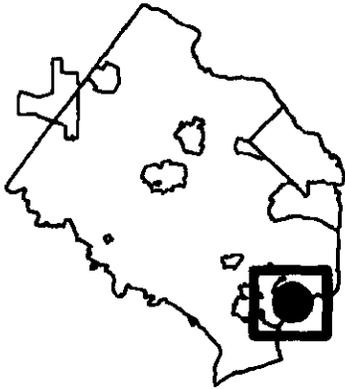


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.  
For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

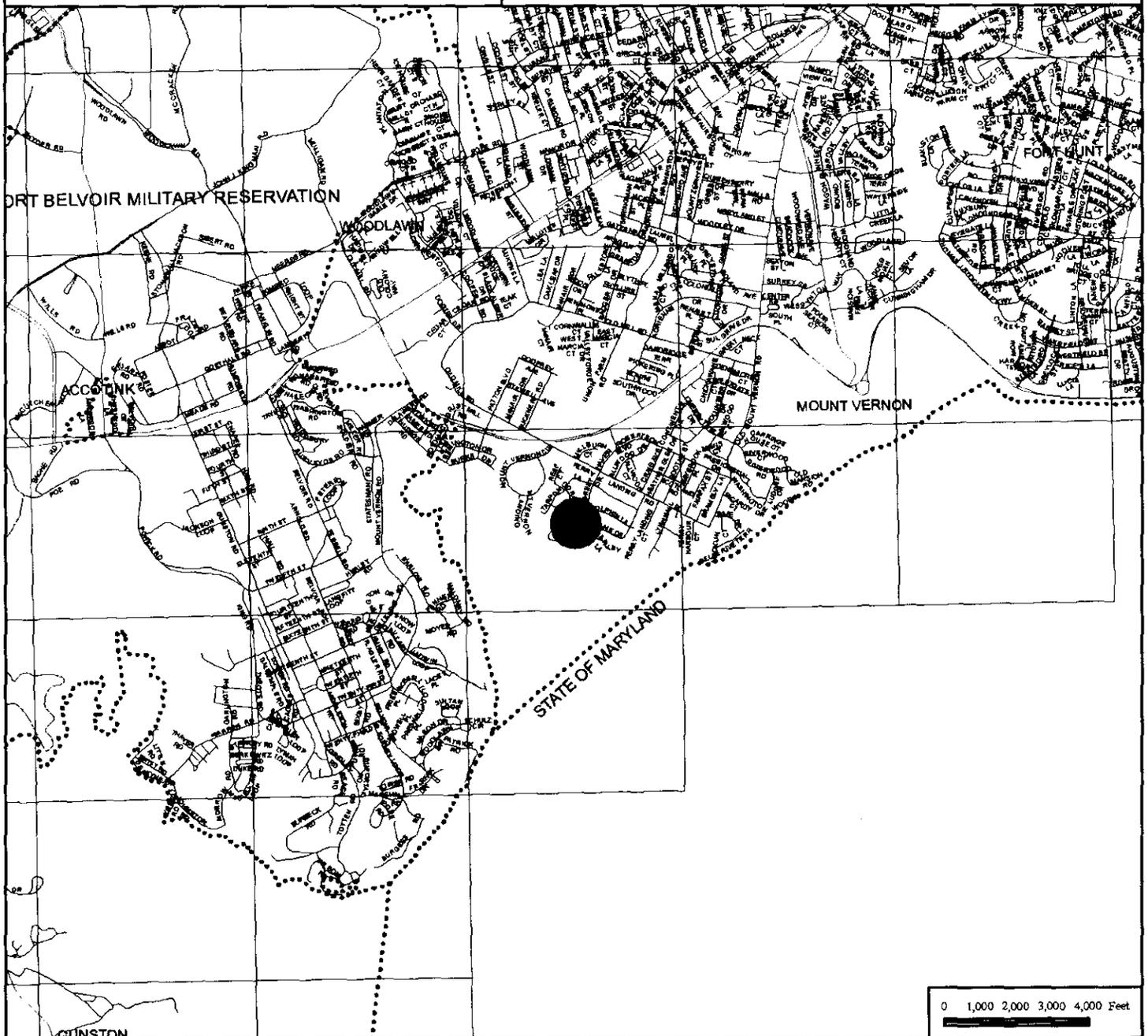
# Special Exception Amendment

SEA 88-V-006

Applicant: MICHAEL MACNAIR  
Accepted: 10/19/2007  
Proposed: USES IN A FLOODPLAIN  
Area: 22,266 SF OF LAND; DISTRICT - MOUNT VERNON



Zoning Dist Sect: 02-0904  
Art 9 Group and Use: 6-2  
Located: 4609 DOLPHIN LANE  
Zoning: R-2  
Plan Area: 4,  
Overlay Dist:  
Map Ref Num: 110-3- /04/H /0011

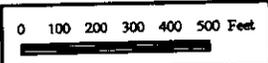
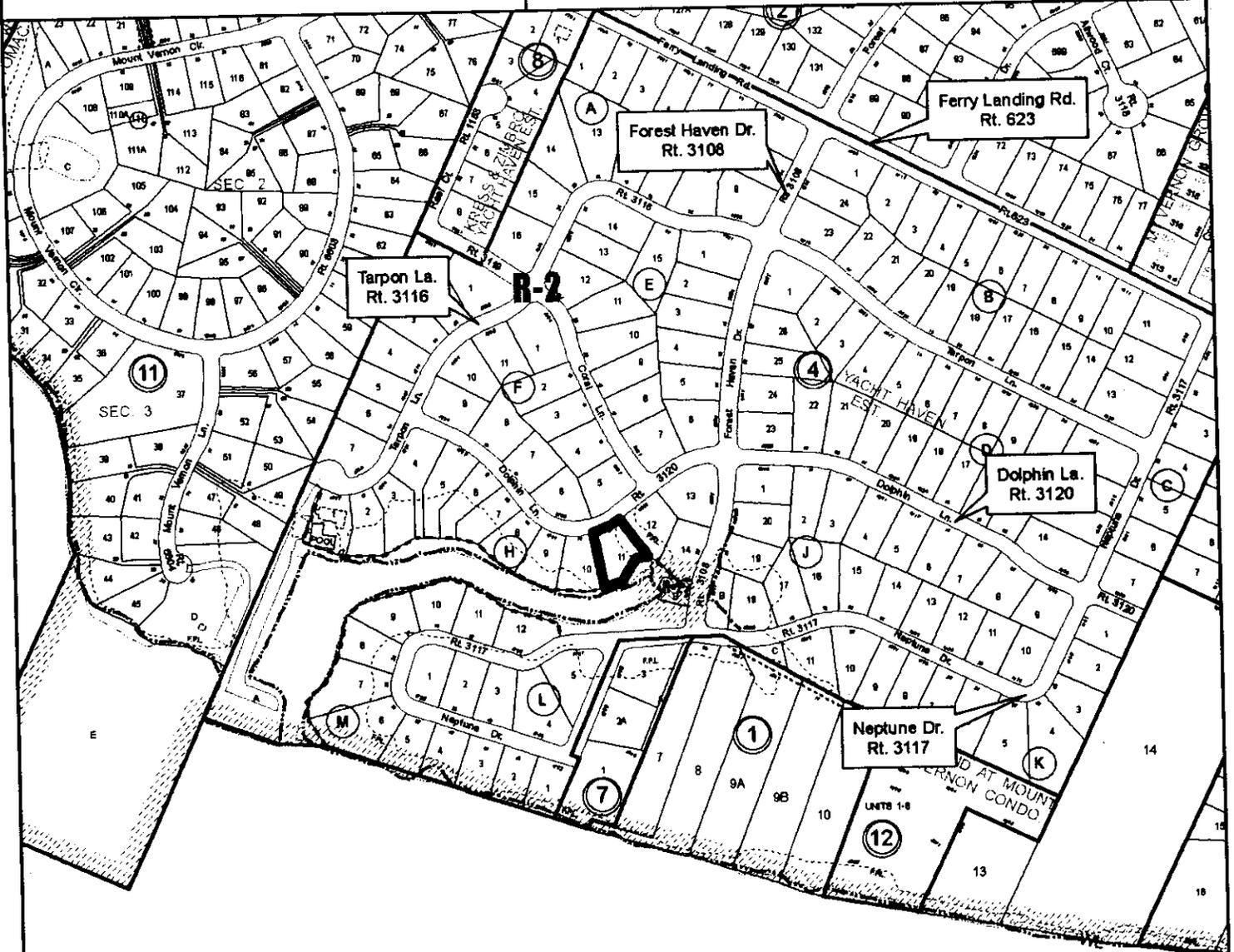
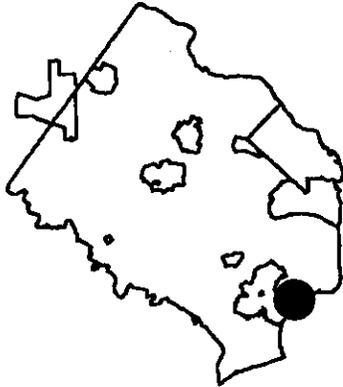


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**A GLOSSARY OF TERMS FREQUENTLY  
USED IN STAFF REPORTS WILL BE  
FOUND AT THE BACK OF THIS REPORT**

**DESCRIPTION OF THE APPLICATION**

**Special Exception Amendment (SEA) Proposal**

The 22,226 square foot (SF) subject property is located at 4609 Dolphin Lane, near the southeast quadrant of the intersection of Forest Haven Drive and Dolphin Lane. The applicant, Michael MacNair, seeks to amend the previously approved Special Exception, for a single-family detached residential structure in the floodplain, in order to permit the addition of two (2) decks along the rear of the existing single-family detached residence. The application also seeks approval of an existing outdoor patio, which was not depicted upon the original SE plat and is located below the proposed decks. The proposed decks would have a total square footage of 995 SF, and the existing patio (located below the decks) is approximately 996 SF. The proposed decks will require no clearing, filling, or increase in impervious area, and will only require an approximate maximum disturbed area of 200 square feet. There will be no encroachment into the floodplain or additional fill proposed with this application.

**Waivers and Modifications**

There are no waivers or modifications being requested with this application.

**LOCATION AND CHARACTER**

**Subject Property**

The subject property is zoned R-2, lies within a Resource Protection Area (RPA), and includes a major floodplain. The floodplain, which is located along the property's southern and eastern property lines, is associated with an abutting and unnamed tributary to the Dogue Creek, that also exists on part of all of the surrounding properties that abut the cove. The subject site contains an existing 3-story single-family detached dwelling, which was built in 1991, prior to the designation of the RPA on the site, which occurred in 1993.

**Surrounding Properties**

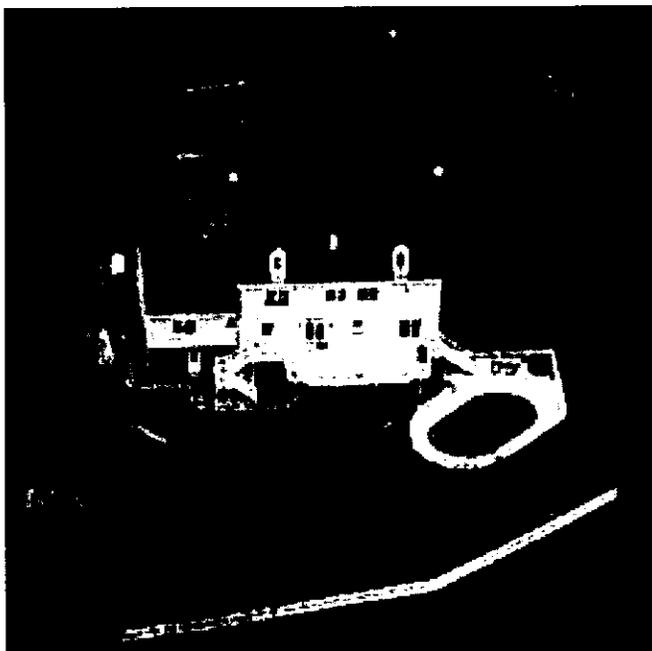
<b>Direction</b>	<b>Use</b>	<b>Zoning</b>	<b>Plan</b>
<b>North</b>	Single-family detached dwellings	R-2	Residential; 2-3 du/ac
<b>South</b>	Single-family detached dwellings	R-2	Residential; 2-3 du/ac
<b>East</b>	Single-family detached dwellings	R-2	Residential; 2-3 du/ac
<b>West</b>	Single-family detached dwellings	R-2	Residential; 2-3 du/ac

**BACKGROUND** (See Appendix 8)***Special Exceptions***

Records indicate that three (3) previous Special Exceptions were approved by the Board of Supervisors on the subject property to permit the filling of the floodplain for the construction of a single-family detached dwelling. Two (2) of those Special Exceptions, SE 79-V-028 (approved in 1979) and SE 83-V-012 (approved in 1983), expired prior to the establishment of the respective residential use upon the property. On October 31, 1988, SE 88-V-006 was approved by the Board of Supervisors to permit a single-family detached dwelling within the floodplain with conditions, and in 1991, a residence was constructed, in conformance with the approved Special Exception.

***Building Permits***

In 1990, a building permit was issued for an upper deck attached to the rear of the existing residence, and in 1993, a second permit was issued for an above-ground pool and associated deck, also located along the rear of the residence (please refer to *Figure 1*). In 1999, the applicant, Mr. Michael MacNair, bought the subject property. In the spring of 2007, Mr. MacNair decided to remove the upper deck and above-ground pool/associated deck and to replace them with two (2) new decks (as is currently being proposed). Upon applying for the required building permits, Mr. MacNair was informed that an interpretation would be needed to ensure that the proposed decks were in substantial conformance with the approved SE Plat and development conditions for SE 88-V-006. On June 27, 2007, the Zoning Evaluation Division determined that the proposed decks were not in substantial conformance with the approved SE Plat and that an amendment to the previously approved Special Exception would be required. As such, the applicant has filed SEA 88-V-006 seeking approval for the proposed decks.



***Figure 1:*** 2007 photograph of 4606 Dolphin Lane, taken from the south (rear) of the property. The photograph depicts the former upper deck and above-ground pool/associated lower deck, both of which have since been removed. The existing patio is also visible underneath the upper deck.

**COMPREHENSIVE PLAN PROVISIONS**

<b>Plan Area:</b>	IV
<b>Planning District:</b>	Mount Vernon Planning District
<b>Planning Sector:</b>	Mount Vernon Community Planning Sector (MV7)
<b>Plan Map:</b>	Residential Use, 2-3 du/ac

There is no specific Plan text for this site.

**ANALYSIS****Special Exception Amendment (SEA) Plat (Copy at front of staff report)**

**Title of SEA Plat:** Special Exception Amendment Plat,  
4609 Dolphin Lane Deck Plan

**Prepared By:** Widewater Consulting, Inc.

**Original and Revision Dates:** July 23, 2007, as revised through  
December 19, 2007

**Description of the Plat**

The SE Plat consists of one (1) sheet. Sheet 1 of 1 includes an illustration of the layout plan for the property (with existing and proposed conditions), topographic, RPA, floodplain, and landscaping depictions, general notes, development narrative, disturbance note, height data, zoning data, and two (2) elevations of the proposed decks.

The SEA Plat depicts a site layout as follows:

***Existing Patio***

- The SEA Plat depicts an existing 996 (approximately 15' x 65') square foot stone-paved patio located to the rear, or south side, of the subject dwelling. In reviewing past plats and aerials of the property, the patio appears to have been built back in 1991. According to the SEA Plat, 989 SF of the existing 996 SF patio falls within the property's RPA.

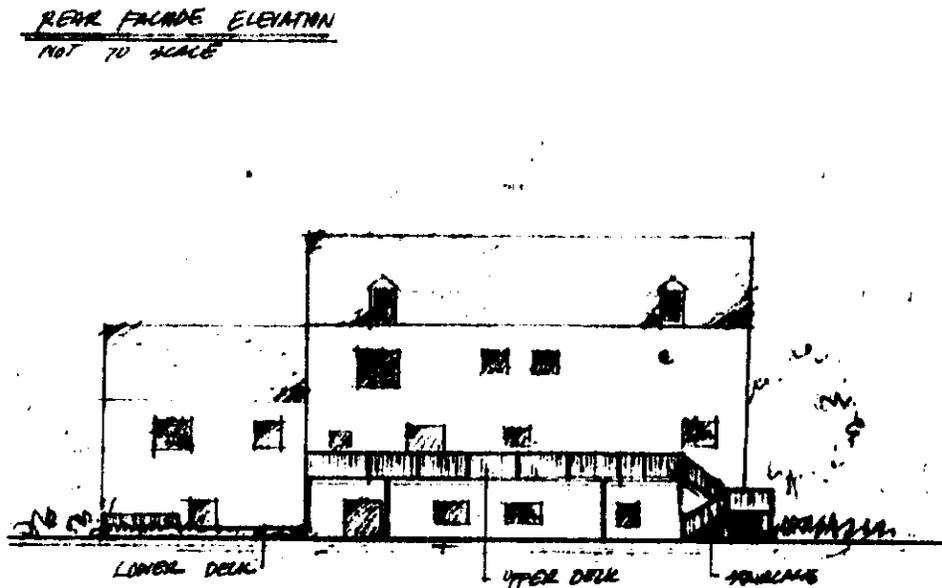
***Proposed Decks***

- The applicant is proposing to build an upper and lower deck, totaling 995 SF, along the rear of his residence. Due to the slope of the property, the rear side of the dwelling is located almost five (5) feet lower in elevation than the front side of the house. As a result, the 'basement façade' is fully exposed along

the rear of the residence, and effectively serves as the dwellings ground floor along that portion of the property.

*Lower Deck:* The applicant's proposed lower deck, to be built at ground level, would be located near the southwest corner of the residence. The lower deck, which is "L-shape" in form, measures approximately 21 feet in length by 8 feet in width, and is proposed at an elevation of 12.75 feet, which is just above the basement elevation of 12 feet.

*Upper Deck:* The proposed upper deck, also located along the rear of the dwelling, will connect directly to the structure's first floor and be accessible from the dwelling and/or from an outside staircase proposed to be located near the southeast corner of the dwelling. The upper deck, which is rectangular in shape, measures approximately 51 feet in length by 12 feet in width, and is proposed at an elevation of 21.4 feet, or approximately 10 feet above the average grade of the existing ground floor patio.



*Figure 2:* Rear Façade Elevation of applicant's proposed lower and upper deck (as depicted on the submitted SEA Plat).

### **Resource Protection Areas and 100-Year Floodplain**

- The majority of the subject property, aside from a small portion of land near the northwest corner of the lot, is located within a Resource Protection Area (RPA). As previously noted, the existing dwelling was constructed in 1991, prior to the designation of the RPA on the site in 1993. According to the staff report for SE 88-V-006, published on August 31, 1988, the original floodplain encompassed approximately the eastern half of the lot. In order to build the

existing dwelling, the previous owners were required to regrade and fill a significant portion of the former floodplain. As a result, the revised 100-Year Floodplain line now runs along a narrow portion of the southern and eastern property lines, over thirty (30) feet away from the existing residence.

### ***Sanitary Sewer Easement***

- The subject property has a twenty (20) foot wide sanitary sewer easement located near its southern property line, to the rear of the existing residence and proposed decks. The proposed decks, which will be located along the north side of the sanitary sewer easement, do not structurally encroach or cantilever into the easement.

### ***Access & Parking***

- The subject property has a private driveway along the northwest corner of the lot which accesses Dolphin Lane. Sufficient on-site parking is provided either along the private driveway or within the dwelling's attached two (2) car garage. This application shall have no bearing upon the site's existing parking or access configuration.

### ***Landscaping***

- The applicant's proposed decks are primarily going to be built over an existing stone-paved patio. No tree removal or grading will be necessary. Decks are accessory structures pursuant to the Zoning Ordinance and therefore, there is no transitional screening requirement.

### ***Stormwater Management***

- The applicant is not required to provide detention as part of the development, as the proposed development is for the construction of an accessory structure for an individual single-family detached dwelling not associated with a proposed subdivision.

### ***Comprehensive Plan and Land Use Analysis***

The Comprehensive Plan does not include any site-specific text for the subject property. The property is planned for residential uses at 2-3 du/ac, and as such, the request is in conformance with the Plan guidance. The applicant is requesting Special Exception Amendment approval to locate two (2) decks and an existing outdoor patio within a floodplain. As previously noted, the proposed improvements will not be located within the floodplain. In staff's opinion, this request poses no land use issues.

**Transportation Analysis** (See Appendix 4)

The proposed improvements will have no impact upon the surrounding street system or onsite parking and ingress/egress.

**Environmental Analysis** (See Appendix 5)**Issue: Resource Protection Area (RPA)/Environmental Quality Corridor (EQC)**

The overwhelming majority of the subject property is located within an RPA for an unnamed tributary to Dogue Creek. The RPA also meets the criteria of the EQC policy. However, the area of the property which is the subject of this application has been disturbed in the past and was not designated as an EQC at the time it was approved to permit fill in the floodplain for construction of a single-family detached residence.

**Resolution:**

Staff encourages the applicant to provide supplemental plantings where possible. Staff does not feel that designating any portion of the subject property as EQC would be greatly beneficial at this time as the adjacent properties are not designated with EQC areas. The applicant is subject to the regulatory requirements of the Chesapeake Bay Preservation Ordinance which regulate the previously noted RPA on the subject property.

**Department of Public Works and Environmental Services (DPWES)****Analysis** (see Appendix 6)

As previously stated, the proposed development lies within a RPA. The applicant has shown the appropriate RPA boundaries, applying the criteria in Chesapeake Bay Preservation Ordinance (CBPO) Section 118-1-7, on the SEA Plat. Per CBPO, Section 118-1-9(c), where the RPA boundaries on the adopted map differ from boundaries as determined from the text of CBPO, the text shall govern. In this case, the existing dwelling was constructed prior to the designation of the RPA on the site in 1993. The proposed deck is to be located above an existing patio. The existing patio was not shown on the approved Special Exception Plat, and therefore, does not qualify as an exempt pre-existing use in the RPA, CBPO Section 118-5-1.

The proposed deck and existing patio will qualify for an exception to encroach into the RPA for minor additions, provided that no more than 1,000 SF of additional impervious area within the RPA is created. An exception for the minor addition, per CBPO Section 118-5-5(a), to encroach into the RPA is required and this exception will be subject to administrative approval of the Director of DPWES. A Water Quality Impact Assessment (WIQA) will also be required.

Based on the submission from the applicant, it appears that the RPA exception and WQIA will be favorably considered concurrently with the building permit application.

**Issue: Floodplain Regulations**

There is a major floodplain associated with an unnamed tributary to the Dogue Creek on the application property. The 100-year water surface elevation, 10.0 feet (NGVD 1929), is based on backwater from the Potomac River. The amendment application is for the addition of a proposed deck to an existing individual single-family detached dwelling originally constructed pursuant to SE 88-V-006.

As part of its review, DPWES recommended that the following conditions be added to the proposed amended Development Conditions:

- The applicant must execute a revised hold-harmless Agreement prior to approval of the building permit for the deck, PFM 6-0705.4.
- To the extent possible, stable vegetation shall be protected and maintained in the floodplain, ZO 2-905.5.
- All floodproofing proposed, including structural, electrical, mechanical, plumbing, water and sanitary facilities connected with the use, must be certified that it complies with all County, State and Federal requirements, ZO 2-904.2.C(2).
- Any mechanical, electrical and utility equipment in the structure must be set at or above the water-surface elevation of the 100-year flood level.
- The building permit application and grading plan (if required), must indicate that any new construction, substantial improvement, 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.

**Resolution:**

Staff has included the DPWES requested conditions to the proposed development conditions (see Appendix 1).

**ZONING ORDINANCE PROVISIONS (Appendix 7)**

The applicant is proposing deck setbacks that exceed the R-2 District minimum yard requirements. Nonetheless, Section 2-412, *Permitted Extensions Into Minimum Required Yards*, permits open decks to encroach into minimum yard requirements should they meet the following provisions:

- A. *Any open deck with no part of its floor higher than four (4) feet above finished ground level may extend into minimum required yards as follows:*
- (1) *Front yard: 6 feet, but not closer than 14 feet to a front lot line and not closer than 5 feet to any side lot line*
  - (2) *Side yard: 5 feet, but not closer than 5 feet to any side lot line*
  - (3) *Rear yard: 20 feet, but not closer than 5 feet to any side or rear lot line*

**STAFF NOTE:** These Zoning Ordinance Provisions apply to the applicant’s proposed lower deck which will be built less than two (2) feet above the finished ground level. As provided above (A.2 and A.3), if built by-right, the applicant could build his proposed lower deck within five (5) feet of the subject property’s side yards, and within 20 feet of the subject property’s rear yard.

- B. *Any open deck with any part of its floor higher than four (4) feet above finished ground level may extend into minimum required yards as follows:*
- (1) *Front yard: No extension*
  - (2) *Side yard: No extension*
  - (3) *Rear yard: 12 feet, but not closer than 5 feet to any rear lot line and not closer than a distance equal to the minimum required side yard to the side lot line*

**STAFF NOTE:** These Zoning Ordinance Provisions apply to the applicant’s proposed upper deck which will be built approximately ten (10) feet above the finished ground level. As provided above (B.3), if built by-right, the applicant could build his proposed upper deck within twelve (12) feet of the subject property’s rear yard. However, the proposed decks are restricted from developing further to the south than what is depicted on the applicant’s SEA Plat, due to the subject property’s existing twenty-foot wide sanitary sewer easement.

Listed below are the required R-2 District minimum yard requirements and the applicant’s minimum proposed setbacks.

<b>Standard</b>	<b>Required</b>	<b>Proposed</b>
<b>Front Yard</b>	35 ft.	Not applicable
<b>Side Yard</b>	15 ft.	Eastern Property Line: 27 ft. Western Property Line: 26 ft.
<b>Rear Yard</b>	25 ft.	62.3 ft.

**OTHER ZONING ORDINANCE REQUIREMENTS:****Special Exception Requirements (See Appendix 7)****General Special Exception Standards (Sect. 9-006)**

General Standard 1 states that the proposed use shall be in harmony with the adopted Comprehensive Plan. The Comprehensive Plan calls for residential development at 2-3 du/ac for this property. The site is currently developed with a single family detached dwelling and no change is requested to the subject property's existing density or use. The applicant is seeking Special Exception Amendment approval to add two (2) decks to the rear of the subject property's dwelling, and to permit the existing patio to remain. As such, staff believes that the request is in harmony with their Comprehensive Plan.

General Standard 2 states that the proposed use shall be in harmony with the purpose and intent of the applicable Zoning District regulations. The application is in harmony with the purpose and intent of the R-2 District which permits uses within a floodplain as a Category 6 Special Exception.

General Standard 3 states that the proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties. The adjoining residences are already developed and staff does not believe that the applicant's proposed decks will have any adverse impact upon them. The decks will be located to the rear of the applicant's existing dwelling which is heavily sloped, abuts a cove, and is well-screened along its eastern and western property lines. Further limiting its visibility, the proposed upper deck will have a maximum floor elevation of 21.4 feet, which is less than ten (10) feet above the surrounding ground elevation of 11.5 feet. As such, staff believes that this standard has been satisfied.

General Standard 4 states that the proposed use shall be such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood. The applicant's proposed decks, which are located to the rear of their dwelling, will not generate or increase additional vehicle or pedestrian trips. Therefore, this standard has been satisfied.

General Standard 5 states that the Board shall require landscaping and screening in accordance with Article 13. The applicant's proposed lower and upper decks will be built primarily over an existing outdoor stone-faced patio, and there will be no proposed clearing or grading. The proposed improvements do not require landscaping and screening in accordance with Article 13. Therefore, staff believes that this standard has been satisfied.

General Standard 6 states that open space shall be provided in accordance with that specified for the subject zoning district. In the R-2 District, there is no open space requirement except for subdivisions approved for cluster development. The subject property is part of a conventional subdivision. Therefore, this standard has been satisfied

General Standard 7 stipulates that adequate drainage, utilities and parking and loading shall be provided to serve the site. Adequate utilities, off-street parking, and drainage are currently available and in place, and the applicant's proposed improvements will have no impact upon any of these items. Therefore, this standard has been satisfied.

General Standard 8 states that signs shall be governed by Article 12, but that the Board may impose stricter requirements than those provided in the Ordinance. This standard is not applicable.

#### **Category 6 Standards, Uses in a Floodplain (Sect. 9-606)**

This standard states that the Board may approve a special exception for the establishment of a use in a floodplain in accordance with the provisions of Part 9 of Article 2 (see Appendix 7 and below for these provisions). Staff has determined that the requested application meets the requirements of Part 9 of Article 2 as follows.

#### **Floodplain Regulations- Use Limitations (Sect. 2-905)**

Standard 1 states that, except as may be permitted by Par. 6 and 7 of Sect. 903, 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. This application does not propose fill or construction activity that increases water surface elevation. Staff has added a development condition that requires any building permit application and grading plan (if required), to indicate that any new construction, substantial improvement, or other development, including fill, when combined with all other existing, anticipated and planned development, will not increase the water surface elevation above the 100-year flood level upstream and downstream. With the inclusion of this development condition, staff believes that this standard has been satisfied.

Standard 2 states that, except as may be permitted by Par. 8 of Sect. 903, 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. The subject property's single family dwelling was constructed in 1991 and its lowest floor was built approximately three (3) feet above the re-delineated 100-year floodplain level. Therefore, this standard is satisfied.

Standard 3 states that all uses shall be subject to the provisions of Par. 1 of Sect. 602, which states that, notwithstanding the provisions of Sect. 601, no building shall be erected on any land and no change shall be made in the existing contours of any land, including any change in the course, width or elevation of any natural or other drainage channel, in any manner that will obstruct, interfere with, or change the drainage of such land, taking into account land development that may take place in the vicinity under the provisions of this Ordinance, without providing adequate drainage in connection therewith as determined by the Director in accordance with the provisions of the Public Facilities Manual. As previously noted, the applicant's proposed decks will not require grading, fill, or clearing upon the subject property. As such, there will be no changes to the site's contour and/or drainage channel. Therefore, this standard has been satisfied.

Standard 4 states that no structure or substantial improvement to any existing structure shall be allowed unless adequate floodproofing as defined in the Public Facilities Manual is provided. The applicant is proposing to construct two (2) open decks in his backyard. Staff has proposed a development condition which states that all proposed floodproofing, including structural, electrical, mechanical, plumbing, water and sanitary facilities connected with the use, must be certified that it collies with all County, State, and Federal requirements. Therefore, this standard has been satisfied.

Standard 5 states that to the extent possible, stable vegetation shall be protected and maintained in the floodplain. The applicant's proposed improvements are located over thirty (30) feet away from the 100-year floodplain. Nonetheless, staff has added a development condition which requires to the extent possible, stable vegetation be protected and maintained in the floodplain. With the implementation of this condition, staff believes that this standard has been satisfied.

Standard 6 states 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., in a floodplain. A development condition to this effect has been included; therefore, this standard has been satisfied.

Standard 7 states that, for uses other than those enumerated in Par. 2 and 3 of Sect. 903, the applicant shall demonstrate to the satisfaction of the approving authority the extent to which: there are no other feasible options available to achieve the proposed use; the proposal is the least disruptive option to the floodplain; and the proposal meets the environmental goals and objectives of the adopted comprehensive plan for the subject property. The applicant's proposed decks will be located over thirty (30) feet away from the 100-year floodplain. As noted, in 1988, the subject property had a Special Exception approved by the Board of Supervisors which permitted existing single-family detached dwelling to be constructed on the site in 1991. By virtue of that SE approval and subsequent construction, the site's previous floodplain was regraded/filled, reduced in size, and re-delineated. As a result, the applicant's proposed decks will not be built

within the existing 100-year floodplain. Therefore, staff believes that this standard has been satisfied.

Standard 8 states that 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. As previously noted, the dwelling was built in 1991, and the applicant's proposed decks will not be located within the 100-year floodplain, or require grading, fill, or clearing. Therefore, this standard has been satisfied.

Standard 9 states that nothing herein shall be deemed to preclude public uses and public improvements performed by or at the direction of the County. This standard is not applicable.

Standard 10 states that 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. The applicant's proposed decks will not be built within the floodplain. However, a request for an administrative exception to permit the location of the existing patio and proposed decks within the RPA shall be required. As indicated in the DPWES Analysis, it is likely that DPWES will support this request. Therefore, this standard has been satisfied.

Standard 11 states that all uses and activities shall be subject to the provisions of Chapter 118 of The Code. As stated in the DPWES Analysis, the existing patio and proposed decks will qualify for an exception to encroach into the RPA for minor additions, provided no more than 1,000 SF of additional impervious area within the RPA is created, subject to the administrative approval of the Director of DPWES and the approval of a Water Quality Impact Assessment (WQIA). With the implementation of the staff-proposed development condition, this standard has been satisfied.

Standard 12 states that 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. The existing dwelling was built in 1991 and compliance with the 1998-approved special exception elevations was satisfied at that time. Therefore, this standard has been satisfied.

### **Summary of Zoning Ordinance Provisions**

All applicable standards have been satisfied with the proposed development conditions.

## **CONCLUSIONS AND RECOMMENDATIONS**

### **Staff Conclusions**

With the implementation of the proposed development conditions contained in Appendix 1, staff finds that the subject special exception amendment application is in harmony with the Comprehensive Plan and in conformance with the applicable Zoning Ordinance provisions.

### **Staff Recommendations**

Staff recommends approval of SEA 88-V-006, subject to the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of the 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 recommendation of staff; it does not reflect the position of the Board of Supervisors.

The approval of this special exception amendment does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

## **APPENDICES**

1. Proposed Development Conditions
2. Affidavit
3. Statements of Justification
4. Transportation Analysis
5. Environmental Analysis
6. Department of Public Works and Environmental Services (DPWES) Analysis
7. Applicable Zoning Ordinance Provisions Checklist
8. Approved Development Conditions and SE Plat from SE 88-V-006
9. Glossary of Terms

**PROPOSED DEVELOPMENT CONDITIONS**

**SEA 88-V-006**

**February 6, 2008**

If it is the intent of the Board of Supervisors to approve SEA 88-V-006, located at Tax Map 110-3 ((4)) (H) 11 (4609 Dolphin Lane) previously approved for use as a single family detached dwelling within a floodplain, to permit 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, except that these conditions are in addition to the development conditions approved with SE 88-V-006. Previously approved conditions, or those with minor revisions, are marked with an asterisk (\*).

- \* 1. This Special Exception Amendment is granted for and runs with the land indicated in this application and is not transferable to other land.
- \* 2. This Special Exception Amendment is granted only for the purpose(s), structures(s) and/or use(s) indicated on the Special Exception Amendment Plat, approved with this application, as qualified by these development conditions.
- \* 3. This Special Exception Amendment is subject to the provisions of building and occupancy permits. Any plan submitted pursuant to the Special Exception shall be in substantial conformance with the approved Special Exception Amendment Plat and these conditions.
- 4. A copy of this Special Exception Amendment is subject to the provisions of Article 17, Site Plans. Any plan submitted pursuant to this special exception amendment shall be in substantial conformance with the approved Special Exception Amendment (SEA) Plat entitled "4609 Dolphin Deck Plan", prepared by Widewater Consulting, Inc., dated July 23, 2007, as revised through December 19, 2007. Minor modifications to the approved special exception amendment may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.
- \* 5. The applicant/owner shall execute a Hold Harmless Agreement with the County for all adverse effects which may arise as a result of the construction of the addition to the dwelling within the floodplain. This agreement shall be recorded among the County land records prior to issuance of an occupancy permit for the proposed structure.

6. The applicant shall execute a revised Hold-Harmless Agreement prior to approval of the building permit for the deck, in accordance with PFM 6-0705.4.
- \* 7. The lowest elevation of the existing dwelling shall be eighteen (18) inches above the 100 year floodplain elevation, as determined by the Department of Public Works and Environmental Services (DPWES).
- \* 8. The applicant shall submit a plan showing the limits of clearing and grading that is approved by the Urban Forest Management (UFM) Division, DPWES.
- \* 9. There shall be no storage of herbicides, pesticides, or toxic or hazardous substances in a floodplain.
- \* 10. A tree preservation plan shall be submitted to preserve as many trees as possible within the 100 year floodplain, as determined by the County Arborist.
- \* 11. Should any activity be proposed channelward of the mean high water line along Dogue Creek, a permit shall be required from the Fairfax County Wetlands Board.
- \* 12. Sediment control measures shall be taken to achieve sediment trapping efficiencies of eight (80) percent, to prevent siltation of Dogue Creek, subject to approval of the Department of Public Works and Environmental Services (DPWES).
13. To the extent possible, stable vegetation shall be protected and maintained in the floodplain, in accordance with Zoning Ordinance 2-905.5.
14. All floodproofing proposed, including structural, electrical, mechanical, plumbing, water and sanitary facilities connected with the use, shall be certified that it complies with all County, State and Federal requirements, in accordance with Zoning Ordinance 2-904.2.C(2).
15. Any mechanical, electrical and utility equipment in the structure shall be set at or above the water-surface elevation of the 100-year flood level.
16. The building permit application and grading plan (if required), shall indicate that any new construction, substantial improvement, 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.

17. No site plan or any other plans or permits for the decks shall be approved unless DPWES approves a waiver to permit minor additions, per CBPO Sect. 118-5-5(a), to encroach into the RPA and a Water Quality Impact Assessment (WQIA). If the administrative waiver and WQIA are not approved, then a Special Exception Amendment (SEA), and/or an exception of the Resource Protection Area (WRPA) under CBPO 118-6, may be required.
18. No portion of the deck or associated stairwell shall encroach upon or cantilever over the site's sanitary sewer easement.

The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by that Board.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, SEA 88-V-006 or adopted standards. The applicant shall be personally responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special exception shall not be valid until this has been accomplished.

Under Section 9-015 of the Zoning Ordinance, this Special Exception Amendment 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. Construction of any one of the two proposed decks shall establish this SEA. 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.

**SPECIAL EXCEPTION AFFIDAVIT**

DATE: 8/24/07

I, Michael MacNaiv (enter date affidavit is notarized), do hereby state that I am an  
(enter name of applicant or authorized agent)

(check one)  applicant 97857  
 applicant's authorized agent listed in Par. 1(a) below

in Application No.(s): SEA 88-V-006  
 (enter County-assigned application number(s), e.g. SE 88-V-001)

and that, to the best of my knowledge and belief, the following information is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,\* and, if any of the foregoing is a **TRUSTEE,\*\*** each **BENEFICIARY** of such trust, and all **ATTORNEYS and REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

**(NOTE:** All relationships to the application listed above in **BOLD** print are to be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in <b>BOLD</b> above)
Michael E. MacNaiv	4609 Delphin Ln. Alexandria, VA 22309	Applicant
Ellen P. MacNaiv	4609 Delphin Ln. Alexandria, VA 22309	Applicant

(check if applicable)  There are more relationships to be listed and Par. 1(a) is continued on a "Special Exception Attachment to Par. 1(a)" form.

\* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

\*\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

SPECIAL EXCEPTION AFFIDAVIT

DATE: 8/24/07  
(enter date affidavit is notarized)

97851

for Application No. (s): SEA 88-V-006  
(enter County-assigned application number(s))

1(b). The following constitutes a listing\*\*\* of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

**(NOTE:** Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

**NAME & ADDRESS OF CORPORATION:** (enter complete name and number, street, city, state, and zip code)

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF SHAREHOLDERS:** (enter first name, middle initial and last name)

(check if applicable)  There is more corporation information and Par. 1(b) is continued on a "Special Exception Affidavit Attachment 1(b)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

SPECIAL EXCEPTION AFFIDAVIT

DATE: 8/24/07  
(enter date affidavit is notarized)

97857

for Application No. (s): SEA 88-V-006  
(enter County-assigned application number(s))

1(c). The following constitutes a listing\*\*\* of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, and number, street, city, state, and zip code)

(check if applicable) [ ] The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

(check if applicable) [ ] There is more partnership information and Par. 1(c) is continued on a "Special Exception Affidavit Attachment to Par. 1(c)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

SPECIAL EXCEPTION AFFIDAVIT

DATE: 2/24/07  
(enter date affidavit is notarized)

97857

for Application No. (s): SEA 88-V-006  
(enter County-assigned application number(s))

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land.

2. That no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on the line below.)

None

(check if applicable)  There are more interests to be listed and Par. 2 is continued on a "Special Exception Attachment to Par. 2" form.

Application No.(s): SEA 88-U-006  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL EXCEPTION AFFIDAVIT**

DATE: 8/24/07  
(enter date affidavit is notarized)

97857

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on line below.)

None

**NOTE:** Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [ ] There are more disclosures to be listed and Par. 3 is continued on a "Special Exception Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application

WITNESS the following signature:

(check one)  Applicant  Applicant's Authorized Agent

Michael E MacNoir Applicant  
(type or print first name, middle initial, last name, and & title of signee)

Subscribed and sworn to before me this 24 day of August 2007, in the State/Comm. of Virginia, County/City of Alexandria.

[Signature]  
Notary Public 7106319

My commission expires: 7/20/2011



## Statement of Justification:

I, Michael MacNair, am requesting approval of a Special Exception Amendment Application for the original SE 88 – V- 006. I am seeking the approval to construct an accessory use structure (a deck) in a floodplain. All elements of this structure will be constructed above the floodplain. The property tax number is 1103 04H 0011 and is an existing single family home.

When we purchased the home, two previously approved and permitted decks occupied the property. These decks became dangerous and have now been removed. They were previously and improperly approved by the county in both 1990 and 1993. This past spring we reapplied for building permits and were advised of the previous approval error by the county and were directed to complete the SEA application process.

The first deck connected to the first floor living space. The second deck was a pool deck which surrounded an above the ground pool. Both of these decks encroached onto an existing sanitary sewer easement. Both decks occupied 2300 square feet and were not of the best quality.

The proposed project consists of a main deck to replace the first deck that connects to the first floor living space and a small deck at ground level near an existing patio. While the previously permitted decks occupied 2300 square feet, the new decks will occupy 962 square feet. The new decks will not encroach on any sanitary sewer easements. We removed a very environmentally unfriendly above the ground pool added and previously approved and have not asked for an approval of any pool. The construction of the deck and the transport of materials will all be done by hand ensuring no disturbances and the utmost in quality.

## Additional pertinent facts include:

- A. Type of operation: N/A
- B. Hours of Operation. N/A
- C. Estimated number of patrons/clients/patients/pupils/etc. N/A
- D. Proposed number of employees/attendants/teachers/etc. N/A.
- E. Estimate of traffic impact of the proposed use, including the maximum expected trip generation and the distribution of such trips by mode and time of day. N/A
- F. Vicinity or General area to be served by the use. N/A. Residential property whose tax number is 1103 04H 0011.
- G. Description of the façade and architecture of proposed new building or addition. The description of the accessory use structure (deck) will be constructed with the following materials:
  - Construct deck framing using pressure treated material for posts, beam and joist framing.
  - Wrap posts with fiberglass columns and wrap band board, stringers and risers using PVC material. Wrap stair risers, stair stringers, deck band board and railing posts using synthetic material.

RECEIVED  
Department of Planning & Zoning

OCT 11 2007

Zoning Evaluation Division

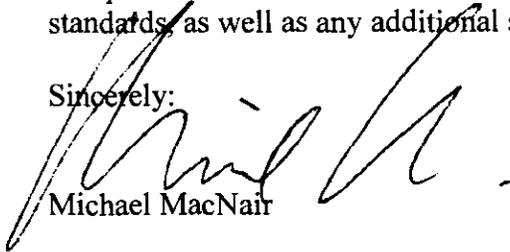
- Construct steel hand railing.
  - Construct a ceiling to conceal deck framing using 1x4 Cedar with 1/8" spacing to give the feel of beaded tongue-and-groove ceiling, detail ceiling with synthetic crown molding.
  - Conceal storage area under stair/landing using synthetic English lattice with 1x4 picture frame trim.
  - Install Fiberon composite material floor boards, deck flooring to be fastened using biscuit system, no surface penetrations.
- H. A listing, if known, of all hazardous or toxic substances as set forth in title 40, Code of Federal Regulations Parts 116.4, 302.4, and 355: all hazardous waste as set forth in the Virginia Department of Environmental Quality Hazardous Waste Management Regulations: and/or petroleum products as defined in title 40, code of Federal Regulations part 280: to be generated, utilized, stored, treated, and or disposed of on site and the size and contents of any existing or proposed storage tanks or containers. N/A
- I. A statement of how the proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards and any applicable conditions, or, if any waiver, exception or variance is sought by the applicant from any such ordinances, regulations, standards, and conditions, such shall be specifically noted with the justification for any such modification.
- The proposed use conforms to County codes and is in agreement with the ordinances set forward by Fairfax County. The proposed decks are outside the floodplain limit of 10.0 feet. The project is below 2500 square feet and there are no wetlands on site, there fore no state or federal permits are required.

To our knowledge there are no existing or anticipated problems with flooding or erosion in the area of this accessory structure. The rear portion of the property is currently turf and landscaped. These areas are immaculately cared for and there are no bare spots located within the lawn. These areas will not be affected or disturbed by the proposed construction. The only disturbance will be for the construction of the footings for the deck posts. Additionally, all parts of the deck except the concrete footings will all built above the 100 floodplain elevation of 10.0'. Erosion will be controlled by a siltation fence at the edge of the construction area. This project does not add any additional impervious surface nor will any fill soil be needed for this construction. No adverse impacts will be incurred up or down stream from this property due to the new construction.

We also certify to our knowledge that all flood proofing complies with all county, state, and federal requirements. This covers all structural, electrical, mechanical, plumbing, and water connected with the use. We are also aware that flood insurance may be required and that rates may increase because of increases of risk to life and property.

We acknowledge that it is our responsibility to show that the proposed use complies with all zoning ordinance requirements related to the use, including how the proposed special exception is in conformance with the general standards and the specific category standards, as well as any additional standards for the particular special exception use.

Sincerely:

A handwritten signature in black ink, appearing to read "Michael MacNair", written over the typed name.

Michael MacNair



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** November 27, 2007

**TO:** Regina Coyle, Director  
Zoning Evaluation Division  
Department of Planning and Zoning

**FROM:** Angela Kadar Rodeheaver, Chief  
Site Analysis Section  
Department of Transportation 

**FILE:** 3-5 (SE 88-V-006)

**SUBJECT:** Transportation Impact

**REFERENCE:** SEA 88-V-006; Michael MacNair  
Land Identification Map: 110-3 ((4)) (H) 11

Transmitted herewith are the comments of the Department of Transportation with respect to the referenced application. These comments are based on plats made available to this department dated July 23, 2007.

The proposed application for uses in an floodplain would not create any significant additional impacts on the surrounding public street system. Therefore, this department would not object to the approval of the subject application.

AKR



# County of Fairfax, Virginia

## MEMORANDUM

DATE: January 16, 2008

**TO:** Regina Coyle, Director  
Zoning Evaluation Division, DPZ

**FROM:** Pamela G. Nee, Chief *PN*  
Environment and Development Review Branch, DPZ

**SUBJECT:** ENVIRONMENTAL ASSESSMENT for: SEA 88-V-006  
McNair

This memorandum, prepared by John R. Bell, includes citations from the Comprehensive Plan that list and explain environmental policies for this property. The citations are followed by a discussion of environmental concerns, including a description of potential impacts that may result from the proposed development as depicted on the plat dated December 19, 2007. Possible solutions to remedy identified environmental impacts are suggested. Other solutions may be acceptable, provided that they achieve the desired degree of mitigation and are also compatible with Plan policies.

### COMPREHENSIVE PLAN CITATIONS:

The Comprehensive Plan is the basis for the evaluation of this application. The assessment of the proposal for conformity with the environmental recommendations of the Comprehensive Plan is guided by the following citations from the Plan:

In the Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Environment section as amended through December 3, 2007, on page 7 through 15, the Plan states:

**“Objective 2: Prevent and reduce pollution of surface and groundwater resources. Protect and restore the ecological integrity of streams in Fairfax County....”**

Policy d. Preserve the integrity and the scenic and recreational value of stream valley EQCs when locating and designing storm water detention and BMP facilities. In general, such facilities should not be provided within stream valley EQCs unless they are designed to provide regional benefit or unless the EQCs have been significantly degraded. When facilities within the EQC are appropriate, encourage the construction of facilities that minimize

Department of Planning and Zoning  
Planning Division  
12055 Government Center Parkway, Suite 730  
Fairfax, Virginia 22035-5509  
Phone 703-324-1380  
Fax 703-324-3056  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)

clearing and grading, such as embankment-only ponds, or facilities that are otherwise designed to maximize pollutant removal while protecting, enhancing, and/or restoring the ecological integrity of the EQC. . . .

Policy k. For new development and redevelopment, apply better site design and low impact development techniques such as those described below, and pursue commitments to reduce stormwater runoff volumes and peak flows, to increase groundwater recharge, and to increase preservation of undisturbed areas. In order to minimize the impacts that new development and redevelopment projects may have on the County's streams, some or all of the following practices should be considered where not in conflict with land use compatibility objectives:

- Minimize the amount of impervious surface created. . . .

Development proposals should implement best management practices to reduce runoff pollution and other impacts. Preferred practices include: those which recharge groundwater when such recharge will not degrade groundwater quality; those which preserve as much undisturbed open space as possible; and, those which contribute to ecological diversity by the creation of wetlands or other habitat enhancing BMPs, consistent with State guidelines and regulations.

Proposals that include the use or storage of hazardous materials should provide adequate containment facilities, monitoring, and spill prevention strategies to protect surface and groundwater resources consistent with State regulations.

Programs to improve water quality in the Potomac River/Estuary, and Chesapeake Bay will continue to have significant impacts on planning and development in Fairfax County. There is abundant evidence that water quality and the marine environment in the Bay are deteriorating, and that this deterioration is the result of land use activities throughout the watershed.

In order to protect the Chesapeake Bay and other waters of Virginia from degradation resulting from runoff pollution, the Commonwealth has enacted regulations requiring localities within Tidewater Virginia (including Fairfax County) to designate "Chesapeake Bay Preservation Areas". Within which land uses are either restricted or water quality measures must be provided. Fairfax County has adopted a Chesapeake Bay Preservation Ordinance pursuant to these regulations.

The more restrictive type of Chesapeake Bay Preservation Area is known as the "Resource Protection Area (RPA)." With a few exceptions (e.g. water wells, recreation, infrastructure improvements, "water dependent" activities, and redevelopment), new development is prohibited in these areas. In Fairfax County, RPAs include the following features:

- water bodies with perennial flow;
- tidal wetlands;
- tidal shores;

- nontidal wetlands contiguous with and connected by surface flow to tidal wetlands or water bodies with perennial flow;
- a buffer area not less than 100 feet in width around the above features; and
- as part of the buffer area, any land within a major floodplain.

The other, less sensitive category of land in the Preservation Areas is called the "Resource Management Area (RMA)." Development is permitted in RMAs as long as it meets water quality goals and performance criteria for these areas. These goals and criteria include stormwater management standards, maintenance requirements and reserve capacity for on-site sewage disposal facilities, erosion and sediment control requirements, demonstration of attainment of wetlands permits, and conservation plans for agricultural activities. In Fairfax County, RMAs include any area that is not designated as an RPA. . . .

**Objective 3: Protect the Potomac Estuary and the Chesapeake Bay from the avoidable impacts of land use activities in Fairfax County.**

Policy a. Ensure that new development and redevelopment complies with the County's Chesapeake Bay Preservation Ordinance. . . .

**Objective 9: Identify, protect and enhance an integrated network of ecologically valuable land and surface waters for present and future residents of Fairfax County.**

Policy a: For ecological resource conservation, identify, protect and restore an Environmental Quality Corridor system (EQC). . . Lands may be included within the EQC system if they can achieve any of the following purposes:

- **Habitat Quality:** The land has a desirable or scarce habitat type, or one could be readily restored, or the land hosts a species of special interest.
- **"Connectedness":** This segment of open space could become a part of a corridor to facilitate the movement of wildlife.
- **Aesthetics:** This land could become part of a green belt separating land uses, providing passive recreational opportunities to people.
- **Pollution Reduction Capabilities:** Preservation of this land would result in significant reductions to non-point source water pollution, and/or, micro climate control, and/or reductions in noise.

The core of the EQC system will be the County's stream valleys. Additions to the stream valleys should be selected to augment the habitats and buffers provided by the stream valleys, and to add representative elements of the landscapes that are not represented within stream valleys. The stream valley component of the EQC system shall include the following elements.

- All 100 year flood plains as defined by the Zoning Ordinance;
- All areas of 15% or greater slopes adjacent to the flood plain, or if no flood plain is present, 15% or greater slopes that begin within 50 feet of the stream channel;
- All wetlands connected to the stream valleys; and
- All the land within a corridor defined by a boundary line which is 50 feet plus 4 additional feet for each % slope measured perpendicular to the stream bank. The % slope used in the calculation will be the average slope measured within 110 feet of a stream channel or, if a flood plain is present, between the flood plain boundary and a point fifty feet up slope from the flood plain. This measurement should be taken at fifty foot intervals beginning at the downstream boundary of any stream valley on or adjacent to a property under evaluation.

Modifications to the boundaries so delineated may be appropriate if the area designated does not benefit habitat quality, connectedness, aesthetics, or pollution reduction as described above. In addition, some intrusions that serve a public purpose such as unavoidable public infrastructure easements and rights of way are appropriate. Such intrusions should be minimized and occur perpendicular to the corridor's alignment, if practical.

Preservation should be achieved through dedication to the Fairfax County Park Authority, if such dedication is in the public interest. Otherwise, EQC land should remain in private ownership in separate undeveloped lots with appropriate commitments for preservation. The use of protective easements as a means of preservation should be considered.”

#### **ENVIRONMENTAL ANALYSIS:**

This section characterizes the environmental concerns raised by an evaluation of this site and the proposed land use. Solutions are suggested to remedy the concerns that have been identified by staff. There may be other acceptable solutions. Particular emphasis is given to opportunities provided by this application to conserve the County's remaining natural amenities.

#### **Resource Protection Area (RPA)/Environmental Quality Corridor (EQC)**

##### **Issue:**

The overwhelming majority of the subject property is located within an RPA for an unnamed tributary to Pohick Creek. The RPA also meets the criteria of the EQC policy. However, the area of the property which is the subject of this application has been disturbed in the past and was not designated as an EQC at the time it was rezoned as the rezoning pre-dated the EQC Policy and Chesapeake Bay Preservation Ordinance.

**Resolution:**

The applicants should be encouraged to provide supplemental plantings where possible. Staff does not feel that designating any portion of the subject property as EQC would be greatly beneficial at this time as the adjacent properties are not designated with EQC areas. The applicants will be subject to any additional regulatory requirements of the Chesapeake Bay Preservation Ordinance and the previously noted RPA on the subject property.

PGN:JRB



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** December 31, 2007

**TO:** Jack Thompson, Staff Coordinator  
RZ/SE Branch, Zoning Evaluation Division  
Department of Planning and Zoning

**FROM:**  Jeremiah Stonefield, Chief Stormwater Engineer  
Site Review East, Environmental and Site Review Division  
Land Development Services, DPWES

**RE:** Special Exception Amendment Application Review, SEA 88-V-006, Michael MacNair, *Special Exception Amendment Plat, Yacht Haven Estates, Lot 11, Block H*, dated December 19, 2007 (SEA Plat), Tax Map #110-3-04-H-0011, Mount Vernon District

### Chesapeake Bay Preservation Ordinance (CBPO)

The proposed development lies within a Resource Protection Area (RPA). The applicant has shown the appropriate RPA boundaries, applying the criteria in CBPO 118-1-7, on the SEA Plat. Where the RPA boundaries on the adopted map differ from boundaries as determined from the text of CBPO, the text shall govern, CBPO 118-1-9(c). The existing dwelling was constructed prior to the designation of the RPA on the site in 1993. The proposed deck is to be located above an existing patio. The existing patio was not shown on the approved Special Exception Plat, and therefore does not qualify as an exempt pre-existing use in the RPA, CBPO 118-5-1.

The proposed deck and existing patio will qualify for an exception to encroach into the RPA for minor additions, provided no more than 1000 square feet of additional impervious area within the RPA is created. An exception for the minor addition per CBPO Section 118-5-5(a) to encroach into the RPA is required. The exception is subject to administrative approval of the Director, DPWES. A Water Quality Impact Assessment (WQIA) will also be required. Based on the submission from the applicant, it appears that the RPA exception and WQIA will be favorably considered concurrently with the building permit application.

### Floodplain Regulations

There is a major floodplain associated with an unnamed tributary to the Dogue Creek on the application property. The 100-year water surface elevation, 10.0 feet (NGVD 1929) is based on backwater from the Potomac River. The amendment application is for the addition of a proposed deck to an existing individual single family detached dwelling originally constructed pursuant to SE 88-V-006.

DPWES recommends, at a minimum, the following be added to the proposed amended Development Conditions:

- 11) The applicant must executed a revised hold-harmless Agreement prior to approval of the building permit for the deck, PFM 6-0705.4.

Department of Public Works and Environmental Services  
Land Development Services, Environmental and Site Review Division  
12055 Government Center Parkway, Suite 535  
Fairfax, Virginia 22035-5503  
Phone 703-324-1720 • TTY 703-324-1877 • FAX 703-324-8359



- 12) To the extent possible, stable vegetation shall be protected and maintained in the floodplain, ZO 2-905.5.
- 13) All floodproofing proposed, including structural, electrical, mechanical, plumbing, water and sanitary facilities connected with the use, must be certified that it complies with all County, State and Federal requirements, ZO 2-904.2.C(2).
- 14) Any mechanical, electrical and utility equipment in the structure must be set at or above the water-surface elevation of the 100-year flood level.
- 15) The building permit application and grading plan (if required), must indicate that any new construction, substantial improvement, 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.

#### Stormwater Management

The applicant is not required to provide detention as part of the development, as the proposed development is for the construction of an addition to an individual single family detached dwelling not associated with a proposed subdivision.

#### Downstream Drainage Complaints

There are drainage complaints on file from 1993 regarding the condition of the adjacent drainage ditch, but is unrelated to the proposed deck.

#### Additional Comments

The SE Plat shows the proposed deck immediately adjacent to an the existing on-site sanitary sewer easement. The proposed deck and stairs must have no part overhang the easement.

Please contact me at 4-1720 if you have any questions or require further clarification.

cc: Steve Aitcheson, Director, Stormwater Planning Division, DPWES  
Valerie Tucker, Chief Stormwater Review Engineer, Site Review East, ESRD, DPWES  
Zoning Application File (7593-ZONA-001-2)

### **9-006 General Standards**

In addition to the specific standards set forth hereinafter with regard to particular special exception uses, all such uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular category or use, the Board shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the Board may impose more strict requirements for a given use than those set forth in this Ordinance.

### **9-606 Provisions for Uses in a Floodplain**

The Board may approve a special exception for the establishment of a use in a floodplain in accordance with the provisions of Part 9 of Article 2.

### **2-905 Use Limitations**

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.

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.

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

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.

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

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.

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

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

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

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.

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

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.

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

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.

## FAIRFAX COUNTY ZONING ORDINANCE

### 2-411 **Yard Requirements for Open Land**

If a lot is, or will be, occupied by a permitted use without structures, then the minimum yards that are required for such a lot under the applicable zoning district regulations shall be provided and maintained unless some other provision of this Ordinance requires or permits a different minimum yard; provided, however, front, side and rear yards shall not be required on lots used for agricultural purposes, open public areas or open space; but in no event shall structures associated with such open land uses be located in the required minimum yards.

### 2-412 **Permitted Extensions Into Minimum Required Yards**

The features set forth in the following paragraphs may extend into minimum required yards as specified.

For lots in the PDH, PDC, PRC and PRM Districts, the minimum required yard shall be deemed to be one-half of the distance of the yard that has been established by the location of the principal structure on a lot. In other districts where minimum yard requirements are determined by a specified distance between buildings, the lot lines shall be established by a line located between the buildings drawn at the mid-point and perpendicular to the shortest line between them.

1. The following shall apply to any structure:
  - A. Cornices, canopies, awnings, eaves or other such similar features, all of which are at least ten (10) feet above finished ground level, may extend three (3) feet into any minimum required yard but not closer than two (2) feet to any lot line. This provision shall not apply to permanent canopies over gasoline pump islands which have supports located on the pump islands, provided that such canopies may extend into minimum required yards but shall not extend into any required transitional screening areas nor overhang travel lanes, service drives or sidewalks.
  - B. Sills, leaders, belt courses and other similar ornamental features may extend twelve (12) inches into any minimum required yard.
  - C. Open fire balconies, fire escapes, fire towers, uncovered stairs and stoops, air conditioners and heat pumps, none of which are more than ten (10) feet in width, may extend five (5) feet into any minimum required yard, but not closer than five (5) feet to any lot line.
  - D. Bay windows, oriels, and chimneys, none of which are more than ten (10) feet in width, may extend three (3) feet into any minimum required yard, but not closer than five (5) feet to any lot line.
  - E. Carports may extend five (5) feet into any minimum required side yard, but not closer than five (5) feet to any side lot line.
  - F. An accessibility improvement may extend into any minimum required yard.
2. The following shall apply to any deck attached to a single family detached dwelling:

## GENERAL REGULATIONS

- A. Any open deck with no part of its floor higher than four (4) feet above finished ground level may extend into minimum required yards as follows:
    - (1) Front yard: 6 feet, but not closer than 14 feet to a front lot line and not closer than 5 feet to any side lot line
    - (2) Side yard: 5 feet, but not closer than 5 feet to any side lot line
    - (3) Rear yard: 20 feet, but not closer than 5 feet to any side or rear lot line
  - B. Any open deck with any part of its floor higher than four (4) feet above finished ground level may extend into minimum required yards as follows:
    - (1) Front yard: No extension
    - (2) Side yard: No extension
    - (3) Rear yard: 12 feet, but not closer than 5 feet to any rear lot line and not closer than a distance equal to the minimum required side yard to the side lot line
  - C. Any roofed deck with no part of its floor higher than four (4) feet above finished ground level may extend into minimum required yards as follows:
    - (1) Front yard: No extension
    - (2) Side yard: No extension
    - (3) Rear yard: 12 feet, but not closer than 5 feet to any rear lot line and not closer than a distance equal to the minimum required side yard to the side lot line
3. The following shall apply to any deck attached to a single family attached dwelling:
- A. Any open deck with no part of its floor higher than three (3) feet above finished ground level may extend into minimum required yards as follows:
    - (1) Front yard: No extension
    - (2) Side yard: 5 feet, but not closer than 5 feet to any side lot line
    - (3) Rear yard: To the rear lot line and from side lot line to side lot line, except on lots with a minimum required side yard, not closer than 5 feet to that side lot line
  - B. Any open deck with any part of its floor higher than three (3) feet above finished ground level may extend into minimum required yards as follows:
    - (1) Front yard: No extension

## FAIRFAX COUNTY ZONING ORDINANCE

- (2) Side yard: No extension
  - (3) Rear yard: 12 feet, but not closer than 5 feet to the rear lot line. Notwithstanding the above, on lots with rear yards of 17 feet or less, a deck with a depth of 12 feet may be permitted, but not closer than 2 feet to the rear lot line, if such lot line abuts open space or an utility easement, not less than 10 feet in width. In addition, on lots with a minimum required side yard, not closer to that side lot line than a distance equal to such minimum required yard.
- C. Any roofed deck with no part of its floor higher than three (3) feet above finished ground level may extend into minimum required yards as follows:
- (1) Front yard: No extension
  - (2) Side yard: No extension
  - (3) Rear yard: 12 feet, but not closer than 5 feet to the rear lot line, and on lots with a minimum required side yard, not closer to that side lot line than a distance equal to such minimum required yard
4. The following shall apply to any deck attached to a multiple family dwelling, commercial, industrial or institutional structure:
- A. Any open or roofed deck, not more than ten (10) feet in width and with no part of its floor higher than three (3) feet above finished ground level, may extend six (6) feet into any minimum required yard.
  - B. Any open or roofed deck, not more than ten (10) feet in width with any part of its floor higher than three (3) feet above finished ground level, may extend three (3) feet into any minimum required yard.
5. The BZA may approve a special permit to modify the provisions of this Section, but only in accordance with the provisions of Sect. 8-922.

### 2-413

#### **Yard Regulations for Residential Lots Having Reverse Frontage**

- 1. Notwithstanding any other provision of this Ordinance, on any residential lot designed to have reverse frontage along a major thoroughfare, the minimum front yard requirements as set forth for a given zoning district shall be deemed to apply to that yard in front of the principal entrance or containing the approach to the primary building occupying the lot. The opposing yard shall be deemed to be the rear yard and shall be subject to the requirements set forth for such yards unless such requirements are qualified below.
- 2. A privacy fence or wall may be approved by the Director in the rear and side yards of residential lots designed with reverse frontage, but in no instance shall such a privacy fence or wall be permitted that could obstruct the view of traffic from an intersecting street. To such end, no privacy fence or wall shall be located closer to the right-of-way than a point which would provide at least a sight distance for a vehicle seeking such



COMMONWEALTH OF VIRGINIA  
COUNTY OF FAIRFAX

4100 CHAIN BRIDGE ROAD  
FAIRFAX, VIRGINIA 22030

APPENDIX 8



November 9, 1988

Mr. Barton W. Boucher  
9721 Burke View Court  
Burke, Virginia 22315

Re: Special Exception  
Number SE 88-V-006

Dear Mr. Boucher:

At a regular meeting of the Board of Supervisors held on October 31, 1988, the Board approved Special Exception Number SE 88-V-006, in the name of Barton W. Boucher, located at Tax Map 110-3 ((4)) (H) 11 for use as a single family detached dwelling within a floodplain pursuant to Sections 2-904 and 9-604 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

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. This Special Exception is subject to the provisions of building and occupancy permits. Any plan submitted pursuant to this Special Exception shall be in substantial conformance with the approved Special Exception Plat and these conditions.

4. The applicant/owner shall execute a Hold Harmless Agreement with the County for all adverse effects which may arise as a result of the construction of the addition to the dwelling within the floodplain. This agreement shall be recorded among the County land records prior to issuance of an occupancy permit for the proposed structure.
5. The lowest elevation of the proposed dwelling shall be eighteen (18) inches above the 100 year floodplain elevation, as determined by the Department of Environmental Management.
6. The applicant shall submit a plan showing the limits of clearing and grading that is approved by the County Arborist.
7. There shall be no storage of herbicides, pesticides, or toxic or hazardous substances in a floodplain.
8. A tree preservation plan shall be submitted to preserve as many trees as possible within the 100 year floodplain, as determined by the County Arborist.
9. Should any activity be proposed channelward of the mean high water line along Dogue Creek, a permit shall be required from the Fairfax County Wetlands Board.
10. Sediment control measures shall be taken to achieve sediment trapping efficiencies of eighty (80) percent, to prevent siltation of Dogue Creek, subject to the approval of the Department of Environmental Management.

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.

Under Section 9-015 of the Zoning Ordinance, this Special Exception shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Exception unless the activity authorized has been established, or unless construction has commenced, and is diligently pursued, or unless additional time is approved by the Board of Supervisors because of the occurrence of conditions unforeseen at the time of the approval of this Special Exception. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

November 9, 1988

-3-

If you have any questions concerning this Special Exception, please give me a call.

Sincerely,

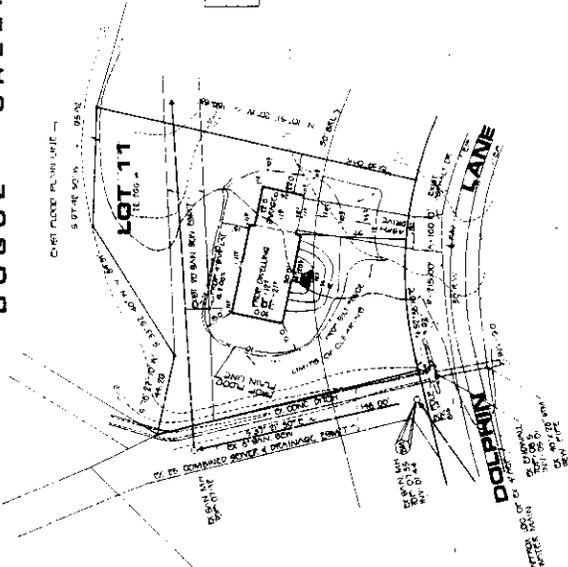


Theodore Austell, III  
Clerk to the Board of Supervisors (Acting)

TAIH/ns

cc: Joseph T. Hix  
Real Estate Division, Assessments  
Gilbert R. Knowlton, Deputy  
Zoning Administrator  
Donald D. Smith  
Permit, Plan Review Branch  
Seldon H. Garnet, Chief  
Inspection Services Division  
Building Plan Review Branch  
Barbara A. Byron, Director  
Zoning Evaluation Division  
Robert Moore, Transportation Planning Division,  
Office of Transportation  
Kathy Ichter, Transportation Road Bond Division,  
Office of Transportation  
Department of Environmental Management  
A. V. Bailey, Resident Engineer  
Virginia Department of Transportation

**DOGUE CREEK**



NOTE: EXISTING FLOOD PLAIN FOLLOWS AN ELEVATION OF 100 SOURCE: U.S. ARMY CORPS OF ENGINEERS



VICINITY MAP  
SCALE: 1" = 100'

- NOTES:
1. PROPERTY SHOWN ON THE MAP IS 1.00 AC. (80,000 SQ. FT.)
  2. ZONED: R-1
  3. MOORE BUILDING, 11111 W. 11TH ST., ALEXANDRIA, VA 22304 (703) 748-3111
  4. PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
  5. WATERBORN DOGUE CREEK SANITARY DOUGLASS CREEK
  6. DISTRICT: MOUNT VERNON
  7. DISBURSED: EA IN THE FLOOD PLAIN: 1.00 AC. (80,000 SQ. FT.)
  8. AMOUNT OF FILL IN THE FLOOD PLAIN: 287 CU YD. OR 1,789 CU FT.



*Kenneth W. White*  
K. W. WHITE  
MECHANICAL ENGINEER

**GRADED PLAN**

**YACHT HAVEN ESTATES**  
LOT 11, BLOCK "H"

MOUNT VERNON DISTRICT  
FAIRFAX COUNTY, VIRGINIA

SCALE: 1" = 100' DATE: 08/15/2006

ALEXANDRIA SURVEYS, INC.  
1111 SOUTH CROSS HIGHTWAY ALEXANDRIA, VIRGINIA 22304

REVISION: \_\_\_\_\_ DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

Approval No. 53-V-004

**APPROVED SE/SP PLAT**

SEE DEVELOPMENT CONDITIONS

Date of (SE/SP) Approval: 8/15/06

Real Coordinator: STEFAN JENSEN

Sheet 1 of 1

## GLOSSARY

This Glossary is provided to assist the public in understanding the staff evaluation and analysis of development proposals. It should not be construed as representing legal definitions. Refer to the Fairfax County Zoning Ordinance, Comprehensive Plan or Public Facilities Manual for additional information.

**ABANDONMENT:** Refers to road or street abandonment, an action taken by the Board of Supervisors, usually through the public hearing process, to abolish the public's right-of-passage over a road or road right-of way. Upon abandonment, the right-of-way automatically reverts to the underlying fee owners. If the fee to the owner is unknown, Virginia law presumes that fee to the roadbed rests with the adjacent property owners if there is no evidence to the contrary.

**ACCESSORY DWELLING UNIT (OR APARTMENT):** A secondary dwelling unit established in conjunction with and clearly subordinate to a single family detached dwelling unit. An accessory dwelling unit may be allowed if a special permit is granted by the Board of Zoning Appeals (BZA). Refer to Sect. 8-918 of the Zoning Ordinance.

**AFFORDABLE DWELLING UNIT (ADU) DEVELOPMENT:** Residential development to assist in the provision of affordable housing for persons of low and moderate income in accordance with the affordable dwelling unit program and in accordance with Zoning Ordinance regulations. Residential development which provides affordable dwelling units may result in a density bonus (see below) permitting the construction of additional housing units. See Part 8 of Article 2 of the Zoning Ordinance.

**AGRICULTURAL AND FORESTAL DISTRICTS:** A land use classification created under Chapter 114 or 115 of the Fairfax County Code for the purpose of qualifying landowners who wish to retain their property for agricultural or forestal use for use/value taxation pursuant to Chapter 58 of the Fairfax County Code.

**BARRIER:** A wall, fence, earthen berm, or plant materials which may be used to provide a physical separation between land uses. Refer to Article 13 of the Zoning Ordinance for specific barrier requirements.

**BEST MANAGEMENT PRACTICES (BMPs):** Stormwater management techniques or land use practices that are determined to be the most effective, practicable means of preventing and/or reducing the amount of pollution generated by nonpoint sources in order to improve water quality.

**BUFFER:** Graduated mix of land uses, building heights or intensities designed to mitigate potential conflicts between different types or intensities of land uses; may also provide for a transition between uses. A landscaped buffer may be an area of open, undeveloped land and may include a combination of fences, walls, berms, open space and/or landscape plantings. A buffer is not necessarily coincident with transitional screening.

**CHESAPEAKE BAY PRESERVATION ORDINANCE:** Regulations which the State has mandated must be adopted to protect the Chesapeake Bay and its tributaries. These regulations must be incorporated into the comprehensive plans, zoning ordinances and subdivision ordinances of the affected localities. Refer to Chesapeake Bay Preservation Act, Va. Code Section 10.1-2100 et seq and VR 173-02-01, Chesapeake Bay Preservation Area Designation and Management Regulations.

**CLUSTER DEVELOPMENT:** Residential development in which the lots are clustered on a portion of a site so that significant environmental/historical/cultural resources may be preserved or recreational amenities provided. While smaller lot sizes are permitted in a cluster subdivision to preserve open space, the overall density cannot exceed that permitted by the applicable zoning district. See Sect. 2-421 and Sect. 9-615 of the Zoning Ordinance.

**COUNTY 2232 REVIEW PROCESS:** A public hearing process pursuant to Sect. 15.2-2232 (Formerly Sect. 15.1-456) of the Virginia Code which is used to determine if a proposed public facility not shown on the adopted Comprehensive Plan is in substantial accord with the plan. Specifically, this process is used to determine if the general or approximate location, character and extent of a proposed facility is in substantial accord with the Plan.

**dBA:** The momentary magnitude of sound weighted to approximate the sensitivity of the human ear to certain frequencies; the dBA value describes a sound at a given instant, a maximum sound level or a steady state value. See also Ldn.

**DENSITY:** Number of dwelling units (du) divided by the gross acreage (ac) of a site being developed in residential use; or, the number of dwelling units per acre (du/ac) except in the PRC District when density refers to the number of persons per acre.

**DENSITY BONUS:** An increase in the density otherwise allowed in a given zoning district which may be granted under specific provisions of the Zoning Ordinance when a developer provides excess open space, recreation facilities, or affordable dwelling units (ADUs), etc.

**DEVELOPMENT CONDITIONS:** Terms or conditions imposed on a development by the Board of Supervisors (BOS) or the Board of Zoning Appeals (BZA) in connection with approval of a special exception, special permit or variance application or rezoning application in a "P" district. Conditions may be imposed to mitigate adverse impacts associated with a development as well as secure compliance with the Zoning Ordinance and/or conformance with the Comprehensive Plan. For example, development conditions may regulate hours of operation, number of employees, height of buildings, and intensity of development.

**DEVELOPMENT PLAN:** A graphic representation which depicts the nature and character of the development proposed for a specific land area: information such as topography, location and size of proposed structures, location of streets trails, utilities, and storm drainage are generally included on a development plan. A development plan is a submission requirement for rezoning to the PRC District. A **GENERALIZED DEVELOPMENT PLAN (GDP)** is a submission requirement for a rezoning application for all conventional zoning districts other than a P District. A development plan submitted in connection with a special exception (SE) or special permit (SP) is generally referred to as an SE or SP plat. A **CONCEPTUAL DEVELOPMENT PLAN (CDP)** is a submission requirement when filing a rezoning application for a P District other than the PRC District; a CDP characterizes in a general way the planned development of the site. A **FINAL DEVELOPMENT PLAN (FDP)** is a submission requirement following the approval of a conceptual development plan and rezoning application for a P District other than the PRC District; an FDP further details the planned development of the site. See Article 16 of the Zoning Ordinance.

**EASEMENT:** A right to or interest in property owned by another for a specific and limited purpose. Examples: access easement, utility easement, construction easement, etc. Easements may be for public or private purposes.

**ENVIRONMENTAL QUALITY CORRIDORS (EQCs):** An open space system designed to link and preserve natural resource areas, provide passive recreation and protect wildlife habitat. The system includes stream valleys, steep slopes and wetlands. For a complete definition of EQCs, refer to the Environmental section of the Policy Plan for Fairfax County contained in Vol. 1 of the Comprehensive Plan.

**ERODIBLE SOILS:** Soils that wash away easily, especially under conditions where stormwater runoff is inadequately controlled. Silt and sediment are washed into nearby streams, thereby degrading water quality.

**FLOODPLAIN:** Those land areas in and adjacent to streams and watercourses subject to periodic flooding; usually associated with environmental quality corridors. The 100 year floodplain drains 70 acres or more of land and has a one percent chance of flood occurrence in any given year.

**FLOOR AREA RATIO (FAR):** An expression of the amount of development intensity (typically, non-residential uses) on a specific parcel of land. FAR is determined by dividing the total square footage of gross floor area of buildings on a site by the total square footage of the site itself.

**FUNCTIONAL CLASSIFICATION:** A system for classifying roads in terms of the character of service that individual facilities are providing or are intended to provide, ranging from travel mobility to land access. Roadway system functional classification elements include Freeways or Expressways which are limited access highways, Other Principal (or Major) Arterials, Minor Arterials, Collector Streets, and Local Streets. Principal arterials are designed to accommodate travel; access to adjacent properties is discouraged. Minor arterials are designed to serve both through traffic and local trips. Collector roads and streets link local streets and properties with the arterial network. Local streets provide access to adjacent properties.

**GEOTECHNICAL REVIEW:** An engineering study of the geology and soils of a site which is submitted to determine the suitability of a site for development and recommends construction techniques designed to overcome development on problem soils, e.g., marine clay soils.

**HYDROCARBON RUNOFF:** Petroleum products, such as motor oil, gasoline or transmission fluid deposited by motor vehicles which are carried into the local storm sewer system with the stormwater runoff, and ultimately, into receiving streams; a major source of non-point source pollution. An oil-grit separator is a common hydrocarbon runoff reduction method.

**IMPERVIOUS SURFACE:** Any land area covered by buildings or paved with a hard surface such that water cannot seep through the surface into the ground.

**INFILL:** Development on vacant or underutilized sites within an area which is already mostly developed in an established development pattern or neighborhood.

**INTENSITY:** The magnitude of development usually measured in such terms as density, floor area ratio, building height, percentage of impervious surface, traffic generation, etc. Intensity is also based on a comparison of the development proposal against environmental constraints or other conditions which determine the carrying capacity of a specific land area to accommodate development without adverse impacts.

**Ldn:** Day night average sound level. It is the twenty-four hour average sound level expressed in A-weighted decibels; the measurement assigns a "penalty" to night time noise to account for night time sensitivity. Ldn represents the total noise environment which varies over time and correlates with the effects of noise on the public health, safety and welfare.

**LEVEL OF SERVICE (LOS):** An estimate of the effectiveness of a roadway to carry traffic, usually under anticipated peak traffic conditions. Level of Service efficiency is generally characterized by the letters A through F, with LOS-A describing free flow traffic conditions and LOS-F describing jammed or grid-lock conditions.

**MARINE CLAY SOILS:** Soils that occur in widespread areas of the County generally east of Interstate 95. Because of the abundance of shrink-swell clays in these soils, they tend to be highly unstable. Many areas of slope failure are evident on natural slopes. Construction on these soils may initiate or accelerate slope movement or slope failure. The shrink-swell soils can cause movement in structures, even in areas of flat topography, from dry to wet seasons resulting in cracked foundations, etc. Also known as slippage soils.

**OPEN SPACE:** That portion of a site which generally is not covered by buildings, streets, or parking areas. Open space is intended to provide light and air; open space may function as a buffer between land uses or for scenic, environmental, or recreational purposes.

**OPEN SPACE EASEMENT:** An easement usually granted to the Board of Supervisors which preserves a tract of land in open space for some public benefit in perpetuity or for a specified period of time. Open space easements may be accepted by the Board of Supervisors, upon request of the land owner, after evaluation under criteria established by the Board. See Open Space Land Act, Code of Virginia, Sections 10.1-1700, et seq.

**P DISTRICT:** A "P" district refers to land that is planned and/or developed as a Planned Development Housing (PDH) District, a Planned Development Commercial (PDC) District or a Planned Residential Community (PRC) District. The PDH, PDC and PRC Zoning Districts are established to encourage innovative and creative design for land development; to provide ample and efficient use of open space; to promote a balance in the mix of land uses, housing types, and intensity of development; and to allow maximum flexibility in order to achieve excellence in physical, social and economic planning and development of a site. Refer to Articles 6 and 16 of the Zoning Ordinance.

**PROFFER:** A written condition, which, when offered voluntarily by a property owner and accepted by the Board of Supervisors in a rezoning action, becomes a legally binding condition which is in addition to the zoning district regulations applicable to a specific property. Proffers are submitted and signed by an owner prior to the Board of Supervisors public hearing on a rezoning application and run with the land. Once accepted by the Board, proffers may be modified only by a proffered condition amendment (PCA) application or other zoning action of the Board and the hearing process required for a rezoning application applies. See Sect. 15.2-2303 (formerly 15.1-491) of the Code of Virginia.

**PUBLIC FACILITIES MANUAL (PFM):** A technical text approved by the Board of Supervisors containing guidelines and standards which govern the design and construction of site improvements incorporating applicable Federal, State and County Codes, specific standards of the Virginia Department of Transportation and the County's Department of Public Works and Environmental Services.

**RESOURCE MANAGEMENT AREA (RMA):** That component of the Chesapeake Bay Preservation Area comprised of lands that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

**RESOURCE PROTECTION AREA (RPA):** That component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline or water's edge that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation of the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments from runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources. New development is generally discouraged in an RPA. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

**SITE PLAN:** A detailed engineering plan, to scale, depicting the development of a parcel of land and containing all information required by Article 17 of the Zoning Ordinance. Generally, submission of a site plan to DPWES for review and approval is required for all residential, commercial and industrial development except for development of single family detached dwellings. The site plan is required to assure that development complies with the Zoning Ordinance.

**SPECIAL EXCEPTION (SE) / SPECIAL PERMIT (SP):** Uses, which by their nature, can have an undue impact upon or can be incompatible with other land uses and therefore need a site specific review. After review, such uses may be allowed to locate within given designated zoning districts if appropriate and only under special controls, limitations, and regulations. A special exception is subject to public hearings by the Planning Commission and Board of Supervisors with approval by the Board of Supervisors; a special permit requires a public hearing and approval by the Board of Zoning Appeals. Unlike proffers which are voluntary, the Board of Supervisors or BZA may impose reasonable conditions to assure, for example, compatibility and safety. See Article 8, Special Permits and Article 9, Special Exceptions, of the Zoning Ordinance.

**STORMWATER MANAGEMENT:** Engineering practices that are incorporated into the design of a development in order to mitigate or abate adverse water quantity and water quality impacts resulting from development. Stormwater management systems are designed to slow down or retain runoff to re-create, as nearly as possible, the pre-development flow conditions.

**SUBDIVISION PLAT:** The engineering plan for a subdivision of land submitted to DPWES for review and approved pursuant to Chapter 101 of the County Code.

**TRANSPORTATION DEMAND MANAGEMENT (TDM):** Actions taken to reduce single occupant vehicle automobile trips or actions taken to manage or reduce overall transportation demand in a particular area.

**TRANSPORTATION SYSTEM MANAGEMENT (TSM) PROGRAMS:** This term is used to describe a full spectrum of actions that may be applied to improve the overall efficiency of the transportation network. TSM programs usually consist of low-cost alternatives to major capital expenditures, and may include parking management measures, ridesharing programs, flexible or staggered work hours, transit promotion or operational improvements to the existing roadway system. TSM includes Transportation Demand Management (TDM) measures as well as H.O.V. use and other strategies associated with the operation of the street and transit systems.

**URBAN DESIGN:** An aspect of urban or suburban planning that focuses on creating a desirable environment in which to live, work and play. A well-designed urban or suburban environment demonstrates the four generally accepted principles of design: clearly identifiable function for the area; easily understood order; distinctive identity; and visual appeal.

**VACATION:** Refers to vacation of street or road as an action taken by the Board of Supervisors in order to abolish the public's right-of-passage over a road or road right-of-way dedicated by a plat of subdivision. Upon vacation, title to the road right-of-way transfers by operation of law to the owner(s) of the adjacent properties within the subdivision from whence the road/road right-of-way originated.

**VARIANCE:** An application to the Board of Zoning Appeals which seeks relief from a specific zoning regulation such as lot width, building height, or minimum yard requirements, among others. A variance may only be granted by the Board of Zoning Appeals through the public hearing process and upon a finding by the BZA that the variance application meets the required Standards for a Variance set forth in Sect. 18-404 of the Zoning Ordinance.

**WETLANDS:** Land characterized by wetness for a portion of the growing season. Wetlands are generally delineated on the basis of physical characteristics such as soil properties indicative of wetness, the presence of vegetation with an affinity for water, and the presence or evidence of surface wetness or soil saturation. Wetland environments provide water quality improvement benefits and are ecologically valuable. Development activity in wetlands is subject to permitting processes administered by the U.S. Army Corps of Engineers

**TIDAL WETLANDS:** Vegetated and nonvegetated wetlands as defined in Chapter 116 Wetlands Ordinance of the Fairfax County Code: includes tidal shores and tidally influenced embayments, creeks, and tributaries to the Occoquan and Potomac Rivers. Development activity in tidal wetlands may require approval from the Fairfax County Wetlands Board.

#### Abbreviations Commonly Used in Staff Reports

A&F	Agricultural & Forestal District	PDH	Planned Development Housing
ADU	Affordable Dwelling Unit	PFM	Public Facilities Manual
ARB	Architectural Review Board	PRC	Planned Residential Community
BMP	Best Management Practices	RC	Residential-Conservation
BOS	Board of Supervisors	RE	Residential Estate
BZA	Board of Zoning Appeals	RMA	Resource Management Area
COG	Council of Governments	RPA	Resource Protection Area
CBC	Community Business Center	RUP	Residential Use Permit
CDP	Conceptual Development Plan	RZ	Rezoning
CRD	Commercial Revitalization District	SE	Special Exception
DOT	Department of Transportation	SEA	Special Exception Amendment
DP	Development Plan	SP	Special Permit
DPWES	Department of Public Works and Environmental Services	TDM	Transportation Demand Management
DPZ	Department of Planning and Zoning	TMA	Transportation Management Association
DU/AC	Dwelling Units Per Acre	TSA	Transit Station Area
EQC	Environmental Quality Corridor	TSM	Transportation System Management
FAR	Floor Area Ratio	UP & DD	Utilities Planning and Design Division, DPWES
FDP	Final Development Plan	VC	Variance
GDP	Generalized Development Plan	VDOT	Virginia Dept. of Transportation
GFA	Gross Floor Area	VPD	Vehicles Per Day
HC	Highway Corridor Overlay District	VPH	Vehicles per Hour
HCD	Housing and Community Development	WMATA	Washington Metropolitan Area Transit Authority
LOS	Level of Service	WS	Water Supply Protection Overlay District
Non-RUP	Non-Residential Use Permit	ZAD	Zoning Administration Division, DPZ
OSDS	Office of Site Development Services, DPWES	ZED	Zoning Evaluation Division, DPZ
PCA	Proffered Condition Amendment	ZPRB	Zoning Permit Review Branch
PD	Planning Division		
PDC	Planned Development Commercial		