



APPLICATION FILED: September 30, 2005
ORIGINAL PLANNING COMMISSION HEARING: May 18, 2006
CURRENT PLANNING COMMISSION HEARING: April 26, 2007
BOARD OF SUPERVISORS: Not Yet Scheduled

County of Fairfax, Virginia

April 12, 2007

STAFF REPORT ADDENDUM II

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

MOUNT VERNON DISTRICT

APPLICANTS: Scott A. and Phyllis P. Crabtree

ZONING: R-2

PARCEL(S): 102-2 ((1)) 35A

ACREAGE: 58,484 square feet (1.34 acres)

PLAN MAP: Residential; 2-3 du/ac

SE CATEGORY: Category 6; Uses in a Floodplain

PROPOSAL: Amendment to SE 2002-MV-028 previously approved to allow construction of a single-family detached residential structure within a 100 year floodplain to permit site modifications and changes to the development conditions.

STAFF RECOMMENDATIONS:

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

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Staff also recommends approval of Resource Protection (RPA) Encroachment Request #15043-WRPA-002-1 subject to the imposition of the proposed RPA exception conditions dated March 30, 2007 contained in the Resource Protection (RPA) Encroachment Staff Report included as Appendix 8 of this Addendum and subject to the approval of SEA 2002-MV-028.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions proffered by the owner, 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 rezoning 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).

BACKGROUND

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

On April 11, 2006, the Staff Report for SEA 2002-MV-028 was published. In this report, staff concluded that with the imposition of the proposed development conditions contained in Appendix 1 of the staff report, which includes conditions that require the removal of the existing carport and the provision of additional plantings in the "lawn beach area", the additional disturbance on the site and intrusion into the RPA caused by the additional fill would be effectively mitigated and that the subject application was in harmony with the Comprehensive Plan and in conformance with the applicable Zoning Ordinance provisions and thus recommended approval of the application.

DISCUSSION

At the Planning Commission public hearing on SEA 2002-MV-028 held on May 18, 2006, several issues were raised which required additional information from the applicant. On that date the case was deferred for decision only until May 31, 2006 (see Appendix 2).

The decision was subsequently deferred to June 14, 2006, at which time an addendum to the staff report was published which included revisions to the development conditions. These included deletion of previously proposed development condition number 5 which required the recordation of an ingress egress access easement across Tax Map 102-2 ((1)) 35. This easement has been acquired and verified by the applicant. Previously proposed development condition number 19 which would make the Special Exception null and void if the necessary easements to extend sanitary sewer to the site were not acquired was also deleted. This easement has also been acquired and verified by the applicant.

Several other development conditions were modified including a modification to clarify the method of measurement used to determine floor elevations, NGVD (National Geodetic Vertical Datum) 1929, (the standard for elevation measurement established by the U.S. Geological Service), and the addition of a development condition to require all of the driveway that is in the RPA to be constructed of pervious materials such as pervious asphalt.

At the June 14, 2006 Planning Commission meeting the decision was deferred again to June 21, 2006. On June 21, 2006 SEA 2002-MV-028 was indefinitely deferred until necessary information was secured to resolve the outstanding issues related to sanitary sewer access and building height.

The additional information included verification of sanitary sewer access to the site. Appendix 3 of this staff report addendum provides documentation, in the form of a plumbing permit from Fairfax County indicating that such access had been acquired. Note number 12 on the revised SEA Plat also indicates that sanitary sewer to the site is available on Arcturus on the Potomac and/or East Boulevard Drive. The plat shows an existing sanitary sewer utility corridor access to Arcturus on the Potomac connecting to adjacent parcel 34 to the west of the subject parcel which is also owned by the applicant.

In addition a certification that the proposed structure does not exceed the maximum residential building height in the R-2 Zoning District of 35 feet was requested from the applicant. A letter dated October 13, 2006, from Richard C. Lessard, AIA of Lessard Commercial, Inc., which certifies the height of the structure at 34.6 feet, is included as Appendix 4. A letter from Senior Deputy Zoning Administrator, which verifies the height certification is in compliance with the maximum height limitation of the R-2 District is included as Appendix 5.

The applicant submitted a revised SEA Plat dated March 9, 2007 (Appendix 6) which addressed issues raised in the DPWES/Environmental and Site Review Division analysis (Appendix 7) dated January 31, 2007. These issues were either corrected subsequent to the publication of the analysis or have been addressed by proposed development conditions.

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

On December 9, 2002 RPA Exception (#24919A) was approved for the subject property which has since expired and is no longer valid. Since that time it was determined that the additional encroachment into the RPA from that shown on the approved SE plat, and amendments to the provisions in the CBPO, made the previously approved RPA Exception invalid and that approval of a new RPA Exception would be required.

A request for an RPA Exception was submitted, Resource Protection Area Encroachment Request #15043-WRPA-002-1, through DPWES is to be processed concurrently with this Special Exception Amendment, by the Board of Supervisors.

The DPWES staff report has been amended to address modifications made to the SEA Plat which indicates that the total proposed impervious area within the RPA is shown to be 4,880 square feet (exclusive of the driveway) and that 9,992 sf of RPA is to be disturbed, a total of at least 10,000 square feet of vegetated buffer is required to be provided on the lot as indicated on the SEA Plat and required by proposed development conditions in both the SEA and RPA requests. The revised RPA exception report continues to recommend approval of RPA Exception #15043-WRPA-002-1, subject to the proposed RPAE conditions dated March 30, 2007 contained in the report which is included as Appendix 8 of this addendum.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

With the imposition of the proposed development conditions, staff concludes that the subject application is in harmony with the Comprehensive Plan and is in conformance with the applicable Zoning Ordinance provisions.

Recommendations

Staff recommends approval of SEA 2002-MV-028 subject to the proposed development conditions contained in Appendix 1 of this addendum. Staff also recommends approval of Resource Protection (RPA) Encroachment Request #15043-WRPA-002-1 subject to the imposition of the proposed RPA exception conditions dated March 30, 2007 contained in the Resource Protection (RPA) Encroachment Staff Report included as Appendix 8 of this Addendum and subject to the approval of SEA 2002-MV-028.

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

The approval of this rezoning 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.

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.

APPENDICES

1. Revised Proposed Development Conditions dated April 12, 2007
2. Minutes from April 27, 2006 public hearing on SEA 2002-MV-028.
3. Sanitary Sewer Access verification.
4. Letter dated October 13, 2006, from Richard C. Lessard, AIA of Lessard Commercial, Inc., which certifies the height of the subject structure.
5. Letter from Leslie Johnson, Senior Deputy Zoning Administrator, which verifies the height certification.
6. Revised SEA Plat dated March 9, 2007.
7. DPWES/Environmental and Site Review Division Analysis.
8. RPA Exception #15043-WRPA-002-1 Staff Report and Proposed Exception Conditions.
9. Revised approved Affidavit for SEA 2002-MV-028 dated March 12, 2007

REVISED PROPOSED DEVELOPMENT CONDITIONS

SEA 2002-MV-028

April 12, 2007

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

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.*
2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Special Exception Plat approved with the application, as qualified by these development conditions.*
3. Any plan submitted pursuant to this Special Exception shall be in substantial conformance with the approved Special Exception plat **titled Special Exception Plat, and prepared by Dominion Surveys, Inc., which is dated August 19, 2005 and revised to March 9, 2007**, and these conditions.
4. A Hold Harmless agreement shall be executed with the County for all adverse effects which may arise as a result of the location of the house and appurtenant structures within a floodplain area. *
5. The limits of clearing and grading, as shown on the SEA shall be strictly observed and enforced. Any encroachment into or disturbance of the RPA not shown on the Plat is considered a violation of the CBPO and is subject to penalties of Article 9 of the CBPO.*

6. The dwelling shall be constructed on pilings, as shown on the SEA Plat and shall be set at an elevation of sixteen (16) feet from the top of the first floor (NGVD 1929). The amount of fill permitted shall not exceed a maximum of 241.5 cubic yards. Prior to issuance of a building permit, a revised grading plan shall be submitted to DPWES for approval. Trees and indigenous vegetation within the limits of clearing and grading shall be preserved on the site during the construction process to the maximum extent feasible as determined by the UFM, DPWES.
7. If deemed necessary by DPWES, a geotechnical report shall be submitted to DPWES for foundation design and earthwork engineering. Plans shall be implemented as required by DPWES.*
8. The applicant shall notify the US Army Corps of Engineers prior to the approval of a grading plan to ensure compliance with § 404 of the Clean Water Act. Any required wetlands permit shall be obtained prior to commencement of land disturbing activity. *
9. As-built floor elevations for the residence shall be submitted in accordance with Section 3107.12.1 of the Virginia Uniform Statewide Building Code (VUSBC 1977) on a standard FEMA Elevation Certificate prior to approval of the framing inspection. *
10. All construction shall be in conformance with Section 3107.0 Flood-Resistant Construction of the Virginia Uniform Statewide Building Code (VUSBC 1977). A statement certifying all floodproofing proposed, and indicating its compliance with all County, State, and Federal requirements shall be provided with the Building Permit application. This certification shall be signed, sealed, and indicate the address of the certifying professional and it shall cover all structural, electrical, mechanical, plumbing, water and sanitary facilities connected with the use. *
11. Erosion and sediment control measures shall be installed at all stages of construction. Super-silt fence shall be required along the limits of any clearing and/or grading within the RPA, and shall remain in place, and be properly maintained, for the duration of the land disturbing activity within the RPA until such time that the disturbed area is completely stabilized as determined by the Environmental and Facilities Inspection Division site inspector. No more land shall be disturbed than is necessary for the proposed construction within the RPA.*

12. Stormwater drainage shall be directed to ditches through the use of pipes, swales, or other devices, as determined by DPWES. Any fill area shall be stabilized, graded, or have drains installed such that normal rainfall will not flow over unprotected fill area onto adjacent properties. *
13. Disclosure of potential flood hazards due to the location of the site within the 00-year floodplain shall be made in writing to any potential home buyers prior to entering into a contract of sale. *
14. All building supplies and construction equipment shall be located and stored only within the area designated as disturbed area on the SEA Plat.*
15. The existing gravel turnaround located south of the existing driveway shall be removed and restored to a vegetated state, as depicted on the SEA Plat and as determined by DPWES. *
16. The dwelling shall be limited to a maximum height of 35.0 feet. *
17. An area equal in size to the disturbed area within the RPA shall be restored between the dwelling and the Potomac River, as defined by DPWES, and such area shall be planted with native plant species as determined by the Urban Forest Management Branch. The applicant shall provide plantings under and around the dwelling, as shown on the SEA Plat. No clearing, other than for dead or dying plants, shall be permitted between the dwelling and the Potomac River.*
18. The existing carport shown to remain on the SEA Plat shall be removed from within the RPA and the area restored with vegetation to a density consistent with the planting requirements of CBPO 118-3-3(f) as determined by UFM, DPWES.
19. The area shown on the SEA Plat as an "existing Lawn Beach Area" shall remain undisturbed. Indigenous vegetation shall be preserved to the maximum extent possible. Additional plantings as indicated on the Landscape Plan shall be installed prior to issuance of a residential use permit .
20. To the extent possible, stable vegetation in the floodplain shall be protected and maintained as determined by DPWES.
21. There shall be no storage of herbicides, pesticides, or toxic or hazardous substances as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 et seq., within the floodplain.

22. All mechanical, electrical, and utility equipment shall be at or above the flood level.
23. All of the driveway that is in the RPA shall be constructed of pervious materials such as pervious asphalt or brick pavers.
24. The construction material stockpile areas shall be located in the areas of the existing dwelling to be removed and within the existing driveway turnaround area. These stockpile areas shall be restored with vegetation upon completion of construction on the lot.
25. Vegetated buffer areas shall be located in the areas shown on the Plat and shall be of a combined area of at least 10,520 square feet. The size, species and density shall be consistent with the planting requirements of CBPO 118-3-3(f). A minimum of 23 overstory trees, 45 understory trees and 250 shrubs with groundcovers shall be planted within the 10,520 square feet of buffer areas. Notwithstanding the statements in the application or the associated Water Quality Impact Assessment, the proposed vegetation may only be revised with written approval of the Director of the Department of Public Works and Environmental Services (DPWES).
26. A revised lot grading plan shall be submitted and approved by the Director of DPWES prior to issuance of a residential use permit. The lot grading plan shall address the revisions to the Special Exception Plat and the conditions contained herein.

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

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