APPLICATION ACCEPTED: November 16, 2012
PLANNING COMMISSION: May 22, 2013
BOARD OF SUPERVISORS: TBD

County of Fairfax, Virginia

May 9, 2013

STAFF REPORT

APPLICATION SE 2012-MV-019

MOUNT VERNON DISTRICT

APPLICANT:	Seyed M. Falsafi
ZONING:	R-2: Residential District (Two Dwellings Units/Acre)
PARCEL:	102-4 ((1)) 77B
LOCATION:	835 Herbert Springs Road
SITE ACREAGE:	3.12 acres
PLAN MAP:	Residential – 2/3 dwelling units/acre
SPECIAL EXCEPTION CATEGORY:	Category 6 – Uses in a Floodplain
PROPOSAL:	To retroactively permit the placement of 550 cubic yards of fill in a floodplain

STAFF RECOMMENDATIONS:

Staff recommends approval of SE 2012-MV-019, subject to the proposed conditions listed 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 proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be 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.

Nick Rogers, AICP

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

The approval of this special exception does not interfere with, abrogate or annul any easements, 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 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

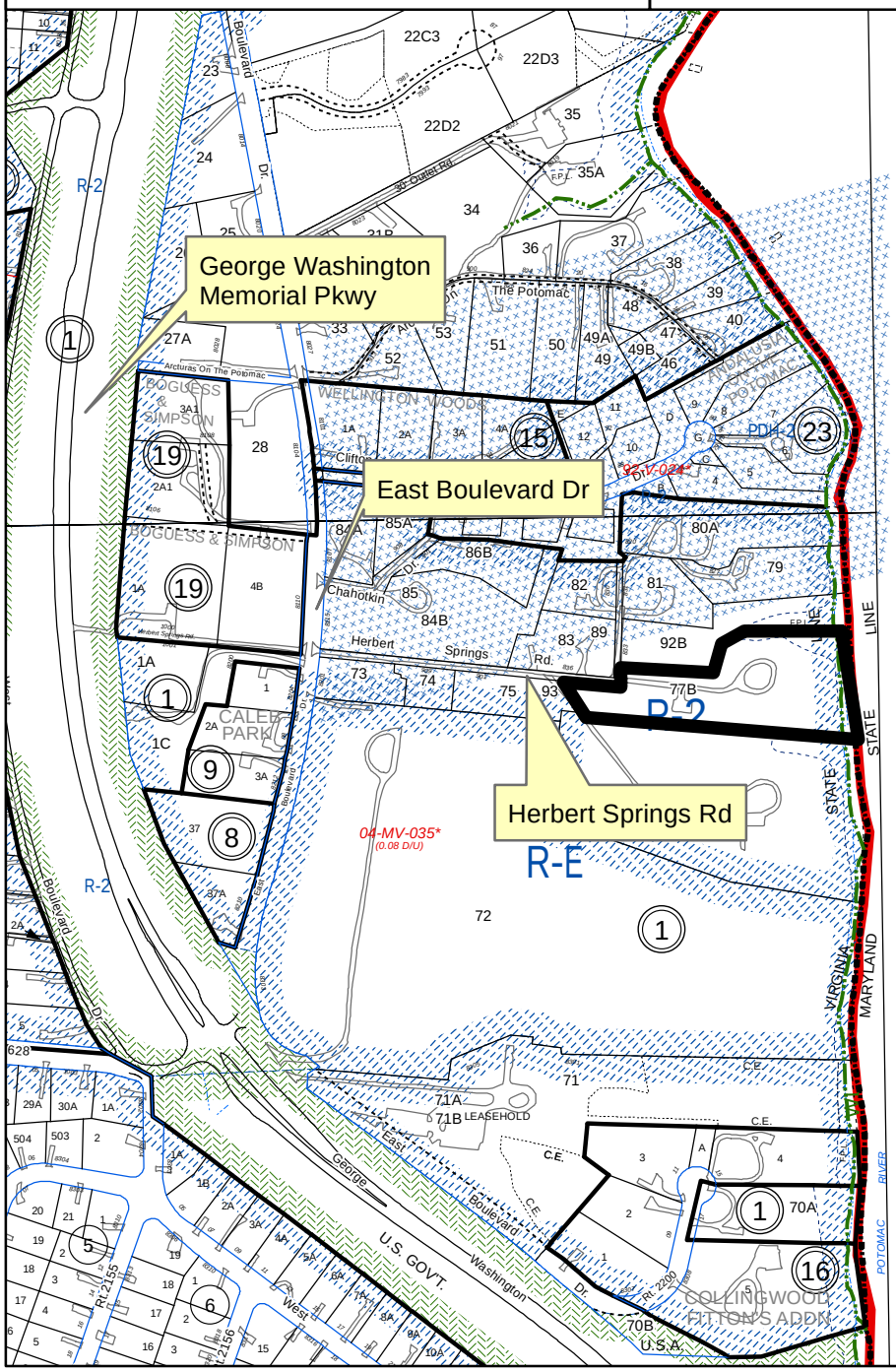
Special Exception

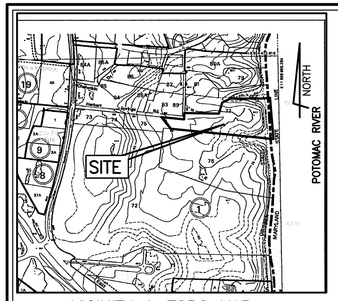
SE 2012-MV-019

Applicant: SEYED M. FALSAFI
Accepted: 11/16/2012
Proposed: USES IN A FLOODPLAIN
Area: 3.12 AC OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 02-0904
Art 9 Group and Use: 6-2
Located: 835 HERBERT SPRINGS ROAD, ALEXANDRIA, VA 22308

Zoning: R- 2
Plan Area: 4,
Overlay Dist:
Map Ref Num: 102-4- /01/ /0077B





VICINITY & TOPO MAP
(SCALE 1"= 500')

GENERAL NOTES:

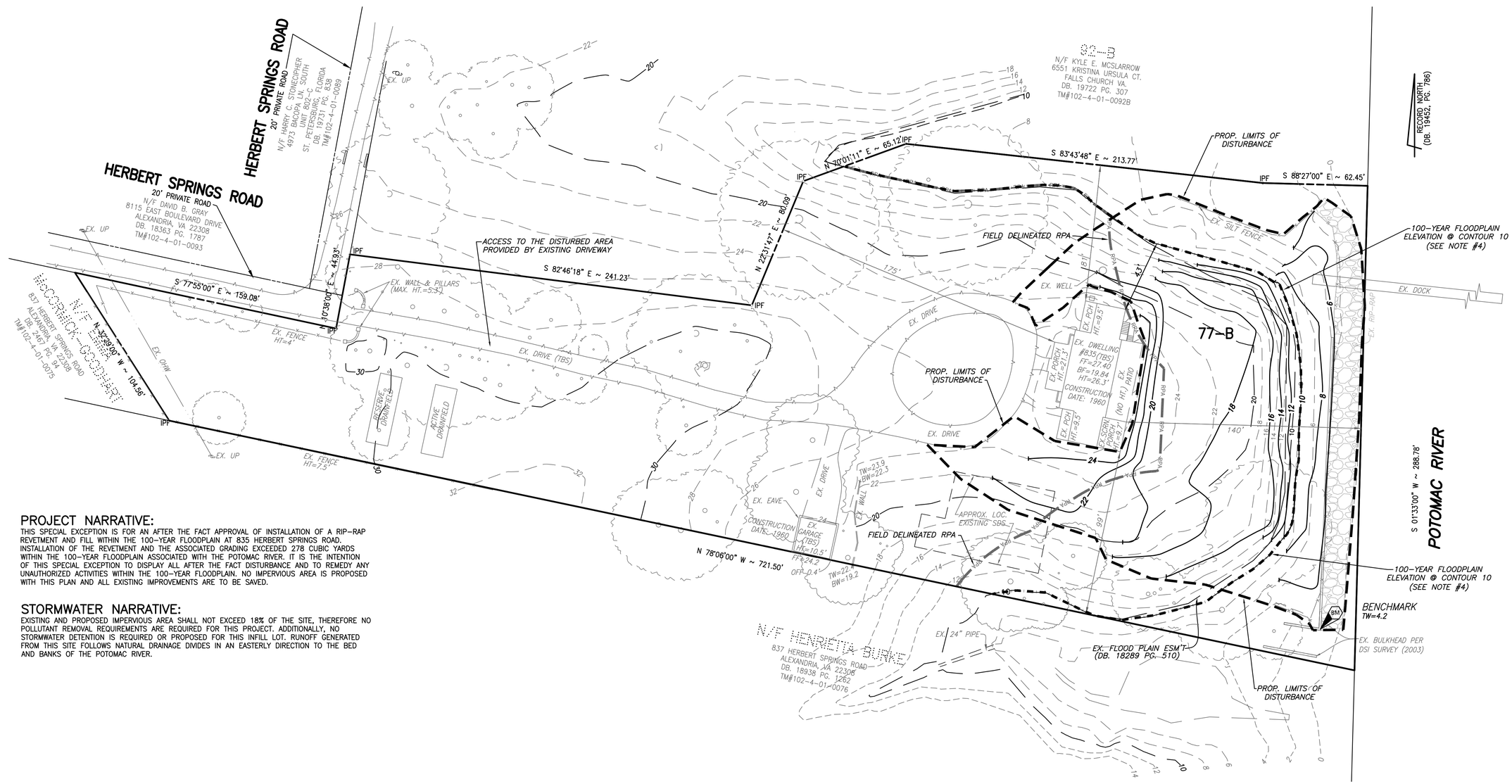
1. TAX MAP: #102-4-01-0077B
2. ZONE: R-2
3. OWNER: SEYED M. FALSAFI
   835 HERBERT SPRINGS ROAD
   ALEXANDRIA, VIRGINIA 22308
   D.B. 19452, PG. 786
4. TOPOGRAPHIC SURVEY FIELD RUN BY THIS FIRM. DATUM = NGVD 29
   EXISTING TOPOGRAPHIC CONTOURS FROM FAIRFAX COUNTY MAPPING
   100-YEAR FLOODPLAIN ELEVATION = 10 CONTOUR PER FEMA MAP NO. 51059C0410E
5. TITLE REPORT IS NOT FURNISHED, THUS ALL EASEMENTS MAY NOT BE SHOWN.
6. PLAT SUBJECT TO RESTRICTIONS OF RECORD.
7. TOTAL SITE AREA = 135,927 SQ. FT. OR 3.1205 AC.

TOTAL DISTURBED AREA	= 36,520 SQ.FT. OR 0.8384
DISTURBED AREA IN THE RPA	= 31,430 SQ.FT. OR 0.7215
EXISTING IMPERVIOUS AREA	= 11,038 SQ.FT. OR 8.12%
PROPOSED IMPERVIOUS AREA (8.12% < 18% NO BMP REQUIRED)	= 11,038 SQ.FT. OR 8.12%
APPROXIMATE AMOUNT OF FILL IN THE FLOODPLAIN	= 550 CU.YDS.

8. THIS LOT IS NOT IN A BONDED SUBDIVISION.
9. (T.B.R.) DENOTES TO BE REMOVED, (T.B.S.) DENOTES TO BE SAVED.
10. THE EXISTING DRIVEWAY IS TO BE USED AS THE CONSTRUCTION ENTRANCE. ALL VEHICLES ARE TO BE CLEANED PRIOR TO ENTERING THE RIGHT-OF-WAY.
11. MINIMUM YARD REQUIREMENTS R-2 ZONE:

FRONT:	35'
SIDE:	15'
REAR:	25'

12. NO DOWNSTREAM DRAINAGE IMPROVEMENTS ARE GENERATED DUE TO THE PROPOSED ACTIVITIES ON THIS SITE.
13. THERE IS NO TRAIL REQUIREMENT ALONG THE FRONTAGE OF THIS PROPERTY (AS PER FFX. CO. TRAIL MAP).
14. A PORTION OF THIS LOT IS LOCATED IN THE RESOURCE PROTECTION AREA (RPA) AND 100-YEAR FLOODPLAIN (ELEV. 10.0). FLOODPLAIN INFORMATION PROVIDED BY FEMA MAPS PANEL 51059C410E, EFFECTIVE SEPTEMBER 17, 2010.
15. THERE ARE NO KNOWN GRAVES, OBJECTS OR STRUCTURES MARKING A PLACE OF BURIAL ON-SITE.
16. THIS PLAN CONTAINS INFORMATION TAKEN FROM PLANS OF PUBLIC RECORD.
17. THERE ARE NO KNOWN HAZARDOUS OR TOXIC SUBSTANCES AS SET FORTH IN TITLE 40, CODE OF FEDERAL REGULATIONS, PARTS 116.4, 302.4 AND 355 OR HAZARDOUS WASTE AS SET FORTH IN COMMONWEALTH OF VIRGINIA/DEPARTMENT OF WASTE MANAGEMENT. VR 672-10-1 OF VIRGINIA 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.
18. THE PROPOSED USE OF THIS PROJECT IS RESIDENTIAL AND CONFORMS TO ALL APPLICABLE ORDINANCE, REGULATIONS, ADOPTED STANDARDS AND APPLICABLE CONDITIONS.
19. THERE ARE NO PROPOSED STORMWATER MANAGEMENT FACILITIES ASSOCIATED WITH THIS PLAN. (EXISTING IMPERVIOUS AREA IS BELOW 18%. NO PROPOSED IMPERVIOUS AREA IS ASSOCIATED WITH THIS PLAN).
20. THIS SITE DOES NOT CONTAIN ANY KNOWN MAJOR UNDERGROUND UTILITY EASEMENTS OR UTILITY EASEMENTS HAVING A WIDTH OF TWENTY-FIVE (25) FEET OR MORE.
21. ALL EXISTING IMPROVEMENTS ARE TO BE SAVED UNLESS OTHERWISE NOTED.
22. NO BUILDING CONSTRUCTION IS ASSOCIATED WITH THIS PLAN.
23. NO CONSTRUCTION SHALL TAKE PLACE IN A RESOURCE PROTECTION AREA (RPA) WITHOUT PROPER PERMITS ASSOCIATED WITH THE CHESAPEAKE BAY PRESERVATION ORDINANCE (CBPO). THE DISTURBANCE ASSOCIATED WITH THIS PLAN IS AN ALLOWED USE UNDER SECTION 118-2-1(A)&(B); NO EXCEPTION REQUIRED.
24. TWO OFF STREET PARKING SPACES, AS REQUIRED, ARE PROVIDED ON-SITE ON THE EXISTING DRIVEWAY.
25. THE EXISTING DWELLING AND GARAGE WERE CONSTRUCTED IN 1960. THE EXISTING DOCK WAS CONSTRUCTED IN 2011. ALL EXISTING STRUCTURES ARE TO REMAIN.



PROJECT NARRATIVE:

THIS SPECIAL EXCEPTION IS FOR AN AFTER THE FACT APPROVAL OF INSTALLATION OF A RIP-RAP REVETMENT AND FILL WITHIN THE 100-YEAR FLOODPLAIN AT 835 HERBERT SPRINGS ROAD. INSTALLATION OF THE REVETMENT AND THE ASSOCIATED GRADING EXCEEDED 278 CUBIC YARDS WITHIN THE 100-YEAR FLOODPLAIN ASSOCIATED WITH THE POTOMAC RIVER. IT IS THE INTENTION OF THIS SPECIAL EXCEPTION TO DISPLAY ALL AFTER THE FACT DISTURBANCE AND TO REMEDY ANY UNAUTHORIZED ACTIVITIES WITHIN THE 100-YEAR FLOODPLAIN. NO IMPERVIOUS AREA IS PROPOSED WITH THIS PLAN AND ALL EXISTING IMPROVEMENTS ARE TO BE SAVED.

STORMWATER NARRATIVE:

EXISTING AND PROPOSED IMPERVIOUS AREA SHALL NOT EXCEED 18% OF THE SITE, THEREFORE NO POLLUTANT REMOVAL REQUIREMENTS ARE REQUIRED FOR THIS PROJECT. ADDITIONALLY, NO STORMWATER DETENTION IS REQUIRED OR PROPOSED FOR THIS INFILL LOT. RUNOFF GENERATED FROM THIS SITE FOLLOWS NATURAL DRAINAGE DIVIDES IN AN EASTERLY DIRECTION TO THE BED AND BANKS OF THE POTOMAC RIVER.

THIS DRAWING IS A SERVICE DOCUMENT OF R.C. FIELDS & ASSOC., INC. AND MAY NOT BE USED OR REPRODUCED WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER AND /OR LAND SURVEYOR.

EXISTING UTILITIES SHOWN ON THIS PLAN TAKEN FROM AVAILABLE RECORDS AND/OR FROM FIELD OBSERVATIONS. FOR EXACT LOCATIONS OF EXISTING UNDERGROUND UTILITIES, NOTIFY "MISS UTILITY" AT 1-800-552-7001, 72 HOURS BEFORE THE START OF ANY EXCAVATION OR CONSTRUCTION.

LOCATION AND DEPTH OF ALL EXISTING UNDERGROUND UTILITIES TO BE VERIFIED BY CONTRACTOR PRIOR TO CONSTRUCTION. INTERFERENCE OR DISRUPTION OF SAME WILL NOT BE THE RESPONSIBILITY OF THIS OFFICE

ALL CONSTRUCTION SHALL CONFORM TO THE CURRENT STANDARDS AND SPECIFICATIONS OF FAIRFAX COUNTY, VIRGINIA.

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R.C. FIELDS & ASSOCIATES, INC.
LAND SURVEYING • ENGINEERING • PLANNING
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Alexandria, Virginia 22314
www.rcfassoc.com
(703) 549-6422

COMMONWEALTH OF VIRGINIA
RONALD J. KELLER
Lic. No. 1457-B
15 APRIL 2013
LAND SURVEYOR

SPECIAL EXCEPTION
PARCEL 77-B
ON THE PROPERTY OF
SEYED M. FALSAFI
(D.B. 19452 PG. 786)
MOUNT VERNON DISTRICT
FAIRFAX COUNTY, VIRGINIA

DATE	REVISION
10/29/12	PER COUNTY COMMENTS
4/15/13	PER COUNTY COMMENTS

DESIGN: R.A.W.
DRAWN: R.A.W.
SCALE: 1" = 30'
DATE: 3 AUGUST 2012
SHEET 1 OF 2
FILE: 07-53

PROJECT NARRATIVE:

THIS IS A REVISION TO APPROVED WATER QUALITY IMPACT ASSESSMENT #7022-WQ-002-1 FOR THE ESTABLISHMENT OF A RIP-RAP REVETMENT AND DOCK WITHIN A RESOURCE PROTECTION AREA (RPA) AT 835 HERBERT SPRINGS ROAD. DURING INSTALLATION OF THE REVETMENT AND DOCK, UNAUTHORIZED DISTURBANCE IN THE RPA OCCURED. IT IS THE INTENTION OF THIS WATER QUALITY IMPACT ASSESSMENT (WQIA) TO DISPLAY ALL AFTER THE FACT DISTURBANCE WITHIN THE RPA AND TO REESTABLISH A VEGETATED BUFFER THEREIN. A NOTICE OF VIOLATION FROM FAIRFAX COUNTY WAS ISSUED AND THIS WATER QUALITY IMPACT ASSESSMENT IS INTENDED TO REMEDY ANY UNAUTHORIZED ACTIVITIES AS WELL AS REVEGETATE THE RPA BUFFER.

NO IMPERVIOUS AREA IS PROPOSED WITH THIS PLAN. TREES, SEEDLINGS, SHRUBS AND GROUND COVER ARE TO BE PLANTED IN ACCORDANCE WITH CHAPTER 118 AND SECTION 12-516.4 OF THE PFM. THESE PLANTINGS SHALL ENHANCE WATER QUALITY BY FILTERING RUNOFF, PROMOTING INFILTRATION AND TRANSPIRATION BEFORE REACHING THE POTOMAC RIVER. IN ADDITION, THE PLANTING AREAS WILL INCLUDE A MULCH LAYER FOR THE TREES AND SHRUBS, HELPING TO FURTHER FILTER THE STORMWATER BEFORE EXITING THE SITE.

PLANTING NARRATIVE:

TO ENSURE DIVERSIFICATION, NO MORE THAN 10% OF THE TREES SHALL BE ONE SPECIES AND NO MORE THAN 33% SHALL BE OF ONE GENUS.

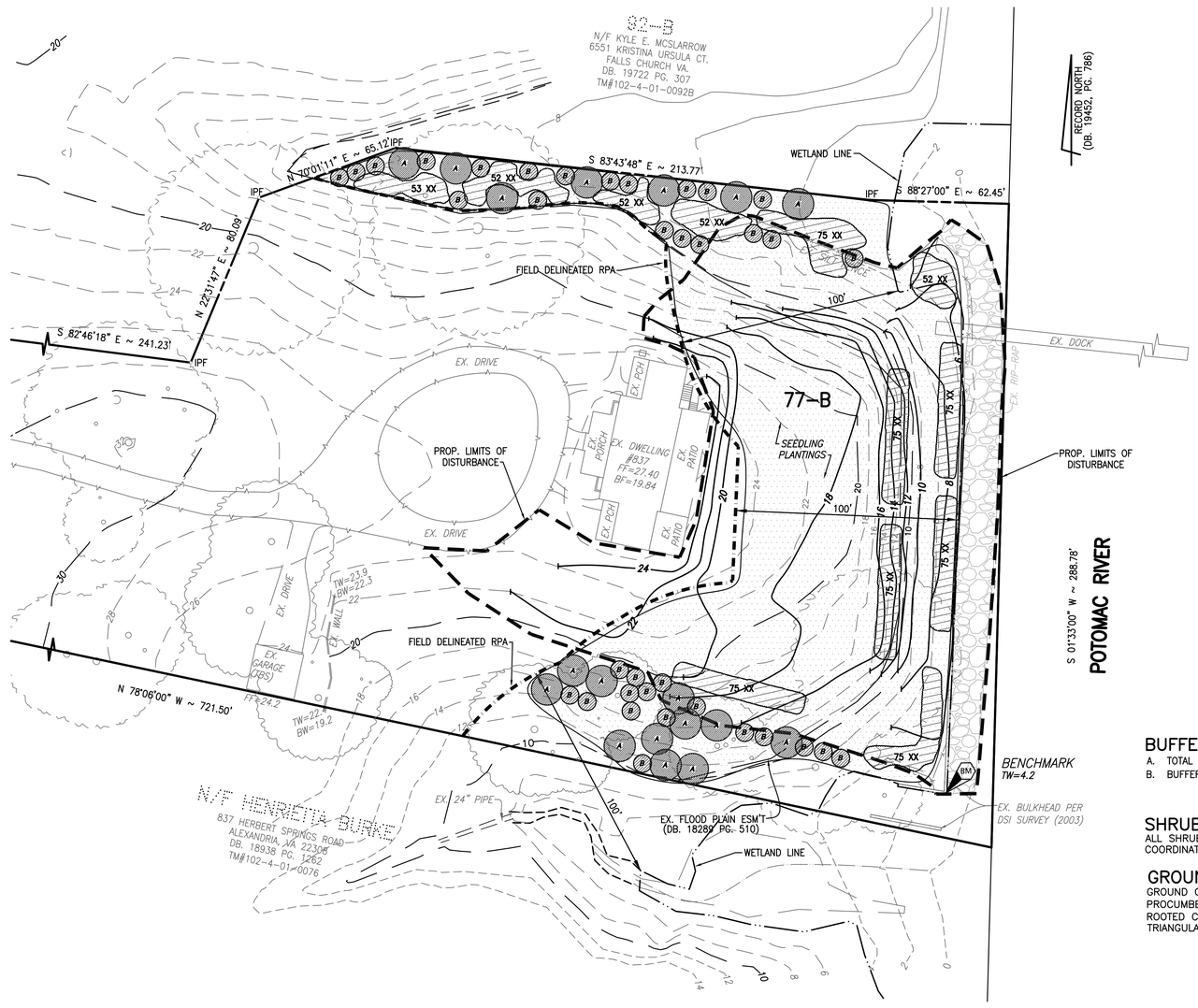
25% OF THE DISTURBED AREA IS TO BE PLANTED WITH AT LEAST 2" CALIPER TREES AND 315 SEEDLINGS ARE TO BE PLANTED IN ACCORDANCE WITH SECTION 12-516.4 OF THE PFM. COORDINATION WITH URBAN FORESTRY SHALL OCCUR FOR THE SEEDLING PLANTINGS.

A MULCH LAYER SHOULD BE APPLIED ONCE THE SHRUBS AND TREES ARE PLANTED BUT SHALL NOT BE PLACED UPON THE PROPOSED GROUND COVER OR SEEDLINGS. THE MULCH MUST BE WELL AGED, UNIFORM IN COLOR AND FREE OF FOREIGN MATERIAL. WELL AGED MULCH IS DEFINED AS MULCH HAVING BEEN STORED OR STOCKPILED FOR AT LEAST 12 MONTHS. GROUND COVER ESTABLISHED BY SEEDING AND/OR CONSISTING OF GRASS SHOULD NOT BE COVERED WITH MULCH. PLANTINGS SHALL BE MONITORED IN PROGRESS TO ENSURE SURVIVAL AND REMULCHING OR REPLANTING SHALL BE PERFORMED AS REQUIRED.

GENERAL NOTES:

1. TAX MAP: #102-4-01-0077B
2. ZONE: R-2
3. OWNER: SEYED M. FALSAFI
   835 HERBERT SPRINGS ROAD
   ALEXANDRIA, VIRGINIA 22308
   D.B. 19452, PG. 786
4. TOPOGRAPHIC SURVEY FIELD RUN BY THIS FIRM. DATUM = NGVD 29
   EXISTING TOPOGRAPHIC CONTOURS FROM FAIRFAX COUNTY MAPPING
   100-YEAR FLOODPLAIN ELEVATION = 10 CONTOUR PER FEMA MAP NO. 51059C0410E
5. TITLE REPORT IS NOT FURNISHED, THUS ALL EASEMENTS MAY NOT BE SHOWN.
6. PLAT SUBJECT TO RESTRICTIONS OF RECORD.
7. TOTAL SITE AREA = 135,927 SQ. FT. OR 3.1205 AC.

   TOTAL DISTURBED AREA 36,520 SQ.FT. OR 0.8384
   DISTURBED AREA IN THE RPA 31,430 SQ.FT. OR 0.7215
   (NO IMPERVIOUS AREA IS PROPOSED WITH THIS PLAN)
8. THIS LOT IS NOT IN A BONDED SUBDIVISION.
9. INDIGENOUS VEGETATION SHALL BE PRESERVED TO THE MAXIMUM EXTENT POSSIBLE.



PROPOSED BUFFER PLANTING SCHEDULE

TYPICAL PLANTING SPECIES

COMMON NAME	BOTANICAL NAME	SIZE	
PART 1 – OVERSTORY TREES (A)			
RED MAPLE	ACER RUBRUM	2" CALIPER/B&B	18 PLANTINGS FROM PART 1 OF THE SCHEDULE ARE REQUIRED
RIVER BIRCH	BETULA NIGRA	2" CALIPER/B&B	
BLACKGUM	NYSSA SYLVATICA	2" CALIPER/B&B	
WILLOW OAK	QUERCUS PHELLOS	2" CALIPER/B&B	
TULIP POPLAR	LIRIODENDRON TULIPIFERA	2" CALIPER/B&B	
PART 2 – UNDERSTORY TREES (B)			
EASTERN REDBUD	CERCIS CANADENSIS	2" CALIPER/B&B	36 PLANTINGS FROM PART 2 OF THE SCHEDULE ARE REQUIRED
CAROLINA SILVERBELL	HALESIA CAROLINA	2" CALIPER/B&B	
IRONWOOD	CARPINUS CAROLINIANA	2" CALIPER/B&B	
SWEETBAY	MAGNOLIA VIRGINIANA	2" CALIPER/B&B	
SERVICEBERRY	AMELANCHIER LAEVIS/ARBOREA	2" CALIPER/B&B	
SWEETBAY MAGNOLIA	MAGNOLIA VIRGINIANA	2" CALIPER/B&B	
AMERICAN SNOWBELL	STYRAX AMERICANA	2" CALIPER/B&B	
PART 3 – SHRUBS (XX)			
ELDERBERRY	SAMBUCUS CANADENSIS	2 GAL. CONTAINER	786 PLANTINGS FROM PART 3 OF THE SCHEDULE ARE REQUIRED
AZALEA	RHODODENDRON VISCOSUM	2 GAL. CONTAINER	
NANNYBERRY	VIBURNUM LENTAGO	2 GAL. CONTAINER	
RED OSIER	CORNUS STOLONIFERA	2 GAL. CONTAINER	
SOUTHERN ARROWWOOD	VIBURNUM DENTATUM	2 GAL. CONTAINER	
SPICE BUSH	LINDERA BENZOIN	2 GAL. CONTAINER	

BUFFER AREA PLANTINGS:

A. TOTAL BUFFER AREA . . . . . 31,430 SQ.FT. OR 0.7215
B. BUFFER PLANTINGS PROVIDED: OVERSTORY TREES 18
UNDERSTORY TREES 36
SEEDLINGS 315
SHRUB PLANTINGS 786

SHRUB NOTE:

ALL SHRUBS WILL BE CONTAINER PLANTS AND PLANTINGS WILL BE COORDINATED WITH URBAN FORESTRY.

GROUND COVER NOTE:

GROUND COVER TO BE ALLEGENY SPURGE (PACHYSANDRA PROCUMBENS) OR EQUIVALENT. PLANTINGS ARE TO BE ROOTED CUTTINGS PLANTED 12" ON-CENTER WITH TRIANGULAR SPACING.

THIS DRAWING IS A SERVICE DOCUMENT OF R.C. FIELDS, JR. & ASSOC., P.C. AND MAY NOT BE USED OR REPRODUCED WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER AND /OR LAND SURVEYOR.

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ALL CONSTRUCTION SHALL CONFORM TO THE CURRENT STANDARDS AND SPECIFICATIONS OF FAIRFAX COUNTY, VIRGINIA.

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R.C. FIELDS, JR. & ASSOCIATES
A PROFESSIONAL CORPORATION
LAND SURVEYING • SITE PLANNING • SUBDIVISION DESIGN
730 S. Washington STREE(TBS)t
Alexandria, Virginia 22314 (703) 549-6422

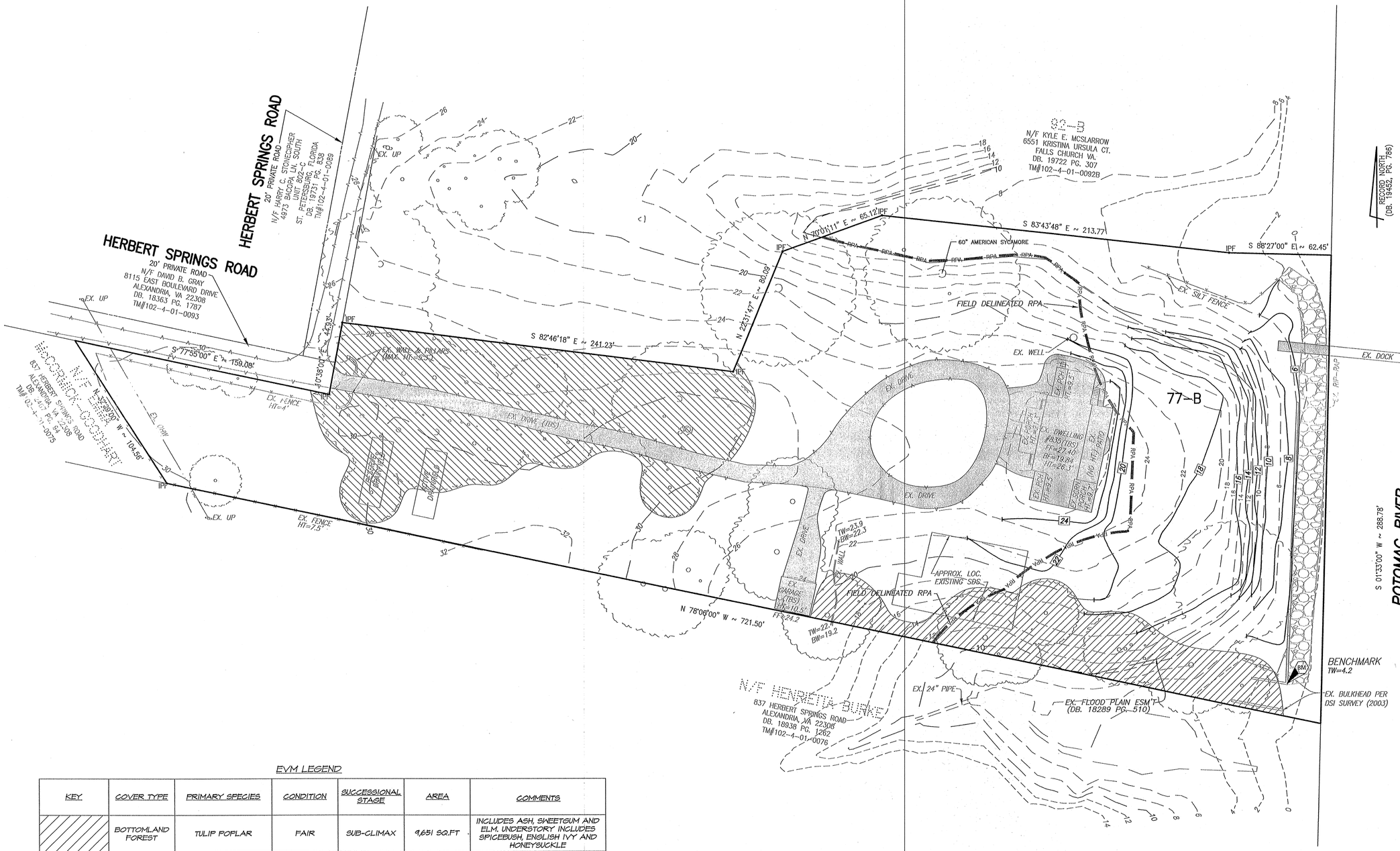
COMMONWEALTH OF VIRGINIA
RONALD J. KELLER
Lic. No. 1457-B
15 APRIL 2013
LAND SURVEYOR

CONCEPTUAL LANDSCAPE PLAN

PARCEL 77-B
ON THE PROPERTY OF
SEYED M. FALSAFI
(D.B. 19452 PG. 786)
MOUNT VERNON DISTRICT
FAIRFAX COUNTY, VIRGINIA

DATE	REVISION

DESIGN: R.A.W.
DRAWN: R.A.W.
SCALE: 1" = 30'
DATE: DECEMBER 2011
SHEET 1A OF 2
FILE: 07-53



EVM LEGEND

KEY	COVER TYPE	PRIMARY SPECIES	CONDITION	SUCCESSIONAL STAGE	AREA	COMMENTS
	BOTTOMLAND FOREST	TULIP POPLAR	FAIR	SUB-CLIMAX	9,651 SQ.FT	INCLUDES ASH, SWEETGUM AND ELM. UNDERSTORY INCLUDES SPICEBUSH, ENGLISH IVY AND HONEYSUCKLE
	LANDSCAPED TREE CANOPY	RED CEDAR/ SOUTHERN MAGNOLIA	GOOD	CLIMAX	19,123 SQ.FT	DENSE PLANTED LANDSCAPE WITH BOXWOODS, OPEN UNDERSTORY
	DEVELOPED	N/A	N/A	N/A	13,817 SQ.FT	DRIVEWAY, EXISTING HOUSE AND GARAGE
ALL REMAINING AREAS ON SITE	MAINTAINED GRASSLANDS	TURF	GOOD	N/A	93,336 SQ.FT	INCLUDES FEW LARGE OPEN GROWN LANDSCAPE TREES

DRAWN:	C.J.H.
DESIGN:	C.J.H.
CHECKED:	S.D.
REV. NO.	0

BASED ON PLANS PROVIDED BY RC FIELDS ASSOC

REV.	DATE	COMMENT	BY

INTERNATIONAL SOCIETY OF ARBORICULTURE
CARY HULSE
ISA No PD-1080A
CERTIFIED ARBORIST

Land Development Solutions
2138 Priest Bridge Ct, Suite 4, Crofton, MD 21114
Office 410.774.0024 • Fax 310.558.0184
National 877.816.7337

DAVEY RESOURCE GROUP
A Division of The Davey Tree Expert Company

835 HERBERT SPRINGS ROAD
FAIRFAX COUNTY, VIRGINIA

EXISTING VEGETATION MAP

CLIENT: MICHAEL HENRETTY

SCALE: 1" = 30'
DATE: 10/24/2012
SHEET NO: LJ-1

DESCRIPTION OF THE APPLICATION

The applicant, Seyed M. Falsafi, has requested the approval of a Special Exception (SE) to allow the deposition of approximately 550 cubic yards of fill material in a floodplain to remain. The fill consists of large rocks and soil used to reconstruct a 287-foot long existing revetment, or sea wall, at the subject property. This property borders the Potomac River, and the revetment provides slope stability and erosion control for the property's shoreline.

The catalyst for the applicant's request was violation of local and state regulations that govern land disturbance and construction in sensitive environmental areas. Specifically, the applicant constructed the existing revetment by exceeding the permitted 278 cubic yard maximum listed in Par. 9 of Sect. 2-903 of the Zoning Ordinance[1] and removed vegetation without prior authorization from local and state authorities. To exceed this maximum, the applicant must obtain a Special Exception from the Board of Supervisors.

Should the Board of Supervisors approve the Special Exception, in order to initiate the SE the applicant would need to submit a grading plan showing the previously disturbed site contours, the existing grading, the existing revetment, and the extent of the pier. The applicant would also need to submit a Water Quality Impact Assessment (WQIA) due to the disturbance that has occurred within the RPA located on site.

A reduced copy of the submitted Special Exception Plat is included at the beginning of this staff report. Copies of the proposed development conditions, applicant's statement of justification and the affidavit are included in Appendices 1, 2 and 3, respectively.

LOCATION AND CHARACTER

The subject property is located at 835 Herbert Springs Road in the southeastern portion of the County, just north of the Collingwood Library and Museum on Americanism and approximately three miles northeast of the Mount Vernon Estate historic site. The subject property is accessed from a driveway along Herbert Springs Road, which leads to a circular drive in front of a 3,204 square foot house that was constructed in 1960. The property slopes downward 10 feet toward the river from behind the house onto a level terrace that has been recently graded. The grading drops another 12 feet before leveling off into an area that occupies the top of the revetment.

The 3.12 acre property is partially wooded, with much of the tree canopy coverage near the property's boundary with Herbert Springs Road and along the southern property line. Other than the approximately 32-inch caliper Southern Red Oak, there is no other vegetation between the house and the river other than the existing grasses.

The new revetment and an approximately 350-foot long pier were constructed along the site's frontage on the Potomac River. Figure 1 shows the property's riverfront view from

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1 Par. 9 of Sect. 2-903 in the Zoning Ordinance allows site grading to properties which do not require major fill as a permitted use in a floodplain. However, the Ordinance defines major fill as any fill, regardless of amount, in an area greater than 5,000 square feet or any fill in excess of 278 cubic yards in an area of 5,000 square feet or less.

the partially completed pier. The large rip rap rocks in the foreground make up the revetment that was constructed in violation. This revetment was backfilled with soil from the subject property. According to geotechnical data collected by the applicant, a layer of filter fabric was installed to prevent erosion through the gaps in the revetment's rip rap.

Figure 1: The revetment was constructed by using rip rap stones from the previous sea wall, bringing them forward into the water, and using soil from the site to backfill behind the rip rap to form a new revetment (*Source – DPZ Site Visit, January 2013)*

BACKGROUND

The applicant filed a Joint Permit Application (JPA)[2] in 2007 which proposed the reconstruction of the revetment. Planning and Zoning staff met with the applicant's consultant on November 26, 2007 at the subject property to discuss the revetment. Staff followed up with written notification on December 4th that the proposed revetment reconstruction would require a permit from Fairfax County Wetlands Board (Wetlands Board). The Planning and Zoning letter also notified the applicant that the Department of

2 The Joint Permit Application is a multi-jurisdictional permit to allow construction and land disturbance within subaqueous areas or bottomlands, tidal wetlands, and coastal primary sand dunes. Property owners file one application that is concurrently reviewed by the Army Corps of Engineers (federal), Virginia Marine Resources Commission (state), and the Fairfax County Wetlands Board (local). The VMRC, acts as the clearinghouse for these applications and handles distribution to federal and local authorities for review.

Public Works and Environmental Services (Public Works) would require permits related to the County's Chesapeake Bay Preservation Ordinance and the floodplain regulations in the Zoning Ordinance.

Although the applicant never applied for this Wetlands Board permit, the applicant's consultant had requested a determination from Public Works on October 29, 2007 to ascertain whether the proposed pier and revetment reconstruction would be permitted uses per the Floodplain Regulations in Sect. 2-903 of the Zoning Ordinance. Public Works determined that the uses would be permitted and referenced a number of floodplain regulations found in the Zoning Ordinance as conditions of compliance. The determination letter, dated November 13, 2007, reminded the applicant that a WQIA would need to be submitted and approved by Public Works. The letter also noted that the determination did not relieve the applicant from complying with other Zoning Ordinance and County regulations.

Figure 2: An undated aerial photograph showing three trees in the subject property's rear yard just above the revetment. The two trees to the left were removed during the grading for the new revetment *(Source – DPZ)*

The applicant's consultant had concurrently pursued approval of the Water Quality Impact Assessment, which was needed due to the disturbance that would be caused to the Resource Protection Area (RPA)[3] by the proposed project. The WQIA was approved by Public Works on November 15th, 2007. The consultant's WQIA submission described the construction sequence, which proposed to access the site and deliver any materials by barge and not by land. This would allow the existing vegetation, consisting of three large, mature deciduous trees seen in Figure 2 to be left undisturbed. The proposed disturbance was to be within five feet of each side of the existing rip rap revetment for moving and restacking the stone. The WQIA submission notes that only minor and temporary sedimentation would occur during construction because an excavator was to be used from the barge, not on the site.

On March 31, 2009, Public Works issued a Notice of Resource Protection Area Violation letter to the applicant for removing vegetation in the RPA, particularly along the side lot line in the rear yard. The applicant incurred this violation because the previously approved

3 The definition of an RPA is listed in the Glossary of Terms attached in Appendix 11.

Water Quality Impact Assessment did not specify that any vegetation would be removed. The applicant was directed to either submit or receive approval for a new WQIA to restore the RPA with supplemental vegetation and to immediately install erosion and sediment control measures to protect the waterway. Should the Board of Supervisors approve this Special Exception and should the applicant obtain approval of a WQIA afterward from Public Works for this removal of vegetation, this would clear the violation.

Figure 3: An aerial photograph from April 2011 showing the existing revetment after construction before sod was laid on the disturbed hillside. Note the location of the revetment in relation to the shoreline of the properties to the north and south, extended into the river *(Source – DPZ)*

Public Works issued two additional notices dated January 3, 2011 for violations that occurred on December 29, 2010. Public Works' December inspection found that there had been excavation and removal of vegetation within the RPA due to the restacking and construction for a new revetment larger than that approved in 2007. The disturbance was outside the limits established with the 2007 Water Quality Impact Assessment (WQIA) because the revetment had been built beyond the initial shoreline and now extended the property approximately 15 feet farther into the Potomac River (Figure 3).

The first Notice of Violation instructed the applicant to submit a WQIA to remove the fill that was deposited to extend the shoreline, restore the RPA with supplemental vegetation, install erosion and sediment control measures, and to submit and obtain the required permit and conservation plan[4] for review and approval to clear the violation.

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4 The conservation plan review process was created in 2011 to facilitate small residential projects that disturb greater than 2,500 square feet, but no more than 5,000 square feet. Conservation plans were intended to replace grading plans for the construction or demolition of an addition or accessory structure to an existing single family house, assuming no drainage improvements or water quality controls would be required. For more information on conservation plans, visit http://www.fairfaxcounty.gov/dpwes/publications/lti/11_06_conservationplan.pdf.

The applicant's second Notice of Violation was for disturbing in excess of 2,500 square feet of land without an approved grading/conservation plan. The revetment construction was the disturbance cited in this violation. The notice instructed the applicant to cease all disturbance activity, install erosion and sediment control measures, seed and/or mulch all denuded areas, and to submit and obtain the required permit and conservation plan for review and approval to clear the violation.

The applicant responded with a letter dated January 10, 2011 notifying Public Works staff that all activities within the RPA had been ceased. The applicant's letter noted that a Water Quality Impact Assessment application had been submitted for review and approval, that straw, grading, and erosion control fence had been installed to protect the Potomac River and the downstream properties, and that the required permits and conservation plans had been submitted and approved.

On February 3, 2011, Planning and Zoning staff met with the applicant, along with Virginia Marine Resources Commission (VMRC) staff, to discuss the various violations to County ordinances. Along with the Public Works violations listed above, the applicant failed to obtain approval of the Fairfax County Wetlands Board for the revetment. Without this approval, the revetment violated Chapters 116 and 123 of the County Code, which are the ordinances that regulate use and development in wetlands and beaches, respectively. In a January 28, 2011 letter, staff informed the applicant that to correct these violations, the applicant would need to submit a new Joint Permit Application (JPA) and obtain approval from the Wetlands Board for the construction and land disturbance associated with the revetment. The letter notes that no current JPA was on file for the revetment, and that a request should have been made for a Wetlands Board permit after the 2007 JPA was filed.

Virginia Marine Resource Center staff sent a similar letter dated March 22, 2011 instructing the applicant to either remove the revetment or to submit a new JPA to request retroactive approval. VMRC requested that the applicant provide a written account of the circumstances surrounding the construction activity, including the contact information for the consultant.

The applicant appeared before the Wetlands Board on October 6, 2011 for retroactive approval of the revetment. The staff report for the permit application is included as Appendix 4. The Wetlands Board's staff recommendation was to allow the revetment to remain in place and to approve the permit. The recommendation for approval was contingent upon the applicant to pay a compensatory mitigation fee of $33,852, which calculates to $28 for every square foot of the 1,209 square foot loss of intertidal area. This fee recommendation is based on the Wetlands Board's mitigation compensation policy, which was adopted on March 30, 2005. The policy is pursuant to state enabling legislation which allows local wetlands boards to adopt such policies to assist in mitigating or minimizing the loss of tidal wetlands.

The Wetlands Board approved the permit application with eight conditions (Appendix 5), which required compliance with the permitting regulations for the County's Chesapeake Bay Preservation, Erosion and Sediment Control, and Zoning Ordinances. In addition, the applicant was required to obtain a retroactive permit from the Virginia Marine Resource Commission to allow the revetment to cover the submerged area beyond the

original shoreline. The conditions included the $33,852 mitigation fee, but allowed fee reductions if the applicant restored 156 square feet of wetlands just to the north of the property that was inundated with logs and debris. The permit was granted for a two year period. VMRC approved a concurrent retroactive request for approval to construct the revetment at their December 6, 2011 meeting.

Finally, the applicant was unable to clear the Public Works violations for land disturbance in excess of 2,500 square feet and for disturbance within an RPA because of the amount of fill used to construct the revetment. Based on staff inspections, the extent of the disturbance and the amount of fill exceeded the maximum permitted amount of 278 cubic yards listed in Part 9 of Article 2 in the Zoning Ordinance (Appendix 6). To exceed this amount of fill, the applicant would need to obtain the approval of this Special Exception from the Board of Supervisors.

Wooden Pier
The applicant's consultant emailed Public Works to determine whether a building permit would be needed in order to construct the pier or to install the revetment. The staff member responded via email to the applicant's consultant on July 24, 2008 and said that no building permit would be needed for the pier because the Virginia/Maryland state line was close enough to the bank to make the waterway outside of the County's jurisdiction. However, the staff member had given incorrect information and a building permit is required.

The applicant was issued Notices of Violation from the Department of Code Compliance (DCC) on February 2, 2011 and October 3, 2011 because the pier had not been constructed with the issuance of the required permit(s), inspections and approvals. The Fairfax County Board of Building Code Appeals upheld the Notices at their December 14, 2011 meeting. The applicant will still need to pursue review and approval by Public Works of a building permit in order to complete the work on the unfinished pier.

DESCRIPTION OF THE SPECIAL EXCEPTION PLAT

The applicant's Special Exception (SE) Plat consists of three sheets. The first sheet shows the property contours, existing dwelling, new revetment, and property layout in relation to Herbert Springs Road. The second sheet is a landscaping exhibit to demonstrate the applicant's intent to comply with the Resource Protection Area (RPA) restoration requirements in Chapter 116 of the County Code. The third sheet is the existing vegetation map for the subject property. Figure 4 shows an inset from the first sheet of the SE Plat.

The applicant's SE Plat proposes no additional land disturbance activity on the site from what has already occurred. Rather, the "existing" contours shown on the plat represent the applicant's determination on the grading prior to the revetment's construction. The "proposed" grades in darker lines show the current grading that was done to backfill the revetment. Both the limits of the RPA and the 100-year floodplain have been identified

on the SE Plat. The applicant has calculated that 31,430 square feet were disturbed within the RPA as a result of the unpermitted work.

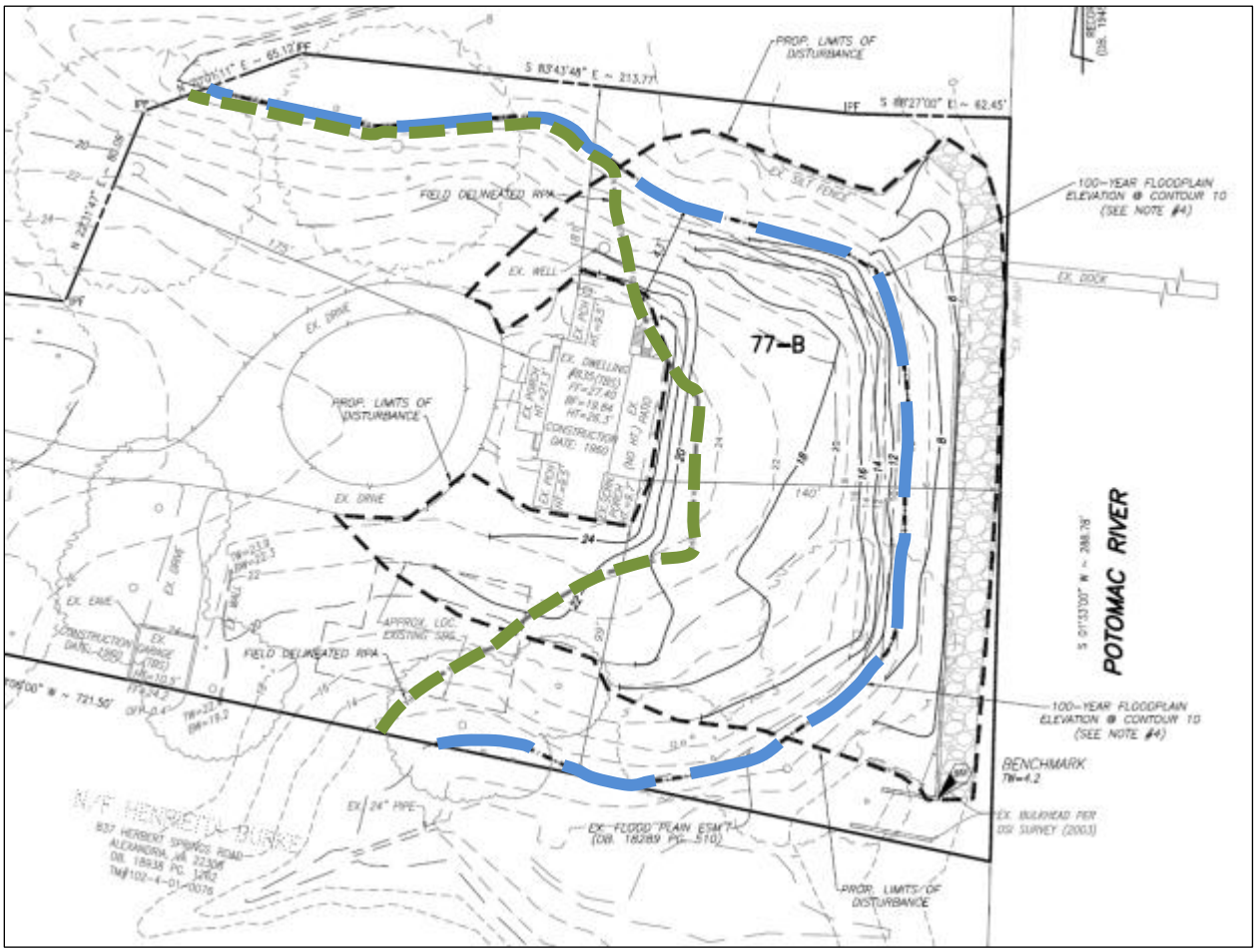

Figure 4: Sheet 1 of the SE Plat, showing the floodplain outlined on the right and the RPA outlined on the left *(Source – R.C. Fields & Associates, Inc., April 15, 2013)*

The top of the revetment is approximately six feet above the water level. The SE Plat shows a grade difference of approximately eight feet from the area above the revetment to the flat land area adjacent to the house.

The revetment itself varies from 10-feet wide at the northern end to 18-feet wide along the majority of the shoreline. The applicant shows the incomplete pier in its existing location, but does not reflect its full 350 foot length on the SE Plat for scaling purposes.

The SE Plat would place the majority of trees within the RPA along the northern and southern property boundaries, in order to maintain a clear vista from the dwelling out to the Potomac River. The applicant would plant shrubs near the top of the revetment, along the hillside leading up to the house, interspersed with the trees along the northern property boundary, and in front of the tree canopy along the southern property boundary (Figure 5).

Figure 5: The applicant's conceptual landscape plan. In addition to the proposed trees, the applicant would place seedlings within the outlined area shown above *(Source – R.C. Fields & Associates, Inc., April 15, 2013)*

Section 118-3-3(f) of the County's Chesapeake Bay Preservation Ordinance gives specific criteria that need to be met when buffer areas need to be reestablished within RPAs. To comply fully with §118-3-3(f), that applicant would need to provide 100 overstory trees per acre of RPA on the site that was disturbed without the proper permits, 200 understory trees per acre of RPA that was disturbed improperly, and 1089 shrub plants per acre of RPA disturbed improperly. Based on the 0.72 acres of RPA that was previously disturbed, this would require 72 overstory trees, 144 understory trees, and 786 shrubs.

The Fairfax County Public Facilities Manual (PFM) allows the applicant to fulfill this requirement by planting 25% of this area with trees at a two-inch minimum caliper, with a minimum height of six inches for deciduous trees and six to eight inches for evergreen trees per PFM 12-516.4. The remaining 75% of the area can either be filled out by the remaining 75% of required trees and shrubs, or be planted with one seedling for every 100 square feet of disturbed RPA and one shrub for every 40 feet of disturbed RPA.

To comply with the Chesapeake Bay Preservation Ordinance and the PFM, the applicant's landscape plan uses the hybrid approach of 25% trees and shrubs and 75% seedlings and shrubs. The applicant would disperse the seedlings along the hillside to the northeast, east, and southeast of the house. The landscape plan depicts the required 18 overstory trees, 36 understory trees, and 786 shrubs. The applicant would use species such as Red Maple, River Birch, Black Gum, and Willow Oak for the overstory trees. Sweetbay, Ironwood, and Eastern Redbud would be examples of understory trees to be used. For shrubs, the applicant lists Elderberry, Azalea, Red Osier, and Spice Bush as typical planting species. Moreover, the applicant has included notes on the SE Plat demonstrating a commitment to coordinating the plantings with the Urban Forest Management Division (UFMD).

CONFORMANCE WITH THE COMPREHENSIVE PLAN

The Environment chapter of the Comprehensive Plan's Policy Plan cites a number of objectives pertaining to resource protection and conservation. Specifically, the Plan calls for the prevention and reduction of pollution to surface and groundwater resources, and to protect and restore the ecological integrity of Fairfax County. New development needs to avoid problem soil areas or employ engineering measures to protect existing and new structures from unstable soils (Appendix 7).

The Comprehensive Plan specifically mentions the Potomac Estuary and the Chesapeake Bay, noting that they are to be protected from impacts from avoidable land use activity. One of the policies associated with this objective is to ensure that new development and redevelopment complies with the County's Chesapeake Bay Preservation Ordinance[5].

Additional objectives recommend the identification, protection, and enhancement of an integrated network of ecologically valuable land and surface waters for County residents. Tree cover is to be conserved and restored, particularly on sites where it was absent prior to development.

Through the actions of the Wetlands Board and the applicant's need to comply with the permit conditions, the applicant's request would conform to the Comprehensive Plan.

To address the issue of soil stability, staff requested that the applicant undertake a geotechnical analysis to determine the integrity of the revetment. The applicant submitted a geotechnical analysis to the Fairfax County Geotechnical Review Board (GRB) for review and approval. The GRB determined that the report was generally acceptable, and issued an approval letter on March 11, 2013. The GRB conditioned its approval on a number of commitments that the applicant will need to make. These conditions are outlined in Appendix 8, and would need to be reflected on the applicant's grading plan if the Special Exception were approved by the Board of Supervisors.

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5 Fairfax County Comprehensive Plan, 2011 Edition, Policy Plan, Environment, as amended through July 27, 2010, p. 10

ANALYSIS

Use Limitations for Uses in a Floodplain (Sect. 2-905)

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.*

   The applicant has provided analysis to Public Works, who have verified that the revetment as constructed would not increase the water surface elevation above the 100-year flood level upstream and downstream, as the Potomac River's significant width at this location of almost 2/3 of a mile would not cause a sea wall of this size to impact the flood level.

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 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 existing house is approximately 17 feet above the 100-year flood level, and would meet this standard.

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

   Part 1 of Sect. 2-602 states that 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.

   Based on discussions of this matter with the applicant and Public Works, the revetment would fortify the subject property's shoreline and would not change the drainage of the property. The applicant's proposal meets this standard.

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.*

   This standard applies to dwelling units and accessory structures and is not

applicable to the revetment.

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

The applicant would plant trees and seedlings along the northern and southern property boundary in the floodplain, and shrubs just above the revetment that would be in the floodplain.

Urban Forest Management Division staff expressed concerns with slope stabilization for the new plants (Appendix 10). Specifically, should the applicant's Water Quality Impact Assessment require any further grading or stabilization of the site, UFMD's preference would be to delay planting until after this occurs to avoid unnecessary replanting of or damage to existing vegetation. To address this matter, staff has proposed a development condition to that would require any slopes to be stabilized prior to planting. With this condition, the applicant would satisfy this standard.

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.*

The applicant has given no indication to staff that these substances would be stored on the property.

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.*

The GRB analysis of the applicant's geotechnical study determined that the fill used to construct the revetment was of a satisfactory standard. The removal of the revetment would create more disturbance and jeopardize the integrity of the shoreline, which would not be in conformance with this standard. Allowing the improvements to remain with additional plantings would meet the objectives of the Comprehensive Plan.

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.*

The applicant's request would conform to this standard.

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

   No public uses have been proposed for the subject property.

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

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

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

    Chapter 118 of the Fairfax County Code is the County's Chesapeake Bay Preservation Ordinance (CBPO). This ordinance defines how Resource Protection Areas are delineated, governs the land use activity that is permitted within them, and provides remedial requirements for unauthorized disturbance of RPAs. The CBPO requires a Water Quality Impact Assessment to be submitted for any land disturbance within an RPA and is used to ensure that this disturbance meets the goals, objectives, and requirements of Chapter 118.

    In order to obtain retroactive approval for the existing revetment, the applicant needs to obtain an approved Water Quality Impact Assessment. Staff's recommended conditions would require the submission of a WQIA. Once the WQIA is approved by Public Works, this standard will be met.

12. *When as-built floor elevations are required by federal regulations or the Virginia Uniform Statewide Building Code for any structure, such elevations shall be submitted to the County on a standard Federal Emergency Management Agency (FEMA) Elevation Certificate upon placement of the lowest floor, including basement and prior to further vertical construction. 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 applicant has not proposed a new structure with this Special Exception request. Should the applicant wish to demolish the existing house and construct a new one, the applicant would need to comply with this standard on any building plans submitted to Public Works.

13. *The construction of all buildings and structures shall be subject to the requirements of the Virginia Uniform Statewide Building Code.*

    As noted previously, no new buildings or structures are proposed.

14. *All recreational vehicles shall:*
    A. *Be on site for fewer than 180 consecutive days;*
    B. *Be fully licensed and ready for highway use; or,*
    C. *Meet the requirements of this Part and the Virginia Uniform Statewide Building Code for anchoring and elevation of manufactured homes.*

    Should the applicant wish to store recreational vehicles on site, the applicant would need to conform to this standard.

15. *All necessary permits shall be received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, as amended, 33 U.S.C. § 1334.*

    To clear the Public Works violations and to comply with the conditions in the Fairfax County Wetlands Board approval, the applicant must first obtain a special exception for the increased fill in the floodplain. An approved special exception gives the applicant the ability to submit a grading plan to Public Works for retroactive review and approval of the site's grading and the revetment, and the applicant can concurrently submit a new Water Quality Impact Assessment with this grading plan. The applicant must also submit a building permit application for the remaining work needed to complete the pier.

    Upon receipt of these approvals, the applicant would be able to comply with this standard.

16. *If any new construction, substantial improvements, or other development, including fill, when combined with all other existing, anticipated and planned development, results in change in the base flood elevation in any Special Flood Hazard Area (SFHA) depicted on the County's Flood Insurance Rate Map (FIRM), the applicant shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data to FEMA for a Letter of Map Revision, as soon as practicable but, not later than six (6) months after the date such information becomes available or the placement of fill, whichever comes first. If the projected increase in the base flood elevation is greater than one (1) foot, the applicant shall also obtain approval of a Conditional Letter of Map Revision from the Federal Insurance Administrator prior to the approval of construction.*

    To ensure that the applicant complies with this standard, staff has proposed a development condition that would require the applicant to notify the Federal Insurance Administrator of the grading changes resulting from installation of the revetment.

17. *In riverine situations, adjacent communities and the Virginia Department of Conservation and Recreation shall be notified prior to any alteration or relocation of a watercourse depicted on the FIRM and copies of such notifications shall be*

submitted to the Federal Insurance Administrator. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

Staff examined this issue in consultation with Public Works based on the revetment's minimal impact to the Potomac River itself. Since the applicant's request would not alter or relocate the abutting watercourse, the applicant is in compliance with this standard.

In staff's opinion, the applicant's request satisfies all of the Use Limitations for Uses in a Floodplain.

General Special Exception Standards (Sect. 9-006)

All special exception uses shall satisfy the following general standards:

1. *The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.*

   The Comprehensive Plan stresses that new development and redevelopment must comply with the County's Chesapeake Bay Preservation Ordinance (CBPO). The applicant would need to obtain approval of this Special Exception, and then secure the approval of a Water Quality Impact Assessment for full compliance with CBPO. Once these steps are completed, the applicant's request to allow the 550 cubic yards of fill to remain in the floodplain would be in conformance with the Comprehensive Plan.

2. *The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.*

   The purpose and intent of the Zoning Ordinance's Floodplain Regulations are to provide for safety from flood and other dangers, to protect against loss of life, health, or property from flood or other dangers, and to preserve and protect floodplains in as natural a state as possible for the preservation of wildlife habitats, for the maintenance of the natural integrity and function of the streams, for the protection of water quality, and for the promotion of a zone for ground water recharge.

   As noted in the Planning Division's analysis, a revetment or sea wall is an effective strategy of floodplain protection for properties located along rivers that are subject to tidal activity. The applicant's request would be harmonious with 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.

The revetment's integrity has been verified by both the Geotechnical Review Board and by Public Works (Appendix 9). Based on this analysis, the revetment would be harmonious with and not adversely affect the neighboring properties in accordance with the applicable regulations and the Comprehensive Plan. Due to the need to comply with the Chesapeake Bay Preservation Ordinance's buffer restoration requirements, the revetment would be screened from neighboring properties and would not discourage their future use or development.

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.*

Since the applicant's request would not impact pedestrian or vehicular traffic, this standard is not applicable.

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.*

Article 13 of the Zoning Ordinance requires any addition or removal of vegetation within a Resource Protection Area to be subject to the provisions of Chapter 118 of the County Code, which is the Chesapeake Bay Preservation Ordinance. The applicant would need to comply with these regulations, and would be able to meet this General Special Exception standard.

Staff has included a development condition that would give Public Works staff the authority to review and approve the ultimate location and species of the proposed plantings. The applicant's landscape plan is intended to be a conceptual exhibit to show how the applicant intends to comply with the Chesapeake Bay Preservation Ordinance's buffer restoration requirements. This ordinance gives the Director of Public Works the flexibility to approve a Water Quality Impact Assessment that focuses the restoration in portions of the Resource Protection Area that would preserve key vistas, but maintain the minimum required number of plantings. Although staff recommends a development condition that requires future development of the site to conform to the SE Plat, it is important that Public Works has the latitude to require an alternative layout if one is more advantageous to meet the purpose and intent of the Chesapeake Bay Preservation Ordinance.

6. *Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.*

The Zoning Ordinance does not specify a minimum open space requirement for a parcel zoned R-2: Residential. The majority of the 3.12 acre site is pervious open space landscaped with grass or trees that meets this standard.

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.*

   With no new construction other than the revetment, the applicant's proposal meets this standard.

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.*

   The applicant has not incorporated any requests related to signs. All signs related to the proposed use shall be in accordance with the provisions of Article 12 of the Zoning Ordinance.

In staff's opinion, the applicant's request satisfies all of the General Special Exception Standards.

CONCLUSIONS

Based on the geotechnical analysis performed, staff is comfortable with the integrity of the revetment, despite its construction without the necessary permits. Staff is confident that the applicant is pursuing the remaining approvals needed to bring the site into compliance. The approval of a Special Exception is a necessary step in clearing the existing Public Works violations.

In staff's opinion, the proposal would conform to the Comprehensive Plan, and all applicable provisions of the Zoning Ordinance.

STAFF RECOMMENDATION

Staff recommends approval of SE 2012-MV-019, subject to the Development Conditions listed in Appendix 1.

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 application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Statement of Justification
3. Affidavit
4. Staff Report to Fairfax County Wetlands Board
5. Motion Adopted by Fairfax County Wetlands Board
6. Determination from DPWES
7. Environmental Analysis
8. Geotechnical Review Board Approval Letter
9. Stormwater Management Analysis
10. Urban Forest Management Analysis
11. Glossary of Terms

APPENDIX 1

PROPOSED DEVELOPMENT CONDITIONS

SE 2012-MV-019

May 9, 2013

If it is the intent of the Board of Supervisors to approve SE 2012-MV-019, located at 835 Herbert Springs Road, Tax Map 102-4 ((1)) 77B, for uses in a floodplain pursuant to Sect. 2-904 and 9-606 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

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), 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 Amendment is subject to the provisions of Article 17, Site Plans as may be determined by the Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this Special Exception shall be in substantial conformance with the approved Special Exception Plat entitled "Special Exception | Parcel 77-B | On The Property of Seyed M. Falsafi" prepared by R.C. Fields & Associates, Inc., which is dated May 24, 2012 and revised through April 15, 2013 and these conditions. Minor modifications to the approved Special Exception Amendment may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

4. Within 60 days of this Special Exception's approval, the applicant shall submit a Water Quality Impact Assessment (WQIA) to DPWES. The applicant shall obtain WQIA approval prior to grading plan, site plan, or minor site plan approval. Notwithstanding the landscaping shown on the Special Exception Plat, the location and species of the proposed plantings shall be subject to the review and approval of the Urban Forest Management Division (UFMD).

5. Prior to grading plan, site plan, or minor site plan approval, the applicant shall demonstrate to UFMD that all landscaping shall be planted within a sufficiently stable slope. The applicant shall incorporate stabilization measures to support the long-term maturity of any new landscaping, subject to the review and approval of UFMD.

6. Concurrent with the first submission of any grading plan, site plan, or minor site plan, the applicant shall submit an additional copy of the plan to the Fairfax County FEMA Floodplain Administrator (Stormwater Planning Division) to determine whether the base flood elevation in any Special Flood Hazard Area (SFHA) depicted on the County's Flood Insurance Rate Map (FIRM) would be altered as a result of any new construction, substantial improvements, or other

development shown on the plan, including fill. If the County FEMA Floodplain Administrator determines that the base flood elevation would be altered, the applicant shall submit technical or scientific data to FEMA for a Letter of Map Revision. If the projected increase in the base flood elevation is greater than one foot, the applicant shall also obtain approval of a Conditional Letter of Map Revision from the Federal Insurance Administrator prior to the approval of any construction. If the applicant is required to submit either a Letter of Map Revision and/or Conditional Letter of Map Revision as outlined above, the applicant shall submit a copy of the approval letter from FEMA to DPZ.

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, or adopted standards. The applicant shall be himself 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.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently prosecuted as evidenced by the issuance of an approval for a grading plan, site plan, or minor site plan concurrent with a water quality impact assessment. 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.

Appendix 2

WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC

RECEIVED
Department of Planning & Zoning
NOV 08 2012
Zoning Evaluation Division

Inda E. Stagg
Senior Land Use Planner
(703) 528-4700 Ext. 5423
istagg@arl.thelandlawyers.com

November 7, 2012

Via Hand Delivery

Barbara C. Berlin, Director
Fairfax County DPZ/ZED
12055 Government Center Parkway; Suite 801
Fairfax, Virginia 22035

Re: Statement of Justification (Revised)
Special Exception Application Request for Uses in a Floodplain (the "Application")
Seyed Medi Falsafi (the "Applicant")
837 Herbert Springs Road, Alexandria; TM 102-4 ((1)) 77B (the "Property")

Dear Ms. Berlin:

Please accept this statement as justification for the requested Application.

Special Exception approval is requested in order to permit approximately 550 cubic yards of fill in the Property's floodplain, including the installation of a rip-rap revetment and topographic grading that has already occurred on the Property. Fill associated with the revetment was necessary in order to repair a failed concrete bulkhead. The remainder of the fill was accessory to the construction, use and enjoyment of a pier that has been constructed into the Potomac River from the Property.

Property Description

The approximately 3.12 acre, R-2 zoned Property is located within the Mount Vernon Magisterial District on the western bank of the Potomac River, east of the George Washington Memorial Parkway in the vicinity of Collingwood Park. The eastern portion of the Property contains a floodplain and RPA. Please note that the Potomac River is located within the State of Maryland.

Currently located on the Property is an approximately 3,204 square foot, two-story, single-family home, which was constructed in 1960, a detached garage that has been vested by the Zoning Administration Division in its location adjacent to the southern property line of the Property, and a wooden dock that extends into the Potomac River.

History and Approvals

By signed certificate dated 8/24/2007, the Corps of Engineers authorized a Regional Permit 17 Certificate of Compliance for the construction of a noncommercial pier on the Property.

The Applicant inquired to the Permits Chief of Fairfax County whether or not a building permit would be required for the construction of the pier. In an email from David Sharp, then Fairfax County Permits Chief, dated July 24, 2008, *the Applicant was instructed that a permit was not required* for the construction of the pier because the pier was located within the State of Maryland.

The Applicant relied upon the statements of this County Official; however, this information was subsequently determined to be erroneous. It was determined that, due to a United States Supreme Court decision involving a court case between the Commonwealth of Virginia v. State of Maryland, in which the court ruled that, notwithstanding the fact that Maryland owns the water in the Potomac to the low-water mark along Virginia's shoreline, Virginia has sovereign regulatory authority over the buildings, structures, and uses appurtenant to Virginia shoreline properties. In the end, it was determined that a building permit was necessary, but the structure was already built.

The Applicant has sought and obtained approval of applications #11-0909 from the Virginia Resources Commission and #WB11-W-002 from the Wetlands Board as of October 6, 2011.

The grading and fill are associated with the installation of the revetment, which was necessary in order to replace an eroded bulkhead (which had parts of the old concrete wall remaining, but which was eroded away for the most part), and the construction, use and enjoyment of the pier.

Uses in a Floodplain

In accordance with Par. 3 of Sect. 2-902 of the Ordinance,

> "Any decision of the Director or Board regarding a use in a floodplain shall be based on consideration of at least all of the following factors:
>
> A. Type and location of proposed structure and/or use
>
> B. Access to site
>
> C. Frequency and nature of flooding

D. Nature and extent of any proposed grading or fill

E. Impact of proposal on the floodplain on properties upstream and downstream

F. Potential of proposal to cause or increase flooding or to jeopardize human life

G. Impact of the proposed use on the natural environment and on water quality"

The following information is provided in response to the Ordinance quoted above:

A. The Applicant has graded within the floodplain and has added a rip-rap revetment along the shoreline of the Potomac River. In addition, the Applicant has constructed a dock that extends into the Potomac River.

B. Access is via a private driveway extending from Herbert Springs Road into the Property.

C. The Potomac River is a tidal river in this location. Depending on tides and winds, the area is subject to flooding and erosion from wave action; however the flooding is not a result of the amount of water in this tidal river, it is the result of the hydraulics of that water in reaction to the tides and winds. Because the area affected by the tides (in this case that would be the Chesapeake Bay and Atlantic Ocean, is so large) the introduction of fill on the Propertycannot increase the occurrence of flooding. It would be as if you were piling sand in the ocean and trying to raise the level of the sea.

D. The Applicant has added 550 cubic yards of fill to the Property's floodplain, including the installation of a rip-rap revetment along the shoreline.

E. There is no impact on the floodplain on properties upstream or downstream as a result of the Property's fill due to the tidal nature of the Potomac River in this location as generally described in Paragraph C above.

F. There is no potential for this fill to cause flooding or to jeopardize human life due to the tidal nature of the Potomac River in this location as generally described in Paragraph C above.

G. The Applicant has obtained approval of applications #11-0909 from the Virginia Resources Commission and #WB11-W-002 from the Wetlands Board as of October 6, 2011. In addition, the Applicant has been in compliance with Regional Permit 17 from the Army Corps of Engineers for the construction of noncommercial piers as of August 24, 2007. These entities, among others, are charged with protecting the natural environment and water quality and have determined that the use is compliant. The only remaining approvals that must be

obtained are from Fairfax County, including this Special Exception from the Board of Supervisors, the completion of a Water Quality Impact Assessment for DPWES and the approval of an RPA Encroachment by DPWES. Both DPWES applications and hopeful approvals would occur subsequent to the Special Exception decision.

Summary

The Applicant is apologetic regarding the need to seek Special Exception approval after-the-fact; however, it has been demonstrated that the Applicant did seek Fairfax County verification regarding regulations specific to the installation of the revetment and the pier's construction and is seeking to remedy this error by seeking and obtaining necessary approvals, including those from the Wetlands Board, the Army Corps of Engineers and the Virginia Resources Commission. As stated in response to Par. 3 of Sect. 2-902 of the Ordinance, and as graphically depicted on the Special Exception Plat, the uses in the floodplain will not impact the level of floodwater that may occur from time to time up or downstream from the Property. For these reasons, we request approval of the Application.

As always, we appreciate your time and review of these requests. Please do not hesitate to contact me if you should require additional information or clarification.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.

Inda E. Stagg
Senior Land Use Planner

Enclosures

cc: Seyed Medi Falsafi
Robert Weinig
Lynne Strobel

SPECIAL EXCEPTION AFFIDAVIT

DATE: April 8, 2013
(enter date affidavit is notarized)

I, Inda E. Stagg, agent, do hereby state that I am an
(enter name of applicant or authorized agent)

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

118832a

in Application No.(s): SE 2012-MV-019
(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 **BOLD** above)
Seyed M. Falsafi Agent: Michael S. Henretty	7715 Southdown Road Alexandria, VA 22308	Applicant/Title Owner of Tax Map 102-4 ((1)) 77B
R.C. Fields & Associates, Inc. Agents: Robert A. Weinig Paul A. Weinig Ronald J. Keller Paul A. Wilder	730 S. Washington Street Alexandria, VA 22314	Engineer/Agent

(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 Attachment to Par. 1(a)

DATE: April 8, 2013
(enter date affidavit is notarized)

for Application No. (s): SE 2012-MV-019
(enter County-assigned application number (s))

11832a

(**NOTE**: All relationships to the application 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 **BOLD** above)
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C. Agents: Martin D. Walsh Lynne J. Strobel Timothy S. Sampson M. Catharine Puskar Sara V. Mariska G. Evan Pritchard Jonathan D. Puvak Elizabeth D. Baker Inda E. Stagg Elizabeth A. Nicholson f/k/a Elizabeth A. McKeeby	2200 Clarendon Boulevard 13th Floor Arlington, Virginia 22201	Attorneys/Planners/Agent
Geotechnical Consulting & Testing, Inc. Agents: Timothy V. Farabaugh Emad E. Saadeh	4899 Prince William Parkway Woodbridge, VA 22191	Geotechnical Engineer/Agent

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

SPECIAL EXCEPTION AFFIDAVIT

DATE: April 8, 2013
(enter date affidavit is notarized)

118832a

for Application No. (s): SE 2012-MV-019
(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) R.C. Fields & Associates, Inc.
730 S. Washington Street
Alexandria, VA 22314

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)
Paul A. Wilder
Ronald J. Keller

(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 Attachment to Par. 1(b)

118832a

DATE: April 8, 2013
(enter date affidavit is notarized)

for Application No. (s): SE 2012-MV-019
(enter County-assigned application number (s))

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

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 THE SHAREHOLDERS: (enter first name, middle initial, and last name)
David J. Bomgardner, E. Andrew Burcher, Thomas J. Colucci, Michael J. Coughlin, Peter M. Dolan, Jr., Jay du Von, William A. Fogarty, John H. Foote, H. Mark Goetzman, Bryan H. Guidash, Michael D. Lubeley, J. Randall Minchew, M. Catharine Puskar, John E. Rinaldi, Kathleen H. Smith, Lynne J. Strobel, Garth M. Wainman, Nan E. Walsh, Martin D. Walsh

---

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
Geotechnical Consulting & Testing, Inc.
4899 Prince William Parkway
Woodbridge, VA 22191

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 THE SHAREHOLDERS: (enter first name, middle initial, and last name)
Emad E. Saadeh

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

SPECIAL EXCEPTION AFFIDAVIT

DATE: April 8, 2013
(enter date affidavit is notarized)

118832a

for Application No. (s): SE 2012-MV-019
(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)
None

(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: April 8, 2013
(enter date affidavit is notarized)

11883 2a

for Application No. (s): SE 2012-MV-019
(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): SE 2012-MV-019
(county-assigned application number(s), to be entered by County Staff)

SPECIAL EXCEPTION AFFIDAVIT

118832a

DATE: April 8, 2013
(enter date affidavit is notarized)

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

Inda E. Stagg, agent
(type or print first name, middle initial, last name, and & title of signee)

Subscribed and sworn to before me this 8 day of April 2013, in the State/Comm. of Virginia, County/City of Arlington.

Notary Public

My commission expires: 11/30/2015

KIMBERLY K. FOLLIN
Registration # 283945
Notary Public
COMMONWEALTH OF VIRGINIA

County of Fairfax, Virginia

September 28, 2011

WETLANDS BOARD
STAFF REPORT

Wetlands Board Permit #: WB11-W-002
Virginia Marine Resources Commission Permit #: 11-0909

Applicant & Property Owner:	Seyed Mehdi Falsafi 7715 Southdown Road Alexandria, Virginia 22308
Subject Property:	835 Herbert Springs Road Alexandria, VA 22308-1320
Tax Map Ref #:	102-4((1)) 0077B
Description:	This permit application requests after the fact approval for a rip rap revetment extending approximately 260 linear feet shoreline of the subject property located at 835 Herbert Springs Road on the Potomac River.
Purpose:	Shoreline stabilization with a riprap revetment
Status:	Project requires a permit from the Wetlands Board under Chapter 116 of *the Code the County of Fairfax, Virginia,* The Wetlands Zoning Ordinance.
Body of Water:	The Potomac River
Public Hearing:	7:00 p.m., Thursday, October 6, 2011

Department of Planning and Zoning
Planning Division
12055 Government Center Parkway, Suite730
Fairfax, Virginia 22035-5509
Phone 703-324-1380
Fax 703-324-3056
www.fairfaxcounty.gov/dpz/

DEPARTMENT OF PLANNING & ZONING

Location

The subject property is located in southeastern Fairfax County on the Potomac River in the Little Hunting Creek Watershed and the Mount Vernon Magisterial District.

Background

In the fall of 2010 Department of Public Works and Environmental Services (DPWES) staff investigated land disturbing activity at 835 Herbert Springs Road. Staff inspectors determined that the land disturbing activity involved several different County ordinances including Resource Protection Area (RPA) disturbance, as defined by the Chesapeake Bay Preservation Ordinance (CBPO), fill in the floodplain as defined by the County's Zoning Ordinance and dock construction as governed under the County's Building Code requirements. It was after the site investigation that DPWES staff informed wetlands board staff about the land disturbing activity and the construction of the unauthorized revetment located at 835 Herbert Springs Road. Upon review of the specific activity, the property owner was sent a Notice to Comply letter via Certified Mail on January 28, 2011, informing the property owner that riprap revetment was in violation of the County's shoreline regulations because no Wetlands or Coastal Primary Sand Dune Permit had been issued for the revetment.

The letter further advised the property owner to stop all work on the tidal shoreline, to file a current Joint Permit Application (JPA) with the Virginia Marine Resources Commission (VMRC) and the Fairfax County Wetlands Board for the riprap stabilization to address the violation and to bring the property into compliance with the Wetlands Zoning Ordinance, Chapter 116 of the Code of Fairfax County. The letter noted that staff had responded to the property owner's 2007 JPA request for a riprap revetment for the subject property located 835 Herbert Springs Road, and that a riprap revetment would require a permit from the Wetlands Board. The applicant did not respond to staff's 2007 letter which indicated that a permit from the Wetlands Board would be required.

The property owner was asked to attend a meeting on February 3, 2011, at the Department of Planning and Zoning to discuss the Wetlands Ordinance violation and to develop a plan of action to correct the violation. Staff from the Virginia Marine Resources Commission and other County Departments attended the meeting to inform the property owner about the steps to bring the property into compliance with the CBPO, the Erosion and Sedimentation Control Ordinance and the building permit violation as well as the other County Codes with unresolved violations.

Description of the Application

This application requests after the fact approval for a riprap revetment extending along approximately 260 linear feet of tidal shoreline on the Potomac River located at 835 Herbert Springs Road. The current 2011 application (VMRC 11-0909) requests approval for a revetment which is less extensive than what actually exists on the property. It is also noted that a prior 2007 application (VMRC 07-2180) requested approval for a similar stabilization structure. However, the dimensions of the revetment which exists on site today are not accurately

described by either the current JPA or the 2007 JPA. The best characterization of the revetment and its shoreline impacts has been provided by the VIMS evaluation which was conducted on March 3, 2011 and recorded in the letter, dated March 10, 2011.

VIMS Estimate of the Wetland Impacts

Julie Bradshaw, from the Virginia Institute of Marine Science (VIMS) accompanied by Dan Bacon, from the Virginia Marine Resources Commission conducted a detailed investigation of the subject shoreline revetment at 835 Herbert Springs Road to determine the extent of the impacts within the various jurisdictions on the tidal shoreline. Given the scale of the unauthorized work on the 3.12 acre subject property, the scope of the Wetlands Ordinance violation was defined. The subject site is characterized by approximately 260 linear feet of tidal Potomac River shoreline. The revetment varies in width between ten feet and seventeen channelward of an old seawall which was likely constructed prior to the adoption of the Fairfax County Wetlands Ordinance in 1982. The total footprint of the structure was estimated to be 4,148 square feet with the most significant portion of the rock revetment placed below mean low water and approximately 1,352 square feet of the footprint or 33% placed within the intertidal area, the Wetlands Board's jurisdiction.

Ms. Bradshaw provided her total estimate of the shoreline impacts as follows in the March 10, 2011 letter:

Subaqueous Bottom (below mean low) – 2,796 square feet
Non-vegetated tidal wetlands impacts – 1,352 square feet
Loss of the resource:
943 square feet – Subaqueous bottom (below mean low)
299 square feet – Non-vegetated sand/mud flat community (intertidal area)
910 square feet – Non-vegetated rock/existing riprap (intertidal area)
Of this fill amount, 156 square feet on sand/mud flat is due to the placement of logs and debris; the remainder is due to the revetment structure.

Because some portion of the riprap is considered to be habitat, only a portion of the revetment is considered fill or loss of the wetland resource. Based on the figures above, the loss of the intertidal resource is 1,209 square feet of the total impacts. Therefore, if the Board were to recommend that the structure remain in place, then the compensatory mitigation fee for the loss of the resource is $28 per square foot. The total compensatory mitigation fee would be calculated as follows: $28 x 1,209 sq. ft. = $33,852.

Conclusion

This permit request is being evaluated under Chapter 13, Title 28.2 of the Virginia Code and Chapter 116 ("Wetlands Ordinance") of The *Code of the County of Fairfax, Virginia*. The applicant requests after the fact approval for the riprap revetment which is located on the Potomac River shoreline of the subject property.

The VIMS report concluded that given the tidal shoreline conditions on this segment of the Potomac River, riprap toe stabilization is an appropriate structure for the site. Removal of the revetment was not recommended. If erosion had been present on the site, the Wetlands Guidelines would have recommended a riprap revetment as the appropriate choice for shoreline stabilization. Given the enormity of this rock revetment, removal of the structure would likely cause significant damage to the wetland resource.

Recommendation

Staff recommends that the revetment remain in place. Staff recommends that the Wetlands Board approve Wetlands Board Permit #: WB11-W-002 and Virginia Marine Resources Commission Permit #: 11-0909 for this revetment subject to the compensatory mitigation fee of $33,852 based on the loss of 1,209 square feet (VIMS report, dated March 10, 2011) of intertidal area at $28 per square foot. If the property owner removed the logs and debris on the sand and mud flat which have caused 156 square feet of intertidal loss, then as recommended in the Virginia Institute of Marine Science analysis, then the fee could be reduced to $29,484.

Attachments

1. Property location map and public notice
2. Aerial photograph of the subject property
3. Joint Permit Application
4. Virginia Institute of Marine Science Report

Seyed Mehdi Falsafi, Wetlands Board #: WB11-W-002; **Appendix 5**
Virginia Marine Resources Commission # 11-0909

Final MOTION adopted by the Wetlands Board, October 6, 2011

Based on oral and written testimony presented at this hearing, the anticipated public and private benefit resulting from this project will exceed the public and private detriment; therefore, I move that Wetlands Board application #WB11-W-002 concurrent with Virginia Marine Resources Commission #11-0909 approve this application subject to the following conditions:

- That the applicant shall meet the permitting requirements of all county, state and federal laws and regulations, including, but not limited to, the County's Chesapeake Bay Preservation Ordinance (CBPO), the Erosion and Sedimentation Control Ordinance and the Floodplain Regulations of the Fairfax County Zoning Ordinance;

- Specifically the applicant shall seek a permit from the Virginia Marine Resources Commission for the submerged area of impact which resulted from the installation of this riprap revetment.

- In accordance with the Wetlands Board's Mitigation/Compensation Policy and the VIMS assessment of tidal wetland impacts and losses, the applicant should pay a fee of $33,852 for the 1209 square feet of tidal wetlands lost from this project at the approved rate of $28 per square foot.

- The fee may be reduced if the applicant provides restoration of 156 square feet of wetland area with a plan approved by the Virginia Institute of Marine Science (VIMS), the Urban Forestry Management Division of the Department of Public Works and Environmental Services and staff to the Wetlands Board. The fee may be reduced by $4,368 and could result in a mitigation compensation fee of $29,484. To be a valid consideration, the wetland restoration plan must be submitted within 30 calendar days of this hearing. If that deadline is not met, then the opportunity to submit a plan is no longer valid and the applicant shall submit the full mitigation compensation fee of $33,852 by November 15, 2011.

- That the applicant removes the logs and debris in the 156 square foot restoration area.

- That the applicant shall employ a person knowledgeable about the tidal wetland restoration to oversee the 156 square area to be restored. The applicant will monitor the restoration for a period of 3 years from the time of the restoration and send pictures of the wetland restoration annually to the Wetlands Board staff starting in the summer of 2012 and providing pictures consecutively in the summer of 2013, 2014 and 2015.

- That the use of fertilizer be avoided in any area that impacts the wetlands. That the duration of the permit is granted for a period of two (2) years.

- That no more riprap be added to the revetment.

County of Fairfax, Virginia

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

MAR 07 2012

R.C. Fields, President
R.C. Fields, Jr. & Associates, P.C.
730 S. Washington Street
Alexandria, Virginia 22314

Subject: Herbert Spring, Parcel 77B, 835 Herbert Springs Road, Tax Map #102-4-01-0077B, Mount Vernon District

Reference: Your Letter received December 30, 2011

Dear Mr. Fields:

Your request, in response to two Notice of Violation Complaints #45305 dated January 3, 2011 and April 1, 2009, to allow an after the fact permission to disturb and fill a floodplain cannot be approved due to the following:

Based on the field information provided by the Senior Engineering Inspector, Mr. John Zemlan, the entire floodplain within the subject lot is subjected to severe disturbance and fill and far exceeds the limit of a major fill. The extent of disturbance and fill are further substantiated by the photographs taken by Mr. Zemlan during his site visits as well as the comparisons of the aerial photographs of various years since the violation started in year 2009. According to Section 10 of County Zoning Ordinance (ZO) 2-903, major fill shall be deemed to be any fill, regardless of amount in area greater than 5000 square feet or any fill in excess of 278 cubic yards in an area of 5000 square feet or less. A special exception (SE) from the County Board of Supervisors is required per Z.O. 2-904 to allow the major fill to remain within the floodplain. The effect of the fill to the 100-year flood elevation of the Potomac River shall be insignificant and should not affect the adjacent properties.

This letter does not relieve you of any County drainage requirement or Chesapeake Bay Preservation requirements, including but not limited to, floodplain regulations, adequacy of outfall, pro-rata share payments, etc.

Department of Public Works and Environmental Services
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If further assistance is desired, please contact Durga Kharel, Site Review Engineer, Site Development and Inspections Division (SDID) at 703-324-1720.

Sincerely,

Bijan Sistani, P.E.
Chief, South Branch
SDID

BS/mk

cc: Don Demetrius, Chief, Watershed Projects Evaluation Branch, SPD, DPWES
Melissa Smarr, Land Disturbance and Post Occupancy Branch, DPWES
John Zemlan, Senior Engineering Inspector, Land Disturbance and Post Occupancy Branch, DPWES
Mary Ann Welton, Planner, Department of Planning and Zoning
Betsy Smith, Director, SDID, LDS, DPWES
Durga Kharel, Site Review Engineer, SDID, LDS, DPWES
IQ # 235193 File

County of Fairfax, Virginia

MEMORANDUM

DATE: April 23, 2013

TO: Barbara Berlin, Director
Zoning Evaluation Division, DPZ

FROM: Pamela G. Nee, Chief PGN
Environment and Development Review, DPZ

SUBJECT: **ENVIRONMENTAL ASSESSMENT** for: **SE 2012-MV-019**
Mehdi Falsafi

This memorandum, prepared by Mary Ann Welton, includes citations from the Comprehensive Plan that provide guidance for the evaluation of the Special Exception application , revised through April 15, 2013. The extent to which the application conforms to the applicable guidance contained in the Comprehensive Plan is noted. Possible solutions to remedy identified issues 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:

Fairfax County Comprehensive Plan, 2011 Edition, Policy Plan, Environment, as amended through July 27, 2010, on pages 7-9 states:

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

Policy a. Maintain a best management practices (BMP) program for Fairfax County and ensure that new development and redevelopment complies with the County's best management practice (BMP) requirements....

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Policy e. Update erosion and sediment regulations and enforcement procedures as new technology becomes available. Minimization and phasing of clearing and grading are the preferred means of limiting erosion during construction....

Policy i. Monitor Fairfax County's surface and groundwater resources.

Policy j. Regulate land use activities to protect surface and groundwater resources....

Policy l. In order to augment the EQC system, encourage protection of stream channels and associated vegetated riparian buffer areas along stream channels upstream of Resource Protection Areas (as designated pursuant to the Chesapeake Bay Preservation Ordinance) and Environmental Quality Corridors...."

Fairfax County Comprehensive Plan, 2011 Edition, Policy Plan, Environment, as amended through July 27, 2010, on page 10 states:

"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. . . .

Policy c. Where tidal shoreline erosion control measures are needed, apply techniques that are consistent with the "Guidelines for Tidal Shoreline Erosion Control Measures...."

Fairfax County Comprehensive Plan, 2011 Edition, Policy Plan, Environment, as amended through July 27, 2010, on page 12 states:

"There are hazards to property in some areas of the County posed by wet or unstable soils. Marine clay soils found in the eastern part of the County and shrink-swell clay soils found primarily in the western area can cause foundation failures, cracked and shifting walls, and in extreme cases, catastrophic slope failure.

Objective 6: Ensure that new development either avoids problem soil areas, or implements appropriate engineering measures to protect existing and new structures from unstable soils...

Policy b: Require new development on problem soils to provide appropriate engineering measures to ensure against geotechnical hazards."

Fairfax County Comprehensive Plan, 2011 Edition, Policy Plan, Environment, as amended through July 27, 2010, on page 14 states:

> **"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: Identify, protect and restore an Environmental Quality Corridor system (EQC)...."

Fairfax County Comprehensive Plan, 2011 Edition, Policy Plan, Environment, as amended through July 27, 2010, on page 18 states:

> **"Objective 10:** **Conserve and restore tree cover on developed and developing sites. Provide tree cover on sites where it is absent prior to development.**
>
> Policy a: Protect or restore the maximum amount of tree cover on developed and developing sites consistent with planned land use and good silvicultural practices. . . ."

ENVIRONMENTAL ANALYSIS

This section characterizes the environmental concerns raised by an evaluation of this site and the proposed development. 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.

Background: The 3.12 acre subject property is situated directly on the Potomac River in the Little Hunting Creek watershed. This application requests after the fact approval for fill in the floodplain which occurred in 2010. Approximately 550 cubic yards of fill was placed on the embankment of the subject property adjacent to the Potomac River shoreline and channelward of the existing home.

The Wetlands Board reviewed an after the fact permit request for the shoreline stabilization aspect of this project in October 2011. The Wetlands Board jurisdiction for the shoreline stabilization is the area between mean low water at topographic contour – elevation 1.1' above sea level and mean high water located at topographic contour – elevation 3.6' above sea level. The amount of fill and the resulting land disturbance which was created by this project was more extensive than would have been recommended if the property owner had secured the wetlands permit prior to commencing the project, as opposed to after the project completion. However, given nature of this case, staff recommended that the Wetlands Board approve the 260 linear foot shoreline stabilization request based on the criteria that a riprap revetment is an appropriate

treatment to mitigate active erosion on a tidal shoreline; and secondly that removal of the revetment would have caused significant additional damage to the wetland resource.

The Wetlands Board approved the permit request subject to a number of conditions, specifically "...That the applicant shall meet the permitting requirements of all county, state and federal laws and regulations, including, but not limited to, the County's Chesapeake Bay Preservation Ordinance (CBPO), the Erosion and Sedimentation Control Ordinance and the Floodplain Regulations of the Fairfax County Zoning Ordinance."

Because the Wetlands Board requires mitigation/compensation for all tidal wetland losses, the applicant paid $29,484 as compensation for the loss of the wetland resource. The applicant agreed to remove debris and clean-up a tidal wetland area measuring 156 square feet and restore that area with appropriate wetland plants.

Soil Constraints: The applicant submitted a geotechnical analysis to determine slope stability for the reconfigured embankment. The geotechnical analysis has been reviewed by the Geotechnical Review Board (GRB). The applicant should follow all recommendations made by the GRB.

Environmental Quality Corridor: The subject property falls within Little Hunting Creek watershed on the Potomac River shoreline. The river, adjacent wetlands and the one hundred year floodplain that border the river comprise the Environmental Quality Corridor (EQC), as established under the Policy Plan of the Comprehensive Plan. While the subject property was developed with a single family residence more than fifty years ago, the EQC which characterized the site prior to the land disturbance was beneficial to water quality and it provided habitat value. The subsequent land disturbance dramatically changed the subject property and the EQC. The Policy Plan supports EQC restoration. Sheet 1A of the Special Exception submission, revised through April 15, 2013 includes landscaping along the northern and the southern property boundaries. The remainder of the area between the existing home and the top of the revetment is proposed to be planted with non-specific seedling plantings. The applicant is encouraged to work with the Urban Forestry Management Branch (UFMD) of the Department of Public Works and Environmental Services (DPWES) to provide a more detailed landscape plan for this area which should include recommendations for appropriate native riverine plant species to restore this environmentally sensitive Potomac River shoreline.

Trails Plan Map: The Countywide Trails Plan does not depict any trail immediately adjacent to the subject property.

PGN/MAW

County of Fairfax, Virginia

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

MAR 1 1 2013

Mr. Timothy V. Farabaugh, P.E.
Terra Engineering Services, PLC
6909 Winners Circle
Fairfax Station, Virginia 22039

Reference: Geotechnical Report for 835 Herbert Spring, Project #7022-SR-005-1, Tax Map #102-4-01-0077-B, Mount Vernon District, Type: Residential

Dear Mr. Farabaugh:

The referenced geotechnical report dated January 31, 2013 and the addendum dated March 4, 2013 prepared on behalf of Nicholas Development, LLC have been reviewed. The report and the addendum were submitted to partially support the site plan prepared by R.C. Fields & Associates, Inc. and are determined to be generally acceptable.

The recommendations and details of the approved report and addendum shall be shown as requirements on the final construction plan/s (Fairfax County Public Facilities Manual [PFM], Section 4-0301). Per the PFM, the geotechnical engineer shall review the final (revised) construction (site) plan/s, and state his opinion as to whether or not the plan/s have been prepared in accordance with the approved recommendations of the approved report and revision/s.

The following requirements of Section 4-0402 of the PFM and Section 107-1-6 of The Code of the County of Fairfax, Virginia, shall be shown as a note on the approved plans:

1. All construction involving problem soil must be performed under the full-time inspection of the geotechnical engineer.

2. The geotechnical engineer shall furnish a written opinion to the County as to whether or not work has been performed in accordance with the approved plans prior to the issuance of any occupancy or use permit.

3. Review and approval of plans, specifications and reports by the County, with or without recommendations by the Geotechnical Review Board, shall in no way relieve the developer of the responsibility for the design, construction and performance of the structures, pavement and slopes on the project and damage to surrounding properties.

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If you have any questions, please contact me at 703-324-1720.

Sincerely,

Bijan Sistani, P.E.
Acting Director
Site Development and Inspections Division (SDID)

cc: Mehdi Falsafi, Nicholas Development, LLC
Ron Keller, R. C. Fields & Associates, Inc.
Clinton Abernathy, P.E., Acting Chief, South Branch, SDID, LDS, DPWES
Geotechnical File

County of Fairfax, Virginia

MEMORANDUM

DATE: April 19, 2013

TO: Nick Rogers, Staff Coordinator
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Thakur Dhakal, P.E., Senior Engineer III
Site Development and Inspections Division
Department of Public Works and Environmental Services

SUBJECT: Special Exception Plat #SE 2012-MV-019; 835 Herbert Springs Road; SE Plat dated April 15, 2013; Little Hunting Creek Watershed; LDS Project # 7022-ZONA-001-1; Tax Map #102-4-01-0077B; Mount Vernon District

We have reviewed the subject plan and offer the following stormwater management comments.

Chesapeake Bay Preservation Ordinance (CBPO)
Part of the site is within a County mapped 1993 Resource Protection Area. The application indicates that there was an unauthorized disturbance within the limits of RPA. RPA delineation is required to accurately delineate the limits of RPA (LTI 08-12).

The disturbed area within the RPA shall be restored in accordance with CBPO 9-1.d and Water Quality Impact Assessment for the disturbance in RPA must be submitted and approved per CBPO 9-1.e, prior to grading plan approval.

Floodplain
There are regulated floodplains on the site. A major fill has been occurred within the limits of floodplain. However, the fill will not likely to have a significant impact on 100 year water surface elevation in Potomac River.

A geotechnical investigation was submitted. The applicant shall follow the recommendations in approved geotechnical report. The geotechnical recommendations shall be incorporated into future grading plans. The limits of 100 year floodplain shall be delineated and dedicated within a floodplain easement.

Conceptual Landscape Plan
The applicant has provided a conceptual landscape plan. However, a Water Quality Impact Assessment must be submitted separately in DPWES and approved prior to grading plan

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approval. The water quality impact assessment must address all the component as required by CBPO 11-4-3(a) through (g).

Downstream Drainage Complaints
There are no recent downstream flooding complaints on file.
Stormwater Detention
No Stormwater detention is applicable to this site.

Water Quality Control
Applicant indicates that the total impervious area in the parcel will be less than 18%, and no BMP are required for this project.

Onsite Major Storm Drainage System and Overland Relief
Applicant needs show that no buildings will be flooded with a 100-year design flow. Grading around the house shall be provided such that the ground slopes away from the building.

Downstream Drainage System
No adequate outfall narrative has been provided.

Dam Breach
None of this property is within the dam breach inundation zone.

Stormwater Management Proffers

Comments on the draft proffers will be provided separately once we receive the draft proffers.

These comments are based on the 2011 version of the Public Facilities Manual (PFM). A new Stormwater ordinance and updates to the PFM's Stormwater requirements are being developed as a result of changes to state code (see 4VAC50-60 adopted May 24, 2011). The site plan for this application may be required to conform to the updated PFM and the new ordinance.

Please contact me at 703-324-1720 if you require additional information.

TD/

cc: Fred Rose, Chief, Watershed Planning & Assessment Branch, Stormwater Planning Division, DPWES
Don Demetrius, Chief, Watershed Evaluation Branch, SPD, DPWES
Bijan Sistani, Chief, South Branch, SDID, DPWES
Zoning Application File

County of Fairfax, Virginia

MEMORANDUM

DATE: April 16, 2013

TO: Nicholas Rogers, Staff Coordinator
Zoning Evaluation Division, DPZ

FROM: Jay Banks, Urban Forester II
Forest Conservation Branch, DPWES-UFMD

SUBJECT: 835 Herbert Springs Road SE 2012-MV-019

RE: Request to review conceptual landscape plan

At the request of the Department of Planning and Zoning, staff from the Urban Forest Management Division (UFMD) completed a reviewed of a conceptual landscape plan for SE 2012-MV-019 received by email on April 15, 2013. In a January 9, 2013 UFMD staff memo regarding a planting diagram for this same project, a comment was expressed to reposition the proposed landscaping around existing trees.

1. **Comment:** With the submission of this concept plan the proposed landscape trees and shrubs are shown to be planted within the critical root zone (CRZ) of the existing trees. *The CRZ is calculated from the tree's trunk diameter which is measured at 54 inches above ground level. The diameter in inches is then expressed in feet of radius. Example: A 20 inch diameter tree trunk would result in a 20 foot radius CRZ.*

   Recommendation: With new trees and shrubs proposed to be planted within the CRZ, Urban Forest Management staff recommends that installation of the new plants be coordinated with UFMD staff to field locate the planting locations for the new trees and shrubs to reduce impacts on the existing trees.

2. **Comment:** New grading within the Resource Protection Area replanting area has led to some slope stabilization concerns for replanting.

   Recommendation: All slopes should be stabilized prior to planting.

JSB/

UFMDID #: 177100

cc: DPZ File

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