



Chesapeake Bay Preservation Ordinance and Stormwater Management Ordinance

PlanCom@FairfaxCounty.gov

July 23, 2019
Planning Commissioners,

The Friends of Accotink Creek offer these comments regarding proposed code amendments. Our apologies for the late submission, but we only just were made aware.

All references are to the staff report dated June 25, 2019, titled:
“Proposed Amendments to Chapter 118 (Chesapeake Bay Preservation Ordinance) and Chapter 124 (Stormwater Management Ordinance) of The Code of the County of Fairfax, Virginia (County Code) Re: Long-term Maintenance of Stormwater Management Facilities, Illicit Discharges, and Enforcement”

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“The Director of LDS delegated to the Director of DPWES responsibility for administering the above provisions of the ordinance and processing of violations of those provisions.”

Most of the proposed changes seem to be codifying this delegation. However, the question then arises of misalignment of goals and responsibilities. Is it effective that one agency looks at short-term design and construction, then passes on to another agency the responsibility for maintaining effective function of what has been wrought – in perpetuity?

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“ (f) Buffer area establishment: Where buffer areas are to be established, they must shall consist of a mixture of overstory trees, understory trees, shrubs and groundcovers. The density of overstory trees shall be a minimum of 100 trees per acre. The density of understory trees shall be a minimum of 200 trees per acre. The density of shrubs shall be a minimum of 1089 plants per acre. If seedlings are used instead of container plants, the density of trees shall be doubled. Large caliper trees shall not be planted on slopes steeper than 2:1. Plant materials shall be randomly placed to achieve a relatively even spacing throughout the buffer.”

If the standard for density is deleted, where or how will density be mandated?

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“B. Upon approval of the Director, Private Maintenance Agreements are not required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of the Director that future maintenance of such facilities will be addressed through an enforceable mechanism.”

Why not state what the nature of such mechanisms might be? The language seems ambiguous and susceptible to inducing lax enforcement arrangements.

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“The Director of DPWES will shall make publicly available”

If this information is no longer public, to whom, then, would it be available? It is the public who needs to know what criteria they must meet on their land.

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“4. The Landowner shall provide a copy of the an annual inspection and maintenance report of the stormwater management facilities to the County upon request as described on the Plan and/or Attachment A ~~within one year of the date of this Agreement or within one year of the date of bond release of the Plan for bonded plans and annually thereafter.~~”

It seems entirely predictable that when the time comes for the County to request the reports, they will often be nowhere to be found, the owners having neglected to conduct the required inspections. Changing to a period of greater than one year may be appropriate.

General –

It would be beneficial to insert at appropriate points language regarding the success of plantings (both establishment and restoration) analogous to the “good working order” language applied to facilities, in order to ensure successful outcomes of plantings.

Many instances of “Director” have been changed to “Director of DPWES”. For clarity, all should be changed.

There are eight instances of the word “his”. Although this of course includes all persons, consider rewording to avoid gender reference.

Do we correctly understand that no input has been sought from the Chesapeake Bay Preservation Act Exceptions Review Committee, the Tree Commission, or as far as we are aware, any other public-interest stakeholders? Would this not be the appropriate time to have sought such public input?

Sincerely,

Friends of Accotink Creek

July 30, 2019

Comments of the Friends of Accotink Creek for the Fairfax County Planning Commission for their public hearing of July 31, 2019

Regarding -

“Proposed Amendments to Chapter 118 (Chesapeake Bay Preservation Ordinance) and Chapter 124 (Stormwater Management Ordinance) of The Code of the County of Fairfax, Virginia (County Code) Re: Long-term Maintenance of Stormwater Management Facilities, Illicit Discharges, and Enforcement”

Planning Commissioners,

Cathy Ledec is a longtime champion of the public and environmental interests of the citizens of Fairfax County. Her misgivings carry weight with us, as they should with the Planning Commission.

The Friends of Accotink Creek wish to endorse [Cathy Ledec's supplemental comments](#), as attached.

In particular:

- Item 2, regarding the requirement for Virginia Department of Environmental Quality approval before code changes.
- Item 3, regarding the cart-before-the-horse aspect of changing the code before the Public Facilities Manual it references.
- Item 4, regarding placing staff in a position of temptation to take the easy route of granting exceptions too readily.

Sincerely,

Friends of Accotink Creek

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