



June 17, 2020

Mayor and City Council
Planning Commission
Fairfax City Hall
10455 Armstrong Street
Fairfax, VA 22030

Dear Mayor Meyer, Members of the City Council, and Members of the Planning Commission:

I am writing to you today on behalf of the Audubon Naturalist Society (ANS), Washington, D.C. region's oldest independent environmental organization. In our long history of work in Northern Virginia, we were instrumental in saving Dyke Marsh, ensuring good stormwater management in the Tyson's Corner redevelopment, pausing the development in a flood plain property in Alexandria, and more. On behalf of our over 10,000 members and supporters, we advocate for the protection of open space, for healthy communities for people and nature, and for strong environmental policies. I am following up on our preliminary May 11th comments on the Northfax West development proposal by the Northfax JV LLC.

This testimony applies, in large part, to the Planning Commission and City Council public hearings and Council actions on Northfax West. Given the interconnected nature of this project proposal with other public hearing items currently proposed for the June 23 City Council meeting, these comments also apply in small but significant ways to the following public hearings and this letter should be considered public record for each of these matters:

- Small Area Plans
- Redevelopment of Browns Mazda
- An ordinance permanently vacating, discontinuing and closing an approximately 13,433 square foot (0.30838 acre), more or less, portion of a public right-of-way (Orchard Street) within the City of Fairfax
- Northfax West Roadway Project (Farr Ave. road extension)

We support certain elements of the Northfax West proposal, which are detailed below. However, after several weeks of further research into this project, we have become increasingly concerned about the long-lasting, negative environmental impacts this development will have on to the local ecology of the A1¹ section of the North Fork of Accotink Creek, the proposed

¹ WQIA contains the official map of the segments of the North Fork on P. 90, noted in small blue boxes: <https://www.fairfaxva.gov/home/showdocument?id=14722#page=90>

removal of the associated Resource Protection Area (RPA), and the downstream effects of piping more of this stream. The draft of the Northfax Small Area Plan recognizes Northfax as an environmentally sensitive area. However, the details in the plan itself and this development proposal contradict this identity and disregard the current ecology of this area.

While the proper permits have been conditionally approved, they tell us merely what the limits of the law allow, not the wisest course of action. These permits do not address the question “Should this area be redeveloped in a way that removes a living stream and its associated heavily vegetated and treed riparian corridor?” This is, in fact, the question you, as representatives of the City of Fairfax, must decide.

We recognize this Activity Center as a positive place for redevelopment to improve land use and stormwater management, and we support denser, transit-oriented development in Activity Centers. But we oppose the false choice of piping a stream and paving the RPA to do so.



The A1 section of the stream is noted by yellow markers (added by ANS for clarity).
Original photo credit: [WQIA p. 128](#)

ANS respectfully asks the City to:

1. **Postpone, for three months, the decisions** for Northfax West (e.g. to rezone the lot, the special exception for disturbance of Resource Protection Area to build culvert).
2. **Postpone, for three months, the decisions** for the related projects currently relying on 1,600+ feet of the North Fork being culverted.
3. **During the postponement, work with an independent ecologist** to better understand the ecology of the A1 section of the stream and forest, as well as downstream impacts, in order to inform more ecologically sound alternatives.
4. **Seek alternatives** for all related projects addressed in this letter which preserve the majority of the A1 part of the stream and the RPA, are more in line with the Small Area Plan’s overall vision, and better accomplish the City’s land use *and* environmental goals.
5. **Separate out the stream restoration proposal of Van Dyck Park** from the Northfax West proposal.

Our reasoning for each of these items is outlined below.

Elements of the Northfax West Proposal that ANS Supports

There are many exciting aspects to this proposal, as redevelopment will allow this area to evolve into its fuller potential as a future growth area for the City.

From an ecological standpoint, we support the prioritization of native species and the selection of non-invasive species, if needed, for landscaping. We also support the goal of removing invasive trees and plants to improve the health and safety of existing vegetation. Furthermore, the suite of sustainable design features proposed will collectively help reduce the environmental impact of the development, especially the additions of low impact development techniques such as green roofs, tree box filters, and bio-retention areas to reduce the impacts of stormwater from increased impervious surfaces. And, simply redeveloping the existing parking lots would be a benefit to the area.

Audubon Naturalist Society's asks

1. Postpone, for three months, the Northfax West decisions

The project proposal is inconsistent with the Chesapeake Bay Preservation Ordinance and the purpose of Resource Protection Areas to buffer our streams

The current project is inconsistent with the City's environmental goals and inconsistent with the goals and intent of the City's Chesapeake Bay Preservation Ordinance². Furthermore, the §4.18.7 General performance standards specifically protect RPAs via the "Performance criteria for resource protection areas" section³ which states:

"All redevelopment activities shall conform to the regulations contained in §4.15, Floodplains; §4.16, Storm Drainage Facilities; and §4.17, Erosion and Sediment Control. Redevelopment shall be permitted in the resource protection area only if there is no increase in the amount of impervious cover within the RPA and no further encroachment within the RPA."

From our brief investigations, it is already abundantly clear the stream and RPA are healthy and supporting a living ecosystem. Moving forward without additional research and consideration, given the observations we discuss in the "Work with an ecologist" section, would be environmentally irresponsible.

While ANS considers some encroachment into the RPA to be acceptable on the less healthy A2, A3, and B1 segments of the North Fork, additional time is needed to figure out what the best approach is if the City Council is going to be asked to waive environmental protections for these five acres of Accotink Creek's headwaters.

² <https://www.fairfaxva.gov/government/public-works/stormwater-and-floodplain-management/chesapeake-bay-ordinance>

³ P. 6, Section (C) <https://www.fairfaxva.gov/home/showdocument?id=7885#page=6>

The project proposal is inconsistent with the City's Zoning Ordinance

This proposal is also inconsistent with the purpose and intent of Section 4.16 City's Zoning Ordinance ("to preserve, where possible, presently existing natural creek channels")⁴ based on the following criteria clearly not being prioritized:

- "The disturbance of any wetlands is minimized;
- The development will not result in significant disruption of the hydrology of the site;
- The development will not result in significant degradation to aquatic life;
- The development will not result in unnecessary destruction of plant materials on site;"

This is important, as the Major Water Quality Impact Assessment reports that "the City's Zoning Administrator will determine if the Northfax West development is consistent with the purpose and intent of Section 4.16 of the Zoning Ordinance"⁵ based upon the above criteria.

The project proposal is inconsistent with the Comprehensive Plan

Not only should the City's environmental goals included in the Comprehensive Plan be specifically taken into consideration, the City's Chesapeake Bay Preservation Plan⁶ should also provide guidance for the redevelopment of this site. In fact, Recommendation 1 directly applies to the Northfax West proposal: "Protect the quality of the City's surface water resources...from the avoidable impacts of land development." The City's Zoning Ordinance also confirms that a criterion for approval includes a project having "Substantial conformance with the comprehensive plan."⁷

The project proposal is inconsistent with the Planned Development Zoning requirements

While we understand the value to the City of rezoning underutilized property such as car lots to Planned Development Mixed Use (PD-M), the City at the same time clearly has a responsibility and commitment to protect streams and RPAs. When rezoning to Planned Development, the City is also specifically required to consider "the effectiveness with which the proposed planned development protects and preserves the ecologically sensitive areas within the development."⁸

This land use decision should consider the current pandemic

As the country and the world deal with the current and long-term effects of the current pandemic, ANS is hopeful the City Council will postpone all decisions related to the Northfax West project. While we have been successful in reaching nearly 100 City residents, people are juggling a good bit more during this pandemic, such as the complexities of working from home full time, children home and not able to attend school, and working parents juggling more responsibilities than normal. Making a final decision this month does not allow the

⁴ P. 202-203 of <https://www.fairfaxva.gov/home/showdocument?id=7891>

⁵ P. 10 <https://www.fairfaxva.gov/home/showdocument?id=14722#page=10>

⁶ <https://www.fairfaxva.gov/home/showdocument?id=12372>

⁷ P. 238, Section 6.6.8 (A) <https://www.fairfaxva.gov/home/showdocument?id=7891#page=238>

⁸ P. 238, Section 6.6.8 (L) <https://www.fairfaxva.gov/home/showdocument?id=7891#page=238>

City nor its residents to best understand what development will be most successful here in the new future that we face.

Furthermore, if this application were to be approved, the applicant could proceed immediately with stream destruction and clearing of the woodland even as the weakening economy may delay or effectively shelve any development. The owner of the property has a financial incentive to turn the stream into buildable land.

ANS recommendation: With both the community feedback provided through this public hearing process and more time, ANS recommends the City better plan for and work within the environment of the pandemic to achieve its Comprehensive Plan Commitments satisfying both its environmental goals *and* land use goals.

Additional community engagement is needed

Very little public comment has been submitted on prior considerations of this project (only one comment submitted in January 2019, and that was from City staff). Our outreach and observations have shown that many residents are quite interested in this project once we and our partners made an effort to engage them on it. The four community meetings we held drew in 111 RSVPs, with 73 of respondents indicating City residency. Only a handful of them knew of this project and its scope before the meetings. We thank the members of City Council and the Planning Commission, as well as the applicant and their representatives, who were able to join us for one or more of these meetings. This is the type of productive dialogue we believe should continue, led by the City, to better engage residents with the project.

ANS recommendation: The City should continue these productive conversations to hear from constituents directly about how they want to see this area redeveloped.

We also note that on June 16th, a resident stopped, in-person, to photograph the sign on the Northfax West property giving public notice for the June 22nd and 23rd hearings. These signs explicitly stated that the hearing would be held in-person at City Hall and did not describe the virtual meeting options. This is confusing, to say the least, and may effectively reduce public participation from those who were planning to attend online and via phone but would not go in person. The City does not currently plan to hold the meeting in person, meaning that this information is completely incorrect, and may lead people to arriving at City Hall on an election night where there is not a public hearing being held, so they will be unable to testify.



One of two signs posted on-site as of Sunday, June 14th indicates an in-person meeting and does not indicate alternatives for participation.

The public has not yet been able to review the project's fiscal impact analysis

While ANS considers the stream and woodlands to hold incalculable value to the current and future citizens of the City of Fairfax, it understands cities need to be fiscally responsible in development decisions. It was noted in the applicant's submissions to the state that even with preservation of the stream and woodland, the owners would make a profit. However, to date, there has been no fiscal impact analysis publicly available for this proposed development and no other evidence that it would financially benefit the City, even while destroying a natural feature of great potential value to the City.

Townhouses, which make up a significant portion of this proposal, generally have a negative economic impact on the City. Without understanding the economic impact of the senior living facility, the public cannot sufficiently understand the tradeoff that City leaders are considering would be of sufficient value to bury the stream and clear cut the woodland.

While we expect that the fiscal impact analysis will be included in the staff report, due to be released shortly, this gives mere days to review a very important component of this proposal.

The uncertainty of Phase Four is a concern

Approving this project now while Phase Four (the property in the eastern area) remains undefined concerns us. In fact, a major concern voiced by City leaders is that the area has a blighted appearance, yet with approval of this project, the unbuilt area could remain in its current state for another seven years. This is particularly concerning during the current economic downturn due to the on-going health crisis. In fact, the current Summary of Commitments would allow the current "temporary use for vehicle storage" to continue for up to twelve months after application approval and allow for the potential for a separate Special Use Permit application for temporary vehicle storage to be submitted again.⁹

ANS recommendation: With the goal of this redevelopment to improve the land use in the area, the City should not accept the option for an extension to allow vehicle storage on this site.

Stormwater management plans unclear and appear insufficient

The "temporary" gravel car storage lots are just one example of the complexities of stormwater management in this project. The lots were allowed on the Northfax West property via a Special Use Permit (SUP) in 2005 and renewed and expanded to over three acres in 2015¹⁰. The SUPs indicate the applicant treated the gravel lots as pervious, and as such the City did not require stormwater management facilities on the property. However, in the 2005 SUP, it is unclear if the site is considered compacted and therefore impervious, or pervious¹¹.

⁹ P. 11, #25: <https://www.fairfaxva.gov/home/showdocument?id=15447#page=11>

¹⁰ https://fairfax.granicus.com/MetaViewer.php?view_id=11&clip_id=1329&meta_id=45515#page=42

¹¹ P. 42 https://fairfax.granicus.com/MetaViewer.php?view_id=11&clip_id=1329&meta_id=45515#page=42

Furthermore, it is very unlikely that this site is still pervious (due to further compaction) after 15 years of use as a car lot, if it ever truly was to begin with. The *Virginia Stormwater Management Handbook* considers gravel streets and roads to be 76-91% impervious, depending on the underlying soil type.¹² The determination of how pervious (or not) this area actually is greatly affects the nutrient reduction calculations required for the proposed redevelopment. If it is to be considered impervious, as we suspect it should, who is responsible for the nutrient compensation needed with the change from pervious to impervious?

We are additionally concerned that the property as a whole, including the woodlands and stream, is being considered as “redevelopment” rather than new development, when the existing development on the site makes up only a portion of the parcel.

ANS recommendation: ANS urges the City to seek advice from Virginia DEQ or a third-party consultant on these issues regarding design of the stormwater management for the proposed development.

2. Postpone, for three months, the decisions on related projects

The following public hearings, listed online as Future City Council Agenda Items for the June 23 City Council meeting, relate to and/or rely on the Northfax West proposal to culvert 1,600+ feet of the North Fork:

- Small Area Plans
- Redevelopment of Browns Mazda
- An ordinance permanently vacating, discontinuing and closing an approximately 13,433 square foot (0.30838 acre), more or less, portion of a public right-of-way (Orchard Street) within the City of Fairfax.
- Northfax West Roadway Project (Farr Ave. road extension)

ANS recommendation: ANS respectfully requests that the decisions on the items above, and any other decisions related to the culverting of the North Fork, be postponed. ANS recommends alternatives be sought for these decisions in conjunction with alternatives for Northfax West which preserve the A1 section of the North Fork of Accotink Creek.

¹² VA DEQ (1999). *Virginia Stormwater Management Handbook*. Table 4 – 6a, “Runoff Curve Numbers for Urban Areas.” P 4-33.
<https://www.deq.virginia.gov/Portals/0/DEQ/Water/StormwaterManagement/SWMHandbookVolume%20II.pdf>.

3. Work with an independent ecologist to better understand the ecological value of the A1 section stream and downstream impacts of culverting it

Contrary to the assertions of the applicant, the North Fork of Accotink Creek supports a thriving, healthy ecosystem

During the May 13th City Council work session, Madison Home's Mr. Rosenberger addressed the condition of the North Fork of Accotink Creek by stating that: "...based on studies that Apex Companies, our environmental consultant, has done, the stream is not in good condition. There's no observed fish or other macroinvertebrates indicative of good water quality in that stream area."¹³ In a follow up call on May 27th, Judy Fraser and Chris Ruck inquired to Mr. Rosenberger and Mr. John Brooks (of Apex Companies) as to which study was being referred, however, no clear answer was provided. Mr. Brooks based this assessment on his many years of experience, rather than on any objective data, but also stated it had been 18 or more months since he had visited the site and could not be sure of the details.

At the May 13th meeting, Mr. Rosenberger continued his above statement by comparing the North Fork to Van Dyck Park: "Van Dyck Stream Park...contains fish, birds, mammals, and other macroinvertebrates that *do* constitute a sustainable ecosystem within that stream valley."¹⁴

Aquatic benthic macroinvertebrates (the organisms, often insect larvae, that spend part of their lifecycles in the rocks at the bottom of a streambed) have long been used as a standard for stream health. ANS staff leads stream monitoring and data collection efforts across the DC area doing just that – evaluating stream health in our urban and suburban areas. Some of these macroinvertebrates can withstand pollution, whereas others cannot. For this reason, it is important for the City to have a clear understanding of what macroinvertebrates exist today in the A1 section.

Our own in-stream and document-based investigation into the above statements of the ecological health of the North Fork and surrounding area resulted in data differing from the applicant's statement made before the City Council:

1. *A1 Stream Assessment Form shows a healthier than average stream*

The Joint Permit Application (JPA) contained Stream Assessment Forms for each of the segments of the North Fork of Accotink Creek to be affected. In these forms, the "Reach Condition Index" (RCI¹⁵) is a multiplier: a 1 means that an applicant would have to pay mitigation credits equally the length of the stream affected. While some sections are clearly degraded, the A1 section¹⁶ had an overall RCI of 1.24 (indicating an overall

¹³ 5 hr 14 min: https://fairfax.granicus.com/MediaPlayer.php?view_id=11&clip_id=2252&meta_id=80418

¹⁴ 5 hr 17 min: https://fairfax.granicus.com/MediaPlayer.php?view_id=11&clip_id=2252&meta_id=80418

¹⁵ P. 17 https://deq.virginia.gov/Portals/0/DEQ/Water/WetlandsStreams/USMFinal_01-18-07.pdf#page=17

¹⁶ P. 27 <https://webapps.mrc.virginia.gov/public/habitat/getADD.php?id=106355#page=27>

positive stream condition), and scored the best available ranking (of four) for “Instream habitat” and the second best ranking (of seven) for “Riparian buffers”.

Note: We sought additional data on A1 macroinvertebrates, amphibians, and vegetation from the City of Fairfax’s Stormwater Division by way of a Perennial Flow Determination report (as included in the JPA for A2 and A3¹⁷). However, because this stream was already mapped, no Perennial Flow Determination was available.

2. *Stream sampling at Orchard Street public right-of-way & Van Dyck Park revealed similarly healthy aquatic ecosystems*

In order to gain a basic understanding of the health of the stream for ourselves, we collected data on macroinvertebrates and amphibians found in the North Fork of Accotink Creek via the public right-of-way at Orchard Street on May 17th, 2020. Among the typical macroinvertebrates found in urban streams, we also found two exciting discoveries: (1) small minnow mayfly larvae (Baetidae) and (2) casemaking caddisfly (Uenoidae). Uenoidae are considered intolerant to pollution and environmental stress. Baetidae, too, are a good sign, as they require waters with relatively high levels of dissolved oxygen.



Macroinvertebrates collected from North Fork at Orchard Street right-of-way.
Left: small minnow mayfly larvae (Baetidae)
Right: casemaking caddisfly (Uenoidae)

The presence of these two types of disturbance-sensitive macroinvertebrates indicate that the A1 section of the North Fork on the proposed development site is a well-functioning, thriving aquatic ecosystem which should be preserved and protected, not destroyed. They indicate that the water quality is, in fact, relatively high for a suburban/urbanizing area.

Furthermore, subsequent data collection was done at Van Dyck Park by Friends of Accotink Creek on June 13th, 2020. Their species list was largely the same, with the macroinvertebrates most indicative of good water quality being the *same* as ones found in the North Fork of Accotink Creek, small minnow mayfly and casemaking caddisfly.

3. *Observations from Orchard Street demonstrate North Fork’s sustainable ecosystem*

The stream at Van Dyck Park supports fish, birds, mammals, and other macroinvertebrates that constitute a sustainable ecosystem, as does the North Fork ~5 acre area of forested stream valley and RPA at Northfax West.

¹⁷ P. 53-56 <https://webapps.mrc.virginia.gov/public/habitat/getADD.php?id=106355#page=53>

In addition to our macroinvertebrate observations in the North Fork, I heard a Barred Owl calling from the property on a cloudy, mid-day visit in April. In fact, as a certified Virginia Master Naturalist, I identified many species of birds using this area, including the forest-dwelling Eastern Towhee, many species of migrating birds such as Wilson’s Warbler, and more common birds such as House Wrens, Gray Catbirds, and Northern Cardinals. Hundreds of Blacknose Dace, a species of minnow, live in this creek and are easily observable from Orchard Street. And lastly, more than a dozen Northern-Two Lined Salamanders were found in the stream during our data collection as well. In fact, what we found was a thriving ecosystem within a suburban landscape—a true treasure in our increasingly fragmented region.

Prior wetlands determination data, in combination with site observations, indicate possible wetlands not previously noted or accounted for in permitting

The Major Water Quality Impact Assessment reported that “No wetlands were identified within the project area”¹⁸. However, a combination of data from the Wetlands Determination Forms in the JPA¹⁹ and our own observations from Orchard Street present a concern with this finding as well.

First, the presence of so many Northern Two-Lined Salamanders is an indication of a healthy wetland.²⁰ But even stronger evidence of wetlands exists.

In order to be considered a wetland, a site must meet three criteria: the proper soils, hydrology, and vegetation²¹. For the JPA, the Wetlands Determination was done in November (of 2017) and two data points on the property were sampled (DP1 and DP2). DP2’s data resulted in the finding of the proper soils and the proper hydrology, but no proper vegetation. This is highly unusual because when you have the first two, the third is almost always present.

Fast forward to our April 2019 visit to Orchard Street. Easily seen from the road (in a separate location from either data point) is a significant stand of Skunk Cabbage (*Symplocarpus foetidus*), an obligate wetland plant.



Skunk Cabbage (*Symplocarpus foetidus*), an obligate wetland plant, as seen from Orchard Street.

¹⁸ P. 8: <https://www.fairfaxva.gov/home/showdocument?id=14722#page=8>

¹⁹ P. 47-52: <https://webapps.mrc.virginia.gov/public/habitat/getADD.php?id=106355#page=47>

²⁰ <https://portal.ct.gov/DEEP/Wildlife/Fact-Sheets/Northern-Two-lined-Salamander>

²¹ <https://www.epa.gov/wetlands/what-wetland>

The Wetland Determinations were done in November when the wetland vegetation is dying back, so it is highly unlikely an observer would see this very important component of identifying a wetland.

Wetlands, especially forested wetlands, add ecological value to the site because of the unique soil and groundwater processes, vegetation, and wildlife that inhabit them. The special nature of wetlands is highlighted by Virginia’s Department of Environmental Quality requiring a special permit if wetland losses are in excess of 0.5 acres,²² and mitigation requirements for forested wetlands are the greatest of all types of wetlands, due to their high ecological value (2:1 acre mitigation ratio).²³

When we let even small parcels of wetlands slip away unnoticed and uncompensated, we lose one of the most valuable and hard-working types of ecosystems around us. Wetlands provide habitat, clean our drinking water, manage flood water, store carbon, and so much more. Losing our little wetlands is a true “death by a thousand cuts” and in practice means that the national goal of “no net loss” of wetlands²⁴ will be continuously out of reach.

ANS recommendation: Given this site proved to have the proper soils and hydrology commensurate with a wetland, ANS strongly recommends that follow up reporting be done as soon as possible while Skunk Cabbage leaves are still present.

The City should seek an independent ecological perspective

Without an ecologist on staff, the City has not had the benefit of an independent ecological perspective on this project thus far. ANS greatly appreciates the role the Environmental Sustainability Committee (ESC) plays in advising the City Council on environmental issues. The ESC’s comments on this project, submitted on June 5th, highlight some of the concerns ANS shares regarding the removal of so much RPA and the overall tree canopy loss to the City.

In addition to better understanding the ecological value of the *current* site, the City should also be seeking to understand the ecological downstream impact of culverting more of the North Fork to both the City’s streams and the Accotink watershed. For example, it is already possible to observe a failed stream restoration project downstream due to



Ranger Road Park: Rocks from the prior stream stabilization project, seen here in the middle of the stream, used to be the far bank of the stream.

²² <https://law.lis.virginia.gov/admincode/title9/agency25/chapter660/section100/>

²³ <https://www.deq.virginia.gov/Programs/Water/WetlandsStreams/Mitigation.aspx>

²⁴ <https://www.epa.gov/cwa-404/background-about-compensatory-mitigation-requirements-under-cwa-section-404>

increased water flow. Fast moving waters coming into Ranger Road Park (directly downstream of Northfax West) has blown out a prior City-funded stream restoration project²⁵.

ANS recommendation: If the City needs further proof of the healthy ecology to guide its decision making for ecologically focused alternatives for development on this site, then ANS recommends a site assessment be done by an independent third-party ecologist hired by the City.

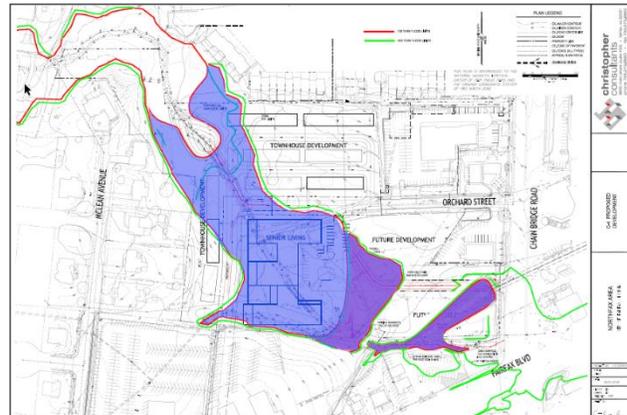
4. Seek alternatives to preserve the majority of the A1 part of the stream

It does not seem that any substantial alternative development proposals were submitted to the City for consideration. Given the complexities and regulated landscape around this site, that is clearly a missed opportunity.

The developer should propose an alternative that retains more of the current floodplain

When streams are piped, water is directed into the culvert, either at its mouth or through infrastructure underground elsewhere. Water no longer has the floodplain to spread out, slow down, and soak in.

Although two eight-foot box culverts are proposed, without sufficient stormwater retention on site (which may be a challenge given the current soils and development plan), strong storms (as we have seen and will continue to see more frequently due to climate change) will create a torrent of water that rushes quickly underground through the smooth pipes. This water will meet up with the already culverted stream in Northfax East, picking up more speed. The torrent of water flowing out of the culvert is like a firehose open at full volume, undermining both the stream at the outflow and downstream as well. The undergrounding of *more* of the North Fork will continue to undermine conditions downstream, as we mentioned above at Ranger Road Park.



Blue and purple fill (added by ANS for clarity) represent the loss of floodplain in current design approval.
Original image credit: DEQ-provided document

²⁵ Page 12 "VII.B. Repair Recommendations": <https://www.fairfaxva.gov/home/showdocument?id=10911#page=12>

The project should keep the stream and its associated RPA in order to comply with the Watershed-specific TMDL considerations of Accotink Creek

The Accotink Creek watershed is unique in having its own set of criteria to address the Total Maximum Daily Load (TMDL) of specific pollutants in the watershed. Initially, a reduction in the volume of stormwater runoff received by the stream was proposed as a TMDL. This was due to the fact that the *volume* of water in streams throughout the watershed was identified as a primary *cause* of increased sediment. However, a federal court ruled that because water *itself* is not a pollutant, it cannot be regulated by law²⁶.

Despite what can be regulated, volume of water continues to be a primary stressor in our urban and suburban streams. As such, the TMDL guidance document, “Volume II Sediment TMDLs for the Accotink Creek Watershed”²⁷ states that many of the practices that “address sediment also address the two non-pollutant stressors **hydromodification** and **habitat modification**. If the measures to reduce sediment also address the two non-pollutant stressors, then they should be considered priority BMPs for implementing this TMDL.”

ANS recommendation: ANS strongly suggests following the TMDL guidance by keeping the stream and its associated RPA. Doing so retains the site’s hydrology and habitat – the modification of each is considered a non-pollutant stressor to be avoided for this TMDL.

The developer should propose alternative culverting designs

In reviewing documents from the Department of Environmental Quality (DEQ), we found a single alternative culverting option which culverted the A2 and A3 segments of the stream but left the healthy A1 segment as well as the degraded B1 segment open. While the applicant is seeking an Internal Rate of Return (IRR) of 18%-20% on this project, this alternative culverting proposal was projected to have an IRR of 9.85%.

If the intermittent B1 section of the stream along the southern edge of the property, adjacent to Brown’s Mazda, was culverted as well, how much more developable land could be reclaimed? Could Farr Avenue instead be routed between these two properties to minimize the impacts to the existing RPA and forested area around the A1 section of the stream?

Consider private/public partnerships to preserve land

The Environment and Sustainability chapter of the Comprehensive Plan also provide a path forward for the applicant to preserve more of the stream area through Goal 1’s “Preserve, promote, and enhance a healthy environment.”²⁸ ACTION NE 1.3.2 reads: “Support

²⁶ <https://stormwater.wef.org/2013/01/federal-court-rules-on-accotink-creek-tmdl-case/>

²⁷ P. 39 – 40:

https://www.deq.virginia.gov/portals/0/DEQ/Water/TMDL/apptmdls/potrvr/Vol_II_Final_SED_TMDL.pdf#page=39

²⁸ P.8 <https://www.fairfaxva.gov/home/showdocument?id=12382#page=8>

incentives, provide education, and partner with public and private groups to encourage native tree planting and preservation by private property owners.”

Land trust organizations, such as Northern Virginia Conservation Trust, work with private land owners to preserve ecologically sensitive areas, often with tax incentives, just like Northfax West. ANS suggests the City aim to preserve the A1 part of the stream and RPA by recommending a conservation easement option be explored, especially one which allows public access to the forest and stream.

ANS recommendation: ANS respectfully requests that alternative development proposals be pursued which best preserve the RPA and forested area.

5. Separate out the stream restoration proposal of Van Dyck Park

City Council Members and planners have indicated that culverting the North Fork of Accotink Creek is as an ecological tradeoff they are thus far comfortable with, as it will result in more buildable land as well as a proposed stream restoration at Van Dyck Park. However, this stream restoration should not be a component of the Northfax West discussion as it is today.

Of important note is that the current Summary of Commitments indicates that the proposed stream restoration be done as a Nutrient Offset Trading Bank (NOTB) project.²⁹

This stream restoration proposal is concerning for a several of reasons:

1. *Proffers appear to be not allowed when zoned Planned Development*
With Van Dyck Park being off-site of the Northfax West property, ANS is concerned that this promise of a stream restoration is a proffer. However, according to the City’s Zoning Ordinance §3.8.2. General provisions, A. Review process³⁰, “No proffers will be allowed in a planned development...”
2. *Potential additional financial profit should be counted in IRR*
Nutrient Offset Trading Banks are, by their nature, for-profit entities. The Summary of Commitments states that the “Applicant will complete stream restoration improvements”. If the applicant is involved at any level of the creation of the NOTB, which it appears as though the applicant will, this means that there could be financial motivation to get the Northfax West proposal passed in order to secure the additional profitable work of a stream restoration on City land. Is the City giving private enterprise access to a public utility (the stream) to use for their own private profit-making purpose?

²⁹ P. 11, #25: <https://www.fairfaxva.gov/home/showdocument?id=15447#page=11>

³⁰ P. 86, §3.8.2, (A): <https://www.fairfaxva.gov/home/showdocument?id=7891#page=86>

ANS recommendation: If this proposal continues to be included with this project, the estimated profit from the NOTB should be included as part of the Internal Rate of Return calculation.

3. *Missed opportunity for the City's MS4 permit goals*

Due to this being a Nutrient Offset Trading Bank project, the applicant or their contractor will presumably be able to sell the nutrient credits themselves to another developer elsewhere in the state, meaning that the City is foregoing the valuable opportunity to get Municipal Separate Storm Sewer System (MS4) permit credits for this project. It is true that the City is currently ahead of its MS4 permit requirements based on its short-term goals and does not *immediately* need the credits, but missing this opportunity is a detriment to achieving the City's long-term MS4 permit goals.

While the City sees this stream restoration as a positive ecological gain, stream restorations in general can be controversial both politically and scientifically and are not without significant ecological tradeoffs that should be evaluated on their own merits³¹.

Additional recommendations for the Northfax West proposal

ANS recommends reducing townhome parking garage capacity

ANS commends the inclusion of the Transportation Demand Management program. Education for alternatives to car trips is a critical component of reducing traffic. However, the development of the townhomes with two-car garages encourages a car-focused community. Mr. Rosenberger, during a May 11th Planning Commission Small Area Plan work session even mentioned the likely lack of need for a car given increased bus service, cycle paths, and increased walkability: "Within the neighborhood themselves, the Northfax, the idea of being able to just get out of the car in the garage, if you have one, you most likely will have one but you may not need two..."³²

Due to concerns about traffic, ANS recommends reducing the capacity of the garages to 1 or 1.5 (e.g. to allow for car plus bike storage).

ANS recommends prioritizing the preservation of important natural tree cover

A number of important tree species are proposed to be removed³³, including several relatively large and healthy American Elms (listed as Endangered on the IUCN Red List³⁴). Preserving more of the RPA will help preserve more of these important trees. Preserving the

³¹ NOVA stream restorations ([article](#)) and MD stream restorations ([article](#)) alike have come under criticism.

³² 1 hr 26 min: https://fairfax.granicus.com/MediaPlayer.php?view_id=11&clip_id=2248

³³ P. 6-7 <https://www.fairfaxva.gov/home/showdocument?id=15449#page=6>

³⁴ <https://www.iucnredlist.org/species/61966619/156530742>

current natural tree canopy will also better support the City of Fairfax's designation as a Tree City³⁵.

ANS recommends dark-sky approved streetlights to reduce light pollution

The proposed streetlights are in the "acorn style"³⁶ which have the potential to cause increased light pollution due to illumination being released in all directions. ANS recommends lighting fixtures be dark sky approved fixture which directs light downward to ensure a reduction in light pollution.

ANS recommends minimizing RPA and tree canopy impact when installing trail

OANS supports connectivity and thinks a non-car connection from the Cobbdale neighborhood to the west through to the Northfax West property would be an asset to residents. The current trail is proposed to be eight-feet wide³⁷ and the surface is not yet specified. ANS recommends keeping this a pervious surface, such as dirt, mulch, or cinders. Impervious, paved surfaces should be avoided to minimize ground disturbance and tree impacts.

ANS recommends seeking alternatives to the proposed fair weather crossing

While the idea of a fair weather crossing is a good one for pedestrians³⁸, installing cement ramps on both sides of the creek, in between more cement blocks, is very damaging to stream ecology. Given that the draft of the Northfax Small Area Plan identifies this as an in an ecologically sensitive area, alternatives should be sought which minimize environmental impacts.

In summary

The City of Fairfax has a window of opportunity to reimagine this Activity Center development and create a focal point for this unique area with a special stream and forest that could be cherished for generations to come, but only *before* the North Fork of Accotink Creek gets piped underground.

In fact, cities across the country are seeking ways to incorporate streams into new destination developments. American Rivers³⁹ has developed an entire guide to daylighting streams. Locales in our own backyard have also understood that piping streams is an antiquated approach to development and are seeking to daylight (un-pipe) streams:

³⁵ <https://www.fairfaxva.gov/government/environment-sustainability/climate-and-air/tree-city-usa>

³⁶ P. 11 <https://www.fairfaxva.gov/home/showdocument?id=15449#page=11>

³⁷ P. 6 (B) <https://www.fairfaxva.gov/home/showdocument?id=15447#page=6>

³⁸ P. 18 <https://www.fairfaxva.gov/home/showdocument?id=15449#page=18>

³⁹ https://americanrivers.org/wp-content/uploads/2016/05/AmericanRivers_daylighting-streams-report.pdf

For example:

- In the Alexandria area of Fairfax County, Ecological Spines and the daylighting of streams has been included in the draft Richmond Highway redevelopment vision⁴⁰.
- Montgomery County, Maryland's draft Thrive 2050 plan⁴¹ includes guidance to "Develop incentives for developers to restore existing streams and daylight piped streams during the redevelopment process."
- In DC, daylighting of a tributary of the Broad Branch stream gained national, and National Geographic, attention in 2014.⁴²

ANS recognizes that this project has been in the works for years and that redevelopment in this area can bring positive change. Imagine how much more appealing the community being built would be with the incorporation of the North Fork of Accotink Creek as its living heart. In fact, this environmentally sensitive area could be celebrated firsthand, creating interesting spaces that can be enjoyed by residents and visitors alike.

We hope very much that the City of Fairfax takes these ecologically focused comments into consideration to preserve a wonderful City asset for decades and centuries to come. The decision is in your hands on the nights of June 22nd and June 23rd.

ANS urges you to postpone all decisions across all projects related to the culverting of the North Fork and impacts to the RPA in order to seek more ecologically conscious alternatives.

Thank you for the consideration of these recommendations and comments.

Sincerely,



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⁴⁰ P. 68 <https://www.fcrevite.org/sites/default/files/Assets/Documents/Richmond-Highway/RichmondHwyDDG-FullDocument.pdf>

⁴¹ Action 6.5.6.a: <https://montgomeryplanningboard.org/wp-content/uploads/2020/05/Final-staff-report-vision-goals-policies-and-actions-for-6-11-20-PB-.pdf#page=54>

⁴² <https://www.nationalgeographic.com/news/2014/11/141125-dc-daylighting-broad-branch-stream-restoration-science/>

Attachments:

Slides from ANS's community meetings on Northfax West ([also viewable online](#))

ANS's blog post on Northfax West ([also viewable online](#))

CC:

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