

Environmental Policy Commission

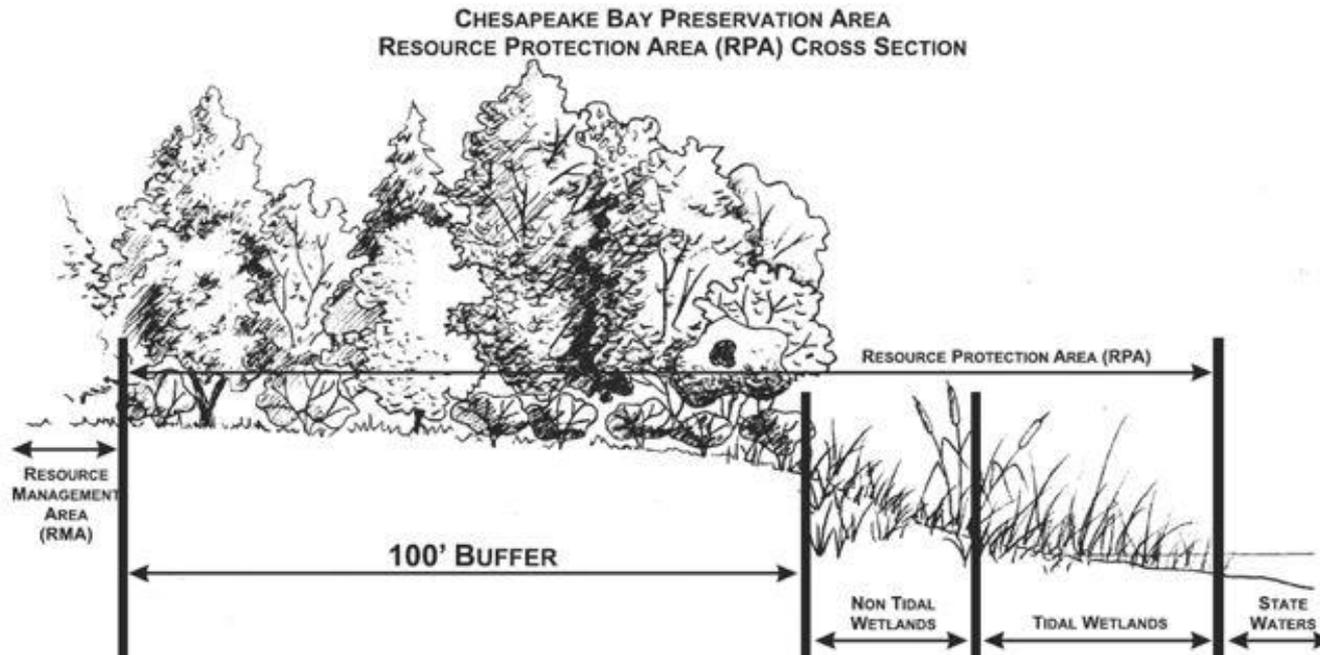
Resource Protection Area (RPA) Exception Request
DSP#2018-0018
4898 W. Braddock Road "Newport Village"
December 16, 2019



Exception Request

- DSP2018-0018: Newport Village
- Proposes new encroachment of 4,791 of new impervious surface in a Resource Protection Area (RPA)
- UDR (the applicant) has requested an exception to Section 13-107 of the Alexandria Zoning Ordinance
- Section 13-119 includes process and criteria for review

Resource Protection Areas (RPAs)





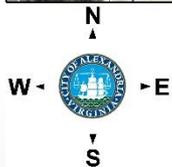
Allowable Redevelopment In RPAs

- Per Section 13-107(C)(2), redevelopment may be allowed provided that the following criteria are met:
 - There is no increase in impervious surface cover;
 - There is no further encroachment within the RPA; and
 - The proposed redevelopment is consistent with the city master plan.
- New encroachments require formal exception approval from Planning Commission after EPC recommendation

Existing Conditions



Newport Village Proposed Development



Legend

- Proposed Development Site
- Existing Parcel 011.01-01-02
- Resource Protection Area

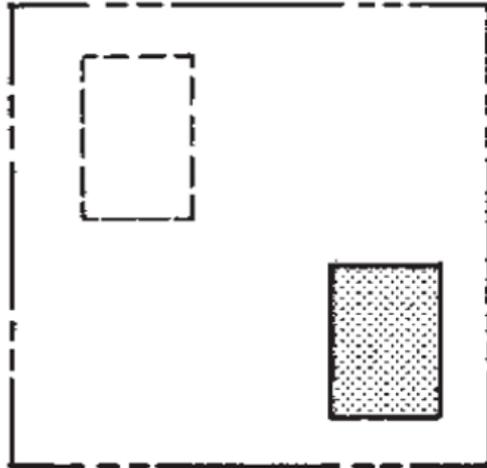


Exception Request Review

- Section 13-119(B) - the reviewing body must find that the applicant has proven each of the following criteria by a preponderance of the evidence:
 - Granting the exception will not confer upon the applicant any special privileges that are denied to other property owners in the CBPA [Chesapeake Bay Preservation Area] overlay district;
 - The exception is not based upon conditions or circumstances that are self-created or self-imposed, nor does the exception arise from conditions or circumstances either permitted or noncomplying that are related to adjacent parcels;
 - The exception is the minimum necessary to afford relief;
 - The exception will be consistent with the purpose and intent of the overlay district, and not injurious to water quality, the neighborhood or otherwise detrimental to the public welfare;
 - Reasonable and appropriate conditions are imposed, as warranted, to prevent the allowed activity from causing degradation of water quality.
- Economic hardship alone is not sufficient reason to grant an exception (Section 13-119(C)). The above criteria are the only ones that may be considered when reviewing the merits of an exception request.

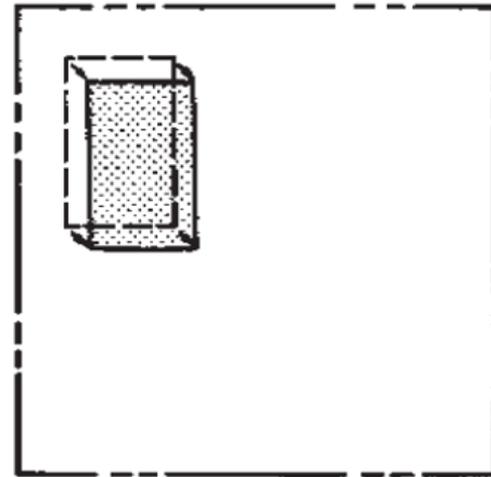
New Encroachments through Redevelopment

Figure 3 - Redevelopment in Same General Location



**NOT ACCEPTABLE AS
REDEVELOPMENT**

The redevelopment is not in the same general location as the existing development



**ACCEPTABLE AS
REDEVELOPMENT**

The redevelopment is in the same general location as the existing development



Proposed RPA Disturbance and Encroachment

- Proposed RPA disturbance of approximately 15,681 SF
- Existing private RPA encroachment of 435 SF
- New encroachment of 4,791 SF of new impervious surface
- Total proposed encroachment of 5,226 SF of impervious surface
 - Existing building from 1968 partially in RPA was prior to existing RPA protection



Exception Criteria 1

- *Must be the minimum necessary to afford relief.*
 - Per state guidance, consider the size of the structure, the types of proposed structures, and the placement of the structures in relation to the size, layout and location of the lot or parcel
 - If alternative location, sizing, or orientation options to avoid the need for an exception are available, then the finding of “minimum necessary to afford relief” has not been met.
- Previous layouts were submitted by the applicant that avoided the need for a new encroachment into the RPA.
- September 5, 2019 ‘RPA Waiver’ letter stated that an alternative layout would be constructed if denied.



Exception Criteria 2

- *Must not be based upon conditions or circumstances that are self-created or self-imposed, nor can the exception arise from conditions or circumstances either permitted or noncomplying that are related to adjacent parcels.*
 - Relates to a property owner's failure to realize that their property is not suited for their intended use.
- The applicant created the need for the exception by proposing construction within the RPA when there are other development options that do not require an encroachment in the RPA.



Exception Criteria 3

- *Granting the exception must not confer upon the applicant any special privileges that are denied to other property owners in the CBPA overlay district.*
 - Intended to ensure that an exception request does not give the applicant something that has been denied to others in similar situations.
- Standard City practice is to work with developers during the site plan process to avoid any new encroachments
- City practice also does not support keeping existing encroachments if feasible to remove



Exception Criteria 4

- *The exception must be consistent with the purpose and intent of the overlay district, and not injurious to water quality, the neighborhood or otherwise detrimental to the public welfare.*
 - Intended to ensure the exception is consistent with purpose of the overlay district: to safeguard the waters of the Commonwealth from pollution and to prevent any increase in pollution of state waters.
- Development proposes a total of 5,226 SF of impervious surface in the RPA, an 1,100% increase. Impervious areas are a documented source of stormwater pollution.



Exception Criteria 5

- *Reasonable and appropriate conditions are imposed, as warranted, to prevent the allowed activity from causing degradation of water quality.*
 - Intended to ensure that conditions are imposed to, among other things, protect water quality and the functionality of an RPA as if it were undisturbed.
- The applicant has submitted several options for mitigation; however, they do not equate to the function of an undisturbed RPA or the loss of RPA buffer.



Staff Recommendation

- Exception request does not meet the criteria for approval by a preponderance of the evidence as required per zoning ordinance for an exception to be granted
- Approval of this exception would set a precedent for other significant new encroachments into the RPA
- Conflicts with principles of the Eco-City Alexandria Charter and Environmental Action Plan
- Staff recommendation: Deny the Request