

FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

TO: BOARD OF SUPERVISORS **DATE:** June 30, 2003

FROM: Anthony H. Griffin 
County Executive

SUBJECT: Amendments to Chapter 118 (Chesapeake Bay Preservation Ordinance) of the Code of the County of Fairfax

REFERENCE: Information Requested by the Board of Supervisors at June 2, 2003, Board Meeting

At the referenced meeting, the Board requested that staff respond to a number of issues. This memorandum transmits the requested information to the Board. Questions specifically directed to the County Attorney are being addressed separately. A copy of the Board Summary for this item from the June 2, 2003, meeting is attached for information as Attachment 1.

- 1) Wall Maps of Chesapeake Bay Preservation Areas. The Board requested that staff add a more detailed road network with road names as well as depictions of Commercial Revitalization Areas and Districts onto the wall map of Chesapeake Bay Preservation Areas.

Staff Response:

The requested changes have been made. A copy of the map is attached as Attachment 2.

- 2) Ordinance Language for Creation of Intensely Developed Areas (IDAs). The Board requested that staff provide proposed language for the creation of IDAs for consideration by the Board prior to the Environmental Committee meeting on July 7, 2003.

Staff Response:

There is existing language in the Chesapeake Bay Preservation Ordinance adopted by the Board in 1993 that would allow for the creation IDAs through an amendment to the adopted map of Chesapeake Bay Preservation Areas. The advertised amendments include a change to the existing language necessary to comply with the revised Chesapeake Bay Preservation Area Designation and Management Regulations (the Regulations) [9 VAC 10-20 et seq.]. Staff has reviewed the existing and proposed language and feels that additional changes would be appropriate in order to clarify that both development and redevelopment in IDAs is allowed within Resource Protection Areas (RPAs) and that such development or redevelopment may increase the amount of impervious area within the RPA and may further encroach within the RPA buffer. The County Attorney's Office has indicated that the designation of IDAs on the map of Chesapeake Bay Preservation Areas would require

readvertisement and public hearings. Since there are no IDAs presently designated or proposed, there is no urgent need to make the new text changes at this time. The County Attorney's Office has recommended that these additional text changes be addressed at the same time as any map amendment that might be proposed to create IDAs in Fairfax County. It is therefore recommended that the Board of Supervisors consider the attached text changes for IDA designation in conjunction with the incorporation of IDA boundaries on the map of Chesapeake Bay Preservation Areas, should the Board choose to pursue IDA designations. See Attachment 3.

While the additional changes recommended by staff along with the existing and advertised language are sufficient for generally establishing IDAs, additional language may be proposed to address issues related to specific IDAs or broader, discretionary issues (e.g., protecting RPAs to the extent feasible in IDAs consistent with a proposed development or redevelopment) at such time as the Board directs staff to prepare maps of specific IDAs for advertising.

- 3) Designation of the Tysons Corner Urban Center and the Commercial Revitalization Districts and Areas as IDAs. The Board requested that staff further review the merits of designating the Tysons Corner Urban Center and the Commercial Revitalization Districts and Areas as IDAs.

Staff Response:

A background paper providing a detailed discussion of IDA designation options and implications, with a particular focus on Revitalization Areas, Revitalization Districts, and the Tysons Corner Urban Center, is attached as Attachment 4. A set of maps displaying existing and new Resource Protection Areas within these areas is appended to the background paper.

Within IDAs, all development is to be treated as redevelopment as defined in the Ordinance. Therefore, any development within an IDA would be required to achieve a 10% reduction in phosphorus loadings relative to existing conditions. In addition, new development could be permitted within the Resource Protection Area (RPA) without the requirement for approval of an exception. Otherwise, development within IDAs would be subject to the same requirements as development outside of IDAs.

As noted in the background paper, staff does not see a compelling reason for IDA designation at this time, primarily for the following reasons:

- A review of the seven Revitalization Districts and Areas as well as the Tysons Corner Urban Center does not suggest that there are expansive areas of land in these areas that would be rendered unbuildable (or even substantially less buildable) because of the revisions to the Ordinance.
- The designation of IDAs would not be necessary to achieve Comprehensive Plan goals, objectives, policies, or recommendations within these areas.

- County policies applicable to the protection of streams and stream valleys do not differentiate between areas characterized by relatively intense development and lower density areas. Indeed, Environmental Quality Corridors have been established and are recognized by the Comprehensive Plan in Tysons Corner and in the Richmond Highway Corridor. In staff's view, it would be inappropriate at this time to establish, through IDA designation, either real or perceived differences in how these streams and stream valleys are regulated by the County, as such differences may be inconsistent with Comprehensive Plan policy.
- The stormwater management performance criterion that would apply in IDAs would, in some cases, be more stringent than the requirement that would apply absent IDA designation. On vacant or lightly developed parcels in IDAs, this requirement would likely be difficult, if not impossible, to satisfy.
- There are opportunities for case-by-case considerations of encroachments into Resource Protection Area (RPA) buffer areas afforded by the exception review process.

Staff recognizes that the exceptions review criteria and process will become more stringent as a result of the proposed Ordinance revision. As such, it is staff's view that it would be appropriate for the Board to revisit the IDA designation issue at some time in the future, after there has been considerable experience with the expansion of the RPA network and the new exceptions review process.

Attachments: 1. Board Summary of June 02, 2003
2. Wall Maps of Chesapeake Bay Preservation Areas
3. Text Changes for IDA Designations
4. Intensely Developed Areas – Background Paper

cc: Robert A. Stalzer, Deputy County Executive
John Wesley White, Director, Department of Public Works and Environmental Services
David P. Bobzien, County Attorney
James P. Zook, Director, Department of Planning and Zoning
William Shoup, Zoning Administrator
Michelle Brickner, Director, Office of Site Development Services, DPWES

7c. NO BOARD MATTERS TO PRESENT FOR SUPERVISOR MCCONNELL (SPRINGFIELD DISTRICT) (Tape 6)

INFO

Supervisor McConnell announced that she had no Board Matters to present today.

8c. INTENT TO DEFER THE BOARD DECISION ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 101 (SUBDIVISION ORDINANCE), CHAPTER 104 (EROSION AND SEDIMENTATION CONTROL), CHAPTER 112 (ZONING ORDINANCE), CHAPTER 118 (CHESAPEAKE BAY PRESERVATION ORDINANCE), AND TO THE PUBLIC FACILITIES MANUAL (PFM) REGARDING IMPLEMENTATION OF REVISIONS TO THE CHESAPEAKE BAY PRESERVATION AREA DESIGNATION AND MANAGEMENT REGULATIONS (9 VAC 10-20 ET SEQ.) (Tape 6)

STALZER/BOBZIEN

Supervisor Mendelsohn announced his intent, later in the meeting, at the appropriate time, to defer the Board decision regarding implementation of revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations (VAC 10-20 ET SEQ.) and on proposed amendments to the Code of the County of Fairfax as follows:

- Chapter 101, (Subdivision Ordinance)
- Chapter 104 (Erosion and Sedimentation Control)
- Chapter 112 (Zoning Ordinance)
- Chapter 118 (Chesapeake Bay Preservation Ordinance)

The Board decision will be deferred to July 7, 2003.

Following discussion, with input from Anthony H. Griffin, County Executive, Supervisor Kauffman asked unanimous consent that the Board direct staff to respond to the issue regarding the value of revitalization/redevelopment areas being an Intensely Developed Area (IDA).

Chairman Hanley noted that the map that shows the data that is being mapped that adds on to resource protection areas does not have any other information on it. She relinquished the Chair to Vice-Chairman Hyland and asked unanimous consent that the Board direct staff to impose major roads on top of that map. Without objection, it was so ordered.

Vice-Chairman Hyland returned the gavel to Chairman Hanley.

Supervisor Kauffmann asked unanimous consent that the Board direct staff to identify revitalization areas on the map. Without objection, it was so ordered.

Supervisor Connolly asked unanimous consent that the Board with regard to IDAs direct staff to provide proposed language for consideration by the Board prior to the Environmental Committee meeting. Without objection, it was so ordered.

Supervisor Connolly asked unanimous consent that the Board direct staff ensure that the proposed options to be considered by the Board are included in the scope of the advertisement. Without objection, it was so ordered.

Chairman Hanley announced that the following schedule changes:

- Environmental Committee meeting on July 7, 2003, at 8 a.m.
- Personnel Committee meeting on July 21, 2003, at 8 a.m.

A brief discussion ensued, with input from Merni Fitzgerald, Director, Office of Public Affairs.

(NOTE: Later in the meeting, the Board decision was formally deferred.)

**Proposed Amendments to Chapter 118 (Chesapeake Bay Preservation Ordinance)
of
The Code of the County of Fairfax**

Staff comments on the proposed changes are shown in italics between passages of text. Changes to the amendments advertised for the Planning Commission Public Hearing held on January 15, 2003, are shown in red (online version only) with double strike through and double underline.

Section 118-1-6. Definitions. Paragraph (g)

(g) "Development" means the construction, rehabilitation, rebuilding or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility uses, facilities or structures which results in a net increase in impervious area within an RPA and/or a net increase in impervious area within an RMA of greater than 20%, relative to conditions prior to development. Any development within Intensely Developed Areas is defined herein as redevelopment and shall meet the performance criteria for redevelopment.

The added language is a corollary statement to the definition of redevelopment which defines all construction, rehabilitation, rebuilding, or substantial alteration in IDAs as redevelopment. The requirement to comply with the performance criteria for redevelopment comes from 9 VAC 10-20-100.A.

Section 118-1-6. Definitions. Paragraph (l)

(l) "Intensely Developed Area" or "IDA" means an area of existing development and infill sites where development is concentrated and little of the natural environment remains as of the date of adoption of this Chapter and which is so designated on the map of Chesapeake Bay Preservation Areas adopted by the Board of Supervisors pursuant to Section 118-1-9. An IDA must ~~contain~~ satisfy at least one of the following conditions as of March 22, 1993 ~~July 1, 1993~~: development has severely altered the natural state of the area such that it has more than fifty percent (50%) impervious surface; public sewer and water ~~is~~ systems, or a constructed stormwater drainage system, or both, have been constructed and serves the area as of the date of adoption of this Chapter; or housing density is equal to or greater than four dwelling units per acre.

Implements changes to 9 VAC 10-20-100.

This combines elements from 9 VAC 10-20-40 and 9 VAC 10-20-100.B.

**Section 118-3-3. Additional Performance Criteria for Resource Protection Areas.
Paragraph (c)**

(c) Redevelopment, outside of IDAs, is allowed within RPAs only if there is no increase in the amount of impervious area within the RPA and no further encroachment within the RPA and shall conform to the criteria set forth in this Chapter. Development and redevelopment in IDAs is allowed within RPAs and such development or redevelopment may increase the amount of impervious area within the RPA and may further encroach within the buffer area of the RPA. Development and redevelopment in IDAs shall conform to the criteria for redevelopment set forth in this Chapter.

**Proposed Amendments to Chapter 118 (Chesapeake Bay Preservation Ordinance)
of
The Code of the County of Fairfax**

Implements changes to 9 VAC 10-20-130.1.c. Note that both development and redevelopment within RPAs is permitted in IDAs and such development/redevelopment may increase the impervious area in the RPA and allow further encroachment into the buffer area of the RPA.

Intensely Developed Areas

Foreward

At the Board of Supervisors meeting of Monday, June 2, 2003, the Board asked a number of questions regarding the possible application of "Intensely Developed Areas," or "IDAs," in Fairfax County's Chesapeake Bay Preservation Ordinance (hereinafter referred to as "the Ordinance"). Specifically, questions were raised regarding the possible application of IDAs in the County's Revitalization Districts and Areas and within Tysons Corner. This document provides a brief overview of the IDA concept and its potential application in the above-mentioned areas.

Staff does not see a compelling reason for IDA designation at this time, primarily for the following reasons:

As outlined below, a review of the seven Revitalization Districts and Areas as well as the Tysons Corner Urban Center does not suggest that there are expansive areas of land in these areas that would be rendered unbuildable (or even substantially less buildable) because of the revisions to the Ordinance.

The designation of IDAs would not be necessary to achieve Comprehensive Plan goals, objectives, policies, or recommendations within these areas.

- County policies applicable to the protection of streams and stream valleys do not differentiate between areas characterized by relatively intense development and lower density areas. Indeed, Environmental Quality Corridors have been established and are recognized by the Comprehensive Plan in Tysons Corner and in the Richmond Highway Corridor. In staff's view, it would be inappropriate at this time to establish, through IDA designation, either real or perceived differences in how these streams and stream valleys are regulated by the County, as such differences may be inconsistent with Comprehensive Plan policy.
- The stormwater management performance criterion that would apply in IDAs would, in some cases, be more stringent than the requirement that would apply absent IDA designation. On vacant or lightly developed parcels in IDAs, this requirement would likely be difficult, if not impossible, to satisfy.
- There are opportunities for case-by-case considerations of encroachments into Resource Protection Area (RPA) buffer areas afforded by the exception review process.

Staff recognizes that the exceptions review criteria and process will become more stringent as a result of the proposed Ordinance revision. As such, it is staff's view that it would be appropriate for the Board to revisit the IDA designation issue at some time in the future, after there has been considerable experience with the expansion of the RPA network and the new exceptions review process.

The Regulations

The Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20, hereinafter referred to as “the Regulations”) defines IDAs as “*those areas designated by the local government pursuant to 9 VAC 10-20-100.*” Section 9-VAC 10-20-100 reads as follows:

- A. *At their option, local governments may designate Intensely Developed Areas as an overlay of Chesapeake Bay Preservation Areas within their jurisdictions. For the purposes of this chapter, Intensely Developed Areas shall serve as redevelopment areas in which development is concentrated as of the local program adoption date. Areas so designated shall comply with the performance criteria for redevelopment in Part IV (9 VAC 10-20-110 et seq.) of this chapter.*
- B. *Local governments exercising this option shall examine the pattern of residential, commercial, industrial and institutional development within Chesapeake Bay Preservation Areas. Areas of existing development and infill sites where little of the natural environment remains may be designated as Intensely Developed Areas provided at least one of the following conditions existed at the time the local program was originally adopted:*
 - 1. *Development has severely altered the natural state of the area such that it has more than 50% impervious surface;*
 - 2. *Public sewer and water systems, or a constructed stormwater drainage system, or both, have been constructed and served the area by the original local program adoption date. This condition does not include areas planned for public sewer and water or constructed stormwater drainage systems;*
 - 3. *Housing density is equal to or greater than four dwelling units per acre.*

There are two significant aspects of IDA designation. First, the Regulations establish the following with respect to RPA buffer areas in IDAs:

In Intensely Developed Areas, the local government may exercise discretion regarding whether to require establishment of vegetation in the 100-foot wide buffer area. However, while the immediate establishment of vegetation in the buffer area may be impractical, local governments shall give consideration to implementing measures that would establish vegetation in the buffer in these areas over time in order to maximize water quality protection, pollutant removal, and water resource conservation.

In short, local governments can allow encroachments into RPA buffer areas for any development in IDAs. This goes beyond what the Regulations allow for redevelopment, in that redevelopment is only allowed in RPAs to the extent that there is “no further encroachment within the Resource Protection Area.” The IDA designation would not,

however, eliminate the designation of the RPA buffer; rather, the IDA designation would modify what development may be allowed in the buffer area. Local governments could, if they choose, require developments to comply with the normal RPA buffer area requirements to the extent possible.

The second significant aspect of IDA designation is that any development within an IDA must be considered to be “redevelopment” as it relates to the performance standards of the local ordinance. As such, all development in IDAs must meet the best management practice (BMP) performance standard for redevelopment as opposed to the BMP performance standard for development, even if the proposed action would otherwise be considered to constitute “development.” The Ordinance establishes that, *“for redevelopment of any property not currently served by one or more BMPs, the total phosphorus runoff pollution load from the property shall be reduced by at least ten (10) percent.”* If the property is currently served by one or more BMPs, there must be no net increase in phosphorus runoff pollution load. If the property is located in the Occoquan Watershed, the BMP requirement of the Water Supply Protection Overlay District would apply unless the redevelopment performance standard would be more stringent, in which case that standard would apply. For reference, the BMP performance standard for “development” is a 40% reduction of total phosphorus runoff pollution load compared with the phosphorus load that would result from the development without BMPs (a 50% phosphorus reduction standard applies within the Occoquan Watershed). The effect of the IDA designation on the BMP requirement for a site would vary depending on the existing and proposed impervious cover on the property in question. In some cases, the IDA designation would result in a less stringent BMP requirement. In others, it would result in a more stringent requirement that may be difficult, if not impossible, to meet (e.g., a situation that would typically occur on lightly developed or vacant infill sites within an IDA). Still in others, the IDA designation would not result in any changes to the BMP requirement. A table outlining the phosphorus removal requirements for various redevelopment scenarios (showing the percent phosphorus removal required based on existing and proposed percent impervious) is provided in Table 1.

Other than the RPA buffer area and BMP implications noted above, development within IDAs would be subject to the same requirements as development outside of IDAs.

CBLAD Guidance

In June, 2002, the Chesapeake Bay Local Assistance Department (CBLAD) issued an informal five-page guidance document on IDAs. A copy of this guidance document is attached as Appendix 1. Of particular note in the CBLAD guidance document are the following:

IDA designation must be based on conditions that existed at the time the local program was first adopted (March 22, 1993) rather than on conditions that exist at the present time.

Table 1 Phosphorus Removal Requirements (%) for “Redevelopment” in IDAs											
Proposed Percent Impervious											
	100	91	82	73	64	55	46	37	28	19	10
	90	90	80	70	60	50	40	30	20	10	-
	80	89	78	66	55	44	32	21	10	-	-
	70	87	74	61	48	36	23	10	-	-	-
	60	85	70	55	40	25	10	-	-	-	-
	50	82	64	46	28	10	-	-	-	-	-
	40	78	55	32	10	-	-	-	-	-	-
	30	70	40	10	-	-	-	-	-	-	-
	20	55	10	-	-	-	-	-	-	-	-
	10	10	-	-	-	-	-	-	-	-	-
Existing Percent Impervious	0/0	10	20	30	40	50	60	70	80	90	100

- The “overriding” condition on IDA designation is that the area in question must have “little of the natural environment” remaining. CBLAD envisions that the development in areas to be designated as IDAs will be characterized by redevelopment of previously developed sites or construction on small, vacant infill parcels. It is not envisioned that larger areas characterized by natural vegetation will be included in IDAs. This may have significance in Fairfax County, as significant areas of natural vegetation exist along stream corridors in some of the most intensely developed portions of the County.
- CBLAD views the intent of IDA designation as a tool to improve water quality in redevelopment areas rather than to allow for its continued degradation. While the Regulations allow (but do not require) localities to relax RPA buffer requirements in IDAs, they also encourage localities to implement, over the long term, measures to improve water quality and restore RPA buffers in these areas. Examples cited in the CBLAD guidance document include regional stormwater management and stream and buffer area restoration programs.

Subsequent to the Board of Supervisors’ public hearing on March 19, County staff has sought further guidance from CBLAD’s Northern Virginia liaison regarding IDA issues. Specifically, staff has asked CBLAD to verify that the State Regulations provide localities with the authority to allow development to encroach into RPA buffer areas. CBLAD has provided this verification. Staff has also asked for guidance regarding

whether or not an IDA could include a largely undisturbed stream valley corridor located within an otherwise developed area. The CBLAD liaison replied that such a designation might be problematic, and that the Chesapeake Bay Local Assistance Board (CBLAB) might not approve such a designation, because the area in question would not meet the criterion that “little of the natural environment remains.” However, it has also been recognized that Prince William County has designated broad IDAs that include wooded stream valley areas and that a similar proposal from Fairfax County could, conceivably, be accepted by CBLAB.

History of IDA Consideration in Fairfax County

In the development of the Chesapeake Bay Preservation Ordinance between 1990 and 1993, County staff recommended against the designation of IDAs anywhere in Fairfax County. Staff reasoned that a blanket exemption or modification of RPA buffer area requirements in any part of the County would be inconsistent with the County’s Environmental Quality Corridor (EQC) policy, in that the EQC system substantially overlays the RPA network. While it was recognized that some lands identified as RPA may not be of high quality, it was felt that other RPA lands may provide important environmental functions, even in highly developed areas of the County. Rather than allow for automatic exemptions or modifications of RPA buffer area requirements, staff recommended a case-by-case approach to the consideration of RPA buffer area encroachments that would be afforded by an exception review process that was ultimately incorporated into the Ordinance. Staff did, however, prepare Ordinance language that could be used by the Board if it wished to designate IDAs. Ultimately, the Board chose not to designate IDAs but to include language in the Ordinance that would allow the Board to designate IDAs in the future through a simple amendment to the Chesapeake Bay Preservation Areas map. The Board has not, however, revisited the IDA designation issue since that time.

Options for IDA Designation in Fairfax County

The Regulations afford Fairfax County considerable flexibility in the designation of IDAs. The overriding requirement for IDAs is that they be located “where little of the natural environment remains” (based on conditions that existed on March 22, 1993). Areas that have developed largely since March 22, 1993 would not be eligible for IDA designation. In addition, the areas in question must have, as of March 22, 1993, been characterized by at least one of the following:

- At least 50% impervious cover;
- Service by public sewer and water systems, or a constructed stormwater drainage system, or both; or
- Housing density equal to or greater than four dwelling units per acre.

Large portions of Fairfax County could, conceivably, be interpreted to meet one or more of the IDA designation criteria. However, in staff's view, if it is the Board's intent to designate IDAs, such designation should be limited to the most highly developed areas of the County. In 1991, staff identified the following areas that would merit consideration based on conditions that existed at that time:

- The Tysons Corner Urban Center;
- Highly developed portions of the Route 28 corridor;
- Portions of the Dulles Access Road corridor, particularly near Wiehle Avenue;
- The Merrifield Suburban Center;
- The McLean Community Business Center (CBC);
- The Seven Corners CBC;
- The Baileys Crossroads CBC;
- The Annandale CBC;
- The Springfield CBC
- The area including Springfield Mall and the GSA Warehouse site (note—this could only include those areas that met the IDA criteria as of March 22, 1993);
- The Richmond Highway corridor;
- The Chantilly industrial area;
- The Beltway South Industrial Area;
- The Ravensworth Industrial Area; and
- The I-95 Corridor Industrial Area (Newington);
- Telegraph Road south of the Accotink Creek valley;
- The Landmark area; and
- The Franconia/Fleet Road industrial area.

This list includes all five of the Commercial Revitalization Districts that have been established by the Board (Annandale; Bailey's Crossroads/Seven Corners; McLean; Richmond Highway; and Springfield) and one of the two Commercial Revitalization Areas (Merrifield). The other Commercial Revitalization Area, Lake Anne, could also be included. It should be noted that there are other areas (e.g., Centreville) that were not included in the 1991 list that could also be considered for IDA designation.

RPA Characteristics of Revitalization Districts and Areas and Related Implications of IDA Designation

As noted above, the Board of Supervisors has established five Commercial Revitalization Districts and two Commercial Revitalization Areas. This section provides a brief overview of the extent of existing Resource Protection Areas and new RPAs (based on the Department of Public Works and Environmental Services' (DPWES) Interim Guidance Map) in these areas as well as a general overview of the implications of IDA designation related to RPAs in these areas. Maps are provided for each Revitalization District and Area showing District/Area boundaries, existing RPAs, and new RPAs from the Interim Guidance Map. It is noted that most of the "new RPA" information is based

on estimates rather than actual field delineations; the "new RPA" information will be updated upon completion of mapping by DPWES. As such, it is possible that the actual extent of new RPAs in these areas may be greater or less than that shown on the maps. There are a few watercourses in and near Revitalization Districts and Areas that are not estimated to be perennial. As staff is not in a position to speculate as to whether or not these watercourses will ultimately be determined to be perennial, RPA discussions are limited to those areas that are identified as RPAs on the attached maps.

Annandale Commercial Revitalization District

There are no existing RPAs in this District, and no new RPAs are shown on the Interim Guidance Map. As such, there would be no anticipated implications to RPAs associated with an IDA designation in this District. There are a few areas in this District that can be considered to be relatively "lightly developed" (e.g., properties along McWhorter Place and the fire station property along Daniels Avenue). The IDA designation could make development of these properties more difficult because the BMP requirement for redevelopment (a 10% reduction in existing phosphorus loads) would be applied. However, it is recognized that the Comprehensive Plan recommends the retention of the fire station.

Baileys Crossroads/Seven Corners Commercial Revitalization District

An existing RPA has been mapped along the northern boundary of 61-2 ((1)) 10. The County's property map indicates that much of this area is located in a conservation easement. No other existing or new RPAs have been mapped in Baileys Crossroads. In Seven Corners, one existing RPA has been mapped along a watercourse that parallels Brook Drive (east of the Seven Corners Shopping Center, east of Patrick Henry Drive). Parking areas and multifamily residential structures are located in the RPA to the south of the watercourse; a vegetated buffer area is present to the north of the stream, although Brook Drive is located along the northern edge of the RPA. No new RPAs have been mapped in Seven Corners. IDA implications related to RPAs appear to be limited; absent an IDA designation, the multifamily residential area to the south of the stream could redevelop. There are a few parcels in the Seven Corners and Baileys Crossroads areas that are vacant or that contain substantial areas of undeveloped/pervious land. The IDA designation could make development of these properties more difficult because the BMP requirement for redevelopment (a 10% reduction in existing phosphorus loads) would be applied.

Lake Anne Commercial Revitalization Area

An existing RPA has been mapped around Lake Anne, and a new RPA, based on field evaluation, has been mapped along the stream that flows into Lake Anne from the northwest. However, this new RPA does not extend into the Revitalization Area. The RPA in the Revitalization Area is almost entirely impervious; as such there would be little impediment to redevelopment of this area with or without an IDA designation.

McLean Commercial Revitalization District

A new RPA (estimated) has been identified on 30-2 ((1)) 1C. This parcel has been completely developed, and there is no stream on the site. As such, there will not be an RPA on this property.

New RPAs (estimated) have been mapped within much of the Stoneleigh and McLean Park Manor townhouse communities in the southwestern corner of the Revitalization Area. Based on a review of aerial photos, it appears that there is a stream that flows along the southern boundary of the McLean Park Manor community but that no stream is present in the northern or central portions of this community or in the Stoneleigh community. If this is the case, the extent of new RPAs in these communities would be limited to the southern portion of the McLean Park Manor community, much of which is located in homeowners' association open space.

The new RPA (estimated) has been mapped to the northwest of the Stoneleigh community. If this stream is, in fact, perennial, then development might be constrained in this area. An IDA designation could reduce or eliminate the RPA constraint. Such a designation also would result in a BMP requirement (a 10% reduction from existing phosphorus loads on a largely pervious site) that would be difficult, if not impossible, to satisfy. Further, a proffered rezoning application has been approved on two of the parcels in this area. Under the proposed policy for the treatment of approved and pending plans of development, development could be pursued under the approved rezoning. If a new development proposal was to be pursued in this area, though, RPA requirements would apply. It is noted that the Comprehensive Plan for this area states that the "central drainage swale" in this area should become future open space.

An existing RPA has been mapped along Old Dominion Drive in the southeastern corner of the Revitalization District. Much of the affected area is open space owned by the Old Dominion Square Owners Association, although a couple of rear yards of townhouse lots are also in the RPA.

Merrifield Commercial Revitalization Area

A new RPA (estimated) has been mapped along I-66 west of the Metrorail station. This area is shown largely within public rights of way.

A new RPA (estimated) has been mapped along the southern edge of the Revitalization Area. Only a very small portion of this area extends into the Revitalization Area. A stormwater management facility has been constructed in this area. It is not clear that this area could be designated as IDA, in that it may not satisfy the requirement that "little of the natural environment" must remain as of the initial adoption date of the local ordinance. The County's set of 1990 aerial photographs (the most recent available prior to the March 22, 1993 adoption of the Chesapeake Bay Preservation Ordinance) indicates that much of this area was wooded, and it is likely that much of this area remains wooded today.

An existing RPA is located along Long Branch, which flows along the northern portion of the western boundary of the Revitalization Area. The RPA appears to be entirely within the floodplain in this area.

An existing RPA has been mapped along Prosperity Road north of Arlington Boulevard. Portions of the RPA have been developed, and portions remain vacant. Of particular note are 49-3 ((21)) D1 and 49-3 ((21)) 6. Development may be constrained by the RPA on these properties. An IDA designation could reduce or eliminate the RPA constraint. Such a designation also would result in a BMP requirement (a 10% reduction from existing phosphorus loads on pervious, largely wooded, sites) that would be difficult, if not impossible, to satisfy on these two properties. It should further be noted that a Comprehensive Plan option for this area recognizes the possibility of parcel D1 being retained as open space or as a park and allows for the transfer of density from this parcel to parcels 6 and 7 under this scenario. Parcels in the RPA that have already developed are largely impervious. Redevelopment can occur in these areas without the need for an IDA designation.

Richmond Highway Commercial Revitalization District

Several existing RPAs cross through this Revitalization District; only two new RPAs are identified on the Interim Chesapeake Bay Preservation Areas maps.

A new RPA (estimated) has been mapped on 83-3 ((1)) 24 and 25. These parcels are located behind a shopping center with frontage on Richmond Highway in the Penn Daw area. Parcel 24 is vacant and wooded, while parcel 25 contains mobile homes north of the wooded stream valley. The new RPA extends into the mobile home community. The Comprehensive Plan provides an option for “a well integrated mix of retail, office, hotel and residential uses with an overall intensity of up to 1.0 FAR for an area that includes both parcels, subject to a number of conditions, including parcel consolidation and preservation of “steep slopes, streams and floodplains with their existing vegetation . . .” as a public park. The Plan further recommends restoration of degraded stream valley areas. Under this option, residential uses are planned for the middle and rear of the parcels on which the shopping center is located “in order to take advantage of the visual and passive recreational amenity provided by the adjacent stream valley area.” The new RPA designation would, in staff’s view, limit development in this area consistent with the intent of this Plan option. An IDA designation could reduce or eliminate the RPA constraint on parcel 24; however, this would appear to be in conflict with Comprehensive Plan guidance; further, it would result in a BMP requirement (a 10% reduction from existing phosphorus loads on pervious, largely wooded, sites) that would be difficult, if not impossible, to satisfy absent a coordinated development with highly impervious areas closer to Richmond Highway. On parcel 25, the area of the mobile home community could redevelop with or without the IDA designation as long as impervious cover in the RPA would not be increased.

The second new RPA (field) is located in the Hybla Valley area between Fordson Road and Richmond Highway (on tax map 92-4). The presence of a perennial stream has been

confirmed in this area by DPWES. The development status of parcels in this area is varied; there are three parcels that were vacant as of 1998 (the date of the most recent aerial photos that staff had when preparing this document) and several parcels that have been partially or fully developed. Narrow buffer areas along the stream have been retained in some cases and destroyed in others. It is likely that, because of the extent of development in this area, the width of the RPA will not, in places, be as extensive as that shown on the Interim Chesapeake Bay Preservation Areas map. The effect of the RPA designation in this area will be that the retention of the buffer areas that remain in this area will be required. Redevelopment will be allowed in already-developed areas of the RPA, as long as impervious cover in the RPA does not increase. Parcels 92-4 ((1)) 65, 92-4 ((2)) 607, 608, and A1 will be most constrained by the RPA designation. However, a site plan (#7487-SP-02-2) for 92-4 ((1)) 65 is currently in bond. Under the proposed policy for the treatment of approved and pending plans of development, development could be pursued under the current site plan without the need for an exception. An IDA designation could reduce or eliminate the RPA constraint on the other vacant parcels in the area but could result in a BMP requirement (a 10% reduction from existing phosphorus loads on pervious, largely wooded, sites) that would be difficult, if not impossible, to satisfy on parcels 607 and 608 absent the consolidation of previously-developed parcels into a more comprehensive redevelopment plan. Substantial consolidation of parcels in this area is recommended by the Comprehensive Plan.

Existing RPAs in the Richmond Highway Revitalization District have been mapped in the following areas:

- In the North Gateway Community Business Center, along Cameron Run and along a stream that flows along Huntington Avenue and along the northern edge of the Belle Haven Country Club;
Along the rear boundaries of 83-3 ((1)) 24 and adjacent parcels with frontage along Quander Road;
- The southern portion of the South Meadows condominium community and the area behind the Mount Vernon Plaza shopping center;
The floodplain area behind the Engleside Plaza shopping center, between the shopping center and Woodlawn Place, and on several parcels along the south side of Richmond Highway; and
- The broad floodplain and associated RPA buffer area associated with Dogue Creek located on both sides of Richmond Highway to the west of the Sacramento Center. The RPA as shown on the County's map includes, on parcel 109-2 ((2)) 10, a buffer area that extends beyond the 100-year floodplain. A significant area of buildable land remains on this parcel.

Several of the above-mentioned areas contain extensive floodplains that will otherwise constrain development potential; some might not satisfy the IDA designation criterion that "little of the natural environment remain" as of the initial local program adoption date. Several of these areas, however, contain highly impervious areas that can redevelop with or without an IDA designation. At least one site (the South Meadows Condominiums) has a proffered development plan and therefore could, under the

proposed policy for the treatment of approved and pending plans of development, develop in accordance with the approved plan (if such development has not already been completed).

The Comprehensive Plan recognizes the presence of environmental constraints in many of the above areas and recommends protection, and in some cases restoration, of areas included in RPAs. Introductory text in the land use guidance for the North Gateway Community Business Center recognizes a need “to mitigate environmental impacts and restore degraded areas to more natural conditions.” Plan text specific to a couple of land units in this area explicitly calls for the protection/restoration of or mitigation of impacts to these areas. A redevelopment option in the Comprehensive Plan for Mount Vernon Plaza and the adjacent South Valley Shopping Center recommends protection and restoration of streams and floodplains in this area, which would be consistent with RPA protection and restoration. For the floodplain area near Engleside Plaza, the Comprehensive Plan recommends the protection of the Environmental Quality Corridor in this area, which includes the floodplain. Protection of this RPA would, therefore, be consistent with the Plan while encroachments into this area would not be. Similar guidance is provided in the Plan for the areas in the RPA to the west of the Sacramento Center.

Springfield Commercial Revitalization District

There are no existing RPAs in this District, and no new RPAs are shown on the Interim Guidance Map. As such, there would be no anticipated implications to RPAs associated with an IDA designation in this District.

RPA Characteristics of Tysons Corner and Related Implications of IDA Designation

This section provides a brief overview of the extent of existing Resource Protection Areas and new RPAs (based on the DPWES Interim Guidance Map) in the Tysons Corner Urban Center, as well as a general overview of the implications of IDA designation related to RPAs in this area. A map is provided for this area showing existing RPAs and new RPAs from the Interim Guidance Map. It is noted that the “new RPA” information is, in most cases, based on estimates rather than actual field delineations; the “new RPA” information will be updated upon completion of mapping by DPWES. As such, it is possible that the actual extent of new RPAs in these areas may be greater or less than that shown on the maps. RPA discussions are limited to those areas that are identified as RPAs on the attached maps.

New RPAs have been mapped in several places in Tysons Corner. With the exception of the area along Old Courthouse Spring Branch (for which perennial flow has been confirmed), all new RPAs are based on estimates. The new RPA areas are as follows:

- Along Old Courthouse Spring Branch west of Gosnell Road (tax map 29-3);
- In several areas in and near the West*Park development (tax maps 29-2 and 29-4);

- In a multifamily residential area between Magarity Road and the Scotts Run Stream Valley Park on tax maps 29-4 and 39-2;
- Around and upstream of a pond near Scotts Crossing Road in the West*Gate development (tax map 29-4);
- Near the southwestern quadrant of the interchange between the Dulles Airport Access Road and Dolley Madison Boulevard; and
- In the northeastern quadrant of the interchange between the Dulles Airport Access Road and Interstate 495

It is likely that the extent of RPAs in at least a couple of the areas noted above will be less than that depicted on the Interim Chesapeake Bay Preservation Areas maps. In a couple of places (the West*Park area and the multifamily residential area along Magarity Road), new RPAs have been mapped in areas where streams appear to have been piped. Piped areas have not been considered to be RPAs in the past and would not likely qualify for RPA designation now. In one other area (again on the West*Park property), the width of the new RPA is much greater than 100 feet on either side of a stream, reflecting assumptions regarding the locations of wetlands in this area. Based on an aerial photograph showing the extent of construction associated with the Gannett development, it appears that the extent of wetlands in this area (and the associated RPA boundaries) has likely been overestimated.

The new RPA designation along Old Courthouse Spring Branch will probably not have a substantial impact on development potential in this area; the effect of the RPA designation in this area will be to require the retention of the buffer areas that remain in this area but to allow redevelopment in already-developed areas of the RPA, as long as impervious cover in the RPA does not increase. However, administrative waivers will be needed for any additions to a few townhouses along Tyvale Court that will now be located within the RPA. Because the stream valley in this area is continuous and wooded, it is not clear if an IDA designation in this area would be approved by CBLAB (as noted earlier, recent guidance from the County's CBLAD liaison suggests that such a designation may fail to satisfy the requirement that "little of the natural environment" must remain in areas designated as IDA). However, if such a designation was to be made and accepted, it might increase the amount of buildable area on 29-3 ((1)) 36 and would eliminate the need for administrative waivers for minor additions to a few townhouses along Tyvale Court. Encroachments into the RPA buffer area along Old Courthouse Spring Branch could also be allowed, thereby reducing the environmental and visual functions of these buffer areas. Further, encroachments into the Old Courthouse Spring Branch EQC would be in conflict with the Comprehensive Plan, which recognizes the EQC as a significant boundary to Tysons Corner that "provides a visual and physical separation between Tysons Corner and the adjacent neighborhoods." It is possible that some additional clearing on 29-3 ((1)) 36 could occur without encroaching into the EQC; however, clearing into or near the floodplain boundary on this parcel, or clearing elsewhere into the stream valley on nearby parcels, would be in conflict with the EQC policy.

With respect to the new RPAs in and near the West*Park development, much of the land on which new RPAs have been identified is located within land bays that already have been developed. In some cases, the new RPAs contain floodplains and adjacent areas that have been preserved as part of the development of this area (e.g., the West*Mac site). In others, the new RPA is identified around stormwater management facilities. The effect of the new RPA designations in this area will be to require the retention of the buffer areas that remain in this area but to allow redevelopment in already-developed areas of the RPA, as long as impervious cover in the RPA does not increase. An IDA designation would theoretically allow for further encroachments into the RPAs; however, these areas are, in some cases, located in floodplains and have been shown on illustrative plans to be located in preservation areas. The IDA designation would allow for expansions or modifications to the stormwater management facilities located in RPAs without the need for an exception.

For the multifamily residential area between Magarity Road and the Scotts Run Stream Valley Park, it is not clear how extensive the new RPA would be, given that the stream in this area appears to have been piped throughout at least a portion of the area shown on the interim map as new RPA. The effect of the new RPA designation in this area would be to require the retention of the buffer areas that remain in this area but to allow redevelopment in already-developed areas of the RPA, as long as impervious cover in the RPA does not increase. An IDA designation would eliminate this requirement and would allow redevelopment to encroach on heretofore protected areas of the RPA buffer area.

The area around and upstream of the pond near Scotts Crossing Road in the West*Gate development was included in a Special Exception Amendment application that was filed in the year 2000 and subsequently approved. This application included the proposed development of a parking garage in the area of the pond and the construction of a stormwater management pond along Dolley Madison Boulevard. While building locations and footprints for the West*Gate property have not been proffered, the Special Exception Amendment application for this particular land bay included a development condition requiring substantial conformance with the Special Exception Amendment plat. As such, under the proposed policy for the treatment of approved and pending plans of development, development could be pursued under the approved Special Exception Amendment without the need for an exception. If the approved Special Exception for this land bay was to be amended, the proposed policy for the treatment of approved and pending plans of development would allow for such an amendment as long as conflicts with RPA requirements would not be aggravated compared with the approved Special Exception. The approved Special Exception Amendment plat for this land bay identified the construction of parking garages and an office building in the area that would be designated as a new RPA; it is difficult to envision a development scenario that would increase the RPA conflict from what has already been approved.

The new RPAs near the southwestern quadrant of the interchange between the Dulles Airport Access Road and Dolley Madison Boulevard and in the northeastern quadrant of the interchange between the Dulles Airport Access Road and Interstate 495 are located in

public rights-of-way. Given that public roads are exempt from the Ordinance, these new RPAs will not have a significant impact.

In the Tysons Corner Urban Center, existing RPAs are located along Old Courthouse Spring Branch and Scotts Run. A small area of existing RPA has been mapped along a tributary to Scotts Run that extends into the Gannett land bay of the West*Park development; this area was discussed earlier. With respect to Old Courthouse Spring Branch, the existing RPA is located largely within County parkland, although the fringes of several highly developed parcels are located in the RPA. These areas can redevelop with or without an IDA designation as long as there will be no increase in impervious cover in the RPA. As noted earlier, the Comprehensive Plan recommends protection of the EQC associated with Old Courthouse Spring Branch; zoning applications in this area (e.g., the property containing the Ash Grove House) have protected the EQC.

The existing RPA along Scotts Run is located largely in Stream Valley Park land but extends into several other parcels, most notably land bays in the West*Gate development. The effect of the RPA designations in this area is that buffer areas that are present in this area must remain; redevelopment is, however, allowed in already-developed areas of the RPA, as long as impervious cover in the RPA will not increase. The most significant impact on the RPA is on land bays that have not yet been developed and that do not have proffered or conditioned development plans associated with them. A notable example of this situation is the parcel along Colshire Drive that has been dedicated for use for transit facilities. Much of this site has been mapped in the RPA. While the RPA may not ultimately be determined to be as extensive as the area shown on the County's map, it is possible, if not likely, that modifications to the proposed designs of transit facilities in this area will be needed to ensure compliance with RPA requirements.

A parcel to the south of the property dedicated for transit uses contains undeveloped land near Scotts Run. There has been a Special Exception approved for this site with a conditioned development plan. There has also been an exception granted by DPWES to allow for an encroachment into the RPA on this site as long as disturbance to the RPA is minimized. The Special Exception was approved subject to a development condition requiring "commercially reasonable best efforts" to relocate a parking structure outside the limits of the RPA.

Another undeveloped parcel that has been, and will continue to be, affected by the RPA designation is 29-4 ((6)) 107. This parcel has been proffered for dedication to Fairfax County; the entirety of this parcel has been mapped in the RPA, and therefore it does not appear that development can occur on this parcel without the granting of an exception. Similarly, if there are land bays in the West*Gate development that have not developed and that do not have proffered or conditioned development plans, compliance with RPA requirements will also be needed. Aside from the aforementioned properties, staff is not aware of any such land bays; if there are such land bays, they are not extensive in area. While an IDA designation would allow for encroachments into RPA buffer areas associated with Scotts Run, it is not clear if an IDA designation along the entirety of the stream valley would be approved by CBLAB (as noted earlier, recent guidance from the

County's CBLAD liaison suggests that such a designation may fail to satisfy the requirement that "little of the natural environment" must remain in areas designated as IDA). Further, such encroachments may conflict with County policies pertaining to the protection of Environmental Quality Corridors and the protection of streams. With respect to the transit facility site along Colshire Drive, it is possible that an IDA designation incorporating the cleared portion of this site could be acceptable to CBLAB.

Additional Thoughts and Conclusions

The State's Chesapeake Bay Preservation Area Designation and Management Regulations provide Fairfax County with considerable flexibility regarding whether and where to establish Intensely Developed Areas (IDAs). However, in staff's view, there are several issues that should be considered prior to designating IDAs anywhere in Fairfax County:

The County's Comprehensive Plan recommends protection of Environmental Quality Corridors, which largely overlay the RPA network. In addition, the Plan was amended in the year 2000 to more explicitly recognize the objective of stream protection. Specifically, the following Objective statement was added: "Protect and restore the ecological integrity of streams in Fairfax County." The Comprehensive Plan does not draw explicit distinctions between EQCs in lower density areas and EQCs in more intensively developed areas. Rather, the Plan provides for case-by-case flexibility in the identification and delineation of EQCs. Additionally, Plan guidance for some of the most intensively developed areas in the County recognizes the need for preservation, and in some cases restoration, of EQCs. Examples of this can be found in Plan guidance covering several areas along Richmond Highway as well as Old Courthouse Spring Branch and Scotts Run in Tysons Corner. Likewise, the new Objective regarding stream protection does not differentiate among different settings or conditions in the County. Consistent with this Countywide focus of stream protection and restoration, the County's Stream Protection Strategy recognizes "Watershed Protection" and "Watershed Restoration" categories of management. No specific areas are called out for relaxation of preservation or restoration goals. Further, riparian buffer areas can provide important environmental functions in both sparsely developed areas and densely developed areas. Riparian buffers may also be considered as amenities in such areas.

As noted earlier, the Chesapeake Bay Local Assistance Department views the intent of IDA designation as a tool to improve water quality in redevelopment areas rather than to allow for its continued degradation. The Regulations encourage localities to implement, over the long term, measures to improve water quality and restore RPA buffers in IDAs. The Watershed Management Planning efforts currently under way provide opportunities to consider water quality improvements in redevelopment areas irrespective of their IDA status. These planning efforts may also identify opportunities for and limitations associated

with the restoration of degraded stream buffer areas. There may be some merit, therefore, to considering the establishment of IDAs in conjunction with watershed management planning efforts. Such an approach would also allow for the consideration of the watershed context of IDA decisions.

- As noted earlier in this report, the issue of IDA designation was considered during the development of the Chesapeake Bay Preservation Ordinance between 1990 and 1993. At that time, staff recommended that, rather than allowing for automatic exemptions or modifications of RPA buffer area requirements through an IDA designation, a case-by-case approach to the consideration of RPA buffer area encroachments should be considered through an exception review process. Such a process was ultimately incorporated into the Ordinance. A similar approach is available at this time, although it must be recognized that the exceptions review process will now be a more rigorous one, with additional review criteria and with public hearings. Under the proposed revisions to the Ordinance, the Board of Supervisors would grant or deny exception requests considered in conjunction with zoning applications, and an "Exception Review Committee" would consider other exception requests. Decisions of the Exception Review Committee could be appealed to the Board by any applicant or other aggrieved party.

The Board of Supervisors has the authority to designate IDAs at any time. This process would require public hearings before the Planning Commission and the Board, as well as a determination of consistency with the Regulations by CBLAB. Should the Board choose to not designate IDAs at this time, such designations could be revisited by the Board at any time in the future. In 1993, in recognition of this flexibility, the Board chose not to designate IDAs but to include language within the Ordinance that would allow for the future designation of IDAs. The Board has not revisited the IDA issue since that time. The Board may wish to consider a similar approach now; IDA designation issues could be revisited as experiences with the revised Ordinance are gained.

A review of the seven Revitalization Districts and Areas as well as the Tysons Corner Urban Center does not suggest that there are expansive areas of land in these areas that would be rendered unbuildable (or even substantially less buildable) because of the revisions to the Ordinance or that the designation of IDAs would be necessary to achieve Comprehensive Plan goals, objectives, policies, or recommendations within these areas. However, there may be individual parcels of land in these areas for which full 100-foot buffer areas may not be appropriate in light of surrounding development patterns and resources on these sites. A case-by-case approach to the consideration of encroachments into buffer areas on such properties would be afforded by the exceptions review process. However, it should be recognized that the exceptions review criteria and process will become more stringent as a result of the proposed Ordinance revision and that it is not known what the results of the exception review process will be on any given parcel of land. The Board of Supervisors can consider its

experiences with the exceptions review process over time and make adjustments to the Ordinance, through IDA designations if necessary, where refinements are determined to be needed.

- IDA designations may make development of some vacant or lightly developed infill sites outside of RPAs difficult because the BMP requirement for redevelopment (a 10% reduction in existing phosphorus loads) would be applied.

For the reasons outlined above, staff does not recommend that the Board establish IDAs at this time. However, staff feels that it may be appropriate to revisit the IDA issue at some time in the future, after there has been considerable experience with the expansion of the RPA network and the new exceptions review process. Ideally, the consideration of IDA designation would occur in conjunction with (or subsequent to) watershed management planning efforts.



Intensely Developed Areas

Guidance on the Chesapeake Bay Preservation Area Designation and Management Regulations

June 2002

Purpose:

This document provides local planners and officials with guidance on requirements of the Chesapeake Bay Preservation Act regarding to the designation of Intensely Developed Areas as an overlay to Resource Protection Areas and Resource Management Areas. This guidance will also outline the general physical conditions that should be present in the portions of a locality that will be designated as an IDA. Finally, this guidance will outline those situations where an IDA designation would be inappropriate.

Any IDA designation must be based on conditions that were present at the time a local program was first adopted and must be reviewed and approved by the Chesapeake Bay Local Assistance Board. The Bay Act Regulations define the Intensely Developed Area as “redevelopment areas in which development is concentrated as of the local program adoption date.”

Regulations:

- Section 9VAC10-20-100.A allows IDAs to be designated as an overlay to locally designated Chesapeake Bay Preservation Areas and establishes that IDAs are considered as redevelopment areas where development is concentrated. Within IDAs, all performance criteria for redevelopment are required.
- Section 9VAC10-20-100.B outlines the general local development characteristics that must be present for any area to be designated as an IDA. The overriding characteristic is “areas of existing development and infill sites where little of the natural environment remains...”
- Subdivisions 1-3 of 9VAC10-20-100-B list the other criteria, in addition to “little of natural environment remaining” that must be present for designation of an area as an IDA.
- Section 9VAC10-20-120.8.c requires the stormwater management criteria to be met for any redevelopment activities, including those in IDAs.
- Section 9VAC10-20-130.1.c requires stormwater management and erosion and sediment control requirements to be applied to redevelopment activities both in and outside of IDAs.
- Section 9VAC10-20-130.1.a requires a Water Quality Impact Assessment to be submitted for any land disturbing activity within an RPA, including the buffer component.
- Section 9VAC10-20-130.7 allows the locality to decide whether or not to require the establishment of vegetation within the RPA buffer component in an IDA.

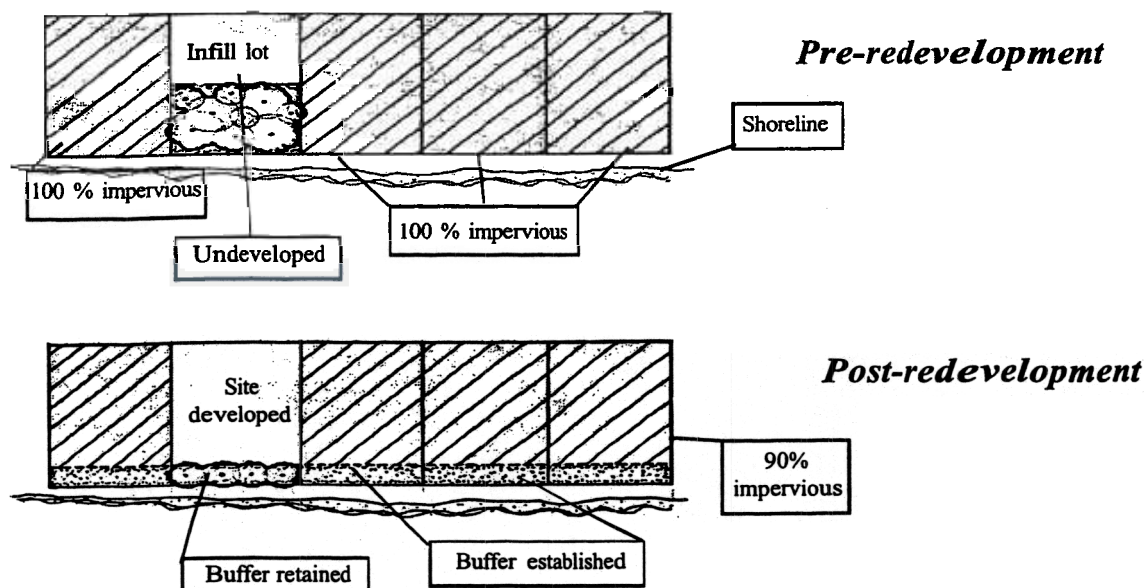
Discussion:

The designation of Intensely Developed Areas (IDAs) is intended to address the unique land use patterns and water quality impacts of heavily urbanized areas. Such areas are characterized by industrial, commercial, residential, and institutional uses that are densely concentrated, heavily trafficked, and largely devoid of natural vegetation. Development in these areas is usually confined to redevelopment activities either through the redevelopment of previously developed sites or construction on small, vacant, or "infill" parcels. The concentration of intensive uses and prevalence of impervious surfaces in these areas contribute a variety of nonpoint source pollutants, such as hydrocarbons and heavy metals, to surface waters, either through piped stormwater flows or sheet flows across the large impervious surfaces. The first portion of this discussion focuses on the designation requirements of the IDA.

The Regulations include an option for local governments to designate IDAs as an overlay to the Resource Management Area and/or Resource Protection Area designations. The reasoning behind the inclusion of IDAs as an option is to focus development activities in areas where development has already been concentrated and is supported by existing infrastructure, so that improvements to water quality can be realized and to help prevent "sprawl" from occurring. The Regulations recognize that IDAs are largely devoid of natural vegetation; therefore, activities within IDAs may be exempt from establishing or maintaining vegetation within the buffer component of the RPA. Also, while a Water Quality Impact Assessment is required for all development or redevelopment activities within RPA's, the approval of an exception is not required for proposed development or redevelopment within an IDA.

While the establishment of a vegetated RPA buffer area is not required in areas designated as IDAs, local governments should consider ways to establish vegetation within the buffer area over time to promote the water quality benefits of natural vegetation. Vegetated buffer areas can be an important amenity for proposed development, particularly in areas where little vegetation exists. Vegetated buffers can both enhance the aesthetics of the site and help to improve water quality. Local governments are encouraged, through their comprehensive planning efforts, to examine the establishment of vegetated buffer area in IDAs in the

Figure 1 - Buffer Establishment



context of other community goals such as the development of continuous open space systems, linear waterfront park areas, and public access to waterfront areas.

Designation of IDAs

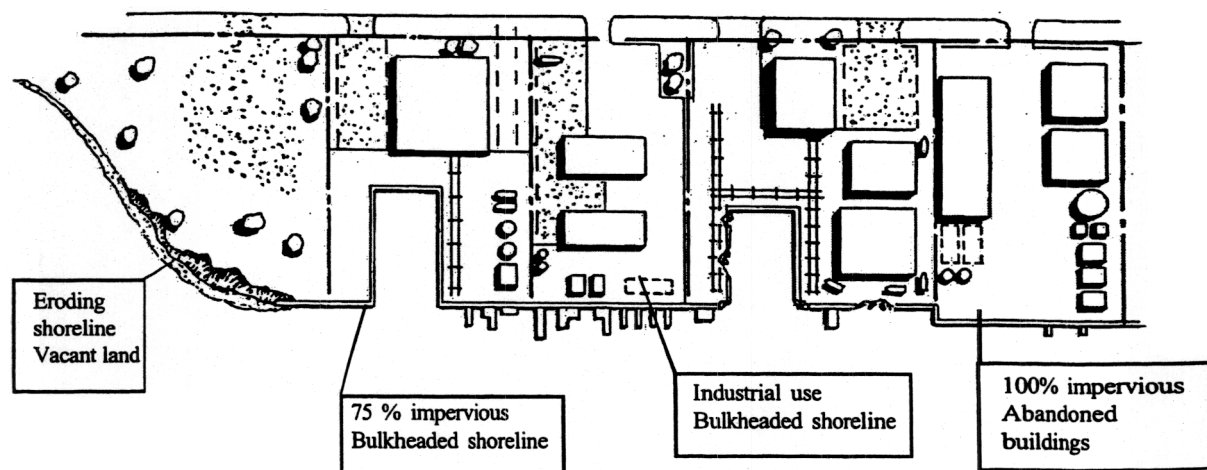
The designation of IDAs should come as the result of careful consideration of the pattern of land uses within locally designated Chesapeake Bay Preservation Areas. The analysis must be based on conditions that existed at the time a local program was first adopted, and not on projected or proposed development patterns. For example, the IDA boundary should not be used to define the geographic extent of an “urban growth area” to be built out over time. The designation of IDAs involves the consideration of concentrations of development that existed at the time a local Bay Act program was first adopted.

The Regulations establish two basic conditions that must characterize any area to be designated as an IDA. The overriding condition that must be met is “areas of existing development and infill sites where little of the natural environment remains...” This condition is supplemented by the presence of one of the following three additional characteristics: the area is more than fifty percent impervious; public sewer and water systems or a constructed stormwater drainage system, or both have been constructed and served the area when the local Bay Act program was originally adopted; or housing density is equal to or greater than four units per acre.

When designating IDAs, localities should begin by locating concentrations of high-density development. Resources that may be used to identify potential IDAs include aerial photography, comprehensive planning maps, etc. It is important to note that any IDA will be reviewed and approved by the Chesapeake Bay Local Assistance Board, so the source of the IDA designation becomes important. The Department recommends that when possible, aerial photography be the basis for IDA designations.

Potential IDAs should be reviewed in relation to the comprehensive plan, particularly where the plan identifies redevelopment areas. As required by the Regulations, local comprehensive plans should include discussions of redevelopment areas and the potential for water quality improvement as these areas develop. The size of the area under consideration as a potential IDA is also important. The Department recommends that IDAs be at least 20 acres in size, as a general rule of thumb. This size enables an area to be considered in a comprehensive plan, and is large enough for consideration of regional or larger scale stormwater management options.

Figure 2 - Hypothetical IDA (~20 Acres)



After a local government locates potential IDAs, the criteria above should then be applied to determine whether the area is eligible for designation as an IDA. In order for IDAs to work effectively as redevelopment areas for water quality improvement, the boundaries should be drawn to bypass larger, naturally vegetated areas. At the same time, the designation process should not isolate small, individual sites as IDAs, because IDAs are intended to serve as areas where future redevelopment activity is to be focused. The size and composition of IDA designations are likely to vary from one locality to another, given the differences in development patterns within Tidewater Virginia. Any IDA must be reviewed and approved by the Chesapeake Bay Local Assistance Board.

Stormwater Management Requirements

When designating an Intensely Developed Area, stormwater management options should be a significant consideration. Any redevelopment of previously developed sites (which currently exceed the default impervious coverage for the locality and are not currently served by correctly functioning stormwater BMPs designed for water quality) must provide for a ten-percent net reduction in stormwater pollutant loads. While a ten-percent net reduction does not sound significant, the practical matter of locating, designing and constructing a BMP on an existing urban site can be complex. Issues concerning development in dense urban areas range from the high cost of the land and the lack of available land for development activities, including the location of BMPs for stormwater management. In urban areas, the installation of structural stormwater BMPs on a site-by-site basis to provide the required ten-percent reduction may not be the most cost-effective option, due to the constraints of working within a previously developed site, such as conflicts with existing utilities and infrastructure, soil limitations, etc. Other non-structural or unconventional on-site treatment options such as distributed, small-scale, integrated management practices (green roofs, bioretention practices in landscaped areas and tree boxes, the use of semi-pervious surfaces, etc.), have proven in many cases to be a cost-effective way of providing the required pollution reductions.

Localities have the option of revising site design standards for redevelopment areas to incorporate alternative integrated stormwater management practices. In situations where on-site treatment of runoff is not the most logical or cost-effective approach, localities are encouraged to engage in regional or cooperative stormwater management planning to provide for such treatment in a more cost-effective manner. One way of accomplishing regional or cooperative stormwater management planning is through the designation of an appropriate IDA. Alternative or regional stormwater management approaches to address these concerns include source control, regional stormwater BMPs, retrofit programs, stream and buffer restoration programs, and many other options. While initiation of such programs can involve a significant amount of effort, and they must be reviewed and approved by the Chesapeake Bay Local Assistance Board, they have proven their worth in a number of different CBPA localities.

Localities seeking assistance in developing new approaches to dealing with stormwater issues in IDAs or other urban areas are encouraged to contact the Department. CBLAD staff can provide technical assistance, help identify grant opportunities, provide insights into what other localities have done to address similar issues, and conduct preliminary or conceptual reviews of innovative stormwater approaches.

Conclusions:

Based on these factors and the Regulations, the Department provides the following guidance regarding Intensely Developed Areas:

- IDA designations must be based on conditions that were present at the time a local Bay Act program was first adopted.

- IDAs are overlays to Resource Management Areas and/or Resource Protection Areas and are **not** a separate component of a locally-adopted Chesapeake Bay Preservation Area.
- Within IDAs, the designation of the Resource Protection Area remains, including the 100-foot **buffer** component.
- IDAs are redevelopment areas where development is concentrated and where **little** of the **natural** environment remains.
- In the context of IDA designation, “little of the natural environment”, generally means very little vegetation, including natural shorelines.
- IDAs may include vacant or infill sites, but they are predominantly composed of developed and highly impervious land. Development on infill sites (vacant or undeveloped sites) is permitted **within** an IDA because the entire area has been determined to be a redevelopment area under the Regulations.
- The area of an IDA should be at least 20 acres in size in order for area-wide stormwater planning to be the most effective and water quality improvement to be achieved.
- Aerial photography taken at the time a local Bay Act program was first developed is the best source of information for an IDA designation.
- An IDA designation must be reviewed and approved by the Chesapeake Bay Local Assistance Board as a major program modification through the established local program review process.
- When considering and approving an IDA designation, the Chesapeake Bay Local Assistance Board will also consider how a locality intends to meet the required performance standards, including the stormwater management requirements, in the designated IDA. Because of the number of options available for meeting the stormwater requirement, localities are encouraged to work closely with CBLAD staff in developing the specific stormwater management approach for addressing stormwater quality requirements in their IDAs.