

MEMORANDUM

DATE: November 25, 2003
TO: The Board of Supervisors
FROM: Darryl E. Cook, Environmental Director
SUBJECT: Chesapeake Bay Preservation Ordinance Transition - Amendments and Grandfathering/Vesting Rules

Attached is a proposed resolution establishing grandfathering/vesting rules for the revised Chesapeake Bay Preservation Ordinance (“Ordinance”). The resolution determines applicability of the Ordinance to certain development plans. The general rule is that the new Ordinance amendments are applicable unless a project’s features are grandfathered or vested. A project is considered to be vested if a landowner has obtained a significant affirmative governmental act, such as a preliminary plan approval; relies in good faith on the act; and incurs extensive obligations or significant expenses in diligent pursuit of the project. A project is grandfathered under the prior Ordinance if the project has received final or preliminary approval, has been submitted for review prior to the effective date of the Ordinance, or has an approved rezoning which specifies uses, densities, square footage, or other features which could not otherwise be developed under the Ordinance. If a project is grandfathered or vested, the project’s features may proceed as long as due diligence continues, but the new laws must be implemented to the extent possible where grandfathering or vested rights do not specifically preempt such laws. The grandfathering and vesting rules in the resolution are based in part on rules and guidance Prince William and Loudoun Counties have developed.

Staff recommends adoption of the attached resolution.

Darryl E. Cook

CONCUR:

William C. Porter, Jr.

DEC/gs
chesbayvest.mem

Attachment