

Dear Supervisors:

On behalf of the Friends of Little Hunting Creek, I write to address Supervisor Storck's motion (at the public hearing held 11/9/21) referring "the issues raised in our public hearing and written testimony to the Legislative Committee for monitoring and consideration of legislative proposals during the upcoming General Assembly session".

I urge you to support the strengthened living shoreline requirements in SB 776, and not to request the General Assembly to change it by explicitly grandfathering in old bulkheads and rip-rap revetments. The law never has provided certainty to property owners that they could rebuild their bulkheads as previously built. Writing it into the law now would weaken the law compared to what it was before adoption of SB 776, which hardly represents progress in protecting wetlands and water quality.

Virginia has given preference to living shorelines over hardening and armoring methods for stabilizing shorelines since 2011. The Fairfax County Wetlands Board adopted a living shoreline policy in 2007. These changes in policy and law do not seem to have caused homeowners undue hardship in the decade and more since they were implemented.

Much of the opposition to Fairfax County's adoption of the required changes to the Comprehensive Plan and Wetlands Zoning Ordinance seems based on fear and misunderstandings among a handful of shoreline property owners in the Mount Vernon district.

Opponents seem to fear that costs will somehow be greatly increased compared to current practices, and to believe that supposedly strict requirements about grading will cause the loss of their yards. They fear the Wetlands Board itself, arguing that it is a "political body" with wide latitude to make subjective permitting decisions. Opponents further argue that "the best available science" is extremely subjective.

The fears are overblown. The appropriate approach for stabilizing a particular shoreline property is considered by the Wetlands Board on a case-by-case basis, and this will continue when the changes to the Wetlands Zoning Ordinance are adopted. The colloquy between Planning Commissioner Ulfelder and Wetlands Board Staff, Kathrine Herman (during the 6 October Planning Commission Hearing) made this clear. Commissioner Ulfelder asked whether a property owner who needed to repair an existing bulkhead or revetment would have to seek a permit to do so, and was assured they would. In response to his question about whether they would be required to remove the existing structure and install a living shoreline, staff responded that each individual property requires its own specific and individual evaluation of site-specific scientific factors affecting shoreline stabilization, and these form part of the review that the Wetlands Board conducts for each application.

Every property is different—the slope of the land, the proximity of structures to the shore, the fetch, etc.—and one size does not fit all. Living shoreline techniques cover a variety of methods. They may include placement of rock away from the shoreline, such as the rock sill built in the Potomac River to protect Dyke Marsh from further destruction due to storms by slowing the erosive force of waves and allowing sediment to slowly build up behind the sill. Other living shoreline approaches may include grading a steep bank, and planting vegetation to hold soil, slow down and absorb upland runoff, and absorb the force of waves against the shore.

Wetlands Board members are appointed by the Board of Supervisors, and receive training, guidance, and technical support from the Virginia Institute of Marine Sciences, the Virginia Marine Resources Commission, and Fairfax County staff. Its decisions may be appealed to the Virginia Marine Resources Commission. The Wetlands Board is not a political body, and the decision process is not subjective, but rather is informed by facts and science.

The Virginia Institute of Marine Sciences is the state's official advisor to local wetlands boards. Their scientific advice is the basis for the General Assembly's adoption of their recommendation to establish living shorelines as the preferred method of shoreline stabilization. VIMS has a national and international reputation as a leading marine institute. "The best available science" is based on peer-reviewed scientific studies and research. It is not subjective, but rather evidence-based. It would be ironic indeed were Fairfax County to reject regulations based on the best available science while holding itself out as a leader in science and technology.

While Virginia law gives preference to living shorelines, a property owner may make the case for a different form of shoreline stabilization. In high energy environments, especially near houses or other manmade structures, hardened shorelines may be the only effective way to stabilize a shoreline to protect life and property. Living shorelines are not uniformly recommended for properties built on residential canals. A [decision support tool](#) created by Virginia Institute of Marine Sciences provides practical guidance about what sort of shoreline stabilization is appropriate in various situations.

As the law states, the wetlands board grants a permit when "The anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment." Thus, shoreline property owners' concern that the costs to them of installing a living shoreline will be ignored are unfounded. Private costs (detriments) are explicitly written into the law, and this will not change under the revision.

Any new or replacement shoreline stabilization project requires engineering consultation and permitting expense. Engineering to install new stabilization or reinforce an existing one should meet current standards, and should anticipate sea level rise, as is now required by state law.

Some argue that old projects should be grandfathered in, so that (for example) a homeowner who built a bulkhead in the past has the right to rebuild it. This is inadvisable and certainly should not be written into the law. Some shoreline stabilization structures in Fairfax County antedate the Wetlands Ordinance and do not meet current standards. Others will be jeopardized by rising sea levels, and will need to be reengineered to function effectively. Illegal and unnecessary shoreline structures, and those that were improperly designed or will be inadequate in keeping out rising sea levels, should not be rebuilt automatically at a homeowner's request.

The Fairfax County Wetlands Board, advised by VIMS and VMRC, is currently revising its guidelines, and the revision is to be subject to public comment. This is the forum to address the concerns Supervisor Stock refers to.

Elizabeth Martin

President, Friends of Little Hunting Creek