

Item 10 - Correspondence

From: [Jeffrey Kurland](#)
To: [MCP-Chair](#)
Subject: My testimony for July 7, 2022 - Item 10 - 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan, Executive Draft - Briefing
Date: Tuesday, July 5, 2022 2:34:05 PM
Attachments: [Sewer Meeting Presentation_070522.pdf](#)

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

I have signed up as a speaker to testify at the hearing on July 7, 2022:

- Item 10 - 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan, Executive Draft – Briefing

Attached is a copy of my testimony.

Thank you.

Jeffrey Kurland
President, Potomac Highland Community Association
9401 Overlea Drive
Rockville, MD 20850
240.813.5167
jrkurland@gmail.com

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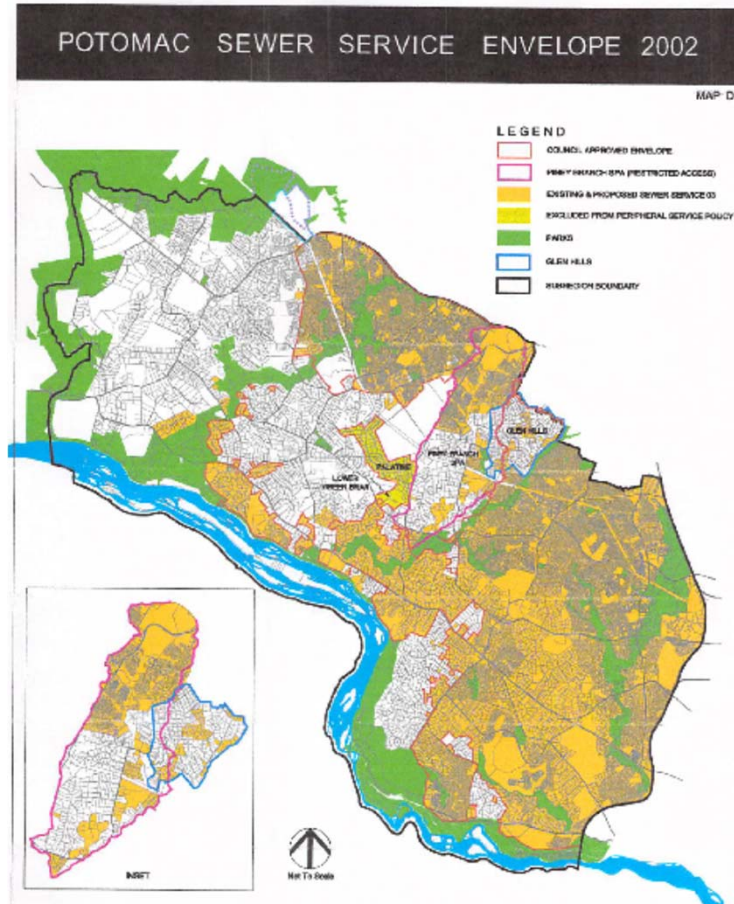
Sewer Definitions and Regulations ...

Confusing, Disingenuous, and Requiring Major Policy Revisions

July 5, 2022

**Jeffrey Kurland, President,
Potomac Highlands Community
Association**

2002 Master Plan and Service Envelopes

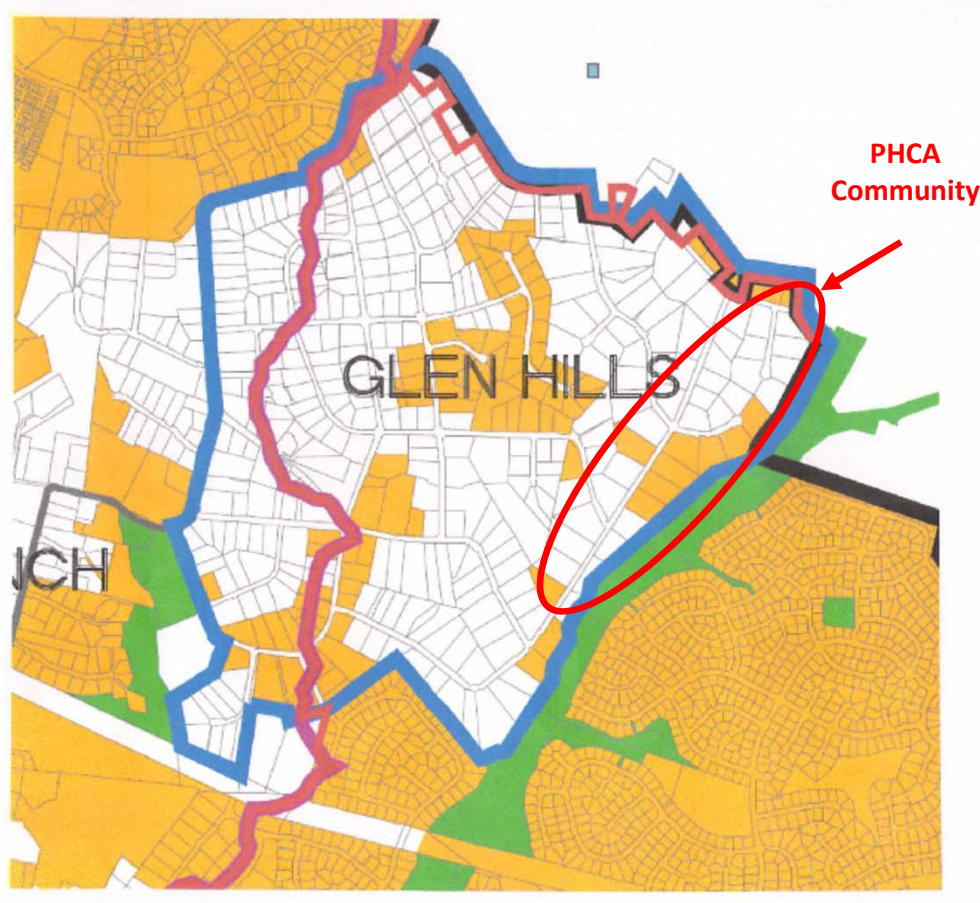


The 2002 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan Master Plan defines specific community-based “sewer service envelopes”

- **Brown** colored lines designate “Council Approved Envelope”;
- **Magenta** colored lines designate the Piney Branch SPA (Restricted Access)
- **Blue** Lines indicate the Glen Hills Area

Of particular interest is the “Potomac Sewer Service Envelope 2002” that includes Glen Hills (and our community, Potomac Highlands).

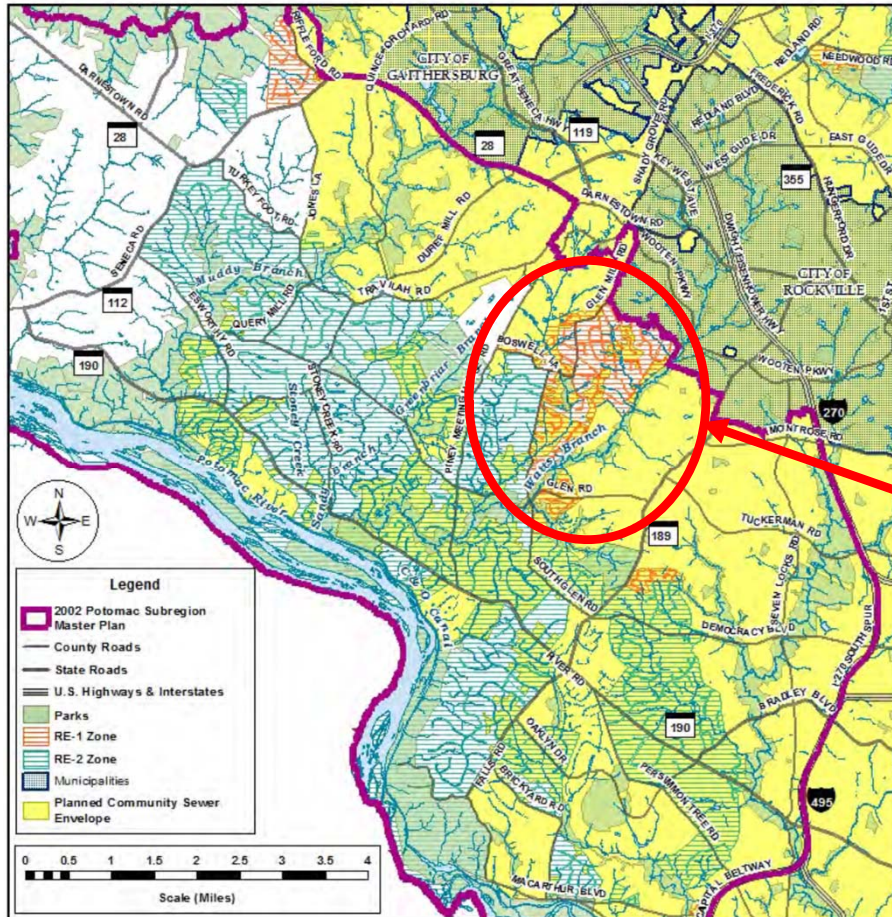
The Service Envelope: Is My Property “Inside” or “Outside”?



A close examination of the Glen Hills area shows that much of it is “inside” the approved envelope while a small portion is “outside”.

The community represented by me, Potomac Highlands, is “inside”. Right? Or so it seems??

The Service Envelope: Is My Property “Inside” or “Outside”?



This is another map presented within the same 2002 Master Plan for the Potomac Subregion Sewer Plan. It shows the Planned Sewer Envelopes in a different way with “yellow” codes areas.

Of particular to me and my community is the area inside the red circle.

Glen Hills
and PHCA

The Service Envelope: Is My Property “Inside” or “Outside”?

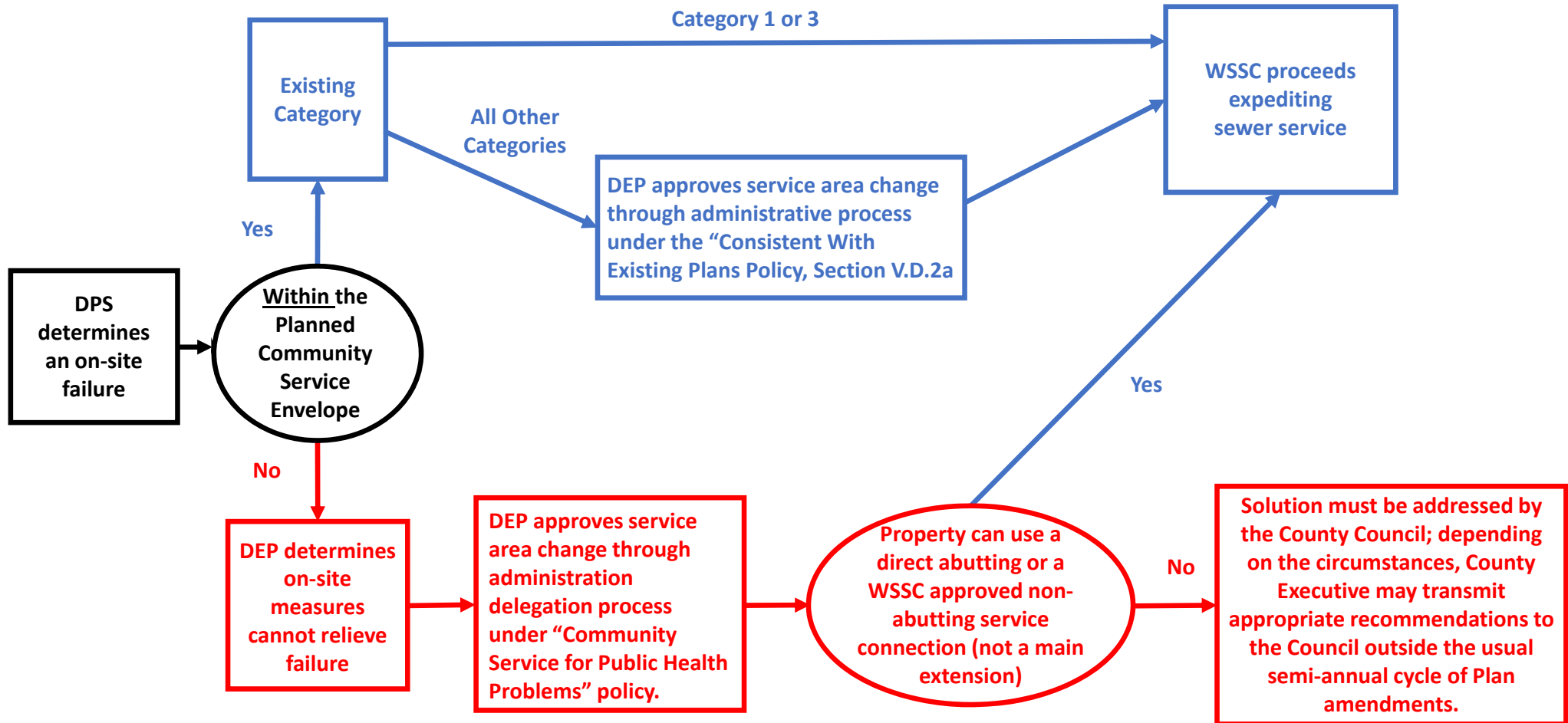


A closer examination of the Glen Hill and PHCA area shows multiple discontinuous and disjointed “envelope.

This is not an envelope in the presumed definition of an “envelope”. Rather a clustering of properties with no significant relationship to the problems faced by its owners or neighbors. This is a perfect example of “sewer gerrymandering!!”

Why is this? Do you know? To us, as residents of these communities, many of whom are about to incur failed septic systems, the drawing of sewer envelopes and understanding the rationale for their exclusion of specific properties, is a very serious issue.

Service Envelope: Consequences of a Property “Inside” or “Outside”?



Service Envelope: Consequences of a Property “Inside” or “Outside”?

Being designated “inside” vs “outside” a planned sewer envelope has serious implications for a property owner with a failed septic system.

If a property owner requesting sewer service is designated **inside the service envelope**:

- The approval process is relatively “straight” forward.
- Timeframe are well established and “reasonable” for approval of a sewer connection.

If a property owner requesting sewer service is designated **outside the service envelope**:

- The approval process is absurdly complicated.
- Decision making and approval is arbitrary.
- Time frames are indeterminate and can extend into years!
- All the while, a homeowner could be dumping raw sewerage into nearby properties, waterways, and public lands, say nothing of incurring inordinate personal legal costs to manage the “approval process”.
- Also, real estate value are significantly diminished and many types of home improvements are prohibited.

Recommendations

Go one step beyond “recommendations for changes” that focus solely on Review Areas.

- Recognize that Glen Hills is within the sewer envelope as shown on the map in the 2002 Master Plan.
- Use 2013 study findings as rationale for a practical, simple approach to problem resolution in all Glen Hills neighborhoods.

From: maryakaitis@gmail.com
To: [MCP-Chair](#)
Subject: Materials for Presentation at July 7 Hearing
Date: Tuesday, July 5, 2022 2:58:04 PM
Attachments: [Background of the Issue for Planning Board Presentation.pptx](#)
[Requested Changes W S Plan 2002 Revision.docx](#)

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Good Afternoon: Attached please find materials for my presentation at the July 7 Board meeting in the session on the 2002 Update to the Montgomery County Comprehensive Water and Sewer Plan.

They include PowerPoint slides I have prepared as my testimony. I would like to request that copies of the slides be included in the written testimony for Board Members. If needed I can send it in a different e-file format .

Will it be possible for the attached PowerPoint version to be projected for viewing at the hearing and available to those using the Teams on-line app?

Also attached is a copy of requested W/S text changes I am asking the Board to consider in the upcoming W/S update. It is a related part of my testimony.




Background of the Glen Hills Sewer Issue

Mary Yakaitis
President, Overlea Sewer Consortium

Potomac Highlands/Glen Hills: Communities in Crisis

- 2002 Master Plan and related County policies severely restrict sewer service to meet community needs and are creating a disaster for our community.
- Many of our septic systems date back 50 to 60 years. They are failing or have failed.
- Our properties don't meet current requirements for replacing our septic systems.
- Current restrictions offer no options for sewer service when our systems fail.



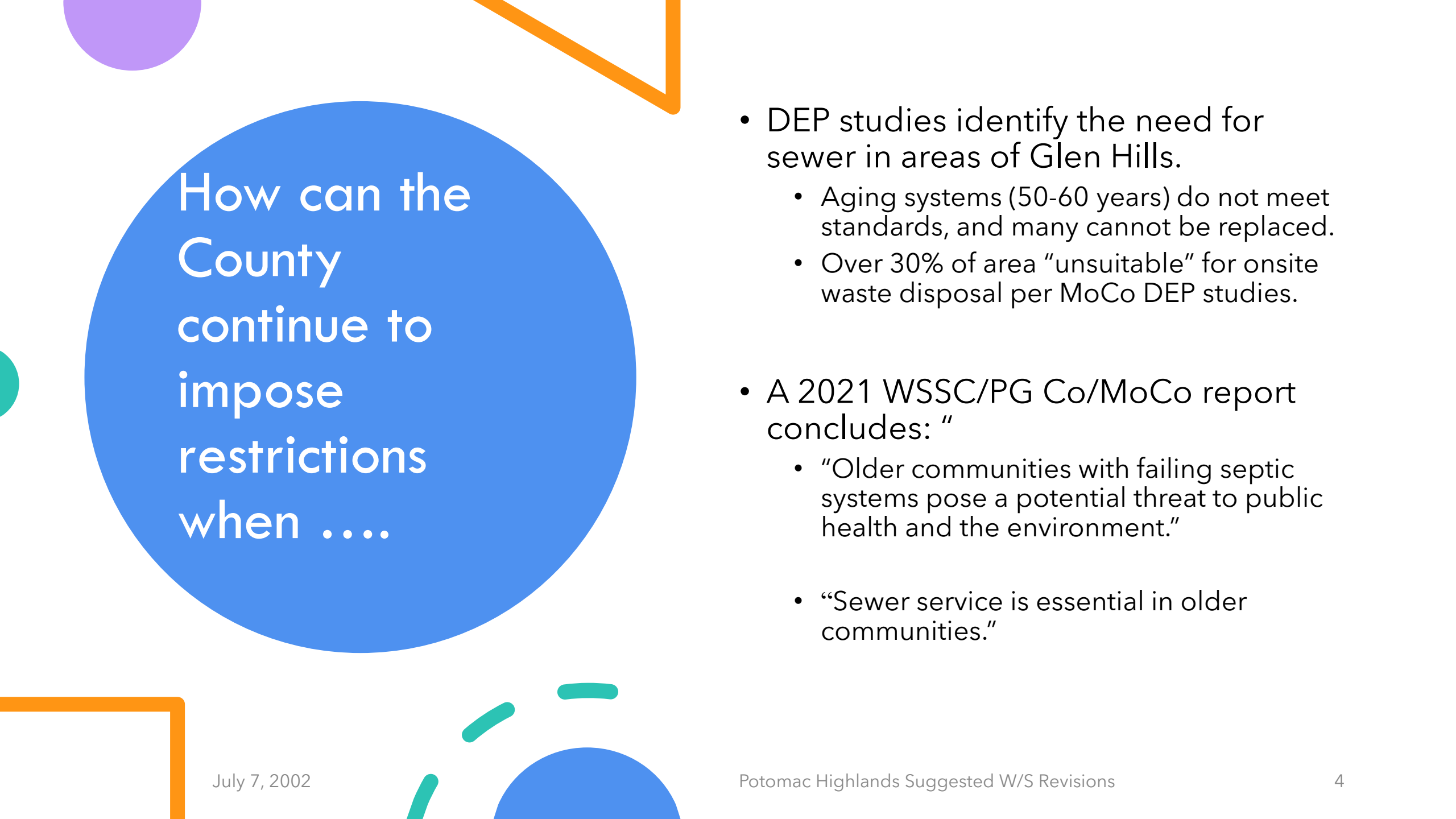


Harmful effects of sewer service restrictions

Problem: In a developed community where large areas are known to be unsuitable for septic system use, owners have virtually no options for replacement.

Result: People continue to use failing systems, do not report backups, and struggle to keep the systems nominally functional.

Impact: County's Glen Hills policies reduce property values, pollute nearby streams feeding the Potomac, and create a looming public health disaster.



How can the
County
continue to
impose
restrictions
when

- DEP studies identify the need for sewer in areas of Glen Hills.
 - Aging systems (50-60 years) do not meet standards, and many cannot be replaced.
 - Over 30% of area “unsuitable” for onsite waste disposal per MoCo DEP studies.
- A 2021 WSSC/PG Co/MoCo report concludes: “
 - “Older communities with failing septic systems pose a potential threat to public health and the environment.”
 - “Sewer service is essential in older communities.”



What is the intent of current restrictions?

- Control Growth?
 - We are already a fully developed community.
- Restrict expansion of sewer envelope?
 - Parts of community already in the envelope.
- Prevent environmental harm?
 - Our septic systems would put over 300 pounds of nitrogen into the Chesapeake annually if they worked well. They don't.

Proposed Solution: Address Known Problem Areas.

Revise W/S Plan to permit service in identified problem areas

- Some areas of Glen Hills found to be “unsuitable for continued septic system use in County 2013 study.
- Referred to as “Review Areas (RAs)” or “constrained areas.”
- Two smaller “area” studied on Overlea Drive confirmed that RAs need sewer service.
- Loosening restrictions on these properties will relieve most serious problems without changing intent of Master Plan.

Suggested W/S Plan Text Changes

- Delete language requiring at least one septic system to fail before an area sanitary sewer study can be undertaken.
- Designate Review Areas as part of the planned sewer envelope.
- Minor revisions in Chapter 1, section II and Appendix C will be required.

Conclusion:

- Current plan language prevents common-sense REMEDIES and ignores WELL-DOCUMENTED health and environmental problems.
- County CANNOT continue to ignore the needs of properties that DEP studies show should not continue to use septic systems.
- Planning Board support for some proposed text changes in the Water & Sewer Plan 2002 revision would help resolve a major community problem.

Requested Changes to 2002 Revision of the Comprehensive Water Supply and Sewerage Systems Plan Executive Draft

Revision to Page 1-34 II.G.2.: Community Service to Relieve Onsite System Concerns

Public health concerns can result from failures of individual, onsite water supply or wastewater disposal systems, including the failure of those systems. Onsite systems usually—but not exclusively—serve properties located outside the planned community service envelopes, where development is intended for service using wells and septic systems. This is consistent with the planning for and designation of lower-density residential, rural, and agricultural areas. As a result, most properties using individual, onsite systems are often in areas where relief of failures using community service is neither logical nor economical. In these cases, first consideration for mitigation of a failure will focus on onsite relief measures **except in areas already identified in County studies (e.g. 2013 Glen Hills Study) as “Review Areas” (RA’s) or in other area studies (e.g. South Overlea Study) as “Constrained Areas,”** A feasible onsite remedy must satisfy onsite systems permitting requirements, as verified by DPS. However, some failures do occur in areas within or near areas served by community systems. Issues involving concerns with and failures of individual water supply and sewerage systems are addressed in more detail in Section III.C.4.a.

Revision to Page 1-35, Section II.G.2.c: Establishing Onsite Systems Survey Areas Paragraph 2

Outside planned community service envelopes, onsite systems surveys are typically initiated by an individual property owner, or a group of owners, who identify an area of concern for DEP to investigate. **Properties within RAs or “constrained” areas qualify for on-site systems surveys without a requirement for one failed septic system. In other areas,** at least one property owner requesting a survey must demonstrate that the existing onsite system has failed as verified by DPS. DPS must also find that the onsite system failure cannot reasonably be resolved by an onsite repair or permitted replacement of that system. This determination may require an onsite system inspection by DPS and a qualified contractor. A previous inspection may also satisfy this requirement, if acceptable to DPS. Areas highlighted in completed County studies as likely unsuitable for septic system replacement will be exempted from this requirement for a demonstrating a verified septic system failure that cannot be addressed reasonably by using a conventional replacement system (deep trench, shallow trench, or sand mound), by innovative and alternative onsite replacement systems, or by new technologies as they are approved for use by the State and County (e.g., graywater systems and waterless toilets).

Revision to Appendix C, Page C-5 paragraph 1

Community sewer service can be considered only under the following conditions for:

Properties in need of relief from public health problems resulting from documented septic system failures (Sections II.G.2.a.).

- Properties included within a specifically designated special sewer service area {Section ILG.2.b.). The septic system survey process used to establish these areas is outlined in the Council's resolution and in Chapter 1, Section ILG.2.b: Area-Wide Onsite Systems Concerns, et seq. The research conducted for the Glen Hills Area Sanitary Study will allow DEP to streamline the survey process for properties in these neighborhoods. Once DEP has established a survey area, an Executive recommendation for the Council concerning that area is expected within approximately three (3) months. A decision by the Council is generally expected within three months after that.

DEP will give a higher priority for surveys that include properties located within Review Areas (RAs) established in the Glen Hills Study and those with documented septic system problems. DEP will give a lower priority to survey areas outside of RAs or where DPS has not identified existing septic problems. **Properties within RA-designated areas qualify for area-studies without the necessity for at least one documented failure**

Revision to page C-6 (top of page)

The-County Counsel's 2018 action to approve this Plan update changed the County's approach to the consideration of area-wide health problems where located outside the planned community service envelope. Establishing a septic system survey required the inclusion of at least one property that has a DPS documented septic system failure (see Chapter 1, Sections I1.G.2.b.d.). **This eligibility criteria does not apply to Glen Hills properties within RAs identified in the 2013 study of Glen Hills neighborhoods.**

From: [Peter Doherty](#)
To: [MCP-Chair](#)
Subject: Doherty Testimony for July 7 Hearing Item 10 Water and Sewer Plan
Date: Tuesday, July 5, 2022 3:09:52 PM
Attachments: [Doherty Testimony Review A eas Focus for Plan Revisions Planning Board.pptx](#)

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Attached please find my testimony for agenda Item #10, Water and Sewer Plan. I have attached my PowerPoint presentation. For file size issues, I will send a pdf copy of it in a subsequent email , and would ask that the appropriate version be included in the record.

My address is:

Peter Doherty
9215 Overlea Drive
Rockville, MD 20850

Thank you.



Review Areas: Focus for Proposed W/S Plan Revisions

Peter Doherty
Potomac Highlands Property Owner



What is a Review Area?

- Term used in 2013 DEP study of Glen Hills area.
- Refers to areas with serious constraints to continued use of septic systems.
- Terminology stigmatizes the area and individual properties. They can't change the designation.

Where are the Review Areas?

- Throughout Glen Hills
 - Identified in DEP Glen Hills study 2013
 - 30 + % of area = RAs
- Two smaller studies examined parts of Potomac Highlands with RA properties.
- Results confirmed that RAs need sewer options.
 - 82% of South Overlea properties “constrained.”
 - Virtually entire area in incomplete North Overlea study “constrained.”

Why focus on RAs?

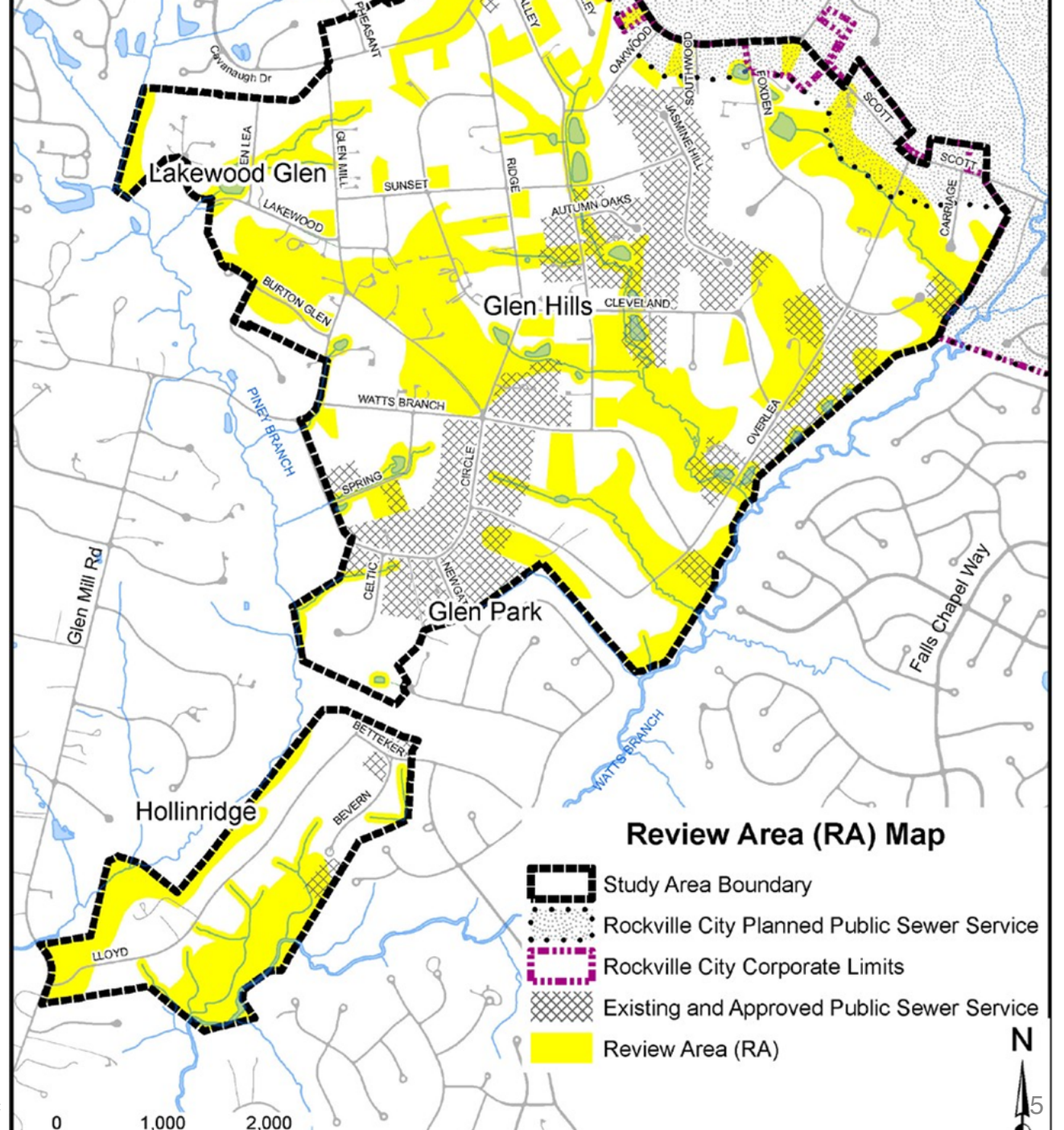
- The County determined that continued septic system use isn't feasible in these areas
- This means that when RA-based septic systems fail, they **SHOULD NOT** be replaced.
- It also means that for many properties, they **CANNOT** be replaced.
 - Lack of space for reserve drain fields
 - Geologic features and proximity to wells, streams, and forested areas won't permit replacement.

Review Areas: Glen Hills Study

2011-2013 This two-phase examination documented need for sewer service in Glen Hills area.

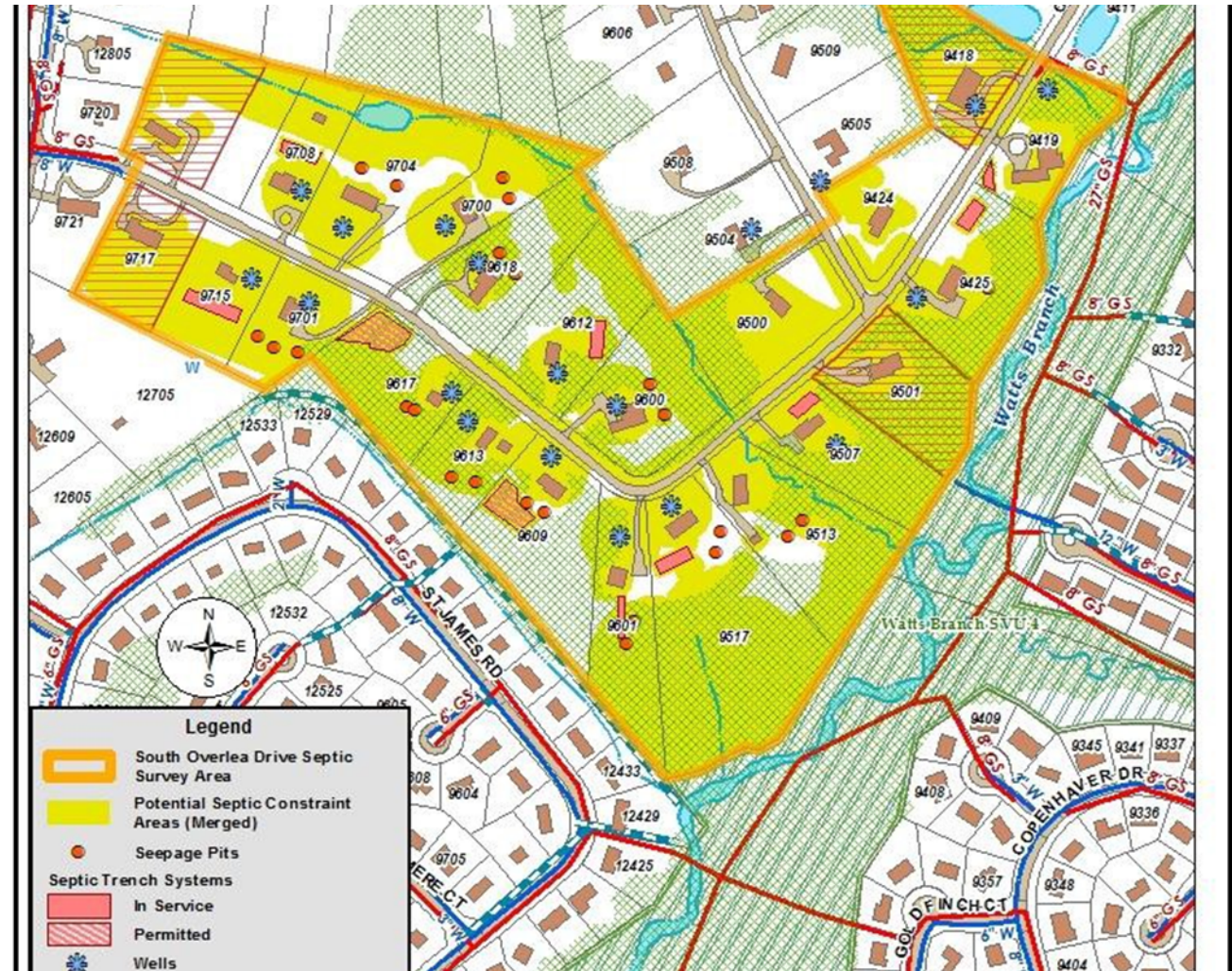
It showed 36 % off area is not suitable for on-site waste disposal.

These locations called "Review Areas (RAs)".



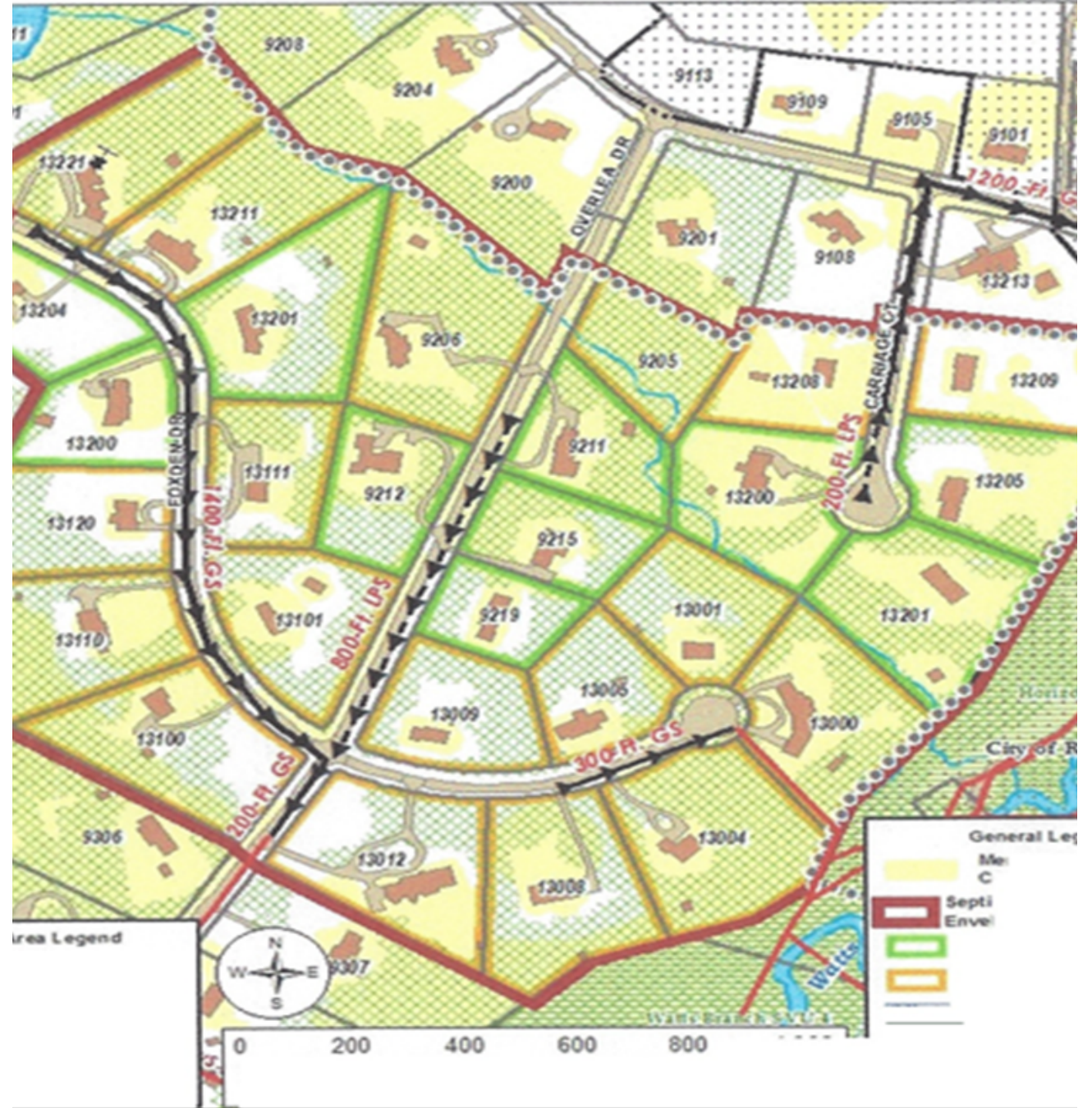
South Overlea Study

- First “area study” approved under Resolution 18-423
- It showed 82% of properties were “constrained” (likely cannot replace septic systems).
- 13 of 16 properties were granted sewer category change from S6 to S3.
- Study required 1 year from approval to report presentation to Council
- Planning for construction still ongoing after 5 years.
- Shows the need for preplanning BEFORE failures occur. Demonstrates why area studies should occur before there are any failures.



North Overlea Study

- Study stopped by Water and Sewer Plan Revision in 2018 requiring a documented failure for area study eligibility.
- Results presented to community prior to policy change.
- No followup steps taken; no report prepared.
- Yellow areas on map are “constrained.”
- Property owners denied redress for identified problems.



What happens when a failed system can't be replaced?

- County offers no viable options except use of a holding tank that must be pumped regularly at a minimum cost of \$400 per service call.
- Property loses most or all of its value; cannot be sold at fair value.

Rationale for Suggested Plan Text Change

Delete requirement for one failed system in order to request an area study.

- After a system fails, it is too late to undertake long process of study and construction planning.
 - North Overlea study took over a year.
 - Planning installation has required 5 additional years.
- Removal of requirement for a failure will permit many property owners to share costs of sewer main construction. Most individual owners cannot afford to do so.

Rationale for Suggested Plan Text Change

Designate RAs part of the planned sewer envelope.

- Recognizes that RA designation stigmatizes and harms property owners.
- Provides options to people living in problem-prone area.
- Offers possible future opportunities for public financial support in sewer main construction.



Protect Potomac Highlands and Glen Hills

- Time is running out to find solutions.
- 50- to 60-year-old systems are in immediate danger.
- Changing septic system maintenance requirements will identify many failed systems.
- Solutions are needed before it's too late.

From: [Sith Morg](#)
To: [MCP-Chair](#)
Subject: Written Testimony Submission
Date: Wednesday, July 6, 2022 12:39:04 AM
Attachments: [nph-survey--public-mtg-present.pdf](#)
[Council Testimony.docx](#)

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Hello,

This is written testimony for the July 7, 2022 - Item 10 - 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan, Executive Draft – Briefing, being held tomorrow, for Brandon Beach, 9211 Overlea Drive, Rockville, MD 20850.

Thank you,

Brandon Beach

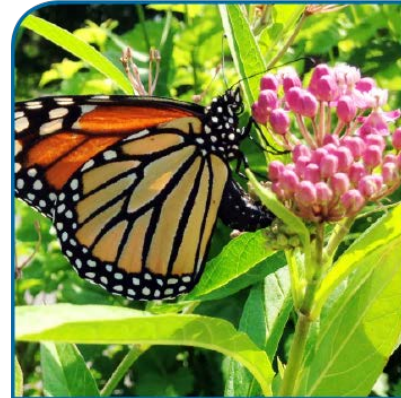
DEP: Protecting and improving our air, water and land

Comprehensive Water Supply and Sewerage Systems Plan North Potomac Highlands Septic Survey

Welcome to DEP's public meeting for the North Potomac Highlands Septic Survey.

Please sign in, take an agenda, and have a seat.

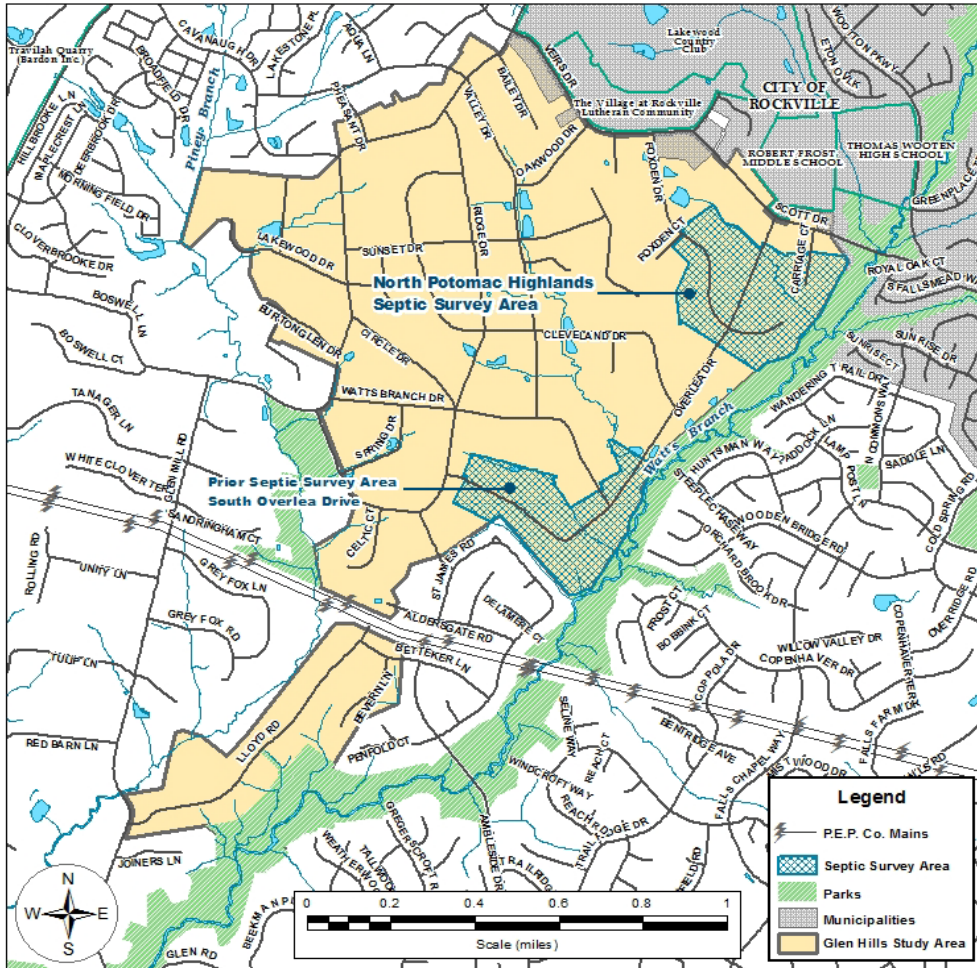
The meeting will begin in a few minutes.



North Potomac Highlands Septic System Survey

Glen Hills Septic Surveys

North Potomac Highlands Septic Survey: Locator



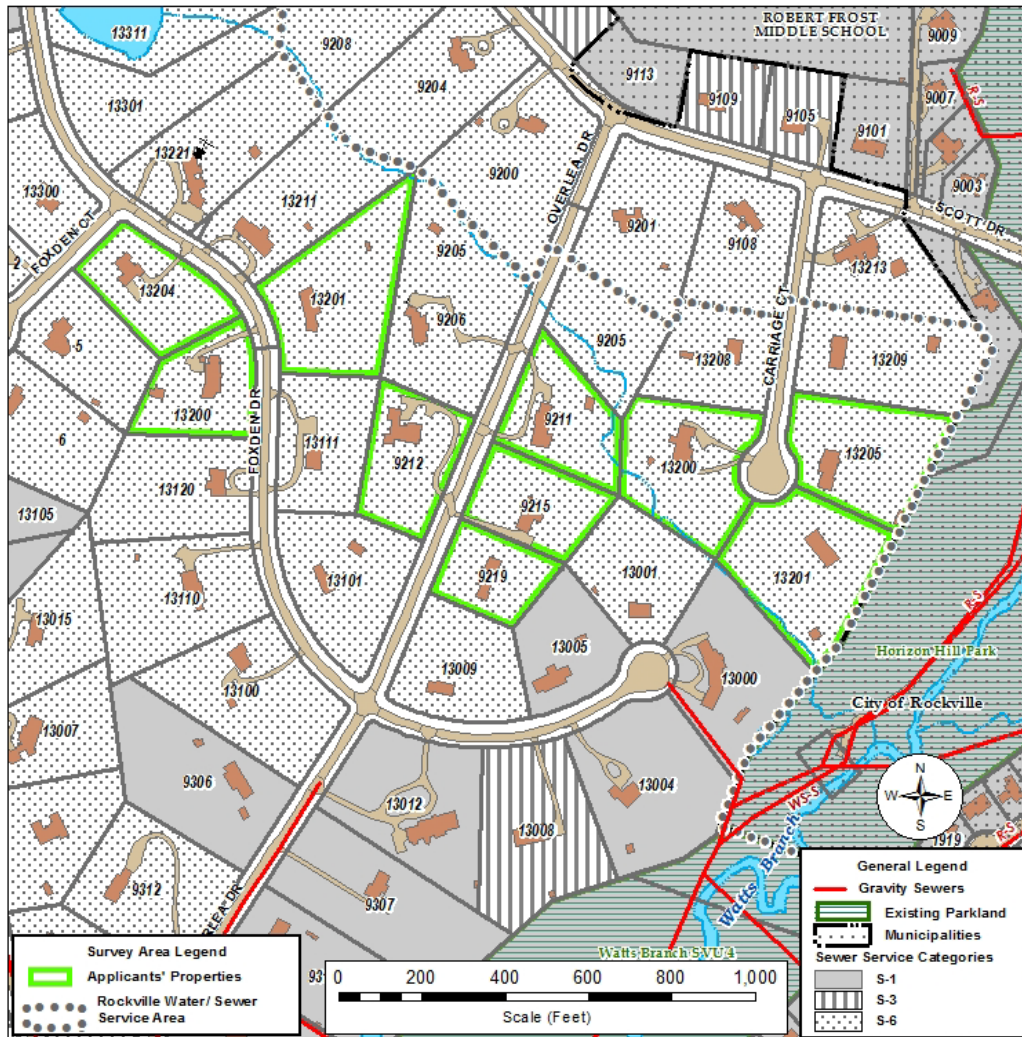
In March 2016, the County Council established the use of area-wide septic system surveys in the Glen Hills area under CR 18-423 as part of the Glen Hills area sewer service policies.

Surveys are initiated at the request of owners of improved residential properties.

North Potomac Highlands Septic System Survey

Survey Origin

North Potomac Highlands Septic Survey - Survey Applicants' Properties



In October 2017, DEP received survey requests from owners of ten* properties (shown in green outline) located along parts of Carriage Ct., Foxden Dr., and Overlea Dr. in the Potomac Highlands neighborhood.

Applicants' common concerns:

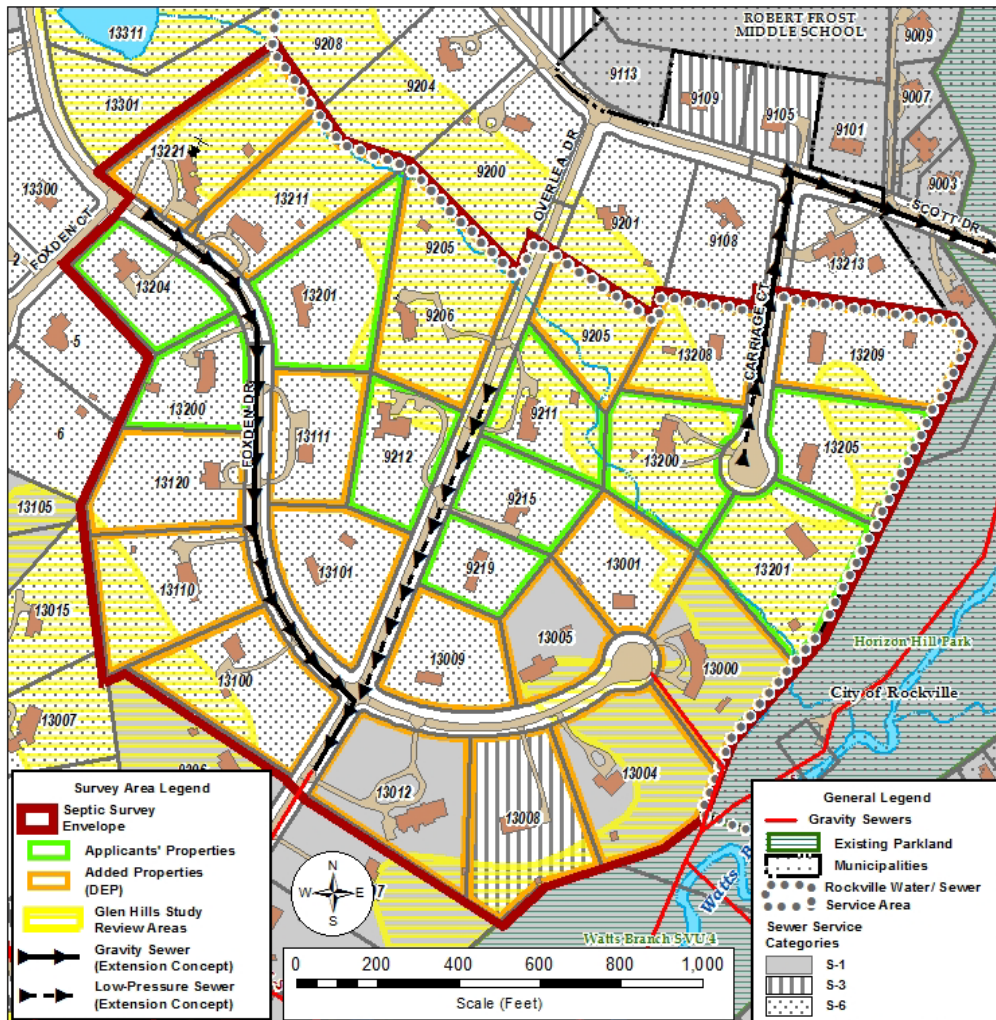
- Aging, pre-1975 septic systems
- Limited area for repair or replacement systems
- Possible forest loss for replacement or repair systems
- Possible seepage from old systems into groundwater
- Increased frequency of tank pump-outs

*DEP also received requests for three additional properties within the Rockville sewer service area.

North Potomac Highlands Septic System Survey

Establishing the Survey Area

North Potomac Highlands Septic Survey - Survey Area Properties



To establish the survey area, DEP looked for factors similar to the applicants' properties, such as:

- Lot size
- Review Area coverage
- Age and type of existing septic system
- Public sewer access
- Limits of Rockville sewer service area

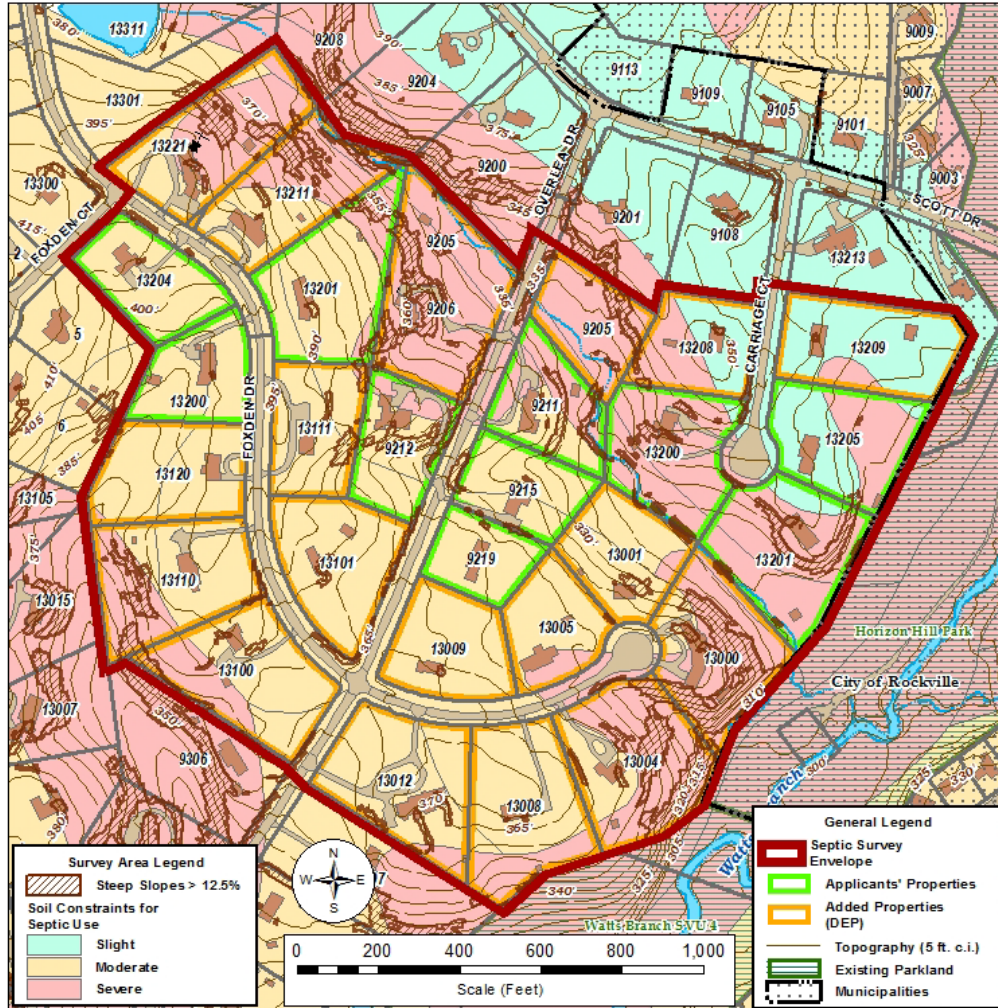
DEP included 28 lots in the survey area:

- 27 lots improved with single-family houses.
- Most houses built between 1955 and 1967.
- All lots use wells. 21 lots known to have pre-1975 septic systems
- 20 lots included some review areas from the 2012 Glen Hills Study.

North Potomac Highlands Septic System Survey

Survey Process

North Potomac Highlands Septic Survey - Potential Soil and Slope Constraints



DEP and DPS researched onsite system permit records and WSSC permit records, and conducted site visits.

Using GIS mapping, DEP identified onsite system locations and compiled potential septic system constraints throughout the survey area.

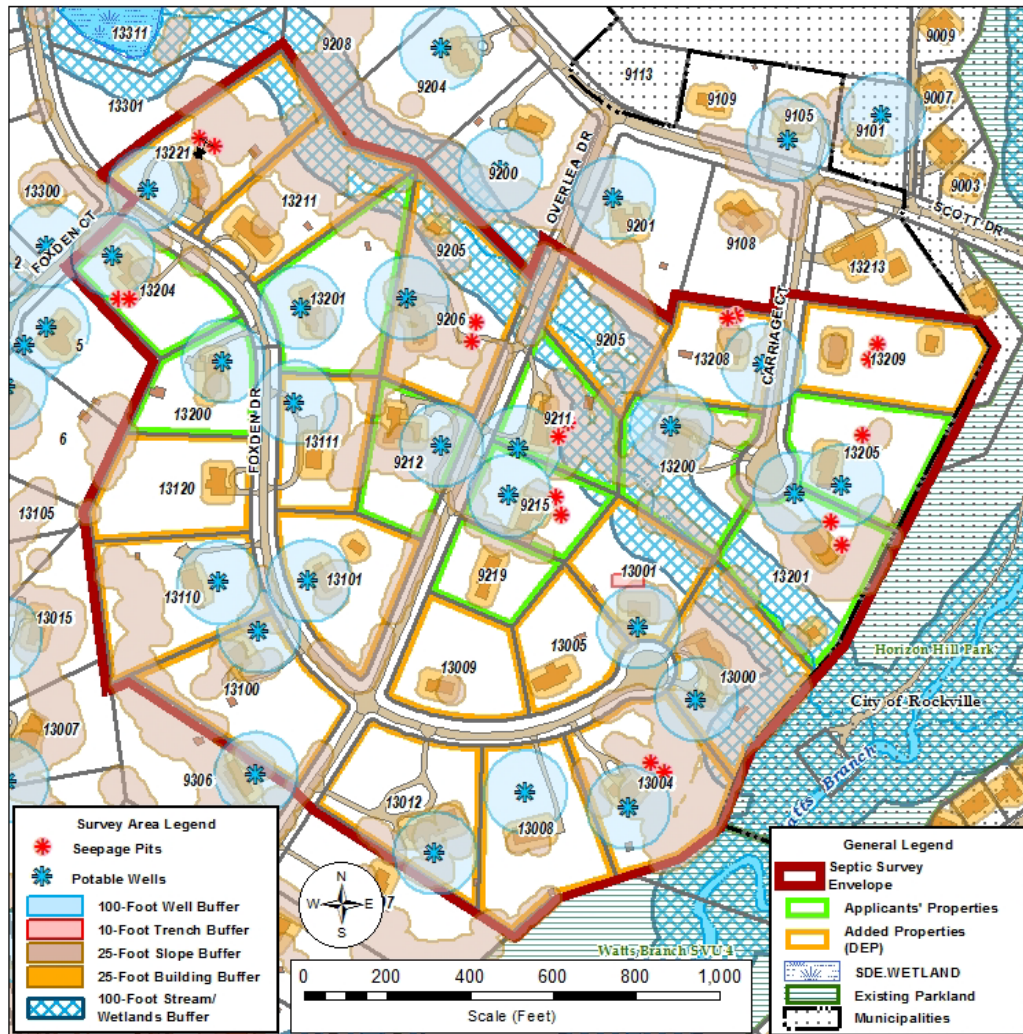
This map shows areas with:

- Soils having slight (blue), moderate (yellow) and severe septic (pink) use constraints (from USDA Soil Maps for Mont. Co.). Actual soil suitability requires onsite testing via DPS.
- Steep slopes (> 12.5 %), based on county topography.

North Potomac Highlands Septic System Survey

Survey Process

North Potomac Highlands Septic Survey - Potential Regulatory Constraints



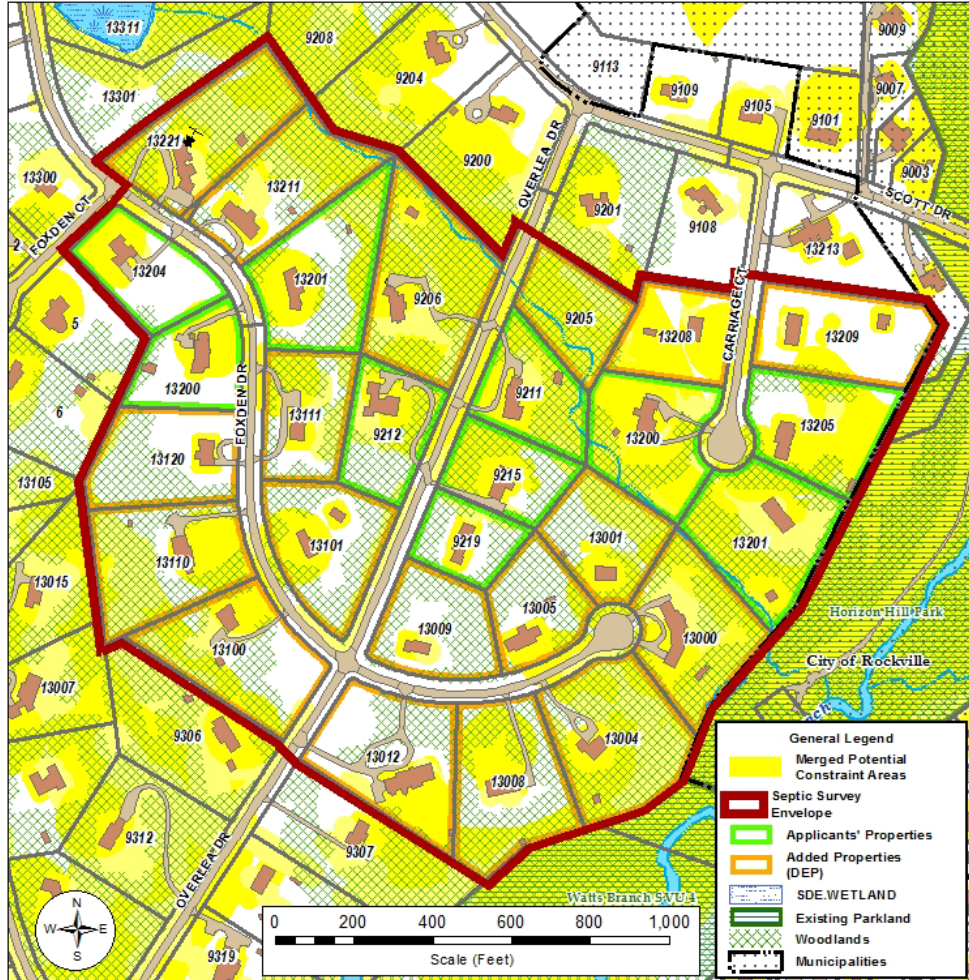
This map shows regulatory constraints for septic system use from State and County onsite systems regulations:

- 100-foot stream and wetlands buffers.
- 100-foot well buffers.
- 25-foot steep slope and building buffers.
- 25-foot seepage pit buffers.
- 10-foot septic trench buffers.

North Potomac Highlands Septic System Survey

Survey Process

North Potomac Highlands Septic Survey - Merged Potential Constraint Areas



This map shows the various potential constraint areas merged together.

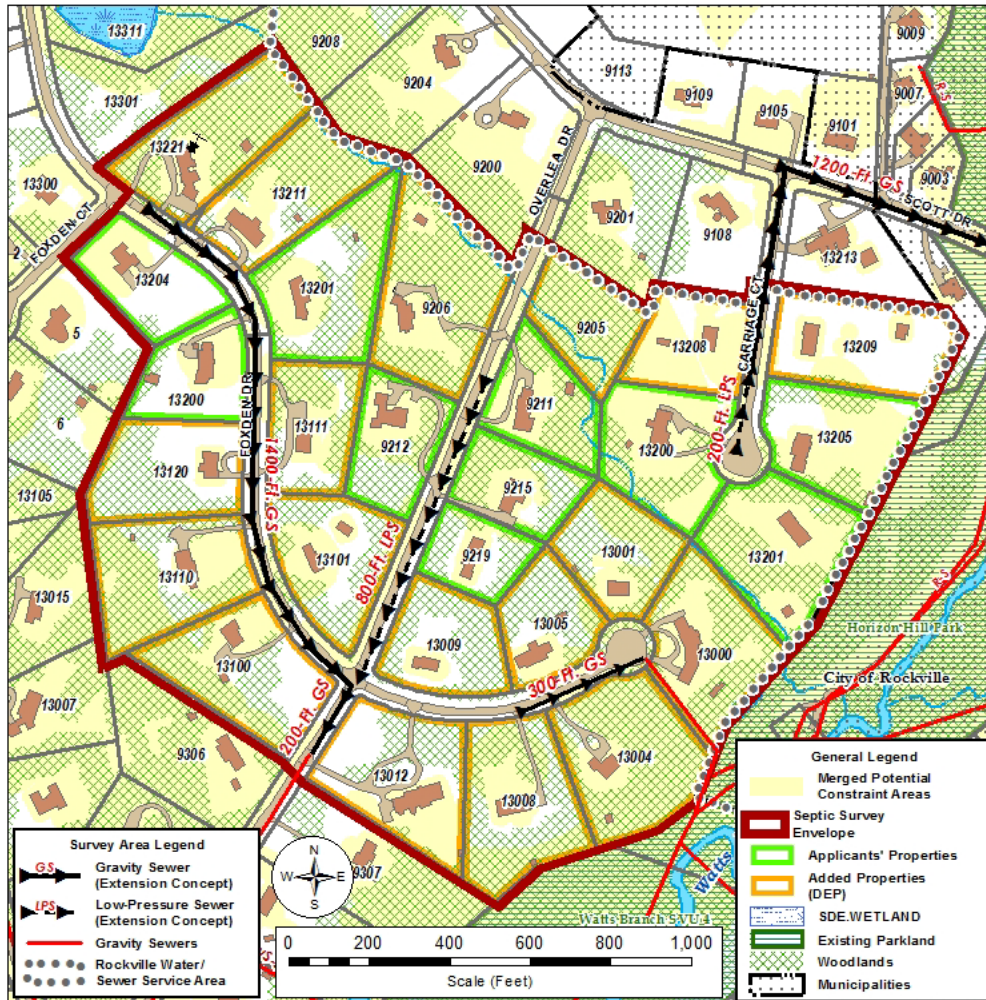
Some constraint areas overlap, such as stream buffers and slope buffers.

Properties located along stream valleys are typically affected by potential septic system constraints more than those on higher ground.

North Potomac Highlands Septic System Survey

Options

North Potomac Highlands Septic Survey - Options



Septic System Replacement or Repair:

- Replacement – one new initial field and two reserve areas. House may be eligible for expansion or replacement.
- Repair – one new field. No house expansion or replacement.

Public Sewer Service:

- Four separate main extensions would be needed to serve all properties in the survey area.
- Both gravity and low-pressure mains could be involved.
- Each property dependent on low-pressure mains would need an onsite grinder pump.

North Potomac Highlands Septic System Survey

Next Steps in the Survey Process

- Conduct additional research, as needed.
- Complete DEP staff recommendations and, if needed, a sewer category change proposal.
- Review DEP staff draft with DEP Director and then the County Executive. (Late January)
- Transmit Executive report and recommendations to the County Council; the survey recommendation are now public. (End of January)
- County Council public hearing. Planning Board hearing and meeting. Council Committee worksession. Council worksession. Council decision and resolution. (March – April)
- Transmittal of Council resolution to Maryland Dept. of the Environment for a 60-day review. (April – June/July)

Good Afternoon,

My name is Brandon Beach. I live at 9211 Overlea Drive, Rockville MD, in Potomac Highlands.

In the summer of 2017 I worked with a group of my neighbors in the North Overlea section of our community to request a Septic Study. I submitted letters from 13 property owners documenting concerns regarding the age and quality of our current septic systems and concerns about the lack of suitable replacement options due to the topography of our properties and the set-back requirements for existing wells and streams.

The county initiated the study and on 10 January 2018 Mr. Soukup held a public meeting to brief the study participants on the preliminary findings. These findings bore out our suspicions that most of the septic systems in our area are aging pre-1975 systems and that our properties are severely constrained. I'm attaching the findings that the county provided to the study participants.

We expected that our study would be completed in short order, as all the work had been done. However, our study was halted because new hurdles were added requiring a documented failure of a septic system to complete the study.

We currently do not have a documented septic failure in our area, but requiring us to have one before we can complete a study and begin to address the inevitable problem that is coming is unconscionable. It is cost prohibitive for one resident to install a sewer line in most cases. It requires years of organizing and working together with neighbors to get the necessary plans and cost estimates completed. And it requires years to develop a coalition of neighbors that can work together as a group to share the costs and make the project financially feasible. This is work that should be done well in advance of a septic failure.

I request that the requirement for a documented failure be removed from the section II.G2.c of the Draft Comprehensive Plan so that our study can be completed and our neighborhood can begin to work collectively toward workable solutions on this issue.