

PLANNING & ZONING REVIEW NOTES

X. A.

SUBJECT: Discussion of the 10/70 provision in the WS-IV Protected Area.

ATTACHMENTS: 1. Table of watershed regulations from various jurisdictions.

INTRODUCTION AND BACKGROUND: At the previous Planning Board meeting there was a discussion regarding the use of the 10/70 provision in the WS-IV Protected Area. The discussion focused on background information that was provided by staff on the Planning Department website. It was the consensus of the Board that there should be further investigation into the various density options used in jurisdictions surrounding Chatham County.

DISCUSSION AND ANALYSIS: Under the provisions of the water supply watershed protection rules, as approved by the NC Environmental Management Commission (NCEMC) and administered through the NC Division of Water Quality (NCDWQ), there are three density options that can be applied to development projects. The methods are low density, low density with the 10/70 provision (also referred to as a high density option), and high density. The difference between each of these methods is related to the amount of impervious surface area for a development project (i.e. the total area covered with driveways, parking lots, and roofs). The County's Watershed Protection Ordinance currently uses the low density option with a 5/70 provision in the WS-III Balance of Watershed and 10/70 provision in the Local Watershed.

In the Chatham County Watershed Protection Ordinance the low-density option limits non-residential development to between 12% to 36% impervious surface depending on the watershed district. Similarly, single-family residential development ranges from between 1 lot per 40,000 square feet to 1 lot per 5 acres. The County also currently allows a 5/70 and 10/70 provision in the WS-III Balance of Watershed and Local Watershed, respectively, although the option has never been requested for a development project. These provisions allow for either 5% or 10% of the total land area within that watershed to be developed at 70% impervious surface area, instead of 24% or 36%. The 10/70 option cannot be used in critical watersheds and is limited to watersheds designated as balance of watershed or protected area. If a project is granted the 10/70 option the entire acreage for the site is removed from the 10% balance regardless of whether 70% impervious is used (i.e. if there is a 100 acre manufacturing site requesting 10/70, which only uses 50% impervious, the entire 100 acres is still removed from the 10% balance).

The high-density option, as defined by NCEMC, is also available to jurisdictions and allows for impervious surfaces ranging from 50% to 70% in various critical and non-critical watersheds. To use this option each development project is required to install engineered storm water controls (i.e. retention or detention ponds) to control storm water from these sites. The storm water controls have to be inspected annually and the local jurisdiction is responsible for the longevity of the storm water control. If a local jurisdiction adopts the 10/70 provision and then wants to switch to the high-density

option, it is currently allowed by the NCEMC, but must be approved by them. There are cases where this has been done, but the allocation of the 10/70 was limited. The sentiment of NCDWQ staff is that if a majority of the 10/70 is allocated the NCEMC would not look favorably on a request to switch to the high-density option.

It is worth noting that the standards for the County's watershed ordinance are more stringent than is mandated by the NCEMC. There are several additional watershed districts that are not required by NCEMC, which include the Local Watershed, River Corridor, and River Corridor Special Area. There are also higher standards for stream buffers throughout the County.

The table that is included as an attachment lists what other jurisdictions in North Carolina are currently allowing within their respective watershed protection ordinances. It is a varied list and even those communities using the 10/70 option use different approaches to allocate the useable acreage. As has been previously discussed, if the 10/70 provision was included for the WS-IV Protected Area an additional 9,407 acres could be developed out of a total of 134,380 acres for a total impervious area of 52,946 acres.

If 10/70 is approved for the WS-IV Protected Area there are several methods for distributing the allocation that need to be considered. The following list is a compilation of some of these methods divided into three categories:

Who is responsible allocating the 10/70?

- Watershed Administrator (This is the current practice in the WS-III BW and Local Watershed, although a majority of the area under these districts is unzoned).
- Watershed Review Board.
- Board of Commissioners.

How should the 10/70 option be allocated?

- Require a conditional use permit or conditional zoning district for each project.
- Restrict the 10/70 option for the WS-IV PA to the zoned areas of the County.
- Identify locations where 10/70 could be requested, such as specific intersections for commercial uses or large tracts of land suitable for industrial uses.
- Allocate based on first come, first served.
- Require a per square foot fee.
- Require the preservation of open space on another parcel in the County.
- Reserve a certain percentage for government purposes.
- Restrict to government and manufacturing purposes exclusively.
- Divide the 10% into predetermined land use categories (i.e. 5% government, 3% industrial, 2% commercial).

What performance standards should be applied to projects receiving a 10/70 allocation?

- Require that any areas designated as 100 year floodplain be set aside with an additional 30 foot undisturbed buffer.
- Require Best Management Practices to control the first one-inch of storm water from the 24 hour one year storm.

If the 10/70 provision is allowed in the WS-IV PA the method of allocation will be an important consideration. Unlike the WS-III BW and Local Watershed districts where the

5/70 and 10/70 is currently allowed, the development pressures in the WS-IV PA in the northeastern portion of the County are much greater. There will likely be several requests for the 10/70 option in this area and some type of performance standard should be considered in determining the allocation method.

RECOMMENDATION: It is the Planning Department staff recommendation that if the 10/70 provision is to be approved that it be implemented with the following stipulations:

1. Restrict the 10/70 option for the WS-IV PA to the zoned areas of the County.
2. Require a conditional use permit or conditional zoning district for each project.
3. Have the Commissioners make a decision during the zoning decision.
4. Require that any areas designated as 100 year floodplain be set aside with an additional 30 foot undisturbed buffer.
5. Require Best Management Practices to control the first one-inch of storm water from the 24 hour one year storm.

If the Planning Board is in agreement with these or other provisions to precede then the staff will draft text language for consideration at the next meeting.