

PLANNING & ZONING REVIEW NOTES

VII. A.

SUBJECT: Discussion of draft text amendments to the Watershed Protection Ordinance to include the 10/70 provision in the WS-IV Protected Area.

ATTACHMENTS: 1. Draft amendment to the Watershed Protection Ordinance

INTRODUCTION AND BACKGROUND: The Planning Board has had several discussions regarding the use of the 10/70 provision in the WS-IV Protected Area. At the previous meeting the Planning Board requested that Planning Department staff provide a draft amendment to the Watershed Protection Ordinance for their consideration and included 5 stipulations to use during the drafting of the amendment.

DISCUSSION AND ANALYSIS: The draft amendment to the Watershed Protection Ordinance provides language to allow for the 10/70 provision to be included in the WS-IV Protected Area watershed district. As has been previously discussed, the 10/70 provision would allow for 10% of the land area in the WS-IV PA to be developed at 70% impervious surface instead of 24% or 36% that is currently allowed. A 5/70 provision and 10/70 provision are currently allowed within the WS-III Balance of Watershed district and Local Watershed district, respectively. The draft language that has been provided has more stringent criteria for allocating the 10/70 provision in the WS-IV PA than is currently required in the WS-III BW and Local Watershed districts. It was the sentiment of the Planning Board and Planning Department staff that there will be more requests for the 10/70 allocation within areas designated as WS-IV PA, particularly in the eastern part of the County near Jordan Lake, and that the ordinance requirements should be more stringent to protect water quality. Currently, there have been no requests for an allocation of the 5/70 or 10/70 provision in the WS-III BW and Local Watershed.

The criteria for allocating the 10/70 provision in the WS-IV PA that were stipulated by the Planning Board are as follows:

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, unless it is an exempt State or Federal 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.

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Criteria 1 through 4 have been included in Section 302(E)(c). Additional language has been added to criteria 2 that the Watershed Administrator will approve exempt State and Federal projects. This will guarantee that the projects are reviewed for compliance with the other regulations that will apply to the project. Criteria 4 has also been modified to remove the additional 30 foot buffer beyond the 100 year floodplain and to include that activities in the 100 year floodplain follow the standards currently adopted for stream buffers in the Watershed Protection Ordinance. The previous Planning Department staff recommendation to require that an additional 30 foot buffer be set aside beyond the 100 year floodplain was based on a misinterpretation of requirements for a program that the North Carolina Division of Water Quality (DWQ) is currently considering for a Universal Stormwater Program. Since the previous Planning Board meeting DWQ has released draft rules that clarify that a 30 buffer would be required along certain streams if there was no 100 year floodplain identified, not in addition to the 100 year floodplain. The additional language that the areas within the 100 year floodplain follow the currently adopted stream buffer requirements would maintain consistency between other stream buffers that may be required.

For criteria 5 the amendment proposes treating either the first one inch of rainfall runoff or the difference between the pre- and post-development conditions for a 2-year, 24-hour storm, whichever is greater. This is a higher standard than was originally proposed by staff and the Planning Board. Based on further research it was found that a typical stream in the Piedmont region of North Carolina will typically start to flood during a 1.5- to 2-year storm event. This is a natural feature of streams in the region that stabilizes the banks of the streams and minimizes channelization. If stormwater controls are only designed for the 1-year, 24-hour storm, the additional runoff during a 2-year, 24-hour storm event could lead excessive to stream bank erosion and channelization.

The design of the Best Management Practices (BMP's) required under criteria 5 is based on standards for engineered stormwater controls that are required under the high density option. Under the 10/70 option, engineered stormwater controls are not required; however the Planning Board and staff felt that additional standards were warranted in the WS-IV PA due to increasing development pressures in the northeastern part of the County. The amendment would require that wet detention ponds or other alternative stormwater controls be used and that they be designed to treat specific rainfall events and certain specified design requirements. This is consistent with the requirements under the high density option. One of the major differences between the proposed amendment and the high density option is that the County would not be liable for the long-term maintenance of the BMP's.

The 10/70 provision is an option that allows local jurisdictions flexibility in allowing more intensive land use, while maintaining control over the timing and location of the development. As proposed in the WS-IV PA, the 10/70 provision would be reviewed as part of the conditional use permitting process or conditional zoning process, which would subject the request to review by the Planning Board and the public prior to a decision by the Board of Commissioners. Although the 10/70 provision would allow more

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impervious surface in the WS-IV PA the proposed amendments have more stringent requirements for controlling stormwater runoff than are required by DWQ.

RECOMMENDATION: It is the Planning Department staff recommendation that the Watershed Review Board schedule a public hearing for November 21, 2005 on this item.