

**ENVIRONMENTAL MANAGEMENT COMMISSION
WATER QUALITY COMMITTEE MEETING
SUMMARY**

**September 7, 2011
1:30 PM - 3:00 PM**

BRIEF

At the September 7, 2011 meeting of the Environmental Management Commission (EMC) Water Quality Committee (WQC), the WQC:

- approved a major variance from the Neuse River Riparian Area Protection Rules for an addition to a single family residence located at 312 S Tunstall Ave in Apex, North Carolina.
- received an update on the draft consolidated buffer rule and the draft consolidated buffer mitigation rule.
- approved the Coastal Habitat Protection Plan's 2011 Annual Report and 2011-2013 Biennial Implementation Plan.

WQC members in Attendance:

Mr. Charles H., Peterson (Chairman)
Mr. Donnie Brewer
Dr. David Moreau
Mr. Tom Ellis
Mr. Kevin Martin
Mr. Dickson Phillips
Mr. Steve Tedder
Mr. Stephen Smith
Mr. Wes Lee Hall, Jr.

WQC members not in Attendance:

Dr. Ernest Larkin
Mr. Jeffrey V. Morse

Others in Attendance:

Chuck Wakild (DWQ Deputy Director)
Coleen Sullins (DWQ Director)
Frank Crawley (DENR General Counsel)

According to General Statute 138-A15, the Chairman gave an opportunity for WQC members to publically reveal a conflict or appearance of a conflict of interest with any matter on the meeting agenda. None of the members had any conflict with any matter and therefore no one recused him/herself from participating in a decision on any agenda matter.

1. Request for a Major Variance from the Neuse River Riparian Area Protection Rules for an Addition to a Single Family Residence to Expand a Home Business for Bob Lantry at 312 S Tunstall Ave in Apex, NC - (Action Item) (Amy Chapman)

Description

A request has been received for the WQC to grant a Major Variance from the Neuse River Riparian Area Protection Rules (15A NCAC 2B .0233) to Bob Lantry for his proposed addition to his home to expand his business at 312 S Tunstall Ave in Apex, NC. The applicant received prior approvals from the Town of Apex for his proposed addition. After spending time and money towards his addition plans, he was then told there were protected riparian buffers on his property by the Town. Due to property lines and the stream location, a small portion of the addition will encroach into Zone 1 of the buffers. He is proposing mitigation and stormwater treatment to offset the proposed buffer impacts. ([Slide Presentation as of September 7, 2011](#))

Discussion

The Division of Water Quality (DWQ) staff said the major variance, if approved, will include variance deed restriction language on the remaining buffers on his property, stormwater treatment for the addition, and mitigation in form of tree plantings in Zone 1. One of the WQC members said he wanted to check that Bob Lantry was going to be required to have diffuse flow.

Mr. Martin asked will the mitigation recommended meet the 3:1 and 1.5: 1 criteria. DWQ staff replied yes. As a follow-up to Mr. Martin's concern regarding mitigation, Mr. Smith asked whether the number of tree proposed for mitigation equates the mitigation proposal. DWQ staff said that before any final approval it will make sure the mitigation matches. Mr. Smith also asked if there was an alternative to planting trees to protect the stream if tree plantings were not considered a practical option. DWQ staff said that shrubs could be planted. Chairman Peterson asked which of the hardship criteria (outlined in 15A NCAC 2B .0233) was not met for the addition. DWQ staff said that he didn't meet the purchase the property prior to the effective date of the rule criterion.

Motion

Mr. Tedder made a motion to approve this major variance including the four recommended conditions and Mr. Brewer seconded it. The WQC unanimously passed the motion.

2. Update on the Draft Consolidated Buffer Rule and Draft Consolidated Buffer Mitigation Rule – (Information Item) (Amy Chapman)

Description

Due to Session Law 2011-398, the timetable for taking the draft consolidated buffer rules (Rules 02B .0290-0294) and the draft consolidated buffer mitigation rule (Rule 02B .0295) to public hearing has changed. In addition, a study is required per Section 17 of Session Law 2011-394 that will have an effect on the draft consolidated buffer rules. An update on the estimated timetable for taking the draft buffer rules to public hearing and an overview of the study design was presented. ([Slide Presentation as of September 7, 2011](#))

Discussion

DWQ staff presented the process that it will take to meet a requirement under Session Law 2011-394 HB 119 for the Department of Environment and Natural Resources to study the effect of the Neuse and Tar Pamlico Riparian Buffer Rules of single family homes.

Chairman Peterson asked what the make-up of the study group that will draft the report is. Ms. Chapman said that the group consists of consultants, forest resources, and any interested parties such as NC State and others. Chairman Peterson asked also whether this process meets the intent of the session law. Mr. Wakild, Deputy Director for DWQ responded with a yes.

3. Request Approvals of Coastal Habitat Protection Plan's 2011 Annual Report and 2011-2013 Biennial Implementation Plan – (Action Item) (Matt Matthews)

Description

The Fisheries Reform Act of 1997 requires an Annual Report be submitted to the Environmental Review Commission and the Joint Legislative Commission on Seafood and Aquaculture regarding activities directly related to NC's Coastal Habitat Protection Plan (CHPP). The report is due in September of each year. The CHPP Steering Committee, a committee with a membership of two commissioners from the EMC, CRC, MFC and WRC, has approved this CHPP Annual Report for the year 2011. Each of the respective commissions is now being asked to approve the report before it is sent to the General Assembly. The CHPP Steering Committee is also charged with developing biennial implementation actions that address the goals and recommendations of the CHPP. The implementation actions developed by DWQ for 2011-2013 were summarized. DWQ requested that the WQC approve the Coastal Habitat Protection Plan's 2011 Annual Report and 2011-2013 Biennial Implementation Plan. ([Slide Presentation as of September 7, 2011](#))

Discussion

Chairman Peterson noted that major CHPP progress in the past with regard to oyster reef activity was dialed back by this year's budget cuts.

Motion

Mr. Ellis made a motion to approve CHPP's 2011 Annual Report and 2011-2013 Biennial Implementation Plan, and Mr. Tedder seconded the motion. The WQC unanimously passed these documents.

Closing comments – Chairman Peterson

This summary was prepared by Adriene Weaver and approved by Amy Chapman and Matt Matthews