ENVIRONMENTAL MANAGEMENT COMMISSION WATER QUALITY COMMITTEE MEETING SUMMARY

July 10, 2013 Archdale Building-Ground Floor Hearing Room

BRIEF

At the July 10, 2013 meeting of the Environmental Management Commission (EMC) Water Quality Committee (WQC), the WQC:

- approved an After-the-Fact Major Variance from the Neuse River Riparian Area Protection Rules by HJ Morris Construction, Inc. for a single family residence at 8103 Dreamy Way in Raleigh, NC to the WQC in July 2013 and
- the Model Programs for the Existing Development under the Falls Lake and Jordan Lake nutrient strategies.

WQC Members in Attendance:

Dr. Charles H. Peterson (Chairman)

Mr. Steve Tedder

Mr. Benne Hutson

Mr. Tom Ellis

Mr. Kevin Martin

Mr. William Less Hall, Jr.

Ms. Amy Pickle

Mr. Dickson Phillips III

WQC Members Not in Attendance:

Mr. Jeffrey Morse

Mr. Stephen T. Smith

Dr. Ernest Larkin

Others Present:

Mr. Thomas Reed, Division of Water Quality Director (DWQ)

Mr. Frank Crawley, Attorney General Office

Ms. Marion Deehaake, EMC

Mr. Kevin Martin recused himself from agenda item number 1 due to his conflict of interest with it.

1. Request for an After-the-Fact Major Variance from the Neuse Riparian Area Protection Rules by HJ Morris Construction, Inc. for a single family residence at 8103 Dreamy Way in Raleigh, NC – (Action Item) (Danny Smith)

Description:

HJ Morris Construction, Inc. has requested the Water Quality Committee to grant an after-the-fact Major Variance from the Neuse Riparian Area Protection Rules (15A NCAC 02B .0233) for a single family

residence constructed at 8103 Dreamy Way in Raleigh, NC. In May 2013, the WQC postponed a final decision in order to give DWQ staff and the applicant the opportunity to prepare a stronger stormwater management plan and restrictive covenant whereby water quality will be better protected. The riparian buffer impacts are 471 square feet of Zone 1 and 1,017 square feet of Zone 2. The applicant is proposing to: 1) purchase 2,938.5 buffer mitigation credits, 2) provide a nutrient offset payment, 3) redirect house gutters such that they outlet onto dissipaters pads outside of the riparian buffers, 4) construct a bioretention area, 5) provide plantings along the stream, and 6) place a restrictive covenant on the lot to ensure that the filling, draining, creation of concentrated stormwater flow, or impacts to riparian buffer (streamside) vegetation, and alterations of the rain gutters, outlet dissipater pad, streamside planting, and a bio-retention areas do not occur. Based on the information submitted, the DWQ supports this request for a Major Variance from the Neuse Riparian Area Protection Rules.

Discussion:

Ms. Pickle asked what the proposed bio-retention construction is designed to do. Mr. Smith explained that it is designed to address the roof runoff. The runoff will be directed into the house gutters and then will flow on to a dissipater made of stone and sheet flow into the bio-retention area. He further explained that the runoff will not get sheet flow from the driveway or overland flow from the yard. Chairman Peterson asked about the criteria for selecting the plantings. Mr. Smith indicated that plant survivability factors into selecting which plants to use for stormwater management purposes. Generally speaking, the smaller the plant size the greater the survivability of it. Also Chairman Peterson asked where the mitigation credits

Motion:

Mr. Tedder made a motion that the Water Quality Committee approve the request for an After the Fact Major Variance from the Neuse River Riparian Area Protection rules by HJ Construction for a single family residence at 8103 Dreamy Way along with the conditions proposed by the applicant of this request. Mr. Hall seconded the motion and the WQC unanimously passed this request.

2. Requesting Approval of Model Programs for Existing Development under Jordan and Falls Nutrient Strategies – (Action Item) (John Huisman)

Description:

The Falls Lake Existing Development Stormwater rule and Jordan Lake Session Law, 15A NCAC 2B .0278 and S.L. 2009-216, respectively, call on DWQ to submit model local programs to the EMC for approval in July 2013. These model programs are to include guidance and identify nutrient reducing tools that will be used by Falls and Jordan watershed local governments and state and federal entities to develop local programs required to implement the existing development requirements within each watershed. DWQ provided an overview of draft model program elements and staff's ongoing collaboration with the affected parties to the May 2013 meeting of the WQC. Staff will discuss the current draft program and present an update on its development highlighting the key requirements and ongoing work with affected parties beyond July 2013 to expand the tool box of approved nutrient reduction measures and finalize the content of the Model Program. Staff asked the WQC to send the current draft model program to the July EMC meeting at which time it will ask to defer approval of the model program while DWQ continues to collaborate with the affected parties to complete ongoing initiatives to expand the list of available nutrient reducing measures.

Discussion:

Chairman Peterson applauded the stakeholder effort to identify additional nutrient reduction measures but said that he is concerned that there is a lack of science to validate the accuracy of the credits for these measures. Mr. Huisman explained that the certainty (accuracy) associated with the credits are broken into three tiers: 1) first tier is least uncertain, 2) second tier is more certain, and 3) third most certain based on science.

Mr. Hutson requested that all DWQ guidance documents include a statement saying that the document is not a regulation or a statute.

Motion:

Mr. Tedder made a motion to approve DWQ's staff request to send the current draft model program to the July 2013 EMC. Mr. Ellis seconded the motion and the WQC unanimously passed the motion.

Summary was prepared by Adriene Weaver, Danny Smith, and John Huisman