

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

May 8, 2013

Archdale Building-Ground Floor Hearing Room

BRIEF

At the May 8, 2013 meeting of the Environmental Management Commission (EMC) Water Quality Committee (WQC), the WQC:

- postponed 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
- heard an update on 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)
Dr. Ernest Larkin
Mr. Steve Tedder
Mr. Benne Hutson
Mr. Tom Ellis
Mr. Kevin Martin
Mr. William Less Hall, Jr.
Mr. Stephen T. Smith
Ms. Amy Pickle
Mr. Dickson Phillips III
Mr. Jeffrey Morse

Others Present:

Mr. Chuck Wakild, DWQ Director
Mr. Ted Bush, DWQ Deputy Director
Mr. Frank Crawley, Attorney General Office
Mr. Marvin Cavanaugh, Sr. EMC
Ms. Marion Deehaake, EMC

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

1. Request for 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 – (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. The residence has impacted 471 square feet

of Zone 1 and 1,017 square feet of Zone 2. The applicant is proposing: 1) to purchase 2,938.5 buffer mitigation credits, 2) install gutters and rain barrels to manage stormwater, 3) purchase nutrient offset payments, and 4) place protective covenant on the lot. This covenant is to ensure rain barrels remain for the intended use, direct discharge of stormwater runoff through the buffer to the stream is prohibited and to ensure protection of the existing riparian buffer. Pursuant to 15A NCAC 02B .0233 (9)(c), the Division of Water Quality makes the preliminary finding that the major variance request demonstrates the following:

- Practical difficulties or unnecessary hardships are present;
- the harmony and spirit of buffer protection requirements are met; and
- the protection of water quality and substantial justice has been achieved in accordance with 15A NCAC 02B .0233 (9)(a).

Based on the information submitted, the Division of Water Quality supports this request for a Major Variance from the Neuse Riparian Area Protection Rules.

Discussion

There was discussion about the inadequacy of the proposed rain barrels in protecting the stream along the property from stormwater runoff and consideration of other stormwater management measures such as rain gardens and cisterns. Some of the WQC members noted that they would like for staff to create a stronger covenant that includes: 1) requirements for additional conditions (e.g. woody vegetation plantings) and 2) consideration as whether or not the stormwater benefits received from the proposed stormwater management plan approximate the loss from Zones 1 and 2. Making the covenant enforceable by North Carolina's Department of Environment and Natural Resources was an expressed desire of many of the WQC members. Mr. Smith requested that staff submit this covenant to the WQC.

Motion

Mr. Tedder made a motion to approve DWQ staff's recommendation to approve the applicant's request for a Major Variance from the Neuse Riparian Area Protection Rules with the conditions they expressed. Mr. Morris seconded this motion. The WQC voted 6 to 3 to accept as the main motion a substitute motion from Mr. Smith which is to postpone this major variance request to the July meeting in order to give DWQ staff and the applicant the opportunity to prepare a stronger covenant that would better address water quality protective measures raised by the WQC. The WQC voted 5 to 4 to accept the main motion above.

2. Update on Model Programs for Existing Development under Jordan and Falls Nutrient Strategies – (Information Item) (John Huisman)

Description

The Falls Lake Existing Development Stormwater rule and Jordan Lake Session Law, 15A NCAC 02B .0278 and S.L. 2009-216, respectively, call on DWQ to submit Model Existing Development Programs to the EMC for approval in July 2013. These model programs are to include local program guidance and 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 the required Model Program elements and an

update of the ongoing collaboration with the affected parties now and beyond July 2013 to expand the tool box of approved nutrient reduction measures and finalize the content of the Model Program.

Discussion

Chairman Peterson asked if best management practices research from local academic universities will be considered in the development of the expanded tool box. Staff replied yes.

Motion

Not Applicable

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