

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

March 12, 2014

Archdale Building-Ground Floor Hearing Room

BRIEF

At the March 12, 2014 meeting of the Environmental Management Commission (EMC) Water Quality Committee (WQC), the WQC:

- approved the January 8, 2014 Water Quality Committee meeting summary.
- approved a request for a Major Variance from the Neuse Riparian Area Protection Rules with conditions set forth by Division of Water Resources (DWR) for a room and deck expansion to a single-family residence at 7701 Greentree Court in Raleigh, NC.
- approved to defer making a decision on a Major Variance from the diffuse flow requirements of the Randleman Lake Riparian Buffer Protection Rules until further information is provided to the WQC.
- approved to proceed to the EMC with proposed stormwater control rules and other water quality rules for oil and gas exploration and development activities.

WQC Members in Attendance:

Mr. Steve Tedder (Chairman)
Mr. David Anderson
Mr. William Puette
Dr. Albert Rubin
Mr. Benne Hutson
Mr. Kevin Martin
Mr. Dan Dawson

Others Present:

Mr. Tom Reeder, Division of Water Resources (DWR) Director
Ms. Mary Lucasse, Attorney General Office
Mr. Tommy Craven, EMC
Mr. Gerald Carroll, EMC

None of the members of the Water Quality Committee recused himself from making a decision on any of the items on the March 12, 2014 WQC agenda.

1. Request for an after-the-fact Major Variance from the Neuse Riparian Area Protection Rules from Jeffrey Gunter for a room and deck expansion to a single-family residence at 7701 Greentree Court in Raleigh, NC– (Action Item) (Jennifer Burdette)

Description

A request has been received for the WQC to grant an after-the-fact Major Variance from the

Neuse River Riparian Area Protection Rules (15A NCAC 2B 0.233) to Jeffrey Gunter for completion of a room and deck expansion to a single-family residence at 7701 Greentree Court in Raleigh, NC. Construction on the room and deck began prior to the applicant's purchase of the home. Due to the presence of an unnamed tributary to Mine Creek running along the back of the residence, the room and deck expansion encroaches 215 square feet into Zone 1 and 34 square feet into Zone 2 of the riparian buffer. The applicant is proposing on-site buffer restoration mitigation, enhancement of vegetation under the elevated deck and re-routing two gutter downspouts to discharge outside the buffer, and covenant on the lot to ensure the gutters and outlet pad remain in their intended use, prohibit new discharge of stormwater runoff through the buffer to the stream, and protect the existing and restored riparian buffer. Based on the information submitted, DWR's support of this request for an after-the-fact Major Variance from the Neuse Riparian Area Protection Rules because all of the requirements in 15A NCAC 02B .0233 are met.

Discussion

WQC Chairman Tedder asked who discovered the violation of the buffer rules for this property. Ms. Burdette said the City of Raleigh. EMC Chairman Hutson asked for clarification on the procedure for evaluating the findings of fact with regard to this major variance request. Mr. Puette asked who is responsible for ensure that the recommendations are in compliance with the buffer rules. Ms. Burdette said the Raleigh regional office will be responsible for inspecting compliance. Mr. Martin asked whether discharging the two gutter downspouts to the proposed outlet pad would be consistent with the diffuse flow requirements of previous Major Variance requests that require a level spreader to diffuse the flow. Ms. Burdette said that staff did not believe that a level spreader would be necessary to diffuse the small amount of flow expected from two gutter downspouts. Mr. Martin asked if flow calculations were reviewed by staff. Ms. Burdette replied that calculations were not reviewed. Mr. Martin stated that he was concerned that #57 stone to be used for construction of the outlet pad would clog.

Motion

Dr. Rubin moved that the Major Variance request including conditions recommended by DWR staff be approved. WQC Chairman Tedder seconded the motion and the WQC unanimously approved of the request.

2. Request for a Major Variance from the Randleman Lake Riparian Area Protection Rules diffuse flow requirements by Blue Diamond Investment Company, LLC for pre-developed condition property adjacent to the Proposed Veterans Administration Hospital in Kernersville, NC– (Action Item) (Jennifer Burdette)

Description

A request has been received for the WQC to grant a Major Variance from the Randleman Lake Riparian Area Protection Rules diffuse flow requirements to Blue Diamond Investment Company, LLC for an undeveloped property in Kernersville, NC. A stormwater bypass system must be constructed to convey stormwater runoff from the Blue Diamond property through the Veterans Administration Hospital site. Blue Diamond Investments is requesting a variance to delay installation of a stormwater BMP until development of the Blue Diamond property

begins. Based on the information submitted, the Town of Kernersville and DWR support this request for a Major Variance from the Randleman Lake Riparian Area Protection Rules because all of the requirements in 15A NCAC 02B .0250 are met.

Discussion

The WQC had several questions for the developer and the Town of Kernersville. Mr. Martin asked 1) what it would look like if one BMP was developed to treat both sites, 2) what would the cost differential be, 3) what type of BMP would be put on the Blue Diamond property, if stormwater is treated separately, 4) how would the BMP on the Blue Diamond property be sized and would it meet the 30% nitrogen removal, and 5) what is the ownership history for the property. Dr. Rubin asked for assurance that Executive Order 13514 for federal facilities does not apply. If it does, Dr. Rubin said that he wants to know what provisions would be made on the Veterans Administrative Hospital to comply. WQC Chairman Tedder requested to see a built-out plan for the hospital site. EMC Chairman Benne Hutson asked whether the developer created the hardship by how they subdivided/sold the property and whether that would meet the variance language and requested that the developer and Town of Kernersville make the presentation of the information requested at the next WQC meeting.

Motion

Mr. Martin moved to defer making a decision on the Major Variance request until the next water quality committee meeting until the WQC receives the requested information. Dr. Rubin seconded the motion and the WQC unanimously approved the motion.

3. Request Approval to Proceed to the Environmental Management Commission (EMC) for Public Comment and Hearing on Proposed Stormwater Control Rules and Other Water Quality Rules for Oil and Gas Exploration and Development Activities in Response to S.L. 2012-143 – (Action Item) (Evan Kane)

Description

In addition to the much larger mandate given to the Mining and Energy Commission (MEC), Session Law 2012-143 (S820) directed the Environmental Management Commission to adopt rules for stormwater control and other water quality considerations related to oil and gas exploration and development activities. DWR & DEMLR staff presented proposed stormwater rules and other minor water quality rule revisions to meet the requirements of S.L. 2012-143. The presentation included an overview of the EMC's and MEC's complementary roles in developing environmental regulations for oil and gas exploration and production.

Discussion

The WQC asked DWR to consider two amendments for the proposed rule 15A NCAC 02H .1030. WQC Chairman Tedder mentioned that the last sentence under sub-item (a) (4) is unnecessary and suggested that it be removed. EMC Chairman Hutson said that the last sentence under sub-item (b) (4) (D) should be removed to eliminate the potential confusion that a policy has the force of law.

Motion

Dr. Rubin moved to approve DWR's request with the condition that proposed rule language

amendment recommendations from the WQC are implemented. Mr. Anderson seconded the motion and the WQC unanimously approved the motion.

Closing Comments

Chairman Tedder

None

This summary was prepared by Adriene Weaver and reviewed and approved by DWR Water Quality Program staff members Jennifer Burdette and Evan Kane