

BOARD OF ALDERMEN

ITEM NO. A(3)

AGENDA ITEM ABSTRACT

MEETING DATE: May 22, 2012

TITLE: Public Hearing on a Land Use Ordinance Text Amendment to Modify the Mitigation Options for Impacts to Stream Buffers on Ephemeral Streams and Consideration of a Resolution Establishing a Water Quality Buffer Mitigation Fee

DEPARTMENT: PLANNING	PUBLIC HEARING: YES
ATTACHMENTS: A. Consistency Resolutions B. Draft Ordinance C. LUO Section 15-269.7 D. Recommendations E. Resolution Establishing a Water Quality Buffer Mitigation Fee	Patricia McGuire – 919-918-7327 Mike Brough – 919-929-3905

PURPOSE

The purpose of this item is for the Board of Aldermen to receive public comments before taking action on a draft ordinance relating to the payment of mitigation fees for impacts to Water Quality Buffers, as provided for within the Land Use Ordinance. A draft ordinance making changes requested on April 24th has been prepared. A resolution establishing a Water Quality Buffer mitigation fee is also provided.

INFORMATION

Section 15-269.7 of the Land Use Ordinance (LUO) allows payment of a mitigation fee for certain activities in Water Quality Buffers. The payment is provided for as one of several options that may be chosen in certain situations where a use is “allowable with mitigation” within a water quality buffer or where a variance has been approved allowing a use that is not otherwise permissible in such buffers. The fee payment option has two components presently, either payment to the State’s Water Quality Enhancement Fund or payment to the Town’s fund. At its April 24th meeting, staff presented the board with a resolution establishing a stream buffer mitigation fee for payments to the Town’s fund.

The Board’s decision that evening was to postpone establishing a Town fee, in order to receive additional information regarding the actual costs associated with buffer mitigation and alternative fee structures, including a potential tier system. Staff has identified three functional components of a buffer; the three components are a water channel, diffuse flow, and vegetation. Fees or costs that have been identified with each of the three components are as follows, with sources identified.

Buffer Component	Cost/Fee	Source
Removal of vegetation	\$0.99 per sq ft*1.5	North Carolina Ecosystem Enhancement Program (EEP) Fee Schedule, found at http://portal.ncdenr.org/web/eep/fee-schedules (per Section 15-269.7(b)(2), the area of required

Buffer Component	Cost/Fee	Source
		mitigation for Zone 2 buffers is determined by applying a factor of 1.5 to the area of impact)
Diffuse flow (cost of level spreader_	\$5 - \$20 (average selected for use in fee schedule)	http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-68013/6.8.1%20BMP%20Level%20Spreader.pdf (page 9, Pennsylvania Stormwater Best Management Practices Manual Chapter 6 BMP 6.8.1: Level Spreader, 2006)
Stream channel	\$349 per linear foot of stream disturbance	EEP Fee Schedule, found at http://portal.ncdenr.org/web/EEP/fee-schedules

The Town has some recent, local experience with the third component. Stream restoration costs for Baldwin Park and Dry Gulch totaled, approximately, \$140 and \$175 per linear foot, respectively. These costs included surveying, design, permitting, construction, planting, and monitoring. Costs vary in relation to project-specific characteristics, such as size of the stream, enhancement or restoration, channel relocation, degree of incision, and ease of access. Other costs that could be incurred, such as property or easement acquisition costs are not included. It should be noted that restoration costs provided here are related to intermittent or perennial streams. It is possible that the restoration costs for ephemeral stream channels would be lower, though staff has not identified any projects that could serve as examples. The Board may wish to choose a percentage of the actual costs presented here, in recognition of the uncertainty that the EEP's per linear foot cost sufficiently represents costs for ephemeral stream restoration. Alternatively, the Board may endorse the EEP-based fee of \$349 per linear foot in recognition of the provision of a safety factor and additional revenue that is known to be needed to support watershed restoration needs.

The Board also directed staff to prepare a land use ordinance text amendment that would make payment of the Town's fee the only option available for impacts to water quality buffers on ephemeral streams. The draft ordinance, if adopted, will limit the mitigation option for ephemeral streams to payment to the Town's fund (*Attachment B*).

The draft ordinance was referred to Orange County, the Town of Carrboro Planning Board and Environmental Advisory Boards. Comments and recommendations are included (*Attachment D*).

The resolution establishing mitigation fees (*Attachment E*) has been updated to reflect information requested by the Board. The updated fee is tiered in relation to the three functional components of stream buffers.

FISCAL IMPACT

Administrative costs of calculating and receiving fees are expected to be nominal. Mitigation fees will be based on the area of mitigation and extent of disturbance. Any funds generated will be used to support water quality maintenance and enhancement efforts in Town. In the interim period when a Town mitigation fee has not been established, the option of making a payment to the State's Water Quality Enhancement Fund remains available.

STAFF RECOMMENDATION

Staff recommends that the Board of Aldermen adopt the resolution finding consistency and the draft ordinance. Staff also recommends that the Board consider the tiered fee schedule related to Water Quality Buffer mitigation for inclusion in the Town's Miscellaneous Fees and Charges Schedule.