



MEMORANDUM

TO: Mayor and Council Members

FROM: Chuck Lesniak, Environmental Officer
Watershed Protection Department

DATE: June 14, 2017

SUBJECT: June 15, 2017 Council Agenda Item 102 – Code Amendments

Item 102 of the June 15th, 2017 Council agenda has a number of code amendments to the City's development regulations; most of these amendments are "clean-up" for the 2013 Watershed Protection Ordinance. These amendments have been recommended unanimously by both the Environmental Commission and the Planning Commission.

After the Planning Commission action on May 23rd, 2017, staff met with council offices and stakeholders from the Save Our Springs Alliance and the Sierra Club to review the proposed amendments. These meetings resulted in several suggested revisions that are not reflected in the version of the amendments recommended by the Planning Commission included in the posted backup. The suggested changes are:

- Clarify language in 25-8-41(A)(1) by deleting "subject to similar code requirements" and inserting "similarly situated properties with approximately contemporaneous development under similar code requirements."
- Clarify language in 25-8-41(A)(2)(a) by deleting "...proposed development..." and inserting "...design decision..."
- In 25-8-261(F) insert "in-channel" prior to "detention" and "wet ponds" and "only" prior to "if designed" to clarify the intent of the amendment.
- In 25-8-341(A)(4) and 25-8-342(A)(4), add language clarifying that cut and fill over four feet is allowed only if the project and the ponds are designed to minimize the amount of cut or fill and not located on steep slopes.
- Further clarify 25-8-261(I) by inserting the phrase "power generation" after "associated with".
- Make these same changes in the corresponding sections of Chapter 30-5.

Staff supports these recommendations and will be providing the attached motion sheet at the June 15th Council meeting with these changes for your consideration. Please let me know if you have any questions.

Cc: Elaine Hart, Interim City Manager
Bert Lumbreras, Assistant City Manager
Joe Pantaloni, P.E., Director, Watershed Protection Department
Chad Shaw, Law Department

Attachment

I. In **PART 10**, replace the language related to Subsection (A) of City Code Section 25-8-41 (*Land Use Commission Variances*) with the following:

- (A) It is the applicant's burden to establish that the findings described in this Section have been met. Except as provided in Subsections (B) and (C), the Land Use Commission may grant a variance from a requirement of this subchapter after determining that:
 - (1) the requirement will deprive the applicant of a privilege available ~~[or the safety of property given]~~ to owners of other similarly situated property with approximately contemporaneous development subject to similar code requirements;
 - (2) the variance:
 - (a) is not necessitated ~~[based on a condition caused]~~ by the scale, layout, construction method, or other design decision made by the applicant ~~[method chosen by the applicant to develop the property]~~, unless the ~~[development method]~~ design decision provides greater overall environmental protection than is achievable without the variance;
 - (b) is the minimum deviation from the code requirement ~~[change]~~ necessary ~~[to avoid the deprivation of a privilege given to other property owners and]~~ to allow a reasonable use of the property; and
 - (c) does not create a significant probability of harmful environmental consequences; and
 - (3) development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.

II. In **PART 37**, replace the language related to Subsection (A) of City Code Section 30-5-41 (*Land Use Commission Variances*) in the same way language was replaced in **PART 10** above.

III. In **PART 17**, replace the language related to Subsection (F) of City Code Section 25-8-261 (*Critical Water Quality Zone Development*) with the following:

- (F) In-channel detention ~~[Detention]~~ basins and in-channel wet ponds are allowed ~~[prohibited]~~ in the critical water quality zone only if designed in accordance with the Environmental Criteria Manual ~~[unless the requirements of Section 25-8-364 (*Floodplain*~~

~~Modification), Chapter 25-7 (Drainage), and the other provisions of this subchapter are met].~~

IV. In **PART 44**, replace the language related to Subsection (F) of City Code Section 30-5-261 (*Critical Water Quality Zone Development*) in the same way language was replaced in **PART 17** above.

V. In **PART 17**, replace the language related to Subsection (I) of City Code Section 25-8-261 (*Critical Water Quality Zone Development*) with the following:

- (I) Development associated with power generation at the Decker Creek Power Station is allowed in the critical water quality zone.

VI. In **PART 44**, replace the language related to Subsection (I) of City Code Section 30-5-261 (*Critical Water Quality Zone Development*) in the same way language was replaced in **PART 17** above.

VII. In **PART 20**, replace the language related to Subdivision (A)(4) of City Code Section 25-8-341 (*Cut Requirements*) with the following:

- (A) Cuts on a tract of land may not exceed four feet of depth, except:

* * *

- (4) for construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:

- (a) the design and location of the facility within the site minimize the amount of cut over four feet;

- (b) the cut is the minimum necessary for the appropriate functioning of the facility; and

- (c) the cut is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;

VIII. In **PART 47**, replace the language related to Subdivision (A)(4) of City Code Section 30-5-341 (*Cut Requirements*) in the same way language was replaced in **PART 20** above.

IX. In **PART 21**, replace the language related to Subdivision (A)(4) of City Code Section 25-8-342 (*Fill Requirements*) with the following:

(A) Fill on a tract of land may not exceed four feet of depth, except:

* * *

(4) for construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:

(a) the design and location of the facility within the site minimize the amount of fill over four feet;

(b) the fill is the minimum necessary for the appropriate functioning of the facility; and

(c) the fill is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;

X. In **PART 48**, replace the language related to Subdivision (A)(4) of City Code Section 30-5-342 (*Fill Requirements*) in the same way language was replaced in **PART 21** above.