

Environmental Matters Committee Meeting 6/19/14  
Questions for Staff

Topics: the tolling legislation, Crystal Spring, the Reserve at Quiet Waters, Rocky Gorge, Thomas Woods, Bembe Beach, and Milkshake Lane

- I. **Tolling Legislation** – what does it mean? What is the impact?
- II. **General Questions**
  - a. Is there a summary of these projects on the DNEP website?
  - b. What are the standards used to evaluate “undue hardship” as it is applied for justification for waiving or reducing environmental requirements that would otherwise apply.
  - c. Does the 2009 Annap. Comp. Plan have the force of law?
  - d. Staff comments are generally not posted for public review. Please explain why.
  - e. Under what basis can a proposed development's footprint be reduced or eliminated if it is within a priority forest?
  - f. What is the City's current process for reviewing FSD and FCP applications under the FCA? Does the City agree with the process as described by Judge Paul Harris in his decision of April 2, 2014? When can an aggrieved party appeal the FSD and FCP? To where is the appeal filed and in what time frame?
  - g. What is the appeals process for a variance under the FCA that has been approved?
- III. **Bembe Beach**
  - a. What is the current status?
- IV. **Crystal Spring**
  - a. Does the Comp. plan refer to just non-age restricted housing or all housing when it refers to limits on residences. Chapter 5, page 68 for these details on the Crystal Spring “Forest Drive Opportunity Area.”, says the “Plan anticipates that new mixed use development could yield 167,000 square feet of commercial space, of which 162,000 square feet would be a net increase, and about 140 housing units.”
  - b. When will the public have a chance to testify on the FCA application? What role will public testimony have in the review process?
  - c. Does the Mayor plan to do an independent wetland study and independent economic impact study regarding the proposed CS development? If so, does the City have an estimate of that cost? Does the City have the money to hire the independent experts? If not, would they rely on experts provided by non-profits that would agree to fund such independent reviews? If not, why?
  - d. Does the current CS plan exceed the size of a project as described in the Comprehensive Plan?
- V. **Eastport Shopping Center**
  - a. Do the owners of Eastport shopping center have a plan to add 200 residential units?
- VI. **Enclave on Spa**
  - a. What is the current status?
- VII. **Hayes Annexation (Dorsey Heights)**
  - a. What is the current status?

**VIII. Milkshake Lane**

- a. Please describe what trees were previously removed in the 2006-08 timeframe and whether that impacts the current plans for development. If not, why?
- b. Has DNEP approved the final FCP for the Milkshake Lane project?
- c. If so can it be appealed? By when and to whom?
- d. What is the process for granting variances? What is the appeal process?

**IX. Rocky Gorge**

- a. Can the staff provide copies of the Rocky Gorge Forest Delineation Plan and Forest Conservation Plan? If not, on what basis?
- b. Was there an opportunity for the public to comment on the FCA submission?
- c. The staff changed its review process after its review of the RG FCP and FSD. Is there an opportunity to apply the current process to the RQW application? If not, will there be any issues with enforcement from DNR?
- d. When DNEP reviews the new Rocky Gorge FCP, will they be treating it as an entirely new FCP? What is the impact of RG's previously approved FCP that expired?
- e. What does DNEP consider unwarranted hardship regarding the removal of the nine specimen trees at Rocky Gorge?
- f. In the FCA, it states that steep slopes are a priority for retention. Was any justification given for the disturbance of steep slopes? Is there correspondence to that effect and if so, can that information be made public?
- g. Stormwater Conveyance Systems
  - i. Chapter 17.10 of the City Code requires that "manmade or natural stormwater conveyance systems be capable of handling ten year storm without resulting in erosion, sedimentation, or flooding of the receiving channel and downstream properties."
  - ii. In a May 23<sup>rd</sup> letter to McLaren Engineering Frank Biba had the following comment: "12. The additional water volume exiting the outfall at the head of the existing stream has the potential to further erode the stream bed which currently exhibits early formations of erosive head cuts. Please implement a stream restoration plan to assure that stormwater will not cause downstream erosion."
  - iii. Chapter 17.10 requires that determining the adequacy of receiving streams requires an "analysis of the impacts of stormwater flows downstream in the watershed" and specifies requirements for the analysis.
  - iv. **South River Federation: We have reviewed the responses from McLaren engineering and have seen no commitment to undertake a downstream analysis. The proposed step pool storm conveyance is adequate for the outfall, but does not address downstream concerns. Please ask DNEP if they plan to follow through on this requirement by holding up approval of the grading plan or at the least making an adequate downstream analysis a condition of approval.**
- h. Highly Erodible Soils
  - i. Also in Mr. Biba's letter of May 23 comment 4 on Sediment and Erosion Control: "The Phase I/II sediment trap is located on the highly erodible soils."

McLaren responded, “The phase I/II trap shape has been adjusted to be out of the highly erodible soils.

ii. **South River Federation: Has DNEP confirmed that the new plans remove the trap from highly erodible soils.**

- i. Will the decision on the FCP also include a decision on the Variance Request to remove 9 trees or is that handled separately? If separate, has that decision been made? Can you clarify the current Forest Conservation Review Process that is posted on the DNEP web site? The process indicates that the FCP is only subject to appeal after the site plan is reviewed and approved by the Planning Commission. When we discussed the review process in the Forest Conservation Advisory Committee I was under the impression that creating an appeal process that was delayed until after the Planning Commission acted would require legislation. Has legislation been passed to clarify the appeal process?”

X. **Reserve at Quiet Waters**

- a. The staff changed its review process after its review of the RQW’s FCP and FSD. Is there an opportunity to apply the current process to the RQW application? If not, will there be any issues with enforcement from DNR?
- b. Did the RQW application, incl. the FCP and FSD change after it went to the Planning Commission? If so, should it go back to the Planning Commission?
- c. At what point in the application process was the public able to testify?

XI. **Thomas Woods**

- a. What is the current status?