



Certified Recommendation

City of Raleigh Planning Commission

CR# 11763

Case Information: TC-8- 2017 City Covenant (Common Ownership of Stormwater Control Devices)

Comprehensive Plan Guidance

<i>Applicable Policy Statements</i>	PU5.4 Discharge Control Methods – apply discharge control methods that address peak and volume and which are economically, aesthetically and environmentally acceptable as well as effective in stormwater management. PU5.6 Rainwater Collection and Storage - ...encourage the deployment and use of rain water collection and storage systems by residential and commercial property owners.
<i>Action Items</i>	PU5.4 - Use green infrastructure to address the impacts of stormwater management and harvest rainwater.

Summary of Text Change

<i>Summary</i>	To discontinue the requirement of conveyance and a covenant with the City and the property owner for private stormwater control devices that address stormwater management on a single lot. This would also negate the need for a property owners association since the system is on a single lot, under-one ownership.
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Summary of Impacts

<i>Impacts Identified</i>	None
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Public Meetings

<i>Submitted</i>	<i>Committee</i>	<i>Planning Commission</i>
3-14-2017		3-14-2017

Attachments

- Draft Ordinance

Planning Commission Recommendation

<i>Recommendation</i>	Forward to City Council with a favorable recommendation
<i>Findings & Reasons</i>	To provide for less legal documentation for storm water facilities when the properties are under single ownership. The City has protections in other sections of the Code to address when an owner does not maintain the facility in accordance with accepted standards and there is no need for a covenant with the City.
<i>Motion and Vote</i>	Ms. Jefferys moved a motion to approve and Ms. Alcine seconded the motion of approval, the motion passed on a 7-0 vote (Alcine, Braun, Fluhrer, Jeffreys, Swink, Terando and Tomasulo)

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the attached Staff Report.

Planning Director

Date

Planning Commission Chairperson

Date

Staff Coordinator:

Gary Mitchell gary.mitchell@raleighnc.gov



Zoning Staff Report – TC-8-17

City Covenant (Common Ownership of Stormwater Control Devices)

Request

<i>Section Reference</i>	Chapter 1 Introductory Provisions, Article 1.1 Legal Provisions, Section 1.1.9 Ownership and Management of Common Elements
<i>Basic Information</i>	To discontinue the common ownership of stormwater collection and management systems when the devices serve only 1 parcel
<i>Planning Commission Recommendation Deadline</i>	Recommends approval

Comprehensive Plan Guidance

<i>Applicable Policies</i>	PU5.4 Discharge Control Methods – apply discharge control methods that address peak and volume and which are economically, aesthetically and environmentally acceptable as well as effective in stormwater management. PU5.6 Rainwater Collection and Storage - ...encourage the deployment and use of rain water collection and storage systems by residential and commercial property owners.
<i>Action Items</i>	PU5.4 - Use green infrastructure to address the impacts of stormwater management and harvest rainwater.

Contact Information

<i>Staff Coordinator</i>	Gary Mitchell gary.mitchell@raleighnc.gov
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History/Overview

To discontinue the requirement of conveyance and a covenant with the City and the property owner for private stormwater control devices that address stormwater management on a single lot. This would also negate the need for a property owners association since the system is on a single lot that is under-one ownership. The dedication of such facilities is onerous and taxes the City's resources. The creation of a property owners associated for a single parcel is unnecessary and serves as a disincentive for development. The City has other tools to address the failure of a property owner to maintain their stormwater control devices if needed. This requirement is addressed in Sections 9.5.1.D, 9.5.2.D.d and 9.5.3.D.d of the UDO where it clearly states that a property owner is clearly responsible for the construction, maintenance and replacement (if needed) of such stormwater controls.

Purpose and Need

The elimination of the requirement for property owners associated for a stormwater devise that is located on a single parcel of property and serves only that property is a barrier for development and proper management of stormwater facilities.

Alternatives Considered

None

Scoping of Impacts

Potential adverse impacts of the proposed text change have been identified as follows:

None

Impacts Summary

None

Forward the Proposed Text Change to the City Council with a favorable recommendation

ORDINANCE NO. 2017 – 696 TC 393
TC-8-17

**AN ORDINANCE TO AMEND SECTION 1.1.9. OWNERSHIP AND
MANAGEMENT OF COMMON ELEMENTS, A. APPLICABILITY, OF RALEIGH
CITY CODE PART 10, THE RALEIGH UNIFIED DEVELOPMENT ORDINANCE**

WHEREAS, the intent of the Unified Development Ordinance for the City of Raleigh was to create more predictable development;

WHEREAS, the City of Raleigh is an MS4 (municipal separate storm sewer system) city that is bound by the State-issued stormwater permit to regulate the impacts of stormwater runoff and quality; and

WHEREAS, the Unified Development Ordinance requires compliance with stormwater regulations to control both quality and volume of stormwater runoff generated by site development; and

WHEREAS, certain elements that are installed, constructed or preserved to the benefit of all property owners within the development area require common ownership and maintenance; and

WHEREAS, the creation of a property owners' association is not necessary and poses hardship among small lot developments that are owned by one entity; and

WHEREAS, the owner of a stormwater device is required to maintain the device and comply with all applicable stormwater regulations, even when a property owners' association is not formed; and

WHEREAS, the current development regulations still provides the City the authority to assess the property owner where the device and controls need maintenance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. Section 1.1.9. Ownership and Management of Common Elements, A. Applicability, subparagraph 1.b of the Raleigh Unified Development Ordinance is hereby repealed in its entirety per strikethrough text as shown below:

b. ~~Shared stormwater measures and devices (Sec 9.2.2.g);~~

and subparagraphs currently lettered c. through g. are re-lettered b. through f. accordingly.

Section 2. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict. Notwithstanding any language in a zoning condition indicating administrative alternates are allowed, this ordinance hereby repeals such language.

Section 3. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 4. This text change has been reviewed by the Raleigh City Planning Commission.

Section 5. This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

Section 6. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 7. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in N.C.G.S. §14-4(a) or similar limitations.

Section 8. This ordinance is effective five (5) days after adoption.

ADOPTED: April 4, 2017

EFFECTIVE: April 9, 2017

DISTRIBUTION: Planning – Bowers, Crane, Mitchell, Hodge, Anagnost
City Attorney – Seymour, Hargrove-Bailey
Department Heads
Transcription Services – Taylor

Prepared by the Department of City Planning