

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

ZOTA 2016-6 & SRA 2016-3: AMENDMENTS TO ARTICLES 19 & SUBDIVISION REGULATIONS TO REFLECT CHANGES TO THE ENGINEERING STORMWATER MANUAL

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: See Attached text

STAFF REVIEW:

The Urban County Planning Commission recently initiated a text amendment to several sections of Article 19 of the Zoning Ordinance, and to portions of Article 1 & 6 of the Land Subdivision Regulations. This amendment is directly related to changes about to take place in the LFUCG Engineering Stormwater Manual. These text changes are to make the three documents in sync, and to update the Ordinance and Regulations to match the Manual.

This manual is one of a series of such documents provided by the LFUCG to engineers and land development professionals. It has three primary purposes:

- Prevent flooding problems as a result of new urban development;
- Reduce pollution in stormwater runoff, especially in the “first flush” off impervious surfaces; and
- Establish uniform engineering design and construction standards for basins, sediment control and water quality.

In September of this year, the draft changes to the LFUCG Stormwater Manual were shared with the Commission as part of a training session on LFUCG’s Municipal Separate Storm Sewer (MS4) Permit. Corollary to the proposed changes to the Manual, several alterations are also need to both Article 19 of the Zoning Ordinance (entitled Floodplain Conservation and Protection) and two articles of the Land Subdivision Regulations (1 & 6).

These changes follow a year’s worth of internal meetings with staff members in the Division of Engineering, the Division of Water Quality, and the Department of Environmental Services. These updates were to provide a comprehensive review of the Manual, and were intended to account for actual experience attained in using the manual to review infrastructure plans. Most issues related to three primary areas: land redevelopment, “green” infrastructure, and underground stormwater detention facilities. Also, the review took into account EPA, FEMA and Kentucky Division of Water regulations that are applicable to stormwater facilities and practices.

In addition to LFUCG staff, a group of about 25 stakeholders met five times from September of last year to March of this year, to review these conceptual changes. The group was comprised of other LFUCG divisions (including the Division of Planning); the Homebuilders Association of Lexington; Commerce Lexington; local engineers, landscape architects, and surveyors; and members of the local Stormwater Stakeholders Committee. The input of stakeholders reportedly strengthened the draft changes to the Engineering Stormwater Manual over their six month review period.

The primary text changes now proposed to the Land Subdivision Regulations are to modify the definition of “Stormwater Best Management Practices,” and to eliminate a long-standing provision of Article 6-7(e) to require minimum floor elevations in structures to be a minimum of 2’ above the nearby water level in a 100-year storm. By removing this provision, the minimum floor elevation can be altered to match the minimum FEMA and Kentucky DOW state requirements.

Changes proposed to Article 19 of the Zoning Ordinance are much more extensive. One significant change is to delete the references to a “post-development floodplain.” This is probably due to the more recent practice of seeking removal of “floodplain” designations from FEMA via the CLOMR and CLOMRF processes that have been discussed by the Planning Commission over the past few years while giving consideration to a number of subdivision and development plans.

Another, and perhaps the most significant change proposed to Article 19 is to increase the required vegetative buffer zone along a stream from a minimum of 25’ to an average of 50’ in width. According to Article 19(g)(4)(c) of the Zoning Ordinance, this buffer “strip” is “to protect the stream from inappropriate activities...from the edge of the bank, on each side of perennial streams.” “Within the vegetative buffer...there shall be no grading, filling, removal of

vegetation or other disturbance of the soil or ground cover, or construction of principal or accessory buildings.” These provisions, other than the average width of the buffer zone, are not proposed for alteration. This change will mirror the current regulation in Kentucky’s general construction permit for streams with sediment impairments (which applies to most creeks in the Urban Services Area). The US Army Corps of Engineers identifies the streams for which these provisions are applicable.

Still other amendments proposed to Article 19 include revision of the definition of “stream” to match that provided by KRS 151.100. Another, more minor change offered by this text amendment, is to delete a past restriction on the “lowest opening of the structure” in a floodplain to be at or above the regulatory flood protection elevation. This will allow some foundation openings, below the habitable floor elevation in the structure, to permit water to flow through a crawl space during a flood condition, where under our current regulations, this would be prohibited without a waiver.

The staff agrees with these recommended alterations to Article 19 of the Zoning Ordinance, and Articles 1 and 6 of the Subdivision Regulations. It is hoped that these changes, along with those about to take effect in the revised Stormwater Manual, will help our community better regulate the proper design and construction of improvements in and adjacent to our streams and waterways.

The Staff Recommends: **Approval**, for the following reasons:

1. The proposed text amendments will dovetail with changes approved to the LFUCG Engineering Stormwater Manual, which is a guide to local engineers in the preparation of plans and construction in and near floodplains in Lexington-Fayette County. Those professionals were able to participate in an extensive stakeholder’s process over six months, to review and comment on these changes prior to their implementation.
2. These changes will better allow for the vegetative buffer zone near our streams to match Commonwealth of Kentucky requirements for an average width of 50’, on streams identified by the US Army Corps of Engineers.
3. The remaining updates to these regulations will improve coordination of the documents used most frequently by the Planning Commission with those used by land development professionals in the preparation of their plan submittals to the LFUCG.

WLS/TLW/TM
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