

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	February 21, 2023
Action Required:	None
Presenter:	James Freas, Director of NDS
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Title:	City of Charlottesville Environmental Standards

Background

This report follows a discussion at the January 24th Planning Commission work session on the approach to critical slopes and the floodplain overlay district in the proposed new zoning. In that discussion, staff presented the idea of looking more comprehensively at the City's environmental regulations. This report describes this idea in greater detail.

Discussion

The focus of our work in the zoning ordinance rewrite has been primarily towards the major goals of the Comprehensive Plan relating to affordable housing, land use equity, and promoting walkability and a high-quality built environment reflective of the culture and history of Charlottesville. The environmental and climate mitigation benefits of directing new growth towards the City are significant, but there is still more that we can do to advance the environmental goals of the Comprehensive Plan.

The City has a robust environmental protection program; our objective looking forward is to address the following:

1. Strengthen the City's water quality protection program with a focus on riparian areas where there are parallel benefits of floodplain management, habitat protection, and tree canopy preservation.
2. Ensure that the City's environmental protection program does not unintentionally disincentivize and redirect development out of the City or result in inequitable land use patterns by balancing environmental and development benefits, targeting regulations to where they can have the greatest environmental benefits, and making the requirements predictable, achievable, and enforceable.
3. Promote development that aligns with the City's developing flood resiliency and climate adaptation plan strategies, which could include green design practices for sites and buildings.
4. Match the regulatory program to the City's staffing capacity and available resources.

Staff is proposing a two-step approach towards achieving these objectives. The first is to clarify and identify small improvements for those environmental regulations currently found in the zoning ordinance as part of the current zoning ordinance rewrite. The second would be a separate project to review, assess, and re-adopt the City's environmental program with broad community engagement, consistent with the goals and strategies of the Community Engagement and Collaboration chapter of the Comprehensive Plan.

The Existing Environmental Program

The City of Charlottesville's environmental regulatory program spans across a number of separate programs with its primary focus on the management of water. The following focuses just on the City's environmental regulations and not on other policies, programs, projects, or educational efforts.

Stormwater Management Program – Arising out of the federal Clean Water Act and working its way through state law and regulation, the City has been required since 2015 to regulate construction sites and new development to reduce pollution entering into our streams and rivers. The City's Erosion and Sediment (E&S) Control requirements mandate that builders manage their construction sites to prevent water carrying sediment from leaving the site. Following construction, developers are required to install stormwater infrastructure to manage water discharging from the development site, slowing it to reduce the likelihood of downstream erosion and removing pollutants it picks up as it runs across rooftops and pavement. Rather than removing pollutants projects can also purchase nutrient credits, which gives the option to pay into existing pollution reducing projects in the same watershed area rather than treating the stormwater on the development site itself. In Charlottesville, the requirements to provide E&S controls and permanent stormwater management are triggered when a project exceeds 6,000 square feet of disturbed area, which is a more rigorous standard than the State's 10,000 square feet of disturbed area trigger for E&S controls and 1 Acre for permanent stormwater management. The City exempts single family home construction from the E&S/SWM requirements as long as they enter into an "agreement in lieu" for E&S and SWM that requires minimal standards.

Critical Slopes – The City's current critical slopes ordinance was adopted in 2011 to protect slopes of 25% or more with 200 feet of a waterway in recognition of the negative impacts alteration of these environments can have on water quality. The ordinance does not allow development activity, with some exceptions, on critical slopes. In many respects this ordinance was superseded by the stormwater management program described above. In effect, the retention of this ordinance suggests that the City has a policy preference for a natural approach to water quality management over an engineered approach. Staff provided a more detailed look at this ordinance recently, which can be found [here](#). Waivers to the requirements of this ordinance may be granted by Council with the recommendations of staff and the Planning Commission.

Waterway Buffers – The buffer ordinance, adopted in 2004, requires a 100-foot buffer area along the Rivanna River, Moore's Creek, and Meadow Creek composed only of natural vegetation. Certain exemptions are allowed for pre-existing development or lots, which allow limited development within the 100-foot buffer area with a mitigation plan approved at the discretion of staff based on consistency with the ordinance and a guidance document.

Floodplain Overlay – Charlottesville's floodplains are regulated by a zoning overlay district. A detailed presentation on the rules associated with this district can be viewed at the recording of the Planning Commission's January 24 work session [link [here](#), presentation starts at 1:14]. In general, the boundaries of this district are set by the Federal Emergency Management Agency (FEMA) mapped floodplains. Structures are largely excluded from the floodway while in the remainder of the floodplain, the uses otherwise allowed by zoning are permitted if they elevate the finished floor elevations at least 1 –ft above the base flood elevation (the height of the "100-yr storm").

Trees– There are two primary environmental regulations pertaining to trees. The first is the tree conservation program found in Chapter 18 of the City Ordinance. This program protects heritage, specimen, memorial, or street trees nominated for protection and approved by City Council. The second set of requirements can be found in the Landscaping and Screening requirements of the Zoning Ordinance. There, development projects are requested to make reasonable efforts to protect existing trees. More importantly, a development must demonstrate a minimum area of tree canopy as a percentage of the lot size depending on the zoning district (sec 34-869) ranging from 10% to 20%. These percentages are set at the maximum allowed under state law.

Step 1 – As Part of the Zoning Rewrite

The objective of changes to the environmental program in this first step is to clarify existing rules and identify reasonable small changes that can advance the goals of the Comprehensive Plan (inclusive of the Climate Action Plan). This step will primarily consider changes to the Zoning Ordinance.

Critical Slopes – As was discussed at the January 24 Planning Commission work session, the Critical Slopes Ordinance is proposed to remain largely the same. The primary change will be to reorganize and reword the section for clarity. One significant area for clarification is in the nature of the “public benefits” to be weighed against disturbance of the critical slope – are these meant to be any public benefit or only environmental public benefits. Review of prior decisions over the last several years indicates that the Commission and Council have relied on a broad definition of public benefits and the proposed draft language will reflect that understanding.

Floodplain Overlay – Staff presented a number of ideas for strengthening the development in the Floodplain Overlay rules at the January 24 Planning Commission work session. In the first step, staff is proposing consideration of the following changes:

1. Require City review and approval for any proposed changes to the Floodplain maps prior to submittals to FEMA.
2. Require that the first habitable floor of a building be elevated at least two feet over the base flood elevation rather than the current one-foot requirement.
3. Require a special use permit for development within the floodplain overlay district.

Climate/Green Design – In the current zoning ordinance draft, staff is looking for opportunities to reduce the barriers to green design methods. For example, solar shade devices over windows are exempt from setback requirements.

Trees – The draft zoning ordinance will retain the existing language regarding tree protection, which is again the maximum allowed under State law.

Arlington County has a tree protection ordinance that requires County authorization to cut or remove a publicly owned tree, including street trees. Where the County authorizes a tree to be removed, the applicant must replace the tree or pay a replacement fee. Charlottesville could consider incorporating similar language into the Tree Conservation section of Chapter 18 of the City Code as a short-term action.

Step 2 – Environmental Program Redesign

Charlottesville has been a leader in the State relative to its environmental policies and the Comprehensive Plan continues that position. The proposed second step of a review and update of the City’s environmental regulations would engage a consultant team to work closely with City staff to identify improvements to the City’s environmental regulations towards the goals identified on the first page of this memo. The project would require review of the City’s authority under state law, assessment of the current regulatory system, analysis and mapping of the City’s environmental assets, community engagement through a steering committee and the general public, and drafting of new ordinances.

Ideas to consider in this process:

1. Stream Buffers – Expanding the City’s stream buffer program to protect natural vegetated areas along waterways and have stricter stormwater management requirements where natural buffer areas no longer exist.
2. Floodplain – Consider using a City defined floodplain area based on the 2005 floodplain maps rather than the area currently designated by FEMA and decrease allowable floodplain encroachments (widen the floodway).
3. Green Design – Create a requirement for including green design practices in developments over a set size. The requirements would be based on a menu of potential green design practices.

Alignment with City Council's Vision and Strategic Plan

This report aligns with Goal 3: A Beautiful and Sustainable Natural and Built Environment and specifically with objectives 3.1 (robust and context sensitive planning) and 3.4 (responsible stewards of natural resources).

Community Engagement

Budgetary Impact

Recommendation

Alternatives

Attachments

None