MEMORANDUM

May 7th, 2024

To: Planning Board
From: Planning Staff

RE: CA 24-02: Amendments to a portion of Appendix C: Stormwater Ordinance (Phase II)

BACKGROUND

The City's code requires periodic updates for a variety of reasons, such as correcting errors, clarification, making understanding and making interpretation of the code easier for staff and citizens, and complying with North Carolina statutes. Staff is suggesting the following change to the ordinance.

In 2021, the General Statutes 160D-925 provides the rules on how to make the Stormwater control processes consistent across the state.

STAFF REVIEW

N.C.G.S. § 160D-925 (d1) specifically states that, "A local government is prohibited from adopting any regulation that requires an owner of a privately owned and maintained stormwater control project to make payments to the local government for the purpose of ensuring assets are available for maintenance, repair, replacement, and reconstruction costs of (i) the owner's stormwater control project or (ii) other stormwater control projects within the local government's jurisdiction."

N.C.G.S. § 160D -925(d1), provides for a local government that may require a developer to establish, collect, and retain in a segregated account funds for maintenance, repair, replacement, and reconstruction costs for the stormwater infrastructure, which shall not exceed ten percent (10%) of the stormwater infrastructure's original cost of construction. The Developer shall have a time period of five (5) years, beginning when the stormwater infrastructure is accepted by the City as constructed per the City's regulations, for the funds to be collected and retained by the Developer, and/or its successor in interest to ownership of the stormwater infrastructure. Developer and/or its successor in interest to ownership of the stormwater infrastructure shall provide proof of said segregated account to the City, if requested.

Changes were made previously to come into compliance with 160D in the Zoning and the Subdivision Codes, but it seems that the small changes made in 160D-925 Stormwater control were accidentally omitted. The section for maintenance is being removed and added in the appropriate language that is allowed by the general statute.

STAFF RECOMMENDATION

Proposed changes were made to come into compliance with the General Statute 160D-925 Stormwater control. Staff removed the section for maintenance as it required an owner of a privately owned and maintained stormwater control measure to provide payments to the city for ensuring assets were available for the maintenance, repair, replacement, and construction of the facility. The section was replaced with new allowance that a local government can have over the stormwater facility maintenance, a strikethrough of "required" to "may require" was added in the Require section, along with strikethroughs in the Uses of performance security area to remove the parts that make the ordinance in compliance with 160D.

Staff recommends approval of the change.

Suggested motion if approving
(Please read)

I move to approve the amendment to Appendix C: Stormwater Ordinance (Phase II), as it is reasonable and in the general interest because it supports coming into compliance with changes provided in the General Statute 160D-925 Stormwater control.

Suggested motion if denying:
(Please state)

I move to deny the amendment to Appendix C: Stormwater Ordinance (Phase II), as it is not reasonable and in the general interest because…

Attachment: Code Amendment CA 24-02 Ordinance