



TOWN OF CHAPEL HILL

Town Council Meeting Agenda

Town Hall
405 Martin Luther King Jr.
Boulevard
Chapel Hill, NC 27514

Mayor Pam Hemminger
Mayor pro tem Michael Parker
Council Member Jessica Anderson
Council Member Allen Buansi

Council Member Hongbin Gu
Council Member Tai Huynh
Council Member Amy Ryan
Council Member Karen Stegman

Wednesday, October 20, 2021 6:30 PM

Virtual Meeting

Virtual Meeting Notification

Town Council members will attend and participate in this meeting remotely, through internet access, and will not physically attend. The Town will not provide a physical location for viewing the meeting.

The public is invited to attend the Zoom webinar directly online or by phone. Register for this webinar:

https://us02web.zoom.us/webinar/register/WN_8gPzysglR-WtYKWz27wgqg

After registering, you will receive a confirmation email containing information about joining the webinar in listen-only mode. Phone: 301-715-8592, Meeting ID: 820 3081 0112

View Council meetings live at <https://chapelhill.legistar.com/Calendar.aspx> – and on Chapel Hill Gov-TV (townofchapelhill.org/GovTV).

OPENING

ROLL CALL

ANNOUNCEMENTS BY COUNCIL MEMBERS

AGENDA ITEMS

1. Community Splash Pad Update.

[\[21-0791\]](tel:210791)

PRESENTER: Phil Fleischmann, Parks and Recreation Director
Kevin Robinson, Park Maintenance Superintendent

The purpose of this item is to provide an update on community interest in a splash pad and preliminary findings of the splash pad work group. The Council will also have an opportunity to discuss the splash pad concept and their thoughts on prioritizing this for funding

in order to bring it to fruition.

2. Booker Creek Working Group Update. [\[21-0792\]](#)

PRESENTER: John Morris and Pamela Schultz, Co-Chairs, Booker Creek Working Group

The purpose of this item is to provide the Council with an update on the activities of the Booker Creek Working Group.

3. Review of Town Stormwater Regulations. [\[21-0793\]](#)

PRESENTER: Mary Beth Meumann, Engineer III

The purpose of this item is to respond to Council's petition for a comprehensive review of Town Stormwater regulations considering impacts of climate change. Staff will provide a preliminary response with background information, initial ideas for revisions to the regulations, and next steps to conduct a technical study.

REQUEST FOR CLOSED SESSION TO DISCUSS ECONOMIC DEVELOPMENT, PROPERTY ACQUISITION, PERSONNEL, AND/OR LITIGATION MATTERS



TOWN OF CHAPEL HILL

Town Hall
405 Martin Luther King Jr.
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Chapel Hill, NC 27514

Item Overview

Item #: 1., **File #:** [21-0791], **Version:** 1

Meeting Date: 10/20/2021

Community Splash Pad Update.

Staff:

Phil Fleischmann, Director
Kevin Robinson, Park Maintenance Superintendent

Department:

Parks and Recreation

Overview: During the summer, community members circulated a petition requesting the development of a "splash pad" to serve Chapel Hill and area residents. Mayor Hemminger appointed a work group comprised of Council Member Anderson; Parks, Greenways, and Recreation Commission members; and Parks and Recreation staff to explore options for establishing one in town. She requested that the work group explore cost and sizes, best location, funding options, and maintenance expenses. Since that time, the splash pad work group has collaborated to examine options and needed resources in order to develop one within the Chapel Hill parks system.

The purpose of this agenda item is to provide an update on community interest and preliminary findings of the work group. The Council will also have an opportunity to discuss the splash pad concept and their thoughts on prioritizing this for funding in order to bring it to fruition.

Development of a splash pad is consistent with a recommendation included within the 2013 Comprehensive Parks Plan.



Recommendation(s):

That the Council receive the update and support the continued exploration into the feasibility of constructing a splash pad within the parks system.



Attachments:

- Draft Staff Presentation
- Recommendation - Parks, Greenways, and Recreation Commission
- Community Petition - Kate Sayre request

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

PRESENTER: Phil Fleischmann, Parks and Recreation Director
Kevin Robinson, Park Maintenance Superintendent

The purpose of this item is to provide an update on community interest in a splash pad and preliminary findings of the splash pad work group. The Council will also have an opportunity to discuss the splash pad concept and their thoughts on prioritizing this for funding in order to bring it to fruition.



PARKS AND RECREATION

www.chapelhillparks.org

SPLASH PAD UPDATE

TOWN COUNCIL WORK SESSION - OCT. 20, 2021

DRAFT

OVERVIEW

- Justification
- Work Group Findings
- Recommendations on Next Steps



DRAFT



JUSTIFICATION FOR A SPLASH PAD

- Trends and interests
- 2013 Comprehensive Parks Plan
- Community Petition



DRAFT



COMMUNITY FEEDBACK

- Community Petition
- Friends of Parks and Recreation (Sept. 8)
- Parks, Greenways, and Recreation Commission (Sept. 21)



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PARKS AND RECREATION

www.chapelhillparks.org

WORK GROUP

Jess Anderson – Town Council

Leah Boucher – PGR Commission

Tanner Deisch – Aquatics
Supervisor

Phil Fleischmann – Parks &
Recreation Director

Wesley McMahon – PGR
Commission

Marcia Purvis – Sr. Parks Planner

Kevin Robinson – Park
Maintenance Superintendent

MaryLee Tyndall – P&R
Administration



DRAFT



BURLINGTON, NC



- \$1.0 mil. facility;
\$400,000 for splash pad
- 13 features
- Recirculates water
- \$20,000-30,000/year
for staffing + chemical
and utility costs

DRAFT



MEBANE, NC



- \$300,000 for splash pad
- 9 features
- Does not recirculate; uses 80,000 gal./day
- No staffing

DRAFT



PITTSBORO, NC



- \$420,000 for splash pad
- 12 features
- Recirculates water
- Donated to town by development

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NEXT STEPS

- Determine funding commitment
- Decide on size and location(s)
- Engage with contractor
- Public input into design
- Construction





PARKS AND RECREATION

www.chapelhillparks.org

QUESTIONS / DISCUSSION

Are we moving in the right direction?

Do you support staff and the work group continuing their exploration of this concept?

How would you like to be engaged regarding this moving forward?

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MEMORANDUM

TO: Mayor and Town Council

FROM: Renuka Soll, Chair
Parks, Greenways, and Recreation Commission

SUBJECT: Splash Pad Project Support

DATE: September 25, 2021

On September 21, 2021, the Commission voted unanimously to recommend that the Council support the construction of a community splash pad in Chapel Hill and to defer to the Town on how to fund it, with a recommendation that some portion of the American Rescue Plan funding is allocated for the project.

Members Present: Renuka Soll (Chair), Wesley McMahon (Vice Chair), Jeanette Bench, Leah Boucher, Hallie Cherry, William Kaiser, Lydia Kivihya-Ndugga, and Tyler Steelman

Build a Splash Pad in Chapel Hill



[Kate Sayre](#) started this petition to Chapel Hill Town Council and 2 others

There are splash pads and parks all around the Triangle as families, particularly those with young kids, love them. They help us beat the heat, are safer than a pool and accessible by many. Currently, we have to travel to Burlington, Pittsboro and Durham for this summer fun (and let's be honest-in NC, it could be a 3 season activity). It's about time we build a splash pad in Chapel Hill/Carrboro.

We know land is at a premium. Luckily we have many playgrounds and parks and can add this attraction there. How about Legion Park, the Community Center, Cedar Falls Park, Anderson Park or the new MLK park?

To be a family-friendly town, we need to invest in attractions for families. There are towns and cities around the country that are working on their infrastructure to support full lives for families. We have great schools-how about now we focus on extracurriculars? We see many multi-use large structures going up, with the latest approved on MLK/Estes. We don't need more tall buildings-we need places to safely gather to build community from birth through college and beyond.

Having a local splash pad will draw families to our area. This supports the town and local businesses. It will also keep local families here to play, live and work.

823 have signed. Let's get to 1,000!



2021-09-08 capture |

<https://www.change.org/p/chapel-hill-town-council-build-a-splash-pad-in-chapel-hill?redirect=false>



TOWN OF CHAPEL HILL

Town Hall
405 Martin Luther King Jr.
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Item Overview

Item #: 2., File #: [21-0792], Version: 1

Meeting Date: 10/20/2021

Booker Creek Working Group Update.

Staff:

Lance Norris, Director
Chris Roberts, Manager of Engineering and Infrastructure
Sue Burke, Senior Engineer
Sammy Bauer, Community Education Coordinator

Department:

Public Works

Overview: Council approved the prioritized projects in the Lower Booker Creek Subwatershed Study in 2017, including six flood storage projects in the Booker Creek watershed. The Town completed construction of the first project, formerly called Elliott Flood Storage and now called Booker Creek Basin Park, in February 2021. Community members voiced concern about the tree removal and effectiveness of the flood storage device and petitioned Council to cancel the remaining projects. The Town held a Community Meeting to hear public concern on September 13, 2021. The Council withdrew their approval of the remaining flood storage projects on [September 22](https://chapelhill.legistar.com/MeetingDetail.aspx?ID=884069&GUID=0F646ACD-8944-40CE-8485-8E48FF6B8323&Options=info|&Search=>) [<https://chapelhill.legistar.com/MeetingDetail.aspx?ID=884069&GUID=0F646ACD-8944-40CE-8485-8E48FF6B8323&Options=info|&Search=>](https://chapelhill.legistar.com/MeetingDetail.aspx?ID=884069&GUID=0F646ACD-8944-40CE-8485-8E48FF6B8323&Options=info|&Search=>) and approved the creation of a working group. The working group is composed of members of the public with diverse expertise and experiences. Tonight, the co-chairs are presenting an update of the working group's activities to the Council.



Recommendation(s):

That the Council receive this update.

Key Issues:

- The working group has been drafting group agreements and a mission statement.
- Maggie Chotas, a facilitator from the Dispute Settlement Center, is assisting the group.
- The working group meets on [October 18](https://www.townofchapelhill.org/Home/Components/Calendar/Event/19176/15) [<https://www.townofchapelhill.org/Home/Components/Calendar/Event/19176/15>](https://www.townofchapelhill.org/Home/Components/Calendar/Event/19176/15) to finalize the group agreements and discuss the mission statement.
- Details about the group, including member composition, past meetings, and public comments, are available at www.townofchapelhill.org/bookercreekstudies [<http://www.townofchapelhill.org/bookercreekstudies>](http://www.townofchapelhill.org/bookercreekstudies)

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

PRESENTER: John Morris and Pamela Schultz, Co-Chairs, Booker Creek Working Group

The purpose of this item is to provide the Council with an update on the activities of the Booker Creek Working Group.



TOWN OF CHAPEL HILL

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Item Overview

Item #: 3., File #: [21-0793], Version: 1

Meeting Date: 10/20/2021

Review of Town Stormwater Regulations.

Staff:

Lance Norris, Director
Mary Beth Meumann, Engineer III

Department:

Public Works

Overview:

The Town received a petition on [June 9, 2021](https://chapelhill.legistar.com/LegislationDetail.aspx?ID=4981055&GUID=7C64AC45-2189-4603-AA36-B6BDAF90E1B7&Options=&Search=>) <<https://chapelhill.legistar.com/LegislationDetail.aspx?ID=4981055&GUID=7C64AC45-2189-4603-AA36-B6BDAF90E1B7&Options=&Search=>>> requesting a comprehensive review of Town Stormwater regulations considering impacts of climate change. The purpose of this presentation is to provide a preliminary response with background information, initial ideas for revisions to the regulations, and next steps to conduct a technical study.



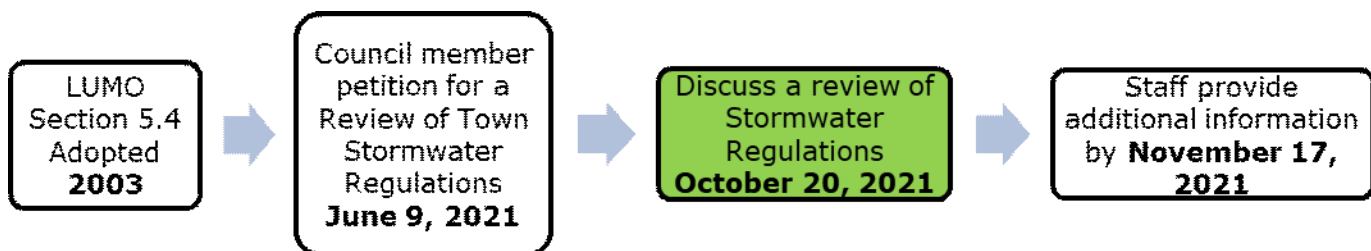
Recommendation(s):

That the Council receive this presentation about a review of stormwater regulations considering impacts of climate change and provide feedback on next steps proposed by staff.

Key Issues:

- The State limits local government stormwater regulations.
- Climate change is affecting conversations about and approaches to stormwater management across the region and industry.
- Staff seek Council feedback on the proposed scope of analysis for the stormwater regulation review and support funding for a technical study.

Where is this item in its process?



Attachments:

- Draft Staff Presentation
- LUMO Excerpt: Section 5.4 - Stormwater Management

Item #: 3., File #: [21-0793], Version: 1

Meeting Date: 10/20/2021

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

PRESENTER: Mary Beth Meumann, Engineer III

The purpose of this item is to respond to Council's petition for a comprehensive review of Town Stormwater regulations considering impacts of climate change. Staff will provide a preliminary response with background information, initial ideas for revisions to the regulations, and next steps to conduct a technical study.

Review of Town Stormwater Regulations

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Town of Chapel Hill Council Work Session
October 20, 2021

Purpose

- Preliminary response to Council Petition for a comprehensive review of Town Stormwater Regulations considering impacts of climate change

Agenda

- What is urban stormwater runoff and how do we regulate it?
 - ❖ Focus: Runoff generated from new development and redevelopment
- How will climate change impact stormwater management goals and regulations?
- What are possible next steps for a comprehensive review and report?

What is Urban Stormwater Runoff?

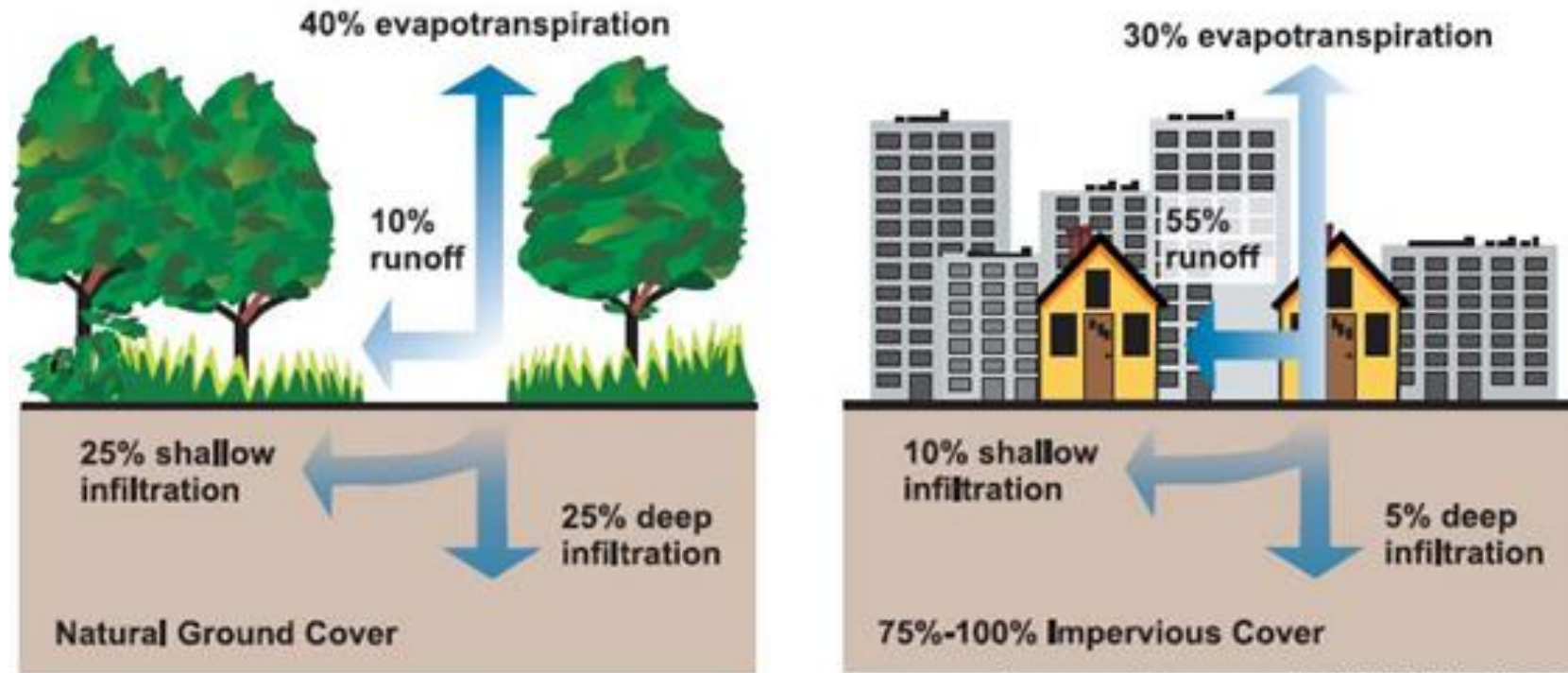


Image Source: U.S E.P.A, 2007

Impacts of urban stormwater runoff:

Surface Water Pollution

Flooding

Erosion

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How Does the Town Regulate Stormwater Runoff?

LUMO 5.4 Stormwater Management

- Applies to new development and redevelopment projects with some single-family exceptions
- Performance Criteria

Performance Objective	Engineering Design Criteria	Regulatory Authority
Water Quality Treatment	Pollutant removal from 1-inch rainfall	State
Peak Flow Control	1-year, 2-year, and 25-year, 24-hour rain events	Town
Volume Control	2-year, 24-hour rain event	Town
Protect Ephemeral Streams	Minimize disturbance and demonstrate necessity	Town

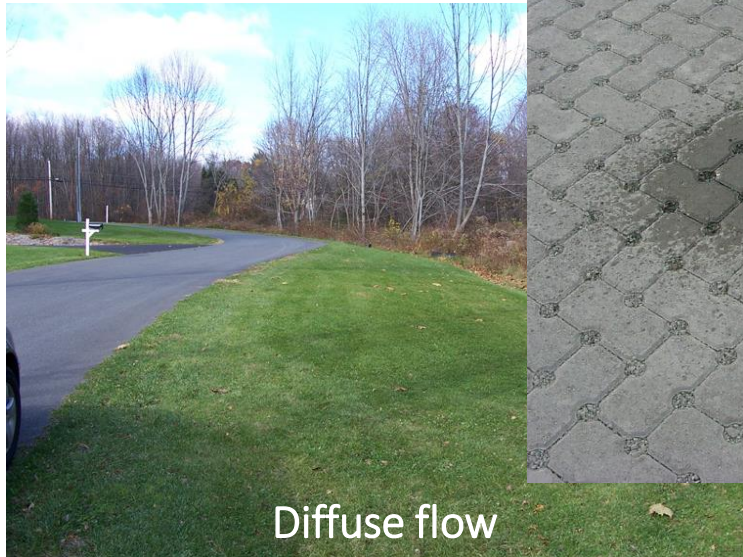
- Encourages low impact design techniques
- Inspection and Maintenance responsibilities

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How Do Projects Meet the Regulations?




Stormwater Control Measures (SCMs)

- Engineered devices that remove pollutants, control runoff flow rate, and/or reduce runoff volume
- Designed to meet specific performance criteria per stormwater regulations
- Must be appropriately selected for each unique project based on site conditions and proposed uses



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How do State Laws Limit Local Stormwater Regulations?

Law/Bill	Impact
 Session Law 2018-145	Prohibits local governments from requiring stormwater controls for existing impervious areas.
 Session Law 2013-395	Prohibits implementation of Jordan Water Supply Nutrient Strategy requirements for existing and new development.
 Senate Bill 2021-105 (Budget Bill currently under consideration)	<p>Would prohibit local governments from implementing stormwater regulations that exceed state or federal stormwater laws.</p> <p>If enacted, may effectively eliminate stormwater regulations intended to protect against flooding and stream erosion.</p>

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How will Climate Change Impact Stormwater?

- Projected temperature increases
- Rainfall and Drought
 - “Wide range of potential outcomes, from drier to wetter conditions”
 - Increased annual rainfall **likely**
 - Increased risk of extreme weather events **very likely**
 - More frequent and severe droughts **likely** due to increased temperatures
- Precipitation changes could impact
 - SCM goals and design standards
 - Stormwater Capital Project prioritization



Probability of Outcome for Likelihood Terms
Very likely = 90-100%
Likely = 66-100%

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How are Regional Partners Adjusting to Climate Change?



- Precipitation Data Updates: Collaboratory Efforts and Interim Recommendations
- SCM Performance: Keys to Flood Resiliency
- Green Infrastructure (GI): Barriers for Implementation and Performance Limitations

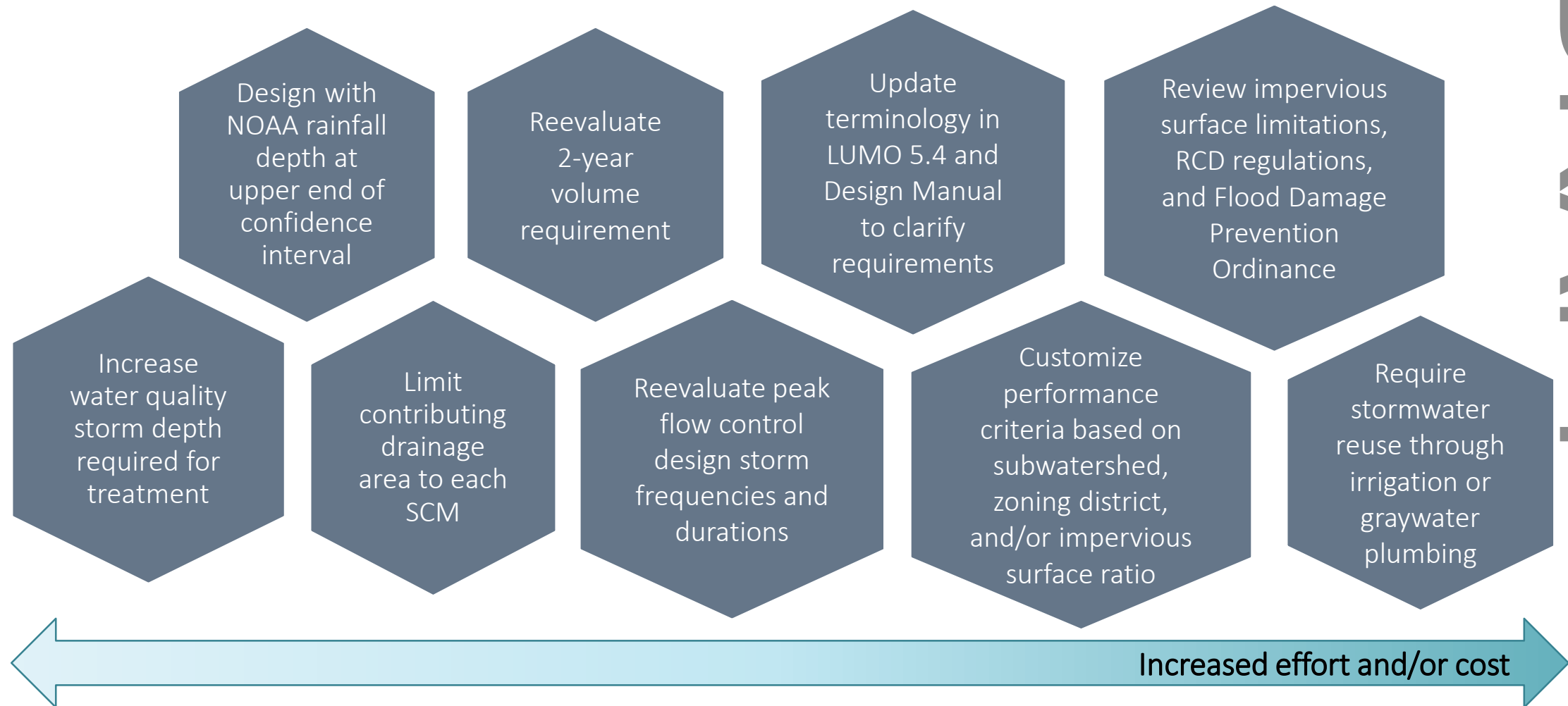
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Are the Town's Stormwater Objectives Still Valid and Being Achieved?

- Purpose and Objectives in LUMO 5.4.1
 - Purpose: Establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction
 - Objectives – see handout
- Objectives are still valid, but could be updated to better reflect current priorities.
- Objectives vs. requirements
 - Requirements such as Performance Criteria and Design Standards are enforceable; objectives are not.
 - Objectives and requirements could benefit from more precise language.

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What are Possible Changes to the Town's Stormwater Regulations?



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Technical Study

Tasks

Review existing Town plans and studies for relevant data, recommendations, and historical information

Compare Chapel Hill stormwater regulations with those of neighboring communities

Reach out to regional community partners and academic institutions

Coordinate with LUMO rewrite consultant

Coordinate with Town initiatives on Green Infrastructure

Engage the public and other stakeholders

Evaluate benefits, tradeoffs, and challenges associated with different options

Deliverables

Recommend revisions to Town Stormwater Management Regulations (LUMO 5.4)

Recommend revisions to Town Engineering Design Manual

Report associated costs for private property owners, developers, and the Town

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Next Steps

- Should we move forward with the technical study?
 - ❖ Requesting Council feedback on proposed scope
 - ❖ If approved, staff will bring a resolution for formal Council adoption
- Exploring options for consulting
 - ❖ Partner with LUMO Rewrite Contract
 - ❖ Determine funding source to hire an independent consultant
- Report to Council on preliminary study progress
 - ❖ Final report due December 2022

5.4. - Stormwater management.

5.4.1. Purpose.

The purpose of this section is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This ordinance seeks to meet that purpose through the following objectives:

- (a) Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation and streambank erosion and maintain the integrity of stream channels;
- (b) Minimize increases in non-point source pollution caused by stormwater runoff from development that would otherwise degrade local water quality;
- (c) Minimize the total volume of surface water runoff that flows from any specific site during and following development in order to replicate the pre-development hydrology to the maximum extent practicable;
- (d) Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety; and
- (e) Meet the requirements of the National Pollutant Discharge Elimination System (NPDES Phase 2) regulations as established by the Clean Water Act and administered by the North Carolina Department of Natural Resources, or its successor agency.

5.4.2. Applicability.

- (a) This section shall apply to all new development and redevelopment projects for which a zoning compliance permit is required.
- (b) To prevent the adverse impacts of stormwater runoff, the town has developed a set of performance standards that must be met at all new development and redevelopment sites. The following activities are exempt from these stormwater performance criteria:
 - (1) Any logging and agricultural activity that is consistent with all federal, state and local regulations;
 - (2) Individual single-family and two-family development and redevelopments that do not disturb more than twenty thousand (20,000) square feet of land area, including cumulative disturbance since the adoption of the Land Use Management Ordinance on January 27, 2003, provided they are not part of a larger common plan of development.
 - (3) Repairs to any stormwater treatment facility deemed necessary by the town.
 - (4) For purposes of this section, "Larger common plan of development" shall be as defined in subsection 5.19.3(h) of this appendix and includes subdivisions that create four (4) or more residential lots.
- (c) Individual single-family and two-family residential construction that are exempt from stormwater

performance criteria under subsection 5.4.2(b)(2) above shall discharge runoff in a non-erosive and diffuse manner using techniques approved by the town manager. Discharge system/techniques shall be in accordance with the standards established in the town's design manual.

(Ord. No. 2004-02-23/O-2; Ord. No. 2012-12-03/O-4, § 1)

5.4.3. Design manual and Standard Details.

The town may furnish additional policy, criteria and information, for the proper implementation of the requirements of this section and may provide such information in the design manual and standard details, which manual may include a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the town, based on improvements in engineering, science, monitoring, and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

5.4.4. Application Submittal Requirements.

Unless otherwise exempted by this section, every permit application for development must be accompanied by a stormwater impact statement in order for the permit application to be considered.

The town manager shall prescribe the form(s) and information that shall be submitted to determine compliance with this chapter, with sufficient copies for necessary referrals and records.

Information requirements may be adjusted or waived by the town manager for a particular development application upon written request of the applicant, provided that at least one of the following circumstances can be demonstrated:

- (a) Alternative measures for on-site and/or off-site management of stormwater have been proposed, and these measures are approved by the town manager and comply with local ordinance(s).
- (b) It is otherwise demonstrated that the proposed development will not produce any significant change to the existing pre-application hydrology.

5.4.5. Waivers for Stormwater Management Facilities Requirements.

Unless otherwise exempted by this section, every development application shall provide for stormwater management. The requirements for stormwater management facilities may be waived in whole or in part by the approving body, provided that it is demonstrated by the applicant that at least one (1) of the following conditions applies:

- (a) Alternative measures for on-site and/or off-site management of stormwater have been proposed, and these measures are approved by the town manager and comply with local ordinance(s).
- (b) It is otherwise demonstrated that the proposed development will not produce any significant change to the existing pre-application hydrology.

5.4.6. General Performance Criteria for Stormwater Management.

The following are required stormwater management performance criteria:

- (a) Stormwater treatment shall be designed to achieve average annual eighty-five (85) percent total suspended solids (TSS) removal and must apply to the volume of post-development runoff resulting from the first one-inch of precipitation. Alternative treatment methods to achieve eighty-five (85) percent average annual TSS removal may be acceptable. The eighty-five (85) percent requirement applies to eighty-five (85) percent of the additional suspended solids that are the result of the new development. (Ord. No. 2004-02-23/O-2)
- (b) The stormwater runoff volume leaving the site post-development shall not exceed the stormwater runoff volume leaving the site pre-development (existing conditions) for the local 2-year frequency, 24-hour duration storm event for all development except single-family and two-family dwellings on lots existing as of January 27, 2003, or on lots pursuant to a preliminary plat that was approved by the town council prior to January 27, 2003. This may be achieved by hydrologic abstraction, recycling and/or reuse, or any other accepted scientific method.
- (c) The stormwater runoff rate leaving the site post-development shall not exceed the stormwater runoff rate leaving the site pre-development (existing conditions) for the local 1-year, 2-year, and 25-year 24-hour storm events.
- (d) Land disturbance within the stream channel of any ephemeral stream shall be minimized, and prohibited unless explicitly authorized by issuance of a zoning compliance permit after demonstration of the necessity for the disturbance.

5.4.7. Integrated Management Practices.

Applicants shall utilize integrated management practices/best management practices to meet the standards established in subsection 5.4.6, using one (1) or more approved design options. Low impact design options are encouraged. descriptions and standard details of approved integrated management practices/best management practices are included in the town design manual.

Consideration shall be given in all stormwater management strategies to the relationship between temporary facilities required and installed during construction as part of soil erosion and sedimentation control regulations; and permanent facilities designed to manage stormwater post-construction on an on-going basis.

5.4.8. Maintenance.

Stormwater management facilities that are constructed on privately-owned land and that are not within a public easement shall be maintained by the owner of the subject property. Stormwater management facilities that are constructed on public land, within public rights-of-way, and/or within public easements shall be maintained by the public body with ownership/jurisdiction.

The following requirements shall be met for all stormwater management facilities that are constructed on privately-owned property and not within a public easement.

(a) *Maintenance easement.*

Prior to the issuance of any permit that has a stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the town, or its contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this section. The property owner shall record such easement, in a form and format approved by the town manager, with the office of the appropriate county register of deeds.

(b) *Maintenance covenants.*

Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the town manager and recorded in the office of the appropriate county register of deeds. This covenant shall be entitled, "Stormwater Operations and Maintenance Plan." A schedule for maintenance and inspections shall be included as part of the covenant.

The owner, or the owner's assigns, are responsible for maintenance of stormwater management facilities; however, the town may, under certain circumstances, accept dedication of existing or future stormwater management facilities for public maintenance and inspection.

(c) *Requirements for maintenance covenants.*

All stormwater management facilities must be inspected by the responsible party, in accordance with the approved schedule in the stormwater operations and maintenance plan, to identify maintenance and repair needs, and to ensure compliance with the requirements of this appendix. Any identified maintenance and/or repair needs found must be promptly addressed by the responsible party. The inspection and maintenance requirement may be increased as deemed necessary by the Town to ensure proper functioning of the stormwater management facility.

(d) *Records of installation and maintenance activities.*

Parties responsible for the inspection, operation, and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs and shall retain the records for at least five (5) years. These records shall be made available to the town upon request and/or as specifically outlined in the maintenance covenant.

(e) *Failure to maintain practices.*

If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the town, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the

stormwater management facility becomes a danger to public safety or public health, or is otherwise not functioning as designed, the town shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. After proper notice, the town may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.

5.4.9. Inspection.

(a) Inspection of stormwater facilities.

Inspections shall be conducted as prescribed by the stormwater operations maintenance plan covenant. Additional inspections may be conducted by the town on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type that are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the National Pollutant Discharge Elimination System (NPDES) stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.

(b) Right-of-Entry for Inspection.

When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system the property owner shall grant to the town the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the town has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this appendix.