
Fwd: FW: questions regarding fee in lieu of construction of stormwater facili...

Rsifen@aol.com <Rsifen@aol.com>
To:

Thu, Oct 24, 2013 at 11:52 PM

----- Forwarded message -----

From: "Higgins, William (Bill)" <BHiggins@cobbcounty.org>

To: <Rsifen@aol.com>

Cc: "Hosack, Robert" <rhosack@cobbcounty.org>, "Breaden, David" <David.Breaden@cobbcounty.org>

Date: Wed, 23 Oct 2013 07:55:39 -0400

Subject: RE: FW: questions regarding fee in lieu of construction of stormwater facility...

Good morning Ron,

Using a Retention Facility to store excess flows generated by development would not necessarily affect the timing of peak flows nor would it 'eliminate the potential for a conflict on peak flows'.

A Retention Facility operates in much the same way as a Detention Facility except a Retention Facility has a permanent pool (i.e. a lake) and flood flows are stored on top of the normal pool level. The water (and sediment) stored beneath the normal pool level is often referred to as "dead storage" and it is not available to store flood flows. Other than that the two facilities operate in much the same fashion. One has a permanent pool level (i.e. Retention) and the other (Detention) does not. We like the idea of using lakes to control runoff for other (water quality) reasons, but there are additional liabilities, permitting requirements, and costs involved with constructing a permanent pool (i.e. lake) facility, and in this regulatory environment they are becoming increasingly difficult to construct.

State and federal agencies are beginning to attack this problem volumetrically by moving toward mandates for infiltration systems and other "green" (versus "gray") infrastructure. The goal is to compensate for increased runoff potential – caused by additional impervious areas – by enhancing infiltration, and to re-establish the pre-development infiltration rainfall/runoff relationship. Various ideas (BMP's) are being explored, including porous concrete. However, given the Piedmont ("Georgia red-clay") soils that predominate in northwest Georgia, we are not overly optimistic that current conventional infiltration systems offer viable long range solutions. Once the maintenance issues with these systems have been addressed, we believe they could eventually become one component of a "train" of required stormwater management systems and the present emphasis to control only the rate of runoff and nothing else may gradually decline. Balancing the runoff volume between pre and post conditions will likely become the focus.

As far as a fee in lieu of retention (or detention) goes, we are mainly interested in managing the flow volumes (which can be thought of as waves) such that peak flows merging into major streams do not coincide with the peaks generated on that major stream. It is similar to managing the flow of traffic. Cars should not merge into intersections at the same time, and neither should peak flows. [If providing detention aggravates merging peak](#)

flows causing higher combined peak flows, then it is counterproductive and the funds can be better used elsewhere in the watershed.

Hope this helps.

-Bill

William J. Higgins, P.E., CFM

Division Manager, Stormwater

COBB COUNTY WATER SYSTEM

680 South Cobb Drive

Marietta, Georgia 30060

(770) 419-6434

From: Rsifen@aol.com [mailto:Rsifen@aol.com]

Sent: Tuesday, October 22, 2013 11:50 PM

To: Higgins, William (Bill)

Cc: Hosack, Robert; Breaden, David

Subject: Re: FW: questions regarding fee in lieu of construction of stormwater faciliti...

Thanks Bill. Yes, this is extremely helpful and informative. I really appreciate the detailed response. This is extremely helpful in understanding the program.

Your information made me think of an additional question.

I understand that detention facilities merely detain the water, and control the flow. How would this information be different with regard to a retention facility? If the water is being retained, would that eliminate the potential for a conflict on peak flows? Under what circumstances would Cobb County allow a fee in lieu of constructing a retention facility?

Thanks

Ron Sifen

In a message dated 10/22/2013 11:55:21 A.M. Eastern Daylight Time,
BHiggins@cobbcounty.org writes:

Good morning Ron,

Please see my responses below (in brown bold italics) to your questions. Hope this helps.

Thanks.

-Bill

William J. Higgins, P.E., CFM
Division Manager, Stormwater
COBB COUNTY WATER SYSTEM
680 South Cobb Drive
Marietta, Georgia 30060
[\(770\) 419-6434](tel:(770)419-6434)

From: Rsifen@aol.com [mailto:Rsifen@aol.com]

Sent: Monday, October 21, 2013 11:24 PM

To: Higgins, William (Bill)

Cc: Hosack, Robert

Subject: Re: questions regarding fee in lieu of construction of stormwater facilities

Hi Bill. The Cobb County Civic Coalition is trying to get a better understanding of the program or code section that allows a >

fee in lieu of construction of a stormwater detention facility stipulated in zoning decisions.

I understand that this is enabled by Code [Sec. 50-128. Development fees.](#)

I have a few questions.

1. What are the criteria for determining whether a property and the proposed

development are eligible for this program?

- ***In general, new development increases imperviousness of the area to be developed, and therefore the VOLUME of runoff is increased. Stormwater detention only addresses the RATE of flow from the development site.***
- ***The underlying premise for fee-in lieu of detention is that in certain instances, providing on-site detention can cause the peak rate of flow to INCREASE on the receiving stream, which is opposite from the intended effect that stormwater detention is supposed to have.***
- ***In these cases, the funds used to provide detention can be better used for capital improvements elsewhere in the watershed. Fees collected from this program are placed into a special fund which are used to fund capital improvements elsewhere in the watershed.***
- ***The criteria for fee in lieu of detention are as follows***
- ***(a) The project must outflow directly into a major waterway***
- ***(b) Outflows cannot pass through other properties before entering the major waterway.***
- ***(c) The upstream watershed of the receiving major waterway must intercept at least 3 sq mi of contributing drainage area***
- ***(d) A hydrologic analysis - using the County's basin model (HEC-1) - must be submitted to Stormwater Management proving that peak flow (wave) generated by the proposed development will miss the peak flow (wave) generated on the receiving stream such that the COMBINED peak flows (on site plus off site) will NOT be increased if onsite detention is NOT provided. In cases where providing on-site detention would cause a worse situation on the receiving stream - due to coincident peaks - we would rather direct these funds to more beneficial projects elsewhere within the watershed.***
- ***(e) The presence of pre-existing chronic downstream flooding problems could be a basis for rejecting a fee-in lieu of detention proposal, in spite of any technical justification.***

2. What are the criteria that would make a property or development ineligible?

- ***Failure to meet the criteria listed above would make a property or development ineligible.***

3. What is the process for evaluating this criteria, and determining eligibility?

- ***See above***

4. Who makes the final decision? And once the decision is made, is there some formal process for processing the modification of the zoning decision that required the detention facility? Is this implemented as a "minor modification" of the zoning decision, or is this implemented through some other procedure?

- ***If the zoning decision is predicated upon providing detention or is***

predicated upon a specific site plan, it would need to go back to the BOC for re-consideration. On the other hand, if the zoning decision is silent on whether or not on-site detention is used, and if on-site detention is NOT shown on the plan used as a basis for the BOC's approval, then a formal process for re-consideration would NOT be required.

- The final decision based on technical merit, would be Stormwater Management's decision. Plan Review staff would review the hydrologic (HEC-1) analysis submitted by the developer's engineer. If the analysis is confirmed, staff would make a recommendation to me to accept fee-in-lieu of detention. If it meets all of our technical criteria, and if there are no chronic downstream flooding problems, then I would approve acceptance of the fee in lieu of detention. We would collect the fee and have it deposited in a fund designated specifically for that purpose.**

5. How is the amount of the fee determined?

- It is based on the amount of impervious area in the proposed development. For every acre of impervious area, \$5000 is collected. For example, if a proposed shopping center would create 30 acres of additional impervious area, the fee in lieu of detention would be (\$5000 x 30) = \$150,000.00**

Thanks

Ron Sifen
President, Cobb County Civic Coalition

-----Original Message-----

Subject: RE: 2 questions

Date: Thu, 17 Oct 2013 13:24:34 -0400

From: "Hosack, Robert" <rhosack@cobbcounty.org>

To: <Rsifen@aol.com>

Cc: "Higgins, William \"(Bill)\" <BHiggins@cobbcounty.org>

Hi Ron, the Division Manager of Stormwater Management makes the determination of eligibility based on criteria described in code. His name is Bill Higgins sir. Rob

Rob Hosack, AICP

Cobb County Community Development

P.O. Box 649

Marietta, GA 30061

770.528.2125-phone

770.528.2126-fax

From: Rsifen@aol.com [mailto:Rsifen@aol.com]

Sent: Wednesday, October 16, 2013 7:17 PM

To: Hosack, Robert

Subject: Re: 2 questions

Hi Rob. When making the determination to allow a developer to utilize the fee-in-lieu-of-construction of the stormwater facility, what is the process for making the determination of whether the property qualifies? Is this implemented as a "minor modification" or by some other process?

Thanks

Ron

In a message dated 10/16/2013, rhosack@cobbcounty.org writes:

Hi Ron, please see code sections pasted below sir. Rob

Sec. 106-97. Procedures to be followed by developers.

Sidewalks shall be required to be provided by developers of all new subdivisions or other new developments utilizing new streets or roads to be dedicated to the county or existing county roads, or any combination thereof, unless waived by the board of commissioners or satisfied via section 106-98, alternative compliance. Unless so waived, the developer, at the time of submitting the drawings or plans to the department, or its successors, shall submit a sidewalk layout showing the exact location of sidewalks within the development or subdivision. For residential subdivisions, this layout must be approved by the department prior to obtaining any building permit within the subdivision. On nonresidential developments, the layout must be approved by the department and payment made for installation of sidewalks prior to acceptance by the county of any street or roads for public

maintenance. All sidewalk layouts shall be shown on the final plat as a part of the plat approval process. Sidewalks installed shall meet the standards of the county then in effect.

(Ord. of 5-23-89, § 12; Ord. of 6-25-91, § 12; Code 1977, § 3-23-90; Ord. of 7-26-05; Ord. of 1-24-06)

Sec. 106-98. Alternative compliance.

The intent of this article is to coordinate the construction of publicly planned and funded sidewalks with the construction of new sidewalks required from developers as a result of new development. To provide alternatives in these such cases, applicants/developers may contribute to a sidewalk development fund.

(Ord. of 1-24-06)

Sec. 106-98.1. Cobb County sidewalk development fund.

In accordance with the Cobb County master sidewalk plan, (as may be amended from time to time), applicants/developers may contribute funds to construct sidewalks (planned and programmed per the Cobb County master sidewalk plan) along arterial, major and minor collector roadways, onto which their projects do not abut/access, but are in the same county commission district, unless a roadway serves as a district commission boundary. Any portion of the roadway serving as a boundary shall be eligible for funding.

(1) Calculation contribution amounts. Contribution calculations will be based upon a site specific, project cost calculation to be prepared by the applicant and subject to review and approval by the director of the Cobb County department of transportation, or his/her designee.

(2) Fund administration. The Cobb County sidewalk development fund will be administered by the Cobb County department of transportation. A bi-annual report shall be submitted to the county manager showing amounts collected, amounts spent and the sidewalk projects enhanced per these funds. When programming sidewalk projects using these funds, the department of transportation shall coordinate with the district commissioner. The report will be made available to the board of commissioners upon their request.

(Ord. of 1-24-06)

Secs. 106-99--106-110. Reserved.

Sec. 50-128. Development fees.

(a) If a stormwater management facility is to be constructed as a system improvement and the applicant voluntarily enters into a development agreement with the county, a fee in lieu of construction of an on-site stormwater management

facility may be accepted by the manager. To qualify for fee in lieu of detention, the entire development site must drain completely and directly into a major receiving stream which intercepts at least three square miles of contributing drainage area. Also it must be clearly demonstrated and accepted by the stormwater management division manager that no peak flow increases occur in the receiving stream for the two--100 year frequency flood events. Fee in lieu of detention shall be based upon a unit rate of \$5,000.00 per acre of imperviousness within the proposed development or upon the estimated avoided cost(s) of providing conventional detention, whichever is higher. Fee in lieu of detention will be allowed only in those watersheds in which regional detention facilities exist or are planned or in watersheds with active floodplain acquisition programs in place. Known downstream drainage or flooding problems will be sufficient cause to deny any proposal for fee in lieu of detention. The stormwater management division is under no obligation to accept an application for fee in lieu of detention. These provisions for fee-in lieu of detention above do not include Cobb County's requirements for channel protection or for water quality.

(b) Credit for the land shall be determined in the method prescribed under the county's development agreement.

(c) Upon payment of the fee under this section, in lieu of construction and acceptance by the county of the developer's site plan for stormwater facilities, to include the conveyance system to the regional facility and evaluations thereof, the developer of record may be entitled to utilize the county stormwater management facilities. So long as the site and site plan and the evaluation and conditions of the conveyance system accurately reflect the minimum requirements set forth in the county development standards and this division, the developer of record shall be deemed to have complied with the terms of this article.

(d) The fees provided for in this section are in addition to any user fee established or required in any other section of this article.

(Ord. of 9-28-93; Code 1977, § 3-22.5A-13; Ord. of 4-13-04; Ord. of 1-24-06)

Rob Hosack, AICP

Cobb County Community Development

P.O. Box 649

Marietta, GA 30061

770.528.2125-phone

770.528.2126-fax

From: Hosack, Robert
Sent: Tuesday, October 15, 2013 10:25 PM
To: Rsifen@aol.com
Cc: Hosack, Robert
Subject: Re: 2 questions

Hi Ron there are such programs sir. I will try to send you code sections tomorrow. Sorry for the delayed response

Rob Hosack, AICP
Cobb County Community Development
P.O. Box 649
Marietta, GA 30061
[770.528.2125](tel:770.528.2125)-phone
[770.528.2126](tel:770.528.2126)-fax

On Oct 15, 2013, at 9:49 PM, "Rsifen@aol.com" <Rsifen@aol.com> wrote:

Hi Rob. If I am not mistaken, Cobb provides a developer an alternative with regard to sidewalks, where a developer can pay an agreed dollar amount into a County sidewalk fund, as an alternative to building the sidewalks stipulated in the rezoning.

1. Is that correct? If not, please explain.
2. Does Cobb County have an equivalent program with regard to stormwater facilities? In other words, can a developer not build a stipulated stormwater facility by paying into some sort of fund, or paying Cobb some sort of fee to not build the stipulated stormwater facility?

Thanks

Ron

Cobb County...Expect the Best

www.cobbcounty.org

Cobb County...Expect the Best

www.cobbcounty.org