

TCC Questions:

1. **Table 21.02-1, AMC 21.02.040, 21.02.060, pp. 3-7** | Why is the Zoning Board of Examiners and Appeals proposed to be the decision-making body to hear variance requests for this ordinance, and not the Urban Design Commission?

- *We are curious as to the rationale for the change, as we did not find a specific explanation for this item in the summary document.*

This change reverts back to where stream setback variances have been heard prior to the current version of Title 21. Stream setback variances are more dimensional in nature and are therefore more appropriately decided by ZBEA.

2. **AMC 21.07.020B, pp. 9-11** | Do the proposed stream setback boundaries account for seasonal variation in the flow of streams, particularly the higher volume of water in many streams during breakup in the spring?

- *The ordinance does not specifically address known periods of higher water when floods are more likely. How would high watermarks be determined (page 11, (b)(i)? Would it be prudent to document high-water events, to provide more setback/flood impact protection, where possible?*

Ordinary high water (OHW) is term that is similar to the terms bankfull width. OHW is reflected in the morphological characteristics of a stream channel and is the cumulative result of all of the flows that occur in a stream over a long period of time, rather than from one single flow event. OHW is a physical point on a stream channel that often corresponds with such things as the top of a bank, a vegetation transition line, or the top of a point bar. It is not a direct measure of the height of the water in a stream channel but is an indirect measure of average flow, as reflected in the physical characteristics of the stream channel.

3. **AMC 21.07.020B, Table 21.07-1, pg. 12** | Why are Fish Creek and Hood Creek listed as being small streams with the smallest overall setback (25 feet)?

- *TCC would like to ensure that adequate protection is given to these streams, particularly since Fish Creek runs close to or through several neighborhoods. Any remaining naturally, vegetated areas along these creeks — or any sections of these creeks that may be daylight in the future — should be protected with a larger, overall setback width. At this point, TCC is planning to recommend a 10-foot Riparian Edge Zone — in addition to the 25-foot Streamside Zone — for Fish Creek and Hood Creek in Table 21.07-1 — for a total of 35-foot Total Stream Setback Width Per Side.*

The proposed stream width for Fish Creek and Hood Creek are more of a reflection of the pattern of adjacent development than the size of the streams (though size is a factor as well). Simply, an additional 25 foot increase along these streams will consist of greater amounts of lawn, pavement, and building than it will intact riparian habitat. With history as a guide, Watershed Management would expect that any sections of creek that are

daylighted in the future would be situated in MOA Park or other open space tract and, as such, would benefit from protection of adjacent riparian areas. Watershed Management supports TCC making this request.

- **Additional note:** at the bottom of the table on page 12, “stream” is misspelled.

4. **AMC 21.07.020B, Section 9(d)(v), pg. 14** | Depending on the extent of a power generation infrastructure footprint, this could be a significant use within a 25-foot Streamside Zone — what's the rationale for allowing this use within the Streamside Zone — and why only require an administrative review vs. a public hearing?

Power generation facilities are subject to a multi-agency permitting process outside of the MOA. Each of these agencies, AK DNR, USACOE, ADF&G, etc. has a permitting process that solicits comments from MOA Watershed Management (as well as the public). In aggregate, this process exceeds what is generally required for a stream setback variance. By its nature, a hydropower project will occupy a portion of the streamside zone. This is a trade-off in the community's desire to increase alternate energy resources. This does not however mean that these improvements are necessarily detrimental to the stream. Watershed Management in its comments for the P&Z case will be suggesting clarifying language that this applies to hydropower generation, only.

5. **AMC 21.07.020B, Section 11, pp. 15-16** | The section describing setbacks for water bodies does not specifically address whether **trails, paved or unpaved**, are an allowed use near lakes and ponds. Is this intentional or just an omission? Are trails of any kind not allowed within 25 feet of a lake or pond?

As proposed, paved and unpaved trails would be allowed within 25 feet of waterbodies.

6. **AMC 21.07.020B, Section 12(c)(i), pg. 16** | What is the purpose and benefits of platting lands containing Class A and B wetlands as separate tracts from those intended for development?

- *TCC thinks this is a good idea, but would like to hear from you if the intent is to provide more permanent protection for Class A and B wetlands not authorized for fill by the Corps.*

During our community outreach we have received comments that this proposed change might have unintended consequences, in terms of providing an incentive to preserve wetlands. Long-range planning is working on language that will be submitted in their staff comments to P&Z.

7. **AMC 21.07.020B, Section 13, pp. 17-18** | What is the Municipality's plan to encourage compliance and fairly address violations, beyond what is laid out as being the responsibility of Watershed Management Services?

- *TCC supports effective enforcement of this ordinance, since it will require compliance by property owners over the long term in order to be effective. Given the specificity of the ordinance (such as, amount of acceptable removal of a tree) and the wide area it will apply to, TCC is concerned that property owners will require education about compliance to the Code, such as appropriate trimming*

and vegetation maintenance practices. Without a plan in plan, compliance seem difficult to achieve.

We are a complaint-based organization, in terms of enforcement. We respond to and resolve all complaints that we receive. Watershed Management performs and participates in educational outreach in the community for water quality related issues. These include, illicit discharge, animal waste management, construction erosion and sediment control, etc. Upon passage, we anticipate outreach focused on the proposed changes.

8. **21.12.045, pg. 18** | What specifically does “legally established” mean — does this include projects that have been permitted but have not been constructed? What would happen to a project that is in process of being approved but had not been fully permitted or constructed as of this ordinance’s effective date? Would the property owner be required to initiate the variance process as well?

- *We understand that the ordinance would take effect immediately on passage (IS THAT CORRECT?) and noted that “structures and uses located within the streamside zone and the riparian edge zone that were legally established on or before the effective date” would be allowed to remain.*

During the current public outreach for the proposed changes, we have provided clarification that legally established means: constructed, permitted, has an approved conditional use, or is part of a development master plan. All legally established uses would become legally non-conforming (“grandfathered”) upon passage of the code. Related to this question, this AO proposes that variance fees for stream setbacks be waived for 5 years.

9. **[Not addressed in draft]** TCC, and individuals living in the neighborhood, have expressed support for the Fish Creek Trail to the Ocean project, which would install a permanent trail between Northern Lights Blvd. and the Coastal Trail somewhere in the area near the railroad tracks and Fish Creek Estuary. Have the potential impacts of this ordinance been analyzed or discussed with staff working on the Fish Creek Trail to the Ocean project? What impacts will this ordinance have on the feasibility of this project, and the selection of a route in this area?

- *As stated above, we support the intent of this ordinance; however, we do not wish to jeopardize the Fish Creek Trail to the Ocean project by making placement of a trail in the area (depending on the route) impossible due to these new setbacks and other requirements.*

Watershed Management supports this project (as well as the proposed stream daylighting projects on Fish Creek). The provisions in this code requiring paved trails be at least 25-feet away from streams reflects that the majority of money spent in Anchorage for streambank restoration projects, hundreds of thousands if not millions of dollars, has been to address trail encroachment issues. Watershed feels as though maintaining the 25-foot separation is an important best practice. Individual situations and projects will have individual needs. Clearly, if the land is simply not available to maintain this buffer then we would support the project moving forward with either a variance of the alternate compliance section of the proposed ordinance. We do not feel that the inability to provide a 25-foot trail buffer should be a reason to not move forward with a project.