

PIMA COUNTY FLOOD CONTROL DISTRICT REVISION OF RIPARIAN HABITAT MITIGATION MEASURES

Mitigation Working Group Meeting

Meeting No. 7

January 27, 2010, 3:00 pm

Location: 97 E. Congress St., Tucson

Attending:

Carolyn Campbell	MWG - Coalition for Sonoran Desert Protection
Katheleen Kennedy	MWG - Coalition for Sonoran Desert Protection
Karen Cesare	Novak Environmental
Robert Tucker	MWG - Diamond Ventures
Suzanne Shields	Pima County RFCD
Bill Zimmerman	Pima County RFCD - PDD
Eric Shepp	Pima County RFCD – FPM
Carla Danforth	Pima County RFCD - WRD
Marisa Rice	Pima County RFCD - WRD

The focus of this meeting was to review and discuss revisions made to the July 2009 draft of the Regulated Riparian Habitat Mitigation Standards and Implementation Guidelines (Guidelines), provide a timeline for adoption of the revised Floodplain and Erosion Hazard Management Ordinance, and discuss a timeline for review and adoption of the offsite mitigation standards.

Item 1: Introductions & Recap of MWG meeting #6

Karen informed the group that a P&Z meeting extended longer than expected and may be the reason why so many members were unable to attend.

Staff decided sufficient MWG members were present to begin the meeting. Suzanne stated that due to the low attendance at MWG meeting #6, another meeting was scheduled to discuss July 2009 revisions to the Guidelines, which include the “Conservation Plan” concept and monitoring plan requirements for larger developments. Several minor revisions have been incorporated into the Guidelines since MWG meeting #6 (see “list of revisions”). Current revised draft is dated January 2010.

Item 2: Discussion: Revision of the Floodplain Management Ordinance

Suzanne asked Bill and Eric to discuss Ordinance revisions and a timeframe for sending to the Pima County Board of Supervisors (Board) for adoption.

Eric: Several important changes related to floodplain management are included in the revised Ordinance, which is why the District would like to move forward with adoption by the Board. By adopting the revised Ordinance prior to adoption of the Guidelines, citations to the new Ordinance can be incorporated into the Guideline document.

Suzanne:

Important changes to the Ordinance include:

- Clarifying the technical definition of “canyon washes” and providing development standards within these washes as requested by the Board

- New compliance enforcement authority provided by state statute.
- Incorporating new FEMA requirements regarding levees and critical facilities.

The District's goal is to schedule the Ordinance for Board review no later than May 4th, 2010. A calendar of events will be mailed to stakeholders soon, which outlines open house meetings with stakeholders, posting of public notices within local newspapers, etc. A copy of the revised Ordinance will be emailed to stakeholders and any interested party is welcome to meet with the District prior to scheduling the Ordinance for Board adoption.

Item 3: Review Revisions to July 2009 Mitigation Guideline Draft

-- Conservation Plan (renamed from "Alternative Mitigation Plan")

-- Monitoring Plan Requirements

Suzanne briefly discussed the October 9, 2009 letter sent to MWG members who requested changes to Chapter 16.30 of the Ordinance. The District chose not to revise Chapter 16.30 for the following reasons:

- New onsite Guidelines allow for project specific revisions to the Riparian Classification Maps (excluding IRA) using TECH-116, which provides a way to assess onsite riparian vegetation.
- IRA is part of the CLS. Decisions to change CLS boundaries would be made by the Board, with input by both the District and Development Services Department. If changes to IRA are sought by a private property owner or developer, a process other than the District's review and approval would need to be explored.
- And other reasons outlined in the letter

Suzanne further explained that legitimate questions have been raised by MWG members regarding delay of the Guidelines until offsite mitigation guidelines are developed. In response to these concerns, the District is willing to delay scheduling of the Guidelines for Board adoption until the MWG has an opportunity to review and discuss the offsite mitigation guidelines. Staff has expressed an interest in using uncontested portions of the Guidelines in the interim to assist property owners in understanding mitigation requirements. In response, Suzanne has signed a technical policy (TECH-026) allowing use of the draft Guidelines by staff until Board adoption.

Carla briefly explained revisions to the July 2009 draft, in addition to minor revisions to the January 2010 draft, per comments received from MWG members during MWG Meeting #6:

Conservation Plan (CP) – Revisions include a more detailed explanation of when a CP would be allowed, what information would need to be provided, examples of CP's, and a review/approval process. Examples include:

- Assessing biological resources on a site-by-site basis to assist in balancing conservation of important resources with development.
- Allowing applicants to map and preserve areas that may have been excluded from the Riparian Classification Maps due to mapping errors, changes in water flow since the Maps were created, etc. Cannot use this option for mitigation of IRA.

Monitoring Plan – During MWG meeting #6, members requested revisions to monitoring plan requirements in relation to large developments. Carla stated that it was up to each project to develop a monitoring plan that follows the basic requirements outlined in the Guidelines.

Item 4: MWG Member discussion of revisions

Karen stated the purpose of monitoring is to ensure plants survive and recommended the following:

- Counting existing plants is a simple process

- Provide photo points
- Level of data doesn't need to be copious
- Attempting to quantify photo monitoring requirements in too much detail makes the process complex and cumbersome. Keep it simple

She feels the current requirements provide adequate guidance in how to prepare a photo monitoring report.

Robert asked about the five year monitoring requirement, questioning whether or not it is a requirement of the Ordinance. Eric had brought a copy of the Ordinance and cited Chapter 16.30.050.C.3, which contains language supporting the five year monitoring requirement. Carla explained, that when the requirement was originally adopted, staff had requested 10 years of monitoring and maintenance. The Board agreed to five.

Karen: Sufficient time is needed to wean plants from irrigation, and monitor once plants have been removed from irrigation.

Also, problems experienced with monitoring phased projects. When does the five year requirement begin? Carla stated that the monitoring/maintenance period is initiated when mitigation is implemented.

Karen: NPPO requires a "monitor" be noted on the Landscape/NPPO plans, but this doesn't mean the property owner/developer is required to contract with the noted consultant to provide monitoring services. She advised the District to refrain from requesting a similar requirement.

Staff explained that a special condition is added to the standard floodplain covenant required with issuance of a floodplain use permit, notifying future property owners of the mitigation area. For residential and commercial development, the mitigation area is recorded on the plat or development plan and general and/or permitting notes are provided. The District will send an annual reminder to property owners, requesting monitoring plans. Staff noted that of all the mitigation plans approved with the monitoring report requirement, only 1 has been submitted without further correspondence by the District.

Karen stated that NPPO requires the property owner to sign a letter that notifies them of the monitoring requirement. The letter is then kept in the development review file. She recommended the District consider a similar requirement.

Kathleen asked if anyone has provided input on the Conservation Plan. Staff stated that no input has been received from MWG members on the current language.

Karen: The Conservation Plan should provide the ability to assess the site holistically.

- Need to document why certain areas of the site should be preserved over other areas of the site (a biological assessment)
- Look at overall connectivity of habitat corridor
- Option will mostly likely be used during the rezoning or specific plan processes

Carolyn asked how we define the value of any given restoration technique, and how we assess that value relative to impacts (habitat lost)? Suzanne and Carla stated that this is a new requirement and we're still working out the details. This option has never before been allowed, therefore there will be a learning curve in determining the value of impacts (habitat lost) vs. restoration techniques. The District does not want to restrict allowing creative restoration options to be brought to the table for discussion. Requiring documentation that the technique

worked at an ecologically similar site and/or a literature review of the proposed technique may be included as a requirement. Any proposed restoration technique will require both District and Board review and approval.

Carla requested the MWG provide specific recommendations regarding revisions and Suzanne would like more discussion on monitoring plan requirements and Conservation Plan language.

Suzanne signed a technical policy to allow use of the revised Guidelines. Kathleen asked if staff has been using the revised Guidelines, to which staff responded “yes”, and asked what kind of feedback had been received? Staff stated, that overall, property owners provided positive feedback about the new Guidelines, saying the document provides more detailed information on mitigation plan requirements and how to successfully implement mitigation.

Suzanne would like to send the Ordinance to the Board by May, and is willing to meet with stakeholders prior to that date. She would also like to send both the onsite and offsite Guidelines to the Board by fall, 2010.

Carolyn asked about TECH-026; would it need to be revised and re-signed if the Guidelines are revised before fall. Suzanne stated yes, she would revise and re-sign the technical policy, if needed.

Item 5: Update on Offsite Mitigation Guideline Development

SWCA is currently working with the District to develop offsite mitigation guidelines. Carla briefly explained options allowed in the offsite mitigation guidelines. Options include:

- In-lieu fee, based upon property and restoration costs
- Mitigation bank was removed as an option. Banks are difficult to set-up, complicated, restrictive, and require a large initial cost, prior to impacts taking place
- Land acquisition
- Acquisition of water rights
- Restoration on Pima County owned property
- Stewardship (limit grazing, etc.)

For ease in implementation, individual lot owners will be limited to the in-lieu fee option, while developers will have access to all options.

Carla explained that property owners want certainty of mitigation requirements. Offsite mitigation guidelines and review process should consider the following:

- Flexibility
- Ease of use
- For acquired land, ensure management costs, including long-term management costs, are minimal
- Define criteria to help in selection of sites
- How to assess value of habitat to be preserved vs. value of habitat impacted
- Sustainability
- Define a real value/cost for restoration

A proposed offsite mitigation guideline framework should be ready for presentation to the MWG in 6-8 weeks. Suzanne mentioned that once reviewed, MWG members may feel more comfortable with sending the Guidelines to the Board for adoption prior to adopting the offsite guidelines. Carla and Suzanne would like to limit review of the offsite mitigation guidelines to no

more than 3-4 MWG meetings. The District's goal is to schedule the offsite guidelines for Board adoption in fall 2010.

Carolyn would like input on how the District will use/spend in-lieu fee funds. Carla stated the new offsite guidelines will outline how and where the funds are spent. MWG members will be included in development of the offsite mitigation guidelines.

Carolyn questioned how the value of acquired vs. impacted riparian habitat will be assessed. Carla stated that for land acquisition, general locations/requirements will be established which will include ensuring the acquired land has similar biological value to impacted land.

Action Items

MWG members are to provide specific recommendations on the January 2010 draft Guidelines. If members concerns have been addressed, a formal letter to the District stating such would be appreciated. Individual MWG members may schedule a meeting with the District if further issues/concerns would like to be discussed.

Draft offsite mitigation guideline document should be ready for presentation to the MWG within the next 6-8 weeks, at which time MWG meeting #1 – offsite mitigation guidelines, will be scheduled.

END NOTES