

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Proposed Amendments to the Development Code and the Surface Water Management Code
DEPARTMENT:	Planning and Development Services / Public Works
PRESENTED BY:	Mark Relph, Director – Public Works Jesus Sanchez, Operations Manager – Public Works Jeff Forry, Permit Services Manager – Planning and Development

PROBLEM/ISSUE STATEMENT:

The issue before Council is comprised of two sections:

1. Revisions to the Surface Water Management Code (Title 13 of the SMC) adopting a new Stormwater Manual.
2. The consideration of the Planning Commission's recommendation on amendments to the Development Code (Title 20 SMC) to support the adoption of a new Stormwater Manual; and

The Planning Commission conducted a public hearing on November 6, 2008 on the amendments to the Development Code and made recommendations on the amendments for the Council's consideration.

ALTERNATIVES ANALYZED: The following options are within Council's discretion and have been analyzed by staff:

1. The Council could choose to adopt the amendments as recommended by the Planning Commission and staff by adopting Ordinance No. 531 (Attachment A)
2. The Council could choose to not adopt the amendments.
3. The Council could offer minor amendments.
4. The Council could remand the amendments to Planning Commission with guidance for additional review.

FINANCIAL IMPACTS:

There are no direct financial impacts to the City of the proposed amendments and adoption of the Stormwater Manual.

RECOMMENDATION

Staff recommend that Council adopt the Stormwater Management Manual for Western Washington prepared by the Washington State Department of Ecology as identified in the amendments to the Surface Water Code and the Planning Commission's recommendation to adopt the amendments to the Development Code included in Ordinance No. 531 (Attachment A). To facilitate implementation staff recommends an effective date of March 31, 2009.

Approved By: City Manager  City Attorney 

INTRODUCTION

An amendment to the Development Code is a legislative process that may be used to bring the City's land use and development regulations into conformity with the Comprehensive Plan, or to respond to changing conditions or needs of the City.

Amendments to other sections of the Municipal Code are also legislature, but do not require consideration by the Planning Commission at a public hearing

BACKGROUND

The City's current surface water management program consists of a combination of programs and requirements from King County, including King County Code (KCC) Title 9 and the Phase I National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit that were in place prior to incorporation. Since incorporation in August 1995, the City's storm water management program has been modified piecemeal to address new requirements. At this time, the regulatory language supporting the City's surface water management program is located in Chapter 13.10 and Title 20 of the Shoreline Municipal Code (SMC). The City's Engineering Development Guide and the 1998 King County Surface Water Design Manual also contain elements of the surface water management program.

In July 2005, prior to the Department of Ecology (Ecology) finalizing the current Western Washington NPDES Phase II Municipal Stormwater Permit (for small cities), the City adopted its first Surface Water Master Plan (SWM Plan). The City received its NPDES Phase II Permit from Ecology on January 17, 2007 and has five years to achieve compliance according to the milestone dates and annual reporting requirements. One of the components necessary to meet the requirements of the NPDES is the adoption and implementation of a stormwater manual equivalent to the Stormwater Management Manual for Western Washington prepared by the Washington State Department of Ecology by August of 2009. The City's SWM Plan anticipated many of the permit's requirements, which include a recommendation to update the City's surface water management program. In addition this is a component of the Council's adopted 2008-2009 work plan and is identified under Council Goal #6, "Create an Environmental Sustainable Community".

In order to consolidate the surface water management program, revisions to two chapters of the SMC – Chapter 13.10 and Title 20, various administrative procedures, and technical manuals are necessary. The amendments include revising definitions, removing the surface water management technical criteria that are to be included a new stormwater manual, and refining the adequacy of public facilities provisions.

Additional work plan items include:

- A new Surface Water Management Code to replace chapter 13.10 SMC. The code will adopt a surface water technical manual (Stormwater Manual), include the necessary "legal authorities" now found in KCC Title 9, and implement and enhance new and current programs required by the Phase II Municipal Stormwater permit,
- Technical criteria and procedures to support new Code,

- Addendum to the adopted storm water technical manual so that it does not conflict with the Shoreline Development Code, appropriately identifies City departmental authorities, and
- Maps to complement the adopted manual that show erosion, critical areas, flow control, water quality, and infiltration located in Shoreline

This is the first time the Council has been asked to consider these particular revisions; staff will present the changes and supporting rationale at the study session for Council review and comment. It is anticipated that the Council could accept the Planning Commission recommendation and if necessary conduct a public hearing on the amendments to Chapter 13.10 January 12, 2008.

The proposed modifications are attached in legislative format (with underlining and strikeouts). In most cases, staff has included a written summary of the background and thinking that preceded the requested changes.

ENVIRONMENTAL IMPACTS

Amendments to the Development Code are subject to review under SEPA. Both the amendments to the Development Code and adoption of a new Stormwater Manual were considered during the environmental review process. A threshold determination of non-significance was issued for this non-project action on October 22, 2008. No public comment was received.

PROCESS

A Notice of Public Hearing and request for public comment was published in conjunction with the SEPA threshold determination on October 28, 2008. No comments were received from citizens or public agencies receiving the notice. The public hearing was held on November 6, 2008 and no public testimony was received.

AMENDMENTS

TITLE 20 – DEVELOPMENT CODE

Exhibit 1 contained in Attachment A includes a copy of the original and proposed amending language shown in legislative format. Legislative format uses strikethroughs for proposed text deletions and underlines for proposed text additions. The exhibit includes the modifications recommended by the Planning Commission. A summary of the proposed amendments, with staff analysis is included in the staff report prepared for the Planning Commission (Attachment B). The Planning Commission recommendation is included in Attachment C. The Commission recommends approval of all the amendments.

CHAPTER 13.10 – SURFACE WATER MANAGEMENT CODE

Exhibit 2, Attachment A is a complete revision to Chapter 13.10 of the Shoreline Municipal Code. The revisions establish the authorities necessary to adopt and implement a new stormwater manual.

ALTERNATIVE AMENDMENTS

The Council under its authority in 20.30.100 to initiate Development Code amendments could direct staff to consider alternative amendments. Noticing requirements in the Development Code would require the City re-advertise any alternative amendment and would require an additional Public Hearing and Planning Commission recommendation.

RECOMMENDATION

Staff recommend that Council adopt the Stormwater Management Manual for Western Washington prepared by the Washington State Department of Ecology as identified in the amendments to the Surface Water Code and the Planning Commission's recommendation to adopt the amendments to the Development Code included in Ordinance No. 531 (Attachment A). To facilitate implementation staff recommends an effective date of March 31, 2009.

ATTACHMENTS

- Attachment A: Ordinance 531, containing proposed amendment language in legislative format
Exhibit 1 – Development Code
Exhibit 2 – Surface Water Management Code
- Attachment B: Planning Commission Staff Report November 6, 2008
- Attachment C: Planning Commission Minutes, November 6, 2008

ORDINANCE NO. 531

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON REPLACING THE SURFACE WATER MANAGEMENT CODE AND AMENDING PROPERTY DEVELOPMENT STANDARDS FOR SURFACE WATER IN THE DEVELOPMENT CODE; AND AMENDING CHAPTERS 13.10, 20.60 AND 20.70 AND SECTIONS 20.20.010-.060, 20.30.040-.290, 20.30.740, 20.40.140, 20.50.020-.340 and 20.90.040 OF THE SHORELINE MUNICIPAL CODE.

WHEREAS, a public participation process was conducted to develop and review staff proposed amendments to the Development Code including:

- A public comment period on the proposed amendments was advertised from September 8, 2008 to November 6, 2008; and
- The Planning Commission held a Public Hearing and formulated its recommendation to Council on the proposed amendments on November 6, 2008;

WHEREAS, a SEPA Determination of Nonsignificance was issued on October 22, 2008 in reference to the proposed amendments to the Development Code and the Surface Water Management Code; and

WHEREAS, the proposed amendments were submitted to the State Department of Community Development on October 20, 2008 for comment pursuant WAC 365-195-820; and

WHEREAS, no comments were received from the State Department of Community Development; and

WHEREAS, the Council finds that the amendments adopted by this ordinance are consistent with and implement the Shoreline Comprehensive Plan and comply with the adoption requirements of the Growth Management Act, Chapter 36.70A. RCW; and

WHEREAS, the Council finds that the amendments adopted by this ordinance meet the criteria in SMC 20.30.350 for adoption of amendments to the Development Code;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Amendment. Shoreline Municipal Code Title 20 chapters 20.60 and 20.70 and sections 20.20.010-.060, 20.30.040-.290, 20.30.740, 20.40.140, 20.50.020-.340 and 20.90.040 are amended as set forth in Exhibit 1, which is attached hereto and incorporated herein.

Section 2. Repeal, New Chapter. Shoreline Municipal Code Chapter 13.10 is hereby repealed in its entirety and a new chapter 13.10 is adopted as set forth in Exhibit 2 attached hereto and incorporated herein.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or

federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date and Publication. A summary of this ordinance consisting of the title shall be published in the official newspaper. This ordinance shall take effect March 31, 2009 .

PASSED BY THE CITY COUNCIL ON JANUARY 12, 2009.

Mayor Cindy Ryu

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of Publication:
Effective Date:

20.20.010-.060

Definitions that must be revised or reviewed

BMP Manual

~~A stormwater best management practices manual that presents BMPs and procedures for existing facilities and activities and for new development activities not covered by the City Surface Water Design Manual.~~

Critical Drainage Area

~~An area which has been formally determined by the department as designated by the City Manager to require more restrictive regulation than City-wide standards afford in order to mitigate severe flooding, drainage, erosion or sedimentation problems which result from the cumulative impacts of development and urbanization.~~

Deviation to the Engineering Standards

A mechanism to allow the City to grant an adjustment or exception to the application of engineering standards.

Erosion

~~The process by which soil particles are mobilized and transported by natural agents such as wind, rainsplash, frost action or surface water flow.~~

The wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Also, detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

Hardscape

Any structure or other covering on or above the ground that includes materials commonly used in building construction such as wood, asphalt and concrete, and also includes, but is not limited to, all structures, decks and patios, paving including gravel, pervious or impervious concrete and asphalt.

Hardscape Area

The total area of a lot or parcel that is covered by hardscape features and surfaces.

High-use Site

~~A commercial or industrial site that:~~

~~A. Has an expected average daily traffic (ADT) count equal to or greater than 100 vehicles per 1,000 square feet of~~

gross building area;

- ~~B. Is subject to petroleum storage or transfer in excess of 1,500 gallons per year, not including delivered heating oil; or~~
- ~~C. Is subject to use storage, or maintenance of a fleet of 25 or more diesel vehicles that are over 10 tons net weight (trucks, buses, trains, heavy equipment, etc.). Also included is any road intersection with a measured ADT count of 25,000 vehicles or more on the main roadway and 1,000 vehicles or more on any intersecting roadway, excluding projects proposing primarily pedestrian or bicycle use improvements. (1998 King County Surface Water Design Manual)~~

High-use sites are those that typically generate high concentrations of oil due to high traffic turnover or the frequent transfer of oil. High-use sites include:

- A. An area of a commercial or industrial site subject to an expected average daily traffic (ADT) count equal to or greater than 100 vehicles per 1,000 square feet of gross building area;
- B. An area of a commercial or industrial site subject to petroleum storage and transfer in excess of 1,500 gallons per year, not including routinely delivered heating oil;
- C. An area of a commercial or industrial site subject to parking, storage or maintenance of 25 or more vehicles that are over 10 tons gross weight (trucks, buses, trains, heavy equipment, etc.); or
- D. A road intersection with a measured ADT count of 25,000 vehicles or more on the main roadway and 15,000 vehicles or more on any intersecting roadway, excluding projects proposing primarily pedestrian or bicycle use improvements.

Impervious Surface ~~Any material that prevents absorption of stormwater into the ground. A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A hard surface~~

area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

Infiltration Rate

~~The rate of water entry into the soil expressed in inches per hour.~~

Regional Stormwater Management Facility

A surface water control structure installed in or adjacent to a stream or wetland of a basin or sub-basin, ~~by the surface water management (SWM) division or a project proponent.~~ Such facilities protect downstream areas identified by the City SWM as having previously existing or predicted significant regional basin flooding or erosion problems.

Special Drainage Areas

An area which has been formally determined by the City to require more restrictive regulation than City-wide standards afford in order to mitigate severe flooding, drainage, erosion or sedimentation problems which result from the cumulative impacts of development

Stormwater Manual

The most recent version of the Stormwater Management Manual for Western Washington published by Washington Department of Ecology ("Stormwater Manual")

Wetpond

~~An artificial water body constructed as a part of a surface water management system.~~

Table 20.30.040 – Summary of Type A Actions and Target Time Limits for Decision, and Appeal Authority

Action Type	Target Time Limits for Decision	Section
Type A:		
1. Accessory Dwelling Unit	30 days	20.40.120, 20.40.210
2. Lot Line Adjustment including Lot Merger	30 days	20.30.400
3. Building Permit	120 days	All applicable standards
4. Final Short Plat	30 days	20.30.450
5. Home Occupation, Bed and Breakfast, Boarding House	120 days	20.40.120, 20.40.250, 20.40.260, 20.40.400
6. Interpretation of Development Code	15 days	20.10.050, 20.10.060, 20.30.020
7. Right-of-Way Use	30 days	12.15.010 – 12.15.180
8. Shoreline Exemption Permit	15 days	Shoreline Master Program
9. Sign Permit	30 days	20.50.530 – 20.50.610
10. Site Development Permit	60 days	20.20.046, 20.30.315, 20.30.430
11. Variances <u>Deviation</u> from Engineering Standards	30 days	20.30.290
12. Temporary Use Permit	15 days	20.40.100, 20.40.540
13. Clearing and Grading Permit	60 days	20.50.290 – 20.50.370
14. Planned Action Determination	28 days	20.90.025

20.30.290 Variance Deviation from the engineering standards (Type A action).

A. Purpose. ~~Variance~~ Deviation from the engineering standards is a mechanism to allow the City to grant an adjustment in the application of engineering standards where there are unique circumstances relating to the proposal. ~~that strict implementation of engineering standards would impose an unnecessary hardship on the applicant.~~

B. Decision Criteria. The ~~Department~~ Director shall grant an engineering standards deviation ~~variance~~ only if the applicant demonstrates all of the following:

1. The granting of such deviation ~~variance~~ will not be materially detrimental to the public welfare or injurious or create adverse impacts to the property or other property(s) and improvements in the vicinity and in the zone in which the subject property is situated;
2. The authorization of such deviation ~~variance~~ will not adversely affect the implementation of the Comprehensive Plan adopted in accordance with State law;
3. A deviation ~~variance~~ from engineering standards shall only be granted if the proposal meets the following criteria:
 - a. Conform to the intent and purpose of the Code;
 - b. Produce a compensating or comparable result which is in the public interest;
 - c. Meet the objectives of safety, function and maintainability based upon sound engineering judgment.
4. ~~Deviations~~ Variances from road standards must meet the objectives for fire protection. Any deviation ~~variance~~ from road standards, which does not meet the International Fire Code, shall also require concurrence by the Fire Marshal.
5. Deviations ~~Variances~~ from drainage standards contained in the Stormwater Manual and title 13.10 SMC must meet the objectives for appearance and environmental protection.

6. Deviations~~Variances~~ from drainage standards contained in the Stormwater Manual and title 13.10 SMC must be shown to be justified and required for the use and situation intended.
7. Deviations~~Variances~~ from drainage standards for facilities that request use of emerging technologies, an experimental water quality facility or flow control facilities must meet these additional criteria:
 - a. The new design is likely to meet the identified target pollutant removal goal or flow control performance based on limited data and theoretical consideration,
 - b. Construction of the facility can, in practice, be successfully carried out;
 - c. Maintenance considerations are included in the design, and costs are not excessive or are borne and reliably performed by the applicant or property owner;
8. Deviations~~Variances~~ from utility standards shall only be granted if following facts and conditions exist:
 - a. The deviation~~variance~~ shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and in the zone in which the property on behalf of which the application was filed is located;
 - b. The deviation~~variance~~ is necessary because of special circumstances relating to the size, shape, topography, location or surrounding of the subject property in order to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located;
 - c. The granting of such deviation~~variance~~ is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same zone or vicinity. (Ord. 406 § 1, 2006; Ord. 238 Ch. III § 7(a), 2000).

20.30.750 Declaration of public nuisance, enforcement.

- A. A Code Violation, as used in this subchapter, is declared to be a public nuisance and includes violations of the following:
1. Any City land use and development ordinances or public health ordinances;
 2. Any public nuisance as set forth in Chapters 7.48 and 9.66 RCW;
 3. Violation of any of the Codes adopted in Chapter 15.05 SMC;
 4. Any accumulation of refuse, except as provided in Chapter 13.14 SMC, Garbage Code;
 5. Nuisance vegetation; and
 6. Discarding or dumping of any material onto the public right-of-way, waterway, or other public property.
 7. Violation of any of the provisions of Chapter 13.10 SMC
- B. No act which is done or maintained under the express authority of a statute or ordinance shall be deemed a public nuisance. (Ord. 406 § 1, 2006; Ord. 391 § 4, 2005; Ord. 251 § 2(E), 2000; Ord. 238 Ch. III § 10(d), 2000).

20.40.140 Other uses.

NAICS #	SPECIFIC USE	R4-R6	R8-R12	R18-R48	NB & O	CB & NCBD	RB & I
EDUCATION, ENTERTAINMENT, CULTURE, AND RECREATION							
	Adult Use Facilities					P-i	P-i
71312	Amusement Arcade						P
71395	Bowling Center				C	P	P
6113	College and University				S	P	P
56192	Conference Center	C-i	C-i	C-i	P-i	P-i	P-i
6111	Elementary School, Middle/Junior High School	C	C	C			
	Gambling Uses (expansion or intensification of existing nonconforming use only)				S-i	S-i	S-i
71391	Golf Facility	P-i	P-i	P-i			
514120	Library	C	C	C	P	P	P
71211	Museum	C	C	C	P	P	P
	Nightclubs (excludes Adult Use Facilities)					C	P
7111	Outdoor Performance Center						S
	Parks and Trails	P	P	P	P	P	P
	Performing Arts Companies/Theater (excludes Adult Use Facilities)					P-i	P-i
6111	School District Support Facility	C	C	C	C	P	P
6111	Secondary or High School	C	C	C	C	P	P
6116	Specialized Instruction School	C-i	C-i	C-i	P	P	P
71399	Sports/Social Club	C	C	C	C	P	P
6114 (5)	Vocational School	C	C	C	C	P	P
GOVERNMENT							
9221	Court					P-i	P-i
92216	Fire Facility	C-i	C-i	C-i	P-i	P-i	P-i
	Interim Recycling Facility	P-i	P-i	P-i	P-i	P-i	P-i
92212	Police Facility				S	P	P
92	Public Agency or Utility Office	S-i	S-i	S	S	P	P
92	Public Agency or Utility Yard	P-i	P-i	P-i			P-i
221	Utility Facility	C	C	C	P	P	P
	Utility Facility, Regional stormwater management	C	C	C	P	P	P
HEALTH							
622	Hospital	C-i	C-i	C-i	C-i	P-i	P-i
6215	Medical Lab					P	P
6211	Medical Office/Outpatient Clinic	C-i	C-i	C-i	P	P	P
623	Nursing and Personal Care Facilities			C	C	P	P
REGIONAL							

ATTACHMENT A
EXHIBIT 1
November 19, 2008

	School Bus Base	S-i	S-i	S-i	S-i	S-i	S-i
	Secure Community Transitional Facility						SCTFS-i
	Transfer Station	S	S	S	S	S	S
	Transit Bus Base	S	S	S	S	S	S
	Transit Park and Ride Lot	S-i	S-i	S-i	P	P	P
	Work Release Facility						S-i
P = Permitted Use S = Special Use C = Conditional Use -i = Indexed Supplemental Criteria SCTFS = Secure Community Transitional Facility Special Use							

Table 20.50.020(1) – Densities and Dimensions in Residential Zones

Note: Exceptions to the numerical standards in this table are noted in parenthesis and described below.

Residential Zones							
STANDARDS	R-4	R-6	R-8	R-12	R-18	R-24	R-48
Base Density: Dwelling Units/Acre	4 du/ac	6 du/ac (1)(7)	8 du/ac	12 du/ac	18 du/ac	24 du/ac	48 du/ac
Min. Density	4 du/ac	4 du/ac	4 du/ac	6 du/ac	8 du/ac	10 du/ac	12 du/ac
Min. Lot Width (2)	50 ft	50 ft	50 ft	30 ft	30 ft	30 ft	30 ft
Min. Lot Area (2)	7,200 sq ft	7,200 sq ft	5,000 sq ft	2,500 sq ft	2,500 sq ft	2,500 sq ft	2,500 sq ft
Min. Front Yard Setback (2) (3)	20 ft	20 ft	10 ft	10 ft	10 ft	10 ft	10 ft
Min. Rear Yard Setback (2) (4) (5)	15 ft	15 ft	5 ft	5 ft	5 ft	5 ft	5 ft
Min. Side Yard Setback (2) (4) (5)	5 ft min. and 15 ft total sum of two	5 ft min. and 15 ft total sum of two	5 ft	5 ft	5 ft	5 ft	5 ft
Base Height	30 ft (35 ft with pitched roof)	30 ft (35 ft with pitched roof)	35 ft	35 ft	35 ft (40 ft with pitched roof)	35 ft (40 ft with pitched roof)	35 ft (40 ft with pitched roof) (8) (9)
Max. Building Coverage (6)	35%	35%	45%	55%	60%	70%	70%
Max. Impervious Surface <u>Hardscape Area</u> (2)(6)	45%	50%	65%	75%	85%	85%	90%

(6) The maximum building coverage shall be 35 percent and the maximum impervioushardscape area shall be 50 percent for single-family detached development located in the R-12 zone, excluding cottage housing.

Table 20.50.020(2) – Densities and Dimensions for Residential Development in Nonresidential Zones

STANDARDS	Neighborhood Business (NB) and Office (O) Zones	Community Business (CB) Zone	Regional Business (RB) and Industrial (I) Zones
Maximum Density: Dwelling Units/Acre	24 du/ac	48 du/ac	No maximum
Minimum Front Yard Setback	10 ft	10 ft	10 ft
Minimum Side Yard Setback from Nonresidential Zones	5 ft	5 ft	5 ft
Minimum Rear Yard Setback from Nonresidential Zones	15 ft	15 ft	15 ft
Minimum Side and Rear Yard (Interior) Setback from R-4 and R-6	20 ft	20 ft	20 ft
Minimum Side and Rear Yard Setback from R-8 through R-48	10 ft	10 ft	15 ft
Base Height (1)	35 ft	60 ft	65 ft (2)
Maximum Impervious Surface/Hardscape Area	85%	85%	95%

20.50.160 Open space – Standards

Exception 20.50.160(A)(3): Stormwater runoff tracts may be credited for up to 50 percent of the on-site recreation space requirement, subject to the following criteria:

1. The stormwater runoff tract is dedicated or reserved as a part of a recreation space tract;
2. The detention pond shall be constructed to meet the following conditions:
 - a. The side slope of the stormwater facilities shall not exceed grade 1:3 (one vertical to three horizontal) unless slopes are existing, natural and covered with vegetation,
 - b. Any bypass system or an emergency overflow pathway shall be designed to handle flow exceeding the facility design and located so that it does not pass through active recreation areas or present a safety hazard,
 - c. The stormwater facilities shall be landscaped in a manner to enhance passive recreation opportunities such as trails and aesthetic viewing, and
 - d. The stormwater facilities shall be designed so they do not require fencing pursuant to the surface water design manual-Stormwater Manual.

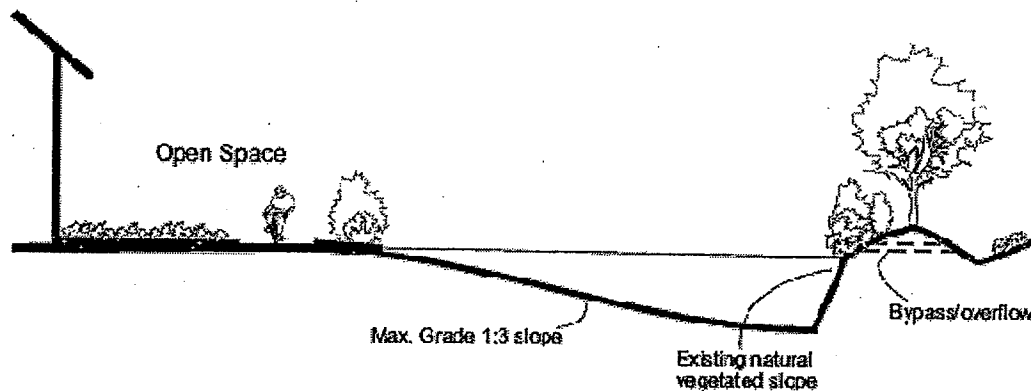


Figure Exception to 20.50.160(A)(2) and (3): Example of stormwater facility design which does not require fencing.

20.50.230 Site planning – Setbacks and height – Standards.

Table 20.50.230 – Dimensions for Commercial Development in Commercial Zones

Note: Exceptions to the numerical standards in this table are noted in parenthesis and described below.

STANDARDS	Neighborhood Business (NB) and Office (O) Zones	Community Business (CB)	Regional Business (RB) and Industrial (I) Zones
Min. Front Yard Setback (Street) (1) (2)	10 ft	10 ft	10 ft
Min. Side and Rear Yard (Interior) Setback from NB, O, CB, RB, and I Zones (2)	0 ft	0 ft	0 ft
Min. Side and Rear Yard (Interior) Setback from R-4 and R-6 (2)	20 ft	20 ft	20 ft
Min. Side and Rear Yard (Interior) Setback from R-8 through R-48 (2)	10 ft	10 ft	15 ft
Base Height (5)	35 ft (3)	60 ft	65 ft (4)
Max. Impervious Surface <u>Hardscape Area</u>	85%	85%	90%

**Subchapter 5. Tree Conservation, Land Clearing and Site Grading
Standards – Sections 25.50.290 thru .370**

20.50.310 Exemptions from permit

B. **Partial Exemptions.** With the exception of the general requirements listed in SMC 20.50.300, the following are exempt from the provisions of this subchapter, provided the development activity does not occur in a critical area or critical area buffer. For those exemptions that refer to size or number, the thresholds are cumulative during a 36-month period for any given parcel:

1. The removal of up to six significant trees (see Chapter 20.20 SMC, Definitions) and associated removal of understory vegetation from any property.
2. Landscape maintenance and alterations on any property that involves the clearing of less than 3,000 square feet, or less than 1,500 square feet if located in a critical special drainage area, provided the tree removal threshold listed above is not exceeded. (Ord. 434 § 1, 2006; Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(C), 2000).

20.50.320 Specific activities subject to the provisions of this subchapter.

All activities listed below must comply with the provisions of this subchapter. For those exemptions that refer to size or number, the thresholds are cumulative during a 36-month period for any given parcel:

- A. The construction of new residential, commercial, institutional, or industrial structures or additions.
- B. Earthwork of 50 cubic yards or more. This means any activity which moves 50 cubic yards of earth, whether the material is excavated or filled and whether the material is brought into the site, removed from the site, or moved around on the site.
- C. Clearing of 3,000 square feet of land area or more or 1,500 square feet or more if located in a ~~critical~~ special drainage area.
- D. Removal of more than six significant trees from any property.
- E. Any clearing or grading within a critical area or buffer of a critical area.
- F. Any change of the existing grade by four feet or more.
- G. Any work that occurs within or requires the use of a public easement, City-owned tract or City right-of-way.
- H. Any land surface modification not specifically exempted from the provisions of this subchapter.
- I. ~~Construction or creation of new~~ Development that creates new, replaced or a total of new plus replaced impervious surfaces over 1,500 square feet in size, or 500 square feet in size if located in a landslide hazard area or critical special drainage area.
- J. Any construction of public drainage facilities to be owned or operated by the City.
- K. Any construction involving installation of private storm drainage pipes 12-inch in diameter or larger.

- L. Any modification of, or construction which affects a stormwater quantity or quality control system. (Does not include maintenance or repair to the original condition).
- M. Applicants for forest practice permits (Class IV – general permit) issued by the Washington State Department of Natural Resources (DNR) for the conversion of forested sites to developed sites are also required to obtain a clearing and grading permit. For all other forest practice permits (Class II, III, IV – special permit) issued by DNR for the purpose of commercial timber operations, no development permits will be issued for six years following tree removal. (Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(D), 2000).

20.50.330 Project review and approval.

- A. **Review Criteria.** The Director shall review the application and approve the permit, or approve the permit with conditions; provided that the application demonstrates compliance with the criteria below.
1. The proposal complies with SMC 20.50.340 through 20.50.370, or has been granted a ~~variance~~ deviation from the engineering standards.
 2. The proposal complies with all standards and requirements for the underlying permit.
 3. If the project is located in a critical area or buffer or has the potential to impact a critical area, the project must comply with the critical areas standards.
 4. The project complies with all requirements of the engineering standards and ~~the SMC 13.10.200 Surface Water Design Manual~~ Management Code and adopted standards.
 5. All required ~~bonds~~ financial guarantees or other assurance devices are posted with the City.

Terminology changed to implement Stormwater Manual and Surface Water Management Code.

20.50.340 Basic operating conditions and standards of performance.

- A. Any activity that will clear, grade or otherwise disturb the site, whether requiring a clearing or grading permit or not, shall provide erosion and sediment control (ESC) that prevents, to the maximum extent possible, the transport of sediment from the site to drainage facilities, water resources and adjacent properties. Erosion and sediment controls shall be applied as specified by the temporary ESC measures and performance criteria and implementation requirements in the adopted stormwater management design manual SMC 13.10.200 Surface Water Management Code and adopted standards.

Terminology changed to implement Stormwater Manual and Surface Water Management Code.

20.60.060 Purpose.

~~The purpose of this subchapter is to describe requirements for new development to:~~

- ~~A. Reduce flooding, erosion, and sedimentation;~~
- ~~B. Prevent and mitigate habitat loss;~~
- ~~C. Enhance groundwater recharge; and~~
- ~~D. Prevent surface and subsurface water pollution through the implementation of comprehensive and thorough permit review and construction inspection. (Ord. 238 Ch. VI § 3(A), 2000).~~

20.60.070 General provisions Adequate surface water management system.

All new development shall be served by an adequate surface water management system as follows:

- ~~A. The existing or proposed system is adequate if the site of the development proposal site is served by a surface water management system approved by the Department as being consistent with the design, operating and procedural requirements adopted by the City as defined in chapter 13.10 SMC, Surface Water Management Code and adopted standards.~~
- ~~B. For the issuance of a building permit, preliminary plat approval, or other land use approval, the applicant shall demonstrate that:~~
 - ~~1. The existing surface water management system available to serve the site complies with the design standards specified above; or~~
 - ~~2. The proposed improvements to an existing surface water management system or a proposed new surface water management system comply with the design standards specified above.~~
- ~~B. For a formal subdivision, special use permit or zone reclassification, the phased installation of required surface water management improvements shall be stated in the approving ordinance. Such phasing may require that a financial guarantee be deposited. (Ord. 238 Ch. VI § 3(B), 2000).~~

~~20.60.080 Development proposal requirements.~~

~~A drainage review is required when any development proposal is subject to a City permit and any of the following:~~

- ~~A. Would add 1,500 square feet or more of new impervious surface;~~
- ~~B. Would construct or modify a public or private drainage system;~~
- ~~C. Contains or is within 100 feet of a floodplain, stream, lake, wetland or closed depression, or a critical area overlay district;~~
- ~~D. Is located within or within 100 feet of a landslide hazard area and would add 500 square feet or more of new impervious surface;~~
- ~~E. Is located within or within 100 feet of an identified critical drainage area;~~
- ~~F. Is a redevelopment project proposing \$100,000 or more of improvements to an existing high use site; or~~
- ~~G. Is a redevelopment project proposing \$500,000 or more of site improvements and would create 1,500 square feet or more of contiguous pollution-generating impervious surface through any combination of new and/or replaced impervious surface. (Ord. 238 Ch. VI § 3(C), 2000).~~

~~20.60.090 Core surface water and stormwater requirements.~~

~~Every development proposal with drainage review required must meet each of the following core requirements in addition to those described in the Surface Water Design Manual.~~

- ~~A. Core Requirement #1: Discharge at the Natural Location. All surface water and stormwater runoff from a development proposal shall be discharged at the natural location so as not to be diverted onto, or away from, downstream properties. The manner in which runoff is discharged from the project site shall not create a significant adverse impact to downhill properties or drainage systems.~~
- ~~B. Core Requirement #2: Off-site Analysis. The initial application submittal for development proposals shall include an off-site analysis report that contains~~

~~an assessment of potential off site drainage impacts associated with a development proposal, called a level one downstream analysis; and proposed appropriate mitigations to those impacts.~~

~~C. Core Requirement #3: Flow Control. If a development proposal would add a minimum of 1,500 square feet of new impervious surface and any related land cover conversion, the proposal shall include facilities to meet a minimum of level two flow control requirements and the flow control implementation as specified in the Surface Water Design Manual.~~

~~D. Core Requirement #4: Conveyance System. All engineered conveyance system elements for development proposals shall be analyzed, designed and constructed to provide the minimum level of protection against overtopping, flooding, erosion and structural failure as specified by the conveyance requirements for new and existing systems and conveyance implementation requirements described in the Surface Water Design Manual.~~

~~E. Core Requirement #5: Erosion and Sediment Plan. All development proposals that will clear, grade, or otherwise disturb the site shall provide erosion and sediment control, in accordance with the adopted Best Management Practices (BMP) Manual, that prevents, to the maximum extent possible, the transport of sediment from the site to drainage facilities, water resources and adjacent properties.~~

~~F. Core Requirement #6: Maintenance and Operation. Development proposals shall include provisions for the maintenance of all drainage facilities. It is the responsibility of the applicant/property owner to:~~

- ~~1. Make these provisions in compliance with City maintenance standards as described in the Surface Water Design Manual, or~~
- ~~2. Make provisions by which the City is granted an easement or covenant and assumes maintenance and operation as described in the Surface Water Design Manual.~~

~~G. Core Requirement #7: Financial Guarantees and Liability. All drainage facilities constructed or modified for development projects, except downspout infiltration and dispersion systems for single family residential lots, must comply with the liability requirements and the financial guarantee requirements of the City.~~

~~H. Core Requirement #8: Water Quality.~~ Development proposals shall provide water quality treatment facilities to treat polluted surface water and stormwater runoff generated by the addition and/or replacement of 1,500 square feet or more of pollution-generating impervious surface or one acre or more of pollutant-generating pervious surfaces. At a minimum, the facilities shall reduce pollutant loads by meeting the applicable annual average performance goals listed below for 95 percent of the annual average runoff volume:

- ~~1. Basic water quality: remove 80 percent of the total suspended solids;~~
- ~~2. Sensitive lake protection: remove 50 percent of the total phosphorus; and~~
- ~~3. Resource stream protection: remove 50 percent of the total zinc. (Ord. 238 Ch. VI § 3(D), 2000).~~

~~20.60.100 Special requirements.~~

~~Every development proposal required to have drainage review shall meet all of the special requirements that apply to the site. The Department shall review each development proposal and determine if any of the special requirements apply.~~

~~A. Special Requirement #1: Other Adopted Area-Specific Requirements.~~

~~This requirement applies to development proposals located in a designated critical drainage area, erosion hazard area, basin plan, or shared facility plan.~~

~~B. Special Requirement #2: Floodplain/Floodway Delineation.~~ ~~If a development proposal contains or is adjacent to a stream, lake, wetland or closed depression, then the 100-year floodplain boundaries, and floodway (if available or if improvements are proposed floodplain), shall be delineated on the site improvement plans, and on any final subdivision maps.~~

~~C. Special Requirement #3: Flood Protection Facilities.~~ ~~If a development proposal contains or is adjacent to a Class 1 or 2 stream with an existing flood protection facility, or proposes to construct a new one, then the flood protection facility(s) shall be analyzed and/or designed as specified in the Surface Water Design Manual.~~

~~D. Special Requirement #4: Source Control.~~ ~~If a development proposal requires a commercial building or commercial site development permit, then~~

~~water quality source controls shall be applied to prevent rainfall and runoff from coming into contact with pollutants to the maximum extent possible. Water quality source controls shall be applied in accordance with City Code and the Surface Water Design Manual. All structural source controls shall be identified on the site improvement plans and profiles or final maps prepared for the proposed project.~~

~~E. **Special Requirement #5: Oil Control.** If a development proposal is a high-use site or is a redevelopment project proposing \$100,000 or more of improvements to an existing high-use site, then oil control shall be applied to all runoff from the high-use portion of the site as specified in the Surface Water Design Manual. (Ord. 238 Ch. VI § 3(E), 2000).~~

~~**20.60.110 Construction timing and final approval.**~~

~~A. No work for a permitted development related to permanent or temporary storm drainage control shall proceed without the approval of the Director.~~

~~B. Erosion and sediment control measures associated with both the interim and permanent drainage systems shall be:~~

~~1. Constructed in accordance with the approved plan prior to any grading or land clearing other than that associated with an approved erosion and sediment control plan;~~

~~2. Satisfactorily sequenced and maintained until all improvements, restoration, and landscaping associated with the permit and/or for the project are completed, and the potential for onsite erosion has passed.~~

~~C. Prior to the construction of any improvements and/or buildings on the site, those portions of the drainage facilities necessary to accommodate the control of surface water and stormwater runoff discharging from the site shall be constructed and in operation. Recording of formal and administrative subdivisions may occur prior to the construction of drainage facilities when approved in writing by the Director of the Department only to minimize impacts that may result from construction during inappropriate times of the year. If recording of formal or administrative subdivisions occurs prior to the construction of the drainage facilities (when approved in writing by the Director of the Department to minimize impacts that may result from construction during inappropriate times of the year) then a bond will be posted to cover the cost of the unbuilt drainage facilities and a deadline for completion of the drainage facilities will be imposed.~~

~~D. When required to construct a drainage facility, the applicant shall maintain a combined single limit per occurrence liability policy. This policy shall:~~

- ~~1. Be in the amount established by the City;~~
- ~~2. Name the City as an additional insured and protect City from liability relating to the construction or maintenance of the facility until construction approval or acceptance for maintenance, whichever is last.~~

~~—Proof of this required liability policy is required prior to commencing construction of any drainage facility. (Ord. 238 Ch. VI § 3(F), 2000).~~

~~20.60.120 Water quality.~~

~~A. The purpose of this section is to protect the City's surface and ground water quality by providing minimum requirements for reducing and controlling the discharge of contaminants. The City recognizes that water quality degradation can result either directly from one discharge or through the collective impact of many small discharges. Therefore, this section prohibits the discharge of contaminants into surface water, stormwater and ground water, and outlines preventive measures to restrict contaminants from entering such waters. These measures include the implementation of best management practices (BMPs) by the residents of City of Shoreline.~~

~~B. Discharges into City Waters. It is unlawful for any person to discharge any contaminants into surface water, stormwater, ground water, or Puget Sound. Contaminants include, but are not limited, to the following:~~

- ~~1. Trash or debris;~~
- ~~2. Construction materials;~~
- ~~3. Petroleum products including but not limited to oil, gasoline, grease, fuel oil, heating oil;~~
- ~~4. Antifreeze and other automotive products;~~
- ~~5. Metals in either particulate or dissolved form;~~
- ~~6. Flammable or explosive materials;~~

- ~~7. Radioactive material;~~
- ~~8. Batteries;~~
- ~~9. Acids, alkalis, or bases;~~
- ~~10. Paints, stains, resins, lacquers, or varnishes;~~
- ~~11. Degreasers and/or solvents;~~
- ~~12. Drain cleaners;~~
- ~~13. Pesticides, herbicides, or fertilizers;~~
- ~~14. Steam cleaning wastes;~~
- ~~15. Pressure washing wastes;~~
- ~~16. Soaps, detergents, or ammonia;~~
- ~~17. Spa or chlorinated swimming pool water;~~
- ~~18. Chlorine, bromine, and other disinfectants;~~
- ~~19. Heated water;~~
- ~~20. Animal and human wastes;~~
- ~~21. Sewage;~~
- ~~22. Recreational vehicle waste;~~
- ~~23. Animal carcasses;~~

~~24. Food wastes;~~

~~25. Bark and other fibrous materials;~~

~~26. Collected lawn clippings, leaves, or branches;~~

~~27. Silt, sediment, or gravel;~~

~~28. Dyes, with the following exception: Dye testing is allowable but requires verbal notification to the City at least one business day prior to the date of the test;~~

~~29. Chemicals not normally found in uncontaminated water;~~

~~30. Any hazardous material or waste, not listed above.~~

~~C. Any connection that could convey anything not composed entirely of natural surface water and stormwater directly to surface, storm, or ground water is considered an illicit connection and is prohibited with the following exceptions:~~

~~1. Connection conveying allowable discharges;~~

~~2. Connections conveying discharges pursuant to an NPDES permit (other than an NPDES stormwater permit) or a State Waste Discharge Permit; and~~

~~3. Connections conveying effluent from onsite sewage disposal systems to subsurface soils.~~

~~D. The following types of discharges shall not be considered prohibited discharges unless the Director determines that the type of discharge, whether singly or in combination with others, is causing significant contamination to surface, storm, or ground water, or damage to a built or natural surface or stormwater conveyance system, including erosion damage:~~

~~1. Potable water;~~

- ~~2. Potable water line flushing;~~
- ~~3. Uncontaminated water (including sedimentation) from crawl space pumps or footing drains;~~
- ~~4. Lawn watering;~~
- ~~5. Residential car and boat washing;~~
- ~~6. Dechlorinated swimming pool water;~~
- ~~7. Materials placed as part of an approved habitat restoration or bank stabilization project;~~
- ~~8. Natural uncontaminated surface water or ground water;~~
- ~~9. Flows from riparian habitats and wetlands;~~
- ~~10. The following discharges from boats: engine exhaust, cooling waters, effluent from sinks, showers and laundry facilities and treated sewage from Type I and Type II marine sanitation devices;~~
- ~~11. Common practices for water line or water well disinfection; and~~
- ~~12. Other types of discharges as determined by the Director.~~

~~E. A person shall not be in violation of discharge regulations if the following conditions exist:~~

- ~~1. That person has properly designed, constructed, implemented and is maintaining BMPs, and contaminants continue to enter surface water and stormwater or ground water;~~
- ~~2. The person can demonstrate that there are no additional contaminants being discharged from the site above the background conditions of the water entering the site.~~

~~The said person however, is still liable for prohibited discharges through illicit connections, dumping, spills, improper maintenance of BMPs, or other discharges that allow contaminants to enter surface water and stormwater or ground water.~~

- ~~3. Emergency response activities or other actions that must be undertaken immediately or within a time too short to allow full compliance with this section, to avoid an imminent threat to public health or safety, shall be exempt from this section. In such a case, steps should be taken to ensure that the discharges resulting from such activities are minimized to the greatest extent possible. In addition, recurrences shall be restricted by evaluating BMPs and the site plan, where applicable. The City shall be notified of the occurrence as close to the incident date as is feasible. (Ord. 238 Ch. VI § 3(G), 2000).~~

20.60.130 Best management practices.

A. ~~The City adopts "Urban Landuse BMPs, Volume IV of the 1992 Stormwater Management Manual for the Puget Sound Basin" (DOE SWMM), and future amendments by reference as the Source Control BMP Manual for the City of Shoreline.~~

B. Applicability.

1. ~~Persons implementing BMPs through another Federal, State, or local program will not be required to implement the BMPs prescribed in the City's manual, unless the Director determines the alternative BMPs to be ineffective at reducing the discharge or contaminants. If the other program requires the development of a best management practices plan, the person shall make their plan available to City upon request. Qualifying exemptions include, but are not limited to, persons who are:~~
 - a. ~~Required to obtain a general or individual NPDES permit for stormwater discharges from the Washington State Department of Ecology;~~
 - b. ~~Permitted under a Washington State Department of Ecology NPDES general or individual permit for commercial dairy operations;~~
 - c. ~~Implementing BMPs in compliance with the management program of the City's municipal NPDES permit;~~
 - d. ~~Identified by the Director as being exempt from this section.~~
2. ~~Persons conducting normal single family residential activities will not be required to implement the BMPs prescribed in the City's BMP Manual, unless the Director determines that these activities pose a hazard to public health, safety, or welfare. (Ord. 238 Ch. VI § 3(H), 2000).~~

20.70.030 Required street improvements.

20.70.035 Required stormwater drainage facilities

The purpose of this section is to identify the types of development proposals to which the provisions of this chapter apply.

- A. All developm ent and redevelopment as defined in the Stormwater Manual shall provide stormwater drainage improvements shall that meet the minimum requirements of the Stormwater Manual.
- B. Developme nt proposals that do not require City-approved plans or a permit still must meet the requirements specified in this chapter.
- C. It shall be a condition of approval for development permits that required improvements be installed by the applicant prior to final approval or occupancy.
- D. These provisions shall apply to all development and redevelopment, as defined in the Stormwater Manual.

20.70.070 Dedication of stormwater facilities – Drainage facilities not accepted by the City.

- A. The property owner and the applicant required to construct a drainage facility shall remain responsible for the facility's continual performance, operation and maintenance and remain responsible for any liability as a result of these duties. This responsibility includes maintenance of a drainage facility that is:
1. Under a maintenance guarantee or defect guarantee;
 2. A private road conveyance system;
 3. Released from all required financial guarantees prior to date of this Code;
 4. Located within and serving only one single-family residential lot;
 5. Located within and serving a multifamily or commercial site unless the facility is part of an approved shared facility plan;
 6. Located within or associated with an administrative or formal subdivision which handles runoff from an area of which less than two-thirds is designated for detached or townhouse dwelling units located on individual lots unless the facility is part of an approved shared facility plan;
 7. Previously terminated for assumption of maintenance responsibilities by the Department; or
 8. Not otherwise accepted by the City for maintenance.
- B. Prior to the issuance of any of the permits for any multifamily or nonresidential project required to have a flow control or water quality treatment facility, the applicant shall record a declaration of covenant as specified in the Surface Water Design Manual SMC 13.10.200 Surface Water Management Code and adopted standards. The restrictions set forth in such covenant shall include, but not be limited to, provisions for notice to the property owner of a City determination that maintenance and/or repairs

are necessary to the facility and a reasonable time limit in which such work is to be completed.

1. In the event that the titleholders do not effect such maintenance and/or repairs, the City may perform such work upon due notice. The titleholders are required to reimburse for any such work. The restrictions set forth in such covenant shall be included in any instrument of conveyance of the subject property and shall be recorded with the county.
 2. The City may enforce the restrictions set forth in the declaration of covenant provided in the Surface Water Design Manual SMC 13.10.200 Surface Water Management Code and adopted standards.
- C. Where not specifically defined in this section, the responsibility for performance, operation and maintenance of drainage facilities and conveyance systems, both natural and constructed, shall be determined on a case by case basis. (Ord. 238 Ch. VII § 2(C-2), 2000).

20.90.040 Dimensional standards.

Table 20.90.040 – North City Business District Site Development Standards

Standards	Main Street 1	Main Street 2
Maximum front (street setback)	0 ft. (3) (4)	10 ft. (1) (3) (4)
Minimum side and rear yard setback from nonresidential zones	0 ft. (5)	0 ft. (5)
Minimum side and rear yard setback from residential zones	15 ft.	15 ft.
Base height	60 ft.	60 ft.
Upper floor setback (transition line) for all portions of a building along street and edges along adjacent residential zones	10 ft. (2) (4)	10 ft. (2) (4)
Maximum impervious surface <u>Hardscape Area</u> .	85%	85%

Note: Exceptions to the numerical standards in this table are noted in parenthesis and described below.

Exceptions to Table 20.90.040:

- (1) Residential development (excluding mixed use) shall have a minimum 10-foot wide, fully landscaped front yard measured from the back of the sidewalk.
- (2) Buildings located at corners should serve as gateways to the neighborhood, distinguishable from the rest of the buildings. Sixty-foot height shall be allowed without upper floor setbacks on corners. This shall only be done when a corner emphasis is desired. After 50-foot distance from a corner, building shall comply with upper level setbacks as specified in Table 20.90.040.
- (3) Corner buildings shall be set back by two feet from the street frontage line.
- (4) Unenclosed balconies on sides of the building that are above the 35-foot transition line setback shall be permitted to encroach into the 10-foot setback.
- (5) Side and rear setbacks for buildings are not required, unless an adjacent building existing at the time of development has windows facing the side or rear. Then any new building shall provide minimum setback of five feet.

(Ord. 281 § 7, 2001).

City of Shoreline Surface Water Management Code Revision

Chapter 13.10 Surface Water Management Code

Surface Water Utility

13.10.100 Purpose

A Surface Water Utility is necessary to promote public health, safety, and welfare by:

- A. Establishing a program to comprehensively manage surface water with the intent of reducing flooding, erosion and sedimentation, preventing habitat loss, and enhancing groundwater recharge.
- B. Protect and enhance the water quality of water courses, water bodies, groundwater, and wetlands in a manner pursuant to and consistent with the Federal Clean Water Act, Department of Ecology's Western Washington Phase II Municipal Stormwater Permit related to the National Pollutant Discharge Elimination System (NPDES), and RCW 90.48 Water Pollution Control.
- C. Provide design, construction, and maintenance criteria for permanent and temporary surface water drainage facilities for development and redevelopment activities.
- D. This chapter is adopted to protect the public and not for the benefit of any particular individual or class.

13.10.105 Definitions

The following terms are defined for the purpose of implementing the provisions of SMC 13.10.

- A. "Best Management Practices" means schedules of activities, restrictions, maintenance procedures, and structural and/or managerial practices, that when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to Waters of the State.
- B. "City" means the city of Shoreline
- C. "Chlorinated" means water that contains more than 10mg/Liter chlorine.
- D. "Comprehensive Plan" means the plan and amendments as described in Chapter 16.05 SMC.
- E. "Critical areas" means critical areas as defined in SMC 20.20.014.
- F. "Dangerous Waste" means those solid wastes designated in the Washington Administrative Code (WAC) 173-303-070 through 173-303-100 as dangerous or extremely hazardous or mixed waste, as further defined under WAC 173-303-040.
- G. "Development" means land disturbing activities, including Class IV general forest practices that are conversions from timber land to other uses; structural development, including construction or installation of a building or other structure; creation of impervious surfaces; and subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.
- H. "Declaration of covenant" means a legal document between the City and persons holding title to the property requiring the title holder to perform required maintenance and repairs on drainage facilities necessary to meet the City's specified standards within a reasonable time limit.

- I. "Director" means the Public Works Director or designee, except that when referring to enforcement of permitting and review processes defined in SMC chapter 20.30 Director shall mean the Director of Planning and Development Services or designee.
- J. "Discharge" means to throw, drain, release, dump, spill, empty, emit, or pour forth any matter or to cause or allow matter to flow, run or seep from land or be thrown, drained, released, dumped, spilled, emptied, emitted or poured into water.
- K. "Drainage" means collection, conveyance, containment, and/or discharge of surface water and stormwater runoff.
- L. "Drainage facility" means a constructed or engineered feature that collects, conveys, stores or treats stormwater runoff. "Drainage facility" includes, but is not limited to, a constructed or engineered stream, pipeline, channel, ditch, gutter, lake, wetland, closed depression, flow control or water quality treatment facility, erosion and sediment control facility and other structure and appurtenance that provides for drainage.
- M. "Emerging Technologies" means treatment technologies that have not been evaluated with Department of Ecology-approved protocols, but for which preliminary data indicate that they may provide a necessary function(s) in a stormwater treatment system.
- N. "Illicit connection" means any man-made conveyance that is connected to a municipal separate storm sewer without a permit, excluding roof drains and other similar type connections. Examples of illicit connections include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system.
- O. "Illicit Discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of stormwater.
- P. "Land disturbing activity" means any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land-disturbing activity.
- Q. "Low Impact Development" means stormwater management and land development strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic pre-development hydrologic functions.
- R. "Municipal separate stormwater system (MS4)" means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):
 - a. owned or operated by the state, city, county, or special purpose district having jurisdiction over disposal of wastes, storm water, or other wastes,

- or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
 - b. designed or used for collecting or conveying stormwater;
 - c. which is not a combined sewer; and
 - d. which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.
- S. "Natural systems" means channels, swales, and other non-manmade conveyance systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, or such other means as appropriate. In the case of outwash soils with relatively flat terrain, no natural location of surface discharge may exist.
- T. "Operation and Maintenance plan" means a set of instructions and schedules to keep drainage facilities working to meet the design performance criteria.
- U. "Record drawings" means a submittal documenting as-built conditions of a permitted development or redevelopment project.
- V. "Redevelopment" means, on a site that is already substantially developed (i.e., has 35% or more of existing impervious surface coverage), the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities.
- W. "Runoff" means water that travels across the land surface and discharges to water bodies either directly or through a collection and conveyance system.
- X. "Surface water or Stormwater" means water originating from rainfall and other precipitation that is found on ground surfaces and in drainage facilities, creeks, rivers, streams, springs, seeps, ponds, lakes, wetlands, as well as shallow ground water.
- Y. "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches, and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

13.10.110 Utility Created

- A. There is hereby created and established the Surface Water Utility of the City of Shoreline under which the provisions of this chapter shall be carried out.
- B. The Director is authorized to administer, implement, and enforce the provisions of this chapter. The Director may establish inspection programs to ensure compliance with the requirements of this subchapter and the Western Washington Phase II Municipal Stormwater Permit (Phase II Permit).

13.10.120 Revenue and Expenditures

A. Fees and discounts associated with surface water management are set forth in the surface water management fee schedule in Chapter 3.01 SMC. All fees collected pursuant to this chapter shall be credited and deposited in the Surface Water Utility Enterprise Fund pursuant to SMC 3.35.080.

B. Fees deposited in the Surface Water Enterprise Fund shall be expended for administering, operating, maintaining, or improving the surface water system, including all or any part of the cost of planning, designing, acquiring, constructing, repairing, replacing, improving, regulating, educating the public, or operating drainage and stormwater facilities owned by the City, or to pay or secure the payment of all or any portion of any debt issued for such purpose and the related reserve and coverage requirements.

C. Fees shall not be transferred to any other funds of the City except to pay for expenses attributable to the surface water system.

13.10.210 Adoption of Stormwater Management Manual

A. The City adopts by reference the most recent version of the Stormwater Management Manual for Western Washington published by Washington State Department of Ecology henceforth referred to as "Stormwater Manual". All activities which have the potential to impact surface water and stormwater shall comply with the standards set forth in the current version of the following unless specifically exempted by the Stormwater Manual:

1. Stormwater Manual;
2. Western Washington Phase II Municipal Stormwater Permit, issued by the Washington Department of Ecology; and
3. City of Shoreline Engineering Development Guide.

B. Low Impact Development. Low impact development techniques shall be employed wherever feasible. When low impact development techniques are employed, the design and construction shall be consistent with the most recent version of Low Impact Development, Technical Guidance for Puget Sound (Puget Sound Action Team & Washington State University, Pierce County Extension), or consistent with techniques approved by the Public Works Director.

C. Emerging Technologies.

1. The use of emerging technologies is encouraged. Examples of emerging technologies include media filters, catch basin inserts, engineered erosion control products, and low impact development techniques.
2. The Washington State Department of Ecology's Technology Assessment Protocol (TAP_E) or Chemical Technology Assessment Protocol (CTAPE) should be consulted by project proponents to determine which technologies may be appropriate for use on their project site.

3. The Public Works Director has the authority to review and approve the use of emerging technologies.

D. Deviations to the standards may be requested pursuant to 20.30.290 SMC

13.10.225 Minimum Requirements

The requirements of this subchapter are minimum requirements. They do not replace, repeal or supersede more stringent requirements, rules, regulations, covenants, standards, or restrictions. Where this subchapter imposes requirements which are more protective of human health or the environment than those set forth elsewhere, the provisions of this subchapter shall prevail.

All reasonable and appropriate low impact development measures shall be incorporated into site design before conventional on-site detention and infiltration methods are considered.

13.10.230 Special Drainage Areas

A. The Public Works Director may designate "Special Drainage Areas" where it has determined that the existing flooding, drainage, and/or erosion conditions present a threat of harm to the welfare or safety of the surrounding community.

B. Activities in Special Drainage Areas shall meet additional drainage requirements that are outlined in the Engineering Development Guide.

13.10.235 Inspections

A. All development and redevelopment that could impact surface water may be subject to inspection to assure consistency with the provisions of this subchapter

B. Work for which a permit is required shall be subject to inspection by the Director and such work shall remain accessible and exposed for inspection until approved. The City shall not be liable for expenses for the removal or replacement of any material required to allow inspection.

C. The standards of this code shall be enforced regardless of an inspection and approval of work.

D. Reports of approved inspection agencies may be accepted.

E. The permit holder shall notify the City when work is ready for inspection. The Planning and Development Services Director, upon notification, shall make the requested inspections and either approve that the portion of the work inspected or notify the permit holder of any portions of work that fail to comply with this code. Any portions that do not comply shall be corrected and shall not be covered until authorized by the Director.

13.10.240 Record Drawings and Certifications

- A. Before final approval of an engineered surface water drainage facility, the owner shall provide a record drawing that delineates the as-built conditions. The Planning and Development Services Director shall review and approve record drawings prior to final approval of the facility. Record drawings shall be prepared in accordance with the Engineering Development Guide and shall be stamped by a civil engineer.
- B. The record drawings shall include a certification that all facilities function in accordance with the plans, specifications, hydraulic computations, and design volumes shown on the approved plans.

13.10.245 Operation and Maintenance

- A. Pursuant to the Stormwater Manual, the owner shall prepare an operation and maintenance plan for the constructed surface water drainage facilities. This plan is subject to review and approval by the Planning and Development Services Director.
- B. When required, the Planning and Development Services Director shall prepare a declaration of covenant for signature by the owner.
- C. The owner shall record the approved operation and maintenance plan and the associated declaration of covenant with King County Recorder's Office and provide a copy of the recorded document to the Planning and Development Services Director.
- D. The dedication of surface water facilities in the public right-of-way shall comply with 20.70.060 and 20.70.070 SMC.

13.10.320 Prohibited Discharges

- A. Any discharge into a Municipal Separate Stormwater System (MS4) or water of the State either directly or via an illicit connection that is not composed entirely of stormwater is considered an illicit discharge and is prohibited; provided that the following discharges are not prohibited:
1. Discharges made pursuant to the Phase II Permit or other current permit issued or approved by the Department of Ecology.
 2. Discharges resulting from activities undertaken to avoid or lessen an imminent threat to public health or safety. Such public health or safety activities should minimize prohibited discharges to the maximum extent practicable. The City shall be notified of the occurrence within 24 hours.
 3. Discharges not considered a significant source of contamination, as determined by the Public Works Director, including
 - a. Spring water;
 - b. Diverted stream flows
 - c. Uncontaminated water from crawl space pumps, foundation drains, or footing drains;
 - d. Lawn watering or other activities using collected rainwater;
 - e. Pumped groundwater flows that are uncontaminated;
 - f. Materials placed as part of an approved restoration project;
 - g. Natural uncontaminated surface water or groundwater;

- h. Flows from riparian habitats and wetlands;
 - i. Uncontaminated groundwater that seeps into or otherwise enters surface and groundwaters;
 - j. Air conditioning condensation.
 - 4. Discharges where no additional pollutants are being discharged from the site above the background conditions of the water entering the site; provided that any prohibited discharges through illicit connections, dumping, spills, improper maintenance of surface water facilities, or other discharges that allow pollutants to enter surface water or ground water is considered a violation.
- B. Prohibited discharges include, but are not limited to, the following:
- 1. Domestic or sanitary sewage;
 - 2. Trash or debris;
 - 3. Construction materials;
 - 4. Steam cleaning wastes;
 - 5. Pressure washing wastes;
 - 6. Heated water;
 - 7. Animal carcasses;
 - 8. Domestic Animal Wastes;
 - 9. Food wastes;
 - 10. Yard Wastes;
 - 11. Silt, sediment, or gravel;
 - 12. Petroleum products, including but not limited to, oil, gasoline, grease, fuel oil, heating oil;
 - 13. Soaps, detergents, or ammonia;
 - 14. Chlorinated spa or swimming pool water;
 - 15. Antifreeze and other automotive products;
 - 16. Metals in excess of naturally occurring amounts, in either particulate or dissolved form;
 - 17. Degreasers and/or solvents;
 - 18. Commercial and household cleaning products;
 - 19. Drain Cleaners;
 - 20. Chemicals not normally found in uncontaminated water;
 - 21. Flammable or explosive materials;
 - 22. Acids, alkalis, or bases;
 - 23. Painting products;
 - 24. Pesticides, herbicides, or fertilizers;
 - 25. Dyes, with the following exception: Dye testing is allowable but requires verbal notification to the City at least one business day prior to the date of the test; and
 - 26. Any chemical or dangerous waste not listed above.

13.10.330 General Requirements

- A. Requirement to Implement Best Management Practices.
- 1. Best Management Practices as specified in the Volume II (Construction Stormwater Pollution Prevention) and Volume IV (Source Control BMPs) and

Volume V (Runoff Treatment BMPs) of the Stormwater Manual shall be applied to any activity that might result in a prohibited discharge. Activities that might result in prohibited discharges include, but are not limited to the following:

- a. Land disturbing activity;
 - b. Potable water line flushing;
 - c. Lawn watering with potable water;
 - d. Dust control with non-potable water;
 - e. Vehicle and boat washing;
 - f. Pavement and building washing;
 - g. Swimming pool and hot tub maintenance;
 - h. Auto repair and maintenance;
 - i. Building repair maintenance;
 - j. Landscape maintenance;
 - k. Dangerous waste handling;
 - l. Solid and food waste handling; and
 - m. Pesticide application.
2. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the stormwater drainage system or Waters of the State through the use of structural and non-structural BMPs as defined in the Stormwater Manual. The Director may require any person responsible for a property or premise, which is, or may be, the source of an illicit discharge to implement, at their own expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the stormwater drainage system.

B. Watercourse Protection.

Any person owning property through which surface water or Waters of the State passes shall keep and maintain that part of the watercourse within the property free of any activities or items that would pollute or contaminate the flow of water through the watercourse.

C. Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation has information of any known or suspected illegal discharge into the surface water, stormwater drainage system or Water of the State, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City no later than the next business day. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator shall also retain an onsite written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

13.10.340 Inspections and Investigations

A. The Director is authorized to establish inspection programs. Inspection programs may include: 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 pollutant or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of pollutant or pollutants; 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 BMPs.

B. Property owners shall allow access to all parts of the premises for the purpose of inspection, sampling, examination, and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

C. The Director shall have the right to set up necessary equipment to conduct monitoring or sampling of discharge from stormwater facilities.

D. The Director has the right to require the property owner to install stormwater facility monitoring equipment as necessary. Sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition at the property owner's expense. All devices used to measure stormwater flow and water quality shall be calibrated to ensure their accuracy.

E. Any temporary or permanent obstruction to the facility to be inspected and/or sampled shall be promptly removed by the property owner at the written or oral request of the Director. Such obstructions shall not be replaced. The costs of clearing obstructions shall be born by the property owner.

13.10.400 Violations

Any activity or action caused or permitted to exist in violation of Chapter 13.10 SMC is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance. Such violations are subject to enforcement under SMC 20.30.720 through 20.30.790.

Commission Meeting Date: November 6, 2008

Agenda Item: 7.A

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Public Hearing on amendments to the Development Code
DEPARTMENT: Planning and Development Services
PRESENTED BY: Jeff Forry, Permit Services Manager

BACKGROUND

The Commission held a study session to consider proposed revisions to the Development Code on September 18, 2008. During the study session a public hearing was scheduled for November 6, 2008. This hearing is an opportunity for the public to comment and the Commission to review requested changes and additional information.

Based on comments at the study session and subsequent inquiries from the Commission one clarifying revision to the proposed amendments is included. In addition, the questions raised by the Commission and staff responses are included in this report.

A copy of the proposed amendments to Title 13, (Surface Water Management Code) of the Shoreline Municipal Code was provided to the Commission for reference, but this document is not being considered at this hearing. The City Council will hold a separate hearing on the amendments to Title 13.

Following tonight's hearing, staff recommends that the Commission discuss the amendments and develop a recommendation to forward to the City Council for adoption.

The proposed modifications are attached in legislative format (with underlining and strikeouts). In most cases, included a written analysis of the change has been included.

Jeff Forry, Planning and Development Services will attend the study session to respond to your comments. If you have questions before then, please contact Jeff by phone at 206.801.2521 or by email jforry@ci.shoreline.wa.us prior to the meeting.

ATTACHMENTS

- A: Proposed Development Code revisions
- B: Code section matrix
- C: Commission questions
- D: Overview of Title 13 amendments

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20.20.010-.060

Definitions that must be revised or reviewed

BMP Manual

~~A stormwater best management practices manual that presents BMPs and procedures for existing facilities and activities and for new development activities not covered by the City Surface Water Design Manual.~~

The proposed Stormwater Manual contains BMP's. A separate BMP manual is not being employed.

Critical Drainage Area

~~An area which has been formally determined by the department as designated by the City Manager to require more restrictive regulation than City-wide standards afford in order to mitigate severe flooding, drainage, erosion or sedimentation problems which result from the cumulative impacts of development and urbanization.~~

Replaced by Special Drainage Areas.

Deviation to the Engineering Standards

Am ~~echanism~~ to allow the City to grant an adjustment or exception/variance to the application of engineering standards.

Term renamed to eliminate confusion with a formal land use variance. An adjustment or exception is based on the evaluation of technical engineering criteria and as such is not a "variance".

Erosion

~~The process by which soil particles are mobilized and transported by natural agents such as wind, rainsplash, frost action or surface water flow.~~

The wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Also, detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

Redefined for consistency.

Hardscape

Any structure or other covering on or above the ground that includes materials commonly used in building construction such as wood, asphalt and concrete, and also includes, but is not limited to, all structures, decks and patios, paving including gravel, pervious or impervious concrete and asphalt.

New term to replace "impervious" when discussing lot coverage. Hardscape applies to the physical covering of the lot or tract with development.

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Hardscape Area

The total area of a lot or parcel that is covered by hardscape features and surfaces.

High-use Site

A commercial or industrial site that:

- A. Has an expected average daily traffic (ADT) count equal to or greater than 100 vehicles per 1,000 square feet of gross building area;
- B. Is subject to petroleum storage or transfer in excess of 1,500 gallons per year, not including delivered heating oil; or
- C. Is subject to use storage, or maintenance of a fleet of 25 or more diesel vehicles that are over 10 tons net weight (trucks, buses, trains, heavy equipment, etc.). Also included is any road intersection with a measured ADT count of 25,000 vehicles or more on the main roadway and 1,000 vehicles or more on any intersecting roadway, excluding projects proposing primarily pedestrian or bicycle use improvements. (1998 King County Surface Water Design Manual)

High-use sites are those that typically generate high concentrations of oil due to high traffic turnover or the frequent transfer of oil. High-use sites include:

- A. An area of a commercial or industrial site subject to an expected average daily traffic (ADT) count equal to or greater than 100 vehicles per 1,000 square feet of gross building area;
- B. An area of a commercial or industrial site subject to petroleum storage and transfer in excess of 1,500 gallons per year, not including routinely delivered heating oil;
- C. An area of a commercial or industrial site subject to parking, storage or maintenance of 25 or more vehicles that are over 10 tons gross weight (trucks, buses, trains, heavy equipment, etc.); or
- D. A road intersection with a measured ADT count of 25,000 vehicles or more on the main roadway and 15,000 vehicles or more on any intersecting roadway, excluding projects proposing primarily pedestrian or bicycle use improvements.

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Consistency with Stormwater Manual

Impervious Surface ~~Any material that prevents absorption of stormwater into the ground. A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.~~

Consistency with Stormwater Manual

Infiltration Rate ~~The rate of water entry into the soil expressed in inches per hour.~~

Term is not used in the Development Code

Regional Stormwater Management Facility A surface water control structure installed in or adjacent to a stream or wetland of a basin or sub-basin, ~~by the surface water management (SWM) division or a project proponent. Such facilities protect downstream areas identified by the City SWM as having previously existing or predicted significant regional basin flooding or erosion problems.~~

Clarify wording

Special Drainage Areas

An area which has been formally determined by the City to require more restrictive regulation than City-wide standards afford in order to mitigate severe flooding, drainage, erosion or sedimentation problems which result from the cumulative impacts of development

Critical Drainage Areas was renamed in the Stormwater Manual

Stormwater Manual

The most recent version of the Stormwater Management Manual for Western Washington published by Washington Department of Ecology ("Stormwater Manual")

New title of Surface Water Design Manual

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Wetpond

~~An artificial water body constructed as a part of a surface water management system.~~

Term is not used in the Development Code

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Table 20.30.040 – Summary of Type A Actions and Target Time Limits for Decision, and Appeal Authority

Action Type	Target Time Limits for Decision	Section
Type A:		
1. Accessory Dwelling Unit	30 days	20.40.120, 20.40.210
2. Lot Line Adjustment including Lot Merger	30 days	20.30.400
3. Building Permit	120 days	All applicable standards
4. Final Short Plat	30 days	20.30.450
5. Home Occupation, Bed and Breakfast, Boarding House	120 days	20.40.120, 20.40.250, 20.40.260, 20.40.400
6. Interpretation of Development Code	15 days	20.10.050, 20.10.060, 20.30.020
7. Right-of-Way Use	30 days	12.15.010 – 12.15.180
8. Shoreline Exemption Permit	15 days	Shoreline Master Program
9. Sign Permit	30 days	20.50.530 – 20.50.610
10. Site Development Permit	60 days	20.20.046, 20.30.315, 20.30.430
11. Variances <u>Deviation</u> from Engineering Standards	30 days	20.30.290
12. Temporary Use Permit	15 days	20.40.100, 20.40.540
13. Clearing and Grading Permit	60 days	20.50.290 – 20.50.370
14. Planned Action Determination	28 days	20.90.025

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20.30.290 ~~Variance~~ Deviation from the engineering standards (Type A action).

A. Purpose. ~~Variance~~ Deviation from the engineering standards is a mechanism to allow the City to grant an adjustment in the application of engineering standards where there are unique circumstances relating to the proposal. ~~that strict implementation of engineering standards would impose an unnecessary hardship on the applicant.~~

B. Decision Criteria. The ~~Department~~ Director shall grant an engineering standards deviation~~variance~~ only if the applicant demonstrates all of the following:

1. The granting of such deviation~~variance~~ will not be materially detrimental to the public welfare or injurious or create adverse impacts to the property or other property(s) and improvements in the vicinity and in the zone in which the subject property is situated;
2. The authorization of such deviation~~variance~~ will not adversely affect the implementation of the Comprehensive Plan adopted in accordance with State law;
3. A devitaion~~variance~~ from engineering standards shall only be granted if the proposal meets the following criteria:
 - a. Conform to the intent and purpose of the Code;
 - b. Produce a compensating or comparable result which is in the public interest;
 - c. Meet the objectives of safety, function and maintainability based upon sound engineering judgment.
4. Deviations~~Variances~~ from road standards must meet the objectives for fire protection. Any variance from road standards, which does not meet the International Fire Code, shall also require concurrence by the Fire Marshal.
5. Deviations~~Variances~~ from drainage standards contained in the Stormwater Manual and title 13.10 SMC must meet the objectives for appearance and environmental protection.

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6. Deviations~~Variances~~ from drainage standards contained in the Stormwater Manual and title 13.10 SMC must be shown to be justified and required for the use and situation intended.
7. Deviations~~Variances~~ from drainage standards for facilities that request use of emerging technologies, an experimental water quality facility or flow control facilities must meet these additional criteria:
 - a. The new design is likely to meet the identified target pollutant removal goal or flow control performance based on limited data and theoretical consideration,
 - b. Construction of the facility can, in practice, be successfully carried out;
 - c. Maintenance considerations are included in the design, and costs are not excessive or are borne and reliably performed by the applicant or property owner;
8. Deviations~~Variances~~ from utility standards shall only be granted if following facts and conditions exist:
 - a. The devitaion~~variance~~ shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and in the zone in which the property on behalf of which the application was filed is located;
 - b. The devitaion~~variance~~ is necessary because of special circumstances relating to the size, shape, topography, location or surrounding of the subject property in order to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located;
 - c. The granting of such devitaion~~variance~~ is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same zone or vicinity. (Ord. 406 § 1, 2006; Ord. 238 Ch. III § 7(a), 2000).

Terminology changed from variance to deviation to minimize confusion with a land use variance. Variances have different standard of review and approval criteria.

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20.30.750 Declaration of public nuisance, enforcement.

A. A Code Violation, as used in this subchapter, is declared to be a public nuisance and includes violations of the following:

1. Any City land use and development ordinances or public health ordinances;
2. Any public nuisance as set forth in Chapters 7.48 and 9.66 RCW;
3. Violation of any of the Codes adopted in Chapter 15.05 SMC;
4. Any accumulation of refuse, except as provided in Chapter 13.14 SMC, Garbage Code;
5. Nuisance vegetation; and
6. Discarding or dumping of any material onto the public right-of-way, waterway, or other public property.
7. Violation of any of the provisions of Chapter 13.10 SMC

B. No act which is done or maintained under the express authority of a statute or ordinance shall be deemed a public nuisance. (Ord. 406 § 1, 2006; Ord. 391 § 4, 2005; Ord. 251 § 2(E), 2000; Ord. 238 Ch. III § 10(d), 2000).

Added to implement enforcement provisions contained in revised 13.10 SMC and to comply with NPDES.

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20.40.140 Other uses.

NAICS #	SPECIFIC USE	R4-R6	R8-R12	R18-R48	NB & O	CB & NCBD	RB & I
EDUCATION, ENTERTAINMENT, CULTURE, AND RECREATION							
	Adult Use Facilities					P-i	P-i
71312	Amusement Arcade						P
71395	Bowling Center				C	P	P
6113	College and University				S	P	P
56192	Conference Center	C-i	C-i	C-i	P-i	P-i	P-i
6111	Elementary School, Middle/Junior High School	C	C	C			
	Gambling Uses (expansion or intensification of existing nonconforming use only)				S-i	S-i	S-i
71391	Golf Facility	P-i	P-i	P-i			
514120	Library	C	C	C	P	P	P
71211	Museum	C	C	C	P	P	P
	Nightclubs (excludes Adult Use Facilities)					C	P
7111	Outdoor Performance Center						S
	Parks and Trails	P	P	P	P	P	P
	Performing Arts Companies/Theater (excludes Adult Use Facilities)					P-i	P-i
6111	School District Support Facility	C	C	C	C	P	P
6111	Secondary or High School	C	C	C	C	P	P
6116	Specialized Instruction School	C-i	C-i	C-i	P	P	P
71399	Sports/Social Club	C	C	C	C	P	P
6114 (5)	Vocational School	C	C	C	C	P	P
GOVERNMENT							
9221	Court					P-i	P-i
92216	Fire Facility	C-i	C-i	C-i	P-i	P-i	P-i
	Interim Recycling Facility	P-i	P-i	P-i	P-i	P-i	P-i
92212	Police Facility				S	P	P
92	Public Agency or Utility Office	S-i	S-i	S	S	P	P
92	Public Agency or Utility Yard	P-i	P-i	P-i			P-i
221	Utility Facility	C	C	C	P	P	P
	Utility Facility, Regional stormwater management	P	P	P	P	P	P
HEALTH							
622	Hospital	C-i	C-i	C-i	C-i	P-i	P-i
6215	Medical Lab					P	P
6211	Medical Office/Outpatient Clinic	C-i	C-i	C-i	P	P	P
623	Nursing and Personal Care Facilities			C	C	P	P
REGIONAL							
	School Bus Base	S-i	S-i	S-i	S-i	S-i	S-i

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	Secure Community Transitional Facility						SCTFS-i
	Transfer Station	S	S	S	S	S	S
	Transit Bus Base	S	S	S	S	S	S
	Transit Park and Ride Lot	S-i	S-i	S-i	P	P	P
	Work Release Facility						S-i
P = Permitted Use S = Special Use C = Conditional Use -i = Indexed Supplemental Criteria SCTFS = Secure Community Transitional Facility Special Use							

Added to table to clarify differences between general utility facilities and stormwater management facilities.

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Table 20.50.020(1) – Densities and Dimensions in Residential Zones

Note: Exceptions to the numerical standards in this table are noted in parenthesis and described below.

Residential Zones							
STANDARDS	R-4	R-6	R-8	R-12	R-18	R-24	R-48
Base Density: Dwelling Units/Acre	4 du/ac	6 du/ac (1)(7)	8 du/ac	12 du/ac	18 du/ac	24 du/ac	48 du/ac
Min. Density	4 du/ac	4 du/ac	4 du/ac	6 du/ac	8 du/ac	10 du/ac	12 du/ac
Min. Lot Width (2)	50 ft	50 ft	50 ft	30 ft	30 ft	30 ft	30 ft
Min. Lot Area (2)	7,200 sq ft	7,200 sq ft	5,000 sq ft	2,500 sq ft	2,500 sq ft	2,500 sq ft	2,500 sq ft
Min. Front Yard Setback (2) (3)	20 ft	20 ft	10 ft	10 ft	10 ft	10 ft	10 ft
Min. Rear Yard Setback (2) (4) (5)	15 ft	15 ft	5 ft	5 ft	5 ft	5 ft	5 ft
Min. Side Yard Setback (2) (4) (5)	5 ft min. and 15 ft total sum of two	5 ft min. and 15 ft total sum of two	5 ft	5 ft	5 ft	5 ft	5 ft
Base Height	30 ft (35 ft with pitched roof)	30 ft (35 ft with pitched roof)	35 ft	35 ft	35 ft (40 ft with pitched roof)	35 ft (40 ft with pitched roof)	35 ft (40 ft with pitched roof) (8) (9)
Max. Building Coverage (6)	35%	35%	45%	55%	60%	70%	70%
Max. Impervious Surface <u>Hardscape Area</u> (2)(6)	45%	50%	65%	75%	85%	85%	90%

(6) The maximum building coverage shall be 35 percent and the maximum impervioushardscape area shall be 50 percent for single-family detached development located in the R-12 zone, excluding cottage housing.

Terminology changed to implement land use provisions for lot coverage and mass. Change will eliminate discussions relative to reducing "impervious surfaces" when the original intent was to limit the development footprint. Impervious surfaces are regulated by the Stormwater Manual and are limited based on design conditions.

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Table 20.50.020(2) – Densities and Dimensions for Residential Development in Nonresidential Zones

STANDARDS	Neighborhood Business (NB) and Office (O) Zones	Community Business (CB) Zone	Regional Business (RB) and Industrial (I) Zones
Maximum Density: Dwelling Units/Acre	24 du/ac	48 du/ac	No maximum
Minimum Front Yard Setback	10 ft	10 ft	10 ft
Minimum Side Yard Setback from Nonresidential Zones	5 ft	5 ft	5 ft
Minimum Rear Yard Setback from Nonresidential Zones	15 ft	15 ft	15 ft
Minimum Side and Rear Yard (Interior) Setback from R-4 and R-6	20 ft	20 ft	20 ft
Minimum Side and Rear Yard Setback from R-8 through R-48	10 ft	10 ft	15 ft
Base Height (1)	35 ft	60 ft	65 ft (2)
Maximum Impervious Surface/Hardscape Area	85%	85%	95%

Terminology changed to implement land use provisions for lot coverage and mass. Change will eliminate discussions relative to reducing “impervious surfaces” when the original intent was to limit the development footprint. Impervious surfaces are regulated by the Stormwater Manual and are limited based on design conditions.

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20.50.160 Open space – Standards

Exception 20.50.160(A)(3): Stormwater runoff tracts may be credited for up to 50 percent of the on-site recreation space requirement, subject to the following criteria:

1. The stormwater runoff tract is dedicated or reserved as a part of a recreation space tract;
2. The detention pond shall be constructed to meet the following conditions:
 - a. The side slope of the stormwater facilities shall not exceed grade 1:3 (one vertical to three horizontal) unless slopes are existing, natural and covered with vegetation,
 - b. Any bypass system or an emergency overflow pathway shall be designed to handle flow exceeding the facility design and located so that it does not pass through active recreation areas or present a safety hazard,
 - c. The stormwater facilities shall be landscaped in a manner to enhance passive recreation opportunities such as trails and aesthetic viewing, and
 - d. The stormwater facilities shall be designed so they do not require fencing pursuant to the surface water design manual-Stormwater Manual.

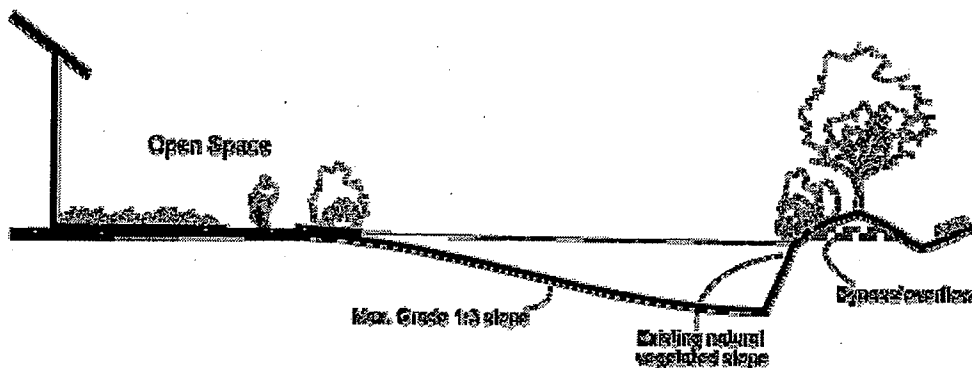


Figure Exception to 20.50.160(A)(2) and (3): Example of stormwater facility design which does not require fencing.

Term changed to reflect changes in 13.10 SMC

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20.50.230 Site planning – Setbacks and height – Standards.

Table 20.50.230 – Dimensions for Commercial Development in Commercial Zones

Note: Exceptions to the numerical standards in this table are noted in parenthesis and described below.

STANDARDS	Neighborhood Business (NB) and Office (O) Zones	Community Business (CB)	Regional Business (RB) and Industrial (I) Zones
Min. Front Yard Setback (Street) (1) (2)	10 ft	10 ft	10 ft
Min. Side and Rear Yard (Interior) Setback from NB, O, CB, RB, and I Zones (2)	0 ft	0 ft	0 ft
Min. Side and Rear Yard (Interior) Setback from R-4 and R-6 (2)	20 ft	20 ft	20 ft
Min. Side and Rear Yard (Interior) Setback from R-8 through R-48 (2)	10 ft	10 ft	15 ft
Base Height (5)	35 ft (3)	60 ft	65 ft (4)
Max. Impervious Surface <u>Hardscape Area</u>	85%	85%	90%

Terminology changed to implement land use provisions for lot coverage and mass. Change will eliminate discussions relative to reducing "impervious surfaces" when the original intent was to limit the development footprint. Impervious surfaces are regulated by the Stormwater Manual and are limited based on design conditions.

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Subchapter 5. Tree Conservation, Land Clearing and Site Grading Standards – Sections 25.50.290 thru .370

20.50.310 Exemptions from permit

B. **Partial Exemptions.** With the exception of the general requirements listed in SMC 20.50.300, the following are exempt from the provisions of this subchapter, provided the development activity does not occur in a critical area or critical area buffer. For those exemptions that refer to size or number, the thresholds are cumulative during a 36-month period for any given parcel:

1. The removal of up to six significant trees (see Chapter 20.20 SMC, Definitions) and associated removal of understory vegetation from any property.
2. Landscape maintenance and alterations on any property that involves the clearing of less than 3,000 square feet, or less than 1,500 square feet if located in a critical special drainage area, provided the tree removal threshold listed above is not exceeded. (Ord. 434 § 1, 2006; Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(C), 2000).

Terminology changed to be consistent with Stormwater Manual.

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20.50.320 Specific activities subject to the provisions of this subchapter.

All activities listed below must comply with the provisions of this subchapter. For those exemptions that refer to size or number, the thresholds are cumulative during a 36-month period for any given parcel:

- A. The construction of new residential, commercial, institutional, or industrial structures or additions.
- B. Earthwork of 50 cubic yards or more. This means any activity which moves 50 cubic yards of earth, whether the material is excavated or filled and whether the material is brought into the site, removed from the site, or moved around on the site.
- C. Clearing of 3,000 square feet of land area or more or 1,500 square feet or more if located in a critical- special drainage area.
- D. Removal of more than six significant trees from any property.
- E. Any clearing or grading within a critical area or buffer of a critical area.
- F. Any change of the existing grade by four feet or more.
- G. Any work that occurs within or requires the use of a public easement, City-owned tract or City right-of-way.
- H. Any land surface modification not specifically exempted from the provisions of this subchapter.
- I. ~~Construction or creation of new~~ Development that creates new, replaced or a total of new plus replaced impervious surfaces over 4,500 2000 square feet in size, or 500 square feet in size if located in a landslide hazard area or critical special drainage area.
- J. Any construction of public drainage facilities to be owned or operated by the City.
- K. Any construction involving installation of private storm drainage pipes 12-inch in diameter or larger.

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- L. Any modification of, or construction which affects a stormwater quantity or quality control system. (Does not include maintenance or repair to the original condition).
- M. Applicants for forest practice permits (Class IV – general permit) issued by the Washington State Department of Natural Resources (DNR) for the conversion of forested sites to developed sites are also required to obtain a clearing and grading permit. For all other forest practice permits (Class II, III, IV – special permit) issued by DNR for the purpose of commercial timber operations, no development permits will be issued for six years following tree removal. (Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(D), 2000).

The threshold is changed to be consistent with the Stormwater Manual. Threshold is more restrictive than current regulations .

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20.50.330 Project review and approval.

A. **Review Criteria.** The Director shall review the application and approve the permit, or approve the permit with conditions; provided that the application demonstrates compliance with the criteria below.

1. The proposal complies with SMC 20.50.340 through 20.50.370, or has been granted a variance-deviation from the engineering standards.
2. The proposal complies with all standards and requirements for the underlying permit.
3. If the project is located in a critical area or buffer or has the potential to impact a critical area, the project must comply with the critical areas standards.
4. The project complies with all requirements of the engineering standards and the SMC 13.10.200 Surface Water Design Manual Management Code and adopted standards.
5. All required bonds financial guarantees or other assurance devices are posted with the City.

Terminology changed to implement Stormwater Manual and Surface Water Management Code.

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20.50.340 Basic operating conditions and standards of performance.

- A. Any activity that will clear, grade or otherwise disturb the site, whether requiring a clearing or grading permit or not, shall provide erosion and sediment control (ESC) that prevents, to the maximum extent possible, the transport of sediment from the site to drainage facilities, water resources and adjacent properties. Erosion and sediment controls shall be applied as specified by the temporary ESC measures and performance criteria and implementation requirements in the adopted stormwater management design manual SMC 13.10.200 Surface Water Management Code and adopted standards.

Terminology changed to implement Stormwater Manual and Surface Water Management Code.

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~~20.60.060 Purpose.~~

~~The purpose of this subchapter is to describe requirements for new development to:~~

- ~~A. Reduce flooding, erosion, and sedimentation;~~
- ~~B. Prevent and mitigate habitat loss;~~
- ~~C. Enhance groundwater recharge; and~~
- ~~D. Prevent surface and subsurface water pollution through the implementation of comprehensive and thorough permit review and construction inspection. (Ord. 238 Ch. VI § 3(A), 2000).~~

20.60.070 General provisions Adequate surface water management system.

All new development shall be served by an adequate surface water management system as follows:

- A. The proposed system is adequate if the site of the development proposal site is served by a surface water management system approved by the Department as being consistent with the design, operating and procedural requirements adopted by the City as defined in chapter 13.10 SMC, Surface Water Management Code and adopted standards.
- B. For the issuance of a building permit, preliminary plat approval, or other land use approval, the applicant shall demonstrate that:
 - 1. The existing surface water management system available to serve the site complies with the design standards specified above; or
 - 2. The proposed improvements to an existing surface water management system or a proposed new surface water management system comply with the design standards specified above.

Terminology changed to implement Stormwater Manual and Surface Water Management Code. Technical provisions for adequacy are located in the Stormwater Manual.

~~For a formal subdivision, special use permit or zone reclassification, the phased installation of required surface water management improvements~~

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~~shall be stated in the approving ordinance. Such phasing may require that a financial guarantee be deposited. (Ord. 238 Ch. VI § 3(B), 2000).~~

20.60.080 Development proposal requirements.

~~A drainage review is required when any development proposal is subject to a City permit and any of the following:~~

- ~~A. Would add 1,500 square feet or more of new impervious surface;~~
- ~~B. Would construct or modify a public or private drainage system;~~
- ~~C. Contains or is within 100 feet of a floodplain, stream, lake, wetland or closed depression, or a critical area overlay district;~~
- ~~D. Is located within or within 100 feet of a landslide hazard area and would add 500 square feet or more of new impervious surface;~~
- ~~E. Is located within or within 100 feet of an identified critical drainage area;~~
- ~~F. Is a redevelopment project proposing \$100,000 or more of improvements to an existing high-use site; or~~
- ~~G. Is a redevelopment project proposing \$500,000 or more of site improvements and would create 1,500 square feet or more of contiguous pollution-generating impervious surface through any combination of new and/or replaced impervious surface. (Ord. 238 Ch. VI § 3(C), 2000).~~

20.60.090 Core surface water and stormwater requirements.

~~Every development proposal with drainage review required must meet each of the following core requirements in addition to those described in the Surface Water Design Manual.~~

- A. Core Requirement #1: Discharge at the Natural Location.** ~~All surface water and stormwater runoff from a development proposal shall be discharged at the natural location so as not to be diverted onto, or away from, downstream properties. The manner in which runoff is discharged from the project site shall not create a significant adverse impact to downhill properties or drainage systems.~~

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- ~~B. Core Requirement #2: Off-site Analysis.~~ The initial application submittal for development proposals shall include an off-site analysis report that contains an assessment of potential off-site drainage impacts associated with a development proposal, called a level one downstream analysis; and proposed appropriate mitigations to those impacts.
- ~~C. Core Requirement #3: Flow Control.~~ If a development proposal would add a minimum of 1,500 square feet of new impervious surface and any related land cover conversion, the proposal shall include facilities to meet a minimum of level two flow control requirements and the flow control implementation as specified in the Surface Water Design Manual.
- ~~D. Core Requirement #4: Conveyance System.~~ All engineered conveyance system elements for development proposals shall be analyzed, designed and constructed to provide the minimum level of protection against overtopping, flooding, erosion and structural failure as specified by the conveyance requirements for new and existing systems and conveyance implementation requirements described in the Surface Water Design Manual.
- ~~E. Core Requirement #5: Erosion and Sediment Plan.~~ All development proposals that will clear, grade, or otherwise disturb the site shall provide erosion and sediment control, in accordance with the adopted Best Management Practices (BMP) Manual, that prevents, to the maximum extent possible, the transport of sediment from the site to drainage facilities, water resources and adjacent properties.
- ~~F. Core Requirement #6: Maintenance and Operation.~~ Development proposals shall include provisions for the maintenance of all drainage facilities. It is the responsibility of the applicant/property owner to:
- ~~1. Make these provisions in compliance with City maintenance standards as described in the Surface Water Design Manual, or~~
 - ~~2. Make provisions by which the City is granted an easement or covenant and assumes maintenance and operation as described in the Surface Water Design Manual.~~
- ~~G. Core Requirement #7: Financial Guarantees and Liability.~~ All drainage facilities constructed or modified for development projects, except downspout infiltration and dispersion systems for single-family residential

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lots, must comply with the liability requirements and the financial guarantee requirements of the City.

~~H. Core Requirement #8: Water Quality.~~ Development proposals shall provide water quality treatment facilities to treat polluted surface water and stormwater runoff generated by the addition and/or replacement of 1,500 square feet or more of pollution-generating impervious surface or one acre or more of pollutant-generating pervious surfaces. At a minimum, the facilities shall reduce pollutant loads by meeting the applicable annual average performance goals listed below for 95 percent of the annual average runoff volume:

- ~~1. Basic water quality: remove 80 percent of the total suspended solids;~~
- ~~2. Sensitive lake protection: remove 50 percent of the total phosphorus; and~~
- ~~3. Resource stream protection: remove 50 percent of the total zinc. (Ord. 238 Ch. VI § 3(D), 2000).~~

20.60.100 Special requirements.

Every development proposal required to have drainage review shall meet all of the special requirements that apply to the site. The Department shall review each development proposal and determine if any of the special requirements apply.

~~A. Special Requirement #1: Other Adopted Area Specific Requirements.~~ This requirement applies to development proposals located in a designated critical drainage area, erosion hazard area, basin plan, or shared facility plan.

~~B. Special Requirement #2: Floodplain/Floodway Delineation.~~ If a development proposal contains or is adjacent to a stream, lake, wetland or closed depression, then the 100-year floodplain boundaries, and floodway (if available or if improvements are proposed floodplain), shall be delineated on the site improvement plans, and on any final subdivision maps.

~~C. Special Requirement #3: Flood Protection Facilities.~~ If a development proposal contains or is adjacent to a Class 1 or 2 stream with an existing flood protection facility, or proposes to construct a new one, then the flood protection facility(s) shall be analyzed and/or designed as specified in the Surface Water Design Manual.

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~~D. Special Requirement #4: Source Control. If a development proposal requires a commercial building or commercial site development permit, then water quality source controls shall be applied to prevent rainfall and runoff from coming into contact with pollutants to the maximum extent possible. Water quality source controls shall be applied in accordance with City Code and the Surface Water Design Manual. All structural source controls shall be identified on the site improvement plans and profiles or final maps prepared for the proposed project.~~

~~E. Special Requirement #5: Oil Control. If a development proposal is a high-use site or is a redevelopment project proposing \$100,000 or more of improvements to an existing high-use site, then oil control shall be applied to all runoff from the high-use portion of the site as specified in the Surface Water Design Manual. (Ord. 238 Ch. VI § 3(E), 2000).~~

20.60.110 Construction timing and final approval.

~~A. No work for a permitted development related to permanent or temporary storm drainage control shall proceed without the approval of the Director.~~

~~B. Erosion and sediment control measures associated with both the interim and permanent drainage systems shall be:~~

~~1. Constructed in accordance with the approved plan prior to any grading or land clearing other than that associated with an approved erosion and sediment control plan;~~

~~2. Satisfactorily sequenced and maintained until all improvements, restoration, and landscaping associated with the permit and/or for the project are completed, and the potential for onsite erosion has passed.~~

~~C. Prior to the construction of any improvements and/or buildings on the site, those portions of the drainage facilities necessary to accommodate the control of surface water and stormwater runoff discharging from the site shall be constructed and in operation. Recording of formal and administrative subdivisions may occur prior to the construction of drainage facilities when approved in writing by the Director of the Department only to minimize impacts that may result from construction during inappropriate times of the year. If recording of formal or administrative subdivisions occurs prior to the construction of the drainage facilities (when approved in writing by the Director of the Department to minimize impacts that may result from construction during inappropriate times of the year) then a bond will be posted to cover the cost of the unbuilt drainage facilities and a deadline for completion of the drainage facilities will be imposed.~~

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~~D. When required to construct a drainage facility, the applicant shall maintain a combined single limit per occurrence liability policy. This policy shall:~~

- ~~1. Be in the amount established by the City;~~
- ~~2. Name the City as an additional insured and protect City from liability relating to the construction or maintenance of the facility until construction approval or acceptance for maintenance, whichever is last.~~

~~— Proof of this required liability policy is required prior to commencing construction of any drainage facility. (Ord. 238 Ch. VI § 3(F), 2000).~~

~~20.60.120 Water quality.~~

~~A. The purpose of this section is to protect the City's surface and ground water quality by providing minimum requirements for reducing and controlling the discharge of contaminants. The City recognizes that water quality degradation can result either directly from one discharge or through the collective impact of many small discharges. Therefore, this section prohibits the discharge of contaminants into surface water, stormwater and ground water, and outlines preventive measures to restrict contaminants from entering such waters. These measures include the implementation of best management practices (BMPs) by the residents of City of Shoreline.~~

~~B. Discharges into City Waters. It is unlawful for any person to discharge any contaminants into surface water, stormwater, ground water, or Puget Sound. Contaminants include, but are not limited, to the following:~~

- ~~1. Trash or debris;~~
- ~~2. Construction materials;~~
- ~~3. Petroleum products including but not limited to oil, gasoline, grease, fuel oil, heating oil;~~
- ~~4. Antifreeze and other automotive products;~~
- ~~5. Metals in either particulate or dissolved form;~~
- ~~6. Flammable or explosive materials;~~

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- ~~7. Radioactive material;~~
- ~~8. Batteries;~~
- ~~9. Acids, alkalis, or bases;~~
- ~~10. Paints, stains, resins, lacquers, or varnishes;~~
- ~~11. Degreasers and/or solvents;~~
- ~~12. Drain cleaners;~~
- ~~13. Pesticides, herbicides, or fertilizers;~~
- ~~14. Steam cleaning wastes;~~
- ~~15. Pressure washing wastes;~~
- ~~16. Soaps, detergents, or ammonia;~~
- ~~17. Spa or chlorinated swimming pool water;~~
- ~~18. Chlorine, bromine, and other disinfectants;~~
- ~~19. Heated water;~~
- ~~20. Animal and human wastes;~~
- ~~21. Sewage;~~
- ~~22. Recreational vehicle waste;~~
- ~~23. Animal carcasses;~~
- ~~24. Food wastes;~~

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~~25. Bark and other fibrous materials;~~

~~26. Collected lawn clippings, leaves, or branches;~~

~~27. Silt, sediment, or gravel;~~

~~28. Dyes, with the following exception: Dye testing is allowable but requires verbal notification to the City at least one business day prior to the date of the test;~~

~~29. Chemicals not normally found in uncontaminated water;~~

~~30. Any hazardous material or waste, not listed above.~~

~~C. Any connection that could convey anything not composed entirely of natural surface water and stormwater directly to surface, storm, or ground water is considered an illicit connection and is prohibited with the following exceptions:~~

~~1. Connection conveying allowable discharges;~~

~~2. Connections conveying discharges pursuant to an NPDES permit (other than an NPDES stormwater permit) or a State Waste Discharge Permit; and~~

~~3. Connections conveying effluent from onsite sewage disposal systems to subsurface soils.~~

~~D. The following types of discharges shall not be considered prohibited discharges unless the Director determines that the type of discharge, whether singly or in combination with others, is causing significant contamination to surface, storm, or ground water, or damage to a built or natural surface or stormwater conveyance system, including erosion damage:~~

~~1. Potable water;~~

~~2. Potable water line flushing;~~

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~~3. Uncontaminated water (including sedimentation) from crawl space pumps or footing drains;~~

~~4. Lawn watering;~~

~~5. Residential car and boat washing;~~

~~6. Dechlorinated swimming pool water;~~

~~7. Materials placed as part of an approved habitat restoration or bank stabilization project;~~

~~8. Natural uncontaminated surface water or ground water;~~

~~9. Flows from riparian habitats and wetlands;~~

~~10. The following discharges from boats: engine exhaust, cooling waters, effluent from sinks, showers and laundry facilities and treated sewage from Type I and Type II marine sanitation devices;~~

~~11. Common practices for water line or water well disinfection; and~~

~~12. Other types of discharges as determined by the Director.~~

~~E. A person shall not be in violation of discharge regulations if the following conditions exist:~~

~~1. That person has properly designed, constructed, implemented and is maintaining BMPs, and contaminants continue to enter surface water and stormwater or ground water;~~

~~2. The person can demonstrate that there are no additional contaminants being discharged from the site above the background conditions of the water entering the site.~~

~~—The said person however, is still liable for prohibited discharges through illicit connections, dumping, spills, improper maintenance of BMPs, or~~

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~~other discharges that allow contaminants to enter surface water and stormwater or ground water.~~

- ~~3. Emergency response activities or other actions that must be undertaken immediately or within a time too short to allow full compliance with this section, to avoid an imminent threat to public health or safety, shall be exempt from this section. In such a case, steps should be taken to ensure that the discharges resulting from such activities are minimized to the greatest extent possible. In addition, recurrences shall be restricted by evaluating BMPs and the site plan, where applicable. The City shall be notified of the occurrence as close to the incident date as is feasible. (Ord. 238 Ch. VI § 3(G), 2000).~~

Moved to new subchapter in SMC 13.10.300 Enforcement authority – Public Works.

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~~20.60.130 Best management practices.~~

~~A. The City adopts "Urban Landuse BMPs, Volume IV of the 1992 Stormwater Management Manual for the Puget Sound Basin" (DOE SWMM), and future amendments by reference as the Source Control BMP Manual for the City of Shoreline.~~

~~B. Applicability.~~

- ~~1. Persons implementing BMPs through another Federal, State, or local program will not be required to implement the BMPs prescribed in the City's manual, unless the Director determines the alternative BMPs to be ineffective at reducing the discharge or contaminants. If the other program requires the development of a best management practices plan, the person shall make their plan available to City upon request. Qualifying exemptions include, but are not limited to, persons who are:~~
 - ~~a. Required to obtain a general or individual NPDES permit for stormwater discharges from the Washington State Department of Ecology;~~
 - ~~b. Permitted under a Washington State Department of Ecology NPDES general or individual permit for commercial dairy operations;~~
 - ~~c. Implementing BMPs in compliance with the management program of the City's municipal NPDES permit;~~
 - ~~d. Identified by the Director as being exempt from this section.~~
- ~~2. Persons conducting normal single-family residential activities will not be required to implement the BMPs prescribed in the City's BMP Manual, unless the Director determines that these activities pose a hazard to public health, safety, or welfare. (Ord. 238 Ch. VI § 3(H), 2000).~~

Stormwater Manual contains the required BMP's and the administrative authorities to implement the various requirements.

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20.70.030 Required street improvements.

Title clarifies content of this section.

20.70.035 Required stormwater drainage facilities

The purpose of this section is to identify the types of development proposals to which the provisions of this chapter apply.

- A. Stormwater drainage improvements shall meet the minimum requirements of the Stormwater Manual.
- B. Development proposals that do not require City-approved plans or a permit still must meet the requirements specified in this chapter.
- C. It shall be a condition of approval for development permits that required improvements be installed by the applicant prior to final approval or occupancy.
- D. These provisions shall apply to all development and redevelopment, as defined in the Stormwater Manual.

Provides enabling language to direct users to appropriate standards.

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20.70.070 Dedication of stormwater facilities – Drainage facilities not accepted by the City.

A. The property owner and the applicant required to construct a drainage facility shall remain responsible for the facility's continual performance, operation and maintenance and remain responsible for any liability as a result of these duties. This responsibility includes maintenance of a drainage facility that is:

1. Under a maintenance guarantee or defect guarantee;
2. A private road conveyance system;
3. Released from all required financial guarantees prior to date of this Code;
4. Located within and serving only one single-family residential lot;
5. Located within and serving a multifamily or commercial site unless the facility is part of an approved shared facility plan;
6. Located within or associated with an administrative or formal subdivision which handles runoff from an area of which less than two-thirds is designated for detached or townhouse dwelling units located on individual lots unless the facility is part of an approved shared facility plan;
7. Previously terminated for assumption of maintenance responsibilities by the Department; or
8. Not otherwise accepted by the City for maintenance.

B. Prior to the issuance of any of the permits for any multifamily or nonresidential project required to have a flow control or water quality treatment facility, the applicant shall record a declaration of covenant as specified in the Surface Water Design Manual SMC 13.10.200 Surface Water Management Code and adopted standards. The restrictions set forth in such covenant shall include, but not be limited to, provisions for notice to the property owner of a City determination that maintenance and/or repairs

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are necessary to the facility and a reasonable time limit in which such work is to be completed.

1. In the event that the titleholders do not effect such maintenance and/or repairs, the City may perform such work upon due notice. The titleholders are required to reimburse for any such work. The restrictions set forth in such covenant shall be included in any instrument of conveyance of the subject property and shall be recorded with the county.
 2. The City may enforce the restrictions set forth in the declaration of covenant provided in the Surface Water Design Manual SMC 13.10.200 Surface Water Management Code and adopted standards.
- C. Where not specifically defined in this section, the responsibility for performance, operation and maintenance of drainage facilities and conveyance systems, both natural and constructed, shall be determined on a case by case basis. (Ord. 238 Ch. VII § 2(C-2), 2000).

Terminology changed to implement Stormwater Manual and Surface Water Management Code.

Table 20.90.040 – North City Business District Site Development Standards

Standards	Main Street 1	Main Street 2
Maximum front (street setback)	0 ft. (3) (4)	10 ft. (1) (3) (4)
Minimum side and rear yard setback from nonresidential zones	0 ft. (5)	0 ft. (5)
Minimum side and rear yard setback from residential zones	15 ft.	15 ft.
Base height	60 ft.	60 ft.
Upper floor setback (transition line) for all portions of a building along street and edges along adjacent residential zones	10 ft. (2) (4)	10 ft. (2) (4)
Maximum impervious surface <u>Hardscape Area</u>	85%	85%

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**Surface Water Manual Update
Development Code Revisions**

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PROPOSED DEVELOPMENT CODE AMENDMENTS			
SMC Section	Proposed Amendment	Rationale for Amendment	Notes
Chapter 20.20 Definitions			
20.20.010-.060	Definitions	Add, clarify, and delete terms	Various terms should be reviewed for consistency with the proposed SWM. Some definitions may be cross-referenced.
Chapter 20.30 Procedures and Administration			
20.30.040 Table 20.30.290	Variance from the engineering standards	Rename to be consistent with DOE manual	Review authorities / decision maker
20.30.750	Declaration of public nuisance, enforcement	Add section declaring violation of 13.10 SMC a public nuisance	Language needed to comply within NPDES and correlate to enforcement provisions in 13.10 SMC
Chapter 20.40 Zoning and Use Provisions			
20.40.140	Permitted Uses - Other uses	Add Utility Facility, Regional Stormwater	Regional stormwater facility is defined as a "utility facility". A utility facility requires a CUP.
Chapter 20.50 General Development Standards			
20.50.020(1) Table	Densities and Dimensions in Residential Zones	1. Reference to cottage housing in maximum impervious surface footnote should be removed. 2. Maximum impervious surface should only be considered under the SWM and not at land use consideration.	Revisions in application of the impervious surface percentages is necessary to establish consistency with SWM. Impervious % should be renamed HARDSCAPE
20.50.020(2) Table	Densities and Dimensions for Residential Development in Nonresidential Zones	Maximum impervious surface should only be considered under the SWM and not at land use consideration.	Revisions in application of the impervious surface percentages is necessary to establish consistency with SWM. Impervious % should be renamed HARDSCAPE
20.50.160	Open Space - Standards	Review	Section lists criteria for stormwater runoff tracts. May want to include "easements". Review for consistency with SWM
20.50.230 Table	Dimensions for Commercial Development in Commercial Zones	Maximum impervious surface should only be considered under the SWM and not at land use consideration.	Revisions in application of the impervious surface percentages is necessary to establish consistency with SWM. Impervious % should be renamed HARDSCAPE
20.50.290-370	Tree Conservation, Land Clearing and Site Grading Standards	Review	Comprehensive review required. May need to incorporate reference to TESC requirements.
20.50.410	Parking design standards	Clarify parking and driving surfaces	Parking on "approved" surfaces for all types of uses should be clarified and possibly a definition for "approved surfaces" should be provided.
Chapter 20.60 Adequacy of Public Facilities			

**Surface Water Manual Update
Development Code Revisions**

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SMC Section	Purpose	Proposed Amendment	Rationale for Amendment	Notes
20.60.060		Delete	No other adequacy provision has a stated purpose. Delete or incorporate into primary purpose of chapter.	
20.60.070	General provisions	Retitle and amend	Rename section to Adequate Surface Water Management System.	
20.60.080-100		Delete	Move some clarifying language to this section. Language to be incorporated into 13.10.200 SMC	
20.60.110	Construction timing and final approval	Delete	Move to 20.50 or 13.10 SMC	
20.60.120	Water Quality	Delete	Move to 13.10.300 SMC	
20.60.130	Best management practices	Delete	Move to 13.10.200 SMC or include in EDG/addenda to SWM	
Chapter 20.70 Engineering Standards				
20.70.020	Engineering Development Guide	Clarify	May need clarifying language. Add reference to administrative provisions of 13.10 SMC	
20.70.030	Required improvements	Add "street" to title		
20.70.035	Required drainage improvements	New section	Place criteria in this section to qualify some general information and point to 13.10 SMC	
20.70.060-.070	Dedication of stormwater facilities		Is this the correct location for these sections?	
Chapter 20.80 Critical Areas				
20.80.010-500	Critical Areas		Review for potential conflicts	
Chapter 20.90 North City Business District				
20.90.040 Table	NCBD Site Development Standards		Revisions in application of the impervious surface percentages is necessary to establish consistency with SWM. Impervious % should be renamed HARDSCAPE	

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Questions Raised by Planning Commissioners - *Staff response in italics*

Will Hall

Here are the issues I touched on last night with the stormwater code. Some of these are questions that staff can answer. Others are things I may want the commission to debate. I may offer amendments related to #2 and #3. There may be nothing we can do about #4, but I would at least like staff to take a hard look at it, perhaps even seek input from someone outside the planning profession so we can challenge our assumptions: we are not bound by the way we have always done things.

1. Relationship between stormwater regulations and development regulations.
 - o Do the stormwater regulations effectively regulate development, and if so, should they be severed from GMA and land use?
 - o Does the reference to chapter 13.10 SMC in SMC 20.30.750 effectively incorporate the stormwater regulations into the GMA development regulations by treating violations as development code violations?
 - o Do we (the big picture, Shoreline community we) desire to sever the stormwater regulations from GMA development codes? This would mean that changes do not go before the planning commission, challenges could not be brought before the growth management hearings board, developers would need to comply with regulations in both places to design land use proposals, etc.

The function of surface and stormwater management is a utility by definition. The City of Shoreline's utility regulations are detailed in Title 13 of the Shoreline Municipal Code (SMC), including the surface water management code. The GMA requires the Comprehensive Plan include a utilities element, but that element only needs to include general & proposed locations and capacity of existing/proposed utilities. The proposed changes to the Development Code meet the GMA requirements – see proposed SMC 20.60.070.

The Commission may wish to comment on this relationship, but ultimately these questions will be answered by the Council. The Council will be holding a public hearing on the new stormwater regulations (Chapter 13.10) in the Municipal Code and will make a decision on the amendments to the Surface Water Management Code (Title 13 SMC) and the Commission's recommendations on the amendments to the Development Code (Title 20 SMC).

As for SMC 20.30.750, that section references all code violations and is not just limited to Development Code violations. At some point in the future, we actually may want to think of reshuffling the code enforcement/code violation sections - removing them from the Development Code and placing it in Title 2 or Title 9 of the Municipal Code, since it's really more comprehensive than just Development Code violations.

Although future changes to the stormwater regulations will not be presented to the Planning Commission, this is the case for all utilities. The Commission will still be able consider stormwater issues during the preliminary subdivision approval process.

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At the subdivision approval stage, the applicant must provide a conceptual drainage plan, which the Commission will consider in its decision to approve/deny the subdivision (or condition if SEPA is involved).

2. Hardscape versus impervious area.
 - Since hardscape is different from impervious area, should we consider whether the percentage limits that are in the current code for impervious area are what we want for hardscape?
 - Do we (again, community) want to treat pervious and impervious hardscape differently? That is, would we want to allow greater lot coverage if it is pervious than if it is impervious?

"Hardscape" is a way to characterize total lot coverage of all improvements. "Hardscape" surfaces include driveways (both gravel and paved – pervious or impervious pavements), walking surfaces, buildings, etc. Using "impervious surface" to describe lot coverage has caused confusion and difficulty in administering the Development Code. Each land use designation has a specific threshold for maximum hardscape areas (formerly impervious surface). The percent of lot coverage varies by zoning designation from 45% in the R-4 zone to 90% in the Regional Business zone.

If only the R-6 zone is considered (50% lot coverage) on a typical lot of 7,200 square feet, the maximum hardscape would equal 3,600 square feet. It also means there is 3,600 square feet of lot area that is not encumbered by structures and other constructed improvements.

Pervious pavement and other best management practice (BMP's) credits should only be applied based as a function of a surface water management plan for the individual property. The intent is to reduce the impact of the hardscape through the use of BMP's, but not increase the mass of improvements on the property.

Pervious pavement provides additional mass on the site. The intent is to limit the development envelop (which the code already does). Increasing mass even though it is pervious further increases the footprint of development and provides larger surfaces for thermal heating, less landscaping/lawn, etc.

This is simply a change in terminology to aid in the application of the standards contained in the Development Code and does not result in more restrictive regulations. The change does not preclude the use of BMP's to meet LID criteria.

3. Policy question: Should regional stormwater utility facilities be permitted outright or should they be conditional uses in some zones?

The need for regional stormwater utility facilities is dictated by the utility system needs and should not be a land use consideration. This type of facility requires environmental review under SEPA. An additional level of administrative review would be redundant.

4. Policy question: Notwithstanding the technical differences in process and criteria, does it serve the community to use different words (deviation,

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variance) for different situations where the city can allow things to be done differently than the specific provisions in codes, rules, and manuals? I brought up a similar issue on a previous proposal. When the public reads sections of the code or comprehensive plan, they tend to assume that they will be implemented according to the plain language in that section. It can be confusing to explain why buildings are taller than the height limit, why developments are denser than the name of the zone implies, etc. There are different words for how we allow things to be done differently: variance, deviation, exemption, exception, applicability, modification. Professional planners, developers and lawyers may understand the distinction, but does this serve the public?

The Planning Enabling Act (RCW 36.70) defines a variance as "the means by which an adjustment is made in the application of the specific regulations of a zoning ordinance to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone and which adjustment remedies disparity in privileges."

A deviation is a term that is typically applied to technical standards. Deviation gives the connotation of a different path to compliance. Using the term deviation vs. variance in this case provides a clear distinction between an adjustment to an engineering standard and varying from the Development Code (zoning ordinance).

5. Technical question: Why is different language used in SMC 20.60.070(B)(1) and (2)?

The language has been revised to be consistent.

Mike Broili

1. ITEM 8.A – Attachment B, PG 37 – I like the replacement of "impervious" with the term "hardscape". However I would like to suggest breaking the description of lot coverage into three categories (Roofscapes, Hardscapes & Landscapes) which better describe all aspects of a given site as to their functional relationship to the lot. Roofscapes must be impermeable in order to protect the integrity and functionality of the building. Hardscapes can be permeable as long as are they load bearing and Landscapes are everything that doesn't fall into the first two categories and are required to meet WDOE Stormwater Management Manual for Western Washington, Chapter V, BMP T5.13 in all new and redevelopment.

Currently the Development Code regulates lot development in several ways, including building setbacks, building coverage and impervious surface. Building coverage is used in-lieu of "roofscapes" and provides a more comprehensive evaluation of building impacts than "roofscapes". Building coverage is limited to a maximum percentage of the lot area (35% in the R-6 zone). This minimizes over-developing the lot. Hardscape area and building coverage are terms used to minimize mass on a site as opposed to the drainage impacts that are dealt with in the stormwater manual.

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BMP T5.13 may not be appropriate in all cases. Each new development and redevelopment proposal must be evaluated on its own merit and BMP's applied that will provide the most comprehensive approach for water quality and flow control based on the site conditions in an effort to control the project's impact on the surface water utility. In any case, out of context BMP's should not be applied globally through the Development Code.

2. ITEM 8.A – Attachment B, PG 39 – I too have a problem with the use of “natural conditions” in the first paragraph of Impervious Surface. It is vague and should refer to restoring historical hydrological functions.

The definition was revised to be consistent with the terminology used in the proposed Stormwater Manual. An attempt has been made to standardize as many of the duplicate definitions as possible and the terminology proposed is not used in the new manual. “Natural conditions” are delineated, but not necessarily defined, in the proposed Stormwater Manual.

By including the phrase “restoring historical hydrological functions” standards would be included in the definition instead of the regulations.

3. ITEM 8.A – Attachment B, PG 43 Under “A. Purpose.” What constitutes “unnecessary hardship”? This needs to be specific so it is clear that deviation will only be allowed if NO OTHER OPTIONS are available to the applicant. Personally I believe and can support an argument that if all LID design practices are applied, 95% of development proposals can be developed to a zero storm water discharge level. If not, then development should not be allowed; not all sites are appropriate for development. Presently it is the city and ultimately taxpayers who end up paying for stormwater management. I'm of the opinion that hydrological restoration costs are the responsibility of the property owner/developer and these costs should not be externalized, it should be the developer/property owner who bears the burden of all costs to restore hydrological function in the development or redevelopment of a site.

This process does not only apply to stormwater criteria, but roadway and other engineering design. The Stormwater Manual provides a comprehensive approach to applying BMP's. While some development proposals can meet a “zero” net discharge many redevelopment proposals will be impacted by this concept. Not allowing development could result in an implied taking.

The wording has been changed to better reflect the purpose.

4. ITEM 8.A – Attachment B, PG 44 7. C. – This section should also include a monitoring requirement in addition to maintenance.

Provisions for monitoring and maintenance when appropriate would be a condition of approval. The Stormwater Manual also defines maintenance and monitoring requirements for certain BMP's.

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5. General Concern. How are the Stormwater Management Manual for Western Washington, the Low Impact Development; *Technical Guidance Manual for Puget Sound* and the Shoreline Development Code linked and where in the Code is it stated that the manuals are enforceable requirements for all new and redevelopment?

The proposed Surface Water Management Code, Section 13.10.20, states:

.... All activities which have the potential to impact surface water and stormwater shall comply with the standards set forth in the current version of the following unless specifically exempted by the Stormwater Manual.

- 1. Stormwater Manual;*
- 2. Western Washington Phase II Municipal Stormwater Permit, issued by the Washington Department of Ecology; and*
- 3. City of Shoreline Engineering Development Guide.*

B. Low Impact Development. Low impact development techniques shall be employed wherever feasible. When low impact development techniques are employed, the design and construction shall be consistent with the most recent version of Low Impact Development Technical Guidance for Puget Sound (Puget Sound Action Team & Washington State University, Pierce County Extension), or consistent with techniques approved by the Public Works Director.

The Stormwater Manual is defined as the most recent version of the Stormwater Management Manual for Western Washington published by Washington State Department of Ecology.

By definition this manual applies to all development and redevelopment. The connection to the Development Code is made in section 20.60.070, Adequate surface water management system. This section requires all development be served by an adequate surface water management system. To be deemed adequate the applicant must demonstrate how the proposal complies with the technical standards in 13.10 SMC and the Stormwater Manual.

Chapter 13.10
Surface Water Management Code

Subchapter 1. Surface Water Utility

Note to reader: This subchapter established the SWM utility, who is in charge of it, how fund dollars can be used, points to the fee schedule, and establishes right of entry to measure impervious surface or other stormwater related items on private property to ensure the proper fee is charged.

- 13.10.100 Purpose
- 13.10.110 Authority
- 13.10.120 General Provisions
- 13.10.130 Rates
- 13.10.140 Right of Entry

Subchapter 2. Surface Water Management Code

Note to reader: This subchapter establishes the authority, standards, and inspections required to ensure stormwater from development and redevelopment activities do not adversely impact residents, businesses, City infrastructure, or aquatic resources.

- 13.10.200 Purpose
- 13.10.205 Definitions
- 13.10.210 Adoption of Stormwater Management Manual
- 13.10.215 Authority
- 13.10.220 Applicability and Standards
- 13.10.225 Minimum Requirements
- 13.10.230 Special Drainage Areas
- 13.10.235 Inspections
- 13.10.240 Record Drawings and Certifications
- 13.10.245 Operation and Maintenance

Subchapter 3. Water Quality

Note to reader: This subchapter establishes the authority and inspections required to prevent degradation of water quality in the City's stormwater system and waters of the State from any activity (except for those permitted by the Western Washington Municipal Stormwater Permit).

- 13.10.300 Purpose
- 13.10.310 Definitions
- 13.10.315 Authority
- 13.10.320 Discharges Into City Waters
- 13.10.330 General Requirements
- 13.10.340 Inspections and Investigations

Subchapter 4. Violations

- 13.10.400 Violations
- 13.10.410 Violation of Federal and State Guidelines

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

November 6, 2008
7:00 P.M.

Shoreline Conference Center
Mt. Rainier Room

Commissioners Present

Chair Kuboi
Vice Chair Hall
Commissioner Behrens
Commissioner Broili
Commissioner Kaje
Commissioner Perkowski
Commissioner Pyle
Commissioner Wagner

Staff Present

Joe Tovar, Director, Planning & Development Services (arrived at 7:28)
Steve Cohn, Senior Planner, Planning & Development Services
Jeff Forry, Permit Services Manager, Planning & Development Services
Jesus Sanchez, Operations Manager, Public Works
Jill Mosqueda, Development Review Engineer
Jessica Simulcik Smith, Planning Commission Clerk

Commissioners Absent

Commissioner Piro

CALL TO ORDER

Chair Kuboi called the regular meeting of the Shoreline Planning Commission to order at 7:05 p.m.

ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Kuboi, Vice Chair Hall, and Commissioners Behrens, Broili, Kaje, Perkowski, Pyle and Wagner. Commissioner Piro was excused.

APPROVAL OF AGENDA

The agenda was approved as presented.

DIRECTOR'S COMMENTS

The Commission discussed and agreed that staff should no longer provide bottled water at the Commission meetings.

Mr. Cohn reported that the Neighborhood Visioning Meetings have nearly been completed, and the last one is scheduled for November 13th at the Fire Station with the Korean Community. Staff has started to compile the numerous public comments that have been provided to date, and they should be available on line by November 12th in preparation for the November 19th Town Hall Meeting.

Mr. Cohn announced that the City Council accepted the Commission's recommendation and approved the James Alan Salon Rezone by a vote of 4:2.

APPROVAL OF MINUTES

The minutes of September 18, 2008 and October 27, 2008 were accepted as amended.

GENERAL PUBLIC COMMENT

There was no one in the audience to address the Commission during this portion of the meeting.

PUBLIC HEARING ON STORMWATER DEVELOPMENT CODE AMENDMENTS

Chair Kuboi reviewed the rules and procedures for the public hearing and then opened the hearing.

Staff overview and Presentation of Preliminary Staff Recommendation

Mr. Forry reminded the Commission that they previously conducted a study session on September 18th to preliminarily discuss the proposed Stormwater Development Code amendments. He noted that in addition to emails that were forwarded to each Commissioner, Commissioner Broili and Vice Chair Hall submitted comments that were included as part of the Commission's packet. He advised that the environmental review process ended on November 5th, and no public comments were received.

Mr. Forry briefly reviewed that King County Title 9 (Surface Water Management Code) was adopted as the City's Stormwater Development Code in 1995, and this document was amended in 1996, 1998, and 2000. The City adopted their current Surface Water Master Plan in 2005. He reminded the Commission that the Department of Ecology's (DOE) National Pollution Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit became effective for the City of Shoreline on February 16, 2007, and requires the City to implement new surface water standards by August of 2009. In addition, the City's current Surface Water Master Plan requires implementation of a DOE equivalent manual. Implementing new surface water guidelines would make the City more in tune with the City's sustainable strategy goals, too.

Mr. Forry reviewed that the DOE's Stormwater Manual for Western Washington is a technical document that it is broken into five volumes that deal with minimum technical requirements and site planning, construction stormwater prevention, and various best management practices to implement site development, stormwater improvements within rights-of-ways, soil remediation, etc. The DOE Manual contemplates design to forested conditions and looks at a higher level of review than what the City currently has in place. It also emphasizes minimum site disturbances, expands tools and best

management practices for water quality, expands source control for water quality issues, and requires low-impact development.

Mr. Forry explained that the current Development Code was written as a one-size-fits-all regulation that includes the core requirements for how surface water must be evaluated during the permit and land development processes, and the language came directly from the King County 1998 Surface Water Management Manual. On the other hand, the criteria outlined in the DOE Manual are contained solely within the manual, itself. The DOE recommends that cities either place all of the surface water regulations in their development codes or adopt the DOE Manual by reference and let the technical provisions and thresholds stand on their own. He advised that the staff and consultant are recommending the minimum code language necessary to implement the DOE Manual and that the DOE Manual stand on its own as the guiding document.

Mr. Forry referred the Commission to the list of proposed amendments and explained that the amendments are necessary to make the language consistent with the criteria found in the DOE Manual. Staff believes the DOE Manual would contain the necessary tools to implement the provisions to be compliant with the NPDES Permit. The amendments are also intended to centralize the code language with regard to surface and stormwater management and to define authorities. He explained that when the provisions for water quality were initially added to the Development Code, all authority rested with the Director of Planning and Development Services to implement water quality. Subsequent changes have moved this authority to the surface water section of the Public Works Department.

Mr. Forry advised that the methodologies used by staff to enforce code violations are captured in the enforcement section (20.30) of the Development Code, and the proposed amendments would take a simplistic approach. Those who violate the provisions of SMC 13.10 would be subject to the enforcement provisions of the Development Code. He noted that Shoreline is a small city with a small staff, and enforcement is currently handled by one or two individuals, with the support of the Customer Response Team. He pointed out that one sentence would be added to the enforcement provisions (Section 20.30).

Mr. Forry summarized that after the public hearing, the Planning Commission would be invited to forward a recommendation to the City Council regarding the proposed Stormwater Development Code amendments. The City Council would consider the Commission's recommendations as well as amendments to SMC 13.10 to implement the new Surface Water Management Code and DOE Manual.

Mr. Forry recalled that at the Commission's study session, Vice Chair Hall raised questions about regional stormwater facilities and whether or not a conditional use permit would be necessary. He said staff has researched this issue and, at this time, they don't have a preference either way. He invited the Commission to provide appropriate direction in this regard. He noted that regional stormwater facilities would not be exempt from environmental review under SEPA, which would involve a public process. While a conditional use permit requirement would add another level of administrative review on top of the environmental review process, it would also allow the City to evaluate other criteria that would not be addressed as part of the environmental review.

Vice Chair Hall asked staff to comment on issues that could be addressed via the conditional use permit process that would not typically be available under SEPA. He noted that while a property might appear to be perfect locations for a regional detention facility, the neighboring community might be opposed. Mr. Forry pointed out that requiring a conditional use permit would allow the City to evaluate whether or not a proposed facility would be compatible with the character and appearance of existing or proposed development in the vicinity. It could also allow the City to require screening, etc. He briefly reviewed the conditional use permit criteria that could be applied in these situations.

Commissioner Pyle asked how the City would find substantive authority under SEPA to condition an actual permit for a regional stormwater facility in a residential neighborhood. He also asked how far the City would be willing to go to apply mitigation measures and conditions as part of the SEPA process. Mr. Forry answered that the City would have the authority to apply mitigating measures when impacts rise to a level that would require this action. The same type of conceptual evaluation would be used for both the SEPA and conditional use permit processes. Commissioner Pyle suggested that an additional criterion be added to allow staff to consider appropriate screening and compatibility. He noted that although it is not possible to prohibit this type of necessary facility, it should be screened to protect the surrounding neighborhood. Mr. Forry said it would be better to address compatibility issues through the conditional use permit process, which grants staff the authority to do this type of evaluation. He noted that any public facility would be subject to all requirements of the Development Code, which includes screening; access, and mitigation of impacts. He summarized that he doesn't know how much benefit would be gained by requiring a conditional use permit in addition to the environmental review.

Mr. Forry referred to Commissioner Pyle's previously stated concern that there is not enough control granted to Planning and Development Services to influence future amendments to SMC 13.10 and that there is no clear authority over how permits are processed and where enforcement responsibility lies. Mr. Forry explained that, currently, amendments to the Development Code and/or Shoreline Municipal Code are drafted through the collaborative effort of various City departments. Because of this process, it would be difficult for amendments to SMC 13.10 to move forward if they were not in harmony with other Development Code regulations. Mr. Tovar added that the Public Works Department and the Planning and Development Services Department have a great relationship. The Interdepartmental Policy Group meets on a bi-weekly basis to ensure both departments are working together. Any future amendments would likely be discussed by this group before they are presented to the Commission or City Council.

Vice Chair Hall pointed out that the City would be the most likely applicant for a regional stormwater facility in Shoreline. Therefore, the City would be the applicant, the proponent and the regulator. Removing the regulations from the Development Code would take the Planning Commission out of the process. Therefore, there would be some risk involved. He questioned how they could ensure adequate protections for the public and their concerns. Mr. Tovar said the same concern could be applied to any project that does not require Planning Commission review. The Commission must consider whether or not they can rely upon staff to conduct themselves in an appropriate manner. Mr. Forry added that there are checks and balances within the system. For example, the City must obtain permits for any projects they do, and the permits would be subject to the same standards. The staff goes to great lengths to

ensure there is an appearance of fairness when they process permit applications for City projects. If anything, he suggested they hold themselves to a higher standard.

Commissioner Pyle agreed that the Planning and Development Services and Public Works Departments work well together, which is refreshing to see. However, he asked what would happen if the current management of either department were to change. While the City Council would make the final decision, he expressed concern that permits would be issued under the direction of the Planning and Development Services Department, but the content of the code under which the permits are being issued would be governed by the Public Works Department. Mr. Forry explained that there are dual authorities within SMC 13.10. The Public Works Director has authority over the technical provisions as they are applied to capital improvement projects, illicit discharges, etc. However, the authority to review permits lies solely with the Director of Planning and Development Services. All of the development criteria in SMC 13.10 that a proposal would be evaluated against would still fall under the purview of the Planning and Development Services Director, and any change would have to be evaluated by the City Manager, legal counsel, etc. Commissioner Pyle inquired if SEPA review would be required for any future amendments to SMC 13.10. Mr. Forry answered affirmatively. Commissioner Pyle summarized that, in the end, the SEPA responsible official from the Planning and Development Services Department would have some power over future changes via the SEPA process.

Mr. Forry said Commissioner Pyle also previously raised a concern that the Planning Commission would have no authority over stormwater issues when considering rezones, code changes or other proposals or projects where the issue of stormwater comes up as a factor. Mr. Forry explained that stormwater issues could be considered by the Planning Commission if there is a nexus to the project they are evaluating. However, staff believes it would be premature to consider stormwater impacts at the rezone stage of a project. These impacts would more appropriately be considered during the development stage. He summarized that the Commission would have the ability to evaluate and discuss stormwater issues that pertain to specific permits or projects that come before them for review (i.e. subdivisions, master plans, etc.). Although the provisions would reside in SMC 13.10, the adequacy provisions in the Development Code would still apply and an applicant would be required to provide adequate surface water control. He summarized that while SMC 13.10 would outline the adopted stormwater codes, the actual DOE Manual would become part of a technical guide for the Development Code and used to evaluate any development permit application.

Mr. Forry referred to the Langley, Washington, Low-Impact Development (LID) Code References, which were forwarded to staff by Commissioner Broili just prior to the meeting. Commissioner Broili expressed concern that the Stormwater Management Manual and the LID Technical Guide Manual would not be linked by the Development Code. There is no language in the code stating that these documents must be used. He noted that LID is a mandatory requirement of Langley's code, and he would like to see some forceful, binding language in Shoreline's Code that states that no development would be allowed unless it first meets LID requirements as much as possible. He said he would prefer that development not be allowed if LID standards cannot be implemented, but he recognizes the City's concerns about "taking."

Mr. Forry pointed out that new draft language for SMC 13.10.210.B (Adoption of Stormwater Management Manual) would state that "low-impact development techniques shall be employed where feasible. When low-impact development techniques are employed, the design and construction shall be consistent with the most recent version of low-impact development technical guidance for Puget Sound." He summarized that the enabling legislation would include a requirement for LID; and the Surface Water Manual, itself, would address the same concepts that Langley chose to include in their ordinance. He clarified that rather than using judgment terms such as "may" and "should," the DOE Manual uses the term "shall" throughout. He summarized that the proposed amendments would place emphasis on the enabling legislation that says low-impact development shall be considered where feasible. He noted the language also provides for emerging technologies in the realm of low-impact development, storm filters, etc.

Commissioner Broili asked who would be responsible for making a judgment decision about what is feasible. Mr. Forry noted that this language was published and promulgated by the Pollution Control Hearings Board on the appeal on the DOE Manual. To be consistent, staff replicated this same language. Commissioner Broili said he would prefer to see stronger language. Mr. Forry added that the DOE is in the process of defining the term "feasible" for inclusion in their manual. He summarized that the Planning and Development Services Director would make the decision, and staff believes there is enough data in the DOE Manual to deal with the term appropriately.

Again, Mr. Forry clarified that the DOE Manual contains specific criteria for low-impact development. Commissioner Broili asked why staff has chosen the more general approach. Mr. Forry explained that if all the criteria are incorporated into the code language, the City would be required to evaluate the code language any time a modification is made. He emphasized that the DOE Manual is a technical document that deals with engineering and technical issues, and putting technical and engineering issues in code language is not always the most effective approach to gain compliance. Commissioner Broili noted that the last sentence of Langley's document makes reference to the Low-Impact Development Technical Manual for Puget Sound as it now exists or is hereafter amended. Mr. Forry pointed out that a proposed amendment to SMC 13.10.210 specifically calls out this document for adoption, as well.

Commissioner Pyle pointed out that Section 15.01.445.A of the Langley document is better crafted. If low-impact development is not feasible, the Langley language also allows them to consider conventional stormwater management methods. Mr. Forry said he would support this type of language in Title 13. However, he reminded the Commission that the issue currently before them is the proposed amendments to the Development Code. Vice Chair Hall suggested it may be appropriate for the Commission to include a finding with their recommendation on the Development Code amendments that voices their concerns about the implementation and interpretation of "feasibility." They could encourage the City Council to consider alternative language. Mr. Forry agreed that would be appropriate.

Questions by the Commission to Staff

Commissioner Pyle referred to Section 20.30.290.6 (Page 35 of the Staff Report), and requested clarification about when deviations from the drainage standards contained in the Stormwater Manual and SMC 13.10 would be acceptable. He questioned who would have the authority to make this

determination and whether or not notice and a public process would be required. Mr. Forry answered that, currently, a variance to the engineering standards does not require a public process, but there must be a nexus between the request and the proposed use. Any deviation must be supported with the appropriate engineering analysis, and the decision would be made by staff. Commissioner Behrens asked who would pay for the required analysis to support the deviation. Mr. Forry answered that this would be a permit process, with an associated fee, and applicants would be charged the appropriate amount of review time in rendering the decision.

Commissioner Broili pointed out that the present code does not allow the City to approve better approaches for managing stormwater if it is not an option outlined in the code. He noted that jurisdictions are continually learning new information about low-impact development, and it should not be difficult for the City to incorporate the new methodology. Mr. Forry explained that as new design techniques and technologies are developed, they would be automatically incorporated into the DOE Manual. That means they would automatically be available to the City as implementing tools. The enabling legislation proposed for SMC 13.10 talks about the need to encourage emerging technologies. As proposed the City would have the ability to incorporate new concepts as they evolve.

Commissioner Pyle referred to Section 20.50.320.I and asked why the threshold was raised to 2,000 square feet. Mr. Forry explained that the current threshold in the Development Code is 1,500 square feet of new impervious surfaces. The proposed new threshold would require review of any development that creates over 2,000 square feet of new, replaced or a total of new and replaced impervious surface. Commissioner Pyle summarized that the new language would raise the threshold for complete new development from 1,500 to 2,000; but for redevelopment or renovation, the threshold would be lower. Mr. Forry said that, from the City's standpoint, this would be a better threshold because 99% of projects within the City involve redevelopment. He noted that the current threshold has allowed many of the recent development proposals to avoid the necessary level of review to address impacts.

Commissioner Pyle noted that the proposed amendments would eliminate the "impervious surface" section from the Development Code, and replacement language would incorporate the concept of "hardscape." Mr. Forry explained that the current use of the term "impervious surface" has resulted in inconsistencies in how it is applied to both land use concepts and stormwater controls. Applicants often want to apply pervious surface credits in order to increase the massing on site while staying under the 50% impervious surface that the code allows. To move away from having to deal with this issue on a regular basis, staff felt it would be appropriate to change the terminology so there is a clear disconnect between how they evaluate proposals for compliance with surface water drainage and how they review compliance with development regulations.

Commissioner Pyle questioned the need to regulate hardscape. Mr. Forry explained that the less hardscape is regulated, the more opportunity there would be for denuded sites. Commissioner Pyle suggested another option would be to require greenscape. Mr. Forry agreed the concepts are the same. He added that staff recently reviewed a local study that was prepared by the publishers of the LID Standards. It was refreshing to see that the City of Shoreline has the most restrictive requirement in the area for impervious surface or lot coverage as it pertains to hardscape development. He clarified that, at this time, the City has a 50% threshold that includes buildings, driveways, sidewalks, and other

structures on the ground. The proposed amendment would only change the terminology and not the threshold. The goal is to make it easier to administer both the Surface Water Management Code and the Shoreline Development Code.

Commissioner Broili said he likes the concept of hardscapes, particularly as they speak to paved areas, driveways, sidewalks, streets, etc. However, he suggested breaking the description of lot coverage into three categories (roofscapes, hardscapes and landscapes), which better describe all aspects of a given site as to their functional relationship to the lot. He explained that roofscapes must be impermeable in order to protect the integrity and functionality of the building, but hardscapes can be permeable as long as they are load bearing. Landscapes would include everything that doesn't fall into the first two categories and would be required to meet the DOE Manual requirements. Mr. Forry pointed that the concept referred to by Commissioner Broili can be found in both the DOE Manual and the Stormwater Development Code, but the terminology is different. Commissioner Broili agreed, but he suggested it would be helpful to point out which concepts apply to roofscapes, hardscapes, and landscapes. He suggested the LID tools should be separated into these three different categories. He emphasized that rather than low-impact, the City's goal should be "zero" impact. Anything less than that damages the environment. The goal should be to get back to the historical functionality.

Commissioner Pyle asked why Temporary Erosion and Sediment Control Best Management Practices would be moved to SMC 13.10. Mr. Forry answered that these provisions are outlined in the DOE Manual as part the best management practices process and project evaluation. Therefore, there was no need to maintain this criterion in the Development Code. Commissioner Pyle also asked if every project would be reviewed by the development engineer. Mr. Forry explained that a preliminary evaluation would be done on all projects to determine if a formal drainage review would be required. However, only those projects that are triggered by the threshold would be reviewed by the development engineer. He noted that applicants are required to incorporate Temporary Erosion and Sediment Control Best Management Practices into their plans whenever possible, and staff provides a prescriptive list of standards to applicants. Commissioner Pyle requested more information about why the section related to flood plain delineation would be removed. Mr. Forry answered that "floodway delineation" actually comes from the Surface Water Master Plan that is currently in place, and the Public Works Department is undertaking new activities to enhance basin planning. He summarized that the special design criteria are contained in the DOE Manual. Commissioner Pyle asked if staff reviewed the criteria one-by-one to identify whether not they are replicated in the DOE Manual. Mr. Forry answered that staff worked with a consultant to complete this review.

Commissioner Broili asked if the Puget Sound Action Team's Technical Manual and the DOE Manual would be given equal weight when reviewing a project or proposal. Mr. Forry answered that the technical manual is an appendix to the DOE Manual. The DOE Manual would be the overriding engineering standard, with supplemented LID techniques. The two would be given equal weight.

Commissioner Kaje said he likes the proposed amendment that would change "impervious surface" to "hardscape," particularly after staff explained that the goal is to separate massing issues from surface water issues. However, he asked if this change would eliminate incentives for people to use pervious materials. Mr. Forry answered that applicants are required to investigate options for using pervious

surface materials as part of their low-impact best management practices. Commissioner Kaje summarized that, currently, there is an unintentional incentive that allows developers to mass a greater amount on site by having some of it be pervious, and the proposed change would require an applicant to consider pervious surface opportunities. He said that while he supports this concept, the Commission should also consider ways to encourage developers to do more than what is required. Mr. Forry said staff is in the process of evaluating opportunities for LID incentives, and they would come before the Commission at a later time to discuss how the City can incentivize increased compliance as part of the development process. He summarized that staff needs to really start working with the DOE Manual before they can complete this task.

Commissioner Perkowski asked what incentive a property owner would have to construct a permeable driveway if it is not required by code. Mr. Forry said the incentive would be to mitigate the impact of the new impervious surface. Impervious surfaces such as structures, driveways, patios, etc. allow water to run directly to the public rights-of-way or to neighboring properties. The DOE Manual requires that these impacts be mitigated. Therefore, an applicant's design would have to provide some type of system to take care of the drainage, and the City requires that LID options be considered first. One way to control the drainage is to use permeable pavement that allows the water to infiltrate into the ground. If an applicant wants to construct an impervious driveway, he/she would be required to demonstrate how the drainage would be controlled using LID approaches.

Commissioner Kaje noted that there are sections in the code that refer to "deviations," but the word "variance" is still used in the definition or description of the section. He also noted that there are still places in the proposed code where the term "impervious surface" should be changed to "hardscape." Further he noted that the term "deviation" is misspelled in Section 20.30.290.B.8.

Commissioner Behrens referred to the point raised by Commissioner Kaje about incentives. He said that while he agrees with the purposes stated by staff, it is also important to keep in mind that it would cost the City money to handle additional drainage water that is not taken care of on site. He suggested the City consider the option of requiring the developer to pay these additional costs. This would be one way of encouraging developers to use LID techniques on site. Mr. Forry clarified that the allowed discharge rates off of a site through systems that can't infiltrate are very low. The DOE Manual is actually more restrictive than the City's current standard. The City uses the surface water utility fee structure to capture the costs associated with impervious surface impacts. The City's long-term goal is to look at incentives in this area, as well. He emphasized that the City's problem is not with new development; it is with historic development. As new development comes on line, the City gains infrastructure to help mitigate existing problems. Creating incentives to further help mitigate the problem would be a cost-effective approach.

Commissioner Broili asked how the City would measure the effectiveness of any LID installation. He also asked what recourse the City would have if an LID installation does not meet the City's expectations. Mr. Forry answered that in those cases where a developer employs low-impact techniques that require maintenance (such as pervious pavement), a maintenance plan would be required and recorded against the property. This plan would spell out the maintenance requirements and provide a mechanism by which the City can affect a repair to systems that compromise the City's infrastructure.

The City would require a maintenance bond for types of systems that require landscaping (rain garden). Once it has been demonstrated that a system performs as intended, the City would release the bond. He summarized that there are mechanisms in place, and they would be further enhanced by the proposed amendments.

Commissioner Broili expressed concern that the City has inadequate staff and funding to enforce the new surface water standards. Mr. Forry said that in his tenure with the City, staff has actively pursued violations that meet the model the City Council laid out for priorities. If property owners choose not to comply, substantial fines are levied. Much of that money that is collected is used to fund the enforcement process. He said that while the City has only one code enforcement officer, they have three individuals on the Customer Response Team who investigate in the field. Additional staff members also deal with compliance on a daily basis. He emphasized that the City actively pursues violations, particularly those that are environmental. The proposed changes would not increase or decrease the amount of work involved with pursuing code violations. The method of compliance already resides in the Development Code, and the proposed changes to SMC 13.10 would add an additional connection.

Public Testimony or Comment

There was no one in the audience to participate in the public hearing.

Final Questions by the Commission

None of the Commissioners had additional questions for staff.

Closure of Public Hearing

The public portion of the hearing was closed.

Deliberations

COMMISSIONER WAGNER MOVED THE COMMISSION RECOMMEND TO CITY COUNCIL STAFF'S PROPOSED AMENDMENTS TO THE DEVELOPMENT CODE, WITH CORRECTIONS MADE TO TYPOGRAPHICAL ERRORS. COMMISSIONER PYLE SECONDED THE MOTION.

Commissioner Wagner commended Mr. Forry's for his thorough staff report and said he did a great job of explaining all of the issues. While the Commissioners raised good points, she felt the proposed amendments would be a step in the right direction. However, she would support Commissioner Broili's previous recommendation that additional teeth be added to the code to ensure that low-impact development is the first consideration.

VICE CHAIR HALL MOVED TO AMEND THE MAIN MOTION TO REVISE TABLE 20.40.140 *OTHER USES* TO MAKE "UTILITY FACILITY, REGIONAL STORMWATER MANAGEMENT" BE A "CONDITIONAL USE" (C) IN R-4 THROUGH R-6, R-8 THROUGH

**R-12 AND R-18 THROUGH R-48 ZONES, INSTEAD OF A “PERMITTED USE” (P) (*see below*).
COMMISSIONER PYLE SECONDED THE MOTION.**

NAICS	SPECIFIC USE	R4 – R6	R8- R12	R18- R48	NB & O	CB & NCBD	RB & I
	Utility Facility, Regional stormwater Management	PC	PC	PC	P	P	P

Vice Chair Hall expressed his belief that staff did an excellent job of describing the conditional use option. He said he believes neighborhood compatibility should be considered, and the director ought to have the discretion to deny or condition a permit request for a stormwater facility based on issues such as pedestrian safety and neighborhood compatibility. The conditional use process would allow this discretion in a way that SEPA would not.

THE MOTION TO AMEND CARRIED UNANIMOUSLY.

VICE CHAIR HALL MOVED TO AMEND THE MAIN MOTION TO STRIKE THE WORDS “EXCLUDING COTTAGE HOUSING” FROM FOOTNOTE 6 ON TABLE 20.50.020(1). COMMISSIONER PYLE SECONDED THE MOTION. THE MOTION TO AMEND CARRIED UNANIMOUSLY.

VICE CHAIR HALL MOVED TO AMEND THE MAIN MOTION TO NOT RECOMMEND STAFF’S PROPOSED SQUARE FOOT REVISION IN 20.50.320(1) AND REVERT BACK TO THE ORIGINAL 1,500 SQUARE FOOT THRESHOLD. COMMISSIONER PYLE SECONDED THE MOTION.

Vice Chair Hall pointed out that the proposed amendment would make construction of average single-family homes (larger than 1,200) subject to the provisions. Mr. Forry clarified that the purpose of this amendment is to make the numbers consistent with those outlined in the DOE Manual. He expressed concern that staff does not know what the impact would be if the threshold numbers are different than those contained in the adopted engineering manuals. Vice Chair Hall reminded staff of their previous announcement that a recent study identified Shoreline as one of the most restrictive jurisdictions in terms of limiting lot coverage. He felt they should have the same restrictions for impervious surfaces. Commissioner Broili concurred.

The Commission and staff discussed whether the term “impervious surface” in this section should be changed to “hardscape.” Commissioner Pyle clarified that hardscapes are not necessarily impervious. He explained that the Development Code does not regulate hardscape. Instead, it includes a threshold for identifying when a project would be required to go through the stormwater review process. Mr. Forry pointed out that this language is intended to apply to clearing and grading permits, which are reviewed under the Stormwater Manual for conformance with surface water regulations and temporary erosion sediment control. The threshold in these documents is listed as 2,000 square feet, and the purpose of the proposed amendment is to maintain continuity between the thresholds.

Commissioner Kaje pointed out that changing the term “impervious surface” to “hardscape” throughout the document would provide a clear threshold for lot coverage. He agreed with staff that the threshold should be set at 2,000 to eliminate inconsistencies and avoid confusion. With the adoption of the DOE Manual and Surface Water Manual, the City’s stormwater requirements would be even stronger. Mr. Forry explained that this section of the code deals with when the applicable provisions of the clearing and grading chapter would come to bear on development proposals. Items A through K identify triggers for when an application would be subject to the criteria contained in the clearing and grading and tree retention section of the ordinance. He emphasized that Item L would not affect the entire code.

Commissioner Broili expressed his belief that the proposed amendments are one of the most important things the Commission can do for the health and well being of the ecology and environment of the City.

¹THE MOTION TO AMEND FAILED 4-3-1, WITH VICE CHAIR HALL, COMMISSIONER BROILI, COMMISSIONER PERKOWSKI, AND COMMISSIONER PYLE VOTING IN FAVOR AND CHAIR KUBOI, COMMISSIONER KAJE AND COMMISSIONER WAGNER VOTING IN OPPOSITION. COMMISSIONER BEHRENS ABSTAINED.

COMMISSIONER BEHRENS MOVED TO ADJUST THE TIME TO ADJOURN THE MEETING TO 9:30 P.M. COMMISSIONER BROILI SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

VICE CHAIR HALL MOVED THAT THE COMMISSION INCLUDE A FINDING TO THE PLANNING COMMISSION FINDINGS THAT READS, “THE PHRASE “WHERE FEASIBLE” AS IT APPLIES TO REQUIREMENTS FOR LOW-IMPACT DEVELOPMENT, LEAVES UNCERTAINTY ABOUT HOW IT WILL BE INTERPRETED AND IMPLEMENTED; PROVIDING GREATER CLARITY WOULD BE A BENEFIT TO THE COMMUNITY AND ENVIRONMENT.” COMMISSIONER BROILI SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

Commissioner Pyle referred to Table 20.50.020.1 and proposed that another footnote be added to the section that governs “hardscape” area. He referred to the Environmental Sustainability Strategy that talks about developing a residential green building program. He expressed his belief that it is important that the City not only develop a program, but that they require people to use LID techniques on their site (pervious surfaces) when possible depending on the soils. He explained that the City does not need the stormwater manual to require people to use LID techniques. The Development Code can include specific regulations that state that when a certain threshold is exceeded, green building techniques would be required to assure that all new pavements are pervious and that many of the features on the site would not add to the runoff. He noted that, as proposed, the only way the City can limit impervious surface would be through the Surface Water Manual.

Mr. Forry pointed out that both pervious and impervious surfaces are included in the definition of “hardscape.” The maximum amount of combined impervious and hardscape area allowed is 50%. He

¹ See “Clarification On Final Recommendation” on page 15

expressed concern that Commissioner Pyle's proposed amendment would conflict with the fundamental provisions in the DOE Manual. He emphasized that, as currently proposed, the DOE Manual would make it mandatory for developers to employ LID techniques. He further clarified that all projects, regardless of the size, would be evaluated and developers would be required to make provisions for controlling runoff. However, the entire DOE Manual would only apply to projects that exceed the threshold. He summarized that the amount of impact from smaller structures would be minimal on a 7,200 square foot lot with only 2,000 square feet of impervious surface. There would still be a lot of open space where runoff could be dispersed and infiltrated into the soils. The DOE Manual gives credit for this, which makes sense from a holistic approach.

Commissioner Pyle asked if the City is considering developing a residential green program at some point in the future. Mr. Forry answered affirmatively. Commissioner Pyle suggested his recommendation could be deferred until that time.

Commissioner Behrens asked if the proposed amendments would eliminate the potential for a future private property owner to redevelop a gravel driveway with impervious surface that ends up exceeding the code limits. Mr. Forry answered that any property owner who exceeds the threshold would be required to mitigate any impacts before obtaining permits. The City must rely on complaints, as well as the development process review, to identify these situations.

Commissioner Broili said he would support the main motion, as amended. He pointed out that the State of the Puget Sound Report that was just released by the Puget Sound Partnership rates the Puget Sound in extremely poor condition. Stormwater is the single greatest contributor, and impervious surfaces are the greatest contributor to stormwater issues. He said anything the City can do to move their Development Code closer to the 65-10-0 standard would help restore the 100 years of damage to the hydrological regime and put Shoreline in a leadership position with regard to stormwater management. He said he strongly supports any actions the City takes to move closer to historical functionality. He said he is both surprised and disappointed that no written public comments were submitted and no one attended the public hearing regarding this most important recommendation.

Commissioner Broili explained that the 1968 papers from the Salmon and the City Conference introduced the term "zero impact development." It was defined as development that created no overland flow runoff that would discharge to surface water. Later in 1998, King County invented the term "65-10-0 Standard," describing numerically the characteristics of zero impact. The three terms stand for 65% forest cover remaining after development, 10% total impervious area, and zero effective impervious area.

Chair Kuboi asked that the emails exchanged by staff and Commissioner Pyle be made part of the record. Mr. Forry agreed and added that the emails received from Commissioner Broili and Vice Chair Hall have already been included as part of the record.

Commissioner Behrens thanked Commissioners Broili, Pyle and Hall for sharing their knowledge and skills on environmental issues with the entire Commission. He said the City is fortunate to have them serve.

Vote by Commission to Recommend Approval or Denial or Modification

THE MAIN MOTION TO RECOMMEND TO CITY COUNCIL STAFF'S PROPOSED AMENDMENTS TO THE DEVELOPMENT CODE, WITH CORRECTIONS MADE TO TYPOGRAPHICAL ERRORS AND AS AMENDED WAS UNANIMOUSLY APPROVED.

DIRECTOR'S REPORT

Mr. Tovar reported that the City Council has considered the Commission's recommendations to amend the code to deal with master plans (Fircrest, Shoreline Community College and Crista) on ten different occasions. They have made a number of amendments, and a subcommittee of the City Council would meet on November 7th to discuss additional criteria that might be considered when master plans are processed. They would also discuss the concept of letting the master plan process move forward as amended by the City Council to apply to existing institutional uses at Crista, Shoreline Community College and Fircrest, but to not allow new uses to be proposed as part of the process. He explained that there has been a tremendous amount of concern and discussion about Fircrest and the City Council has heard from a number of citizens. The City Council will likely consider options for reengaging with the stakeholders and the neighborhood about the prospect of potential new uses. They will meet again in December to consider the final set of amendments to the master plan process. They may be adopted by the end of 2008, but there will be discussion about Fircrest in early 2009. Commissioner Wagner inquired if the master plan issue would come back before the Commission. Mr. Tovar said this depends on what the final format looks like and whether it is consistent with what the public had a reasonable opportunity to comment on during the Commission's hearing process.

Mr. Tovar reported that almost all of the community meetings have been completed, and he thanked the Commissioners for their participation. Staff is currently processing all of the input that has been provided thus far. A large word document would be posted on the City's website to outline every comment that was made. Staff would also sort through the comments and identify common themes and ideas. He reminded the Commission that they have been invited to work with staff in this effort and report to the City Council and community at a town meeting on November 19th. After the initial report, the City Council Members would sit at seven separate tables and replicate this process. Participants would be invited to comment on the data summary, and then the Mayor would explain the next steps in the process.

Mr. Tovar explained that some City Council Members have recommended a joint retreat of the Planning Commission and City Council in January. The purpose would be for both groups to review the results of the Town Hall Meeting and identify the key priorities, values and preferences that should be reflected in the vision and framework goals. He noted that the process would stretch out a bit longer than what was initially described. The public hearings on actual draft language for the vision and framework goals would probably not take place until February or March.

Vice Chair Hall indicated he would be available to attend the November 19th Town Hall Meeting, and he agreed to meet with staff to help prepare the report. Chair Kuboi indicated he would not be in

attendance at the Town Hall Meeting, so Vice Chair Hall would lead the Commission's involvement. Vice Chair Hall asked that Planning Commissioners forward their thoughts on common themes to either staff or himself.

Commissioner Kaje asked if the Commissions notes and observations from the various community meetings should be submitted or if they should be incorporated in to the Commission discussions at some point in the future. Mr. Tovar invited the Commissioners to share their observations with Vice Chair Hall as soon as possible. The report at the beginning of the November 19th meeting would provide an opportunity for the Commission to share their collective observations about the process. The Commissioners could also present their observations when they meet with the City Council in January.

Commissioner Kaje asked if the written comments that were submitted by members of the community would also be posted on the website. Mr. Cohn said these comments are currently being transcribed and included on the website posting. Mr. Tovar added that all of the comments, both written and oral, would be available on the City's website by November 12th.

CLARIFICATION ON FINAL RECOMMENDATION RELATED TO THE STORMWATER DEVELOPMENT CODE AMENDMENTS

Ms. Simulcik Smith clarified that Roberts Rules of Order excludes abstentions in a majority vote. Therefore, the motion to amend the main motion and not recommend staff's proposed square foot revision in 20.50.320(I) and revert back to the original 1,500 square feet of impervious surface actually carried by a vote of 4 to 3. She noted that when the Commission voted on the main motion to recommend approval of proposed amendments, they did so thinking this motion to amend had failed.

THE COMMISSION REVOTED AND THE MAIN MOTION WAS APPROVED UNANIMOUSLY, INCLUDING ALL THREE AMENDMENTS AS WELL AS TYPOGRAPHICAL CORRECTIONS.

UNFINISHED BUSINESS

Commissioner Broili reported that the Design Review Subcommittee would meet on November 9th.

NEW BUSINESS

Commissioner Kaje recalled Commissioner Broili's earlier announcement that the Puget Sound Partnership has put out their draft action agenda. There is only a 2-week review period, and he strongly encouraged City staff to take the time to review the document carefully and provide comments since it lays out the large-scale priorities for cleaning up Puget Sound by 2020. Commissioner Broili agreed. Vice Chair Hall pointed out that two public meetings would be held, and one is scheduled to take place in Edmonds. He asked staff to forward the public meeting announcement to each Commissioner.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Vice Chair Hall reported on his attendance at the City Council's public hearing on the James Alan Rezone application. He said he was invited to present the Planning Commission's recommendation at the hearing. The City Council had a long and good discussion, and they talked about many of the same issues that were considered by the Planning Commission. They approved the application by a vote of 4 to 2. He said it was an interesting experience for him to represent the Planning Commission's recommendation because their vote was split. He tried to raise all of the issues that were raised by Commissioners, including those who voted against the application. He said it would have been more difficult for him to transmit the Commission's majority viewpoint to the City Council if he had voted in opposition. He concluded that the integrity of the process is important to maintain. If someone speaks to a Commissioner about a Commission recommendation, it is important that the Commission's final recommendation not be undermined. While it would be appropriate to share individual thoughts, it is important to first identify the position of the majority of the Planning Commission. He noted that the City Council reviewed the minutes from all four of the Commission hearings on the application.

Commissioner Behrens pointed out that quite often when split decisions are made by deliberative bodies, both minority and majority reports are written. He questioned if the Commission would be in favor of this concept in the future when there are split votes. It was pointed out that minority positions can be expressed through comments made at meetings and contained in the minutes. Again, Commissioner Behrens expressed his belief that there may be some merit to having both sides expressed when there is a split vote.

AGENDA FOR NEXT MEETING

Shoreline Master Program Open House and Study Session

Chair Kuboi announced that the November 20th agenda would include a study session and open house on the Shoreline Master Program. Mr. Cohn announced that the open house would start at 6 p.m. Staff would send invitations to approximately 200 people, and the event would be held in the foyer. The Commission's regular meeting would start at 7 p.m., and the consultant would make a presentation.

ADJOURNMENT

COMMISSIONER WAGNER MOVED TO ADJOURN THE MEETING AT 9:45 P.M. COMMISSIONER PYLE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

Sid Kuboi
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission