

**CITY OF SHORELINE**  
**SHORELINE PLANNING COMMISSION**  
**SUMMARY MINUTES OF REGULAR MEETING**

November 6, 2008  
7:00 P.M.

Shoreline Conference Center  
Mt. Rainier Room

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**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 13<sup>th</sup> 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 12<sup>th</sup> in preparation for the November 19<sup>th</sup> 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 18<sup>th</sup> 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 5<sup>th</sup>, 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 –	R8-	R18-	NB &	CB &	RB &
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		<b>R6</b>	<b>R12</b>	<b>R48</b>	<b>O</b>	<b>NCBD</b>	<b>I</b>
	Utility Facility, Regional stormwater Management	<u>PC</u>	<u>PC</u>	<u>PC</u>	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.

**<sup>1</sup>THE 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 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

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<sup>1</sup> See “Clarification On Final Recommendation” on page 15

7,200 square feet 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 7<sup>th</sup> 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 19<sup>th</sup>. 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 19<sup>th</sup> 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 19<sup>th</sup> 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 12<sup>th</sup>.

### **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 9<sup>th</sup>.

### **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 20<sup>th</sup> 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.**

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Sid Kuboi  
Chair, Planning Commission

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Jessica Simulcik Smith  
Clerk, Planning Commission