
Memorialization

TO: Commissioner Steve Stuart, Chair
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COPY: Pete Capell, Public Works Director/County Engineer
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FROM: Robin Krause, Public Works, Project Manager

SUBJECT: Stormwater Ordinance Update Project

DATE: January 31, 2008

Staff presented a progress report on the stormwater ordinance update to the Board of County Commissioners in work session on January 30. The presentation included: process update, key highlights of the draft ordinance including flow control, redevelopment stop-loss, use the county right-of-way, and Potential Urban Growth Boundary Impacts. The board also allowed time for input from members of the Development Engineering Advisory Board, the Clean Water Commission, and the Stakeholder Advisory Committee for the stormwater ordinance update. The work session concluded with a brief summary of next steps and the board's direction to staff.

Kevin Gray introduced Steve Madsen, representing the Stakeholder Advisory Committee, Greg Jellison and Eric Golemo representing the Development Engineering Advisory Board, and Art Stubbs representing the Clean Water Commission. Mr. Golemo and Mr. Stubbs are also serving on the Stakeholder Advisory Committee.

The process update summarized the milestones reached since the previous work session, including: preparing a draft stormwater code, planning commission work session, ASCE lunch presentation, draft SAC Summary Report, and a draft Low Impact Development Manual for Clark County. Mr. Gray noted that the draft code and LID manual is available on the web site at www.clark.wa.gov/water-resources/SWMP/soup_docs.html. The Planning Commission requested that staff provide more detailed information regarding

the background and costs of the proposed ordinance and staff plans to do so. Mr. Gray also recognized the local chapter of the American Society of Civil Engineers and the work they have done on infiltration standards. The white paper prepared by the local chapter provided the basis for much of the proposed infiltration code.

Key ordinance highlights began with the proposed flow control standard. At the previous work session, the Board had directed staff to develop an alternative to Ecology's forested condition standard for pre-development land cover. Staff presented a tiered approach that applies forested condition to rural lands while in the urban area applying a more complicated standard whereby those watersheds that have had less than 40% forested cover since 1955 would require the pre-developed condition to be assumed to be the land cover in 1955. Staff noted the 40% impervious rule and areas of historic prairie would also be considered as allowed by Ecology. In addition, any drainage basin specific study would take precedence over the general standard. Staff also explained that flow control only applies to those areas being changed, not the entire parcel.

Staff explained that 1955 was chosen for several reasons, including similarity to the 30-year requirement in the current code, we have the 1955 aerial photos, it is relatively straight forward to understand, and it is based on the theory that streams may stabilize after 20-years. The Clean Water Act requires that we protect and not preclude the restoration of the beneficial uses of 1975. Based on the theory that streams may stabilize after 20 years, the conditions in 1955 would be the last impact to the streams. Staff noted that there is a lack of scientific research to support the 20-year theory and in many cases our watershed characteristics studies have shown that streams continue to degrade due to historic forest clearing. In some cases the streams may not stabilize after forest removal.

The board took exception to applying different standards to rural versus urban areas and asked staff to justify treating rural different from urban. Mr. Gray explained that the rural areas typically have the space needed (in many cases the space allows for dispersion which negates the need for a pond), and that our rural streams are in the best condition and offer the best chances for future restoration.

Commissioner Morris asked about sites where forest may have been replanted since 1955. Staff explained that under the current proposal, we're looking at 1955 conditions. The current code requires that flow control be based on the ground cover that produced the least runoff in the last 30 years. This provision could be added back in to address this potential situation.

Commissioner Boldt was concerned about differing standards for neighboring property owners. Other than 1955 versus the previous 30 years, the current code is no different from the proposed code in this case. Commissioner Boldt also wondered about old growth versus second growth forest. Staff explained that the current ordinance does not differentiate.

Commissioner Stuart believed that this standard still had legal challenges in regard to restorative standards. Commissioner Morris directed staff to do more public outreach with the rural community.

Staff explained the SAC recommendation in regard to redevelopment stop-loss. Commissioners generally agreed with the approach to develop a single, lesser standard that would apply to all projects rather than exempting some based solely on cost. Commissioner Morris directed staff to look at a recent redevelopment project on Highway 99 and how that project would develop under the proposed code. Staff will work with the developer in that effort.

Staff explained the SAC recommendation for use of the existing and dedicated right-of-way. Commissioner Stuart cautioned that proposals should be reviewed with consideration for future road projects and other utility improvements. Commissioner Boldt asked about basin transfers. Staff explained that current and proposed code does not allow basin transfers, but does allow some offsite mitigation within the same subwatershed.

Staff presented the results of an analysis of the buildable lands model in regard to the stormwater infrastructure assumptions. Assuming that stormwater consumes three times more land than was assumed in the comprehensive plan process, as much as 3,600 net buildable acres could be lost. That assumes that development does not take advantage of new techniques for low impact development. It also does not account for underground of detention in areas such as parking lots, which is not uncommon for industrial and commercial projects. Under the proposed ordinance with the modified flow control standard, and assuming the LID is used to its potential, the impact could be negligible.

Commissioners noted that 4,200 acres of agriculture land was brought in to the UGA.

Steve Madsen provided a brief summary of the process Stakeholder process. He noted that staff had approached the effort assuming that we were developing a code that is equivalent to Ecology. Had we known that wasn't the case, the approach he felt would have been different. However, until we have the basin specific information, we have a hard time discussing alternative standards.

Greg Jellison provided the perspective from the Development Engineering Advisory Board. Please refer to the handout provided that summarizes the policy issues DEAB is concerned with. Mr. Golemo added that they feel that the cost-benefit has not been addressed adequately, that incentives be developed for LID, infill, and redevelopment, and that he feels the streams have adapted after 50 years of impact (referring to the proposed 1955 flow control standard).

Commissioner Boldt asked Mr. Golemo to explain his understanding of what stabilized means. Mr. Golemo opinion is that determining if a stream is stable is very subjective.

Commissioner Morris noted that a fiscal analysis will be needed to address the cost to implement the revised code.

Staff went over the next steps as outlined in the handout. The following items were added based on direction from the Commissioners:

- Provide Fiscal analysis of the proposed code,
- Remove the rural forested predevelopment condition distinction for flow control,
- Adjust the flow control standard to account for sites that may have reforested since 1955,
- Review the Highway 99 redevelopment project (referred to by Commissioner Morris) in consideration of the proposed code,
- Develop a comprehensive outreach plan to engage the rural community, and
- Notify Ecology that a draft code will not be ready by the February 15 deadline.

Commissioner Boldt asked for a copy of the current stormwater infrastructure.

Thank you for your consideration. Please call me at extension 4911 with any questions or concerns regarding this summary of the work session.