

# **Agenda**

## **Stormwater Ordinance Update**

June 24, 2008 Work Session

### **Issue Papers:**

**Appeal Status**

**Example Redevelopment Project**

**Draft Ordinance**

### **Next Steps**

# Clark County Stormwater Ordinance Update Issue Paper: Appeal to the Pollution Control Hearings Board

*June 24, 2008*

## **Background**

Phase I permittees, including Clark, King, Pierce and Snohomish Counties, appealed Conditions S4.A, S4.B, S4.E, S7 and S8 of the NPDES Municipal Stormwater Permit on February 15, 2007.

The following summarizes the appeal language.

S4.A and S4.B can be read to require discharges of stormwater to comply with any water quality standard. These conditions are vague, unreasonable, impracticable, and/or inappropriate for Municipal Storm Sewer Systems.

S4.E states that compliance with all permit conditions is necessary to meet the goals of the Clean Water Act. This condition is inconsistent with other provisions of the Permit that state that certain requirements are premised on state law rather than the Clean Water Act and misconstrues the requirements of the Permit and Clean Water Act.

S7 requires that all permittees shall be in compliance with the requirements of applicable Total Maximum Daily Loads (TMDLs). These requirements are inconsistent with applicable laws and regulations, are vague, unreasonable, impracticable, and/or inappropriate for municipal stormwater.

S8 imposes a prescriptive (and expensive) monitoring program that precludes Clark County from developing a program that is better adapted to the unique circumstances of Clark County. S8 contains provisions that are inconsistent with applicable laws, unreasonable, impracticable, unjust, and/or inappropriate for municipal stormwater. Furthermore, S8 contains numerous flaws and uncertainties that prevent Permittees from complying with or comprehending the required procedures.

## **Status**

The hearings have concluded. In pre-hearing motions, the Pollution Control Hearings Board (PCHB) ruled that the Department of Ecology did have the legal authority (although not the mandate) to require that discharges from Municipal Separate Storm Sewer Systems (MS4s) comply with water quality standards.

The hearing focused on whether or not the requirements of the permit were unreasonable and infeasible to the point of being invalid. We anticipate a decision from the PCHB this fall after the Phase II hearings.

The Phase II hearing is scheduled for August, with decisions on each appeal likely to be made within three months of the conclusion of the Phase II case.

# Clark County Stormwater Ordinance Update

## Issue Paper: Highway 99 Redevelopment Example

June 24, 2008

### Background

As requested by the Board, staff analyzed the proposed stormwater ordinance impacts to a commercial redevelopment located at the northeast corner of Highway 99 and NE 88th Street.

### Site description

- 2.74 acre redevelopment site
- Prior use was a trailer park
- Site was open field with some forested area in 1955

### Scenarios modeled

- Existing stormwater code
- Proposed stormwater code
- Strict application of Ecology flow control standard (without LID)
- Low impact development (LID)

### Cost Comparison

Condition	Detention	Cost <sup>1</sup>
Current Code	11,000 cf	\$130,000
Draft Code	60,000 cf	\$445,000
Forested	87,000 cf	\$605,000
LID <sup>2</sup>	31,000 cf	\$102,000

1. Cost includes water quality and detention facilities.

2. LID model includes rain gardens and reverse slope sidewalks.

### Conclusion

This project is a specific example of how an LID approach can effectively manage stormwater even when the infiltration rate is very low. In the example, the design infiltration rate was 0.4 inches/hour. This site is ideal for the use of LID for the following reasons:

- Gently sloping topography.
- Runoff drains to the outer edges of site to setbacks and landscape areas.
- The landscaped areas are large enough for installation of rain gardens.

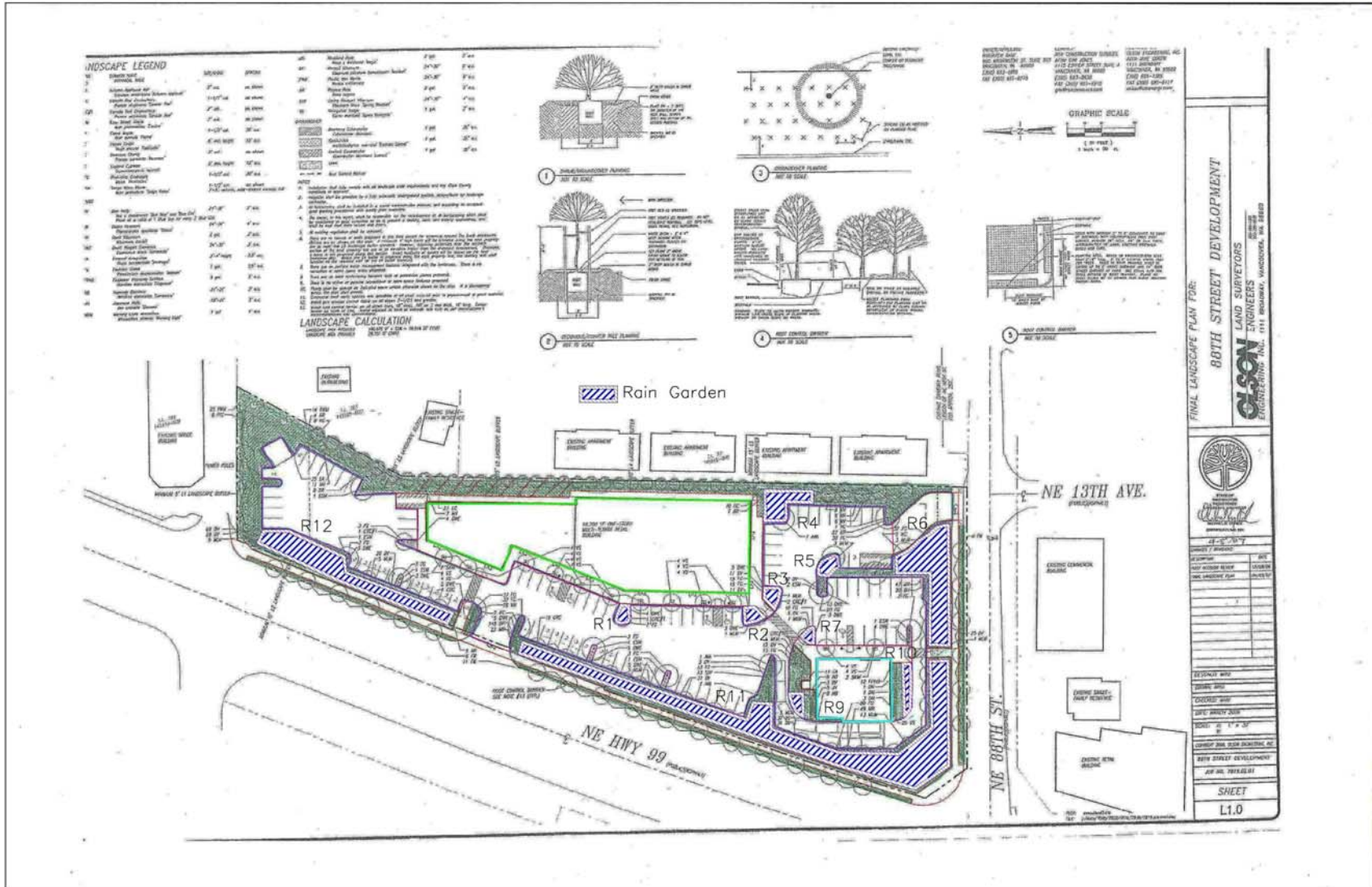
Other sites may or may not be suitable for an LID approach.

Generally:

- Storage volume requirements increase approximately 2 – 4 times when comparing peak-flow-matching to flow-duration-matching design methods.
- Where it can be used, an LID approach can help reduce and even eliminate the need for traditional stormwater treatment and storage facilities.

# Clark County Stormwater Ordinance Update Issue Paper: Highway 99 Redevelopment Example

June 24, 2008



# Clark County Stormwater Ordinance Update Issue Paper: Draft Ordinances

*June 24, 2008*

## **The Challenge**

At what point does Clark County submit the draft stormwater ordinance to Ecology?

## **Background**

Staff provided the current draft ordinance to the Board for review on May 14, 2008. The draft includes changes that reflect public comment during the expanded outreach process including:

- A dispersion option for pasture and crop land.
- An exemption to the 0.1 cfs threshold for redevelopment and infill projects. This exemption effectively sets the threshold for providing flow control at 10,000 square feet of new or replaced impervious surfaces for redevelopment and infill projects.

In addition, staff has developed a draft Clark County Stormwater Manual to support the proposed code. The manual contains the pertinent technical information recently removed from the ordinance for clarity. The manual will include a worksheet for large lots (greater than 22,000 square feet) to provide a simple submittal process where appropriate. Staff is currently reviewing the draft manual and completing supporting documentation. Staff plans to meet with the Technical and Stakeholder Advisory Committees in the near future to review the manual.

## **Status**

The May draft ordinance reflects the vast majority of comments received on the January version as well as public comment during the expanded outreach effort in April.

## **Board Direction**

The Board previously directed staff to postpone submitting documents to Ecology for review until a comprehensive public outreach plan had been completed and a draft prepared that reflects the community values.