



City of Seattle

Edward B. Murray, Mayor
Department of Planning & Development
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**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

SEPA Threshold Determination

for revisions to the Grading Code ([SMC 22.170](#)), several sections of the Land Use Code ([SMC Title 23](#)), including and the Landscape Director's Rule ([DR 10-2011](#)).

- Project Sponsor:** City of Seattle Department of Planning and Development (DPD)
- Location of Proposal:** The proposed amendments would affect the Grading Code ([SMC 22.170](#)), The following sections of the Land Use Code ([SMC Title 23](#)): Sections 23.41, 23.43, 23.44, 23.45, 23.47A, 23.49, 23.50, 23.57, 23.75, 23.84A, and the Landscape Director's Rule ([DR 10-2011](#)).
- Scope of Proposal:** This is a non-project legislative zoning proposal to support low impact development strategies

The following approval is required:

SEPA - Environmental Conditions - Chapter 25.05, Seattle Municipal Code.

- SEPA DETERMINATION:** Exempt DNS MDNS EIS
- DNS with conditions
- DNS involving non-exempt grading, or demolition, or involving another agency with jurisdiction

BACKGROUND

Proposal Description

This is a non-project legislative proposal to support siting low impact development structures in different zones, including Single family residential, Multifamily residential, and Commercial throughout the city of Seattle.

The Washington State Department of Ecology is delegated by the U.S. Environmental Protection Agency (EPA) as the state's water pollution control agency. Ecology is responsible for implementing all federal and state water pollution laws and regulations. This includes compliance with the EPA's National Pollution Discharge Elimination System (NPDES), which covers discharges from municipal separate storm sewer systems.

In order to receive its Municipal Stormwater Permit from the Department of Ecology, jurisdictions must implement a Stormwater Management Program (SWMP). To satisfy the requirements of this permit, the City's Stormwater Code includes regulations to protect people, property, and the environment from damage caused by stormwater runoff.

The NPDES Municipal Stormwater Permit also requires that jurisdictions revise their regulations related to building and land use in order to encourage low impact development (LID):

“... Permittees shall review, revise, and make effective their local development-related codes, rules, standards, or other enforceable documents to incorporate and require Low Impact Development (LID) Principles and LID Best Management Practices (BMPs). The intent of the revisions shall be to make LID the preferred and commonly-used approach to site development. The revisions shall be designed to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations...”

DPD has conducted a review of all codes related to building and land use and proposes changes that would encourage and/or remove barriers to implementing LID strategies. The proposed changes would affect the Grading Code ([SMC 22.170](#)), the following sections of the Land Use Code ([SMC Title 23](#)): Sections 23.41, 23.43, 23.44, 23.45, 23.47A, 23.49, 23.50, 23.57, 23.75, 23.84A, and the Landscape Director's Rule ([DR 10-2011](#)). The proposed Low Impact Development amendments would provide additional measures to encourage and remove barriers to LID strategies beyond what the Stormwater Code requires.

Proposed Changes

The NPDES Municipal Stormwater Permit requirements specify that proposed revisions to codes and rules shall be organized into the following three categories:

1. Measures to minimize impervious surfaces;
2. Measures to minimize loss of native vegetation; and
3. Other measures to minimize stormwater runoff.

In general, the proposed amendments fall into one of two categories:

1. Modify existing language to *remove* barriers to implementing low impact development (e.g., landscaped areas must be *protected* not *enclosed* by a curb or barrier).
2. Encourage low impact development by listing it as a public benefit item or broadening a term to include LID strategies (e.g., allowing bioretention to count towards amenity area requirements).

Below is a list of the proposed changes:

1. Measures to minimize impervious surfaces

23.45.536 Multifamily residential - Parking location, access, and screening

In 23.45.536.C, the proposed amendments would reduce impervious surface in multi-family residential projects by stipulating that either driveways providing access from the street shall either be paved with permeable materials or be shared driveways providing access to multiple garages.

In 23.45.536.D, the proposed amendments allow landscaped areas, including level plantings, berms, or bioretention areas, for screening provided the vegetation is at least 3 feet tall. This is similar to existing provisions elsewhere in the Land Use Code (e.g., 23.47A.016) that allow landscaped berms for screening.

23.47A.016 Commercial landscaping and screening standards

In 23.47A.016.C, the proposed amendments would allow landscaped areas for parking screening, similar to the change described above in 23.45.536. The proposed amendments also specify that the required rain gardens in surface parking areas can be met with bioretention and rain gardens.

In 23.47A.016.D, the proposal includes a small change concerning how landscaped areas in surface parking areas are treated. Currently, the Code requires that each landscaped area be “enclosed by permanent curbs or structure barriers” in order to keep vehicles out. As a result, it is unlikely an applicant could direct stormwater from the parking surface into the landscaped area for infiltration. The proposed amendment modifies that language to require that landscaped areas be only “protected by” a curb or barrier, so that water can be channeled into the vegetated area and increase stormwater infiltration.

23.49.019 Parking quantity, location and access requirements, and screening and landscaping of surface parking areas

In 23.49.019.I.1, the proposed amendments modify the screening requirements of 23.49.019 so that landscaped areas, including rain gardens, can provide screening as long as the vegetation is 3 feet high. Like 23.47A.016.D, the amendments would also make the same small change to the requirement that landscaping in surface parking areas in the Downtown zones need only be protected, not enclosed, by a curb or barrier in order to increase stormwater infiltration.

23.50.034 Screening and landscaping

Currently, in industrial zones, screening may be a fence, wall, hedge, or landscaped berm. Similar to the changes proposed in 23.47A.016.C and 23.49.019.I.1, the amendments would add landscaped areas to this list, including but not limited to bioretention facilities and rain gardens, provided that vegetation in the landscaped area is 3 feet above the surrounding grade.

23.57.008 Development standards

This section specifies requirements for major communications utilities. In subsection 23.57.008.C, which includes requirements for setbacks and landscaping, the proposed

amendments stipulates that bioretention facilities and rain gardens can fulfill the landscaping requirement if it screens and mitigates the visual impacts as required.

2. Measures to minimize loss of native vegetation

22.170.190 General Requirements

The proposed amendments modify and add language to minimize ground disturbance and preserve native topsoil as much as possible during the grading process.

In 22.170.190.G, more specific language clarifies that the areas prepared for grading are those areas that will receive fill. Currently, the phrase “the ground surface” does not provide specificity and can result in removal of vegetation over a greater portion of the site than necessary.

A new subsection 22.170.190.H would require applicants to retain native topsoil in an undisturbed state to the maximum extent feasible. Applicants are also required to store and subsequently reapply or reuse topsoil on site. Also, a new subsection 22.170.190.I requires areas that have been cleared, graded, or compacted but not covered with impervious surfaces to be amended with organic soil prior to final inspection.

23.44.024 Cluster housing planned developments

Currently, the Director may modify or increase yards and spacing of structures of a cluster housing planned developments (CHPD) for certain reasons. The proposed amendments expand the list of reasons to include promoting green stormwater infrastructure and other measures to reduce stormwater runoff.

The CHPD regulations also include landscaping requirements in subsection 23.44.024.F. The proposed amendments restructure this subsection. The new structure states that the Director may require retention of existing mature landscaping or require new landscaping in order to minimize the impacts of the CHPD on adjacent uses; reduce stormwater runoff, potential erosion, and area of impervious surfaces; and screen parking.

3. Other measures to minimize stormwater runoff

Currently, there are several sections of the Land Use Code that establish requirements for yards, setbacks, and separation areas. These requirements apply in various zones and generally prohibit any structure being constructed in yards, setbacks, or separation areas. However, there are several exceptions for yard and setback requirements that allow porches, steps, and certain features of a structure. The exception also allows some flexibility for yard and setback requirements to preserve exceptional trees. Furthermore, there is already an existing exception to allow cisterns that collect and store rainwater in yards in single-family residential zones (Section 23.44.014).

The proposed amendments modify development standards in the following sections so that green stormwater infrastructure, such as cisterns and above-grade bioretention planters, are allowed in yards, setbacks, and separation areas. Where an exception already exists to allow cisterns, the proposed amendments expands the flexibility to include bioretention planters.

Several provisions govern the size and location of the green stormwater infrastructure; cisterns and bioretention planters are allowed in a yard or setback if it is less than 4.5 feet tall, is less than 4 feet wide, and has less than 600 gallons of storage capacity. Larger facilities are allowed if it is under 10 percent coverage of the yard or setback area, is no closer than 2.5 feet of a side lot line, and does not project more than 5 feet into a front or rear yard or setback.

This type of change applies in the following sections:

- **23.43.008 Development standards for one dwelling unit per lot**
- **23.43.010 Tandem housing**
- **23.43.012 Cottage Housing Developments (CHDs)**
- **23.44.014 Single family residential – Yards**
- **23.44.024 Cluster housing planned developments**
- **23.45.518 Multifamily – Setbacks and separations**
- **23.47A.009 Standards applicable to specific areas**
- **23.47A.014 Commercial – Setback requirements**
- **23.75.140 Master Planned Communities – Setbacks and projections**

23.41.018 Streamlined administrative design review (SDR) process

For projects that are required to go through the streamlined administrative design review (SDR) process, the current regulations allow the Director to modify certain development standards, such as setback and separation requirements, amenity areas, and landscaping and screening requirements, if the development meets certain criteria. One of those criteria is a development that provides a better response to environmental and/or site conditions.

Currently the Code lists topography, the location of trees, and adjacent uses and structures as examples of environmental and site conditions to which a development can be responsive. The proposed amendments add stormwater management to the list of environmental and site condition examples. As a result, development proposals that include low impact development solutions to managing stormwater are eligible for flexibility on certain development standards as part of the SDR process.

23.44.022 Institutions

The proposal would amend landscaping provisions in subsection 23.44.022.I of the regulations for institutional uses in single-family zones. The proposed amendments stipulate that landscaping required in 23.44.022 must comply with rules established by the Director. The proposal also requires that institutions in single-family zones achieve a Green Factor score of 0.3 or greater. Green Factor¹ is a score-based code requirement for the quantity and quality of landscaping. This proposal requires that institutions include features such as green roofs, permeable paving, rain gardens, trees, and shrubs to meet the Green Factor score. Many Green Factor features are also low impact development strategies and help reduce stormwater runoff.

¹ See section [23.86.019](#).

23.44.034 Planned residential development (PRD)

The proposed amendments would include green stormwater infrastructure as one of the objectives a planned residential development (PRD) is intended to support. In 23.44.034.C, the current regulations specify the number of dwelling units permitted in a PRD; an increase of up to 20 percent may be permitted if the PRD provides public benefits such as low-income housing or child care. The proposed amendments add green stormwater infrastructure to the list of public benefits. A development needs to include green stormwater infrastructure beyond what is otherwise required by the City's Stormwater Code (Chapters 22.800 through 22.808).

In 23.44.034.E.7, the proposed amendments would expand the list of reasons that the Director may modify setback and spacing requirements to include green stormwater infrastructure and other measures to reduce stormwater runoff. This allows greater flexibility to accommodate low impact development strategies to manage stormwater.

The proposed amendments would also modify the landscaping requirements of 23.44.034.F. The change is similar to the aforementioned amendments to 23.44.024. The proposal would allow the Director to require retention of existing mature landscaping or require new landscaping in order to minimize the impacts of the PRD on adjacent uses; reduce stormwater runoff, potential erosion, and area of impervious surfaces; and screen parking.

23.49.036 Planned community developments

Similar to the requirements for PRDs, section 23.49.036 describes how a proposed planned community development (PCD) shall be evaluated. Subsection 23.49.036.F.1 lists several public benefits three of which a proposed PCD must include. The proposed amendments would add to the list to include green stormwater infrastructure beyond the requirements of the Stormwater Code.

23.49.041 Combined lot development

Combined lot development is permitted only when allowing more chargeable floor area than would otherwise be allowed on a lot results in significant public benefit. Subsection 23.049.041.D lists the public benefits that a combined lot development can provide to fulfill this requirement. Similar to the PRD and PCD changes, the proposed amendments add to this list green stormwater infrastructure beyond the requirements of the Stormwater Code.

23.45.516 Additional height and extra residential floor area in MR and HR zones

The proposed amendments include a small change in subsection 23.45.516.C.2.b.3. The Code currently requires that at least 25 percent of the lot area at grade is one or more landscaped areas. The proposed amendments change the language to *landscaped open space*, which specifies that bioretention and rain gardens fulfill this requirement. (See the proposed change to 23.84A.028.)

23.45.522 Amenity area

While 23.45.516 includes requirements for projects in MR and HR zones, the proposed amendments to 23.45.522 outline amenity area requirements for LR zones. In subsection

23.45.522.D.5.b, the proposed amendments expand the list of permissible landscaping types to include bioretention facilities and rain gardens.

23.47A.024 Amenity area

While there is no requirement for amenity areas in commercial developments to include landscaping, a new subsection 23.47A.024.B.7 clarifies that bioretention facilities and rain gardens may be counted towards meeting the amenity area requirement for commercial development.

23.84A.014 “G”

There currently is no definition in the Land Use Code for “green stormwater infrastructure.” The proposed amendments add references to green stormwater infrastructure (GSI) in multiple sections. Accordingly, the proposal adds the definition used for green stormwater infrastructure in the Stormwater Code into the definitions included in the Land Use Code.

23.84A.028 “O”

According to the current definition of “open space, landscaped,” these areas are predominantly used for the planting of trees, shrubs, ground cover, and other natural vegetation. The proposed amendments add bioretention and rain gardens to this list. As a result of this change, strategies like bioretention that support low impact development are considered landscaped open space.

Modify the Landscape Director’s Rule - DR 10-2011

Though not a part of the proposed code amendments, DPD also proposes to modify the Landscape Director’s Rule. The changes update the soil standard reference and add guidance about trees in bioretention planters.

Public Comment

Proposed changes to the Land Use Code require City Council approval; opportunity for public comment will occur during a future Council hearing. Additional public outreach and input has occurred through DPD’s project website and the project list serve; and at several community meetings including: North Beacon Hill Community Council meeting, Beacon Hill Public Forum, a Master Builders meeting, a Thornton Creek Alliance meeting, a Heron Habitat Helpers meeting, a Leschi Community Council meeting, an Urban Forestry Commission meeting, the Seattle Parks Mini-Summit, and DPD’s Environmentally Critical Areas Open House.

ANALYSIS - OVERVIEW

The following describes the analysis conducted to determine if the proposal is likely to result in *probable significant adverse environmental impacts*. This threshold determination is based on:

- the copy of the of the proposed text amendment, as well as the description above;
- the information contained in the *SEPA checklist* (dated June 30, 2015);
- the Director’s Report that contains an analysis of the changes; and
- the experience of DPD analysts in reviewing similar documents and actions.

ELEMENTS OF THE ENVIRONMENT

Short Term Impacts

Adoption of the amendments would result in no adverse short-term impacts because the adoption would be a non-project action. The proposed amendments remove barriers and encourage the siting low impact development strategies in a broad range of zones and development types.

None of the proposed changes necessarily requires an applicant to implement low impact development. The Stormwater Code is the regulatory document that outlines stormwater management requirements. Furthermore, the proposed amendments do not prohibit any action or development that is currently permitted under the Code. The City's NPDES Municipal Stormwater Permit requires City departments to review all development-related codes and rules to encourage low impact development.

The discussion below evaluates the potential long-term impacts that might result from low impact development that may occur as a result of the proposed amendments.

Long Term Impacts

A. Natural Environment

Earth, Air, Water, Plants/Animals/Fisheries, Energy, Natural Resources, Environmentally Sensitive Areas, Noise, Releases of Toxic or Hazardous Materials.

The proposed changes would result in potential benefits to earth, air, water, plants/animals/fisheries, natural resources and environmentally sensitive areas because it promotes a reduction in impervious surface, the preservation of vegetation and the infiltration of stormwater. There will be no significant direct, indirect or cumulative adverse impacts related to earth, air, water, plants/animals, fisheries, energy, natural resources, sensitive areas, noise, or releases of toxic/hazardous substances.

B. Built Environment

Land and Shoreline Use, Height/Bulk/Scale, Housing and Historic Preservation.

The proposed changes do not require any actions but rather support the use of low impact development strategies. There are no changes to land and shoreline use, height/bulk/scale, housing or historic preservation. The changes support goals and policies in the Comprehensive Plan regarding preserving vegetation and using natural drainage systems to reduce stormwater runoff.

Noise, Shadows on Open Spaces, Light & Glare, Environmental Health, Public View Protection

The proposed changes do not require any actions but rather support the use of low impact development strategies. The changes that could potentially occur as a result of the proposal will have no significant direct, indirect or cumulative adverse impacts on noise, shadows on open spaces, light and glare, environmental health, or public views.

Transportation, Parking, Public Services and Utilities.

Transportation and Parking

The proposed changes do not require any actions but rather support the use of low impact development strategies. There are no changes to transportation or parking requirements. The changes that could potentially occur as a result of the proposal is less impervious surface because of the use of pervious surfaces and a reduction in stormwater runoff by allowing landscaping used in parking areas the ability to be used for bioretention.

Public Services and Utilities

The proposed changes do not require any actions but rather support the use of low impact development strategies. There are no changes to public services or utilities. The changes that could potentially occur as a result of the proposal is less stormwater runoff if more low impact development occurs as a result of the proposed changes to the regulations.

DECISION --SEPA

- Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(c).
- Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

RECOMMENDED CONDITONS--SEPA

None.

Signature: retagonzales-cunneutabby for Date: July 16, 2015
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