

CITY OF RALEIGH
STORMWATER MANAGEMENT ADVISORY COMMISSION (SMAC)

Minutes

Raleigh Municipal Building · 222 W. Hargett Street · Conference Room 305 3:00pm · Thursday, January 7, 2016
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Commission Members Present: Matthew Starr, Francine Durso, Kevin Yates, Marc Horstman, Vanessa Fleischmann, Ken Carper, David Webb, JoAnn Burkholder, and Michael Birch

Stormwater Staff Present: Blair Hinkle, Suzette Mitchell, Kelly Daniel, Carmela Teichman, Desmond Whitfield, Wenju Zhang, Kevin Boyer, Ben Brown, Brad Stuart, McKenzie Gentry, Lauren Witherspoon, Sheila Thomas-Ambat, Veronica High, and Scott Bryant

Members Absent: Chris Bostic

Guest: Suzanne Harris, Michael Wayts, Everett Gupton, Mark Senior, and Tom Johnson

Meeting called to order: 3:01 pm by Marc Horstman (*chair*)

Introduction of Appointment (*Ken Carper*) – *A resident of Raleigh for 15 years and a Professional Engineer concentrating mostly in the Water Resources and Stormwater area. He previously worked in City of Raleigh Stormwater just a couple years ago as a Project Engineer II and currently works for Stantec as a Consultant Engineer.*

Motions (Absentees and Minutes)

- Absence: Mr. Birch made a motioned to excuse Chris Bostic from today’s meeting, and Ms. Burkholder seconded. The motion was passed unanimously.
- December Meeting Minutes: Mr. Yates made a motioned to approve, and Mr. Birch seconded. The motion was passed unanimously.

The following items were discussed with action taken as shown.

Item 1 – Commission/Stormwater Staff Update on Matters of Importance to the Stormwater Management Advisory Commission

1.1 Stormwater Staff Report: (Blair Hinkle) –

1) Program Staffing Update –

- CIP Senior Engineering Inspector – *Introduction of Desmond Whitfield, previously employed by NCDOT as an Engineer Technician*
- *Vacant positions –*
 - *Water Quality – Stormwater Quality Technician and Project Engineer I*

2) Grant – *A grant application was submitted to Clean Water Management Trust Fund for an innovation stream restoration at Millbrook Exchange Park. It will appear on January 19th Council agenda with a total project cost \$280,000+ with an 80/20 cost share split.*

Item 2 – Stormwater Quality Cost Share Project- 2909 Oneida Ct

2.1 Brad Stuart: There is one water quality cost share petition project being presented today for approval.

2.2 Summary of Presentation

○ <u>Project</u>	2909 Oneida Ct
City Share Design	\$ 4,043
Owner’s Share	<u>\$ 1,347</u>
Total Cost	\$ 5,390

Proposal: 1,050 gallon above ground cistern system capturing runoff from approximately 735 square feet of roof surface. The cistern, when empty, will capture more than 1” of runoff from the roof. Water will be used for lawn and garden irrigation at a rate of 250 gallons or more per week and the maintenance term is 10 years.

Questions\Comments:

Commission: What is the total amount of funds available?

Brad Stuart: The program is funded at \$250,000 per year. We have over \$30,000 rolled over from last year so the total amount is a little over \$286,000.

Property Owner: We believe there are a lot of pluses to this beyond the Stormwater. We have a ¼ acre property and it will be turned over to urban gardening and we think it will be a good model for the neighborhood.

2.3 Motion:

2.3.1 Ms. Burkholder made a motion to approve the petition project at 2909 Oneida Ct. and Mr. Birch seconded. The motion was approved unanimously.

Item 3 – Stormwater Exemptions

3.1 Mr. Birch started off saying that with the nature of his work, he represents clients that deal with Stormwater regulations and he has participated in past discussions. On Monday, he will be representing an applicant that is on the Board of Adjustment who’s requesting a variance to one of the current TC6 standards. The Commission can take a vote to recuse him from participating in this discussion. It will not factor in his decision on how we considered exemptions in the past.

3.1.1 Ms. Burkholder made a motion not to recuse Mr. Birch, and Mr. Yates seconded. The vote was unanimous.

3.2 Mr. Horstman said TC6 is a subject SMAC has been discussing for many months. Several months ago we were concerned that house bill 765 would have prevented this topic from proceeding forward. We received information that it will not be applicable to the City of Raleigh. It still might change depending on the guidance from the state.

3.3 Ben Brown presented a summary of where we are to date. TC6 was approved in September 2015. It brought back old exemptions that the UDO took away and added recombination language which was previously not referenced in the stormwater exemptions. This was after SMAC had looked at impervious restrictions for smaller subdivisions and smaller existing lots that we were seeing a lot of redevelopment on and a lot of infill. Primarily, there are no other references to recombination in our stormwater codes. Staff incorporated SMAC language into an alternate text change and instead of just looking at impervious limits, staff looked at cleaning up some language and clarifying some of the issues we heard about.

3.4 Summary of Presentation

1. Existing Exemptions: Any detached house used for single-unit living or any attached house used for two-unit living, including accessory uses, placed on any lot which was either recorded prior to May 1, 2001(the first application of the Stormwater Management Ordinance) or lawfully recorded later as part of a subdivision approved prior to May 1, 2001;

Alternate Exemption: *Any detached house used for single-unit living or any attached house used for two-unit living (including accessory uses) placed on any lot which was either recorded prior to May 1, 2001 (the first application of the Stormwater Management Ordinance) or lawfully recorded later as part of a subdivision approved prior to May 1, 2001; with the following impervious limitations: R-1: 20%, R-2: 25%, R-4: 38%, R-6: 51% and R-10 or denser: 65%;*

Discussion \ Questions

Mr. Birch, asked in our original recommendation on the impervious thresholds, did we have language about R10 or denser or something similar.

➤ **Ben Brown** replied saying it was for R6. When I initially sent it to Planning, they flagged it and said you can put a single family house on an R10 zoned lot or denser lot than that. I looked at the same resource we have, which is TR55, to get these and they had one for R10, which was 65%.

2. Existing Exemptions: Any plot plan and site plan, including their accessory uses, situated on any lot of ½ acre or less in size which was either recorded prior to May 1, 2001 or lawfully recorded later as part of a subdivision approved prior to May 1, 2001;

Alternate Exemption: Any plot plan or site plan (including their accessory uses), not covered by section (1), situated on any lot of ½ acre or less in size, provided the impervious surface does not exceed 65%;

3. Existing Exemptions: Any detached house used for single-unit living or any attached house used for two-unit living, including their accessory uses, placed within any subdivision of one acre or less in aggregate size approved after May 1, 2001;

Alternate Exemption: Any subdivision, comprised of detached houses used for single-unit living or any attached house used for two-unit living (including their accessory uses), one acre or less in aggregate size approved after May 1, 2001; with the following per lot impervious limitations: R-2: 25%, R-4: 38%, R-6: 51% and R-10 or denser: 65%;

4. Existing Exemptions: Any plot plan and site plan, including their accessory uses, placed within any subdivision of ½ acre or less in aggregate size approved after May 1, 2001, which cumulatively contains less than 12,000 square feet of impervious surface, including impervious surfaces of related on-site or off-site facilities;

Alternate Exemption: Any subdivision, not covered by section (3), that is ½ acre or less in aggregate size provided the impervious surface does not exceed 65%;

5. Existing Exemptions: The exemptions contained in subsections 1 through 4 above apply only when the boundaries of the lots existing prior to May 1, 2001, or lawfully recorded later as part of a subdivision approved prior to May 1, 2001, remain unchanged. However, recombination of lots existing prior to May 1, 2001, or lawfully recorded later as part of a subdivision approved prior to May 1, 2001, are allowed whenever all of the following are met:

(a) At least one of the recombined lots contains a detached house used for single-unit living which shall not be removed; (b) the lot is to be exclusively used for a detached house used for a single-unit living, including accessory uses; (c) the recombination involved is either no more than two lots and an aggregate of less than ½ acre or the recombined lot contains a maximum of 24,000 square feet of impervious surface.

Alternate Exemption: Any lot to be used exclusively for a detached house for single-unit living (including accessory uses), created by a lawfully recorded recombination of lots whose boundaries were unchanged since May, 1, 2001, or lawfully recorded later as part of a subdivision approved prior to May 1, 2001, with the following per lot impervious limits: R-1: 20%, R-2: 25%, R-4: 38%, R-6: 51% and R-10 or denser: 65%;

Discussion \ Questions

Mr. Birch indicated another difference he saw was between the pre UDO version and TC6. The TC6 reintroduced the May 2001 date that was not included when the UDO was adopted. This has created another issue with this date not being included.

- **Ben Brown** said prior to TC6 when the UDO was adopted in September 1, 2013, there was reference to May 1, 2013. Once the UDO was approved in September 1, 2013, it took the May 1, 2013, date out. A lot of people lost the grandfather dates, so that was the push to TC6 (1 - 4) to get some of those grandfather dates back.

Blair Hinkle responded by asking Ben Brown to explain why May 1, 2001, is an important date.

- **Ben Brown** replied it's when Raleigh first enacted their stormwater ordinance for the Neuse rules for our flooding rules as they exist today. Prior to May 1, 2001, the only thing in place was a zoning condition. If you were of zoning higher than R4. You had to maintain your stormwater on site to R4 level.
- **Blair Hinkle** replied that a lot of what's in the UDO that deals with prior to 2001 is the assumption that post 2001 Stormwater requirements are being met somehow on those developments.

6. Existing Exemptions: Land-disturbing activities, not otherwise exempted, that do not require a land-disturbing permit under Sec.9.4.6 are exempted provided that, upon application of any impervious surfaces this exemption shall not apply;

Alternate Exemption: Land-disturbing activities, not otherwise exempted, that do not require a land-disturbing permit under Sec.9.4.6 are exempted provided that, upon application of any impervious surfaces this exemption shall not apply;

7. Existing Exemptions: Substitution of impervious surfaces when all the standards of Sec. 10.3.4. are met;

Alternate Exemption: Substitution of impervious surfaces;

8. Existing Exemptions: Substitution of impervious surfaces with approved pervious surfaces.

Alternate Exemption: For items (1) through (5) impervious limits can only be exceeded when:

(a) It is demonstrated that pre-development volume of stormwater leaving the site is equal to or less than the post-development volume of stormwater during the 90th percentile storm or;

(b) A stormwater impact analysis is performed evaluating the flood level differences between the pre-development and post-development conditions for the 2, 10, 25, 50 and 100 year storm events. If the analysis shows an increase greater than 0.04 feet between pre-development and post-development flood levels downstream, then mitigation to pre-development flood conditions will be required to prevent downstream impacts.

Discussion \ Questions

Mr. Horstman wanted to know the process if we approve these recommendations.

- **Blair Hinkle** replied if SMAC approves, it goes to the Planning Commission, they could consider or send to their Committee, then it would come back to Planning and then to Council. One thing to consider, the language that SMAC approves may not be the final language that ends back up in Council. We would keep SMAC advised with that language and you may have an opportunity to address Council at that meeting.

Mr. Birch said in looking at the proposed for numbers 2 and 4, they are similar to the exemptions that have been in the place in the beginning. The only change is adding 65% and getting rid of the May date. Are those applicable to commercial development and not necessary residential?

- **Ben Brown** responded that anything denser than a duplex.

Mr. Birch said to recap, the reason we are talking about impervious limits is because it was brought to SMAC. It was the neighbor to neighbor drainage issues in single family residential subdivisions and really did not relate back to any commercial projects. What drove this was some infilled subdivisions exempt from Stormwater and then what you would see along Anderson Drive with lots

remaining the same but a 1,500 sf house being replaced with something much larger. I believe that's why the Commission settled on impervious surface thresholds for 1 and 3 and not 2 and 4. This is first time SMAC has seen a proposal for impervious surface threshold for commercial under 2 and 4. The 65% is taken from TR55 and they have the residential district by average lot size and that's where impervious surface thresholds are from. They also have urban district commercial business at 85% impervious surface. Is that staff perception that one number is better than the other? If it's 65% what's the basis for that, as oppose to the 85%.

➤ **Ben Brown** replied to keep it consistent with the high end most dense residential.

Mark Senior (guest) asked if there will be a need to specify whether that 65% per lot will be for an entire subdivision. I can see someone coming in and turning their lot 100% impervious, and having two other lots that's zero, come back five years later and trying to build on the other two lots at 65%.

➤ **Ben Brown** replied that I think we see them from staff standpoint now with other impervious limits and we are policing them to make sure they don't steal from Peter to pay Paul, but you could add it in there. If you were doing a larger subdivision and you pipe out your impervious for the 100 acre subdivision we make them equally split up impervious between lots.

Marc Horstman indicated we have this new alternate language. SMAC can recommend and proceed to the Planning Commission, we can recommend staff to change some parts of the draft, or we can reject completely and ask staff to re-write.

➤ **Blair Hinkle** added that Council has authorized a text change, so some sort of text change will be heard by the Planning Commission. If not this text change, the Planning Commission or Planning Staff may be charged with developing that language.

Mr. Birch stated as a whole this is a positive revision as compared to TC6. He was comparing it to what was adopted as part of the UDO and what was in place prior to that. With the exception of 5 and 8 it's very similar. He's opposed to including impervious surface limits in exemption 2 and 4. It's not responsive to what arises in this discussion and the commercial context is different than the residential one. Does the majority of the Commission want to recommend an impervious surface threshold for 2 and 4? He would recommend the 85% for commercial and business urban district in TR55.

➤ **Mr. Starr** asked him to elaborate.

➤ **Mr. Birch** responded if the basis for including TR55 data in 1 and 3 is because that's what TR55 says, and 1 and 3 applies to residential development, then I would say in 2 and 4 let's do what TR55 says, which for commercial development in the urban district is 85%.

➤ **Mr. Starr** asked, other than the TR55 document, what is the negative aspect of decreasing that impervious threshold?

➤ **Mr. Birch** explained we have exemptions in place, and if we are going to change an exemption we don't need to completely do away with it. Throughout the process I have been arguing for a higher impervious surface for residential as well. It's more of a baby step approach to eroding an exemption that's been in place 15 years and it's changing the rules. My preference for changing the rules is to do so in more incremental steps. My preference is no impervious surface thresholds for 2 and 4.

Ms. Durso asked, in 2 and 4 you said what is allowed is anything denser than a duplex, but what about a triplex? It still could be residential.

➤ **Ben Brown** said, yes it still would be covered by 2 and 4.

Mr. Yates said, for all intents and purposes, 2 and 4 are set up for commercial projects. It's 65 % versus what's in TR55 of 85% for commercial that jeopardize the merit of our impervious structure and set up for residential portion. To me, it's setting us up for a challenge at 65% threshold.

Mr. Horstman said, in an effort to remain consistent with the initial thought pattern, he can see the argument for 85% based off TR55 when you have to defend it. Note TR55 was not originally designed for this method, but since this documentation is based upon that as the Commission agreed upon a year ago, I can see the sense in making this 85%.

Mr. Birch said, his other comment is R10. This is the first time it's suggested that we are applying impervious surface threshold to R10 lots. I would advocate for a higher percentage than 65%, and then to have it passed would advocate a buy-right exemption for 500 square feet for any of the numbers to do an add-on without going through the study.

- **Mr. Starr** replied, with R10 you would be in favor of going away from the 65%?
- **Mr. Birch** responded, he would either remove the reference of R10 all together, or increasing impervious surface threshold.

3.5 Motions

3.5.1 Mr. Carper made a motion to accept the proposed Stormwater exemption text change language as is, Ms. Durso said she would seconded for discussion. The motion failed 2-7.

Discussion \Questions

Mr. Starr stated that he's opposed to changing the 65%. Going back to both Michael and Kevin's points on defending a document that was not meant for the purpose just seems to be at odds there. The 400 square foot sounds reasonable (20x20 space).

Mr. Webb replied, that he would not want to put a homeowner through the cost or trouble of getting a study done. I'm with Michael on adding the 400 square feet, as it sounds about right (1 and 3 residential).

Motion

3.5.2 **Mr. Birch** made a limited motion to add a buy-right of exemption of 400 square feet to exemptions 1 and 3, and Ms. Burkholder seconded. The motion was passed unanimously.

Mr. Hortsman noted the motion is added to the overall document.

Motion

3.5.3 **Mr. Starr** stated, he would make a motion with the adopted motion of the 400 square feet buy-right that we approve the document, and **Mr. Carper** seconded.

3.5.4 **Mr. Birch** said, he wanted to reiterate his opposition to the impervious surface limits for 2 and 4 and the range limits that we are now putting on R10.

3.5.5 The motion passed 7-2 (Mr. Yates and Mr. Birch opposed)

Mr. Horstman noted with the majority vote SMAC has recommended this document be passed to the Planning Commission.

Item 4 – GI/LID Work Plan Implementation Process

4.1 **Kevin Boyer** noted this presentation is a brief update on the GI/LID Work Plan

4.2 Summary of Presentation

- Definition of LID - *An approach that reduces stormwater runoff volume by promoting infiltration and evapotranspiration, taking advantage of existing natural features, and installing new features that mimic nature.*
- Stormwater Management using GI/LID – *Treats dirtiest “first flush” of stormwater runoff, GI/LID soaks runoff to groundwater, feeds streams during dry spells, GI/LID does not control runoff from large storms that cause property damage.*
- Why a GI/LID initiative – *Degraded streams, not improving under status quo, Council endorsed LID principles: 2030 Comprehensive Plan and the Strategic Plan, SMAC's recommendations*

February 2013, Council endorsed the GI/LID Work Plan: March 2015 and Council frequently has voiced strong commitment to promoting GI/LID by the City and the private sector.

- *GI/LID Work Plan process – retained Tetra Tech, Work Plan: (staff task force, stakeholders, 7 work items), Work Plan implementation: 2 Work Groups, 20 members each of staff and stakeholders (Code Review Work Group and Implementation Work Group).*
- *GI/LID code revisions – Draft revised code and policy language to address barriers, allow and encourage multi-use stormwater control.*
- *GI/LID next steps – Final work group meetings, O&M focus group meetings, Draft Tetra Tech report (with work groups' recommendations), Staff review/comments/preliminary recommendations, SMAC review/comments/preliminary recommendations, Final Tetra Tech report, Staff final recommendations, SMAC final recommendation, Staff/Tetra Tech/SMAC reports to Council and Council referral.*

4.3 **Kevin Boyer** indicated the timeline for this is in progress. The recommendation from Staff/Tetra Tech/SMAC to Council should be ready by spring.

Item 5 – Other Business

- The Urban Watersheds winter newsletter is included in the agenda packet and a thank-you to Ms. Fleischmann for contributing.

Mr. Starr made a motion to adjourn and Mr. Webb seconded.

Meeting adjourned at 4:52 p.m.
Suzette Mitchell