Discussion Topics and Key Questions
Joint Meeting # 1 – May 12, 2010

Discussion Questions

Feasibility Review Process

Please refer to the draft Regulatory Approach table that was used by Ecology as a starting point for discussion in the last IAC and TAC meetings.

The Regulatory Framework proposed different requirements for small and large projects, new development and redevelopment, inside and outside of the UGA. That document discussed "performance standard without feasibility review"; "performance standard with feasibility review"; and "checklist".

The City of Seattle approach is similar to a "performance standard with feasibility review" and has been developed for redevelopment in urban Seattle. As a way of getting more specific input from advisory committee members on feasibility review process, please discuss:

1. How would you adapt the City of Seattle feasibility review approach to apply to a full range of land use types and densities for both new development and redevelopment?

   e.g.: how would you adapt the approach to be applicable to new development in urbanizing areas, such as:
   - development of a mini-mall in an urbanizing area of a Phase 2 Municipality;
   - a subdivision on a greenfield site within an urban growth area;
   - a 10,000 sf infill residential (?) lot

     Potential things to think about when responding to this question:
     - LID techniques that may not be applicable for different land uses: commercial, residential, urban, non-urban…
     - Review criteria that could be added or subtracted, eg: linear roadside bioretention facility incompatibility with an existing, contiguous conveyance system or existing utilities location; permeable pavement incompatibility with adjacent roads due to drainage concerns.
     - Roadway types or for which permeable pavements would not be appropriate

2. Unless there are identified engineering limits, bioretention, permeable pavements, and partial dispersion techniques do not seem to be cost constrained. Should cost feasibility apply only to green roofs, rainwater harvesting, and alternative foundations?

3. Are there situations in which you think it would be more appropriate to use a mandatory list of LID requirements with feasibility review (rather than a performance standard based approach)? Examples include:
   - In non-flow control watersheds.
   - On very small projects
   - For specific development types that do not usually engage an engineer.

LID Implementation on Private Property

4. Several concerns have been raised regarding implementation and long-term reliability of LID features. Regarding construction and implementation on private property, the article ***Implementing LID for New Development*** by Gordon S. England raises a number of issues, including those listed on the first page of the attachment. What are ways that these implementation issues can be addressed and reduced as obstacles to LID implementation?

5. Concerns have also been raised regarding long-term maintenance, inspection, and enforcement of LID measures on private property, that relate to the long-term reliabilty of LID on private property. Reference the second page of the attachment for issues raised in the Gordon England paper. Also reference the City of Bellevue's recently adopted "Natural Drainage Practices Standards" for a description of the type of maintenance and inspection needed. See pages 29 through 60 at:
   http://www.bellevuewa.gov/pdf/Utilities/Utilities_Storm_Maintenance_Standards_Feb_2010.pdf

   What are ways that these maintenance, inspection, and enforcement issues can be addressed and reduced as obstacles to LID implementation?

Specific NPDES Permit Requirement for LID-Related Code Changes

6. How specific should the Municipal Stormwater NPDES permit requirement be that requires each Municipality to update all relevant development codes, rules, and site development standards for the purpose of incorporating LID principles?

a. Should it specifically name the topic areas that must be reviewed? (e.g., road widths, conveyance system designs, setbacks, parking requirements, minimum vegetation retention)

b. Should it set maximum/minimum targets in some cases? (e.g., residential road widths, total impervious areas for different development types/residential densities)

c. Should it mandate a process that includes participation by all potentially affected parties? (e.g., fire departments, public works dept, water and power utilities)

ATTACHMENT

Construction and Implementation Issues

Initial Building Inspections:

- How are inspection responsibilities split between the home building inspector and the public works inspector?
- If public works inspectors are tasked with inspecting permeable pavement and bioretention facilities on private property, does that mean that the public works department also has to sign off before building occupancy is approved?

Builder/Developer Responsibilities:

- Should the developer only be responsible for LID facilities built in the public right of way? Should the builder only be responsible for LID facilities on the lot(s)?
- If a permeable pavement road and sidewalk and roadside raingarden (whether on public right of way or on private property) are built by the developer, what legal arrangements are necessary to assure that the builder(s) protect and fully restore functioning of those LID features?
- LID features that are left to the discretion of the homebuilder(s) cannot be assumed by the developer's engineer when sizing treatment and flow control facilities. Therefore, should local codes require that subdivision proposals specify the LID features that the developer requires for the individual lots?
- Do individual lot homebuilders have to obtain a maintenance bond for the first year of operation of LID facilities on private property?
- If infiltrating LID features (bioretention and permeable pavement) will be built on individual lots, how do developers get credit for flow reduction from those lots?
- Should Ecology publish revised default assumptions concerning impervious surfaces and pervious surfaces per lot?

Initial review:

- If developers are taking flow reduction credit for infiltrating facilities (permeable pavement or bioretention) on individual lots, how do local governments track implementation of those assumptions when individual lot plans are submitted?

Long-term Maintenance, Inspection and Enforcement Issues

Maintenance:

- Who is responsible for long-term maintenance of roadside bioretention? Of bioretention on private property?
- If landowners/homeowners are responsible, what are the legal mechanisms to make this happen? Should individual properties have statements on the title that indicate the extent of LID on the property and the maintenance responsibility? Are easements needed for inspection? Electric meter readers and onsite septic system inspectors get access to private property for inspections. Are there analogies in those instances that can be applicable?

Enforcement:

- Will new codes be necessary to give the municipalities new authorities to require and enforce maintenance?
- What are the methods by which the city can enforce proper maintenance? Again, are there lessons to take from onsite sewage programs?