

August 19, 2010

Dept of Ecology  
Attn: Bill Moore  
Re: comments on LID proposed draft

Dear Sir,

I am submitting few comments on the draft LID proposal in addition to the verbal comments I made at the joint meeting of the LID advisory committees on August 12.

My Background/Experience:

Urban and Environmental Planning: Environmental consultant for large housing and commercial building projects and large scale energy and energy conservation projects for public agencies, including an identification and analysis of barriers to proposed energy conservation codes in new construction for the BPA. Studies on energy production and conservation projects were conducted for WPPS, BPA, Seattle City Light, City of Seattle, City of Tacoma, etc).

Shoreline Planning and program administration

Conservation Subdivision design (narrower roads, creative sidewalk config, clustering, and other methods to conserve more open space for active and passive use.

Comparative studies of local government regulations with regard to Conservation Subdivision Design, including lot area and dimension requirements, density transfer mechanisms, incentives for reducing environmental impacts, road and sidewalk widths, etc.

I am also a sitting board member of the Puget Soundkeeper Alliance. However, my comments do not necessarily represent those of the organization. Tom Putnam will be submitting comments on the organization's behalf.

Somewhat recently (12 years ago) I put on a new hat; I had the opportunity to design and obtain entitlements for a medium sized single family subdivision of approx 37 acres/ about 83 lots. The project is well within the UGA and inside the 405 beltway in Northern King County. I saw it as a terrific opportunity to apply some conservation subdivision/LID design principles such as narrower roads, clustering, more active and passive open space, more groundwater infiltration and less impervious surface area. However, after hundreds of hours in meetings with public works officials, city planners, Fire chiefs and marshals, and dozens of plan revisions, we abandoned the effort. There were also far too many neighbors worried that what we were proposing would negatively impact their property values. They strongly and clearly opposed deviations from the code that required special permission. We've now proposed conventional 1970's style housing project: large lots, wide roads. Something I swore, I'd never do but am now being forced to by a community that provides no serious support for advanced environmental design concepts.

We were warned by the development community to take the path of least resistance and propose only with what is expressly allowable by the code. I should have followed that advice.

To be fair, after 9 years of deliberation, the local jurisdiction just adopted an Green PUD ordinance that proposes to do some of what you are trying to accomplish here. After years of discussion and hundreds of hours of meetings on issue of clustering, reduced setbacks, and narrower roads and sidewalks to reduce impervious area the jurisdiction now allows, with special permission, a reduction in road width of 28- to 26 feet. No reductions in sidewalk widths and minimal clustering (allowable lot width reductions from 80 to 56 feet in R4 areas with a minimum lot size average of 6720 sf) to achieve open space objectives. Ironically, the jurisdiction is now proposing to annex large parts of King and Snohomish counties and will apply their road width specs to these areas. Note that King County has a minimum lot width of 30 feet and a min lot size of 2500 sf in the R4 zone and allows substantially reduced local access road and sidewalk widths and incentives for clustering to achieve environmental objectives. We are rapidly going backwards in terms of meet our environmental objectives with better designed development.

I'd love to do a development that incorporated LID principles, but the bureaucratic hurdles are too high.

An Overview of the Implementation Problem:

***Cathy Beam said it best in an interview with the TNT on the Meadows project and what will be faced trying to do a similar project***

*“her experience in local government makes her aware of how difficult the change is likely to be. Some city and county officials have been dragging their feet, worried about the time and money the new rules will require. “This is a real paradigm shift,” she said. “It’s an entirely different way of looking at stormwater management.” High on the list of probable barriers, she said, are the ingrained attitudes of just about everybody in the development world, from designers and engineers to builders and government inspectors. “Like anything new, it’s always kind of getting over that education barrier.” Beam said. “Sometimes the attitude is, ‘This is how we’ve treated stormwater all along. Why change it?’”*

She nailed it. Except...when mentioning “government inspectors” I wish she’d been more specific and mentioned fire marshals and fire chiefs, planners, and public works officials specifically. And she could have mentioned neighborhood groups who are terrified that change (narrower roads and smaller lots) around them will affect their property values. Neighbors in the vicinity of proposed projects seem to be terrified of any type of development near them that does not look exactly like theirs no matter how environmentally incompatible and destructive the design of their own neighborhood is. Ms Beam is right, we have to overcome a tremendous resistance to change.

Economists, particularly environmental economists I know, are always informing me that promoting meaningful change is all about proper incentives.

What are the incentives for the local government employees? The easiest, least risky and most intelligent thing for a planner, fire marshal, or engineer to do is defend their existing code. There is far less risk in saying no to any alternative designs, no matter how advantageous to the public good as expressed in their comprehensive plan goals and objectives. It is the path of least resistance and completely defensible. They consider it their job. It is when they exercise professional discretion in applying that code and deviating from that code that they can potentially get into trouble. Please understand that these are very often very good people, but they have good jobs with good pay and benefits and don't want to lose them if it means sticking out their necks to support a controversial project, even if they strongly believe that the project is environmentally much superior to that allowed by their existing codes and regulations.

A fire marshal's directive is to facilitate emergency vehicle access. Their job, at least as they see it, is not to balance environmental issues with that directive. They often have trump authority on road design.

Similarly, public works officials, engineers and planners will likely stay employed longer if they don't stick their necks out and support and approve narrower streets, permeable pavement, and clustering proposals and the necessary smaller lots to preserve more active and passive common open space beyond which is precisely allowed by the existing code.

Unfortunately the current proposal to implement LID does nothing to address the problem of changing standards and specifications for roads, sidewalks, curbs, lot area and dimension standards to facilitate clustering and setbacks from streets and right of way to reduce unnecessary driveway lengths, and other ways to reduce impervious surface area. This is inconsistent with what the PCHB said in their Muni Permit decision-

**The PCHB was very specific about minimizing impervious surface area.** Interestingly, this proposal makes no requirements and offers little design guidance towards achieving that end.

As part of this permit, I suggest that the Dept take action to provide some specific guidance to local governments regarding what design standards and specifications are reasonable in order to reduce impervious surface area and facilitate design and approval of specific LID related measures. Otherwise, thousands of hours and millions of dollars will be wasted as each jurisdiction independently copes with the development code and revision process.

We've Seen these Implementation Problems and Taken Action to Address Them Before:  
The implementation of the Critical Areas protection requirements of the GMA faced similar problems. Thousands of hours were spent by local jurisdictions trying to evaluate BAS on their own to try to designate, classify and protect critical areas. Everyone participated, engineers, enviros, public works officials planners, neighborhood groups: each brought their pet studies and agendas to the hearings. And if folks didn't get their way they sued .

The State of Washington took needed action and provided a solution: It assembled a science team, it reviewed the BAS, it recommended the minimum buffers needed to protect critical areas and together with planners at CTED crafted a set of recommendations for designating, classifying and protecting critical areas from harm from development. It was effectively a **model code** that could be adopted by all local jurisdictions. This action saved a huge amount of time

and money; local governments had the guidance they needed to adopt a code that would permit compliance with the GMA.

A Proposed Solution to address the LID Implementation Problem: The Dept is in almost the exact situation here: You are unquestionably trying to protect critical areas and you are required to reduce impervious surface area, where feasible, to help achieve this. Consistent with the GMA, local governments must use Best Available Science to modify their development regulations, (zoning codes and design standards and specifications and so forth) to reduce impervious surface and implement LID. They need specific guidance on what are reasonable street widths, curb designs, lot layout and design, infiltration pond and raingarden designs, bioswales, permeable pavement designs, what is reasonable clustering of uses for various densities, etc so that they can accomplish this task efficiently and with a minimum of controversy and legal expense. A good faith effort requires assisting local governments in understanding and implementing feasible design concepts to reduce impervious surface area and furthering LID concepts. **It is not efficient reasonable or cost-effective to require each jurisdiction to reinvent the wheel at the taxpayer's expense.**

Also, it will be extremely useful to describe how infiltration areas will be maintained and maintenance paid for. This is not a new problem, but expands the existing problems with detention/retention and treatment facilities. I have some very specific ideas on this issue that will ensure that the necessary facilities are maintained and the funds are ensured so that the necessary specialized maintenance is accomplished. While I am not including those here, I would welcome the opportunity to discuss them with you.

In Summary:

Do once again what you did with the CA protection process. Get yourself a person who has knowledge and experience with the permit entitlement process for development and understands the opportunities for LID implementation, as well as the difficulties and disincentives. Assemble a interdisciplinary team of intelligent, knowledgable, flexible and forward thinking civil engineers, scientists, fire officials, and planners, and builder/developers who have expertise and experience with these LID related measures, Develop a **Model Lid Implementation Code** that local jurisdictions can adopt with minimal changes. This will facilitate their review and adoption process and give them the backup they need to move this process forward.

To do anything less is to dramatically increase the time and expense and dramatically reduce the probability that significant changes necessary to allow LID will occur within the next decade.

Thank you for the opportunity to comment. If I can assist you in this process in any way. please let me know.

Sincerely,

Glen/s

H. Glen Sims, for MTB Associates, LLC