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POLICIES/PROCEDURES/INTERPRETATIONS

New Impervious Surfaces for Stormwater

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ISSUE: As currently interpreted, the stormwater rules require that all impervious surfaces in existence since September 1, 1991 be considered as New Impervious Surfaces. This requirement is not embedded in the Stormwater Management Manual for Western Washington (SMM) or within the San Juan County Code (SJCC). This interpretation effectively requires all new development to comply with Minimum Requirements 1 through 10 of the SMM. Absent this interpretation, only Minimum Requirement 2 would apply on minor projects (those creating less than 2,000 sq ft of impervious area and disturbing less than 7,000 sq ft of land area) and only Minimum Requirements 1 through 5 would apply on small projects (those creating more than 2,000 sq ft but less than 5,000 sq ft of impervious area; and disturbing less than 7,000 sq ft of land area)

ANALYSIS: The interpretation classifying all impervious areas created after September 1, 1991 as “New Impervious Surfaces” originates in an undated policy statement issued by Janice Flagan, former county engineer.

This may have been an attempt to address the requisite elements for small projects found in Requirement #1 wherein Stormwater Site Plan development must consider all impervious areas in order to determine the applicable thresholds for treatment or flow control listed in Requirements 6, 7, or 8. While providing the information on total existing impervious areas is required- (as they may trigger additional requirements); they are not intended to trigger the separate requirements by themselves.

Additionally, (Section 2.5.7 Minimum Requirement # 7: Flow Control – Standard Requirements Page 2-33 of Volume I) the SMM provides for modifying the pre-development design conditions to that of the existing land cover condition where the drainage area and all subsequent downstream basins have had at least 40% impervious area since 1985, not 1991.

In establishing triggers for a “Project”, and determining the applicable minimum requirements, Chapter 2 of the SMM (as described in this chapter and depicted in Flow Charts 2.2 and 2.3) only requires the consideration of the existing impervious surfaces where the “Site” has 35% or more of existing impervious areas and is thereby classified as “Redevelopment”. (Flow Chart 2.2 applies to “New Development Projects” while Flow Chart 2.3 applies to “Redevelopment Projects”. See attached.)

This is not to imply that consideration of total existing and new impervious surfaces should not be considered where established engineering practice and/or design parameters of the SMM require their consideration. The development of a Stormwater Site Plan, and its requirement to consider total impervious areas, may cause such additional requirements where the total impervious area exceeds the triggers for treatment or flow control.

There is also a concern that projects will be piecemealed or otherwise broken up to circumvent the provisions of the SMM. An active project is generally defined by a start and completion date. For stormwater requirements, a project’s start date commences with the first land disturbance activity and ends when all permanent stormwater controls are installed and approved; and, all temporary stormwater controls are remove and the

site fully stabilized. It generally requires a minimum of two (2) full growing seasons before a site becomes fully stabilized. For Stormwater purposes, where additional work occurs on an active project, such work should be considered as a revision to the ongoing project. In this case the new impervious surfaces of the original permit and the revision should be added together to accurately determine which requirements of the SMM apply.

It should also be noted that SJCC Tables 6.1 and 6.2 of Sections 18.60.050, Tables 3.9 of Sections 18.30.320 (Deer Harbor Hamlet), and the Eastsound Subarea Plan, have additional impervious surface or lot coverage restrictions that can vary depending on Land Use designation. Additionally, Section 18.60.060 of the SJCC prohibits surface drainage from being directed or discharge to County roads or ditches within County rights-of-way unless approved by the County engineer.

POLICY: While information on all existing and new impervious surfaces must be provided as required; effective immediately, in determining the applicable triggers to a project for the application of the minimum requirements of the SMM:

1. New Impervious Areas on a Site:
 - a. Shall not be required to include all impervious areas in existence since September 1, 1991.
 - b. Shall include all impervious areas in existence for less than 2 years; unless final site stabilization has been verified.
 - c. Shall include all impervious areas associated with an active project and shall be considered as part of, and as a revision to, that active project.
2. Existing Impervious Areas on a Site:
 - a. Shall include all existing impervious areas regardless of date of existence.
 - b. Shall not include impervious areas that are part of an active project and which are considered New Impervious Areas.
 - c. Shall not include impervious areas in existence for less than 2 years and which are considered New Impervious Areas; unless final site stabilization has been verified.