PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS
March 29, 2011

ROLL CALL: **Present:** Bruce Neil, Keith Fakkema, Jeff Wallin and Jill Johnson. **Absent:** Kristi Jensen, Gerry Oliver and Greg Wasinger. **Staff Present:** Development Services Director, Steve Powers; Senior Planner Ethan Spoo; and Associate Planner Melissa Sartorius

Chairman Neil called the meeting to order at 7:30 p.m.

MINUTES: **MR. FAKKEMA MOVED, MR. WALLIN SECONDED, MOTION CARRIED TO APPROVE THE FEBRUARY 22, 2011 MINUTES AS PRESENTED.**

PUBLIC COMMENT: No comments.

LOW IMPACT DEVELOPMENT (LID) CODE UPDATE PROJECT - Public Hearing (continued)

Mr. Spoo reported that the public hearing was opened in March and the last staff presentation on LID was in January. Mr. Spoo reviewed what was covered in January and presented the changes to the code that were proposed following the January presentation and the February public hearing.

Mr. Spoo noted that the changes to the code affect three different titles: Titles 11, 19, and 21. There are many proposed changes to Title 11 which is the City's street code so that Title 11 is consistent with Title 21. Title 21 is the City's subdivision code and changes to the title were approved last year.

Changes to Title 19 affect three different chapters. Chapter 19.44, 19.46, and 19.47. Chapter 19.44 "Parking" will apply a parking maximum to all parking areas with 50 or more spaces. Chapter 19.46 "Landscaping" will require native vegetation areas with new development. Native vegetation area is an undisturbed native vegetation area which helps filter stormwater. Chapter 19.47 "Clearing and Grading" proposes a variety of clearing and grading best practices to help limit erosion and siltation of surface water bodies. There's two substantive changes to Title 21 relate directly to LID is the creation of two new local residential street sections from which applicants for subdivision can choose. The second is language which allows LID facilities to be placed in streets, driveways, parking areas, and patios.

Mr. Spoo reported that in January, staff has worked with the Engineering department modify the street sections. There are still two LID street sections which applicants can choose from and both of them have a bio-retention area outside of right-of-way. Previously one of the street sections had pervious pavement in right-of-way and the other had a bioretention area in the right-of-way. Now, neither of them use pervious pavement and both of them move the bioretention area outside of right-of-way. Mr. Spoo displayed the two street sections and explained that the 50-foot section has two 10-foot travel lanes, a 10-foot utility corridor, which could be planted. It also has 5-foot sidewalks and an 8-foot planter. Outside of right-of-way, behind the sidewalk, is the bioretention area which individual property owners are more likely to maintain.

The 60-foot section is very similar, but this section adds an 8.5-foot parking lane. Everything else is essentially the same. There are 10-foot travel lanes, planter strip, sidewalks, and utility corridor.

Mr. Spoo discussed Title 19.44 "Parking" in more detail. The proposed language puts in place a maximum number of parking spaces which is 150% of the minimum number. But, instead of applying this to every use, this only applies to uses which have 50 or more parking spaces. The variance process would apply if the applicant wants to go above 150% of the minimum number of parking spaces. The variance process allows an applicant to go up to 200%. The second change to the parking chapter is in the use of pervious surfaces. In January the proposed code required that all spaces over 125% of the minimum number of spaces were required to be pervious surface. Staff received a citizen comment from a construction contractor which requested that we allow other LID techniques to be used in place of the pervious surface. So, instead of using pervious surfaces, in a parking lot with more than 125% of the minimum number of spaces, an applicant might be able to propose raingardens to treat that additional area.

Mr. Spoo reminded the Commission that a native vegetation area is a portion of the site which is preserved as native vegetation for the purposes of limiting stormwater runoff. The changes that have happened to Chapter 19.46 "Landscaping" since January, is that if no suitable vegetation exists, the applicants are allowed to clear and replant.

Mr. Spoo concluded his presentation by recommending that the Planning Commission accept public comments, close the hearing which was opened in February and recommend approval of the proposed amendments to Titles 11, 19, and 21 as drafted.

<u>Discussion</u>
Commissioners asked the following questions.

How would the new LID parking options have affected the Wal-Mart type parking areas? Mr. Spoo said that under the new code sites like the Home Depot parking lot would have been subject to a maximum. Home Depot has 200% of the code required minimum and the new code would scale that back. Mr. Powers added that K-Mart/Saar's parking would have seen a reduction of the total number of spaces at that facility and noted that the spaces which are on the back side of the K-Mart/Saar's building along Oak Harbor Road are hardly ever utilized.

Do the maximum parking spaces in the new code conflict with the box-store's maximum requirement? Mr. Powers said that was true and what we see is that our current code has a minimum standard and often businesses wish to provide more than the minimum requirement and that is not inherently wrong or bad, if, however the one of the overall community goals is to reduce the amount of stormwater that we have to deal with, providing the large areas of paved parking perhaps for only a certain number of days a year may not be the best idea in terms of meeting that community goal. The 200% was seen in other codes during staff's research but there is not necessarily any magic in that number either. Mr. Spoo explained that parking maximums are relatively new in the planning world. Over the last decade jurisdictions are starting to adopt maximums.

Do parking maximums apply to parking garages? Mr. Spoo said that structured parking is not addressed because it isn't commonly seen in Oak Harbor. So it only applies to surface parking lots that have a minimum of 50 spaces. Mr. Powers added that staff would look at the parking

as to whether it is a stormwater generating surface. A parking garage under a building would not create any additional stormwater.

Chapter 11.17 eliminated 11.17.090 variance language, is that because it was moved to another chapter? Mr. Spoo said that the variance section was deleted from that location and moved to the end of Chapter 11.17.120.

In Chapter 11.17 responsibility for the public right-of-way is moved from the public to the homeowners, what happens if a developer goes bankrupt and the property goes back to the bank, who is going to maintain the public section? Mr. Spoo said that when a final plat is created a homeowners association (HOA) is also created; so as the lots sell off some combination of the developer and the property owners that are there are responsible for the maintenance. As the developer sells lots then his share of the homeowners association decreases. Mr. Powers added that at some point the responsibility switches from the developer to the HOA. The present language on the face of the final plat assigns the maintenance responsibility to the HOA and the language goes on to say that if the HOA disbands for some reason then the individual property owners become responsible for that maintenance. If the bank becomes responsible the bank is responsible for the maintenance.

Mr. Powers added that not all neighborhoods would have LID techniques and that this is a voluntary street section and there is somewhat of an equity issue to say that all of the stormdrain rate payers should fund that maintenance of those few subdivisions that might choose to utilizes the LID techniques so we were a little worried about that and what the actual rate issue would be. The flip side is the challenges of having the maintenance responsibility fall to a private entity or onto the individual lot owner. Staff has concluded that this is an option that the developer can choose; it is not something that the staff is proposing to be city-wide as the mandatory section, so much like a PRD that has its own private parks or private open space there is a certain level of expectation that comes with buying into that piece of property.

Does the code apply to all new construction or can existing properties that wish to remodel use this code. Mr. Spoo said that the answer lies earlier in the parking code where it talks about when parking standards are applied generally. Section 19.44.050 talks about when the parking code is applied. It says, “All new or substantially altered uses or structures shall be provided with special purpose parking facilities as required by this chapter”. This is where the parking maximum requirements are applied. Mr. Powers added that it could be argued that that standard should be applied going forward and that retrofitting of existing parking lots to meet that standard would be more challenging than starting from scratch. If the Planning Commission wishes to explore that, staff can do that.

There was discussion about whether the maximum parking standard should apply to only new construction or whether to define what “substantially altered uses or structures” are. Mr. Powers noted that the Design Guidelines use 60% threshold which might be the appropriate threshold to make clear how staff will handle existing properties. That would also screen out those that are just trying to make use of an existing building.

There was some confusion as to whether LID was voluntary. Mr. Spoo clarified that LID is voluntary but that the parking maximum is mandatory for all parking lots with 50 spaces or more.

Mr. Spoo said that staff can draft language that says the parking maximums only applies to new development or sets a threshold as to when the parking maximums kick in.

Mr. Neil opened the public hearing for additional public comment. Hearing none, Mr. Neil closed the public hearing.

ACTION: MR. FAKKEMA MOVED, MR. WALLIN SECONDED, MOTION CARRIED TO RECOMMEND THAT THE CITY COUNCIL APPROVE AMENDMENTS TO TITLE 11 "STREETS" AS DRAFTED.

ACTION: MR. WALLIN MOVED, MR. FAKKEMA SECONDED, MOTION CARRIED TO RECOMMEND THAT THE CITY COUNCIL APPROVE AMENDMENTS TO TITLE 19 "ZONING" AS DRAFTED SUBJECT TO INCORPORATION OF A 60% THRESHOLD TO APPLY TO PARKING.

ACTION: MR. FAKKEMA MOVED, MR. WALLIN SECONDED, MOTION CARRIED TO RECOMMEND THAT THE CITY COUNCIL APPROVE AMENDMENTS TO TITLE 21 "SUBDIVISIONS" AS DRAFTED.

ADJOURN: 8:17p.m.