



Memorandum

TO: County Council

FROM: Cliff Strong, Senior Planner
Mike Kershner, Watershed Planner

THROUGH: Steve Roberge, Asst. Director

DATE: September 26, 2022

SUBJECT: AB2022-489 Proposed Watershed Overlay District Amendments (PLN2021-00008) – Lake Samish and Lake Padden watersheds “hard” vs “impervious” surface definitions

One of the “clean-up” amendments proposed in this ordinance was to change all references of “impervious surfaces” to “hard surfaces,” because that is the term the Department of Ecology stormwater manual uses. Impervious surfaces include all non-vegetated surface area that either prevents or retards the entry of water into the soil mantle under natural conditions prior to development. The DOE Stormwater Manual definition of “hard surface” includes permeable pavements as an impervious surface.

After this ordinance was introduced on 9/13/22 it was realized that that term should not be changed in WCC 20.71.300 (Open space and Impervious Surfaces). This section limits impervious surface area based on lot size and zoning within the Lake Samish and Lake Padden watersheds only¹. Under the current code, permeable pavements are not considered impervious surfaces. This allows property owners with pre-existing, non-conforming impervious surfaces (impervious surfaces that were legally installed prior to the adoption of this section of code) to replace existing impervious surfaces with permeable pavements to accommodate development proposals. That is, it allows property owners flexibility when faced with limits on impervious surfaces.

Changing the language of WCC 20.71.300 from “impervious surface” to “hard surface” would eliminate this flexibility since the limits on a lot would account for both impervious surfaces *and* permeable pavements, instead of just impervious surfaces. To retain this flexibility for homeowners, the language in WCC 20.71.300 should not be altered.

A substitute Exhibit A retaining “impervious surface” in WCC 20.71.300 is attached. We have discussed this “non-change” change to the ordinance with the Chief Civil Deputy and she has concurred that it does not amount to a substantive change requiring re-noticing the hearing

¹ WCC 20.51 (Lake Whatcom Overlay District) does not contain such a section, as it is under the stricter TMDL requirements.