GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

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MEMORANDUM

TO: Zoning Commission of the District of Columbia

FROM: Ellen M. McCarthy
Interim Director

DATE: March 3, 2005

SUBJECT: **Case No. 04-34- Setdown and Final Report for text amendments to allow, but not mandate, use of pervious paving for certain parking and related facilities by amending 11 DCMR §§ 2301.1(a), 2117.10, 2117.4, 2117.3, 199 and 2403.9(h)**, initiated by the Zoning Advisory Committee.

SUMMARY RECOMMENDATION

The Office of Planning recommends the proposed text amendments to allow, but not mandate, use of pervious paving for certain parking and related facilities within the Zoning Regulations, as amended in the Conclusion Section of this report, be **SET DOWN** for public hearing.

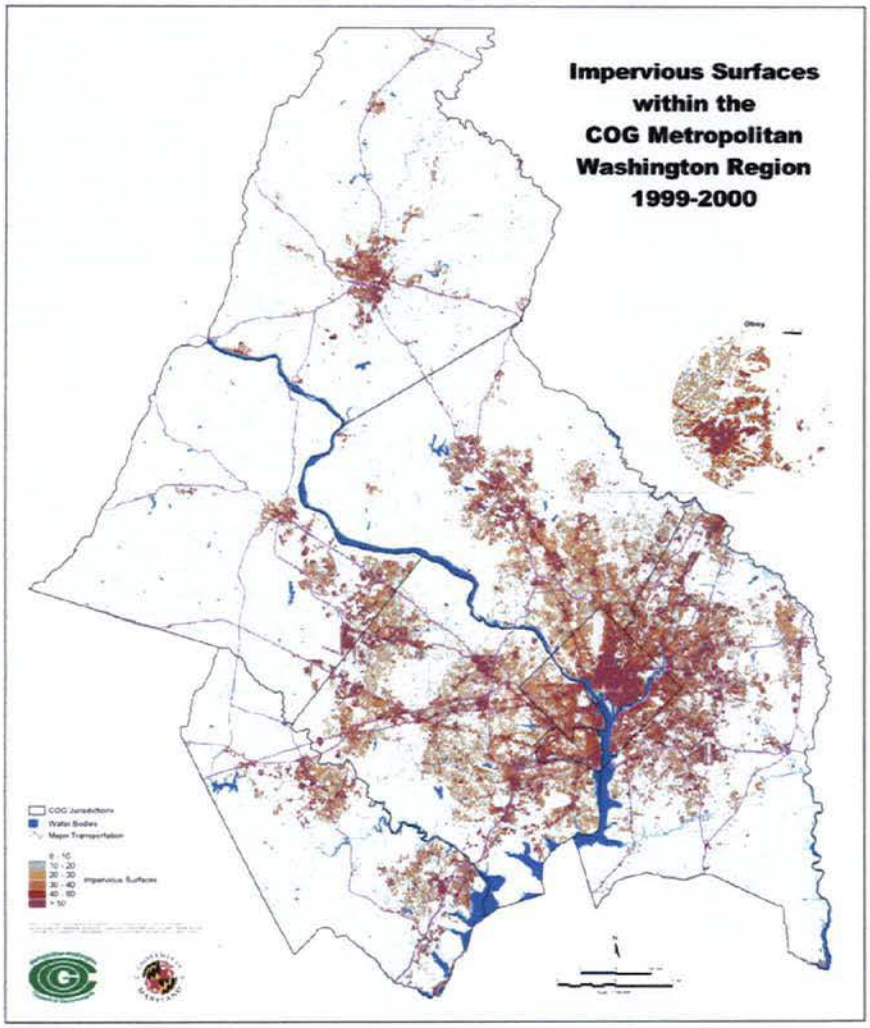
The Zoning Advisory Committee (ZAC) has filed the text amendment request on behalf ZAC's Subcommittee on Pervious/ Impervious Surfaces to allow use of pervious paving for certain parking and related facilities. Currently, the Zoning Regulations require open parking spaces to be "*paved and maintained with bituminous, concrete, or brick materials ...that form an all-weather impervious surface...*" (§ 2303.1(a)), thereby prohibiting the use of pervious paving. The text amendments, as proposed, will allow the use of pervious paving for open parking spaces, including accessory driveways and access lanes, and for private residential driveways.

ZONING COMMISSION
District of Columbia
CASE NO. 04-34
EXHIBIT NO. 8

ZONING COMMISSION
District of Columbia
CASE NO.04-34
EXHIBIT NO.8

BACKGROUND

According to the Department of Health's *Storm Water Guidebook*, dated April 2003, 65 percent of the District is covered with impervious surfaces, as shown on the map "*Impervious Surfaces within the COG Metropolitan Washington Region 1999-2000*" (see this page). Deep red indicates impervious surfaces of 50 percent or more. White indicates 0 to 10 percent imperviousness. These impervious surfaces include not only paving, but also buildings and areas that are otherwise non-vegetated.



District regulations do not prohibit the installation of non-conventional building roofs, such as green roofs, which can reduce the amount of runoff that eventually enters the storm sewer system. However, the Zoning Regulations do prohibit the use of pervious paving for open parking spaces, driveways and access drives by requiring that these areas be paved with an "*impervious surface*." As a result, developers and homeowners do not have the option of providing a pervious surface for parking.

Pervious Surfaces

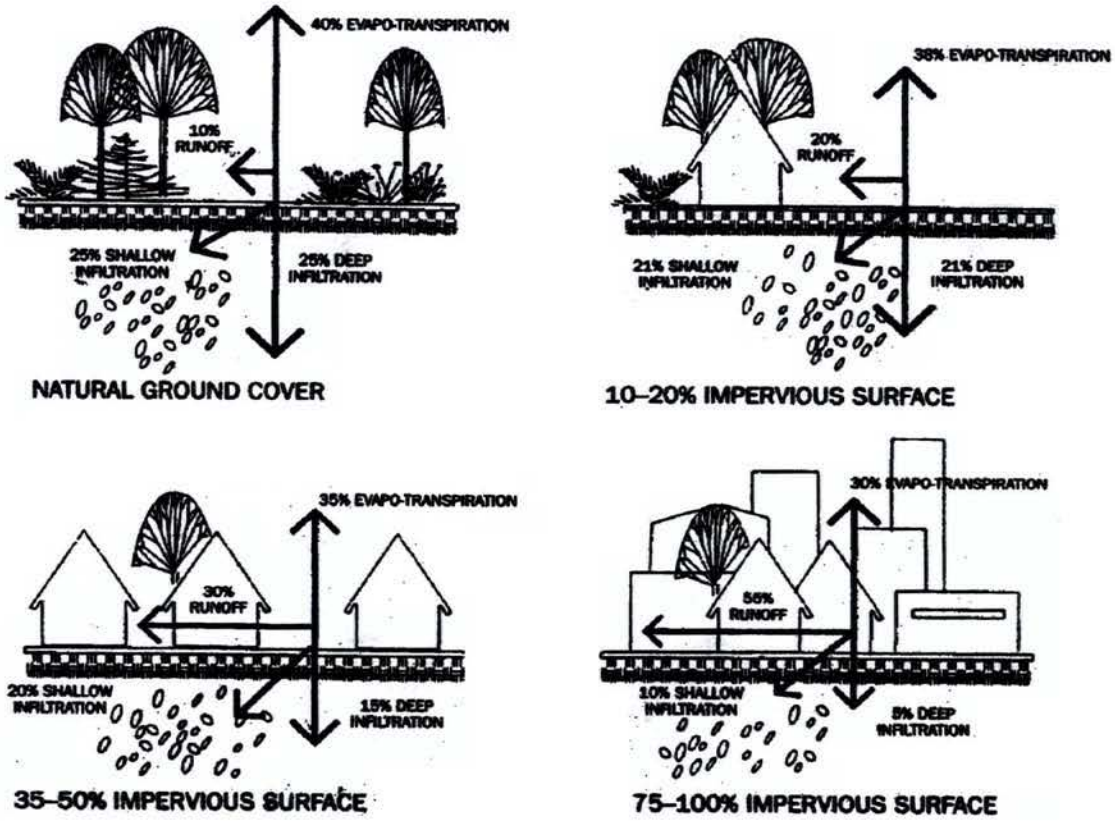
Pervious surfaces are those that permit the infiltration of storm water directly into the ground. Conversely, impervious surfaces prevent the infiltration of storm water directly into the ground. Impervious surfaces are usually part of a system that is designed to carry storm water away from a site as quickly as possible. As a result, pollutants are quickly

carried into waterways as runoff, and the storm water can contribute to urban flooding. In addition to increased velocity and pollution, this water also tends to be of higher temperatures, which can adversely affect water quality and aquatic life.

Pervious surfaces allow storm water to enter the ground beneath them. Soils, including those beneath pervious paving have the potential to filter storm water, remove pollutants, and allow storm water to enter waterways as ground water. Within undeveloped areas most storm water enters waterways as ground water, and not runoff. Urbanization alters the natural hydrology of the soil and tends to result in a situation where most storm water enters streams and waterways as runoff.

Use of pervious paving works best in locations with sandy soil. When used over soil types that do not readily absorb rainwater, the installation of gravel beneath the paving and piping to carry the water away may be necessary. The gravel helps to filter out pollutants. However, over time this gravel may become clogged, reducing the ability to absorb rainwater. Therefore, annual vacuuming of the paving is recommended.

Water Cycle Changes Associated with Urbanization



Source: Environmental Protection Agency, *Guidance Specifying Management Measures for Sources of Nonpoint Source Pollution in Coastal Waters*, #840-B-92-002, 1993.

Uses of Pervious Paving

Pervious paving is most suitable to areas that are not subject to high traffic volumes, consistent with the subject application. Only open parking spaces and the aisles and driveways serving them are included in the proposal. Loading areas and drive-thorough lanes are not included. Use of pervious paving is also not appropriate for all uses For example, gasoline filling stations are one use for which pervious surfaces are not necessarily preferable due to the potential of spills and subsequent contamination of the soil and groundwater.

Pervious paving can have a positive effect on areas where combined sewer overflow (CSO) is a problem A combined sewer system is the combination of the storm and sanitary sewer systems. CSO results from combined sewer systems The District is developed with a combined sewer system within the central and older portion of the City Separation of the systems is preferable as it prevents storm water from entering the sewage treatment plants, with the potential for overloading those plants during major storms and possibly resulting in untreated sewage entering waterways Pervious paving has the potential to reduce the amount of storm water entering the District's waterways at CSO points by allowing some of the storm water to be diverted from the combined sewer system, reducing the total amount of water entering the system.

Comparative Review of Existing Regulations of the District and Surrounding Jurisdictions

District of Columbia

The District's Department of Health (DOH) informed the Office of Planning that the storm water management regulations were promulgated in 1988. Prior to that the District did not have storm water management regulations, but instead relied only on drainage design criteria for storm sewer design Those criteria allowed for the quick and effective removal of storm water to avoid flooding, without consideration for water quality. Water quality is now a consideration Although several techniques have been designed to improve the quality of storm water runoff, it has been lately realized that it is not necessary to have 100% bituminous surface to control volume Storm water can be controlled by other measures, such as pervious pavement, which reduces the velocity and controls the volume of runoff from a site.

The District of Columbia Building Codes have been updated to require DCRA's approval for storm water discharges to vegetated areas. This also includes roof drainage. However, the Zoning Regulations preclude the use of pervious pavement for all open parking spaces (§§ 2117 4, 2117.10 and 2303 1).

All applications for land disturbing activities on private property, including paving and driveways for single-family detached dwellings, are reviewed by the Department of

Health, even though the Zoning Regulations do not require it. This process should remain unchanged.

Montgomery County, Maryland

Montgomery County Department of Permitting Services (DPS), Water Resources Section utilizes administrative policies instead of specific regulations in its case-by-case reviews The County informed the Office of Planning that they do not specifically restrict the use of pervious pavement and its use is not addressed in the Zoning Code

Pervious pavement is used for storm water management, but not often. Its use is not recommended in areas where groundwater contamination is an issue, such as gasoline filling stations, or in areas accommodating heavy vehicles, such as loading areas

Review of requests to use pervious paving takes into consideration existing surrounding development Although DPS acknowledges that nearby basement flooding is rarely an issue due to the lack of older construction within much of the County, use of pervious paving within 20 feet of an older basement is discouraged because it could result in the flooding of those basements. Flooding of older basements is a concern since pervious paving alters the hydrology to conditions that were not anticipated when those foundations were designed and constructed

Prince George's County, Maryland

Prince George's County Department of Environmental Resources (DER), Permits & Review Division no longer uses porous pavement as a water quality or storm water management device, but continues to permit pervious paving DER informed the Office of Planning that they and the Maryland Department of the Environment no longer include porous pavement in their design manuals due to high maintenance requirements and premature failures that have occurred. [1]

Loudoun County, Virginia

Loudoun County permits pervious paving within their *Facilities Standards Manual* (FSM), but acknowledges that it is not used often. The County informed the Office of Planning that its use is best in locations with sandy soil so that the storm water is able to seep through, unless underground drains are installed. Maintenance is not seen as an issue, although grass may sometimes grow through the pervious portions of the pavement. According to the FSM, the County only permits pervious surfaces within the A-3 Agricultural Residential Zoning District (minimum three acre lot size) and the A-10 Agriculture Zoning District (minimum ten acre lot size)

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[1] Jacqueline Woody
Director's Office
Prince George's County Department of Environmental Resources
301 883 5810

Fairfax County, Virginia
The Fairfax County Zoning Ordinance permits the use of pervious surfaces for off-street parking that is located on the ground and open to sky for single-family detached dwellings

Arlington County, Virginia
Arlington County permits pervious surfaces when in compliance with the Virginia Stormwater Management Handbook Permeable brick pavers are permissible for small applications only, such as for residential use To date the only installation of pervious surfaces in the County has been for the parking spaces, but not the drive aisles, of a public school

ANALYSIS

The Office of Planning reviewed the petitioner's submission based on comparative analysis of surrounding jurisdictions, as well as the District's (including DOH's) current regulations The petitioner's submission and the Office of Planning's recommendations and analyses are discussed below

Section 199 Definitions, subsection 199.1

Existing Text

Definitions for "Low-impact design" and "Rain garden" are not contained within the Zoning Regulations.

Petitioner's Proposed Text

Low-impact design (LID) practices- a methodology that uses natural site design techniques that store, infiltrate, evaporate, treat and detain runoff in close proximity to where the runoff is generated, through small site features such as rain gardens. "Low-Impact Development Design Strategies, an Integral Design Approach", dated January 2000, and prepared by Prince George's County, Maryland and the Maryland Department of Environmental Resources is the recommended reference for this design alternative. [www.lowimpactdevelopment.org/ftp/LID_National_Manual.pdf]

* * *

Rain garden- bioretention project with plantings that collect and filter runoff from parking lots to reduce storm flooding and keep pollutants from entering local streams and rivers. Rain gardens are an attractive, low-impact and relatively low-cost way to protect our environment.

Office of Planning Recommended Text

The Office of Planning does not recommend the addition of these definitions to the Zoning Regulations

Basis for Office of Planning Recommendation

The application proposes two definitions be added to the Zoning Regulations The first is a definition for "Low-impact design" (above) LID, more commonly referred to as Low Impact Development, is proposed to be used only once within the Zoning Regulations within the PUD evaluation standards. Rather than add a definition for a term used once, the Office of Planning recommends that the definition only be included within the PUD evaluation standards In addition, for clarity, the Office of Planning recommends excluding references to Prince George's County documents, examples of other site features, such as rain gardens, and to the *Low-Impact Development Design Strategies, an Integral Design Approach* These references are more appropriate to design manuals, such as the Department of Health *Storm Water Manual*, where design standards are maintained

The Office of Planning supports LID as an effective approach to managing storm water runoff, which can help "*to protect natural features*", as recommended in the Environmental Protection chapter of the Comprehensive Plan (§ 405.2(a)). Permitting the use of pervious surfaces can help to control runoff volumes, which can contribute to combined sewer overflows in the areas of the City developed with a combined sewer system

The second proposed definition is for "Rain garden " Inclusion of this term is not recommended. Although a rain garden is a design technique that could be used in conjunction with pervious pavement, its use is not controlled by the Zoning Regulations. The appropriateness of the use of rain gardens in any one situation is a design issue and not a use related concern Therefore, inclusion of this term and its definition within the Zoning Regulations is not appropriate. DOH's *Storm Water Manual* controls the installation of rain gardens

Section 2117 ACCESS, MAINTENANCE, AND OPERATION, subsection 2117.3

Existing Text

All required parking spaces shall be clearly striped and lined according to the dimensions specified in § 2115. Durable materials that are all-weather impervious shall be used Striping shall be maintained for as long as the parking spaces requiring the striping are in existence.

Petitioner's Proposed Text

All required parking spaces shall be clearly striped and lined according to the dimensions specified in § 2115 Durable **striping** materials that are all-weather **pervious (if appropriate) or** impervious shall be used. Striping shall be maintained for as long as the parking spaces requiring the striping are in existence.

Office of Planning Recommended Text

All required parking spaces shall be clearly striped and lined according to the dimensions specified in § 2115 Durable materials that are all-weather ~~impervious~~ shall be used. Striping shall be maintained for as long as the parking spaces requiring the striping are in existence.

Basis for Office of Planning Recommendation

This section discusses the striping and lining of parking lots. The application proposes to add the word "striping" to the second sentence of this section Inclusion of this word is repetitive and therefore not necessary. In addition, the Office of Planning recommends the deletion of the word "impervious" rather than the addition of the words "pervious (if appropriate)" to the second half of that sentence The application explains that this is to alert users of the Zoning Regulations that a change has been made and make it obvious to them that pervious surfaces are now permitted Deletion of the word "impervious" provides a greater level of flexibility and makes the regulation relatively straightforward

Section 2117 ACCESS, MAINTENANCE, AND OPERATION, subsection 2117.4

Existing Text

Except as provided in §§ 2117.5 and 2117.6, each required parking space shall be accessible at all times directly from improved streets and alleys via graded and unobstructed private driveways that form an all-weather impervious surface Improved streets and alleys providing access to required parking spaces shall have a minimum width of ten feet (10 ft.) and be paved in compliance with the standards of the D C Department of Transportation.

Petitioner's Proposed Text

Except as provided in §§ 2117.5 and 2117 6, each required parking space shall be accessible at all times directly from improved streets and alleys via graded and unobstructed private driveways that form an all-weather **pervious or** impervious surface **of bituminous, brick, or concrete materials, or open-faced paving block over a pervious base sufficient to support an AASHTO H-20 load, or a combination of these materials, or other material approved by the D.C. Department of Transportation or the D.C. Department of Health.** Improved streets and alleys providing access to required parking spaces shall have a minimum width of ten feet (10 ft.) and be paved in compliance with the standards of the D C Department of Transportation. **Although not mandated, appropriate use of pervious materials for private driveways is allowed and encouraged as part of low-impact design techniques which may also include rain gardens and other measures not inconsistent with Department of Health stormwater management requirements.**

Office of Planning Recommended Text

Except as provided in §§ 2117 5 and 2117 6, each required parking space shall be accessible at all times directly from improved streets and alleys **with a minimum width of ten feet (10 ft.)** via graded and unobstructed private driveways that form an all-weather ~~impervious~~ surface ~~Improved streets and alleys providing access to required parking spaces shall have a minimum width of ten feet (10 ft.) and be paved in compliance with the standards of the D.C. Department of Transportation~~

Basis for Office of Planning Recommendation

The Office of Planning recommends the deletion of the word "impervious" to indicate that it is not necessary to provide an impervious surface for the same reasons discussed above for § 2117 3 Instead, the Office of Planning recommends simply the deletion of the word "impervious" so as to provide a greater level of flexibility and make the regulation relatively straightforward

The Office of Planning does not recommend the addition of language indicating the types of paving materials that are appropriate Simply, this section only requires that access to parking\spaces be from public streets and alleys with a minimum pavement width of ten feet and that private driveways providing access have an all-weather impervious surface The types of materials that are appropriate are addressed in § 2117.10 and should not be added to this section However, the Office of Planning does recommend a rewording of this section as shown above for purposes of clarity

The Office of Planning does recommend that this section be revised to permit pervious surfaces, but not to include the AASHTO H-20 load standard. DDOT has informed the Office of Planning that the AASHTO H-20 load standard may be more appropriate for roadways than parking lots. However, a standard does need to be included as the Zoning Regulations are the only place in which pavement standards for private property are located, and the Office of Planning is in agreement that the four-inch thickness standard referenced in these sections should be deleted in favor of one that is more comprehensive Therefore, it is recommended that proposed pervious pavement either be certified by a Professional Engineer licensed in the District of Columbia as being sufficient to support the intended anticipated vehicle load, or that any other pavement materials proposed be allowed as permitted by DDOT

The Office of Planning does not recommend the addition of the proposed last sentence to the section that begins with, "Although not mandated, ...". The Zoning Regulations are not intended to encourage specific types of design standards, but rather to inform the user what is or is not allowed.

Section 2117 ACCESS, MAINTENANCE, AND OPERATION, subsection 2117.10

Existing Text

All open parking spaces, including access aisles, driveways, and ramp areas shall be paved and maintained with bituminous, concrete, or brick materials, or a combination of these materials, or other materials approved by the D C Department of Transportation as structurally equivalent or better, that form an all-weather impervious surface and that are at least four inches (4 in.) in thickness.

Petitioner's Proposed Text

All open parking spaces, including access aisles, driveways, and ramp areas shall be paved and maintained with bituminous, concrete, or brick materials, **or open-face paving block over a pervious base sufficient to support an AASHTO H-20 load,** or a combination of these materials, or other materials approved by the D.C. Department of Transportation **or the D.C. Department of Health** as structurally equivalent or better, that form an all-weather **pervious or** impervious surface and that are at least four inches (4 in.) in thickness **Although not mandated, appropriate use of pervious materials to pave open parking spaces is allowed and encouraged as part of low-impact design techniques which may also include rain gardens and other measures not inconsistent with Department of Health stormwater management requirements.**

Office of Planning Recommended Text

All open parking spaces, including access aisles, driveways, and ramp areas shall be paved and maintained with **an all-weather surface of:**

(a) ~~b~~**B**ituminous, concrete, or brick materials, or a combination of these materials,

(b) **Impervious open-faced paving block over a pervious base certified by a Professional Engineer Licensed in the District of Columbia as being sufficient to support the intended anticipated vehicle load,** or

(c) ~~o~~**O**ther materials **permitted to be used for the paving of public streets** ~~approved~~ by the ~~D C~~ **District** Department of Transportation ~~as structurally equivalent or better, that form an all-weather impervious surface and that are at least four inches (4 in) in thickness~~

Basis for Office of Planning Recommendation

This section refers to the paving of parking spaces, driveways and access aisles and ramp areas, and includes the addition of the word "pervious" to precede the existing term "impervious" For the same reasons discussed above for §§ 2117.3 and 2117 4 , the Office of Planning instead recommends simply the deletion of the word "impervious".

This section is also recommended by the Office of Planning to be revised to permit pervious surfaces. However, for the same reasons discussed above for not including the design standards as proposed in § 2117.4, they should also not be included in this section. Therefore, it is recommended instead that proposed pervious pavement either be certified by a Professional Engineer licensed in the District of Columbia as being sufficient to support the intended anticipated vehicle load, or that any other pavement materials proposed be allowed as permitted by DDOT

The addition of the proposed last sentence to the section that begins with, "Although not mandated, ..." is not recommended for the same reasons as discussed above for § 2117.4, so as not to encourage specific types of design standards, but rather to inform the user what is or is not allowed

Section 2303 PARKING LOTS, subsection 2303.1

Existing Text

A parking lot in any district shall conform to the following provisions

(a) All areas devoted to driveways, access lanes, and parking areas shall be paved and maintained with bituminous, concrete, or brick materials, or combination of these materials, or other material approved by the D C Department of Transportation as structurally equivalent or better, that form an all-weather impervious surface, and that are a minimum of four inches (4 in.) in thickness.

Petitioner's Proposed Text

A parking lot in any district shall conform to the following provisions.

(a) All areas devoted to driveways, access lanes, and parking areas shall be paved and maintained with bituminous, concrete, or brick materials, **or open-faced paving block over a pervious base sufficient to support an AASHTO H-20 load,** or combination of these materials, or other material approved by the D.C Department of Transportation **or the D.C. Department of Health** as structurally equivalent or better, that form an all-weather **pervious or** impervious surface, and that are a minimum of four inches (4 in.) in thickness. **Although not mandated, appropriate use of pervious materials to pave parking lots is allowed and encouraged as part of low-impact design techniques which may also include rain gardens and other measures not inconsistent with Department of Health stormwater management requirements.**

Office of Planning Recommended Text

A parking lot in any district shall conform to the following provisions.

(a) All areas devoted to driveways, access lanes, and parking areas shall be paved and maintained ~~with~~ **to form an all-weather surface of:**

1. ~~b~~**B**ituminous, concrete, or brick materials, or combination of these materials,

2. **Impervious open-faced paving block over a pervious base certified by a Professional Engineer licensed in the District of Columbia as being sufficient to support the intended anticipated vehicle load,** or
3. ~~e~~Other **materials permitted to be used for the paving of public streets** ~~approved~~ by the ~~D.C.~~ **District** Department of Transportation ~~as structurally equivalent or better, that form an all-weather impervious surface, and that are a minimum of four inches (4 in.) in thickness~~

Basis for Office of Planning Recommendation

This section refers to the paving of either parking lots, driveways and access lanes, and includes the addition of the word "pervious" to precede the existing term "impervious" Again, the Office of Planning does not recommend the addition of the word "pervious" for the same reasons as stated above. Therefore, the Office of Planning also proposes instead to simply delete the word "impervious" from the petitioner's proposed texts.

The Office of Planning does recommend that this section also be revised to permit pervious surfaces, but not to include the AASHTO H-20 load standard, for the same reasons as discussed for §§ 2117.4 and 2117 10. Instead it is recommended that proposed pervious pavement either be certified by a Professional Engineer licensed in the District of Columbia as being sufficient to support the intended anticipated vehicle load, or that any other pavement materials proposed be allowed as permitted by DDOT.

Also for the same reasons as recommended for §§ 21174 and 2117.10, the Office of Planning does not recommend the addition of the proposed sentence, "Although not mandated, . ." to the end of each section proposed for amendment

Section 2403, PUD EVALUATION STANDARDS, subsection 2403.9

Existing Text

Public benefits and project amenities of the proposed PUD may be exhibited and documented in any of the following or additional categories

(h) Environmental benefits, such as stormwater runoff controls, and preservation of open space or trees,

Petitioner's Proposed Text

Public benefits and project amenities of the proposed PUD may be exhibited and documented in any of the following or additional categories·

(h) Environmental benefits, such as stormwater runoff controls, **use of low-impact design techniques, which may include pervious surfaces and rain gardens,** and preservation of open space or trees,

Office of Planning Recommended Text

Public benefits and project amenities of the proposed PUD may be exhibited and documented in any of the following or additional categories.

(h) Environmental benefits, such as storm water runoff controls, **use of natural design techniques that store, infiltrate, evaporate, treat and detain runoff in close proximity to where the runoff is generated,** and preservation of open space or trees,

Basis for Office of Planning Recommendation

The Office of Planning supports the inclusion of LID techniques as a potential environmental benefit for PUD applications The addition of this reference will serve to further clarify to PUD petitioners the use of *"appropriate design solutions,"* in conformance with § 703 2(a) of the Comprehensive Plan. The Office of Planning recommends that the definition of LID be included in § 2403, eliminating the need to amend the Definition section under § 199 1 As stated above, the definition should exclude references to Prince George's County documents and examples of other site features

COMPREHENSIVE PLAN

The text amendment is not inconsistent with many of the themes, policies and objectives of the Comprehensive Plan, including

CHAPTER 1 GENERAL PROVISIONS

101 MAJOR THEMES OF THE COMPREHENSIVE PLAN

101.1 In the process of developing the District elements of the Comprehensive Plan ("the Plan") and coordinating the widespread citizens review the following ten (10) major themes were discerned·

(e) **Respecting and improving the physical character of the District,**

102 STABILIZING AND IMPROVING THE DISTRICT'S NEIGHBORHOODS

102 4 Promoting and ensuring good quality neighborhoods is of utmost importance to the District. The District elements of the Plan's policies and strategies on increasing housing opportunities, neighborhood commercial facilities, and improving transportation in some neighborhoods will be combined with other District policies on historic preservation, **environmental quality**, and public facilities to conserve functioning, stable neighborhoods, and to stabilize or improve those which need redirection

402 IMPROVING WATER QUALITY

402 2 The policies established in support of improving the water quality objectives are as follows

(b) **Minimize overflows of untreated sewage from the combined sewerage system;**

405 PROTECTING THE QUALITY OF THE LAND AREAS

405.2 The policies established in support of the protecting the quality of the land areas objective are as follows.

(a) Regulate land development activities to **protect natural features,** prevent further soil erosion, and prohibit construction practices which produce unstable soil and hillside conditions,

703 NATURAL ENVIRONMENT

703.2 The policies established in support of the natural environment objective are as follows.

(b) Encourage **appropriate design solutions** that contribute to the conservation of the natural resources of the District.

1406 WARD 3 URBAN DESIGN

1406.5 Objective and policies for the natural environment, areas with severe building restraints, and streams and stream valleys:

(b) Appropriate design solutions include the following·

(6) Minimize the construction of impervious surfaces, **promote permeable materials for driveways, walkways, parking lots, and the like; and**

1612 WARD 5 ACTIONS IN SUPPORT OF ENVIRONMENTAL PROTECTION

1612 1 The policies in support of environmental protection are as follows

(b) Complete a study of alternative route alignments to construct a storm water relief sewer in Ivy City to control flooding that has disrupted the environmental stability of the neighborhood

(1) In the vicinity of Mt Olivet Road and West Virginia Avenue, flooding has caused delays in construction and damage or loss to a number of housing units at Western Mews on Capitol Avenue About five (5) acres in this area is prone to flooding and has hindered neighborhood revitalization activities and business ventures. **The existing amount of impervious surfaces and soil conditions in the area increase potential and actual flood damage from heavy rains**, and

The themes, policies and objectives of the Comprehensive Plan, as described above, recommend the changes to impervious surfaces to improve the natural and built environments.

AGENCY COMMENTS

District Department of Transportation (DDOT) does not have any objections to the proposed amendments

Fire and Emergency Medical Services (FEMS) indicated that they have no comment on the proposed text amendments provided that the proposed pavements are capable of supporting FEMS vehicles, which currently weigh up to 96,000 pounds.

Department of Health (DOH) commented that they support permitting pervious surfaces.

Department of Parks and Recreation had no comments

Department of Consumer and Regulatory Affairs informed the Office of Planning that they have no objections to the proposed amendments.

COMMUNITY COMMENTS

ANC 6C, at its regularly scheduled meeting of January 12, 2005, voted unanimously to support the text amendment.

CONCLUSION

The proposed text amendments are not inconsistent with the above referenced Comprehensive Plan goals and objectives and will facilitate the realization of those goals, subject to the revisions contained within the Analysis section of this report.

The Office of Planning supports the elimination of the word "impervious" so as to allow for the use of pervious paving. Pervious paving will allow for "*appropriate design solutions that contribute to the conservation of the natural resources of the District*", as recommended by the Urban Design chapter of the Comprehensive Plan (§ 703 2(a)) It will also help to support efforts to "*minimize overflows of untreated sewage from the combined sewerage system*", as recommended in the Environmental Protection chapter (§ 402 2(b))

The District Department of Health (DOH) reviews all private property paving applications for conformance with their standards. This includes additional standards that may be required of individual uses, such as gasoline stations, and locations at risk of chemical or oil spills The proposed text amendments will not alter that review.

The Office of Planning believes the effect of the proposed amendments will be to minimize the large percentage of impervious surfaces throughout the District, which is contributed to by open parking lots and driveways. Allowing the use of pervious pavement will positively contribute toward achieving many of the goals of the Comprehensive Plan. The Urban Design section of the Ward 3 Plan, under § 1406.5(b)(6), recommends design solutions to "*promote the use of permeable materials for driveways, parking lots and the like*" Pervious paving can also help to "*protect natural features*", a policy of the Comprehensive Plan's Environmental Protection chapter under § 405.2(a). This text amendment will facilitate that policy and also the disconnection of impervious areas, thereby controlling and reducing runoff into the District's fragile waterways.

At the request of the Office of the Attorney General (OAG), references in the Petitioner's text to "other material approved by the D C Department of Transportation or the D.C Department of Health" have been modified to eliminate the reference to the Department of Health and to refer instead to materials approved by the District Department of Transportation for the paving of public streets. OAG advises that while an agency's regulations can refer to another agency's written standards, such as DDOT's standard specifications, an agency cannot simply say that whatever another agency might decide on an ad hoc basis suffices. DOH's authority does not extend to establishing standards for the structural integrity of paved surfaces, as opposed to regulating the runoff associated with such surfaces

The existing regulations already contain language indicating that other materials can be used if approved by the D.C. Department of Transportation, one of the predecessor agencies of the current DDOT DDOT's Establishment Act does not include the authority to approve paving materials on private property and DDOT has indicated it has never done so Therefore, OAG suggests a reference to other materials approved by DDOT for the paving of public streets. This could include the Standard Specifications or any other publicly disseminated standards

RECOMMENDATION

The Office of Planning recommends that the Commission **SET DOWN** the text amendment application for public hearing, as amended in the Conclusion section of this report.

EMM/sjm$_{AICP}$