

03-13-2019 Town Council Meeting
Responses to Council Questions #2

ITEM #8: Consider Pursuing a Text Amendment Process for Changes to the Blue Hill Form-Based Code in Response to New State Stormwater Legislation

Council Question: Does this impact the volume of runoff? Can we still require all runoff to be captured on site?

Staff Response: *Based on the new State statute, the Town can only establish new or increased stormwater controls for net new impervious surface on the site. This is true for both stormwater quality and quantity control measures.*

The Blue Hill standard for treating 50% of impervious area has to do with water quality treatment, while volume of runoff has to do with water quantity. The standard for treating 50% of impervious area for water quality has the effect of increasing the volume of runoff that gets captured. On the subject of water quantity, Blue Hill development is only required to capture the net increase in runoff created by a project, such that “The stormwater runoff volume leaving the site post-development shall not exceed the stormwater runoff volume leaving the site pre-development for the local two-year frequency, 24-hour duration storm event for all development” (LUMO Section 3.11.4.3 F).

Council Question: What are the consequences of not amending the text of the Blue Hill District regulations?

Staff Response: *The new State statute removes the Town’s ability to enforce the current stormwater standard for treatment of 50% of post-construction impervious. Without an amendment to address this issue, a project could be submitted under the Blue Hill Form-Based Code without having to meet the stormwater standard.*

Council Question: Just to be clear, are the state’s requirements for stormwater controls now weaker than what the Blue Hill District requires?

Staff Response: *That is correct. When comparing the Blue Hill District standard (treatment of 50% of post-construction impervious) with the State’s limitation (treatment of net increase in impervious only), the Blue Hill standard generally results in more impervious surface area being treated. That would not be the case if a redevelopment project caused the site impervious surface area to more than double. However given existing conditions of the Blue Hill District, that type of situation is unlikely to occur.*

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Council Question: Is it possible to get an exception from this new state statute via local legislation?

Staff Response: *Staff's understanding is that any exception would require State legislation. The new State statute specifies that it "applies to all local governments regardless of the source of their regulatory authority."*

Council Question: Would this code modification regarding stormwater regulations thus apply to parcels that have yet to be developed/redeveloped? Would it apply to any current developments or developments currently under construction?

Staff Response: *The potential Code modification would apply to parcels that have yet to be developed/redeveloped. The modification could apply to current developments if there was an application submitted for expansion or modification of a development.*

Council Question: As part of the potential path 2 on p. 84, has staff considered the waiver of certain development fees in exchange for meeting the current Blue Hill stormwater regulations? Could this be a viable incentive?

Staff Response: *Staff has not considered a fee waiver incentive at this point, but would be happy to study that possibility. The existing Blue Hill Code offers a development fee reduction for applications that incorporate green building standards. Staff would want to consider how a stormwater incentive interacts with the green building incentive.*