

Stormwater Utility Development



COUNCIL WORK SESSION
February 8, 2016



Discussion Agenda

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- **Understanding Stormwater Utility Development**
- **Key Success Factors**
- **Example Rate Calculation**
- **Next Steps**

Why Have a Stormwater Utility?

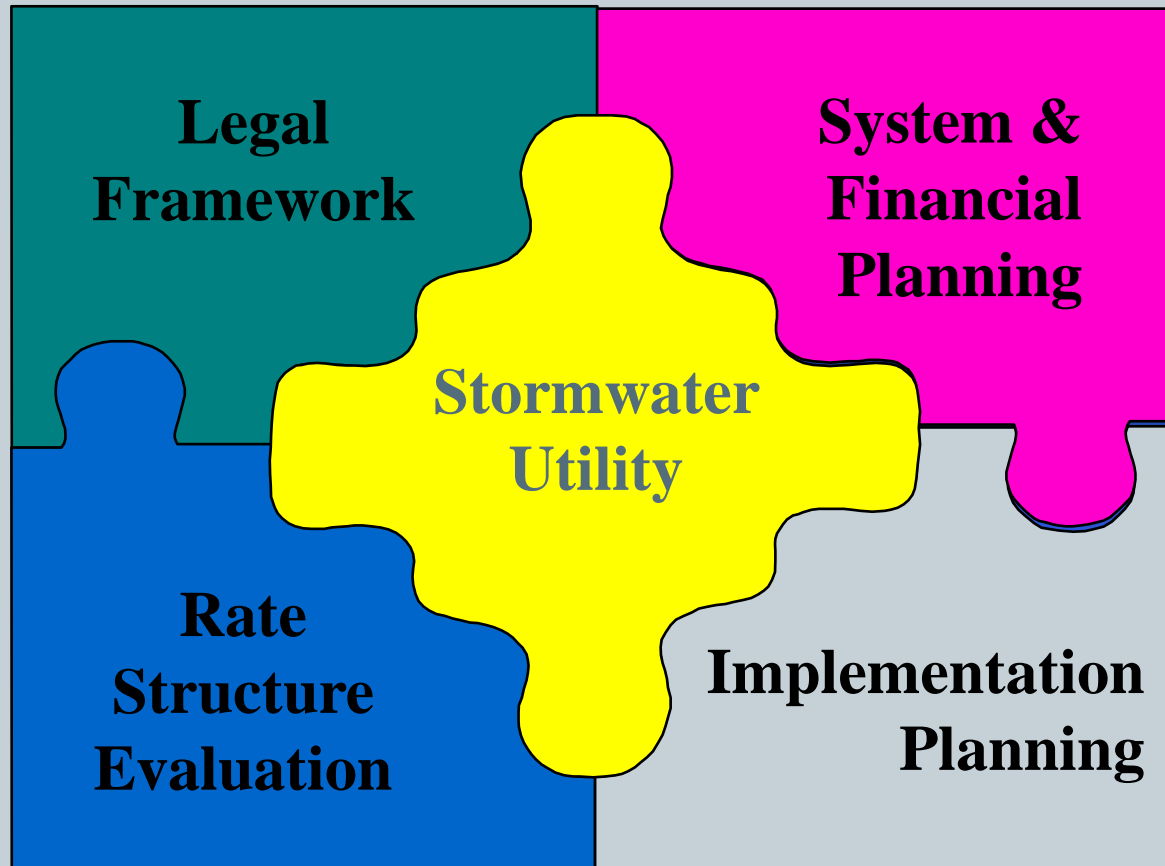
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- Existing stormwater system is at or near capacity
- Storm events are causing problems and generating complaints
- Stormwater MS4 permitting requirements and on-going costs
- Chronic deferral of stormwater capital investments
- Chronic deferral of routine system maintenance
- Lost capital revenue due to no stormwater system development charge
- Cannot sustain a full time stormwater program and system with a partial funding source(s)

Stormwater management has become a regulated municipal service & utility...like water and wastewater

Stormwater Utility Development

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Legal Framework

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General Authority

- **Municipal powers provision**
- **Case law**

Local Authority

- **Albany Municipal Code**
- **Fee resolution**

Litigation History

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Zelinger vs. The City & County of Denver

Only applied to property being provided a service

Revenues raised go for a specific purpose

Action/fees bear a rational relationship to legitimate state purpose

Property owners charged receive benefit

Parcel charges are certified as being served by the program

Long Run Baptist Association vs. Metropolitan Sewer District

Rates are produced through a reasonable process of relating the fee amount to use of the stormwater system

User fee applied by class throughout the service area

Teter vs. Clark County

Rate schedule bore a reasonable relationship to the contribution of each lot to surface runoff

General powers of the jurisdiction

Customer classes treated uniformly, but different classes may be charged different rates

The Roseburg Decision 1993

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- City of Roseburg stormwater utility was challenged by local school district and other businesses
- Case heard in State Tax Court
- Tax Court held that the utility service charge was indeed a tax and not a service charge
- Case appealed to Oregon Supreme Court who reversed the Tax Court decision

This was a fee, not a tax because it was controllable and avoidable AND was not imposed upon the owner of real property as a direct consequence of ownership.

Steps to Adoption

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Legal

- Implement local code changes

Financial
Plan

- Identify revenue requirements and funding level

Rate
Structure

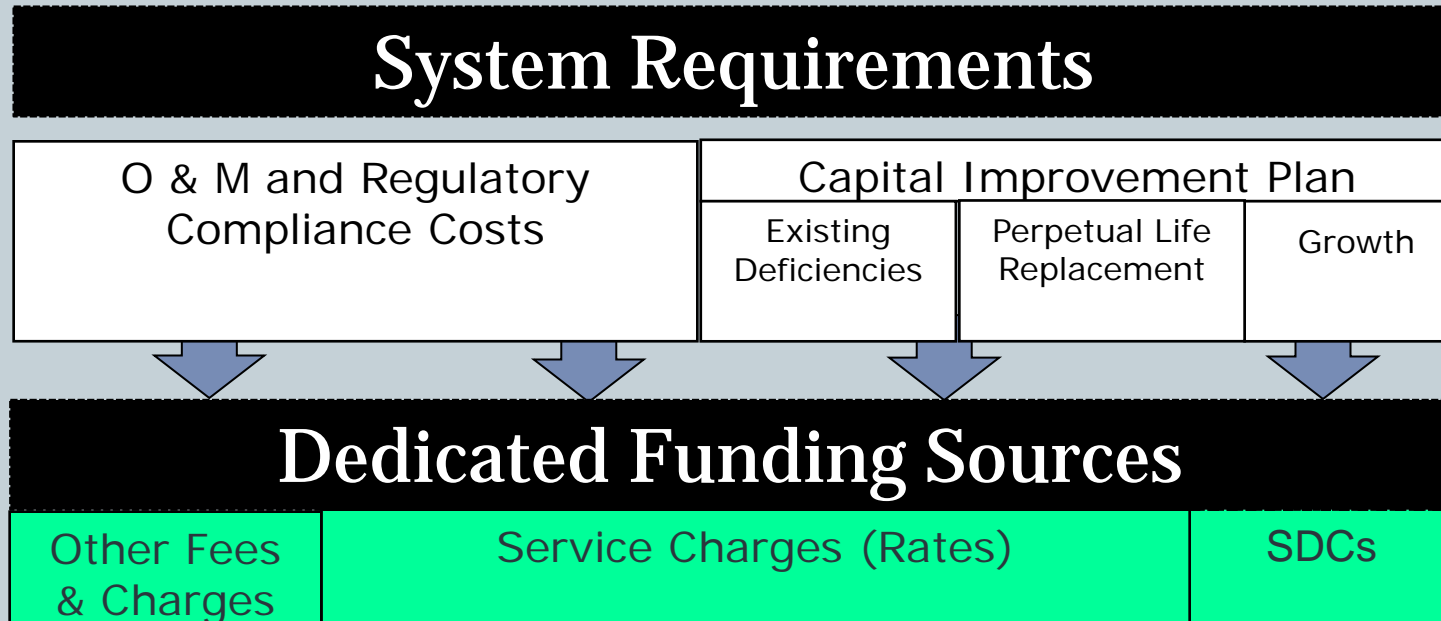
- Select rate structure & calculate rates

Implementation
Plan

- Conduct public process & develop internal systems (billing & accounting)

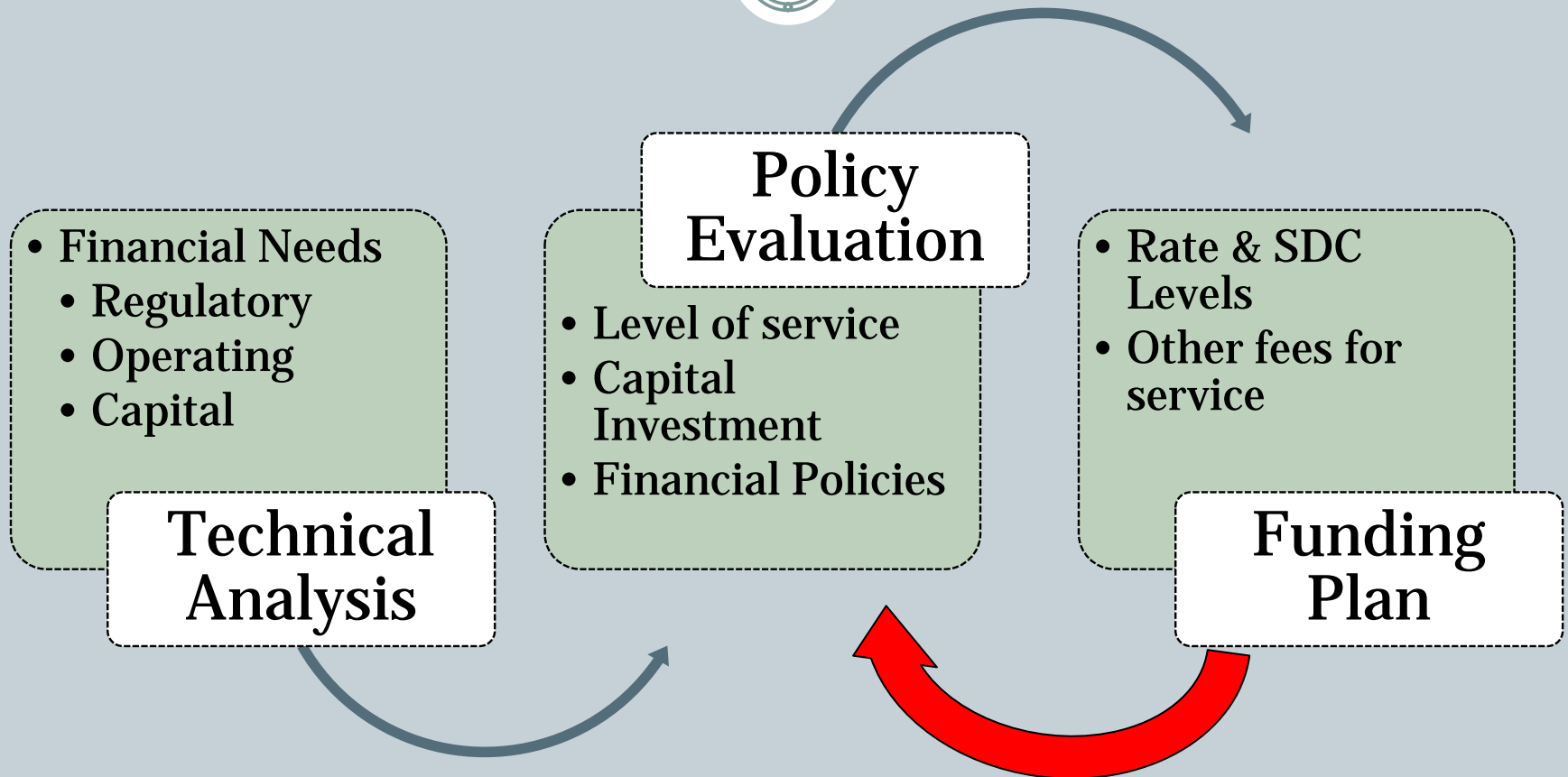
System Requirements and Funding Sources

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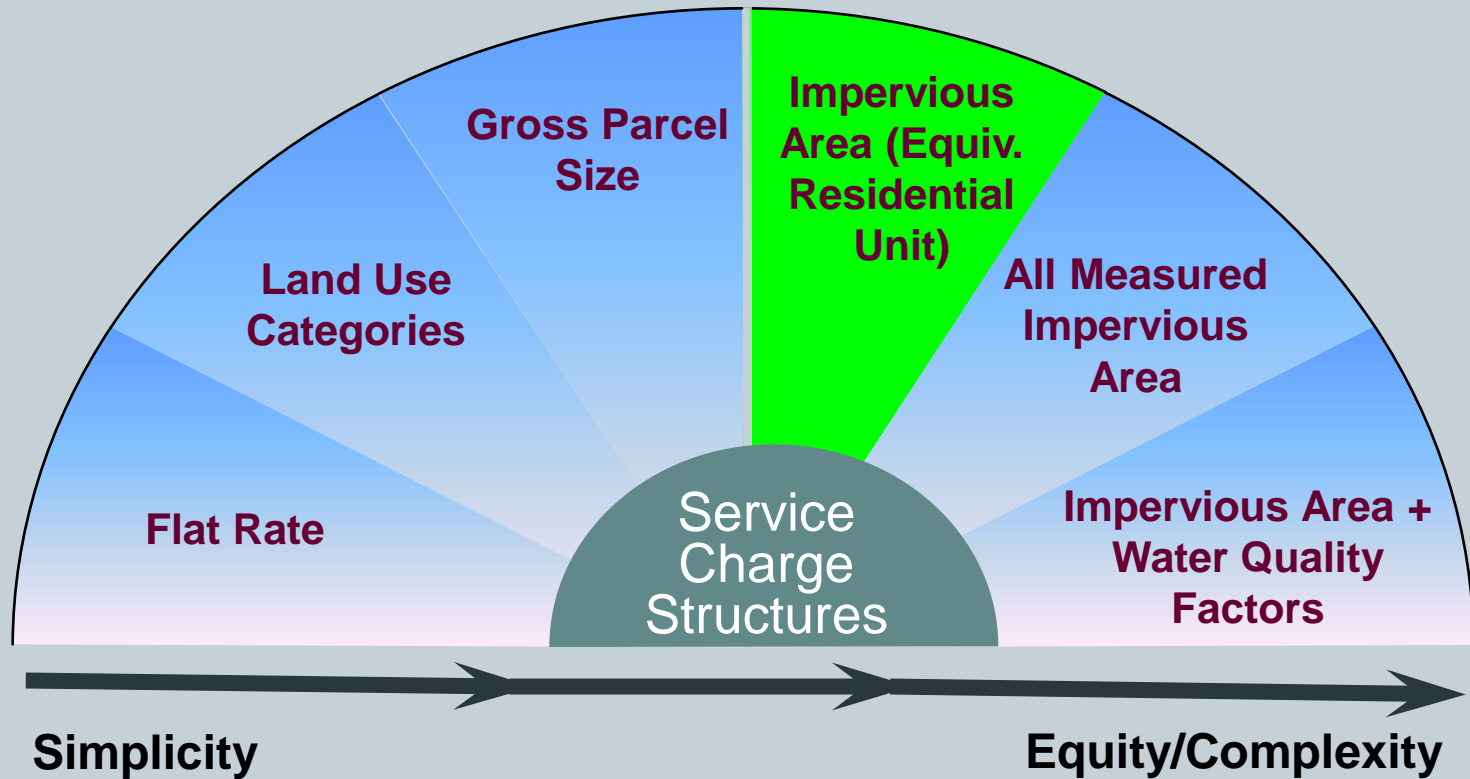
Financial Planning Process

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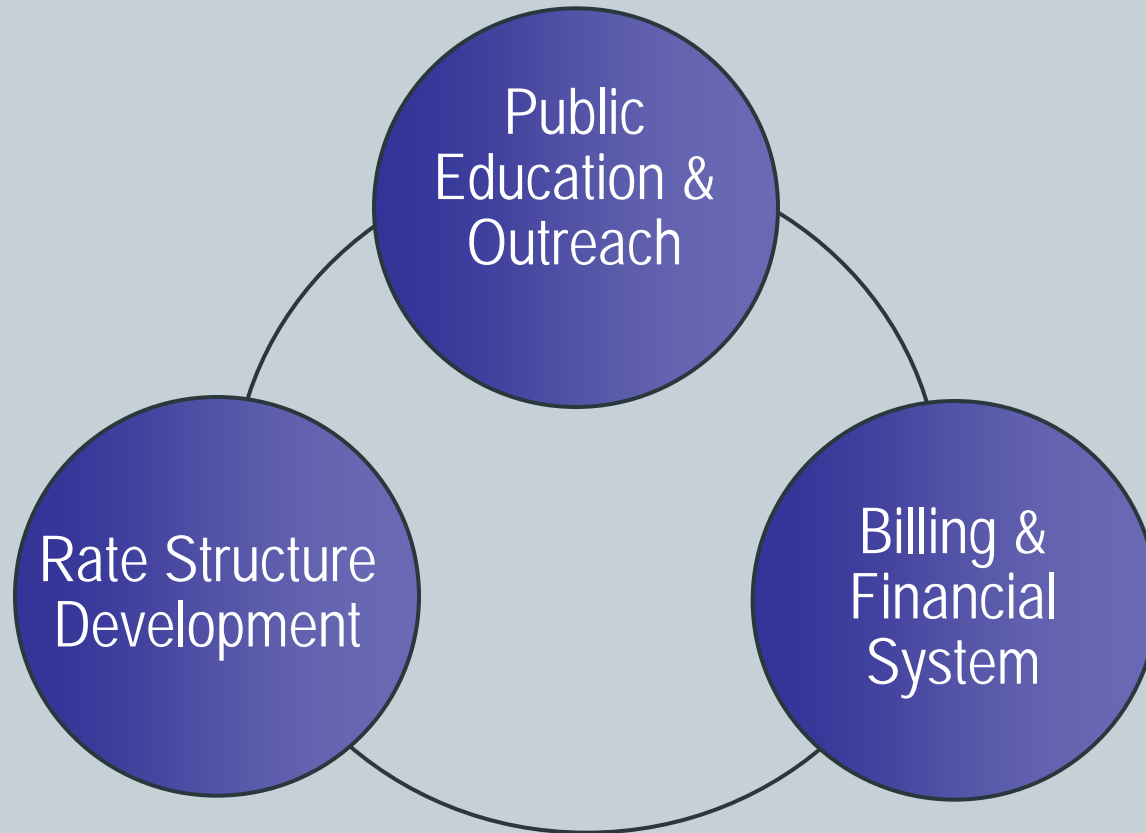
Rate Structure Evaluation

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Implementation Planning

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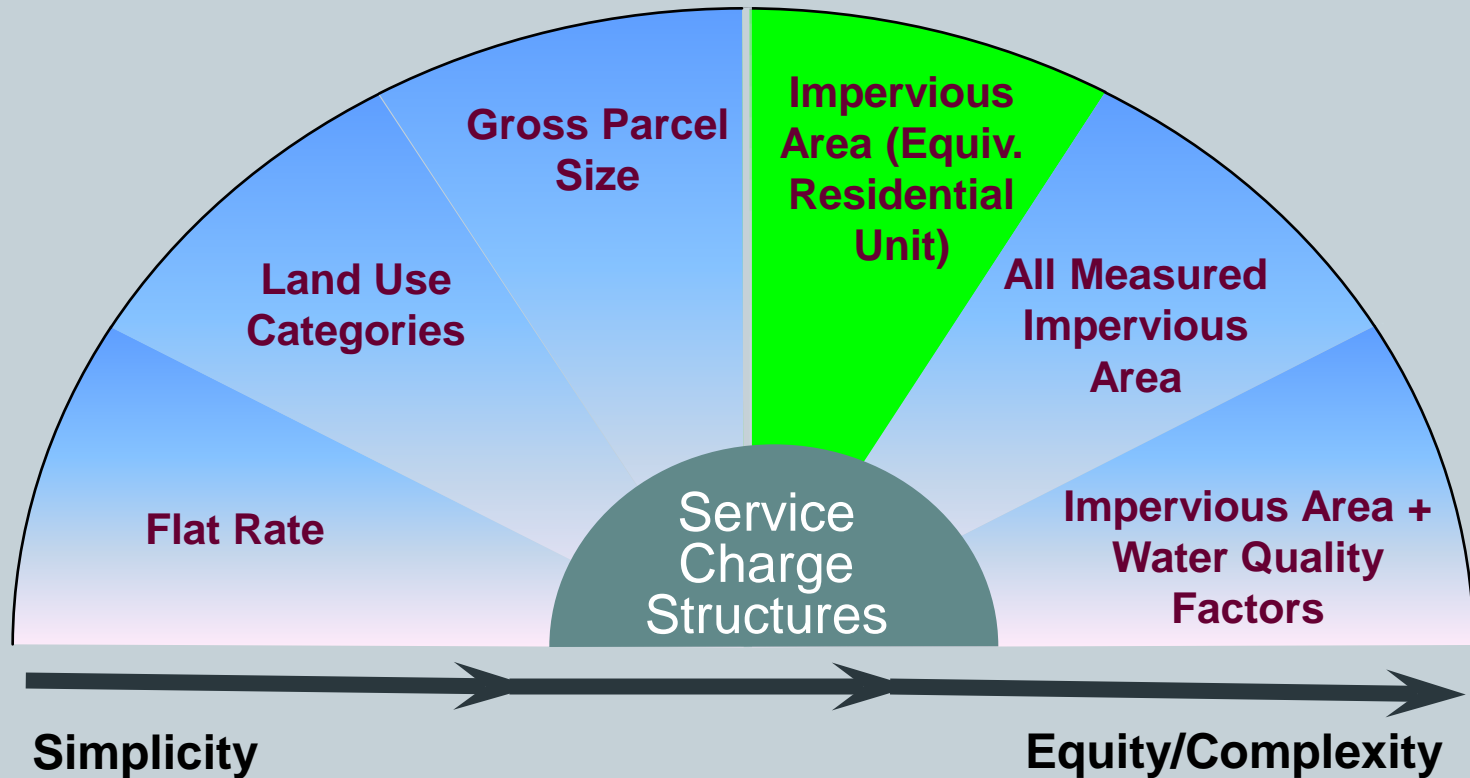
Key Success Factors

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- Establish stormwater program needs & priorities
- Identify costs
- Balanced approach to service charge development
- Build internal systems to support the charges
- Public Communication/Messaging:
 - Need for the program
 - Services provided by the utility
 - Basis for the service charge

Rate Structure Evaluation

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Basic Rate Structure – Example

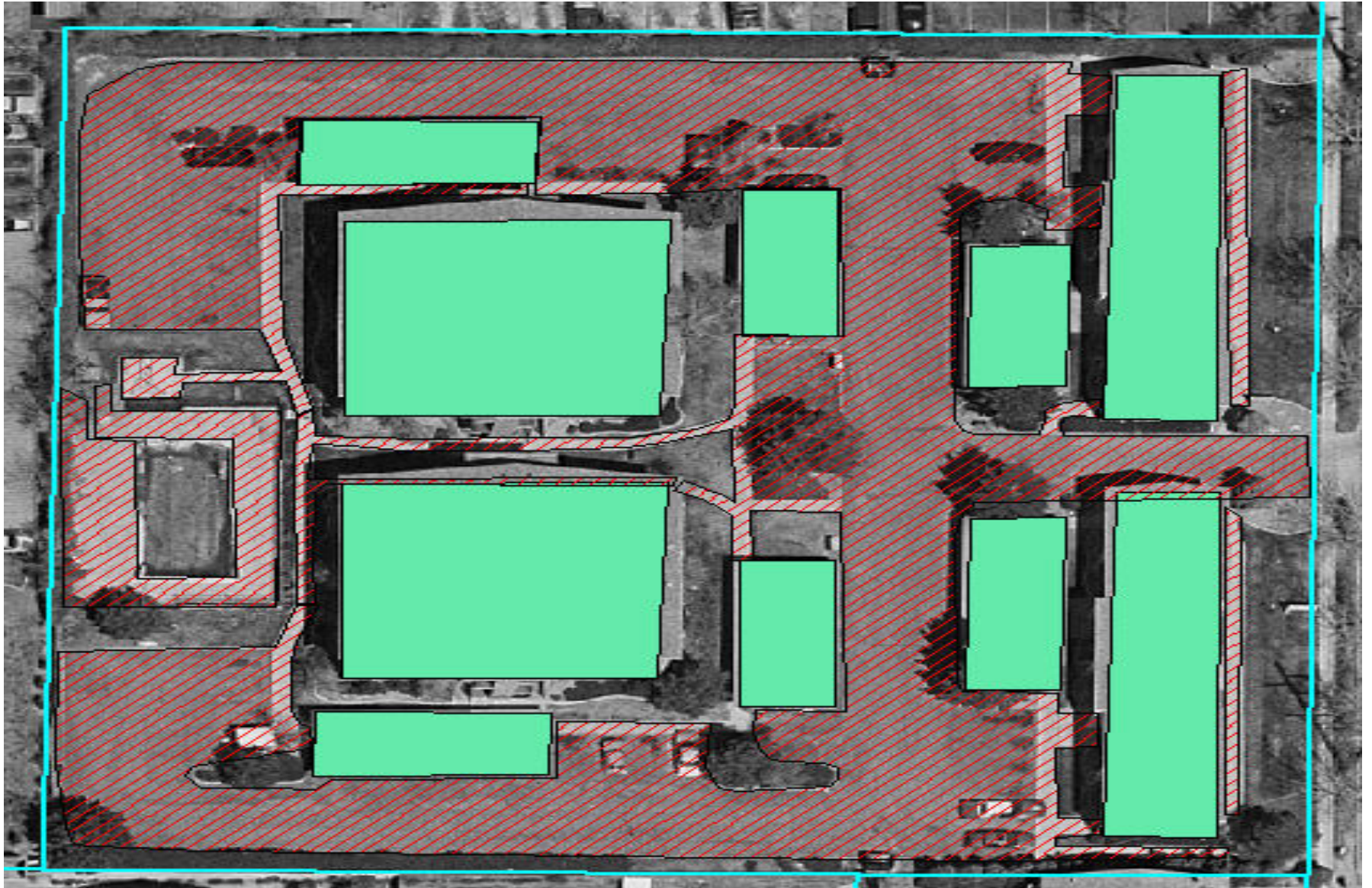
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- **Single Family Home**
 - Uniform Rate
 - Variations may include parcel size and tiers
 - Average amount of impervious surface becomes basis for “equivalent residential unit” (ERU)
- **Commercial/Industrial**
 - Measured impervious area for each

Parcel Boundary - Aerial Photo of Commercial Property

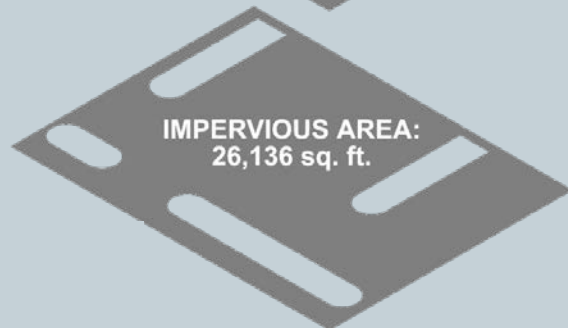


Aerial Photo with Impervious Surfaces Identified...Roofs and Paved Areas



Commercial/Industrial Property - Example

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$$\frac{26,136 \text{ sq. ft.}}{2,700 \text{ sq. ft./ERU}^*}$$

$$= 9.68 \text{ ERUs}$$

$$\text{Monthly Service Charge} = 9.68 \text{ ERUs} \times \$ \text{ RATE/ERU}$$

* *ERU = equivalent residential unit or the average amount of impervious surface on a single family home*

Next Steps

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- **March 7, 2016**
 - Legal Authority
 - Rate Structure Guidance
 - Public Process
- **Meeting #2**
 - Revenue Requirements
 - Rate Details
 - Program Development/Implementation Schedule
- **Meeting #3 - TBD**

Questions/Discussion

