Determination of Nonsignificance (DNS)

Project No.: PCODES-13-0001 – Critical Area Ordinance Technical Correction

Proposal: AN ORDINANCE REGARDING A TECHNICAL CORRECTION TO CRITICAL AREA REGULATIONS; AMENDING SECTION 9 OF ORDINANCE NO. 2-2014 AND SAN JUAN COUNTY CODE 18.30.150.

Applicant: San Juan County

Location: Unincorporated San Juan County

Responsible Official: Sam Gibboney, Director

Community Development & Planning

A determination of nonsignificance is issued for nonproject code amendments to San Juan County wetland regulations adopted March 5, 2014, in Ordinance No. 2-2014. That ordinance amended critical area regulations in response to the State of Washington’s Growth Management Hearings Board’s (Board) decision in Case No. 13-2-0012c. Following an initial compliance hearing, on June 27, 2014, the Board requested supplemental information regarding the application of the County’s critical area buffers. The County provided a written response on July 3, 2014. An additional compliance hearing was held on July 10, 2014. The primary point of confusion regarding the application of the wetland water quality and habitat buffers was the following provision in SJCC 18.30.150.D.1 Site-Specific Buffer Sizing Procedure:

When determining the required buffers for a wetland, the stricter (i.e., wider) applies except where otherwise noted.

A similar statement is found in SJCC 18.30.150.D.1.b (Step 2. Determine Habitat Buffer from Table 3.4.):

If the Water Quality Buffer required for the area draining to the wetland is wider than the Habitat Buffer, the stricter (i.e., wider) applies.

These sentences are remnants of the buffer sizing methodology the County adopted in Ordinance No. 28-2012 (Wetlands). They should have been deleted in Ordinance No. 2-1014 when the County altered the 2012 buffer methodology. The sentences are inconsistent with how the buffers are applied under the new method adopted in 2014. The critical area regulations apply both water quality and habitat buffers to protect wetlands when a project drains to a wetland. This method is consistent with implementation of SJCC 18.30.150.D Table 3.5 Structures, Uses and Activities Allowed in Wetlands and Wetland Buffers. In this table, the placement of certain structures, uses and activities uses is restricted within portions of either the wetland water quality or habitat buffers.

The amendments are proposed to eliminate internal inconsistencies in the code and ambiguity.
regarding the application of the critical area wetland buffers.

San Juan County, the lead agency for this nonproject proposal, has determined that the nonproject action will not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) will not be required under RCW 43.21C.030(2)(c). This determination was made after review of a completed environmental checklist and other information on file at the San Juan County Community Development and Planning Department and which is available upon request. San Juan County has determined that existing requirements for environmental analysis, protection, and mitigation are adequate and that additional mitigation measures under SEPA will not be required.

This determination is issued pursuant to WAC 197-11-340(2). San Juan County will not act on this proposal for at least 14 days from July 30, 2014, and mailing of this determination to agencies with jurisdiction. Comments must be submitted in writing to the Community Development and Planning Department by Wednesday, August 13, 2014. Following a final decision this determination may be appealed with the underlying action to Superior Court or State Boards as provided in RCW 36.70A, RCW 90.58, and RCW 36.70C. For appeals to Superior Court the appeal period in 21 days and for appeals to the Growth Management Hearing's Board the appeal period is 60 days.

Copies of the ordinance, SEPA Determination and associated documents are available from the San Juan County Community Development and Planning Department. For copies or more information contact Linda Kuller at (360) 370-7572 or lindak@sanjuanco.com.

Signature: ___________________________ Date: July 30, 2014