Memorandum

For: San Juan County Planning Commission
CC: Amy Vira, Prosecuting Attorney
From: Linda Kuller, AICP, Planner IV
Date: July 29, 2014
RE: August 15, 2014, Planning Commission briefing and public hearing
About: 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.

Background and Issue

San Juan County adopted amended critical area regulations on March 5, 2014, in response to the State of Washington’s Growth Management Hearings Board’s (Board) September 6, 2013 decision in Case No. 13-2-0012c. Following an initial compliance hearing on the 2014 regulations, the Board requested supplemental information and an additional compliance hearing regarding the application of the County’s critical area buffers.

The County submitted a written response to the Board on July 3, 2014 and a compliance hearing was held on July 10, 2014. The Board’s 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:

**SJCC 18.30.150.D.1 Site-Specific Buffer Sizing Procedure.** The following is a site-specific procedure for determining the size of vegetative buffers necessary to protect the water quality, water quantity, and habitat functions of wetlands. Two separate buffer components, a water quality component, and habitat component, are considered in the 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 two sentences are inconsistent with how the buffers are applied. The critical area regulations apply both water quality and habitat buffers to protect wetlands. This 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 is restricted within portions of either the water quality or habitat buffer. For instance, drainfields are permitted outside of the water quality buffer under certain conditions.

The inconsistent regulations are remnants of the buffer sizing methodology the County adopted in Ordinance No. 28-2012 (Wetlands). While seeking compliance with the Board’s decision in Case No. 13-2-0012c, the County altered the 2012 buffer methodology in Ordinance No. 2-2014.

Proposal

Delete the conflicting sentences to eliminate ambiguity regarding the application of the critical area wetland buffers.

State Environmental Policy Act and Commerce 60-day notice of intent to adopt regulations

An environmental checklist was prepared evaluating potential effects of the proposed amendments and a notice of Determination of Nonsignificance was issued and published on July 30, 2014, in the Journal of the San Juan Islands and The San Juan Islander. The notice was provided to federal, state and local agencies in accordance with San Juan County Code 18.80.050 and WAC 197-11-340.

Additional information regarding the Board’s concerns and the County’s explanation of the application of buffers is provided in attachments to this memo.

Legal Review

The Prosecuting Attorney reviewed the ordinance and their recommended changes were incorporated into the draft.

Recommendation

Staff recommends that the draft ordinance be transmitted to the County Council as proposed to complete the legislative code amendment process.

Attachments

- Draft Technical Correction Ordinance
- Board’s June 27, 2014 letter regarding Case No 13-2-0012c
- SJC’s July 3, 2014 Supplemental Response to the Board
- Determination of Nonsignificance issued July 30, 2014 and SEPA Environmental Checklist
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.

BACKGROUND

A. San Juan County adopted amended critical area regulations on March 5, 2014, in response to the
State of Washington’s Growth Management Hearings Board’s (Board) September 6, 2013 decision in
Case No. 13-2-0012c.

B. Following an initial compliance hearing, the Board requested supplemental information and an
additional compliance hearing regarding the application of the County’s critical area buffers. The
County submitted a written response on July 3, 2014 and a compliance hearing was held on July 10,
2014. The Board’s 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.

C. 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.

D. These two sentences are inconsistent with how the buffers are applied. The critical area regulations
apply both water quality and habitat buffers to protect wetlands. This 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 water quality or habitat buffer.

E. The inconsistent regulations are remnants of the buffer sizing methodology the County adopted in
Ordinance No. 28-2012 (Wetlands). While seeking compliance with the Board’s decision in Case
No. 13-2-0012c, the County altered the 2012 buffer methodology in Ordinance 2-2014. The sentences
addressed above are not consistent with the methodology adopted in 2014.

F. The proposed amendments delete the conflicting sentences and eliminate ambiguity regarding the
application of the critical area wetland buffers.

G. An environmental checklist was prepared evaluating potential effects of the proposed amendments
and a notice of Determination of Non-significance was issued and published on July 30, 2014, in the
Journal of the San Juan Islands and The San Juan Islander. The notice was provided to federal, state
and local agencies in accordance with San Juan County Code 18.80.050 and WAC 197-11-340.

H. As required by RCW 36.70A.106, a 60-day notice regarding the potential adoption of amendments to
the critical area regulations was provided to the Washington State Department of Commerce on July
24, 2014.

I. Efforts to involve the public included a:
I. Briefing at the July 17, 2014, County Council meeting (First Touch);
II. Planning Commission briefing and public hearing on August 15, 2014;
III. County Council briefing (2nd Touch) on __________, 2014; and
IV. County Council public hearing (3rd Touch) on __________, 2014.

J. The Planning Commission conducted a duly advertised public hearing on August 15, 2014. Notice of the hearing was published on July 30, 2014, in the Journal of the San Juan Islands and The San Juan Islander.

K. The County Council considered the Planning Commission’s recommendations at a public meeting on __________, 2014, conducted a public hearing and deliberated on __________, 2014. Notice of the public hearing was published ____________, 2014, in the Journal of the San Juan Islands and The San Juan Islander.

L. The County Council makes the following findings:

I. The proposed regulations are consistent with the goals and policies of the San Juan County Comprehensive Plan.

II. Clarification of the code will resolve internal inconsistencies in the wetland regulations and support efficient development of permit applications and processing.

III. The proposed amendments address compliance issues addressed in the Board’s June 27, 2014, request for clarifications regarding the proper application of buffer requirements.

NOW, THEREFORE BE IT ORDAINED by the County Council of San Juan County, State of Washington, as follows:

SECTION 1. SJCC 18.30.150 and Ord. 2-2014 § 9 are each amended to read as follows:

18.30.150 Wetlands.

A. Applicability. Unless exempted or allowed under SJCC 18.30.110, the provisions of this section apply to areas in or within 300 feet of wetlands as defined in SJCC 18.20.230. Many wetlands are depicted on various maps developed by the County and natural resource agencies. These maps are, however, only a guide and in all cases conditions in the field shall control. In order to protect their functions and values, development activities, removal of vegetation and other site modifications are limited or prohibited within wetlands and their buffers. Any use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the County’s development regulations to protect critical areas, shall be regulated consistent with RCW 36.70A.480(3)(c). Such uses or structures may continue as a conforming use and may be redeveloped or modified if the redevelopment or modification is consistent with SJCC Chapter 18.50 and either: (1) the proposed redevelopment or modification will result in no net loss of shoreline ecological functions; or (2) the redevelopment or modification is consistent with SJCC 18.30.110-160. If the applicant chooses to pursue option (1), the application materials for required project or development permits must include information sufficient to demonstrate no net loss of shoreline ecological functions. For purposes of this subsection, agricultural activity that does not expand the area being used for the agricultural activity is not a redevelopment or modification. For purposes of this paragraph "Agricultural activity" has the same meaning as defined in RCW 90.58.065.
In addition to County regulations, in some cases wetlands may be regulated under the federal Clean Water Act administered by the U.S. Army Corps of Engineers, or by the Washington State Water Pollution Control Act and/or Shoreline Management Act, administered by the Washington State Department of Ecology. Compliance with County regulations does not relieve the property owner of the responsibility to comply with state and federal requirements.

B. Wetland Rating. San Juan County wetlands are rated according to the *Washington State Wetland Rating System for Western Washington - Revised*, (Ecology Publication #04-06-025) as revised by Ecology. This rating system is designed to differentiate between wetlands based on their sensitivity to disturbance, rarity, irreplaceability, and the functions and values they provide. Wetland ratings must be determined by a qualified wetlands professional.

1. Applicability of rating system. Wetlands should be rated based on their condition at the time of permit application.

2. Wetland rating categories are:
   a. Category I. These wetlands are the “best of the best.” Category I wetlands represent a unique or rare wetland, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or provide a very high level of functions. These are wetlands that are:
      i. Relatively undisturbed estuarine wetlands larger than 1 acre;
      ii. Wetlands that are identified by scientists of the Washington Natural Heritage Program Washington State Department of Natural Resources as high quality wetlands;
      iii. Bogs;
      iv. Mature and old-growth forested wetlands larger than 1 acre;
      v. Wetlands in coastal lagoons; or
      vi. Wetlands that perform many functions well.
   b. Category II. These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands and need a relatively high level of protection. They include:
      i. Estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre;
      ii. Disturbed coastal lagoons;
      iii. Interdunal wetlands larger than 1 acre; or
      iv. Wetlands with a moderately high level of functions.
   c. Category III. Generally, wetlands in this category may have been disturbed in some way and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands. These wetlands provide important functions and values. They provide habitat for a variety of flora and fauna and occur more commonly throughout the County than either Category I or II wetlands. Category III wetlands are:
      i. Wetlands with a moderate level of functions; or
      ii. Interdunal wetlands between 0.1 and 1 acre in size.
   d. Category IV. These wetlands are smaller, isolated, and have less diverse vegetation than Category I, II, and III wetlands. Category IV wetlands have the lowest levels of functions and values and are often heavily disturbed.

C. Minimum Size Thresholds for Regulated Wetlands. To allow for the reasonable administration of these regulations, some wetlands are exempted from the requirements of this section based on their size and rating. Wetlands exceeding the following size thresholds are regulated under SJCC 18.30.150:

1. Category I wetlands: no exemption - all wetlands are regulated.
2. Category II and III wetlands: 1,000 square feet.
3. Category IV wetlands and wetland mosaics: 2,500 square feet.

D. Protection Standards. This subsection establishes protection standards for wetlands, including a site-specific procedure for sizing wetland buffers.

1. Site-Specific Buffer Sizing Procedure. The following is a site-specific procedure for determining the size of vegetative buffers necessary to protect the water quality, water quantity, and habitat functions of wetlands. Two separate buffer components, a water quality component, and habitat component, are considered in the procedure. When determining the required buffers for a wetland, the stricter (i.e., wider) applies except where otherwise noted.

Required buffers apply regardless of whether the wetland is on the same parcel or another parcel that may be under different ownership. If the wetland is under different ownership and is not accessible, then the wetland rating and boundaries are established using available maps and information, including a visual assessment if possible. The Water Quality Buffer is determined first based on the wetland rating category and land use intensity from Tables 3.3 and 3.3A provided in Step 4 below is then determined from Table 3.4. In all cases, conditions on the ground shall control.

a. Determine the Water Quality Buffer.

Step 1. Location relative to wetlands. Is the proposed development, vegetation removal or other site modification located within 300 feet of a wetland? If so, proceed to the next step. In some cases, to answer this question, it may be necessary to have the wetland edge facing the area that will be developed or modified delineated in accordance with subsection (E) of this section. In many cases, this can be based on a wetland reconnaissance rather than a full delineation. Although maps and other imagery can be used to help with this determination, conditions on the ground shall control. If the proposed development, vegetation removal, and other modifications are more than 300 feet from the wetland, no further action is needed for compliance with wetland critical area regulations. (Note: If proposed activities do not require development or project permits, and activities are consistent with the requirements outlined in Table 3.5 and subsections D.6 and D.7 of this section, it may not be necessary to identify the edge of the wetland and the size of the water quality buffer.)

Step 2. Drainage Direction. Does the area proposed to be developed or modified drain to the wetland? If the area proposed to be developed or modified drains to the wetland, delineate the wetland in accordance with subsection (E) of this section and proceed to determine the required Water Quality Buffer. If the area proposed to be developed or modified does not drain to the wetland, a Water Quality Buffer is not required and only a Habitat Buffer applies. Proceed to the Habitat Buffer sizing procedure in subsection (D.1.b) of this section.

Step 3. Wetland Rating Category. Determine the wetland rating category using the Washington State Wetland Rating System for Western Washington - Revised (Ecology Publication #04-06-025) as revised by Ecology. This will require the assistance of a qualified professional. (Note: If the wetland contains particular plants or animals protected as Fish and Wildlife Habitat Conservation Areas, a higher rating may apply. See SJCC 18.30.160.B and F).

Step 4. Identify the Water Quality Buffer Width. Using Tables 3.3 and 3.3A below, determine the water quality buffer based on the wetland rating category and land use intensity of the proposed development. Buffers are measured horizontally from the edge of the wetland.
The director may reduce the standard buffer widths in an Urban Growth Area when impacts to critical areas are mitigated according to SJCC 18.30.110(E) and the buffer reduction is consistent with all other applicable requirements of this section provided:

A. The buffer of a Category I or II wetland shall not be reduced to less than 75 percent of the required buffer or 50 feet, whichever is greater, and

B. The buffer of a Category III or IV wetland shall not be reduced to less than 50 percent of the required buffer, or 25 feet, whichever is greater.

<table>
<thead>
<tr>
<th>Wetland Rating</th>
<th>Land Use Intensity¹</th>
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</thead>
<tbody>
<tr>
<td>Category I Bogs and Natural Heritage Wetlands²</td>
<td>Low 125 feet</td>
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<td></td>
<td>Medium 190 feet</td>
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<td></td>
<td>High 250 feet</td>
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<td>Categories I and II</td>
<td>50 feet</td>
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<td></td>
<td>75 feet</td>
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<td></td>
<td>100 feet</td>
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<tr>
<td>Category III</td>
<td>40 feet</td>
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<td></td>
<td>60 feet</td>
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<td></td>
<td>80 feet</td>
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<tr>
<td>Category IV</td>
<td>25 feet</td>
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<td></td>
<td>40 feet</td>
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<td></td>
<td>50 feet</td>
</tr>
</tbody>
</table>

¹See Table 3.3A for a list of land uses that are considered low, medium, or high land use intensity.
²If the bog is located within another wetland category, the bog buffer only applies to the area immediately adjacent to the bog, and not to the surrounding wetland. Buffers are measured horizontally from the edge of the wetland.
³Buffers shall be increased by 50 percent on slopes greater than 30 percent.

Table 3.3A

<table>
<thead>
<tr>
<th>Land Use Intensity by Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use Intensity</td>
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<tr>
<td>-------------------</td>
</tr>
<tr>
<td>High</td>
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<td>Medium</td>
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<td>Low</td>
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</tbody>
</table>

b. Determine the Habitat Buffer.

**Step 1. Determine the Wetland Rating Category.**
Determine the wetland rating category using the *Washington State Wetland Rating System for Western Washington - Revised*, (Ecology Publication #04-06-025) as revised by Ecology (See SJCC 18.30.150.B.). This will require the assistance of a qualified professional. If the wetland contains particular plants or animals protected as Fish and Wildlife Habitat Conservation Areas, a higher rating may apply. See SJCC 18.30.160.B and F.

**Step 2. Determine Habitat Buffer from Table 3.4.**
Using the wetland rating category and the proposed land use intensity type from Table 3.3A, determine the required size of the 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. Unlike the Water Quality Buffer, the Habitat Buffer must completely surround the wetland. Buffers are measured horizontally from the edge of the wetland. Proceed to Step 3 if desired. (Note: If no trees are being removed, proposed activities do not require development or project permits, and activities are consistent with the requirements outlined in Table 3.5 and subsections D.6 and D.7 of this section, it may not be necessary to identify the edge of the wetland and the size of the habitat buffer.)

| Table 3.4 Habitat Buffers |
### Table 3.5

**Table 3.5: Structures, Uses and Activities Allowed in Wetlands and Wetland Buffers**

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Land Use with Low Impact</th>
<th>Land Use with Moderate Impact</th>
<th>Land Use with High Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>150 feet</td>
<td>225 feet</td>
<td>300 feet</td>
</tr>
<tr>
<td>II</td>
<td>150 feet</td>
<td>225 feet</td>
<td>300 feet</td>
</tr>
<tr>
<td>III</td>
<td>75 feet</td>
<td>110 feet</td>
<td>150 feet</td>
</tr>
<tr>
<td>IV</td>
<td>25 feet</td>
<td>40 feet</td>
<td>50 feet</td>
</tr>
</tbody>
</table>

1See Table 3.3A for types of land uses that can result in low, moderate, or high impacts to wetlands.

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**Step 3. Habitat Buffer Averaging.** Habitat Buffer averaging allows reduction of the required Habitat Buffer in specified locations on the property proposed for development, vegetation removal or other modification, in conjunction with increases of the buffer in other areas, so that the total area of the Habitat Buffer is unchanged. Averaging of the Habitat Buffer will be allowed only if the applicant demonstrates that all of the following criteria are met:

- (A) Averaging is necessary to accomplish the purposes of the proposal, and no reasonable alternative is available;
- (B) If the wetland contains variations in habitat sensitivity due to existing physical characteristics, the reduction from standard Habitat Buffer sizes will occur only contiguous to the area of the wetland determined to be least sensitive;
- (C) The total area contained within the Habitat Buffer after averaging is no less than that contained within the standard Habitat Buffer prior to averaging;
- (D) The Habitat Buffer shall not be reduced by more than 25 percent, and the reduced Habitat Buffer must not occur along more than one-half the circumference of the wetland; and
- (E) If a portion of the buffer is to be reduced, the remaining Habitat Buffer area will be enhanced using native vegetation and fencing where appropriate to improve the functional attributes of the buffer, and to provide additional protection for wetland functions and values. A proposal to enhance a buffer shall not be used as justification to reduce an otherwise functional standard Habitat Buffer, unless such buffer reduction complies with all other criteria for buffer averaging.

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**D.2. Buffers and Roads.** Buffers shall not extend across public roads. For private roads, buffers shall not extend across the road when the road design, flow of runoff, quantity of traffic, and/or gap in tree canopy result in an area that does not support the functions and values of the wetland being protected as determined by a qualified professional.

**D.3. Structures, Uses and Activities Allowed and Prohibited in Wetlands and Wetland Buffers.** Structures, uses and activities that are listed as "yes" uses in Table 3.85 below are allowed in wetlands or wetland buffers, subject to compliance with the San Juan County Code. State or federal requirements administered by the WA Department of Ecology, WA Dept. of Fish and Wildlife, WA Dept. of Natural Resources, or U.S. Army Corps of Engineers may also apply to these areas.
<table>
<thead>
<tr>
<th>Activity</th>
<th>Allowed Within Wetland</th>
<th>Allowed Within Wetland Buffers</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Outdoor activities that do not involve modifying the land or vegetation, and that will not adversely affect the functions and values of wetlands.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>b. The harvesting of wild plants and foods in conformance with applicable regulations and in a manner that is not injurious to the natural reproduction of wetland plants, provided the harvesting does not require tilling soil, planting, or changing existing topography, water conditions, or water sources except when allowed as an agricultural activity under (e) below.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>c. Removal of invasive plants; planting of native wetland plants; and vegetation management activities implemented as part of a habitat management plan developed or approved by a local, state, federal or tribal agency.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>d. Agricultural activities conducted in accordance with a voluntary stewardship program developed pursuant to RCW 36.70A.705, with the exception of the construction of agricultural structures which are subject to the same provisions as other structures.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>e. With the exception of the construction of agricultural structures, agricultural activities, including seasonal and recurrent activities existing or in development during the year prior to the effective date of these regulations, provided they do not result in additional adverse impacts to the functions and values of wetlands. This can include changing the type of farming, management practices, and crops within the existing geographic area already in use (such as in the rotational management of farmland) as long as the change does not result in additional adverse impacts to wetland functions and values. Agricultural structures are subject to the same provisions as other structures. (Note: See definition of “garden” in SJCC 18.20.070.)</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>f. Temporary development activities defined in SJCC 18.20.200 provided that reasonable efforts are made to avoid impacts to wetland functions and values and any adverse impacts are mitigated in accordance with SJCC 18.30.110(E).</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>g. Non-compensatory enhancement. Wetland restoration or enhancement activities not required as project mitigation, provided the activity is approved by the U.S. Fish and Wildlife Service, the Washington State Department of Ecology, Washington Department of Fish and Wildlife, or other responsible local, state, federal, or tribal jurisdiction.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>h. Within the buffers of wetlands rated Category III or IV, the establishment and expansion of orchards and gardens, cultivated and managed with appropriate BMPs and without the use of synthetic chemicals provided that:</td>
<td>NO</td>
<td>YES</td>
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<tr>
<td>i. They will occupy no more than 4,000 square feet of the buffer;</td>
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<td>ii. They are installed within the outer 25% of the buffer;</td>
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<td>iii. Other than fences, no structures or impervious surfaces are constructed or created and fences will not impede the flow of water or prevent the movement of wetland animals;</td>
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<td>iv. A buffer of at least 30 feet is retained;</td>
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<td>v. Mowing does not occur in the habitat portion of the buffer until after July 15; and</td>
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</tbody>
</table>
## Structures, Uses and Activities Allowed in Wetlands and Wetland Buffers

<table>
<thead>
<tr>
<th>Activity</th>
<th>Allowed Within Wetland</th>
<th>Allowed Within Wetland Buffers</th>
</tr>
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<tbody>
<tr>
<td>vi. Trees are protected in accordance with this section.</td>
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<tr>
<td>i. Construction of new ponds in or adjacent to Category IV wetland, as part of a wetland mitigation or non-compensatory enhancement project approved by the County or other responsible state, federal, or tribal jurisdiction. (Note: Construction of new ponds is not allowed in or adjacent to Category I, II, and III wetlands.)</td>
<td>YES</td>
<td>YES</td>
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<tr>
<td>j. The construction of trails, stairs, or raised walkways provided that the improvement:</td>
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<tr>
<td>i. Is designed to direct sheet flow runoff into adjacent vegetation;</td>
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<td>ii. Prevents adverse impacts to the wetland from runoff and eroding soil;</td>
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<td>iii. Does not exceed five feet in width;</td>
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<td>iv. Is constructed of non-toxic materials;</td>
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<td>v. Does not totally circumnavigate the wetland perimeter;</td>
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<tr>
<td>vi. Does not include the placement of fill; and</td>
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<tr>
<td>vii. Is consistent with the applicable requirements of subsection E.6 of this section.</td>
<td></td>
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</tr>
<tr>
<td>k. Temporary wildlife watching blinds.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>l. Drilling and digging of wells provided they are located within the outer 25% of the buffer, that there are no anticipated adverse impacts to adjoining wetlands, that measures are taken to avoid compaction of soils during drilling and development of the well, and that disturbed areas are immediately stabilized and replanted with the type of vegetation found in the buffer.</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>m. Limited tree removal to allow for a filtered view from the primary structure, provided:</td>
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<tr>
<td>i. Stumps are retained and disturbance of the soil and duff layer is minimized;</td>
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</tr>
<tr>
<td>ii. The remaining forest consists of trees that are multi-aged and well distributed across the buffer and the canopy cover for the remaining forest is at least 65%, except directly between the primary structure and the wetland, where the canopy cover may be reduced to not less than 50%; and</td>
<td></td>
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<tr>
<td>iii. All vegetation overhanging streams, ponds, lakes, wetlands, and marine waters is retained; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>iv. Trees ≥ 12 inches dbh are retained.</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>n. Temporary development activities defined in SJCC 18.20.200 provided that reasonable efforts are made to avoid impacts to wetland functions and values and any adverse impacts are mitigated in accordance with SJCC 18.30.110(E).</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>o. To allow for a view or for fire hazard reduction, minor trimming and pruning of the foliage of trees and shrubs, provided the health of the trees and shrubs is maintained, trees are not topped, and all vegetation overhanging streams, ponds, lakes, wetlands, and marine waters is retained. In no case shall more than 20% of the foliage of individual trees or shrubs be removed during a 12 month period.</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>p. Components of stormwater management facilities in conformance with local and State stormwater management requirements and any applicable tree protection requirements, provided that reasonable efforts are made to avoid impacts to wetland</td>
<td>NO</td>
<td>YES</td>
</tr>
</tbody>
</table>
## Structures, Uses and Activities Allowed in Wetlands and Wetland Buffers

<table>
<thead>
<tr>
<th>Activity</th>
<th>Allowed Within Wetland</th>
<th>Allowed Within Wetland Buffers</th>
</tr>
</thead>
<tbody>
<tr>
<td>functions and values and any adverse impacts are mitigated in accordance with SJCC 18.30.110(E).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>q. Fences, provided they do not impede the flow of water or prevent the movement of wetland animals.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>r. Road and trail crossings in conformance with subsection E.6 of this section.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>s. Development allowed pursuant to an exemption, a reasonable use exception, or provisions for non-conforming structures, uses and activities outlined in SJCC 18.30.110.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>t. Maintenance to support or improve the functions and values of wetlands.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>u. The following on-site sewage disposal system components:</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>i. Water-tight septic tanks and pump chambers;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ii. Sleeved and water-tight sewer lines; and</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>iii. Drainfields(^2). These components are allowed when they conform with local and State requirements, reasonable efforts are made to avoid impacts to wetland functions and values, and:</td>
<td>NO</td>
<td>YES, outside of the water quality buffer</td>
</tr>
<tr>
<td>(A) Appropriate BMPs are used to minimize erosion, sedimentation and soil disturbance;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(B) For new systems, limited tree removal is allowed in habitat buffers, provided:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) Stumps are retained and disturbance of the soil and duff layer is minimized;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) The remaining forest consists of trees that are multi-aged and well distributed across the buffer and the canopy cover for the remaining forest is at least 65%;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) All vegetation overhanging streams, ponds, lakes, wetlands, and marine waters is retained; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(4) Trees ≥ 12 inches dbh are retained; and (C) Any adverse impacts to critical areas or their buffers are mitigated in accordance with SJCC 18.30.110(E).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>v. Other uses that will not adversely impact wetland functions and values, considering the Best Available Science.</td>
<td>P/C(^1)</td>
<td>P/C(^1)</td>
</tr>
</tbody>
</table>

\(^1\)"P/C" means Provisional or Conditional Use Permit depending on the level of impacts (see SJCC 18.80.09C).

\(^2\) Drainfields shall not be located within 300 feet of a Natural Heritage Wetland.

### D.4. Field Marking of Wetland and Wetland Buffer

Prior to building permit approval, the location of the outer extent of the wetland and any wetland buffer adjacent to the area that will be developed shall be marked in the field, and the Director may require field approval prior to the commencement...
of permitted activities. Markings for wetlands and buffers shall be maintained throughout the duration of construction activities.

D.5. For recorded plats, short plats and binding site plans the applicant shall show the boundary of required buffers on the face of the plat or plan.

D.6. Road and Trail Crossings. The construction of new or expanded roads, driveways, trails, and associated culverts and bridges across wetlands and their buffers is allowed, provided they are in conformance with SJCC 18.60.080 - 100 and the following. Road and driveway crossings may also be approved through the reasonable use exception process outlined in SJCC 18.30.110.

a. New roads and driveways may only be constructed across wetlands and their buffers if reasonable efforts are made to avoid and minimize impacts to wetland functions and values.

b. When practicable, new roads, driveways, trails and walkways must be located on existing road grades, utility corridors, or previously disturbed areas.

c. When required, permits and approvals must be obtained from appropriate state and federal agencies, including but not limited to: Washington Department of Fish and Wildlife; Washington State Department of Ecology; Washington State Department of Natural Resources; U.S. Army Corps of Engineers; U.S. Coast Guard; NOAA Fisheries Service; and U.S. Fish and Wildlife Service.

d. Roads must cross wetlands and their buffers at, or as close as possible to, a ninety degree angle.

e. Crossings must not interfere with the flow and circulation of water or other wetland processes. The location and design of the road or driveway crossing must be evaluated by a qualified wetland professional or other qualified professional, to ensure that wetland processes will not be adversely affected.

f. Construction must occur during any work windows and time limits established by the state or federal agencies with jurisdiction.

g. All crossings must be designed to accommodate 100-year flood flows.

h. Whenever practicable, crossings must serve multiple properties.

i. When expanding existing crossings that do not meet these standards, the crossing must be upgraded as necessary to reduce wetland impacts and meet the requirements of this subsection (D.6). For purposes of this section, an expansion is an increase in the footprint of crossing structures and associated roads or trails.

j. Roads and driveways must be crowned, in-sloped, or out-sloped to sheet flow runoff from the road surface and into vegetated areas such as grass-lined ditches or drainageways.

k. Where roads and trails cross wetlands, adverse impacts must be mitigated in accordance with SJCC 18.30.110.

D.7. Lighting. Exterior lighting fixtures must be shielded and the light must be directed downward and away from wetlands, their buffers, and the habitat of any species listed as endangered, threatened, sensitive, or a San Juan County species of special importance.

D.8. Final Inspections and Financial Guarantees. Unless exempt under SJCC 18.30.110, all development activities, vegetation removal and other site modifications requiring a project permit or a development permit, must have a final inspection to verify compliance with approved plans and the requirements of this section. The property owner shall notify the Department when the work is complete and ready for inspection. For permitted projects that are not complete at the time that any associated building construction is completed, or for those that do not occur in conjunction with a permitted structure, the Director may require a financial guarantee and associated agreement in conformance with SJCC chapter 18.80.
E. Determination of Wetland Boundary and Requirements for Wetland Reports.

1. The purpose of wetland boundary delineations and wetland reports is to provide the information necessary to determine compliance with the wetland protection requirements of the County Code, and to help maintain protected areas over time.

2. The delineation of wetland boundaries, and except as noted, the preparation of wetland reports, must be performed by a qualified wetlands professional.

3. If a wetland is under different ownership and is not accessible by the applicant, the wetland boundaries and information for the report will be obtained from available maps and information, including a visual assessment if possible.

4. The necessary scope of wetland delineations and reports ranges from a wetland reconnaissance that simply confirms the presence or absence of a wetland, determines the wetland type, rating, and approximate size, and identifies the edge of the wetland in a limited area, to a delineation of the entire wetland with a detailed report describing its functions and values.

5. A wetland report and boundary delineation, with an appropriate scope and scale to determine compliance with the County Code, must be provided with applications for project and development permits located within 300 feet of wetlands.


7. If the applicant wishes to have a delineation entered into the County’s Geographic Information System (GIS) for future wetland mapping, a copy of the delineation must be submitted to the County in a compatible electronic format.

8. Wetland reports – minimum requirements. Following are required components of wetland reports that are necessary to determine compliance with the wetland protection requirements of the County Code. Requirement 8.a.i., 8.b., 8.c. and 8.e. must be provided by a qualified wetlands professional. Other materials may be added by the property owner, contractor or other professional.

   a. Map. A map at a scale and level of accuracy that is appropriate for the site and the project, showing:

      i. Location of the wetland. If a full delineation is not completed, the map must indicate where the wetland boundaries were delineated, and where they were estimated.

      ii. Location of the required habitat buffer.

      iii. Location of the water quality buffer if known.

      iv. Existing and proposed development features including structures, roads, utilities, stormwater and sewage systems, areas to be graded, and areas to be converted to lawns and gardens.

   b. A narrative describing the vegetation communities on site, classified in accordance with the U.S. Fish and Wildlife Service Classification of Wetland and Deepwater Habitats of the United States (1979).

   c. Wetland rating category based on the Washington State Wetland Rating System for Western Washington - Revised, (Ecology Publication #04-06-025) as revised by Ecology, and a narrative explaining the basis for the determination of wetland rating category.

   d. If the wetland contains particular plants or animals protected as Fish and Wildlife Habitat Conservation Areas, a higher rating may apply. See SJCC 18.30.160 B and F.

   e. Expiration date of wetland report. Wetland reports are valid for a period of five (5) years.
9. Wetland reports – other elements that may be necessary to determine compliance with the wetland protection requirements of the County Code. These items must be provided by a qualified wetlands professional.
   a. Hydrologic conditions including inflow/outflow, sources of water within the system, and seasonal changes in hydrology.
   b. Detailed description of wetland functions and values.
   c. Mitigation plan meeting the requirements of SJCC 18.30.110.
   d. Other.

SECTION 2. **Severability:** If any provision of this ordinance or its application to any person is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected. Remaining sections of the ordinance shall be interpreted to give effect to the spirit of the ordinance prior to removal of the portions declared invalid.

SECTION 3. **Savings Clause:** This ordinance shall not affect any pending suit or proceeding; or any rights acquired; or liability or obligation incurred under the sections amended or repealed; nor shall it affect any proceeding instituted under those sections. All rights and obligations existing prior to adoption of this ordinance shall continue in full force and effect.

SECTION 4. **Effective Date:** This ordinance shall take effect ten working days after the date of adoption.

SECTION 5. **Codification:** Section 1 shall be codified.

ADOPTED this _____ day of _____________ 2014.

COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON

______________________________
Rick Hughes, Chair
District 2

ATTEST: Clerk of the Council

______________________________
Ingrid Gabriel, Clerk
Date: __________

______________________________
Bob Jarman, Vice Chair
 District 1

______________________________
Jamie Stephens, Member
District 3

REVIEWED BY COUNTY MANAGER

______________________________
Mike Thomas
Date: __________

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

By: ______________________

Date: _______
By e-mail and regular mail

Kyle A. Loring
Friends of San Juans
PO Box 1344
Friday Harbor, WA 98250

Alexander W. Mackie
Perkins Cole LLP
1201 Third Avenue, Suite 4900
Seattle WA 98101

William H. Wright
3209 Pear Point Rd
Friday Harbor, WA 98250

John B. Evans
Executive Director
San Juan Builders Association
PO Box 91
Olga, WA 98279

Amy S. Vira
San Juan County Prosecuting Attorney
350 Court Street
PO Box 760
Friday Harbor WA 98250

Re: Friends of the San Juans, et al. v. San Juan County, GMHB Case No. 13-2-0012c

Dear Parties:

An additional compliance hearing in the above referenced matter has been set for July 10, 2014, at 10:15 a.m. The hearing will be held in the City of Anacortes Library Meeting Room at 1220 10th Street, Anacortes, WA 98221.

The Board is interested solely in additional explanation and discussion of the County’s buffer calculation methodology and the application of those buffers once widths are determined. There will be no further argument/questions on other issues.

The Board proposes that the County provide a written explanation of the methods for determining/applying both wetland and FWHCA buffers. It would be helpful if diagrams were provided for illustrative purposes. The written explanation and diagrams should be provided to the Board and other parties by July 3, 2014, if at all possible. The Board wishes to insure the other parties have adequate time to consider and respond to the County’s submittals. Consequently, in addition to the opportunity to respond at the July 10, 2014, Compliance Hearing, the other parties may submit further written responses until July 25, 2014.
Set out below is the Board's current understanding of the buffer calculations applicable to wetlands. Is that understanding accurate? If not, please explain. Specific questions are also included.

SJCC 18.30.150. A (Ordinance 2-2014, pg. 35) provides that buffer calculations apply if the development activity, vegetation removal or site modification is within 300 feet of a wetland.

SJCC 18.30.150.D.1 (Ordinance 2-2014, pg. 40, line 12) adds:

Two separate buffer components, a water quality component, and habitat component are considered in the procedure. When determining the required buffers for a wetland, the stricter (i.e., wider) applies except where otherwise noted. . . . The Water Quality Buffer is determined first based on the wetland rating category and land use intensity from Tables 3.3 and 3.3A provided in Step 4 below.... The Habitat Buffer is then determined from Table 3.4.

**Question:** In what situations does the clause “except where otherwise noted” apply?

Drainage direction is also taken into account (Ordinance 2-2014, pg. 40, Step 2):

If the area proposed to be developed or modified drains to the wetland, delineate the wetland in accordance with subsection (E) of this section, and proceed to determine the required Water Quality Buffer. If the area proposed to be developed or modified does not drain to the wetland, a Water Quality Buffer is not required and only a Habitat Buffer applies.

Step 3, pg. 41 requires a determination of the wetland rating. Ratings include Category I Bogs and Natural Heritage Wetlands, and Categories I-IV from the DOE Rating System. Step 3 also includes a notification that wetlands containing certain protected plants or animals may raise the wetland rating.

Step 4 then applies Tables 3.3 and 3.3A to determine the width of the Water Quality Buffer.

**Scenario and Questions**

Scenario: If one assumes the proposed development is of a medium Land Use Intensity (using Table 3.3A, pg. 42) and that its location drains to a Category III wetland, it appears that applying those facts to Table 3.3 (pg. 41) produces a 60 foot Water Quality Buffer.

The next step is to determine the Habitat Buffer (pgs. 46, 47). Table 3.4 apparently establishes a 110 foot Habitat Buffer.
SJCC 18.30.150.D.1 (Ordinance 2-2014, pg. 40) provides that “the stricter [of the water quality or habitat buffer] (i.e., wider) applies except where otherwise noted. . . .”

In this instance, the wider of the two buffers is the 110 foot habitat buffer.

**Question:** Is there a water quality buffer in this situation or not?

**Question:** Ordinance 2-2014 includes at pg. 47, line 5 that “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.” In what situations would the Water Quality Buffer exceed the width of the Habitat Buffer?

**Question:** If there are no scenarios in which the Water Quality Buffer is the wider of the two, what is the purpose of a Water Quality Buffer?

An agenda for the hearing will be issued closer to the hearing date.

Sincerely,

[Signature]

William Roehl
Board Member
BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

FRIENDS OF THE SAN JUANS, ET AL,

Petitioners,

v.

SAN JUAN COUNTY,

Respondent.

No. 13-2-0012c

SAN JUAN COUNTY’S SUPPLEMENTAL COMPLIANCE RESPONSE

I. INTRODUCTION

On June 27, 2014, the Growth Management Hearings Board requested that San Juan County ("the County") provide a written explanation of the methods for determining/applying both wetland and FWHCA buffers. Below is the County’s explanation followed by confirmation regarding the Board’s understanding of buffer calculations and responses to the Board’s specific questions.

II. EXPLANATION OF BUFFERS

The County’s critical area regulations provide for buffers for wetland and fish and wildlife habitat conservation areas (FWHCAs).

Wetlands have both a water quality and a habitat buffer if the proposal will drain to the wetland. If the proposal will not drain to the wetland, only a habitat buffer is required. The water quality buffer is found by first identifying the land use intensity of the proposal using Table 3.3A (Ordinance 2-2014, pg. 42). The land use intensity and wetland rating category are used on Table 3.3 (pg. 41) to determine the wetland water quality buffer. Uses within the water quality buffer are
regulated in Table 3.5 (pgs. 48-52). Wetland habitat buffers are determined using Table 3.4 (pg. 47). Uses within the habitat buffer are regulated in Table 3.5 (pgs. 48-52).

Aquatic FWHCAs have a water quality buffer with regulated uses as shown in Table 3.8 (pgs. 62-65) and tree protection zones. Once the land use intensity for the proposal has been identified using Table 3.3A, Aquatic FWHCAs water quality buffers are determined using Table 3.6 (pg. 60). For areas with trees in the review area, Table 3.7 (pg. 60) is used to determine the tree protection zones.

Finally, the presence of specific animals or plants may increase the water quality and habitat buffers for wetlands or aquatic FWHCAs. (Pg. 77, Ins. 5-9, and Table 3.9, pg. 72). Individual animals not associated with a wetland or aquatic FWHCA may have additional restrictions as shown on Table 3.9 (pg. 72-77).

Examples of both wetland and Aquatic FWHCA buffers are attached as "Scenarios 1 and 2".

III. RESPONSES TO THE BOARD’S QUESTIONS

Set out below is the Board’s current understanding of the buffer calculations applicable to wetlands. Is that understanding accurate? If not, please explain.

SJCC 18.30.150. A (Ordinance 2-2014, pg. 35) provides that buffer calculations apply if the development activity, vegetation removal or site modification is within 300 feet of a wetland.

COUNTY RESPONSE: This is correct.

SJCC 18.30.150.D.1 (Ordinance 2-2014, pg. 40, line 12) adds:

Two separate buffer components, a water quality component, and habitat component are considered in the procedure. When determining the required buffers for a wetland, the stricter (i.e., wider) applies except where otherwise noted... The Water Quality Buffer is determined first based on the wetland rating category and land use intensity from Tables 3.3 and 3.3A provided in Step 4 below.... The Habitat Buffer is then determined from Table 3.4.

COUNTY RESPONSE: This is correct.
Question: In what situations does the clause "except where otherwise noted" apply?

**COUNTY RESPONSE:** The sentence: “When determining the required buffers for a wetland, the stricter (i.e., wider) applies except where otherwise noted” (page 40, lines 12-14) was part of the County’s previous buffer system that was replaced in Ordinance 2-2014 with the adoption of new buffer widths consistent with the Department of Ecology’s Wetlands in Washington State Volume 2. It was intended that this sentence be deleted when the new buffer system was adopted. It appears to have been overlooked. The County is taking steps to remedy this error.

*Drainage direction is also taken into account (Ordinance 2-2014, pg. 40, Step 2): If the area proposed to be developed or modified drains to the wetland, delineate the wetland in accordance with subsection (E) of this section, and proceed to determine the required Water Quality Buffer. If the area proposed to be developed or modified does not drain to the wetland, a Water Quality Buffer is not required and only a Habitat Buffer applies.*

**Step 3, pg. 41 requires a determination of the wetland rating. Ratings include Category I Bogs and Natural Heritage Wetlands, and Categories I-IV from the DOE Rating System. Step 3 also includes a notification that wetlands containing certain protected plants or animals may raise the wetland rating.**

**Step 4 then applies Tables 3.3 and 3.3A to determine the width of the Water Quality Buffer.**

**Scenario and Questions**

**Scenario:** If one assumes the proposed development is of a medium Land Use Intensity (using Table 3.3A, pg. 42) and that its location drains to a Category III wetland, it appears that applying those facts to Table 3.3 (pg. 41) produces a 60 foot Water Quality Buffer.

**COUNTY RESPONSE:** This is correct.

*The next step is to determine the Habitat Buffer (pgs. 46, 47). Table 3.4 apparently establishes a 110 foot Habitat Buffer.*

**COUNTY RESPONSE:** This is correct.

**SJCC 18.30.150.0.1 (Ordinance 2-2014, pg. 40) provides that "the stricter [of the water quality or habitat buffer] (i.e., wider) applies except where otherwise noted..."**
In this instance, the wider of the two buffers is the 110 foot habitat buffer.

COUNTY RESPONSE: That is correct. See below.

Question: Is there a water quality buffer in this situation or not?

COUNTY RESPONSE: Yes, as explained above, wetlands have both a water quality and a habitat buffer. Each has a separate purpose and separate use restrictions.

Question: Ordinance 2-2014 includes at pg. 47, line 5 that "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." In what situations would the Water Quality Buffer exceed the width of the Habitat Buffer?

COUNTY RESPONSE: Regardless of which buffer is wider, each buffer has different purposes and different restrictions apply to each.

Question: If there are no scenarios in which the Water Quality Buffer is the wider of the two, what is the purpose of a Water Quality Buffer?

COUNTY RESPONSE: The sentence stating that the wider buffer controls is an error.

Each buffer has different purposes and different restrictions apply to each. Each buffer applies. See above.

RANDALL K. GAYLORD
PROSECUTING ATTORNEY

Date: July 3, 2014
Friday Harbor, Washington

By: Amy S. Vira, WSBA #34197
Deputy Prosecuting Attorney
Scenario 1: Regulated Category III Wetland
- Single family home on 5 acres → Table 3.3A Medium Land Use Intensity
- Proposed development area drains to the wetland
- Slope of 7%
- Western Toad habitat identified 50 feet from wetland, and
- Water Lobelia identified in wetland

Water Quality Buffer: Table 3.3 (pg. 41) = 60 ft.
*Western Toad: Table 3.9 (pg. 72) → Table 3.3 (pg. 41) buffer based on Category I Wetland rating = 75 ft.
**Water Lobelia: Table 3.10 (pg. 78) = 75 ft.

Habitat Buffer: Table 3.4 (pg. 47) = 110 ft.
*Western Toad: Table 3.9 (pg. 72) → Table 3.4 (pg. 47) buffer based on Category I Wetland rating = 225 ft.
**Water Lobelia: (pg. 77) based on Category I Wetland rating = 225 ft.
Scenario 2: Aquatic FWHCA Buffers
- Single family home on 5 acres → Table 3.3A Medium Land Use Intensity
- With Type F Stream, and
- Great Blue Heron Nesting Colony

**Water Quality Buffer**: Table 3.6 (pg. 60) = 75 ft.

**Tree Protection Zone**: Table 3.7 (pg. 60) = 110 ft.

*Great Blue Heron Colony*: Table 3.9 (pg. 73) = 200 ft. buffer around colony
July 24, 2014

To: The Journal and the Sounder
Re: Please publish once on July 30, 2014 in both papers.

Notice of Planning Commission Public Hearing and Determination of Nonsignificance on 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.

Notice is hereby given that the San Juan County Planning Commission will conduct a public hearing on a technical correction to Section 9 of Ordinance No. 2-2014 and SJCC 18.30.150. Two sentences that are inconsistent with how wetland buffers are applied are proposed to be deleted from the wetland regulations. The critical area regulations apply both water quality and habitat buffers to protect wetlands. The sentences are found in:

SJCC 18.30.150.D.1: When determining the required buffers for a wetland, the stricter (i.e., wider) applies except where otherwise noted, and
SJCC 18.30.150.D.1.b: 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.

The hearing will begin at or after 8:45, August 15, 2014, in the County Council Chambers, 55 Second Street, Friday Harbor. Interested parties are encouraged to attend and provide comment. To allow for distribution to Planning Commissioners, written comments submitted prior to the hearing should be received by 1:00 p.m. August 13, 2014.

State Environmental Policy Act (SEPA) Review. An Environmental Checklist for the proposed code amendments was prepared. It was determined that adoption of the proposed amendments will not have a significant adverse impact on the environment, and an environmental impact statement is not required under RCW 43.21C.030(2)(c). Under WAC 197-11-340(2), a Determination of Nonsignificance was issued on July 30, 2014. Comments on this determination must be submitted by August 13, 2014. Following a final decision this determination may be appealed with the underlying action to the Growth Management Hearings Board as provided in RCW 36.70A.290. The appeal period is 60 days from publication of the notice of ordinance adoption.

Copies of the proposed amendments, SEPA checklist, SEPA Determination & associated documents are available from the County web site at http://www.sanjuanco.com/cdp/default.aspx?dept=CDP&listname=PlanningCommAgendas. For more information or to submit comments contact Linda Kuller AICP, San Juan County CD&P, PO Box 947, Friday Harbor, WA, 98250, (360) 370-7573, LindaK@sanjuanco.com
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: Sam Gibboney, Director

Official: 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
Purpose of checklist:
Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants:
This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for Lead Agencies:
Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals:
For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements—that do not contribute meaningfully to the analysis of the proposal.
A. background

1. Name of proposed project, if applicable:

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.

2. Name of applicant: San Juan County

3. Address and phone number of applicant and contact person:

   Linda Kuller, AICP, Planner IV, PO Box 947 Friday Harbor, 98250

4. Date checklist prepared: July 22, 2014

5. Agency requesting checklist: San Juan County


7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

   Depending on the outcome of Growth Management Hearings Board Case No. 13-2-0012c, additional critical area amendments may be required in the future.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

   For Ordinance No. 2-2014, an environmental checklist and a Determination of Non-significance was issued on October 15, 2013. Notice was published on October 23, 2013, in the Journal of the San Juan Islands and The San Juan Islander and provided to federal, state and local agencies in accordance with San Juan County Code 18.80.050 and WAC 197-11-340.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

   The technical correction amendments would clarify the critical area regulations and eliminate ambiguous provisions that are confusing for current permit applicants.

10. List any government approvals or permits that will be needed for your proposal, if known. Adoption by the County Council.
11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

This is a nonproject action that will not result in any new development. The proposed amendments involve technical corrections to Ordinance No. 2-2014.

**Background:**

Following an initial compliance hearing, the Board requested supplemental information and an additional compliance hearing regarding the application of the County’s critical area buffers. The County submitted a written response on July 3, 2014 and a compliance hearing was held on July 10, 2014. The Board’s 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.

**Ordinance No. 2-2014: page 40, lines 12-14**

**SJCC 18.30.150.D.1 Site-Specific Buffer Sizing Procedure.** The following is a site-specific procedure for determining the size of vegetative buffers and Tree Protection Zones necessary to protect the water quality, water quantity, and habitat functions of wetlands. Two separate buffer components, a water quality component, and habitat component, are considered in the procedure, and for some types of wetlands there is also a Tree Protection Zone. When determining the required buffers and Tree Protection Zone for a wetland, the stricter (i.e., wider) applies except where otherwise noted.

A similar statement in SJCC 18.30.150.D.1.b (Step 2. Determine Habitat Buffer from Table 3.4.) is also inconsistent with the application of the buffers:

> 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 should have been deleted in Ordinance No. 2-2014 because they are inconsistent with how the buffers are applied. Since different uses are permitted in each type of buffer, the critical area regulations apply both wetland water quality and habitat buffers when the project drains to a wetland.

On July 10, 2014, the County informed the Growth Board that they would take steps to remedy errors and avoid further ambiguity and confusion.
12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The proposal applies to the unincorporated county.

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site
(circle one): Flat, rolling, hilly, steep slopes, mountainous, other _____________ N/A

b. What is the steepest slope on the site (approximate percent slope)? N/A

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils. N/A

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. N/A

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill. N/A

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. N/A

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? N/A

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any: N/A

2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known. N/A
b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. N/A

c. Proposed measures to reduce or control emissions or other impacts to air, if any: N/A

3. Water
a. Surface Water: N/A

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. The Salish Sea at both northern and southern ends of the isthmus.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. N/A

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material. N/A

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. N/A

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. There are some flood plain areas on both north and south shorelines.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge. N/A

b. Ground Water:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known. N/A

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve. N/A

c. Water runoff (including stormwater):
1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe. N/A

2) Could waste materials enter ground or surface waters? If so, generally describe. N/A

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

4. Plants N/A

a. Check the types of vegetation found on the site: N/A

   _____ deciduous tree: alder, maple, aspen, other
   _____ evergreen tree: fir, cedar, pine, other
   _____ shrubs
   _____ grass
   _____ pasture
   _____ crop or grain
   _____ Orchards, vineyards or other permanent crops.
   _____ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
   _____ water plants: water lily, eelgrass, milfoil, other
   _____ other types of vegetation

b. What kind and amount of vegetation will be removed or altered? N/A

c. List threatened and endangered species known to be on or near the site. N/A

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any: N/A

e. List all noxious weeds and invasive species known to be on or near the site. N/A

5. Animals

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. Examples include: N/A

   birds: hawk, heron, eagle, songbirds, other:
   mammals: deer, bear, elk, beaver, other:
   fish: bass, salmon, trout, herring, shellfish, other

b. List any threatened and endangered species known to be on or near the site. N/A

c. Is the site part of a migration route? If so, explain. N/A

d. Proposed measures to preserve or enhance wildlife, if any: N/A
e. List any invasive animal species known to be on or near the site. N/A

6. Energy and natural resources
   a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc. N/A
   b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. N/A
   c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any: N/A

7. Environmental health
   a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe. N/A
      1) Describe any known or possible contamination at the site from present or past uses. N/A
      2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity. N/A
      3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project. N/A
      4) Describe special emergency services that might be required. N/A
      5) Proposed measures to reduce or control environmental health hazards, if any: N/A

   b. Noise
      1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)? N/A
      2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site. N/A
3) Proposed measures to reduce or control noise impacts, if any: N/A

8. Land and shoreline use

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

The proposal applies to all unincorporated properties with wetlands

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use? N/A

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how: N/A

c. Describe any structures on the site. N/A

d. Will any structures be demolished? If so, what? N/A

e. What is the current zoning classification of the site? N/A

f. What is the current comprehensive plan designation of the site? N/A

g. If applicable, what is the current shoreline master program designation of the site? N/A

h. Has any part of the site been classified as a critical area by the city or county? N/A

i. Approximately how many people would reside or work in the completed project? N/A

j. Approximately how many people would the completed project displace? None

k. Proposed measures to avoid or reduce displacement impacts, if any: N/A

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: The proposal was developed to promote internal code consistency.

m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any: N/A
9. Housing
   a. Approximately how many units would be provided, if any? Indicate whether high, middle, or
      low-income housing. N/A
   b. Approximately how many units, if any, would be eliminated? Indicate whether high,
      middle, or low-income housing. N/A
   c. Proposed measures to reduce or control housing impacts, if any: N/A

10. Aesthetics
   a. What is the tallest height of any proposed structure(s), not including antennas; what is
      the principal exterior building material(s) proposed? N/A
   b. What views in the immediate vicinity would be altered or obstructed? N/A
   c. Proposed measures to reduce or control aesthetic impacts, if any: N/A

11. Light and glare
   a. What type of light or glare will the proposal produce? What time of day would it mainly
      occur? N/A
   b. Could light or glare from the finished project be a safety hazard or interfere with views? N/A
   c. What existing off-site sources of light or glare may affect your proposal? N/A
   d. Proposed measures to reduce or control light and glare impacts, if any: N/A

12. Recreation
   a. What designated and informal recreational opportunities are in the immediate vicinity? N/A
   b. Would the proposed project displace any existing recreational uses? If so, describe. N/A
   c. Proposed measures to reduce or control impacts on recreation, including recreation
      opportunities to be provided by the project or applicant, if any: N/A

13. Historic and cultural preservation
   a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years
      old listed in or eligible for listing in national, state, or local preservation registers located on
      or near the site? If so, specifically describe. N/A
b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources. N/A

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc. N/A

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required. N/A

14. Transportation

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any. N/A

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop? N/A

c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate? N/A

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private). N/A

e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe. N/A

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates? N/A

g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe. N/A

h. Proposed measures to reduce or control transportation impacts, if any: N/A

15. Public services
a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe. N/A

b. Proposed measures to reduce or control direct impacts on public services, if any. N/A

16. Utilities
a. Circle utilities currently available at the site: N/A
   electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other ____________

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed. N/A

C. Signature
The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: [Signature]
Name of signee: Sam Gibbons
Position and Agency/Organization: Director, Department of Community Development
Checklist prepared: July 22, 2014
Date Published and Submitted to Ecology: July 30, 2014

D. supplemental sheet for nonproject actions [help]

(IT IS NOT NECESSARY to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

   The proposal is a technical correction proposed to clarify the application of critical
area buffers and promote internal code consistency. It would not increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise.

Proposed measures to avoid or reduce such increases are: Clarity about the application of wetland buffers.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?
The adoption of this amendment will help the administration and consistent interpretation of the critical area regulations that protect more plant life, and animal habitat.

Proposed measures to protect or conserve plants, animals, fish, or marine life are: N/A

3. How would the proposal be likely to deplete energy or natural resources?
The proposed development regulation amendment will not deplete energy or natural resources.

Proposed measures to protect or conserve energy and natural resources are: Providing clarity on the application of both water quality and habitat buffers for wetlands.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?
The proposal helps to protect wetlands by eliminating provisions that applied to the County’s 2012 wetland buffer methodology.

The wetland regulations adopted in 2014 were intended to require both wetland water quality and habitat buffer.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?
The proposal for this amendment to clarify the development regulations is a programmatic action. There will be no adverse impacts to the environment as a result of this action. The County is implementing both a water quality and habitat buffer on all proposals. The buffers will be applied to subsequent site-specific project actions as intended.

Proposed measures to avoid or reduce shoreline and land use impacts are:
This is a non-project action. As a result of this non-project action, the long term development opportunities along the shoreline will not be reduced because the correction is consistent with the current application of the code.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

As a non-project action this project will not have any impacts. There will be no adverse impacts to the environment as a result of this action. Subsequent site-specific project actions proposed after the amendment is adopted will be assessed for impacts to transportation, services and utilities.

Proposed measures to reduce or respond to such demand(s) are: N/A

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

No conflict has been identified.