

Jeanie Orr

From: Jeanie Orr
Sent: Tuesday, April 07, 2009 7:08 AM
To: Ashley Bullitt; Barbara Nightingale; Henry Werch; Patricia Farmer; Peter Downey (peterdowney@cablespeed.com); Tom Brotherton; Tom Giske; William Miller
Cc: Michelle McConnell; Al Scalf; Stacie Hoskins
Subject: FW: ARTICLE 6 - GENERAL POLICIES AND REGULATIONS

Attachments: comments - buffers & commercial.doc



comments - buffers
& commercia...

Hi,

See attached and print for your 4/8/09 meeting.

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Please note that DCD hours changed as of December 1, 2008.
Our office is open to the public 9:00 a.m. – 4:30 p.m. Monday to Thursday, closed Fridays.

-----Original Message-----

From: Tom Brotherton [mailto:tbrot@msn.com]
Sent: Monday, April 06, 2009 8:10 PM
To: Jeanie Orr
Subject: ARTICLE 6 - GENERAL POLICIES AND REGULATIONS

Jeannie,

Per agreement at the last meeting, please distribute these suggestions for article 6.1 and 8.3 to the other commission members.

Thank you.

Tom Brotherton

ARTICLE 6 – GENERAL POLICIES AND REGULATIONS

6.1

A. Regulations – Cumulative Impacts

1. The County shall consider the cumulative impacts of individual uses and developments, **except single family residences and appurtenant structures but** including preferred uses and uses that are exempt from permit requirements, when determining whether a proposed use or development could cause a net loss of ecological functions.
2. The County shall have the authority to require the applicant/proponent to prepare special studies, assessments and analyses as necessary to identify and address cumulative impacts including, but not limited to, impacts on fish and wildlife habitat, public access/use, aesthetics, and other shoreline attributes.
3. Proponents of shoreline use and development shall take the following factors into account when assessing cumulative impacts:
 - i. Current ecological functions and human factors influencing shoreline natural processes; and
 - ii. Reasonably foreseeable future use and development of the shoreline; and
 - iii. Beneficial effects of any established regulatory programs under other local, state, and federal laws.
 - iv. Mitigation measures implemented in conjunction with the proposed project to avoid, reduce and/or compensate for adverse impacts.
4. The County shall prohibit any use or development that will result in ~~unmitigated~~ cumulative impacts **that are not able to be mitigated in the future.**

B. Regulations – Critical Areas and Shoreline Buffers

6.1.D.3 ~~Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided without full compliance with JCC Chapter 18.22 and this Program.~~

6.1.D.6 Standard Buffers and Building Setback: As established in JCC Chapter 18.22, all new uses and developments, including preferred uses and uses exempt from shoreline permit requirements, shall be located landward of the standard buffer plus a ~~10~~ **5** -foot-wide building setback unless otherwise specified in this Program. The standard buffer shall be measured landward in all horizontal directions from the ordinary high water mark (OHWM) of the shoreline water body as follows (distances shown in feet):

6.1.D.8 Buffer Condition: At least eighty (80) percent of the required shoreline buffer area shall be maintained in a well-vegetated and predominantly natural condition to ensure that it provides the desired ecological buffer functions. Up to twenty (20) percent of the buffer area, or at least 15 linear feet of the water frontage, whichever is greater, may be retained for ‘active use’ and for shoreline access, provided that such areas are located to avoid areas of greater sensitivity and habitat value. This requirement shall not apply to retroactively to existing uses.

6.1.D.9 Buffer Reduction and Averaging: Proposals that request a reduction of the standard shoreline buffer in 6.1.D.6 of this Program shall not require a shoreline variance if all of the approval criteria in Chapter 18.22.270(6) and (7) are met. (spell out the criteria here) All other shoreline buffer reduction or shoreline buffer averaging proposals shall require a shoreline variance.

6.1.d.10 Increased Buffers: The Administrator may increase the required buffer widths when a larger buffer width is necessary to protect the structure, function and/or character of the shoreline. The buffer may be increased or other protections required when necessary to prevent adverse environmental impacts or address hazards associated with the site or the proposed land use or development activity. Increased buffers may be required when:

- i. Soil and geologic conditions make the site susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts to the shoreline; or
- ii. There is evidence of a migrating stream or river channel and increased protection will be necessary; or
- iii. There are potential flooding risks, including risks associated with sea level rise; or
- ~~iv. The land adjacent to the ordinary high water mark is steeply sloped (25 percent slope or greater).~~

6.1.e.1

~~v. The nonconforming lot was created prior to August 27, 1976.~~

2. **Nonconforming Lots – Development Requiring a Variance.**(intent?)
Development on non-conforming lots with a building area of more than 2,500 square feet available for a single family residence and normal appurtenances and unrestricted by setbacks or buffers from shorelines or critical areas shall comply with the provisions of this Program.

Article 8

2. Commercial Use

A. Policies

1. Commercial development should be located, designed and operated to avoid and minimize adverse impacts on shoreline ecological functions and processes.

2. Water-related commercial uses should not displace ~~existing operating~~ water-dependent uses, and water-enjoyment commercial uses should not displace ~~existing operating~~ water-related or ~~existing operating~~ water-dependent uses, unless there are compelling reasons in the public interest.
3. Restoration of impaired shoreline ecological functions and processes should be encouraged as part of commercial development.
4. ~~Commercial development should be visually compatible with adjacent noncommercial properties.~~
5. Commercial uses located in the shoreline should provide public access in accordance with Article 6 section 3 (Public Access) of this Program

B. Uses and Activities Prohibited Outright

1. Commercial parking as a primary use shall be prohibited within the shoreline jurisdiction.

C. Shoreline Environment Regulations

1. Priority Aquatic: Commercial use and development is prohibited, except that small-scale, low-intensity water-dependent commercial recreational use and development such as kayak rentals may be allowed ~~as a conditional use~~ subject to the use and development regulations of the abutting upland shoreline environment designation.
2. Aquatic: Water-dependent and water-related commercial recreational use and development may be allowed subject to the use and development regulations of the abutting upland shoreline environment designation. Water-enjoyment and non-water-dependent commercial use/development is prohibited.
3. Natural: Commercial use and development is prohibited, except that small-scale, low-intensity water-dependent commercial recreational use and development such as kayak rentals may be allowed ~~through a conditional use permit~~.
4. Conservancy: Water-dependent and water-related commercial use and development may be allowed as a conditional use subject to policies and regulations of this Program. Non-water-dependent and non-water-related commercial uses/developments are prohibited, except that small-scale, low-intensity recreational/tourist development/use may be allowed ~~with a conditional use permit~~ provided that a portion of the use/development is water-dependent or water-related.
5. Shoreline Residential: Water-oriented commercial use and development may be allowed subject to policies and regulations of this Program. Non-water-oriented commercial uses may be allowed as a conditional use.
6. High Intensity: Water-oriented commercial use and development may be allowed subject to policies and regulations of this Program. Non-water-oriented commercial uses may be allowed ~~as a conditional use~~.

D. Regulations – Water-oriented Use/Development

3. ~~Where existing water-oriented commercial uses are located in shoreline jurisdiction, any undeveloped and substantially unaltered portion of the waterfront not devoted to water-dependent use shall be preserved. If the site has been altered by past development, the undeveloped waterfront portion may be used for future water-related use.~~

8.3.E.5

1. Existing non-water-dependent and non-water-related commercial development on shorelines may be permitted to expand landward, but not waterward, of existing structures. (Change to match industrial)