

November 3, 2009 Draft

Ordinance No. _____ - 2009

AN ORDINANCE AMENDING SAN JUAN COUNTY CODE SECTION 18.90.060 REGARDING THE TIMING LIMITATIONS FOR SUBMISSION OF PLANNED UNIT DEVELOPMENT APPLICATIONS FOR MASTER PLANNED RESORTS;

BACKGROUND

- A. The Council desires to provide more flexibility for Master Planned Resorts that are required to gain approval of a Planned Unit Development application by allowing for additional time extensions which may be approved by the Council before an application for Planned Unit Development is submitted;
- B. A purpose of this Ordinance is to amend portions of the Unified Development Code to refer to the County Council, consistent with the Charter.
- C. FINDINGS. The County Council makes the following findings:
1. These amendments are being considered by the County Council as part of the first set of Unified Development Code amendments for 2009.
 2. A 60-day notice on the Master Planned Resort amendments was submitted to the Department of Commerce on March 26, 2009, and assigned ID no. 14215.
 3. The Planning Commission conducted a duly advertised public hearing on the Master Planned Resort amendments on April 17 and May 21, 2009, accepted public testimony, and provided findings and recommendations including recommended ordinance language.
 4. The County Council conducted a duly advertised public hearing on _____, 2009, at which time the public had an opportunity to comment.
 5. The County Council agrees with the findings and recommendations of the Planning Commission; however, the Council desires to modify the ordinance reviewed by the Planning Commission for clarity and to create a standard for approval of extensions.
 6. After considering the evidence in the record, the County Council approved this ordinance.

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

Section 1. San Juan County Code ("SJCC") 18.90.060 and Ordinance 16-2002 § 3 are each amended to read as follows:

18.90.060 Master planned resort (MPR) procedures.

A. Applicability.

1. **New Resorts.** An application for a new MPR, and any applications for subsequent phases or for amendment of the master plan.
2. **Existing Resorts Without Approved Master Plans.**
 - a. Before receiving development approval for any new development (including buildings, paved areas and parking, and docks) cumulatively exceeding 4,000 square feet, new phase of development, new land division, new plan amendment-type of use, or change or

addition to the allowable uses, any existing MPR that has not developed a master plan shall establish a schedule and develop a master plan to meet the requirements of this section, SJCC 18.30.060, 18.60.190, and other applicable sections of this code.

- b. The requirements of subsection (A)(2)(a) of this section do not apply to any development for which a permit has been granted or for which a complete application is made prior to the adoption of this code.

B. Purpose. To provide for the planning, development, and operation of master planned resorts (MPR) and their master plans (RCW 36.70A.360 and 36.70A.362).

C. Master Plan Requirements. A master plan shall be prepared for the MPR to describe the project and provide a framework for project control and operation during and after development. This shall include:

1. A description of the setting and natural amenities that the MPR is being situated to use and enjoy, and the particular natural and recreational features that will attract people to the area and resort.
2. A description of the destination resort facilities of the MPR, including short-term visitor accommodations, on-site outdoor and indoor recreational facilities, off-site and excursion opportunities offered or provided as part of the resort's services, and commercial and supportive services provided. The manner in which these services will support and be integrated into the on-site recreational nature of the resort shall be discussed as part of a recreation plan and/or the required discussion in subsection (C)(3) of this section.
3. A description, with supportive information, of the design and functional features that provide for a unified development, superior site design and protection of natural amenities, and which further the goals and policies of the Comprehensive Plan. This shall discuss how landscaping and open space, recreational facilities (if any), road and parking design, capital facilities, and other components of the master plan work together in the project.
4. In connection with the descriptions above, a listing of the proposed additional allowable uses and maximum density of the MPR as provided in SJCC 18.60.190(B)(2) and (3), and a discussion of how these uses and their distribution meet the needs of the resort and its patrons.
5. A description of any location-specific standards that are established to retain and enhance the character of the particular resort, and of how the MPR is meeting or will meet those standards.
6. A description of the intended phasing of development of the project, if any. The initial application for an MPR shall provide sufficient detail for the phases such that the full intended scope and intensity of the development can be evaluated. This shall also discuss how the project will function at interim stages prior to completion of all phases of the project, and how the project may operate successfully and meet its environmental protection, concurrency, and other commitments should development cease before all phases are completed.
7. A map or maps that depict the completed MPR development, showing the full extent and ultimate development of the MPR or resort and its facilities and services.
8. Additional maps, drawings, illustrations, or other materials, as appropriate, to assist in understanding and visualizing the design and operation of the development and its facilities and services, landscaping, protection of environmentally sensitive areas, and other features of the development.
9. A description of how the MPR relates to surrounding properties, and how its design and arrangement minimize adverse impacts and promote compatibility among land uses within the development and adjacent to the development.
10. Specific values and supportive information and rationale for the choices made for the flexible standards listed in SJCC 18.60.190(B)(1).
11. A demonstration that sufficient facilities and services which may be necessary, appropriate, or desirable for the support of the development will be available, and that concurrency requirements of SJCC 18.60.200 will be met.
12. A description of the environmentally sensitive areas of the project area, and the measures that

will be employed for their protection.

D. Application Requirements.

1. **New Master Plan for a New Master Planned Resort.** For new MPR applications, a draft of the master plan shall be prepared to meet the requirements of SJCC 18.60.190 and this section. The planning department will evaluate the application and master plan, and if found to be complete, the department will forward recommendations to the planning commission. The application shall also include a request for a land use redesignation (and density change, if applicable) for the MPR activity center to meet the requirements of subsection (E) of this section.
2. **New Master Plan for an Existing MPR.** A draft of the new master plan required by subsection (A)(2) of this section shall be prepared to meet the requirements of SJCC 18.60.190 and this section, and the environmental review requirements of SJCC 18.80.050. The planning department will evaluate the master plan, and if found to be complete the department will forward recommendations to the planning commission.
3. **Planned Unit Development (PUD) Application.**
 - a. **When to Prepare.** A PUD application shall be prepared for approval of:
 - i. Any new development in an MPR land use designation, except as provided in subsection (D)(5) of this section;
 - ii. Each new phase of development. A phase that is consistent with the approved master plan will not require a master plan amendment.
 - b. **PUD Submittal Requirements.**
 - i. A vicinity map showing the location of the site and its relationship to surrounding areas.
 - ii. A site plan describing all proposed developments and the proposed locations of all uses.
 - iii. If no land division or binding site plan is required, the requirements of SJCC 18.80.020(C) must be met.
 - iv. If the PUD requires land division or a binding site plan, the preliminary and final subdivision requirements of SJCC 18.70.050 and 18.70.070, or binding site plan requirements of SJCC 18.70.090, must be met.
 - v. If dwelling units are proposed, a statement of the number of units and average density.
 - vi. A statement that discusses how the proposed PUD is consistent with the approved Master Plan, including the percentage of open space and the location of and provisions for protection of environmentally sensitive areas.
 - vii. A demonstration that the MPR will contain sufficient infrastructure and capacity to meet the additional demands of the PUD and the requirements of this code for water, sewage treatment, and stormwater management.
 - viii. A calculation of estimated new demands on capital facilities and services, proposed capital improvements or noncapital alternative strategies to address demands. The PUD shall undergo a review for concurrency as provided in SJCC 18.60.200.
 - ix. An environmental assessment in accordance with the requirements of SJCC 18.80.050.
4. **Master Plan Amendment Application.**
 - a. **When to Prepare.** An amendment to the master plan shall be prepared for the approval of new development in any one-year period in an MPR planning area when any of the following occur:
 - i. A new type of recreational facility is proposed that was not previously discussed in the master plan;
 - ii. New uses are proposed that were not previously authorized in the master plan and are represented in the Allowable and Prohibited Uses Table 3.1 in SJCC 18.30.030 as requiring a plan amendment; or
 - iii. A major change in theme or market approach is proposed which would result in the need for different or expanded facilities.

- b. An application for amendment of the master plan shall submit those discussions and plans that are required by subsections (C) and this subsection, and other materials or information that are new or modified from the materials included in the existing master plan, plus provide such additional unchanged material as is necessary for the understanding and review of the proposed amendment.
- c. Each amendment of a master plan shall undergo an environmental assessment and concurrency review in accordance with the requirements of SJCC 18.60.200 and 18.80.050.

5. **Minor Changes to a Master Planned Resort.** Some minor changes do not require a PUD application or a master plan amendment but remain subject to the requirements of this code, including case-by-case permit review where applicable. Such minor changes include:

- a. Routine maintenance of existing roads, footpaths, bicycle paths, structures, and utilities.
- b. Minor activities, excluding construction, that are consistent with the master plan and approved PUDs.
- c. Activities, including construction, that are consistent with the master plan but which have not been included in an approved PUD may be submitted for case-by-case permit approval, subject to the following restrictions:
 - i. For any activities or uses that would require a conditional use or shoreline conditional use permit, or whose impacts according to Table 8.2 in SJCC 18.80.090 would require a conditional use permit, a PUD application must be submitted.
 - ii. Any activities or uses that would not require a conditional use or shoreline conditional use permit, or whose impacts according to Table 8.2 in SJCC 18.80.090 would not require a conditional use permit, may be submitted according to the permit application, notice, and hearing requirements of Chapter 18.80 SJCC, and processed according to the permit procedures of Chapter 18.80 SJCC appropriate to the use classification; provided, that whenever the cumulative development (including buildings, paved areas and parking, docks, and newly landscaped areas) not included in previously approved PUDs meets or exceeds 4,000 square feet, a new PUD application must be submitted.

E. **Designation of an MPR Activity Center land use District.** Procedures for amendments to the official maps shall be as set forth in SJCC 18.90.020, as modified in this section.

- 1. A request for amendment of the official maps in order to designate an MPR activity center, and any associated changes in densities, shall be submitted together with the application for the MPR. The planning department shall evaluate the request to modify the official maps and shall forward recommendations to the planning commission and BCCCL County Council for consideration.
- 2. The time limitation of SJCC 18.90.030 does not apply to a request for amendment that is submitted in connection with an application for an MPR.
- 3. The request for amendment shall include a discussion that addresses the information requirements of SJCC 18.90.030 and identifies where in the application materials and master plan the information and discussions may be found.
- 4. Through the use of legal descriptions and maps, the application shall identify clearly the areas for which the changes are requested. The reason or reasons for the request shall be clearly stated. The application shall describe how the proposed change meets all of the criteria for approval listed in SJCC 18.90.030(F) and subsection (H)(1) of this section.

F. **Notice and Hearing.**

- 1. **Minor Changes to Master Plan.** Notice and hearing requirements as applicable and as provided in this code.
- 2. A hearing before the hearing examiner, and notice of application and of public hearing, are required (see SJCC 18.80.030) for all PUD applications.
- 3. A hearing before the planning commission, and notice of application and of public hearing, are required (see SJCC 18.90.020) for:
 - a. The initial application and approval of the master plan and project, and the amendment of

the official maps;

- b. A new master plan for an existing MPR; and
- c. All master plan amendments.

G. Decisionmaking Authority.

- 1. The administrator is vested with the authority to approve or deny minor changes.
- 2. The hearing examiner is vested with authority to hear and decide all PUD applications.
- 3. The planning commission is vested with authority to hear and make recommendations on MPR activity center designation and on density changes.
- 4. The ~~board of County commissioners~~ County Council is vested with authority to designate new master planned resort land use districts, to approve the uses, densities, and standards within those districts, and to approve or deny a master plan and amendments to the master plan.

H. Criteria for Approval.

- 1. **Master Planned Resort Proposal and Application.** An application to develop any parcel or parcels of land as an MPR may be approved, or approved with modifications, if it meets all of the criteria below. If no reasonable conditions or modifications can be imposed to ensure that the application meets these criteria, then the application shall be denied.
 - a. The master plan meets or exceeds the requirements of this section and SJCC 18.60.190.
 - b. The MPR is consistent with the goals and policies of the Comprehensive Plan, the requirements of the Shorelines Master Program in Chapter 18.50 SJCC, and complies with all other applicable sections of this code and all other codes and policies of the County.
 - c. If an MPR will be phased, each phase contains adequate infrastructure, open space, recreational facilities, landscaping and all other conditions of the MPR sufficient to stand alone if no subsequent phases are developed.
 - d. The MPR will provide active recreational uses such as boating, pools, and playing fields, and sufficient services such as transportation access, police, fire, and social and health services, to adequately meet the needs of the guests and residents of the MPR.
 - e. The MPR will contain within the development (or be provided by outside providers as per SJCC 18.30.060(C)) all necessary supportive and accessory on-site urban-level commercial and other services, and such services shall be oriented to serve the MPR.
 - f. Environmental considerations are employed in the design, placement, and screening of facilities and amenities so that all uses within the MPR are harmonious with each other, and in order to incorporate and retain, as much as feasible, the preservation of natural features, public views, and historic and other important features.
 - g. Improvements and activities are located and designed in such a manner as to avoid or minimize adverse effects of the MPR on surrounding lands and property.
 - h. The master plan establishes location-specific standards to retain and enhance the character of the resort.
- 2. **MPR Activity Center Designation.** The County may approve or approve with modifications an application for a change of designation or density for the property in order to designate the MPR activity center and make associated density changes if all of the criteria of SJCC 18.90.030(F); provided, that new urban and suburban land uses are precluded from outside of the boundaries in the vicinity of the MPR except in designated urban growth areas per RCW 36.70A.360(2) and 36.70A.362(2)(e).
- 3. **Planned Unit Development Application.** The burden of proof shall be on the applicant. A PUD shall be approved by the County only if all of the following criteria are met:
 - a. The proposed activities, developments and uses will not be contrary to the intent or purposes and regulations of this code or the Comprehensive Plan;
 - b. The proposal is consistent in design, character and appearance with the goals and policies for the MPR land use designation in which the proposed use is located, and the approved master plan;
 - c. The proposal meets or exceeds the requirements of SJCC 18.60.190;
 - d. If the PUD requires land division or a binding site plan, it meets the requirements of SJCC

18.70.090;

- e. The proposal identifies and protects environmentally sensitive areas, archaeological and historic resources, and visual and aesthetic resources; and environmental considerations are employed in the design, placement and screening of facilities and amenities;
 - f. The proposal will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval;
 - g. The appropriate County officials have certified that the proposal will be served by adequate facilities including access, fire protection, water, stormwater control, and sewage disposal facilities;
 - h. The proposal passes all concurrency tests as provided in SJCC 18.60.200;
 - i. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the proposed use, shall not hinder allowable development or use of neighboring properties; and
 - j. The proposed land uses, activities, and structures comply with applicable development standards of Chapter 18.60 SJCC and performance standards specified in Chapter 18.40 SJCC, and with any required mitigation measures.
4. **New Master Plan for an Existing MPR.** An application for approval of a master plan for an existing MPR may be approved, or approved with modifications, if it meets all of the criteria in subsection (H)(1) of this section. If no reasonable conditions or modifications can be imposed to ensure that the application meets these criteria, then the application shall be denied.

I. Time Limits.

- 1. **Initiation of a New Master Planned Resort.** The first PUD application shall be submitted within two years of the date of master plan and MPR approval, or the approval shall become null and void. An extension of up to one year may be granted by the administrator if the proponent demonstrates good cause for an extension. An extension of up to three additional years may also be granted by Council resolution based on a finding of good cause after a public hearing.
- 2. **Planned Unit Development.**
 - a. If the PUD requires land division or a binding site plan, the time limits of SJCC 18.70.050(G), 18.70.070(F), 18.70.090 and 18.70.110 shall apply.
 - b. If no land division or binding site plan is required, construction must be completed within five years of approval of the PUD. A one-year extension may be granted by the administrator.
- 3. **New Master Plan for an Existing MPR.** The master plan shall be submitted to the planning department within two years of the date of adoption of the Comprehensive Plan.
 - a. An extension of up to one year may be granted by the planning director if the proponent demonstrates good cause for an extension. Subsection (A)(2)(a) of this section will continue to apply during that period.
 - b. If no extension is granted, or the extension expires without submittal of the master plan, the planning director will notify the administrator. Thereafter, the administrator shall accept no further development applications and grant no further development approvals for the MPR until the planning director accepts a master plan application as meeting the requirements of subsection (D)(2) of this section.
 - c. If subsection (I)(3)(b) of this section has applied for one year, or if the proponent submits a letter stating that it does not intend to develop a master plan, the planning director will recommend to the ~~board of County commissioners~~ County Council the revocation of the MPR designation and MPR land use district designation.

J. Appeals.

- 1. **Master Planned Resort Proposals, MPR Land Use Designations, Master Plan Amendments.** BOCCC County Council decisions may be appealed as provided in state law.
- 2. **Planned Unit Development Proposals.** The decisions of the hearing examiner may be

- appealed in accordance with procedures specified in SJCC 18.80.140.
3. Administrative decisions may be appealed in accordance with procedures specified in SJCC 18.80.140.

SECTION 2. 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. Effective Date.

This ordinance shall take effect on the tenth working day after adoption.

SECTION 5. Codification.

Section 1 shall be codified.

ADOPTED this ____ day of _____ 2009.

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

ATTEST: Clerk of the Council

Lovel Pratt, Member
District 1, San Juan South

By: _____
Ingrid Gabriel, Clerk
Date:

Rich Peterson, Chair
District 2, San Juan North

REVIEWED BY COUNTY
ADMINISTRATOR

Howard Rosenfeld, Member
District 3, Friday Harbor

Pete Rose Date:

APPROVED AS TO FORM ONLY
RANDALL K. GAYLORD

Richard Fralick, Vice Chair
District 4, Orcas West/Waldron

By: _____
Date:

Gene Knapp, Member
District 5, Orcas East

Bob Myhr, Member
District 6, Lopez/Shaw