



San Juan County Community Development & Planning

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To: San Juan County Planning Commission
From: Janice Biletznikoff, AICP
Planner III
Re: October 25, 2011 Planning Commission Draft Wetlands Ordinance
Date: October 25, 2011

Discussion

The proposed Wetlands ordinance was previously reviewed and discussed by the Planning Commission on September 16 and 28, 2011. The current proposed ordinance (dated October 25, 2011) is the product of the review and direction given to staff by the Commission.

The proposed ordinance accomplishes the following:

- adds, changes, and removes definitions of terms;
- adds to the list of official maps;
- modifies the minimum size of regulated wetlands;
- clarifies the activities allowed within wetlands and their buffers including agricultural activities;
- classifies wetlands based on their type and assigns Importance/Sensitivity ratings;
- removes the list of regulated activities;
- removes the prescriptive buffer width protocol and establishes a simplified site-specific procedure for determining any required buffer widths;
- removes sections on buffer averaging; decreasing, and increasing;
- adds reference to the official manual to be used for wetland delineations (for greater consistency with the WAC);
- clarifies the required contents of and expiration for wetland reports;
- removes the sections regarding mitigation (which have been relocated to the general section);
- adds language to the County's lighting requirements; and
- repeals Appendices A (San Juan County Wetlands Rating System), B (Mitigation/Enhancement Plan Contents), and C (Bonding).

Elements of Note

Minimizing Cost

Throughout the CAO update process, staff has been aware of the need to minimize costs to the landowner, as well as costs to the county, whilst fulfilling the mandate to protect the functions and values of critical areas. Further, county staff was directed to craft regulations that maximize the use of private property to the fullest extent possible. This approach largely rules out the use of prescriptive buffers, which are a common protective tool for natural resources. Prescriptive buffers are easy to

administer, and have a predictable width(s), but can sometimes overprotect the resource and unnecessarily prohibit development in areas that have little potential for impacting the resource. At the other end of the spectrum lies the scientific assessment of individual properties, including a detailed analysis of site characteristics in order to accurately identify the minimum level of resource protection that is necessary. This approach is expensive and has unpredictable potential outcomes (i.e., buffer widths). Somewhere in the middle of the range of protection options is the accommodation of site-specific factors paired with a set list of possible buffers that are based on pre-established criteria. This “tailored approach” to buffer sizing is somewhat predictable, yields a relatively accurate buffer widths, and is less costly than individually analyzing each site. This is the approach currently proposed for San Juan County’s wetland regulations

Several other changes are proposed to help minimize the cost of protecting wetlands, including:

- Noncompensatory enhancement projects (those that are not required as mitigation for development impacts but, rather, are solely for the purpose of improving a wetland) proposed by agencies responsible for protecting wetlands no longer require critical area reports and assessments.
- In many cases, “full” wetland delineations that depict the entire boundary encircling the wetland will not be required; rather, only the portion of the wetland that is facing the proposed development would need to be delineated through a “wetlands reconnaissance.”
- Not all High Importance/Sensitivity wetlands are regulated; this was changed to include only those High Importance/Sensitivity wetlands that exceed 250 s.f.

Council Direction in June 2011

On June 13-14, 2011, County Council held a public workshop in which various critical areas were discussed and policy direction was given regarding the development of new regulations.

Council directed staff on several general areas of clarification and approach:

- Clarify which wetlands are regulated by San Juan County.
- Design an approach that minimizes the costs of wetland delineation.
- Pursue the “moderate” level of risk as presented in the BAS for Wetlands in crafting a variable buffer width procedure.
- Critically analyze what activities can be allowed in buffers (not wetlands), in whole or in part.
- Consider the implications of crossover with subarea plans and other regulations in the SJCC.
- Consider the differences in impacts from different types of “impervious” surfaces.
- Consider the benefits of land that is already in protected status.

Council also gave direction on specific, individual, numbered options presented by staff and the county’s consultant, Dr. Paul Adamus. This document is too long and varied in topic to accurately or meaningfully summarize here; please refer to the document “Analysis of Existing San Juan County Regulations Pertaining to Wetlands” by Dr. Adamus, dated May 31, 2011 (attached).

It is important to note that some of the direction given to staff regarding Wetlands became no longer applicable when the Wetlands approach was altered, which happened due to: the incompatibility between the old code’s format and the necessary elements to implement the “tailored approach” to wetland buffers; the potential for adverse cumulative impacts to wetlands across the county due to exceptions and exemptions not supported by BAS; and the complicated and unwieldy requirements and process of the original variable buffer width procedure that was presented on June 13-14 (see Staff Report to PC dated August 30, 2011 for a description of the change in approach).

Additionally, the direction given regarding buffer averaging, reductions, and widening became unnecessary when the site-specific buffer procedure was fully developed and these concepts were largely eliminated, because the variables that would allow for reductions or require additional width are already considered in the steps of the procedure.

It is staff's belief that each of Council's concerns has been addressed through the update process and the development of the proposed ordinance.

Findings

- As required by the GMA, the Best Available Science was identified and included in reviewing the regulations. The science that was used in the review is summarized in the *Best Available Science Synthesis, San Juan County* (May 2011) which was adopted by the San Juan County Council in Resolution 22-2011.
- The existing regulations were reviewed and proposed amendments will better protect wetlands as well as improve consistency with the applicable goals of the Growth Management Act. The proposed amendments will satisfy the requirements of the Growth Management Act.
- The proposed ordinance attempts to minimize the costs associated with compliance, for both the property owner and the County, while still meeting the legal requirements of the Growth Management Act.
- The proposed ordinance includes a buffer sizing procedure that minimizes the area required to be kept free or relatively free of development, and thereby maximizes the use of private property.

Enclosures:

- Draft ordinance dated October 25, 2011
- "Analysis of Existing San Juan County Regulations Pertaining to Wetlands" by Dr. Paul Adamus. (May 31, 2011)