



## San Juan County Community Development & Planning

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**DATE:** September 9, 2008

### Staff Report

**TO:** COUNTY COUNCIL

**THRU:** PETE ROSE, COUNTY ADMINISTRATOR

**FROM:** COLIN MAYCOCK, SENIOR PLANNER,

**SUBJECT:** ORCAS VILLAGE PLAN

**MEETING DATE:** 29<sup>th</sup> September, 2008 a continuation of the 19<sup>th</sup>, August, 2008 continuation of the 12<sup>th</sup> August, 2008 Public Hearing re: Orcas Village Plan

#### ISSUE:

Answering specific questions raised by the County Council at the August 19<sup>th</sup>, 2008 Orcas Village Public Hearing.

#### RESPONSES TO ISSUES:

- A. Whether to designate TPN 262222034 as Commercial along with a corresponding movement of the Shoreline District boundary to include this parcel in the Urban Environment or to designate this parcel as Residential with a corresponding movement of the Shoreline District boundary to include the entire parcel within the Rural Environment?

There are three related issues to consider before making a final decision: 1.) current configuration of the lot; 2.) existing shoreline set backs; 3) required setbacks from the road.

The lot in question consists of a small horizontal strip, a steep slope, some beach and then tidelands.

The demarcation line between rural and urban shoreline districts is approximately in the middle of the lot.

It is a shoreline lot located in the Orcas Village activity center and so current development falls under the purview of SJCC Article IV, 18.30.200 (Interim controls in village and hamlet activity centers); SJCC 18.50 (The Shoreline Master Program) and for those development standards not directly addressed in 18.30.200, the UDC's other development regulations are the *de facto* controls of lot development.

Regardless of whether the lot is zoned residential or commercial; the required setback from the road (as measured from the margin line of the road right of way) for any construction is a minimum of 10 feet. It is approximately 10 feet from the edge of the pavement to the edge of the embankment.

The lot is split between rural and urban shoreline districts, the Rural shoreline district calls for a set back of 100 feet from the OHWM, while an Urban shoreline district calls for a set back of 50 feet from the OHWM.<sup>1</sup>

If, on one hand, a commercial use was being proposed to be built on this lot currently, the above setback requirements are further complicated by regulation 18.50.220 A. (General Regulations) (5) which states; "All structures shall be set back a safe distance behind the tops of feeder bluffs." As a general rule, this requirement is taken to mean that the appropriate setback from the top of the feeder bluff is the same as the one from the OHWM. That is to say, the commercial building would be set back either 100 or 50 feet from the top of the bluff, which in this case would mean that the setback from the road would be fully encompassed within the setback from top of the bluff.

If, on the other hand, a residential use was being proposed on this lot, then the road setback regulations noted above would still be required. As far as setbacks from the water are concerned; SJCC 18.50.330 (Residential Development) D. (Regulations – Setback Standards) 1. a. states; "All structures shall be set back a safe distance behind the tops of feeder bluffs as determined by a licensed geotechnical engineer." Given that there are no significant trees on this lot, 18.50.330. D. 2. b. requires that a "minimum setback of 100 feet from the OHWM or from the top of bank or berm, whichever is greater, will apply regardless of environment designation.

Again, it appears that the required set back from the road and shoreline are sufficient to effectively halt the construction of anything on this lot. So in this case, even prior to the adoption of the plan, it appears that the lot is unbuildable for either commercial or residential uses.

As noted above, prior to the adoption of the plan, the potential uses of this property are defined in 18.30.200 which limits the size of new commercial buildings to no more than 5,000 sq feet, but allows all uses listed in Table 3.1. New industrial uses are prohibited in all activity centers until a plan has been adopted.

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<sup>1</sup> The setbacks delineated above for commercial or residential uses in either Urban or Rural shoreline environments are subject to changes by the administrator as part of a CUP and/or determined by location of buildings on neighboring lots.

(At this moment, the whole village is zoned as activity center, which means, that if one wanted to create a small drinking establishment in the middle of the residential area, provided that it was away from the shoreline, one would need only to apply. In order for an application to be approved and the type of permit it would require would be determined by table 3.1. In the absence of specific plan within the activity centers, the nature of the application would determine the type of permitting process that would be used. This means that, with the exception of the shoreline, regardless of the location, a complete application for a commercial drinking establishment, would be approved as it is an allowable use in Table 3.1, village commercial.)

The adoption of the plan and the lot's designation as Commercial, Residential or Transportation will not change any of the required setbacks that already apply to this lot.

In essence, when the quitclaim was signed for the land beneath Killebrew Lake Road, a non-conforming, non-buildable lot was created.

Without garnering some special exception to existing regulations, the property owners reasonable use of the property will be limited regardless of what it's zoned. However, if it's zoned commercial with an urban shoreline designation, then the range of possible special exceptions that could be requested shall be that much broader than if it's zoned residential.

Ultimately, it's a policy question as whether or not the County Council wishes expand the range of special exceptions that could be applied for or prefers to limit them.

- B. Staff recommends retaining the following changes to the Development Regulations:
- a. Adding a new footnote 5 to Table 1, the land use table, (and renumbering the remaining notes) that reads:

Per Ordinance 25-2002, the shoreline east of the Orcas Village Commercial District is a Marine Protected Area with specific provisions regarding acceptable uses. Please see Ordinance 25-2002 for details.
  - b. The absence of sufficient parking space for commuters and adequate holding space on peak travel days are concerns in the village. Language proposed by representatives of ORCAS, as well as that brought forward by staff, failed to pass legal review by the Prosecuting Attorney's office. As a result suggested regulations which set specific developmental standards regarding creation of additional parking spaces, enlarged setbacks and other measures to increase the amount of available parking, as a prerequisite for commercial construction are not included in the proposed ordinance. Following the advice of the Prosecuting Attorney's office, Staff recommends the addition of a new footnote 6 to Table 1, the land use table, to read :

All uses within the OV Transportation district, except where otherwise indicated, shall be subject to a Conditional Use Permit. Permit procurement will be dependent upon the delineation of the appropriate setbacks and screening requirements necessary to maintain the rural character and visual aesthetic of the village as detailed in section 2.7 of the Orcas Village plan. Site specific concerns, particularly those relating to traffic flow and visual impacts will be a central consideration in fashioning the appropriate conditions of the CUP. Development within the Transportation district is limited to 12,000 sq ft cumulative building floor area within the district, with no building larger than 4,000 sq ft of building floor area.

Staff further recommends renumbering the remaining footnotes to coincide with this addition.

- c. Following the advice from the Prosecuting Attorney's office, Staff recommends altering footnote 6 of Table 3 to read:

New development within the Transportation district will only be allowed with a Conditional Use Permit, unless otherwise noted in Table 1. New development within the Transportation district, excluding parking, cannot exceed a cumulative building floor area of 12,000 sq ft., subject to all development standards, i.e. building floor area cannot exceed 4,000 sq ft, the building footprint may not exceed 2,000 sq ft and may not be closer than 30 lineal feet to the footprint of an adjacent building. Permits will only be granted for activities on this parcel after provisions for screening sufficient to protect the visual character of the village have been undertaken.

Questions regarding the nature, timing and constraints on development within the Transportation district have been a consistent theme of the recent public meetings. A number of potential options have been explored and ultimately abandoned in favor of the language proposed above. Staff concedes that the above regulations lack the virtue of absolute clarity, however, Staff would contend that the regulations provide a framework for the successful conclusion of a broader range development options.

- C. There was a question asked regarding the future development of Bayhead Marina and in particular the provision of public access to the water at the marina. Staff researched this claim and discovered that despite the 1982 staff report's recommendation for the Substantial Shoreline Development permit #17-SJ-82 to include a provision for public access, the permit itself did not.

**EXHIBITS: EXHIBIT A, Amended Draft Ordinance**

**FINDINGS:**

1. That the recommended changes to the text of the Development regulations will meet the citizens concerns regarding the development of commercial activities within the Transportation District.

2. That the recommended changes to the text of the development regulations will clarify language that otherwise may have been misinterpreted.

**Recommended Motion:  
Move to adopt the Orcas Village Plan with the changes noted  
above.**